

May 8, 2006

Mr. Jim Futryk
701 Pilcher Court
Powell, OH 43065

Re: DRK/McDonald's

Dear Mr. Futryk,

This letter is intended for information only purposes. I am not the best public speaker and though I intend on speaking at Wednesday's Administrative review, I still want to cover everything I can with you in writing as I know I will more than likely miss something.

At the last P&Z meeting, I found DRK's request for the Commission to say restaurant is a permitted use for this parcel redundant, as it is already and is stated clearly in their Development Plan. The definition of highway business is merely a tool for better narrowing a type of business.

Mr. Kenney said this was a new issue. This confused me because after all Murphy Park is DRK's development and it was DRK's Development Plan's language. The issue specifically regarding Highway Business may seem new because this is the first time DRK has brought this type of store to the table.

In this area, McDonald's has established itself as a highway business. McDonald's has dictated, for Powell and DRK, they cater to vehicles. Dave Warren with McDonald's stated the same in January, this will not be a destination, hence serves patrons in vehicles.

Some argue Wendy's is an equal comparison. Columbus being the home of Wendy's, it has in it's history established itself as a neighborhood restaurant, Shawnee Hills for example. McDonald's on the other hand, in the north and northwest area of Columbus, is strictly associated with highways and high commercial areas with multi-lane traffic. This parcel is not the place for McDonald's to try and be a good fit.

Powell's code defines highway business as a business catering to the motoring public including restaurant. McDonald's defines itself in much the same way. DRK's Development Plan states no Highway Business is permitted. Mr. Kenney scolded the City for this "new issue", as if you or Dave Betz had done something wrong. Powell did not make an error here, DRK did bringing McDonald's to this parcel.

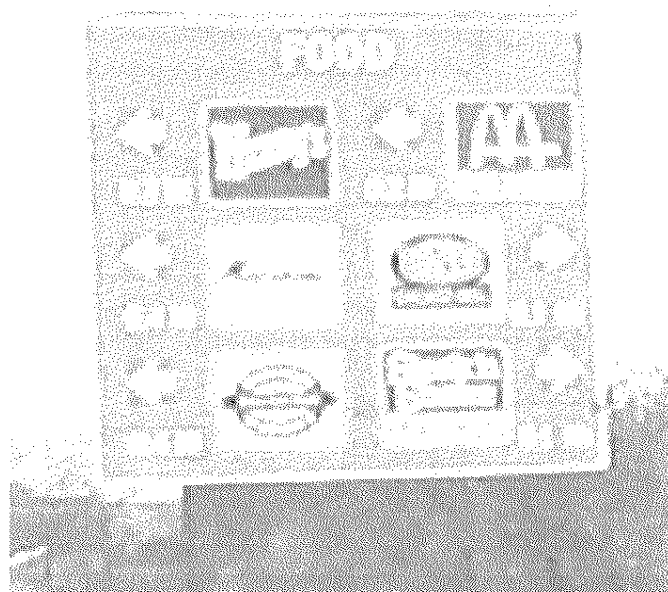
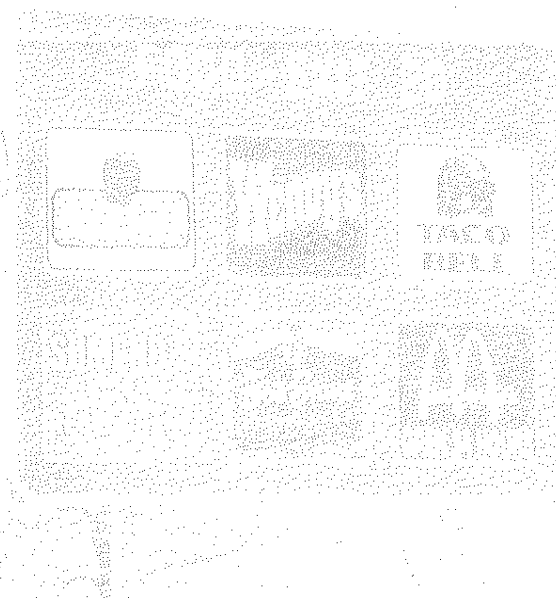
Please call or email me with any questions. See you on Wednesday. And yes, the residents will be prepared in the same way we have been for the past meetings.

Sincerely,



M Michela
225 Winter Hill Place
614-339-3169
mrsmichela@hotmail.com

ODOT's #1 Advertising Contract



McDonalds Fact Sheet

Columbus/Hilliard/Dublin/Worthington/Westerville/Delaware

“McDonald's Express for a world that can't slow down! McDonald's is popping up in more non-traditional locations like Amoco and Chevron stations, with full menu offerings and dining room seating, just like you'll find in a traditional McDonald's.” – McDonald's Website – Corporate Pages

“Is one of the world's most well-known and valuable brands and holds a leading share in the globally branded quick service restaurant segment of the informal eating-out market in virtually every country in which we do business.” – McDonald's Website – Corporate Pages

There are 20 McDonald's stores within a ten mile radius of Powell. All but one is on a four lane road with center or left turn lanes and/or in a major shopping center out parcel. The store located on Central Avenue in Delaware is on a “T” intersection with Grady Hospital and Speedway surrounded by retail businesses. – Information from McDonald's Website Store Locator Page

