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CITY OF MILWAUKEE
UTILITIES & LICENSING HEARING

In the Matter of:
McDONALD'S CORPORATION
3137 South 76th Street

COMMITTEE MEMBERS

ALD. JAMES BOHL, JR. - Chairman
ALD. JOE DAVIS, SR. - Vice Chairman
ALD. JOSEPH A. DUDZIK
ALD. TERRY L. WITKOWSKI

HEALTH DEPARTMENT by PANDORA BENDER
CITY ATTORNEY'S OFFICE by BRUCE SCHRIMPF

Proceedings had and testimony given in the
above-entitled matter before the UTILITIES &
LICENSING COMMITTEE OF THE CITY OF MILWAUKEE on the
March 29th, 2004, before Terese M. Schiebenes of
Milwaukee Reporters Associated, Inc.

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PROCEEDINGS

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(All City Personnel were previously duly

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sworn.)

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CHAIRMAN BOHL: Finally, we have Carolyn Koch, agent for McDonald's Corporation 24-hour establishment application for McDonald's at 3137 South 76th Street in the 11th District. And thank you for your patience and your accommodating us here. Were you sworn in beforehand, Carolyn?

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MS. KOCH: I was not.

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(Whereupon, CAROLYN J. KOCH was duly sworn.)

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CHAIRMAN BOHL: Alderman Witkowski would move for reconsideration on this item. Hearing no objections, so ordered. And Ms. Koch, I need to ask you if you acknowledge receiving notice of today's meeting with the possibility that your application could be denied? It is cited for an objection that this location if licensed for a 24-hour establishment would lead to excessive noise, late night disturbances, litter, loitering, and traffic generated by the existence of a 24-hour license that the health, welfare, and safety of the neighborhood will be adversely impacted.

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Department of Neighborhood Services?

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MS. BENDER: Neighborhood Services has two

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1 sets of orders on this property, one of those orders
2 being in violation of their Board of Zoning Appeals
3 plan of operation. In November we received a
4 complaint that this McDonald's was violating their
5 plan of operations on the weekend, operating until
6 1:00 a.m. on weekdays contrary to their plan.

7 An inspection was done, and the inspector
8 met with Carrie Koch, who acknowledged the extended
9 hours in the past. She said they have restricted
10 hours after speaking with the alderperson and that
11 they were no longer violating their plan of operation.

12 CHAIRMAN BOHL: Ms. Bender, what were the
13 approved hours of their operating until 1:00 a.m.?

14 MS. BENDER: You must operate your facility
15 in accordance with the plan of operation approved by
16 the Board of Zoning Appeals January 28, 2003, and
17 specifically, the hours of operation are Sunday, 5:00
18 a.m. to 11:00 p.m. and Friday, Saturday 5:00 a.m. to
19 12:00 a.m. During the summer hours, the restaurant
20 stays open one our later Memorial Day through Labor
21 Day.

22 MR. SCHRIMPF: Mr. Chairman, could a copy of
23 that be made a part of the record?

24 CHAIRMAN BOHL: Do you have an additional
25 copy that you can provide?

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MS. BENDER: I can get an additional copy.

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CHAIRMAN BOHL: Was there any other

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objection?

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MS. BENDER: We had orders on the property.

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CHAIRMAN BOHL: Are there questions by

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committee of Ms. Bender here at this point relating to

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this? And when we do have a copy of that, we'll have

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Alderman Davis move to make those Neighborhood Service

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orders part of our record. Hearing no objections, so

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ordered.

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There is no police report. We'll go to you,

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Alderman Dudzik.

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ALDERMAN DUDZIK: Thank you. Because of a

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number of reasons, I have intimate knowledge of this

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particular property. First of all, I live four blocks

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away. Secondly, I had in the past received complaints

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that the place was actually operating 24 hours. Those

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complaints came into my office quicker than I could

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get the place shut -- or get the place to comply with

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its plan of operations. It took me weeks to get that

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done as opposed to the complaints which occurred

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probably within days of them operating 24 hours

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without notifying anybody.

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I have another fast food franchise in the

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area that recently remodeled and in their remodeling

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1 plans asked for potentially longer hours, and I have
2 yet a third franchise that is now pushing for 24-hour
3 service. And I have had a neighborhood meeting on the
4 topic of the expansion of one franchise and on the
5 other franchise request for a liquor license, and it
6 is very clear to me, without even living in the
7 neighborhood, that expanded hours for any of these
8 franchises along 76th Street is not something that the
9 neighborhood would like to see. And, again, I ask
10 that this be denied.

11 CHAIRMAN BOHL: Ms. Koch, is there anything
12 that you would want to say in terms of the plan of
13 operation? I'm going to guess at this point that you
14 are not necessarily seeking 24 hours? I don't want to
15 speak for you here.

16 MS. KOCH: That's correct, that's correct.

17 CHAIRMAN BOHL: Is this comparable to what
18 we've seen in some of the other corporate stores, 2:00
19 a.m.?

20 MS. KOCH: Yes.

21 CHAIRMAN BOHL: Friday night to Saturday
22 morning?

23 MS. KOCH: Seven days a week.

24 CHAIRMAN BOHL: 2:00 a.m. seven days a week?

25 MS. KOCH: Yes.

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1 CHAIRMAN BOHL: So operation would be to
2 change to allow additional hours of midnight to 2:00
3 a.m. And just so you're aware, even if that were
4 approved, it sounds as though from the approval of the
5 recent BOZA you have to have that amended. Even if
6 this body were to approve it, you would have to have
7 that amended to reflect the hours from 11:00 p.m. to
8 midnight to get that additional hour, otherwise,
9 functionally you're shut down for an hour, then I
10 guess you could open back up at midnight for two more
11 hours.

