

**Appeal of Planning Commission Decision to City Council
Case File No. REV10-018; 4514 Telegraph Avenue (APN 013-1150-014-00)**

ATTACHMENT "A" Additional Appellants

Max Allstadt (Spoke at December 1st Planning Commission Meeting)
Tim Anderson (Contributed to Appeal Filing Fee)
Jonathan Bair (Contributed to Appeal Filing Fee)
Paul Burt (Emailed in Opposition)
Yolanda Calderon (Emailed in Opposition)
Tom Clifford (Emailed in Opposition)
Colin Dentel-Post (Contributed to Appeal Filing Fee)
Mark Dieter (Contributed to Appeal Filing Fee)
Diana Ghermann (Emailed in Opposition & Contributed to Appeal Filing Fee)
Justin Horner (Contributed to Appeal Filing Fee)
Edith Irons (Contributed to Appeal Filing Fee)
Tamara Johnston (Emailed in Opposition & Contributed to Appeal Filing Fee)
Hiroko Kurihara (Contributed to Appeal Filing Fee)
Joan Lichterman (Contributed to Appeal Filing Fee)
Mick Mize (Emailed in Opposition)
Grace Park-Bradbury (Contributed to Appeal Filing Fee)
Alexander Quine (Contributed to Appeal Filing Fee)
Joyce Roy (Contributed to Appeal Filing Fee)
Rebecca Saltzman (Contributed to Appeal Filing Fee)
Rebecca Schneider (Contributed to Appeal Filing Fee)
Daniel Schulman (Contributed to Appeal Filing Fee)
Josh Thorp (Emailed in Opposition & Contributed to Appeal Filing Fee)
Margi Wald (Contributed to Appeal Filing Fee)
Christopher Waters (Contributed to Appeal Filing Fee)
Jacob Wegmann (Contributed to Appeal Filing Fee)
Hilary Yothers (Contributed to Appeal Filing Fee)

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ATTACHMENT "B"

ISSUES RAISED

1. All issues raised in the administrative record for REV10-018, 4514 Telegraph Avenue, Oakland, CA, APN 013-1150-014-00.
2. All issues raised in the letters and correspondence attached as Attachment "C" previously submitted by appellants, which are incorporated herein by reference as though set forth in full.
3. All issues raised by or on behalf of the appellants at the Planning Commission hearing dated December 1, 2010.
4. All issues raised by or on behalf of the appellants through the submittal of written correspondence, electronic mail, public comments and/or telephonic, recorded or verbal comments to either the Planning Commission, the staff of the Community and Economic Development Agency, or other staff of the City of Oakland or otherwise documented in the administrative record.
5. In approving the application, REV10-018, for a Revision to previously approved Major Conditional Use Permits (CM77-175 and CM90-483) and Regular Design Review, the Planning Commission substantially erred in its responsibility by issuing a Revision which included a Condition of Approval allowing operation of a 24 hour drive-through restaurant without adequate notice to the community or significant deliberation/rationale of any kind. In addition, this Condition of Approval was granted to an entity which has been operating a 24 hour drive-through restaurant in violation of its existing CUP for some years prior to approval of said hours on December 1, 2010. This information is common knowledge in the neighborhood, is attested to by the appellants, and is readily offered by the applicant's employees to customers upon inquiry. It is further evidenced by the age-worn 24 hour signs in place for years prior to December 1, 2010, and still on display now. In addition, the site's 24 hour operation of its drive-through was communicated to Staff by concerned neighbors well in advance of the December 1, 2010 hearing.

This extension of operating hours is a significant change in scope and operating model, and yet was granted:

a.) Without appropriate deliberation by the Planning Commission

- Extension of hours was not deliberated at the December 1, 2010 meeting, and was only mentioned briefly by Commissioner Galvez, who voted no on that basis; the extension of hours was not mentioned at all in the December 1, 2010 Staff Report "Findings for Approval."
- The most substantive mention of the extended operating hours to be found in the entire Staff Report comes under "Effects on the Neighborhood" in the "Key Issues

and Impacts" section of the project description, where the extension of hours is addressed thusly:

"Noise is anticipated to be substantially reduced before 10 pm and remain limited before 7am, even with the fulfillment of the applicant's request for 24 hour operation of the drive-through ..."

