

**PLANNING COMMISSION  
STAFF REPORT**

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**Date:** March 5, 2025

**To:** Reno City Planning Commission

**Subject:** **Staff Report (For Possible Action): Case No. LDC25-00006 (In-N-Out Burger)**  
-- A request has been made for: 1) a conditional use permit to allow: a) business operations between 11:00 p.m. and 6:00 a.m., b) a pole sign over 35 feet adjacent to a major arterial, and c) nonresidential development adjacent to residentially zoned property; 2) alternative equivalent compliance to vary from ground floor building transparency standards; and 3) a major deviation to exceed the 100,000 lumens per acre site lighting standard by less than 50%. The ±2.52 acre site is comprised of five parcels located at the southwest corner of the intersection of Kietzke Lane and East Plumb Lane. The site is zoned General Commercial (GC) and has Master Plan designations of Urban Mixed-Use (UMU) and Suburban Mixed-Use (SMU).

**From:** Jeff Foster, Associate Planner

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**Ward #:** 3

**Case No.:** LDC25-00006 (In-N-Out Burger)

**Applicant:** Peter Kulmatticki, In-N-Out Burger

**APN:** 015-193-01, 02, 15, 16 and 28

**Request:**

- **Conditional Use Permit:** To allow: a) business operations between 11:00 p.m. and 6:00 a.m., b) a pole sign over 35 feet adjacent to a major arterial, and c) nonresidential development adjacent to residentially zoned property.
- **Alternative Equivalent Compliance:** To vary from ground floor building transparency standards.
- **Major Deviation:** To exceed the 100,000 lumens per acre site lighting standard by less than 50%.

**Location:** See Case Maps (**Exhibit A**)

**Proposed Motion:** Based upon compliance with the applicable findings, I move to approve the conditional use permit, alternative equivalent compliance, and major deviation, subject to the conditions listed in the staff report.

**Summary:** The ±2.52 acre site is comprised of five parcels located at the southwest corner of Kietzke Lane and East Plumb Lane. The proposed conditional use permit (CUP) would allow business operations between 11:00 p.m. and 6:00 a.m., a pole sign over 35 feet adjacent to a major arterial, and nonresidential development adjacent to residentially zoned property. The applicant is also requesting an alternative equivalent compliance (AEC) application to vary from ground floor building transparency standards and a major deviation application to exceed the 100,000 lumens per acre site lighting standard by less than 50%. Key project issues include: 1) compatibility with surrounding uses, 2) code compliance and AEC, 3) site design and operations, and 4) traffic, access and circulation. These issues are mitigated through project design, code compliance, and/or conditions of approval. Staff recommends approval subject to all proposed conditions.

**Background:** The subject site is currently vacant with the exception of a 42 foot tall pole sign and parking area associated with a previous restaurant that was demolished in late 2023. The five parcels will be merged and then divided into two parcels through a parcel map process. The applicant is proposing a new fast-food restaurant with drive-through service, outdoor patio seating, a replacement 42 foot pole sign, and associated site improvements on ±1.95 acres (**Exhibit B**). A Starbucks coffee shop, which will be subject to a separate entitlement process, is contemplated on the remaining ±0.57 acre parcel.

**Discussion:** The project requests were submitted in August 2024, prior to the Reno Municipal Code (RMC) update that was adopted on January 8, 2025. Additionally, new ward boundaries that came into effect after the 2024 General Election were not in place at the time of the application(s) submittal. As a result, the requests were reviewed under the previous RMC and the applicant attended the Ward 1 Neighborhood Advisory Board (NAB) meeting instead of Ward 3.

Nonresidential development adjacent to residentially zoned property requires approval of a minor site plan review. The applicant is proposing to be open until 1:00 a.m. Sunday through Thursday and until 1:30 a.m. Friday and Saturday (standard company operating hours). The subject site is within the General Commercial (GC) zoning district, which requires a CUP for uses operating between 11:00 p.m. and 6:00 a.m. and for a pole sign over 35 feet adjacent to a major arterial. As a result, the entire application was elevated to a CUP.

