



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JULY 29, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: APPLICANT: McDONALDS USA, LLC - OWNER: FRANCHISE REALTY INTERSTATE CORP.

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-38586	Staff recommends DENIAL, if approved subject to conditions:	N/A
VAR-38587	Staff recommends DENIAL, if approved subject to conditions:	VAR-38586
SDR-38585	Staff recommends DENIAL, if approved subject to conditions:	VAR-38586 VAR-38587

** CONDITIONS **

VAR-38586 CONDITIONS

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-38587) and Site Development Plan Review (SDR-38585) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a building permit has been issued for new construction. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Prior to occupancy, all necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Department.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.

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5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

VAR-38587 CONDITIONS

Planning and Development

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4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

SDR-38585 CONDITIONS

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Variances (VAR-38586) and (VAR-38587) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.

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3. All development shall be in conformance with the site plan, landscape plan, and building elevations, date stamped 06/15/10, except as amended by conditions herein.
4. A Waiver from Title 19.12.040 is hereby approved to allow a landscape buffer width of one-foot along the south perimeter where eight feet is required, to allow a landscape buffer width of three feet along the west perimeter where eight feet is required and to allow a landscape buffer width of two feet along a portion of the north perimeter where eight feet is required.
5. An Exception from Title 19.10.010 is hereby approved, to allow one parking lot landscape island and tree, where three are required.
6. An Exception from Title 19.12.040 is hereby approved, to allow one perimeter tree, where twenty are required.
7. Prior to occupancy, all necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Department.
8. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
9. The applicant shall coordinate with the City Surveyor and other city staff to determine the most appropriate mapping action necessary to consolidate the existing lots. The mapping action shall be completed and recorded prior to the issuance of any building permits.
10. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer or Civil Engineer, must be submitted prior to or at the same time application is made for a building permit. A permanent underground sprinkler system is required, and shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications. The technical landscape plan shall include the following changes from the conceptual landscape plan: provide four (4) five-gallon shrubs for each required tree in perimeter planters.
11. Reflective glazing at the pedestrian level is prohibited. Glazing above the pedestrian level shall be limited to a maximum reflectance rating of 22% (as defined by the National Institute of Standards and Technology).
12. All mechanical equipment, air conditioners and trash areas shall be fully screened in views from the abutting streets.
13. All utility boxes exceeding 27 cubic feet in size shall meet the standards of LVMC Title 19.12.040.

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14. Parking lot lighting standards shall be no more than 30 feet in height and shall utilize downward-directed lights with full cut-off luminaries. Lighting on the exterior of buildings shall be shielded and shall be downward-directed. Non-residential property lighting shall be directed away from residential property or screened, and shall not create fugitive lighting on adjacent properties.
15. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
16. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

17. Dedicate appropriate portions of a bus turnout per Standard Drawing #234.1 along Owens Avenue. Construction is not required at this time.
18. Remove all substandard public street improvements and unused driveway cuts adjacent to this site, if any, and replace with new improvements meeting current City Standards concurrent with development of this site.
19. Landscape and maintain all unimproved right-of-way on Owens Avenue adjacent to this site. All landscaping and private improvements installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.
20. Submit an Encroachment Agreement for all landscaping and private improvements located in the Owens Avenue public right-of-way adjacent to this site prior to issuance of permits for this site.
21. Coordinate all driveway geometrics with the Traffic Engineer prior to the submittal of construction drawings or issuance of permits whichever occurs first.
22. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage paths for this site prior to submittal of construction plans, the issuance of any building or grading permits, or the submittal of a map for this site, whichever may occur first. Provide and improve all drainage ways as recommended.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is proposing to construct a 5,153 square-foot restaurant with drive-through on a 0.91 acre site at 2513 East Owens Avenue. The applicant is also proposing two companion Variances (VAR-38586) and (VAR-38587), along with multiple Waivers and Exceptions. The applicant proposes to demolish the existing 4,530 square foot restaurant with drive-through which was constructed on the site in 1978. Staff recommends denial, since the applicant has presented a plan that is over built and under parked. If the applications are denied, the existing 4,530 square foot restaurant with drive-through would remain. Alternatively the applicant could redesign the site to meet Title 19 requirements.

