

FUND	2016 Current Budget	Net Change	2016 Proposed Budget
Fund 101 – General Fund	\$ 22,047,740	\$ 3,127,500	\$ 25,175,240
Fund 202 – Major Road Fund	7,747,860	602,940	8,350,800
Fund 203 – Local Street Fund	10,258,360	40,000	10,298,360
Fund 206 – Fire Fund	10,113,740	-	10,113,740
Fund 207 – Special Police Fund	9,638,170	-	9,638,170
Fund 213 – RABA Millage Fund	612,250	-	612,250
Fund 214 – Pathway Millage Fund	584,540	30,730	615,270
Fund 232 – Tree Fund	208,900	-	208,900
Fund 244 – Water Resources Fund	574,110	967,410	1,541,520
Fund 265 – OPC Millage Fund	754,630	314,300	1,068,930
Fund 299 – Green Space Millage Fund	2,213,800	-	2,213,800
Fund 313 – Street Improvement Bond – 2001 Series Fund	261,800	-	261,800
Fund 314 – SAD Street Improvement Bond – 2001 Series Fund	288,530	-	288,530
Fund 331 – Drain Debt Fund	202,990	-	202,990
Fund 369 – Older Persons Building Bond Refunding Fund	785,530	-	785,530
Fund 393 – Municipal Building Refunding Bond – 2010 Series Fund	769,350	-	769,350
Fund 394 – Local Street Refunding- 2011 Series Fund	501,020	-	501,020
Fund 402 – Fire Capital Fund	1,806,200	2,854,250	4,660,450
Fund 403 – Pathway Construction Fund	391,050	345,770	736,820
Fund 420 – Capital Improvement Fund	452,750	-	452,750
Fund 510 – Sewer Operations	15,155,900	-	15,155,900
Fund 530 – Water Operations	17,792,290	-	17,792,290
Fund 593 – Water & Sewer Capital Fund	7,776,190	106,900	7,883,090
Fund 595 – Water & Sewer Debt Fund	1,558,400	-	1,558,400
Fund 631 – Facilities Fund	6,089,270	10,148,500	16,237,770
Fund 636 – MIS Fund	2,789,870	400,000	3,189,870
Fund 661 – Fleet Fund	4,622,570	(21,760)	4,600,810
Fund 677 – Insurance Fund	416,000	-	416,000
Fund 736 – Retiree Health Care Trust	144,940	-	144,940
Fund 752 – Cemetery Perpetual Care Fund	-	-	-
Fund 761 – Green Space Perpetual Care Trust	-	-	-
Fund 843 – Brownfield Redevelopment Fund	-	-	-
Fund 848 – LDF Fund	337,800	-	337,800
Fund 851 – SmartZone Fund	-	-	-
Fund 870 – Museum Foundation Trust Fund	10,000	-	10,000
Fund 993 – EDC Fund	950	-	950
GRAND-TOTAL	\$ 126,907,500	\$ 18,916,540	\$ 145,824,040

PLANNING AND ECONOMIC DEVELOPMENT

2015-0348 Request for Conditional Use Approval - Auto Rite Sales, a proposed 714 square-foot office and 1,043 square-foot service bay building for a used car operation on .86 acre at 1923 E. Auburn Rd., located west of Dequindre, zoned C-1, Commercial Improvement; Syed Ahmed, Applicant

Attachments: [022216 Agenda Summary.pdf](#)
[Map aerial.pdf](#)
[021916 Stempien Assoc Letter.pdf](#)
[Autorite Planning PC Conditions 021016.pdf](#)
[Traffic Rev 020916.pdf](#)
[Letter Ahmed 020816.pdf](#)
[Site Plan C1.pdf](#)
[Storm Sewer Utility Plan.pdf](#)
[Landscape Plan S1.pdf](#)
[South Elevation.pdf](#)
[East Elevation.pdf](#)
[North Elevation.pdf](#)
[West Elevation.pdf](#)
[Staff Report 011516.pdf](#)
[Staff Report 111715.pdf](#)
[Site Plans 121515.pdf](#)
[Site Plans.pdf](#)
[Minutes PC 011916.pdf](#)
[Minutes PC 111715.pdf](#)
[Public Hearing Notice PC.pdf](#)
[Resolution \(Draft\).pdf](#)

