

NEW BUSINESS

2021-0427 Public Hearing and request for Conditional Use Recommendation - City File No. 95-044.3 - to construct a drive-through associated with a two story 29,000 sq. ft. mixed use building with retail, office and restaurant use on approximately 2.6 acres located on the west side of Rochester Rd. and north of South Blvd., zoned B-3 Shopping Center Business District, Parcel No. 15-34-477-018, Emily D'Agostini Kunath, Applicant

Present for the applicant was Emily D'Agostini Kunnath, on behalf of Gateway II Development

Ms. D'Agostini introduced herself on behalf of Gateway II development for site plan approval for the proposed drive through on the south side of the building. She said that she is intimately aware of both the construction and the marketing of the property and can answer any questions or concerns.

Ms. Kapelanski stated that the applicant is seeking to add a drive through to the two story building that is currently under construction, near the intersection of Rochester and South Blvd. The current zoning for the property is B-3 Shopping Center Business District, which permits drive through uses as a conditional use. She said that the site plan for the building was approved some time ago, and now the applicant is proposing some minor modifications to the parking lot and landscaping onsite in addition to the proposed drive-through. Ms. Kapelanski suggested an additional motion to be added for the Planning Commission's recommendation since the drive-through tenant has not been identified at this time, which is included in the packet: "If, in the determination of City staff, the intensity of the drive-through changes, increases, or becomes materially greater than the intensity normally and reasonably associated with other food service drive-through uses that are established in the City, in terms of traffic, queuing, noise, hours, lighting, odor, or other aspects that may cause adverse off-site impact, City staff may require and order the conditional use approval to be remanded to the Planning Commission for re-examination of the conditional use approval and conditions for possible modification or supplementation."

Ms. Brnabic opened the floor for Public Comment at 7:07 p.m.

Janet Salisbury, 233 Grace Ave., Rochester Hills, MI *Ms. Salisbury said that the map contained within the packet is unreadable. She asked where traffic be entering and existing if a fast food restaurant is added. Chairperson Brnabic said that this would not be a back and forth, and asked if Ms. Salisbury would like to come back up to speak after this was discussed, and Ms. Salisbury agreed.*

Ms. Kapelanski clarified the circulation on the overhead screen for the drive through on the site plan. She showed that the entrance is on the north side of the building, cars would circle around the rear of the building, and the drive through is on the south side of the building, near the medical building.

Mr. Gaber asked the applicant whether they have signed a lease yet for the

space, and whether they are aware of what kind of tenant would occupy the space. Ms. D'Agostini said that they have indicated to potential tenants that they are seeking approval for a drive through. She said that they have a handful of users that are interested, but they are only interested if there will be a drive through operation. Ms. D'Agostini said that the landscape for this type of tenant has changed a lot with Covid.

Mr. Gaber asked how many drive through stacking spaces there would be. Ms. Kapelanski said there will be ten, which is in compliance with the ordinance. Mr. Weaver asked if there are more than ten cars stacking whether they would be able to wrap around the rear of the building. Ms. D'Agostini said that the rear of the building is meant for service since that is the location of the delivery doors, and it would not be a patronized area.

Mr. Gaber asked where the menu board would be located. Ms. D'Agostini said that they had not planned that location yet, but that it would probably be closer to the corner of the building or north of that, so that not too many cars are stacked behind it. She commented that she is open to suggestions.

Mr. Gaber asked if there is a raised curb located to the west of the stacking lane, and for clarification regarding whether a car could leave the stacking lane if they so choose. Ms. Kapelanski said that the drive through was not designed with a bypass lane, and such a lane is not required by the ordinance. She noted that the drive through meets the ordinance requirements.

Mr. Gaber said that he agrees with the added condition of approval that Ms. Kapelanski read since the user has not been identified. He asked if the intent of this additional condition would allow for the conditional use approval to be rescinded, or if it could just be used to modify the conditions. Ms. Kapelanski noted that she worked with the City's attorney on the language, in case a tenant came in with a very intense use. She said that it was staff's intent that a conditional use approval could be reconsidered if a drive through use came in that was extremely intense. However she was not sure what the attorney had in mind when he wrote it. The site could definitely not accommodate 40 stacking spaces, as an example. Mr. Gaber said that if he was the applicant's attorney looking at the conditions, he would say that the conditions could be adjusted but they could not be revoked as it is written.

Chairperson Brnabic reopened the Public Hearing at 7:16 p.m. Ms. MacDonald noted there were no email communications received, and Ms. Roediger noted there were no hands raised in the Zoom to speak.

