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## Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: August 12, 2019

SUBJECT: A request for the review of a variance from Section 11-6-3 Business Signs, Vail Town Code, in accordance with the provisions of Section 11-10-1, Variances, Vail Town Code, to allow for two (2) 20 square foot internally illuminated menu boxes, located at 2171 North Frontage Road West/Lot 2B, Vail Das Schone Filing 3 (McDonald's), and setting forth details in regard thereto. (PEC19-0027)

Applicant: McDonald's Restaurant, represented by Site Enhancement Services

Planner: Ashley Clark

### I. SUMMARY

The applicant McDonald's Restaurant, represented by Site Enhancement Services, is requesting a variance from Section 11-6-3 Business Signs, Vail Town Code, in accordance with the provisions of Section 11-10-1, Variances, Vail Town Code, to allow for two (2) 20 square foot internally illuminated menu boxes, located at 2171 North Frontage Road West. Based upon staff's review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented, the Community Development Department recommends **approval, with conditions**, of this application subject to the findings noted in Section VIII of this memorandum. A vicinity map (Attachment A) and the applicant's sign packet proposal (Attachment B) are attached for review.

### II. DESCRIPTION OF REQUEST

The applicant, McDonald's Restaurant, represented by Site Enhancement Services, is requesting a sign variance to allow for two (2) 20 square foot internally illuminated menu boxes, located at 2171 North Frontage Road West. The applicant requests to replace these two (2) menu boxes to the north of the restaurant within the drive through queue. The purpose of two (2) menu boxes is to allow two (2) vehicles to

order simultaneously, thereby improving efficiency, reducing overall wait times and excessive vehicle stacking.

The picture below demonstrates the existing signage compared to the significantly smaller size of the proposed signage, a decrease in the variance previously granted. There are no animations associated with the signs and the brightness can be adjusted. The display specification of the Lumen output indicates that the units have built in ambient light sensors that allow the screen to dim based on the surrounding light. In addition, the screens can dim from 2500nit down to 500nit to prevent glare in low light and night time environments.



### III. BACKGROUND

The McDonald's Restaurant underwent a significant remodel in 2016. A component of the remodel project was a new signage package, including a sign variance to allow for the replacement of an existing internally illuminated drive-thru menu sign for McDonalds with a new internally illuminated drive-thru menu sign at a sign of (2) 41.2 square feet.

The McDonalds Restaurant property is located within Sign District 2. Menu boxes are defined by the Vail Town Code (Code) as:

*MENU BOX: A freestanding or wall sign that is enclosed in glass or a similar clear material on at least one side for the express purpose of displaying menus; allowed at eating and drinking establishments only.*

In both Sign Districts 1 and 2, Menu Boxes are restricted as follows:

#### **11-6-3: BUSINESS SIGNS:**

**C. Menu Boxes (SO 1 And SO 2):**

- 1. Number: Each business shall be allowed up to two (2) menu boxes per business frontage, per subsection C5 of this section.*
- 2. Area: Businesses shall be allowed up to six (6) square feet of menu box area per business frontage. No single menu box shall exceed six (6) square feet, and no business frontage shall display more than six (6) square feet of menu box area.*
- 3. Height: The height of the highest part of the menu box shall not extend more than six feet (6') from existing grade.*
- 4. Location: Menu boxes shall be displayed on the business frontage.*
- 5. Special Provisions: Menu boxes are allowed only at eating and drinking establishments for the exclusive display of menus.*

*Menu boxes for eating and drinking establishments in theaters may be electronic signs. When used as a menu box, the illumination levels of an electronic sign must be adjusted to the ambient light conditions and be no brighter than is necessary for clear and adequate visibility. When used as a menu box, electronic signs shall not emit light between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. the following day.*

**Design Review Board**

The applicant will need to apply for DRB approval if the requested variances are granted for the proposed menu board signs.

