

everyone was on board.

Hearing no further discussion, Chairperson Boswell re-read the motion and called for a vote.

A motion was made by Schroeder, seconded by Yukon, that this matter be Approved.

The motion CARRIED by the following vote:

Aye 8 - Boswell, Brnabic, Dettloff, Kaltsounis, Klomp, Reece, Schroeder and Yukon

Absent 1 - Hooper

Chairperson Boswell stated for the record that the motions had passed unanimously, and he wished the applicants well with their funding campaign.

## ANY OTHER BUSINESS

**2008-0581** Request for Recommendation to Approve Adoption of amended Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills and the accompanying Zoning Map. (Memo prepared by Mr. Anzek, dated January 20, 2009, Zoning Map Amendments and associated correspondence were placed on file with the Planning and Development Department and by reference became part of the record thereof).

Mr. Anzek noted the 11 area maps showing proposed rezonings as part of the Zoning Ordinance and Zoning Map update and adoption process. He recalled that in December, there was a Public Hearing, but no one was in the audience. Subsequently, they prepared letters and sent a mass mailing to all the affected property owners, and it was a very successful program. He and Mr. Delacourt held a public open forum from 4:30 p.m. to 6:30 p.m. in the Auditorium before the Planning Commission meeting to answer any questions. There were about 20 people, and there was a lot of support across the board for the new Residential Estate district. He noted that there were some challenges regarding the change to Office on Rochester Road, north of Wabash, and that the residents to the south had concerns. He also noted a letter in the packet from Jamie Jacob, who owned Ajax Materials, asking that consideration of his site be deferred until he could be at a meeting. Mr. Anzek said that he spoke with Mr. Jacob several times about his property, which was proposed to be changed from I-2, Heavy Industrial to I, Industrial, and asked him to send a letter.

Mr. Anzek referred to map amendment five, and advised that a portion of

*Bloomer Park was being rezoned to R-1 to match the rest of the park. There was an Office designation being proposed on Crooks, north of Auburn. He explained that there were two parcels currently zoned Residential between other Office parcels. He advised that Research Office (RO) had been eliminated as a category because it was the only parcel in the City that was RO. It was the Fanuc Robotics site, and it was being proposed for ORT, Office Research Technology. Other parcels along the Adams Road relocation, which were owned by MDOT, were being referred to now as ROW, Right-of-Way. Heavy Industrial areas (I-2) were being changed to I, Industrial, and I-2 was being eliminated. He reminded that a Public Hearing was scheduled for January 27, for which he expected a good turnout.*

*Mr. Schroeder suggested that they try to get more variation for the yellow (Residential) colors of the Zoning Map. Mr. Anzek said it was hard to do, and Mr. Schroeder asked about changing the colors altogether. Mr. Anzek said they were working with MIS, and they were going to create booklets by section so the colors could be distinguished better. They would have more, but larger, areas to be able to add the zoning designations. He recalled that when he started in planning, they did not have colored zoning maps. They used a combination of hatched patterns and alpha-numeric designations.*

*Mr. Schroeder asked what Mr. Jacob's objection to the rezoning was. Mr. Anzek said that by moving him to the I - Industrial - category, it would make his parcels nonconforming. Mr. Jacob said he planned to expand his office and garage to repair equipment, but the nonconforming status would prohibit that. Mr. Delacourt advised that Mr. Jacob would be allowed to operate in perpetuity as he existed, but the use would be omitted from the Ordinance, and he would not be allowed to expand.*

*Chairperson Boswell clarified that all Heavy Industrial uses would be eliminated. Mr. Anzek said it was the only Heavy Industrial use in town, and Mr. Delacourt advised that the parcels associated with the Sakwa development and along Adams were zoned I-2 but populated with I-1 uses. The question was whether it was a use the Tech Committee had wanted to incorporate as a Conditional Use in the new I-district, or whether it was one they would recommend become nonconforming. It was decided to not include it in the new Zoning Ordinance.*

*Mr. Kaltsounis asked if there were tax implications for the property owners by changing the zoning and whether that question had come up. Mr. Anzek said that it had, and the parcels on Crooks Road, going from*

*Residential to Office, probably would increase the land value, but because of Proposal A, the most it could go up would be at the rate of inflation or 5%, whichever was less. That property owner met with the City's Deputy Assessor, who showed what would happen, and the owner said he preferred Office because the resale value was better. Mr. Delacourt stated that it was his understanding that there would be no tax implications for the R-1 to RE owners.*

*Mr. Anzek advised that the only other opposition he had heard about the rezonings were from the neighbors to the south of the proposed Office designation on Rochester Road - in Regal Colony. Regal Office Park was to the south of that, and it was all under a consent judgment. The owner of the land had wanted to do Commercial, and the City negotiated a split of Office and Residential. The City agreed that areas to the north would be Residential, but the Master Plan supported Office. It was not part of Juengel's Orchards, so it was not subject to deed restrictions.*

