

RESOLUTION NO. 11493

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA
MAKING FINDINGS AND DETERMINATIONS AND APPROVING A CONDITIONAL
USE PERMIT TO ALLOW DRIVE THROUGH RETAIL SALES, OUTDOOR DINING, AND
EXTENDED HOUR RETAIL SALES FOR IN-N-OUT BURGER - LOCATED AT 2131
COUNTY CENTER DRIVE - FILE NUMBER MNP09-018

WHEREAS, an application was filed with the Department of Community Development requesting the approval of a Conditional Use Permit for In-N-Out Burger, to be located at 2131 County Center Drive, also identified as Sonoma County Assessor's Parcel Number(s) 180-260-053; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the application at which all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, the Planning Commission has considered the application, the staff reports, oral and written, the General Plan and zoning on the subject property, the testimony, written comments, and other materials presented at the public hearing; and

WHEREAS, the project has been revised in accordance with the California Environmental Quality Act and has been found to be consistent with Article 19, Categorical Exemption, Class 3, in that the project consists of new construction of limited small new facilities in an urbanized area, not involving the use of hazardous substances, where all necessary public services are available and the surrounding area is not environmentally sensitive.

NOW, THEREFORE, BE IT RESOLVED, that after consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Section 20-52.050 (Conditional Use Permit), the Planning Commission of the City of Santa Rosa finds and determines:

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the City Code;
- B. The proposed use is consistent with the General Plan and any applicable specific plan;
- C. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity;
- D. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints;

- E. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located; and
- F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

BE IT FURTHER RESOLVED, that this Conditional Use Permit is subject to all applicable provisions of the Zoning Code, including Section 20-54.100 (Permit Revocation or Modification).

BE IT FURTHER RESOLVED that a Conditional Use Permit for In-N-Out Burger, to be located at 2131 County Center Drive, is approved subject to each of the following conditions:

DEPARTMENT OF COMMUNITY DEVELOPMENT

GENERAL:

- 1. Compliance with the latest adopted ordinances, resolutions, policies, and fees adopted by the City Council at the time of building permit review and approval. All fees must be paid prior to issuance of a building permit.
- 2. All work shall be done according to the final approved plans dated July 30, 2009 with allowances being made for changes in the project design based on Design Review Board comments.
- 3. The address shall be displayed in a prominent location on the street side of the property. The numbers shall be no less than 6-inches in height and shall be of a contrasting color to the background to which they are attached. The address shall be illuminated during hours of darkness per City "Premises Identification" requirements.

EXPIRATION AND EXTENSION:

- 4. This Conditional Use Permit shall be valid for a two-year period. If construction has not begun or if an approved use has not commenced within two (2) years from date of approval, this approval shall automatically expire and shall be invalid unless an application for extension is filed prior to expiration.
- 5. If implemented within the initial approval period in accordance with all conditions of approval, this Conditional Use Permit shall be valid for the duration of use.

BUILDING DIVISION:

- 6. A building permit is required for all interior and exterior changes or for any change of occupancy from one building code group to another.

7. Grading and Drainage of the site must be per the approved plans. Site drainage shall be to the curb, under the sidewalk, per City standards.
8. A soils report must be submitted with an application for building permit. Check with the Building Division prior to submittal to determine the level of report necessary for the project or if a soils report is on file for the subject property.
9. Any existing zoning or building violations must be cleared prior to, or in conjunction with, any new permits.
10. Comply with all Federal, State and local codes, disabled access included.
11. The project is situated on two lots. A lot merger, lot line adjustment, or access easement must be approved prior to building permit finalization.

ENGINEERING DIVISION:

12. Compliance with all conditions as specified by the attached Exhibit "A" dated August 11, 2009.

PLANNING DIVISION:

13. Extended hours retail sales shall be permitted at the fast food restaurant. Allowable hours of operation shall be from 10:00 am to 1:00 pm Sunday through Thursday and 10:00 am to 1:30 pm Friday and Saturday.
14. Drive-through retail sales are permitted with this fast food restaurant and may operate for the same duration as the approved extended hours of retail sales. The design and size of the drive through aisle must meet the requirements of the City of Santa Rosa zoning code and any additional specifications placed on the design by the Planning Commission. Landscaping, low walls, and design enhancements shall be included along County Center Drive to screen the drive-through aisle and improve the pedestrian friendliness and orientation of the site.
15. Because of the tendency for litter around fast food restaurants a restaurant employee is required to patrol the parking lot and surrounding areas to pick up and remove any trash and/or debris every 2 hours.
16. The building materials, elevations, and appearance of this project, as presented for issuance of a building permit, shall be the same as that approved by the Planning Commission and Design Review Board. Any future additions, expansions, remodeling, etc., will be subject to discretionary review.
17. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080),
18. Operating hours of the dining room are required to be the same as those of the drive through window.