Janet Salisbury, 233 Grace Ave., Rochester, MI. Ms. Salisbury said that South Blvd. is not a road that was ever made for that much traffic, and the drive through will be detrimental to those living in the area. She noted that the Road Commission for Oakland County changed the traffic signal at Rochester and South Blvd., and ever since they did it has been horrendous. She said that she has emailed them and they have not responded in two weeks and have not come out to do anything to change it. She said that what is happening on South Blvd. is that if you are headed eastbound during the day, it used to be only during the evening during a typical rush hour, that the center left hand turn lane

gets backed up past the entrance of Nino Salvaggio's. Now that is happening all day long. She said that she sits there through three cycles of the light, wasting gas, in order to turn. If they would have left the flashing turn signal most of the time she could have turned. She said that if a fast food restaurant is added it will add a tremendous amount of traffic on South Blvd. that cannot handle the traffic right now the way that they've done this light. She said that Rochester Rd. is nonstop traffic, and when the City allowed the hotel to go in there it was also a conditional use and there was a right hand turn lane needed. There is a tiny right hand turn lane but it is not enough to handle the additional traffic. She said that the City already granted one conditional use for the hotel, she agrees with Mr. Bernard that the City may as well throw out the ordinances because such requests will always be approved. She asked the commissioners to take an interest in the people that already live there who didn't want the hotel there because of the traffic and for the lights that the hotel has. She said that she feels sorry for the people who live there and for the houses that back up to the hotel.

Chairperson Brnabic asked Mr. Boughton if he had any comments regarding the current traffic on South Blvd. Mr. Boughton said that he was not able to comment regarding the traffic on South Blvd., but noted that there are three entrances to the development, two that existed prior to the development and one that was added with the addition of the hotel, retail and office space. He explained that one of the existing entrances on Rochester Rd. was revised to a right-in/right-out entrance. Ms. Kapelanski noted that it would be expected that people would generally access the site through from Rochester Rd., although it could be accessed from South Blvd.

Dr. Bowyer asked regarding the size of the businesses that will occupy the building, and whether it would be three tenants or one. Ms. D'Agostini said that's a good question; the building will be two stories, but one portion of the building, about 6,000 sq. ft., does not have the second story over it. She said that as a result food users wouldn't likely occupy the portion where there is the second story since they would need exhaust systems. So this would limit the intensity of the user of the drive through, and any food use would be the least amount of tenancy in the space. She guessed that the drive through user would likely be a smaller user that wouldn't have a lot of grease or need exhaust type of ventilation systems. She said that the user would not add to the intensity of the use of the site whatsoever, and cars stacking would not cause any congestion.

Dr. Bowyer asked if all of the building entrances would be on the east side. Ms. D'Agostini agreed that the main entrances will be on the Rochester Rd. side. She said they will probably have about seven tenants on the main floor, and noted they will be smaller users.

Dr. Bowyer asked Mr. Boughton to comment on whether there is enough room for people exiting and turning right onto Rochester Rd. when there are people turning in at the same time. Mr. Boughton said it is not an ideal situation; some turning movements could cause conflicts when a car is exiting the drive through. He noted that there will be an arrow so that a driver can only turn left when existing the drive through, and there will be signage as shown on Sheet 3.0.

Chairperson Brnabic closed the Public Hearing at 7:27 p.m.

Mr. Weaver asked Ms. Kapelanski whether the aerial photo shown on the screen is still current for what the area looks like today. Ms. Kapelanski said not at all.

Mr. Weaver asked for clarification of the location of the second story of the building on the plans and whether it is on the north end of the building. Ms. D'Agostini clarified that it is on the south side of the building, and said that if they get a food user for that space, it will be small and low intensity, like coffee or toasted subs. On the north side of the building it may be more of a sit down type of restaurant.

Mr. Weaver asked whether there is any way to prevent someone from pulling in if traffic is backed up. Ms. Kapelanski suggested that signage prohibiting cutting through could be considered. Ms. D'Agostini said that she is not opposed to that idea, and that they would not be in favor of people cutting through the parking lot at all. Mr. Weaver said that the City does not want people to use such shortcuts, and that can be accomplished with signage. Vice Chairperson Hooper are there any specifics regarding the language for restricting the drive through use other than what has been read, and asked whether the Commission could put some specifics on the condition such as restricting the square footage that the drive through user could occupy in the building, or restricting the number of stacking spaces to ten. Ms. Kapelanski noted that the situation with the unidentified tenant is a bit gray, that is why staff asked for the attorney's input. She said that she would be reluctant to put a square footage restriction in the condition. She said that in terms of the required stacking, she is not sure what that number should be. Vice Chairperson Hooper said this would not be a destination location, it will be a drive through to grab coffee for people driving by. Ms. Kapelanski suggested that perhaps the Planning Commission could review the drive through again if it were to start affecting Rochester Rd.

Ms. Roediger said to be consistent with the ordinance, there is a rule that if the use increases 20% then the project needs to go back to the Planning Commission. She noted that this allows for some leeway for small modifications.

