

Staff Summary Report



Hearing Officer Hearing Date: March 2, 2010

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by **BURGER KING (PL100019)** located at 25 West University Drive for one (1) use permit.

DOCUMENT NAME: 20100302dssl01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by **BURGER KING NO.7769 (PL100019)** (Eric Dreier/ KRAF Inc. d.b.a. Burger King, applicant; KRAF Inc., property owner) located at 25 West University Drive in the CC, City Center District for:

ZUP10010 Use permit to allow a commercial parking lot in conjunction with an existing restaurant.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

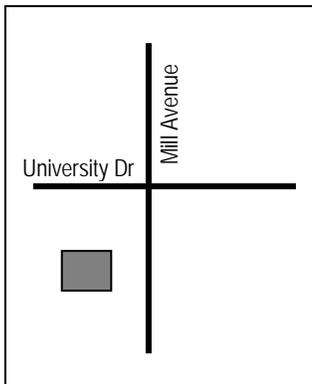
DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:

Burger King is requesting approval of a use permit to allow a dual use of their parking area as a commercial parking lot. They have provided a parking analysis prepared by a registered engineer who identifies a surplus of parking available based on the actual use of the site. Staff supports the request based on the criteria for approval of a use permit. To date, no public input has been received.



PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-4. Letter of Intent
5. Site plan
- 6-10. Parking Analysis
11. Staff Photograph(s)

COMMENTS:

Burger King, located west of Mill on the south side of University Drive, is requesting approval of a use permit to allow a dual use of their parking area as a commercial parking lot. The restaurant is addressing a commercial code violation for providing parking for a fee in their rear parking area. They have provided a parking impact study demonstrating that they have a surplus of parking to accommodate a dual use of the property without negatively impacting the surrounding area. The property was posted and a public notification was sent to the property owners within 300'. To date, no public input has been received.

Use Permit

The Zoning and Development Code requires a use permit for commercial parking lots within the CC, City Center District. This is a unique request which legitimizes a use that has traditionally occurred on commercial properties that surround Arizona State University Campus. The parking analysis, dated 1/24/2010, identifies thirty-four (34) parking spaces available on the site. Through a time of day analysis; it was determined that the peak demand for parking spaces occurred between 12 pm and 1 pm with sixteen (16) parking spaces utilized for patrons leaving a surplus of eighteen (18) parking spaces. The applicant is requesting approval to allow sixteen (16) parking spaces to be available for a fee. Staff supports the request for the dual use of the property.

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There should be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - This is a commercial use and should not have any associated nuisances.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed use should not contribute to neighborhood deterioration or downgrade property values;
 - The proposal is fulfilling a strategy identified in General Plan 2030, Parking and Access Management, which promotes shared-use parking facilities and management of parking especially in areas surrounded by residential, close to downtown and ASU.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with the surrounding uses.
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public:
 - No apparent issue

Conclusion

Staff recommends approval of the use permit to allow 16 spaces to be used for a commercial parking lot in conjunction with a restaurant.

REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.
5. Approval of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

**CONDITION(S)
OF APPROVAL:**

1. The use permit approved to allow sixteen (16) parking spaces located to the rear of the site to be used for a commercial lot and charged a fee for use.
2. Obtain formal of approval of parking analysis with all applicable fees prior to use permit becoming valid.
3. The use must be commenced with twelve (12) months from date of approval or the use permit will be invalid.
4. Use permit valid for Burger King Restaurant only; should the business convert to another restaurant or business the use permit will become invalid.
5. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing set to re-evaluate the appropriateness of the use permit.

The following ZDC requirements to be adhered to:

- Any signs associated with parking use will require a separate approval from the Development Services Commercial Code section prior to installation of signs; contact Jeff Tamulevich (480) 350-8441.

HISTORY & FACTS:

February 6, 2009. Commercial Code Compliance issued a citation to BP Properties- Burger King for operating a commercial parking lot without use permit.

