

.....  
Date.....  
October 24, 2011

WHEREAS, on September 12, 2011 by Roll Call No. 11-1576, it was duly resolved by the City Council that the application of McDonald's Corporation to rezone certain property located in the vicinity of 3002 Forest Avenue, more fully described below, be set down for hearing on September 26, 2011, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on September 15, 2011, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, on September 26, 2011 by Roll Call No. 11-1668, the City Council continued the public hearing to the October 10, 2011 Council meeting at 5:00 p.m. at the request of the owners of the property; and,

WHEREAS, on October 10, 2011 by Roll Call No. 11-1730, the City Council opened and continued the public hearing to the October 24, 2011 Council meeting at 5:00 p.m. and refer to the City Manager to forward to McDonald's Corporation a revised Acceptance of Rezoning Ordinance reflecting the Planning staff's recommendation to the Plan and Zoning Commission; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

14 Foot Vacated North/South Alley Right-of-Way West and Adjacent Lots 1 through 5, and All Lots 1 through 5 and Lots 20 through 22, Ridgewood, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from the Limited C-1 Neighborhood Retail Commercial District to a revised Limited C-1 Neighborhood Retail Commercial District classification, subject to the following conditions which have been accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the property and which will be binding upon the owners and their successors, heirs and assigns as follows:

- (1) Any Site Plan amendment shall be in substantial conformance with the schematic drawings submitted June, 2011.
- (2) The existing building architecture approved in 1999 shall be retained, including but not limited to the red brick exterior material and blue awnings.

(Continued on Page 2)

Date..... October 24, 2011

- (3) Any expansion or modification of the building shall incorporate a red brick exterior to match the existing building to the satisfaction of the Community Development Director.
- (4) The site shall be brought into conformance with current site plan and lighting standards.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property from Limited C-1 Neighborhood Retail Commercial District to a revised Limited C-1 Neighborhood Retail Commercial District classification are hereby overruled, the hearing is closed, and the proposed rezoning is APPROVED.

MOVED by \_\_\_\_\_ to adopt and approve the rezoning.

FORM APPROVED:

  
 Michael F. Kelley  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED APPROVED

