



MEETING OF APRIL 18, 2006

AGENDA ITEM NO. 5A

Application I.D.: PA2006-0006

Application Type: Conditional Use Permit

Location: 522 El Camino Real

Owner: McDonald's Corporation

Applicant: Berliner Cohen

APN: 044-201-060 and 044-201-260

Zoning: C-3, Highway Commercial
D-1, Design Control Combining

General Plan Designation: Ch, Highway Commercial

Environmental Determination: Categorically Exempt, Section 15301

PROJECT DESCRIPTION:

The applicant requests approval of a Conditional Use Permit to modify the hours of operation for a McDonalds restaurant, allowing dine-in service from 5:30 AM to 11:00 PM and drive-thru service 24 hours per day.

RECOMMENDATION

Staff recommends that the Planning Commission **approve** the Conditional Use Permit subject to the findings and conditions of approval contained in the attached draft resolution¹.

GENERAL PLAN/ZONING CODE DESIGNATION

The Belmont General Plan designates the project site as Ch - Highway Commercial. The McDonald s restaurant serves a primarily automobile based clientele, which is consistent with the Ch designation. The subject site is zoned C-3, Highway Commercial, which has an overlay D-1 District, Design Control Combining. Restaurants with drive-thru uses are a conditionally permitted use in the c-3 zoning district.

¹ Please note: This recommendation is made in advance of completion of all public testimony or Commission discussion of the project. At the public hearing, these two factors, in conjunction with the staff analysis, will be considered by the Commission in rendering a decision on the project.

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300/500-Foot Radius Map

PRIOR ACTIONS/BACKGROUND

McDonald's has been at the present location since 1964. Since that time:

- Design Review approval was granted in 1970 and a conditional use permit for a drive-thru window was granted in 1981 along with design approval of the existing freestanding sign.
- Design Review for new wood trim and to paint the roof beams was granted in 1986.
- Design Review was approved in order to construct a cashiers booth in 1987.
- Design Review and a Conditional Use Permit were approved in 1990 for a new drive-thru one-story restaurant at the same location that required the demolition of the existing restaurant.
- A Conditional Use Permit and Design Review to add 950 square feet to the existing building for a play area were approved in 1997.
- A parking variance was approved in 1997 that reduced the required 37 parking spaces to 35.
- A Design Review application for an addition to the existing building was submitted in 2003 but ultimately was withdrawn.

SITE CONDITIONS

The McDonalds restaurant site is located on the west side of El Camino Real between Davey Glen Road and Middle Road. This section of El Camino Real is characterized by commercial uses that front on the west side of the road and the Caltrain track on the east side. The commercial uses are located within clustered buildings in small commercial plazas. A landscaped street median along El Camino Real and landscaped parking lots help to break up the linear commercial strip appearance along this north/south corridor.

The 0.99-acre subject site is developed with a 5,155 square-foot McDonalds restaurant with a drive-thru, parking lot with 35 surface parking stalls, and mature landscaping that includes lawn and redwood trees along the El Camino Real frontage.

PROJECT ANALYSIS

The existing McDonalds restaurant operates dine-in service from 7:00 AM to 11:00 PM as permitted by the Belmont Zoning Ordinance for all commercial uses. During the winter months (September through May) the drive-thru service operates from 7:00 AM to 11:00 PM Sunday through Thursday, and from 7:00 AM to midnight on Friday and Saturday. During the summer months (June through August) the drive-thru service is permitted to operate 7:00 AM to midnight, seven days per week. The Planning Commission approved these hours of operation in 1981 (Resolution No. 1981-13).

As discussed earlier, the applicant is requesting approval of a conditional use permit to modify the hours of operation for the restaurant, allowing dine in service from 5:30 AM to 11:00 PM

and drive-thru service 24-hours per day. No modifications to the exterior of the existing restaurant or to the site plan are proposed in conjunction with the requested CUP.

The Belmont Police Department has reviewed the requested CUP and provided conditions of approval that address potential safety or security concerns associated with a 24-hour drive-thru facility.

PROJECT DATA

Criteria	Existing	Proposed	Required/ Max. Allowed
Lot Size	0.99 acres	No Change	N/A
Slope	<1%	No Change	N/A
FAR	0.121	No Change	1.5
Square Footage	5,155 sq. ft.	No Change	N/A
Parking	35 spaces	No Change	35 spaces
Setbacks:			
Front (El Camino Real - East)	23 ft.	No Change	15 ft.
Side (North)	86 ft.	No Change	0 ft.
Side (South)	23 ft.	No Change	0 ft.
Rear (West)	10 ft.	No Change	0 ft.

