

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, September 26, 2019 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

PRESENT: DeJoy, Edgerton, Grill, Ochs, and Rangel Morales  
EXCUSED: Baker, Lindeke, and Reveal  
STAFF: Kady Dadlez, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Edgerton.

**Dr. David Wetherill - 19-081-471 - Rezone from RM2 multiple-family residential to T2 traditional neighborhood, 600 - 602 Lawson Avenue W, between Dale Street and Loeb Street**

Kady Dadlez presented the staff report with a recommendation of approval for the rezoning. She said District 6 submitted a letter recommending approval, and there were no other letters in support or opposition.

Commission Edgerton asked why the spot zoning finding was not included in the staff report. Ms. Dadlez said the finding was overlooked in the staff report and would be included in the Planning Commission resolution. She explained that the T2 traditional neighborhood zoning district allows both residential and commercial uses. There may not be an adjacent T district, but due to the flexibility of the T zoning district and the fact that this property is located in between both multiple family residential and commercial uses, it would not result in spot zoning.

In response to further questions on spot zoning by Commissioner Rangel Morales, Mr. Torstenson followed up with more information. He said the term spot zoning applies to zoning changes typically limited to small plots of land which establish a use classification inconsistent with surrounding uses and creates an island of nonconforming use within a larger zoned district which dramatically reduces the value for uses specified in the zoning ordinance of either the rezoned plot or abutting property. It is a multidimensional standard based on uses and property value. Generally, T2 zoning allows uses that are a combination of B2 commercial uses and RM2 residential uses. In this case, the property is currently zoned RM2 and property to the south and east is RM2, and to the west is B3 which allows more uses and more density than B2. Staff believes, that in this location, T2 is appropriate because it has uses that are consistent with what already exists around it.

Mr. Torstenson said that B3 zoning allows for heights of 30 feet plus additional height for stepbacks, RM2 zoning allows for 50 feet without stepbacks, and T2 zoning allows for 35 feet with stepbacks and a possibility for a conditional use permit for additional height.

Al Roers, Chief Financial Officer for Como Park Animal Hospital, said he is representing David Wetherill, and he is available for questions.

In response to Commissioner Grill, Mr. Roers said that the animal hospital patients will not be boarded at this location.


No one spoke in support of opposition. The public hearing was closed.

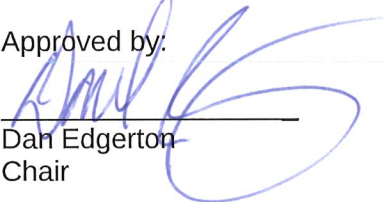
Commissioner Kristine Grill moved approval of the rezoning. Commissioner Anne DeJoy seconded the motion.

The motion passed by a vote of 5-0-0.

Adopted                      Yeas - 5              Nays - 0              Abstained - 0

Drafted by:  
  
\_\_\_\_\_  
Samantha Langer  
Recording Secretary

Submitted by:  
  
\_\_\_\_\_  
Kady Dadlez  
City Planner

Approved by:  
  
\_\_\_\_\_  
Dan Edgerton  
Chair

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, September 26, 2019 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

PRESENT: DeJoy, Edgerton, Grill, Ochs, and Rangel Morales  
EXCUSED: Baker, Ochs, and Reveal  
STAFF: Kady Dadlez, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Edgerton.

**McDonald's Corporation - 19-080-600 - Relocation of a nonconforming drive-through service window and addition of a second pickup window., 471 Marion St, SW corner at University Avenue**

Kady Dadlez presented the staff report on behalf of Tony Johnson, who prepared the staff report, because he was unavailable. There is a staff recommendation of approval with conditions for the relocation of a nonconforming drive-through service window and addition of a second pickup window. She also recommended an additional condition that the drive-through lanes not be open between the hours of 12:00 midnight and 5:00 a.m. She stated District 8 made no recommendation, and there were no letters in support and three letters in opposition.

In response to Commissioner Ochs, Ms. Dadlez explained that she is suggesting the additional condition for the hours of operation for the drive-through based on letters that were received from neighbors with concerns about noise. Also, a condition on hours of operation is often added to permits of this type and other permits that the Planning Commission grants.

In response to Commissioner Grill, Mr. Torstenson said zoning code section 63.114 cites a minimum requirement of 4 feet 6 inches and a maximum of 6 feet 6 inches for visual screens and fences.

Commissioner Grill noted concerns for finding six potentially not being met. It seems like more cars could be flowing through the site because it will be working more efficiently and the same amount or more idling of cars would be passing through.

Commissioner Edgerton said that if the same number of cars are going through, but the time for them to get through is reduced because of better flow, then you would expect less exhaust. It is difficult to know if the customers would increase or not with the addition of the pickup window.

Commissioner Grill said she is operating under the assumption that the customer base could increase in the drive-through because the site is flowing better and this would create further exhaust.

Commissioner Ochs said a possible increase of customers may not be the direct result of an additional drive-through window. It could also be due to the cleaning up of the property and reducing the noise.

Commissioner Grill added that most of her concern is with the pedestrian traffic aspect with additional cars going through the property. She is concerned with the exhaust and the neighbors being that close and the fence being too low and not solid.

