



Rochester Hills

Minutes - Draft

Planning Commission

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Rochester Hills, MI
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Chairperson Deborah Brnabic, Vice Chairperson Greg Hooper
Members: Gerard Dettloff, John Gaber, Nicholas O. Kaltsounis, Stephanie Morita,
David A. Reece, C. Neall Schroeder, Ryan Schultz

Tuesday, August 20, 2019

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Deborah Brnabic called the Regular Meeting to order at 7:00 p.m. in the Auditorium.

ROLL CALL

Present 9 - Deborah Brnabic, Gerard Dettloff, Greg Hooper, Nicholas Kaltsounis, Stephanie Morita, David Reece, C. Neall Schroeder, Ryan Schultz and John Gaber

Quorum present.

Also present: Sara Roediger, Director, Planning & Economic Dev.
Allan Schneck Director, DPS/Engineering
Maureen Gentry, Recording Secretary

APPROVAL OF MINUTES

[2019-0378](#) July 16, 2019 Regular Meeting

A motion was made by Schroeder, seconded by Kaltsounis, that this matter be Approved as Presented . The motion PASSED by an unanimous vote.

[2019-0377](#) July 31, 2019 Special Meeting

A motion was made by Hooper, seconded by Schroeder, that this matter be Approved as Presented . The motion PASSED by an unanimous vote.

COMMUNICATIONS

- A) *Various resident emails re: Brewster Village PUD Amendment*
- B) *Letter from Samaritus re: Brewster Village*
- C) *Letter from R. Shelton re: Shelton Buick GMC site issues*

PUBLIC COMMENT

Chairperson Brnabic opened Public Comment at 7:02 p.m. Seeing no one come forward, she closed Public Comment.

NEW BUSINESS

2019-0324

Request for Final Site Condominium Plan Recommendation - Christenbury Site Condos, a proposed two-unit site condo development on 2.4 acres, located south of Washington, west of Dequindre, zoned RE Residential Estate, Vito Terracciano, Applicant

(Reference: Staff Report prepared by Kristen Kapelanski, dated August 15, 2019 and site condo plans and elevations had been placed on file and by reference became part of the record thereof.)

Present for the applicant was Vito Terracciano, 19910 Westchester Dr., Clinton Township, MI 48308.

Ms. Roediger recapped that the Preliminary Plan for a two-unit site condo on Christenbury Ct. had gone before the Planning Commission at the July 31, 2019 meeting. The Planning Commission recommended approval and approved a Tree Removal Permit. City Council approved the Preliminary Plan on August 12th. The applicant was eager to move forward, and he was back before the Commission for Final Plan recommendation. She noted that at the last meeting, one neighbor had raised a concern about potential views from his property. The applicant had spoken with that property owner, and advised that he would be willing to plant additional landscaping to help alleviate those concerns.

Chairperson Brnabic asked Mr. Terracciano if he had any further comment, and he did not.

Mr. Kaltsounis said that the goal for a Final Site Condo Plan, after the matter had gone before Council for the Preliminary and the Final was reviewed by staff, was to make sure that there were no changes, and that the Final Plan was consistent with the Preliminary. Hearing no further comments, he moved the following:

MOTION by Kaltsounis, seconded by Dettloff, in the matter of City File No. 19-014 (Christenbury Site Condominiums), the Planning Commission recommends that City Council **grants Approval** of the **Final Site Condominium Plan**, based on plans dated received by the Planning Department on August 13, 2019, with the following four (4) findings and subject to the following four (4) conditions.

Findings

1. *Upon compliance with the following conditions, the proposed condominium plan meets all applicable requirements of the zoning ordinance and one-family residential detached condominium.*
2. *Adequate utilities are available to properly serve the proposed development.*
3. *The final plan represents a reasonable and acceptable plan for developing the property.*
4. *The final plan is in conformance with the preliminary plan approved by City Council on August 12, 2019.*

Conditions

1. *Engineering approval of all permits and agreements prior to issuance of a land improvement permit.*
2. *Inspection and approval of tree protection and silt fencing by the City prior to issuance of a land improvement permit.*
3. *Post a landscape and irrigation bond in an amount to be determined, plus inspection fees, as adjusted as necessary by the City, prior to issuance of a land improvement permit.*
4. *Compliance with all outstanding staff review comments, if any, prior to final approval by staff.*

A motion was made by Kaltsounis, seconded by Dettloff, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion PASSED by an unanimous vote.

Chairperson Brnabic stated for the record that the motion had passed unanimously, and she congratulated the applicant. Mr. Dettloff thanked Mr. Terracciano for addressing his neighbor's concern.

2019-0061

Public Hearing and request for recommendation of the First Amendment to the PUD Agreement for Brewster Village Condominiums - City File No. 18-015.2 - a proposed 30-unit development on 7.3 acres, located north of Walton, on the west side of Brewster, zoned SP Special Purpose and R-1 and R-3 One Family Residential, Parcel Nos. 15-08-376-015 and 15-08-331-041, Robertson Brothers Homes, Applicant

Mr. Gaber recused himself, explaining that his law firm represented Robertson Brothers, and his partner did the condominium work for the project.

(Reference: Staff Report prepared by Kristen Kapelanski, dated August 15, 2019 and amended PUD Agreement and correspondence had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Tim Loughrin and Jim Clark, Robertson Brothers Homes, 6905 Telegraph Rd., Suite 200, Bloomfield Hills, MI 48301.

Ms. Roediger noted that the project had been before the Commissioners a couple of times for a PUD on Brewster Rd., north of Walton. The site was split zoned, and another developer had originally proposed townhomes, but it was eventually approved for 30 detached units. The applicants met extensively with the neighboring Shadow Woods Homeowner's Association (HOA) due to concerns about the detention and storm water in the area. There was an agreement that the applicants would improve the Shadow Woods detention. When the applicants received approval from the Planning Commission and City Council, there was a condition placed by the Planning Commission that a left turn lane into the development should be constructed. However, it had not been indicated by the City's or the applicant's engineer that the traffic warranted a left turn lane. Once the applicants got into the construction plan review, there were additional complicating factors in creating that turn lane. They were asking for a modification to the PUD to do alternative improvements instead of the left turn lane. They had been working with Engineering on other public benefits that could improve the traffic flow and pedestrian access in the area.

Mr. Loughrin said that they had really appreciated working with staff over the past year, and working with the Shadow Woods board had been a pleasure as well. He maintained that they were still very interested in developing in the community, but they would not be before the Commission if they thought they could make the project work with a left turn lane. He said that it was a challenging site to develop, with regard to grading, existing utilities and being an infill site. During the review and approval process, there had been the perceived notion that there would be traffic issues along Brewster Rd. for people traveling north and turning left. That took them by surprise, because none of their professionals, the City's engineers or other staff had said anything about needing a left turn lane. He realized that the existing conditions on Brewster were not great.

Their engineer's initial thought was that it would cost about \$70k, which was significant, but they felt that they could absorb that cost, even with all the benefits they were providing. They wanted to work with the City and proceed. The intent was to originally put the asphalt on the west side of Brewster, but as they got into the final engineering, it was evident that the grades on the west side were significant. The cost to put in retaining walls to deal with the existing sanitary sewer line, fiber optics and the power line would not work for them. They looked at the east side of Brewster and went through an analysis. The challenge was that there were four or five homes on that side, and they would have to take out driveways, curbs, sidewalks and replace everything. There was a 16" water main, and they would have to put in a couple of new storm structures, which would be too close because of the frost. They would have to entirely reroute a large portion of the water main, but they would not know how much until they started cutting. The cost would be out of their ability to do the project, and they would not be able to move forward. He knew that they had agreed to the lane originally as a public benefit, but they believed that they had offered significant public benefits with the project already. They had worked cooperatively with the Shadow Woods HOA specifically on improvements to two of their storm basins. They would clean them out and improve them with an agreement to be able to use one of them - the other was a quarter of a mile away, and they would not be touching it for detention. They were also proposing a bike repair station on Brewster, which would be maintained by the Brewster HOA in perpetuity. They agreed to put a landscape berm along the north and west portion of the perimeter to screen residential to residential, which was not typically done or required. That would cost \$25k alone. Another benefit was the reduced density. He recalled that Pulte wanted to do 60 townhomes, and Robertson Brothers would love to build that, but they proposed half the density, with single-story, detached condos, for which he felt there was a real need. They could not absorb costs as much as a 60-unit townhome development could, which could be allowed under the multi-family zoning. He claimed that the development would have a much lower impact on community facilities, such as schools, roads and utilities. There would be fewer people, and there would typically be two people per home who were retired or semi-retired. They were still going to build a southbound right turn lane in and out. They had agreed to the City's Traffic Engineer's suggestions and to pay the City's portion for improvements along Brewster. That included flashing lights along an existing pedestrian crossing, ADA ramps, some lighting and the City's portion of flashing lights by the high school. Those improvements would be about \$70k, which they would write a check for in lieu of not having the left turn lane. They felt that they were providing a lot of public benefits for only 30 lots.

