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MEMORANDUM

DATE: September 3, 2003

TO: Council Member Gary Schiff, Chair, Zoning & Planning Committee and
Members of the Committee

FROM: Lonnie Nichols, City Planner

SUBJECT: Appeal of the decision of the City Planning Commission by Timothy
Baylor, President JADT Food Group, LLC

Tim Baylor has filed an appeal of the decision of the City Planning Commission. The appeal is associated with the CPC's decision to deny a Conditional Use Permit for 24-hour operation for the McDonald's located at 900 West Broadway. The staff report from the August 4, 2003 CPC, notice of appeal from the applicant, and letter from Hawthorne Area Community Council are attached.

The appellant is appealing to re-emphasize the reasons why JADT Group, dba McDonalds, feels they should be approved to serve the community with quick service food and refreshments for 24 hours per day. Mr. Baylor met with the Hawthorne Area Community Council Board of Directors on August 14, 2003 to answer questions regarding the CUP application and appeal. HACC voted to not support the CUP for 24-hour operation.

At the August 4, 2003 City Planning Commission hearing, the commission voted 5 - 2 to deny the conditional use permit for 24-hour operation.

Minneapolis City Planning Department Report
Conditional Use Permit Application
BZZ-1276

Date: August 4, 2003 CPC Hearing

Applicant: JADT Food Group, dba McDonalds 900 West Broadway, Minneapolis

Address of Property: 900 West Broadway

Date Application Deemed Complete: June 26, 2003

End of 60 Day Decision Period: updated from August 25 to October 10, 2003

End of 120 Day Decision Period: Not applicable

Applicant has Waived 60 Day Requirement: CPC decision of August 4 appealed on August 11, 2003.

Contact Person and Phone: Tim Baylor, 763-592-0911

Planning Staff and Phone: Lonnie Nichols (612) 673-5468

Ward: Three (3)
Council

Neighborhood Organization: Hawthorne Area Community Council

Existing Zoning: C3S
hours

Proposed Use: Fast-food restaurant – extended

Concurrent Review: None

Previous Actions: PR (Plan Review)-364, BZZ 992

Background: The McDonalds at 900 West Broadway is located in the Hawthorne Crossings shopping center, which is located on the north side of West Broadway between Bryant Avenue North and Emerson Avenue North. JADT Food Group, LLC, dba McDonalds, has filed application for a Conditional Use Permit for extended hours to operate the sit-down and drive-through McDonalds located at 916 West Broadway Avenue North in the C3S (Community Shopping Center) zoning district for 24 hours per day, seven days per week. Regular hours of operation allowed under C3S zoning are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday. The applicant is seeking the conditional use permit for extended hours for the drive through business only. The indoor seating area will be in conformance with regular hours of operation. The City Planning Commission recommended denial of a conditional use permit for extended hours for the Burger King at 818 West Broadway in 2001

Neighborhood Input: As per a telephone conversation with neighborhood staff, the Hawthorne Area Community Council does not support the Conditional Use Permit for

extended hours. A business committee of HACC voted to support the application pending further citizen input from the community. The full HACC has either taken no formal action on the item or denied it, according to HACC staff.

CONDITIONAL USE PERMIT FOR EXTENDED HOURS

Findings as Required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. Will be detrimental to or endanger the public health, safety, comfort or general welfare.

The Hawthorne Crossings shopping center is located on the north side of West Broadway between Bryant Avenue North and Emerson Avenue North. To the north of the shopping center, across 21st Avenue North, there is a mixture of single-family and multiple-family dwellings. The McDonalds is adjacent to Spin Cycle (Coin Op) Laundry, and in the same building as the Minneapolis Public Schools North Area Office & Welcome Center, a Dollar Store, and a vacant tenant space. Extending the hours of operation for the McDonalds drive through will produce more noise and traffic in the area during late night hours. The drive aisle for the McDonalds drive through is located on the North side of the building housing McDonalds, within site and sound of the aforementioned residential district across the street on the North side of 21st Avenue. An all night drive through may result in increased traffic, speaker box noise (for ordering food), radios/stereos playing, engines idling, and inadvertent headlight glare.

There has been a coordinated effort among neighborhood residents, the Planning Department, the Police Department and the Licensing Department over the past several years to limit the number of uses open past the set operating hours of the zoning code along this portion of West Broadway due to problems.

Planning Staff research conducted in 2001 found that in addition to the above requested information, existing fast food uses in the neighborhood were operating the following hours:

- McDonalds – 900 West Broadway, located on the NW corner of Broadway and Bryant Avenue
The lobby is open Monday through Saturday 6:30 am to 9 pm and Sunday 7:30 am to 9 pm. The drive thru is open until 10:30 pm Sunday through Thursday and until 11 pm on Friday and Saturdays
- White Castle – located on the NE corner of Broadway and Aldrich Avenue
The lobby and drive thru is open 24 hours a day, seven days a week. The extension of hours for this use predates the zoning code restrictions.
- Taco Bell – located on the SW corner of Broadway and 4th Street
The lobby is open Sunday through Saturday 10 am to 10 pm. The drive thru is open until 11 pm Sunday through Thursday and until 12 midnight on Friday and Saturday.
- Wendys – located on the SE corner of Broadway and 4th Avenue

The lobby is open seven days a week 10 am to 9 pm. The drive thru is open until 11 pm Sunday through Thursday and until 12 midnight Friday and Saturday.

