



**Rochester Hills**  
**Minutes - Draft**  
**Planning Commission / City Council**  
**Joint Meeting**

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Tuesday, September 27, 2016

7:00 PM

Van Hoosen Museum Calf Barn

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**CALL TO ORDER**

City Council President Mark Tisdel called the Special Joint Work Session to order at 7:06 p.m. at the Van Hoosen Museum Calf Barn.

**ROLL CALL**

Present City Council: Mark Tisdel, President  
Stephanie Morita, Vice President  
Member Susan Bowyer  
Member Dale Hetrick  
Member Jim Kubicina  
Member Tom Wiggins

Excused City Council: Member Kevin Brown

Present Planning Commission: Deborah Brnabic, Chairperson  
Greg Hooper, Vice Chairperson  
Nicholas Kaltsounis, Secretary  
Stephanie Morita, City Council Member  
Member David Reece  
Member C. Neall Schroeder  
Member Ryan Schultz  
Member Emmet Yukon

Excused Planning Commission: Member Gerard Dettloff  
Quorum present both boards.

Others present: Ed Anzek, Director of Planning and Econ. Dev.  
Tina Barton, City Clerk  
Paul Davis, Deputy Director DPS/Engineering  
Stephen Dearing, OHM Advisors  
Michael Johnson, Captain, OCSO  
Sara Roediger, Manager of Planning  
Paul Shumejko, Transportation Engineer  
John Staran, City Attorney  
Brad Strader, MKSK  
Pamela Valentik, Manager of Economic Dev.  
Maria Willet, Special Asst. to the Mayor

## COMMUNICATIONS

*There were no Communications presented.*

## NEW BUSINESS

### 2016-0400

Auburn Road Corridor Study Presentation and Discussion - Brad Strader, MKSK

*(Reference: Power point, prepared by Brad Strader of MKSK, Consultant, dated received September 23, 2016 had been placed on file and by reference became part of the record thereof).*

*Presenter for the Auburn Road Corridor Study was Brad Strader, MKSK, 462 S. Ludlow St., Columbus, OH 43215.*

*Mr. Anzek thanked everyone for coming. He reminded that studying the Auburn Corridor was not new - it had been studied three or four times in the past 30 years. There had never been changes in the Brooklands area, and none of the plans could ever get any traction, but the City wanted to take another try. He mentioned that recently, new zoning tools called Form Based Code had started to generate redevelopment interest. The Auburn Road Corridor Study had been in the Capital Improvement Plan (CIP) for about three years. The funds were released by Council to proceed in 2016, and LSL, MKSK and OHM Advisors were hired as consultants. He introduced Brad Strader from MKSK and Steve Dearing from OHM, and he noted that Mr. Dearing used to be the City's Transportation Engineer.*

*Mr. Anzek advised that a steering committee was formed for the Study with Susan Bowyer and Tom Wiggins from City Council and Deborah Brnabic and Gerard Dettloff from the Planning Commission. The committee also included residents, business owners, and other interested parties who might be affected by the Auburn corridor, and they had given staff good ideas and direction. They were at the point where they wanted to get guidance and input from City Council and the Planning Commission.*

*Mr. Strader summarized that the Study included the full length of Auburn from Dequindre to Adams, but a lot of the focus was on the Brooklands or Olde Towne area. Most of the discussion would be about the options for that area so they could hopefully get a consensus prior to a public open house on October 10th.*

*Mr. Strader noted that there had been input from property owners about having more intensity in the Brooklands area with more mixed residential. There was a lot more focus on the right-of-way (street, sidewalk area and parking in front). In the past, there was talk about redevelopment but not for the right-of-way. Throughout the meetings, it was felt that the right-of-way would really drive what might happen behind it. There was a focus on calming traffic and making it more walkable both along the street and crossing the street. A consistent*

*thought was that the parking should be better organized and to possibly close off some of the streets to provide more. The residents behind the businesses were interested in having good buffers, lighting, architecture, cleaned up alleys, low impact stormwater and green landscaping. A lot of the people in the Brooklands felt that the business district was part of the neighborhood, and they wanted it to thrive.*

*Mr. Strader mentioned Mr. Howard Kohn, a marketing consultant who was part of their group. Mr. Kohn conducted phone and stakeholder interviews, and he and Ms. Valentik went door to door visiting businesses in the Brooklands area. Mr. Strader noted that there was a public open house on May 26, 2016, and the consultants met with the Engineering Department in June and with MDOT (Auburn is a State road) in August. They also started looking at the Zoning Ordinance to see if changes were warranted.*

*Mr. Strader went over the comments they heard most at the open house. People wanted to see better pedestrian crossings, traffic calming, which they felt was more important than providing parking, parking in the rear or side street, the areas in front cleaned up, the alleys made more attractive and safer feeling, intensified uses with attached residential in two-stories, and something for pedestrians and bikers.*

*Mr. Strader advised that Mr. Kohn also did a market study along with the stakeholder interviews. He found that most people who did not live in the area had a negative impression of the Brooklands area. People talked about situations that happened 30 years ago. They thought of Rochester Hills as high quality, but they had a negative perception of the Brooklands area.*

*Mr. Strader indicated that the business owners were very open to redevelopment. They were skeptical of past plans, but the market study showed that there was a demand for re-development, and the property owners were excited about that. They would like to see some type of investment by the City in the right-of-way or a public plaza to help stimulate re-development rather than wait for the private sector for capital. The market study showed that there was a need for 45-64 new attached residential units. It would not be so much for residential above commercial but more for residential on the first and second floors or for townhouses. There was quite a bit of demand for industrial, manufacturing and high tech at a smaller scale in the area. There was a pretty good demand for more retail and commercial and, in particular, restaurants. He had talked with Mr. Kohn the previous day and he asked him what he felt, from a marketing perspective, was the most important thing to stimulate re-development in the area, and Mr. Kohn responded that it was redesigning the road and making it more walkable.*

*Mr. Anzek added that Mr. Kohn pointed out that people in the office and high tech industries were moving more toward one to three-person operations in this area. People could design something in their front room and build it with a 3-D printer in the back room. Mr. Strader agreed that it was evolving towards that, and he mentioned that Mr. Kohn also said there needed to be a cluster of restaurants, which would drive the parking needs. The perception was that there*