Sara Roediger, Manager of Planning, stated that the Planning Department has been working with the Applicant for some time, and explained that the Applicant is currently operating a used car dealership out of a building on the corner of Auburn Road and Hessel. She stated that he received a Conditional Land Use (CLU) in 2013 to operate the facility, and as a part of the original CLU the Applicant agreed to come back at a future date with plans to develop the site properly. She noted that City Staff has worked with the Applicant for the past year to revise plans. She reported that the Planning Commission tabled the request in November, requesting the Applicant revise plans to reduce the size of the building to include only two bays. She stated that the Planning Commission approved the site plan at the January 19, 2016 meeting and recommended approval by Council subject to conditions.

She noted that the Applicant is requesting Council reconsider the recommendation that a maximum of 12 cars be on display in the parking lot, as he wishes to have 18 cars on site. She noted that another condition is requested for reconsideration is two violations within one year would prompt the revocation of the CLU. She explained that there is a long history with this Applicant of having too many vehicles on the site. Another condition the Applicant wishes Council to reconsider is that the gate on Hessel be removed and replaced to prevent access. He requests that the operational gate be permanently welded shut. She stated that if Council feels comfortable, welding of the gate would be acceptable.

Anam Ahmed was in attendance and stated that she would be speaking on behalf of her father. She requested Council consider the three amendments to the conditions, noting that it will greatly reduce the number of hardships that they will have to endure.

She explained that while 12 vehicles may seem like a reasonable amount, only a fraction of those cars are actually for sale as there are multiple business days

after a car is sold before it will leave the lot due to the amount of paperwork and length of time it takes for loans to come through. She noted that the increase in the size and improvements to the building will increase the taxes the business will pay.

She requested a modification of the condition mandating a revocation of the CLU after two or more violations be made, asking that a monetary penalty doubling with each violation be called for instead. She commented that the business should not be penalized if someone parks in the lot without the owner's permission, thereby adding to the number of cars there.

She asked that the gate on Hessel be allowed to be welded shut to save money rather than replacing it.

Ms. Roediger stated that Planning Staff concurs with the request to allow the gate to be welded. She commented that it is up to Council whether to allow penalties for violations. She pointed out that there have been issues in the past. She stated that 12 cars are recommended for the CLU as open driveways must be maintained.

Mr. Hetrick stated that he would suggest that the Applicant agree to a maximum of 12 cars. He stressed that he wished the condition regarding violations to remain. He commented that he would agree to allow the gate to remain if it is permanently closed.

Syed Ahmed, the Applicant, stated that he would agree to the conditions as stated by Mr. Hetrick.

Mr. Kubicina questioned whether the Applicant has somewhere that a vehicle could be moved to if it is sold but the financing or paperwork is not yet complete.

Mr. Ahmed responded that he does not sell inexpensive cars. He commented that it takes one to two weeks to deliver a car once it is sold.

Mr. Kubicina observed that the site plan allows 14 feet per car. He questioned whether that is the size of a small car.

Mr. Ahmed responded that he mostly deals with compact and medium sized cars.

Dr. Bowyer stated that it seems that the Planning Commission does not seem to want the Applicant to undertake the project. She questioned whether there would be a way for the Applicant to get a CLU back if it is revoked.

Ms. Roediger pointed out that a condition of approval is that the work must be completed by October 31, 2016; however, the Applicant could go back to the Planning Commission and ask for an extension. She commented that she would defer to the City's Legal Counsel to comment on violations. She stated that if the CLU was revoked, the Applicant would have to reapply.

John Staran, City Attorney, stated that a Conditional Land Use is a discretionary process. He explained that when specific conditions are imposed, there is an

agreement that they will be complied with. He commented that anyone who receives a CLU is at risk of having it revoked. He noted that while the Applicant would have opportunity to reapply, it would be viewed as a serious violation.

Dr. Bowyer questioned whether a gate could be installed at the front of the lot to prevent extra cars from gaining access to the lot.

Mr. Staran responded that the 12-car limitation is imposed on cars on display for sale. He stated that this limitation would not include someone that stops and leaves a distressed car. He commented that the City exercises discretion to deal with situations like that.