- The fact that noise will be reduced after hours should be irrelevant to a decision on whether or not the drive-through should be allowed to operate 24 hours. Any noise/traffic/trash or other impact on the neighborhood generated by operation of the after-hours drive-through is a new, additional impact, meriting consideration in its own right. In the absence of a specific applicable code dealing with Fast Food drive-through hours, the burden should fall on the proprietor to show that this extension of services will not have negative effect, and on the Planning Commission to actively solicit feedback from those who may be impacted—residents of the surrounding neighborhood. The Staff Report does not include any evidence of or discussion related to these issues.
- In the absence of any rationale within the Staff Report or associated attachments distributed at the December 1, 2010 meeting, the primary anticipated benefit of extending hours would be creation of jobs, not an insignificant consideration in the current economic climate. This benefit is undermined, however, by the fact that the McDonald's had already been operating a 24 hour drive-through, in violation of its previous CUP, for some years and continuing up until approval of the revised CUP on December 1, 2010.
- At the very least extending the drive-through hours to be open 24 hours a day should have necessitated the need for a Traffic Impact Study if not a full Environmental Impact Study.

b.) Without adequate notification being provided to the key stakeholders -- namely, the residents of the neighborhood.

- At the Planning Commission meeting of December 1, 2010, the Planning Commission attributed the relative lack of opposition to strong community outreach by the applicant. In regards to the neighboring residents, the appellants propose a different, simpler root cause for the "lack of opposition" to the extension of hours: They didn't know about it.
- The only notification to the local residents was a single 8.5" x 11" notice taped to a utility pole. A single copied letter distributed by a local resident in the weeks leading up to the December 1, 2010 meeting generated at least 18 emails strongly in opposition (see Attachment "C"). Only a few of these were included in the materials presented to the Planning Commission on December 1, 2010, and were only mentioned by Case Planner David Valeska in passing as essentially irrelevant to the redesign discussion. Many of these emails specifically cite the anticipated increase in trash, traffic, and noise as cause for opposition, but these concerns were never addressed by the Planning Commission or in the Staff Report in regards to the additional hours of operation.

- The neighboring residents are the primary stakeholders in any discussion regarding late-night commerce, as they will literally have to live with the decision and resulting impacts for years to come. Without their input, any discussion of positive/negative impacts of the proposal is incomplete.
6. In approving the application, REV10-018, for a Revision to previously-approved Major Conditional Use Permits (CM77-175 and CM90-483) and Regular Design Review, the Planning Commission substantially erred in its responsibility, abused its discretion by making findings and conclusions that failed to accurately incorporate the entirety of the administrative record, had no supporting or evidentiary basis, and failed to correctly apply and enforce the existing Oakland Planning Code and established public policy of the City of Oakland.

As stated in the General Plan Analysis of the Planning Commission Staff Report of December 1, 2010, the drive-through element of the current facility is acceptable only because it was established before the LUTE element of the General Plan was enacted. What is not addressed, however, is why it is acceptable that the property be redesigned to highlight this feature in particular—the new design insulates the entire property on all sides with drive-through lanes, making it impossible to enter on foot from either Telegraph Avenue or 45th Street without crossing one or more interior vehicle drives. It is not surprising that the proprietor would want to increase visibility and capacity of the drive-through element—at the December 1, 2010 meeting he estimated that drive-through traffic accounted for 70% of his business. What is surprising is that after meeting with select local groups including ULTRA (Urbanists for a Livable Temescal Rockridge Area) and in full light of current General Plan guidance, the Planning Commission has approved a new design that is actually more antagonistic to pedestrians, increases drive-through impacts on the neighborhood, and weakens the concentration and continuity of the shopping frontage. The appellants feel that this signifies a lack of discretion on the part of the Planning Commission on the most basic level.

As is shown below, the report leans very heavily on a.) assertions that are either highly dubious or completely inaccurate, and b.) the longevity of the existing structure as the basis for perpetual exemption from updated City planning objectives.

7. More specifically as noted below, the Planning Commission findings for approval of REV10-018 for a Revision to previously approved Major Conditional Use Permits (CM77-175 and CM90-483) and Regular Design Review, are faulty, contrary to the public interest and not legally sustainable.

Section 17.136.070 (B)-Regular Design Review Criteria, Nonresidential Facilities:

Required Finding

1. **That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in section 17.102.030 (B).**

Adopted Planning Commission Finding of December 1, 2010

The proposed design fits well into the architectural context of nearby buildings, which emphasize simple shapes and materials, including brick, horizontal roof elements and wood details. The facilities modifications consist of converting from white brick and red roof with light bars, to a more muted brown brick facade with a lowered roof. The drive through would have walls, columns and trellis elements to screen automobile movements, which are absent from the existing conditions. Rather than using a “cookie-cutter” design for the building, the proposed texture, materials, colors and other design elements are above average for facilities of this type and are more customized for this context.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding of December 1, 2010 is patently false. Aside from a few outliers, the vast majority of the architectural context on Telegraph Avenue between 51st Street and 40th Street consists of lot-line to lot-line buildings with facades directly at the front property line. The proposed project’s architectural component takes up less than 1/4 of its parcel’s area, and does not abut the front property line due to the imposition of a drive-through lane directly adjacent to the public right of way.