*needed to be more parking, but there was quite a bit there; it just needed to be better organized.*

*Ms. Valentik advised that they had talked with a lot of the business owners and asked what they would like to see and what they saw as the gaps. A lot of people wanted to see more single-owner or privately owned small businesses - true entrepreneurship businesses. No one wanted to see a McDonalds or a Burger King. They were proud of the small business ownership and entrepreneurial community, and they wanted to see other entrepreneurs land there and do well and support each other.*

*Mr. Hetrick brought up the negative perception that was mentioned, and he asked if that was City wide or just about the Brooklands. Mr. Strader said that it was just for the commercial area in Brooklands. It was negative in comparison to Shelby Township and the rest of Rochester Hills. Mr. Wiggins had heard that Brooklands was known as the "rough part" of town in the 1970's and 1980's. Mr. Hetrick considered that the neighbors still carried that perception but wanted to see it improve, which he felt was a positive.*

*Mr. Strader showed a layout of the Brooklands area with existing buildings and potential future infill. It was the overall plan or land use and design framework to start. They would add buildings, push buildings closer to the road and move the parking to the rear. He showed some examples of proposed architectural changes, along with adding landscaping and making it more walkable with wider sidewalks. He maintained that the improvements could happen if the parking was moved to the side or rear. They showed the pictures to the neighbors to try to get them excited about how the business uses could change.*

*The Study made some recommendations and observations in terms of existing zoning. The FB Overlay had been added previously, but it was an optional way of developing. One recommendation was to make it mandatory. They did not feel change would happen without that. If it was optional, one developer might use Form Based Code and one might use conventional, and there could be more of a hodge podge than was there now. That zoning would apply to Brooklands and to the other commercial intersections along Auburn. Another recommendation was to allow residential, because there was a demand. People could walk to nearby stores and businesses.*

*Ms. Morita indicated that she was having a hard time picturing that for the other intersections. Auburn and Rochester was already developed, and she could not imagine that type of redevelopment going into place. There were established businesses, including a Meijer. Going farther down Auburn, there was a large church on the south side, residential on the north and farther west, a school. She knew there were some small businesses east of Crooks, and she could see Form Based going into Brooklands, but she could not see it going all the way down to Adams.*

*Mr. Strader explained that they were talking about Form Based for Brooklands, and from Barclay Circle to Rochester Rd., there would be no change. There could be a different type of Form Based at the other corners. President Tisdell*

*clarified that when Mr. Strader was talking about a zoning change, it would make FB a regular zoning use instead of an overlay.*

*Mr. Anzek recalled that staff and the Planning Commission tried to identify ten different sites in town that might need a closer look for re-development. There needed to be some type of strategy to help a tired shopping center re-develop, for example. That was what brought about different nodes along Auburn and why they thought they would do the whole corridor. He agreed with Vice President Morita about the south sides of Rochester and Auburn, but he felt that the northwest corner was prime for re-development. There were a lot of curb cuts, and it was hard to get in and out. At Crooks and Auburn, the southeast corner had a mix of disorganized businesses, and he felt that it would also be a prime corner for re-development. He also observed that the center on the northwest corner was a little tired, and the owner had come to the City asking for ideas about what he could do.*

*Mr. Strader mentioned that the Study would allow residential in the Brooklands area on either end, and he asked if there was any reaction to that.*

*Vice Chairperson Hooper thought that it made sense. Mr. Hetrick felt that it made sense especially if it was something the residents wanted. It fit FB zoning, and townhomes were relatively hot in terms of their ability to sell. He felt that it would fit the corridor nicely.*

*Mr. Strader stated that the main corridor or most intense development was focused between Harrison and Gerald. Johnny Black's restaurant was there, and the restaurant owned some of the homes behind it, where they would like to add parking. However, there was concern from the neighbors about encroaching into the neighborhood. They did not want to extend the commercial into the neighborhoods, but perhaps the parking could be extended with an improved lot with good buffers. They were considering closing Harrison to turn it into parking or a plaza to serve as a gathering place in the middle of the Brooklands. It would be the one place where it would be reasonable to have some extension of the parking to the north.*

*Vice Chairperson Hooper wondered if that would be done just because the owner of Johnny Black's owned property there. Mr. Strader claimed that it would be the only place where, if they removed the parking in the front, there would not be any area to replace the parking.*

*Dr. Bowyer asked if someone could get to the parking lot between the mixed use and the closed road, which Mr. Strader confirmed. He added that instead of an alley, there would be parking.*

*Mr. Hetrick liked the idea of closing off some of the roads and reducing the curb cuts along Auburn and creating space in the alleys to allow for travel between the various buildings. That appealed to him in terms of creating a downtown feel in the Brooklands corridor. Mr. Strader said that they wanted to hear from the public about closing streets, because every time one street was closed, people who lived there might be opposed, and people on the next street might not like*

*increased traffic. They felt that the volumes would be low, but they wanted to get the members' reaction before they tested it with the public.*

*Chairperson Brnabic said that she wondered about the suggestion to have townhomes and mixed-use off of Hessel. There was currently a used car lot on the corner, and she questioned having mixed-use right next to that. She asked the vision for that area.*

*Mr. Strader said that the car lot could be re-developed, and that property could become very valuable. It would be for the longer term, and would be more likely to happen later.*

*Mr. Kaltsounis was not sure how some of the parking lots would flow. He heard the term "small business district" all the time, and he wondered if they might consider calling the area the "Small Business District." He brought up motivation, and he thought they should consider what motivation they could use to bring people into the area. He said that he drove down Auburn all the time, and he definitely felt that the Brooklands area needed some work and motivation. He thought that the City needed to be creative, and he wondered about investment in the area with some type of partnership. He wondered what other things they could do differently from the past to make changes or make things work, noting that it was the third plan he had seen for the area. He wanted to see something happen, but he felt that to get people to re-develop, there had to be incentives. He said that he drove through Auburn Hills everyday, and they were spending money, but they were always trying to jump start things. There were empty office buildings, apartment complexes, walkability and nice streets, but it seemed empty. He asked if staff had looked at Auburn Hills to benchmark. He suggested that another benchmark to use was Big Beaver Rd. by Somerset in Troy. That was something he would not want to see in the City. The fronts of the buildings were in the back, and they were right up against the road, but he commented that there was no life.*

