

was one of the first developments to come after what had happened with the economy, and he wished them luck obtaining funding. He commented that the Planning Commission always advised people to make developments nice and friendly. He recommended using the open space and adding things like benches and small park-like settings. A lot of residents in subdivisions asked for amenities like that, including those in his sub. He wished Mr. Check good luck and asked him to "make the City proud." He indicated that it had certainly been a long time since the Commission had seen a Final Preliminary Plat.

Mr. Dettloff agreed with Mr. Kaltsounis, and said it had been a long time coming, and it was nice to see it moving forward. Regarding funding, he asked if they were working with a local bank. Mr. Check said that they were, and they hoped to start construction in the spring of 2011. Mr. Dettloff asked if the banks were cooperating, and Mr. Check said not too much, but they were working on it. Mr. Dettloff thanked him for bringing the opportunity to the City.

A motion was made by Schroeder, seconded by Dettloff, that this matter be Recommended for Approval. The motion CARRIED by the following vote:

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

Absent 1 - Hetrick

Chairperson Boswell stated for the record that passed unanimously, and he also wished the applicants good luck.

2010-0379

Request for Conditional Land Use Recommendation (Public Hearing), City File No. 10-006, to allow an in-home day care for up to 12 children at 28 Montmorency, on the northwest corner of Montmorency and Rochester Road, Parcel No. 15-27-276-025, Diane Kapanka and Kristen Parker, applicants.

(Reference: Staff Report prepared by Derek Delacourt, dated October 5, 2010 and documents supplied by the applicant had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Diane Kapanka and Kristen Parker, 28 Montmorency, Rochester Hills, MI 48307.

Mr. Kaltsounis asked the Commission if he should be recused from the discussion. His mother owned a daycare, for which he was a board member. He felt it could technically be in competition, because it was three miles from the proposed daycare.

Chairperson Boswell did not really see a great conflict. The other Commissioners did not either, and Mr. Kaltsounis was not recused.

Mr. Delacourt stated that the proposal was for something the Commissioners had not reviewed in the past. The previous Ordinance prohibited more than six children, which was different than the State's requirements. When the Zoning Ordinance was redone, Staff looked at what the City could do for home occupations with 7-12 children, and it was decided to require a Conditional Land Use. He advised that the requirements for a Conditional Land Use were the same as in the previous Ordinance.

The applicant came to the Planning Department with a request for a home day care, not commercial. The primary use of the residence was as a home, which separated it from the larger centers. The applicant submitted paperwork showing that they could meet the Ordinance requirements for amount of play area, screening and fencing. Mr. Delacourt noted that no Site Plan approval was required, although the applicant had submitted drawings and floor plans. The matter was noticed as a Public Hearing, and Staff had not received any calls with concerns. Staff recommended approval.

Ms. Parker advised that she and her mother would work out of the home. They would use the 1,300 square foot basement area for the daycare. They had approval from the Neighborhood Association for the use and for a fence, which would be chain link with slats with natural vegetation around it.

Mr. Yukon asked if there were egress requirements for the basement, and Ms. Parker said that she had been in contact with the liaison for State licensing and the Fire Marshall. There would be three exits from the staircase exit on the first floor. They had special window variances from the Fire Marshall - stairs would go out of the basement windows.

Mr. Delacourt said that he did not put in stringent site plan requirements because the applicants had to go through a review and approval process through the State. That authority would exceed Staff's in this matter. Ms. Parker agreed, and said there were several inspections required, but

the permit from the City was required before getting licensed.

Mr. Yukon asked if the trampoline would be moved into the play area. He was told it would be taken down. He asked about the in-ground pool, and what provisions they would take to ensure safety for the children.

Ms. Kapanka advised that there would be locks on the door at the top of the fence around the pool, and it would always be locked. There was a childproof gate. Ms. Parker said that met the requirements of the State. Mr. Yukon asked what steps would be taken so the children would not wander into Rochester Rd. He hoped every effort would be made to make sure the children were always watched. Ms. Kapanka noted that she was a care giver in memory care and responsible for five elderly residents. She felt she could handle the children.

Ms. Brnabic had the same concerns. She asked how high the fence around the pool was, and was told four feet. She confirmed that to get to the play area, children would not have to go through the pool area. She asked how many people would take care of the children. Ms. Parker said that they were applying for 12 children, hoping to get eight. If they grew out of the facility, they would seek to add more employees. The State required one person for every six children at different age levels and different levels of training.

Ms. Brnabic said it looked as if they had done their homework, and it made her feel better, but she reminded that the Commissioners were the ones recommending a Conditional Land Use, and that was why they had to express any concerns.

Mr. Reece asked for clarification about whether the number of children over seven included up to 11 or 12, which was shown as less than 12 at one point in the Staff Report. Mr. Delacourt said that the Ordinance included up to 12, including 12 children. Mr. Reece commented that his biggest concern was not the ability to watch up to 12 children but rather the people trying to turn left onto Rochester Rd. at 5:30 p.m. in the evening.

Ms. Kapanka said that her family did not do it; they went around. Mr. Reece suggested that they make every effort to try and convince their customers not to try to turn left onto Rochester Rd. at that time.

