

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION AFFIRMING THE DECISION OF THE
PLANNING COMMISSION AND CONDITIONALLY APPROVING
THE APPLICATION OF MWF PROPERTIES AND MCDONALD'S USA, LLC
FOR MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2012-00099

The following resolution is now offered and read:

WHEREAS, on February 6, 2014, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the Planning Commission) duly considered and conditionally approved the application of MWF Properties and McDonald's USA, LLC for Minor Use Permit/Coastal Development Permit DRC2012-00099; and

WHEREAS, MWF Properties and McDonald's USA, LLC have appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors) pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on April 8, 2014, and determination and decision was made on April 8, 2014; and

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WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Commission should be affirmed, and that the application should be approved subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in revised Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the Mitigated Negative Declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.
4. That the appeals filed by MWF Properties and McDonald's USA, LLC are hereby denied and the decision of the Planning Commission is affirmed and that the application of MWF Properties and McDonald's USA, LLC for Minor Use Permit/Coastal Development Permit DRC2012-00099 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

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Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: March 21, 2014

FINDINGS - EXHIBIT A

Environmental Determination

- A. The Environmental Coordinator, after completion of the initial study, has found that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) was issued on December 26, 2013, and is hereby approved for this project. Mitigation measures are proposed to address public services, transportation/circulation, and water and are included as conditions of approval.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns, and any safety concerns regarding 24-hour traffic, noise, or operations have been eliminated by removing the drive-through and limiting hours of operation. These conditions also address concerns regarding safe access and circulation within the shopping center's parking lot where the proposed project is located.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because, as conditioned, the project is similar to, and will not conflict with, the surrounding lands and uses. The permit is conditioned to limit the hours of operation and require removal of the proposed drive-through, which eliminates potential inconsistencies with the character of the surrounding Los Osos community. The elimination of the drive-through reduces the amount of nighttime glare and visual clutter and blight by eliminating the need for a number of illuminated signs associated with the project. In addition, no other restaurant drive-through operations exist within the Los Osos community. The prior drive through located at the proposed project site was used by a bank, which closed approximately eight years ago and which was a very different type and less intense use than the proposed McDonald's drive-through. Elimination of the drive-through also allows the project to be consistent with the unique history and identity of the small community of Los Osos.
- F. As conditioned, the proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be

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improved with the project because the project is located on Los Osos Valley Road, an arterial road constructed to a level able to handle any additional traffic associated with the project, particularly in light of the removal of the proposed drive-through.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes:
 - a. a change of use from an office (former Bank of America) to a restaurant; in an existing building of 3,978 square feet (3,078 square foot restaurant and 900 square foot remaining office space);
 - b. customer seating is limited to 50 seats;
 - c. no drive-through is allowed,
 - d. hours of operation are as follows: Monday through Thursday 5:00 am to 12:00 am and Friday through Sunday 5:00 am to 1:00 am.

Conditions required to be completed at the time of application for construction permits

Site Development

2. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations and landscape plan. Revised plans shall show the elimination of the drive-through.
3. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

4. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code.

Services

5. **At the time of application for construction permits**, the applicant shall provide a letter from Golden State Water Company stating they are willing and able to service the property.

Conditions to be completed prior to issuance of a construction permit

Fees

6. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

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Signage

7. **Prior to issuance of a construction permit**, the applicant shall submit a final signage plan consistent with Section 23.04.310 of the Title 23. The monument sign and base shall not exceed 5' in height. All the signage associated with the drive-through shall be eliminated.

Mitigation Measure - Water Resources

8. **Prior to issuance of building permits**, the applicant shall retrofit (outside of the prohibition zone) enough homes, businesses, etc. plumbing fixtures to offset their water demand by a total of 698 gallons per day. The applicant may provide an alternative offset as approved by the Planning Director.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

9. **Prior to occupancy or final inspection**, the applicant shall provide the Department of Planning and Building with the reciprocal parking agreement for the Vons shopping center.
10. Landscaping in accordance with the approved landscaping plan shall be installed or bonded for before final building inspection / establishment of the use. If bonded for, landscaping shall be installed within 60 days after final building. All landscaping shall be maintained in a viable condition in perpetuity.
11. **Prior to occupancy or final inspection**, the applicant shall stripe the northern portion of the parking lot for an additional 49 parking spaces for a total of 299 parking spaces.
12. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.
13. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

On-going conditions of approval (valid for the life of the project)

14. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
15. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

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16. The applicant shall as a condition of approval of this minor use permit/coastal development permit defend, at his sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this minor use permit/coastal development or the manner in which the County is interpreting or enforcing the conditions of this minor use permit/coastal development permit, or any other action by a third party relating to approval or implementation of this minor use permit/coastal development permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.