*Mr. Strader showed the areas they felt that townhomes could go - at the entrances to the Brooklands area from the east and west. He showed green medians, which would be for traffic calming.*

*Mr. Strader talked about the rest of the corridor, and said that they would primarily like to see consistency. The idea would be that over time, those nodes would have buildings closer to the road, entrances from the back, better defined parking with landscaping, improved pathways, outdoor seating amenities, driveways spaced away from the intersection, rear shared access and buffers from any adjacent single-family.*

*Mr. Kaltsounis asked Mr. Strader what he would imagine in the buildings. At Adams and Auburn, there was a bar and a gas station, a church and another gas station. If he came to the Planning Department and he wanted to put a small business there, he wondered how would he be guided.*

*Mr. Strader said that unlike Brooklands, those businesses would be more of the franchise or bigger regional developers. There could be a restaurant with a nice*

*front with parking in the rear or a three-unit retail building. He thought that restaurants would be most likely.*

*Vice President Morita said that she drove through that intersection three or four times a day. She felt that the intersection needed a traffic circle more than anything. The gas station on the southeast corner was much too close to the street, and it always had used cars for sale. On the other side of the street was Auburn Hills. Auburn Hills had gone through the process of trying to make a nice gateway to its community. One of the complaints she got was how bad the City's side of Auburn looked. The northeast corner had a Coney Island that was demoed, and there was now a vacant lot. She suggested that the Engineers should look at the intersection, which got very backed up, and decide what to do before they started planning or suggesting buildings.*

*Mr. Shumejko noted that there would be a Master Thoroughfare Plan update in 2018. He thought it was something they could evaluate during that process. Mr. Davis believed that there would be support for a roundabout. He reminded that Auburn was a State road in Rochester Hills and it belonged to Auburn Hills on the west side of Auburn, and Adams was under the Road Commission's jurisdiction, but he suggested that they could look at the footprint.*

*Vice President Morita said that there was one vacant parcel on the northeast corner and a gas station on the southeast corner. The southwest corner had a dry cleaners up against the road. She thought that a roundabout could be pushed a little more to the east. She considered that the City would be competing with downtown Auburn Hills, which could not keep a restaurant open, and it was only a mile down the road.*

*Mr. Anzek said that the owner of Muldoon's (northeast corner) had talked with staff numerous times about parking on the right-of-way. Since the Coney Island burned down, the owner had asked what he could do, and staff suggested a parking option that would give him an exposed corner.*

*Vice President Morita said that another consideration was the Clinton River Trail which was just south of there. The problem with getting across Adams to the Trail was that the traffic was too fast. In terms of a destination place to bike, it would be a great location if they could work in bike paths leading from the Trail. Mr. Anzek noted that there were some examples of that in town. He mentioned Avery's Tavern on Crooks. When they renovated it (for the former Chapman's Mill), they built a connection to the pathway, and bicyclists did use it to get to Avery's. Ms. Morita agreed, but at Adams and Auburn, she reiterated that traffic calming was needed.*

*Ms. Valentik said that during lunchtime, it was very busy because of the industrial parks. Ms. Morita pointed out that the other half of the Marketplace Circle shopping center was empty. She observed that one thing Muldoon's had over Five Guys and a Burger and some of the other places was beer. She said that she used the bike path but ended up going to Auburn Hills for lunch.*

*Mr. Kaltsounis added that Muldoon's took up a lot of parking, and he suggested*

*that they should take a look at the parking, because he was concerned about the church there.*

*Mr. Strader went back to right-of-way alternatives for Auburn in the Brooklands. He reiterated the goals associated, and said that there were three types of parking they considered: Parallel, angled and slip road. With slip road, the parking would be angled off the road in front of the buildings, separated with some type of divider. MDOT was not in favor of angled parking because of the speeds along there. It was the favorite design of the committee, because it would add the most parking, and they felt it would look more like a little village within the City. He said that with angled parking, there would be 12-14 spaces on each block. If they closed some of the side streets, the angled parking could be extended. There could not be a median with angled parking, however. MDOT said that if there was angled parking, they would prefer reverse (backing in) parking. Auburn Hills tried that type of parking, but they got rid of it pretty quickly. The committee wanted to hear the reaction from the members before showing the public the angled or reverse angled parking alternative.*

*President Tisdell said that all over Austin, Texas and in the newly re-developed areas in Denver and Richmond, Virginia they had reverse angled parking. He pointed out that it was safer for kids because they would get out of the car and could go towards the sidewalk. The trunk faced the sidewalk for shoppers. He felt that it was excellent for traffic calming, because it took longer to get into a spot. He noticed that it was used in more creatively designed communities.*

*Mr. Wiggins asked President Tisdell what the speed limit was in those cities. President Tisdell said that they were dense, commercial areas with small businesses that people walked to, and the speed limit was 25-35 miles per hour. Mr. Wiggins noted that the speed limit currently in the Brooklands area was 40. President Tisdell said that the whole idea was to add mixed use and residency and to not be so auto dependent.*

*Mr. Dearing claimed that there had been a lot of communities in Michigan that had gone away from reverse angle parking. That worked much better in a downtown where it was not necessarily a main street or major thoroughfare, and there were alternate paths for vehicles. A lot of cities did not fine tune their parking requirements when they tried to do reverse angle parking, and they used different dimensions. Some were as narrow as 8 ½ feet. To back into a tight stall was very daunting for a lot of people, and he did not think that the public would accept it. Rochester Hills was probably one of the few communities that standardized at 10 feet, which was the recommendation for reverse angle parking. He commented that public acceptance was all based on comfort and feeling confident, so Rochester Hills would already be doing better than communities that tried it but failed, because they did not anticipate the public's reaction to something different.*

*Mr. Strader said that he had been working with other communities to try it, such as Traverse City and Alpena, but it was very polarizing to do it on the main street. He had pushed reverse angled parking in Ohio, because it would add the most parking, but it did not fly. They put it on the side streets, and it was a big*

