



Rochester Hills

Minutes

Planning Commission

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Chairperson Deborah Brnabic, Vice Chairperson Greg Hooper
Members: Susan Bowyer, Sheila Denstaedt, Gerard Dettloff, Anthony Gallina, Marvie Neubauer, Scott Struzik and Ben Weaver
Youth Representative: Siddh Sheth

Tuesday, March 21, 2023

5:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Brnabic called the March 21, 2023 Special Worksession to order at 5:30 p.m., and welcomed everybody to the meeting. She noted that the discussion will focus on non-residential zoning district consolidation and proposed food truck regulations. She suggested that the proposed Food Truck regulations be taken up first to accommodate Ms. Welch.

ROLL CALL

Present 9 - Susan M. Bowyer, Deborah Brnabic, Sheila Denstaedt, Gerard Dettloff, Anthony Gallina, Greg Hooper, Marvie Neubauer, Scott Struzik and Ben Weaver

Mr. Weaver entered at 5:33 p.m.

Dr. Bowyer entered at 6:00 p.m.

Others Present:

Sara Roediger, Planning and Economic Development Director

Chris McLeod, Planning Manager

Jodi Welch, Manager of Ordinance Services

Jennifer MacDonald, Recording Secretary

PUBLIC COMMENT

Chairperson Brnabic noted that there were no members of the public in attendance, and closed Public Comment.

DISCUSSION

[2023-0130](#) Proposed Food Truck Regulations

(Memorandum by Sara Roediger and Jodi Welch dated 3-15-23, and Proposed Food Truck Ordinance had been placed on file and by reference became a part of the record thereof.)

Ms. Roediger explained that this is something that has been talked about on and off for a while. Staff looked at different ways to approach it, Giffels Webster was consulted and provided examples from other communities, and ultimately it was decided to develop some regulations that are not too restrictive,

overcomplicated or overburdensome to allow for food trucks. She noted that food trucks are more and more common especially since COVID. She stated that Jodi Welch drafted this Ordinance and she is the one out there enforcing regulations. She mentioned that the City has had some issues with unregulated food trucks in the past and some businesses being unhappy about them. She stated that the intent is to start with something fairly simple and see how it goes, and if something needs to be added later, it could be. She pointed out that because this will be in the Code of Ordinances it would not be a Planning Commission public hearing. However, because it has been discussed before, she wanted to bring it in front of the Commission so they could comment. She explained that it will go right to City Council for first and second reading, most likely in April so it can be in place for the upcoming summer season.

Ms. Welch stated that what they are trying to do is to regulate food trucks as they want to park outside of businesses; but not be overly restrictive for neighborhoods associations, for private parties or small events, such as an employer wanting to host an event for its employees for the day. She mentioned because they are currently regulated only under special events without any other guidance, there was an issue last year where they had a brick and mortar store that was upset by a food truck being parked close to them selling similar food.

Ms. Roediger explained that the way it is set up, they would pay an annual fee once and be reviewed by the Fire Department. Then when they want to operate, they would submit a permit request through the Special Events permit, which would be reviewed by Ordinance to ensure that there is adequate space on site for parking, for people waiting in line, for somewhere to sit, and to make sure that the site is still functioning even with the food truck on it. She explained that one of the issues last year was at a gas station site which was not intended to host a food truck and there wasn't enough space to maneuver around. In order to not negatively impact the City's brick and mortar businesses, food trucks must be at least 200 feet from any restaurant that serves similar cuisine, for example a taco truck next to Taco Bell, or an ice cream truck in front of a Dairy Queen. She asked if there were any comments or questions. She mentioned that it will probably tee-up some additional zoning ordinances later this year as a part of general housekeeping; and explained that a lot of regulations in the Zoning Ordinance such as seasonal trees and roadside stands would be better served in a similar fashion such as this where we would just refer to the Special Events and let them do the processing. She noted that a Christmas Tree lot goes through the Building Department as a Special Permit review. She stated it would be better to get it all out of the Zoning Ordinance and just regulate through the Special Events process; however, it was too complicated to get all of that ready for tonight and will be done later through the housekeeping items.

Mr. Dettloff asked how trash would be monitored.

