

NEW BUSINESS

2015-0093 Public Hearing and request for Conditional Rezoning Recommendation - An Ordinance to amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills to Conditionally Rezone two parcels of land totaling approximately 1.06 acres, located on the east side of Rochester Road (3841 S. Rochester Road and vacant parcel), south of M-59, Parcel Nos. 15-35-352-019 and 15-35-352-067 from B-5, Automotive Business to B-2, General Business, Dave Leshock on behalf of Auto City Investments, Inc., Applicant

(Reference: Staff Report prepared by Sara Roediger, dated May 15, 2015 and associated Conditional Rezoning documents had been placed on file and by reference became part of the record thereof.)

Present for the applicant was Dave Leshock, Vice President of Auto City Investments, Inc., 14165 N. Fenton Rd., Suite 202, Fenton, MI 48430 and Louis Ciotti, Landmark Real Estate Consultants, 27995 Halstead Rd., Suite 150, Farmington Hills, MI 48331.

Mr. Anzek recapped that at the April meeting, this matter was before the Planning Commission for a straight Rezoning from B-5 to B-2. Several Commissioners expressed concerns about the wide array of uses that could be permitted under B-2. The applicant was advised to consider a Conditional Rezoning, and Mr. Leshock withdrew the formal application for a straight Rezoning and submitted a Conditional Rezoning application. He also submitted a letter with conditions and provided a conceptual site plan.

Ms. Roediger noted that the subject site held an existing gas station on the east side of Rochester Rd. There was B-5 zoning to the north, B-2 to the south, B-3 to the west and residential zoning to the east. The existing gas station would be leveled and replaced with a small retail center. There were currently two curb cuts on Rochester Rd., and the proposal would take it down to one curb cut on Rochester and one on Eastlawn. In addition, a number of conditions were offered, including a maximum building size of 7,600 square feet. The applicant would limit the uses allowed in B-2: no tattoo shops, no adult entertainment uses, pool halls, bars or fast food restaurants with drive through. They would like to be able to have one drive through at the northern end cap, limited to a bank or coffee or ice cream shop, which would be much less intense than a regular fast food establishment. They would also put in a solid wood fence and hedge row of screening to the east and limit the hours of operation to 5 a.m. to midnight. There were other minor conditions

voluntarily offered. She said that she would be happy to answer any questions.

Vice Chairperson Brnabic asked the applicants if they had anything to add. Mr. Leshock thanked the Commissioners for allowing them to come back. He said that they listened carefully at the last meeting. The most overriding concern he heard was about what would be developed, given the potential of B-2 uses. He provided a document as to what they would like to do and conceptual drawings that showed exactly what they hoped to do. He felt that the pictures made the proposal look very appealing and first class. He advised that he purchased the property ten years ago, and he spent nearly \$1 million when he bought it from Amoco BP. They liked the location but not the physical plan. They needed to change the physical plan to make it better for everyone - for him and the community. He commented that everyone at the City had been very helpful. He had been through a lot of Rezoning - he had 21 other locations and had been in the gas station business for 39 years. He said that he was not bragging, but he felt that he was pretty much an expert when it came to gas station operations. If there was a way to make the station at 3841 S. Rochester Rd. a quality, profitable venture, he would definitely do that first. He felt that the proper direction was to go to a boutique, very small retail shopping center, and he concluded that he hoped that was what he could do.

Mr. Hooper stated that he was not opposed to a Conditional Rezoning, and he felt that what was proposed was reasonable. He questioned condition 10, regarding the approach onto Eastlawn. He knew there was a caveat that it was subject to approval by the City's Traffic Department, but he wondered if there was some way to limit that approach and still have a viable site.

Mr. Anzek asked if he was suggesting that the drive on Eastlawn should be eliminated, which Mr. Hooper confirmed, but Mr. Anzek did not think it could be. He felt that when MDOT saw the plan, it would probably make the Rochester access a right in right out only, which would really hamper the site if they had no access onto Eastlawn. Mr. Hooper agreed that if MDOT did not allow a left turn out of the site, that there would be no question about using Eastlawn.