19. If drive through aisle queuing exceeds nine vehicles, an external order taker is required to be stationed at the drive through aisle to take orders facilitating traffic flow through the aisle and minimize vehicle idling times.
20. A sign is required to be placed at the entrance of the drive through aisle requesting drive through patrons "Turn off vehicles while waiting in the drive through to minimize vehicle emissions." Applicants must include the specific design and text of this sign with their sign permit application for staff review and approval.
21. Explore methods to improve pedestrian access from Steele Lane through the Design Review process.
22. PROJECT DETAILS:
 - A. All project details shall be in accordance with the restrictions and limitations of the City Zoning and California Building Codes, as well as the City's Design Review Guidelines.
 - B. The design of all fencing, sound walls, carports, trash enclosures, and similar accessory site elements shall be compatible with the architecture of main buildings and shall use similar materials. The design must be approved by the Design Review Board prior to issuance of a building permit.
 - C. All roof appurtenances, accessory equipment, and meters must be totally screened from public view by an architecturally designed element approved by the Design Review Board.
 - D. All outdoor storage of materials or refuse bins/cans shall be maintained within a completely screened structure or area. The design of the screened structure or area shall be approved by the Design Review Board prior to issuance of a building permit.
23. TREE PRESERVATION:
 - A. Tree Preservation notes and protection during construction notes shall be shown on the improvement plans and building plans. The tree driplines shall also be shown on each drawing with the attendant protection instructions.
 - i. Prior to issuance of a grading or building permit for any clearing, excavation, construction, or other work on the site, a protection zone shall be established to protect natural vegetation and trees from construction activities as required by the City of Santa Rosa Tree Ordinance.
 - B. The protection zone delineated with the brightly colored construction fence shall be posted with signs which state "Tree/Vegetation Protection Zone -- No Construction or Storage Permitted."

- C. Irrigation systems and plant varieties which require regular watering shall not be permitted within the dripline of any Oak tree which is to be preserved.
 - D. No concrete or asphalt paving or compaction of soil shall be permitted within the root zones of protected trees.
24. LANDSCAPING:
- A. All required landscaping and irrigation must be installed prior to occupancy per the approved final plans.
 - B. Construction drawings submitted for issuance of a building permit shall include final landscape and irrigation plans, except where not required.
 - C. All landscaping must be continuously maintained in a healthy and attractive condition, free of weeds and debris, in accordance with the approved plans. Dead and dying plant materials shall be replaced with healthy specimens as necessary.
25. LIGHTING:
- A. All exterior lighting shall be shown and specified on the plans submitted for issuance of a building permit in accordance with the Design Review approval.
 - B. Light sources shall be concealed from public view.
 - C. All lighting shall be directed toward the subject property and away from adjacent properties.
 - D. The mounting height of lighting fixtures in parking and storage areas shall not exceed 16-feet in height. Lower mounting heights are encouraged.
26. PARKING LOT AREA:
- A. The parking lot shall be paved to City standards.
 - B. The parking lot shall be provided with concrete curbing around all planter areas unless specifically approved by the Department of Community Development in some other fashion.
 - C. The parking lot shall be striped according to City standards and all handicapped and compact spaces shall be identified and marked accordingly.
 - D. Bicycle parking shall be provided in accordance with Zoning Code requirements. The location and number of spaces shall be shown on the site plan submitted for issuance of a building permit.

27. SIGNING:

- A. No exterior signs, banners, or the like are approved with this permit. A planning sign permit application is required for all signs.
- B. A planning sign permit application is required for all signs.
- C. Building permits for sign installations shall be separate permits from other building permits issued for construction.

28. NATURAL RESOURCES:

- A. Advisement. The applicant, its successors, heirs, assigns or transferees are advised in writing that this approval or permit prior to the start of any construction may be subject to certain other clearances, approvals, permits, or authorizations by state and/or federal agencies. The applicant shall acknowledge in writing receipt of the above advisement.
- B. Mitigation requirement. The City's approval or permit is valid only if the applicant, its successors, heirs, assigns or transferees, comply with the terms, conditions and mitigations set forth in any clearance, permit or approval except that any permit condition or mitigation that requires project redesign shall trigger a review by the City of Santa Rosa Director of Community Development to determine if the project as redesigned is consistent with the original approval. A project that the City determines is not consistent with the City approval shall not be granted subsequent entitlements, such as approval of improvement plans and final maps, but excluding grading or building permits of any type. Such a project would have to be resubmitted to the City and reviewed by the City as a new project, including the submittal of a new application and fees.
- C. Power to stop work if violation occurs. Nothing in this approval shall prevent the City of Santa Rosa from exercising its power to stop work in instances where a violation of state or federal law is brought to the City's attention.
- D. No building or grading permit of any type shall be issued by the City until a required federal or state, as applicable, clearance or authorization, with or without conditions, has been filed with the City.