NEIGHBORHOOD OUTREACH STRATEGY

The applicants reports performing neighborhood outreach as detailed in attachment IV. On February 14, 2006 a letter was mailed to all property owners within 300 feet of the subject property informing them of the requested modification in hours of operation and providing a comment sheet and a postage-paid envelope for neighbors to use to return comments. The applicant received six written responses, which have been attached. All six of the respondents indicated that they have no objections to the modification of hours. However, one neighbor raised concern with pedestrians being allowed to use the drive-up window after dine-in hours have ended. McDonalds Corporation has indicated that no walk-up customers will be permitted to use the drive-thru at any time and has agreed to post a sign at the drive-thru entrance. A condition of approval to this effect has been included in attachment III. Staff has received no responses to the public notice as of the writing of this report. The applicant has achieved the neighborhood outreach strategy tasks.

ENVIRONMENTAL CLEARANCE (CEQA)

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act as it qualifies under Section 15301:

“Minor alteration of existing public or private structures...involving negligible or no expansion of an existing use.”

The proposal to modify the hours of operation does not modify the existing restaurant use of the property and is exempt from CEQA.

Zoning/General Plan Conformance

The site is designated as Ch - Highway Commercial in the General Plan. Highway commercial uses are described as those businesses depending on automobile traffic for customers and lists restaurants as allowable uses. The McDonald s restaurant serves a primarily automobile based clientele and is in conformance with this General Plan designation.

Commercial uses located within a commercially zoned property are allowed by right to operate between the hours of 7:00 AM and 11:00 PM. Section 5.2.2 (k) of the Zoning Ordinance requires that any use conducted before 7:00 AM or after 11:00 PM obtain a conditional use permit. The requested change in hours of operation for the McDonald s restaurant requires a conditional use permit but does not change the existing use (restaurant w/drive-thru) or size of the building. The existing restaurant and drive-thru use currently operate under a conditional use permit as required for the C-3 Highway Commercial zoning district per section 5.4.2 (e) of the BZO.

No changes to the site plan or building exterior are proposed and thus design review approval is not required at this time.

A parking variance was granted in January 1997 to permit 35 parking spaces where 37 would be required. The proposed modification in hours of operation for the drive-thru service would not impact on-site parking needs. The modified hours of operation for dine-in service will not result in an increase in the amount of indoor seating available, and thus does not increase the intensity of the existing restaurant use.

CONDITIONAL USE PERMIT ANALYSIS

In order to grant a Conditional Use Permit, the Planning Commission must make the following findings pursuant to Section 11.5.1 (a-d) of the City of Belmont Zoning:

- a) The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.*

The applicant is proposing to modify the hours of operation for both dine-in and drive-thru services for an existing McDonalds restaurant. The site fronts onto El Camino Real, a major transportation thoroughfare and is located adjacent to a Dollar Tree market and a U-Haul truck rental facility. Central Elementary School is located adjacent to the rear of the site with no access between properties. The closest residential property is located over 350 feet from the subject McDonalds property. To prevent any conflicts between pedestrians and vehicles, a condition of approval has been included that prohibits any pedestrian or walk-up customers from utilizing the drive-thru at any time. The expanded hours of operation for the restaurant within a commercial area would not place any additional burden on local infrastructure and is compatible with the surrounding uses. This finding can be made in the affirmative.

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b) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this ordinance.

The existing site plan complies with all applicable Building and Zoning Ordinance requirements and no physical changes to the site or building are proposed. The site plan indicates that ample space is available for drive-thru vehicle stacking such that it would not adversely impact on-site parking availability. Additionally, the drive-thru lane is located approximately 130 feet from El Camino Real and thus is not expected to have any impact on off-site vehicular traffic. There is existing parking lot landscaping and front yard landscaping on the site that is sufficient for the existing use. This finding can be made in the affirmative.

c) The site will be served by streets of a capacity sufficient to carry the traffic generated by the proposed use.

The subject lot fronts onto El Camino Real, which is a major transportation thoroughfare within the City of Belmont and also the Peninsula region. This roadway is capable of handling any additional traffic that would be generated by the expanded hours of operation. It should be noted that the expanded hours would not include late night and early morning operations that would not conflict with traditional peak commuter hours. This finding can be made in the affirmative.

d) The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.

The Belmont Police Department has reviewed the proposal and provided conditions of approval that would ensure that the restaurant will generally not have an adverse affect on neighboring properties. Recommended conditions of approval include:

- Parking lot lighting shall be improved to deter any late night loitering in the parking lot area.
- Security cameras shall be installed to monitor the parking lot 24-hours per day.
- Specific “No Loitering” signs shall be posted throughout the site and enforced by management.
- Incidents at and calls for public safety service to and related to McDonalds, between the hours of 11:00 PM and 5:30 AM shall be monitored by the Belmont Police Department for the first 90-days of operation, for any activity that could potentially impact neighboring properties or public safety services. After the 90-day period expires, or during this period if the data collected so indicates, the Belmont Police Department, at their own discretion, may determine that security personnel are necessary.

