

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 10/18/2016	(3) CONTACT/PHONE Holly Phipps, Project Manager / (805) 781-1162	
(4) SUBJECT Hearing to consider an appeal by Peter Byrne of the Planning Commission's approval of a request by Greg Bone and Audrey Burnam for a Conditional Use Permit (DRC2013-00096) for the conversion of a portion of an existing 3,445 square foot (sf) olive oil processing facility to include: a 997 sf of restaurant, a 94 sf olive oil tasting area, up to 100 sf of retail space (permanent farm stand), the processing of 540 tons of olives not grown on-site, ordinance modifications to the size and operating hours of the restaurant, ordinance modifications to the setbacks for the Olive Oil processing facility and the farm stand located on the south side of Kiler Canyon Road, 1.35 miles west of the City of Paso Robles (at 1111 Kiler Canyon Road), also under consideration is a Mitigated Negative Declaration. District 1.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the resolution denying the appeal by Peter Byrne and affirming the decision of the Planning Commission subject to the findings and modified conditions set forth in the attachments to this staff report.			
(6) FUNDING SOURCE(S) Appeal Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation { x } Hearing (Time Est. <u>60 min.</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { x } Resolutions { } Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required { x } N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? Yes	(16) AGENDA ITEM HISTORY { x } N/A Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 1			

County of San Luis Obispo



TO: Board of Supervisors
FROM: Planning and Building / Holly Phipps, Project Manager
VIA: Bill Robeson, Deputy Director / Permitting
DATE: 10/18/2016

SUBJECT: Hearing to consider an appeal by Peter Byrne of the Planning Commission's approval of a request by Greg Bone and Audrey Burnam for a Conditional Use Permit (DRC2013-00096) for the conversion of a portion of an existing 3,445 square foot (sf) olive oil processing facility to include: a 997 sf of restaurant, a 94 sf olive oil tasting area, up to 100 sf of retail space (permanent farm stand), the processing of 540 tons of olives not grown on-site, ordinance modifications to the size and operating hours of the restaurant, ordinance modifications to the setbacks for the Olive Oil processing facility and the farm stand located on the south side of Kiler Canyon Road, 1.35 miles west of the City of Paso Robles (at 1111 Kiler Canyon Road), also under consideration is a Mitigated Negative Declaration. District 1.

RECOMMENDATION

It is recommended that the Board adopt the resolution denying the appeal by Peter Byrne and affirming the decision of the Planning Commission subject to the findings and modified conditions set forth in the attachments to this staff report.

DISCUSSION

Background

The Planning Commission considered the proposed project during four public hearings on February 11, 2016, March 24, 2016, May 26, 2016 and July 14, 2016. The Commission took hours of testimony at these hearings. The Commission extensively discussed the project issues including access road safety, fire safety, building occupancy, and hours of operation for the tasting room and restaurant. The Commission ultimately voted to unanimously approve the project as presented and conditioned. On July 28, 2016, Peter Byrne filed an appeal of the Planning Commission's approval of the Conditional Use Permit (CUP).

Summary of Project History

The existing olive oil processing facility was previously open to the public for olive oil tastings, restaurant food service and temporary events without an approved land use permit nor the appropriate building permits to allow public access. The food preparation was conducted in a permitted commercial kitchen that was permitted to service the "employee breakroom". This commercial kitchen did receive a "restaurant" permit from the County Health Department; however, the restaurant/limited food service facility use was not a permitted or approved land use on the site. The applicant was also in violation for processing olives not grown on-site. A complaint was filed with County Code Enforcement July 9, 2013. The applicant was allowed to continue to process olives grown off-site while the conditional use permit was in process. In addition, all food service was prohibited and any olive oil public tasting was restricted to an outside patio since the structure was not permitted for a Public Assembly use and the pending authorization for this conditional use permit was not approved.

Planning Commission Approved Project Description

The proposed project is a request to authorize a 997 sf restaurant, a 94 sf area for olive oil tasting and 100 sf for retail sales area (farm stand) located within an existing 3,445 sf permitted olive oil processing building. The applicant is also requesting to process 540 tons of olives not grown on-site. Temporary events are not requested.

