



Rochester Hills

Minutes

Planning Commission

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Chairperson William Boswell, Vice Chairperson Deborah Brnabic
Members: Gerard Dettloff, Greg Hooper, Nicholas O. Kaltsounis, Nathan Klomp, David A. Reece, C. Neall Schroeder, Emmet Yukon

Tuesday, February 17, 2009

7:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson William Boswell called the Regular Meeting to order at 7:30 p.m. in the Auditorium.

ROLL CALL

Present 7 - William Boswell, Deborah Brnabic, Gerard Dettloff, Nathan Klomp, David Reece, C. Neall Schroeder and Emmet Yukon

Absent 2 - Greg Hooper and Nicholas Kaltsounis

Quorum Present

Also present: Ed Anzek, Director of Planning and Development
Derek Delacourt, Deputy Director
John Staran, City Attorney
Maureen Gentry, Recording Secretary

APPROVAL OF MINUTES

2009-0070 January 20, 2009 Regular Meeting

A motion was made by Schroeder, seconded by Klomp, that this matter be Approved as Presented.

The motion CARRIED by the following vote:

Aye 7 - Boswell, Brnabic, Dettloff, Klomp, Reece, Schroeder and Yukon

Absent 2 - Hooper and Kaltsounis

2009-0071 January 27, 2009 Special Meeting

A motion was made by Schroeder, seconded by Klomp, that this matter be Approved as Presented.

The motion CARRIED by the following vote:

Aye 7 - Boswell, Brnabic, Dettloff, Klomp, Reece, Schroeder and Yukon

Absent 2 - Hooper and Kaltsounis

COMMUNICATIONS

A) Planning & Zoning News dated January 2009

UNFINISHED 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. *(Reference: Memo with revised Zoning Ordinance pages dated February 12, 2009 and Zoning Ordinance dated January 6, 2009 prepared by McKenna Associates, Inc., had been placed on file and by reference became part of the record thereof.)*

Present for the discussion was Jim Breuckman, McKenna Associates, Inc. 235 E. Main, Suite 105, Northville, MI 48167.

Mr. Delacourt recapped that the Planning Commission had discussed the Zoning Ordinance several times over the last several months. At the previous meeting, they talked about a few issues that remained, for which Staff got valuable feedback from the Commissioners. He noted the memo in the packet from Mr. Breuckman, which outlined some minor language changes they felt addressed those remaining issues. They had also discussed proposed rezonings and associated map amendments. There was one proposed rezoning for which the Commissioners asked Staff to work with the property owner, to make sure the language in the Ordinance ensured that they were comfortable their operation (Ajax Materials) would be able to continue and expand without undue regulations. He noted that Mr. Greene, a representative of the property owner, was present, and that he had worked with Staff.

Mr. Delacourt advised that after the packet was sent, he had exchanged emails with Mr. Greene, and there were a few modifications to the language. He said that he would talk about it in short order, but first, he asked if there were any questions about the changes outside of the rezoning for the Ajax parcels (from I-2, Heavy Industrial to I, Industrial).

Chairperson Boswell said he was comfortable with what was in the packet, but he asked if anyone else had a question.

Ms. Brnabic recalled the discussion about keeping the parking spaces at 10 feet wide with an exception for employee parking. She thought they discussed a dimension of nine feet for that, but she did not see it written.

Mr. Breuckman agreed the language did not spell that out, and Mr. Delacourt said they would add "a minimum of nine feet."

Ms. Brnabic referred to expansions with second story additions, a sentence that had been added to Nonconformities under Section 138-3.104 B and read: "Second story additions are permitted only when they comply with the setback requirements of the zoning district." She said that they discussed that nonconforming structures could expand along the setback line if they went no higher than 16 feet. She asked if it was written that there could be two stories as long as any other setback requirements of the district were met, or if it meant that someone building along a three-foot setback that was nonconforming could not go to two stories. She thought it needed clarification, because it only referred to meeting the setback requirements.

Mr. Breuckman said that the presumption was that if a building met the minimum setbacks of a zoning district it could go to two stories. The expansion of one-family dwellings limited expansions to be no taller than 16 feet, or one-story, for expansions that did not comply with the setback requirements. He had added it to the Ordinance after the last meeting because Mr. Colling, the ZBA Chair, (who was in attendance) asked him for clarification. He felt that the sentence Ms. Brnabic referred to was somewhat redundant, because they were talking about one-story additions in the setback area complying with existing nonconformities. He did not think the sentence was necessary, and he did not really feel it clarified or confused the issue.