He stated that other than the removal of the turn lane, the community would remain the same, and everything that was approved would stay. Robertson would still be the builder, and the same quality architecture and materials would be used. He believed that most of the people involved recognized the merits of the development. He pointed out that Samaritus would sell to someone at some point if Robertson went away, but he felt that they had the best plan for the site, and they remained committed to building a quality development.

Mr. Clark related that people had found out about the proposed project, and they had over 80 people interested. They had a web page where people could learn all about them and get information, which he felt showed a healthy interest in the community and the residents.

Chairperson Brnabic said that it was good to hear that they were willing to work with the residents. She asked what the estimated cost would be to install the left turn lane. Mr. Loughrin said that it was north of \$250k if everything went well. They did not have a final estimate, because they had to take a time out and did not explore how much of the main they would have to remove.

Chairperson Brnabic opened the Public Hearing at 7:18 p.m. and advised that speaking time would be limited to three minutes, and that any questions would be answered after everyone had the opportunity to speak.

Terry Lanker, 583 Snowmass Dr., Rochester Hills, MI 48309 *Mr. Lanker recalled that he had originally made a comment about the left turn lane. Now that he had thought it over and saw the traffic study, he wished to rescind his comment. He felt that they could get by fine without it. The traffic backed up northbound on Brewster, but if someone wanted to make a left turn, it was the southbound traffic to be worried about. Farther north on Brewster, the Hidden Valley entrance to Shadow Woods did not have a left turn lane, and he had never heard anyone complain about it. The thing that concerned him was that at some point, the property would be developed, and he did not know what would be put there. Apartments could go in, and the new people would not necessarily work so well with Shadow Woods and clean out their detention ponds and add a nice buffer. He stated that they worked hard on the buffer. There had been resident meetings, and there were several different versions. He indicated that there would be a lot of benefits for Shadow Woods. He reiterated that he wanted to rescind what he said before about a left turn lane being necessary, and he felt that they should move forward with the*

project.

Steve Yuhasz, 2736 Broadmoor Dr., Rochester Hills, MI 48309 Mr. Yuhasz noted that he had lived in his subdivision about seven years. He stated that he was in a difficult position, because he had worked with the applicants, who were stand up guys, and there would be benefits for his sub. He said that he did not rescind what he said, and he thought that they did need a bypass lane. He thought that there should be some agreement about how to pay for it. If the City believed that it would be a benefit, he suggested that the City should consider subsidizing it or find some funding to do it. He felt that it was a safety issue and a quality of life issue. He drove the road every day, and there was a lot of traffic. He stated that the traffic would only get worse over time, and they should be thinking about the future, not just now. He believed that Brewster would eventually be widened, and the homeowners on the east would lose frontage then. On one hand, he wanted the benefit for his sub, and he liked working with the applicants, but he did not want to rescind what he said, because that was a benefit they would be losing. He thought that cities should take care of detention ponds and take over the whole responsibility for storm water, because HOAs were going bankrupt all over. He could not believe that systems were not underground, and if he had known that policy, he might not have moved into the City. He hoped that the Commissioners would think it through before they voted to change the Agreement.

Michael Sparrow, 2730 Steamboat, Rochester Hills, MI 48309 Mr. Sparrow said that he was shocked to find out what Pulte wanted to do the day after he moved in, and although they were picking the less of all evils, not everyone would be happy. He had attended the public meetings and one at the school and supported the ideas. He asked if the final decision would be made at the meeting, which Chairperson Brnabic confirmed. He asked that the decision be postponed due to the lack of homeowners' knowledge about the proposed change. The first two meetings were well publicized in the neighborhood newsletter, and they were well attended. Since the February meeting, there had been radio silence from the HOA in the newsletter. He assumed there were no changes, since they had been good about letting people know. He agreed that he should have done due diligence, but he did not because he assumed. He got an email from an officer on the HOA about something on the City's website about people being for or against. He said that at least someone from the HOA knew about the proposed change on June 2. There had been four published email newsletters since that date, and there was not a mention of the change or the meeting. He stated that he was upset. He found out

from his neighbor late in the afternoon, and he told some other neighbors. He said that he was not there to complain about the volunteer efforts of those on the HOA, however, he stated that he would not make the mistake again of assuming that they would let him know. He looked at the website, which led to a dead link. There were five emails on the web with three for and two against. Three were from members of the HOA who did not talk to anyone or inform anyone about what was going on, and he had a problem with that, especially when the President of the HOA signed his name with that title but did not let anyone he was representing know what was going on. Mr. Sparrow asked that the decision be postponed to be able to let more neighbors know what was going on and to invite them to give more feedback.

Gary Plagens, 2729 Steamboat, Rochester Hills, MI 48309 Mr.

Plagens stated that he liked the design, and that everything looked great. He remarked that if anyone drove Brewster during school times, that it was very bad. There was a hill on Brewster, and he suggested moving the entrance to the last house. Colorado across the street had a right turn lane it could connect to, the same as Powderhorn Ridge was divided. He said that Powderhorn Ridge had seemed to absorb more traffic lately, and there were no sidewalks. At Brewster and Powderhorn if people made a right onto Brewster, they could get run over. He suggested that if anything was going to be done by the school, it should be to add crosswalk lights at Adams and Powderhorn Ridge. He thought that there should be something placed there, because people ran red lights on Adams. He concluded that those were his two recommendations.

Allan Jacob, 146 Brewster Rd., Rochester Hills, MI 48309 Mr. Jacob stated that his house was one of the four that would be impacted by the bypass lane. When they got out of their driveway and tried to make a left to go south to Walton, they had four seconds from the time they saw a car coming over the hill until it got to their driveway. They could make it out, if people were going the normal speed. There were cars that turned onto Brewster from Walton that went full throttle from the time they started up the hill until past their house. They had seen motorcycles do the same thing, which gave them less than one second to get out into the road. He stated that the impact on their property would be enormous if someone moved the water and gas mains. There were two big blue spruce trees and a raised flower bed that would disappear. The flower bed was there to protect from water coming into their house.

Maximiliano Larroquette, 2678 Winter Park Rd., Rochester Hills, MI 48309 Mr. Larroquette commented they were there again discussing the

project they had talked about six or nine months ago. In February, the most important thing that people spoke about was traffic, and the most important condition placed was to install a bypass lane. The developer was asking for an exception due to a topographic limitation. He stated that there was a Master Plan in the City. According to that, roads and utilities were laid, and everything had been developed based on the Master Plan. The Master Plan allowed a certain density and usage for the subject property, and that had changed, so it was only logical that the roads would have to accommodate the new density. There was more need for sewer and power. He stated that he was against the changes at the last minute. He thought that they had an agreement. He asked what would change next because of cost. If there was a downturn in the economy, and they could not sell a house, he wondered if they would come back and ask for more density or to lower the house quality and change the landscaping. Some of the Shadow Woods owners were saying that it should be a City issue. Mr. Lanker was the President of the Shadow Woods HOA, but he had not consulted a single person, and there were over 400 houses. He said that he challenged anyone to find 15 people who were aware of the proposed change.

Chairperson Brnabic asked Ms. Roediger how people were noticed. Ms. Roediger advised that notices went to everyone within 300 feet of the property, and it was the City's policy to notice anyone who had spoken in the past. It was published in the paper. It sounded as if the HOA was a little more active in getting the word out about the development in the past, which was beyond the City's control. Chairperson Brnabic asked if the HOA was notified, which was confirmed. She said that it sounded as if the HOA did not notify residents properly. She asked Mr. Schneck about the comment by Mr. Plagens regarding moving the entrance.

Mr. Schneck said that as far as geometrics and widening on the west and east side of Brewster, the entrance into Colorado only tapered. There was not the proper transitions to transition traffic through that intersection. Any improvements would have to be made north of Colorado. As the applicant had discussed, there were multiple iterations and significant costs pertaining to the 16" water main and where the drainage would have to be. The drainage landed right on top of the water main, which would not adhere to the City's Engineering standards.

