

2009-0393

Discuss potential for Conditional Rezoning for the northeast corner of Hamlin and Livernois - City File No. 04-013; Parcel Nos. 15-22-351-001, -002; Signature Associates.

Attachments: [PC memo 12-11-09.pdf](#)
[Letter Mulenga 11-06-09.pdf](#)

(Reference: Memo prepared by Derek Delacourt, dated December 11, 2009, and letter from Signature Associates had been placed on file in the Planning and Development Department and by reference became part of the record thereof.)

Present for the applicant were Chileshe Mulenga (arrived 7:43 p.m.) and Cathy Wilson, Signature Associates, One Town Square, Suite 1200, Southfield, MI 48076.

Mr. Delacourt gave a summary of the project, advising that in 2005, the applicants requested a Rezoning of the properties from single-family residential to O-1, Office. The matter of a Rezoning had been requested for the subject properties prior to the availability of a tool called Conditional Rezoning, and it was denied at that time. This year, the applicants came back asking to re-open the discussion, and the Planning Commission discussed the matter at its October 20, 2009 meeting with respect to the possibility of using Conditional Rezoning. One of the things that came out of that meeting was that the Commission could potentially consider it if there were conditions offered by the applicant to mitigate some of the concerns of the Planning Commission - height of the building, loss of vegetation, landscape requirements, etc. The applicants submitted a letter subsequently, offering conditions they felt would address the concerns, including that the Planning Commission would have final approval of the height, and the applicants would preserve 30% of the trees. The applicants wanted input from the Commissioners, and if they got a favorable response, the next steps would be to file a formal application and come back for a Public Hearing and recommendation from the Planning Commission to City Council.

Chairperson Boswell clarified that the Commissioners would be voicing their concerns and ideas for what they would like to see on the corner or not, and the applicant would come back for a formal Conditional Rezoning request. He asked what would happen then.

Mr. Delacourt said it would be the same process as any other Rezoning request, with the addition of conditions. There would be a notice in the paper 15 days prior to the meeting and a Public Hearing would be held. The notice would state that conditions were provided and available for review by the public. The Planning Commission would make a recommendation to City Council for the final consideration.

Ms. Wilson introduced herself, noting that Mr. Mulenga would be late. Ms. Wilson advised that she was presenting as a follow-up to the previous meeting, and they were hopeful Conditional Rezoning would be a way to allow them to do a development on the parcels that would be mutually agreeable to the owners and the City. They wanted it to be something the City would be proud of and want on the corner, and they were looking for an indication of support from the Planning Commission.

Mr. Kaltsounis referred to a proposed development north of Bordines, and said it was ultimately used for marketing the property. For the subject property, he was concerned that what they were doing would allow the applicants to better market the property, noting that Signature Associates dealt more in sales. He wondered if they were actually interested in building something on the property or if it was just marketing. He was concerned that if it were sold, the next person might not have the same passion for the property. They could not really tie down what it would look like, and they had to think about everything that could be built there.

Ms. Wilson agreed that Signature Associates was not a developer. They were a brokerage, property management and corporate services company. In this case, they were representing the owner of the property, a subsidiary of Talon Group, on the rezoning and marketing of the property. She had an unusual relationship because she used to work with Talon on the property for six or seven years prior to being at Signature and was still very close with the owner of Talon. She remarked that when someone worked on properties for that long, they became like children. She assured that the goal was to have a quality development.

Mr. Kaltsounis asked if Talon owned the property, and Ms. Wilson clarified that the same owners of Talon owned the property on the

corner.

Mr. Yukon referred to the meeting of October 20, and said that during the presentation, they discussed the market shifts locally and nationally in the housing market, and it was stated in the Minutes that there would be a drop of between 15-25% up to 2011. He asked about all the vacant office space in the community and whether they felt a Rezoning would support a tenant if they built on the property.

Ms. Wilson said there was still activity seen in certain sectors of the office side. They felt that there would be demand for office before residential, especially for a high traffic intersection such as Hamlin and Livernois.

Mr. Yukon pointed out that the letter they submitted stated that there might be potential new use for Crittenton Hospital and Oakland University, and he asked Ms. Wilson if she could expand or had more than the general information stated.

Ms. Wilson agreed it was general, but she felt that the site's highest and best use would be medical office. There was the Beaumont/Oakland University project for a medical school, and they had relationships with both Beaumont and Crittenton Hospitals and other medical users. They felt that was where the growth, especially in Rochester Hills, would be.

Mr. Yukon noted that Barclay Circle had a lot of medical offices, many which were vacant, and that there was other vacant medical around the community. He wanted to make sure that if the parcels were Rezoned that something would be built, and they would not stay vacant.

