

A motion was made by Kaltsounis, seconded by Yukon, that this matter be Recommended for Approval to the City Council Regular Meeting,. The motion carried by the following vote:

**Aye** 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

*Chairperson Boswell stated for the record that the motion had passed unanimously. He advised that the next two items would be combined into one Public Hearing. He read the requests and again outlined the procedure for a Public Hearing.*

**2012-0292** Public Hearing and Request for Rezoning Recommendation - City File No. 89-200.2 - An amendment to Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to Rezone one parcel of land totaling approximately .73 acre, located at the southwest corner of Rochester and Auburn Rd, Parcel No. 15-34-227-031 from B-5, Automotive Business to B-2, General Business, Rochester Auburn Associates, LLC, Applicant

**2012-0293** Public Hearing and Request for Rezoning Recommendation - City File No. 12-010 - An amendment to Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to Rezone one parcel of land totaling approximately 4.5 acres, located adjacent to the parcel at the southwest corner of Rochester and Auburn Rd., Parcel No. 15-34-227-037, from B-3, Shopping Center Business to B-2, General Business, Rochester Auburn Associates, LLC, Applicant

*(Reference: Staff Report prepared by James Breuckman, dated August 10, 2012 and associated Rezoning Application package had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant were Doraid Markus, Managing Member and owner, Rochester Auburn Associates, LLC, 6750 Oak Hills Dr., Bloomfield Hills, MI 48304; Susan Friedlaender, Berry Reynolds & Rogowski, PC, 33493 W. 14 Mile Rd., Suite 100, Farmington Hills, MI 48331; Tom Gergich, Area Real Estate Manager, Michigan Region, McDonald's USA, LLC, 1021 Karl Greimel Dr., Brighton, MI 48116; and Frank Zychowski, AZD Associates, Inc., 35980 Woodward Ave., Suite 300, Bloomfield Hills, MI 48304.*

*Mr. Breuckman summarized the Staff Report and concluded that the list of uses permitted permitted in the B-2 and B-3 districts were nearly identical. The primary difference was the layout of development which*

could result from Rezoning the parcel from B-3 to B-2. Retaining the existing B-3 zoning would help mitigate the off-site impacts of development at the site, most notably traffic impacts, by allowing for a unified development. Rezoning to B-2 would allow for fragmented development to occur, which was harder to coordinate and would increase the likelihood of exacerbating dangerous traffic conditions at the corner. He advised that there were two motions in the packet (one for each parcel) to recommend approval or denial to City Council, with proposed findings for approval or denial for both.

Chairperson Boswell asked Mr. Markus if he wished to add anything.

Mr. Markus replied that he appreciated the opportunity, and said that they were very excited about the prospect of doing a new development at the corner. They believed that it was the gateway to Rochester Hills, and that it was one of the most prestigious corners in Oakland County. They saw an opportunity to take down the Meadowbrook Dodge dealership, and they also had the idea of taking the existing gas station down, because they did not think it was the best fit for the corner. They thought a development of the quality they proposed would better suit the corner. They studied the City's Ordinances and Master Plan and what they felt the City would like to see there, and they came up with a plan after getting Staff's direction. After a couple of meetings, the plan was fine-tuned, and they were told it was more suited to a B-2 development, so they submitted the Rezoning requests. They initially thought their development was a B-3 development based on how they read the Ordinance, but they were told otherwise. He stated that they were willing to do whatever it took to get the development off the ground and to work the project out.

Mr. Markus explained his development plan and proposed tenants.

Ms. Friedlaender addressed issues Staff raised. She stated that it could be a unified development; just because it was B-2, it did not mean it would be parceled out. They had provided a conceptual plan. She said that she understood that the Planning Commission should not look at a Site Plan during a Rezoning review, unless it was a Conditional Rezoning. She stated that their plan was more along the B-3 line, and in addressing the Planning Commission's concerns, it would reduce the access points. The City could impose restrictions, which the developer was willing to do, so that as a B-2, there would be design and site restrictions.

Mr. Markus said that when he read the Staff Report, he got the sense that the City was very concerned about the traffic impact. He said that there

were two other curb cuts on Rochester prior. The gas station had one and the dealership had two. They would eliminate two on Rochester and move one curb cut a little bit south. On Auburn, there were three other curb cuts, and they took that down to two. He stressed that they wanted to make sure that traffic safety was their number one priority. They also wanted to be able to provide to customers and merchants a safe environment where they would continue to visit. Ms. Friedlaender added that they would align the drive on Auburn with the shopping center to the north.

Mr. Markus said that during the design, they knew there would be questions about McDonald's getting a huge drive-through line, but they designed the curb cuts so that McDonald's would be self-contained. He assured that there would not be traffic that poured onto Auburn Rd.

Mr. Markus pointed out the future land use map, and said that the corners of the intersection at Rochester and Auburn were all B-3 except for his corner. His corner was planned for B-2, and he felt that made the most sense. Everything on his side of the road was B-2, and they were smaller parcels, so they designed a plan to accommodate B-2.

