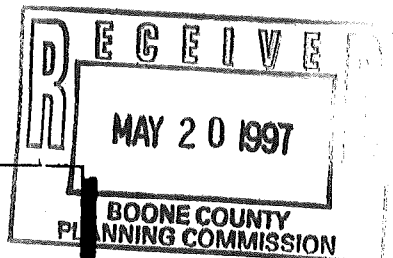


APPLICATION FORM



BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations SECTION A (To be completed by applicant)

(Check One)

- 1. [X] Boone [ ] Florence [ ] Walton [ ] Union

(Check One)

- 2. [ ] Conditional Use Permit [ ] Variance [ ] Appeal [X] Change in Non-Conforming Use

3. Applicant's Name McDonald Corporation Phone Number (614) 899-3145 Fax No. (614) 899-3155 Applicant's Address 635 Brookside Boulevard Westerville Ohio 43081 City State Zip

4. Description of Request: To raise the height of a currently existing sign to a position replacing a sign which has been removed.

5. Name of Development N/A

6. Location of Development I-75, Richwood Road, Interchange

7. Acreage Under Review Sign - 1,200 square foot Easement - See Attached

8. Lot Number and Name of Subdivision (if part of a subdivision) N/A

9. Owner of Property McDonald's holds the Easement. Phone Number of Owner (614) 899-3145

10. Address of Property Owner 635 Brookside Blvd; Westerville, OH 43081 City State Zip

11. Proposed Use(s) on Site To raise the height of a currently existing sign to a position replacing a sign which has been removed.

12. Total Square Footage of Existing and/or Proposed Buildings N/A

13. Current Zoning on Property EPD-1

14. Deed Book Ease 46\* Page No. 25\* Group No. 77, 1103, 2064

15. Is the site subject to a zone change? If yes, give date of approval

16. Have you submitted a Site Plan with this request? See Attached Agreement

17. Have you submitted a list of adjoining property owners with this request? Yes

18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: Greg Olinde, Real Estate Manager

Property Owner's Signature: McDonald's Corporation

\*Deed Book 254, Page 295 \*Deed Book 166, Page 462

(over)

BOARD OF ADJUSTMENT AND  
ZONING APPEALS ACTION  
APPLICATION  
PAGE 2

**SECTION B** (To be completed by the Boone County Planning Commission Staff)

- 1. Date Received May 20, 1997 Fee Received 1,094.00 R# 13563
- 2. Is application complete? Yes Yes \_\_\_\_\_ No \_\_\_\_\_
- 3. Staff Reviewer [Signature]
- 4. Scheduled Board Action Date 6/11/97
- 5. Board Action:
  - Approved
  - Approved with Conditions (See #6)
  - Denial (See #7)
- 6. Conditions of Approval: SEE MINUTES + CWR
- 7. Reasons for Denial: \_\_\_\_\_

Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005  
(606) 334-2196 Phone  
(606) 334-2264 Fax

**NOTE:** See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

BCPC: 11/96

## STAFF REPORT

**DEVELOPMENT:** McDonald's Restaurant

**APPLICANT:** McDonald's Corporation

**LOCATION:** Northwest quadrant of Interstate 75 and Richwood Road Interchange, Boone County, Kentucky

**ZONING:** Employment Planned Development (EPD)

**DATE:** June 11, 1997

### Proposal

The applicant is requesting a Change in Non-Conforming Use to allow an increase in the height of an existing non-conforming sign within a 1,200 square foot easement, located at the northwest quadrant of Interstate 75 and Richwood Road, Boone County, Kentucky. In April of 1990, McDonald's Corporation received approval for a Change In Non-Conforming Use to permit the addition of a 250 square foot McDonald's sign onto a pre-existing non-conforming Chevron high-rise sign. Conditions of approval were placed on McDonald's prohibiting any other signage on the McDonald's site that could be seen from Interstate 75. In August of 1990 a hearing was held to clarify or further explain the Conditions that were placed on the sign and McDonald's site at the April, 1990 meeting. The Staff Reports and Minutes from these two meetings accompany this Staff Report. Also included is a letter dated April 16, 1997 from Kevin Wall, Director of Zoning Services, to Mr. Paul Darpel of Adams, Brooking, Stepner, Woltermann, & Dusing and Mr. Darpel's response.

The Chevron sign, which was the original pre-existing non-conforming sign, has been removed from the pylons. The sign has been replaced with the McDonald's sign that was approved in 1990. The McDonald's sign occupies the same location that the Chevron sign previously did, and has not increased the height of the sign which remains at 116 feet. The pre-existing non-conforming sign has been reduced by 363 square feet.

The Board of Adjustments and Zoning Appeals has the power to hear and render decisions on applications to permit a change from one non-conforming use to another.

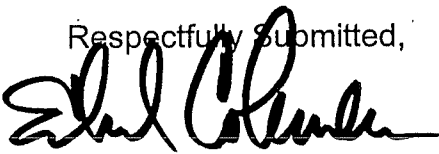
The Board shall not permit such a change unless the new non-conforming use is as equally or more compatible with permitted uses in the district in which it is located as the existing non-conforming use. An application for Change In Non-Conforming Use shall conform to the procedures and requirements for appeals as specified in Sections 245-25, inclusive of this order and Kentucky Revised Statutes, 100.253.

The Board shall not allow any changed non-conforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original non-conforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accordance with other provisions of this order.

Conclusion

K.R.S. 100.253 gives the Boone County Board of Adjustment and Zoning Appeals the authority to approve the applicant's request for a Change In Non-Conforming Use to permit the relocation of a McDonald's high-rise sign. It is Staffs' opinion that the requested Change in Non-Conforming Use is appropriate because the status of the new non-conforming use (sign) is more compatible with other permitted uses in the district because the non-conforming use has been reduced in size and therefore has become "less" non-conforming. It is Staff's opinion that the proposed Change In Non-Conforming Use will not adversely affect the Public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