Ms. Welch responded that under the permitting for the Special Food Trucks they will be required to provide trash receptacles and maintain the site.

Ms. Neubauer questioned who would monitor if they are doing that or if they were letting their trash overflow for a whole week.

Ms. Welch responded that if they were there for a week and had receptacles, they would be under Special Event permit so they would be inspected by the Ordinance Division who would be out doing site inspections and keeping an eye on that property while they have the permit. She explained that sometimes they apply for a permit for seven days and sometimes they apply for 14 days.

Ms. Neubauer questioned how long the permit time period would be.

Ms. Welch responded that generally for a Special Event permit they can apply for up to 30 days to be at a particular location. After that they must have a break. They are allowed to do that up to three times total for an entire year, but there must be a gap between each permit event. She commented that they would regulate it like they would regulate any special event and are constantly inspecting those areas. She mentioned the Lions Club Carnival, and stated that Ordinance inspectors are out every day to ensure things are being maintained and no blight issue is being created.

Ms. Neubauer asked what would happen if there are a lot of food trucks and how would they be chosen.

Ms. Welch responded that generally they have to be sponsored by the site owner. She explained that there would not be multiple food trucks required to apply for multiple permits for an event. She stated that the Village might apply for a permit to have five food trucks out, as long as they are all licensed. She pointed out that currently as long as they have their Oakland County Health license, that is how they are monitored.

Ms. Neubauer asked how that would change if there ends up being a food truck park.

Ms. Roediger stated that there was discussion about municipal events being exempt.

Ms. Neubauer asked what if there was a designated area in Rochester Hills for food trucks all of the time, would the ordinance have to be amended.

Ms. Roediger responded that this would be more of a site plan that would need to be reviewed and it would have to be exempted from the 30 day limit. She stated that she would be hesitant to expand on that now because she does not know what that would look like. If it were a municipal-owned lot at a park for instance it would already be exempt. If it were a private business, such as all of a sudden Hampton Shopping Center wanted to have Food Truck Thursday rallies, or physically changed an area of the site to make a permanent location, that would be a site plan amendment that would have to come before this body.

Mr. Hooper asked how the dollar limits for insurance were developed.

Ms. Welch responded that they came from legal.

Mr. Hooper pointed out that the CGL was \$5 million and motor vehicle is \$5

million, and commented that these are huge limits for a food truck operator. He noted that in his line of work he does a lot of business with the big three and they do not even require those limits, and stated that this would be pretty expensive for a food truck operator. He commented that he would not want to be so restrictive that it would cost the food truck operator a great deal of money to get insurance.

Ms. Roediger responded that they would double check with John Staran.

Mr. Struzik pointed out that the word "kitchen" is mentioned twice but is not defined in the definitions. He noted that someone could argue that they do not have a kitchen and are not warming up or heating food and are just dispensing food from a food truck. He mentioned someone who is at a farmer's market that has a trailer that nobody goes inside of, and he questioned whether that would be covered under this Ordinance.

Ms. Roediger stated that this was a good point, and added that as things evolve there are now traveling bar trucks where they make drinks and there is no kitchen. She commented that there would be a whole liquor license issue with that.

Mr. Tangari commented that there is a bowling alley semi-truck that was in his neighborhood not long ago for a birthday party.

Mr. Struzik stated that he concurs with the feedback tonight and commented that this is a really great starting point and is very close to the mark. He mentioned that the liability minimum of \$5 million may make operators wonder if a civil fine is cheaper.

Ms. Roediger stated that they wanted to get something out there so they would not be hurting existing businesses. She commented that right now it is like the Wild West out there and it is up to Ordinance to try to enforce something. She stated that hopefully this proposed Ordinance will give Ms. Welch some teeth for enforcement and it can be learned from if it is decided that some things are not working.

Discussed

2023-0029

Nonresidential Zoning District Consolidation

(Memorandum by Giffels Webster dated 3/16/23, Proposed Use Matrix Changes, Non-Residential Zoning Analysis, Rezoning Map, Joint PC-CC Memo of 1/30/23, Non-Residential Districts Memo of 1/26/23, Districts Removed Map, Table of Completed Uses, and minutes excerpts from PC-CC Joint Meeting of 1/30/23 and PC Worksessions of 11/15/22, 10/18/22 and 4/19/22 had been placed on file and by reference became a part of the record thereof.)

