

city of saint paul
planning commission resolution
file number
date

WHEREAS, TK Dynamic Home LLC, in File # 18-109-691, has applied to rezone from B1 local business to T1 traditional neighborhood under the provisions of § 61.801(b) of the Saint Paul Legislative Code, property located at 1350 Payne Avenue, Parcel Identification Number (PIN) 20.29.22.42.0168, legally described as DENNY HILL ADDITION LOT 11 BLK 2; and

WHEREAS, the Zoning Committee of the Planning Commission, on October 25, 2018, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of § 61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The application requests rezoning from B1 Local Business to T1 Traditional Neighborhood. The site contains a building with three apartment units and a vacant former hair salon use. The rezoning would allow the former hair salon space to be converted to a fourth apartment unit.
2. The proposed zoning is consistent with the way this area has developed. The T1 district allows low-intensity mixed uses such as those found nearby along Payne Avenue.
3. The proposed zoning is consistent with the Comprehensive Plan, which designates Payne Avenue as a Residential Corridor.
4. The proposed zoning is compatible with the surrounding mix of uses, including both commercial and residential uses along Payne Avenue and surrounding residential uses.
5. Court rulings have determined that "spot zoning" is illegal in Minnesota. Minnesota courts have stated that this term "*applies to zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with the surrounding uses and create an island of nonconforming use within a larger zoned property.*" The proposed zoning does not constitute "spot zoning" as the use classification is consistent with surrounding uses.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application of TK Dynamic Home LLC for rezoning from B1 local business to T1 traditional neighborhood for property at 1350 Payne Avenue be approved.

moved by _____
seconded by _____
in favor _____
against _____

city of saint paul
planning commission resolution
file number
date

WHEREAS, McDonalds USA LLC, File # 18-106-569, has applied for a conditional use permit (CUP) for a fast food restaurant with accessory drive-thru service, with modification to allow a 3rd service window (2 permitted); a CUP to exceed the maximum allowed parking spaces (45 max. allowed, 75 proposed); variances for floor area ratio (FAR) (0.3 - 2.0 permitted, 0.108 proposed), front yard setback (10' max. allowed, 54.5' proposed), and front yard parking (not permitted), under the provisions of §61.202, §61.502, §61.503, and §63.207 of the Saint Paul Legislative Code, on property located at 1841 Suburban Ave, Parcel Identification Number (PIN) 352922330008, legally described as REGISTERED LAND SURVEY 276 SUBJ TO RDS & ESMTS; E 150 FT OF TRACT B; and

WHEREAS, the Zoning Committee of the Planning Commission, on October 11, 2018, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The application contains several requests that would cumulatively accommodate a proposed demolition and reconstruction of an existing McDonalds restaurant at 1841 Suburban Avenue. The application requests: a conditional use permit for a fast food restaurant with accessory drive-through service, with modification to allow a third service window; a conditional use permit to exceed the maximum number of parking spaces; a variance from the minimum floor area ratio (FAR); a variance from the maximum front yard setback; and a variance to allow surface parking in the front yard. The new building is proposed to be somewhat larger (6,013 square feet compared to existing 4,516 square feet) and located closer to Suburban Avenue.
2. After the Zoning Committee public hearing on October 11, 2018, the applicant provided a revised site plan (dated 10/17/18) for consideration. The revised site plan places the building closer to the front property line (setback of 30.5') with no front yard parking and a reduction in parking spaces to 63. Additionally, updated parking counts and projections were provided in a letter dated 10/22/18 to support the parking request.
3. The site is zoned T2 Traditional Neighborhood and is adjacent to other commercial uses zoned T2 along Suburban Avenue, including fast food restaurants with drive-throughs.
4. §63.207(c) states that parking facilities exceeding the minimum parking requirement by more than 200% for this type of use "shall not be created unless a conditional use permit is approved based on demonstration of need." This finding is met. The proposed building requires a minimum of 15 parking spaces, which calculates to a maximum parking requirement of 45 spaces, compared to a proposed provision of 75 spaces (or 63 in the revised materials). The

moved by _____

seconded by _____

in favor _____

against _____

application provides data from July 2018 showing that up to 38 parking spaces were used during peak hours. The application goes on to state that up to 30 employees are on-site at peak times, and that 6 to 7 spaces are needed for mobile orders. However, the employees' parking need is already incorporated into the 38 vehicles observed in July. The parking maximum of 45 spaces would accommodate 38 vehicles, the amount of need that has been demonstrated, plus up to 7 spaces for mobile orders or additional demand.