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ Mayor

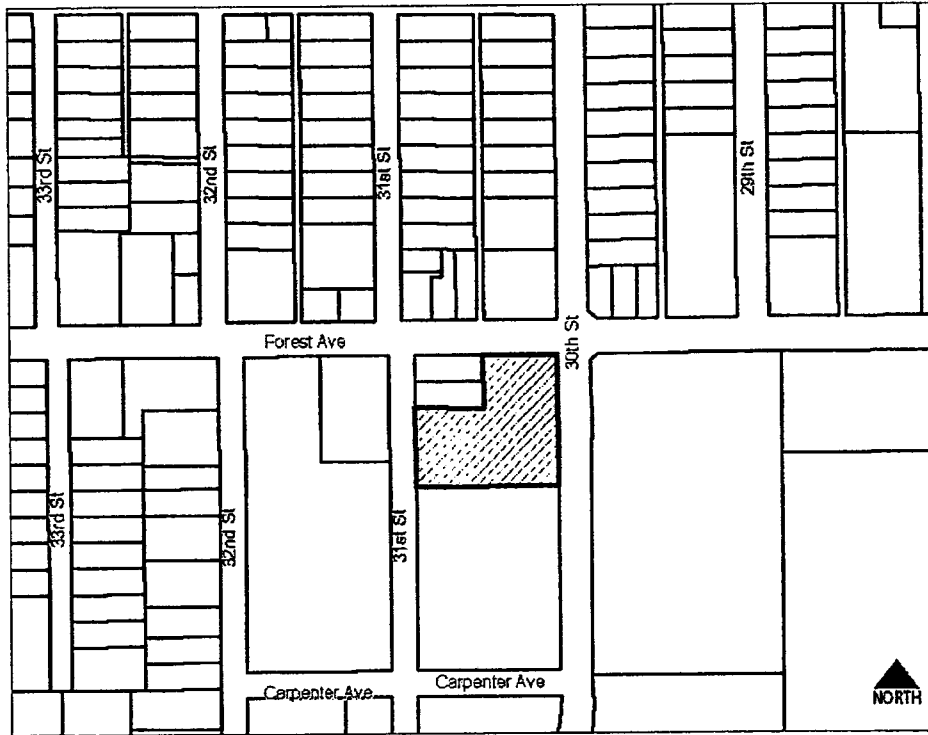
\_\_\_\_\_ City Clerk

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Request from McDonald's Corporation (developer) represented by Richard Pauner (officer) to rezone property located at 3002 Forest Avenue. The subject property is owned by Archland Property I, LLC.		File # <b>ZON2011-00114</b>		
<b>Description of Action</b>	Review and approval to rezone the property from Limited "C-1" Neighborhood Retail Commercial District to a revised Limited "C-1" Neighborhood Retail Commercial District, to allow revision of conditions defining the site circulation and parking configuration and exterior design of the building.			
<b>2020 Community Character Plan</b>	Commercial: Pedestrian-Oriented Commercial Corridor			
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements			
<b>Current Zoning District</b>	Limited "C-1" Neighborhood Retail Commercial District			
<b>Proposed Zoning District</b>	Revised Limited "C-1" Neighborhood Retail Commercial District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	12-1	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No
				X

McDonalds Corporation - 3002 Forest Avenue

ZON2011-00114



McDonalds Corporation - 3002 Forest Avenue

ZON2011-00114

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September 7, 2011

Roll Call # \_\_\_\_\_

Honorable Mayor and City Council  
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held September 1, 2011, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-1 as follows:



CITY PLAN AND ZONING COMMISSION  
 ARMORY BUILDING  
 602 ROBERT D. RAY DRIVE  
 DES MOINES, IOWA 50309 -1881  
 (515) 283-4182

ALL-AMERICA CITY  
 1949, 1976, 1981  
 2003

Commission Action:	Yes	Nays	Pass	Absent
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Dann Flaherty				X
John "Jack" Hilmes	X			
Joel Huston	X			
Ted Irvine	X			
Greg Jones	X			
William Page		X		
Christine Pardee	X			
Mike Simonson	X			
Kent Sovern	X			
CJ Stephens	X			

**APPROVAL** of a request from McDonald's Corporation (developer) represented by Richard Pauner (officer), Archland Property I, LLC (owner), for property located at 3002 Forest Avenue, Part A) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Commercial: Pedestrian-Oriented, Commercial Corridor and Low/Medium Density Residential except for building materials and colors; and Part B) to approve the requested, rezoning for an 8-foot by 32.25-foot (258 square feet) addition, a two lane drive-thru, and modifications to the exterior design of the existing building from Limited "C-1" Neighborhood Retail Commercial District to a revised Limited "C-1" Neighborhood Retail Commercial District subject to the following:  
 ZON2011-00114)

1. Any Site Plan amendment shall be in substantial conformance with the schematic drawings submitted June, 2011.
2. ~~Retention of existing concept for the building architecture including but not limited to the brick exterior material and blue awnings.~~

3. Any expansion or modification of the building shall incorporate an all brick or stone material exterior.
4. The site shall be brought into conformity to the current site design standards which shall include not less than 5 overstory street trees and that the site lighting shall also be brought into current conformity.
5. A consideration to have a Drake tie in element other than awnings that could go on the site rather than the building (i.e. sculpture).

### **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the Commission find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Commercial: Pedestrian-Oriented, Commercial Corridor and Low/Medium Density Residential except for building materials and colors.

Part B) Staff recommends approval of the requested, rezoning for an 8-foot by 32.25-foot (258 square feet) addition, a two lane drive-thru, and modifications to the exterior design of the existing building from Limited "C-1" Neighborhood Retail Commercial District to a revised Limited "C-1" Neighborhood Retail Commercial District subject to the following:

1. Any Site Plan amendment shall be in substantial conformance with the schematic drawings submitted June, 2011.
2. Retention of existing concept for the building architecture including but not limited to the brick exterior material and blue awnings.
3. Any expansion or modification of the building shall incorporate an all brick or stone material exterior.