Mr. Reece stated that he had four concerns, and Mr. Hooper had addressed one. Mr. Reece said that regarding the dumpster location, he would be concerned about the pick up time. He would not want to see a dumpster picking up at 5:00 or 6:00 in the morning. He asked if there

could be some consideration for that and also for the loading and unloading zone time. The loading zone was proposed to be up against the residential area, and a lot of times deliveries came during the night or early in the morning, and he would prefer not to see something that disturbed the residents. Also, a condition stated that if there was a drive through that the noise would not be able to be heard from the residential area. Mr. Reece pointed out that with a 5:00 a.m. start time in the summertime, when people had windows open, it could be a concern. He wondered if there was a way to discuss the start time a little further or if the applicant could relocate the window.

Vice Chairperson Brnabic opened the Public Hearing at 7:15 p.m. Seeing no one come forward, she closed the Public Hearing.

Mr. Leshock said that regarding the dumpster, he could propose to limit the time for pick up to 8 or 9:00 a.m. He would be happy to add that as a condition. He noted that his company would control the dumpster company, not the tenants. As far as the Eastlawn access, he felt that going from three accesses to one would be fairly impossible. He thought that the Eastlawn access would be critical, especially for someone trying to make a left turn out. He respectfully asked that the City's Traffic Engineer and MDOT be allowed to figure it out, and if there was a need to go back to it they could, but he envisioned both accesses. Regarding the loading and unloading zone, if that was something they could design and change, they absolutely would. The site plan was conceptual - in fact, it was their sixth one in the last six months. If they could relocate the loading area so it was quieter, they would do that.

Mr. Reece thought that the location was o.k., it was just the hours. If it was not a 2:00 a.m. unload time, and it was during normal business hours, he would not be so concerned.

Mr. Ciotti advised that their tenant mix would dictate hours. Mr. Reece indicated that the owner could dictate hours of deliveries. Mr. Ciotti agreed, but he said that if there was a non-food use, for example a Sally Beauty supply, it would be very simple, and they could go in and out the front door. They might not even have a use that would dictate a large loading and unloading zone for the center. Mr. Reece said that he understood that, but he did not want to see hours that would be disturbing to the residents, which could be a condition of their lease. Mr. Leshock asked if they could add a condition about reasonable hours of operation for the loading zone. Mr. Reece suggested 8:00 a.m. to 8:00 p.m. He would not want to see a delivery at 3:00 a.m. or on a Sunday morning. Mr. Leshock said they would put time limits for both the dumpster and the

loading operations. Regarding the drive through noise, he reiterated that they would not have a big box user. He was not sure if they even had someone who needed a drive through yet. He had tried to stress in his letter that there would be low impact, non-intense uses. He agreed that a McDonald's would be too impactful, and he said that they would be on the other side of that spectrum. He did not know how they could limit that noise, but if there was anything he could do to limit the noise, he would. He assured that if there was some technology available to limit the noise, he would use it.

Mr. Anzek said that he was familiar, from a recent project, where sound control shielding was put in around the speaker box at a drive through. That kept it focused inside the car. He thought that would be a plus if Mr. Leshock cared to offer that. Mr. Leshock said that he would definitely add sound control shielding to any drive through device in order to keep the noise level as low as possible.

Mr. Leshock reviewed the added conditions: Change the dumpster and loading pick up times to 8:00 a.m. to 8:00 p.m.; add some type of drive through noise control such as sound control shielding; and allow MDOT and the City to address the accesses. If MDOT were to allow two accesses onto Rochester Rd., he felt that closing Eastlawn might make sense, but he thought that there should be one on each street.

