

were lucky enough to have an initial plan review with the City and got feedback from Ms. Millhouse, the Fire Department, the Engineering Department and regarding landscaping. They understand the future right-of-way and are planning for that. They see the B-2 zoning as nothing more than circumventing an extra layer to get to a successful development for them, as developers, for Mr. Heinrich, as the partner, and for the City of Rochester Hills. He said they had brought Site Plans which would show differences in the zoning classifications, and it would show the ease that B-2 would create for all parties involved. He added that they could show some of the hardships that they would go through with a variance request. Mr. Kaiser declined his offer to review a Site Plan.

Mr. Rosette said that based on their studies, the building would be the same distance off Rochester Road, regardless of the zoning. Even though the setback would be less with B-2 zoning, they do not intend to go that route.

Mr. Kaiser said that the building might have the same setbacks, but he questioned the parking. Mr. Klein said it would be in the same place under either zoning. He said that the reality was that there was an existing right-of-way and a proposed right-of-way. They want to work with the City and the neighbors and they have taken the right-of-way into account, which would take 24-29 feet off of the existing right-of-way. He felt that more parking was a negative and referred to the center behind Salsa's as a "sea of parking." He emphasized that they would create the necessary parking under the B-2 or B-3 requirements to sustain tenants.

Ms. Millhouse explained that there was a difference between the building envelope and the buildable envelope. The area in which the building could actually be located would be smaller in the B-3 because of the differences in the setbacks. The buildable area, which could include the building, parking and maneuvering lanes would be exactly the same, except under B-2, if there were no doors or windows on the interior side, the building could go up to the property line. She did not believe she had ever seen a retail center that had no openings on one side. She referenced the concern relative to spot zoning and read a quote from a former mentor which she described as a fundamental definition of spot zoning: "Spot zoning is a rezoning of a usually small parcel of land to a district substantially different from the classification of surrounding land." She explained that in other words, if this request were for residential or office rezoning, it would be different compared with rezoning from one business district to another. She continued, "The phrase is typically used when the usual classification is intended to benefit a particular property owner and when it is incompatible with the surrounding area. When this occurs and the zoning is in conflict with the community's long range plan, not for the purpose of furthering the comprehensive plan, then the spot zoning may be considered invalid." She pointed out that the City's Master Plan did not make a distinction between B-1, B-2, or B-3, but that they were all listed as comparison and convenience retail. Based upon those criteria, she hoped to ease any concerns relative to spot zoning.

Roll call vote:

Ayes: Boswell, Brnabic, Hardenburg, Hooper, Kaiser, Ruggiero

Nays: Hill

Absent: Kaltsounis, Rosen

MOTION CARRIED

Mr. Kaiser advised that City Council would hear the recommendation, and he cautioned that if the rezoning were approved, the applicants would have to be aware that this development would be scrutinized thoroughly and would have to look good on all four sides because of the visibility all around it.

4. Rezoning Request - City File No. 04-010 (Public Hearing)

Project: Site known as Anderson Sewing & Vacuum

Request: Rezoning to B-2, General Business

Location: Northwest Corner of Rochester Road and Childress Avenue

Parcel: 15-15-426-020 (.11 acres zoned B-5 Automotive Service Business District and .29 acres zoned R-4, One Family Residential, .5 acre total)

Applicant: Bashar Bashir
111 South Street
Rochester Hills, MI 48307

(Reference: Staff Report prepared by Deborah Millhouse, dated May 14, 2004 has been placed on file and by reference becomes part of the record hereof.)

Present for the applicant were Ian Whitelaw and Greg Hoyt, Hertz Corporation, North Central Region, Detroit Metropolitan Airport, Building 289C, Detroit, MI 48242 and Bashar Bashir, owner and applicant.

Ms. Millhouse commented that this was an unusual circumstance, in that one parcel had three different zoning districts. She stated that the site began as four platted lots as part of the Yawkey Chapman Subdivision. The northern portion along Rochester Road was zoned B-5, the southern lot along Rochester Road was zoned B-2 and the remaining two parcels on Childress were zoned R-4, One Family Residential. Over the course of the years the parcels were combined into one parcel. She advised that the Master Plan indicated that the entire area should be retail/commercial, as opposed to automotive service. With that in mind, Staff had recommended approval of the rezoning request. She pointed out that the R-4 portion of the site sloped severely downward toward the concrete plant. She said it would be a very difficult area to develop and in Staff's opinion, if developed it would be a building buffer.

Mr. Whitelaw stated that the way that the parcel sat it was basically unbuildable and there were two concerns; one, the steep slope, and two, the B-5 portion had a five-foot drop from the B-2 property and no ingress to the south lot. He did not feel there was a need for further curb cuts coming from the gas station to the north portion of the parcel. He suggested that rezoning it to B-2 and making it an attractive retail operation made a lot of sense.