*Mr. Kaltsounis remarked that the Regal development was one of the worst to ever try to make a left turn during busy times of the day. Mr. Anzek advised that the City had tried to work with the landowner to the south to get Regal Office Park access onto Wabash, but there were issues.*

*Mr. Klomp asked if Staff could help him understand the Industrial change, and if that came about as a result of the Master Plan. Mr. Delacourt said it was contemplated as part of the Master Plan discussions, but it really came up during the review of the Zoning Ordinance and the question about whether a Heavy Industrial district was needed within the City. They looked at the parcels zoned I-2 and where there were Heavy Industrial uses, and the Tech Committee wanted the Planning Commission and City Council to consider eliminating it. The owner of the I-2 parcels was asking that his use be put back in the Ordinance or that the I-2 district be put back in. The Ordinance could not go forward until that was decided. To put that back in later would require amending the Ordinance, so he would like to see it decided during the Public Hearing process.*

*Mr. Anzek assured that the City was not in the business of trying to be heavy handed; they were trying to organize the City. He agreed with Mr. Delacourt that deferring a decision on the I-2 district would get them in a quagmire of sequencing for getting the Ordinance adopted. There were people that were waiting for the Ordinance to be done. He knew that Mr. Hooper would like to get it in front of Council, because it would take a minimum of three meetings. Mr. Anzek said he was not sure what they should do as far as the I-2 district. They noticed it one way, and he was*

*not sure about what course of action to recommend at this point. Mr. Delacourt said that if the Planning Commission was not in favor of creating a nonconforming status for the property owner, the use could be written as a Conditional Use in the Industrial district, so that it was allowed to take place at the current location only.*

*Ms. Brnabic said that she did not recall the Tech Committee meeting discussion regarding the I-2 district. She wondered if Staff had discussed it at a meeting without the Committee. She thought they should perhaps consider a Conditional Use so it was not nonconforming. Mr. Delacourt recalled that the elimination of the zoning district was a topic of discussion at an early Tech Committee meeting, not just with Staff. (Meeting notes showed it was discussed at the March 25, 2008 meeting). It was also in the first draft of the Ordinance. Mr. Reece said he would support the option Ms. Brnabic suggested about a Conditional Use.*

*Chairperson Boswell stated that it would be a big change to put I-2 back in and have to re-notice for a Public Hearing. Mr. Delacourt said he did not think it would require a re-notification, but he would check with the City Attorney. Mr. Anzek said that it was in the current Ordinance, so they would not be adding or changing it if they kept it, but he thought it would be best to check with Mr. Staran.*

*Mr. Reece clarified that the only objection about eliminating I-2 regarded Mr. Jacob's plans to improve his property. Mr. Anzek agreed, and reiterated that it would put it in a nonconforming status. He was not sure how long he would be in that location, but Mr. Anzek noted that he ran a successful operation. Mr. Reece asked about the tax implication, and Mr. Anzek said it should not change. Mr. Delacourt said that if they put it back in as a Conditional Use in the I-district, they could decide to allow it under certain conditions. Mr. Anzek questioned if that would open it up for other areas to have the same operation. Mr. Delacourt informed that they had to determine if it was something the City wanted to allow to expand on the site or on, potentially, other sites surrounding it. Depending on how restrictive the conditions were, it could go onto other Industrial properties in the City.*

*Mr. Anzek said they would need to talk it through further. If it was a Conditional Use in the I-district, it might open up other areas to that probability. If they added the I-2 district back in, they would be going against the philosophy that a single user should not have a special designation. It was also a way of controlling expansion. Staff had discussed the strategy needed to achieve the objectives of the Master*

*Land Use Plan, and one of those was to work toward the elimination of the I-2 district, because it did not quite fit with R&D, high tech and some assembly uses on Avon Industrial.*

*Mr. Klomp indicated that he did not recall the language in the Master Plan, but from personal experience frequenting the Clinton River Trail, it felt like he was outside of Rochester Hills looking at and hearing the concrete crushing plant. It seemed out of place to him, and it always had. Chairperson Boswell reminded that it had been in the City for some time, and that it was Mr. Jacob's business.*

*Mr. Schroeder said he had personally worked with Jamie, and he cautioned that if the City did not settle it, a judge would. Mr. Delacourt said that Mr. Staran, the City Attorney, would be at the January 27 meeting to answer any legal questions.*

*Chairperson Boswell summarized that if they put I-2 back in, it would be easier, they would not have to re-notice it, and it would be the only I-2 use in town. That seemed to him to be a relatively simple solution. Mr. Anzek said that if it went away, it would still be master planned something else, and the City could effect a rezoning at that point. Chairperson Boswell agreed that if the operation ever went away, the City could rezone it to Industrial.*

