

**Department of Community Planning and Economic Development—Planning Division
Conditional Use Permit
BZZ-1920**

Hearing Date: 9/13/04

Applicant: Jeff Smith, 2813 Silver Lane, Mpls. 55421

Address of Property: 210 E. Lake St., Minneapolis, MN

Project Name: Extended hours application (24-hour operation) for an existing McDonald's restaurant

Contact Person and Phone: Same as applicant

Staff Contact Person and Phone: J. Michael Orange, Principal Planner. Phone: 612-673-2347; facsimile: 673-2728; TDD: 673-2157; e-mail: michael.orange@ci.minneapolis.mn.us

Date Application Deemed Complete: 8/30/04

End of 60-Day Decision Period: 10/29/04

End of 120-Day Decision Period: N/A

Ward: 8 **Neighborhood Organization:** Phillips and Central

Existing Zoning: C2, Neighborhood Corridor Commercial District

Zoning Plate Number: 24

Proposed Use: Application by Mr. Jeff Smith for a conditional use permit to allow 24-hour operation of drive-through service at the existing McDonalds restaurant located at 210 Lake St. E., Minneapolis, MN.

Prior approvals: R-710

Concurrent Review: Conditional use permit for extended hours

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits

Background: This is an existing building located within the commercial area of E. Lake St. The Inspections Department cited the owner for operating the drive-through service on a 24-hour basis without the appropriate conditional use permit. The Inspections Department is currently not enforcing its order for this business to operate within the allowable hours of the C2 District during the period the City is considering the subject conditional use permit.

**If you need more information or have special needs, please call the
Minneapolis Planning Department at 612-673-2597.**

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The City implemented limits on hours that business may be open to the public on June 16, 1983. Hours businesses can be open to the public in the C2 District are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. through 11:00 p.m. Friday and Saturday. According to the applicant, the interior of the restaurant has been open 7 days a week from 6 a.m. until 10 p.m. since June 21, 2004. Prior to this date back to 1988, the hours were 5 a.m. until 12:00 p.m. Sunday through Thursday, and until 2:00 a.m. Friday and Saturday. Over the last few months, the applicant has operated the drive-through service on a 24/7 basis. As such, the applicant has consistently violated the hours restriction in some way since 1988.

According to the applicant, the property is needed for the right-of-way to build the access ramp for I-35W. The applicant intends to sell the property in April 2005 and to move his business across 3rd Ave. to 310 E. Lake St., which is also zoned C2 and allows fast food restaurants and drive-through facilities. The governmental authorities involved in the I-35W access project have not made final decisions on whether to proceed with this project, nor have they adopted a schedule for completion.

Noise is the most serious impact of the proposed 24-hour drive-through service on the residents to the north of the site. Planning staff believe that limited extended service would be acceptable provided the noise and headlight glare are mitigated through landscaping and screening. The other recommended conditions of approval address the existing deficiencies of the site relative to the current Zoning Code. The staff recommendation calls for no extended services hours until the screen is installed on the north side of the site. The other site improvements have the standard one-year period for implementation. This should be sufficient time for the applicant to decide whether he will, in fact, move to another site within 6-7 months as he stated. He may choose to not invest in this site and let this permit lapse.

The Central Neighborhood Improvement Association and the 4th and Lake Business Association endorsed the applicant's request for 24-hour operation on the current site and on the future site of the restaurant provided it is within the same business district. Attachment 1 includes letters in support and questioning the application. Attachment 4 includes the applicant's arguments in favor of the application.

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development—Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.

Fast food restaurants with drive-through service generate a substantial amount of traffic, noise (e.g., vehicles, speaker boxes), and light pollution (e.g. headlight glare and parking lot lighting) compared to other uses allowed in the C1 and C2 Districts. Residential uses

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are located to the north of the site (refer to photos). Headlight glare and noise from vehicular movements and especially loud vehicle radios impact the residences when vehicles access the parking lot and especially when they use the drive-through facility. The proposed extended operation would expand these impacts after normal business hours. Vehicles access the site primarily via Lake St. An alley separates the site from the closest residences,

The area has other businesses with 24-hour service and 24-hour work shifts. A limited extension of the hours of operation for the drive-through facility might be an acceptable compromise provided the following occurs:

- Hours are extended as follows:
 - Extended from 10:00 p.m. to 12:00 p.m. from Sunday through Thursday.
 - Extended from 11:00 p.m. to 2:00 a.m. from Friday through Saturday.
- The applicant provides screening and landscaping on all sides of the site as defined in the following conditions of approval (this includes a 6-ft.-high decorative fence on the north side of the site). The screening will mitigate the potential adverse impacts from vehicle headlights and the unsightliness of suburban-style site plans, parking lots, and drive-through facilities.

Attachment 1 includes a letter from a neighbor on the block who complained of noise from the speaker box and litter from the site.

- 2. Will not 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.**

Refer to the response to the above finding.

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

The extended hours will have no impact on access, parking, or drainage. There is sufficient parking on site for the use and to accommodate customers during the proposed extended hour period.

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

The site has an excessive number of curb cuts, including two on the residential streets, however, most customers access the site via Lake St.

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

Applicable policies of the *Minneapolis Plan*:

4.1 Minneapolis will support development in Commercial Corridors where it enhances the street’s character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.

