

*traffic measures, prior to final approval by staff.*

11. *Eliminate the sidewalk on the west side of the drive-through along the median and provide a continuous hedgerow along the median, as approved by staff, prior to final approval.*

**A motion was made by Reece, seconded by Schroeder, that this matter be Approved. The motion carried by the following vote:**

**Aye** 6 - Boswell, Brnabic, Dettloff, Hooper, Reece and Schroeder

**Nay** 2 - Kaltsounis and Yukon

*Chairperson Boswell stated for the record that the motion had passed 6-2. He called for a break from 9:05 p.m. until 9:15 p.m.*

## **NEW BUSINESS**

- 2014-0502** Public Hearing and request for Conditional Use Recommendation - City File No. 14-015 - for a drive-through at a proposed Taco Bell to be located west of Crooks and south of Avon Industrial, a 2,159 square-foot restaurant on .63 acres, zoned B-3, Shopping Center Business, Parcel No. 15-29-276-005, Guggenheim Retail Real Estate Partners, Applicant  
*(Reference: Staff Report prepared by Sara Roediger, dated January 16, 2015 and site plans had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant were Kurt Overmyer, Gugenheim Retail Real Estate, 3000 Internet Blvd., Suite 570, Frisco, TX 75034, Charles Ashly, 3108 Regency Pkwy., Suite 2, Bentonville, AR 72712, and Jim McNally, Construction Manager for Taco Bell.*

*Mr. Anzek advised that the proposal was for a 2,200 square-foot Taco Bell to be located immediately south of the Shell station and car wash on Crooks. The Taco Bell would be on a portion of the parcel. In working with the owner of the property to ensure that the lands remaining were not undevelopable, a concept was worked out that had been briefly reviewed by Staff, and it looked feasible. It was not a part of the Planning Commission's consideration; Staff wanted to make sure that parcels in the back could be accessed if the owner chose to go forward with something else. Mr. Anzek noted that the property was zoned B-3, and the Taco Bell with a drive-through was permitted with a Conditional Use approval. He said that the proposed Taco Bell would look a little different than the other two in town. He advised that there were several provisions*

*to consider, including a modification of the parking requirements and a setback modification. He had spoken with the owner about having a shared parking arrangement.*

*The applicants introduced themselves. Mr. Overmyer reiterated that they wished to develop a Taco Bell on a lot along Crooks just south of Avon Industrial. They had been working with Staff through a couple of reviews, and he believed that they had resolved most of their comments. He noted that the building was modeled after one of their current prototypes, and he felt that might answer any questions about architectural differences. He said that he would be happy to answer any questions.*

*Mr. Ashly said that the land was a little less than an acre. They had a shared access to the back of the property for if and when it was developed in the future. There was pedestrian access through to the existing sidewalk on Crooks and a full driveway connecting to the roadway. They were proposing 30 parking spaces, and the typical prototype for Taco Bell required 27. They were a little short on what the City's Ordinance required, which was 37, based on the occupancy. They would like the Commission to consider allowing them to have less parking based on Taco Bell's experience with its needs. He added that 70% of their customers used the drive-through, so he did not feel the extra parking was necessary for the use. They were also asking for consideration for a reduced rear yard setback. He did not feel that it would be detrimental to any rear property owners, because it was a commercial use, and the properties behind would be commercial if developed. He pointed out the landscape plan, and said that they were supplying some trees along the new shared entranceway on the north and south sides. They proposed trees along the frontage, but they had to reduce them, because they were in the right-of-way, and there were overhead power lines. They were proposing to pay into the City's Tree Fund instead. They were going to irrigate the site as needed. Taco Bell was putting in valuable landscaping, which was also an attraction, so they wanted to make sure it stayed healthy.*

*Mr. Anzek asked if they had brought any colored elevations, as none were provided with the plans. Mr. McNally had a picture on his cell phone, which he passed around and also put on the overhead. Chairperson Boswell commented that it would have helped if the drawings said "north elevation" and "west elevation," rather than right side and left side. Mr. Ashly clarified the locations of the elevations. He added that the building materials included EFIS on the south elevation, stone, and the storefront, which wrapped around three sides of the building.*

*Chairperson Boswell asked about parking, noting that Taco Bell had said that for this type of restaurant only 27 spaces were needed. He pointed out that the Taco Bell on Rochester Rd. north of Auburn had ample parking offsite, but the onsite parking was always full. He asked the difference, indicating that the parking for that location met Taco Bell's criteria, yet it was always full.*

*Mr. McNally said that he had been to that site one time, and he mentioned a hill and sidewalk, and he believed that there was cross access with the shopping center. Chairperson Boswell thought that he was talking about the location at Walton and Livernois. Mr. Kaltsounis said that the Taco Bell on Rochester Rd. was the biggest and busiest in the country. Mr. Anzek agreed that it was the 2nd to 5th busiest Taco Bell in the country, and it was always packed. Chairperson Boswell wondered if 30 spaces would be enough.*

*Mr. Overmyer reiterated that they did a tremendous amount of business through the drive-through. There would be 8-9 employees per shift, and they would account for their parking requirements. When they advertised the site to developers, they gave criteria of land size, parking and building elevations to market, and 27 seemed to be the number that worked. Mr. Ashly noted that the City's Ordinance required that every person in the busiest shift, every person stacked behind the cashiers and every seat fully occupied be counted, and he felt that there was quite a bit of parking.*