Dr. Bowyer questioned how it would be determined which cars are for sale, and commented that she expected that the City would look for no license plates or placards noting the vehicle is for sale. She commented that she would have no problem with welding the gate shut, and would favorably consider a monetary penalty.

Mr. Wiggins questioned whether displaying only 12 cars would be a hardship for the business and if it would be able to survive.

Mr. Ahmad responded that it would be difficult for him to have three employees.

Mr. Wiggins questioned whether there were lights on the property.

Ms. Roediger responded that the site plan photometrics met all requirements and included downward lights, and she noted where the lights were placed.

Mr. Wiggins stated that he was in favor of keeping the penalty as recommended by the Planning Commission.

Mr. Ahmed requested Council approve 16 to 17 cars.

Mr. Wiggins questioned what Mr. Ahmed would do if Council were to approve 12 cars and his business would not be successful.

Mr. Ahmed responded that he would still construct the building.

Vice President Morita questioned when the last zoning violation on the property occurred.

Ms. Roediger responded that code enforcement on the property last occurred in January.

Vice President Morita questioned whether the business was already over the limit of the number of cars before they came to the Planning Commission.

Ms. Roediger responded that the site to the west was being used for overflow parking, which was not permitted.

Vice President Morita questioned where the additional cars were moved.

Ms. Roediger responded that they were moved to a facility located in another community.

Vice President Morita questioned how long the business has been operating with a five-car restriction.

Ms. Roediger responded that Code Enforcement has been lenient with them and has been working with them to approve the site.

Vice President Morita noted that the Planning Commission recommended 12 vehicles, and commented that it is her understanding that the Applicant is not content with 12 vehicles. She questioned whether the Applicant is asking for City Council to disregard the Planning Commission's recommendation.

Mr. Ahmed responded yes.

Vice President Morita noted that this makes her very wary of the Applicant's intention. She stated that she has concerns that the Applicant may end up intensifying the use of this property to the detriment of the neighbors. She added that his request for a penalty makes her think that the Applicant is not planning on following the rules. Regarding the gate, she commented that she wants the hinges to be welded as well as the gate. She stated that she was one of the Planning Commission members who voted in favor of the plan; and she expressed disappointment that the Applicant has come to Council to ask for something that was not recommended. She stated that she cannot support any of the requests that the Applicant has made tonight as she does not believe that he will follow the rules.

Mr. Brown expressed concern that if the Applicant is limited to 12 vehicles his business would be considered at risk.

Mr. Ahmed responded that he rents a place in Shelby Township.

Mr. Brown expressed concern that if the business model requires more than 12 vehicles and fails because of a violation, there would now be a development that is not viable for anyone. He questioned whether 18 cars would be required to support that type of investment for the Applicant or for anyone else.

Mr. Ahmed responded that he will rent a place in Shelby Township to obey the condition.

Mr. Hetrick stated that he concurs with Vice President Morita and has significant difficulty approving the request. He noted that when he and the Applicant talked initially, the Applicant indicated that he would agree to the condition to display 12 cars. After several conversations, the Applicant is now stating that he cannot make things work with fewer than 14 to 15 cars. He stated that there is a challenge to the business model. He stressed that the Applicant's conditions would be 12 cars, violations would result in the permit being revoked, and the gate must be closed permanently.

Mr. Wiggins questioned how the business would operate during construction.

Ms. Roediger responded that there would have to be an interruption in the operation as it is known today for the construction period.

Mr. Wiggins questioned what would occur if Council does not approve the CLU based on the Planning Commission's recommendation.

Mr. Staran responded that if it is Council's decision tonight to deny the application, the Applicant would continue with the prior approval for five cars, or he could come back with a modified application and reapply, perhaps in a way that will address reservations and concerns listed by Council. He noted that the Applicant could also propose an entirely different use for the property.

Dr. Bowyer questioned whether a business model of 12 cars would cause the Applicant to cut employees. She noted the deadline for having the building complete of October.

Ms. Roediger responded that the City does not want to see another two-year gap, and is stating that the facility and all site improvements must be complete by October. She stated that they can apply for an extension, which could be taken to the Planning Commission in October for a status report as to whether progress is being made.