*hit. He thought that it might be a wise idea to start on the side street.*

*Mr. Strader talked next about parallel parking. He said that they would get a little more than half over reverse angled. There could be a median with parallel parking. If some of the streets were closed, the median could be extended. That would help traffic calming and add green. MDOT would not allow a lot of landscaping in the median, however. Mr. Schroeder asked if they were talking about a 120-foot right-of-way, which Mr. Strader confirmed.*

*Mr. Hetrick asked Mr. Strader what the response was to the boulevard style. Mr. Strader advised that it had not been shown to the public, but it would be at the workshop on October 10th.*

*Dr. Bowyer mentioned that at the committee meeting, it came up that the angled parking would cause headlights to shine into a business. That was why people liked parallel parking more than angled. Mr. Strader added that with parallel, there could be a wider sidewalk and outdoor cafes.*

*Chairperson Brnabic questioned having parallel parking with the traffic. There were only two lanes, and it would cause a congested situation. She noted that downtown Rochester had parallel parking, but it also had two lanes on each side and a middle turn lane. Mr. Strader agreed it would be easier if there were two travel lanes. He suggested that they could perhaps do something to make it easier for people to pull in.*

*Mr. Strader talked about the slip road. There would be angled parking, but it would be off Auburn and behind curbing. The advantage would be that there would not be interruption with traffic flow, but the disadvantage would be less pavement for pedestrians or outdoor seating.*

*Mr. Schroeder said that he did not see left turn lanes. Mr. Strader said that there would not be room, although there might be room for short left turn pockets at some of the intersections. He reminded that there were no left turn lanes now. Mr. Schroeder asked what the traffic volume was. He thought that it seemed to be going down from 20-30 years ago. Mr. Strader said that it was about 11-13,000 per day. Mr. Dearing added that it got a little higher closer to Culbertson because of the middle school. Mr. Wiggins thought that there was more traffic now, and it seemed to be backed up a lot. Mr. Shumejko agreed that eastbound Auburn got backed up at John R and at Dequindre.*

*Mr. Dearing mentioned that Oak Park had some slip lanes, but they did not have angled parking; they had one way with parallel parking on both sides. Mr. Wiggins asked if MDOT liked the slip lane option. Mr. Strader said that they would be fine with angled parking if it was a City street. They thought that parallel would be an improvement. Actually, MDOT said that all of the options would be an improvement. They did not have a preference for parking with the slip road.*

*President Tisdell asked if the slip road concept would promote higher traffic speeds and impact walkability. Mr. Dearing said that walkability would be*

*improved, because there would be curb extensions that would shorten the pedestrian path. The pedestrian crossing distance would go down, which was important. That would be a feature implemented, no matter what the parking style was. Mr. Shumejko pointed out that some of the furniture zone would be lost (outdoor patios, café, etc.) with a slip road.*

*Mr. Hetrick asked which of the three alternatives would provide the best walkability. Mr. Strader stated that it would be a boulevard with parallel parking. Mr. Dearing added that all of the alternatives would add something that the corridor did not have today, which would be a continuous sidewalk on both sides. People had to walk through parking and dodge vehicles in front of stores. From a pedestrian perspective, all three were winners, but his opinion was that the most appropriate would be one with medians.*

*Mr. Schroeder asked how much parking would be lost with parallel versus angled parking. Mr. Strader said that they would lose about 50% with parallel. That was why they were looking at replacing it in the rear and on some of the side streets. The idea was to add a little parking overall. He said that they would like to narrow down the alternatives.*

*Mr. Schultz stated that he had some experience as a developer. He was developing a 60,000 square-foot, multi-use facility in another community in a Form Based district. He felt that the single, most important component to make the Brooklands district successful would be to calm the traffic. That was an issue they lost on Ann Arbor/ Saline Road. They pushed the buildings to the right-of-way, and it had been focused on pedestrian engagement. Overall his project was successful, but ultimately, it did not slow everything down, and the pedestrian engagement they thought they would get on the right-of-way side was not happening in the volumes it needed, because the road was not slowed down. He would push to figure out that road section in the Brooklands and slow it down, and maybe put a roundabout at the entrance and exit to the district to define it. They had to do the road first before doing anything, because it would drive the pedestrian need 100%. He mentioned that they put in a \$300,000 fountain on his project, which was opened less than a month ago, and he got frustrated when he saw that no one went there, because the pedestrian engagement did not happen like they envisioned. He reiterated that they needed to figure out the road first, and then economically incentivize developers to come to the district. Without that component, it would still struggle, because it would be hard to get a national restaurant tenant or retailer to even look at the district.*

*Mr. Kaltsounis asked Mr. Schultz what his recommendation was for parking. Mr. Schultz said that all three alternatives were successful, but he felt that parallel parking would bring pedestrians. He felt that traffic would be calmed with parallel, and as soon as they started adding green and trees, it would naturally slow the traffic. The more green there was, the better, and it would give a person the opportunity to stop and shop.*

*Mr. Hetrick said that he liked parallel parking, and he felt that it looked nicer. He suggested that even if a couple of parking spaces were lost, parking could be created on the side streets. Dr. Bowyer agreed that with parallel, there would be*

room for restaurants to offer outside dining.

Vice President Morita said that her concern would be the speed limit on the road. She wondered if they could work with the State to lower the speed limit. She felt that would allow parallel parking to work but if people were flying through, it would not. President Tisdell asked Mr. Dearing the maximum speed limit for streets with on-street parking. Mr. Dearing responded that there was no such thing. He reiterated that Auburn was a State road, which meant that MDOT and the Michigan State Police would decide what it should be. Their standard procedure was to measure actual traffic and set the speed limit as close as possible to what 85% of all the drivers were doing.

Vice President Morita asked if the City had to build it and then have the speed set. Mr. Dearing agreed. President Tisdell felt that it would be different if there were businesses in place. Mr. Strader claimed that 35 miles per hour or lower was preferred for parallel parking.

Mr. Schroeder noted that in the past, MDOT wanted the City to take the road. He wondered if that had come up. Mr. Strader said that it did, and he would cover it a little later. Mr. Strader talked about having a public plaza and closing off streets. They heard from the residents that they needed a gathering place. Mr. Schroeder suggested that they should close every other side street. Mr. Strader asked the members if they had any reaction to street closures or having a public gathering place.