Updated parking counts were provided on 10/22/18 that count non-employee vehicles at specific times during the peak hour on five consecutive days in the previous week. The highest customer parking count during this time was 31. It goes on to project future parking need of 72, assuming 30 employee spaces on the largest shift, 7 mobile order spaces, 3% initial growth and a projected yearly growth for 10 years.

5. §65.616 establishes the following required conditions for fast food restaurants that apply to this site:

- (a) *Except in I1-I2 industrial districts, a conditional use permit is required for... any establishment with drive-through service, to ensure compatibility with the particular location.*
This finding is met by the subject application.
- (c) *Drive-through service shall meet the standards and conditions in section 65.513, drive-through sales and services, primary and accessory.*
This finding is addressed in Finding #6 below.
- (d) *Points of vehicular ingress and egress shall not be onto a street which is used primarily for access to abutting residential property.*
This finding is met. Ingress and egress are onto Suburban Avenue, which is not primarily used to access abutting residential property.
- (e) *Points of vehicular ingress and egress shall be located at least 60 feet from the intersection of any two streets and at least 60 feet from any abutting residentially zoned property.*
This finding is met. The driveways are more than 300 feet from the nearest intersection and are 80 feet from the nearest residentially zoned property (to the south).
- (g) *Trash receptacles shall be housed in a three-sided masonry enclosure, six feet high, or equal in height to the dumpster, whichever is greater and have an entrance gate constructed of a durable, opaque material.*
This finding can be met, to be verified through site plan review.
- (h) *A litter collection plan shall be developed and submitted to the planning commission, which obligates the restaurant operator to keep the area surrounding said restaurant free of restaurant litter for a reasonable specified distance.*
This finding is met. A litter collection plan is provided with the application materials.
- (i) *Impact on adjoining property by use of the site may not result in the following:*
 - (1) *Loud, boisterous and disturbing noise levels.*
 - (2) *Hazardous traffic conditions.*
 - (3) *Offensive, obnoxious and disturbing odors.*
 - (4) *Excessive litter.*
 - (5) *Excessive artificial lighting.*
 - (6) *Substantial decrease in adjoining property values.*

This finding can be met if excessive artificial lighting is avoided, as verified through site plan review. The other items under this finding are met, as exemplified by the existing business.

6. §65.513 establishes standards and conditions for drive-throughs, including five general conditions and two (f and g) that apply only to the T2 district:

- (a) *Drive-through lanes and service windows shall be located to the side or rear of buildings, shall not be located between the principal structure and a public street, and shall be at least 60 feet from the closest point of any residentially zoned property or property occupied with a one-, two-, or multiple-family dwelling.*
This finding is met. The drive-through lanes and service windows are located to the side and rear of the building, and are more than 60 feet from residential properties.
- (b) *Points of vehicular ingress and egress shall be located at least 60 feet from the intersection of two streets and at least 60 feet from abutting residentially zoned property.*
This finding is met. The driveways are more than 300 feet from the nearest intersection and are 80 feet from the nearest residentially zoned property (to the south).
- (c) *Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property.*
This finding is met. There is no abutting residential property and freeway noise drowns out any speaker box sounds.
- (d) *A six-foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property.*
This finding is met. No property lines adjoin a residence or residentially zoned property.
- (e) *Stacking spaces shall be provided for each drive-through lane. Banks, credit unions, and fast-food restaurants shall provide a minimum of four (4) stacking spaces per drive-through lane. Stacking spaces for all other uses shall be determined by the zoning administrator.*
This finding is met. According to the application, 14 stacking spaces are provided.
- (f) *There shall be no more than one (1) drive-through lane and no more than two (2) drive-through service windows, with the exception of banks, which may have no more than three (3) drive-through lanes.*
This finding is partly met. Though the drive-through lane splits to two menu boards, it is generally a single drive-through lane. Three (3) drive-through service windows are proposed, which is the subject of a requested modification addressed below.
- (g) *The number of curb cuts shall be minimized. In light rail station areas, there shall generally be no more than one (1) curb cut on a block face per drive-through. Drive-through sales and services are prohibited along the entire length of block faces adjacent to light rail transit stations platforms.*
This finding is met. The site is not in a light rail station area. The proposed two curb cuts are the least number practical given the proposed site design.