Respectfully Submitted,

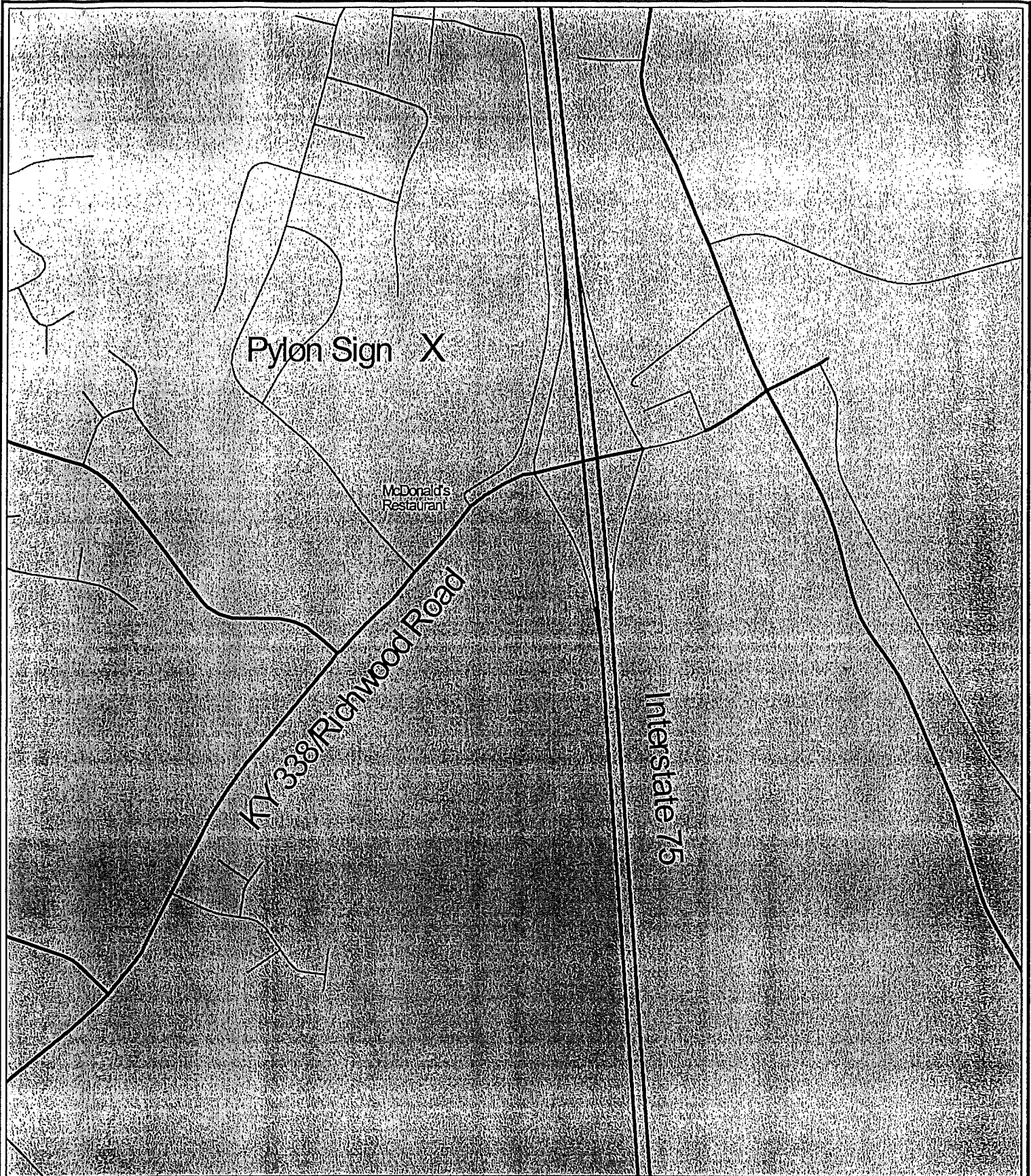


Edward Coleman  
Planner

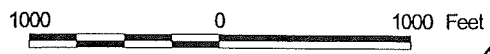
EC\par

Attachments

- Location Map
- April 1990 Staff Report
- August 1990 Staff Report
- Letter to the Applicant
- Letter to Kevin Wall



# McDonald's Sign Location



1 inch equals 1000 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
June 4, 1997



STAFF REPORT

#4

APPLICANT: McDonald's Corporation  
REQUEST: Appeal and Change in Non-Conforming Use  
LOCATION: north side of Richwood Road, west of I-75, west of Chevron  
ZONING: Commercial Services (C-3)  
DATE: April 11, 1990  
REMARKS:

The applicant is requesting an Appeal of the Zoning Administrator and Zoning Enforcement Officer's decision denying a permit for an addition to an existing free-standing sign. If the Appeal is unsuccessful, the Applicant is requesting a Change in Non-Conforming Use to allow the addition of a McDonald's sign onto an existing Chevron high-rise sign. The subject property is located on the north side of Richwood Road, west of I-75, is zoned Commercial Services (C-3) and is owned by Thomas Bishoff.

Appeal

On January 22, 1990, the applicant applied for a Sign Permit to allow the addition of a 250 square foot McDonald's sign onto the existing 363 square foot, 136 foot high Chevron sign. This permit was denied for the reasons outlined in the Zoning Enforcement Officer's letter of February 5, 1990. (see attachment).

Basically, the sign addition was not approved because the McDonald's sign would not be located on McDonald's property and would thus be classified as an "off-premise" sign. Also, since the existing Chevron sign itself is not located on Chevron property, it is classified as an "off-premise" sign. However, it is protected as a pre-existing, non-conforming use because it was in existence prior to the adoption of the zoning regulations. The property on which the Chevron sign is located is zoned Suburban Residential One (SR-1) --- a district which does not allow "off-premise" signs.

At this writing, the applicant has not supplied Staff with written arguments in support of their position that the Zoning Administrator and Zoning Enforcement Officer's decision was incorrect and that they were injuriously affected or aggrieved. Therefore, the Zoning Enforcement Officer respectfully requests that this Board uphold the decision so that the public may rely on the consistency of the interpretation and administration of the Sign Article of the Boone County Zoning Regulations.

Change in Non-Conforming Use

If this Board upholds the decision of the Zoning Administrator and the Zoning Enforcement Officer, the applicant has requested a Change in Non-Conforming Use to allow the installation of the sign.

Article 2, Section 284 of the zoning regulations reads, in part:

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The Board shall not allow any changed non-conforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original non-conforming use. (p. 2-8)

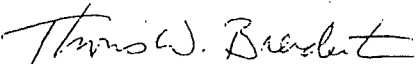
Further, Section 285 reads, in part:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity. (p. 2-8)

These sections were written to accomplish the intent of allowing non-conforming uses to continue, but to discourage their survival.

Staff is of the opinion that the applicant proposes an inventive solution to a question often faced by Boards of Adjustment, ie. the combination, and thus partial elimination, of high-rise signs. However, given the facts of this situation, Staff does not believe that this Board has the authority to grant the requested Change. Again, at this writing, the applicant has not supplied Staff with written reasons for the Change in Non-Conforming Use.

Respectfully submitted,

  
Thomas W. Breidenstein  
Zoning Enforcement Officer

TWB:kat

BOONE COUNTY PLANNING COMMISSION

BOONE COUNTY ADMINISTRATION BUILDING

P.O. BOX 697 — 2950 WASHINGTON STREET

BURLINGTON, KENTUCKY 41005

(606) 334-2196

FAX (606) 334-2264

MR. ~~WILLIAM~~ R. VIOX  
CHAIRMAN  
MR. FRED BURCH  
VICE CHAIRMAN  
MRS. CAROL SMITH  
SECRETARY-TREASURER

MR. GERALD A. NEWTON  
DIRECTOR  
MR. D. T. WILSON  
ATTORNEY

February 5, 1990

Gerald F. Dusing  
c/o Adams, Brooking, Stegner, Wolterman, & Dusing  
8100 Burlington Pike  
Suite 400  
Florence, KY 41042

Dear Mr. Dusing:

This letter is written to inform you that your application for a sign permit for the proposed McDonald's restaurant at the Richwood Road exit has been denied.

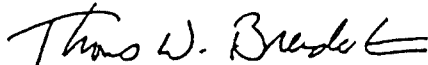
Article 19, Section 1940 of the Boone County Zoning Regulations allows off-premise signs in certain C-3, I-1, and I-2 zoning districts only. The existing Chevron sign is located in a SR-1 district; therefore, the structure is classified as a pre-existing, non-conforming structure. Article 2, Section 284 of the zoning regulations prohibits the enlargement of any pre-existing, non-conforming use.

Your options at this point are three-fold:

1. Appeal this decision to the Boone County Board of Adjustment and Zoning Appeals;
2. Apply for a zoning map amendment for a Special Sign District Overlay, or;
3. Apply to the Boone County Planning Commission for a zone change from SR-1 to either C-3, I-1, or I-2 and for a Conditional Use Permit to allow an off-premise sign and for any required Variances.

If you have any questions on this denial or on the options, do not hesitate to call me at the number above.

Sincerely,



Thomas W. Breidenstein  
Zoning Enforcement Officer

TWB:kat

cc: Gerald A. Newton, Zoning Administrator  
Douglas Powell, Transportation Planner

APPLICANT: McDonald's Corporation

REQUEST: Appeal and Change in Non-Conforming Use

LOCATION: north side of Richwood Road, west of I-75, west of Chevron

ZONING: Commercial Services (C-3)

DATE: April 11, 1990

REMARKS:

The applicant is requesting an Appeal of the Zoning Administrator and Zoning Enforcement Officer's decision denying a permit for an addition to an existing free-standing sign. If the Appeal is unsuccessful, the Applicant is requesting a Change in Non-Conforming Use to allow the addition of a McDonald's sign onto an existing Chevron high-rise sign. The subject property is located on the north side of Richwood Road, west of I-75, is zoned Commercial Services (C-3) and is owned by Thomas Bishoff.

