



Staff Report

RESOLUTION MODIFYING PLANNING COMMISSION DECISION – CONDITIONAL USE PERMIT – MCDONALD’S – 522 EL CAMINO REAL

Honorable Mayor and Council Members:

Summary/Background

On June 13, 2006, the City Council conducted a public hearing to review the Planning Commission decision to approve a Conditional Use Permit (CUP) to expand the hours of operation for the McDonalds restaurant located at 522 El Camino Real. Approval of the requested CUP would allow dine-in service from 5:30 AM to 11:00 PM and drive-through service 24 hours per day for the restaurant.

At the conclusion of Council discussion on the matter at the June 13, 2006 hearing, the City Council voted three to two to modify the decision of the Planning Commission and disapprove the request for a 24-hour drive through operation for the McDonalds restaurant. However, at this meeting the City Council did affirm approval of a Conditional Use Permit allowing expanded hours of operation for the restaurant as follows:

1. Dine-in services from 5:30 AM to 11:00 PM.
2. Drive-through service during **Winter Months** (September through May) from 5:30 AM to 11:00 PM on Sunday through Thursday, and from 5:30 AM to midnight on Friday and Saturday. During **Summer Months** (June through August) drive-through service is permitted from 5:30 AM to midnight, seven days per week.

At the direction of the Council, staff has provided a revised draft resolution modifying the Planning Commission Conditional Use Permit decision consistent with the Council discussion at the June 13, 2006 meeting (See Attachment A). Revised Conditions of Approval (for the expanded operational hours described above) are provided as part of this Resolution. It should be noted that because a 24-hour use would not be in effect for the restaurant, applicable Lighting/Security Camera/Signage conditions have been omitted as they were pertinent to the performance of the 24-hour drive-through operation for the facility.

General Plan/Vision Statement

Not applicable for the action to be taken adopting a modified resolution for the requested Conditional Use Permit.

Fiscal Impact

None.

Public Contact

1. This matter was placed on the agenda and posted as required by the California Government Code.
2. The applicant was informed of the consent item placed on June 27, 2006 City Council agenda.

Recommendation

Adopt the attached Draft Resolution modifying the Planning Commission decision regarding the requested Conditional Use Permit (and associated Conditions of Approval) for extended hours for the McDonalds restaurant at 522 El Camino Real.

Alternatives

1. Provide alternative direction to staff.

Attachments

- A. Draft City Council Resolution Modifying Planning Commission Decision RE: McDonalds Conditional Use Permit (and associated Conditions of Approval).

Respectfully submitted,

Carlos de Melo
Community Development Director

Maureen L. Cassingham
Interim City Manager

Staff Contact:
Carlos de Melo, Community Development Director
(650) 595-7440
cdemelo@belmont.gov

RESOLUTION NO. _____

ATTACHMENT A

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
MODIFYING THE PLANNING COMMISSION DECISION
FOR A CONDITIONAL USE PERMIT FOR 522 EL CAMINO REAL
(APPL. NO. 2006-0006)**

WHEREAS, McDonalds Corporation requested 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, on April 18, 2006, the Planning Commission, following notification in the prescribed manner, conducted a public hearing, at which hearing the Commission considered public testimony and a staff report for the requested Conditional Use Permit to allow dine-in services from 5:30 AM to 11:00 PM, and drive-through service 24 hours per day at 522 El Camino Real, and conditionally approved such Conditional Use Permit; and,

WHEREAS, a City Council request for review of the April 18, 2006 Planning Commission decision was filed with the City on April 26, 2006, in accordance with requirements established by Municipal Code Section 1-11; and,

WHEREAS, at the May 9, 2006 City Council meeting, the Council considered the request for review, and voted 5 to 0 to schedule a public hearing to review the Planning Commission decision; and,

WHEREAS, City Council public hearings were duly noticed, held on May 23, 2006 and June 13, 2006, and closed; and,

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

WHEREAS, the City Council hereby adopts the staff report dated June 13, 2006 and the facts contained therein as its own findings of fact; and,

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony hereinabove set forth; and,

WHEREAS, the City Council has considered the applicant’s request for a Conditional Use Permit to extend the hours of operation for the McDonalds restaurant to allow drive-through service 24 hours per day and finds that it does not meet the required findings set forth in Section 11.5.1 (a & d) of the Zoning Ordinance for the following reasons:

- a) *The location of the proposed use is not 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 proposed 24-hour drive-through use for the McDonalds restaurant would be generally incompatible with other uses in the general neighborhood area and would not further Belmont General Plan Goals for promotion of uses that are in scale and character with Belmont’s small city environment. Based upon concerns of crime activity that may be exacerbated by the establishment of an additional 24-hour use along the El Camino Real corridor, the proposal is not warranted and would be inconsistent with Belmont Visioning Goals for maintaining the safe and tranquil “small-town ambiance” that Belmont provides. This finding is unable to be affirmed.

d) The proposed use, if it complies with all conditions upon which approval is made contingent, will adversely affect other property in the vicinity or the general welfare of the City.

The proposed 24-hour operation for the McDonalds use will adversely affect other property in the vicinity. Establishment of an additional 24-hour operation for the area will not be compatible with other land uses in Belmont in consideration of the community as a village, or small-town suburb. The proposal will also adversely affect the general welfare of the City through excessive deployment of police department resources to address potential additional crime activity in association with the extended (24) hour drive-through use for the restaurant. This finding is unable to be affirmed.

NOW, THEREFORE, BE IT RESOLVED that the City Council is unable to affirm required findings 11.5.1 (a & d) of the Belmont Zoning Ordinance (BZO) for the requested Conditional Use Permit to allow a 24-hour drive through use for the McDonalds restaurant at 522 El Camino Real for the reasons herein described above.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Belmont hereby modifies the Planning Commission decision and approves a Conditional Use Permit to extend the hours of operation for the existing McDonalds restaurant at 522 El Camino Real to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service to operate:

- During the winter months (September through May) from 5:30 AM to 11:00 PM on Sunday through Thursday, and from 5:30 AM to midnight on Friday and Saturday; and,
- During the summer months (June through August) from 5:30 AM to midnight, seven days per week.

Such approval is granted pursuant to the findings listed below (Belmont Zoning Code Section 11.5.1 (a-d) and the attached conditions of approval.

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 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. The expanded hours are not expected to 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.

City staff has reviewed the modified hours of operation (5:30 AM to 11:00 PM for the restaurant, and drive-through service from 5:30 AM to either 11:00 PM or midnight depending on summer or winter months and the days of the week) and provided amended conditions of approval that would ensure that the proposal will not generally not have an adverse affect on neighboring properties. This finding is affirmed.

* * * * *

I hereby certify that the foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting held thereof held on June 27, 2006 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

RECUSED, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont

EXHIBIT “A”

**CONDITIONS OF PROJECT APPROVAL (CC FINAL)
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. 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 City Council 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 establishment of extended hours for the restaurant consistent with the Conditional Use Permit, 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. 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.

Certification of Approved Final Conditions:	
_____	_____
Carlos de Melo, Community Development Director	Date