The relation of the proposed structure to others in the vicinity is also problematic, both in the current context and in the future context of the neighborhood as outlined by the general plan.

Required Finding

- 2. That the proposal will be of a quality and a character which harmonizes with, and serves to protect the value of, private and public investments in the area.**

Adopted Planning Commission Finding of December 1, 2010

The remodeled project will enhance Temescal neighborhood’s appearance compared with to the status quo. The improvement will retain a restaurant business which draws customers to the Temescal retail area, providing an improvement in quality of materials, design and landscaping from the existing 1977 restaurant design.

Inadequacy of Planning Commission Finding

The character of the proposed design is inherently at odds with the goals of private and public investment in the area. Effectively, the design is a do-over of an existing use of the parcel which is in conflict with current LUTE element of the General Plan, which explicitly calls for pedestrian-oriented development in the area.

Telegraph Avenue is a “Growth and Change” corridor under the LUTE designation, but the proposed project does not offer significant growth. In fact the project presents a long-term liability for growth by allowing major investment in new construction of a design which is out of step with long-term goals for the neighborhood. There are long-term consequences for permitting this level of investment in a project which is profitable

but underutilizes a 3/4 acre lot. Particularly, it can be expected that this low-density anti-pedestrian design will persist many decades into the future while the rest of the neighborhood grows around it in ways more consistent with the LUTE. In short, the project amounts to complete reconstruction of an anachronism.

Required Finding

- 3. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable design review guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council.**

Adopted Planning Commission Finding of December 1, 2010

Policies I/C-1.2 and IC3.4 of the General Plan Land Use and Transportation Element (LUTE) of the General Plan show that this project is compatible with the General Plan. The facility has been analyzed and found to be in conformity with the Zoning Code, design guidelines and the General Plan.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding of December 1, 2010 is a product of incomplete analysis and a piecemeal view of the General Plan and Zoning Code, rather than an integrated perspective. The Staff Report readily admits that the LUTE mandates for pedestrian-oriented development are being disregarded. Further, when analyzed together, the General Plan's "Growth and Change" mandate, combined with the C-28 zone's current 35-foot (and pending 60-foot) height limit and dense allowances for lot coverage, the conclusion can only be that the proposed project is of a density and scale that is radically smaller than what the City has envisioned for the future of the Temescal neighborhood along Telegraph avenue.

Section 17.134.050 (General Use Permit Criteria):

Required Finding

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of development.**

Adopted Planning Commission Finding of December 1, 2010

A McDonalds restaurant has been at this location in the Temescal neighborhood for over 30 years. Modifications for the facility will complement and be compatible with surrounding properties in scale, bulk, lot coverage and density. Traffic movements tend to be within the capacity of surrounding streets. Civic facilities and utilities are available for the site.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding of December 1, 2010 completely ignores requirement in Section 17.134.050_A which states the “location, size, design, and operating characteristics of the proposed development” “will not adversely affect ... appropriate development of abutting properties and the surrounding neighborhood.”

Omitting these considerations is unacceptable, particularly considering the project site’s current role as the largest component of a pedestrian-averse gap that separates the northern end of the Temescal commercial area from new developments to the south. Allowing this project to proceed as permitted will maintain the current interruption in the neighborhood fabric at the 45th Street intersection.

This situation inherently threatens the “appropriate development of abutting properties and the surrounding neighborhood” as specified in the code. The corner of 45th Street and Telegraph Avenue is fraught with design that is anathema to the General Plan and LUTE. It is likely that this problem has led to the lower level of investment in new business creation south of 45th Street. Allowing the proposed project to be built without addressing this issue will maintain this disincentive for neighborhood improvements and aesthetic unity.

Required Finding

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

Adopted Planning Commission Finding of December 1, 2010

The location of the facility in the Temescal Neighborhood provides convenient restaurant access for residents. The rebuilt facility will be better able to serve the site’s function of a restaurant with enhanced design and landscaping.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding of December 1, 2010 focuses on aesthetic improvements that have nothing to do with “convenient access.” While aesthetic improvements to the site could make it a more attractive dining destination, the functional aspects of the redesign are more prohibitive to walk-in patrons than the current design. Previously, drive-through traffic was separated in large part from the facility, both entering and exiting on Telegraph Avenue at the north side of the lot. The proposed site will be closely bordered in front and on both sides by drive-through lanes, and patrons entering from the sidewalk will now have to cross the drive-through and/or other interior traffic lanes in order to enter the restaurant. In addition, the parking spaces are to be reduced from 44 to 21, reducing that particular convenience by more than 50% relative to the existing facility.

Required Finding

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

Adopted Planning Commission Finding of December 1, 2010

Rebuilding and upgrading the restaurant will increase its ability to enhance basic community dining and social gathering functions in the Temescal neighborhood.