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At this writing, the applicant has not supplied Staff with written arguments in support of their position that the Zoning Administrator and Zoning Enforcement Officer's decision was incorrect and that they were injuriously affected or aggrieved. Therefore, the Zoning Enforcement Officer respectfully requests that this Board uphold the decision so that the public may rely on the consistency of the interpretation and administration of the Sign Article of the Boone County Zoning Regulations.

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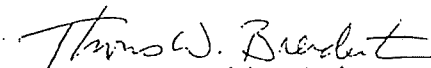
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Respectfully submitted,

  
Thomas W. Breidenstein  
Zoning Enforcement Officer

TWB:kat

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February 5, 1990

Gerald F. Dusing  
c/o Adams, Brooking, Stegner, Wolterman, & Dusing  
8100 Burlington Pike  
Suite 400  
Florence, KY 41042

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If you have any questions on this denial or on the options, do not hesitate to call me at the number above.

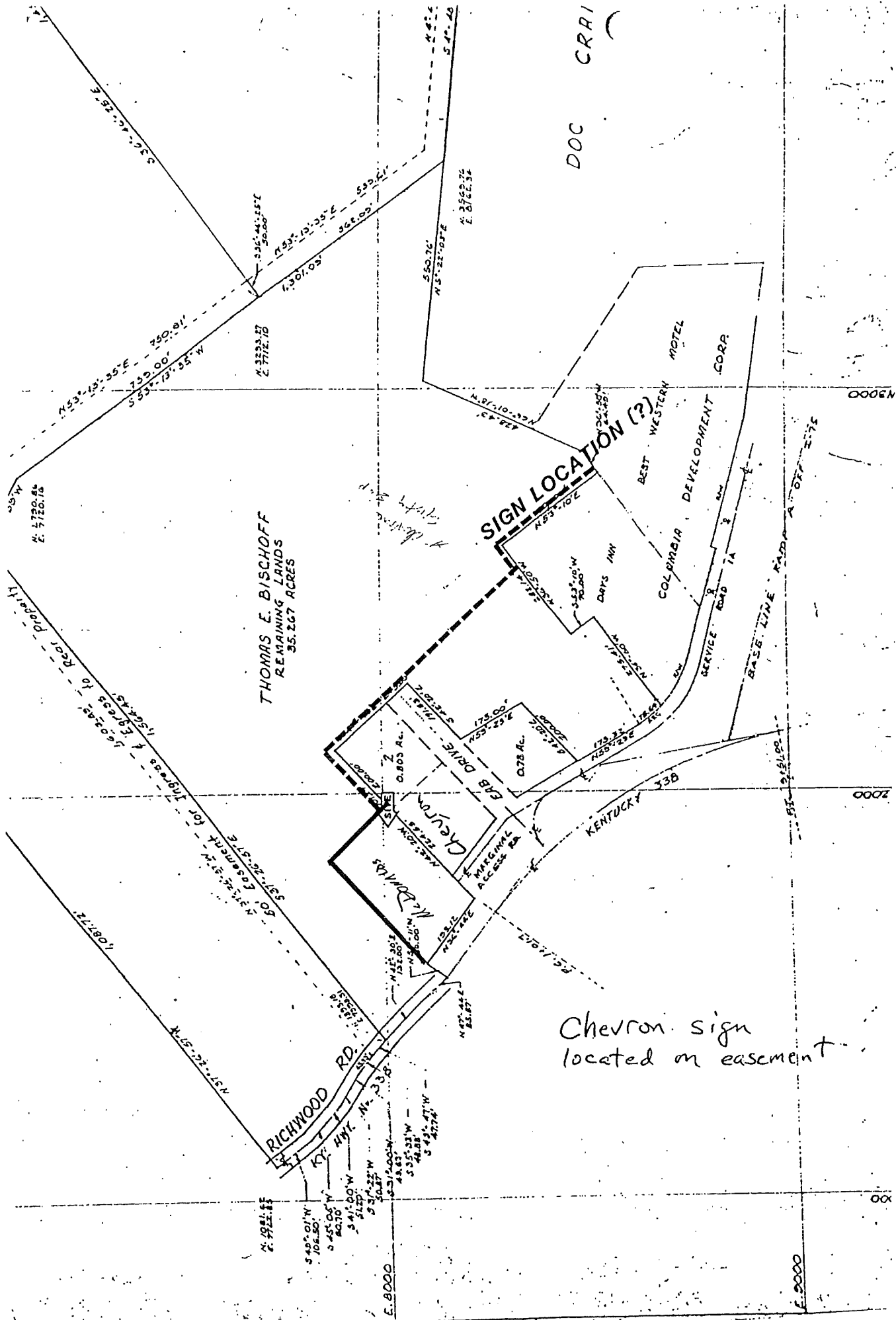
Sincerely,



Thomas W. Breidenstein  
Zoning Enforcement Officer

TWB:kat

cc: Gerald A. Newton, Zoning Administrator  
Douglas Powell, Transportation Planner



DOC CRRI

THOMAS E. BISCHOFF  
REMAINING LANDS  
35.267 ACRES

SIGN LOCATION (?)

Chevron sign  
located on easement

McDonald's 4-11-90



BOONE COUNTY BOARD OF ADJUSTMENT  
BUSINESS MEETING

April 11, 1990 - 6:30 P.M.

---

---

BOARD MEMBERS PRESENT:

Mr. I. A. Archambault  
Mr. Dan Houston  
Mr. Walt Ryan  
Mr. George Whitton, Chairman

BOARD MEMBERS NOT PRESENT:

Mr. Fred Nevel

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

The meeting was called to order by Chairman Whitton at 6:30 P.M..

Approval of the Minutes:

Chairman Whitton noted that each Board member had received a copy of the Minutes of the Boone County Board of Adjustment Meeting of March 14, 1990 and asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. Houston moved that they be approved as mailed. Mr. Ryan seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Duke Associates for a Variance to construct a 128 sq. ft. Real Estate sign for South Park Industrial Park. The 18-acre site is located north of I-275 and east of KY 237. The site is zoned Industrial One (I-1) and is owned by Tom Schleper.

Staff Member, Greg Tulley, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Whitton asked if anyone wished to speak in behalf of the request.

Mr. Ray Erpenbeck stated that the reason the two entrances are this wide is that it has been their experience that the trucks delivering gasoline short-cut the entrances and tear up the landscaping and sidewalks. Mr. Erpenbeck reviewed a larger scale drawing with the Board, noting the locations of the fuel tanks and how the tankers would enter and exit the site.

Mr. Robert Kirby, Sr. indicated to the Board where the tankers would enter and exit the site to discharge into the tanks. He stated that possibly one of the entrances could be narrowed. He indicated where the dumpster would be located and stated that the garbage trucks would also use the wider entrance.

Mr. Powell stated that there are a lot of industrial park developments where there are semi's and they are not allowed 50' entrances. He stated that he believes 40-foot wide entrances might be more appropriate.

Staff Member, Brian Fogle, stated that under Condition #2, access to adjoining properties, this concern has been addressed and is no longer an issue.

Following discussion, Chairman Whitton deferred this item until the end of the meeting to allow the applicant to meet with the Staff.

At the conclusion of the meeting, Mr. Robert Kirby, Sr. indicated to the Board the areas they would extend for ten feet and stated that they would reduce the entrances to 40 feet each.

Mr. Houston moved that the request be granted subject to the condition that the center island along Barbara Drive be extended ten feet on either end for the 40-foot wide entrances. Mr. Ryan seconded the motion and it carried unanimously.

4. The request of McDonald's Corporation for an Appeal of the Zoning Administrator's and Zoning Enforcement Officer's decision denying a permit for an addition to an existing free-standing sign. If the Appeal is unsuccessful, the Applicant is requesting a Change in Non-Conforming Use to allow the addition of a McDonald's sign onto an existing Chevron high-rise sign. The subject property is located on the north side of Richwood Road, west of I-75, and is zoned Commercial Services (C-3). The property is owned by Thomas Bishoff.