Mr. Clark responded that they had stayed in contact with the HOA, and they had a second traffic study done. The first study was for more units, and at that time, the turn lane was not warranted. The second study was done with the correct buyer profile and less units and again, there was no

justification for a lane. There was concurrence with the Engineering Dept. Robertson was prepared to make a contribution for other community benefits, but they did not go back and have a lot more meetings with the HOA. He said that for 60 units, they could do a lot of things, but with 30 units, they could not do any more. There would be a major utility relocation. He indicated that it was a challenging time to bring ranch houses in at the right price. He agreed that Samaritus would sell their excess property, but they would like to build what they had proposed. They were asking for an accommodation for an economically infeasible requirement for something that had not been asked for by the professionals. He believed that it would cost a lot more than \$250k.

Mr. Loughrin said he had mentioned that they could not move forward with the condition, so if they were not able to agree upon doing an in-lieu-of payment for other beneficial items, they would not be able to move forward. He did not want that to come out as an ultimatum, but they were prepared to walk away from the project. They wanted to be given a chance to show why they could not put in the turn lane, and he felt that the City's Traffic Engineer had provided some good alternatives. Mr. Clark added that Samaritus had been very receptive. All the shops at Adams and Walton were fed through the subject site (power). They had agreed to give Robertson an easement, so they had tried to make it more viable.

Chairperson Brnabic closed the Public Hearing at 7:45 p.m.

Mr. Kaltsounis noted that signs had been put up for different types of developments. He asked if the proposed amendment would fall under that policy. Ms. Roediger said that the Ordinance required signs for Rezonings and Conditional Uses. It was not required for the amendment. Mr. Kaltsounis said that it was unfortunate for the residents not to have received the same aggressive publication as they had, but that would be an issue between the residents and the HOA. He stated that the Planning Commission had to make a decision, but he was still undecided, and he looked forward to hearing from his colleagues. They had seen the site many times with different densities proposed, and the Brewster Village development was the least dense. There was also a road with a traffic issue, and typically, they asked applicants to put in left turn lanes with similar developments. They wanted to make the neighbors happy, but there were a lot of things to consider.

Mr. Hooper said that he would prefer to have a left turn lane, and he understood the public benefit of having a left turn lane, but he also understood the economic situation. He was in full support of single-story

ranches, and he thought that they would be an immediate sell, knowing the market for ranch-style housing. He did not think that there would be a shortage of people who wanted to live there. He agreed with their offer to accept staff's recommendations for alternatives to compromise on the public benefit for the PUD, and they had also proposed a reduced density from what the Commissioners had seen previously. He stated that he continued to support the project, and he moved the following motion (the condition was added after the discussion below):

MOTION by Hooper, seconded by Dettloff, in the matter of City File No. 18-015 (Brewster Village Condominiums PUD), the Planning Commission **recommends** that City Council **approves** the First Amendment to the PUD Agreement dated received July 2, 2019 with the following five (5) findings and subject to the following one (1) condition.

Findings

1. The proposed amended PUD agreement is consistent with the proposed intent and criteria of the PUD option.
2. The proposed amended PUD agreement is consistent with the approved Final PUD plan.
3. The proposed amended PUD agreement will not create an unacceptable impact on the public utility systems, surrounding properties or the environment.
4. The proposed amended PUD agreement promotes the goals and objectives of the Master Plan as they relate to providing varied housing for the residents of the City.
5. The proposed agreement provides for an appropriate transition between the subject site and existing land uses to the north and south of the properties.

Conditions

1. The applicant agrees to pay the City's share for the six PUD safety enhancement and public benefit recommendations, including the City's share of the reduced school speed zone flasher signs, as outlined in the Traffic Engineer's memo dated August 12, 2019.

Ms. Morita said that for those in the audience who had been sending letters since June, she wanted them to know that all of those letters had been forwarded. If she received a communication, it was forwarded to the Planning Commission for consideration, and she hoped everyone heard their name mentioned. She said that it was the second project where the Commission had wanted a left turn lane because of traffic concerns. They were well aware of what the Traffic Engineer had opined, but they all

lived there. For the last two years, she had driven by Brewster and Walton every morning during the school year, and she saw the back up and was well aware of what it looked like with people heading south. She thought that Council had asked for signage to be put up. The Legacy of RH development at Adams and Hamlin put up signs, and that was a Consent Judgment. She thought that Council had changed the parameters of when signage should go up. Ms. Roediger said that it was done for Conditional Uses and Rezoning but not for PUD amendments. She said that it could be done moving forward, and Ms. Morita felt that would be wise. She apologized to the residents who felt like they were not properly forewarned. Some of the residents knew, as she was getting emails in June, but why the rest were not aware, she had no explanation. She said that she was not sure she could support the project without some type of bypass lane. She knew about the traffic in the morning, and if 30 homes were added turning left or right in the morning, it would be difficult. She said that she was not necessarily in support of changing the site plan, and she felt that more consideration should be given to the public benefit and where the signage and flashing lights should go. She said that she would like staff to take a look at it and see if there was something else that could be done. If there was more traffic coming south on Brewster in the morning and there were kids walking, it could be dangerous.

Mr. Dettloff said that he supported the project, which was a quality development with quality developers. He felt that they had made every attempt to work with the residents. As Mr. Lanker had pointed out, the property would get developed at some point, and he felt that there was a real opportunity with the proposed project. He asked Mr. Loughrin to define what they had agreed to with regards to the recommendations in the memo from Mr. Shumejko.

Mr. Loughrin said that they would pay for the City's portion of what was included, including reduced speed school zone flasher signs, which would be split 50-50 with the school. Everything added up to about \$70k. They felt that it would be a payment-in-lieu of the left turn lane. Mr. Dettloff did not believe that Mr. Shumejko would have listed them if he did not feel that they would help to address the situation.

Mr. Clark said that after doing the same type of housing for 30 years, he knew that it produced a different traffic pattern because of the age-targeted buyer. They would be ranch homes. He knew that there was

no guarantee, and there were enough bedrooms for kids, but they did not come in with kids or with standard commuting traffic patterns. That was why the traffic study showed the results it did. The development would not generally have school aged children or larger families. It was geared towards people who went away in the winter and wanted a place to stay in Rochester Hills. They were hoping to shift the public benefit to a definable amount as opposed to an undefinable relocation of a major transmission line.

Mr. Dettloff asked if the recommendations would be added to the PUD Agreement. Ms. Roediger agreed, explaining that the PUD would be modified. Mr. Hooper asked for a condition that required the PUD safety enhancement recommendations as enumerated (6 items and he read the costs) to be added, which Mr. Dettloff supported.

Mr. Kaltsounis asked the price point. Mr. Clark said that they would be \$400-500 depending on the options. They had a design center where someone could personalize a home. The homes came well equipped, but people generally added upgrades. Mr. Kaltsounis said that he was thinking about his parents. They had a \$400k house now, but he doubted that they could afford one in Brewster. He noted that they were empty nesters. Mr. Clark indicated that it was very hard in Rochester Hills to buy land, do the improvements and bring it in much under \$400k. They would like the base price to be as cost effective as possible. Mr. Kaltsounis commented that it was one of the "victim of success" stories in the community.

Mr. Schroeder said that he would usually insist on certain things and would not consider something without certain things, but he maintained that what the neighborhood and residents were getting they would never get from anyone else. It would be the best development. If they did not accept that, they would get a development that would make people very unhappy. The best thing they could do was go along with the program. He supported the program, because in his opinion, it was the best thing overall for the City.

Chairperson Brnabic agreed, and she called for a vote:

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

Aye 5 - Brnabic, Dettloff, Hooper, Schroeder and Schultz

Nay 3 - Kaltsounis, Morita and Reece

Abstain 1 - Gaber

Chairperson Brnabic stated for the record that the motion had passed five to three, and she congratulated the applicants on moving forward with the PUD. Mr. Clark said that Robertson Brothers had been around for over 70 years, but they had not built in Rochester Hills, and they were very excited about the possibility. Mr. Hooper thanked the applicants for their investment.

Break 8:01 to 8:06 p.m.

2019-0372

Public Hearing and request for Conditional Use Recommendation - City File No. 19-020 - to add a drive-through to a new, 6,629 s.f. credit union for Lake Michigan Credit Union, located on the north side of Tienken, west of Rochester, zoned O-1 Office Business with an FB-1 Flexible Business Overlay, Parcel No. 15-03-451-029, Lake Michigan Credit Union, Applicant

(Reference: Staff Report prepared by Kristen Kapelanski, dated August 15, 2019 and site plans and elevations had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Steve Witte, Nederveld, 217 Grandville Ave., Suite 302, Grand Rapids, MI 49503 and Chris VanDoeselaar, Newco Design Build, 4131 Roger B. Chaffee Memorial Blvd. SE, Grand Rapids, MI 49548.

