

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** McDonald's Corporation **FILE #** 19-080-600
 2. **APPLICANT:** McDonald's Corporation **HEARING DATE:** September 26, 2019
 3. **TYPE OF APPLICATION:** NUP - Expansion/Relocation
 4. **LOCATION:** 471 Marion St, SW corner at University Avenue
 5. **PIN & LEGAL DESCRIPTION:** 36.29.23.41.0001; Florence Addition Lots 3 -11, Block 2
 6. **PLANNING DISTRICT:** 8
 7. **ZONING CODE REFERENCE:** Sec. 62.109(d) **PRESENT ZONING:** T3
 8. **STAFF REPORT DATE:** September 19, 2019 **BY:** Tony Johnson
 9. **DATE RECEIVED:** September 4, 2019 **60-DAY DEADLINE FOR ACTION:** November 3, 2019
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- A. **PURPOSE:** Relocation of a nonconforming drive-through service window and addition of a second pickup window.
- B. **PARCEL SIZE:** 343 ft of frontage on University Ave W x 96.98 (frontage on Marion and Galtier Street) = 33,248 sq. ft.
- C. **EXISTING LAND USE:** Fast food restaurant with accessory drive through service and sales
- D. **SURROUNDING LAND USE:**
 - North: Commercial (T2 and T3)
 - East: Commercial (CAAPB)
 - South: One- family residential, Two- Family residential, accessory parking (T3 and RT2)
 - West: Commercial (T2)
- E. **ZONING CODE CITATION:** Sec. 62.109(d) lists the conditions under which the Planning Commission may grant a permit to expand or relocate a legal nonconforming use.
- F. **PARKING:** There are no minimum parking requirements at this location per section 63.207 (b) minimum off-street parking requirements shall be reduced 100 % for traditional neighborhood zoned parcels within a quarter mile of University Avenue.
- G. **HISTORY/DISCUSSION:** The subject structure and drive through were originally constructed in 1973 as a Home Federal Savings and Loan Association branch bank. A conditional use permit was granted at that time for the parking lot and drive through with no conditions attached to the approval. In 1985, the McDonalds corporation was granted a conditional use permit to convert the bank into a fast food restaurant, with three conditions attached to that approval. Since that time the zoning code section pertaining to fast food restaurants was amended and one of the conditions that was added was that fast food restaurants must submit a litter collection plan. In 2005 a site plan was approved to add an additional lane to the drive-through. At that time the site was zoned B3 and drive throughs were considered an accessory use that was permitted by right in the district. In 2010 the zoning code was amended to make drive-throughs a sperate use category. In 2011 the subject parcel was rezoned to T3, traditional neighborhood, as part of the central corridor zoning study. Drive-throughs are not a permitted use in the T3 zoning district, making the existing drive through legally non conforming. The applicant now wishes to relocate an existing drive through window and add another pick up window to the drive-through, which necessitates this application for a relocation and expansion of a non conforming use.
- H. **DISTRICT COUNCIL RECOMMENDATION:** The District 8 Council has not made a recommendation at the time of this staff report.
- I. **FINDINGS:**

Section 62.109(d) *Expansion or relocation of nonconforming use states that the planning commission may permit the expansion or relocation of a legal nonconforming use if the commission makes the following findings:*

1. *In residential districts, the expansion or relocation will not result in an increase in the number of dwelling units. This finding is met.* The subject parcel is zoned T3 traditional neighborhood.
2. *For expansion of a structure, the expansion will meet the yard, height and percentage of lot coverage requirements of the district. This finding is met.* The expansion of the drive-through meets yard and height requirements, and brings the structure in greater conformity with the minimum 0.5 floor area ratio in the T3 traditional neighborhood zoning district.
3. *The appearance of the expansion or relocation will be compatible with the adjacent property and neighborhood. This finding is met provided a litter collection plan is submitted and approved **and noise from the drive through is controlled** to help mitigate the impact on nearby residential properties. The additional pick up window is intended to improve vehicular flow through the site, reducing potential back-ups onto Galtier Street and resulting impacts on the neighborhood.*
4. *Off-street parking is provided for the expansion or relocation that meets the requirements of article 63.200 for new uses. This finding is met.* No additional parking is required because of the addition and relocation of the drive through windows.
5. *Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use. This finding is met.* The parcel was rezoned as part of the central corridor zoning study to help foster transit oriented development along the corridor over time. Rezoning to allow more service windows would constitute spot zoning.
6. *After the expansion or relocation, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare. This finding is met.* The additional window will help improve vehicular ingress and egress from the site, thereby lessening impacts on adjacent properties from cars idling in the drive through or in Galtier street waiting to get into the drive-through lane.
7. *The use is consistent with the comprehensive plan. This finding is met.* The subject parcel is located in a mixed-use corridor, neighborhood center, and is within the Rice Street station area. While the comprehensive plan generally discourages auto oriented uses in mixed use corridors, the proposed addition of a drive through window will not significantly increase the capacity of this drive through. The additional window is intended to help improve vehicular flow through the site and alleviate current traffic safety issues caused by the current layout. According to the applicant, traffic in the drive through at peak times can spill out onto Galtier street, creating potential vehicular and pedestrian conflicts. Policy 30 of the Summit University Neighborhood Plan calls for creating an environment in which traveling from one place to another is safe and convenient for all modes of travel, including walking and biking. Improved vehicular flow through the site and reducing potential vehicular and pedestrian conflicts is consistent with this policy.

McDonald's has new menu items that take longer to cook. The absence of an additional drive-through window means that employees need to run food out to customers that takes longer to cook. This contributes to delays for vehicles in the drive through. Policy LU 1.50 calls for facilitating the redevelopment of commercial areas where existing buildings are no longer considered functional to accommodate viable retail and businesses. The additional pick up window will increase the viability of the business, consistent with this policy.
8. *A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the expansion or relocation. This finding is met.* The petition was found sufficient on September 4, 2019: 11 parcels eligible; 8 parcels required; 8 parcels signed.

- J. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the relocation of a nonconforming drive-through service window and addition of a second pickup window subject to the following conditions:
1. Prior to the approval of a site plan and building permit, a litter collection plan shall be developed, submitted, and approved by the zoning administrator. At a minimum, the plan shall obligate the applicant to pick up litter once a day in streets, boulevards and catch basins along the south side of University between Galtier and Marion, the west side of Marion between University and Aurora, both sides Aurora between Marion and Farrington, and both sides of Galtier between University and Aurora. The zoning administrator may adjust these boundaries if litter continues to be found outside of the boundaries specified by this condition.
 2. A sign shall be posted at the entry of the drive through requesting that music be turned down or turned off while waiting in the drive through.
 3. Impact on adjoining property by use of the site may not result in the following:
 - (a) Loud, boisterous and disturbing noise levels;
 - (b) Hazardous traffic conditions;
 - (c) Offensive, obnoxious and disturbing odors;
 - (d) Excessive litter;
 - (e) Excessive artificial lighting;
 - (f) Substantial decrease in adjoining property values.