Staff Member, Tom Briedenstein, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Whitton asked if there was anyone present in behalf of the Appeal.

Mr. Jerry Dusing, attorney, stated that he wrote the McDonald's position statement that had been distributed (see memorandum from McDonald's Corporation to the Boone County Board of Adjustment, dated April 11, 1990).

Mr. Dusing referred to the pictures of the sign included with the Staff Report and presented pictures of the existing Chevron sign. He stated that the sign is about 100 square feet, which is about one-quarter the size of McDonald's normal sign. It is also about one-third as large as the McDonald's sign on Dream Street for I-75 traffic. Mr. Dusing introduced Mr. Roger Kessler from Kessler Sign Company in Zanesville, Ohio.

Mr. Kessler stated that McDonald's asked him to look at the site in regard to signage along the interstate. He found that they would have to have a 150' sign to be noticed going south on I-75, and about that size going north. Therefore, he looked at alternatives and felt that McDonald's could put their sign underneath the Chevron sign -- it would be smaller, but would work visually. He added that Mr. Bishoff owns all the property so he felt that it would not be an off-premise sign. He stated that preliminary observation indicates that the structure will withstand the new sign. They will get approval from a structural engineer for the additional sign.

Mr. Dusing stated that an on-premise sign would have to be at the rear of the property, significantly closer to Heritage Trails Subdivision, to impact the interstate. He stated that Mr. Kessler did himself out of a sizable contract by this suggestion. He stated that the sign panel within the structure of the Chevron sign fits within the spirit and the letter of the law of pre-existing, non-conforming uses and that is the basis for their application and legal entitlement to the sign. He added that McDonald's contract to locate here has a contingency of having a high-rise sign. If the sign is not approved, McDonald's is not obliged to go on the site. He stated that he takes issue with the Staff Report when it says that the Board does not have the authority in this regard. He stated that Staff's view is that this is an enlargement or a change of pre-existing use. He quoted from McDonald's position statement on Pages 1 and 2 in this regard. He stated that the Agreement of Lease for the Chevron substructure has existed since 1975, prior to the Zoning Ordinance. The property is owned by Mr. Bishoff and leased to Chevron. It is connected to the Chevron site by easement. He stated that an argument could be made that it is not an off-premise sign. He added that this is a change in non-conforming use allowed by the ordinance. He stated that the Board has to decide if the addition of a McDonald's sign panel within the existing dimensions at the same location is an enlargement or change in the area of the existing Chevron substructure. He stated that it is an allowable modification of a pre-existing non-conforming use. Mr. Dusing reviewed the position statement in regard to Section 284 and 285 of the Boone County Zoning Ordinance. He noted that attached to the position statement is an Attorney General opinion of 1983, whose job it is to interpret state statute. He stated that the opinion says that local zoning ordinances cannot be more restrictive than the state statute or they are void. He added that the Boone County regulations took two pages to say what this says in two paragraphs. Mr. Dusing also reviewed the other opinions attached to the position statement. He stated that if you had a pre-existing, non-conforming house, you could put in new windows, add new rooms within, or change the basement -- which is not a change in scope or enlargement. He stated that the proposed sign has less impact on the neighborhood than a free-standing sign on the site, which is allowed, would have.

Mr. Dusing questioned that should Chevron change its name to Standard and want to add another letter to the sign panel -- would that be an enlargement.

Counselor Wilson stated that the statute says you can substitute a pre-existing non-conforming use with an entirely different one, if it is determined that the new use is no more objectionable than what was there before. He stated that it is appropriate for this Board to consider this matter under KRS 100. He added that the Board also looks at whether the change in non-conforming use results in a change in the character of what was there before. In determining if something is more objectionable, the Board must look at the land use impacts and character of the use.

Mr. Dusing added that he put up a two-line petition, which he quoted and a copy of which is attached to the position statement, at the gas station and there are 100 signatures on the petition, 17 coming from residents of the subdivision.

Chairman Whitton asked if there was anyone else present who wished to speak in regard to this request.

Mr. William Lamb, a resident of Heritage Trails, stated that the residents would prefer that the McDonald's sign be with the Chevron sign. However, there should be protection in case a year from now McDonald's wants to build a second sign on the site.

Chairman Whitton asked if there is any proposal for a free-standing sign at the entrance.

Mr. Dusing stated that there would be a standard entrance sign on the site which would be 50 sq. ft and 18 feet high.

Mrs. Thelma Castellini stated that you are ahead any time you can get two signs on one pole instead of two poles with one sign each. She stated that the neighborhood hopes that care will be taken to position the sign so that it is not visible from Heritage Trails and that the edge that faces Heritage Trails be painted black. She stated that they welcome McDonald's to Richwood.

Jenny Woodner, a resident of Heritage Trails, stated that she prefers the addition to the Chevron sign over another high rise sign and is in agreement with it being painted black. They would also appreciate anything that can be done to reduce the reflection of the existing Chevron sign.

Mr. Sid Goble, a resident of Heritage Trails, questioned if there would be laws concerning the illumination of the signs. He stated that they do not object as much to the signs as they do to the light they give.

Mr. Kessler stated that the signs are illuminated with fluorescent tubes. The McDonald's sign would not be any brighter than the Chevron sign and is turned off at 11 p.m. during the week and midnight on the weekend. He stated that the Chevron sign is on all night.

Mr. Breidenstein stated that there is no standard of brightness for signs, but there is language that says the lights cannot create a nuisance to adjoining streets or the interstate. He stated that he would trust that McDonald's would be responsive to any complaints from the neighbors.

Mr. Kessler stated that the McDonald's sign is turned off at 11 p.m. during the school session and 12 midnight on the weekend and during the summer session.

Audrey Lane, a resident on Apaloosa, stated that there will also be a Wendy's sign and many more signs. She stated that they had not seen the petition. After reviewing the petition, she stated that those who signed would not have the illumination that they have and were at least two miles away.

Mr. Breidenstein noted that Mr. Dusing had stated that if this request is not allowed, then they would be permitted a 150' sign on the McDonald's property. He stated that this would not be an automatic approval and would have to come before this Board for a Variance.

Mr. Dusing stated that there will not be a 40' high on-premise sign. They will have a 50 sq. ft. standard golden arches entrance sign that is 18 feet high. This request is an alternative to the free-standing high-rise sign. He added that in Edgewood the menu board on the drive-thru is considered a sign and, therefore, they will need to be told what a sign is.

Mr. Tim Greene, Real Estate Development, McDonald's, stated that the shared sign is to attract travelers off the highway and the road sign is to identify McDonald's to travelers on KY 338. They have no intention of erecting two high rise signs. The road sign will be 18' high with 50 sq. ft. in the service area.

Mr. Dusing displayed a picture of the type of sign they would have at the entrance.

Mr. Ryan moved that the change or modification to the existing Chevron sign that is a pre-existing non-conforming use be approved to allow the addition of the McDonald's sign, and there is to be no other free-standing sign used to attract traffic from I-75. Mr. Houston seconded the motion.

Chairman Whitton asked if they would agree that the application for the entrance sign will be no bigger than approximately 50 square feet and no more than twenty feet tall.

Mr. Dusing stated that as long as they have the shared use of the Chevron sign, they agree to have no other high-rise sign on the premises. They also agree that the entrance sign will be no bigger than approximately 50 square feet and no more than twenty feet tall provided that it is approved if it otherwise meets the ordinance.


Chairman Whitton stated that as long as the sign meets the standard criteria it will be granted.

Mr. Ryan included the comments made by Chairman Whitton and Mr. Dusing as part of the motion. Mr. Houston seconded the amendment to the motion.


Chairman Whitton asked for a vote on the motion made by Mr. Ryan and it carried unanimously.

There being no further business to come before the Board, Mr. Ryan moved that the meeting be adjourned. Mr. Archambault seconded the motion and it carried unanimously.