12 MR. SCHRIMPF: Mr. Chairman. Like all
13 licenses that the committee is familiar with in the
14 alcohol beverage arena, there has to be zoning for
15 alcohol beverages and there has to be a license. You
16 need both things to operate. So if they have a
17 license, that's fine, but they also need the Board of
18 Zoning Appeals to do it. If they have BOZA, that's
19 fine, but they also need a license. You need two
20 things to operate. It's kind of like a train; you
21 need a locomotive and tracks. No tracks, no train, no
22 locomotive, no train. You need both things.

23 CHAIRMAN BOHL: Thank you, Mr. Schrimpf.

24 ALDERMAN DAVIS: Now I'm really clear on
25 this one.

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1 CHAIRMAN BOHL: Is there anything that you
2 would like to provide at this point in terms of
3 additional information?

4 MR. PRZYBYSZEWSKI: I just have one
5 question. According to BOZA, it says that we can open
6 til 11:00 p.m. and midnight on Friday and Saturdays,
7 but then from Memorial Day to Labor Day we can stay
8 open one hour later. Is that still acceptable, or it
9 can only be midnight seven days a week, correct?

10 CHAIRMAN BOHL: If this committee does not
11 grant you that license between Memorial Day and Labor
12 Day, you're functionally back to midnight.

13 MR. PRZYBYSZEWSKI: So we can do midnight
14 seven days a week. That is acceptable, that's within
15 the guidelines of --

16 CHAIRMAN BOHL: If it grants you an
17 additional hour during those summer months, it would
18 be midnight seven days a week then.

19 MR. PRZYBYSZEWSKI: Thank you. That's all I
20 have.

21 CHAIRMAN BOHL: Nothing additional then at
22 this point here? I'm going to guess the same
23 standard, the same plan of operation in terms of what
24 you would do to prevent is pretty concurrent with the
25 other locations. Questions by committee? Otherwise,

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1 this matter is in committee. Is there a motion?

2 ALDERMAN WITKOWSKI: I'll move to deny based
3 on the fact it would lead to excessive noise, late
4 night disturbance, would affect the health, safety,
5 and welfare of the adjoining neighborhood.

6 CHAIRMAN BOHL: The motion by Alderman
7 Witkowski is for denial based on excessive noise, late
8 night disturbances, and that the license would
9 adversely impact the health, safety, and welfare of
10 the neighborhood. On the motion, Alderman Davis.

11 ALDERMAN DAVIS: On the motion, I'd like to
12 ask Mr. Schrimpf, since on the inspection report from
13 BOZA and Department of Neighborhood Services indicate
14 a non-compliance and now that that's part of the
15 record, can we also use that as criteria for denying,
16 also?

17 MR. SCHRIMPF: Sure. That's clear in the
18 ordinance.

19 ALDERMAN DAVIS: If I may ask Alderman
20 Witkowski to amend his motion as a friendly amendment
21 to include the report that was just made part of the
22 record also for reason for denial.

23 ALDERMAN WITKOWSKI: So amended.

24 MR. PRZYBYSZEWSKI: Can I comment to that?

25 CHAIRMAN BOHL: No, you cannot. Once a

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1 measure is in committee, the only three people I want
2 to hear from is either myself, Alderman Witkowski, or
3 Alderman Davis, and that's it. The motion as amended
4 would be based on the aforementioned objections as
5 well as past non-compliance with BOZA. Mr. Copeland?

6 MR. COPELAND: I'm sorry, Mr. Chairman. I
7 need a point of clarification. In their BOZA
8 decision, is it says during the summer hours the
9 restaurant stays open one hour later Memorial Day
10 through Labor Day. The motion is to deny the 24
11 hours. Does it also deny this section?

12 CHAIRMAN BOHL: Functionally my read on
13 this -- and I will stand corrected here -- my read is
14 BOZA has the ability to grant you additional hours for
15 a specific period of time. We deal with an annual
16 license. BOZA can say, Jim, that you can stay open
17 for two days a year and specify the two days. We deal
18 with an annual license, and we don't have the ability
19 to extend your hours for two days. So, therefore,
20 functionally a denial would mean that nothing would be
21 operating beyond 12:00 midnight year around.

22 It would kill BOZA, it would nullify the
23 additional hour for the three months that BOZA
24 provides them for. That is correct, that's what it
25 boils down to.

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1 MR. SCHRIMPF: Mr. Chairman, I think you're
2 correct. The point is that if BOZA says they can be
3 open one additional hour Memorial Day through labor
4 day, then they have to come in here, and they have to
5 apply for a license to operate. Now, Mr. Chairman,
6 the license -- and I agree with you -- the license
7 would be granted for a year, that's true, but the fact
8 of the matter is is that because they need both the
9 license and the BOZA approval, functionally the
10 license would only be operating.

11 CHAIRMAN BOHL: They've just got the track
12 without the locomotive. They're not going anywhere.

13 MR. SCHRIMPF: Actually, if the committee
14 granted the license, they could go to the one extra
15 hour.

16 CHAIRMAN BOHL: They're going to be able to
17 go down to the next station on the path.

18 MR. SCHRIMPF: They're going to take a small
19 side, Mr. Chairman.

20 CHAIRMAN BOHL: I hope that's clarification
21 here. So the motion as amended here would be based on
22 the neighborhood objections relayed and in addition to
23 past non-compliance with BOZA, BOZA-stipulated hours.
24 Is there any discussion on that motion? Is there any
25 objection? Hearing none, so ordered. Thank you.