Mr. Tisdell noted that the Applicant is currently allowed to have five cars on display. He pointed out that the Applicant stated that he paid \$102,000 in sales tax in 2015. He commented that with five cars available for display, inventory must be turned almost two-and-one half times each month.

Mr. Ahmed mentioned that he also sells and buys auction cars.

Mr. Wiggins questioned what the penalty has been to exceed five cars.

Ms. Roediger responded that it would be a normal code violation. She explained that a warning is typically issued and then it would proceed through the normal code violation process. She noted that the policy has been that whenever an applicant is working with the City to improve the process, typically a stay is put onto Code Enforcement actions. She commented that Code Enforcement has not been issuing tickets as the City has been working with the Applicant through the site plan review process. She stated that the process is taking much longer than anyone anticipated which is part of the reason that an October 31st deadline is being included.

Mr. Wiggins questioned how violations are applied if the request is denied, the approval stays at five cars, and more cars are there. He questioned whether there is a limit to the fines.

Ms. Roediger stated that she would defer to the Code Enforcement Division to answer questions regarding violations.

Bob White, Supervisor of Building Services, stated that it would be a site plan violation, which falls under the City's Ordinances. He explained that enforcement can begin with a Civil Infraction Notice, which starts at \$70 for the first violation, is \$150 for the second, and up to \$500 for the third. He noted that the City also has the option of assessing the first Civil Infraction at \$70 and then going directly to a Citation, which would then go to the 52nd-3rd District Court. He stated that enforcement is done as many times as it is needed. He commented that District Court typically assesses a fine of \$500 for the tickets.

Mr. Staran stated that when the City undertakes Ordinance Enforcement, in the case of habitual violations where it is apparent that fines are not stopping or correcting the problem, the City does seek an abatement order from the Court which could even mean permanently enjoining the business from continuing. He noted that this is usually determined after several citations have not been a deterrent. The City can then seek injunctive relief from the Court to abate whatever the problem is.

Mr. Wiggins expressed concern that after three or four months of construction, the structure is still not complete, looks worse than it does now, and there has been no progress toward completion. He commented that while he supports small business owners, based on the past history of the behaviors that the City has seen from the Applicant he wishes to try to do the best for the neighborhood as well.

Mr. Kubicina questioned whether the Applicant would continue with building plans if the approval is not granted this evening and only five cars could be displayed.

Mr. Ahmed responded that he cannot spend \$200,000 for five cars.

Ms. Roediger noted that the Planning Commission's condition was that the gate be removed and replaced. She stated that any motion to approve by Council could include a condition that the gate be welded, as was discussed this evening.

A motion was made by Bowyer, seconded by Kubicina, that this matter be Adopted by Resolution. The motion failed by the following vote:

Aye 3 - Bowyer, Kubicina and Tisdell

Nay 4 - Brown, Hetrick, Morita and Wiggins

Enactment No: RES0038-2016

Resolved, that the Rochester Hills City Council hereby approves a Conditional Use Permit for Auto Rite Sales, a proposed 714 square-foot office and 1,043 square-foot service bay building for a used car operation on the eastern .29 acre of Parcel No. 15-25-482-025, located at 1923 E. Auburn Rd., between John R and Dequindre, zoned C-1, Commercial Improvement with an FB-2 Flexible Business Overlay, Syed Ahmed, Auto Rite Sales, Applicant, based on plans dated received by the Planning and Economic Development Department on February 8, 2016 with the following findings and conditions:

Findings:

1. The proposed building and other necessary site improvements meet or exceed the standards of the zoning ordinance.
2. The proposed building has been designed and is proposed to be constructed, operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the general vicinity, adjacent uses of land, and the capacity of public services and facilities affected by the use.
3. The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, and refuse disposal.
4. The proposed development should not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.
5. The proposal will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

Conditions:

1. That the construction of the new facility and all site improvements be completed by October 31, 2016. If the completion date is not met, the applicant can request an extension to be granted by the Planning Commission. If no extension is requested, the City will initiate action to revoke the conditional use permit.
2. A total of 12 vehicles shall be allowed for display and two in the bays at one time, prior to City Council consideration of the plans.
3. The use of surrounding, local neighborhood streets by Auto Rite customers shall be strictly prohibited.
4. If two or more violations, as determined by the local district court or violations of the conditions occur in one year on the west or east lot, the Conditional Use Permit shall be considered revoked, and staff shall be directed to initiate legal revocation proceedings of the Conditional Use Permit
5. Add a note to the plans that no cars will be allowed to be displayed or stored on the west property, prior to City Council consideration of the plans.
6. The gate accessing Hessel shall be permanently welded shut.