APPROVED:

  
\_\_\_\_\_  
George D. Whitton, Chairman

Attest:

  
\_\_\_\_\_  
Jan Hancock, Recording Secretary

## STAFF REPORT

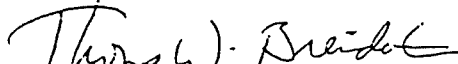
#4

APPLICANT: Gerald Dusing  
DEVELOPMENT: McDonald's  
LOCATION: north side of Richwood Road  
ZONE: Commercial Services (C-3)  
DATE: August 8, 1990  
REMARKS:

Please recall that on April 11, 1990, this Board granted a Change in Non-Conforming Use to the new McDonald's restaurant at the Richwood Road interchange. This Change allowed McDonald's to install a 250 square foot addition onto the pre-existing, non-conforming Chevron high-rise sign. A condition of approval, however, limited any "entrance sign" (ie. sign designed to attract attention of motorists on Richwood Road) to "approximately" 50 square feet and no more than 20 feet high.

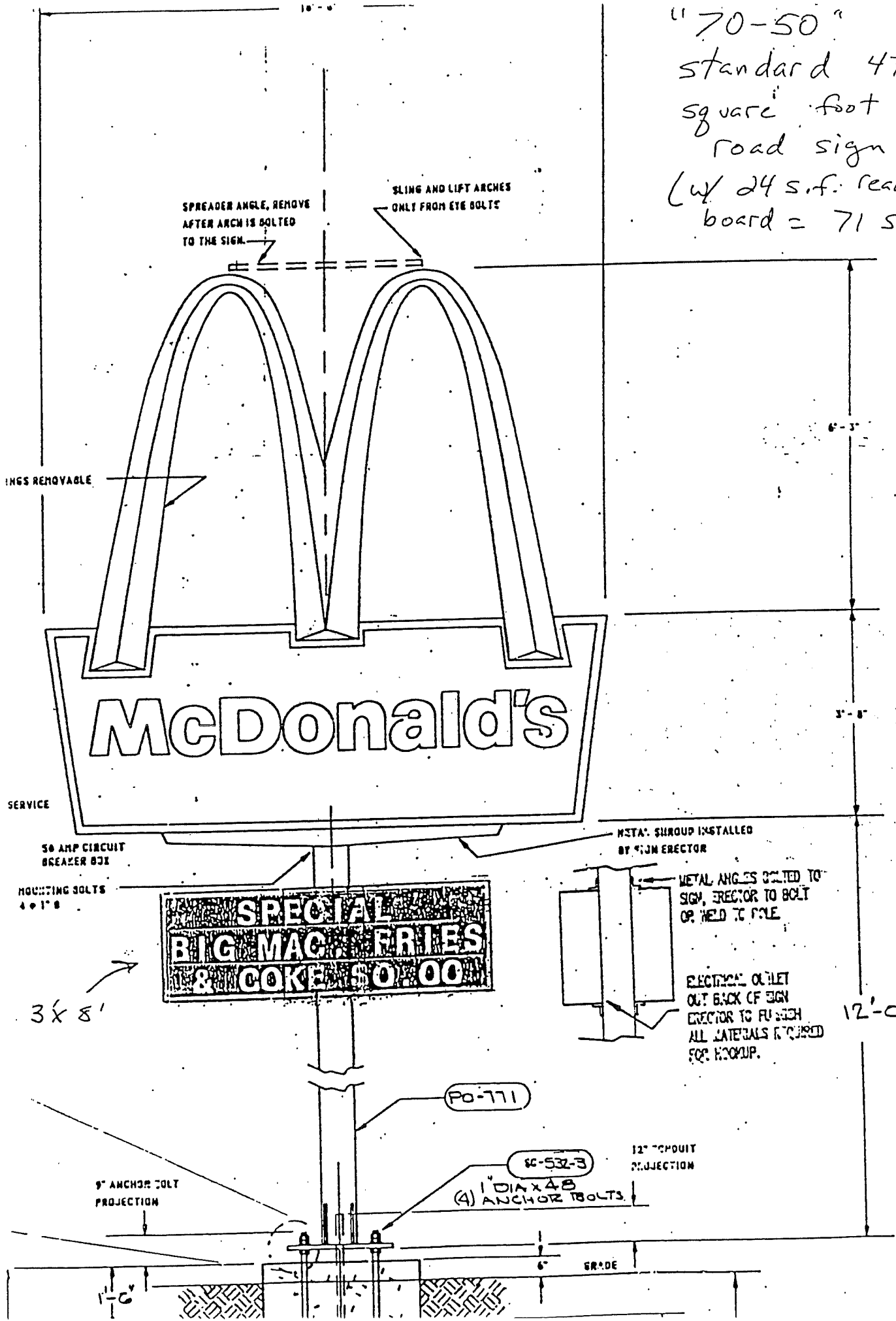
On June 22, 1990, the Kessler Sign Company submitted an application for a sign permit for an "entrance sign" with a reader board attachment. Calculations for this "70-50 road sign" indicate the total area of the golden arches and the McDonald's wording to be 47.08 square feet --- or approximately 50 square feet as allowed. However, Kessler also submitted plans for a reader board attachment of 24 square feet. The applicant contends, in his attached letter dated August 1, 1990, that at the April 11 meeting, the Board discussed and implicitly approved an additional message board of unspecified size. In other words, the applicant is requesting the Board to interpret their approval based on the official record of their meeting.

This "application" is not a formal appeal of the Zoning Administrator's decision (i.e., no public hearing was advertised, no fee has been paid). This request is merely an effort of both the applicant and Staff to allow the Board to tell each exactly what was meant by the condition of approval in April. If the Board agrees with Staff that the 24 square foot addition does not substantially agree with the previous approval, McDonald's would still have the option of making a formal request to the Board for a modification of the Change in Non-Conforming Use. If the Board agrees with the applicant (ie. that 71.08 square feet - a 42% increase over the approved 50 square feet - is "approximately" 50 square feet), a sign permit will be issued.

  
Thomas W. Breidenstein  
Zoning Enforcement Officer

TWB:twb/mcb

"70-50"  
standard 47  
square foot  
road sign  
(w/ 24 s.f. reader  
board = 71 s.f.)



SPREADER ANGLE, REMOVE  
AFTER ARCH IS BOLTED  
TO THE SIGN.

SLING AND LIFT ARCHES  
ONLY FROM EYE BOLTS

ARCHES REMOVABLE

McDonald's

SERVICE

50 AMP CIRCUIT  
BREAKER BOX

MOUNTING BOLTS  
4 x 1/2"

3 x 8'

SPECIAL  
BIG MAC, FRIES  
& COKE \$0.00

META. SHROUD INSTALLED  
BY "J" ERECTOR

METAL ANGLES BOLTED TO  
SIGN, ERECTOR TO BOLT  
OR WELD TO POLE

ELECTRICAL OUTLET  
OUT BACK OF SIGN  
ERECTOR TO FURNISH  
ALL MATERIALS REQUIRED  
FOR HOOKUP.