Chairperson Boswell asked Mr. Markus why he had come forward with a straight Rezoning if they wanted to offer conditions. Ms. Friedlaender responded that they could offer conditions at any point during a Rezoning process.

Mr. Staran explained that he understood Chairperson Boswell's question to mean that it seemed like the discussion was morphing into a specific design with possible conditions related to that and not whether it was advertised correctly for a Public Hearing. With a straight conventional Rezoning, the Planning Commission did not typically look at a particular design for a Site Plan, because they knew that once it was Rezoned, the site could be developed for any land use permitted in the district. If they were talking about a Conditional Rezoning, they needed to have the proposed conditions in writing for the Planning Commission. Otherwise, they should not get into detail about a particular design.

Mr. Anzek outlined that in March of 1989, a Variance was granted for the lot size, and a Variance for the width was discussed. The second Variance request was withdrawn by the applicant during the meeting, because he chose to face his building to Auburn Rd. and set it back far enough so that the 400-foot width requirement would be met. Subsequent to that, he changed his mind and re-filed for a Variance to

*face his building to Rochester, and that was granted in November of 1989. He advised that the lot was considered compliant as it sat.*

*Mr. Anzek suggested that if the applicants wished to do a Conditional Rezoning, they could withdraw and begin to work out the details to make the development function as a viable, single entity, which he felt was the Planning Commission's desire in terms of redevelopment along Rochester Rd.*

*Mr. Dettloff asked if Mr. Markus was referring to corporate-owned or independent-owned when he talked about McDonald's and Tim Hortons.*

*Mr. Gergich stated that he was the Area Real Estate Manager for the McDonald's Michigan region. He said that McDonald's Corporation always owned or controlled the real estate. The franchise decision was made after the property was secured and development was moving, so at this point, he did not know whether it would be a franchisee or corporate-run store.*

*Mr. Hooper reviewed that the site could be developed as B-3, and it did not need to be Rezoned to B-2, but the applicant was under the opinion that the City requested them to ask for a Rezoning to B-2.*

*Mr. Markus said that the exact nature of the conversation was that what they had presented was more of a fit in the B-2 district, and it was not a B-3 development.*

*Mr. Anzek offered that if they wanted to proceed with a Conditional Rezoning, Mr. Markus could withdraw, and he would be put on the next available Planning Commission agenda for a discussion about the Site Plan.*

*Mr. Staran clarified that the Planning Commission could make suggestions or wishes, and if the applicant agreed, they could become conditions.*

*Mr. Markus asked to table the request to come back with some other options and to consider a Conditional Rezoning.*

*Mr. Anzek had mentioned that Mr. Markus could come back to the next available meeting for a discussion, but he also heard the requests that a traffic impact study be done for various uses on the site. That might take some time, and he wondered if the Planning Commission would like Mr.*

*Markus to come back to go over some of the other issues of the Site Plan.*

*Chairperson Boswell agreed that they could discuss other issues, and by the time Mr. Markus had his Site Plan ready, the traffic study would be done and at that point, they would agree to it or not. Mr. Markus clarified that they could continue the discussion without a traffic impact study and hopefully talk about a Rezoning and if the Rezoning was allowed, they would have a traffic study completed with the Site Plan.*

*Mr. Markus said they wished to withdraw the Rezoning request without a decision. Mr. Anzek said that he and Mr. Markus would talk soon and figure the next time they could be on a meeting agenda. Chairperson Boswell wrapped up that they would see the applicants soon.*

**Withdrawn**

## DISCUSSION

**2004-1074** City File No. 98-025 - Andover Woods, a proposed 38-unit attached condominium development on approximately 26.6 acres, located east (9.3 acres) and west (17.3 acres) of Rochdale and north of Walton Blvd., zoned RCD, One-Family Cluster, Parcel Nos. 15-09-451-002 and 15-09-476-035, Andover Woods, LLC, Applicant.

*(Reference: Memo prepared by Ed Anzek, dated August 17, 2012 and drawing of condo site layout and floor plans had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant were Anthony Randazzo and Bruce Michael, Trillium Companies, 2617 Beacon Hill Dr., Auburn Hills, MI 48326.*

*Mr. Anzek advised that Staff had been working with the applicant for quite some time. The plans had been through numerous revisions, and it was probably the oldest project on record with a 1998 filing date. Mr. Anzek noted that there were several members in the audience he had become acquainted with who had been tracking the project since it was submitted. It was his suggestion that the applicants go before the Planning Commission to get some guidance before actually making a final submittal. The City's Engineering Department had looked at the project many times; the Fire Department had looked at it in terms of their access; the floodplain had gone through a refinement; and there were various reasons everything had happened in the past 14 years. The changes had been somewhat dynamic. There was a wetland through the site, and*