

UNFINISHED BUSINESS**2021-0469**

Request for Conditional Use Recommendation - City File No. 21-008 - Bebb Oak Meadows - to construct a drive-through associated with a mixed use development with retail, restaurant and apartments on approximately five-acres located on the west side of Rochester Rd., north of Auburn Rd., zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, Parcel No. 15-27-477-058, Michael Thompson, Stucky Vitale Architects, Applicant

(Staff Report dated February 9, 2022, site plans, and review comments had been placed on file and by reference became part of the record thereof).

Present for the applicant were Michael Thompson and John Vitale, Stucky Vitale Architects, 27122 Woodward Avenue, Royal Oak, Michigan. Also in attendance were Nick Nacita, Hubbel Roth and Clark, the City's traffic consultant, and property owner Fred Hadid.

Ms. Kapelanski said this request is back for the Planning Commission's consideration, to demolish the existing Barnes & Noble to allow for construction of a mixed use development, which includes an apartment building and a retail building with a drive through restaurant. The site is currently zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, and the applicant is seeking to develop under the FB-3 provisions. She noted conditional use approval is required for the proposed drive through, and that the layout generally meets the zoning ordinance requirements, with the exception of required right-of-way plantings which are placed elsewhere on the site due to utility conflicts. She said the applicant is seeking approval of their site plan and tree removal permit, and a positive recommendation for the conditional use approval. At the November meeting, the commissioners made a number of requests which are now outlined in the staff report. These comments have been addressed with the exception of one note which is to be added with a future submittal. The applicant has receive permit approval from Michigan Department of Transportation (MDOT) for road improvements and access configuration. She said that Nick Nacita with Hubbel, Roth and Clark is in attendance tonight and can answer any questions regarding traffic, and Jason Boughton from the City's Engineering department can answer questions regarding utilities or stormwater.

Mr. Vitale thanked the commissioners and said they have addressed the modifications suggested at the last meeting. He said they have worked closely

with MDOT and the Engineering department to modify the Rochester Road approaches and the drive through, brick has been added to the façade, and a carport rendering has been provided. Chairperson Brnabic thanked the applicant for addressing the comments made but noted they elected to keep the fourth story of the apartment building despite commissioners' suggestions to remove it. She said that some accent materials have been added to the second through fourth floors of the apartment building;

however it is still only 24% and it is still not enough, and there are not enough accent materials. She said that she wouldn't want to look at this from Rochester Road, and since it is adjacent to residential homes that is another concern. She said the density is too high and can't be justified. She said that the original intention of the FB overlay was to push buildings as close as possible to the road, providing mixed uses to promote walkability in the community and form based building design.

Chairperson Brnabic said that at the last meeting there was a discussion that the commission previously approved a four story building at Rochester and Tienken known as City Walk; however that was developed under a Planned Unit Development (PUD). She said those four stories required a conditional use proposal and there are significant differences between that building and this proposal. She shared her screen and described the Bebb Oak Meadows plans in comparison to the City Walk PUD. She said the City Walk development is four stories, and 48 feet to the rooftop in the rear facing residents, as opposed to 59 ft.; and the building was predominantly brick with block accents and some metal vertical panels on the fourth floor. She said that for City Walk there was an existing mature tree line at the rear of the property, with trees ranging up to 60 ft. that were taller than the building to provide good screening for the residential homes behind. They planted additional evergreens when they constructed the carports a few years ago. She said it was built adjacent to an existing shopping center, providing a walkable and pedestrian friendly development. She said there was no drive through and there were no balconies along the rear of the building that would face the adjoining residential homes. She said that there is a substantial difference between the two proposals even though they both are four story buildings. She said site plans are considered individually and because one four story building has been approved it does not obligate the commissioners to approve all four story apartment buildings or hotels. The approval for the Fairfield Hotel as a four story building was also previously referenced. She said there were two other hotel proposals on the Planning Commission agenda the night that Fairfield was approved, Fairfield was approved with modifications. The proposed Candlewood Hotel on the Meijer outlot was denied. She said that she visited the residential homes located behind Fairfield and has some concerns with regard to the development which she will address later. She is very concerned about what Bebb Oak is proposing especially next to residential properties, regarding both appearance and density. She said the Planning Commission's job is to balance the interests of the developer with the need to protect public interests. She said that the goal is to have an outcome of the best development for the community at large, and she doesn't see that in the site plan proposed. She asked the applicants to confirm that they would not consider three stories or adding more building materials from the second to fourth floors to break up the facade.

