

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA MAKING FINDINGS AND DETERMINATIONS AND APPROVING A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION AND OPERATION OF A RESTAURANT WITH COUNTER ORDERING, DRIVE THROUGH SERVICE, AND EXTENDED HOURS OF OPERATION, LOCATED AT 2532 SANTA ROSA AVENUE AND 325 YOLANDA AVENUE; ASSESSOR'S PARCEL NOS. 044-041-010 AND 044-071-002; FILE NO. PRJ18-086.

WHEREAS, on December 6, 2018, an application was submitted requesting the approval of a Conditional Use Permit for the construction and operation of a ~4,000 square foot restaurant with counter ordering, drive-through service, and extended hours of operation at 2532 Santa Rosa Avenue and 325 Yolanda Avenue, also identified as Sonoma County Assessor's Parcel Numbers 044-041-010 and 044-071-002;

WHEREAS, on January 14, 2021, 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, on January 14, 2021, the Planning Commission 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, on January 14, 2021, the Planning Commission adopted the Mitigated Negative Declaration.

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 restaurant with drive-through service and extended hours of operation is consistent with the General Plan in that the General Plan land use designation is Retail and Business Services, which is designated for retail and service enterprise, office, and restaurant uses.
- B. The proposed restaurant with drive-through service and extended hours of operation is allowed within the General Commercial zoning district, which implements the Retail and Business Services land use designation of the General Plan, subject to approval of a Conditional Use Permit. As designed and conditioned, the Project complies with all applicable provisions of this Zoning Code and the City Code.
- 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. The site is in an area designated for restaurant uses on the General Plan Land Use Diagram, and access will be

taken from Santa Rosa Avenue and Yolanda Avenue, which are both designated as Regional/Arterial streets.

The commercial site shares two property lines with residential uses. To the north, there are two mobile home units within 15 feet of the drive-through aisle. The existing wood fence will be replaced by an eight-foot CMU-wall, which will protect mobile home park residents from both noise and headlight glare.

While not constructed yet, the Yolanda Apartments, a 252-unit apartment complex, has been approved on the property to the east. The approved housing project and the subject drive-through restaurant were designed simultaneously, and the uses are separated by a wall, parking structures and a drive aisle located on the residential site plan. Because it is unclear which project will be constructed first, In-N-Out Burger has been conditioned to construct the wall to provide protection from headlight glare and noise for the residents on the east side of the mobile home part to the north.

The restaurant will stay open until 1:30 a.m., and deliveries will be made after closing. The application includes a path of travel for delivery trucks. Delivery trucks will take access from Yolanda Avenue and exit on Santa Rosa Avenue; the trucks will park adjacent to the south elevation of the restaurant; delivery staff will utilize hand operated equipment to avoid unnecessary back-up beeping and noise; and the project has been conditioned to adhere to the plan. As shown in the Supplemental Noise Evaluation, prepared by Meridian Consultants, dated November 20, 2020, the combined protection of delivery protocols and the eight-foot CMU-wall, noise levels will be in compliance with the Noise Ordinance, City Code Chapter 17-16.

The drive-through queuing analysis indicates that 30 cars can queue into the drive-through without interrupting on- or off-site traffic flow or parking. The queuing of cars is not anticipated to exceed the stacking space due to the project's operational characteristic of deploying employees to take orders in the drive-through queue when the number of cars in the drive-through exceeds eight cars. The site plan includes 76 onsite parking spaces, which exceed that required by the Zoning Code by 22 spaces.

- 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. The project is located within a developed area where all utilities and services are available. Access will be taken from both Yolanda Avenue and Santa Rosa Avenue, vehicles will merge into one drive-through aisle with the capacity for 30 vehicles, and the site plan provides 76 onsite parking spaces. The project has been analyzed for impacts to traffic circulation and noise, and no significant impacts are anticipated.
- 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. The proposed restaurant may result in additional traffic in the area, but nearby intersections are anticipated to maintain existing level of service.

The proposed use would also comply with all applicable standards of the Bay Area Air Quality Management District and the City's Climate Action Plan (CAP). The proposed project would result in generation of greenhouse gas (GHG) emissions during construction and operation, however the project follows CAP guidance and meets all applicable checklist items.

The project has been conditioned to minimize cooking odors with the installation of an air filtration system that will contain odors associated with cooking within the building. The project has been conditioned to remain in compliance with the Noise Ordinance, City Code Chapter 17-16.

- F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA), An Initial Study was conducted and resulted in the preparation of a Mitigated Negative Declaration, including a Mitigation Monitoring and Reporting Program that identifies measure to reduce all potentially significant impacts to a level less than significant.

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 the construction and operation of a restaurant with counter ordering, drive-through service, and extended hours of operation located at 2532 Santa Rosa Avenue and 325 Yolanda Avenue 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 in accordance with the plans approved by the Planning Commission at its meeting of January 14, 2021.

##### **EXPIRATION AND EXTENSION:**

3. 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.

4. 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.

**ENGINEERING DIVISION:**

5. Compliance with all conditions as specified by the attached Engineering Development Services Exhibit A, prepared by Jesus McKeag, dated “Revised December 22, 2020, attached hereto and incorporated herein as Exhibit A.

**BUILDING DIVISION:**

6. Provide a geotechnical investigation and soils report with the building permit application. The investigation shall include subsurface exploration and the report shall include grading, drainage, paving and foundation design recommendations.
7. Obtain building permits for the proposed project.

**PLANNING DIVISION:**

8. Compliance with the Mitigation Monitoring and Reporting Program (MMRP), which was prepared as a result of the Initial Study conducted for the Project and adopted by the Planning Commission in conjunction with Project’s Mitigated Negative Declaration, attached hereto and incorporated herein as Exhibit B.
9. The Project shall receive Design Review prior to Building Permit application submittal.
10. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080).
11. Construction hours shall be limited to 8:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. Saturday. No construction is permitted on Sunday and holidays.
12. The project shall comply with all applicable noise standards pursuant to City Code Chapter 17-16.
13. Delivery trucks will enter the site from Yolanda Avenue, park adjacent to the south side of the restaurant structure, and delivery staff shall utilize manual delivery tools to avoid any back-up beeping.
14. An eight-foot CMU-wall shall be constructed along the north property line to protect residential units from headlight glare and noise. The wall will be reduced

to three feet in height where adjacent to commercial businesses to allow visibility for vehicles traveling north on Santa Rosa Avenue.

15. If the In-N-Out Burger restaurant is constructed before the approved housing development to the east, the eight-foot CMU-wall shall extend along the eastern property line to ensure adequate noise protection for mobile home park residents to the north.
16. The restaurant shall install an air filtration system to contain cooking/grilling odors within the building.
17. 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.
18. All exterior lighting shall be shown and specified on the plans provided to the Zoning Administrator for Design Review, and in compliance with Zoning Code Section 20-30.080.
19. Bicycle parking shall be provided in accordance with Zoning Code Chapter 20-36. The location and number of spaces shall be shown on the site plan submitted for issuance of a building permit.
20. No exterior signs, banners, or the like are approved with this permit. A Planning sign permit application is required for all signs.
21. 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 Planning and Economic 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.

BE IT FURTHER 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 14<sup>th</sup> day of January 2021, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

APPROVED: \_\_\_\_\_  
CHAIR

ATTEST: \_\_\_\_\_  
EXECUTIVE SECRETARY

Attachments: Exhibit A (Engineering Development Services Exhibit A)  
Exhibit B (MMRP, dated December 2020)