ISSUES

- A condition of approval has been added to require that the subject site be remapped to consolidate the three lots.
- Waivers of Title 19 Perimeter Landscaping Standards is required to allow a landscape buffer width of one-foot along the south perimeter where eight feet is required, to allow a landscape buffer width of three feet along the west perimeter where eight feet is required and to allow a landscape buffer width of two feet along a portion of the north perimeter where eight feet is required.
- An Exception from Title 19 On-site parking Standards is required to allow one parking lot landscape island and tree, where three parking lot landscape islands and trees are required.
- Approval of a Variance (VAR-38586) to allow 40 parking spaces where 52 are required and a Variance (VAR-38587) to allow an eight-foot menu board where seven feet is the maximum height allowed, two 12-foot tall incidental signs (clearance arms) where seven feet is the maximum height allowed and to allow external illumination on one of the incidental signs (clearance arms) where internal illumination is required are necessary for approval of the Site Development Plan Review.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
08/20/75	The Board of City Commissioners approved a Rezoning (Z-0025-75) from R-E (Residence Estates) to C-2 (General Commercial) on property generally located on the south side of Owens Avenue, between Eastern Avenue and Arthur Street, 100 feet east of Eastern Avenue, extending south 150 feet. The Planning Commission recommended approval.

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03/28/78	The Planning Commission approved a Plot Plan review (Z-25-75) for a McDonald's Restaurant at 2513 East Owens Avenue. Staff recommended approval.
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<i>Most Recent Change of Ownership</i>	
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06/22/78	A deed was recorded for a change in ownership.
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<i>Related Building Permits/Business Licenses</i>	
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09/12/78	A business License (R09-00130) was issued at 2513 East Owens Avenue for a Restaurant with seating of 45 or more. The license is still active.
C.1978	The McDonald's at 2513 East Owens Avenue was constructed in 1978. The permit was finalized on 11/01/78.
09/10/96	A building permit (96018343) was issued at 2513 East Owens Avenue for a Certificate of Occupancy for an indoor Play Land. The permit was finalized 10/29/96.
10/11/96	A building permit (2524807) was issued at 2513 East Owens Avenue for three wall signs. The permit was finalized on 12/18/96.
07/29/05	A building permit (05005243) was issued at 2513 East Owens Avenue for two pole signs. One is 200 SF and the other is 150SF. The permit was finalized on 03/30/06.
08/07/09	A building permit (143873) was issued at 2513 East Owens Avenue for Tenant Improvement - Certificate of Occupancy. The permit was finalized on 08/27/09.

<i>Pre-Application Meeting</i>	
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04/29/10	A pre application meeting was held with the applicant where the submittal requirements for a Site Development Plan Review were discussed. Topics included: • A Variance will be required for parking. • The perimeter landscape reduction would require a Waiver. • The parking lot landscape reduction will require an Exception. • Remapping is required to combine the three parcels.
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<i>Neighborhood Meeting</i>	
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A neighborhood meeting was not required, nor was one held.	
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Field Check	
06/24/10	Staff conducted a field check and noted a well maintained fast-food restaurant with a drive-through, free of trash and debris.

