

A motion was made by Kaltsounis, seconded by Dettloff, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion PASSED by an unanimous vote.

After each motion, Chairperson Brnabic stated for the record that the motion had passed unanimously. Mr. Hooper thanked the applicants for their patience.

2019-0413 Request for Recommendation of an Ordinance to amend Chapter 138 Zoning of the Code of Ordinances of the City of Rochester Hills to replace the C-I Commercial Improvement District with the BD Brooklands District with review of accompanying changes to the Sign Ordinance.

(Reference: Memo prepared by Giffels Webster, dated October 24, 2019 and documents and draft ordinances had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Jill Bahm and Eric Fazzini, Giffels Webster, 1025 E. Maple Rd., Birmingham, MI 48009.

Mr. Fazzini showed the current and proposed zoning maps for the Auburn area. There were three sites not within the C-I district, and the proposed map would bring those into the new BD Brooklands district. He noted revisions since the last meeting: The B Brooklands district had been renamed to BD Brooklands; they updated drive-through facilities language; they added a couple of uses that had been recommended in the market study from the 2016 Corridor Plan; and they clarified building design standards. New language had been updated earlier that day, which was not included in the packet, that clarified some permitted uses and how they could be expanded or not. Four uses were added as permitted based on the 2016 market study, including places of worship, which were previously conditional uses. They went back to the FB standards that were in place, and they were updated. They had discussed enhancing rear building features, so there were requirements for rear entrances for pedestrians for non-residential building areas and elements that architects should include in building. However, they were flexible suggestions that the Planning Commission could finalize when projects were before them. He noted that there had been a provision for murals, which was removed. They investigated parking in the area. They updated the minimum parking requirements for multi-family, where smaller units required less parking. They increased the parking proximity credit for someone within 500 feet of the proposed public parking, and they would see how that impacted conceptual proposals. That was only for non-residential. The Planning Commission would have flexibility with

regards to requiring parking. With the parking study, they found that a mixed-use, two-story building on a 120-foot deep lot would fit parking per the proposed Ordinance. A partial third story would also fit parking, and a full third story would likely need to use the shared parking provision, which would be before the Commission for review as projects came forward. He noted that the additional story and the tuck under parking would create additional building costs, such as sprinkling or a covered parking area that might or might not be justified, but they felt that the option should remain.

Mr. Fazzini showed the four parking models. The first site they chose was between Harrison and Eastern, and it had a two-story, mixed-use building on the west end and access only from the alley. 35 parking spaces would be required and 46 could be provided. The second model had a slightly deeper building on the same site with tuck under parking. Access was a little different; one access was from the side street, and one was from the alley. The building was wider (existing building taken down), and 46 spaces were required with 60 provided. He showed the same building with a partial third story. That would only add one additional residential space, and 47 were required and 60 were provided. He showed a project that had been built in New Baltimore, which was one of their ongoing zoning clients, and he noted that the Brooklands code was modeled after one there. It had a narrower site, but it was 120 feet deep. It required 31 spaces, and 31 were provided, counting on-street.

Mr. Fazzini noted that a draft Sign Ordinance amendment had been included, which was just provided for review. It clarified that projecting signs were allowed, as they would be beneficial for pedestrians along the sidewalk. A projecting sign facing perpendicular to the sidewalk would be more useful than a sign facing the road. He had brought updated survey results.

Chairperson Brnabic referred to Part 7 D. in regard to the drive-through. The wording said "existing drive-through facilities." She pointed out that there was only one existing in the area (for North Shack), and that was why it was being included in the Ordinance. She wondered if the word facilities should be singular.

Mr. Staran said that it was something the Planning Commission might want to help wordsmith. The reference to facilities in that section was not intended to refer to multiple sites or locations but rather to a drive-through lane, windows, speaker box and menu board. He suggested that there might be a better word than facilities. The language was added to try to

eliminate confusion, not to create more. The fact that Chairperson Brnabic asked that question meant that they had not quite gotten it right yet.

Ms. Bahm said that even though there was only one drive-through, everything else was plural. She wondered if it mattered, because they referred to retail sales establishments, personal service establishments, existing gas stations and artist studios and galleries, and she wondered if it was inconsistent. Putting in plural tended to be the fall back. Mr. Staran said that to make it more singular they might say, "an existing drive-through establishment and related facilities existing prior to a certain date."

Chairperson Brnabic opened the floor to comments at 7:30 p.m.