Per RMC 18.04.1003(c)(3), ground floors of street-facing façades shall have transparent doors or windows no less than four feet in height along at least 25% of the façade's horizontal length facing street frontages other than Fourth Street and Virginia Street. The applicant is proposing an alternative architectural enhancement on the north elevation. Per RMC 18.08.803, an AEC encourages creative and unique design and allows development to occur in a manner that meets the intent of Title 18 through an alternative design that does not strictly adhere to specific RMC design standards. The AEC is not a general waiver of regulations. Rather, it authorizes a site-specific plan that is equal or greater than the strict application of the standard. The AEC shall apply

only to the specific site for which it is requested and shall not establish a precedent for approval of other requests. If the current AEC request is approved, all other applicable code requirements not specifically included in the AEC request will need to be met for any new development activities and/or building permits.

Per RMC 18.04.1304(c), lighting levels for a property shall not exceed 100,000 lumens per acre. As currently designed, the amount of site lighting is  $\pm 149,776$  lumens per acre, which is a deviation of  $\pm 49.8\%$ . The Planning Commission may approve or deny major deviations of no more than 50% from quantifiable development standards per RMC 18.08.802(b)(1). It should be noted that the 100,000 lumens per acre limit was removed in the recently adopted RMC update (January 2025).

### Analysis:

***Compatibility with Surrounding Uses:*** Development patterns along East Plumb Lane in the project vicinity include commercial, religious assembly, and residential. The land uses immediately surrounding the site are summarized in the table below.

Adjacent Properties		
	Zoning	Use
North	PF	Religious assembly, Nevada National Guard building across East Plumb Lane
East	GC	Auto dealership across Kietzke Lane
South	MF-14, PO, SF-8, GC	Multi-family, office building, single-family, fast-food restaurant across Margrave Drive
West	GC	Office building across Orange Lane

The GC district is intended to accommodate a mix of established low-intensity auto-oriented uses, while supporting the gradual transition of the city's suburban corridors to a mix of higher density residential, retail, commercial, and other employment- and service-oriented uses. The site is bordered by two principal arterials, one of which is designated as an urban corridor. Fast food restaurants with drive-through operations are permitted by right in the GC zone and are typical of urban corridors. Though there are residential uses and zoning to the south, they are located  $\pm 275$  feet away and separated from the site by a street. Residential uses will be further buffered by extensive site landscaping and a landscaped berm along the southern border. In addition to the proposed building location in the northeast portion of the site, menu board and speaker location (near the northern property line), a parking lot design that allows after hours deliveries to be made by company trucks and employees without the need to use backup warning beepers, the overall site design elements contribute to further compatibility. Restricted construction hours will reduce

potential impacts on the existing residential uses (**Condition 5**). Given all of the above, the proposed use is generally compatible with existing land uses in the area.

**Code Compliance and AEC:** The north elevation facing East Plumb Lane cannot accommodate the 25% transparency requirement as windows are not appropriate given interior uses along this wall (electrical room, employee changing rooms, an office, kitchen equipment, and a refrigerated cooler as shown in **Exhibit C**). Faux windows are not consistent with the established brand aesthetic. As an alternative to the transparency requirement, the applicant is proposing crossed palms formed into the side of the building along the drive-through line as an architectural enhancement (**Exhibit D**). The crossed palms would increase the visual interest of the north elevation facing East Plumb Lane, in conformity with the intent of the transparency code section (**Condition 6**).

**Site Design and Operations:** The project consists of a  $\pm 3,887$  square foot single-story restaurant building with seating for 84 people and a patio area with outdoor seating for up to 40 people. The site includes a new 42 foot tall pole sign near the entrance from East Plumb Lane (**Condition 7**), a fully enclosed trash building, 67 onsite parking spaces (25 required), and a drive-through with dedicated queueing for approximately 34 vehicles. Per RMC 18.04.708(b), approximately eight additional vehicles can be queued without blocking parking spaces. Employees will monitor the drive-through and perform traffic management to keep the queue from spilling out onto Margrave Drive. During peak operations, employees will monitor the parking lot to ensure that onsite circulation flows smoothly, and access to/from parking spaces and the drive-through lane is adequately maintained (**Condition 8**). During periods of peak demand, a wireless handheld ordering and payment system will be implemented once the drive-through lane queue extends beyond the menu board and ordering speaker, allowing orders to be processed more efficiently. The employee(s) operating this system will communicate with management when additional employees are needed to assist in the parking area.