7. §61.501 lists five standards that all conditional uses must satisfy:

- (a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This finding is met. The 2030 Comprehensive Plan in Figure LU-B designates the site as part of a Mixed Use Corridor and Neighborhood Center, which allows consideration of the proposed fast food restaurant with drive-through use. The *District 1 Plan* contains several policies relevant to the application, including: Policy LU-3.3 which calls for developing Neighborhood Centers as “compact, mixed-use communities that provide services and employment close to residences and include... vibrant business districts...”; Policy LU-3.4, which calls for “(p)rioritiz(ing) the development of compact commercial areas accessible by pedestrians and transit users over commercial areas more readily accessed by automobile. Discourage new and expanded auto-oriented uses”; Policy LU-5.1 “Uphold design standards as required by City Code”; and Policy LU-5.5, which “(e)ncourage(s) changes to the design of existing auto-oriented commercial buildings and areas with elements of traditional urban form to improve the pedestrian realm.” The *Gold Line Station Area Plans* call for zoning and design standards that support high-intensity transit-oriented development. A fast food restaurant with drive through is the existing use,

and replacing it with the same use is supported by the *District 1 Plan* because its design was made less auto-oriented by reducing the parking, moving the building closer to the street, and incorporating the T2 zoning district design standards.

- (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The proposed ingress and egress are adequate to minimize traffic congestion.
 - (c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The fast food restaurant with drive-through and the exceedance of maximum parking are both consistent with the area's existing character of development.
 - (d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The proposed conditional uses will not impede surrounding property development and improvement.
 - (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is not met. A requested modification and variances are addressed below.
8. The planning commission may approve modifications of special conditions when specific criteria of §61.502 are met: *strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.* This finding is met with regard to the modification requested to §65.513(f) in order to permit three (3) drive-through windows instead of the maximum of two (2). The third drive-through window is a pull-forward window for items that take longer to prepare, which allows efficient use of the restaurant. The third window does not impair the intent of the condition, which is to prevent drive-throughs from becoming overly dominant over the streetscape, because it does not extend the drive-through in this wrap-around-the-building layout.
9. §61.601 establishes required findings for the planning commission to grant variances:
- (a) *The variance is in harmony with the general purposes and intent of the zoning code.* This finding is met. The variances to allow a front yard setback greater than 10 feet (30.5' proposed in 10/17/18 revision) and for floor area ratio (FAR) under 0.3 (0.108 proposed) are in harmony with the zoning code's general purpose and intent, including implementing the policies of the comprehensive plan, as addressed in Finding 9(b) below.
 - (b) *The variance is consistent with the comprehensive plan.* This finding is met for the variances for floor area ratio (FAR) under 0.3 (0.108 proposed) and for a front yard setback greater than 10 feet (30.5' proposed in revised site plan). The *2030 Comprehensive Plan* in Figure LU-B designates the site as part of a Mixed Use Corridor and Neighborhood Center. The *District 1 Plan* contains several policies relevant to the application, including: Policy LU-5.1 "Uphold design standards as required by City Code"; and Policy LU-5.5, which "(e)ncourage(s) changes to the design of existing auto-oriented commercial buildings and areas with elements of traditional urban form to improve the pedestrian realm." The *Gold Line Station Area Plans* call for zoning and design standards that support high-intensity transit-oriented development. The reduced front yard setback conforms to these cited plan elements. The impact of the FAR variance would be mitigated by making the building appear taller than one story, as is required by the T2 design standards. Also, placing the building closer to the street would mitigate the impact of lesser FAR by preserving more of the site for future development.

- (c) *The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

This finding is met for the variances to allow less FAR, and a front yard setback greater than 10 feet, and parking in the front yard. A multi-story structure is not feasible at this location given the soft market for office uses or apartments here, and a fast food restaurant cannot reasonably function as a 16,637 square foot one-story building. The front yard setback of 54.5 feet allows for a drive lane in front of the building rather than forcing circulating vehicles out onto Suburban Avenue. The front yard parking allows for some pull-ahead parking for drive-through customers.

- (d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

This finding is met for the variances to allow less FAR and greater front yard setback. The area's market conditions and setting preclude second-story offices or apartments. The site contains a monument sign that would be impacted if the front yard setback were reduced to 10 feet.

- (e) *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

This finding is met. The variances do not permit any use not allowed in the T2 district.