With incorporation of and adherence to the above stated conditions of approval, staff believes that this finding can be made in the affirmative.

CONCLUSION

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The proposed hours of operation for the existing McDonalds restaurant, permitting dine-in service from 5:30 AM until 11:00 PM and allowing 24-hour drive-thru service, generally meet the objectives of the General Plan and Zoning Ordinance. Based on the foregoing analysis of the required findings, staff recommends **approval** of the Conditional Use Permit application subject to the conditions of approval in attachment III.

ACTION ALTERNATIVES

1. Recommend modified hours of operation for the project and continue the matter to a date certain to allow subsequent review of an alternative proposal.
2. Deny the Conditional Use Permit application.

ATTACHMENTS

- I. 500 foot radius map of project site (Page 2 of report)
- II. Resolution approving the Conditional Use Permit
- III. Conditions of Approval
- IV. Neighborhood Outreach Materials
- V. Project plans and submittal materials (Commission only)

Respectfully submitted,

Jennifer Walker
Associate Planner

Carlos de Melo
Community Development Director

CC: Property Owner
Applicant

PLEASE NOTE:

Attachments IV and V are not included as part of this document please contact the Community Development Department at (650) 595-7417 for further information on these attachments.

RESOLUTION NO. 2006-_____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELMONT
APPROVING A CONDITIONAL USE PERMIT FOR 522 EL CAMINO REAL
(APPL.NO. PA2006-0006)

WHEREAS, McDonalds Corporation requests a Conditional Use Permit to modify the hours of operation for an existing McDonald s restaurant to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service 24 hours per day at 522 El Camino Real; and,

WHEREAS, a public hearing was duly noticed, held, and closed on April 18, 2006; and,

WHEREAS, the Planning Commission of the City of Belmont finds the project to be categorically exempt pursuant to the California Environmental Quality Act, Section 15301; and,

WHEREAS, the Planning Commission hereby adopts the staff report dated April 18, 2006, and the facts contained therein as its own findings of facts; and,

WHEREAS, the Planning Commission has considered the applicant s request for a Conditional Use Permit to modify the hours of operation for the existing restaurant/dive-thru and finds that it meets required findings as set forth in Section 11.5.1 of the Zoning Ordinance as follows:

- a) *The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.*

The applicant is proposing to modify the hours of operation for both dine-in and drive-thru services for an existing McDonalds restaurant. The site fronts onto El Camino Real, a major transportation thoroughfare and is located adjacent to a Dollar Tree market and a U-Haul truck rental facility. Central Elementary School is located adjacent to the rear of the site with no access between properties. The closest residential property is located over 350 feet from the subject McDonalds property. To prevent any conflicts between pedestrians and vehicles, a condition of approval has been included that prohibits any pedestrian or walk-up customers from utilizing the drive-thru at any time. The expanded hours of operation for the restaurant within a commercial area would not place any additional burden on local infrastructure and is compatible with the surrounding uses. This finding is affirmed.

- b) *The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this ordinance.*

The existing site plan complies with all applicable Building and Zoning Ordinance requirements and no physical changes to the site or building are proposed. The site plan indicates that ample

space is available for drive-thru vehicle stacking such that it would not adversely impact on-site parking availability. Additionally, the drive-thru lane is located approximately 130 feet from El Camino Real and thus is not expected to have any impact on off-site vehicular traffic. There is existing parking lot landscaping and front yard landscaping on the site that is sufficient for the existing use. This finding is affirmed.

c) *The site will be served by streets of a capacity sufficient to carry the traffic generated by the proposed use.*

The subject lot fronts onto El Camino Real, which is a major transportation thoroughfare within the City of Belmont and also the Peninsula region. This roadway is capable of handling any additional traffic that would be generated by the expanded hours of operation. It should be noted that the expanded hours would not include late night and early morning operations that would not conflict with traditional peak commuter hours. This finding is affirmed.

d) *The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.*

The Belmont Police Department has reviewed the proposal and provided conditions of approval that would ensure that the restaurant will generally not have an adverse affect on neighboring properties. Recommended conditions of approval include:

- Parking lot lighting shall be improved to deter any late night loitering in the parking lot area.
- Security cameras shall be installed to monitor the parking lot 24-hours per day.
- Specific No Loitering signs shall be posted throughout the site and enforced by management.
- Incidents at and calls for public safety service to and related to McDonalds, between the hours of 11:00 PM and 5:30 AM shall be monitored by the Belmont Police Department for the first 90-days of operation, for any activity that could potentially impact neighboring properties or public safety services. After the 90-day period expires, or during this period if the data collected so indicates, the Belmont Police Department, at their own discretion, may determine that security personnel are necessary.