Ms. Roediger commented that staff and the consultant team have met a couple of times since the Joint Planning Commission-City Council meeting and have tried to incorporate the comments. She noted that this has been discussed for almost a year and a half. Obviously the Flex Business zoning district was taken

to fast forward and now they are catching up on this. She stated that staff is excited to get this implemented and hopefully schedule a public hearing for May, depending upon how tonight's discussion goes. She mentioned that Ms. MacDonald did a preliminary look at how many people will have to be noticed and based on the 105 parcels that are being rezoned because of the elimination of the B-1, B-5 and ORT, there are approximately 2,000 mailings to do. She stated that it is important that they get the word out so people understand what is being done and are not afraid and questioning the motive for the change. She stressed that they are doing this purely to make sense out of some of these ordinances.

She stated that from her understanding from the last meeting and other meetings as well, one of the outstanding items that was left to try to come to some consensus was the concept of allowing recreation uses in the REC districts. She noted that they have had a lot of conversations about that and actually spoke with President Deel offline after that meeting. She stated that from a staffing and consultant team feels pretty strongly that from an employment-center intent of the zoning district, the intent is to have corporate businesses. She noted that a lot of those recreation uses got in during the recession in 2009 where basically landlords were allowing anybody to move in. She stated that while that was a great repurposing of space for the needs at that time, now the pendulum has swung the other way where there is have retail that will need users at some point and there are industrial users that we cannot find space for. She mentioned that a good example is Tee Times, she stated that they did that right as they are in a shopping mall on Rochester Road. Next to them is Legends Boxing. She stated that they are two examples of recreational uses that could have easily went into industrial spaces and it would not have been appropriate in terms of the site design. She pointed out that looking at where the REC districts are, most of them do not have sidewalks, they do not have a lot of lighting. She commented that personally even from dropping her children off at various activities that are located in those types of areas here and in other communities, all the safety issues of truck traffic, having parents parking on both sides of the road even though it was not intended for that, cause a lot of issues for safety. She noted that after talking through all that, they proposed the idea of making those uses Conditional Uses. She stated that it would not be allowed or permitted by right as they are today, not prohibited like was originally proposed, but considering them on a case-by-case basis based on the neighbors surrounding, how much parking is available, what anticipated volume is such as a volleyball court versus a dance class or jump park. She stressed that the onus would be on the proposed use to tell what their proposed use and parking demands will be. She noted that this in her opinion is one of the outstanding items that should be discussed. She asked the Commissioners if they see this was a good compromise.

Mr. Dettloff stated that he thought it was a great compromise and makes total sense.

Ms. Neubauer concurred.

Ms. Roediger stated that she knew President Deel felt very strongly about it at the Joint Meeting because she talked to him one-on-one about it. She

mentioned that she talked to him at a Mayor's Business Council meeting where Maureen Krause of the Detroit Regional Chamber commented on the state of the economy in metro-Detroit in general, and it was noted that the lack of that type of industrial space is a regional issue.

Mr. Struzik asked how that would work for properties that are already developed.

Ms. Roediger responded that it would be similar to a liquor license or drive-throughs. She mentioned some of the automotive service places that they have had in the past where they are moving into an occupied space, the onus is on them to show that they will not have a negative influence on the neighboring properties and would be providing safe space for what their proposed use is. She noted that it is a little more casual than a full site plan sometimes as they are not going to the same level where they are providing stormwater, unless they are adding parking.. She stressed that the general idea is to ensure that they are covered against a negative impact.

Mr. Struzik questioned whether all the non-compliant uses would be grandfathered and what would happen if their lease is up.

Ms. Roediger responded that existing businesses would not be kicked out.

Mr. McLeod responded that they would have to have a valid Certificate of Occupancy.

Mr. Struzik questioned what would happen for the same use but a different company, for instance a gymnastics company ends their lease and another picks right up.

Ms. Roediger stated that if there is a change of use, there is a change of occupancy as well. She explained that a new business will trigger it. She stated that she would check with John Staran for what his opinion would be.

