

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

UC-23-0845-HERBST DEVELOPMENT, LLC:

USE PERMITS for the following: **1)** eliminate pedestrian realms; **2)** eliminate open space; **3)** modify front setback; **4)** modify requirements for building facades; **5)** modify drive aisle location; **6)** eliminate pedestrian access and pathway; and **7)** eliminate way finding signs.

WAIVER OF DEVELOPMENT STANDARDS for alternative driveway standards.

DESIGN REVIEW for a restaurant on a 1.2 acre portion of 2.0 acres in a C-2 (Commercial General) Zone within the Midtown Maryland Parkway District.

Generally located on the south side of Tropicana Avenue and the east side of Maryland Parkway within Paradise. JG/bb/jd (For possible action)

RELATED INFORMATION:

APN:

162-26-101-001; 162-26-101-002

USE PERMITS:

1.
 - a. Eliminate the pedestrian realm along Maryland Parkway where a 20 foot wide pedestrian realm is required per Section 30.48.1870.
 - b. Eliminate the pedestrian realm along Tropicana Avenue where a 20 foot wide pedestrian realm is required per Section 30.48.1870.
 - c. Eliminate enhanced supplemental pedestrian area between pedestrian realm and building as required per Section 30.48.1870.
2. Eliminate open space where 2,679 square feet (5% of the developed area) is required per Section 30.48.1870 (a 100% reduction).
3.
 - a. Allow the minimum front setback for Building B to not be adjacent to the pedestrian realm per Section 30.48.1880.
 - b. Allow a maximum front setback of 77 feet front where 30 feet (maximum of 10 feet behind the pedestrian realm) is the maximum per Section 30.48.1880 (a 157% increase).
4.
 - a. Allow 209 square feet of transparent glass windows on the north side street facing façade where 610 square feet (75% of the ground floor street facing façade) is required per Section 30.48.1880. (a 33% reduction).
 - b. Eliminate transparent glass windows on south side non-street facing facade where 35% of the ground floor of the facade is required per Section 30.48.1880 (a 100% reduction).
 - c. Allow 60 square feet of transparent glass windows on the east side non-street facing façade where 593 square feet (35% of the ground floor non-street facing façade) is required per Section 30.48.188 (a 90% reduction).

- d. Allow 217 square feet of transparent glass windows on the west non-street facing façade where 593 square feet (35% of the ground floor non-street facing façade) is required per Section 30.48.1880 (a 63% reduction).
5. Allow a drive-thru between street and front of building façade along Tropicana Avenue per Section 30.48.1180.
6. Eliminate 10 foot wide pedestrian access pathway through the site per Section 30.48.1180.
7. Eliminate wayfinding sign along Maryland Parkway as required per Section 30.48.1180.

WAIVER OF DEVELOPMENT STANDARDS:

Reduce the throat depth for the Tropicana Avenue driveway to 13 feet where 25 feet is the minimum per Uniform Standard Drawing 222.1 (a 44% reduction).

LAND USE PLAN:

WINCHESTER/PARADISE - CORRIDOR MIXED-USE

BACKGROUND:

Project Description

General Summary

- Site Address: 4910 Maryland Parkway
- Site Acreage: 2 (portion)
- Project Type: Restaurant
- Number of Stories: 1
- Building Height (feet): 19
- Square Feet: 4,210
- Open Space Required/Provided: 2,679/0
- Parking Required/Provided: 52/57

Site Plan

The plan depicts a new restaurant on a 1.2 acre portion of a 2 acre site set back 76 feet from Tropicana Avenue with shared parking, access, and drive aisles. The 2 lane entrance to the proposed drive-thru is on the south side of the building and the lane extends to the east and to the north for exiting. An existing driveway is located on the southwest corner of the property with an existing drive aisle along the south side of the property wrapping around the perimeter of the site. The drive aisle on the east side of the property is adjacent to the proposed drive-thru lane and is shared with the vehicle wash use east of this site. The drive aisle on the south side of the restaurant is adjacent to the drive-thru lanes and connects with the shared access drive along the east property line. The drive aisle on the west side of the restaurant is between a shared parking area and the restaurant and connects to the drive aisle on the north side of the existing gas station to the west and proposed restaurant. A total of 57 parking spaces are shown on the plan with shared parking available by existing shared parking agreement between the convenience store gas station and restaurant. Of the 57 parking spaces, new spaces are proposed on the west side of the restaurant and along the southern property line.

Public Art

A requirement of the Midtown Maryland Parkway Overlay District is to provide a public art installation. The proposed art component of this project will be included with a future land use application as required by Title 30. A general location of the art installation is shown on the site plan, at the southwest corner of the northern access driveway, as part of the pedestrian realm.