Chairperson Brnabic commented that there are ten stacking spaces right now, so a 20% increase to that number would be acceptable. She reread the additional condition of approval from the City attorney and noted that every drive through has some variation, whether it is a Starbucks or a McDonalds.

Ms. Roediger said that Staff often gets the question about what is going in front of the Dunham's on Rochester Rd., where the City approved a drive through without a tenant being identified, and whether it could be a Chick Fil-A. The additional condition presented tonight could catch such a situation and provide the City with more protection.

Chairperson Brnabic commented that the conditional use approval would not be revoked with how it is written. She asked if it were to come back to the Planning Commission and there are 20-25 cars stacking consistently, how could the site

be modified to accommodate that and asked how that could be addressed if there is not an answer. She said that Chick Fil-A would be an extreme case.

Ms. Roediger said that the Commission would then be reevaluating if the use is still appropriate.

Ms. D'Agostini said that they have been marketing this building since it was initially approved in 2018, and they haven't signed a single lease, and Covid did not help. She said that tenants are smart, and a high intensity user would never take a building like this. She remarked that she would accept having some checks and balances on the use. She noted that any new tenant would have to apply for required permits and zoning compliance could be checked at that time.

Ms. Kapelanski said that the City does have an opportunity to discuss new tenants when a permit application is submitted, and a high intensity user would be a red flag for the Building department. Ms. D'Agostini said that users that want this type of building include those such as Beyond Juice, small food users, and high end products that don't generate a lot of traffic. She commented that she is not concerned about limiting the use since they will never get the high intensity users mentioned.

Mr. Gaber said that he was not on the Planning Commission when this original site plan was approved, and that was the time to address a lot of these issues about the intensity of uses. He said that he doesn't think that adding this drive through will do much to add to the intensity of the uses, he does think that the use for the drive through will be minimal in comparison to others. Mr. Gaber remarked that he thinks adding the condition discussed to the conditional land use approval will help as a check and balance for future uses. He said that the language is a little confusing, but to Mr. Hooper's point, the language should be broad to give the City the discretion to be able to address any increases in the intensity. He said that he doesn't want to limit this to certain metrics or numbers, and he suggested changing the approval conditions to read that "if in the determination of City staff the intensity of the drive through changes or increases in terms of traffic, queuing, noise, hours, lighting, odors, or other aspects that may cause adverse offsite impacts, City staff may require and order the conditional use approval to be remanded to the Planning Commission and City Council for reexamination of the conditional use approval and conditions, for possible revocation, modification, or supplementation". This would leave the discretion to City staff to determine what is an adverse use and what is negatively impacting the surrounding community and he does not think that it should be tied to certain numbers.

Mr. Gaber moved, Mr. Hooper seconded the motion in the packet adding two conditions.

Mr. Dettloff asked for clarification that on the site plan it looks like there are three tenant spaces in the building, but it was mentioned that there would be five to seven tenants. Ms. D'Agostini said that he understood correctly, the tree spaces shown could be subdivided.

Mr. Dettloff said that Ms. D'Agostini had mentioned they have been marketing

the new building since 2018, and asked the price per square foot that they are asking. Ms. D'Agostini said that right now they have 3 leases that they are in negotiations on and they are not signed, they are in the low \$30 per sq. ft. triple net range. They found that as soon as the building started taking shape and people saw that they were serious about building it, things have picked up. The pre-marketing was rough. They have completely relandscaped and repaved the building next door, and they are really improving the site as a whole. The hotel user is doing the same. They are getting a lot more interest than they were previously. She said that their pricing is actually low in comparison. The problem is they are kind of the last ones to the party, every retailer is already on Rochester Rd., so that's why they've made only half of the building retail.

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

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

Excused 1 - Kaltsounis

Resolved, in the matter of City File No. 95-044.3 (Gateway Spec. Building Drive-Through), the Planning Commission recommends to City Council Approval of the Conditional Use to allow for a drive-through operation, based on documents dated received by the Planning Department on September 2, 2021 with the following findings.

Findings:

- A. The proposed use will promote the intent and purpose of the Zoning Ordinance.
- B. The building has been designed and is proposed to be operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the general vicinity, adjacent uses of land, and the capacity of public services and facilities affected by the use.
- C. The proposal should have a positive impact on the community as a whole and the surrounding area by further offering jobs.
- D. The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, water and sewer, drainage ways, and refuse disposal.
- E. The proposed development should not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.
- F. The proposal will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

Conditions:

1. City Council approval of the Conditional Use.
2. If, in the determination of City staff, the intensity of the drive-through changes or increases, in terms of traffic, queuing, noise, hours, lighting, odor, or other aspects that may cause adverse off-site impact, City staff may require and order the conditional use

approval to be remanded to the Planning Commission and City Council as necessary for re-examination of the conditional use approval and conditions for possible revocation, modification or supplementation.