

**ZONING BOARD OF APPEALS
JULY 5, 2017 AT 7:00 P.M.
COUNCIL CHAMBERS-RM. 201**

Call to order and Roll Call

PRESENT: Chair Michael Quinn and Members Steve Ruszczyk, Mark Hansen, Jim Lencioni, David Brumirski, Don DeBruin and Deborah McQueen

ABSENT:

ALSO PRESENT: Paul Stephanides, Counsel; Mike Bruce, Zoning Administrator

QUORUM: Chair Quinn called the meeting to order at 7:00 p.m. and declared that a quorum was present.

Public Comment

None

Introduction and Procedure Outline

Chair Quinn explained the procedure for the evening. Mr. Bruce swore in those wishing to testify.

Public Hearing

Cal. No. 04-17-Z: 500-508 S. Lyman Avenue, Taco Bell

Bell Great Lakes, LLC (managing member; Bell American Group, LLC.), Applicant, requests a special use permit for a drive-up facility pursuant to Section 3.9.6 (C) (2) which section requires a special use permit to allow a drive-through facility on Madison Street. The applicant seeks to develop the vacant property located at 500-508 S. Lyman Avenue with a new Taco Bell restaurant with a drive-through facility.

In addition, the applicant seeks an allowance from the following sections of the MS Madison Street District pursuant to the special use permit:

1. Section 3.9.6 (D) Table D-1: MS District Dimensional Standards, which section requires a 0'-15' Build-to Line along Lyman Avenue (a north/south cross street) for non-residential buildings along street setbacks; whereas the proposal features a Taco Bell restaurant facility that is sited outside of the required Build-to Line.
2. Section 3.9.6 (F) (4), which section requires that ancillary parking to a principal use of the lot shall be located to the rear of the principal structure and shall not be located along (abutting) Madison Street; whereas the proposal features parking located along (abutting) Madison Street.

Michael Thompson Civil Engineer with Hamilton Design will represent Bell American Group. In addition, Bob Lach is here representing Bell American Group. Mr. Thompson indicates that he has been working with Village Staff since November on the site plan. He says that there have been 8 different iterations and he feels that the site plan is better thanks to Staff. Mr. Thompson says that the Taco Bell Facility is permitted but a special use permit is required for the drive-through. Mr. Thompson says that we wanted to move away from Lyman to keep traffic out of the neighborhood. The Madison Street Overlay requires building constructed across Madison Street. Mr. Thompson talks about the allowance requests are required due to moving the facility away from Lyman Avenue.

Mr. Thompson says that Bob Lash attended a Madison Street Corridor meeting. From the meeting Mr. Lash added spandrel glass to the building, change the proposed sign to a 6 foot monument sign, and added a concrete wall and fence along the rear and alley to enhance the site plan. Mr. Thompson says that the site plan includes street trees and a generous amount of landscaping to make the development more appealing. . he indicates that access to the alley has been eliminated as well as access from Lyman Avenue in order to reduce traffic into the neighborhood. He says that the properties adjacent to proposal are all commercial. He says that this is an appropriate place for a Taco Bell.

Mr. Thompson was asked to review the standards for the Board.

The proposed building or use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of the public convenience and will contribute to the general welfare of the neighborhood and community.

Mr. Thompson response to the standard is as follows:

This petition, if granted, would result in the improvement of a dormant lot with a quick-serve restaurant facility with a drive through component. The quick-serve restaurant market has seen a significant shift in customers who prefer to utilize a drive through window rather than dining at the restaurant. Approval of this petition would be desirable to the customer, would provide a service which is in the interest of the public convenience, and will contribute to the general welfare of the neighborhood and community.

b. The proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, utility facilities and other matters affecting the public health, safety and general welfare.

Mr. Thompson response to the standard is as follows:

As indicated in response (a), above, it is the full intent of this project to improve the property in a substantial manner, including the overall value. The proposed project will improve the existing lot from a dormant, under-utilized property to a substantially compliant and improved lot. As a result, the value of the subject property is anticipated to substantially improve and adjacent property values similarly.

Additionally, there are several existing quick-serve restaurants with a drive through component along the Madison Street corridor. Approval of this petition would allow the proposed use to operate in a consistent manner with the nearby quick-serve restaurants with a drive through.