Mr. Hoyt added that he was aware the City was very environmentally sensitive, as was the Hertz Corporation, and at the suggestion of Ms. Millhouse, he visited the Clinton River Watershed Council and spoke with Dan Keifer. He explained what they were trying to do and informed him they would solicit his input every step of the way if allowed to proceed. He noted that the meeting went very well and Mr. Hoyt promised that they would not do anything to denigrate the community.

Mr. Kaiser opened the Public Hearing at 8:55 p.m. Seeing no one come forward, he closed the Public Hearing.

Mr. Kaiser asked if the back portion should not be rezoned so that a B-2 use could not occur. Ms. Millhouse said that even if it were to remain R-4, the property owner could build a home there, so it could be disturbed. With a business zoning, at least, the Commission would have a review. She stated that they could not leave the R-4 as unbuildable, and they would need access from Childress to get to the B-5 portion, so she did not believe there would be any difference to the developability based upon zoning.

MOTION by Boswell, seconded by Hooper, in the matter of City File No. 04-010, the Planning Commission **recommends** to City Council **approval** of the request to rezone 0.11± acres of Parcel No. 15-15-426-020 from B-5, Automotive Service Business to B-2, General Business and to rezone 0.29± acres of Parcel No. 15-15-426-020 from R-4, One Family Residential District to B-2, General Business District.

Ms. Ruggiero asked what the frontage was on Rochester Road. Mr. Whitelaw answered about 100 feet. Ms. Ruggiero asked about frontage on Childress, and Mr. Whitelaw said it was 120 feet.

Ms. Hill said she understood that this body would have some control if the R-4 district were rezoned to something other than residential. She would be a little concerned for the future of the neighborhood behind this parcel because even though the area along Rochester Road had been master planned commercial, the tendency had been to keep

the boundaries separate. She cautioned that nothing would be etched in stone if they rezoned the R-4 segment to B-2.

Mr. Boswell commented that he agreed, but he noted that the commercial properties south of Cloverport went further west than the subject property and he believed those lines would probably end up being the business boundary for the area. He felt the rezoning would make sense for that reason.

Roll call vote:

Ayes: Boswell, Brnabic, Hardenburg, Hill, Hooper, Kaiser, Ruggiero

Nays: None

Absent: Kaltsounis, Rosen

MOTION CARRIED

OTHER BUSINESS:

Ms. Hill brought up comments she had directed to Mr. Anzek at the last meeting regarding administrative approvals. She noted that she reviewed the plans for the proposed Jo-Ann Fabric superstore at the Planning Department, and she questioned what stage the project was at, and whether they had final approval.

Mr. Anzek clarified that the applicants had final administrative Site Plan approval and some Building Permits. Ms. Hill asked if what was shown on the plans was what would be constructed. Mr. Anzek replied yes. Ms. Hill said she was disappointed in the way it would look. She indicated that the reason she wanted to view the plan was because she had never been overly fond of the Bed, Bath and Beyond in the same center. She said it was one large, square, block building with a door and no windows. She was worried the rest of the center would look like that. She noted she had seen Jo-Ann's in other locations that looked like large block buildings without windows, and had seen others with windows and awnings. She would not like to see a lot of industrial looking buildings along Rochester Road, and that is the way she felt this building would look. She had hoped it could be softened, using brick, windows and awnings.

Ms. Hill indicated that many times when developers proposed something Staff would suggest architectural changes so the development would be more compatible with the community. The suggestions would be provided in the Staff Report, and even if the developer chose not to follow Staff's suggestions, the Commissioners many times had been able to enhance the project's compatibility. She said she would like the opportunity to give input for new proposals as well as for redeveloped properties. She reiterated that she had seen other Jo-Ann's stores that looked compatible with the community. This one would look like the other buildings in an industrial row along Rochester Road. She noted the nice architectural plan for City Place just north of Hamlin and said it would have a lot of brick and architectural amenities to help create consistency in the community. The Hampton Plaza, which she felt was pretty prominent along Rochester Road, was starting to look fairly industrial, and she indicated she would have liked the ability to see the plans before something was done.

Mr. Kaiser agreed that any redevelopment or development along Rochester Road would have to be done with the example of City Place in mind. In other words, if someone did not want to make something sharp and upscale they should not bother.

Ms. Hill said that even at the Council level, there had been references as to how nice the Village of Rochester Hills looked. There had been references as to how brick was preferred over split face block to give some substance to the community. She stated that the proposed Jo-Ann's did not show that at all and that disturbed her. She felt that the minimal amount of upscale architecture was being applied at that shopping center.

Mr. Kaiser asked if there was anything that could be done to get the applicants to spiff it up. Mr. Anzek replied that he would check on the status and see if there was anything