Mr. Wiggins asked what would happen if they closed a street that had been open for 50 years. He asked how the public would react and what the unintended consequences would be. Mr. Strader said that traffic would tend to go to other streets, and people would find alternatives. Generally, in his experience, whenever there was change, there tended to be a negative reaction from people. On the street closed off, people liked it, but the people on the next street over worried about more traffic. After two or three years, it would settle down. Mr. Dearing added that people on a road that had been turned into a cul-de-sac appreciated the fact that they had less traffic in front of their house. Others would resent the fact that they could not get out of there. There would be pros and cons with any kind of change. Mr. Dearing suggested that the community could test drive areas to see how neighbors might react before investing dollars. They could temporarily close a road or use it for parking. Or close something altogether temporarily to test out a public space. Mr. Kaltsounis thought that was a great idea, and he felt that it should be part of the plan.

Mr. Strader claimed that MDOT had no plans for Auburn - it was at the bottom of the list. About ten years ago, the City sent them a letter stating that they would consider accepting it, but the State would have to make a lot of improvements. MDOT never answered. Recently, MDOT said that they would love for the City to take the whole street back, but it would not make any improvements first. At the end of the meeting with MDOT, they were talking about the City taking back only the Brooklands part, which would be a plus for the area, but the City would have to subsidize the road.

*Mr. Shumejko said that when they discussed segmenting the vacation of the right-of-way (turning back the road), he did not think MDOT was supportive of just the Brooklands section. He believed that they would want it to go to Rochester Rd. or so before considering it. Vice President Morita felt that made sense, because the DPS facility was on Auburn, and they did not even have control over plowing the road in front of their own facility. Mr. Shumejko said they tried to negotiate that, but there were some legal issues. Another issue was that the City would have to take over more traffic signals, which would be an added cost above maintenance.*

*Mr. Hetrick asked what it would cost to build the road if the City were to take over Auburn as it was and re-develop Olde Towne. Mr. Shumejko said that the biggest issue would be the storm sewer. When he drove by, it seemed like the existing road was higher than some of the front doors of the businesses. They would have to lower Auburn a bit to get the parking and pedestrian zone to the right level. Mr. Hetrick concluded that the road construction would be substantial.*

*Mr. Davis said that could not be ignored, and it would potentially be a costly endeavor, but they had not gotten that far. He suggested that the next stage would be to get into a more detailed analysis of where the utilities were, what the constraints were and what other challenges there might be. They knew that the storm drainage all along Auburn was pretty poor. There was some owned by the Water Resources Commission and there were some areas that had not been touched for a long time, and they were not up to current standards. All MDOT's money was going to go to I-75 for a number of years. The only money they might be able to appropriate was some for maintenance. Mr. Shumejko related that the City could re-do the road and still have it under MDOT's jurisdiction. Mr. Davis did not see the City taking over six miles of Auburn. The City would not be able to increase staff to take on the increased jobs of snowplowing and maintenance for that far. He thought that perhaps taking over a smaller segment, from Rochester to Dequindre, might be more reasonable.*

*Mr. Strader summarized that having a median with parallel parking seemed to be the preference, and that the members were open to taking back a portion of Auburn. They would like to see more traffic calming and more walkability.*

*Ms. Roediger went over the upcoming events. They would like to wrap up the Study by the end of the year. The next open house would be October 10th at the DPS Garage between 4 and 7 p.m. Mr. Wiggins asked if they had all the costs for the improvements from the Study. Ms. Roediger advised that it would be the next level of review. A scoping study would have to be done by Engineering for a deeper dive. Mr. Wiggins asked what the Planning Commission and City Council would be approving. Has asked if it would be whether they liked the concept, and if they would then be shown the price. Ms. Roediger said that it would be a matter of deciding to investigate further, and then they would go to the next level with more Engineering input and cost estimates. They would try to identify potential sources of revenue. Part of the implementation plan would perhaps be appointing a Corridor Improvement*

*Authority to find other funding mechanisms to help with public improvements for the right-of-way and not use General Fund dollars. Mr. Hetrick wondered if there was money in the budget for the next phase.*

*Vice President Morita noted that there had been a couple of prior studies for the corridor, and she asked if they got stuck when it came to funding.*

*Mr. Anzek said that when he came to the City in 2000, there was a plan for the corridor that showed some concepts and some organizing of the parking. There were no implementation strategies in the plan, or steps needed to make things happen. He noted that the whole issue of TIF capture was up in the air now with new Legislation that had been introduced at the State. The City still had to go forward with what they knew to try to accomplish what they wanted. If this plan was what they liked, they had to try to figure out how to make it happen.*

*Vice President Morita knew that there had been times when Council had been asked to approve spending money on engineering, knowing the money was not necessarily in the budget to build the end project to begin with. She felt that before putting the cart before the horse, that they needed a ballpark figure of what it would cost before they decided whether or not they even wanted to go forward spending money on the next step.*

*Mr. Anzek said that he understood. There was \$500,000 in the CIP for doing some of the initial infrastructure work and streetscape. When he last met with residents and business owners there, none of them liked each other, and none were on the same page. It was very difficult to get them organized. They tried a little different approach this time, having Ms. Valentik and the consultant go door to door and talking with them and asking them to be on a steering committee. There were two owners who were very keen about the plan who were on the committee, and he felt that they would be a driving force. He thought that a lot of things that failed in the past were being resolved.*

*Vice President Morita stated that in order to get it past Council, they would need to have an idea of how much the eventual cost would be and from where the money would come. Mr. Anzek asked how they would price something if they did not have an idea of what it was. Vice President Morita clarified that she did not mean they needed to know down to the penny - within a million or so, even. She envisioned that it would be very expensive. Mr. Anzek remarked that it would be \$3 to \$60 million. Vice President Morita said that they should have an idea, and should also know where it would come into the budget. That would give an idea if it was a five or ten-year plan. She did not think there was any point in sending it to Engineering if they could not afford to do it for a decade. Mr. Anzek hoped it would be approached similarly to the way they were approaching Riverbend. It did not have to be done all at once; there could be various components done. They might create some energy by doing the downtown area streetscape. There would have to be some holistic approaches. Vice President Morita agreed, and she said that she appreciated it, but a lot of what was being done to Riverbend was because of donor funds, not City tax dollars. She reminded that Council had a different stewardship when it came to spending. Mr. Anzek hoped there would be private investment in the area.*

