

ATTACHMENT 1

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

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION DENYING THE APPEAL OF E. PETER BYRNE, AFFIRMING THE DECISION OF THE PLANNING COMMISSION, AND CONDITIONALLY APPROVING THE APPLICATION OF GREG BONE AND AUDREY BURNAM FOR A CONDITIONAL USE PERMIT DRC2013-00096.

The following resolution is now offered and read:

WHEREAS, on February 11, 2016, March 24, 2016, May 26, 2016 and July 14, 2016, following a duly noticed and conducted hearing, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the Planning Commission) considered the application of Greg Bone and Audrey Burnam for Conditional Use Permit DRC2013-00096 and conditionally approved the application on July 14, 2016; and

WHEREAS, Peter Byrne has 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 Titles 21 and 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on October 18, 2016, and determination and decision was made on October 18, 2016; and

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,

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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 be affirmed and that the application should be approved subject to the modified 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 Mitigated Negative Declaration prepared for this project represents the independent judgment and analysis of the County as Lead Agency and that it is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.
3. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
4. That the appeal filed by Peter Byrne is hereby denied, that the decision of the Planning Commission is affirmed, and that the application of Greg Bone and Audrey Burnam for Conditional Use Permit DRC2013-00096 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: September 16, 2016

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EXHIBIT A - FINDINGS BONE / CONDITIONAL USE PERMIT / DRC2013-00096

Environmental Determination

- A. The Environmental Coordinator, after completion of the initial study, finds 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.) has been issued on January 6, 2016 for this project. Mitigation measures are proposed to address air quality, biological resources, hazards/hazardous material, public services/utilities, transportation/circulation, wastewater, and water/hydrology and are included as conditions of approval.

Conditional Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the uses proposed are allowed uses 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 22 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 proposed project as conditioned 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.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the proposed tasting room/restaurant/limited food service facility will be limited to 998 sf and be restricted to a total of 5 days per week with 3 of those days from 11:00 am to 5:00 pm and 2 days per week from 11:00 am to 9 pm. Additionally, all guest and staff shall be off-site by 9 pm.
- F. 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 improved with the project because the project is located on Kiler Canyon Road (a collector road), a road constructed to a level able to handle any additional traffic associated with the project and an unpaved access road that is conditioned for dust suppression and a road maintenance agreement.

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- G. A modification of the setback standards required by Land Use Ordinance Section 22.30.070.D.4.c.1 Olive Oil Production / Setbacks) to allow a 96 ft setback to property line and to allow 380 ft to an existing residence is justified because it presents a more environmentally friendly solution than constructing a new building that could meet the required setbacks versus using the existing building. The primary use on-site is the processing of approximately 15 tons of olives grown on-site from the 2,700 olive trees planted on-site (currently not all trees have reached maturity).

- H. A modification of the setback standards required by Land Use Ordinance Section 22.30.075.B.4 Ag Retail Sales / Setbacks that requires all structures to be located no closer than 400 feet to any existing residence to allow a 380 ft setback to an existing residence (to the north) is justified because it presents a more environmentally friendly solution than constructing a new building that could meet the required setbacks versus using the existing building. The primary use on-site is the processing of approximately 15 tons of olives grown on-site from the 2,700 olive trees planted on-site (currently not all trees have reached maturity).

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EXHIBIT B - CONDITIONS OF APPROVAL BONE / CONDITIONAL USE PERMIT / DRC2013-00096

Approved Development

1. This approval authorizes the following:
 - a. Conversion of a portion of an existing 3,445 sf olive processing facility to include:
 - 997 sf of restaurant (limited food service facility) area a 330 sf existing commercial kitchen and 667 sf of indoor and outdoor dining.
 - 94 sf of olive oil tasting area.
 - Up to 100 sf of retail (permanent farm stand).
 - The processing of 540 tons of olives not grown on-site;
 - b. Public access to the site for tasting room/restaurant/limited food service facility/retail sales operation shall be restricted to a total of 5 days per week with 3 of those days from 11:00 am to 5:00 pm and 2 days per week from 11:00 to 9:00. All onsite lighting for the tasting room and restaurant shall be extinguished by 9 pm. Additionally, all guest and staff shall be off-site by 9 pm;
 - c. The incidental processing of olives into table olives for sale onsite (approximately 35 cases);
 - d. The construction of a detached restroom per building code requirements which may include reasonable areas for employee lockers/changing etc;
 - e. A modification to the ordinance standard (Section 22.30.070.D.4.c.1 Olive Oil Production / Setbacks) to allow a 96 ft setback to property line and to allow 380 ft to an existing residence;
 - f. A modification of the ordinance standard (Section 22.30.075.B.4 Ag Retail Sales / Setbacks) that requires all structures to be located no closer than 400 feet to any existing residence to allow a 380 ft setback to an existing residence (to the north);
 - g. Public access to the site for educational olive oil tours, olive oil workshops, olive oil club functions, and olive oil related incidental uses shall be restricted to fewer than 50 people to a total of 5 days per week with 3 of those days limited to the hours of 11:00 a.m. to 5:00 p.m. and 2 of those days limited to the hours of 11:00 a.m. to 9:00 p.m. Reasonable private gatherings of family and friends of the property owners are not limited.