Ms. Wilson said that she was familiar with the properties on Barclay, and she was not sure why they remained in the condition they were. Other properties had been developed since those, and she was not sure why they were just sitting there.

Ms. Brnabic referred to the applicant's letter, in which it stated that they would comply with all building, elevation and design restrictions for the submitted project, but she felt that was fairly general. She recalled that the Commission gave the applicants an indication that

they did not want three stories and would not go along with anything higher than two, and less would be better. If the applicants submitted a Conditional Rezoning request, she expressed that the conditions would have to be more specific. She explained they would have to state that they would not go higher than two levels, and add that they would also comply with specific design and other restrictions. To just to say they would comply with the Ordinances would mean, as an example, that in O-1 they could go higher than two stories.

Ms. Wilson said they would be committing to two stories, and they understood that was the desire of the Commission. Ms. Brnabic asked that it be specifically stated, noting that the conditions as proposed were too general, and she wanted to make sure they would agree to two levels or less.

Ms. Brnabic asked the size of the properties, and Ms. Wilson believed that the total site was 3 ½ acres. Mr. Schroeder asked if that was with or without the right-of-way, and Ms. Wilson was not sure, but she thought that without it, the property was closer to three acres. Ms. Brnabic wanted to find out if the Commissioners were satisfied with the conditions, noting that there were no specifics and reminding about everything that could be allowed in O-1. She mentioned "raising and keeping of animals" and was not sure if an owner had to have five acres. She read other permitted uses - laboratories, whether experimental, testing or film and media and entertainment facilities - and noted that there were other elements in those categories. She reminded that the Commission could not pick and choose or ask for conditions, and she was concerned about other permitted uses being allowed if the site was Conditionally Rezoned. She wondered if there were any uses the Commissioners would be uncomfortable seeing at that corner if someone else developed the property or if the conditions were not specified. She did not think she would want to see an experimental laboratory on that site. She also mentioned telecommunications towers being allowed, and said she would be concerned if those were included.

Mr. Hooper suggested, besides the conditions put forth, which he felt were fairly generic, that they add limiting the height to two stories, not allowing wireless communication towers, and stating that architectural treatments would be significantly brick. He suggested also that they submit elevations that indicated what type of treatment

they would have for the outsides of the building showing significant brick cladding. He reminded that it was a significant corner, and they wanted it developed in top notch fashion and professionally. He observed that a lot of the existing office space in Rochester Hills was pretty tired, and that was why it was not renting. He cautioned that if a new development came in and was not professional, it would not attract the tenants they wanted.

Mr. Dettloff asked Ms. Wilson to what degree the partnership between Signature and Talon's bank financing was in place or if those types of issues would still have to take place. He questioned what would happen if the project was approved and ultimately the bank financing could not be approved. As a worst case scenario, if the deal fell through and the property was Rezoned, he wondered if the City could be challenged as to how high the building could be.

Mr. Delacourt said that with Conditional Rezoning, the City would require a development agreement and statement of the conditions to be recorded with the title work. The City Attorney could require a reverter under certain circumstances. The conditions would run with the property - not with the owner. Someone else could only develop under the way it was Conditionally Rezoned. Mr. Dettloff said that was encouraging, and he asked Ms. Wilson to comment on where they were in the process with financing.

Ms. Wilson said that was probably ahead of where they were. It was the third time Talon had come in regarding the property, and they had users in the past. They had some prospects, but they needed to know in which direction they could go first.

Mr. Kaltsounis concurred with Mr. Hooper and Ms. Brnabic that there should be no cell towers, and that it should be mostly brick and two stories maximum.

Ms. Wilson reiterated that the desire was to do a Class A project, which was what the market would demand. Mr. Kaltsounis said that they still had to consider the possibility of the property being sold to someone else. He understood they wanted to do a Class A project, but someone else might not have that same passion. He recalled that the developers for the project north of Bordine's came in wanting to do a great project, and they could not sell the project as it was.

They finally found someone else that wanted to purchase it, and they came before the Commission with a Class D project.

Chairperson Boswell noted that the City of Rochester Hills had a long tradition of having a community of residences. He stated that there would be a lot of people in town that would wonder why, all of a sudden, office or non-residential usage was creeping across Livernois. He asked if there was any thought about that or if any Commissioners saw that as a possible problem.

Mr. Hooper indicated that the property had been zoned residential for decades, and he observed that if it was such a great residential property, a house would have been built on it by now. It had been vacant all that time. In this particular case, the property was surrounded by two churches that were not going to go away, which would provide buffers. If the property was successfully Conditionally Rezoned to Office, he did not think it would degrade or allow a significant change to the residential character of the area. If it was not successful, it would probably remain vacant for the foreseeable future.