*Dr. Bowyer asked if things depended on what Shelby Township was doing and if staff knew what they were going to do. Mr. Strader said that in Shelby Township, the road was owned by the Macomb County Road Commission. Shelby would like to mirror Rochester Hills and start talking to their Road Commission to try to get that.*

*Mr. Wiggins agreed that it would be helpful to have some type of cost estimate. In December, they could then have a better idea at Council of what they were looking at.*

*Mr. Schroeder asked if they had looked at acquiring right-of-way yet, which he felt would be a big factor. Mr. Davis said that one thing to consider was whether they wanted to use the alleys to a greater extent. He noted that some were privately owned. They wanted to try to have something continuous behind the buildings, so they might have to purchase some of the alleys. Mr. Schroeder always felt that "alleys" had a certain connotation, and he thought it would be nice if they came up with a new name for them.*

*Mr. Kaltsounis asked, after the Study was finalized and they knew the incentives and infrastructure costs, when it would be put into the CIP. Mr. Anzek said that it would be next year. Mr. Kaltsounis asked if that was feasible. Mr. Anzek reminded that they put items in the CIP to get them on the radar. It would take time to design and so forth.*

*Mr. Schroeder considered the setbacks and if they would be enforced, noting that they were trying to bring buildings forward. He thought that the right-of-way would be the controlling setback. He pointed out that it had been one of the main problems with the previous studies - adhering to the right-of-way and the setbacks - because none of the buildings did.*

## **ANY OTHER BUSINESS**

### **2016-0401 Legislative Update**

*(Reference: Handouts from City Attorney John Staran and Captain Michael Johnson had been placed on file and by reference became part of the record thereof).*

*Mr. Staran stated that in 2008, the Michigan Medical Marijuana Act (MMA) was enacted by voters' initiative. Almost immediately, there were questions about what it all meant. The idea was to allow people to have access to marijuana for medicinal purposes. Beyond that they did not know what would happen in terms of level of regulation, about growing operations, transportation, dispensaries and how everything would unfold and be regulated. They had to wait for the State legislature and courts to add definition and meaning. For the last eight years, the legislature has had dozens of bills introduced that basically went nowhere. The bills were to amend and try to provide clarity to the MMA. It went nowhere because the law was initiated by the voters, and it required a  $\frac{3}{4}$  vote of the State Legislature to amend it. Court decisions had been helpful, but it had been a slow*

*process. Even though there had been a number of court decisions which had provided some definition, there was always some doubt about broad rulings of the circumstances. There was a Court of Appeals decision that held that dispensaries were not allowed under the MMA. The City had taken a strict view and interpretation of the MMA and put a moratorium in place and took the position that medical marijuana businesses were not allowed as permitted uses in the City. There were aggressive enforcements by the Sheriff's Department and the Oakland County Prosecutor to buttress that decision.*

*Mr. Staran commented that it all changed last week. The State Legislature got a ¾ vote needed to move forward with some amendments, and they were signed into law last week by Governor Snyder. The State had now enacted a package of bills which changed the medical marijuana law. They were using the Liquor Control Act as a model, and it appeared that the State wanted to regulate medical marijuana somewhat the same. There would be a five-member licensing board appointed by the Governor. People would have to obtain a State license to operate. Much like liquor regulation, it would start with a local community. The Michigan Liquor Control Commission could not issue a liquor license for a bar unless it had first been approved by the local government. It would be the same for someone who wanted to operate a dispensary. The new law said a State license was needed for that, but it could only be issued if the municipality permitted such a business to locate. That would be the threshold question for the members. They would have to determine if they wanted Rochester Hills to allow medical marijuana businesses, what type they wanted to allow and where they should be located. The answer might be that they did not want them at all.*

*Mr. Staran indicated that it was not lost on the State that there was money to be made. The State would collect a 3% tax on gross receipts. Some of that money would be allocated to the local governments (25% of the 3%) and the counties. It also allowed municipalities to charge up to \$5,000 annually in administrative and enforcement costs. There was no limit in the law on the number of licenses that could be issued. It was not tied to population like liquor licenses were. There were no proximity regulations. If someone was a care giver, he or she could grow up to six plants per patient with a maximum of 72. Someone was not allowed to create a large grow operation with someone else. Under the new law, a grower could apply for one of three types of licenses so they could have up to 500, 1000 or 1,500 plants in one location. It also allowed for edibles (oil extracts, etc.). It prohibited butane to separate resin from marijuana plants in residential structures, which had been a source of a lot of fires in recent years. The last bill, the Marijuana Tracking Act, required the establishment of a seed to sale tracking system. The State would monitor every aspect of an operation.*

*Mr. Staran felt that they had some decisions to make from a zoning and land use process as to what kind of community they wanted to be with regard to medical marijuana businesses, and they needed to work on appropriate ordinances to either permit them or not or permit them on an extremely restricted basis.*

*Captain Michael Johnson of the Oakland County Sheriff's Office passed around pictures of some grow operations in the City. When he was advised of an operation in a home, he turned it over to an officer from his Undercover Narcotics team. The officer would talk to the homeowner - and to date, they had never been refused entry - and people had been very cooperative. They had shut down a few for violations.*

*Captain Johnson said that with potential dispensaries, they had an opportunity to learn from other States' mistakes. He mentioned the crimes, including burglaries, that had happened in other States. He noted that people would not be allowed to put any money from medical marijuana in the bank per the Federal Government. That was problematic - people knew other people had money around. He mentioned other consequences/crimes from dispensaries in other states, including noises, traffic, firearms, false physician recommendations, life safety hazards, exposure to minors, odors, loss of business tax revenue and a decrease in their quality of life. He read some statistics from Colorado and added that there were 424 retail businesses selling marijuana, compared with 322 Starbucks and 210 McDonald's.*

