

## **Cold Spring Special Planning & Zoning May 15, 2014**

The special meeting of the Cold Spring Planning and Zoning Commission was called to order by Chairman Peter Glenn. Pledge to the flag was led by the city clerk. Roll call showed the following present – Peter Glenn, Robin Hahn, Alan McCullough, Tony Ponting, Donna Schmidt, Vince Sticklen, and Dave Thiem. Also present was City Clerk Rita Seger, City Attorney Brandon Voelker, and Campbell County P&Z Staff Member Ryan Hutchinson

Chairman Glenn pointed out the exits from the building, per Fire Department regulations.

The February 12, 2014 regular meeting minutes were reviewed by all. Alan McCullough made a motion to approve these minutes and Vince Sticklen seconded motion. All were in favor. Motion carried.

Mr. Glenn requested approval of a **consolidation plat and an id plat for newly annexed property at Meadow Lake Landholdings off of Murnan Road**, which he signed on March 26, 2014. Vince Sticklen made a **motion for approval** and Alan McCullough seconded the motion. All were in favor. **Motion carried.**

Peter Glenn opened the public hearing on **McDonalds USA LLC, 1.04 acres located at 3710 / 3720 Alexandria Pike**. He verified with Ryan Hutchinson of Campbell County Planning and Zoning Staff that we would first hear individual staff reports on the waiver and variance requests as a whole, followed by the site plan review.

The first request is a **waiver to reduce the number of parking spaces from 75 to 39**. Ryan Hutchinson, Campbell County Planning & Zoning explained this request, *Case #130-14-WAV-02*, along with the considerations as shown in staff report dated May 2, 2014. McDonalds is looking to do a land addition that would include the front parking lot with the Burger King site to consolidate both lots, which are currently separate. McDonalds is planning for the demolition of the current Burger King and construction of a 4,500 sq. ft. building. Because of the site and size of the proposed building they are able to put 39 parking spaces on the existing site which would not be conforming. They are short 36 parking spaces. They are working with Furniture Fair to create a shared parking plan for the deficient parking spaces. The site shows a double drive aisle, with one entrance from the site. He pointed out the vehicle drive aisle and ordering windows. The applicant says that 60% of transactions will go through the drive thru and be consumed offsite, so they are requesting the drive thru aisles be counted as parking spaces toward the number of onsite spaces. McDonalds is not showing a dedicated loading/unloading spot on this site plan. They have explained that they choose off-peak hours to have their deliveries made, and they feel that it would not be a conflict with parking or driving through the site. CCP&Z staff recommends approval of this request, subject to one condition, of negotiating a shared parking agreement with the adjacent property owner. Mr. Hutchinson reviewed the supporting information and bases for staff recommendations.

Vince Sticklen questioned where the tractor trailers would unload and verified that this delivery truck will take up five parking spaces. He questioned if the truck would block the ADA parking. Etta Reed, with Bayer Becker was present along with McDonalds representatives Ray Riska and John Bernard. Ms. Reed stated that with regards to the unloading, the truck will come in the entry, drive all around the restaurant, and come back and park on the non-drive thru side. There are doors in the rear of the restaurant where they will unload the product. McDonalds does not have the trucks come during the peak hours, only in early morning or late night when the customer base is not as busy. Mr. Riska stated that the delivery doesn't take more than 20 minutes. He said that the delivery truck does not block any of the ADA parking, and will only be three times per week.

Peter Glenn questioned the hours of operation. Mr. Riska stated that usually they are open from 6 am to 10 pm. This restaurant may be a 24 hour restaurant but first they will see how it does. If there are enough sales they will keep it that way. Vince Sticklen questioned if there was going to be a crosswalk going between the parking lots and if there will there be an open space for the people coming across the extra parking to the restaurant. He questioned if this would eliminate one parking spot for people to walk across. Mr. Riska stated that they will put little openings or walks for people coming through that area. They were just planning for people to walk between the cars. He sees his work crews parking in that area. They have plenty of parking on their lot for their customers. Our parking regulations don't take into consideration that this is not a sit down restaurant or a drive in restaurant, it is a drive thru restaurant. Seventy five parking spaces will be way more than they will need.

Peter Glenn verified that the width of the parking stalls would be ten feet. Brandon Voelker stated that he did advise the applicants that width is near and dear to the city of Cold Spring.