### **STAFF REPORT**

#### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The appellant is proposing to construct an 8-foot by 32.25-foot (258 square feet) addition, expand the drive-through cuing to accommodate two ordering lanes resulting in elimination of six (6) off-street parking spaces, and modify the exterior design of the existing building. The existing zoning conditions placed upon the subject property must be modified to make these revisions.
2. **Size of Site:** 55,700 square feet (1.279 acres).
3. **Existing Zoning (site):** "C-1" Neighborhood Retail Commercial District and Limited "C-1" District.
4. **Existing Land Use (site):** McDonald's drive-through restaurant with accessory paved parking area.
5. **Adjacent Land Use and Zoning:**

**North – "C-1", Uses are Drake University Book Store and Subway restaurant.**

**South** – “PUD”, Use is Drake Apartments PUD containing two five-story mixed use residential apartment and retail commercial buildings.

**East** – “R-3”, Use is Drake University Crawford Hall dormitory.

**West** – “C-1” & R-3, Uses are Jethro’s restaurant, Paul Revere’s Pizza restaurant, Peggy’s tavern, and vacant retail space formerly Dick Pharmacy.

**6. General Neighborhood/Area Land Uses:** The subject property is located on the southwest corner of the Forest Avenue and 30<sup>th</sup> Street in the Drake Neighborhood. The Drake University Campus is located directly to the east of the subject property. The remaining area generally consists of single-family and multi-family uses with commercial uses clustered around the intersection.

**7. Applicable Recognized Neighborhood(s):** Drake Neighborhood.

**8. Relevant Zoning History:** On October 18, 1999, the City Council approved Ordinance No. 13,764 rezoning the southern portion of the property from the “R-3” District to a Limited “C-1” subject to the following conditions:

1. Any building hereafter constructed or placed upon the Property shall have a brick exterior.
2. Any commercial use of the Property shall be pursuant to the approved Site Plan. The approved Site Plan shall be substantially the same as the preliminary landscape plan submitted by McDonalds Corp., dated August 31, 1999, which is on file with the Community Development Department of the City of Des Moines.
3. Any building hereafter constructed or placed upon the Property for commercial use shall substantially comply with the elevation drawing from Fullerton Building Systems, Inc., dated July 1, 1999, which is on file with the Community Development Department of the City of Des Moines.

Because the property is split zoned with standard “C-1” District and Limited “C-1” District, the more restrictive zoning applies to the development of the entire site in accordance with the provisions of the Zoning Ordinance.

**9. 2020 Community Character Land Use Plan Designation:** Commercial: Pedestrian-Oriented, Commercial Corridor and Low/Medium Density Residential.

**10. Applicable Regulations:** The Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

## **II. ADDITIONAL APPLICABLE INFORMATION**

- 1. Drainage/Grading:** Any future grading with the proposed project would be subject to an approved grading permit and soil erosion control plan. In addition, the applicant is required to demonstrate compliance with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center as part of a Site Plan amendment review.
- 2. Landscaping & Buffering:** The proposed development concept with the rezoning does not appear to automatically trigger full compliance with the Des Moines Landscaping Standards as applicable to the "C-1" District. The Site Plan on record was approved prior to the City adopting the standards. Should the development be required to comply with these standards as part of the rezoning the following are applicable:
  - *Open Space requirements:* provide open space equal to 20% of the site with one (1) overstory tree, one (1) evergreen tree and one (1) shrub per 2,500 square feet of the minimum required open space.
  - *Bufferyard:* provide a minimum setback width of 10 feet from adjoining residential PUD with a minimum six-foot tall opaque fence/screen, and two (2) over story trees and six (6) evergreen trees per 100 lineal feet.
  - *Perimeter Lot Landscape Strip:* minimum width of 10 feet setback from street rights-of-way with one (1) over story tree and three (3) shrubs per 50 lineal feet.
  - *Parking Lot Interior Landscape:* provision of a minimum 5% interior open space in minimum size planters of 9-feet by 17-feet each with one (1) over story tree, three (3) shrubs intervening any expanse of 20 spaces.
- 3. Access or Parking:** The site currently has 61 parking spaces. The appellant is proposing to expand their existing drive-through to accommodate two ordering lanes and install an 8-foot by 32.25-foot (258 square feet) addition on to the west façade of the existing building. This would result in elimination of six (6) parking spaces leaving a total of 55 parking spaces. This would still exceed the minimum requirement of 31 parking spaces for the proposed 4,637 square-foot building (calculated at one space per 150 square feet).