Ms. Roediger noted that the site had an existing bank, and the applicants wished to demolish and update the site with another bank use. They would improve the landscaping and architecture. They were asking for approval of a temporary building in the rear of the property to use while they built the new building. A parking modification to have more spaces than the maximum allowed by Ordinance was being requested. There was parking currently there, and it would be reduced, but it would still be over the requirement, and documentation had been provided explaining why the parking was necessary for their operation. She advised that staff had recommended approval with minor conditions.

Mr. Witte explained the justification for needing additional parking. There would be 24 employees, and they would do mortgages and regular banking at the site. They would get a fair number of customers. There were 57 existing parking spaces on site, and they would be reducing that number. He indicated that the site had very little to no landscaping, and the project included 49 trees and well over 100 shrubs and grasses. He maintained that the new building would be very attractive. On the north

end of the property, he agreed that a temporary office building was being proposed that would be removed at the completion of construction. The temporary building would allow the customers to continue to do banking, and they hoped to sign up new members during construction. They had worked with staff, and he believed that they were all in support. He advised that he had addressed the traffic and engineering concerns with Engineering, and said that he would be happy to answer any questions.

Chairperson Brnabic stated that she did not know if she considered it a very attractive building. She asked them to list the building materials, which she assumed included stucco. Mr. Witte agreed, and added that there would be stone veneer, store front windows, metal soffit and fascia coping. There would be a flat roof. He suggested that it was more of a modern look. Lake Michigan had constructed many buildings across the State, and it was their brand. He knew that everyone had an opinion on building appearance, but the ones he had seen had looked very attractive.

Mr. Gaber said that he understood what they were saying about the parking, but he did not see the need for that many spaces. He asked if 50 spaces were commonly used at one time by employees and patrons. Mr. Witte replied that 51 spaces were proposed. There would be 24 employees, but he was not sure how many would be at a site at a given time, perhaps 20. From the mortgage side, they would occasionally have 15 customers in at one time. For the banking side, they could have an additional 15 customers at a time. In his opinion, 50 was the high end, and they would never need more than that, but they did not want to have a shortage of parking. Mr. Gaber had heard Mr. Witte say that there could be 30 customers in at one time, but Mr. Gaber said that he had a hard time believing that. He mentioned that Genisys Credit Union was just in front of the Commission for approval, and they got a parking waiver, but they only wanted 30-some spaces. He did not like the parking in the front setback; he would rather see grass or some type of buffer. He recognized that it was a commercial use, and everyone appreciated that the site would be cleaned up with added landscaping. He echoed Chairperson Brnabic's comment about the aesthetics of the building. He asked if there were any other photos that showed a different rendering. The renderings submitted did not look aesthetically pleasing from his standpoint, particularly with the proposed materials. Mr. Dettloff had commented that it kind of looked like a mausoleum, and he agreed. There was a statement in the Planning memo that said that the proposed building "must be designed in accordance with the City's Architectural Design Standards." He asked if they met those standards or if the Planning

Commission had discretion to apply.

Ms. Roediger said that the design standards did state that EIFS could only be used on no more than 20% of one façade. The comment was that the applicants needed to modify the elevations to meet those standards.

Mr. Dettloff clarified that it was a standard look the credit union used in other communities. He asked the closest community to Rochester Hills that had an existing facility. Mr. VanDoeselaar said that it was in Grand Rapids. There were nine or ten locations that looked similar to the proposed building in Grand Rapids, and he said that they could provide additional photos of what the buildings looked like when they were finished. He advised that it was the first new build with that design; the others were purchased banks that were modified. Mr. Dettloff asked if it was their first venture into southeast Michigan. Mr. VanDoeselaar agreed for the proposed design. Mr. Dettloff asked if there was a way they could move the parking from the front, as Mr. Gaber had discussed.

Mr. Witte stated that the building materials would comply with the Ordinance, and they would work with staff to make sure of that. As far as the parking, he did not think that it would be the end of the world if they lost a few parking spaces, but the credit union stated that they really needed 51. Mr. Witte suggested that they could perhaps create an island in front to create more green space, and he did not think that it would be a deal breaker. He did not think that there was enough room to put it all in the back, however.

Mr. Schultz had pulled up a location in Grand Rapids on 2024 Celebration Dr. He asked if that was a representation of what was being proposed. Mr. VanDoeselaar said that it was not, but it had a similar look. He said that there was one on 84th St. in Byron Center and another one in Muskegon on Sherman Blvd. Ms. Roediger pulled up one in Fruitport, which Mr. VanDoeselaar noted had been open for five years. It looked similar to the proposed, although it had a little more stone, and he commented that the CEO liked Florida architecture and EIFS. Based on the comments, they would probably add more stone to the proposed building to meet the requirements.

Ms. Morita asked if the type of banking at the Rochester Hills location would be different than what was done in Farmington Hills and Troy. Mr. VanDoeselaar said that it would be the same type of use, except that one half of the building would be for mortgages, which did not exist at the other locations to the same degree as proposed. Ms. Morita asked how many

people at the other locations would be dedicated to the mortgage business. Mr. VanDoeselaar said that typically, there would be one, and Ms. Morita clarified that there would be 11 more people at the proposed location. She noted that the Troy location had 24 spaces. Mr. VanDoeselaar said that it was an existing location that was purchased. Ms. Morita said that the Farmington Hills location had about 30 spaces. There would be 11 more people, but she questioned why they would need almost 30 more spaces. Mr. Witte said that it would be 20 more, and clients would also be coming in.

Chairperson Brnabic recapped that there would be 24 employees on staff at all times during business hours, which Mr. VanDoeselaar confirmed was for the branch and mortgage office. Chairperson Brnabic clarified that there would be at least 15 customers for the mortgage side and 15 for the banking side on a consistent basis. Mr. Witte said that would be the maximum, and it would allow for transition. Employees on the mortgage side would have meetings out of the office.

Mr. Dettloff asked if the 24 employees would be full time. Mr. Witte agreed that was correct. The days and hours of operation were Monday to Thursday, 9-5:30, Fridays 9-6:00 and Saturdays, 9-1:00.

Mr. Kaltsounis had looked at the new building in Grand Rapids which had 54 spaces. He noted that the proposed site had a ten-foot drop from one side to the other, and he asked the plan to fill that. Mr. Witte said that the west side of the existing building had a lower level, which had drainage problems. The whole lower area would be filled. Mr. Kaltsounis asked if there would be a retaining wall, and Mr. Witte said that he had it set up so that a retaining wall would not be needed along the west end. The ten-foot drop was to get access to the lower level of the existing building, but the proposed building had no lower level. Mr. Kaltsounis asked how many stacking spots there would be, and Mr. Witte said that they were showing two teller lanes and four stacking spaces. There was room for at least three more per lane. Mr. Kaltsounis said that his next concern was the look of the building. He used a term "siding monsters." When he saw siding monsters, he called them that because they were cheap. Some people might like them, but the Commissioners were the people who had to live with them. EIFS was public enemy number two. Mr. VanDoeselaar said that it would actually be stone if EIFS was not approved. Mr. Kaltsounis said that he was looking at the teller side of the building, and there were a couple of windows and a big slab of cream colored EIFS. That was what he would see driving down Tienken and regret if it was approved. He would not see the pretty side of the building (where there

was more glass and angles). He claimed that the back was plain. There were a couple of windows shown on the elevation but not on the rendering. Mr. VanDoeselaar said that the second drive-through elevation did not print very well, but there were windows in the back and at the front edge of the drive-through. He noted that it was not shown on the rendering, because the client asked him to take them off because it was a back room. They could aesthetically add in a window, but it might have to be blocked off on the inside, because it was the cash room, the bathrooms, etc. Mr. Kaltsounis said that he also questioned the windows on the far side of the drive-through and how close they were. He saw more of an expansive view in the rendering that was not broken up and without windows, and it had a lot of EIFS. He questioned whether the project was ready. He was not excited about the cream color, although he realized that it was their brand. He suggested adding some brick and breaking up the back. They had talked about having a cash room, but he remarked that he could punch a hole into an EIFS wall and get into the building. Mr. VanDoeselaar maintained that it would be a full steel structure building that no one could get in. The EIFS would be on a solid base.

Mr. Witte pointed out that the front yard setback was 35 feet. They would be 130 feet off of the road, and there would be landscaping and space in the front. Mr. Kaltsounis said that he would see the drive-through and the whole back wall, and he could not sign up for that.

Chairperson Brnabic said that she agreed with Mr. Kaltsounis. When she had said that it was not a very attractive building, she inferred that she was just being polite. She stated that the building was not attractive to her at all, and she was looking forward to hearing any suggestions. Regarding the parking, there were 57 existing spaces, and they appeared to have an appropriate demand for 51 spaces, so she was not as upset about that request.

