

2009-0393 Conditional Rezoning Recommendation Request (Public Hearing) - City File No. 04-013, located at the northeast corner of Hamlin and Livernois, Parcel Nos. 15-22-351-001, -002, from R-3 One Family Residential to O-1 Office Business; Signature Associates, applicant.

(Reference: Staff Report prepared by Derek Delacourt, dated February 2, 2010 had been placed on file and by reference became part of the record thereof.)

Chairperson Boswell commented this item entails a public hearing. He further explained that by law, the primary task of a Planning Commission is to develop a Master Land Use Plan for their Community outlining what the City should look like in five, ten, fifteen years and so on. This City's most recent Plan was a few years ago. Sometimes applicants request a rezoning against what the Master Plan dictates. Chairperson Boswell stated that this Commission does not take these situations lightly and has studied this piece of property for some time.

Mr. Anzek indicated he is present for Mr. Delacourt tonight and summarized what has evolved to this point. The applicants came before the Commission to discuss the possibility of pursuing an office use on the subject two parcels, the corner being vacant and a single family home is located on the parcel to the north. Surrounding the parcels are two churches, an industrial district to the west, a vacant parcel to the south with a single family home immediately to the east, and to the southwest there is a vacant parcel with residences further south. In past meetings, the Commission brought up several issues and concerns with this request, and through meetings with staff, the applicant has been informed they must demonstrate why single family is not a viable use for this corner. The possibility of a conditional rezoning was discussed in a previous meeting by this Board. Mr. Anzek commented that the right to conditionally rezone was put into Michigan State Law about four years ago. Basically, this is a rezoning subject to specific conditions. The Planning Commission can accept the conditions the applicant offers as protection to ensure that uses which might not be welcomed, would not be permitted on the site. Conditional rezonings can not be used as variance tool to waive from required setbacks or development standards. The applicant has provided information in their rezoning application detailing how they propose to condition this site based on concerns brought up in previous Commission meetings. Development aesthetics will be dealt with through the site plan process. Should the rezoning be supported by the Planning Commission, it would be a recommendation to City Council. If approved by Council, the City would then pursue a development agreement where the conditions would be put into a legal document to be recorded.

Present for the applicant were Craig Chappell and Cathy Wilson, Signature Associates, One Towne Square, Suite #1200, Southfield, MI 48076.

Mr. Chappell indicated Chileshe Mulenga represented Signature Associates in previous discussions before the Commission, but is no longer with the company. Mr. Chappell commented that the conditional rezoning application solidly addresses the conditions brought up by the Commission during the October and December meetings. The applicant has agreed to conditions relative to building size and height, maintaining 30% of

regulated trees on site, replacing any trees that will be removed, and right-of-way requirements as determined by the City. Also, the applicant has agreed to additional conditions limiting what will be proposed or permitted on the site per comments made at the December meeting. Mr. Chappell said that as part of the rezoning request, he cited a number of issues warranting consideration by the Commission; i.e., the shift in the real estate market, the dropping value of housing stock, the new proposed use would have a higher SEV and potentially generate greater tax revenue for the City, the developments occurring in and around the City, particularly Oakland University and Crittenton, lend themselves to potential additional office/medical use, the impact of the round-about and intersection improvements, and that the proposed use is complimentary to adjacent uses. Mr. Chappell feels these are some of the reasons the Commission should consider the conditional rezoning request. He then displayed an aerial map of the property and explained the two subject parcels and surrounding uses. Mr. Chappell asked if there were any questions.

Commissioner Brnabic asked for clarification of the property size, as the acreage is not consistent when referred to in previous minutes and staff reports. The rezoning application estimates the property as 2.5 acres, while the current staff report states 4.2 acres, and the 2005 minutes indicated the property was 4.7 acres, not including the right-of-way. Ms. Brnabic stated the Commission should have the exact property size before making a recommendation to Council.

Ms. Wilson replied it is her understanding the two parcels total between 3-1/2 to 4 acres, but will confirm the exact property size based on their surveys for the Commission.

Commissioner Hetrick commented that at the last meeting, specific conditions were discussed about what the building would look like, but are not listed in the rezoning application. Mr. Anzek explained that aesthetics will be reviewed during the site plan process and not as part of the rezoning. The applicant's first condition offers to relinquish full site plan approval to the Planning Commission.

Chairperson Boswell opened the public comments at 7:35 p.m.

Shirley Metzler, 1311 New Life Lane, Rochester Hills MI 48309 - Ms. Metzler asked what has changed on the subject corner that would lead the Commission to possibly consider this request when previous proposals have been denied. She commented that three of four corners of the subject intersection were still master planned for residential and all corners have identical problems, i.e., traffic, industrial zoning, truck routes, etc. Ms. Metzler suggested that in the next Master Plan update, all zoning along the Livernois and Hamlin Road corridor be considered so that spot zoning does not occur on the northeast corner. She also asked what would happen if one of the churches sold their residentially zoned property.