Landscaping

Existing attached sidewalks are located along Tropicana Avenue and Maryland Parkway with landscape areas behind the sidewalk; however, the plans depict a 20 foot wide landscape area, which is the same area required for a pedestrian realm along the portion of Tropicana Avenue, in front of the proposed restaurant. The landscape plan depicts 9 additional medium size trees planted along Tropicana Avenue. Four additional medium size trees are proposed to be added to the existing planter area at the south side of the west access driveway from Maryland Parkway.

Elevations

The elevations depict a 19 foot high single story restaurant (McDonald's) with Hardieplank® fiber cement lap siding on all 4 sides, and a flat roof with 3.5 foot parapet. The north elevation depicts an 844 square foot façade with 209 square feet of window area that includes a main entrance. A railing protects pedestrians from walking in front of vehicles exiting the drive through at the northeast corner of the building. Decorative aluminum canopy and siding accent the north and west facades. The west façade has a secondary entrance with 217 square feet of window space and 1,693 square feet of total façade area. Three service door entrances are located on the west and east sides facades.

Floor Plans

The plans depict a 4,210 square foot restaurant with a seating area, kitchen, restrooms, service counters, drive through windows, storage, and office space. A covered canopy provides shade along the north and northwest sides of the building.

Applicant's Justification

The applicant is proposing a new restaurant on APN 162-26-101-002 with drive-thru (McDonald's) where a vehicle wash previously existed in association with an existing gas station, restaurant with drive through, and gas station located on APN 162-26-101-001. There is an existing cross access agreement between the gas station/convenience store, and existing restaurant property and this property. The property has access from existing driveways at Maryland Parkway on the west side and Tropicana Avenue on the north side of the property. The drive-thru entrance is on the south side of the building and exits at the northeast corner of the building. The existing sidewalks are attached with a bus turnout located between the gas station and this site, along Tropicana Avenue. There are existing down shielded parking lot light poles along the south, north, and west property lines. The nearest residential property is zoned R-5 with high density apartments located south and east of this site, on the other side of existing commercial buildings.

Prior Land Use Requests

Application Number	Request	Action	Date
ZC-0317-96 (WC-0449-99)	Waiver of conditions to allow drive-thru in conjunction with alcohol sales elsewhere on the property	Approved by BCC	December 1999
ZC-0317-96	Convenience store and gas station with restaurant	Approved by BCC	March 1996

Surrounding Land Use

	Planned Land Use Category	Zoning District (Overlay)	Existing Land Use
North	Corridor Mixed-Use	C-1 & C-2	Gas station & commercial
East	Corridor Mixed-Use	C-2	Vehicle wash
South & West	Corridor Mixed-Use	C-2	Shopping centers

STANDARDS FOR APPROVAL:

The applicant shall demonstrate that the proposed request is consistent with the Master Plan and is in compliance with Title 30.

Analysis

Comprehensive Planning

Use Permits

A special use permit is considered on a case by case basis in consideration of the standards for approval. Additionally, the use shall not result in a substantial or undue adverse effect on adjacent properties, character of the neighborhood, traffic conditions, parking, public improvements, public sites or right-of-way, or other matters affecting the public health, safety, and general welfare; and will be adequately served by public improvements, facilities, and services, and will not impose an undue burden.

Use Permit #1

This project incorporates both pedestrian oriented uses, such as ground-floor commercial restaurant access, as well as a vehicular oriented use of the proposed restaurant. A modified pedestrian realm (attached sidewalk) is located along Tropicana Avenue on the northern portion of the site adjacent to the north driveway entrance. The existing gas station and convenience store located on the corner does not have a built pedestrian realm along Maryland Parkway or Tropicana Avenue. The small frontage for this property along Maryland Parkway only includes about 30 feet of sidewalk on either side of the existing access driveway. The adjacent properties are developed and have no pedestrian realm improvements or district signage installed. The development incorporates an existing 5 foot attached sidewalk, new 10 foot combined supplemental pedestrian area with landscaping and bench, and existing landscaping up to 15 feet in width at the north property line. A 10 foot wide walkway is shown connecting the street sidewalk to the north entrance of the building, but not continuing through the property as required. Also, an attached sidewalk is included in front of the convenience store along Maryland Parkway and along Tropicana Avenue with shared space for an existing bus turnout.

Although many of the issues described above are existing conditions on the site, there will not be adequate accommodations for pedestrians incorporated on the street frontages and throughout the site. This is not consistent with the intent of the pedestrian realm requirement in the Midtown Maryland Parkway District. Staff cannot support the use permits for alternative pedestrian realms associated with the site design.