Mr. Dettloff commented that the onus on them would be to state their case and he thought that was a great compromise.

Ms. Roediger explained that since their last meeting they have been working very hard to consolidate everything so it is digestible for everyone. She noted that memos have been prepared along with a map showing where the properties are, a list of each of the properties, the parcel ID numbers and use tables. She stated that they have added regulations and updated the use table to show what the impacts are to eliminate B-5; that gas stations will be allowed in other districts, so how regulations will be added to make sure they are only located at main intersections.

Mr. Tangari noted that recreation uses have be divided into two size categories along with places of assembly and places of worship, so that in the lower-intensity districts, the smaller ones can be allowed and the larger ones can be a special land use because they have a larger impact. He stated that they do have a separate memo with use standards; it is dominated by service stations. Everything that was currently in the zoning ordinance pertaining to gas

stations has been preserved, but there are a set of additional standards, minimum lot sizes, and other standards to ensure that they are located only at the intersections of major roads, M-59 as one of the major roads.

Ms. Roediger pointed out that one of the things changed for gas stations is they are required to have at least a 2,000 square foot building, going off the concerns the Planning Commission had about the smaller drive-throughs, and mentioned the old-style kiosk type of gas station with coolers outside next to them if they cannot fit them inside. She stated that they wanted to make sure that anything new that is constructed is built larger; and also to ensure that there are not a number of these popping up in many locations, the site has to be a certain size to accommodate this.

Mr. Tangari added that also thinking ahead to gas stations not being so numerous as they are now, the gas station is a more useful site if you have a genuine convenience store on the site than it is if it is just a little kiosk with a canopy and a tank in the ground causing contamination issues.

Mr. Hooper questioned the potential for gas stations at locations such as the Meijer or Kroger.

Ms. Roediger stated that regarding the Meijer and Kroger stores wanting stations in their parking lots, they must be at a hard corner and must have a building that is at least 2,000 square feet.

Mr. Hooper noted that he did not see the Brooklands District in this Ordinance noting there is a car dealer and a gas station.

Ms. Roediger responded that the Brooklands District still exists as BD, and in there as a footnote only the existing ones will be permitted.

Mr. Tangari explained that the existing stations have a Class A nonconforming status where they are allowed to modify their site to continue their business and make sure that their operations are modern. However, they could not establish a new station in the Brooklands District.

Mr. Hooper questioned whether they are a part of the rezoning.

Mr. Tangari stated that if they wanted to expand the building they would have to make it more compliant with the gas stations now.

Mr. Hooper questioned whether the gas station in the Brooklands District is zoned B-5.

Ms. Roediger responded it is in the BD. In the Brooklands District it is specifically allowed that the gas station and drive-through use that were already existing there are grandfathered in; but no new ones can come in under the Brooklands District. She explained that they merged that into the general table. She noted that the Flex Business had its own table, the Brooklands District had its own table, and they have been merged into one table across the board. She explained there is a lot of cleanup of the Ordinance, consolidation of the types of

uses, and identify what are the concerns..

Mr. Tangari explained that the terminology is now the same for every district whereas before there were multiple use tables using different terms for the same thing, which left things open to interpretation. He added that there are a couple of standards for health and physical education facilities and small scale wineries in there. He noted that there are a few terms defined as they are cleaning up tables and providing more consistent terminology. For uses, they found that there were a few things that they wanted to define for clarity. Particularly in the Employment Center and Industrial Districts, he noted that they have defined "industrial" and can use those defined terms in those tables instead of listing the manufacturing of specific items. He stated that changes have been highlighted, and stated that to the right of the table is a very brief summary of any use standards that apply that use in the Ordinance.