- (f) *The variance will not alter the essential character of the surrounding area.*

This finding is met. The variances would not alter the area's existing character.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, upon finding that it is unnecessary based on the revised site plan dated 10/17/18, that the application of McDonalds USA for a variance for front yard parking is denied; and

BE IT FURTHER RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the applications of McDonalds USA for a conditional use permit (CUP) for a fast food restaurant with accessory drive-thru service, with modification to allow a 3rd service window, a CUP to exceed the maximum allowed parking spaces and variances for floor area ratio (FAR) and front yard setback at 1841 Suburban Ave are hereby approved subject to the following conditions:

1. Trash receptacles shall be housed in a three-sided masonry enclosure, six feet high, or equal in height to the dumpster, whichever is greater, and have an entrance gate constructed of a durable, opaque material.
2. Excessive lighting shall be avoided.
3. Substantial compliance with the revised site plan dated 10/17/18.
4. The maximum number of parking spaces shall be 63.

ZONING COMMITTEE STAFF REPORT

FILE NAME: McDonald's

FILE # 18-106-569

APPLICANT: McDonalds USA LLC

HEARING DATE: October 11, 2018

TYPE OF APPLICATION: Conditional Use Permit

LOCATION: 1841 Suburban Ave, between White Bear Avenue and Burns Avenue

PIN & LEGAL DESCRIPTION: 352922330008, REGISTERED LAND SURVEY 276 SUBJ TO RDS & ESMTS; E 150 FT OF TRACT B

PLANNING DISTRICT: 1

PRESENT ZONING: T2

ZONING CODE REFERENCE: §61.202(b); §61.501; §61.502; §61.503(d); §61.601; §63.207(c); §65.513; §65.616; §66.331; §66.341

STAFF REPORT DATE: October 2, 2018 Updated October 24, 2018

BY: Bill Dermody

DATE RECEIVED: September 20, 2018

60-DAY DEADLINE FOR ACTION: November 19, 2018

- A. **PURPOSE:** Conditional use permit (CUP) for a fast food restaurant with accessory drive-thru service, with modification to allow a 3rd service window (2 permitted). CUP to exceed the maximum allowed parking spaces (45 max. allowed, 75 proposed). Variances for floor area ratio (FAR) (0.3 - 2.0 permitted, 0.108 proposed), front yard setback variance (10' max. allowed, 54.5' proposed), and front yard parking (not permitted).
- B. **PARCEL SIZE:** 1.27 acres
- C. **EXISTING LAND USE:** Fast food restaurant with drive-through
- D. **SURROUNDING LAND USE:** Fast food restaurant with drive-through to the west (T2), vacant land and vacant commercial building to the east (T2), Interstate 94 to the north, and a Ramsey County pond to the south across Suburban Avenue.
- E. **ZONING CODE CITATION:** §61.202(b) authorizes the planning commission to grant variances when related to permits; §61.501 lists general conditions that must be met by all conditional uses; §61.502 authorizes the planning commission to modify any or all special conditions after making specified findings; §61.503(d) requires a new conditional use permit if a building containing a conditional use is torn down and a new building is constructed; §63.207(c) establishes a conditional use permit requirement to exceed the maximum off-street parking provision; §61.601 establishes required findings for variances; §65.513 establishes standards and conditions for drive-throughs; §65.616 establishes standards and conditions for fast food restaurants; §66.331 provides maximum building setbacks in the T2 district; §66.341 requires surface parking to be in the rear or side yard.
- F. **PARKING:** Zoning Code §63.207 requires a minimum of 15 parking spaces for the proposed 6,013 square foot building. The application materials incorrectly present the minimum as 16 spaces, perhaps due to a failure to round down as directed by §63.206. §63.207(c) establishes a maximum of 200% more than the minimum, which calculates to 45 parking spaces for this use.
- G. **HISTORY/DISCUSSION:** The site was rezoned to T2 Traditional Neighborhood from B2 Community Business in 2015 as part of a larger zoning study prompted by the Gold Line BRT Station Area Plans. (A Gold Line BRT station is planned north of I-94, with BRT service potentially commencing in 2024.) The site and neighboring properties along Suburban Avenue were zoned ES Expressway Service in 1975 as part of a citywide rezoning, and were later rezoned to B2. The site received conditional use permit approval in 1975 for a fast food restaurant and administrative site plan approval in 1979 to add the drive-through.
- H. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, the District 1 Council has not provided a written recommendation.
- I. **FINDINGS:**
 - 1. The application contains several requests that would cumulatively accommodate a proposed demolition and reconstruction of an existing McDonalds restaurant at 1841 Suburban Avenue.