The Staff recommendation of approval, with conditions, has been based on the input received from the DRB coupled with the research conducted. This recommendation of approval is accompanied by the following proposed conditions:

- 1. No more than two (2) menu boards shall be permitted.*
- 2. No single menu board shall exceed 32 square feet in size, including framing.*
- 3. No additional materials or signage, including, but not limited to, promotional advertisements or riders, shall be attached to the menu boards at any time.*
- 4. The internal illumination of the menu boxes shall not be utilized when the restaurant is closed to the public.*

5. *Approval of this sign variance is contingent upon the applicant obtaining Town of Vail approval of an associated design review application.*

#### **IV. APPLICABLE PLANNING DOCUMENTS**

Staff finds that the following provisions of the Vail Town Code are relevant to the review of this proposal:

##### ***Title 11 – Sign Regulations, Vail Town Code***

##### ***Chapter 1: Description, Purpose, and Applicability (in part) 11-1-2: PURPOSE:***

- A. *These regulations are enacted for the purpose of promoting the health, safety, morals, and general welfare of the town of Vail and to promote the coordinated and harmonious design and placement of signs in the town in a manner that will conserve and enhance its natural environment and its established character as a resort and residential community of the highest quality.*
- B. *Specific Purpose:*
  1. *To describe and enable the fair and consistent enforcement of signs in the town of Vail.*
  2. *To encourage the establishment of well designed, creative signs that enhances the unique character of Vail's village atmosphere.*
  3. *To preserve a successful and high quality business environment that is aided by signs that identify, direct, and inform.*
  4. *To aid in providing for the growth of an orderly, safe, beautiful, and viable community.*

##### ***Chapter 6: Business and Building Identification Signs (in part)***

##### ***11-6-3: BUSINESS SIGNS:***

- C. *Menu Boxes (SO 1 And SO 2):*
  1. *Number: Each business shall be allowed up to two (2) menu boxes per business frontage, per subsection C5 of this section.*
  2. *Area: Businesses shall be allowed up to six (6) square feet of menu box area per business frontage. No single menu box shall exceed six (6) square feet, and no business frontage shall display more than six (6) square feet of menu box area.*

3. *Height: The height of the highest part of the menu box shall not extend more than six feet (6') from existing grade.*
4. *Location: Menu boxes shall be displayed on the business frontage.*
5. *Special Provisions: Menu boxes are allowed only at eating and drinking establishments for the exclusive display of menus.*

*Menu boxes for eating and drinking establishments in theaters may be electronic signs. When used as a menu box, the illumination levels of an electronic sign must be adjusted to the ambient light conditions and be no brighter than is necessary for clear and adequate visibility. When used as a menu box, electronic signs shall not emit light between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. the following day.*

## **Chapter 10 Variances and Appeals (in part)**

### **11-10-1: VARIANCES:**

- A. *Purpose: A variance from the sign regulations constitutes relief from the strict interpretation of the standards and may be granted by the planning and environmental commission (PEG) in cases where there exists a physical/imitation that prevents the existence, placement, or operation of a sign in compliance with the standards of this title.*
- B. *Application Procedure: An application for a variance from the sign regulations may be obtained from the community development department. The variance application must include a sign permit application, the applicant's reasons for requesting a variance, and a nonrefundable fee determined by the town council as set forth by town ordinances. The staff shall set a date for a hearing before the planning and environmental commission once the complete application has been received.*
- C. *Criteria For Approval:*
  1. *Special circumstances or conditions must exist that apply to the land, buildings, topography, vegetation, sign structures, or other matters on adjacent lots or within the adjacent right of way, that would substantially restrict the effectiveness of the sign in question. However, such circumstances must be unique to the subject site.*
  2. *The applicant shall not have created the circumstances that have necessitated the variance request.*

3. *The applicant must demonstrate that the granting of the variance will be in general harmony with the purposes of this title.*

## VI. SURROUNDING LAND USES AND ZONING

	Existing Use	Zoning District
North	Commercial	Commercial Core 3
South	I-70	N/A
West	Commercial	Commercial Core 3
East	Commercial	Commercial Core 3

## V. SITE ANALYSIS

### McDonalds Restaurant

Address:	2171 North Frontage Road West
Legal Description:	Vail Das Schone Filing 3, Lot 28
Zoning:	Commercial Core 3
Land Use Designation:	Community Commercial
Mapped Geological Hazards:	None
Lot Area:	.574 acres (25,000sq.ft.)