The minimum amount of landscaping in the GC zone is 15% of the development area ( $\pm 12,710$  square feet). The landscape plan shows  $\pm 19,691$  square feet of formal onsite landscaping (18%) and an additional  $\pm 18,247$  square feet of offsite landscaping in the Nevada Department of Transportation (NDOT) right-of-way (**Exhibit E**). Landscaping is concentrated around the site perimeter on the north, east and south to screen the site. This serves to screen the menu board and vehicle headlights in the drive-through lane from surrounding uses and adjacent roadways per RMC 18.03.405(f)(1)(g). Per RMC 18.03.405(f)(1)(b), drive-through lanes shall not be located within 100 feet of residentially zoned property unless separated by a principal building or a six-foot-tall solid screen fence, wall, or landscaped berm, in addition to at least 10 feet of landscaping. The design includes a landscaped berm and over 20 feet of landscaping between the sidewalk and drive-through lane along the southern boundary. Vehicle headlights in parking spaces facing the MF-14 parcel to the south will be screened by perimeter landscaping per RMC 18.04.1407(b).

Per RMC 18.04.1406(b), all advertising signage adjacent to and visible from residential districts shall be carefully designed to minimize visibility from adjacent residential districts. Internally illuminated signs may not be oriented toward residential districts (though indirect illumination, including halo illumination, is allowed). Signs may only be illuminated during allowed hours of operation and any wall sign facing the residential zoning to the south is not allowed to be internally illuminated (**Condition 9**).

The applicant believes that a well-lit restaurant and site is essential to provide an enjoyable dining experience and a safe environment for customers and employees. To provide well-lit drive aisles and paths of travel for safety, security, and visibility, the applicant is proposing a deviation from the 100,000 lumens per acre limit by  $\pm 49.8\%$  (**Condition 10**). RMC 18.04.1304 requires that all exterior lighting be fully shielded, not aimed onto adjacent properties, and extinguished between the hours of 10:00 p.m. and 6:00 a.m. (except for security lighting). Per RMC 18.04.1407(a), lighting from a nonresidential property shall not create greater than 0.5-foot candle of spillover light at a property line of any property zoned SF or MF-14. Per RMC 18.04.1407(c), light fixtures and standards in or within 100 feet of any single-family residential zoning district shall not exceed 18 feet in height. The project's site plan and photometric study (**Exhibit F**) demonstrate compliance with these and other code requirements for lighting, and the applicant is aware of the requirement to turn off relevant exterior lighting after their proposed hours of operation. The project is located along two principal arterials in an urban part of the city. The most concentrated lighting is around the building at the northern side of the site, furthest away from the residential uses to the south, and site lighting has been designed to comply with code. As such, the deviation appears appropriate for the site and proposed use.

***Traffic, Access and Circulation:*** The project site is located at the southwest corner of Kietzke Lane (NDOT State Route 667) and East Plumb Lane (a City principal arterial). Direct access to the site is proposed to be provided by three driveways: an existing right-in/right-out site access on East Plumb Lane and full site accesses on Orange Lane and Margrave Drive.

A traffic study was prepared for the project by Kimley-Horn (February 2025). The study included projected traffic that would be generated from both the proposed project and a future Starbucks to be located on the same site. The full anticipated build-out of the site is expected to generate approximately 4,048 daily trips, with 212 trips occurring during the AM peak hour, 371 trips occurring during the midday peak hour, and 289 trips occurring during the PM peak hour.

The build-out traffic volumes result in the need for the following mitigation:

- Prohibition of the northbound left-turn movement from Orange Lane onto East Plumb Lane; an eastward extension of the center median barrier on East Plumb Lane just west of Orange Lane to prevent the aforementioned northbound-to-westbound movement from

Orange Lane onto East Plumb Lane while creating a channelized left-turn lane for the westbound-to-southbound movement from East Plumb Lane onto Orange Lane; and installation of a right-turn deceleration lane for vehicles making the eastbound right-turn movement from East Plumb Lane onto both Orange Lane and the Plumb Lane site access **(Condition 11)**.

- Reconstruction of the sweeping eastbound-to-southbound right-turn movement from East Plumb Lane onto Kietzke Lane into a slip right-turn movement per NDOT standards; and installation of a right-turn deceleration lane for vehicles making the southbound right-turn movement from Kietzke Lane onto Margrave Drive **(Condition 12)**.

The project will be required to pay Regional Road Impact Fees (RRIFs) to the Regional Transportation Commission (unless a RRIF offset agreement is approved) that would be used towards funding other transportation improvements mitigating traffic impacts on the regional roadway network.

The site layout includes vehicle circulation with no dead-end parking aisles and adequate vehicle stacking area to prevent the blocking of drive aisles and parking spaces.