With incorporation of and adherence to the above stated conditions of approval, the Planning Commission believes that this finding is affirmed.

WHEREAS, the Planning Commission finds the applicant's request for a Conditional Use Permit is consistent with the required findings pursuant to 11.5.1 of the Belmont Zoning Ordinance (BZO). The Planning Commission reviewed the proposed use and believes the proposal (as conditioned) conforms to all required standards and is generally compatible with neighboring properties.

WHEREAS, the Planning Commission did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

NOW, THEREFORE, BE IT RESOLVED the Planning Commission approves the Conditional Use Permit to modify the hours of operation for an existing McDonald s restaurant to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service 24 hours per day at 522 El Camino Real, subject to the conditions attached as Exhibit A .

* * * * *

Passed and adopted at a regular meeting of the Planning Commission of the City of Belmont held on April 18, 2006 by the following vote:

AYES,
COMMISSIONERS: _____
NOES,
COMMISSIONERS: _____
ABSENT,
COMMISSIONERS: _____
ABSTAIN,
COMMISSIONERS: _____
RECUSED,
COMMISSIONERS: _____

Carlos de Melo
Planning Commission Secretary

EXHIBIT "A"

CONDITIONS OF PROJECT APPROVAL CONDITIONAL USE PERMIT 522 EL CAMINO REAL (APPL. NO. 2006-0006)

- I. COMPLY WITH THE FOLLOWING CONDITIONS OF THE COMMUNITY DEVELOPMENT DEPARTMENT:
- A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions:

Planning Division

1. All construction and related activities which require a City building permit shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. All gasoline powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
2. In accordance with the Belmont Zoning Ordinance, the permit(s) granted by this approval shall expire one (1) year from the date of approval, with said approval date indicated on the accompanying Planning Commission resolution. Any request for extension of the expiration date shall be made in accordance with the applicable provisions of the Belmont Zoning Ordinance.
3. Prior to issuance of building permits, the property owner shall file with the Director of Community Development, on forms provided by the City, an acknowledgment that he/she has read, understands and agrees to these conditions of approval.
4. In the event that this approval is challenged by a third party, the property owner and all assignees will be responsible for defending against this challenge, and agrees to accept responsibility for defense at the request of the City. The property owner and all assignees agree to defend, indemnify and hold harmless the City of Belmont and all officials, staff, consultants and agents from any costs, claims or liabilities arising from the approval, including without limitation, any award of attorneys fees that might result from the third party challenge.
5. All signage shall be provided in accordance with Section 23 of the Belmont Zoning Ordinance.

6. No pedestrians or walk-up customers shall be served by the drive-thru at any time. A sign prohibiting walk-up customers shall be posted at the drive-thru entrance.
7. Post hours of operation and phone numbers for noise complaints.
8. A parking lot lighting improvement plan shall be submitted to the Community Development department for review and approval.
9. This Conditional Use Permit shall be deemed null and void upon a finding by the Planning Commission that the property for which such exception has been granted is in violation of any applicable provisions of this Ordinance, or that there has been failure to comply with any condition or conditions imposed in the granting of a Conditional Use Permit, as per Section 11.9 of the Belmont Zoning Ordinance.

II. COMPLY WITH THE FOLLOWING CONDITIONS OF THE POLICE DEPARTMENT:

1. No debris boxes or building materials shall be stored on the street.
2. Flag persons shall be positioned at both ends of blocked traffic lanes.
3. 24-hour written notice to the Police Department is required before any lane closure.
4. All activities shall be subject to the requirements of the Belmont Noise Ordinance.
5. Parking lot lighting shall be augmented to increase visibility and prevent loitering activities.
6. Signs stating, No Loitering, shall be posted throughout the site and enforced by management.
7. A video surveillance system shall be installed enabling management to monitor the parking lot 24-hours per day.
8. Incidents at and calls for public safety service to and related to McDonalds, between the hours of 11:00 PM and 5:30 AM shall be monitored by the Belmont Police Department for the first 90-days of operation, for any activity that could potentially impact neighboring properties or public safety services. After the 90-day period expires, or during this time if the data collected so indicates, the Belmont Police Department, at their own discretion, may determine that security personnel are necessary.

Certification of Approved Final Conditions:

Jennifer Walker, Associate Planner

Date

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