Chairperson Boswell said that he was not advocating one thing or another, but he noted that there was a possibility a building could be built in such a way as to not appear too commercial. The Commission had already stated that they did not want a three-story block building that looked like an office building. In designing the building, it could look like it belonged in a residential area. He noted the understanding that there were churches on either side.

Mr. Schroeder agreed with the comments, and he asked if the Planning Staff had any thoughts about conditions that should be attached to the property.

Mr. Delacourt said that the Commissioners brought up the same concerns that Staff had. They talked with the applicants, and they did not appear to have a problem offering conditions to mitigate the concerns raised. He did not think there would be a problem with other uses being constructed in the future. He thought Staff could work with the applicant on the conditions mentioned. Residential on the corner surrounded by residential zoning but developed with churches, the road improvements, the industrial across the street,

etc., had all been discussed with Staff. He believed the conditions and the discussion went a long way in mitigating Staff's concerns about a Rezoning.

Mr. Schroeder noted that one of his concerns was that they were not looking at just one corner; they were looking at three. He clarified that the City owned two of the other corners, and Mr. Hooper agreed that the City owned the southeast and southwest corners. Mr. Schroeder said that did lessen the concern. He agreed that the conditions offered were few and loose, and he stated that once the property was Rezoned, that was it. Whoever got the property could do what they wanted with it. He wanted to make sure that they really tied it down. Mr. Delacourt agreed they could work with the applicant to tighten them and address some of the other issues. Before the Conditional Rezoning came back before the Commission, Staff would ask the City Attorney to take a look at the conditions and make sure they addressed everything appropriately so they would not run into a problem with interpretation in the future. Mr. Schroeder hoped there would be no gray areas.

Mr. Mulenga entered at 7:43 p.m. Chairperson Boswell asked if he had anything to address, and Mr. Mulenga thought he had spelled it out pretty well in the letter. He added that they planned to comply with any and all zoning and landscaping requirements prior to Site Plan Approval.

Mr. Schroeder suggested that they check the right-of-way situation to make sure it was locked down. He had been involved in situations where that had not been acquired. Mr. Hooper asked if that should be a condition, and Mr. Schroeder said it absolutely should.

Mr. Kaltsounis recalled that the Master Plan Technical Committee did a lot of talking about the subject property. They wanted to find a way to not only get the corner built, but to take care of the property all along Hamlin. That was why they chose mixed-residential. He stated that a lot of thought went into the property. If he was asked to approve a building a mile north, he would absolutely not agree to it. A mile south would even be tough, but because they were on Hamlin with a lot of office buildings, it would be continuing a theme. With the churches, it also made it a little easier to decide. They were trying to lock down certain things because of the economy. He pointed out

that the trees were discussed as to removal "within reason," but he suggested that their "within reason" might be different than his. If the project came forward, he stated that conditions should be more securely proposed. He would like to see that type of language cleared up.

Ms. Brnabic referred to allowing an experimental testing laboratory, and she wondered if it could include hazardous materials. She realized it was an enclosed building, but said that was a concern.

Mr. Delacourt thought it was safe to assume that if there was a lab or film processing use, it would involve some type of chemicals, and additional protections would have to be put in place. Ms. Brnabic thought that experimental testing was something that seemed better suited for industrial zoning. She referred to media entertainment and wondered if it would be appropriate for that location with the hours of operation involved.

Mr. Dettloff said that from an economic development standpoint, the project made total sense to him. He agreed with Mr. Hooper that if it was prime property for residential, it would have been developed long ago. There was a lot of housing on the market now, and it would not just go away over night. He liked the idea of pursuing something with Oakland University and Beaumont, and the location was good. For the short and long term, he felt it was a good, practical way to go for Rochester Hills.

Chairperson Boswell called on Mr. Hetrick, commenting that his appointment had been made less than 24 hours ago. Mr. Hetrick said that given that the churches were around the properties, he wondered if it was possible to have the building look somewhat residential. He asked if that was a reasonable request. One side of Livernois was industrial and the other was residential, and he asked if an office building were put up, if it could look a little more residential. They would want to see a Class A building, and he suggested that it might be one way to make the situation come out nicely.

Mr. Mulenga replied that the elevations would be approved by the Planning Commission, so if that was a request by them, they would try to comply. Mr. Delacourt said that the applicant could offer that

as a condition if they were interested. It could state that the architecture would be residential in nature. Those types of things had been discussed in the past. The architectural guidelines talked about areas where there was transitional office with residential buildings. That was not even that far out of the normal Site Plan review process, and it was very germane to the discussion and something that could be offered. Mr. Hetrick thought that would be very good for that particular location.