Inadequacy of Planning Commission Finding

As previously stated above, the adopted Planning Commission finding of December 1, 2010 ignores the functional intention of the redesign, which is clearly to increase drive-through volume, and is therefore misleading.

Required Finding

- E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.**

Adopted Planning Commission Finding of December 1, 2010

Fulfillment of General Plan and Zoning criteria has been demonstrated above in this document. The General Plan LUTE provides for restaurant and other commercial uses in the Temescal area as resources in the community.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding of December 1, 2010 has been demonstrated in rebuttals above to be based on inappropriate interpretations of the General Plan and Zoning criteria, incomplete analysis of impact on the pedestrian experience of the neighborhood, and short-sighted conclusions about the impacts the project may have on the future development of the Telegraph Avenue commercial corridor.

Section 17.102.210(D): Fast Food Restaurant Findings

Required Finding

- 3. Access. Ingress and egress to Fast Food Facilities shall be limited to commercial arterial streets rather than residential streets. No direct access shall be provided to adjacent residential streets which are less than thirty-two (32) feet in pavement width. Exceptions to either of the requirements may be obtained where the City Traffic Engineer determines that compliance would deteriorate local circulation or jeopardize the public safety. Any such determination shall be stated in writing and shall be supported with findings. Driveway locations and widths and entrances and exits to Fast Food Facilities shall be subject to the approval of the City Traffic Engineer.**

Adopted Planning Commission Finding of December 1, 2010

As noted above, this is not a new restaurant site. Access has been from Telegraph Avenue and from 45th Street for over 30 years. 45th Street contains nonresidential facilities near the restaurant and the turning and driving movement alignments to restaurant driveways are distant from residential driveways. The office of the City Traffic Engineer has reviewed the project and has not found a need for modifications.

Inadequacy of Finding

The adopted Planning Commission finding pre-supposes that the traffic situation at the site has been acceptable since the restaurant's inception, and omits any analysis of the potential impact on traffic from the proposed permit for 24 hour drive-through use. Because the applicant is currently violating their CUP and illegally operating a 24 hour drive-through without a permit, appellants have had the opportunity to see adverse impacts from all-night use.

These impacts include overflow of drive-through customers' vehicles onto Telegraph Avenue, impeding the flow of traffic in a way that is particularly dangerous late at night and on weekend nights when drivers tend to use excessive speed and/or operate their vehicles under the influence. The City Traffic Engineer did not submit any written findings or analysis of this potential impact.

Required Finding

- 5. Vacated/Abandoned Fast Food Facilities. The project sponsor of a proposed Fast Food Facility shall be required to obtain a performance bond, or other security acceptable to the City Attorney, to cover the cost of securing and maintaining the facility and site if it is abandoned or vacated within a prescribed high-risk period ... As used in this code, the words "abandoned" or "vacated" shall mean a facility that has not been operational for a period of thirty (30) consecutive days, except where nonoperation is the result of maintenance or renovation activity pursuant to valid city permits. The defined period of coverage is four (4) years following the obtaining of an occupancy permit. The bond may be renewed annually, and proof of renewal shall be forwarded to the Director of City Planning. The bond amount shall be determined by the city's Risk Manager and shall be adequate to defray expenses associated with the requirements outlined below. Monitoring and enforcement of the requirements set forth in this section shall be the responsibility of the Housing Manager of the Department of Housing Conservation, pursuant to Chapter 8.24 of the Oakland Municipal Code and those sections of the Oakland Housing Code which are applicable.**

Adopted Planning Commission Finding of December 1, 2010

This provision is not applicable since it applies to the first four years after opening the facility, and there has been a McDonalds Restaurant here for thirty-three years. A condition of this REV case accepts voluntary compliance in the unforeseen event of a change of use in the future.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding is inadequate because it fails to address the fact that demolishing the McDonald's restaurant, rebuilding it, and reopening it many

months later is tantamount to opening an entirely new restaurant. The high-risk period of four years, mentioned in section 17.102.210(D) can be construed to re-start upon the re-opening. Factors contributing to the mentioned high-risk period may include: potential pressures of a new and different debt load on the operator, the need to rehire and retrain an entirely new staff, and loss of existing clientele during the construction period. Staff fails to address any of these renewed risk factors.