Mr. Gaber said that the applicants had obviously heard the comments. He thought that the Commissioners all appreciated the improvement and what the applicants were trying to accomplish, and they were grateful to the owner for doing that. However, he did feel that there were some things that needed adjusting.

Chairperson Brnabic opened the Public Hearing at 8:38 p.m.

Donald Birch, 330-337 W. Tienken, Rochester Hills, MI 48306 Mr. Birch thanked everyone for allowing him to speak. He noted that he was one of several owners in the building to the west. There was an easement

across the back of the current bank building which, he claimed, was fairly straight forward. It was concerning to him that if the parking was re-arranged, it would make it difficult for them to exit their building. He hoped that they would not have to drive through a parking lot, and that they would still be able to easily exit. On the north side of Tienken, he said that he would like to see a little longer acceleration lane, because the traffic on Tienken was unbelievable. It looked to be the busiest road to him in Rochester Hills by far, and it would only get worse. He thought that a lane heading west from the two properties could be lengthened, and again, they would like it so the parking was separate from the driveway.

Basil Considine, Jr., M.D., 458 Steeple Chase Ct., Bloomfield Hills, MI

48304 Mr. Considine said that they were just recently made aware that there was going to be a remodeling of the building but now there was an opportunity for a new credit union suitable in appearance and suitable to the community. He explained that the building to the west of the proposed building was a medical/dental building that was established in 1983 in support of the medical staff at Crittenton which needed radiation oncology and medical oncology services for patients who needed continuing cancer care. The building was set back from the road, where they had some very remarkable pine trees which they had attempted to protect for the area. He believed that there was an attempt to improve the building. In order to bring the lower level of the current building up to one level for the new design, he thought that it would involve a lot of fill and new paving for the drive-through. In the process of establishing a drive-through, he wondered what the drainage would be like and about the sinking of the fill for the drive-through to be appropriate for the new building. He asked where the temporary trailer would be located. He had heard that there would be a 12-month construction period for the new building, and he wondered where the equipment and the sheds would be located. He noted that their access road to the medical/dental building would be adjacent to the drive-through corridor at the north side of the new credit union. He questioned how the traffic would flow through the area, because as people went to the drive-through window, he claimed that they would be confronting patients leaving the medical facility. The access road was concerning to them as was what would happen with the drainage that would no longer go through the gully which was on the west side of the building.

Mr. Witte showed the existing easement, which would remain in the same location and be reconstructed. He showed where the temporary office would be on the north side. They had done a phasing plan in the hopes of getting a building permit for the temporary office. The plan was to

construct everything to the north right off the bat. That would allow the credit union's customers to still do banking, and it would let the neighboring property visitors have access to their site. There would be construction fencing around the perimeter of the rest of the property. All the equipment for the main building would stay inside the fenced area. There would be some disruption while they reconstructed the access, and they would have to work with the neighbors. Regarding drainage, they were proposing underground detention for the entire site. There would be catch basins to pick up the water from the site, and it would discharge to Tienken. All the drainage would be accommodated, and he had done the calculations. They would work with Engineering for final approval pending site plan approval.

Mr. Gaber moved to postpone the Conditional Use and the Site Plan requests (some language added after the discussion below:

MOTION by Gaber, seconded by Morita, in the matter of City File No. 19-020 (Lake Michigan Credit Union), the Planning Commission **hereby postpones the Conditional Use and Site Plan** to allow a drive-through at a proposed credit union on site at 310 W. Tienken Rd. until the next available meeting so the applicant can consider the building design and aesthetic issues mentioned - use of material, windows, adding some type of roof variation - and to consider removing the ten parking spaces at the front of the site or breaking them up and adding landscaping, addressing the issues raised during the Public Hearing and by the Commissioners, adding specific information about the temporary building, including the timing, the number of people and parking spaces and having the renderings match the drawings.

Ms. Morita requested that they add something to have very specific timing for the temporary building and how long it would be there. There had been other operators in the City who wanted to improve a site while staying on the site when it was clear that they would need to demo the building. She did not know how they would run electric and heat and how the 24 employees would fit in the small temporary building or how 50 people would park in the back of the lot. She would like to know who would be in that building, how many people would be needed in the building, how many parking spaces would be needed and how long the building would be there. She would expect the applicants to be held to that. She would like to see the renderings match the drawings so she did not have to pick out what was different.

Mr. Reece said that he did not have a significant concern about the

parking; he felt that the applicants knew their business and knew how much parking they needed better than the City did. He agreed that the elevations needed to be addressed. They were enumerated incorrectly. A2.1 was not the south elevation. He thought that what they were calling the south elevation was the west elevation, and it needed a significant amount of redo to get rid of the Stowe and add more stone material. He reminded that the Commission had approved much uglier buildings, noting the dental clinic and the apartment buildings on Rochester Rd., so they had to be careful what they called good or not good design. The building standards did need to be addressed, and there was way too much EIFS for his taste. He felt that the applicants had addressed the concerns of the neighbor to the west. He supported Ms. Morita's recommendation about the temporary building. He thought that they had a sound logistics plan for constructing the new building, but he asked them to provide a cross section through the site. He was curious about the grading and how things would work from east to west and what the transition would be onto the existing property.

Mr. Schultz said that looking at the site plan, he had some concerns with the circulation. He referred to the seven spaces in front the building, and said that it seemed odd that someone would come in and park in that location, but there would be only one way out. There would be drive-through traffic coming, and someone would have to circle back around. If he was going to invest the money and build a brand new building, he would push it as close to the road as possible. He remarked that the circulation in the front seemed kind of aimless, and he asked if there was a reason why the spaces were pushed up front.

Mr. Witte responded that there were two entrances to the building. The thought was to have parking at each entrance. Mr. Schultz said that he would push the building closer to the road to give it a better presence and put the parking around the back. He had some concerns about the parking flow, because there would be a lot of things going on in that area, and he felt that it could be resolved better.

Chairperson Brnabic hoped that the applicants had taken careful notes. She asked if they agreed to the postponement, which they did.

A motion was made by Gaber, seconded by Morita, that this matter be Postponed. The motion PASSED by an unanimous vote.

2019-0373

Request for Site Plan Approval - City File No. 19-020 - Lake Michigan Credit Union, a proposed, 6,629 s.f. new build with drive-through on 1.79 acres located on the north side of Tienken, west of Rochester Rd., zoned O-1 Office

Business with an FB Flexible Business Overlay, Lake Michigan Credit Union, Applicant

Postponed

Chairperson Brnabic stated for the record that the motion had passed unanimously.

2019-0379

Request for Site Plan Approval - City File No. 19-013.2 - Auburn Rd. Park Plaza, a proposed .36-acre park area with splash pad, bathroom and pedestrian amenities on Auburn and Emmons, Parcel Nos. 15-25-456-025 and -033, zoned C-I Commercial Improvement with an FB-2 Flexible Business Overlay, City of Rochester Hills, Applicant

(Reference: Staff Report prepared by Kristen Kapelanski, dated August 15, 2019 and site plans and elevations had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Ben Weaver, OHM Advisors, 34000 Plymouth Rd., Livonia, MI 48150 and Ken Elwert, Director of Parks and Natural Resources for the City.

Ms. Roediger summarized that staff and the consultants had been working on the plaza as part of the overall Auburn Rd. Corridor project. She noted that it had gone to City Council the week previously, and funding was approved for the plaza, and they were still finalizing the design.

Mr. Hooper said that the firm where he was employed and at which he was a shareholder was doing the work for the project, and he recused himself from the discussion.

Mr. Weaver indicated that the project would be an amenity for the residents of Brooklands as well as Rochester Hills as a whole. The plaza plan included some mounded, artificial turn domes for kids to run up and down, and there would be amphitheater-style seating for outdoor events. There would be tables and chairs, a restroom facility and a splash pad.

Chairperson Brnabic mentioned that the EIS anticipated the number of employees at zero on a regular basis. Mr. Weaver said that was true. She questioned that, and wondered how the bathrooms would be cleaned, for example. Mr. Elwert noted that Spencer Park was fairly close, and he agreed that they did not intend to have any regular staff on site, but they would do daily inspections. They would also maintain the landscaping on Auburn Rd. with their grounds crew. Chairperson Brnabic asked what was

involved in a regular inspection. Mr. Elwert explained that it would be going through the bathroom check list, checking the supplies and equipment, doing visual inspections, and checking signs on a monthly basis. He added that there were a variety of checklists.