Implementation Steps (selected)

- Ensure that commercial uses do not negatively impact nearby residential areas.
- Regulate impacts of commercial uses, and in some cases prevent some uses from locating on designated Commercial Corridors, due to their adverse impacts on the viability of nearby residential areas.
- Develop parking facilities and management strategies that balance the following goals: improved customer access, protection of sidewalk traffic; reduced visual impacts and shared use of parking facilities.
- Ensure that parking structures and surface lots conform to identified design principles. (See discussion of traditional urban form in Chapter 9.)
- Reduce the impact of non-residential uses on neighboring residential areas by considering appropriate access, buffering between incompatible uses and regulating hours of operation.

4.2 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

Implementation Steps (selected):

- Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

9.15 Minneapolis will protect residential areas from the negative impact of non-residential uses by providing appropriate transitions between different land uses.

Implementation Steps (selected):

- Mitigate, through screening and buffering, limiting the size and scale of a building, and a business’ hours of operation, the effects of commercial properties on residential uses.

City’s Eight Goals (selected): Create strong, vital commercial corridors city-wide through mixed-use development, including a variety of businesses and creative housing.

Consistency of the Project with the *Minneapolis Plan* and the City’s Eight Goals:

The site is located within the Commercial Corridor area designated for E. Lake St. The use is an appropriate one consistent with the plan. The area has other businesses with 24-hour service and 24-hour work shifts. Extending the hours of operation for the drive-through facility could be consistent with the plan provided the following occurs:

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- Hours are extended as follows:
 - Extended from 10:00 p.m. to 12:00 p.m. from Sunday through Thursday.
 - Extended from 11:00 p.m. to 2:00 a.m. from Friday through Saturday.
- The applicant provides screening and landscaping on all sides of the site as defined in the following conditions of approval. The screening will mitigate the potential adverse impacts from vehicle headlights and the unsightliness of suburban-style site plans, parking lots, and drive-through facilities.

6. And does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.

- This is a large site that spans the block from 2nd to 3rd Avenues. Inconsistent with the Code, the existing building is set back from all three streets with parking surrounding it.
- The Zoning Code at 530.150 (b) requires a 5-ft. landscaped yard with screening between parking areas and the adjacent streets and the alley to screen headlights and unsightly parking and drive-through operations. Currently there are no yards or screening on the site.
- The site (266 X 125) equals 33,250 sq. ft. After subtracting the footprint of the building (2,800 sq. ft.), the net site is 30,450 sq. ft. The site includes 3,680 sq. ft. of landscaping, which equals 12% of the net site. The Code requires 20% of the net site be landscaped.
- Inconsistent with the Code, the primary entrance faces the parking lot on the east side. Sidewalks do connect this entrance to the Lake St. sidewalk.
- There are four curb cuts on the site; more than are required for adequate access. The curb cuts on the east and west sides of the site are on residential streets.
- All areas of the site not used for buildings or parking are landscaped.
- The existing lighting features full cut-off fixtures but some are tipped such that they may create glare off site.
- There are no issues regarding blocking of significant views, casting of significant shadows, pedestrian-level winds, nor historic districts.
- The use requires a minimum of 48 stalls. The site includes 50.

In addition, the following findings must be addressed if applying for a conditional use permit for extension of hours open to the public:

1. Proximity to permitted or conditional residential uses.

Residential uses are located to the north of the site.

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2. **Nature of the business and its impacts of noise, light and traffic.**

Refer to the response to Finding # 1 above.

3. **Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards.**

Refer to the response to Finding # 6 above.

4. **History of complaints related to the use.**

According to Police Dept. incident reports, the property had the following incidents (available upon request):

| | Incidents | # of Reports Files |
|-------------------|------------------|---------------------------|
| 2004 | 96 | 8 |
| 2003 | 74 | 4 |
| 1999-2002 | 404 | 48 |
| Total (54 months) | 574 | 60 |
| Average per month | 11 | 1 |

RECOMMENDATIONS

The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the following extended hours only for the drive-through service at the McDonald’s restaurant located at 210 Lake St. E., with the following conditions:

1. Hours are extended as follows:
 - Extended from 10:00 p.m. to 12:00 p.m. from Sunday through Thursday.
 - Extended from 11:00 p.m. to 2:00 a.m. from Friday through Saturday.
2. The Community Planning and Economic Development—Planning Division shall review and approve the final site and landscaping plans.
3. The applicant shall halt the operation of drive-through service until he constructs a 6-ft. decorative screen that is at least 95% opaque on the north side of the site. The screen must drop to 3’ in height over the easternmost 20 ft. of it.
4. The applicant shall screen the parking lots on the other sides of the site with a 3-ft.-high screen consistent with 530.150 (b) of the Zoning Code.
5. The applicant shall add landscaping to equal 20% of the net site. The recommended area is to the north of the drive-through lane so that the landscaping could help attenuate

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noise.

6. The applicant shall post signs for drive through customers instructing them to turn down car speakers consistent with the City's noise ordinance in order to protect the nearby residents from noise.
7. The applicant shall redirect the lighting to prevent glare from leaving the site.
8. If the site improvements exceed \$2,000 in value, the developer shall submit a performance bond for these improvements prior to the issuance of building permits.
9. With the exception of the fence in condition #2, the site improvements shall be completed by September 30, 2005 or the application may be revoked for noncompliance, unless extended by the Zoning Administrator or the City Council.
10. Permanent removal of all outdoor storage and debris.
11. The applicant shall police on a daily basis all litter on the property out to the street and ensure litter does not leave the site.

ATTACHMENTS

- 1) Letters from citizen groups and a neighbor
- 2) Site and zoning map
- 3) Site plan
- 4) Illustration of staff recommendations
- 5) Information from the applicant
- 6) Photos of the site and surrounding area.