



Rochester Hills

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Master

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Controlling Body: City Council
 Regular Meeting

File Created Date : 08/25/2015

File Name: Auto Rite Sales CU

Final Action:

Title label: Resolution 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

Notes: RES0038-2016 - 2/22/2016 Failed V3

Sponsors:

Enactment Date:

Attachments: 031416 Agenda Summary.pdf, Letter Ahmed 030216.pdf, Draft CC Minutes 022216.pdf, 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, 022216 Resolution.pdf, Resolution (Draft).pdf

Enactment Number: RES0038-2016

Contact: PLA 656-4660

Hearing Date:

Drafter:

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|------------------------------|------------|--------------------------|---------------------------------|-----------|-----------------|---------|
| 2 | Planning Commission | 11/17/2015 | Postponed | | | | |
| 2 | Planning Commission | 01/19/2016 | | | | | |
| 2 | Planning Commission | 01/19/2016 | Recommended for Approval | City Council Regular Meeting | | | Pass |
| 3 | City Council Regular Meeting | 02/22/2016 | Adopted by Resolution | | | | Fail |
| 4 | City Council Regular Meeting | 02/22/2016 | Postponed by Resolution | | | | Pass |

Text of Legislative File 2015-0348

Title

Resolution 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

Body

Resolved, that the Rochester Hills City Council hereby denies the Conditional Use Application of AutoRite Sales (City File #15-005.2) to operate a used car sales business at 1923 E. Auburn.

Findings and Reasons for Decision:

1. The City Planning Commission recommended approval of the conditional use application with conditions, but the applicant's presentation and answers to questions at the February 22, 2016 City Council meeting were confusing and inconsistent, leaving the Council uncertain and uneasy about the reliability of the applicant's information, the viability of the applicant's business, and the compatibility and appropriateness of the applicant's proposed, more intensive used car sales business at this location.
2. Moreover, since the Planning Commission meeting, the applicant submitted a letter, dated February 8, appealing 3 out of 5 conditions attached by the Planning Commission to the Commission's recommendation for approval of the conditional use application. Although it is the applicant's prerogative to appeal conditions, the applicant's appeal of 3 out of the 5 conditions the Planning Commission deemed necessary in order to support a recommendation for approval essentially belies, undercuts and renders null the Planning Commission's favorable recommendation.
3. The City originally granted conditional use approval to the applicant in 2013 for a used car lot with 5 cars. The applicant violated that approval limitation by having more than 5 vehicles for sale on the lot and also by storing additional vehicles on the adjoining parcel to the west, which has never been approved for used car lot purposes, precipitating ordinance enforcement activity by the City.
4. The Planning Commission's recommendation with conditions would allow the applicant to increase the number of cars on site for sale from 5 to 12 (plus 2 more in the building bays). Not content with this, the applicant urged City Council to disregard the Planning Commission's 12-car limitation and allow him to display 18 cars for sale on the lot. The applicant's plans presented to City Council depict 18 parking spaces for used cars despite the Planning Commission's 12-car limitation. Moreover, the applicant implied, through inconsistent and confusing testimony and answers, that his business may not succeed without more than 12 vehicles for sale on site.
5. The applicant also asked City Council to disregard the Planning Commission's condition that 2 or more violations of conditions by the applicant will be cause to revoke the applicant's conditional use approval. The applicant has balked at this condition and his request to Council to eliminate this condition, especially when considered together with the applicant's request to be allowed to sell more than 3 times the number of cars he is currently allowed to sell on this small 0.86 acre lot, leaves City Council uncertain and wary about whether the applicant intends to, or will, comply with conditions and limitations established by the City or whether the applicant's use will instead become an ongoing enforcement problem for the City.
6. The applicant delayed filing a conditional use application and site plan until after the City rezoned the subject property and area with an FB-2 overlay, after appropriate notice and public hearing. The significance of this is that FB-2 zoning does not allow used car sales, and represents a land use policy decision on the City's part to improve, redevelop and foster vital, lively and sustainable development and establish neighborhood identity in this area, which is part of the City's Old Towne District.

7. Conditional uses are land uses that are not permitted by right, but rather, due to possible or probable negative impacts on the surrounding area, they are allowed subject to conditions and only after a rigorous approval process that allows the community to review the proposed land use on a case-specific basis through application of discretionary standards. After going through the process and applying the discretionary standards, as set forth in Zoning Ordinance Sec. 138-2.302, the City Council, based on the information presented and the reasons stated previously, is not convinced the proposed used car operation will:

- a. Promote the intent and purpose of the City Zoning Ordinance;
- b. Be designed, operated, maintained and managed to be compatible, harmonious and appropriate with the existing and planned character of the surrounding area; and
- c. Not be detrimental or disturbing to existing or future neighboring uses and residents or the public welfare.