Ernie Colling, 3227 Emmons Ave., Rochester Hills, MI 48307 *Mr. Colling stated that he was bothered by the whole thing. In all the meetings he had attended, those kinds of things had not been discussed. It was supposed to be a walk through, friendly development, and they were seeing medical and dental uses. He claimed that every type of business like that would add traffic. He had pointed out at the last meeting that the roadway would not handle the traffic. A two-lane road without any street cut-throughs or roundabouts or controls would handle about 3,200 cars per hour. With seven cut-throughs and two roundabouts, that would not handle that load. It would be roughly 50-60% of that. He said that every business they allowed in that caused a visit would increase the traffic load. The average household did five trips per day. They were creating a situation where the traffic would bleed off into the subdivision. He had no problem with the development, but he stated that he would not stand by and watch the traffic go through the sub. They were already seeing problems with the school. Every time the middle school let out or for drop offs in the morning, there was a traffic jam that made it impossible to get into the sub. People lined up and blocked the entrances. He had to call the Mayor's office twice, the Sheriff's office numerous times and the school board to no avail. They could not get in or out of Culbertson. Traffic would not be alleviated when the project was finished, because people would be dropping kids off. As the weather got more inclement in the winter, it would be even worse. Again, his comment was that it was designed to be walker friendly with those types of businesses, not businesses that required vehicle traffic to come. He maintained that they had to confine the traffic that came into the businesses to Auburn Rd. He understood that the people who owned the properties would like to develop and do well, but the residents had lived there for 40 years, and he*

felt that they had a right to have peace of mind in their own subdivision. There had been two accidents on the corner where he lived in the last couple of months from people running yield signs to get out of the sub. It was not from residents but from cut-through traffic, and he knew because he had talked to the officers at the scene. He stated that it was not going to get any better, and they had to keep the traffic on Auburn and not in the sub. He heard that a third story would be a conditional use. They had a conditional use along the corridor (the auto dealership), where the rules were constantly being broken. Numerous complaints had been made, and enforcement had done nothing. They had rules within Brooklands for commercial vehicles which were not being enforced. He asked what would make him think that conditional uses would be enforced in the corridor. He did not see that happening now. He said that there were too many things unanswered. They were looking more at what they could do to bring people in to develop and less about what they promised the neighborhood when they did the project in the first place.

Tom Kalas, 31350 Telegraph Rd., Suite 201, Bingham Farms, MI

48025 Mr. Kalas said that he was there on behalf of Pearco, Inc., the owner of the North Shack property. He thanked Mr. Staran and Ms. Roediger for being helpful and meeting with him last week to go over proposed language for the drive-through and section 138-6.300. Their only concern, which had been somewhat clarified if the word "establishment" was added, was the language that stated, "provided the current configuration and location of the drive-through lane (which they were okay with) and facilities were not expanded or increased." His interpretation was that by adding "and facilities," it would include the building itself, not just the drive-through. He said he understood that the intention was to include no expansion or change of the drive-through facilities, which was inclusive of the lane, window, menu board and speaker box, and they were okay with that. Their preference would be to exclude the word "and" so that it read "current configuration and location of the drive-through lane facilities were not expanded or increased." Or it could read "the drive-through lane" was not increased. He was not sure if there was a different way it could be worded. They wanted to make sure the intention was not to include that the building could not be increased. He said that they were open to suggestions, and he appreciated the comments and accommodations made to his client and him.

Mr. Staran said that Mr. Kalas' suggestion for the last line about eliminating the word "and" between lane and facilities might work. Ms. Bahm asked if the concern was that the existing language could be interpreted to not allow expansion of the building. Mr. Staran agreed that

was the concern they were trying to alleviate. The intention was to focus on the drive-through lane and drive-through related facilities, such as the menu board and window, but not the principal building itself. Ms. Bahm asked if they were tied to the current configuration and location. She wondered if it could say, "provided that the drive-through related facilities were not expanded or increased." If something was proposed to make it safer or for some improvement, they probably would not mind that. Mr. Staran said that the concern they were trying to address with staff was that they were not trying, in any way, to diminish or interfere with the ongoing use. They wanted to avoid having one lane become two or three with big canopies or extra windows. They wanted to keep it as it was and to word it in such a way that it was clear in five years to people. Ms. Bahm suggested saying, "provided that the drive-through related facilities were not modified, expanded or increased."