In regards to traffic, the use as a quick-serve restaurant is not typically associated with a 'destination' type use. Most generally, customers utilize the proposed facility as a convenience and are already utilizing Madison Street. No adverse traffic impacts are anticipated due to the proposed use with a drive through.

In summary, the proposed facility and drive through will not have a substantial or undue adverse effect upon adjacent properties, the character of the neighborhood, traffic conditions, utility facilities, or any other matter affecting the public health, safety, and general welfare.

Mr. Thompson response to the standard is as follows:

c. The proposed building or use will be designed, arranged and operated so as to permit the development and use of the neighboring property in accordance with the applicable district regulations.

The proposed drive through facility will be placed parallel with the existing public alley and will be located entirely within the property boundaries. A buffer ranging from 5 to 6 feet will also be provided between the drive through lane and the public alley. Approval of this petition would not hinder the development or use of the neighboring properties.

Mr. Thompson response to the standard is as follows:

d. The proposed building or use complies with the more specific standards and criteria established for the particular building or use in question by Section 2.2.7 (Planned Development Procedures) and 4.5 (Special Uses) of this Zoning Ordinance.

Mr. Thompson response to the standard is as follows:

The subject lot complies with the standards set forth in Section 3.9.6, MS, Madison Street Zoning District. The proposed use as a quick serve restaurant with a drive through is an allowed special use per Section 3.9.6 (C) (8).

Mr. Thompson response to the standard is as follows:

e. The proposed building or use has been considered in relation to the goals and objective of the Comprehensive Plan of the Village of Oak Park.

Mr. Thompson response to the standard is as follows:

The future land use plan for the subject lot is Corridor Commercial or Mixed use, according to the Comprehensive Plan of the Village of Oak Park. The proposed use as a quick-serve restaurant with a drive through is in line with the goals of the Comprehensive Plan.

Mr. Thompson response to the standard is as follows:

f. There shall be reasonable assurance that the proposed building or use will be completed and maintained in a timely manner, if authorized.

It is the developer's full intent to complete and occupy the structure within the 2017 calendar year and to be maintained in perpetuity by the franchisee.

Bob Lach with Bell American Group says that Bell American is the largest franchisee for Taco Bell. Mr. Bell discusses the original Taco Bell site plan. He says that we worked with Village for a better plan. Mr. Lach says that it is a small site and abuts a residential but we developed the best site plan. We eliminated two access drives off of Lyman and now the only way to access the site is from Madison Street. The building was shifted to provide landscape buffer and to get away from Lyman Avenue to make more the proposal more appealing. He discusses the concrete wall and fence to contain the alley and reduce traffic to neighborhood. Mr. Lach anticipates a lot of walking traffic so

they added a sidewalk along Madison Street. Mr. Thompson concludes by saying that we feel it is a nice building, nice landscaping and we worked on site plan that works for everyone.

Dave Brumirski asks: what is the percentage of sales for dine-in vs. carryout. Mr. Lach says that generally, 70% will go through the drive-thru. Mr. Brumirski says: if there is no drive-thru, how many will go to the restaurant. Mr. Thompson cannot answer the question. Mr. Lach says in bad weather more people will use the drive-thru. Mr. Brumirski asks have you done any studies on the additional pollution cause by waiting for food. Mr. Lach says that some cars turn off now automatically.

Member McQueen says: what is the potential to open a restaurant without drive-thru. Taco Bell is not a destination. Without a drive through we could not support the restaurant.

Member Ruszczyk asks how do you conclude that there will be no adverse impacts. The Applicant says we are improving a vacant lot. We are providing great landscape, nice building and it coincides with the Madison Street Plan.

Member Brumirski: how will your building improve the area? The Applicant says it is a good looking building vs. vacant.

Member Hanson asks about traffic circulation of the site. Mr. Thompson says cars will turn into the site from Madison Street. Mr. Thompson says that Village Engineering proposed to remove the island on Madison Street for better access and to get rid of access on Lyman. Engineering suggested that the concrete wall and fence to protect the alley.

A ZBA member asks: how many order per day are you expecting? What does your market research say about the number of people coming to the drive- thru? Mr. Lach says that he does not have that information.

Mr. Thompson was asked to describe the Describe the 0-15 foot request. Mr. Thompson indicates that the building should be constructed across the northern portion of the property. With the flow away from Lyman, the building needs to move to left or right say Mr. Thompson. It is not possible to span the entire length of Madison Street with the building. So must pick a side.