Details of Application Request	
Site Area	
Net Acres	0.91

Surrounding Property	Existing Land Use Per Title 19.04	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Restaurant - 2,000 SF or more (with Drive-Through)	SC (Service Commercial)	C-2 (General Commercial)
North	Automotive/ Single Family Residential	Downtown Business District (North Las Vegas Designation)	C-2 (General Commercial)/ R-1 (Single Family Residential) (North Las Vegas Designation)
South	Shopping Center	SC (Service Commercial)	C-2 (General Commercial)
East	Shopping Center/ Swap Meet	SC (Service Commercial)	C-1 (Limited Commercial)
West	General Retail/ Restaurants	SC (Service Commercial)	C-1 (Limited Commercial)

Master Plan Areas	Yes	No	Compliance
Master Plan Area		X	N/A
Special Purpose and Overlay Districts	Yes	No	Compliance
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Las Vegas Redevelopment Plan Area	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

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DEVELOPMENT STANDARDS

Per Title 19.08.050

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Width	100 Feet	155 Feet*	Y
Min. Setbacks			
• Front	20 Feet	46 Feet	Y
• Side	10 Feet	36 Feet	Y
• Corner	15 Feet	178 Feet	Y
• Rear	20 Feet	32 Feet	Y
Max. Lot Coverage	50%	14%	Y
Trash Enclosure	Screened, Gated, w/ a Roof or Trellis	Not indicated	By Condition
Mech. Equipment	Screened	Not indicated	By Condition

*Proposed width following proposed lot consolidation.

Per Title 19.12.040

<i>Landscaping and Open Space Standards</i>				
<i>Standards</i>	<i>Required</i>		<i>Provided</i>	<i>Compliance</i>
	<i>Ratio</i>	<i>Trees</i>		
Buffer Trees:				
• North (Owens)	1 Tree / 20 Linear Feet	6 Trees	6 Trees	Y
• North	1 Tree / 30 Linear Feet	5 Trees	0 Trees	N
• South	1 Tree / 30 Linear Feet	10 Trees	0 Trees	N
• East	1 Tree / 30 Linear Feet	7 Trees	12 Trees	Y
• West	1 Tree / 30 Linear Feet	3Trees	0 Trees	N
• West (Eastern)	1 Tree / 20 Linear Feet	2 Trees	1 Tree	N
TOTAL PERIMETER TREES		33 Trees	19 Trees	
Parking Area Trees	1 Tree / 6 Uncovered Spaces, plus 1 tree at the end of each row of spaces	10 Trees	8 Trees	
LANDSCAPE BUFFER WIDTHS				
Min. Zone Width				
• North (Owens)	15 Feet		15 Feet	Y
• North	8 Feet		2 Feet	N
• South	8 Feet		3 Feet	N
• East	8 Feet		30 Feet	Y
• West	8 Feet		3 Feet	N
Wall Height			N/A	N/A

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Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Restaurant-2,000 SF or more (with Drive-Through)	5,067 SF	1/100 SF	52		40		N
TOTAL SPACES REQUIRED			52		40		N
TOTAL (With Handicapped)			49	3	37	3	N
Loading Spaces			1		1		Y
Percent Deviation (VAR only)			23%				

Pursuant to Title 19.14, the following sign standards apply:

Menu Board			
Standards	Allowed	Provided	Compliance
Maximum Number	Two signs per drive-through lane if visible from ROW	One menu board 1 total	Y
Maximum Area	60 SF freestanding	44 SF freestanding	Y
Maximum Height	7 feet	8 feet (15% deviation)	N
Minimum Setback	5 feet	18 feet	Y
Illumination	External/Internal	Internal	Y
Other	Only the word "Menu" to be legible from ROW	Does not face ROW	Y

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Incidental Signs (Directional)			
<i>Standards</i>	<i>Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Maximum Number	Two signs per driveway or access 2 Total	One welcome point gateway and one drive-thru twin pole canopy 2 Total	Y
Maximum Area	12 SF	12 SF / 9 SF	Y
Maximum Height	7 feet	11 FT / 11 FT (57% deviation)	N
Minimum Setback	5 feet	18 FT / 16 FT	Y
Illumination	Internal only	External	N
Other	Up to 50% of sign area may contain logo	N/A	N/A