Mr. Kalas said that the concern was with the word facilities. That could be interpreted as inclusive of the building. He asked why they could not just say, "location of the drive-through lane facility" and eliminate the word "and." That would take out the confusion.

Ms. Bahm said that her concern about making the lane be the driver was that there might be something else related to the expansion of the drive-through services that were beyond just the lane. She stated that it really was about the facilities related to the drive-through. She wondered if it actually should be more of a subsection under F., eating and drinking establishments, where they said that those shall not include a drive-through facility, except that an existing eating and drinking establishment with a drive-through facility established on such and such a date, provided that the drive-through related facility was not modified, expanded or increased. Mr. Staran said that they did not want to lose in the translation that the existing establishment, North Shack, would continue to be a permitted use. They did not want to end up with an interpretation that it was a nonconforming use. The intent was that it could continue as a permitted use, and there could be successor owners or users that could do whatever else was permitted, provided that they did not expand the lane. Ms. Bahm felt that if it was put with F. that said, "eating and drinking establishments, including bakeries, cafes, restaurants and bars," that made it clear and it was permitted, but they could not include a drive-through except for the existing facility.

Mr. Kaltsounis understood about drive-throughs and eating and drinking establishments, but he wondered if it would include pharmacy or bank drive-throughs. Chairperson Brnabic explained that drive-throughs would

not be allowed in the district at all. North Shack would be the only establishment that could have one. Mr. Staran said that the proposed Ordinance would not add or allow more drive-throughs. It was intended to allow the continuation of any that currently existed, which, in reality, was just one:

Ms. Roediger said that under the current language, the North Shack building could be sold and reused for a bank or pharmacy using the existing drive-through. If it was moved to F, it could only be used as a restaurant with a drive-through. The question was what the Commissioners would prefer.

Chairperson Brnabic said that North Shack was pretty low key for a drive-through. Nothing stacked up, and there were a couple of curb cuts. She would want to make sure that it could not be sold to a McDonald's or similar.

Ms. Bahm said that there was nothing in the Ordinance that would prohibit a McDonald's. If a user wanted to go into that establishment, she guessed that it would be another restaurant. She could not envision a Walgreen's coming in and not wanting to make any exterior improvements and utilizing the same drive-through. She felt that any other chain restaurant would be the same, unless it was local. If there was an expansion planned for the restaurant structure itself, it would trigger additional parking, which might cause the drive-through to have to be modified, which was precluded.

Ms. Roediger said that they wrote it so the facilities could not be expanded. In today's fast food industry, they wanted double lanes. She did not think it would be advisable to exempt particular businesses. She reiterated that the intent was never to be about the building - it could expand. A drive-through was always accessory to a permitted use, and the accessory use could not be expanded. Ms. Bahm asked if it would help to say, "an existing accessory drive-through facility, established prior to the effective date of adoption of the Ordinance, provided that no expansion of the accessory drive-through facility was permitted."

Mr. Staran thought that was better. That language clearly was not talking about the principal building or use. Mr. Kalas said that if the intention and understanding was that it would not prohibit expansion of the building, they were okay with the language as worded. He wanted to make sure everyone was on the same page. Ms. Roediger agreed that the latest revision was good. That clarified that they were talking about the

accessory use, and that it could not expand, but the principal use could if permitted.

Mr. Hooper said that D. would have the last sentence stricken and the word accessory added in two places. Ms. Bahm said that it would say, "an existing drive-through facility" at the beginning, and at the end, it would say, "provided that no expansion of the accessory drive-through facilities were permitted." Mr. Hooper knew that North Shack owned the property next door to it, so it could conceivably be sold to someone who could tear the building down and expand the building. He thought that was fine, but he would not want the drive-through expanded beyond a single lane.

Mr. Hooper referred to C. and read, "Existing gas stations, auto repair service established prior to the effective date of adoption of the Chapter, provided that no expansion of the auto-related use is permitted." He was not sure auto-related was clear. Ms. Bahm suggested that it could say, "provided that the current number of pumps and tanks were not increased." Mr. Hooper mentioned the existing conditional use (used auto sales), and that the owner could perform limited repairs and oil changes associated with used car sales. He asked if the owner could expand upon that. Ms. Bahm said if it was auto-related, that he could not. He could expand the retail (sales) portion, and Mr. Hooper reminded that he sold used cars.

