

PLANNING COMMISSION – November 9, 2022
CONDITIONS OF APPROVAL

15475 Los Gatos Boulevard
Variance Application V-21-001

Requesting Approval of a Variance to Allow a Drive-Thru Use at an Existing Restaurant (McDonald's) and Modification to a Conditional Use Permit for a Drive-Thru Restaurant on Property Zoned CH. APN 424-19-065

PROPERTY OWNER: Franchise Realty Interstate Corporation

APPLICANT: Mike Yao, Core States Group

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval and in substantial compliance with the approved plans. Any changes or modifications to the approved plans and/or business operation shall be approved by the Community Development Director, DRC or the Planning Commission depending on the scope of the changes.
2. **EXPIRATION:** The approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. **TREE REMOVAL PERMIT:** A Tree Removal Permit shall be obtained for any protected trees to be removed, prior to the issuance of a building or grading permit.
4. **EXISTING TREES:** All existing trees shown on the plan and trees required to remain or to be planted are specific subjects of approval of this plan and must remain on the site.
5. **TREE FENCING:** Protective tree fencing, and other protection measures shall be placed at the drip line of existing trees prior to issuance of demolition and building permits and shall remain through all phases of construction. Include a tree protection plan with the construction plans.
6. **TREE STAKING:** All newly planted trees shall be double-staked using rubber tree ties.
7. **ARBORIST REQUIREMENTS:** The developer shall implement, at their cost, all recommendations identified in the Arborist's report. These recommendations must be incorporated in the building permit plans and completed prior to issuance of a building permit where applicable. A Compliance Memorandum shall be prepared by the applicant and submitted with the building permit application detailing how the recommendations have or will be addressed.
8. **WATER EFFICIENCY LANDSCAPE ORDINANCE:** The final landscape plan shall meet the requirements of the Town of Los Gatos Water Conservation Ordinance or the State Water Efficient Landscape Ordinance, whichever is more restrictive. Submittal of a Landscape Documentation Package pursuant to WELO is required prior to issuance of a building permit. A review fee based on the current fee schedule adopted by the Town Council is required when working landscape and irrigation plans are submitted for review. A

completed WELO Certificate of Completion is required prior to final inspection/certificate of occupancy.

9. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval and may be secured to the satisfaction of the Town Attorney.
10. COMPLIANCE MEMORANDUM: A memorandum shall be prepared and submitted with the building plans detailing how the Conditions of Approval will be addressed.

Building Division

11. PERMITS REQUIRED: A Building Permit shall be required for any alterations or additions to the existing commercial building or tenant space.
12. APPLICABLE CODES: The current codes, as amended and adopted by the Town of Los Gatos as of the date of Building Permit application.
13. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue lined in full on the cover sheet of the construction plans. A Compliance Memorandum shall be prepared and submitted with the building permit application detailing how the Conditions of Approval will be addressed.
14. SIZE OF PLANS: Minimum size 24" x 36", maximum size 30" x 42".
15. SITE ACCESSIBILITY: At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking and accessible passenger loading zones and public streets or sidewalks to the accessible building entrance that they serve. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public. At least one accessible route shall connect all accessible buildings, facilities, elements, and spaces that are on the same site.
16. APPROVALS REQUIRED: The project requires the following departments and agencies approval before issuing a building permit:
 - a. Community Development – Planning Division: (408) 354-6874
 - b. Engineering/Parks & Public Works Department: (408) 399-5771
 - c. Santa Clara County Fire Department: (408) 378-4010
 - d. West Valley Sanitation District: (408) 378-2407
 - e. Santa Clara County Environmental Health Department: (408) 918-3479
 - f. Local School District: The Town will forward the paperwork to the appropriate school district(s) for processing. A copy of the paid receipt is required prior to permit issuance.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS & PUBLIC WORKS:

Engineering Division

17. GENERAL: The adjacent public right-of-way shall be kept clear of all job-related mud, silt, concrete, dirt and other construction debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless an encroachment permit is issued by

the Engineering Division of the Parks and Public Works Department. The Owner and/or Applicant's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the issuance of correction notices, citations, or stop work orders and the Town performing the required maintenance at the Owner's expense.