The application requests: a conditional use permit for a fast food restaurant with accessory drive-through service, with modification to allow a third service window; a conditional use permit to exceed the maximum number of parking spaces; a variance from the minimum floor area ratio (FAR); a variance from the maximum front yard setback; and a variance to allow surface parking in the front yard. The new building is proposed to be somewhat larger (6,013 square feet compared to existing 4,516 square feet) and located closer to Suburban Avenue.

2. After the Zoning Committee public hearing on October 11, 2018, the applicant provided a revised site plan (dated 10/17/18) for consideration. The revised site plan places the building closer to the front property line (setback of 30.5') with no front yard parking and a reduction in parking spaces to 63. Additionally, updated parking counts and projections were provided in a letter dated 10/22/18 to support the parking request.
3. The site is zoned T2 Traditional Neighborhood and is adjacent to other commercial uses zoned T2 along Suburban Avenue, including fast food restaurants with drive-throughs.
4. §63.207(c) states that parking facilities exceeding the minimum parking requirement by more than 200% for this type of use *"shall not be created unless a conditional use permit is approved based on demonstration of need."* This finding is not met. The proposed building requires a minimum of 15 parking spaces, which calculates to a maximum parking requirement of 45 spaces, compared to a proposed provision of 75-63 spaces. The application provides data from July 2018 showing that up to 38 parking spaces were used during peak hours. The application goes on to state that up to 30 employees are on-site at peak times, and that 6 to 7 spaces are needed for mobile orders. However, the employees' parking need is already incorporated into the 38 vehicles observed in July. The parking maximum of 45 spaces would accommodate 38 vehicles, the amount of need that has been demonstrated, plus up to 7 spaces for mobile orders or additional demand.
Updated parking counts were provided on 10/22/18 that count non-employee vehicles at specific times during the peak hour on five consecutive days in the previous week. The highest customer parking count during this time was 31. It goes on to project future parking need of 72, assuming 30 employee spaces on the largest shift, 7 mobile order spaces, 3% initial growth and a projected yearly growth for 10 years. The highest demonstrated current parking need is 31 spaces, which can be accommodated by the parking maximum of 45 spaces rather than the proposed 63, even assuming a 33% increase commensurate with the increase in building size. There is no demonstration of employee parking need.
5. §65.616 establishes the following required conditions for fast food restaurants that apply to this site:
 - (a) *Except in I1-I2 industrial districts, a conditional use permit is required for... any establishment with drive-through service, to ensure compatibility with the particular location.*
This finding is met by the subject application.
 - (c) *Drive-through service shall meet the standards and conditions in section 65.513, drive-through sales and services, primary and accessory.*
This finding is addressed in Finding #56 below.
 - (d) *Points of vehicular ingress and egress shall not be onto a street which is used primarily for access to abutting residential property.*
This finding is met. Ingress and egress are onto Suburban Avenue, which is not primarily used to access abutting residential property.
 - (e) *Points of vehicular ingress and egress shall be located at least 60 feet from the intersection of any two streets and at least 60 feet from any abutting residentially zoned property.*
This finding is met. The driveways are more than 300 feet from the nearest intersection and are 80 feet from the nearest residentially zoned property (to the south).

- (g) *Trash receptacles shall be housed in a three-sided masonry enclosure, six feet high, or equal in height to the dumpster, whichever is greater and have an entrance gate constructed of a durable, opaque material.*

This finding can be met, to be verified through site plan review.

- (h) *A litter collection plan shall be developed and submitted to the planning commission, which obligates the restaurant operator to keep the area surrounding said restaurant free of restaurant litter for a reasonable specified distance.*

This finding is met. A litter collection plan is provided with the application materials.

- (i) *Impact on adjoining property by use of the site may not result in the following:*

(1) *Loud, boisterous and disturbing noise levels.*

(2) *Hazardous traffic conditions.*

(3) *Offensive, obnoxious and disturbing odors.*

(4) *Excessive litter.*

(5) *Excessive artificial lighting.*

(6) *Substantial decrease in adjoining property values.*

This finding can be met if excessive artificial lighting is avoided, as verified through site plan review. The other items under this finding are met, as exemplified by the existing business.