**Public Utilities:** Since the surrounding area is built out, required utilities (water, stormwater, sewer and power) and public services (including police and fire) are already in place and can be readily extended to the site.

**Master Plan Conformance:** The subject site has Master Plan land use designations of Urban Mixed-Use (UMU) and Suburban Mixed-Use (SMU) and is located along both an Urban Corridor and Neighborhood Corridor and adjacent to a Neighborhood Center within the Central Neighborhoods per the Structure Plan Framework of the Reno Master Plan. The UMU land use designation is intended to support a range of commercial, retail, employment, and service-oriented uses to serve adjacent neighborhoods and the broader community. The SMU land use designation is intended to support a diverse mix of commercial and residential uses. As proposed and with the recommended conditions, the proposed project is in substantial conformance with the Master Plan land use designations and the following applicable Master Plan goals and policies:

- GP 1.2C: Existing Businesses
- GP 2.2A: Priority Locations for Infill and Redevelopment
- GP 2.2B: Underutilized Properties
- GP 5.2E: Roadway Design and Classification
- GP 5.2G: Access Management
- CNC-G.1 and C-UC.1: Overall Mix
- CNC-G.9: Lighting
- C-UC.5: Activity-Generating Uses

- C-UC.20: Street-Level Interest
- C-NC.5: Building Orientation
- N-CN.7: Building Bulk/Mass/Height

***Public and Stakeholder Engagement:*** The project was reviewed by various City divisions and partner agencies. Comments received were incorporated into this report (**Exhibit G**). A courtesy notice was sent out to surrounding property owners upon initial submittal of the project. One opposition comment was received regarding concern with a drive-through restaurant in this location, and a conditional support comment was submitted with questions on the traffic study (**Exhibit H**). The applicant presented their project at the September 9, 2024, Ward 1 NAB meeting and no comments were received. Any future comments will be forwarded to the Planning Commission as they are received.

**Recommended Conditions of Approval:** All conditions shall be met to the satisfaction of Development Services Department staff, unless otherwise noted.

1. The project shall comply with all applicable City codes, plans, reports, materials, etc., as submitted. In the event of a conflict between said plans, reports, materials and City codes, City codes in effect at the time the application is submitted shall prevail.
2. The applicant shall apply for a building permit for the entire project within 36 months of the date of approval of the conditional use permit/alternative equivalent compliance/major deviation application and maintain the validity of that permit, or the conditional use permit/alternative equivalent compliance/major deviation approval shall be null and void.
3. Prior to the issuance of any building permit or business license associated with this project, the applicant shall attach a copy of the final approval letter. The approval letter shall accompany a narrative provided by the applicant that describes how the requested permit addresses each of the approved conditions of approval.
4. The applicant, developer, builder, property owner, or business proprietor, as applicable, shall continuously maintain a copy of this approval letter on the project site during the construction and operation of the project/business. The project approval letter shall be posted or made readily available upon demand by City staff.
5. Hours of construction, including grading, shall be limited to between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 8:00 a.m. and 6:00 p.m. on Saturday. There shall be no construction on Sundays. This condition shall not apply to dust control or storm water management operations. A note to this effect shall be placed on the title sheet of all building permit plan sets. A sign with the approved construction hours shall be

posted on site for the full duration of construction activity. If the construction hours need to be varied for the pouring of concrete slabs, interior construction hours or other modifications, a plan detailing the construction operations and provisions to minimize impacts on nearby residential areas shall be submitted and approved to the satisfaction of the Administrator.

