

**PLANNING COMMISSION
STAFF REPORT**

Date: August 21, 2024

To: Reno City Planning Commission

Subject: Staff Report (For Possible Action): Case No. LDC24-00066 (Burger King CUP) – A request has been made for a conditional use permit to allow for the 24-hour operation of an existing drive-through food service facility adjacent to residentially zoned property. The ±1.2 acre subject site is located on the west side of Kietzke Lane, approximately ±230 feet north of its intersection with Vassar Street. The subject site has a zoning designation of General Commercial (GC) and a Master Plan land use designation of Suburban Mixed-Use (SMU).

From: Heather Taylor, Assistant Planner

Ward #: 3

Case No.: LDC24-00066

Applicant: MRB Holdings

APN: 013-252-01

Request: **Conditional Use Permit:** To allow for the 24-hour operation of an existing drive-through food service facility adjacent to residentially zoned property.

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

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

Summary: This is a request for a conditional use permit to allow for the operation of an existing drive-through restaurant between the hours of 11:00 p.m. and 6:00 a.m. All uses operating between these hours requires a conditional use permit. Staff analysis focused on compatibility with surrounding uses and potential impacts related to noise. These issues are mitigated through code compliance and the proposed conditions of approval. Staff recommends approval subject to the proposed conditions of approval.

Background: The site was originally developed in 1999 under a special use permit (218-99/Burger King-1155 Kietzke Lane) to allow for arterial road commercial development with residential

adjacency (**Exhibit B**). Extended hours of operation were not included in that entitlement. The site underwent interior and exterior renovations in late 2023. The applicant's request to allow extended hours was prompted by a Code Enforcement citation informing that a conditional use permit was necessary to operate the existing restaurant and drive-through between the hours of 11:00 p.m. and 6:00 a.m. The applicant has cited that the extended operational hours will help the longstanding business better serve their customers, especially those working late night shifts.

Analysis:

Building and Site Design: The ±1.2-acre subject site is located on Kietzke Lane, just north of its intersection with Vassar Street. The site is developed with the building located in the southeast corner of the parcel, oriented towards Kietzke Lane. The balance of the site consists of 77 parking spaces, and a landscape buffer along the west and north property lines. The drive-through lane begins immediately west of the building in a southerly direction and exits directly onto Kietzke Lane. The drive-through lane is approximately 90 feet from the residentially zoned property to the west (**Exhibit C**).

Compatibility with Surrounding Uses: The site is zoned General Commercial (GC), which is generally intended to provide a transition between suburban corridors to a mix of higher intensity retail, commercial, and other service-oriented uses. The site is surrounded by properties located in the Single Family Residential - 8 units/acre (SF-8) zone to the west and north, and another fast-food restaurant in the GC zone to the south.

Current Reno Municipal Code (RMC) does not allow drive-through lanes 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 ten feet of landscaping. The site is entitled and developed with a six-foot wall along the west and north property lines. Along the west property line there is an approximately 20-foot-wide landscape area. The landscape area along the north property line is less prominent, approximately eight feet, but the impacts from the drive-through lane are significantly less on the north side of the site.

In order to mitigate concerns related to noise from the drive-through speaker on the surrounding properties with extended hours, staff is recommending that between the hours of 11:00 p.m. and 6:00 a.m., the interior dining room may remain open and that the drive-through be solely used for mobile pick-up orders. The outdoor speaker will not be in use since all interactions between the patron and employee will take place either inside or at the drive-through window (**Condition No. 5**).

Master Plan Conformance: The subject site has a Master Plan land use designation of Suburban Mixed-Use (SMU) and is located within a Central Neighborhood along a Neighborhood Corridor

per the Structure Plan Framework of the Reno Master Plan. As proposed, and with the recommended conditions, the project is in conformance with the SMU Master Plan land use designation and the following applicable Master Plan goals and policies:

1.2C: Existing Businesses

Public and Stakeholder Engagement: The project was reviewed by various City divisions and partner agencies and no noted concerns were received. A courtesy notice was sent out to surrounding property owners upon initial submission of the project. The applicant did not present the project to the Ward 3 Neighborhood Advisory Board (NAB) due to a miscommunication, but the members of the NAB did receive a postcard with a description of the project. 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 owner or developer shall apply for a building permit for the entire project within 18 months of the date of approval of the conditional use permit review application and maintain the validity of that permit, or the conditional use permit approval shall be null and void.
3. Prior to the issuance of any building permit or business license, the applicant shall attach a copy of the final approval letter. The approval letter shall accompany a narrative 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. Between the hours of 11:00 p.m. to 6:00 a.m., the drive-through will only be used for mobile pre-orders serviced exclusively through the pickup window with the drive-through speaker not in use during these hours.

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.

Attachments:

Exhibit A – Case Maps

Exhibit B – Site Plan