Cross Examine

Larry Dakoff

Have you closed on the property yet? No. Is it contingent on approval? Yes. How many Taco Bells do you operate? Approximately 180. Did you discuss your proposal with the Oak Park Police? The Police were allowed to comment during Project Review Team meetings. What was the outcome? They had no comments. Mr. Bruce indicates that that is a correct statement. Did any official suggest any rebates or inducement for the property? No. How many employees will be at this location at one time? About 20 is the total number of employees; six will be there at one time. Where will they park? On-site. Some will take public transportation.

Where are your customers located? 90% will come from the Village of Oak Park. Have you done a study in the Village of Oak Park? Or is this your opinion? Based on Taco Bell research and analysis we know what works for Taco Bell.

Where will traffic come from the west and not from the east to Taco Bell? Should be a two mile radius is where traffic will come from. What additional studies for traffic noise pollution have you conducted? We don't generate traffic. The drive-thru is a convenience. How many annually will come to the restaurant? We do it on annual bases. How many in a year will go to your restaurant? I don't have the number of cars going to restaurant on annual bases. What evidence do you have to back

your claim that property values will not be impacted? None. Have you done any environment studies? Yes.

Can you guarantee the price of our property will not drop? Since the values according to you will go up.

Rick Kuner is next to cross-examine

How much risk is there that this could be a poor performing store. We do an assessment every year for performance. No drive-thru's have been closed for that reason.

Some fast food restaurants have a primary trade area within one mile radius, what is your primary trade area? How will the other restaurants in your primary area affect Taco Bell? Taco Bell has a 2-3 mile trade area. Regarding concerns, fast food works together. I'm hungry they know where fast food is so I will go there. We do not compete with McDonalds as we offer unique items. So we do not have much concern that the store will underperform.

Jeremy Olsen:

Mr. Thompson, how many Taco Bells have you been involved with? About 60 new construction; about 140-150 renovations. So you do the zoning analysis? Yes. You are familiar with the revised Madison Street Corridor deleting the Overlay and establishing the MS Madison Street District? Mr. Olsen reads a portion of the MS Districts purpose. Mr. Olsen says that there are five permitted building types on Madison Street; which one are you proposing with this Taco Bell? Mr. Bruce says that you are a commercial single-story development type. Mr. Olsen reads a description of that one.

Mr. Olsen says that the dimensional standards within the MS District are unique. For instance, they it requires build-to-lines. How many Zoning Ordinances have you dealt with that have built-to-lines? None. What is the purpose? Mr. Thompson says that it was the Villages desire to have a building across of the frontage of Madison Street. Staff is supportive of the site plan. We are asking for variances. The Build-to lines forces the building together says Mr. Bruce. Mr. Olsen say that you are requesting allowances for the building? Mr. Olsen indicates that he would like it to be a variance. Is it variance or allowance? A discussion ensues on the differences between allowances as opposed to variances. Mr. Bruce indicates that we are dealing with an allowance since this is a special use permit and we are dealing with use. The standards for allowances are more subjective and thus are easier to prove than variances, which require you to prove a hardship.

The north setback of five feet is measured from where? It is measured to the foundation and wall. If you scale the drawing would it be surprising that the drawing shows it at six feet? That would be surprising and if we have shown it wrong we can fix it. Why do you need a setback in the front? Pedestrian will come to the front door. How do disabled access the building? The plan is ADA compliant. ADA parking space to the door using the ADA route. How would wheelchair from the neighborhood access the building? Via car.

Why does the building need the two steps? Drainage of water and thus an elevated building is necessary? The proposal meets all codes for storm water management. This brownfield site will be revised to have surface water runoff go into Village runoff.

Jeffery Navsicer:

Bell American needs to prove that the drive-thru is necessary or desirable. A Taco Bell is not necessary for the Village of Oak Park. Bob Lach says that some will say it is desirable. Did your company knock on doors to see if it was necessary or desirable? No. we spoke to the Madison Street

Coalition. Did the coalition canvass the area? Are you aware of a petition against Taco Bell? Yes. Are there any petitions supporting Taco Bell? No.

How can you prove that this proposal will contribute to the general welfare of the area? Did you speak to Oak Park police regarding McDonald? No. Are you aware of the huge volumes of calls to OP police regarding drug deals? Yes. Someone else brought this up. Taco Bell does not generate crime. Does the Buzz café on Lombard get calls for police help?