Alan McCullough questioned if the parking spaces needed would also include the spaces in the drive aisles which was indicated in staff report. Ryan Hutchinson stated that since it was a part of their request he thought that it was valid that

he put it in. Ms. Reed replied that they have 39 spaces and that does not count any within the drive thru. Staff indicated that it would be better to just get the extra spaces needed from Furniture Fair. Because of that they do not need to include the drive thru lanes. With the agreement with Furniture Fair and what they have onsite they are able to meet the 75 count parking stall requirements.

Brandon Voelker stated that our ordinance does allow shared parking. Furniture Fair has the access spots that solve this problem. Realistically Furniture Fair doesn't need that many spots. It is an easy solution for this case but long term it may be something that this Board may want to look into. Peter Glenn verified that Furniture Fair currently exceeds their parking requirements, but with the northern parking lot now being part of McDonalds he questioned if Furniture Fair will still meet their own parking space requirements. Ms. Reed stated that even with losing the parking spaces in that lot they are still able to meet the minimum requirements.

Vince Sticklen questioned if there is a way to guarantee that the trucks will make their deliveries off-hours or give us a specific time for deliveries to be made. He also questioned how to handle the crosswalk area. He would like drivers to realize that someone may be crossing there. Mr. Riska stated that McDonalds is the client of the delivery company. There is no way they can guarantee a delivery time, but if there is a restaurant receiving deliveries during lunch hours, they would be losing business and he would let his field service people know about it. John Bernard of McDonalds stated that he could ask the Furniture Fair people to stripe the walkway area. Mr. Riska said they could possibly put a walkway there and stripe it, but they would lose one more parking space.

Brandon Voelker stated from a crosswalk standpoint, this is not a city street and we have no authority to put stop signs in it. The argument could be made that if someone runs through it, we can't cite them since it is a private drive and we could not enforce it. Peter Glenn stated that we could at least provide an option for the pedestrians. John Bernard stated that it is actually like an easement across their properties so they could stripe it. Mr. Riska stated that they could put a walkway through the landscape area on their property. As far as striping it, he feels that he would rather have pedestrians be aware that it is a drive.

Dave Thiem questioned if there was any consideration of having the entrance / exit being to the north corner to the south corner instead. With the drive-thru traffic you have to make two loops around that building so there is a lot of congestion going in and out, and he questioned if they considered having it on the other corner and have two points of access in or out instead of just one. Mr. Riska stated that it was considered, but they had concerns about traffic blocking and stacking up in that area, plus they were looking at parking numbers.

The second and third requests are **two waivers of the perimeter screening requirements to reduce the front and rear yard screening requirements.** Ryan Hutchinson explained *Case #130-14-WAV02*. The first waiver is to reduce the 5% yard screening requirement on the front and back side of the lot. The second request is to reduce the minimum 10 foot screening requirement on all sides. He explained the considerations as listed in Staff report dated May 2, 2014.

Staff has recommended to conditionally approve both waiver requests for the front and rear yard screening area subject to the condition that the applicant obtain written approval from the Kentucky Transportation Cabinet to screen and maintain the irregular right of way fronting the lot along US 27 reaching 9.32 feet of the required 10 foot screening area. Mr. Hutchinson stated that the applicant will need to submit a screening plan to staff that meets our minimum requirements. He read the supporting information and bases for this recommendation, as listed in the staff report.

Vince Sticklen verified that the lot lies a little bit below US 27 and he had concerns that the headlights of vehicles going around this lot may interfere with vehicles on US27 going in the opposite direction. Mr. Riska stated that is being taken into consideration. Ryan Hutchinson verified that as they are re-working the site, and they are not proposing to elevate it and they will still be below that road level. Mr. Riska stated that they are not going to bring in a lot of dirt, and they will screen around their site to make sure that the headlights do not interfere with drivers.

Peter Glenn questioned the west side where they are asking for a variance of less than two feet and if they plan to keep that as grass. Ms. Reed stated that since there is a grade difference there will be a slight retaining wall and they hadn't really discussed the planting situation. Peter Glenn questioned if that retaining wall will take up some of that two feet of grass. He questioned how far the hangover of cars parking in the lot into the buffer area would be. Ms. Reed said that it will not overhang into the grassy area. At the perimeter of the McDonald's parking lot there is a two foot wide curb to take care of that overhang so it is not getting into that landscaping. She also stated that they have spoken with the Kentucky Transportation Cabinet and in theory and concept they are on board with McDonalds landscaping and maintaining their right of way. If the waivers are approved tonight, they will get staff to sign off on the landscape plan. The next step would be the encroachment permit from Kentucky. They don't see any issues in getting this permit from them.