Ms. Brnabic said it was a little confusing to her. They were talking about 16 feet, and then it talked about a second story being possible. Mr. Delacourt said that for a second story, the building would have to meet the setback requirements of the district. Something would be allowed to expand within a required setback if the building existed as lawfully nonconforming, but it could only go to 16-feet high, and the building could not go any closer to the property line.

Ms. Brnabic thought that the ZBA Chair had a concern that it was being limited to 16 feet and one story, but she read that anyone else that had the proper setback could have the option to do a second story. Mr. Delacourt said that one story applied to the nonconforming area; it did not apply to something within the allowable building envelope. It would only apply if a building projected into the setback.

Chairperson Boswell reiterated that it would not apply to a conforming

structure, so he asked why it would be in the section about nonconforming structures. He agreed that Mr. Colling's request notwithstanding, it was a redundancy, and he did not feel it was needed in that section. Mr. Breuckman said he would gladly take it out. Chairperson Boswell stated that B.3. covered it, and they were talking about nonconforming, not conforming structures.

Mr. Klomp agreed, and said that it stood out under Nonconformities and did not follow the topic. Mr. Delacourt concluded that it would be taken out prior to review by City Council. Chairperson Boswell asked if there were any further comments before they discussed the I-2 rezoning, and hearing none, called Mr. Breuckman to explain the language change for heavy industrial uses.

Mr. Breuckman said that there were some slight changes from what was in the packet. Item C. used to be one paragraph, and it was separated into two. He added wording to the headings for clarity, but the change for existing heavy industrial uses came mostly in the review process. The language was not really clear about what was permitted by right and what required a Conditional Land Use Approval. Item 4., The Review Process, was new. It dealt with activities that required Administrative or Sketch Plan Review, which were shown on Table 1 on page 17. Any activities that triggered those reviews would be permitted by right, and the reviews would be done by the Planning Director or the Planning Commission. Also, he put the setback requirements into a separate paragraph. It used to be part of Item 1. and now it was Item 2. None of the regulations were changed, so what was in the packet was still "the" regulations.

Mr. Klomp asked if they were going to try to move to a rezoning to I, Industrial, which was confirmed. He asked if they were recrafting the language so Ajax would become a nonconformity adhering to the I-2, or if there was another explanation as to how it related to the big picture. Mr. Delacourt said that the existing parcels were zoned I-2, the use was permitted within the I-2 district, and no Conditional Land Use was involved. The Schedule of Regulations in the current Ordinance set the dimensional requirements. When the new Ordinance was first discussed, they considered eliminating I-2 and all the uses, making the Ajax use nonconforming. That meant it could continue operating, but it could not expand. The Planning Commission made it clear that it was not the direction they wanted it to go. They wanted language that made the use conforming. They also discussed what existing dimensional nonconformities would exist as far as setbacks or issues with future expansions. That was what they discussed with the property owner.

Everyone finally decided that the use would become a Conditional Use within the I district. It would require a Site Plan review for certain expansions and the additional discretionary review by the Planning Commission and City Council. He stated that there would be no nonconforming use status. The rest of the changes were to clarify the dimensional requirements, and it was decided to put in the setback standards from the previous I-2 district. The approval process identified specifically what would be required for an expansion. If it required a Sketch Plan, there would not be a Conditional Land Use required. If it were a big expansion, they would need the full Conditional Land Use process. It appeared that they had worked through all the possibilities and what would be required at the different steps.

Mr. Breuckman said that the applicant would be allowed to modify how the use operated within reasonable limits, which would only require a Sketch Plan. It gave the applicant some flexibility to continue and improve the use.

Mr. Klomp asked if the interested parties - Mr. Green included - were satisfied. Mr. Greene came to the mike and thanked the Commissioners for the opportunity to work with Staff and Mr. Breuckman. He commented that he would probably have drafted the language a little differently, but he gave Staff some comments, and he felt the language accurately reflected the concept that had been described to him. The language included that the use was not nonconforming, and it could continue as a matter of right. There were some standards they had to live by and if they changed something materially, they would have to go through a Conditional Land Use process. He added that they were not looking to avoid regulations, and they did not have any objections to them. He hoped there would not be a battle later on, and he did not really think there would, and he felt everyone would work in good faith. They were appreciative of the City's willingness to do that for them.