- 2015-0348** Resolution to postpone further deliberation and action on a pending motion on the floor to deny the request for Conditional Use Approval - Auto Rite Sales, a proposed 714 square-foot office and 1,043 square-foot service bay building for a used car operation on .86 acre at 1923 E. Auburn Rd., located west of Dequindre, zoned C-I, Commercial Improvement; Syed Ahmed, Applicant

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[Staff Report 011516.pdf](#)
[Staff Report 111715.pdf](#)
[Site Plans 121515.pdf](#)
[Site Plans.pdf](#)
[Minutes PC 011916.pdf](#)
[Minutes PC 111715.pdf](#)
[Public Hearing Notice PC.pdf](#)
[Resolution \(Draft\).pdf](#)

Mr. Staran stated that as the motion to approve failed, Council should take action by an alternate motion adopted by at least four members of Council. He suggested that it would be appropriate for someone to make a motion to deny the Conditional Land Use with appropriate findings.

President Tisdell questioned whether additional conditions would be required to a motion to deny.

Mr. Staran responded that there would be no conditions if denying.

Vice President Morita made a motion to deny the Conditional Land Use.

Mr. Hetrick seconded the motion. He questioned whether a denial would prevent Mr. Ahmed from coming back with a plan.

Mr. Ahmed stated that he has already spent \$8,000 to get to this point.

Mr. Hetrick stated that he wished to clarify that the Applicant can return with another plan.

Ms. Roediger confirmed that he could.

Mr. Staran stated that prior to taking a vote on the motion, findings in support of denial should be included as a part of the motion. He commented that if Council is not prepared this evening to set forth those findings in support of denial, he would suggest an additional motion be made to postpone further action on the motion that is on the floor and give instruction to the City Attorney to work with Planning Staff to prepare proposed findings in support of denial for the Council to consider for adoption at the next meeting.

A motion was made by Morita, seconded by Kubicina, that this matter be Adopted by Resolution. The motion carried by the following vote:

Aye 7 - Bowyer, Brown, Hetrick, Kubicina, Morita, Tisdel and Wiggins

Enactment No: RES0038-2016

Resolved, that the Rochester Hills City Council hereby postpones further deliberation and action on a pending motion on the floor to deny the Applicant's request for Conditional Use Approval, and directs the City Attorney to work with Planning Staff to prepare proposed findings in support of denial for the Council to consider for adoption at their next Regular Meeting.

PUBLIC COMMENT for Items not on the Agenda

None.

CONSENT AGENDA

All matters under Consent Agenda are considered to be routine and will be enacted by one motion, without discussion. If any Council Member or Citizen requests discussion of an item, it will be removed from Consent Agenda for separate discussion.

2016-0054 Request for Purchase Authorization - FACILITIES: Blanket Purchase Order for 2016 Landscaping and Lawn Mowing Services for City owned sites in the amount not-to-exceed \$80,000.00 through December 31, 2016; Green Meadows Lawnscape, Inc., Shelby Township, MI

Attachments: [022216 Agenda Summary.pdf](#)
[Proposal Tabulation.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0040-2016

Resolved, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to Green Meadows Lawnscape Inc., Shelby Township, Michigan for 2016 Landscaping and Lawn Mowing Services for City owned sites in the amount not-to-exceed \$80,000.00 through December 31, 2016

Passed the Consent Agenda

A motion was made by Brown, seconded by Hetrick, including all the preceding items marked as having been adopted on the Consent Agenda. The motion carried by the following vote:

Aye 7 - Bowyer, Brown, Hetrick, Kubicina, Morita, Tisdel and Wiggins

LEGISLATIVE & ADMINISTRATIVE COMMENTS

Mayor Barnett reported the following:

- A small fire at Meadow Brook Hall today was contained to a boiler in the basement and resulted in no structural damage.