Section 17.102.290: Drive-through Nonresidential Facilities Findings

Required Finding

A1. That the proposed facility will not impair a generally continuous wall of building facades;

Adopted Planning Commission Finding of December 1, 2010

An existing narrow restaurant in a three-fourths acre open site would be turned 90 degrees and rebuilt/expanded so as to create a more continuous wall of building facade along Telegraph Avenue, more consistent with the Temescal pattern. Pedestrian entry would be provided. The drive-through would be screened and incorporated into the building design like the drive-through lane of certain bank facilities.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding is inadequate and misleading. The proposed design creates no “continuous wall of building facade” along Telegraph Avenue, as the facade of the building is set back from the sidewalk. The C-28 zone calls for no setbacks along commercial corridors. Additionally, the setback proposed is comprised mostly of a drive-through lane which would be directly adjacent to the sidewalk. This potentially creates what would be more accurately described as a “continuous wall of cars” next to pedestrian traffic on the Telegraph Avenue sidewalk, which is in keeping with neither the spirit nor the letter of the C-28 zone description, nor, furthermore, the General Plan’s intent for the area.

Required Finding

A2. That the proposed facility will not result in weakening the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of a shopping frontage;

Adopted Planning Commission Finding of December 1, 2010

The existing restaurant, which has been in place for 33 years, would be replaced by a building which better strengthens the concentration and continuity of commercial facilities at the ground level. There would be no impairment of shopping frontage. This site is at the edge of the Temescal district near NorthGate, a transitional area characterized by vehicular-oriented businesses.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding is incorrect in stating that concentration and continuity of commercial facilities at ground level will be strengthened by the new design, which alters the frontage in two ways: setting the actual building farther back from Telegraph Avenue, and placing a drive-through lane between the sidewalk and building for almost the entire length of the lot, requiring pedestrians to cross it in order to enter the restaurant. The finding is also inadequate because it fails to acknowledge that many of the mentioned “vehicular-oriented businesses” in the area are themselves non-conforming with the General Plan’s outline for the Telegraph Avenue corridor.

Further, Staff is incorrect to describe the site as being “at the edge of the Temescal district” in a “transitional” area, when the generally accepted border of Temescal is at 40th Street, over one quarter mile away. The site could be more accurately described as being located “almost perfectly in the middle” of the Temescal business district (40th – 51st Streets). As such, the existing site is part of a gap in the concentration and continuity of commercial facilities at ground level, and the redesign exacerbates this problem.

Required Finding

A3. That the proposed facility will not directly result in a significant reduction in the circulation level of service of adjacent streets.

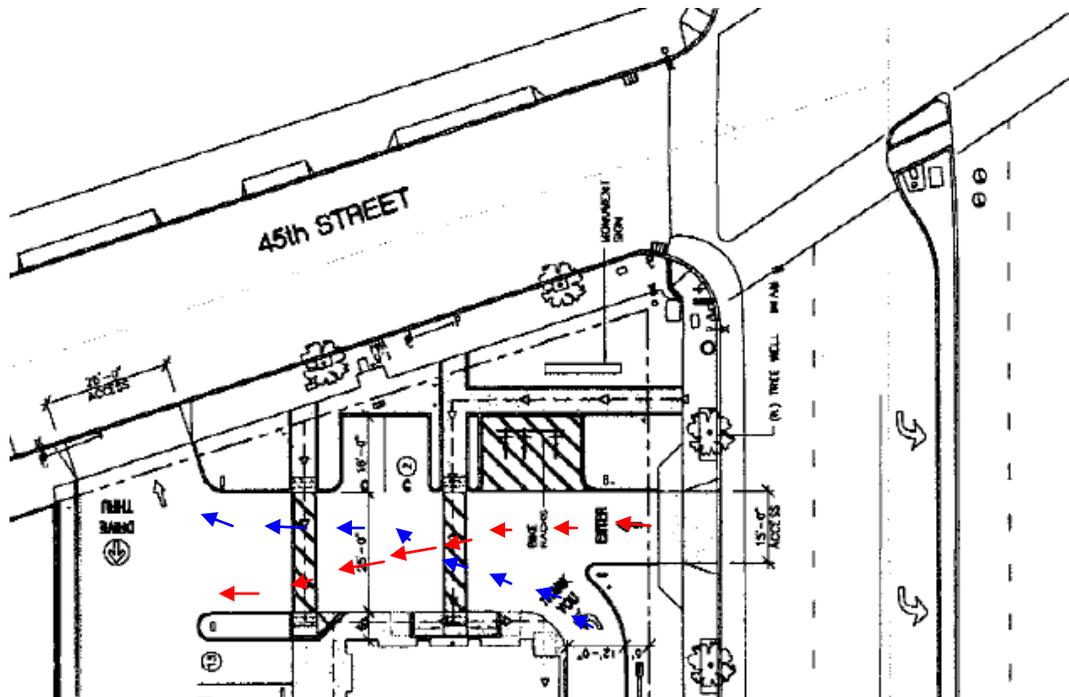
Adopted Planning Commission Finding of December 1, 2010

The existing restaurant has operated driveways from Telegraph Avenue and 45th Street for 33 years, without noticeable reduction in circulation levels of adjacent streets. 45th Street has non-residential uses near the restaurant site at this end of its right-of-way. The relatively small increase in restaurant floor area would not increase the 3/4 acre size of the site, nor would it create a huge increase in vehicle trips to the site.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding is inadequate as it relies on unsubstantiated assertions based on the existing configuration and fails to consider the specific impacts of the changes to this configuration that are reflected in the proposed design. For instance, the one-way-only entrance on Telegraph Avenue now forces inbound cars to immediately merge with outgoing drive-through traffic as it moves to the rear of the property. No specifics are given as to how this would be handled in order to avoid having waiting vehicles back up on the sidewalk and into Telegraph Avenue.