6. §65.513 establishes standards and conditions for drive-throughs, including five general conditions and two (f and g) that apply only to the T2 district:

- (a) *Drive-through lanes and service windows shall be located to the side or rear of buildings, shall not be located between the principal structure and a public street, and shall be at least 60 feet from the closest point of any residentially zoned property or property occupied with a one-, two-, or multiple-family dwelling.*

This finding is met. The drive-through lanes and service windows are located to the side and rear of the building, and are more than 60 feet from residential properties.

- (b) *Points of vehicular ingress and egress shall be located at least 60 feet from the intersection of two streets and at least 60 feet from abutting residentially zoned property.*

This finding is met. The driveways are more than 300 feet from the nearest intersection and are 80 feet from the nearest residentially zoned property (to the south).

- (c) *Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property.*

This finding is met. There is no abutting residential property and freeway noise drowns out any speaker box sounds.

- (d) *A six-foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property.*

This finding is met. No property lines adjoin a residence or residentially zoned property.

- (e) *Stacking spaces shall be provided for each drive-through lane. Banks, credit unions, and fast-food restaurants shall provide a minimum of four (4) stacking spaces per drive-through lane. Stacking spaces for all other uses shall be determined by the zoning administrator.*

This finding is met. According to the application, 14 stacking spaces are provided.

- (f) *There shall be no more than one (1) drive-through lane and no more than two (2) drive-through service windows, with the exception of banks, which may have no more than three (3) drive-through lanes.*

This finding is partly met. Though the drive-through lane splits to two menu boards, it is generally a single drive-through lane. Three (3) drive-through service windows are proposed, which is the subject of a requested modification addressed below.

- (g) *The number of curb cuts shall be minimized. In light rail station areas, there shall generally be no more than one (1) curb cut on a block face per drive-through. Drive-through sales*

and services are prohibited along the entire length of block faces adjacent to light rail transit stations platforms.

This finding is not met. The site is not in a light rail station area. The proposed two curb cuts are the least number practical given the proposed site design; however, a building located closer to the street and off to one side with drive-through circulation behind the building would allow the site to function with a single curb cut for a two-way driveway.

7. §61.501 lists five standards that all conditional uses must satisfy:
 - (a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This finding is met for the CUP for a fast food restaurant with drive-through, but is not met for the CUP to exceed the maximum parking. The 2030 *Comprehensive Plan* in Figure LU-B designates the site as part of a Mixed Use Corridor and Neighborhood Center, which allows consideration of the proposed fast food restaurant with drive-through use. The *District 1 Plan* contains several policies relevant to the application, including: Policy LU-3.3 which calls for developing Neighborhood Centers as “compact, mixed-use communities that provide services and employment close to residences and include... vibrant business districts...”; Policy LU-3.4, which calls for “(p)rioritiz(ing) the development of compact commercial areas accessible by pedestrians and transit users over commercial areas more readily accessed by automobile. Discourage new and expanded auto-oriented uses”; Policy LU-5.1 “Uphold design standards as required by City Code”; and Policy LU-5.5, which “(e)ncourage(s) changes to the design of existing auto-oriented commercial buildings and areas with elements of traditional urban form to improve the pedestrian realm.” The *Gold Line Station Area Plans* call for zoning and design standards that support high-intensity transit-oriented development. A fast food restaurant with drive through is the existing use, and replacing it with the same use would be supported by the *District 1 Plan* if its design were made less auto-oriented by reducing the parking, moving the building closer to the street, and incorporating the T2 zoning district design standards. The CUP for exceeding the maximum parking is contrary to the *District 1 Plan*, at least at the amount proposed (~~75~~ 63 spaces).
 - (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The proposed ingress and egress are adequate to minimize traffic congestion.
 - (c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The fast food restaurant with drive-through and the exceedance of maximum parking are both consistent with the area’s existing character of development.
 - (d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The proposed conditional uses will not impede surrounding property development and improvement.
 - (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is not met. A requested modification and variances are addressed below.
8. The planning commission may approve modifications of special conditions when specific criteria of §61.502 are met: *strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with*

reasonable enjoyment of adjacent property. This finding is met with regard to the modification requested to §65.513(f) in order to permit three (3) drive-through windows instead of the maximum of two (2). The third drive-through window is a pull-forward window for items that take longer to prepare, which allows efficient use of the restaurant. The third window does not impair the intent of the condition, which is to prevent drive-throughs from becoming overly dominant over the streetscape, because it does not extend the drive-through in this wrap-around-the-building layout.