Ms. Roediger said that the language was intended for the existing gas stations with service bays. Mr. Hooper pointed out that it talked about gas stations and auto repair and service. Ms. Roediger said that AutoRite was grandfathered to do auto sales. That was not permitted any longer. They would not allow any expansion of the auto sales. Mr. Hooper thought that there would be no nonconforming uses, and Ms. Roediger related that it was already nonconforming - the Ordinance would not make it so.

Mr. Hooper asked how C. would be modified. Ms. Bahm asked if they wanted to add pumps, tanks and service bays, which was added. Ms. Bahm said that it would say "Existing gas stations, auto repair and service, established prior to the effective date of the adoption of this Chapter, provided that the current number of pumps, tanks and service bays are not expanded or increased."

Mr. Hooper said that regarding eating and drinking establishments, including bakeries, cafes, etc., he understood that there would be no new drive-throughs, and he supported that. Knowing the realities of economic

returns and in order for someone to invest money in the district, he felt that it would be of a retail nature with, he hoped, residential on top. To generate the kind of volume they were looking at, he could see the potential for a number of sub shops. That seemed where they were heading. Ms. Bahm felt that there would be locally owned sandwich shops. Mr. Hooper said that he did not see small boutiques. Ms. Bahm indicated that there could be someone who lived in the district or nearby who was considering opening up a small shop, or maybe there was a shop that got divided into smaller vendors. There were a couple of retail establishments that had models like that. They had a larger establishment and rented out smaller spaces within.

Ms. Bahm brought up the items they added from the Auburn Rd. corridor plan. They acknowledged the market study to make sure that uses that were recommended at that time were reflected. They were shown in red. She mentioned it because of Mr. Colling's comments about medical and dental offices. She thought that they should talk about the other uses as well.

Mr. Kaltsounis referred to the Sign Ordinance and where wall signs had specific standards. It said that "a wall sign shall not project beyond the roof or parapet of any building," and when a building was located on a property line, "a wall sign may project 12" beyond the building." He asked the definition of a wall sign. There was also another section for projecting signs. Mr. Fazzini said that the first one he mentioned would be for a roof sign. They would not want a sign on a chimney or vertically above the building, and that would prevent that. Mr. Kaltsounis asked if he was including a billboard, which was confirmed. Ms. Roediger read that a wall sign was defined as "an on premise sign attached to, painted on or placed against the exterior of a wall, façade or surface of a building, no portion of which projects more than 12" from the wall or surface and does not project above the roof or parapet line." Mr. Kaltsounis asked if a projecting sign would project with lasers. Ms. Bahm said that it would be a physical sign that stuck out perpendicular from the face. They were used where they were trying to attract the eye of a pedestrian. They were typically smaller, and something that could be seen walking down the street.

Mr. Kaltsounis asked if they had thought about lighted buildings. The new trend was to have back-lit buildings. Ms. Bahm did not think that they discussed that. She asked if that kind of language was included in the lighting ordinance. Ms. Kapelanski said that the City did allow accent building lighting currently. Mr. Kaltsounis asked if that was not considered a sign. Ms. Kapelanski asked if he was talking about down

casting words. Mr. Kaltsounis mentioned the Taco Bell on Livernois as an example. They had colored lights, and the building glowed. Ms. Kapelanski said that the current Ordinance allowed that, provided it was at the right lumens.

Chairperson Brnabic read, "A wall sign shall not exceed 80% of the width of a storefront bay." She asked the current requirements. That seemed quite large, although it might depend how big the storefront bay was. Ms. Bahm said that was current language. Ms. Roediger pointed out that the only change was to Part B. Ms. Bahm said that the reason they were adding it was to accommodate a rear façade sign that might face a residential district. Chairperson Brnabic noted that Mr. Colling wished to speak about the Sign Ordinance.

Mr. Colling said that from a signage point of view, having been on the Sign Board of Appeals for a number of years, he was concerned about rear building signage. He did not want things lighted in the back or lights spilling over into the neighborhood. With two story homes directly behind the alleys, they could have that. It would be nuisance lighting, and he did not think that there should be any lighting on the back of the building on signs at night. They should just have ambient light, but if it was lit, it would be a problem. He assumed that because of the nature of the buildings in the area that monument signs would be difficult in most cases. Wherever possible and feasible, he suggested that they stuck to the current signage for monument signs in the City and not create a special signage area for the district. He did not want a situation where there would be a free for all for signs. He could see where something could be subject to interpretation, and they would get requests to the SBA for variances. He asked them to please make the signage as clear cut as possible and to stick as much as possible to the current Ordinance.

