



Rochester Hills

Agenda Report

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File Number: 2006-0216

File Number: 2006-0216 **File Type:** Ordinance **Status:** For Introduction
Version: 2 **Reference:** 06-003 **Controlling Body:** City Council
Regular Meeting
Requester: Planning/Development **Cost:** **Introduced:** 03/08/2006
File Name: Yagiela Rezoning **Final Action:**

Title: Acceptance for First Reading - An Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone one parcel of land totaling .25 acre, known as parcel No. 15-31-103-002, located south of Auburn and east of Adams, from B-2, General Business, to R-4, One Family Residential, and to prescribe penalties for the violation thereof, Paul Yagiela, applicant (City File No. 06-003)

Notes: Paul Yagiela
3021 St. Clair
Rochester Hills, MI 48309
248-790-2901

Code Sections: **Agenda Date:** 05/03/2006
Indexes: Ordinance Change **Agenda Number:**
Sponsors: **Enactment Date:**
Attachments: Agenda Summary.pdf, Map aerial.pdf, Map zoning.pdf, Staff Report.pdf, Ordinance amendment.pdf, Letter Yagiela.pdf **Enactment Number:**

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	04/04/2006	Recommended for Approval	City Council Regular Meeting			Pass
<p>Notes: <i>(Reference: Staff Report prepared by Derek Delacourt, dated April 4, 2006 had been placed on file and by reference became part of the record thereof.)</i></p> <p><i>Present for the applicant was Paul Yagiela, 3021 St. Clair, Rochester Hills, MI 48309.</i></p> <p><i>Mr. Hooper explained the procedure for the Public Hearing and turned the discussion over to Mr. Delacourt, who had reviewed the request.</i></p> <p><i>Mr. Delacourt stated that the applicant would like to rezone a quarter-acre parcel located south of Auburn and east of Adams from B-2, General</i></p>							

Business to R-4, Single Family Residential. He further explained that the City's current Master Plan for the property was single-family residential, and that the applicant wished to rezone the property back in conformance with the Master Plan.

Mr. Hooper asked if the adjacent properties to the east and west were also zoned B-2. Mr. Delacourt agreed, and added that to the north it was zoned B-2 and to the south, R-4. Mr. Hooper asked what the setback requirements from B-2 to B-2 would be. Mr. Delacourt said that B-2 required a 25-foot setback, but noted that in footnote k of the Schedule of Regulations, the requirement could be reduced to zero if there were no windows, doors or openings in a proposed building. Mr. Hooper asked if that would be applicable for the north and east sides of the subject property, and Mr. Delacourt replied that without a Site Plan for either site, that could not be clarified. If a Site Plan for either side were submitted, there would be a potential to reduce the setback. Mr. Hooper clarified that if the rezoning to R-4 were successful, the residential property would not have to buffer the business property. He asked if there would be any change in status as far as adding onto the existing home on the site. Mr. Delacourt explained that because the property was zoned B-2, the house was a non-conforming use. The applicant was not allowed to increase that non-conformance. Staff looked at the property, and it was of a size and shape that would allow an addition, and the current home would not create a nonconforming status with the setbacks or garage.

Mr. Hooper also noted that if the rezoning were successful, the potential setbacks for the north and east properties, if developed, could be from 50 feet to zero feet, depending on Buffer Modifications. Mr. Delacourt replied that the buffer between a B-2 and an R-4 would be a 25-foot Type B Buffer, unless waived by the Planning Commission through a Buffer Modification, which was done as part of a Site Plan submittal.

Ms. Brnabic verified that the property to the east, and the subject site, were developed with homes, and that the lot to the north was vacant. Mr. Hooper asked the applicant if he had any comments.

Mr. Yagiela related that he was unaware his property was zoned B-2 until he submitted plans to put an addition on to his home and was told he could not do so. He came to the Planning Department and found out that the Master Plan supported his request.

Mr. Hooper opened the Public Hearing at 7:40 p.m.