*President Tisdell asked if the businesses were legal (grow operations out of homes). Captain Johnson said they were if they played by the rules. President Tisdell asked why they could not use banks. Mr. Staran said that the Federal law had not changed. Marijuana was still a Schedule One drug, and there had been some talk about how that might change, but it did not appear it would happen during this Administration. Although it was still unlawful, the Feds were not enforcing in states that had immunized medical marijuana usage. He commented that it was a strange area of the law.*

*Mr. Wiggins asked what would happen to the existing six or seven grow operations if the City did not support the new law. Captain Johnson said that they would still be legal. Mr. Staran said that they were residential, and the new law was focusing more on businesses not in a house (dispensaries). Mr. Hetrick asked if the operations that were legal under the law had to be licensed. Captain Johnson advised that they did not. For a patient who wanted to grow for his or her own use, that part of the law had not changed. Mr. Staran said that a dispensary that would allow someone to exceed the limitations would be allowed if the locals approved it and if a State license was obtained. He said that the City had the ability under the new law to prohibit dispensaries, but it did not have the ability to prohibit the in-home grow operations approved in 2008. Primary caregivers could have up to 72 plants in a house. Vice President Morita asked if people could go to someone's home for that, which was confirmed. She thought that was a violation of the City's Home Occupation Ordinance. Mr. Anzek said that it was not, and Ms. Roediger explained that home occupations were allowed as long as there was no signage or a lot of truck traffic. Vice President Morita remarked that if Captain Johnson could smell something from the street, other people could, as well.*

*Mr. Staran observed that Ordinances were only as good as the City's ability to enforce them. Some of the case law had indicated that, MMA aside, there was nothing that excused or immunized from local nuisance laws. There were still*

laws for noise, odors, etc. Vice President Morita indicated that people could not have too many chickens, so she wondered why they should be allowed to have a grow operation in the basement.

Mr. Schroeder asked if they could use the odor Ordinance in Cross Creek (where there were complaints). Captain Johnson said that one was shut down. It was the biggest one they had. There was one in Eddington Farms, but the owner had four air conditioners, and he pulled permits for everything. He did everything the right way. He had a filtering system so the odor was not getting out. It was difficult to do anything if there were complaints. They were looking at other avenues, because when this gentleman harvested his 72 plants, he would be over his allowable limit. He was allowed 2 ½ oz. per patient, and Captain Johnson believed that one day, he would have too much.

President Tisdell mentioned that his son was in Denver. In downtown, there was not an empty storefront or an empty square inch of warehouse space. Everyone was kind of over marijuana, and it was not a big deal except for the cash issue. There were people running around with huge amounts of cash creating a problem. Michigan allowed fireworks, because they realized how many tax dollars were being left in Ohio. Wyoming did not want their people to go over to Colorado, so they put on a 25% sales tax after the excise tax. At some point it would be legal, but while there was still that gray cloud hanging, where it was legal under one entity but not another, he did not know how they could regulate it.

Captain Johnson said that from Colorado, they have had 394 seizures of outgoing marijuana in 2015. President Tisdell said that in Colorado, it was an accepted part of life, although it was not supposed to be taken across the state line. The recreational use had gone very much industrial. To have that kind of greater industrialized use with up to 1,500 plants, he wondered what they would do with the cash, and that was his concern. He felt that it was very unfortunate that voters decided to allow medical marijuana use. He questioned whether the City was supposed to create regulations to allow a quasi-legal business.

Mr. Hetrick said that he would rather not have those behaviors in town. Mr. Schroeder asked if the allowable number included the seedlings, which was confirmed.

Dr. Bowyer wondered if someone could challenge the City or the State if the City banned it. She questioned whether someone might sue the State.

Mr. Kaltsounis recalled that eight years ago, when the law first came out, the City put a moratorium in place to do some research. He asked if a moratorium was recommended as the next step for the City.

Vice President Morita wondered if the City had to proactively enact an Ordinance which permitted it. If they did not enact an Ordinance, she did not believe that it would be allowed in the City. She did not think that they had to do anything.

*Mr. Staran was not sure he was ready to say that. There were a lot of things in the City that were not expressly named in an Ordinance but were similar to things that were. If someone presented a grow operation and made a good argument to persuade that it was agricultural and agricultural was permitted or it was industrial and industrial was permitted, it could be allowed. He was leaning towards recommending that the City should specifically define and name those types of businesses and say they would be permitted or not. Otherwise, they would be leaving an interpretation issue out there. He stated that there was nothing in the Ordinance that said those businesses were not allowed. The City had taken the position that they were illegal under the State law, but that had changed. They did not want to leave room open for any argument. He thought that they should have something that clearly said they were not allowed.*

*Vice President Morita thought that would open the City to exclusionary zoning if they specifically stated it. Mr. Anzek said that the new law said that the City could do exclusionary zoning. Mr. Staran added that those issues would be determined. Just because they excluded something, and someone could go to court to claim exclusionary zoning, there had to be a demonstrated need in the City and an appropriate place to put it. If someone could go outside Rochester Hills to get marijuana as medicine, that did not mean there was a demonstrated need to have dispensaries. He mentioned a billboard case out of Livonia that had come up in the last month. Livonia banned them, and they were challenged, as it was claimed that there was a need for that type of advertising, and it was a legal use. Livonia prevailed, because the court did not see a demonstrated need that a company had to have them in Livonia when one could be put somewhere it was allowed. He felt that they could take the same position. In Oakland County, there were other cities that did not want to allow dispensaries. There were other communities that were asking why they would not want them. He read that Lansing had at least 60 or 80 dispensaries. Rochester Hills might choose to exclude them, but people could get their medicine elsewhere. When the City regulated something stringently, there was a risk it would be challenged, but that was with everything in zoning - adult businesses, oil drilling, etc. The City Council was elected to establish public policy for the community, and he did the best he could to provide legal support and defense. He felt that the City had been pretty successful in standing up to what they thought was right and being able to defend it, and he did not think this would be any different.*