Mr. Dettloff noted that the hours of operation would not exceed 12 hours a day. He asked if it would be Monday through Friday, which Ms. Parker

confirmed.

Mr. Schroeder indicated that he had pools all his life, and that they were very dangerous. He did not feel a four-foot fence meant anything to a little kid who wanted to climb it. He asked if they planned to have a child proof cover on the pool - one someone could walk on. Ms. Kapanka said it would be a trampoline- type cover. Mr. Schroeder asked if it was electrical and if it had a lock button. Ms. Kapanka said that it was attached with bolts, with no way for someone to get under it. She acknowledged that they would leave it open in the summertime, which Mr. Schroeder did not feel was acceptable. He did not feel that a four- foot fence with an open pool would be good at all for little kids. He did not feel the applicants could watch 12 kids every minute of the day, and he felt it would be a major problem. Ms. Parker said that when they were in the daycare center there would be a gate so they could not go upstairs. She suggested that they could also get door alarms to install in the house. Mr. Schroeder stressed that it would be much safer if they had an electrically operated cover - one that would be fastened at the sides and that adults could walk on. There was no way kids could get in the pool once it was closed, and he hoped they would look into that.

Chairperson Boswell opened the Public Hearing at 7:35 p.m. Seeing no one come forward, he closed the Public Hearing.

Mr. Hooper welcomed the applicants. He asked if Buttons and Bows was a corporation or just the name they came up with. Ms. Parker said it was a corporate name and they were filing for an LLC. Mr. Hooper felt there was an obvious need for the center because Rochester Hills was a residential community of families. He asked if they had operated a day care in their home for less than six children. Ms. Parker said she had babysat for six and that she was a camp counselor and ran a hotel for 150 people. Mr. Hooper thought it was a great location, but he was surprised they built a home there. He never thought there would be a residence on Rochester Road and now there also were two State licensed group homes down the street. He recalled that the deed restrictions for the land kept certain things from being built, but a home daycare was allowed. He wished the applicants good luck.

Mr. Schroeder moved the following motion:

MOTION by Schroeder, seconded by Reece, in the matter of City File No. 10-006 (Buttons and Bows Day Care), the Planning Commission recommends to City Council approval of the Conditional Land Use,

based on plans and information dated received by the Planning Department on September 13, 2010, with the following five (5) findings.

FINDINGS:

1. *The use is consistent with the intent and purpose of the Zoning Ordinance in general, and of Section 138-4.300 in particular.*
2. *The proposed development has been designed to be compatible, harmonious, and appropriate with the existing character of the general vicinity and adjacent uses of land.*
3. *The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, and refuse disposal.*
4. *The development should be not detrimental, hazardous, or unreasonably disturbing to existing land uses, persons, property, or the public welfare.*
5. *The development does not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.*

A motion was made by Schroeder, seconded by Reece, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion CARRIED by the following vote:

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

Absent 1 - Hetrick

Chairperson Boswell stated for the record that the motion had passed unanimously, and he wished the applicants good luck.

ANY OTHER BUSINESS

The Commissioners discussed the new roundabout at Hamlin and Livernois. It was seen as a positive for traffic flow and the future for intersections in the City.

Ms. Brnabic asked if the Commission could have placed a condition about the pool cover for the previous agenda item. Mr. Anzek agreed that they could have because it was a discretionary decision based on the

health, safety and welfare of the community. Mr. Delacourt read Section 138-2.300 of the Ordinance: "Conditions shall be designed to protect the natural resources, the health, safety welfare and social and economic well being of those who will use the land or use an activity under consideration." Ms. Brnabic said that she wished she had added the condition, and Mr. Delacourt reminded that the matter would still go before City Council.

Mr. Reece commented that a family could have eight or ten kids and no one on the Commission would require a different pool cover. He felt that the parents who took their children there had to make their own decisions about whether it was the right or wrong thing to do. He did not think it was the Commission's place to do something State law did not require.

The members discussed road updates for the Tienken Road bridge, Crooks and M-59 interchange and Auburn Rd. resurfacing.

Mr. Anzek advised that Crittenton Hospital has decided to proceed with its second tower, but in order to begin the site prep, they would like to move the oxygen tanks. He wanted to find out if the Commission objected to an administrative approval for that, and suggested that screening could be required when it came in for Site Plan approval. Mr. Schroeder asked the height of the tanks, which are ten feet. Mr. Yukon asked if there had been options for screening discussed. Mr. Anzek said they had just discussed moving the tanks, but he could make screening a condition of administrative approval.

Mr. Reece said he would be concerned about trees around the oxygen tanks, which might not be allowed. Mr. Anzek did not think there were any there now. Mr. Reece cautioned that once the tanks were in, that was it, because of underground lines.

Mr. Kaltsounis recalled that some of Crittenton's past plans had been highly contested by residents. If they moved a potential hazard in front of someone's home where there might not be buffering or screening, he wondered if it would hurt the City when the hospital tried to put in the tower.

Mr. Hooper indicated that they had to go someplace, and he wondered where else they could be put. Ms. Brnabic asked the distance they would be from the property line. Mr. Anzek said about 180 feet. Ms. Brnabic asked how far it would be from the wooded wetlands, and Mr. Anzek said about 100 feet.