Ms. Roediger responded that the only exception for the district was for rear signage. Everything else would follow the City's current Sign Ordinance. Under B. where rear lighting was allowed, it read, "such shine shall not be illuminated." She felt that Mr. Colling's concerns had been addressed. Mr. Colling asked about accent lighting that could spill over. Ms. Roediger said that would not be a Sign Ordinance issue but rather a lighting issue spelled out in the Zoning Ordinance.

Mr. Reece noted that he was not at the last meeting, but he had been fairly vocal about a three-story building. For him, even though it would be a conditional use, he thought that some of the comments were valid and fair for the residents who had lived in Brooklands all their lives. To put a

three-story, step back or not, against their backyards would be a deal breaker. If it was kept in even as a conditional use, he would not vote yes.

Mr. Kaltsounis had a question about a three-story building. They had talked about putting a picture in the Ordinance similar to one on page four that showed the step back. Ms. Bahm said that could be added. Mr. Kaltsounis said that he would like to see that. In response to Mr. Reece, he would only agree to a three-story with a step back. He drove through Auburn Hills where there was a new, four-story building, and it was very ominous. They were building a section that hung over the road. He noted page eight, which showed three-story buildings that were not per the requirements. He said that they needed to be updated if the Ordinance went through. Ms. Bahm said that the picture on page eight was to illustrate an arcade as a building type, and she agreed that it should be revised. They would make it two stories to be consistent with the others.

Mr. Kaltsounis thanked Giffels Webster for their hard work. He was a little disappointed that they had not had movement ten years ago. With the improvements to the road the investment from the City, the seeds were planted to grow. He also thanked staff for their hard work. Hearing no further discussion, he moved the following.

MOTION by Kaltsounis, seconded by Hooper, the Rochester Hills Planning Commission hereby **recommends to City Council an Ordinance for Chapter 138, Zoning**, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to amend Section 138-4.100, Table 3. Zoning Districts, to replace the CI Commercial Improvement District with the New BD Brooklands District; amend Section 138-4.209 to replace CI Commercial Improvement with the new BD Brooklands District; amend Section 138-4.301 (B) to replace CI with the new BD Brooklands District; amend Section 138-5.100, Table 6, Schedule of Regulations, to replace the CI Commercial Improvement District with the new BD Brooklands District; amend Section 138-5.101 (F) (2) and (3) to replace CI with the new BD Brooklands District; amend Section 138-5.101 (I) to replace CI with the new BD Brooklands District; replace Article 6 Supplemental District Standards, Chapter 3 CI Commercial Improvement District in its entirety with the new BD Brooklands District; and to repeal conflicting or inconsistent Ordinances and prescribe a penalty for violations with the following conditions.

Conditions:

1. The verbiage changes to the principal permitted uses section shall be

revised per the minutes related to drive-throughs and gas stations.

2. *Revisions to the pictures related to three-story buildings shall be revised and a graphic be added to further define the third story dimensions.*

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

Aye 5 - Brnabic, Dettloff, Hooper, Kaltsounis and Schroeder

Nay 1 - Reece

Excused 3 - Morita, Schultz and Gaber

2019-0414 Request for Recommendation of an Ordinance to rezone various parcels on Auburn Rd. from Culbertson to Dequindre from CI Commercial Improvement District and/or B-5 Automotive Service Business and/or B-2 General Business District with a FB-2 Flexible Business Overlay to a new district: BD Brooklands District

MOTION by Kaltsounis, seconded by Hooper, the Rochester Hills Planning Commission hereby **recommends to City Council an Ordinance for Chapter 138, Zoning**, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone the following parcels from Commercial Improvement District (CI) and/or Automotive Service Business (B-5) and/or General Business District (B-2) with a Flexible Business Overlay (FB-2) to a new district - BD -Brooklands District and to repeal conflicting or inconsistent Ordinances and prescribe a penalty for violations.

- 15-25-455-040
- 15-25-455-046
- 15-25-456-025
- 15-25-456-029
- 15-25-456-030
- 15-25-456-040
- 15-25-456-041
- 15-25-457-019
- 15-25-457-025
- 15-25-457-034
- 15-25-458-023
- 15-25-458-027
- 15-25-458-031
- 15-25-480-018
- 15-25-480-019
- 15-25-481-017
- 15-25-482-025
- 15-25-483-006
- 15-25-483-008
- 15-25-483-010