*Mr. Wiggins asked if they had to come up with something in 90 days. Mr. Staran said that the law would go into affect in 90 days, but someone could not apply for a license for 360 days. He was not ruling out the possibility of strongly recommending the adoption of a moratorium while they sorted through it. He anticipated that they would figure out where they wanted to go pretty quickly and adopt the appropriate Ordinances, but he would take the position that if someone came to the counter tomorrow asking for a dispensary, that the City did not have any place zoned for it.*

*Mr. Schroeder asked if they could ticket or arrest someone with a dispensary if the City did not have an Ordinance. Captain Johnson said that it was a State law, but they could. Mr. Schroeder asked if the money would go to the State.*

*Captain Johnson said that it would not matter because most money went back to the State. Mr. Staran said that someone had to get a State license, and they would not get a State license unless they heard from Rochester Hills that it was approved.*

*Mr. Hetrick said that in the short term, that was part of their answer - they would not allow any licenses. Mr. Anzek said that Planning got several calls a week about where a dispensary could go, and people were told that until the State resolved it, it was not allowed, but there was interest in coming to Rochester Hills.*

*Mr. Hetrick agreed that they needed a moratorium to provide the opportunity to create the proper zoning. Mr. Staran said it would be "to create lawful and reasonable zoning."*

*Vice President Morita asked Mr. Staran if he was going to draft a moratorium resolution for Council. Mr. Staran felt that was the appropriate next step to give them some breathing room and keep people at bay. They would be calling with increasing frequency. It would be different than last time, because the City was waiting for something from Lansing. It would be a function of how much time they needed to move forward with what they wanted to do from a zoning standpoint. He did not think it would take much time, but there was no need to rush it.*

*Mr. Anzek noted that they had treated the moratorium as a land use issue. It was taken to the Planning Commission first for a Public Hearing. He asked if it would just go to Council this time, which Mr. Staran thought was correct.*

*Mr. Schroeder asked what other cities were doing. Mr. Staran said that it was too early to know. He tried to search for documentation, but it was too new. Mr. Schroeder recalled that over 40 years ago, there was a grow operation in a barn at Tienken and Bridgestone. The City was trying to get an easement for a bike path, and they found it.*

*Captain Johnson said that the best part of the law was that it allowed for an opt out by communities. President Tisdell asked what a defensible period would be for a moratorium, and Mr. Staran said 180 days. Vice President Morita asked if they would want the moratorium to go into effect at the end of the initial 90-day period from the enactment of the legislation. Mr. Staran did not know if there was a need to wait, although he would not have a problem with that. He thought they would have plenty of time to put something in place before a moratorium expired, and he reminded that the City had extended moratoriums.*

*Vice President Morita asked if there would be sample ordinances to follow or if they would be inventing the wheel. Mr. Staran was hearing that the members did not want to open the door to dispensaries, and he did not think that would be a difficult Ordinance to draft. He thought it would be more difficult if they did want to allow dispensaries as a special land use with a lot of restrictions.*

*Mr. Anzek asked if they were going to prohibit outright or if they would amend*

*the Zoning Ordinance. Dr. Bowyer pointed out that the Federal Government said it was a Schedule One drug, and there was no scientific evidence of a medical need for it, so it could be banned. President Tisdell said that his thinking was that they could start off with a "no" and change it later if necessary. Mr. Kubicina said that he agreed. He asked about Ferndale.*

*Ms. Roediger said that Ferndale welcomed dispensaries with open arms. Mr. Staran added that Ferndale legalized recreational use, as well. President Tisdell recalled some smaller communities that had used zoning to get grows out of the neighborhoods and into industrial areas. Vice President Morita said that she would also like to explore having more restrictions on an individual caregiver selling marijuana in a residential neighborhood. She felt that there had to be a way to strengthen the Ordinances to give Captain Johnson and his team a few more tools. Mr. Staran said that they could look at the nuisance Ordinances. The City had not done anything with those. The City of Warren amended its Ordinances within the last year with something called "Fresh Air." He was not sure how successful the implementation and enforcement had been. They could bolster the nuisance Ordinances to deal with the effects - noise, odor, lights, etc.*

*Vice President Morita mentioned that she received emails from residents about smells, lights and huge energy draws, which she stated was not fair to the neighbors. There was traffic, too, and she felt that it might be worth it to look at their Home Occupation Ordinance to try to tighten it up.*

*Mr. Staran did not think that fell under Home Occupation, and Vice President Morita suggested that perhaps they needed to change the definition of Home Occupation to include it. Mr. Staran cautioned that they could not prohibit something that State law allowed. State law still allowed in-house grow operations, so there was a clear preemption.*

*Vice Chairperson Hooper asked if it could be allowed in an industrial district only and if they could charge a permit fee. Mr. Staran advised that they could not charge a fee.*

*Mr. Hetrick said that if someone did not hook up electricity correctly, it would be a code violation. He wondered if there was a way to beef up those kinds of things.*

*Captain Johnson said that he had the violations to use as leverage (as relayed in the photos) to get people to shut down, and they had been somewhat successful. The gentleman in Eddington was doing everything he was supposed to do and was getting the appropriate permits from Building. Vice President Morita said that he had four outside, operating air conditioning units. She asked about the decibel level for those, which she felt was a nuisance.*

*Mr. Schroeder asked if the Fire Department would have jurisdiction over the use of flammable liquids and other things, which was confirmed. He considered that there could be Fire Department control also. He mentioned that there was a house in Warren that burned down the day before.*

*President Tisdel asked Mr. Staran if he had gotten a consensus. Mr. Staran agreed. President Tisdel thanked everyone for coming, and said that Council appreciated the experience and efforts of the Planning Commission members.*

*Chairperson Brnabic also thanked everyone. She thought that a joint workshop should be scheduled at least once a year. She felt that it had been too long since the last one, and she had only been to three in all her years on the Commission.*

## **NEXT MEETING DATE**

October 10, 2016 Regular City Council Meeting  
October 18, 2016 Regular Planning Commission Meeting

## **ADJOURNMENT**

Hearing no further business to come before the City Council and Planning Commission, President Mark Tisdel adjourned the Special Joint Work Session at 9:56 p.m.

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Mark Tisdel, President  
Rochester Hills City Council

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Deborah Brnabic, Chairperson  
Rochester Hills Planning Commission