Ms. Morita said that she had noticed that the design included descriptions of moveable chairs and tables. She pointed out that there would not be anyone from the City there regularly, and she wondered what would stop people from taking those chairs and tables.

Mr. Elwert advised that they would not be typical chairs; they would have a little heft to them. They had some storage areas. In the event that something walked away, and they recognized it as a risk, they would look at more permanent options. Ms. Morita asked how much they would be spending on tables and chairs that might or might not walk away. Mr. Weaver said that he did not have the numbers, but he believed that a table and four chairs would be about \$1k. Ms. Morita asked how many tables and chairs they were considering. Mr. Weaver said that there would be ten tables and 40 chairs, which Ms. Morita commented came to \$10k for tables and chairs that might or might not walk away.

Ms. Morita asked where the splash pad spouts would be located, which Mr. Weaver pointed out. She believed that the water would drain to the north, and she asked if it would drain into the alley. Mr. Weaver said that it would be a flow through system into a planting bed with a dry well to collect the water. Ms. Morita asked if that would connect to the City's sanitary sewer. Mr. Weaver said that it was meant to be a rain garden to help filter the water, and if it filled, there would be an overflow into the storm system. Ms. Morita said that as it was explained at Council, it was supposed to go into the sanitary sewer, and the City would be paying sanitary sewer rates on the water. It was not going to be going into the storm sewer. She asked who was wrong. Mr. Weaver said that as originally designed, it was intended to go into the storm sewer. Ms. Morita said that the big request before Council was not for that; it was for something else. Mr. Weaver said that it was designed to go to the storm sewer, and if that was different, they would have to work it out. Ms. Morita asked if the plan for the water fountain system in front of them was not the one for which City Council had authorized payment. Mr. Weaver claimed that it was the plan Council saw. Ms. Morita stated that she respectfully disagreed. It was very clear at the Council meeting that it would not go into the storm sewer; it would go into the sanitary sewer, so the dry well and the rain garden would not be needed. Mr. Weaver said that he would have to verify that. Ms. Morita said that there would be an additional 12 or

14 weeks' lead time to do it the way it was proposed in front of them, but they wanted it to have a shorter lead time, which meant that the water would have to go into the sanitary sewer. That was what Council authorized for the purchase, and it was not the splash pad that was in front of them.

Ms. Roediger said that she had mentioned that the City was working on finalizing the design process. There were pros and cons for going into the sanitary versus the storm, and they were working on that with Parks and Engineering to determine the long-term best plan from a cost and maintenance perspective. Ms. Morita said that the estimate from Mr. Schneck would cost \$40k a year just in water. She asked if the plan in front of them would cost less. Mr. Elwert said that the estimate was a worst case scenario, and they were looking at a variety of options. Ms. Morita said that her point was that the design in front of them was not what was authorized by Council. Ms. Roediger said that they had an allowance of up to \$250k for the splash pad, and they were trying to figure out the most economical solution to minimize the ongoing costs. Ms. Morita said that she did not care which one was used, she just wanted one picked that stuck. Ms. Roediger said that they were still finalizing it. Ms. Morita felt that the matter should be postponed until they could tell her what was what. She had been prepared to vote in favor of the plaza, but it was not what Council (six to one) had approved.

Ms. Roediger stated that the plan presented to Council was the same plan in front of the Commissioners and the one that went to lafrate for bid. The details of where it would drain were still being worked out. Ms. Morita said that staff was very clear that the timeline with the additional 12 to 14 weeks was not acceptable, which was why they had the water going into the sanitary sewer. Ms. Roediger knew that there were internal discussions with Engineering as to what system they preferred, and she agreed that what was presented to Council was the worst case scenario. The lead time was associated with State permits. Ms. Morita said that her understanding was that what was presented at Council was the least costly to construct and had the shortest timeframe. She stated that it was not the same plan. Ms. Roediger maintained that it was the exact same plan, and lafrate was already working on the Auburn Rd. project overall. In terms of mobilization and coordination with contractors, the project was underway as part of the road project, and through negotiations with the City, they were willing to continue to work on phase three. The details of where the splash would drain were still being worked out with staff. Ms. Morita said that she had re-reviewed her questions to staff the day before, and she disagreed. She disagreed based on the answers given to her,

and either someone did not know what they were talking about when they were in front of Council or someone did not know what they were talking about at the meeting. She strongly urged staff to go back and figure out the story and pick one plan. Ms. Roediger explained that staff wanted to make sure that the overall site plan in terms of the elements was approved, recognizing that there were still some details for the drainage to be worked out. Ms. Morita pointed out that they could not address the drainage until they knew what system they were going with, and they did not know if the water would flow into the alley or not or if they needed additional sanitary sewer drains at the end, because it was not called for in the proposed plan.

Mr. Gaber asked if anyone could address the issue. Ms. Roediger said that between Parks, Engineering, OHM and the potential splash pad vendors, they would be talking about the pros and cons and making a final determination in the next couple of weeks. She apologized that she did not realize that detail would be needed. They thought that the site plan was at a level that was complete enough to bring to the Planning Commission. Ms. Morita said that she did not have a problem approving a site plan that was consistent with what Council had approved. She was just asking for staff to go back and bring a site plan that was consistent with what City Council had approved, and she did not think the proposed plan was it. Ms. Roediger claimed that it was the exact same document. Ms. Morita said that she understood, however, Council was not reviewing it for site plan approval. They were looking at the numbers and what had been proposed in the bid, which Ms. Roediger stated was based on the plan in front of them and what lafrate had used to prepare its bid. Ms. Morita asked how long it would take staff to figure it out, and she asked if it could be postponed until the next meeting. Ms. Roediger advised that staff was meeting on Friday to discuss it further. The next Planning Commission meeting was not until September 17, and Ms. Morita asked why they could not deal with it then. She moved to postpone.

MOTION by Morita, seconded by Kaltsounis, in the matter of City File No. 19-013.2 (Auburn Rd. Plaza), the Planning Commission **postpones the Site Plan** until the next available meeting to finalize the plans per the discussion.

Chairperson Brnabic summarized that Ms. Morita had posed a big question, and she sat on Council. Obviously, something was not consistent with what she saw, and Chairperson Brnabic agreed that it should be postponed until everything was ironed out.

Mr. Kaltsounis remarked that he had two sides to him - the good guy and the speeder that broke laws. He joked that he would steal the chairs. The table would be 22 lbs., and it would be gone. He did not trust people with folding tables or chairs. He could not even trust them at his church, and they never got closed right. He had a problem with the tables and chairs, and he asked if they could reconsider them. Several years ago, there was a presentation by staff about when there was a storm, the sanitary sewer rate shot through the roof. He questioned dumping the water into a sanitary sewer. Mr. Weaver clarified that as designed, it was meant to go into the storm system. Mr. Kaltsounis said that he would get in trouble if he dumped his water into the sanitary sewer. He asked if staff could look at that. He drove by the splash pad in Auburn Hills, and he noticed that there was a tent with a person sitting outside who collected money from non-residents. He was not sure if that person was there to manage the splash pad. He wondered about the tile and injuries. Mr. Weaver explained that it would have a polymeric coating over concrete. It was used in roadways and for marking bike lanes. Mr. Kaltsounis asked if it would be similar to the purplish material that was on the side of the City Hall driveways, but Ms. Roediger said that it was not. Mr. Weaver noted that it was anti-slip and gritted. Mr. Kaltsounis wanted to make sure there were not just plain tiles. Mr. Weaver said that once the concrete was in place and hardened, the material would be laid over the top of it. It could be any color or shape. Mr. Kaltsounis wanted to make sure there would not be a slip issue. Mr. Weaver noted that there had been an ongoing discussion about the design process of the tables and chairs. They wanted the space to be fluid so if there was a large party, the tables could be moved to one side or stored if there was an event. They had looked at similar applications where there were free moving tables and chairs, and they had not seen an issue with them walking away. Mr. Elwert said that they were doing a secondary review of operations, and their entire staff had been at the same spot as the Commissioners when they started the process. The space was not meant to be a "stick it in the ground and keep it there" space. Traffic patterns of pedestrians would be fluid, and there would be little parties in one area where people might drag chairs to another area. He wanted them to consider that it was meant to be a different type of engaging space than they had traditionally done in the parks. They were aware of the potential risk with the first round of tables and chairs.

Mr. Kaltsounis knew that tables and chairs were usually not considered with a site plan review and whether they were going to be fastened versus free-standing. He said that he had yet to rent a pavilion that did not have things tied down. Mr. Weaver said that there would be benches that would

be tied down, but the space would be more fluid with regard to the tables and chairs.