9. §61.601 establishes required findings for the planning commission to grant variances:

(a) *The variance is in harmony with the general purposes and intent of the zoning code.*

This finding is met for the variance for floor area ratio (FAR) under 0.3 (0.108 proposed), but not met for the other variances. The variances to allow a front yard setback greater than 10 feet (54.5' ~~30.5'~~ proposed) ~~and parking in the front yard~~ does not implement the policies of the comprehensive plan, which is a general purpose and intent of the zoning code, as addressed in Finding 89(b) below. The FAR variance is in harmony with the zoning code's general purpose and intent, including implementing the policies of the comprehensive plan, as addressed in Finding 89(b) below.

(b) *The variance is consistent with the comprehensive plan.*

This finding is met for the variance for floor area ratio (FAR) under 0.3 (0.108 proposed), but not met for the variances to allow a front yard setback greater than 10 feet (54.5' or 30.5' proposed), ~~and parking in the front yard~~. The 2030 Comprehensive Plan in Figure LU-B designates the site as part of a Mixed Use Corridor and Neighborhood Center. The *District 1 Plan* contains several policies relevant to the application, including: Policy LU-5.1 "Uphold design standards as required by City Code"; and Policy LU-5.5, which "(e)ncourage(s) changes to the design of existing auto-oriented commercial buildings and areas with elements of traditional urban form to improve the pedestrian realm." The *Gold Line Station Area Plans* call for zoning and design standards that support high-intensity transit-oriented development. The front yard setback greater than 10 feet ~~and provision of parking in the front yard~~ are ~~is~~ contrary to these cited plan elements. The impact of the FAR variance, however, would be mitigated by making the building appear taller than one story, as is required by the T2 design standards. Also, placing the building closer to the street would mitigate the impact of lesser FAR by preserving more of the site for future development.

(c) *The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

This finding is met for the variances to allow less FAR, and a front yard setback greater than 10 feet, ~~and parking in the front yard~~. A multi-story structure is not feasible at this location given the soft market for office uses or apartments here, and a fast food restaurant cannot reasonably function as a 16,637 square foot one-story building. ~~The front yard setback of 54.5 feet allows for a drive lane in front of the building rather than forcing circulating vehicles out onto Suburban Avenue. The front yard parking allows for some pull-ahead parking for drive-through customers.~~

(d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

This finding is met for the variance to allow less FAR, but not met for the variances for greater front yard setback ~~and parking in the front yard~~. The area's market conditions and setting preclude second-story offices or apartments. However, there are no circumstances unique to the property that require the greater front yard setback ~~and front yard parking~~, rather than compliant designs that have been used for fast food restaurants with drive-throughs in St. Paul and elsewhere. For example, three of the five existing fast food

restaurants with drive-throughs on Suburban Avenue meet the front yard setback ~~and parking location~~ requirements.

- (e) *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

This finding is met. The variances do not permit any use not allowed in the T2 district.

- (f) *The variance will not alter the essential character of the surrounding area.*

This finding is met. The variances would not alter the area's existing character.

J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends denial of the CUP to exceed the maximum number of parking spaces, and of the variances for front yard setback ~~and front yard parking~~. Also based on the above findings, staff recommends approval of the CUP for a fast food restaurant with accessory drive-through service, with modification to allow a 3rd service window, and of the variance for FAR, subject to the following additional conditions:

1. Zoning Administrator approval of a site plan with a single curb cut on Suburban Avenue rather than the proposed two curb cuts.
2. Trash receptacles shall be housed in a three-sided masonry enclosure, six feet high, or equal in height to the dumpster, whichever is greater and have an entrance gate constructed of a durable, opaque material.
3. Excessive lighting shall be avoided.



October 22, 2018

Bill Dermody
City of Saint Paul
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102

RE: Changes to the plans and additional information for 1841 Suburban Avenue.

Dear Mr. Dermody,

In response to the comments and feedback we received from staff, the neighborhood council and the zoning committee on our initial applications, we are providing revised plans that show the following changes:

- Parking has been reduced from 75 spaces to 63 spaces.
- The building has been moved closer to the street. It is now setback 30.5 feet.
- There is no longer parking in the front yard.
- The front drive lane has been removed and the sidewalk connection has been extended to the building.