Tom Meyer, Landform Professional Services, 105 S 5<sup>th</sup> Avenue, Suite 513, Minneapolis, MN addressed operational procedures for the site. The site where the new bump out is proposed is currently striped as a pull forward stall and operationally there won't be a significant difference from how the site currently operates. The main benefit for the bump out is safety for the McDonald's employees so that they don't have to leave the building to deliver food for orders that may take longer. There is some efficiency gained by the employee not leaving the building.

In response to Commissioner Ochs, Mr. Meyer said there will be a slight change to the curb line that isn't illustrated well on the current site plan. They will need to run it slightly closer to the building to get the cars up to the proposed bump out window and it will match in with where it currently exits into the alley. Mr. Meyer said the third window is a typical feature of newer McDonald's and that is what they would like to achieve with this site. They would be open to adding a striped crosswalk and better defining the area for parked cars at the third window.

Regarding some of the conditions listed in the staff report, Mr. Meyer said that McDonald's is aware of the neighbor's concerns about litter on site. They want to be good neighbors, but they do have concerns with the recommended area mapped out in condition one of the staff report that they would be responsible for maintaining. They are concerned about safety of employees walking down the street to collect litter. They ask that that area be limited to the property boundary of McDonald's. Also, litter is loosely defined in the staff recommendations and they ask that it be further defined as any waste that was generated by McDonald's. There are concerns with limiting the hours of operation for the drive-through. He said that 70% of McDonald's business is generated through the drive-through traffic and limiting hours would impact the site. He would ask that the hours of operation remain the same.

In response to Commissioner DeJoy, Mr. Meyer said he wanted the definition of litter to be limited to general trash.

In response to Commissioner Grill, Mr. Meyer said they would be open to adding a solid fence that would be 6.5 feet along the southern property line.

In response to Commissioner Ochs, Mr. Meyer said their concern is with both the litter collection boundaries and the type of litter. He said litter can have a broad definition and would like to see it defined and to recognize that McDonald's isn't the only source of litter that might be present within the right of way. They will do an outstanding job to make sure the area around the site is clean, but they don't want to be responsible for things like tires. They would like to keep the boundary to the McDonald's property only.

Ms. Dadlez referenced the zoning code definition and standards for a fast food restaurant, Section 65.616, Item H, that state 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.

Joetta Schlabach, 248 Aurora Avenue, Saint Paul, MN said she is not necessarily in opposition of the application, but she does have a lot of concern regarding the litter around the area. She has been in her house for 19 years and has a commitment to the neighborhood. She has been picking up litter for the past 19 years. She is concerned about a lot of plastic going in the storm drains at the end of Aurora and Marion on both sides of the street. She occasionally cleans these out and is probably the only person who does that. As a good neighbor, in terms of a business, in a neighborhood that is bordering residential property, she would like the plan to at least include the full block around the property.

There was discussion pertaining to how complaints regarding litter issues would be enforced. City Attorney, Peter Warner, stated complaints can be made to the Zoning Administrator and that office will follow up on it.

Mr. Meyer said McDonald's appreciates the concern from the neighbors and they have no problem initiating a litter control plan to help manage the litter in the neighborhood. They will work with the Zoning Administrator to define the boundary.

No one spoke in support. The public hearing was closed.

Commissioner Luis Rangel Morales moved approval of the relocation of a nonconforming drive-through service window and addition of a second pickup window with the three conditions in the revised staff report with the additional condition that a solid 6.5-foot-high screening fence shall be installed along the south side of the property and along the west side of the parking lot south of the alley. Commissioner Anne DeJoy seconded the motion.

Commissioner Ochs offered a friendly amendment to alter the parameters of the litter collection area in condition one. It was agreed to have the trash pick-up be reduced by one block and go to up to Galtier Street rather than Farrington Street.

After discussion regarding business hours and impact of noise on neighbors, Mr. Torstenson said that was the reasoning behind adding condition three to the revised staff report. It includes general standards for impact on adjoining property owners. This provides a basis for enforcement.

Commissioner Edgerton stated condition 3(f) regarding substantial decrease in adjoining property values seems to be unenforceable and a difficult to measure condition. He asked for background on how that was included on in the zoning code.

City Attorney, Peter Warner, said it was adopted by the Planning Commission and is a reasonable standard. It may be difficult to prove, but it is a safety mechanism.

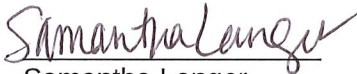
Commissioner Grill proposed a friendly amendment that the height and location of the fence be subject to considerations for safety and adequate sight lines during Site Plan Review.

Commissioner Ochs stated that the site plan in the applicant's packet is not entirely accurate. He noted that an updated site plan should be submitted to clearly show where the access from the drive-through lane to the alley at the east end of the site will be located.

The motion passed by a vote of 5-0-0.

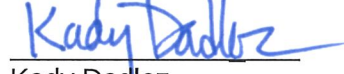
Adopted                      Yeas - 5              Nays - 0              Abstained - 0

Drafted by:



Samantha Langer  
Recording Secretary

Submitted by:



Kady Dadlez  
City Planner

Approved by:



Dan Edgerton  
Chair