DESCRIPTION:

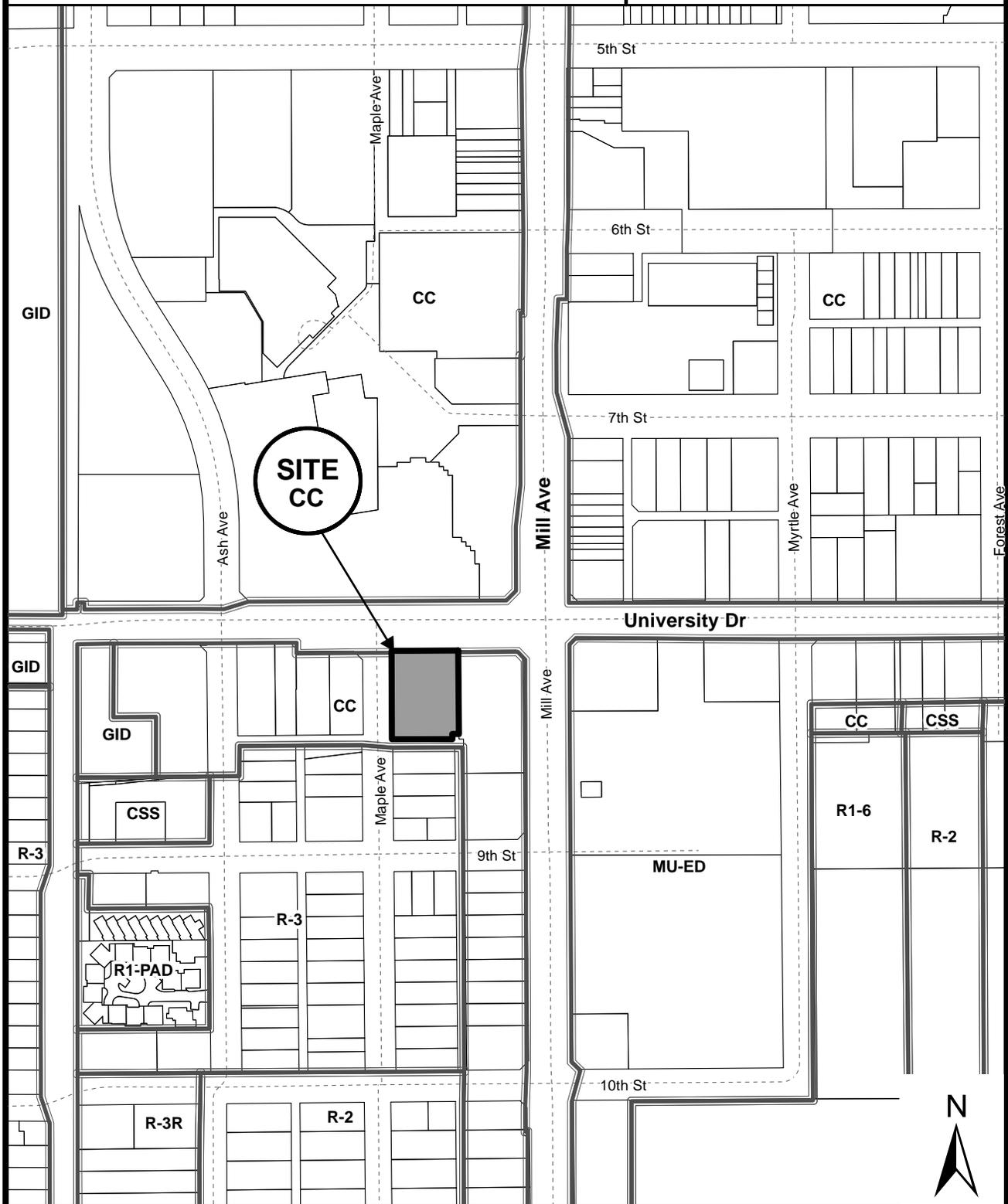
Owner – KRAF Inc.
Applicant – Eric Dreier/KRAF Inc. d.b.a. Burger King
Existing Zoning – CC, City Center District
Number of Parking Spaces provided- 34 spaces
Park by Demand spaces required for restaurant- 16 spaces