Mr. Vitale said that they added a substantial amount of brick to the building. He noted that design is somewhat subjective, and they think the architecture is good looking. He said this is a more modern look and they feel the materials presented are appropriate. He said four stories are allowed and they meet the ordinance requirements for parking, materials used, and landscaping. He said the developer would like to maximize the development and that is what they are doing. Their design intent is to utilize the four stories to make the project work financially. He said they calculated 30% brick and not 24%, and they used masonry where they think it makes the most sense. He said the development is a needed product and would be an excellent addition to the community. He said it doesn't change the walkability of the site and doesn't change the character of Rochester Road. He said they are introducing a mixed use product which includes retail with a residential component, and mixed use is what walkability is all about. People who live there will also shop there. Mr. Vitale said every design does not fit every taste but he thinks this is good looking and fits Rochester Road.

Dr. Bowyer said there is way too much white and it looks like a prison, especially the south elevation. She said that she doesn't like the four stories, but it is acceptable since it is allowed with the zoning. She asked the applicant for the number of carports they are providing.

Mr. Vitale said they put carports around three sides of the development.

Mr. Thompson said there are approximately 50 carports.

Dr. Bowyer said there are still 94 units, and that number was not changed. She asked if they considered making some of the single units into double units, for instance.

Mr. Vitale responded that there will be some flexibility to change the units, and that will be a marketing decision.

Dr. Bowyer said that her biggest issue is the drive through, noting that there will be a lot of traffic going in and out of the development, with the addition of a drive through there will be no walkability. It will be dangerous to walk to try to get to the sidewalk. Additionally she said that there will just be a little curb separating the drive through from the traffic lane coming straight at them. She said that at the Gateway Plaza they had a 3 ft. landscaping barrier between the drive through and the drive aisle, and they brought the lane around so that oncoming traffic would not clash. Dr. Bowyer said that the way the current drive through is designed it looks like there will be accidents waiting to happen, therefore she is not supportive of the drive through.

Mr. Vitale responded that they shortened the retail building to allow for a full two lanes of traffic alongside the drive through. He said that there are 36 in. tall bollards there also and not just a curb. He said there is a pretty good traffic separation between the drive through and the drive aisle.

Dr. Bowyer said that when you pull into the complex you will be looking at

headlights from the drive through, if someone is coming out and someone is pulling in at the same time, the person turning in will think that the person in the drive through is going to hit them. She said that if the applicants could make the curb go around and remove the first walkway, that would be a much better design and she is a "no" for the drive through in its current form.

Mr. Vitale said that they would be happy to work with their traffic consultant and engineers, if they could improve that they would be open to that.

Dr. Bowyer said that the City wants walkability and the apartment residents are going to want to walk to Target across the street, and for street crossings they would have to either go north to Wabash or south to Auburn. She asked if there is any chance a crosswalk could be installed at this development so that people don't get hit by cars because they will not walk all the way to an existing crosswalk. She said that it will be a problem and acknowledged that the applicants may not be able to fix it.

Ms. Roediger commented that it would be very unlikely that MDOT would support such a crosswalk with the amount of traffic on Rochester Road.

Dr. Bowyer thanked the applicant for providing the loading area and proposing evergreens along the western property line. She said that she still does not like the white façade.

Mr. Gaber thanked the applicant for the modifications made. He asked the applicant if they have a rendering of the courtyard.

Mr. Vitale responded they do not have a three dimensional rendering, however they rendered a site plan, he said that is more descriptive because it is a flat area. They removed a previously proposed pool from this area.

Mr. Gaber said that he shares his colleagues' concerns regarding the façade materials, there is not enough brick and other hard materials, and the color is an issue. He said he also echoes the comments about the apparent conflicts with the drive through. He asked regarding the evergreen buffer on neighboring properties that is referenced. He asked if the applicants would be adding landscape material on the adjacent properties.

Mr. Thompson said they would only be adding on their property.

Mr. Gaber said the photo included in the plans showing carports looks horrendous and industrial in nature, he said that he really wants to understand what the carports will look like before approving this request and hopes that is not accurate.

Mr. Thompson said that is not accurate, they have not found a design they like yet but it will definitely be complimentary to the building.

Mr. Gaber said that he has a hard time wrapping his mind around what is allowed with the FB-3 overlay. He said the anticipation from the time the overlay was developed was that it would be used for assemblages, mixed use

developments, and more of a mixed use than we have here with the retail in front and residential behind. He said that he never envisioned that the FB overlay could be used for one property, and he doesn't think that's the intent, but we have to look at what the ordinance says. He said that Chapter 5 Building Standards talks about private frontage requirements, and asked Ms. Kapelanski how this proposal fits within the different types of frontages listed in the ordinance, as each one of those standards has different requirements. He asked how it was decided that the front building is lawn frontage and the rear building is courtyard frontage, and how the standards were applied.