Use Permit #2

The open space shown on the plans do not adequately address the requirements of the Midtown Maryland Parkway District with respect to materials, dimensions, or location. The area labeled as open space on the south end of the building and south of the drive through entrance, is interior landscaping and traffic control that is largely not visible to the public. The hard surface area covered by shade canopies along the north and northwest sides of the building are limited to a small area and do not meet the dimension requirement for open space. The other areas of landscaping are either for street frontages or parking areas. Staff cannot support this request.

Use Permits #3 through #7

The “Opt-In” standards are now a required element for development since the beginning of 2023. The Midtown Maryland Parkway District encourages development with access on the opposite side of the building as fronting Tropicana Avenue, including parking spaces, driveway aisles, and building setbacks that minimize front setback areas. The surface parking and drive aisles dominate this proposed plan and encircle the restaurant building. The 77 foot front setback greatly exceeds the maximum front setback of 30 feet after counting required pedestrian realms and building setbacks. The dominance of drive aisles and parking make the proposed site plan non-compliant with the related code requirements identified in the use permit requests. The absence of adequate transparent windows on the non-street facing areas of the building will have a negative impact to this project when considering the west and east facades are visible from Tropicana Avenue. The lack of a pedestrian pathway through the site from Maryland Parkway to Tropicana Avenue creates a situation where pedestrians will have to walk in drive aisles if cutting through the site from one street to another. Elimination of a wayfinding sign at a major corner would reduce the public’s ability to understand district boundaries; therefore, staff does not support these requests.

Waiver of Development Standards

The applicant shall have the burden of proof to establish that the proposed request is appropriate for its proposed location by showing the following: 1) the uses of the area adjacent to the subject property will not be affected in a substantially adverse manner; 2) the proposal will not materially affect the health and safety of persons residing in, working in, or visiting the immediate vicinity, and will not be materially detrimental to the public welfare; and 3) the proposal will be adequately served by, and will not create an undue burden on, any public improvements, facilities, or services.

Design Review

Development of the subject property is reviewed to determine if 1) it is compatible with adjacent development and is harmonious and compatible with development in the area; 2) the elevations, design characteristics and others architectural and aesthetic features are not unsightly or

undesirable in appearance; and 3) site access and circulation do not negatively impact adjacent roadways or neighborhood traffic.

The proposed restaurant plan is a traditional drive through design that does not attempt to meet the desired design elements associated with building location and façade improvements of the Midtown Maryland Parkway District. The design of the drive through exit brings vehicles into direct conflict with east bound traffic coming out of the gas station and vehicles trying to exit the site at the north driveway to Tropicana Avenue. Ending the curb controls of the driveway just west of the northeast corner of the building will promote sharp turns for those seeking to travel east to the exit onto Tropicana Avenue. Staff cannot support the proposed design.

Public Works - Development Review

Waiver of Development Standards

The current design has the drive-thru exiting into oncoming traffic trying to access the site from Tropicana Avenue. Vehicles trying to exit the right-of-way will ingress into direct conflict with those trying to leave the drive-thru causing staking and creating potential safety hazards. Therefore, staff cannot support this waiver of development standards to reduce the throat depth.

Staff Recommendation

Denial.

If this request is approved, the Board and/or Commission finds that the application is consistent with the standards and purpose enumerated in the Master Plan, Title 30, and/or the Nevada Revised Statutes.

PRELIMINARY STAFF CONDITIONS:

Comprehensive Planning

If approved:

- Appropriate land use application is required for the art plan, and art shall be installed prior to Certificate of Completion;
- Certificate of Occupancy and/or business license shall not be issued without approval of an application for a zoning inspection.
- Applicant is advised within 2 years from the approval date the application must commence or the application will expire unless extended with approval of an extension of time; the County has adopted a rewrite to Title 30 effective January 1, 2024, and future land use applications, including applications for extensions of time, will be reviewed for conformance with the regulations in place at the time of application; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified; changes to the approved project will require a new land use application; and the applicant is solely responsible for ensuring compliance with all conditions and deadlines.

Public Works - Development Review

- Drainage study and compliance;

- Traffic study and compliance;
- 30 days to coordinate with Public Works and the Regional Transportation Commission and to dedicate any necessary right-of-way and easements for the Maryland Parkway Bus Rapid Transit project.

Fire Prevention Bureau

- No comment.

Clark County Water Reclamation District (CCWRD)

- Applicant is advised that a Point of Connection (POC) request has been completed for this project; to email sewerlocation@cleanwaterteam.com and reference POC Tracking #0463-2023 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

TAB/CAC:

APPROVALS:

PROTESTS:

APPLICANT: MCDONALDS

CONTACT: KAEMPFER CROWELL, 1980 FESTIVAL PLAZA DRIVE, SUITE 650, LAS VEGAS, NV 89135