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

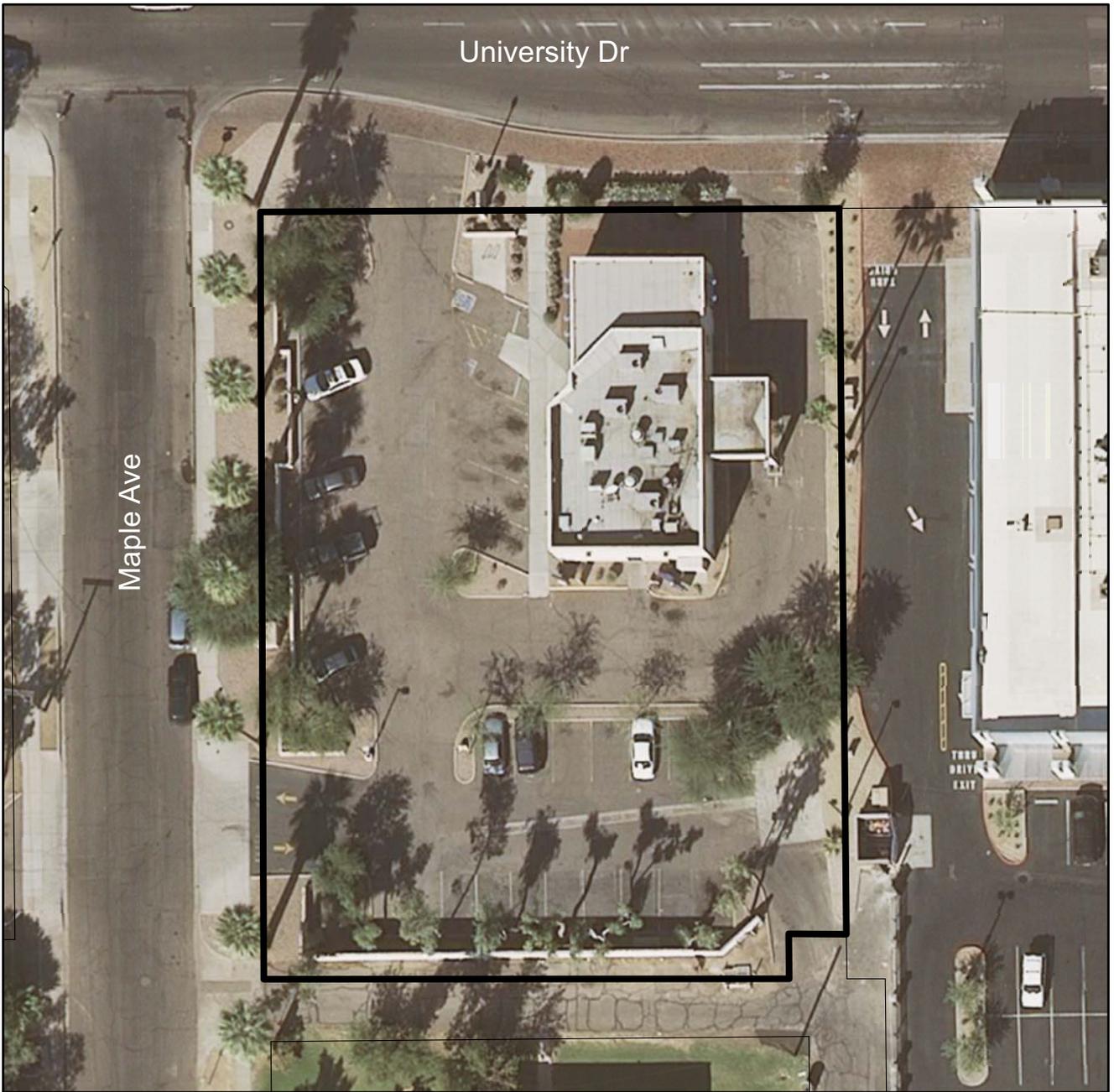
Part 3, Chapter 2, Table 3-202A- Permitted Land Uses
Part 6, Chapter 3, Section 6-308- Use Permits
Part 6, Chapter 3, Section 6-311- Shared Parking

BURGER KING NO. 7769

PL100019



Location Map



BURGER KING NO. 7769 (PL100019)

Sherri,

Based on the findings of the Parking Utilization Survey, we would like to request use of the southernmost 16 parking spaces for special use as a (Burger King) parking use for daily parking. (at 25th W. University Drive)
Judson Matthias performed the survey for us. His contact information is 480-838-5325, and his email is matthias@asu.edu. Please call me to discuss so I know a timeline, etc. The Letter of Explanation, Project Submittal Application, checklist, CoFO, and Application Form are all included in addition to a site plan and the report from the parking utilization survey. Thank you.