12'-0"

PO-771

SC-532-3

1" DIA x 48  
(4) ANCHOR BOLTS

12" TOPDUIT  
PROJECTION

9" ANCHOR BOLT  
PROJECTION

GRADE

1'-0"

ADAMS, BROOKING, STEPNER, WOLTERMANN & DUSING

*Attorneys and Counselors at Law*

CHARLES S. ADAMS  
1908-1971  
C. GORDON WALKER  
1911-1987  
JOHN R. S. BROOKING \*  
DONALD L. STEPNER  
JAMES G. WOLTERMANN  
GERALD F. DUSING  
MICHAEL M. SKETCH \*  
DENNIS R. WILLIAMS  
JAMES R. KRUER \*  
MARC D. DIETZ \*  
JEFFREY C. MANDO  
KIMBERELY J. ADAMS \*  
GREGORY S. SHUMATE \*  
GLENN E. ALCIE \*

8100 BURLINGTON PIKE-SUITE 400

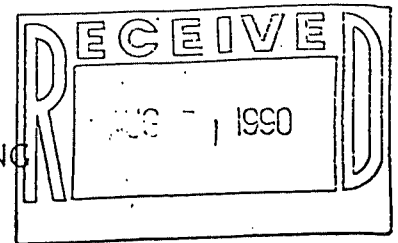
P. O. BOX 576

FLORENCE, KENTUCKY 41042-0576

AREA CODE 606-371-6220

FAX 606-371-8341

August 1, 1990



36 E. FOURTH STREET  
SUITE 1206

CINCINNATI, OHIO 45202  
AREA CODE 513-241-7460

421 CARRARD STREET  
P. O. BOX 861  
COVINGTON, KENTUCKY 41012-0861

AREA CODE 606-291-7270  
FAX 606-291-7902

\*ALSO ADMITTED IN OHIO

PLEASE REPLY TO:  
FLORENCE

Boone County Board of Adjustment  
c/o Mr. Tom Breidenstein  
Boone County Planning Commission  
Boone County Administration Building  
Burlington, Kentucky 41005

HAND DELIVERED

RE: McDonald's Corporation  
Richwood Entrance Sign

Gentlemen:

We represent McDonald's Corporation and write this Board at the suggestion of Tom Breidenstein to obtain clarification and approval for sign permit of McDonald's standard 70-50 entrance sign with 3'x8' reader board.

When we appeared before this Board April 11, 1990 and were approved for McDonald's sign logo on the existing Chevron highrise sign, there was discussion that if approval was given for that Chevron highrise location, McDonald's would not have another highrise or maximum sized entranceway sign on site.

The minutes of the meeting are attached (see checks in margin).

When the 70-50 entranceway sign (47 sq. ft., 18 ft. tall) was discussed, it was also mentioned in the discussion that a reader board (our standard 3'x8') would be part of the 70-50 entranceway sign which is also standard. Comments about the reader board did not make their way into the minutes, which is understandable since they were not particularly germane to the thrust of the Board's concern that McDonald's not put another highrise on site (40' is allowed) or large entranceway sign (250 sq. ft. is allowed). Tom Breidenstein acknowledges that the reader board was discussed in connection with the entranceway sign.

The point that needs clarification is whether the Board's approval of McDonald's/Chevron highrise sign was conditioned on or prohibits the 24 sq. ft. reader board being allowed as part of the 47 sq. ft. 70-50 sign element.

The source of staff's concern is Chairman Whitton's comments and Dusing's comments (Minutes, p. 7 bottom) of "approximately 50 sq. ft." and "as long as the sign (entranceway sign subject of this clarification) meets the standard criteria."

"standard criteria" is the 250 sq. ft. allowed under the ordinance.

"approximately" includes the reader board which was part of the discussions.

The whole thrust of the discussion was Mr. Ryan's motion that with the McDonald's/Chevron sign, there be no other highrise free standing sign on site to attract traffic from I-75. The reader board is below the 70-50 sign logo on the same pole, and the entire 70-50 structure is 18 ft. high, entirely invisible from I-75 traffic, and a standard entranceway sign package for McDonald's.

The requested 8'x3' reader board was in the discussion at the time and within the letter and spirit of the Board's action of April 11, 1990.

Consequently, we would appreciate a clarification that the 8'x3' reader board be allowed as part of the 70-50 entranceway sign.

Thank you in advance for your kind consideration.

Respectfully submitted,

ADAMS, BROOKING, STEPNER,  
WOLTERMANN & DUSING

  
GERALD F. DUSING

GFD:vam  
Enclosure

cc: Mr. Tom Breidenstein

Mr. Ray Erpenbeck stated that the reason the two entrances are this wide is that it has been their experience that the trucks delivering gasoline short-cut the entrances and tear up the landscaping and sidewalks. Mr. Erpenbeck reviewed a larger scale drawing with the Board, noting the locations of the fuel tanks and how the tankers would enter and exit the site.

Mr. Robert Kirby, Sr. indicated to the Board where the tankers would enter and exit the site to discharge into the tanks. He stated that possibly one of the entrances could be narrowed. He indicated where the dumpster would be located and stated that the garbage trucks would also use the wider entrance.

Mr. Powell stated that there are a lot of industrial park developments where there are semi's and they are not allowed 50' entrances. He stated that he believes 40-foot wide entrances might be more appropriate.

Staff Member, Brian Fogle, stated that under Condition #2, access to adjoining properties, this concern has been addressed and is no longer an issue.

Following discussion, Chairman Whitton deferred this item until the end of the meeting to allow the applicant to meet with the Staff.

At the conclusion of the meeting, Mr. Robert Kirby, Sr. indicated to the Board the areas they would extend for ten feet and stated that they would reduce the entrances to 40 feet each.

Mr. Houston moved that the request be granted subject to the condition that the center island along Barbara Drive be extended ten feet on either end for the 40-foot wide entrances. Mr. Ryan seconded the motion and it carried unanimously.

4. The request of McDonald's Corporation for an Appeal of the Zoning Administrator's and Zoning Enforcement Officer's decision denying a permit for an addition to an existing free-standing sign. If the Appeal is unsuccessful, the Applicant is requesting a Change in Non-Conforming Use to allow the addition of a McDonald's sign onto an existing Chevron high-rise sign. The subject property is located on the north side of Richwood Road, west of I-75, and is zoned Commercial Services (C-3). The property is owned by Thomas Bishoff.

Staff Member, Tom Briedenstein, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Whitton asked if there was anyone present in behalf of the Appeal.

Mr. Jerry Dusing, attorney, stated that he wrote the McDonald's position statement that had been distributed (see memorandum from McDonald's Corporation to the Boone County Board of Adjustment, dated April 11, 1990).

Mr. Dusing referred to the pictures of the sign included with the Staff Report and presented pictures of the existing Chevron sign. He stated that the sign is about 100 square feet, which is about one-quarter the size of McDonald's normal sign. It is also about one-third as large as the McDonald's sign on Dream Street for I-75 traffic. Mr. Dusing introduced Mr. Roger Kessler from Kessler Sign Company in Zanesville, Ohio.

Mr. Kessler stated that McDonald's asked him to look at the site in regard to signage along the interstate. He found that they would have to have a 150' sign to be noticed going south on I-75, and about that size going north. Therefore, he looked at alternatives and felt that McDonald's could put their sign underneath the Chevron sign -- it would be smaller, but would work visually. He added that Mr. Bishoff owns all the property so he felt that it would not be an off-premise sign. He stated that preliminary observation indicates that the structure will withstand the new sign. They will get approval from a structural engineer for the additional sign.

Mr. Dusing stated that an on-premise sign would have to be at the rear of the property, significantly closer to Heritage Trails Subdivision, to impact the interstate. He stated that Mr. Kessler did himself out of a sizable contract by this suggestion. He stated that the sign panel within the structure of the Chevron sign fits within the spirit and the letter of the law of pre-existing, non-conforming uses and that is the basis for their application and legal entitlement to the sign. He added that McDonald's contract to locate here has a contingency of having a high-rise sign. If the sign is not approved, McDonald's is not obliged to go on the site. He stated that he takes issue with the Staff Report when it says that the Board does not have the authority in this regard. He stated that Staff's view is that this is an enlargement or a change of pre-existing use. He quoted from McDonald's position statement on Pages 1 and 2 in this regard. He stated that the Agreement of Lease for the Chevron substructure has existed since 1975, prior to the Zoning Ordinance. The property is owned by Mr. Bishoff and leased to Chevron. It is connected to the Chevron site by easement. He stated that an argument could be made that it is not an off-premise sign. He added that this is a change in non-conforming use allowed by the ordinance. He stated that the Board has to decide if the addition of a McDonald's sign panel within the existing dimensions at the same location is an enlargement or change in the area of the existing Chevron substructure. He stated that it is an allowable modification of a pre-existing non-conforming use. Mr. Dusing reviewed the position statement in regard to Section 284 and 285 of the Boone County Zoning Ordinance. He noted that attached to the position statement is an Attorney General opinion of 1983, whose job it is to interpret state statute. He stated that the opinion says that local zoning ordinances cannot be more restrictive than the state statute or they are void. He added that the Boone County regulations took two pages to say what this says in two paragraphs. Mr. Dusing also reviewed the other opinions attached to the position statement. He stated that if you had a pre-existing, non-conforming house, you could put in new windows, add new rooms within, or change the basement -- which is not a change in scope or enlargement. He stated that the proposed sign has less impact on the neighborhood than a free-standing sign on the site, which is allowed, would have.