The proposed Site Plan demonstrates that the restaurant would be accessed by three (3) two-way drive entrance located off Forest Avenue, 30<sup>th</sup> Street, and 31<sup>st</sup> Street.
- 4. 2020 Community Character Plan:** The proposed usage of the subject property for a McDonald's (restaurant) is consistent with the Commercial: Pedestrian-Oriented, Commercial Corridor and Low/Medium Density Residential future land use designation in the Des Moines 2020 Community Character Plan.
- 5. Drake Neighborhood Action Plan:** The Drake Neighborhood Action Plan adopted by the City Council on February 28, 2011, designates the property as Commercial: Pedestrian-Oriented, Commercial Corridor and Low/Medium Density Residential. Furthermore, the Plan's objective regarding properties along Forest Avenue "West" includes the goal to "develop the area along Forest Avenue between 30<sup>th</sup> Street and 33<sup>rd</sup> Street as a pedestrian-friendly 'campustown' district."



- 6. Urban Design:** The applicant is proposing alterations to the exterior of the existing building. The proposed changes include new signage, installation of Exterior Insulation Finishing System (EIFS) and stainless steel trellis to the north, west, and east facades, and a canopy to the north façade. Some of the proposed changes are not within the essential character of the neighborhood and the action plan initiative. The reduction of brick and removal of the blue canopies takes away from the “campustown” district aesthetic. The dominant use of brick on all four sides of the subject building reflects the City Council condition that any building shall have a brick exterior. Staff recommends that any use of materials other than brick be limited to very minor accents. Furthermore, staff would recommend that McDonald’s restaurant work with the neighborhood and City to maintain a unique design for the “campustown” district.
- 7. Staff Rationale:** The conditions placed upon the subject property were required to mitigate a commercial use within a residential area and were a precursor for the “campustown” district concept. The proposed alterations to the exterior of the existing building do not fit the essential character of the neighborhood. While most of the site alterations are appropriate (additional drive-thru lane, building expansion, and resulting reduction of six (6) parking spaces), staff believes that an all brick or stone exterior and blue awnings should be retained and incorporated in any expansion.

## **SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation.

David Bentz Bishop Engineering 3501 104<sup>th</sup> Street Urbandale stated that they changed the face of the building to accommodate the requirement to be brick or stone. However, he does not remember the blue awnings being specifically mentioned in the ordinance. It just referenced the elevations. He has spoke to Drake University and the neighborhood association and neither one have been adamant that the applicant has to keep the blue awnings. Reference was made to the yellow arch that is a branding issue and not a giving point to McDonald’s. The applicant believes that they have complied.

Will Page asked why the applicant does not like bulldog blue.

David Bentz stated that McDonald’s colors are not blue and he showed McDonald’s color pallet.

Mike Simonson stated that he likes the building and the City dictates certain materials they can design themselves into a corner. He likes the fact that they are using an alternate material to break up the building and it is in keeping with Hubbell’s project next door. This operator does a nice job with this property and it is always clean. One thing that has surprised him as he has driven by is there is not one single tree on this property and he wonders how when it was approved some years back was it approved without any street trees. He ask if the developer would be willing to add 4 or 5 street trees around the perimeter just to soften all of the pavement.