<i>Waivers</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
Eight Foot Perimeter Landscape Buffer	To allow a landscape buffer width of one-foot along the south perimeter	Denial
Eight Foot Perimeter Landscape Buffer	To allow a landscape buffer width of three feet along the west perimeter	Denial
Eight Foot Perimeter Landscape Buffer	To allow a landscape buffer width of two feet along a portion of the north perimeter	Denial

<i>Exceptions</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
One parking lot landscape island with tree for every six parking spaces plus one at the end of each row of spaces	To allow one parking lot landscape island with tree where three parking lot landscape island with trees are required	Denial
Perimeter Trees: North 1 Tree / 30 Linear Feet (5 trees)	To allow zero Perimeter Trees.	Denial
Perimeter Trees: South 1 Tree / 30 Linear Feet (10 trees)	To allow zero Perimeter Trees.	Denial

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Perimeter Trees: West 1 Tree / 30 Linear Feet (3 trees)	To allow zero Perimeter Trees.	Denial
Perimeter Trees: West (Eastern) 1 Tree / 20 Linear Feet (2 trees)	To allow one Perimeter Trees.	Denial

ANALYSIS

The proposed 5,153 square-foot restaurant with drive-through would be constructed on three parcels totaling .91 acres at the southeast corner of Owens Avenue and Eastern Avenue. An existing 4,530 square-foot restaurant with drive-through currently occupies the subject site. The applicant has submitted two companion Variances for this site. The first Variance (VAR-38586) is to allow 40 parking spaces where 52 are required, which is a twenty-three percent reduction in required parking. The second Variance (VAR-38587) is to allow an eight-foot menu board where seven feet is the maximum height allowed, two 12-foot tall incidental signs (clearance arms) where seven feet is the maximum height allowed, which is a fifty-seven percent increase above the permitted height and a Variance to allow external illumination on one of the incidental signs (clearance arms) where internal illumination is required.

As the applicant has presented no compelling evidence for approval, staff recommends denial of Variances, the three Waivers and the five exceptions. Since approval of the Variances, Waivers and Exceptions is required for subsequent approval of the site review, staff also recommends denial of the Site Development Plan Review request.

FINDINGS (VAR-38586)

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070(L) states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by designing a site that does not meet Title 19.10 parking standards. Redesigning the site plan would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (VAR-38587)

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by designing a menu board and an incidental signs that do not meet height standards of Title 19.14. Removal of the incidental signs and redesign of the menu board would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (SDR-38585)

In order to approve a Site Development Plan application, per Title 19.18.050 the Planning Commission and/or City Council must affirm the following:

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1.The proposed development is compatible with adjacent development and development in the area;

The proposed development is not compatible with adjacent commercial development in the area. The number of additional requested Variances, landscape Waivers and Exceptions further demonstrates the incompatible nature of the proposed development.

2.The proposed development is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards, and other duly-adopted city plans, policies and standards;

The proposed development is inconsistent with Title 19.12 Landscape and Buffer Standards. This is seen in the number of Waivers and Exceptions, which are requested as a part of the subject application. These deviations highlight the incompatibility with adjacent developments.

3.Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;

Adequate site access is provided from both Owens Avenue and Eastern Avenue. Owens Avenue and Eastern Avenue are designated as 100-foot Primary Arterial by the Master Plan of Streets and Highways.

4.Building and landscape materials are appropriate for the area and for the City;

The proposed building and landscape materials are appropriate for this area and for the City. The applicant is requesting a number of Waivers and Exceptions of Title 19.10 and 19.12. The provided landscape materials are lacking in quantity.

5.Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;

The proposed building elevations are appropriate for the building's uses and are harmonious and compatible with the surrounding area.

6.Appropriate measures are taken to secure and protect the public health, safety and general welfare.

Proposed development on the site will be subject to permit review and inspection, thereby protecting the public's health, safety and general welfare.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 11

NOTICES MAILED 237

APPROVALS 0

PROTESTS 0