6. Prior to approval of the building permit for vertical construction, architectural plans shall demonstrate inclusion of the crossed palms design on the northern façade.
7. The maximum height for the replacement pole sign shall be limited to 42 feet.
8. Employees shall monitor the drive-through and perform traffic management to keep the queue from spilling onto Margrave Drive. During peak operations, employees shall monitor the parking lot to ensure that onsite circulation flows smoothly, and access to/from parking spaces and the drive-through lane is adequately maintained.
9. Prior to approval of the sign permit, the applicant shall demonstrate that any wall sign facing the residential zoning to the south is not internally illuminated.
10. Prior to approval of the site improvements permit and building permit for vertical construction, site and building lighting plans shall be designed commensurate with the photometric plan and provide no more than 150,000 lumens per acre.
11. Prior to issuance of the certificate of occupancy, the applicant shall complete street improvements along eastbound East Plumb Lane west of the Kietzke Lane intersection to the satisfaction of the City. Said improvements shall include the construction of a right turn deceleration lane along East Plumb Lane on the approaches to both Orange Lane and the proposed Plumb Lane right-in/right-out site access; construction of an extension to the center median island on East Plumb Lane at its intersection with Orange Lane; and associated striping, signage and pedestrian improvements. The cost of these improvements shall be paid for by the applicant and may be credited against the project's RRIF obligation pursuant to a RRIF Offset Agreement being approved by the City and RTC.
12. Prior to issuance of the certificate of occupancy, the applicant shall complete street improvements at the southwest quadrant of the intersection of East Plumb Lane and Kietzke Lane to the satisfaction of NDOT and the City. Said improvements shall include the construction of a slip lane along eastbound East Plumb Lane at its intersection with Kietzke Lane; the construction of a right turn deceleration lane along Kietzke Lane at its intersection with Margrave Drive; and associated striping, signage and pedestrian improvements. The cost of these improvements shall be paid for by the applicant and may



be credited against the project's RRIF obligation pursuant to a RRIF Offset Agreement being approved by the City and RTC.

## **Findings:**

**General Review Criteria:** The decision-making body shall review all development applications for compliance with the applicable general review criteria stated below.

- 1) Consistency with the Reno Master Plan: The proposed development shall be consistent with the Reno Master Plan. The decision-making authority:
  - a. Shall weigh competing plan goals, policies, and strategies; and
  - b. May approve an application that provides a public benefit even if the development is contrary to some of the goals, policies, or strategies in the Reno Master Plan.
- 2) Compliance with Title 18: The proposed development shall comply with all applicable standards in this Title, unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal.
- 3) Mitigates Traffic Impacts: The project mitigates traffic impacts based on applicable standards of the City of Reno and the Regional Transportation Commission.
- 4) Provides Safe Environment: The project provides a safe environment for pedestrians and people on bicycles.
- 5) Rational Phasing Plan: If the application involves phases, each phase of the proposed development contains all of the required streets, utilities, landscaping, open space, and other improvements that are required to serve or otherwise accompany the completed phases of the project, and shall not depend on subsequent phases for those improvements.

**Conditional Use Permit:** In addition to meeting the criteria in Section 18.08.304(e), *Approval Criteria Applicable to all Applications*, the following findings shall be made prior to granting a conditional use permit:

- 1) The proposed location of the use is in accordance with the objectives of this Title and the purpose of the zoning district in which the site is located;
- 2) The proposed land use and project design is compatible with surrounding development;
- 3) The proposed land use and project design is consistent with applicable development standards;
- 4) Public services and facilities are available to serve the project, or will be provided with development;
- 5) The characteristics of the use as proposed and as may be conditioned are reasonably compatible with the types of use permitted in the surrounding area; and
- 6) The granting of the conditional use permit will not be materially detrimental to the public health, safety, or welfare. The factors to be considered in evaluating this application shall include:
  - a. Property damage or nuisance resulting from noise, smoke, odor, dust, vibration, or illumination; and

- b. Any hazard to persons and property.

***Alternative Equivalent Compliance:*** Alternative equivalent compliance may be approved if the applicant demonstrates that following criteria have been met by the proposed alternative:

1. Achieves the intent of the subject standard to the same or better degree than the subject standard;
2. Advances the goals and policies of this Title to the same or better degree than the subject standard;
3. Results in benefits to the community that are equivalent to or exceed benefits associated with the subject standard;
4. Imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this Title; and
5. Will not be materially detrimental to the public health, safety, or welfare.

***Major Deviation:*** In addition to meeting the criteria in Section 18.08.304(e), *Approval Criteria Applicable to all Applications*, the following findings shall be made prior to granting a major deviation:

- 1) Granting the major deviation will not significantly impact nearby property;
- 2) Project changes enabled by the major deviation enhance the overall design of the project, operations of the project or the public benefits resulting from the project;
- 3) Granting of the major deviation does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which the property is located; and
- 4) Granting the major deviation will not be materially detrimental to the public health, safety, or welfare.

**Attachments:**

Exhibit A. Case Maps  
Exhibit B. Preliminary Civil Plans  
Exhibit C. Preliminary Floor Plan  
Exhibit D. Preliminary Renderings and Elevations  
Exhibit E. Preliminary Landscape Plan  
Exhibit F. Preliminary Photometric Plan  
Exhibit G. Agency Comments  
Exhibit H. Public Comments