David Bentz stated yes the applicant would and he is sure the City would require that in the site plan review process as well.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one to speak in favor of the applicant's request.*

*The following spoke in opposition of the applicant's request:*

Deric Gourd 2422 Drake Park Avenue, President of the Drake Neighborhood Association stated that he the neighborhood association is in favor of keeping the red brick exterior, keeping the original design of the building that they fought for back in 1999. There are still a few members who are committed to keeping the blue awnings. As much as the building can be kept as a traditional look they would like that. The McDonald arch just stands out to be out of character with the other surrounding traditional buildings in the neighborhood is why they objected to it. Because the expansion is not really happening on the front the neighborhood association believes it is no reason to change from what is a very good face that fits well within the character of the neighborhood and well within the street and Drake campus. They support the additional lanes, the expansion of the building on the side towards the back, everything except the changing of the front.

Eldon McAfee 3000 School Street, member of the Drake Neighborhood Association Board of Directors stated that they are supportive of the business, they are in support of the additional drive thru and the expansion but they are not in support of the design change.

### *Rebuttal*

David Bentz stated that the addition is mainly in the freezer section and he understands that corporate McDonalds will contribute to the construction if they do a major remodel project that brings the McDonald up to their current standard.

Kent Sovern asked if the restaurant is not brought up to the corporate McDonald's current standard would the cost be on the franchisee.

David Bentz stated that is his understanding. There is some contribution but there is more money for a major remodel project. As far as fitting in with the neighborhood Paul Revere, Jethros, and Subway does not have blue awnings, and he does not understand how that fits into the neighborhood.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Mike Simonson asked staff at what point do they discuss architecture, landscaping, lighting and things like that. Is this the only forum to discuss those things?

Mike Ludwig stated yes it is since it was a specific condition of the approval of the previous store in 1999. It had to match the elevations so there could not be administrative amendments to the architecture in the future. That is why it is back in front of Plan and Zoning.

Mike Simonson asked how are they assured that they will receive street trees and any other thing that staff might feel is needed.

Mike Ludwig stated that the Commission should just make notes of that in their recommendation that is made tonight. The applicant would have to bring the site into

conformance with the landscape standards at the site plan stage, which is an administrative review by staff.

Will Page asked if staff could point out where the blue awnings would be.

Greg Jones explained that the building has them now but they won't in the new design.

Mike Ludwig pointed out that the existing building has stucco up at the top where their sign band is which relates to the other buildings in the neighborhood. In about two weeks the Commission will be receiving a presentation from staff on the proposed overlay district for the downtown which provides some minimum design guidelines for areas that are not currently subject to any design guidelines. One of the criteria in that staff is proposing is a place specific contextual design. In some instances prototypical corporate architecture may not be acceptable. In 1999 that was the discussion and decision on this particular site. This is a unique location and when staff talked to the neighborhood they also wanted to retain the red brick and the blue awnings.

Will Page stated that he would like the strip to be blue instead of the gold which would signal as a good neighbor to the community and accents the little arch that is used as a corporate branding. This would be a legitimate compromise.

JoAnne Corigliano stated that she believes that the strip in front could remain yellow but maybe the strip on the side could be blue.

Kent Sovern pointed out they the Commission tries not to redesign a project from the table.

John "Jack" Hilmes asked if the brick shown on the drawing is all brown and if the stone that has replaced the brick on the Forest elevation is acceptable as a brick.

Jason Van Essen stated yes, the staff recommendation included stone which is acceptable.

Mike Ludwig stated that staff was only suggesting that no alterations be done to the front of the building as they only proposed addition is for the freezer and that it should be red brick also.

John "Jack" Hilmes stated that he believes that the blue awnings are dictating the staff recommendation.

Mike Ludwig stated that there are two conditions on the existing building. 1) is the use of predominant brick exterior; and 2) it is supposed to be substantially the same as the plan that was approved in 1999. We are not recommending any change to those primary features of it.

John "Jack" Hilmes asked how many businesses have been required to put blue awnings on their building with any modifications they have made over the years.

Mike Ludwig stated that it was rezoned from an "R-3" residential to a commercial use at the time so as a part of the negotiation to sell the neighborhood on having additional commercial they agreed to a design that was unique on the property in 1999. That was part of the negotiation with the neighborhood.

CJ Stephens asked is there a plan to bring the entire neighborhood into compliance with Drake and does the City issue permits for the movie red box in the neighborhoods.