Ms. Roediger mentioned that funeral homes were permitted in residential districts but not any business districts, so they have been added to the business districts; and the highway business that was created as REC-1 did not allow hotels. She stated that as a part of this they are really cleaning up the zoning map, and the map is reflecting what is actually out there for the two consent judgment areas. She pointed out that Area O is Suburban Softball, which has zoning of ORT, but is also zoned single family; and someone who does not know the community would look at the map and think they could build residential there. She stated that there is a long consent judgment on that property and it is Employment Center. The Grand Sakwa consent judgment is Area Q, which is the Walmart and Meijer, and that is shown as ORT, which is going away, but it is shopping/retail and industrial. She explained that they look at the number of acres they have in the city zoned Industrial or Single Family, and it is misleading because we know they are used for other things. She commented that this may lead to some confusion by the public thinking that the zoning is changing, but they wanted to have the map reflect what is out there so it is not misleading or can be misconstrued.

Chairperson Brnabic mentioned the deletion of B-1 and questioned whether it would be a better opportunity for development moving those existing B-1's into B-2's, which is generally what it does. She stated that there are 31 parcels on Auburn Road that at this point in time, we do not think it is the best zoning to service an immediate neighborhood, and they will be zoned to serve the larger neighborhood and consumer population. She asked why not just say that the existing B-1 properties would be better served by B-2. She commented that she thinks that B-2 and B-3 are clear.

Ms. Roediger responded that from a naming standpoint it would be confusing to have a B-2 and B-3 but not a B-1. She commented that if you say neighborhood business, regional, highway, that describes it in the title as to what its intention is.

Chairperson Brnabic pointed out that there is no B-4.

Ms. Roediger commented that there most likely was at some point.

Chairperson Brnabic noted that there are a few properties such as wireless telecommunication facilities that are permitted in B-2 where they were conditional in B-1; indoor recreational facilities are permitted in B-2 and they were not permitted at all in B-1. She stated that some of those properties may be combined and obviously some areas are in need of redevelopment. She mentioned that lodge halls are permitted in B-2 and they were not in B-1, along with banquet halls and conference centers; and she commented that was a little bit bigger of an issue for her. She noted that these properties were B-1, and stated that when looking at the size of all those properties, it would depend which property when considering whether it would be appropriate. She mentioned South Boulevard and Crooks where the Shell station and liquor store are located, and noted that on the Troy side there is the Kroger center; but on the other side it was developed to serve the immediate community and is totally surrounded by residential. She mentioned Auburn and Adams.

Mr. Hooper questioned whether there were some things that were permitted in B-1 and by going to B-2 are now permitted and suggested that they be conditional.

Chairperson Brnabic concurred and stated that perhaps they should be conditional uses. She added that for an indoor theater under 5,000 square feet to be a permitted use in the BD District, and stated that although she thinks that would be a cool idea, with the parking situation and the way that the district will evolve, that would be still up in the air whether that should be a permitted use. She commented that she would rather see that as a conditional use. She stated that if it fits the scope and someone wants to go in, and they have the facts and it fits the parking situation, then if it is conditional use they would move forward with that.

She stated that she likes the old titles under private indoor recreational facilities and studios/instruction for arts/dance/crafts versus putting them all together in one category as physical education because some of the things to be considered aren't necessarily health and physical education. She mentioned there are some things purely for entertainment. She asked where robotics would fall and asked if there was a group organized in the industrial area for robotics.

Ms. Roediger responded that Robot Garage is there.

Chairperson Brnabic stated that robotics does not fall under health and physical education, and commented that someone could have a chess club, cooking and baking, or arts and crafts. She stated that the other categories the way that they were listed made it pure and simple, and listing private indoor recreational facilities, studios or instruction center for music, art, dance, crafts, martial arts, etc., covers just about anything that they think is an appropriate use. She reiterated that she likes the other titles rather than lumping it together.

Chairperson Brnabic and Ms. Neubauer both noted that not all of it is physical education and some of it is purely entertainment.

Ms. Neubauer commented that the categories were subjective.

Ms. Roediger responded that they could look at the titles, but from a staffing standpoint the way that they are currently written is very specific and very outdated such as being intended for bowling alleys.

Ms. Neubauer questioned whether they could be combined, or the old title kept and words added.

Ms. Roediger stated that this was the effort that was intended here, to include anything that they could think of. She commented that they were concerned about the word "indoor" as a baseball club wanted to have batting cages, and questioned what it if was an outdoor element. She questioned whether it would have to be private.

Ms. Neubauer suggested keeping all of the wording, eliminating the words "private indoor" and adding the words "health and physical education".