Telegraph at 45th Street is an important (and already problematic) intersection, serving also as the merge point for Shattuck and Telegraph Avenues, yet, as noted in the Staff Report, no input was provided by the Oakland Police Department.



Required Finding

- B. Standards. A driveway serving as a vehicle stacking or queuing lane for a drive-through window shall be separated from parking areas and shall not be the only entry or exit lane on the premises. Such facility shall be so situated that any vehicle overflow from it shall not spill onto public streets or the major circulation aisles of any parking lot. Such facility shall have durable, all-weather surface; shall have reasonable disposal of surface waters by grading and drainage; and shall be permanently maintained in good condition.**

Adopted Planning Commission Finding of December 1, 2010

The driveways for stacking or queuing lanes for the drive-through windows are separated from parking areas and are not the only entry or exit lanes on the premises. Vehicles not using the drive-through lane can completely bypass that portion of the site and use non-dedicated driveways, as vehicles have done for decades at this site. The overflow does not spill into public streets. The surface will be durable and all-weather, and well drained and maintained as required.

Inadequacy of Planning Commission Finding

The adopted Planning Commission finding is inadequate as it fails to account for or study traffic overflow at the site during late night drive-through business hours. As the applicant has for some time illegally operated a 24 hour drive-through at the site without a permit to do so, appellants have witnessed after-hours customers' cars overflowing into Telegraph Avenue on multiple occasions. It can be inferred that should the facility

be empowered with a legal 24 hour operating permit, the owners will no longer feel inhibited about boldly advertising the facility's 24 hour status, thus increasing spillover.

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ATTACHMENT "C" Supporting Documentation

Emails in opposition received prior to December 1, 2010 by Case Planner
David Valeska

Emailed Nov. 23, 2010

Dear Mr. Valeska:

I am writing to express my strong opposition to the proposed expansion of the McDonald's at 44th and Telegraph. Every time I walk by it, I wish that it would go away completely due to the garbage that is all around there, the annoying and sometimes menacing behavior of the people who frequent the place, and the general blighted look it gives to our neighborhood. The large parking lot there attracts criminal elements, loiterers, loud music, and panhandlers, and detracts from the character of the neighborhood. It would be much better to require that McDonalds have no drive-thru at all and build retail or something more interesting on the parking lot space. But at the very least, please do not *expand* the McDonald's!

Tamara Johnston
4905 Lawton Avenue
Oakland, CA 94609

Emailed Nov. 29, 2010

Dear Mr. Valeska,

I'm writing to voice my strong opposition to the request by McDonald's to legally run their drive-through 24 hours a day and expand their facilities.

McDonald's is a negative presence in the neighborhood already, bringing litter, noise, pollution, and traffic. Increasing their operating hours or facility size will only make these problems worse.

Temescal is undergoing tremendous growth and revitalization that's wonderful to witness, and I know many of my neighbors share this excitement. From the perspective of longer-term development, locally-owned businesses keep more tax dollars in Oakland and make a positive contribution to the community and the values it supports. McDonald's has an antagonistic influence on continuing revitalization for the reasons stated above.

Sincerely,

Diana Ghermann
533 44th Street
Oakland, CA 94609

Emailed Nov. 29, 2010

David Valeska,

I am writing to voice my opinion that the expansion of the Macdonald's in my neighborhood (Reference case file #REV10-018) There is already enough garbage, noise, traffic and general negative environmental affects generated from the fast food businesses, specifically the Macdonald's. I feel the expanded 24-hour would only worsen these problems in my beautiful neighborhood. Please do not allow the expansion of the Macdonald's on Telegraph in Temescal. Thank you for your work and time.

Rob Dario
5006 Telegraph Avenue, #5
Oakland, CA 94609

Emailed Nov. 24, 2010

I oppose the expansion of the McDonald's at 45th and Telegraph for the following reasons:

1. Even at its current size, the amount of litter that can be attributed to that McDonald's is too much. I live over ten blocks away and have to clean up McDonald's litter from in front of my home at least once a week. Not too mention, the amount I see (and dispose of when a sidewalk trashcan is nearby) as I walk my kids to school each day.
2. The Temescal shopping and dining district along Telegraph is thriving and an expanded McDonald's would only create more car traffic that would annoy potential customers of other merchants and not increase foot traffic that is so desired by the merchants and the community.
3. If the city allows McDonald's to expand it sends a clear message to the great number of high school kids nearby that the city endorses and encourages them to eat McDonald's, which is not the message I want to send as a member of the Oakland community.