Chairperson Boswell opened the Public Comments at 7:44 p.m.

Richard Robinson, 875 W. Hamlin, Rochester Hills, MI 48307. Mr. Robinson advised that he lived across the street from the property under discussion. He felt that the Commissioners needed to take a poll to find out the wishes of the residents in the area. He did not think the majority of the residents would like to see "spot" zoning. He did not think a lot of people in the area knew about the meeting. He did not think it would help the value of the residents' homes, and he thought that if they started spot zoning it would open the floodgates. He asked what land the City owned by the intersection of Hamlin and Livernois, and Mr. Hooper advised that it owned the vacant land on the southwest corner and the southeast corner. Mr. Robinson asked what the City planned to do with the land, and Mr. Hooper said it was unknown. Mr. Robinson said he lived next to the property on the east, and that gave him a little "warmer" feeling about the situation, but he noted that there would still be commercial property on the north corner. He said he knew that realtors liked to see that because it was worth more than residential. He did not think people should make a living at the expense of the residents in the area. He noted that someone mentioned that people in Rochester Hills did not like property around them to be commercialized, and he did not think it was advantageous overall for the City. He presumed that it got a little more tax money, but stated that it was at the expense of the comfort of the people.

Chairperson Boswell asked Mr. Delacourt what kind of buffering would have to be provided by Ordinance, noting there was industrial across the street, special uses on either side and residential across the street.

Mr. Delacourt said that anywhere the property abutted residential

zoning regardless of the use - a home or place of worship - it would require a 25-foot width, a green screening wall and some deciduous plantings at a higher level. There was some flexibility, but those were the basic requirements for office abutting residential property. Across the street from industrial there would not be anything required along the frontage, other than the normal landscaping required if there was a parking lot on the street. Across from the residential on the south there would be a ten-foot width and plantings required.

Chairperson Boswell asked what kind of site lines were required on a traffic circle, noting their discussion about trees, and establishing that there could not be a green wall. Mr. Delacourt believed that a normal site clearance would be required for a roundabout, but he had not reviewed a development by a roundabout. He said he would look into it and have an answer if the project were to come forward.

Mr. Schroeder said it would certainly be difficult to turn left, but if people wanted to go south, they could make a right turn and go into the roundabout and go any direction they wanted. He thought access would be difficult. Mr. Delacourt agreed, but said he would be curious to see if the roundabout improved the access management. He would also be curious about how the driveway locations were sited on the property.

Chairperson Boswell summarized for the applicants that the Planning Commission was open to something for the corner, and that if residential was going to be built, it already would have. It seemed even less likely with the traffic circle. Regarding the idea of an office building - medical offices in conjunction with Oakland University or Crittenton Hospital - he indicated that the Planning Commission appeared open to that. He urged strongly that it should be no more than two stories and have primarily brick facades and a residential look to the building. He thought it might be challenging to compatibly put as large of a building as they wanted to invest and look residential. He asked the Commissioners if they had further comments. Mr. Hooper added that there should not be wireless towers. Mr. Mulenga said they would work with the elevations to comply with what was being requested.

Mr. Delacourt brought up notification requirements for a Rezoning for the applicants. He said that anyone within 300 feet of the property

lines would get notice, including Mr. Robinson. Chairperson Boswell added that any time an applicant came before the Commission, the members wanted to know that they had spoken with their neighbors prior. If that did not happen prior, very often the Commissioners asked the applicants to communicate with the neighbors, and a matter could get postponed. Mr. Schroeder suggested that they start with Mr. Robinson.

Chairperson Boswell asked the applicants if they had any questions, and none were heard. Mr. Schroeder asked what the next direction was.

Mr. Delacourt advised that the applicant would digest the information and if they felt they had a suitable request, a Public Hearing would be scheduled. It would be up to them to make a formal submittal and offer conditions they felt addressed the concerns expressed by the Commissioners.

Mr. Schroeder mentioned right-of-way, and asked the applicants to make sure it was handled. Ms. Wilson said that she knew Talon had to negotiate the right-of-ways, and there were substantial pieces taken from both sides. She was not sure about the property to the north (one of the parcels under consideration but not owned by Talon). She asked if there would be a Development Agreement involved with a Conditional Rezoning. Mr. Delacourt said it depended upon the number of conditions. The City Attorney would take a look at things and make a recommendation. If it was more complex, the City normally required an Agreement. It appeared to him that for this matter, the conditions were simple and straight forward, and they would probably not need a separate Agreement, but he would have to find out.

Chairperson Boswell thanked the applicants.

Discussed