Eric Dreier
Vice President
KRAF Inc. d.b.a. Burger King
cell 602-885-1703

JUDSON S. MATTHIAS,P.E.
2032 E. Laguna Dr.
Tempe, AZ, 85282

January 23,2010

Mr. Eric Dreier
KRAF Inc.
410 N. 44th St
Phoenix, AZ 85008

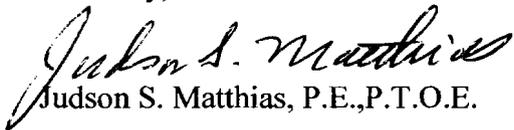
Re: Burger King, University and Mill Ave in Tempe, AZ.

Dear Mr. Dreier;

This is the report you requested to determine the utilization of the existing parking spaces.

- 1.The existing parking space is grossly under utilized . The largest number of parked vehicles at any time was 8 during the busiest period.
2. The parking demand was recorded on January 21st ,2010 and used the sales records you provided(enclosed) to . Facility records were used to determine the maximum business hours.
3. Please call if there are any questions.

Sincerely,


Judson S. Matthias, P.E.,P.T.O.E.

PARKING IMPACT STUDY
BURGERKING
MILL AVENUE AND UNIVERSITY ROAD
TEMPE, ARIZONA

Prepared By

Judson S. Matthias, P.E.,P.T.O.E.

January 23, 2010



INTRODUCTION

This report presents the findings and recommendations concerning parking demand and utilization at the Burger King Drive In Restaurant at Mill and University in Tempe Arizona. Included are the parking counts made on January 21,2010 and the sales records provided by the facility.

The parking lot contains 34 marked spaces, two of which are marked for Handicapped Parking.

PARKING COUNTS

In order to determine the actual parking demand counts were made from 1000 AM to 1 PM as this period was identified as the busiest hours of the day by inspection of sales records kept by the restaurant. The Institute of Transportation Engineers (ITE) Trip Manual of Transportation Studies,1994 was used as the basis for this study. All vehicles parked were counted and each arrival parking vehicle was recorded as well as each departure. Vehicles using the drive thru window were recorded as well.

PARKING UTILIZATION

	Arrivals	Departures	Max. Number Parked at any time
10-11AM	7	8	4
11-12AM	10	8	5
12-1 PM	16	14	8

DRIVE THROUGH

10-11AM	12
11-12AM	22
12-1PM	30

It was noted that a large number of customers were walk in trade. This is reflected in the numbers of eat in and take out customers which include all walk in and parking arrivals.

CONCLUSIONS

The available parking spaces are grossly underutilized and are a significant waste of space and land resources.



BK 7769 - Tempe, AZ
 PROGRESSIVE HOURLY REPORT
 Printed: Friday January 22 2010 07:58 AM

PROGRESSIVE HOURLY REPORT HISTORICAL for 2010/01/21

2010/01/22 07:58 AM

	Per Period			Running Total		
	Count	Net Sales	Average	Count	Net Sales	Average
EAT IN	5	19.25	3.85	5	19.25	3.85
TAKE OUT	2	6.27	3.13	2	6.27	3.13
DRIVE THRU	7	30.83	4.40	7	30.83	4.40
06:00 AM-07:00 AM	14	56.35	4.03	14	56.35	4.03
EAT IN	1	4.49	4.49	6	23.74	3.96
TAKE OUT	4	13.54	3.38	6	19.81	3.30
DRIVE THRU	11	39.21	3.56	18	70.04	3.89
07:00 AM-08:00 AM	16	57.24	3.58	30	113.59	3.79
EAT IN	2	8.17	4.08	8	31.91	3.99
TAKE OUT	17	59.35	3.49	23	79.16	3.44
DRIVE THRU	17	62.54	3.68	35	132.58	3.79
08:00 AM-09:00 AM	36	130.06	3.61	66	243.65	3.69
EAT IN	9	48.47	5.39	17	80.38	4.73
TAKE OUT	19	79.04	4.16	42	158.20	3.77
DRIVE THRU	14	56.90	4.06	49	189.48	3.87
09:00 AM-10:00 AM	42	184.41	4.39	108	428.06	3.96
EAT IN	9	38.60	4.29	26	118.98	4.58
TAKE OUT	15	54.97	3.66	57	213.17	3.74
DRIVE THRU	13	44.52	3.42	62	234.00	3.77
10:00 AM-11:00 AM	37	138.09	3.73	145	566.15	3.90
EAT IN	18	77.61	4.31	44	196.59	4.47
TAKE OUT	17	81.40	4.79	74	294.57	3.98
DRIVE THRU	23	130.44	5.67	85	364.44	4.29
11:00 AM-12:00 PM	58	289.45	4.99	203	855.60	4.21
EAT IN	25	115.05	4.60	69	311.64	4.52
TAKE OUT	23	92.08	4.00	97	386.65	3.99
DRIVE THRU	34	160.96	4.73	119	525.40	4.42
12:00 PM-01:00 PM	82	368.09	4.49	285	1223.69	4.29