*Mr. Delacourt suggested that they should look at the use and not where it was located. They should decide if the use was appropriate any longer in the City. Mr. Anzek reminded that if it became a Conditional Use in an I-district, that there were a lot of I-1 areas in the City. Mr. Delacourt said it would depend on how restrictive it was. They could control where and how something like that could operate in the City. If it was the only I-2 use and the City wanted it to remain, he would be hesitant to put the entire I-2 district back in and only have one allowable use.*

*Chairperson Boswell stated that what uses were acceptable in the City was a very subjective topic. The operation was Mr. Jacob's business, and he was making money, so as far as Chairperson Boswell was concerned, it was an acceptable use in the City. Mr. Anzek advised that they would talk with Mr. Breuckman and Mr. Staran and come up with some options for the 27th. Mr. Kaltsounis brought up the Tech Committee discussing I-2, and said he believed that Staff presented it, but he did not think they made a decision. Mr. Anzek recalled that the Committee talked about the fact that there was just one location in town, and they thought everyone was comfortable with the decision. Mr. Kaltsounis said he agreed with Ms.*

*Brnabic, and said that they probably looked at it quickly and said it looked good, versus discussing it at length.*

*Mr. Delacourt showed a map with the parcels in the proposed RE district that were less than an acre. He advised that there were questions about rezoning to a district with a minimum lot size of one acre when someone did not have an acre. He stated that any lot on record at the time of adoption would be a legal lot and would continue to be. The setbacks in the R-1 and the RE district were exactly the same. It would technically make a lot nonconforming, but it would not impact what someone was allowed to build if they met the setbacks.*

*Mr. Anzek noted that over 300 letters were mailed to property owners for the RE district, which was fairly significant. Mr. Klomp asked if it had been published in the paper, and Mr. Delacourt confirmed that both Public Hearings were noticed.*

*Ms. Brnabic referred to the question from Mr. Kaltsounis about a zero setback for the A&A Liquor store. She had heard there was a threat of litigation or that something actually was filed by the coney island against A&A because of the way the buildings abutted. She asked if it had been withdrawn or if the City never got in the middle. Mr. Delacourt said he had not heard anything about it.*

*Mr. Anzek said that A&A was involved in a lawsuit at their previous location north of Auburn. Their lease had been terminated early and he believed they won. He mentioned that the owner of the coney island had never brought up any issues to the City about A&A. Ms. Brnabic recalled that when the Site Plan for A&A was before the Commission, there was some discussion about the cooler in the back and an extra access door. If they required the extra door, someone stepping out of it would be on someone else's property. Mr. Anzek said that they moved the service and access door to the south side of the building, but it still faced the parking lot. Ms. Brnabic had heard there was a lawsuit, but she never followed up on it. Mr. Delacourt remembered that the owners of the coney island had to shave some of their roof, which projected onto the A&A site. He guessed that it was not the friendliest relationship at the time, but it might have been resolved by now.*

*Mr. Kaltsounis joked that he wanted to salute the flag on the new cell tower on Adams Road, but there was not a flag there, and that had been a requirement of Site Plan Approval. He advised that the tower had been up for several months. Mr. Anzek said he would find out - he was*

surprised at how fast the tower had been put up. Mr. Kaltsounis also asked about the awning at A&A, and Mr. Delacourt replied that he was waiting to hear from the Building Department about the permit.

Mr. Delacourt asked the Commissioners to contact him if they had any further questions before the January 27th Public Hearing, at which they would be possibly making a recommendation about the amended Zoning Ordinance and Zoning map. Chairperson Boswell stated that he would really like the Commission to move it forward if they could. Mr. Yukon asked if Staff would provide the Commissioners with a recommendation about the I-2 district. Mr. Delacourt said they would provide options. It had been presented as a removal of the district to the Tech Committee, and they did identify that the uses would become nonconforming. Ultimately, it was the Planning Commission that needed to make the recommendation to City Council - whether they would like to see the entire district put back in, whether they would like the specific use as a Conditional use under the new district, or if they should eliminate the district and create a nonconforming use. Upon the question by Mr. Yukon, Mr. Delacourt advised that Staff would email some options before the meeting.

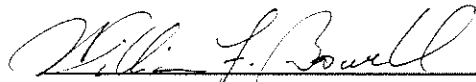
**This matter was Discussed**

## **NEXT MEETING DATE**

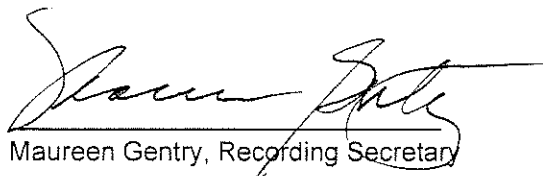
The Chair reminded the Commissioners that the next meeting was scheduled as a Special Meeting and Public Hearing on January 27, 2009.

## **ADJOURNMENT**

Hearing no further business to come before the Commissioners and upon motion by Brnabic, the Chair adjourned the Regular Meeting at 9:35 p.m., Michigan time.



William F. Boswell Chairperson  
Rochester Hills Planning Commission



Maureen Gentry, Recording Secretary