Mike Ludwig stated that most surrounding buildings with the exception of the new Drake apartments that are just to the south predate the McDonalds. There has been no change in tenancy or condition that would cause a rezoning or site plan review that would trigger it. As part of the neighborhood planning process, the neighborhood was very specific about the commercial development at this area. They did not want to go ahead and legislatively rezone the commercial areas along this specific area because they wanted to have a zoning hearing and possibly put conditions similar to what was put on this site in 1999. Staff has taken lead from the discussions in 1999 and the current neighborhood position in forming our recommendation.

Christine Pardee asked if a deviation from the corporate color scheme would create a financial burden for the business owner.

Kent Sovern asked the Commission for a unanimous consent to the have the applicant answer the question. The Commission consented.

David Bentz stated that it is his understanding that the owner gets monies if they do a major remodel project versus a side by side. He also pointed out that several conversations with Dolph Pulliam he was not concerned about the blue awnings, he just wanted to be able to hang pictures inside the building. He showed a copy of an email that he received that morning from the neighborhood association where they were in support of the change and the rezoning to allow the redesign of the fascia to update the awnings. He believes that they took a side step according to their comments tonight.

### **COMMISSION ACTION:**

Mike Simonson moved Part A) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Commercial: Pedestrian-Oriented, Commercial Corridor and Low/Medium Density Residential except for building materials and colors; and Part B) Staff recommends approval of the requested, rezoning for an 8-foot by 32.25-foot (258 square feet) addition; a two lane drive-thru, and modifications to the exterior design of the existing building from Limited "C-1" Neighborhood Retail Commercial District to a revised Limited "C-1" Neighborhood Retail Commercial District subject to the following:

1. Any Site Plan amendment shall be in substantial conformance with the schematic drawings submitted June, 2011.
2. ~~Retention of existing concept for the building architecture including but not limited to the brick exterior material and blue awnings.~~
3. Any expansion or modification of the building shall incorporate an all brick or stone material exterior.
4. The site shall be brought into conformity to the current site design standards which shall include not less than 5 overstory street trees and that the site lighting shall

also be brought into current conformity.

5. A consideration to have a Drake tie in element other than awnings that could go on the site rather than the building (i.e. sculpture).

Will Page asked if Mr. Simonson would consider a friendly amendment to include the strip on the non drive thru elevation be a blue color.

Mike Simonson stated no. As an architect he has done several buildings in the Drake Neighborhood and they do not include blue. He thinks the corporate architecture fits.

Ted Irvine asked if he would consider a friendly amendment that the applicant consider a Drake tie in element other than awnings that could go on the site rather than the building (i.e. sculpture).


Mike Simonson stated that would be acceptable.

Tim Fitzgerald asked to hear from the neighborhood association of whether the friendly amendment to consider some type of sculpture rather than the blue awnings.

Deric Gourd stated that yes they would like some kind of tie in to Drake.

Motion passed 12-1 (Will Page voted in opposition)