I urge the city of Oakland to not allow the expansion of the 45th and Telegraph McDonald's.

Sincerely,
Doug Black
4105 Emerald Street
Oakland, CA 94609

Emailed Nov. 23, 2010

Dear Mr. Valeska:

Case File Number: REV10-018

I live in Temescal at 44th Street & Shafter Avenue and have resided here for 26 years since 1984.

I will list here my objections to the proposal to expand the McDonalds at 45th Street and to request a permit for a 24-hour drive through:

- I concur with my neighbors that this proposal is not in the best interest of our neighborhood;
- The noise levels, traffic due to the drive through, and the garbage strewn all through and around the neighborhood all the way to Oakland Tech and Broadway and 51st Street, are not acceptable and need to be eradicated. The proposed expansion will only increase these damaging effects to the neighborhood and provide more of a platform for attracting petty crime, panhandling and generally gathering of nuisance people and the garbage they leave behind.

I strongly urge you to vote no on this proposal. Thank you.

Cristina Gerber
44th Street Resident

Emailed Nov. 23, 2010

Hello David,

A neighbor forwarded your contact information to me. I'm writing in opposition of the expansion of the McDonalds at 45th and Telegraph.

Part of what makes the Temescal great is all of the locally owned, community businesses. McDonald's certainly have their place in the world, but such a franchise is also in direct conflict with the homegrown spirit of my neighborhood.

Worse, is the kind of business a 24 hour fast food drive through attracts. The increased traffic, and extra garbage, and late night crowds are terrible in their own right. What is worse, is these things also negatively affect other businesses and patrons in the surrounding area. I believe allowing McDonalds to expand would add an unsightly tinge to an otherwise lovely area. I live at 5006 Telegraph, Apt #5 and would be displeased to see the local McDonalds expand.

Best Regards,
-- Paul Burt_

Emailed Nov. 27, 2010

My name is Robert Temple and I live at 552 47th St. I am writing to strongly oppose plans for McDonalds expansion and plans to stay open 24 hours. I believe that McDonalds is a blight on our neighborhood serving unhealthy food and helping cause litter and noise that extend all the way to my street, a few blocks away! I see no benefit to McDonalds being here and certainly none from expansion of space or hours

Robert Temple
552 47th St

Emailed Nov. 27, 2010

David Valeska:

I live a block away from McDonald's and saw a posting on the street about the proposal. I would like to know more about it and want to join in voicing my opposition to their planned expansion and 24 hour drive-thru.

I am against this proposal because:

- I get to pick up trash in my front yard and on sidewalk almost daily that originates from McDonald's or one of the other fast food chains in the area.
- Drive-thrus and large, paved suburban style parking lots served by multiple "mid-block" driveways onto Telegraph Avenue, such as McDonald's do really not belong in the fabric of our Temescal neighborhood. Period. And they make traffic worse.
- My residence is one lot away from rear of Jack in the Box's 24 hour drive-thru (across from McDonald's). Noise is generated from running engines and from voices on the menu board intercom throughout the night - which - depending on distance away and sound insulation of walls and windows can be real issue when trying to sleep. I cannot imagine McDonald's proposal to be any different in creating additional noise, especially at night.
- Local merchants, businesses, and residents do not benefit from more drive through traffic at McDonald's. Expanding on fast food operations is not what's good for this neighborhood, however, would it not be great if Kasper's Hot Dog building right across from McDonald's could reopen.

Sincerely,
Stefan Menzi

Stefan Menzi, Architect AIA
526 44th Street
Oakland, CA 94609

Emailed Nov. 24, 2010

Hello,

I live at Ruby and 40th near Telegraph, and I think Temescal has enough fast food (and associated garbage, noise, traffic) already.

The McDonald's at 45th and Telegraph is proposing to both expand their facility and get permitted for a 24-hour drive-through. (case file #REV10-018)

The way in which the drive thru is situated creates a driving hazard all day, everyday. I can tell you there are FOUR solid yellow lines that are illegally crossed so many times a day that they rub away. It is a very dangerous intersection with young kids and teenagers crossing to go to the nearby schools and often almost getting hit by cars. I also don't appreciate that they are so close to the middle and high schools.

Emailed Nov. 24, 2010

I am opposed to the plan of a 24h Drive through Mc Donalds because it will bring people to the neighbourhood at night . possibly making it unseafar. I walk my dogs late at night and it often is feeling unsafe already. The garbage is very annoying, dont want to increase that. But mainly I am concerned about undesirable late night/early morning traffic and more people in the neighbourhood at undesirable times of the night.