Mr. Dusing questioned that should Chevron change its name to Standard and want to add another letter to the sign panel -- would that be an enlargement.

Counselor Wilson stated that the statute says you can substitute a pre-existing non-conforming use with an entirely different one, if it is determined that the new use is no more objectionable than what was there before. He stated that it is appropriate for this Board to consider this matter under KRS 100. He added that the Board also looks at whether the change in non-conforming use results in a change in the character of what was there before. In determining if something is more objectionable, the Board must look at the land use impacts and character of the use.

Mr. Dusing added that he put up a two-line petition, which he quoted and a copy of which is attached to the position statement, at the gas station and there are 100 signatures on the petition, 17 coming from residents of the subdivision.

Chairman Whitton asked if there was anyone else present who wished to speak in regard to this request.

Mr. William Lamb, a resident of Heritage Trails, stated that the residents would prefer that the McDonald's sign be with the Chevron sign. However, there should be protection in case a year from now McDonald's wants to build a second sign on the site.

Chairman Whitton asked if there is any proposal for a free-standing sign at the entrance. ✓

Mr. Dusing stated that there would be a standard entrance sign on the site which would be 50 sq. ft and 18 feet high. ✓

Mrs. Thelma Castellini stated that you are ahead any time you can get two signs on one pole instead of two poles with one sign each. She stated that the neighborhood hopes that care will be taken to position the sign so that it is not visible from Heritage Trails and that the edge that faces Heritage Trails be painted black. She stated that they welcome McDonald's to Richwood.

Jenny Woodner, a resident of Heritage Trails, stated that she prefers the addition to the Chevron sign over another high rise sign and is in agreement with it being painted black. They would also appreciate anything that can be done to reduce the reflection of the existing Chevron sign.

Mr. Sid Goble, a resident of Heritage Trails, questioned if there would be laws concerning the illumination of the signs. He stated that they do not object as much to the signs as they do to the light they give.

Mr. Kessler stated that the signs are illuminated with fluorescent tubes. The McDonald's sign would not be any brighter than the Chevron sign and is turned off at 11 p.m. during the week and midnight on the weekend. He stated that the Chevron sign is on all night.

Mr. Breidenstein stated that there is no standard of brightness for signs, but there is language that says the lights cannot create a nuisance to adjoining streets or the interstate. He stated that he would trust that McDonald's would be responsive to any complaints from the neighbors.

Mr. Kessler stated that the McDonald's sign is turned off at 11 p.m. during the school session and 12 midnight on the weekend and during the summer session.

Audrey Lane, a resident on Apaloosa, stated that there will also be a Wendy's sign and many more signs. She stated that they had not seen the petition. After reviewing the petition, she stated that those who signed would not have the illumination that they have and were at least two miles away.

Mr. Breidenstein noted that Mr. Dusing had stated that if this request is not allowed, then they would be permitted a 150' sign on the McDonald's property. He stated that this would not be an automatic approval and would have to come before this Board for a Variance.

Mr. Dusing stated that there will not be a 40' high on-premise sign. They will have a 50 sq. ft. standard golden arches entrance sign that is 18 feet high. This request is an alternative to the free-standing high-rise sign. He added that in Edgewood the menu board on the drive-thru is considered a sign and, therefore, they will need to be told what a sign is.

Mr. Tim Greene, Real Estate Development, McDonald's, stated that the shared sign is to attract travelers off the highway and the road sign is to identify McDonald's to travelers on KY 338. They have no intention of erecting two high rise signs. The road sign will be 18' high with 50 sq. ft. in the service area.

Mr. Dusing displayed a picture of the type of sign they would have at the entrance.

Mr. Ryan moved that the change or modification to the existing Chevron sign that is a pre-existing non-conforming use be approved to allow the addition of the McDonald's sign, and there is to be no other free-standing sign used to attract traffic from I-75. Mr. Houston seconded the motion.

Chairman Whitton asked if they would agree that the application for the entrance sign will be no bigger than approximately 50 square feet and no more than twenty feet tall.

Mr. Dusing stated that as long as they have the shared use of the Chevron sign, they agree to have no other high-rise sign on the premises. They also agree that the entrance sign will be no bigger than approximately 50 square feet and no more than twenty feet tall provided that it is approved if it otherwise meets the ordinance.

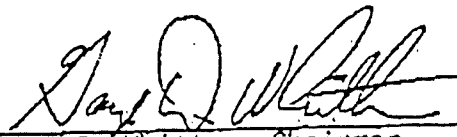
Chairman Whitton stated that as long as the sign meets the standard criteria it will be granted.

Mr. Ryan included the comments made by Chairman Whitton and Mr. Dusing as part of the motion. Mr. Houston seconded the amendment to the motion.

Chairman Whitton asked for a vote on the motion made by Mr. Ryan and it carried unanimously.

There being no further business to come before the Board, Mr. Ryan moved that the meeting be adjourned. Mr. Archambault seconded the motion and it carried unanimously.

APPROVED:

  
\_\_\_\_\_  
George D. Whitton, Chairman

Attest:

  
\_\_\_\_\_  
Jan Hancock, Recording Secretary

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)  
Thomas Bishoff  
11200 Paddock Drive  
Union, KY 41091

2. ADDRESS OF PROPERTY  
KY 338/EAB Drive  
adjacent W. side Chevron

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
McDonald's

DEED BOOK: 187,151,166 PAGE NO.: 550,448 1/2, 460 : 77,77,2064

4. TYPE OF RESTRICTION (S) (Check all that apply)

- |                                     |   |                                     |   |
|-------------------------------------|---|-------------------------------------|---|
| <input type="checkbox"/>            | Zoning Map Amendment<br>from _____ to _____ | <input type="checkbox"/>            | Conditional Use Permit                    |
| <input type="checkbox"/>            | Development Plan                            | <input type="checkbox"/>            | Conveyance Plat<br>(P & Z Code No. _____) |
| <input type="checkbox"/>            | Subdivision Plat                            | <input type="checkbox"/>            | Final Plat<br>(P & Z Code No. _____)      |
| <input checked="" type="checkbox"/> | Change in Non-Conforming Use                | <input checked="" type="checkbox"/> | Appeal                                    |

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
2950 WASHINGTON STREET - ROOM 205  
BURLINGTON, KENTUCKY 41005

*Thomas W. Breidenstein*

SIGNATURE OF COMPLETING OFFICIAL

Thomas W. Breidenstein, Zoning Enforc. Officer  
NAME AND TITLE OF COMPLETING OFFICIAL  
(type or print)

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Thomas W. Brudenstein  
on behalf of the Boone County Planning Commission this 21st day  
of May, 1990.