Ms. Roediger responded that it could be reworded, and the idea of listing all of the uses and moving them into the definitions. She stated that the intent is not to list every single thing as that is where ordinances tend to go bad is when everything is listed in the table. She suggested that it be put into the definitions but not all listed in the table and this is what they are trying to move away from.

Ms. Neubauer suggested working on changing the one title to be more inclusive. She noted that education can encompass music, art and dance. After Chairperson Brnabic mentioned drama, Ms. Neubauer concurred that this also includes drama, what was once termed home economics, and robotics. She noted that the definition for education should include a list.

Chairperson Brnabic concurred, noting that some things are purely for entertainment. She asked why movie theaters are being changed to places of assembly, noting that she always thought of places of assembly like churches. She commented that you could look at a restaurant in the same way.

Ms. Neubauer added that movie theaters are sometimes rentable for parties. She commented that post-COVID, some movie theaters were being rented out as a place to gather without a movie being shown.

Ms. Roediger commented that much of this discussion leads to a question of why to call out each individual use. She stated that how much traffic it is generating and how much parking is needed is important, and a theater acts like a place of assembly because you have a lot of people coming and they sit in a large area communally. She commented that it has the same kind of exterior impacts to the surrounding properties.

Ms. Neubauer suggested that there might be a way to call it something different as a layperson might think a place of assembly could be just a church. She asked if those items that have a grey area of definition might be able to keep both names.

Mr. Hooper mentioned that when the IMAX was developed, the applicant came

forward and said that they wanted to do churches, birthday parties, and community events.

Chairperson Brnabic stated that it was food for thought and she thought she would want further clarity. She commented that she can definitely understand the REC-I and the REC-W because it does bring clarity with the Highway Business and Employment Center.

Ms. Roediger stated that staff's thought is to schedule the public hearing for the regularly-scheduled meeting in May. She noted that there is going to be a request for a Special Meeting on May 2, so that is why we always ask for the Commissioners to hold that first Tuesday in May, as both of the Oaks developments want to come back now that they have held their neighbor meetings.

She stated that one of the things that she was thinking about as a part of this zoning effort that they did with the Flex Business is after the notices were sent out to the properties an open house was held so that if people had questions about their specific property. She commented that she would propose doing that the night of that May 2 meeting beforehand for any member of the public that wanted to come and ask questions. She noted that Planning Commission could attend if they wanted to but it was not expected and would not be a formal presentation and would be answering questions. She noted that Mr. McLeod is working on a state-of-the-art interactive map. Once the notices go out they will be directed to the proposed rezoning map which will have clickable links and will answer many of their questions.

Ms. Neubauer questioned whether there was a way to expand the radius for notification.

Ms. Roediger responded that this was a very slippery slope. She stressed that the City Attorney's opinion is that the State guidelines is 300 feet, and doing it for one could question why it isn't done for others. She noted that there are over 2,000 mailings right now. She stated that by State Law they are required to do a 300 foot notice mailing.

Mr. McLeod added that they talked about doing social media or TV to further inform the public.

Ms. Neubauer suggested social media pushes and the City's website.

Ms. Roediger noted that they would do all of that and go above and beyond. She commented that the map will be amazing for when they do get the notice and they will have the open house before the public hearing. She stated that they will work with the Mayor's office to do some good social media pushes. She commented that the City is on Next Door in addition to Facebook, and noted that there are 3,000 and 5,000 followers. She stated that their point is to get the information out as fast as possible and try to answer people's questions.

Ms. Neubauer asked if the Commissioners can receive an email to let them know what has been done to notify everyone prior to the public hearing.

Ms. Roediger noted that this will be included in the presentation at the public hearing. She commented that many people want their individual questions answered, and this is difficult to do during a public hearing session.

Ms. Neubauer questioned whether the Oaks projects have resubmitted.

Ms. Roediger responded that they had, and noted that originally they had wanted to be on the April agenda, but that was not possible. She stated that this is why there will be a special meeting for May 2. She commented that they have held the neighboring meetings, have resubmitted, and are working with the City Attorney.

Mr. McLeod stated that it is still to be determined as they are still under review, but this is where they are tracking.