## VII. REVIEW CRITERIA

The review criteria for a variance request are prescribed in Chapter 11-10-1, Variances,

Vail Town Code, and are as follows:

1. *Special circumstances or conditions must exist that apply to the land, buildings, topography, vegetation, sign structures, or other matters on adjacent lots or within the adjacent right of way, that would substantially restrict the effectiveness of the sign in question. However, such circumstances must be unique to the subject site.*

In order for a sign variance to be granted, there must be a physical limitation that prevents the placement of a sign in compliance with the standards of the sign regulations. The Code limitation on the size of menu boards to six (6) square feet



is appropriate for a pedestrian oriented context but not suitable for a drive through restaurant. Due to the proximity of the reader from the menu board, a greater size is necessary for legibility and readability. Staff's recommendation aims to find a balance between community aesthetics and necessary signage for an efficient drive through restaurant operation.

Staff finds that special circumstances exist, namely the proximity of the signage to the viewer, warranting relief from the provisions of the sign regulations governing the menu board size. As such, this criterion is met.

2. *The applicant shall not have created the circumstances that have necessitated the variance request.*

The circumstances necessitating the variance request are the functionalities of a drive through restaurant, a use not explicitly contemplated by the Code. The McDonalds drive through has been in existence prior to annexation of the West Vail area in 1980.

As such, this criterion is met.

3. *The applicant must demonstrate that the granting of the variance will be in general harmony with the purposes of this title.*

The granting of the requested variance is in general harmony with the general or specific purposes of Title 11, Sign Regulations, Vail Town Code. Specifically, the approval of the proposed signs would be consistent with promoting the health, safety, morals, and general welfare of the Town of Vail by providing signage that is appropriate and effective yet aesthetically sensitive to its context. In addition, the approval will reduce the amount of signage.

As such, this criterion is met.

## VIII. STAFF RECOMMENDATION

The Community Development Department recommends **approval, with conditions**, of a variance from Section 11-6-3 Business Signs , Vail Town Code , in accordance with the provisions of Section 11-10-1, Variances, Vail Town Code, to allow for two (2) internally illuminated menu boxes, located at 2171 North Frontage Road West, and setting forth details in regard thereto. This recommendation is based upon the review of the criteria outlined in Section VII of this memorandum and the testimony presented.

Should the Planning and Environmental Commission choose to approve this variance request, the Community Development Department recommends the Commission pass the following **motion**:

*"The Planning and Environmental Commission **approves, with conditions,** the applicants' request for a variance from Section 11-6-3 Business Signs, Vail Town Code, in accordance with the provisions of Section 11-10-1, Variances, Vail*

*Town Code, to allow for two (2) internally illuminated menu boxes, located at 2171 North Frontage Road West, and setting forth details in regard thereto."*

*Conditions:*

- 1. No more than two (2) menu boards shall be permitted.*
- 2. No single menu board shall exceed 20 square feet in size, including framing.*
- 3. No additional materials or signage, including, but not limited to, promotional advertisements or riders, shall be attached to the menu boards at any time.*
- 4. The internal illumination of the menu boxes shall not be utilized when the restaurant closed to the public.*
- 5. Approval of this sign variance is contingent upon the applicant obtaining Town of Vail approval of an associated design review application.*

Should the Planning and Environmental Commission choose to approve this variance request, the Community Development Department recommends the Commission makes the following **findings**:

*"Based upon a review of Section VII of the August 12, 2019 staff memorandum to the Planning and Environmental Commission, and the evidence and testimony presented, the Planning and Environmental Commission finds:*

- 1. Special circumstances or conditions exist that apply to the land, buildings, topography, vegetation, sign structures, or other matters on adjacent lots or within the adjacent right of way, that would substantially restrict the effectiveness of the sign in question;*
- 2. The applicant has not created the circumstances that have necessitated the variance request; and*
- 3. The applicant has demonstrated that the granting of the variance will be in general harmony with the purposes of this title.*



**IX. ATTACHMENTS**

- A. Vicinity Map
- B. Applicant's Sign Packet Proposal