Mildred C. Becker  
MILDRED C. BECKER  
NOTARY PUBLIC, State at Large

My commission Expires:

May 14, 1994

This instrument was prepared for recording purposes only by:

Mildred C. Becker  
MILDRED C. BECKER  
Boone County Planning Commission  
Boone County Administration Bldg.  
2950 Washington Street - Room 205  
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

BCPC 01/89



ADAMS, BROOKING, STEPNER, WOLTERMANN & DUSING

*Attorneys and Counselors at Law*

JOHN R. S. BROOKING \*  
DONALD L. STEPNER \*  
JAMES G. WOLTERMANN \*  
GERALD F. DUSING  
MICHAEL M. SKETCH \*  
DENNIS R. WILLIAMS \*  
JAMES R. KRUER \*  
JEFFREY C. MANDO \*  
R. JEFFREY SCHLOSSER \*  
MARC D. DIETZ \*

GREGORY S. SHUMATE \*  
J. S. "BROOK" BROOKING \*  
STACEY L. GRAUS \*  
PAUL J. DARPEL \*  
LORI A. SCHLARMAN \*  
CHANDRA S. BALDWIN \*  
ROBERT D. DILTS \*  
WESTON W. WORTHINGTON

8100 BURLINGTON PIKE-SUITE 400

P. O. BOX 576

FLORENCE, KENTUCKY 41042-0576

AREA CODE 606-371-6220

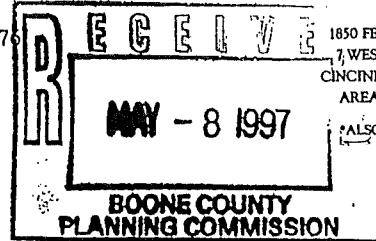
FAX 606-371-8341

May 6, 1997

421 GARRARD STREET  
P. O. BOX 861  
COVINGTON, KENTUCKY 41012-0861  
AREA CODE 606-291-7270  
FAX 606-291-7902

1850 FEDERATED BUILDING  
7 WEST SEVENTH STREET  
CINCINNATI, OHIO 45202-2417  
AREA CODE 513-241-7460

ALSO ADMITTED IN OHIO



CHARLES S. ADAMS (1906-1971)  
C. GORDON WALKER (1911-1967)

Mr. Kevin T. Wall, AICP CDT  
Director, Zoning Services  
BOONE COUNTY PLANNING COMMISSION  
2995 Washington Street  
Burlington, KY 41005

RE: Application for McDonald's Richwood High-Rise Sign

Dear Mr. Wall:

I have received your letter dated May 1, 1997 regarding the above-referenced matter. I have spoken with Paul Darpel of my office regarding your concern that a completed Application was not submitted in time for a May hearing. The explanation is as follows.

As you know, Greg Alexander of McDonald's called you immediately upon notice to him of a problem. He immediately ordered us to make the situation conform to all applicable requirements. We contacted the Planning Commission office requesting the appropriate Application and requirements. However the Application sent to us was not the proper Application to address the issue of changing the height of the sign.

After Paul sent you the letter setting out the history of the sign at its current location and receiving the proper Application from you we began our diligent efforts to complete the Application as quickly as possible. In order to verify that we were providing you with the correct and necessary information on the Application, Paul had tried for several days to contact Ed Coleman who had also tried to return Paul's calls. However they had missed each other for several days in playing phone tag. Once they were finally able to discuss the Application it was apparent to Mr. Coleman that the filing deadline for the May hearing probably could not be met due to the fact that a McDonald's representative would have to sign the Application.

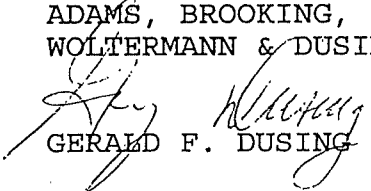
Mr. Coleman informed Paul of this fact and suggested that we need not be concerned if this matter went over to the June hearing. We were unaware that this would cause concern on the part of your office and appreciated the cooperation your office

Mr. Kevin T. Wall, AICP CDT  
Director, Zoning Services  
BOONE COUNTY PLANNING COMMISSION  
May 6, 1997  
Page Two

was providing. We truly understand that you wish to promptly address all issues before the Commission. I hope that you understand that we did make diligent efforts to comply with your request as soon as possible. We will forward to you the signed Application as soon as the information is verified. We apologize for any inconvenience and will do our best to cooperate with you in any way possible. If there is anything I can help you with to expedite this matter, please feel free to contact me at 371-6220.

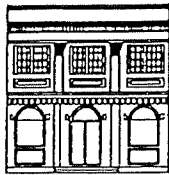
Very truly yours,

ADAMS, BROOKING, STEPNER  
WOLTERMANN & DUSING

  
GERALD F. DUSING

GFD:vam

# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005  
606-334-2196 FAX 606-334-2264

April 16, 1997

Mr. Paul J. Darpel, Esq.  
Adams, Brooking, Stepner, Woltermann & Dusing  
8100 Burlington Pike  
Suite 400  
P.O. Box 576  
Florence, KY 41042-0576

FAX: 371-8341

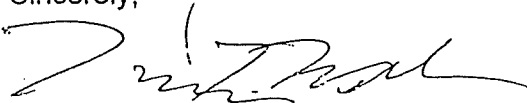
RE: McDonald's High Rise Sign at I-75/Richwood Road Interchange, Boone County, Kentucky

Dear Mr. Darpel:

In response to the pending zoning violation for the modifications made to the above referenced sign without a permit, and to your letter dated April 15, 1997, it is my determination that the modifications made to the sign must be approved by the Board of Adjustment and Zoning Appeals. A "Change in Nonconforming Use" will need to be approved by the Board through a Public Hearing procedure because tangible, physical alterations have been made to a use (structure) which has pre-existing, nonconforming status. The structure is nonconforming because it exceeds the maximum size and height requirements for the zone in question (C-4) and because the sign is an "off premises" sign. Even though the overall size of the signage is proposed to be reduced, KRS 100.253 requires such changes to be reviewed and approved by the Board of Adjustment, and the Board must find that the "new" nonconforming use "is in the same or a more restrictive classification" as the nonconforming use to be replaced.

The application form and fee schedule that I faxed to you yesterday regarding this matter are the correct documents for this procedure. Please call me if you have any questions regarding this letter. You should contact Ed Coleman, Planner, regarding the Board of Adjustment process and application submission. Ed handles all Board of Adjustment requests.

Sincerely,



Kevin T. Wall, AICP CDT  
Director, Zoning Services

cc: Ed Coleman, Planner

KTW/vlm

COPY

CLUR # 97-BCBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

McDonald's Corporation  
635 Brookside Blvd.  
Westerville, Ohio 43081

2. ADDRESS OF PROPERTY

McDonald Corporation  
Boone County, Kentucky

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

McDonald's

DEED BOOK: 46

PAGE NO.:25

GROUP NO.: 2064

4. TYPE OF RESTRICTION (S) (Check all that apply)

Zoning Map Amendment:  
From      to     

Conditional Use Permit

Development Plan

Conditional Zoning

Subdivision Plat  
(Unrecorded)

Other: Change in Non-Conforming Use

Variance

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION  
2995 WASHINGTON STREET  
BURLINGTON, KENTUCKY 41005



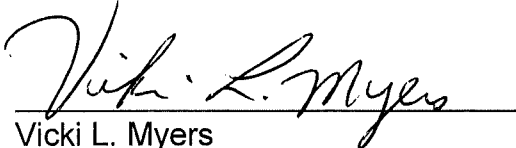
SIGNATURE OF COMPLETING OFFICIAL

Edward Coleman, Planner  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Edward Coleman, on behalf of  
the Boone County Planning Commission this 27th day of June 1997.

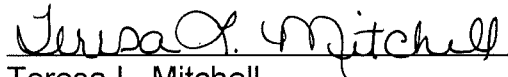


Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:

April 17, 1999

This instrument was prepared for recording purposes only by:



Teresa L. Mitchell  
Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Change in Non-Conforming Use, approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of June 11, 1997 Certificate of Land Use Restriction (# 97-BCBOA-006-A), for McDonald's Corporation, Property Owners

The following conditions will apply: 1). The McDonald's sign is approved at a height of 137 feet (The former location of the Chevron Sign) provided the following: The property owner and the applicant agree in writing to willfully abandon the right to place any other signage on the poles. Only the McDonald's Sign shall remain. If not, the sign must be lowered to its original location. 2). The sign will be turned off at 11:00 P.M. Monday through Thursday and at midnight Friday through Sunday.

The approved Change in Non-Conforming Use as well as the preceding conditions apply to the property

described in: DEED BOOK 46

PAGE NO. 25

Group No. 2064