

SEDGWICK COUNTY

W.S.C.
METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421

November 24, 1993

Kevin Downey
McDonald's Corporation
Kansas City Region
11880 College Blvd., Suite 500
Overland Park, KS 66210

Re: BZA 30-93 - Variance to increase the height of a pole sign from 25 feet to 30 feet on property located West of Rock Road and South of 37th St. North.

Dear Mr. Downey:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on November 23, 1993. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

Sincerely yours,



Louise Olivarez, Secretary
Board of Zoning Appeals

Enclosure

cc: Jane Messner, Wal-Mart Stores, 702 S.W. 8th St., Bentonville, AR 72716
W. Matt Raper, McDonald's at Tallgrass, 8100 E. 21st Court, 67226
Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk

subject to the following conditions:

1. Prior to installing the requested 30-foot-tall pole sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements except that of height permitted.
2. Only one pole sign shall be permitted on this application lot and it shall be no taller than 30 feet.

ADOPTED AT WICHITA, KANSAS, this 23rd day of November, 1993.


Susan Osborne-Howes, Vice-President

ATTEST:


Louise Olivarez, Secretary

BZA RESOLUTION NO. 30-93

WHEREAS, Wal-Mart Stores, Inc. and McDonald's Corporation, pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to increase the height of a pole sign from 25 feet to 30 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 4, Block 1, Comotara Power Center Addition Wichita,
Sedgwick County, Kansas. Generally located West of Rock Road;
South of 37th St. North.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of November 23, 1993, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B and Section 24.04.250, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as, under the current ownership, it is considered only part of a zoning lot whose owner will allow it to use only one of the permitted signs thus limiting its height to 25 feet, whereas in the near future, the lessee will purchase the 200-foot-wide site thus giving it the status of a separate zoning lot which could have either two 25-foot-tall pole signs or one 30-foot-tall pole sign; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the additional five-foot height will not block the view of other nearby signs, in part because the upper eleven feet of the sign is the open arches of the McDonald's logo; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the sign ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant would have the added cost and inconvenience of increasing the sign height in a few years, after the property is purchased rather than leased, if he wishes to take advantage of the maximum height allowed; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as the added five feet in height will allow the reader board portion of the sign to be approximately 10 feet above grade rather than at a lower height which might block views from some vehicles at some times; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the sign ordinance inasmuch as the sign height requested - 30 feet - would be permitted today if McDonald's owned rather than leased their site and installed only one of the two permitted pole signs; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to increase the height of a pole sign from 25 feet to 30 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 4, Block 1, Comotara Power Center Addition Wichita,
Sedgwick County, Kansas. Generally located West of Rock Road;
South of 37th St. North.

height in a few years, after the property is purchased rather than leased, if he wishes to take advantage of the maximum height allowed.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, but may be in the public interest, inasmuch as the added five feet in height will allow the reader board portion of the sign to be approximately 10 feet above grade rather than at a lower height which might block views from some vehicles at some times.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the sign ordinance inasmuch as the sign height requested - 30 feet - would be permitted today if McDonald's owned rather than leased their site and installed only one of the two permitted pole signs.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, it is recommended the variance be granted, subject to the following conditions:

1. Prior to installing the requested 30-foot-tall pole sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements except that of height permitted.
2. Only one pole sign shall be permitted on this application lot and it shall be no taller than 30 feet.