- | | | | |
|----|---|----|--|
| 1 | 7190 SAWMILL RD
COLUMBUS, OH 43235-1943 | 11 | 6948 LAKESIDE CT (SATELLITE)
WESTERVILLE, OH 43082 |
| 2 | 50 MEADOW PARK AVE
LEWIS CENTER, OH 43035 | 12 | 6948 LAKESIDE CT (DJ'S FOODS)
WESTERVILLE, OH 43082 |
| 3 | 6830 PERIMETER LOOP RD
DUBLIN, OH 43017 | 13 | 760 BETHEL RD
COLUMBUS, OH 43214-1900 |
| 4 | 337 W BRIDGE ST
DUBLIN, OH 43017-2124 | 14 | 1905 W HENDERSON RD
COLUMBUS, OH 43220-2503 |
| 5 | 3600 W DUBLIN GRANDVILLE RD
COLUMBUS, OH 43235 | 15 | 6000 SINCLAIR RD
COLUMBUS, OH 43229-3204 |
| 6 | 80 E WILSON BRIDGE RD
WORTHINGTON, OH 43085-2302 | 16 | 279 S SANDUSKY ST
DELAWARE, OH 43015-2622 |
| 7 | 5170 TUTTLE XING
DUBLIN, OH 43017 | 17 | 40 N. CLEVELAND AVE.
WESTERVILLE, OH 43081-1247 |
| 8 | 2750 BETHEL RD
COLUMBUS, OH 43220-2217 | 18 | 608 W CENTRAL AVE
DELAWARE, OH 43015 |
| 9 | 7557 WORTHINGTON GALENA RD
COLUMBUS, OH 43085-4797 | 19 | 3900 LYMAN DR
HILLIARD, OH 43026-1210 |
| 10 | 8555 ORION PL
COLUMBUS, OH 43240 | 20 | 2091 E DUBLIN GRANVILLE RD
COLUMBUS, OH 43229-3524 |

None are located less than 500 feet from a park, private homes or only have access by way of a two lane road and private drive.

Over half are directly associated to a blue highway service sign for advertisement.

GALLAGHER & KAVINSKY L.P.A.

8740 ORION PLACE • SUITE 200 • COLUMBUS • OHIO 43240
TELEPHONE (614) 885-9022 • FACSIMILE (614) 885-9024

TERENCE L. GALLAGHER
KEITH A. KAVINSKY
VICTORIA R. CLARK

April 3, 2006

VIA E-MAIL AND REGULAR U.S. MAIL

Tim Spencer
DRK and Company
470 Olde Worthington Road, Suite 101
Westerville, Ohio 43082

Re: Murphy Park/M Michela

Dear Mr. Spencer:

Please be advised I am counsel to M Michela with respect to the matters pertaining to Murphy Park in Powell, Ohio. This is to respond to your letter dated March 20, 2006, on behalf of DRK and Company ("DRK") to my client.

First, you refer to a Maintenance Agreement, which is a publicly recorded document. There is simply nothing inappropriate with regard to my client's review of the document. Because it is a public record, any party may review the Agreement and make their conclusions regarding its intent. Despite your assertion, my client has never suggested "McDonalds pay more than its proportionate share". Please refrain from making this untrue statement again.

Second, your claim Mrs. Michela is somehow acting as an unlicensed real estate broker/agent is entirely without merit. My client's suggestion she would like a True Value store near her home because she likes to shop there is not a sanctionable activity. Moreover, even a cursory review of Ohio Revised Code Section 4735.01, which you refer to in your letter, reveals in order to engage as a real estate sales person/broker, the individual must expect or agree to receive a fee or commission. There has never been any expectation and/or agreement Mrs. Michela would receive any compensation in exchange for a tenant being located in any shopping center.

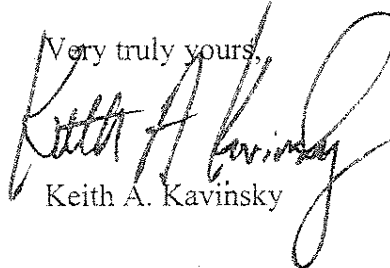
Finally, there is no basis for you to insist my client "limit her conversations with McDonalds". As a resident of Powell, she has every right to voice her legitimate concerns regarding the proposed development of neighboring property. Moreover, you acknowledge "Cathy Daily or any other McDonalds representative would be happy to discuss their building

Tim Spencer
DRK and Company
April 3, 2006
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and site plans with you or anyone else". However, you claim you would view such communication as "interference" with your real estate transaction with McDonalds.

In addition to the foregoing assertions being internally inconsistent, my client has a right to utilize the local political/zoning process to voice her legitimate concerns and opinions regarding this matter. Please note under Ohio law, an individual's activities are privileged when that party, in good faith, acts to preserve a legally protected interest of her own which the party believes may be otherwise impaired by the performance of a transaction. Fortunately, in America we are entitled to express our opinions and/or concerns in a public forum without fear of retribution. Merely because the view of Mrs. Michela and her neighbors may not be directly aligned with DRK's pecuniary interests, does not provide you the right to intimidate and/or threaten my client regarding this or any other matter. In the event you continue to issue any such threats to Mrs. Michela, we will pursue all available legal remedies.

I would appreciate your attention to the foregoing. Please do not hesitate to call with any questions or comments.

Very truly yours,

Keith A. Kavinsky

KAK/sam
cc: M Michela
Jill Tangeman
Powell P & Z Members