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

Site Development

2. Submit a revised **floor plan and site plan** to the Department of Planning and Building for review and approval. The revised plan shall indicate the following and development shall be consistent with this revised and approved plan:
 - a. Site Plan – The site plan shall show the required number of parking spaces.
 - b. Floor Plan. The dinning seating area including indoor and outdoor areas shall not exceed a 667 sf.

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Required Permits

3. **At the time of application for construction permits**, the applicant shall obtain the following permits if required in addition to any and all other permits required by ordinance or code. Plans shall be prepared or certified by the licensed architect or engineer of record.
 - a. Construction permit to convert the existing agricultural olive processing building into a commercial olive processing facility that will be open to the public;
 - b. Construction permits for tenant improvements to convert a portion of the existing building into an olive oil tasting room, restaurant/limited food service facility, and retail sales area;
 - c. Grading permit for access road widening.

Transportation and Traffic

4. (TR-1) **At the time of application for construction permits**, the applicant shall submit plans prepared by a Registered Civil Engineer to the Department of Public Works to secure an Encroachment Permit and post a cash damage bond to install improvements within the public right-of-way in accordance with County Public Improvement Standards. The plan is to include, as applicable:
 - a. Reconstruct the existing site access driveway approach on Kiler Canyon Road in accordance with County Public Improvement Standard B-1 drawing rural roadways, and A-5a sight distance standards.
 - b. Remove sign and vegetation obstructions per the recommendations contained in the *Above Grade Engineering* driveway sight distance analysis dated September 21, 2015.
5. (TR-2) **At the time of application for construction permits**, the applicant shall submit evidence to the Department of Planning and Building of a road maintenance agreement for Old Kiler Canyon Road. The agreement shall establish an organized and perpetual mechanism to ensure adequate maintenance of the shared access roads in a form acceptable to the County. The road maintenance agreement shall be signed by the owners of all properties which have shared access rights, or be fully assumed by the applicant for the full width across their property frontage and back to the nearest county maintained road and be binding upon their heirs and assigns, and be recorded with the County Clerk on each of the effected properties.
6. (TR-5) **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section 22.52.110 (Drainage) or 23.05.040 (Drainage) of the Land Use Ordinance.
7. (TR-6) **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with 22.52.120.
8. (TR-8) **At the time of application for construction permits**, the applicant shall demonstrate whether the project is subject to the LUO Section for Storm Water Management. Applicable projects shall submit a Storm Water Control Plan (SWCP) prepared by an appropriately licensed professional to the County for review and approval. The SWCP shall incorporate appropriate BMP's, shall demonstrate compliance with Storm Water Quality Standards and shall include a preliminary drainage plan, a preliminary erosion and sedimentation plan

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9. (TR-9) **At the time of application for construction permits**, if necessary, the applicant shall submit a draft "Private Storm Water Conveyance Management and Maintenance System" exhibit for review and approval by the County.

Exterior Lighting

10. **At the time of application for construction permits**, the applicant shall provide details on any proposed or **existing exterior lighting**. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored. All lights (non-essential for safety) shall be turned off by 9 p.m.

Fire Safety

11. **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. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, prepared by the Cal Fire/County Fire Department for this proposed project and dated January 16, 2015, letter dated October 23, 2015 and memo dated May 26, 2016.

Services

12. **At the time of application for construction permits**, the applicant shall submit evidence that there is adequate water to serve the proposal, on the site.
13. **At the time of application for construction permits**, the applicant shall submit evidence that the existing septic system, adequate to serve the proposal, can be installed on the site.

Conditions to be completed prior to issuance of a construction permit

Fees

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

Transportation and Traffic

15. (TR-10) **Prior to issuance of construction permits**, if necessary, the applicant shall record with the County Clerk the "Private Storm Water Conveyance Management and Maintenance System" to document on-going and permanent storm drainage control, management, treatment, disposal and reporting.