Hearing no further discussion, Mr. Schroeder moved the following motion:

MOTION by Schroeder, seconded by Dettloff, that the Rochester Hills Planning Commission hereby recommends to City Council approval of an Ordinance to repeal existing Chapter 138, Zoning and adoption of a new Chapter 138, Zoning, of the Code of Ordinances, prepared by McKenna Associates, Inc., dated January 6, 2009, and adoption of the revised Zoning Map, dated January 12, 2009 both prepared in accordance with the City's updated Master Plan and as discussed at the December 16, 2008 and January 27, 2009 Public Hearings and the

February 17, 2009 Regular Planning Commission meeting, subject to the following condition:

Condition:

1. That the proposed revisions to Sections 138-3.104, Nonconforming Structures, 138-4.420, Heavy Industrial Uses, 138-10.402, Solar Access Permit, and 138-11.302, Parking Layout, as recommended at the January 27, 2009 Public Hearing, be incorporated into the Zoning Ordinance prior to review by City Council.

Chairperson Boswell asked Mr. Staran if they had to remove the sentence discussed under Nonconformities. Mr. Staran thought it was duly noted in the course of the discussion, and he did not think it needed to be added to the motion. Ms. Brnabic asked if the nine-foot dimension for parking should be added or if it was also duly noted, which Mr. Staran confirmed. Mr. Staran advised that the change would be made before it was presented to City Council.

Mr. Delacourt brought up the Fanuc Robotics parcel, which was proposed to be rezoned ORT, Office Research Technology from RO, Research Office. He advised that it was the only parcel in the City zoned RO. The Tech Committee agreed that it should be rezoned to correspond with the rest of the ORT parcels in the area. He noted that there would be lesser setbacks than allowed in the RO district. Staff spoke with the owners of Fanuc and they had no concerns. They were only concerned that the use be allowed. He wondered if any additional discussion was necessary by the Planning Commission. Mr. Anzek mentioned that he received a phone call from an abutting resident who asked if ORT permitted the bearing of toxic waste on the property. He told him that it absolutely did not, and the neighbor was fine. Mr. Delacourt advised that there were stiffer requirements for setbacks in the RO that were not required in ORT, but he reminded that the site was built out. There had been no complaints about the use, and they felt that ORT worked just as well as RO.

A motion was made by Schroeder, seconded by Dettloff, that this matter be Recommended for Approval.

The motion CARRIED by the following vote:

Aye 7 - Boswell, Brnabic, Dettloff, Klomp, Reece, Schroeder and Yukon

Absent 2 - Hooper and Kaltsounis

Chairperson Boswell stated for the record that the motion had passed unanimously. He thanked Mr. Greene for his patience and help. He

thanked Mr. Breuckman, Mr. Delacourt and the Technical Committee.

Mr. Delacourt thanked Ms. Brnabic, who was on the Technical Committee. He noted that she had spent an enormous amount of time on the Ordinance through the whole process, and he thought she was one of the few that had read it entirely. He reminded that she looked at it from the Planning Commission's and Zoning Board of Appeals' standpoint.

Mr. Reece asked if the lafrate property was in compliance with the Ordinance requirements. Mr. Anzek said they were slightly not in compliance with some matters. It had been brought to the owner's attention, and there was a pledge on their part to have it resolved by June. There was a requirement about fencing the entire site, but Mr. Anzek stated that the site had never been fenced, with the exception of the street frontage off of Avon Industrial. There was no fencing along the Trail border, but the City would like that to happen if and when they did expand.

Mr. Reece asked if they were required to have screen walls around all the piles. Mr. Anzek advised that the existing Ordinance required it for outdoor storage, but he indicated that it was a unique site. There had been Variances granted since the early 1970s, and it had been difficult to pin down exactly what they were supposed to be doing. There had been some offsite encroachment of some of the piles, and the owners were going to remove those. They were also going to conduct a survey to determine the property lines, and the City would work with them to catch up with the Ordinance.

Mr. Reece said that it seemed almost impractical to have fences around the storage piles because they would not be able to get to them. Mr. Anzek added that an eight-foot fence around a 40-foot pile was rather ineffective. The new standards were written to protect the City to make sure there was not another use like it somewhere else in the City. Mr. Reece noted that it could be seen pretty predominately from M-59 in the wintertime, and he did not see screening around the piles.

ANY OTHER BUSINESS

2009-0072 Recommendation of Planning Commission Representative to the Zoning Board of Appeals for a one-year term to expire March 31, 2010.

NEXT MEETING DATE