Oak Park is not typical as it is pedestrian friendly. There will be interference of pedestrian flow due to curb-cuts, more pinch points on Madison Street. That is a City question. Have you used a Taco Bell drive-thru? Yes. When exiting a Taco Bell don't drivers get distracted by messing with their food and keys? Do you know how many kids live on the 500 block? There are 17. How will their lives be improved? We changed the site plan off of Lyman to reduce traffic into the neighborhood.

Did your company do a traffic study? No. How can you sign an application saying you will not harm the kids on the block?

You state that the propose use will not have a substantial or undue impact. Did you consult local realtors to see if fast food drive-thru's have negative impacts? No since it is zoned for a restaurant use.

Does your company study the effects of fast food restaurants on adjacent home values?

If Taco Bell's drive-thru attracted crime to the neighborhood would that impact home owners? Any crime would affect that. Did you look at this section of Madison which has the highest concentration of fast food restaurants with drive-thrus? Did you consider that our neighborhood has the highest concentration of fast food restaurants? Fast food does well together. Madison is a good road for commercial development specifically.

Is it good for the neighborhood since we have ill effects like pinch points, crime and traffic? Is it in the general welfare that we have the highest concentration of fast food drive-thru restaurants compared to the rest of the Village of Oak Park? Any restaurant would have a pinch points.

Will A drive-thru attract more cars than just a restaurant? Yes. So if the majority of drive-thrus are here, then are you subjecting more harm to pedestrians in this area? I don't believe so. We are going by the zoning of the property. The walkways are working pretty well in Oak Park.

The following are people who testified at the hearing.

Rick Kuner

Power Point slide. Traffic and character of fast food is long hours, 19 per day. Mr. Kuner researched information using Institute of Traffic Engineers. Any fast food restaurant would generate 1000 trip per day. How many dwelling units would it take to generate the same number of trips similar to Taco Bell? Mr. Kuner indicates that it would take 147.

The goal should be to reduce the number of curve-cuts; here we are adding curve-cuts. Mr. Kuner talks about queuing and squawk box statistics. Mr. Kuner collected data by studying a Taco Bell drive-thru in another location. He concluded that the probability of exceeding the proposed six queuing spaces to be 48% of the time.

Mr. Kuner discusses Envision Oak Park in our Comprehensive plan. He says that the applicant has not considered our key land use issues in Oak Park when they designed the building. The applicant

has not considered the 5 core values of comprehensive plan. We need to protect our neighborhoods and they are not meeting the 5 core values of the comprehensive plan.

Bell American has stated, customer will use the drive-thru as a convenience and the traffic already exists. Mr. Kuner argues that Taco Bell will add to the traffic and will impact character and etc.

Ruben Jackson Lacey:

31 year resident. Four homes to the north were demolished. I recognized that Madison Street is a Business district. However, she did not imagine that the 4 homes would be demolished for a Taco Bell. She indicates that my neighbor would be Greg Flynn, the owner of Taco Bell. I say technically because he lives 2000 miles away in San Francisco. Do you think Greg Flynn lives adjacent to a Taco Bell? I won't see Greg Flynn but I will not be able to avoid his customers. 1.3 Million Annual sales is the forecast. Allowing a drive-thru would allow exhaust and headlights into my windows. I have chronic obstructive pulmonary disease so I do not even want to imagine how the exhaust will affect me. I disagrees that a Taco Bell will help the general welfare of the neighborhood. Don't approve another fast food in our neighborhood.

Alice Cottingham:

She discusses the impacts of McDonalds drive-thru for the past 16 years. She argues that they cannot meet Standard 2 that the proposed will not have undue adverse effect. Regarding noise, the drive-thru begins with a squawk box, which is loudest at night. I hear horn-honking late at night, loud radios. Lights from McDonalds are like a prison yard. Garbage, many people turn from McDonalds and then turn on Lyman and then discard there waste in front of her yard. Regarding crime, last year police calls went up 60 % since 2014. Theft, pan handlers, public indecency and removal of people from the store were up significantly. She describes other dangerous activity at McDonalds.

Benjamin Hill:

Deny the special use permit. 570 citizens signed a petition to say no to Taco Bell and any other fast food restaurant. Mr. Hill reads a letter from Michelle who lives on the block, which discusses the unfair consolidation of fast food drive-thrus in this neighborhood. The neighbor's do not want a fast food corridor. Fast food multiply and is turning the east end of Madison Street into a fast food waste land. Then he reiterated other concerns of traffic, litter and crime. There are other businesses on Madison Street so we do not need this Taco Bell. Deny the special use permit.