Nesting Birds

16. (BR-1) **Prior to and during construction**, in order to protect sensitive bird species and those species protected by the Migratory Bird Treaty Act and/or the Fish and Wildlife Code, the applicant shall avoid vegetation clearing and earth disturbance during the typical nesting season (February 15 – August 31). If avoiding construction during this season is not feasible, a qualified biologist shall survey the area one week prior to activity beginning on the site. If nesting birds are located, they shall be avoided until they have successfully fledged. A buffer zone of 50 feet will be placed around all non-sensitive bird species, a 500-foot buffer zone for raptors, and all activity will remain outside of that buffer until a County approved biologist has determined that the young have fledged. If special-status bird species are located, no work will begin until an appropriate buffer is determined by consultation with the County, the local California Department of Fish and Wildlife biologist, and/or the U. S. Fish and Wildlife Service.

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Oak Trees

17. (BR-2) **Prior to issuance of construction permit and/or grading permit**, the applicant shall clearly show all oak trees within 50 feet of grading activities on the grading plans. In addition to showing the limits of grading, the grading plans shall also designate any oak trees to be removed and which oak trees will be impacted by grading activities occurring within the root zone (one and one half times the dripline).

18. (BR-3) **Prior to issuance of a grading permit**, the applicant shall provide a tree replacement plan for review and approval by the Environmental Coordinator. The replacement plan shall demonstrate compliance with the following measures:
 - a. **Number of Trees** – The tree replacement plan shall provide for the replacement, in kind, of removed oak trees at a 4:1 ratio. Additionally, the tree replacement plan shall provide for the planting, in kind, at a 2:1 ratio for oak trees designated for impact but not removal.
 - b. **Location/Density** – The location shall be clearly shown on the plans. Trees shall be planted at no greater a density than the average density in the existing oak woodland area on the site.
 - c. **Species** – Trees shall be of the same species of the trees proposed for impact or removal. The species shall be clearly specified on the plans.
 - d. **Planting** – Replanting shall be completed as soon as it is feasible (e.g. irrigation water is available, grading done in replant area). Replant areas shall be either in native topsoil or areas where native topsoil has been reapplied. If the latter, top soil shall be carefully removed and stockpiled for spreading over graded areas to be replanted (set aside enough for 6-12" layer). If possible, planting during the warmest, driest months (June through September) shall be avoided. In addition, standard planting procedures (e.g., planting tablets, initial deep watering) shall be used.
 - e. **Maintenance** – Newly planted trees shall be maintained until successfully established.

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

19. **Prior to occupancy or final inspection**, whichever occurs first, the applicant shall obtain final inspection and approval from CAL FIRE of all required fire/life safety measures. This includes but not limited to the access road widening and compaction deficiencies (Keith V. Crowe, PE, PLS, letter dated July 29, 2015).

20. **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.

Transportation and Traffic

21. (TR-3) **Prior to occupancy or final inspection**, all public improvements have been constructed or reconstructed in accordance with County Public Improvement Standards and to the satisfaction of the County Public Works Inspector.

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

22. 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 22.64.070 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 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
23. All conditions of this approval run with the land and 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 22.74.160 of the Land Use Ordinance.

Transportation and Traffic

24. (TR-4) In accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage; tree planting; fences; etc without a valid Encroachment Permit issued by the Department of Public Works.
25. (TR-7) The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and / or Phase II storm water program and the County's Storm Water Pollution Control and Discharge Ordinance, Title 8, Section 8.68 et sec.
26. (TR-11) The applicants shall provide recycling opportunities to all facility users at all events in accordance with Ordinance 2008-3 of the San Luis Obispo County Integrated Waste Management Authority (mandatory recycling for residential, commercial and special events).

Air Quality

27. (AQ-1) For the life of the project and prior to final inspection, for the unpaved access road/driveway, the applicant shall implement one of the following:
 - a. Pave and maintain the access driveway from Kiler Canyon Road to the gate. From the gate to the olive processing facility, the applicant shall maintain the remaining access road by the use of paving, chip seal, or dust suppressant.

The applicant shall also implement and maintain design standards to ensure vehicles that use the road are physically limited (e.g., speed bumps) to a posted speed limit of 15 mph or less.

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Building Occupancy

28. The applicant shall comply with CAL FIRE Safety Letter dated January 16, 2015, memo dated May 26, 2016 and the occupancy of the building shall not exceed 49. Any additions to the structure including enclosing the covered porch area for dining, and/or removing furnishing allowing an increased occupancy load at this location shall require the installation of a commercial NFPA compliant automatic Fire sprinklers.

Defense and Indemnity of the County

29. The applicant shall as a condition of approval of this Minor Use Permit application 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 or the manner in which the County is interpreting or enforcing the conditions of this Minor Use Permit, or any other action by a third party relating to approval or implementation of this Minor Use Permit. The applicant shall reimburse the County for any court costs and attorney fees that 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.