18. APPROVAL: This application shall be completed in accordance with all the conditions of approval listed below and in substantial compliance with the latest reviewed and approved development plans. Any changes or modifications to the approved plans or conditions of approvals shall be approved by the Town Engineer.
19. CONSTRUCTION PLAN REQUIREMENTS: Construction drawings shall comply with Section 1 (Construction Plan Requirements) of the Town's Engineering Design Standards, which are available for download from the Town's website.
20. DESIGN CHANGES: Any proposed changes to the approved plans shall be subject to the approval of the Town prior to the commencement of any and all altered work. The Owner and/or Applicant's project engineer shall notify, in writing, the Town Engineer at least seventy-two (72) hours in advance of all the proposed changes. Any approved changes shall be incorporated into the final "as-built" plans.
21. PLANS AND STUDIES: Any post-project traffic or parking counts, or other studies imposed by the Planning Commission or Town Council shall be funded by the Owner and/or Applicant.
22. TRAFFIC STUDY: Any development of land use that generates greater traffic impacts than those assumed in the traffic study report may require an updated traffic study in accordance with the Town's traffic impact policy.
23. TRAFFIC IMPACT MITIGATION FEE: Prior to the issuance of any building permits, the Owner/Applicant shall pay the project's proportional share of transportation improvements needed to serve cumulative development within the Town of Los Gatos. The final traffic impact mitigation fee for this project shall be calculated from the final plans using the current fee schedule and rate schedule in effect at the time, using a comparison between the existing and proposed uses.
24. CONSTRUCTION HOURS: All construction activities, including the delivery of construction materials, labors, heavy equipment, supplies, etc., shall be limited to the hours of 8:00 a.m. to 6:00 p.m., weekdays and 9:00 a.m. to 4:00 p.m. Saturdays, holidays excluded. The Town may authorize, on a case-by-case basis, alternate construction hours. The Owner and/or Applicant shall provide written notice twenty-four (24) hours in advance of modified construction hours. Approval of this request is at discretion of the Town.
25. CONSTRUCTION NOISE: Between the hours of 8:00 a.m. to 6:00 p.m., weekdays and 9:00 a.m. to 4:00 p.m. Saturdays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet from the source. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.
26. BEST MANAGEMENT PRACTICES (BMPs): The Owner and/or Applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and that such

measures are implemented. Best Management Practices (BMPs) shall be maintained and be placed for all areas that have been graded or disturbed and for all material, equipment and/or operations that need protection. Removal of BMPs (temporary removal during construction activities) shall be replaced at the end of each working day. Failure to comply with the construction BMP will result in the issuance of correction notices, citations, or stop work orders.

27. COVERED TRUCKS: All trucks transporting materials to and from the site shall be covered.
28. RESTORATION OF PUBLIC IMPROVEMENTS: The Owner or their representative shall repair or replace all existing improvements not designated for removal that are damaged or removed because of the Owner or their representative's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc., shall be repaired and replaced to a condition equal to or better than the original condition. Any new concrete shall be free of stamps, logos, names, graffiti, etc. Any concrete identified that is displaying a stamp or equal shall be removed and replaced at the Contractor's sole expense and no additional compensation shall be allowed therefore. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector and shall comply with all Title 24 Disabled Access provisions. The restoration of all improvements identified by the Engineering Construction Inspector shall be completed before the issuance of a certificate of occupancy. The Owner or their representative shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
29. IMPROVEMENT AGREEMENT: The Owner shall enter into an agreement to construct public improvements in accordance with Town Code Section 24.40.020. The Owner shall supply suitable securities for all public improvements that are part of the development in a form acceptable to the Town in the amount of 100% performance and 100% labor and materials prior to the issuance of any encroachment or building permit. The Owner shall provide two (2) copies of documents verifying the cost of the public improvements to the satisfaction of the Engineering Division of the Parks and Public Works Department. An electronic copy (PDF) of the executed agreement shall be submitted to the Engineering Division of the Parks and Public Works Department prior to the issuance of any encroachment or building permit.
30. PUBLIC IMPROVEMENTS: The following improvements shall be installed by the Owner. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the Town, and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of any building permits. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.
 - a. Reconstruct driveways on to the Los Gatos Boulevard frontage.
 - b. Repaint curb along frontage.
 - c. Renovate sidewalk along frontage in order to maintain/create a 5-foot path of travel.
 - d. Ensure all improvements are ADA compliant.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

31. Review of this Developmental proposal is limited to acceptability of site access, water supply and may include specific additional requirements as they pertain to fire department operations and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
32. Interior changes are subject to further review of systems modifications, to include fire sprinkler and hood suppression systems.
33. Fire department access to the site, the building, and to all fire production systems shall be maintained at all times, in accordance with CFC Chapter 5. No obstruction such as vehicles, storage, and other materials or objects shall be placed or kept near fire hydrants, fire department inlet connections, or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible.
34. This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the fire code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. [CFC, Ch.1, 105.3.6]

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