Ms. Roediger stated that at the April meeting they know that the CIP review will be coming, at the May meeting they will have the zoning ordinance review, and there are other private projects in the pipeline.

She noted that there was one additional item that came up last week in relation to the Flex Business District, and she stated that she wanted the Commission's opinions on how they would move forward and whether they would be open to an idea. She noted that those that have been on the Commission long enough all remember the Eddington properties, and that the right-of-way was relocated, there were a number of agreements with the property owner and they donated right-of-way and provided a buffer strip that is City-owned between the neighbors. She explained that when these properties were first redeveloped, there were the two banks at the corners. She stated that they are working with an applicant that wants to develop on the northern section, and they recently received a phone call from First State Bank where they want to build a small doctor's office on the area behind that fits with the FB zoning. She commented that the issue is that the FB zoning changed and now they cannot meet the two-acre minimum. She explained that it was always known to the City that the back half would come in to be developed under FB, and they feel that they do not have a venue to process the request as they got rid of the Planning Commission's ability to modify the two-acre minimum and now they would have to go to the Zoning Board of Appeals, which is very tough. She stated that this is an example of a site where if they gave the Planning Commission the ability to modify that based on certain criteria, it would make sense because that was always the plan for that area to be developed under the FB. She noted that the FB overlay in some of the areas such as one down on South Boulevard where even if multiple parcels were assembled, it would not make the two-acre minimum.

Chairperson Brnabic questioned why they would need to use the FB.

Ms. Roediger responded that the underlying zoning is residential, and stated that this is the same with Eddington. She asked if the Commissioners would be okay with allowing the Planning Commission the ability to modify the two acres if there was set criteria.

Mr. McLeod stated that this would allow the ability to use the FB District.

Chairperson Brnabic stated that this always was the plan, but once that there is an exception for one property, it sets a precedent.

Ms. Neubauer stated that would undo what they were trying to do. She commented that she feels bad for the developer or property owner but that is big slippery slope. She asked when this came up.

Ms. Roediger responded that the property owner stated that they were ready to build their office.

Ms. Neubauer stated that her response is that they shouldn't have taken so long, but it would undo everything they worked for and would open up a can of worms.

Ms. Denstaedt stated that those meetings were open to the public and they could have come forward.

Mr. Struzik asked if the underlying zoning is appropriate on Eddington, and questioned whether that could be visited.

Ms. Roediger responded that the history of that area is very controversial and she cannot imagine that area rezoning their property from residential to something different. She stated that FB was their only option to go non-residential.

Chairperson Brnabic noted that there is a whole history on that going back years.

Ms. Neubauer questioned when that was previously approved.

Ms. Roediger commented that it was about five years ago, and stated that it was not an issue until the FB change. She stated that he could go to the Zoning Board of Appeals as it was not self-created.

Chairperson Brnabic noted that everyone else has to comply if an ordinance changes, and if a developer waited too long or were approved two years ago they have to update their plans.

Mr. Hooper commented that it would have to be developed as a house. He stated in the legal case they would claim it would be a taking of the property as he could have intended to build under the Flexible Business. He noted that there would be a very strong argument from a lawyer.

Ms. Neubauer stated that she did not think it should be changed for one person because it would cause a lot of legal action all over the city.

Ms. Roediger stated that Eddington in particular has a lot of history. She pointed out that he donated property and perhaps if he did not donate the

property for the right-of-way he might have had two acres.

Mr. Dettoff questioned whether this was the first that owner heard about it.

Ms. Roediger stated that it was zoned FB and it is still FB.

Mr. McLeod commented that there are a number of situations where people do not read their notices.

Chairperson Brnabic asked if the Commission can see the tweaks before moving to a public hearing.

Ms. Roediger stated that if the Commission wants, staff can try to bring draft language to the April meeting for review.

Mr. Gallina asked to see the notifications that were sent, along with the other social media items.

Discussed

ADJOURNMENT

The worksession was adjourned at 6:33 p.m. upon motion by Ms. Neubauer, seconded by Mr. Gallina.

*Deborah Brnabic, Chairperson
Rochester Hills Planning Commission*

Marvie Neubauer, Secretary