Mr. Farzin Mehrpay, 3194 Auburn Road, Rochester Hills, MI 48309. *Mr. Mehrpay said he appreciated that he was allowed to speak. He advised that his attorney had submitted a letter to the Commission. He wanted to express his opposition to the rezoning because he believed that a rezoning to R-4 would create a difficult situation with setbacks if he tried to develop his*

property commercially. The lot was already small, and if there was a residential property to the south, it would be very difficult to develop. He planned to build an office building, but he would have to change his plan because of the setbacks. His architect had informed him that if the setbacks changed, it would not be feasible to put a building on the property. (Letter from Attorney C. M. Sibert, of Sibert and Sibert, dated March 31, 2006 had been given to each Commissioner, was placed on file, and became part of the record thereof).

Mr. Hooper closed the Public Hearing at 7:45 p.m.

Mr. Kaltsounis said that the resident made a good point about the Master Plan. He referred to the Master Plan update, which showed the subject parcel and surrounding areas zoned for office and residential. Mr. Delacourt noted that the updated Plan had not been approved by the Planning Commission, and he agreed that what had been discussed for the area so far was a proposed zoning classification that would allow residential and office, but no commercial. The rezoning request would bring the property more in conformance with the existing, approved Master Plan, and be permitted by a use contemplated by the Technical Committee for the future Land Use Plan. He advised that Staff had to base the recommendation on the current Master Plan.

Mr. Kaltsounis said he agreed with that. He recalled that when they looked at the "bowling alley" lots in the area, they tried to make sure they were consistent, but Mr. Yagiela's property was an exception. It took up half of one of those lots. Based on the current Master Plan and noting what surrounded it, he recommended approving the request and made the following motion. He noted that for the future, if the updated Master Plan were approved, there would be a lot of development options. He commented that if the applicant had come in six months, he might not have been able to get the request approved.

MOTION by Kaltsounis, seconded by Hardenburg, in the matter of City File No. 06-003, the Planning Commission **recommends** to City Council **approval** of the request to rezone Parcel No. 15-31-103-002 from B-2, General Business to R-4, One Family Residential.

Mr. Reece noted that in the letter of March 31, 2006, the attorney stated that Mr. Mehrpay believed the surrounding community would be better served if his parcel and Mr. Yagiela's parcel were combined. Mr. Reece asked if he had made any attempt to purchase the property. Mr. Mehrpay said that he did. Mr. Yagiela advised that he had been there for 13 years and had not received any offers. Mr. Mehrpay clarified that he sent an agent to the house, but he had not been there personally. Mr. Reece asked Mr. Yagiela if he would be interested in selling. Mr. Yagiela said he really liked his property and the community around him, and he would rather stay there than try to find another place.

Mr. Reece asked the size of the addition. Mr. Yagiela said he was adding a bedroom and bathroom, which would add about 600 square feet.

Ms. Brnabic asked Mr. Yagiela if he would be moving or rebuilding the garage when he put on the addition. Mr. Yagiela said the garage would stay where it was, and he was just squaring the house because it was currently L-shaped. The addition would go on towards the back and side of the house, towards residential.

Mr. Hooper referred to the comments about the adjacent property, and he advised that if Mr. Mehrpay wanted to develop his property, there would be opportunities for Buffer Modifications. With the current Master Plan update and Zoning re-write process, the new zoning classifications would allow more development flexibility. It was his opinion that Mr. Mehrpay would have opportunities to develop his property as office, as he stated he intended to use it.

Aye: Boswell, Brnabic, Dettloff, Hardenburg, Hooper, Kaltsounis, Reece and Schroeder
Absent: Holder

Text of Legislative File 2006-0216

..Title

Acceptance for First Reading - An Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone one parcel of land totaling .25 acre, known as parcel No. 15-31-103-002, located south of Auburn and east of Adams, from B-2, General Business, to R-4, One Family Residential, and to prescribe penalties for the violation thereof, Paul Yagiela, applicant (City File No. 06-003)

..Body

TWO OPTIONS:

TO APPROVE

Resolved, that an Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone one parcel of land totaling .25 acre, known as parcel No. 15-31-103-002, located south of Auburn and east of Adams, from B-2, General Business, to R-4, One Family Residential, and to prescribe penalties for the violation thereof is hereby accepted for First Reading.

TO DENY

Resolved, that the request to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone one parcel of land totaling .25 acre, known as parcel No. 15-31-103-002, located south of Auburn and east of Adams, from B-2, General Business, to R-4, One Family Residential is hereby denied.