The fourth request is for a **front yard variance of 68.5 feet along the front yard setback to place the building 31.5 feet from the edge of the right of way.** *Case #BA-02-14* was reviewed by Ryan Hutchinson. He explained all of the considerations which are listed in staff report dated May 2, 2014, and which also includes the series of questions that the applicant is required to answer with a variance request. Staff has given its recommendation to approve the front yard variance request subject to the condition that the applicant complies with the Cold Spring Zoning Ordinance and Building Codes. He read the supporting bases for this recommendation as shown in staff report.

The fifth request is a **waiver to increase the ground sign to 50 square feet, including a 25 square foot electronic message center.** Ryan Hutchinson explained *Case #BA-03-14*, and the considerations which are listed in staff report dated May 2, 2014. Staff has made a recommendation to deny the request to increase the sign to 50 square feet and deny the electronic message board, and Mr. Hutchinson read the supporting information and bases for staff recommendations.

Vince Sticklen verified with Ryan Hutchinson that even if the old 35 foot Burger King sign was moved just a little bit to the side, they could no longer keep that sign and they would have to follow our regulations on a 25 square foot sign.

The sixth request is for the **approval of a site plan for the demolition of an old Burger King building and construction of a new McDonalds with no public improvements.** Ryan Hutchinson reviewed *Case #130-14-SPD-01*. The request is to combine two lots to make a one acre lot that would meet the requirements of the NSC zone, tear down the Burger King and build a new site. Staff has recommended approval of the site plan with five conditions as listed on staff report, and adding a sixth condition that the lots be combined. He read the bases for staff recommendation.

Vince Sticklen questioned if they have a water retention plan for the site. Ryan Hutchinson stated that they are not showing retention. Currently the area is all impervious. There is existing drainage that they are connected to. They are not making it more impervious. Peter Glenn verified that the stormwater plans would be submitted to the city of Cold Spring and reviewed for quantity and for water quality as well.

Mr. Glenn questioned the entrance width and if it is from curb to curb or the curb to the hashed area on the plan. He questioned what maximum detailed apron width is required. Ryan Hutchinson stated that minimum is 30 feet and the maximum is 42 feet. It does look like the hashed area width is about 40 feet, which would meet our requirements. Mr. Riska stated that the width is the curb to hashed area of the plan. He stated that 30 feet is fine for vehicles, however the delivery trucks need a wider turn area. This is not going to be a public street but a private drive. Vince Sticklen verified the location of the dumpster area and stated that the truck picking up the garbage will momentarily block the entrance.

Ray Riska stated that he would like to comment on the sign issue. The sign is five feet by five feet, which meets our code of 25 square feet. Some signs have the movable letters. They have moved to the digital reader boards. Different communities have had concerns about digital reader boards and how they flashed and flipped. McDonalds likes the digital reader boards because nobody fools with them. You don't have the letters being changed, especially with a sign that is 7 feet high. Other communities don't even consider reader boards as signage. They have done this type signage in many communities and have not had any complaints about it. As far as the size, it is 7 feet tall and the sign is five feet by five feet, not very large, and it is 15 square feet larger than what is there now. It could change anywhere from four to six times a day. He would hate to try to manipulate the Burger King board and put a manual one there because you don't know who might suddenly start switching letters.

Peter Glenn questioned if they would do graphics on the reader board. Vince Sticklen asked what he considers a message board. Mr. Riska stated that it could just be a graphic, or this board could limit it to letters. Dave Thiem stated that we could require them to have a digital readout board with a fixed message with a minimum time requirement of four hours. They could do six messages in a 24 hour period. Peter Glenn verified that there would be golden arches on the building in addition to the signage. Mr. Riska distributed photos of the building appearance.