Thanks, Best Tatjana Kopp

Tatjana Kopp
Flying Carpet Restoration Service
Tel.510-654 3250
4520 Webster St.
Oakland, CA 94609

Emailed Nov. 24, 2010

My Name Is Elizabeth Bellizzi and I live at 3912 Ruby Street in Oakland CA, 94609. I strongly oppose the proposal of McDonalds expansion and extension to be permitted for a 24-hour drive-through.

The existing drive-through brings a lot of traffic, noise, panhandling, and (especially) garbage to the neighborhood without benefitting other local merchants or residents, and increasing hours and capacity will obviously exacerbate these problems.

Emailed Nov. 24, 2010

Mr. Valeska - I just heard about the proposed expansion of McDonalds at 45th and Telegraph (including 24-hour drive-through), and I want to let the Oakland Planning Commission know my partner and I oppose the plan.

As Temescal residents for over a decade, living at 4145 Opal Street, my partner and I have been very happy to see and participate in the improvement of our neighborhood, including the now-vibrant Telegraph corridor.

In our view, expanding McDonald's is exactly what our neighborhood does NOT need. The expansion and proposed 24-hour drive-through will make worse existing problems of traffic, noise, garbage, panhandling, and smell - and the increased volume of their business will not be of advantage either to the neighboring business community or local residents.

The commercial success of the Temescal business district is based on these independent businesses - not on McDonald's. Not every business can be a Bakesale Betty, but this proposed expansion is a step in exactly the wrong direction for the future of our neighborhood.

Thank you for your consideration.

Rick Mead and Mark Marion

Emailed Nov. 24, 2010

Hello,

I am a homeowner in the area, and not only do I oppose any expansion, I resent the existence of so many fast food chains on our stretch of Telegraph. It adds to traffic, noise, loitering, and probably mugging...etc.

I personally avoid McDonald's, and will encourage my guests to do so as well. An expansion would encourage me to boycott more aggressively.

Thank You,

Rebecca Weinstein
4831 Webster St
Oakland, CA

Emailed Nov. 24, 2010

Re: Case File #REV10-018

Dear Mr. Valeska,

We are completely opposed to any expansion of the McDonalds in our neighborhood for many reasons, mainly:

- Idling cars creating toxic fumes in the drive-through
- Garbage flying around our house from McDs and other fast-food chains
- It attracts gangsters and panhandlers to the area

Let's promote more healthy grocery stores and restaurants! They are so much better for our community!

Hopefully you can halt this expansion, as it would deteriorate our surroundings here in Temescal.

Thank you,
Yolanda Calderon
476 - 41st Street
Oakland CA 94609

Emailed Nov. 24, 2010

Dear Mr. Valeska,

In reference to case file #REV10-018, I was saddened to hear of plans to expand the McDonalds at 45th and Telegraph; I think the restaurant brings nothing good to the neighborhood, and would not like to see it expanded.

Besides being unhealthy food that is part of an unpleasantly global food chain (and thus the antithesis of local), this particular location is placed right next to a school, which attracts children at the end of their school day. Making it MORE attractive to them by providing more space sends the wrong message to the community; we're supposed to be supporting healthy food choices for our communities, not supporting unhealthy ones.

I vigorously oppose any plans to expand the McDonalds at 45th and Telegraph.

Sincerely,

Mick Mize

5006 Telegraph Ave, #5

Oakland, CA 94609

Emailed Dec 1, 2010

Dear Mr. Valeska:

I am writing to express my strong opposition to the proposed expansion of the McDonald's at 44th and Telegraph.

Every time I walk by it, I wish that it would go away completely due to the garbage that is all around there, the annoying and sometimes menacing behavior of the people who frequent the place, and the general blighted look it gives to our neighborhood. The large parking lot there attracts criminal elements, loiterers, loud music, and panhandlers, and detracts from the character of the neighborhood. It would be much better to require that McDonalds have no drive-thru at all and build retail or something more interesting on the parking lot space. But at the very least, please do not *expand* the McDonald's!

Tamara Johnston
4905 Lawton Avenue
Oakland, CA 94609

Emailed Oct 13, 2010

From: josh thorp [mailto:josh_thorp@hotmail.com]
Sent: Wednesday, October 13, 2010 5:38 PM
To: Valeska, David
Subject: RE: Case File REV10-018

Thanks David,

The primary concern is expansion of the drivethrough hours -- the existing drivethrough coupled with the JackInTheBox drivethrough bring a lot of traffic, noise, panhandling and (especially) garbage to the neighborhood without benefitting other local merchants or residents, and making it 24 hours will obviously exacerbate these problems.