Ms. Kapelanski responded that most of the retail buildings that are in the FB overlay district along Rochester Road, staff has considered to be lawn frontage buildings. The ordinance spells out a number of different requirements depending on what building standard is applied. She said that the retail building does meet the standards listed for a lawn frontage, it talks about setbacks, accesses facing the main arterial road, maximum floor plate would not apply because this is arterial, it gets into parking, and then the garages provision would not apply. With regard to the apartment building, it is looked at as a courtyard frontage, because it has a courtyard. Looking at those requirements it gets a little tricky. This section references main streets, arterial streets, and minor streets. Since this is a self-contained site there is not a designated main street, and she noted that it has always been staff's practice in such a case to look at the site layout and determine which it most closely resembles. In this particular case she viewed the driveway between the retail building and the apartments building as a minor street, then looked at the courtyard frontage building standards and applied the setbacks, resulting in a 20 ft. required setback from the minor street and not the actual property line. The maximum floor plate talks about the rentable area on the entire floor, which staff has interpreted as rentable retail and office space, not necessarily apartment units. The commission could decide however to apply that to the rentable area of apartment space. Ms. Kapelanski noted that all of these standards are modifiable. The section addresses parking as well, and says that surface parking must be set back 40 ft. from the front building façade. She said that there may be about four spaces that are not meeting that requirement, but everything else does. There is also a section in the ordinance that refers to permitted and optional regulations, and that allows the Planning Commission or City Council to approve optional layouts, if they feel that the intent of the standards is being met. She said that also the maximum floor plate only applies to the first floor.

Mr. Gaber thanked Ms. Kapelanski for the helpful explanation. He said that he doesn't think that the building meets the maximum floor plate requirement, because the plans say 25,000 sq. ft. and some of the floors are greater than 25,000 sq. ft. in size it appears. He said he doesn't understand why that standard doesn't apply to rentable residential and he thinks that's an issue. He said that even though the site is zoned FB, the intent of the FB overlay is to apply it to multiple parcels and buildings; otherwise a lot of these standards are difficult to apply to a single building like in this case.

Mr. Vitale said that the FB ordinance speaks to a mixed use, and he can't imagine another way of doing it. He said that he thinks this is exactly what the

ordinance intended, since they are providing a mixed use with residential along with retail. He said the site has frontage on Rochester Road and it is a long and narrow site, this is the design that the ordinance speaks to from the developer's standpoint.

Mr. Gaber said he understands the applicant's point but differs in his opinion, since he was around when the FB overlay was adopted and doesn't think this was the intent.

Ms. Neubauer asked the applicant to state whether the fourth floor is a deal breaker for them.

Mr. Vitale deferred to the property owner, Fred Hadid. (Inaudible response from Mr. Hadid.)

Ms. Neubauer said that previously Mr. Hadid had said that they did an independent study on the rent and the amount they could charge per square foot. However a study came out at the end of December saying that there has been a 72% increase in rent in the last two months. She asked what the average rent will be for the apartments.

Mr. Hadid responded that he has not updated the study. He said there is an increase of prices everywhere. He said his management company is in charge of rent.

Ms. Neubauer said that if the fourth floor is nonnegotiable and is stated to be necessary financially, they do not yet know how much they will be charging for each unit, and she questioned whether the applicant could reduce the density of 94 units to something that is not so dense. She said she doesn't understand how they can say the fourth floor is necessary for the project to be financially viable when they don't know how much they are going to charge for rent. She asked if they could they reduce density and increase the rent.

Mr. Hadid said they did a feasibility study where they determined they need to have approximately 100 units in order to make the project feasible, and they went to 94. He said they may be able to reduce density because there is more demand for one bedroom units.

Ms. Neubauer said a one bedroom unit can be 800 sq. ft. or 2,000 sq. ft. and affect the density of the building. She questioned If a fourth floor of the building is required for financial reasons, could they either increase the square footage of the one bedroom units that are in demand, and increase rent and therefore decrease density of the complex, or eliminate the fourth floor, or figure out a way to somehow reduce the density.

Mr. Hadid said he didn't understand the issue with density. He said the property is five acres of land with 94 apartments, it is low density on a main road with heavy traffic.

Ms. Neubauer said that she is expressing her opinion, that of some of the commissioners, and some of the public that the City is overdeveloping. She

said she is seeking to find a middle ground to address these issues while still meeting the developer's needs.

Mr. Hadid said this is an attractive design and if in the future they could combine units and increase the price, they would be willing to do that. Based on the study, people like one bedroom units with an open floor plan.