Dave Thiem reviewed his thoughts on the north / south access. We talked about the garbage truck blocking the drive and the concern about the incoming traffic backing up out of the driveway when getting in the line for carryout orders, but he knows that dual lines for the carryout are to move more traffic. He also knows in looking at other McDonald's sites, that when they have a front access point people know that if it is backing up they just have to loop around and get back in line. He doesn't see that as an issue. Also, when he saw the design with the ADA parking, with traffic backing up at peak times and with elderly people using those ADA parking spots, they throw their cars in reverse and turn on their emergency flashers to back up because they are not mobile enough to turn and look. With those ADA parking spots and with traffic coming in, he can see a lot of congestion with this particular design. Mr. Thiem commented that an access point on the north side, with two accesses, would be much more usable and friendlier for everybody than just that one on south end.

Ryan Hutchinson read the definition of signs from our zoning code. The statutes state that the sign shall not be flashing or animated. He stated that if you are going to have any intermittent or variation in the illumination, then that would be considered an animated sign per the definition of our ordinance. Peter Glenn verified with Mr. Hutchinson that the signage on the building was not an issue as far as square footage on the building.

Tony Ponting questioned where the location of the proposed signage would be in relation to the existing sign. Mr. Riska stated that it is in a similar location as the Burger King sign. Ryan Hutchinson stated that if they do move it, they need to comply. The setback requirement is five feet from the edge of the property line where the right-of-way starts.

Peter Glenn invited comments from the audience.

Susan Newman of Neltner Drive, addressed the board. She stated that Neltner Drive is next door to this proposed site. There has been a lot of twisting and turning with variances and waivers trying to make this fit, but it is not a very good fit for this area. One concern not addressed is that traffic is bad and now it will be worse because this is going to have a lot more drive thru traffic than the Burger King did. Already in the afternoon, when turning right going south out of Neltner, you can't get out because there are so many stop lights and traffic gets congested. She is concerned about the increase in traffic and possible wrecks at 5 o'clock. Also there hasn't been much talk about pedestrian traffic. This will be a magnet for the people from NKU who will cut across her property to get there, which they already do for Wendy's. She noted the talk about off-loading delivery trucks and trash pickup. We do have an ordinance that they can't pick up until 7 am. She verified that they are not even sure right now the hours of operation. She stated that she lives on a street with nice houses and this will impact them and be noisy, and it is a consideration. She doesn't want to look out her window and see an electronic sign so she hopes that the board will stick to their guns as far as the Cold Spring ordinance is concerned. She loves living in Cold Spring. She likes McDonalds but she is concerned, especially if they are picking up trash at four o'clock in the morning. She asked the board to give this consideration because there are houses on both sides of this.

Brenda Helton of Darrma Court addressed the Board. She stated that several of the staff reports state that the Board of Adjustment needs to make considerations on several issues, and she questioned if this board has the authority to make variances and waivers or will it still have to go to the Board of Adjustment. Brandon Voelker stated that this body can serve as a Board of Adjustment and he gave examples of times when this body served. This decision tonight will be final and will not go to the Board of Adjustment. Regarding the signage, Ms. Helton suggested that since half of the sign is a fixed logo of McDonalds arches (M's) and there are plenty of these on the top of the building already, they could cut the sign in half, have the sign that they need but stay within the signage requirements.

There were no further public comments. Brandon Voelker stated that each of the requests should be voted on individually.

Tony Ponting made a **motion to approve the waiver to reduce the number of parking spaces from 75 to 39 based on staff recommendations, with one condition – that McDonald's can negotiate an offsite/shared parking agreement for the minimum number of parking spaces required (36) for the development with the adjacent property owned by Cold Spring Hold Co. LLC (Furniture Fair).** Ryan Hutchinson stated that the issue of the ADA crossing was brought up and if there is a crossing done where the parking spaces are, that number of ADA may increase by one because that walk area may be a parking space. Brandon Voelker questioned if this access would be on their property or on the easement. Ryan Hutchinson stated that it would cross over the easement for the drive aisle but there could be an access point with a sign that says pedestrian crossing on their property. Etta Reed voiced concerns about the ADA accessibility. They do not control the Furniture Fair parking lot and she does not know what those grades are. She cannot commit to making those ADA compliant up to their site without talking to the property owner. By law they have to comply with the ADA requirement and they will make sure that they will have the required ADA spaces on their site. Obviously they have to make sure that the route to the building is as short as possible to the ADA individuals so they would want to put this on their site anyway. She is fearful of committing to ADA spaces off of their property. Peter Glenn stated that if you have passageways to access this property then the building department will require that those be ADA compliant. Brandon Voelker explained that Ms. Reed is a traffic engineer by trade, and she is saying that you can get into a grade issue. You can ask that the passageway not have a step. Her concern with the ADA is that they can't control what is not on their property, nor would they be bound to comply with the ADA on something that they don't own. Ms. Reed stated that she is very concerned with the grade. They are also going to have a slight retaining wall and they can't work through all of those grades because they weren't planning on making this area ADA compliant to get to one parking area to the next.