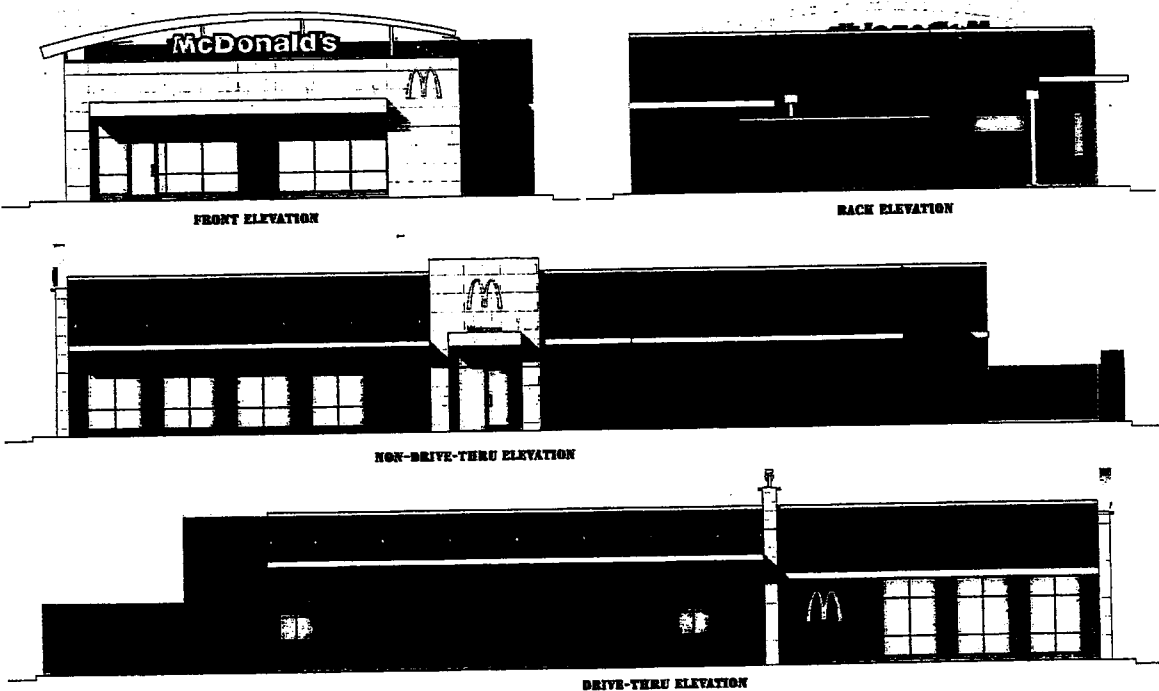
Respectfully submitted,

  
Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

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**2011 MAJOR REMODEL PROJECT**

CANOPY VERSION PARAPET  
 3002 FOREST DR. DES MOINES, IA  
**McDONALDS USA, LLC**  
 1800 W. 82ND ST. SUITE 800  
 BLOOMINGTON, MN 55431  
 TEL: (612) 898-0778 SITE ID: 048-0154



Chipman

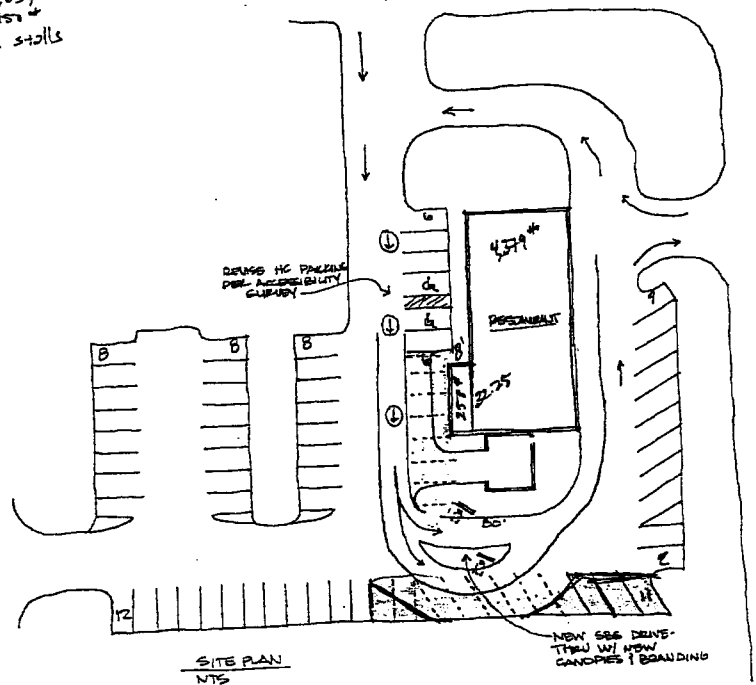
PROPOSED  
 ELEVATIONS  
 10-23-11 14-0218

EL-1

51

TOTAL BUILDING AREA 4,637 #  
 1 parking stall per 100 #  
 REQUIRED = 31 STALLS

EXISTING STALLS = 70  
 PROPOSED REMOVED = 17  
 TOTAL REMAINING = 53



DES MOINES, IA  
 3002 FOREST DR.  
 14-0218

