



LAND USE APPEAL APPLICATION

1. **GENERAL DATA REQUIRED** [to be completed by the appellant]

VAR-SI19-03

10/23/19

Case # Being Appealed

Decision Date

1598 Hawthorne Ave NE

Address of Subject Property

6001 Nimitz Pkwy South Bend IN 46628

Appellants Mailing Address with zip code

djr@siteenhancementservices.com

574-485-1101

Appellant's E-mail Address

Day-time Phone / Cell Phone

Appellant's Representative or Professional to be contacted regarding matters on this application, if other than appellant listed above:

Steven Hultberg

PO Box 2007 Bend OR 97709

Name

Mailing Address with ZIP Code

shultberg@radlerwhite.com

541-585-3697

E-Mail Address

Day-time Phone / Cell Phone

2. **SIGNATURES OF ALL APPELLANTS**

Signature:

Date: 11/1/19

Printed Name: David Ratliff

Signature:

Date:

Printed Name:

3. **REASON FOR APPEAL** Attach a letter, briefly summarizing the reason for the Appeal. Describe how the proposal does not meet the applicable criteria as well as verification establishing the appellants standing to appeal the decision as provided under SRC 300.1010

FOR STAFF USE ONLY

Received By: OG

Date: 11/4/19

Receipt No: # 10484045

Appeal Deadline: _____

Case Manager: Olivia Glantz

Steven P. Hultberg
shultberg@radlerwhite.com
541-585-3697

November 1, 2019

VIA OVERNIGHT DELIVERY

Ms. Hayley Feightner
City of Salem Planning Division
Room 305, 555 Liberty St. SE
Salem, Oregon 97301

RE: Appeal Notice
VAR-SI19-03

Dear Ms. Feightner:

I represent the applicant, McDonald's USA, LLC, in connection with the above-referenced land use application. The purpose of this letter is to provide a summary of the applicant's arguments on appeal and to establish the basis of the applicant's standing under SRC 300.1010.

The application before the City of Salem has a file number of VAR-SI19-03, with a decision issued by the hearings officer on October 23, 2019. The decision is further referenced by the following caption:

A CONSOLIDATED REQUEST
INCLUDING A SIGN VARIANCE AND TWO SIGN PERMITS
TO ALLOW TWO ADDITIONAL VEHICLE
VIEWING SIGNS PERMITTED UNDER SRC 900.200(B)(6)
FOR USE AS AN ADDITIONAL MENU BOARD AND PRE-SELL
MENU BOARD IN THE DRIVE-THROUGH LANE OF AN
EXISTING EATING AND DRINKING ESTABLISHMENT.
THE SUBJECT PROPERTY IS APPROXIMATELY 0.72 ACRES
IN SIZE, ZONED CR (RETAIL COMMERCIAL) AND LOCATED AT
1598 HAWTHORNE AVENUE NE - 97301
MARION COUNTY ASSESSORS
MAP AND TAX LOT NUMBER: 073W24AD/02800/02703).

The appellant in this matter is the applicant, McDonald's Corporation, together with its agent, Enhancement Services (together, the "Appellant"). The Appellant in this matter has standing to appeal because the Appellant was the applicant and participated in the hearing before the hearings officer. Section 3 of the city's Land Use Appeal Application requires the Appellant to "briefly summarize the reasons for the Appeal."

The primary basis for denial of the request was the hearings officer's conclusion that the Appellant did not adequately demonstrate a "hardship" pursuant to SRC 900.040(d)(1). The hearings officer

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incorrectly applied SRC 900.040(d)(1) and did not adequately consider the Appellant's testimony and evidentiary basis for the variance request. In particular, the hearings officer did not properly consider the current development of the subject property, the changes in the sign code since initial development of the property and how these factors create hardship conditions for the applicant. The hearings officer also incorrectly found that the variance was not necessary to permit signage comparable with other properties in the vicinity under SRC 900.040(d)(2). In particular, the hearings officer should have considered a larger geographic area and prior planning commission decisions interpreting this standard.

For the above reasons, the Appellant requests that the planning commission reverse the hearings officer's decision on appeal.

Very truly yours,



Steven P. Hultberg

cc: Client