Mr. Dettloff asked if the City was exposed in any way, given the use and potential liability of having zero employees. Mr. Elwert said that it would not be if there was appropriate signage. The City had 1,100+ acres, and it was not inconsistent with managing a beach with lifeguards. He noted that he had some experience managing larger water parks, and their Parks Operations Manager sat on the State Risk Management Board. He was very confident that liability-wise, they would be where they were at most of their other properties. Mr. Dettloff asked if there would be security cameras, and Mr. Elwert advised that they were reviewing a variety of automated options.

Mr. Gaber asked what they anticipated in terms of maintenance. He knew that it was meant to be a very active, engaging park, which to him, said high maintenance. Mr. Elwert did not think that it would be high maintenance but rather, high inspection maintenance. They expected to have staff from Borden and Spencer parks present in the corridor, and they would watch the area. They were adding a significant amount in their budget for seasonal employees. Mr. Gaber asked if the intention was to operate the park only from Memorial to Labor Day and to then put away the chairs and turn off the water. Mr. Elwert said that was another thing they would be discussing, but he thought he could say that it was not the intention. The water areas would be winterized, but they would leave the tables and chairs. Mr. Gaber said that he wanted to echo the sentiments of his colleagues.

Chairperson Brnabic asked if there would be timers set for the water use. Mr. Weaver said that the intent was to have the splash pad automated and only operational whatever hours the City chose. The water would not be running continuously during those hours; there would be an activation switch if people wanted to use it, and it would shut off automatically. It could be completely turned off as well.

Mr. Schultz mentioned that he had recently been at a park in Grand Rapids that had something similar that functioned excellently without any oversight. It was activated by children. He noted that he was a commercial landlord, and they had conversations about furniture around their fountains all the time. He recommended that they did not use the folding option. They never mounted anything to the concrete, and it never disappeared. Their main concern had been flexibility, because people liked to sit in groups around fountains and move things around.

He stated that no one was stealing furniture, in all reality. Mr. Elwert said that they were looking at a place to store things at the end and foldable was a little better for that, but he said that he appreciated the comment. Mr. Schultz said that regarding the sanitary situation, he asked if the City would pay an impact fee if the water was discharged to the sanitary.

Ms. Morita said that was what she had asked Mr. Schneck. Discharging into the sanitary caused the City's water rates to go up. She said that she would prefer for it to be discharged into the storm sewer, but that was not the bid proposal that Council approved. If it was going into the storm sewer and they were going to have a water garden, she said that would be fabulous, and she would love it a lot better. She did not want to have to pay \$40k a year more. The problem with that was that they would need MDEQ permits and it would add another 12-14 weeks onto the lead time. They were trying to shorten that. She said that she would prefer that they took their time and did it right and have a lower water bill. She would prefer the plan in front of them as opposed to something else, but it was not what Council had approved. Mr. Schultz said that the short term cost benefit analysis seemed a little ridiculous to pay in perpetuity the fees for dumping into the sanitary sewer as opposed to a 12-week duration for a permit. Ms. Morita said that they were estimating 80 days of use during the year. Ms. Morita had asked staff to come back and let them know that they were changing the plan, but they needed a little more time to do it right.

Mr. Schultz asked if the water could be recirculated rather than sending it to the storm sewer. Ms. Roediger said that was being looked at. Mr. Elwert added that it would then become a pool and they would have to monitor three times a day and get permits, and the cost would go way up for pumps and chemicals.

Mr. Schroeder asked when the project would end. It started at \$2 million and it was now at \$12 million. Ms. Morita said that it was supposed to be completely finalized by August of next year but mostly done by next spring. Mr. Schroeder maintained that they could not connect to a sanitary sewer, which he felt was totally impractical. Ms. Morita said that Council approved it based on \$40k in water fees per season because of sanitary sewer rates. The plan before them was inconsistent with what had been presented to Council. If there had been a misunderstanding about what was presented to Council, that was fine, and if there was a misunderstanding at Planning Commission, that was fine, but she said that she would like to know what the story was. Mr. Schroeder felt that there should be an end.

Chairperson Brnabic asked if the matter would be on the September 17 Planning Commission meeting. Ms. Roediger said that would be the plan if they had the final answer and had an agreement with everyone for the best option.

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

Aye 8 - Brnabic, Dettloff, Kaltsounis, Morita, Reece, Schroeder, Schultz and Gaber

Abstain 1 - Hooper

ANY OTHER BUSINESS

2019-0027 Tree Conservation Ordinance Update

(Reference: Memo prepared by Ken Elwert, dated August 20, 2019 and updated Tree Conservation Ordinance had been placed on file and by reference became part of the record thereof.)

Present for the discussion were Ken Elwert, Director of Parks and Natural Resources and Matt Einheuser, Natural Resources Manager for the City.

Mr. Elwert summarized that he and Mr. Einheuser were present for a final update and review of the comments provided by the Commissioners at the last meeting. He said that they appreciated the members diving into the Ordinance in detail, and a quite a few items had been improved. He noted that the Ordinance would cover the whole City instead of just residential areas, and that parcels platted prior to 1988 would not be grandfathered. It would preserve large trees. They redefined some areas to make them clearer. They engaged the City Attorney on some formatting issues that were inconsistent with Muni Code. The plan was to take the Ordinance to City Council for first and second readings in September and hopefully, have it implemented by the end of September.

Mr. Gaber recalled that the matter had been on the agenda at his first meeting on the Planning Commission, and he had a number of questions. On the first page, he read, "Regulated tree means a tree having 6" or greater diameter at breast height," and he asked if that was what it had always been, which Mr. Elwert confirmed. Mr. Gaber noted page three and referred to section 126-265 (c) (1), Payment to city tree fund. If someone took down a tree, they would have to pay a civil fee equal to the total value of trees illegally removed or damaged. He asked if they should consider adding a penalty to that in addition to just the

value of the tree. Someone might not care about only having to pay \$1,000 for removing an unwanted tree. Mr. Elwert said that a penalty had not been considered, and he was not aware of any enforcement actions in the three years he had been with the City.

Mr. Gaber continued with 126-265 (c) (2), Tree Replacement and read, "the city may require replacement of illegally removed or damaged trees as restitution," and he asked if that meant on the site from which they were removed, because it did not say where the replacement should happen. Mr. Einheuser said that there was a section later in the Ordinance that talked about tree replacement, and the preferred was onsite, but in cases where there was not room, it could be offsite. Mr. Gaber suggested that they could clarify the above section he referenced.

Regarding the calculation for tree replacement Mr. Gaber read, "by adding the total diameter measured at the diameter at breast height in inches of the illegally removed or damaged trees," and he asked if someone removed one 24" tree, if eight, three-inch trees could be planted to remedy the situation. Mr. Elwert agreed, adding that it would have to be approved by the City.

Mr. Gaber noted page 5 under section 126-266 (6) Nominal Activity and asked if there was any concern that someone might take advantage of it. There was the ability to remove three regulated trees within a six-month period as long as it was not related to the development of a parcel. He asked if someone might use the exemption multiple times and perhaps remove six trees per year for five years to clear a space. Mr. Elwert acknowledged that there were always concerns, but they had to balance controlling the smaller, private property owners' rights. Sometimes, a developer would tell a landowner that after six months of ownership, he could take down three trees, after it had been counted in a development. They felt that it was a good balance. Mr. Gaber thought that three trees down in six months and having the opportunity to repeat that was too much, and he asked if they could take a look at it.

Mr. Gaber referred to page 6, section 126-327 Land Developments and (1) Building envelope. He asked if it applied to the development of a property for one single-family home. Mr. Einheuser agreed. He noted that b. was primarily for larger parcels for a single house. Mr. Gaber asked if that was new, and Mr. Einheuser said that it had been in before in a different section. Mr. Gaber went to 126-326 (b) and read, "A regulated tree that is to be removed as part of land clearing, construction or development activity which requires site plan or subdivision plat

approval...,” and he asked if there was any type of activity other than those where a tree might be removed. He wondered why all that language was necessary. If any process required site plan or subdivision plat approval, he suggested that it might be streamlined. Mr. Elwert said that they could look at that paragraph. Some other definitions had already been removed that were no longer necessary. Mr. Gaber agreed that it was considerably better than the last version.

Mr. Gaber next brought up page 10 at the top of the page. It talked about tree surveys, and a registered surveyor had to do the survey if it was larger than ten acres. He asked who would do it if there were less than ten acres, and if anyone could do it. In section 359 if there were less than ten acres, an applicant would just have to submit a plan with property dimensions, location of the trees and so on, but it sounded as if anyone could prepare that. There was no requirement that a professional had to prepare the survey. Mr. Einheuser agreed that there was no requirement except for large tracts, and that was how it was previously. He said that they could make it a requirement. Mr. Gaber reminded that the community was dealing with a lot of infill development and smaller parcels, so he thought it would be a good idea to consider that.