	Per Period			Running Total		
	Count	Net Sales	Average	Count	Net Sales	Average
EAT IN	9	33.72	3.75	78	345.36	4.43
TAKE OUT	16	65.24	4.08	113	451.89	4.00
DRIVE THRU	24	102.02	4.25	143	627.42	4.39
01:00 PM-02:00 PM	49	200.98	4.10	334	1424.67	4.27
EAT IN	10	27.16	2.72	88	372.52	4.23
TAKE OUT	9	28.82	3.20	122	480.71	3.94
DRIVE THRU	19	78.96	4.16	162	706.38	4.36
02:00 PM-03:00 PM	38	134.94	3.55	372	1559.61	4.19
EAT IN	10	32.46	3.25	98	404.98	4.13
TAKE OUT	14	76.49	5.46	136	557.20	4.10
DRIVE THRU	15	70.57	4.70	177	776.95	4.39
03:00 PM-04:00 PM	39	179.52	4.60	411	1739.13	4.23
EAT IN	14	44.19	3.16	112	449.17	4.01
TAKE OUT	7	26.14	3.73	143	583.34	4.08
DRIVE THRU	14	51.59	3.69	191	828.54	4.34
04:00 PM-05:00 PM	35	121.92	3.48	446	1861.05	4.17
EAT IN	10	47.66	4.77	122	496.83	4.07
TAKE OUT	6	15.48	2.58	149	598.82	4.02
DRIVE THRU	18	103.26	5.74	209	931.80	4.46
05:00 PM-06:00 PM	34	166.40	4.89	480	2027.45	4.22
EAT IN	9	54.87	6.10	131	551.70	4.21
TAKE OUT	6	22.30	3.72	155	621.12	4.01
DRIVE THRU	10	68.24	6.82	219	1000.04	4.57
06:00 PM-07:00 PM	25	145.41	5.82	505	2172.86	4.30
EAT IN	1	4.58	4.58	132	556.28	4.21
TAKE OUT	10	64.68	6.47	165	685.80	4.16
DRIVE THRU	11	46.60	4.24	230	1046.64	4.55
07:00 PM-08:00 PM	22	115.86	5.27	527	2288.72	4.34
EAT IN	6	21.27	3.54	138	577.55	4.19
TAKE OUT	0	0.00	0.00	165	685.80	4.16
DRIVE THRU	8	59.53	7.44	238	1106.17	4.65
08:00 PM-09:00 PM	14	80.80	5.77	541	2369.52	4.38

	Per Period			Running Total		
	Count	Net Sales	Average	Count	Net Sales	Average
EAT IN	6	34.14	5.69	144	611.69	4.25
TAKE OUT	0	0.00	0.00	165	685.80	4.16
DRIVE THRU	8	44.72	5.59	246	1150.89	4.68
09:00 PM-10:00 PM	14	78.86	5.63	555	2448.38	4.41
EAT IN	0	0.00	0.00	144	611.69	4.25
TAKE OUT	0	0.00	0.00	165	685.80	4.16
DRIVE THRU	6	46.71	7.79	252	1197.60	4.75
10:00 PM-11:00 PM	6	46.71	7.79	561	2495.09	4.45
EAT IN	0	0.00	0.00	144	611.69	4.25
TAKE OUT	0	0.00	0.00	165	685.80	4.16
DRIVE THRU	5	59.02	11.80	257	1256.62	4.89
11:00 PM-12:00 AM	5	59.02	11.80	566	2554.11	4.51
TOTAL:	566	2554.11	4.51			

TOTAL:



BURGER KING NO. 7769

25 WEST UNIVERSITY DRIVE

PL100019

**PROPOSED LOCATION FOR
COMMERCIAL PARKING LOT**