Vince Sticklen stated that there should be some way of putting a safety feature in there so someone doesn't get hit, however with all of the requests tonight, he is not sure if this parking waiver is the right one to sandwich a passageway requirement in. Ms. Reed stated that they can make a passageway for pedestrians, but it is the ADA issue that she is

concerned with because they are restricted by law on grades and slopes. Brandon Voelker stated that if you assume that they own the Furniture Fair lot you could have a step under the ADA. You are only required to have parking next to your building, so ADA compliance for this property would be governed by the number of spots. You obviously can't get ADA compliance throughout multi-tiered parking. If someone were ever to bring enforcement action for ADA it would be based on parking spots, not access to them. He verified with McDonalds that they could build in a passageway. Mr. Voelker stated that this Board could place a passageway requirement here or on the site plan approval, whichever they preferred.

Peter Glenn stated that there is a motion on the floor to approve the waiver on the parking issue with one condition. Vince Sticklen seconded the motion. Roll call vote showed 7 yeses and 0 noes. **Motion carried.**

Alan McCullough made a motion to **approve the waiver to reduce the minimum 5 percent yard screening requirements on the front and back side of the lot, and to approve the waiver to reduce the minimum 10 foot screening requirement in the front and back down in two locations along the front and back of the lot, based on staff recommendations, subject to the condition that they can obtain written approval from the Kentucky Transportation Cabinet to screen and maintain the irregular right of way fronting the lot along US 27 reaching 9.32 feet of the required 10' screening area.** Ryan Hutchinson stated that this would make the front area as compliant as they can be. Vince Sticklen questioned if we can put in a condition that they put the screening up so that headlights don't interfere with the traffic on US 27. Ryan Hutchinson stated that our regulations have a provision that you can't cause glare. They also have to do a lighting plan. The screening and lighting plan will all be addressed during staff's review of the Stage II. Peter Glenn verified that this will be taken care of through other mechanisms and it would not be necessary to place it as a condition. Donna Schmidt seconded the motion. Roll call vote showed 7 yeses and 0 noes. **Motion carried.**

Dave Thiem made a motion to **approve the request of front yard variance of 68.5 feet based on staff recommendations with the condition that the applicant complies with the Cold Spring Zoning Ordinance and building codes.** Tony Ponting seconded the motion. Roll call vote showed 7 yeses and 0 noes. **Motion carried.**

Vince Sticklen stated that we should work within Cold Spring perimeters and he made a **motion to deny the waiver/appeal to increase the ground sign to 50 square feet including denial of a 25 square foot electronic message center, based on staff recommendations.** Tony Ponting seconded the motion. Roll call vote showed 5 yeses and 2 noes – Peter Glenn and Donna Schmidt. **Motion carried.**

**Dave Thiem made a motion to approve a site plan for demolition of the old Burger King building and the construction of a new McDonalds with no public improvements, based on staff recommendations, with the following conditions: 1.) that the applicant meets all the minimum requirements of the appeals, waivers and variances for the site in question, 2.) that the applicant meets the minimum sign requirements, 3.) that the site plan show a pedestrian connection from the sidewalk along US 27 to the site, 4.) that the applicant complies with all applicable building, subdivision and zoning ordinance regulations, 5.) that the applicant submits a full landscape plan to staff for review and approval, and with an additional condition, 6.) that the lots be combined.** Alan McCullough seconded the motion. Roll call vote showed 6 yeses and 1 no – Donna Schmidt. **Motion carried.**

Peter Glenn closed the public hearing.

Per House Bill 55 **Dave Thiem received 3 ¾ hours of continuing education credits.** Donna Schmidt made a **motion for approval** and Vince Sticklen seconded the motion. All were in favor. **Motion carried.**

Vince Sticklen made a motion to adjourn the May 14, 2014 Planning & Zoning meeting. Dave Thiem seconded the motion. All were in favor. **Motion carried.**

Respectfully submitted,

Rita Seger, City Clerk