FIRE DEPARTMENT

- 29. An approved UL rated fire extinguisher shall be provided for each 3,000 square feet or fraction thereof.
- 30. Site address signage per current Fire Department Standards shall be established and maintained during and after any combustible construction or intensification of site use. See SRFD Information Bulletin 015 for details.

31. Commercial kitchen equipment which produces grease laden vapors shall be protected with an automatic fire suppression system.

UTILITIES DEPARTMENT

32. Sewer connections for this development, or any part thereof, will be allowed only in accordance with the requirements of the California Regional Water Quality Control Board, North Coast Region, in effect at the time, or thereafter, that the building permit(s) for this development, or any part thereof, are issued.
33. Abandon the existing water service at the main and install a minimum 8 inch combination service per City Standard #870 for fire sprinkler, public fire hydrant, domestic and irrigation meters. This water service should be located just south of the proposed northern driveway. A cut-in tee is required. The water main in County Center Drive is located behind the curb on the opposite side of the street. Removal and replacement of sidewalk will be required for the water connection. The proposed onsite private fire hydrant could be eliminated.
34. The Preliminary Utility Plan show an existing sewer lateral crossing the intersection at Professional Drive and connecting to a manhole. This sewer lateral does not exist. The sewer lateral for this property is located just below or parallel to the existing water service. Verify the size of this sewer lateral. The sewer lateral cleanout should be upgraded per City Standard 513.
35. A fire flow test will be completed at the time of the tie in of the project to the City system. The fire flow must meet the requirement for the project before the project is accepted. The City will perform the fire flow test. The fee to have the test performed must be paid to the Utilities Department prior to the test being performed.
36. Submit Food Service/Restaurant Wastewater Discharge Permit Application including plumbing plans to Environmental Services Section, 4300 Llano Road, Santa Rosa, CA 95407. <http://ci.santa-rosa.ca.us/doclib/Documents/FoodServiceApp.pdf>.
37. All kitchen sinks excluding hand wash sinks, and condensate lines shall be plumbed to a minimum 1500 gallon 2 stage grease interceptor as per City Standard #519 that is equipped with a sampling manhole as per City Standard #521.
38. The installation and use of any garbage grinder or disposal at any kitchen sink is prohibited.
39. The discharge of any dish wash machine shall be plumbed direct to sanitary sewer, and by-pass the grease interceptor.
40. The trash enclosure shall be covered as per City standard #526, and any drain plumbed to the grease interceptor.
41. Submit irrigation plans in conformance with the Water Efficient Landscape Policy adopted by the Santa Rosa City Council, Resolution No. 21142, December 22, 1992.

42. Submit a Preliminary Landscape Statement, Certificate of Conformance and Certificate of Completion (Water Efficient Landscape Policy).

On landscape and irrigation plans, include the following table broken out into two sections:

- 1) Hydrozone Table: For each irrigation valve list: irrigation method (spray, drip, etc.), plant type (high, moderate, low), GPM, precipitation rate (in/hr), area (ft²), percent of landscaped area and slope.
- 2) Summary Hydrozone Table: Total planned square footage of planted areas for high water use plants (i.e. - turf, annuals and container plants); moderate water use plants (i.e. - ornamental trees, shrubs ground covers, and perennials; and low water use plants (i.e. - drought tolerant plants. The planting plan must include specific plant names that fit in each category per the Water Use Classification of Landscape Species (WUCOLS – UC Extension).

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission finds and determines this entitlement to use would not be granted but for the applicability and validity of each and every one of the above conditions and that if any one or more of the above said conditions are invalid, this entitlement to use would not have been granted without requiring other valid conditions for achieving the purposes and intent of such approval.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 24th day of September, 2009, by the following vote:

AYES: (7) (Allen, Bañuelos, Bartley, Caston, Cisco, Duggan, Poulsen)
NOES: (0)
ABSTENTIONS (0)
ABSENT: (0)

APPROVED: _____
CHAIR

ATTEST: _____
EXECUTIVE SECRETARY