Ms. Neubauer said that she understands that, but there could be a one bedroom unit that is 600 or 800 square feet or 1,500 square feet. She said that she understands the applicant's position.

Mr. Vitale said that while the price of rent has increased, the price of construction has increased tremendously. In many instances, developers are not building and construction is being put on hold because the costs of materials are beyond the costs of rent. He said the 94 units is really the worst case scenario in terms of density, if the market bears higher prices for larger units they would do that.

Ms. Neubauer said the commissioners would prefer to make a decision based on the best case scenario and not the worst case scenario.

Mr. Vitale said that from the developer's point of view, he is risking a lot of investment to make this project go forward. He said that although it could change they are presenting what they want to do.

Mr. Hadid said there is another development a mile away with mostly two and three bedroom units.

Ms. Neubauer said that is not the issue, the issue is the density.

Mr. Struzik agreed that additional masonry is needed to the highest floors. He said the height is more appropriate here than on some other properties. This proposal has a significant distance from the residential properties, this is a better situation, and the green buffer can do its job. He said that he shares Dr. Bowyer's concerns about the drive through circulation pattern. He said that although he is very much for pedestrian access he thinks that installing a nonsignalized crosswalk across Rochester Road would invite people to cross the road there and would be dangerous. And a signalized cross walk would not work, there needs to be a balance between keeping traffic moving and safety for pedestrians. And he didn't think that MDOT would support a crosswalk. He said that the current Barnes & Noble site layout is pretty hectic for pedestrians, so with the proposed connection to the sidewalk to the new retail building is a plus. There will be some intrasite walks of people who live in the apartment who will walk to the retail. Additionally, with the automotive service businesses in the vicinity people may walk to the proposed retail onsite while waiting for their vehicles to be services nearby. People from nearby residences could also walk to use the retail onsite.

Chairperson Brnabic said when comparing the setbacks to residential properties between the City Flat apartments and Bebb Oak, they are almost the same with 155 ft. vs. 160 ft.

Mr. Weaver said that he doesn't mind the appearance of the building. He appreciates the added evergreens along the rear property line. He asked regarding the views from the neighbor's yard submitted by the applicant, whether those show current trees or newly proposed trees after they have time to grow in.

Mr. Vitale responded that those perspectives show the existing trees.

Mr. Weaver asked if the bermed lawn space in the courtyard is to be real or artificial grass and asked the slope. He said that he likes the design of the courtyard and suggested if additional trees could be installed along the south side of the courtyard to provide a buffer from the parking lot.

Mr. Vitale said that it would be real grass and they hadn't conducted engineering at this time to determine the slope. He said that they did talk about additional trees in that location.

Mr. Weaver said that he shares the concerns about the drive through and has safety concerns, and would like to see some revisions with that. He said that he didn't think MDOT would allow a mid-block crossing to the shopping center across the street but does have concerns about pedestrians crossing Rochester Road. He said that he understands the concerns about density but is not sure how to alleviate them. He said that he would like to see three stories but doesn't mind four stories for this particular area. He said that it is set back far from the road.

Dr. Bowyer said that she likes the structure of the building and it looks beautiful but not all of the white and it needs to be changed. She said the small addition of the black to the façades is not enough of a change to break it up. She asked for the average square footage of the one bedroom apartments and said clarification is needed on the carport design. She said that when there are 94 residents living in apartments there will be more people running across the street to the shopping center.

Mr. Vitale said that they would be open to looking at the facade color in order to make it appear less stark. He said the structure is a modern design and it is fitting. He clarified that the black portion on the façade is masonry.

Mr. Thompson said the average size is 900 sq. ft.

Chairperson Brnabic asked for more clarification of the facade materials. She said that for 4 North on the elevations, the entire side of the building is white, but it was determined that sheet was revised.

Mr. Vitale said that the darker color on the façade is brick, and the lighter color is a cement panel product, and the balance of the lighter color is the metal panel siding. He said that they could make the white color something with a softer finish, or more of a tan color. He said that material is metal panels, the intent is to give it a clean and contemporary look but they can soften it.

Chairperson Brnabic said that is a lot of metal panel on the building.

Mr. Vitale said it provides contrast to the masonry, and also three dimensionally you would see the cement board material that has a wood tone to it. He said they can work on adding more masonry.

Mr. Kaltsounis said the applicants need to address the starkness of the building; he cannot stand the rear elevation. He said the rendering does not match the elevation provided, in viewing the 4 West elevation, the neighbors see something with wood on it in color, but that is not shown on the building elevation. He said it looks very stark.