- KFC – located on the SW corner of Broadway and Girard Avenue
The lobby and drive thru is open Monday through Thursday 10:30 am to 10 pm, Friday and Saturday 10:30 am to 11 pm and Sunday 10:30 am to 10 pm.
2. **Will be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The proposed overnight fast food drive through window will be injurious to the use and enjoyment of other property in the vicinity and may impede the normal or orderly development and improvement of surrounding property for uses permitted in the district. Staff uses the following criteria to determine compatibility of extended hours with the surrounding area:

Proximity to permitted or conditional residential uses. The site is zoned C3S - Community Shopping Center. The use is located in the Hawthorne Crossings shopping center, which is located on the north side of West Broadway between Bryant Avenue North and Emerson Avenue North. This site is located to the south of 21st Avenue North-the southern boundary of a residential district, to the west of an existing Burger King restaurant and a Qwest telephone exchange building, to the north of various commercial businesses along West Broadway and to the east of the other portion of the Hawthorne Crossings shopping center. The design of the drive through leads vehicles behind the building toward the adjacent residential district to order food from an outdoor speaker box.

Nature of the business and its impacts of noise, light and traffic. The applicant is proposing to keep the McDonalds drive through open 24 hours a day, seven days a week. Given that fast food restaurants with drive through windows rely heavily on customers arriving and departing quickly in vehicles, staff believes the presence of 24 hour drive-through window could increase the noise, light, and traffic in the area which could negatively impact the nearby residential uses.

Conformance of use. McDonalds – a fast food restaurant - is a permitted use in the C3S zoning district. The zoning code limits operating hours in the C3S zoning district to Sunday through Thursday, from 6:00 am to 10:00 pm and on Friday and Saturdays, from 6:00 am to 11:00 pm. As per section 548.420 (3) of the code, drive through facilities are permitted uses in the C3S, subject to the standards of Chapter 530, Site Plan Review and Chapter 541, Off-Street Parking and Loading. See attached hard copies of communications between the applicant and the City of Minneapolis Inspections department. Full implementation of the approved landscaping plan and dumpster screening is in question. Staff is recommending the applicant plant the variety and quantity of scheduled plantings approved on site plan (BZZ 992) in 1997. At least three Pin Oak trees, five Pfitzer Junipers, and thirteen Dwarf American Highbush Cranberry are missing from the approved plan for the parking lot facing Broadway Avenue.

Complaints received. The building was constructed in 1997. The CODEFOR – Calls for Service Report, was obtained via the telephone from the Community Crime Prevention Safe Unit

of the Police Department. The officers contacted indicated there had been one confirmed crime, an auto-theft, in regards to McDonalds since the beginning of 2002 through July 20, 2003. The officers further mentioned receiving a lot of calls on Hawthorn Crossings (generally) for loitering, noise disturbances, and suspected drug dealing. The Police are concerned about the need for additional security and enforcement at Hawthorn Crossings as a result of extended hours of operation. Minneapolis resident, Joseph Walker, hand delivered a Sample SAFE ZONE poster (see attached) to staff and declared the entire Hawthorn Crossings a Walker Safe Zone. Mr. Walker stated he would attend the August 4, 2003 City Planning Commission hearing to speak to the application for extended hours of operation.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

The existing utilities, access roads, drainage and other facilities are adequate. McDonalds has existing surveillance (security) cameras directed on the menu/ordering board and pick up window. Police department staff has requested additional cameras on the parking lot areas if a CUP for 24-hour operation is approved.

4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.

Extending hours should not add significantly to the traffic congestion in the public streets during late night hours. McDonalds has existing bicycle parking for customers.

5. Is consistent with the applicable policies of the comprehensive plan.

This site is located in a Community Shopping Center district, surrounded by commercial and residential districts. This use is also located along a commercial corridor identified as an auto-oriented shopping center district. In the City Form chapter found in *The Minneapolis Plan*, Policy 9.8 states that "Minneapolis will maintain and strengthen the character of the city's various residential uses." And Policy 9.15 states that "Minneapolis will protect residential areas from the negative impacts of non-residential uses by providing appropriate transitions." Extended hours of operation are not specifically covered in the comprehensive plan.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

Notwithstanding the inspections department concern about compliance with the site plan on file for Hawthorn Crossings, the use is in conformance with the applicable policies of the zoning code for the C3S zoning district.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT

The City Planning Department recommends that the City Planning Commission adopt the above findings and **deny** the conditional use permit application (BZZ 1276) for extended hours for the McDonalds restaurant located at 900 West Broadway.