Richard Robinson, 875 W. Hamlin Rd., Rochester Hills MI 48307 - Mr. Robinson commented he does not see any advantage to the residents in the area to have the subject property rezoned. He is concerned that rezoning the subject property would be spot zoning, and is afraid that doing so would open the opportunity to do the same on the four City-owned parcels abutting Livernois Rd just west of his property/house.

Mr. Robinson said he would rather leave things the way they are unless the applicant presents something more agreeable to his (and other residents') liking.

Dan Jones, 1396 Christian Hills Dr., Rochester Hills MI 48307 - Mr. Jones asked if the City owned the both the southeast and southwest corner of Hamlin and Livernois. He also commented that the round-about does create a problem. Mr. Jones then asked if the City allows the rezoning of the northeast corner, will that set a precedent and bring more pressure to rezone the other two residential corners to office use. He commented there are many office buildings in the City that have vacant space for rent, but can understand both sides of the situation.

Chairperson Boswell closed the public hearing at 7:45 p.m.

Mr. Anzek responded to questions brought up during public comments. If the churches were sold, the property is zoned single family, and it would be a single family development the City would expect to be proposed. There is no rationale or legal precedence that just because something on a corner is not single family, that it gives the automatic right to rezone property adjacent to it. The property to the north and east of the churches is also zoned single family residential and contains active neighborhoods. In the case of the corner parcel, there are two active churches to the north and east, and one single family house on the south. Mr. Anzek cautioned the Commission not to base decisions on "what if" scenarios for next door properties. These will be dealt with should they ever come forward. As far as the possibility of the property abutting Livernois next to Mr. Robinson being rezoned to office, Mr. Anzek indicated these parcels are only 170 feet deep. When the required front and rear yard setbacks, buffer requirements and fire access around the building are applied to this property, there would only be room for a 20-30 foot wide building. However, a smaller scale single use office may fit, but can't be guaranteed. Another question asked was what has changed since the previous rezoning request, to which Mr. Anzek responded the round-about has been the primary issue as it makes the property less conducive to single family development on the corner. The City purchased the parcels on the southeast and southwest corners in order to gain the additional right-of-way as the owners of those properties would not negotiate a minimal sale, thereby requiring the City to purchase the entire parcel. The home on the southwest corner is not an historic district by City standards, and does not need to be moved as the round-about design takes less room than the previously proposed four-lane boulevard.

Chairperson Boswell commented that the property has been studied several times over the years by the Commission, but has remained residential. Currently it is planned residential with a mixed residential overlay. Chairperson Boswell asked the applicant why he feels office zoning would be better for the property.

Mr. Chappell explained that the primary reason driving the rezoning request is that this residential property is located directly on the corner facing the round-about. The property has never been developed as residential and is even less likely to be developed as residential in the future because of the intersection. The applicant feels office zoning would be a good transitional use between the adjacent properties and would greatly enhance the aesthetics of the corner. Mr. Chappell stated the applicant has addressed

all of the concerns of the Commission and residents, incorporating them into the rezoning application.

Chairperson Boswell noted there are a lot of offices in the City, some vacant, and asked why this development would be viable when other properties may not be.

Ms. Wilson indicated that proximity to the proposed office would be very convenient for Crittenton Hospital and/or Oakland University's use. It is anticipated that the need for office use will continue to increase, given the growth of the medical school and Crittenton Hospital. Ms. Wilson mentioned that the Crittenton facility on Crooks has not been open that long, and has already proposed two expansions to the original structure. The applicant sees a future need for office much sooner than any residential expansion given the economy.

Relative to O-1 zoning, Commissioner Hooper asked if restaurants and/or fast food chains would be allowed. Mr. Anzek replied no. Commissioner Hooper commented that if this corner was a great site for residential, a home would have been built a long time ago, but no one wants to build a house there. He also agrees with some of the previous comments about vacant office space, but added this office space is usually older and ready for redevelopment. People are moving from the tired/old office space into the new buildings. The attraction now is the new Class-A office buildings; this is what will attract new clients and tenants.

Commissioner Dettloff stated he agrees with Mr. Hooper's comments, the current vacant office spaces are in the older office buildings, and feels this is a prime corner for a Class-A office structure that would boost economic development in the City.

Mr. Anzek concurred by offering that staff deals daily with individuals looking for office space. These people are not looking to rent space in the older, obsolete buildings, but are looking for modern office space suitable to meet today's medical demands.

Commissioner Reese stated he agreed with most of the comments, but is bothered by the uncertainty of the acreage. He feels the Commission should know the exact acreage prior to making a recommendation on the matter.

Mr. Chappell apologized for not having an exact size. He also indicated that there has been some right-of-way purchased in the southwest portion of the property. Mr. Chappell then offered to postpone asking for a recommendation tonight and will bring defined exact acreage to the next meeting. Mr. Chappell asked if there were any other concerns the Commission needed answers to.

Commissioner Schroeder commented he would like clarification of the right-of-way that was acquired.

Chairperson Boswell indicated this rezoning request has been postponed until the applicant can provide exact acreage and the right-of-way delineation.

This matter was Postponed