Mr. Gaber referenced page 14, Subdivision III Tree Relocation or Replacement and read, “A tree removal permit holder shall replace or relocate each regulated tree removal pursuant to a tree removal permit.” It seemed to him that there needed to be a more expressed statement of intention to replant trees onsite as opposed to paying into the City’s Tree Fund. Section 126-397 read, “A permit holder shall relocate or replace trees,” and he suggested that they should add regulated in front of trees.

Mr. Gaber noted page 15 which talked about specimen trees and replacement requirements. They were trying to incentivize developers to preserve specimen trees which were 24” diameter or trees named in the chart with different dimensions. He read, “Replacement trees shall be provided to meet the 50% diameter breast height requirement and for each specimen tree preserved, one, two-inch replacement tree credit shall be credited to the permit holder.” He stated that specimen trees were very valuable, and he asked the cost for one, two-inch replacement tree. Mr. Elwert said that it was approximately \$300, and there was also a penalty for taking one down. Mr. Einheuser said that by saving a specimen tree, they would have to replace 50% of the dbh, and they would get a credit towards replacement of other trees onsite. Mr. Gaber said that if there was a 24” diameter tree and that was taken down, someone would be responsible for the cost of 12, two-inch replacement

trees. Mr. Einheuser corrected that it would be six, two-inch trees at 50%. Mr. Gaber said that would cost \$1,800 plus the extra \$300 for taking down that tree versus preserving it. He asked if that was a sufficient incentive to encourage developers. Mr. Elwert stated that many developers they worked with wanted to try and save trees, and they were trying to steer them towards saving the larger trees. It was difficult to determine if it was sufficient. Mr. Gaber noted a. below where the table was shown, and he felt that there needed to be a sentence that introduced that table. He suggested, "Specimen trees shall include the following trees and sizes set forth below." He added that there was nothing that really explained what the table was.

Mr. Gaber moved to pages 17 and 18, and said that section 126-399 showed a hierarchy where they were trying to encourage replacement onsite in (a), and (b) talked about relocation offsite, and (c) talked about payment into the Tree Fund. He suggested that in (a) they should have the express language, but he thought that it should be made clear that the intent of the City was to encourage the replacement of trees onsite. He thought that the purpose or intent statement should be set forth in the hierarchy. They could add the statement in (a) or in the beginning of (c), because it said "Where it is not feasible and desirable to relocate," someone could pay into the Tree Fund. He encouraged them to add heavier language that said it was the City's intent to encourage replacement of trees onsite if possible. Subsection (c) talked about the current market value of the replacement trees that would otherwise be required, and Mr. Gaber asked if it would be appropriate to say, "as determined by the Parks and Natural Resources Department." He asked if there would be a fee schedule that City Council approved. Mr. Einheuser said that the department would go off of the costs from the street tree planting program. Mr. Elwert agreed that it would be appropriate to add that.

Mr. Gaber referred to page 19, section 126-430 and read, "When cutting or removing trees, proper tree cutting and care practices shall be used." He pointed out that there was no definition for proper tree cutting and care practices or references to standards or guidelines. There was nothing that specified who made that determination, and he felt that they should "beef" it up a little. He questioned whether there were some Arbor Society standards, for example. Mr. Elwert agreed that they could add a sentence as to when and how.

Mr. Gaber noted page 21, section 126-463, Replacement of landmark trees, and he asked why a substantial incentive was not provided to

preserve those like it was for specimen trees. He thought that they should be bending over backwards to add an incentive to preserve a landmark tree, such as the Bebb Oak on Livernois. He believed that there were only a few select trees that fell into that classification. Mr. Elwert said that the City did not have to agree to allow one to come down. They previously had internal discussions about where they could legally hold the line. The incentive for specimen trees already applied to landmark, plus it required 100% replacement. Mr. Gaber suggested that they might want to consider adding something about the size and replacement being determined by the City. He said that he missed the provision that gave the City the discretion to say no to the removal of a landmark tree. Mr. Einheuser explained that someone would need a permit, and that could be denied. There were some exceptions that applied to landmark trees. He showed that page four listed exceptions where a tree permit was not necessary (6, 7 and 8 did not apply to landmark trees). He noted that the Bebb Oak was the only landmark tree the City had. Mr. Gaber said that if it was not a nominal activity and a property was turned into a development, 6 would not apply and 7 or 8 would apply with a single-family residential development. He asked what would happen if someone wanted to do multi-family or commercial. Mr. Einheuser said that it would still be a regulated tree and would need a permit. Mr. Gaber asked where in the ordinance the City had the discretion to say no to a permit. Mr. Elwert said that it was implied in the permit process that it could be approved or denied. Mr. Gaber stated that reasonable grounds would be needed to do that. He asked if they would ask the City Attorney about it.

Mr. Hooper observed that most of the changes he had suggested had been taken into account. On page 15 for specimen trees, it listed some that were 8" in diameter. He thought that trees typically grew an inch per year. Mr. Einheuser said that some of the smaller ones, like Redbud and Dogwood did not. For them, 8" would be a specimen tree. Mr. Hooper asked if it would be a 25-year old tree at that point. Mr. Einheuser was not sure of the age, but he said that if they found a Dogwood with an 8" d.b.h., for example, it would be a specimen. Mr. Hooper thought that they needed to add a definition for an invasive species. It was not listed up front, but in the back, it stated that "The City shall use the city tree fund with the purpose of maintaining and preserving wooded areas, tree restoration activities, removal of invasive tree species..." He asked if that was a well-known topic. Mr. Einheuser agreed that they could add a definition for that. Mr. Hooper indicated that what he might consider invasive someone else might not. He asked if the department would declare whether something was a nuisance tree, and Mr. Einheuser said

that was the intent. Mr. Hooper questioned whether it would be defensible, because he could see attorneys disagreeing. Ms. Morita agreed that it could definitely be a problem, as it was a matter of opinion. Mr. Hooper thought that they could tie that down.

Ms. Morita thanked them for taking into account a lot of the comments that she had made the last time. She recommended that they had to be really specific with the definition of a landmark tree. If they defined it referencing things that did not exist, they would not be able to hold anyone to the definition. She did not find the American Forestry Association's National Registry of Big Trees; she found the American Forests Champion Trees National Register, which was a similar name but different. In reference to the Michigan Botanist's Champion Trees of Michigan, she found The Michigan Botanical Club and the Michigan Big Tree Program Big Tree Database. The Database listed the City's Bebb Oak, but The Champion Trees National Register did not. She claimed that the database was a nightmare and did not tell people where the trees were. Mr. Elwert said that they did not deny that both were very difficult to find. Ms. Morita did not feel that they should rely on something that called the Bebb's Oak a landmark tree. It did say that it was at Livernois and Auburn, but it did not state the community that it was in. Mr. Einheuser said that they had to go by the common name and not the Latin name. Ms. Morita stated that the general understanding of ordinances was that if people on the street could not find the information the City was relying on, and it was not in the City office ready to give to them, the City could not hold them to it. If they were referring to things that did not exist, they would never be able to hold people to anything. She did not know the right, legal names, but at the end of the paragraph, she suggested that they should add, "as amended." Otherwise, the City would be held to the list that existed on the date that the ordinance was enacted. Mr. Elwert asked if she was suggesting that they did not use the current State and national list. He agreed that the database was horrible. Ms. Morita felt that they should find out the legal names, and then add "as amended," in case another tree was added to the list after the ordinance was enacted.

Mr. Elwert said that they appreciated the in depth comments and the time and effort, and they would make some changes and take it to Council in September.

ANY FURTHER BUSINESS

Mr. Kaltsounis had noticed that Cedar Valley was starting to get siding, and it looked sort of like what the Commissioners had agreed to, and he hoped it stayed that way. Ms. Roediger related that the Building inspectors were out there confirming that it was being built as approved. Mr. Kaltsounis commented that it was starting to look like an attractive building. He asked if Trio had been approved by Council. Ms. Roediger said that it had, and it would be coming back for Final.

NEXT MEETING DATE

Chairperson Brnabic reminded the Commissioners that the next Regular Meeting was scheduled for September 17, 2019.

ADJOURNMENT

Hearing no further business to come before the Planning Commission and upon motion by Mr. Kaltsounis, seconded by Mr. Reece, Chairperson Brnabic adjourned the Regular Meeting at 10:05 p.m.

Deborah Brnabic, Chairperson
Rochester Hills Planning Commission

Nicholas O. Kaltsounis, Secretary