SECRETARY'S REPORT

CASE NUMBER: BZA 30-93

OWNER/APPLICANT: Wal-Mart Stores, Inc. and
McDonald's Corporation

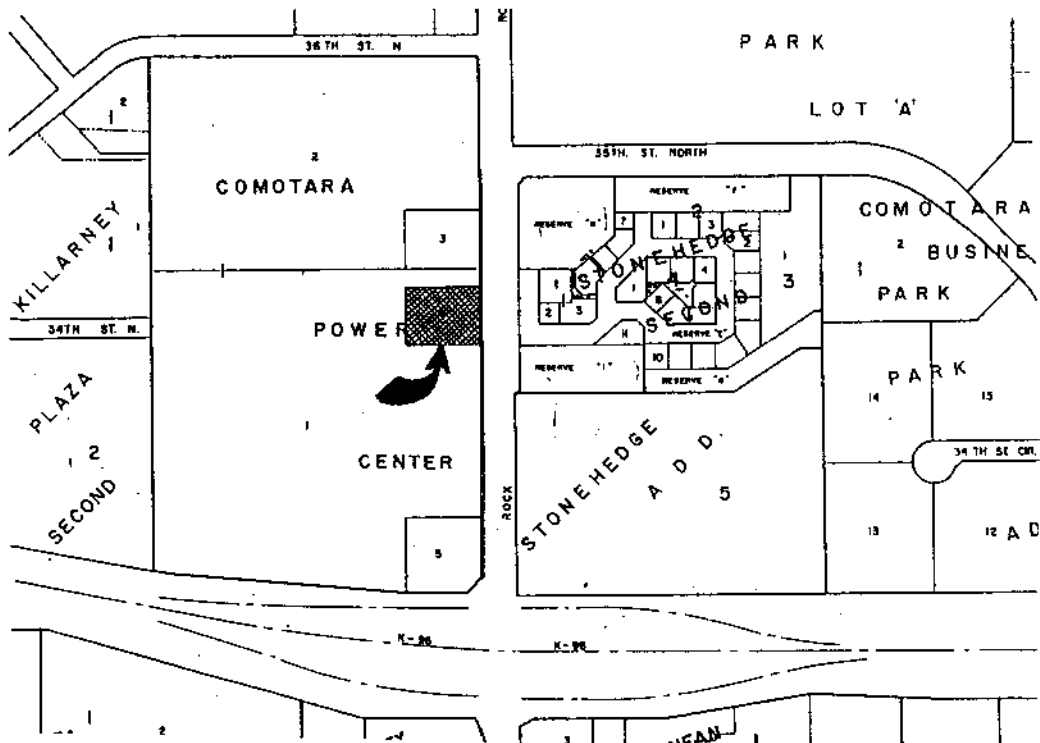
AGENT: Kevin Downey

REQUEST: Variance to increase the height of a pole sign from 25
feet to 30 feet.

CURRENT ZONING: "LC" Light Commercial w/ DP-195

SITE SIZE: 1.15 acres

LOCATION: West of Rock Road; South of 37th St. North.



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: McDonald's proposes to construct a new restaurant in the 3500 block of N. Rock Road on a lot currently owned by Wal-Mart and located in front of, and north of the Sam's store, which lot is also owned by Wal-Mart. All commercial contiguous property held in one ownership is considered to be one zoning lot, especially when cross-lot circulation is intended as in this case with McDonald's and Sam's. In accordance with sign code regulations for the "LC" district, no ground or pole sign shall exceed a height of 25 feet unless the total number of permitted ground or pole signs is reduced. For each permitted sign not utilized, one sign may be increased in height by five feet. The use of this formula shall not permit any sign to exceed a height of 35 feet. Although the total number of permissible pole signs for this zoning lot has not yet been utilized, the owner (Wal-Mart) will not agree to give up one potential sign to allow this McDonald's sign an increase in height to 30 feet. Therefore, a sign height variance has been requested.

McDonald's will be purchasing the application area from Wal-Mart within the next five years. At that time, the application area will become a separate zoning lot and, due to its 200-foot frontage, would be permitted two 25-foot-tall pole signs or one 30-foot-tall pole sign. To avoid the expense of raising the sign in a few years and also to maximize the visibility of the sign now for traffic on K-96 as well as on Rock Road, McDonald's has filed this sign height variance request.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Undeveloped
SOUTH:	"LC"	Undeveloped & Sam's parking lot
EAST:	"E"	Office Park
WEST:	"LC" & "C"	Proposed Star Lumber & Supply

UNIQUENESS: It is the opinion of staff that the application property is unique inasmuch as, under the current ownership, it is considered only part of a zoning lot whose owner will allow it to use only one of the permitted signs thus limiting its height to 25-feet, whereas in the near future, the lessee will purchase the 200-foot-wide site thus giving it the status of a separate zoning lot which could have either two 25-foot-tall pole signs or one 30-foot-tall pole sign.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the additional five-foot height will not block the view of other nearby signs, in part because the upper eleven feet of the sign is the open arches of the McDonald's logo.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the sign ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would have the added cost and inconvenience of increasing the sign