We also worked to get additional information on the following topics in response to the questions from the zoning committee:

- Projected business growth for this Restaurant for the life of the site (20-30 years)
 - The redevelopment of the site is expected to show an initial increase of 10% in business growth and a projected growth of 3-5% year over year.
- Parking counts every day from 12 PM to 1 PM at 15-minute intervals.
 - Parking Counts were taken over 5 days at the times given in the table below. The parking counts are for the existing store and do not account for the expanded building or the expected business growth outlined above. The drive-through on average accounts for 70% of the sales for McDonalds. That means that 30% of the expected business growth is from in-store customers that will need parking. The table below summarizes the number of parking stalls needed based on the current store parking counts and assuming average business growth.

Existing Parking		
Date/Time	Parking Count (not including employees)	Total Existing Parking Demand*
10/17 @ 11:57	30	55
10/18 @ 11:45	29	54
10/19 @ 11:58	31	56
10/20 @ 11:35	19	44
10/21 @ 12:15	22	47
Average Total	26	51

*Customer parking plus 25 employee stalls on the largest shift.

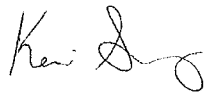
Projected Parking after Redevelopment			
Date/Time	Parking Count (not including employees)	Total Projected upon Redevelopment*	Projected 10- Year Parking Total**
10/17 @ 11:57	30	68	71
10/18 @ 11:45	29	67	70
10/19 @ 11:58	31	69	72
10/20 @ 11:35	19	57	59
10/21 @ 12:15	22	60	62
Average Total	26	64	67

*Total parking includes customer parking, 30 employee stalls on largest shift, 7 mobile order spots and initial 3% growth

** Total parking includes customer parking, 30 employee stalls on largest shift, 7 mobile order spots, initial 3% growth and projected yearly growth after 10 years.

- Projected increase in number of employees from existing store to proposed.
 - The redevelopment of the site is anticipated to increase the existing 73 employees up to around 90.

Sincerely,
Landform

A handwritten signature in black ink, appearing to read "Kevin Shay". The signature is fluid and cursive, with the first name "Kevin" and the last name "Shay" clearly distinguishable.

Kevin Shay

From: Paul Sawyer [mailto:paul.m.sawyer@gmail.com]
Sent: Thursday, October 25, 2018 8:40 AM
To: Dermody, Bill (CI-StPaul) <bill.dermody@ci.stpaul.mn.us>
Cc: District 1 Council <district1council@gmail.com>
Subject: Re: FW: Suburban MCD Updates

Hi Bill,

There were no objections to the new site plan from our Land Use Committee and some bits of thanks that the applicant was open to our feedback. We now support the application as amended.

Thanks,

Paul Sawyer
District 1 Land Use Committee Chair

Zoning Code excerpt

• **Sec. 63.319. - Stormwater runoff.**

(a)

Stormwater drainage from off-street parking facilities of greater than one-quarter (1/4) of an acre of total disturbed area into public sewers shall be controlled so that peak stormwater discharge rates from the site for all storms up to and including the critical 100-year frequency will not exceed:

$$Q = 1.64 \times A$$

where Q = the maximum acceptable discharge rate in cubic feet per second and A = the site area in acres.

Parking facilities shall be designed in accordance with best management practices to comply with required local and regional water quality, volume, and rate control standards. These standards include but are not limited to chapter 52, stormwater runoff. Parking lots shall also abide by operation and maintenance regulation as specified by local and regional authorities.

(b)

For sites with greater than one-quarter (1/4) of an acre of total disturbed area, when the minimum required parking as determined in section 63.207(a) is constructed as surface parking and is exceeded by more than four (4) parking spaces, the following provisions for stormwater management shall apply unless otherwise regulated in an overlay zoning district:

(1)

Thirty (30) square feet of stormwater landscaping shall be provided per parking space over the minimum required parking. Stormwater landscaping shall be designed to include an under drain system if stormwater landscaping is located in areas with hydrologic soil type C (Sandy clay loam).

(2)

Stormwater landscaping shall not be required if located in areas with hydrologic soil type D (Clay); groundwater or bedrock within three (3) feet of the bottom of the infiltration area; nearby wells or utilities; or potential contamination.

(c)

For parking facilities with greater than one (1) acre of total disturbed area, other local, state, and regional regulations also apply.

(C.F. No. 10-403, § 1, 6-16-10)