Joseph Ku:

Our backyard will be kitty corner to the Taco Bell. Mr. Ku says that his family is trying to sell their home and move. Potential purchasers say "we like the house but we do not want to live near a Taco Bell". He has a letter from his realtor stating property values will decline.

Ms. Ku: She received input from three Realtors. The first says homes near restaurants would decrease 8-10% in value. A second realtor says a Taco Bell will negatively impact the value of homes in the area. A Third realtor says, the deciding factor is the homes proximity to a business.

Jeremy Olsen"

Point out that the Zoning Ordinance realizes that drive-thrus have negative impacts and the ordinance therefore restrict a drive-thru at this location. It is written to retain the authority to make these decisions. We should vote no to this drive-thru.

Donald Gold Hammer:

I purchased my home in 1975 when the Village was condemning the area for a strip mall to keep blacks out. Today we have a currency exchange, fast food as a result of the Villages continuation of 1975 politics. We have a thriving neighborhood. We want to preserve our community.

Beth Swaggerty:

We have partnered with the Village on many projects. Another fast food with a drive-thru creates a fast food corridor.

Matt Carmichael:

I like Taco Bell. I will focus on the drive-thru. The applicant has not given any data driven support for Taco Bell. The spirit of Zoning Ordinance is clear to be a walk able property that enhances the area. This drive-thru is counter to that. So do not approve as an approval would fly in the face of Zoning.

David Pope:

It would be a mistake to approve this allowance. He says that he regretted approving a Dunkin Donuts when he was on the Village Board. He says that only when you can advance a foundational interest of the Village as a whole should you approve a use. Creating a corridor that is dominated by drive-thrus restaurants is a compelling concern for our community.

Kaleb Sloackam:

This is a risky proposition to place our children at risk to have a drive-thru. I'm not anti-development. We are anti-Taco Bell and anti-drive-thru; it is not the right fit for Oak Park.

Chris Donovan:

Since we are not sure of the impacts of the Madison Street Road Diet, we should not approve this proposal.

Tom:

Tom purchased his property three years ago. If Oak Park does make this decision to approve it, it is stupid. This won't be a progressive community.

Phillip Rogers:

The removal of the Madison Street median would get rid of the safety zone for people crossing Madison Street.

Karen Heller:

Proud south-east Oak Parker. I am disappointed that another fast food place can come here. We can do better as a community. Why are we taking a below average thing. We need to enhance the area. We can do better.

J Arbor:

100 shootings in Chicago 5 fatalities close to Oak Park. We don't want to draw any of that. Not a good fit for our neighborhood.

George Beach:

I am favor of building better environments. There was no effort to do more to fit the context of Oak Park. Instead they focused on getting more customers in the store. Too many curb-cuts on Madison Street.

Theresa Jurgus;

Realtor to the seller. She has lived here since 1972. Not successful at finding a better use for two years.

Fatima Beach:

We moved to Oak Park because we care and we have character. We moved from Whicker Park. We do not want to lose the character of Oak Park.

Desiree Hassler:

17 school age children on the block and four our mine. We closed less than one year ago. We love our block.

End of Testimonies

Mike Thompson:

We tried to do our best working with staff to get what the Village wanted. Undue adverse effects were minimized. The building location, the landscaping and fencing were not done in a bubble.

Chair Quinn closed testimony and moved to deliberations.

The ZBA members feel that the applicant has not met standards one and two.

Member Brumirski moved to send a negative Recommendation to the Village Board. Member Hansen seconded the motion. The motion was approved 7-0.

Approval of Recommendation

Cal. No. 04-17-Z: 500-508 S. Lyman Avenue, Taco Bell

Paul Stephanides, the ZBA attorney, drafted a negative Recommendation. Member Hansen moved to approve the Recommendation. Member Brumirski seconded the motion. The motion was approved 7-0.

Approval of Minutes

February 15th Minutes

Steve Ruszczuk moved to approve the minutes. Member Hansen seconded the motion. The minutes are approved 7-0.

May 3 Minutes

Hansen moved to approve the minutes. Member Lencioni seconded the motion. The minutes are

approved 6-0 with one AB. (Brumirski)

Adjournment

The meeting adjourned at 10:15 p.m.