Mr. Vitale said with the lighter color panel, they can look at other options so that it is not so stark.

Mr. Kaltsounis asked Ms. Kapelanski regarding Chapter 5 Article 8, which standard was used for this building.

Ms. Kapelanski responded that the apartment building was considered to be courtyard frontage (B), and the retail building as the lawn frontage (D).

Mr. Kaltsounis reviewed the standards for D. Lawn frontage and B. Courtyard Frontage. He asked about the maximum floor plate for the courtyard.

Ms. Kapelanski responded that the maximum floor plate refers to the square footage of rentable area, and only applies to the first floor. So if you were to apply the standard to the residential first floor, it would only apply to the square footage of the units themselves, it would not apply to common spaces or corridors. She said she was not sure if the applicant has that square footage calculated.

Mr. Kaltsounis asked how to apply that standard to the bridge, and the location of the definition. He said that the ordinance didn't foresee that type of design element.

Ms. Kapelanski said that area would not be part of the first floor and said the definition is in the FB section of the ordinance. She said that the standards are being used in a flexible manner because the drive is considered as a minor street. She said there is the other section that permits optional layouts to be permitted provided that they meet the intent of the standards.

Mr. Thompson calculated that there is approximately 27,000 sq. ft. of rentable space on the first floor.

Mr. Kaltsounis said that when the FB overlay provisions were written, they wanted to spur development in different areas of the City, and see what happens. He said that at the last Council meeting it was clear that Council as well as residents think that the use of this ordinance is not going in the right direction.

Mr. Vitale said this project was first presented to the Planning Commission in

November 2021 after working closely with Planning staff. The early design decisions were based on the interpretation of the ordinance.

Mr. Kaltsounis said that as the ordinance reads today, for maximum floor plate is over the requirement.

Mr. Vitale said that they provided a ballpark figure, they could actually calculate it.

Mr. Kaltsounis said there are questions about density, he understands the questions about rental amounts. He said that it is unfortunate that the maximum floor plate applies to only the first floor, it should be for every floor, but that is the ordinance today. He said the commissioners need to know if the 25,000 sq. ft. maximum is being met. He suggested that this request needs to be postponed so that these issues could be worked out.

Chairperson Brnabic agreed, and said the issues are the drive through design, building materials, clarification of the carports, maximum floor plate, and some other things to be ironed out.

Mr. Gaber said the neighbors behind had 3 big deciduous trees with leaves on them, so half of the year the neighbors will see through. He said there is not a problem with a contemporary design, but it needs to be done so that it is not dated or obsolete in ten or twenty years. He agreed this should be postponed, he wants to see the carports that are actually selected to see the design.

At this point Mr. Kaltsounis made a motion to postpone this request, which was seconded by Mr. Neubauer.

Mr. Kaltsounis asked Ms. Kapelanski about the floor plate standard and read the definition, and said that it is the indoor floor area.

Ms. Kapelanski said she would have that number for the next meeting.

Mr. Kaltsounis suggested in the future the ordinance should address the floor plate of all floors. He said that if the floor plate is measured for this project it will exceed the maximum.

Ms. Kapelanski responded that we are using this standard and applying it to a situation that requires flexibility. She said that if the design meets the intent of the building standard, it would be staff's opinion that the commission consider it to be approvable under the optional layout provisions.

Mr. Kaltsounis said at this point they need to get all the information as this is a difficult review.

A motion was made by Kaltsounis, seconded by Neubauer, that this matter be Postponed. The motion carried by the following vote:

Aye 8 - Brnabic, Dettloff, Gaber, Kaltsounis, Bowyer, Weaver, Neubauer and Struzik

Excused 1 - Hooper

Resolved, that the Rochester Hills Planning Commission hereby postpones Legislative File Numbers 2021-0469, -0470 and -0471 to a later date to allow the Applicant to address the Planning Commission concerns.

2021-0471

Request for Site Plan Approval - City File No. 21-008 - Bebb Oak Meadows - a mixed use development with retail, restaurant and apartments on approximately five-acres located on the west side of Rochester Rd., north of Auburn Rd., zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, Parcel No. 15-27-477-058, Michael Thompson, Stucky Vitale Architects, Applicant

Postponed

2021-0470

Request for approval of a Tree Removal Permit - City File No. 21-008 - for the removal and replacement of as many as 13 trees for Bebb Oak Meadows, a mixed use development with retail, restaurant and apartments on approximately five-acres located on the west side of Rochester Rd., north of Auburn Rd., zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, Parcel No. 15-27-477-058, Michael Thompson, Stucky Vitale Architects, Applicant

Postponed