The project requires ordinance modifications for the size and hours of operations for the proposed restaurant and modifications to the required setbacks to property lines and setbacks to the nearest residence.

The Commission limited the public access to site to 5 days a week and did allow the restaurant (limited food service facility) to operate beyond the tasting room hours, until 9 p.m. two days a week.

In addition, the Commission added Condition 27 requiring the applicant to pave a portion of the access road and maintain the entire access driveway from Kiler Canyon Road to the facility. Following the Commission approval the applicant has installed the paved road section per Condition 27.

Appeal Issues

Issue #1: The appellant is appealing 1.b. and 1.g. of the Conditions of Approval provided below. The appellant does not agree that the restaurant should be allowed to operate beyond the normal hours of operation of the tasting room hours (11:00 a.m. to 5:00 p.m.). A limited food service facility (restaurant) per the land use ordinance is allowed to operate during the tasting room hours.

The following is approved Condition 1:

Approved Development

1. This approval authorizes the following:

- b. Public access to the site for tasting room/restaurant/limited food service facility/retails 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;
- 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.

Staff Response: The Planning Commission reviewed this request during 4 separate public hearings. Significant neighborhood testimony raised concerns over the appropriateness of the site and the private unimproved access road for a restaurant, tasting room and retail sales. After much deliberation, the Commission limited the public access to site to 5 days a week and did allow the restaurant (limited food service facility) to operate beyond the tasting room hours, until 9 p.m. two days a week.

In addition, the Commission added Condition 27 requiring the applicant to pave a portion of the access road and maintain the entire access driveway from Kiler Canyon Road to the facility.

Issue #2: The appellant is appealing a portion of 1.g., the last sentence, "Reasonable private gatherings of family and friends of the property owners are not limited." The appellant believes by not quantifying these gatherings that this presents a loophole for the applicant to hold events at the facility that would not be enforceable. The appellant is requesting that family and friend gatherings be limited to the hours of operation of the tasting room.

Staff Response: The Olive Ordinance does not allow events, olive industry events, or pick up parties. Nor does the Olive Ordinance define an event. If the applicant would like to host events on site, the applicable ordinance to use is the "Temporary Events" ordinance.

The Temporary Events Ordinance does not define how many people make up an event. The ordinance does state that events may not occur more than 12 consecutive days; or more than 4 consecutive weekends. Access shall provide a minimum of (2)-18 feet wide access points and fire protection shall be provided as required by County Fire Department.

Temporary Events are not proposed. The primary access road will not meet CAL FIRE's 24-foot commercial access road width and the site has no secondary access (emergency access). Additionally, there is no residence on site, only the commercial olive processing facility. Due to site deficiencies, the last sentence of 1.g. condition was added to clarify that temporary events are not permitted but that the facility can be used by the applicant for any reasonable gatherings of their family or friends.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to County Public Works, CAL FIRE, Environmental Health, Air Pollution Control District, Agricultural Commissioner, Regional Water Quality Control Board, and the Building Department.

In addition, County Counsel has reviewed and approved the attached Resolution with findings and conditions.

FINANCIAL CONSIDERATIONS

This appeal was accompanied by an \$850.00 appeal fee. This appeal was processed using department allocated general fund support as well as the fee.

RESULTS

Affirming the Planning Commission's decision and denying the appeal will mean the Conditional Use Permit DRC2013-00096 is approved.

Upholding the appeal would mean the Planning Commission's approval of the Conditional Use Permit DRC2013-00096 would be overturned and the project denied or conditions modified.

This hearing is consistent with communitywide results of encouraging a safe, healthy, and livable community.

ATTACHMENTS

1. Attachment 1 – Resolution with Findings and Conditions
2. Attachment 2 - Appeal Letter
3. Attachment 3 - Graphics
4. Attachment 4 - Planning Commission Minutes
5. Attachment 5 - PC STFRPT_02-11-16
6. Attachment 6 - PC STFRPT_03-24-16
7. Attachment 7 - PC STFRPT_05-26-16
8. Attachment 8 - PC STFRPT_07-14-16