Mr. Schroeder felt that the Commission had adequately covered the matter, and he felt that the responses were positive and acceptable. Hearing no further concerns or comments, he moved the following, seconded by Mr. Reece:

MOTION by Schroeder, seconded by Reece, in the matter of City File No. 15-003 (3841 S. Rochester Rd. Rezoning) the Planning Commission **recommends approval** to City Council of the proposed conditional rezoning of parcel no. 15-35-352-019 and 15-35-352-067 from B-5 Automotive Business to B-2 General Business with the following 4 findings and subject to the following 14 conditions:

Findings for Approval

1. B-2 is an appropriate zoning district at this location as it is compatible with the goals and objectives of the Master Land Use Plan.
2. Approval of the proposed conditional rezoning will allow for uses that can compliment the existing, surrounding uses.

3. *The proposed conditional rezoning is consistent with the criteria for approval of an amendment to the Zoning Map, listed in Section 138-1.200.D of the Zoning Ordinance.*
4. *Approval of the conditional rezoning would not facilitate all uses in the B-2 district, but those specifically outlined in the conditions.*

Conditions

1. *The building would be no larger than 7,600 square feet.*
2. *There would be at most one drive-thru at the northern end on the building limited to a user such as a donut or coffee shop or ice cream parlor (no McDonald's, Burger King or similar heavy use).*
3. *All uses would be limited to the uses listed in the City's B-2 Zoning Ordinance with the exception of those excluded below.*
4. *A stand alone drive-thru for fast food operation would be prohibited. However, a stand alone bank or one with a drive-thru would be acceptable.*
5. *Applicant agrees to not lease to tattoo shops, adult entertainment uses of any kind, pool halls, bars and similar uses.*
6. *Medical/Professional offices would be acceptable.*
7. *There will be a six-foot solid wood fence and a row of hedges along the eastern side next to homes to block views and headlights, and the hedges would block or reduce any noise.*
8. *Hours of operation would be limited to 5 a.m. until midnight seven days a week.*
9. *Any call box for the drive-thru will be designed to ensure no noise would be heard by the residents.*
10. *Access will be limited to that which is approved by MDOT for Rochester Rd. and Eastlawn Dr. in enjoinment with the City Traffic Department.*
11. *Trash pick up will be limited from 8:00 a.m. to 8:00 p.m.*

12. *Loading and unloading deliveries will be limited from 8:00 a.m. to 8:00 p.m.*

13. *The drive through will have sound control shielding.*

14. *No outdoor storage would be allowed.*

Mr. Yukon realized that because it was a Conditional Rezoning, the applicant had proposed a building layout. He thought that the Planning Commission still had to look at all potential uses in B-2. Mr. Anzek clarified that a Conditional Rezoning limited that or committed to what would be on the site and what would not.

Vice Chairperson Brnabic noted that outdoor storage was listed as a temporary use in the B-2 district, but she was somewhat concerned that it could be included. She realized that it might not be Mr. Leshock's plan, but it was something allowed in B-2. Mr. Cicco stated that they had no interest in outdoor storage and no plan in place for an outdoor patio. Vice Chairperson Brnabic noted that condition three stated that all uses would be limited to those in the B-2 district and some uses were prohibited, but outdoor storage was not expressly prohibited. Mr. Leshock said that it could be added as a condition that no outdoor storage would be allowed. Mr. Schroeder agreed to modify the motion to include that (as added above after the discussion).

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

Aye 7 - Brnabic, Dettloff, Granthen, Hooper, Reece, Schroeder and Yukon

Absent 2 - Boswell and Kaltsounis

2004-0095 Tree Removal Permit (City File No. 02-029) - Grandview Site Condominium - for the removal and replacement of as many as 23 trees (out of 127 regulated trees) for a proposed 14-unit site condominium development on approximately 6 acres, located east of Crooks and north of Auburn, Parcel No. 15-28-300-059, zoned R-4, One Family Residential, Grandview of Rochester Hills, LLC, Applicant.

2004-0051 Public Hearing and request for Preliminary and Final Site Condominium Plan Recommendation - City File No. 02-029 - Grandview Site Condominium, a proposed 14-unit single-family development on six acres located on the north side of Auburn between Crooks and Livernois, zoned R-4, One Family Residential, Parcel No. 15-28-300-059, Grandview of Rochester Hills, LLC, Applicant