*Mr. Dettloff asked if he could assume there was a land lease. Mr. Anzek said that it was a condo plat. The owner, Mr. Stolaruk, was amending the condominium documents that would provide a sale to Taco Bell for its portion. Everything else would be a limited common element, including the parking area. Mr. Ashly said that it was his understanding that the condo agreement had to be amended in order for them to close on the property. Mr. Dettloff asked if it would be a corporate franchise, which was confirmed. Mr. Dettloff clarified that they did not own the other two Taco Bells in town.*

*Mr. Hooper stated that he had no problem with Taco Bell. The only issue he had was someone trying to make a left out of the site. He did not see a problem with right in/right out.*

*Mr. Anzek responded that Staff had numerous meetings with the Road Commission. The Road Commission believed that traffic turning left*

could be accommodated. There was a concern that if the common access did generate more traffic, that the Road Commission could reserve the right to restrict the left turns. In Taco Bell's contract, a four-way movement was required. Mr. Anzek agreed that it could be cumbersome down the road, and he suggested that it could be to Taco Bell's advantage to have customers to go Avon Industrial to go the light to make a left.

Mr. Hooper agreed, and he asked if there was any thought about making a driveway where the sanitary sewer was to go to Avon Industrial. Mr. Anzek said that Mr. Stolaruk had that planned for his future buildings, and it was not part of Taco Bell.

Mr. Ashly believed that it was something the Road Commission did not want. They did not want traffic to come off of Crooks and be able to go through Avon Industrial without going through the intersection. Mr. Anzek said that was absolutely correct, although Staff could not disagree more. He felt that it would be better for the Taco Bell customers to be able to use the signal. There were ongoing discussions with the Road Commission about it. The Road Commission did not want a complete cross access from Crooks to Avon Industrial out of concern that people trying to get to the Crooks/M-59 interchange would use it as a short cut. The City's Traffic Engineer agreed that there would be more people from Taco Bell using Avon Industrial. Mr. Hooper agreed that it would be a challenge in peak times for public safety for people trying to make a left. If there was an access onto Avon Industrial to be able to use the light, he stated that there would be no problem. He concluded that it was the only concern he had with the site.

Mr. Kaltsounis asked if there would be 52 seats inside the restaurant, which was confirmed, and he asked if 27 parking spots would be enough to accommodate 52 seats, taking into account employees.

Mr. Overmyer said that based on Taco Bell's historical use, 70% used the drive-through, so 27 spaces worked for them. Mr. Kaltsounis agreed with Chairperson Boswell about the Taco Bell on Rochester Rd. It was hard to get in and out of, and a lot of the parking spots were full. He noted that the Commission had to make a decision about the setback. If it was abutting residential, he would say no. When it came to the parking, he was considering that there was a 52-seat restaurant with 30 parking spaces, and what would happen when Taco Bell was not there and someone else tried to renovate the building, which he noted happened all the time. He was trying to think into the future, and that was what he was grappling with.

*Mr. Anzek suggested that the Conditional Use permit could run with the owner. It did not have to be in perpetuity. The Commission could impose a restriction so that if there were a change of use or restaurant, the matter would have to come back before the Planning Commission. Mr. Kaltsounis asked if that could be a condition, and Mr. Anzek confirmed that it could be limited to the Taco Bell operation.*

*Mr. Ashly pointed out that regarding 52 seats, an average table had four chairs or 13 tables. Most families used one car and one table, and there might only be 13 cars parking.*

*Ms. Brnabic stated that she had the same concerns because of the Rochester Rd. location. She realized that there would be a lot of drive-through business, but the seating at that location was always full as well. She had gone in at certain times of the day and not been able to find a table. She said that it was not always true that one family used a whole table, and she agreed that the parking might be overtaxed. She thought it would hurt Taco Bell more, but she was concerned that the Commission was being asked to modify something that might hurt its business.*

*Mr. Ashly said that he appreciated Ms. Brnabic's concern. He said that his client was interested in getting the best bang for each table, but the research had directed them to aim for 27 spots, since it had worked well in their model of several hundred stores. They did have the availability, when parking came in for other parts of the development, to share parking and access.*

*Mr. Schroeder asked if Taco Bell would have the option of having employees park in the overflow spaces so that the spots onsite were just for customers. Mr. Overmyer said that his understanding of the cross access parking was that it would not be defined, so the restaurant management could direct staff to park at an offsite location. Mr. Schroeder said that they should consider that very seldom did a table have four people at it. His real concern was the traffic, however. He asked if using the sewer easement as an access to Avon Industrial was out of the question.*

*Mr. Anzek believed that it was just dirt, and it would have to be paved to make a road. He thought it was a cost issue, and Mr. Stolaruk would not pay for it until he developed the site. Mr. Schroeder asked if it could be paved as a driveway rather than a public road. Mr. Anzek did not know. Mr. Schroeder observed that the traffic could be a real problem. Mr.*

Anzek said that Staff thought it was important to put in an access to Avon Industrial, but the Road Commission did not. Taco Bell needed a full movement driveway and if that went away, they might go away. He did not mean to kick the can down the road, and Mr. Stolaruk was aware of it. Mr. Anzek said that ideally, it would be great to have access to Avon Industrial, but he was not sure if Taco Bell would agreeable if they lost the full turning movement at Crooks.

Mr. Overmyer said that on the preliminary site plans, they showed access around the car wash to Avon Industrial. However, the Road Commission did not want it. Mr. Schroeder thought it could just be made as a temporary driveway to take care of the problem. Mr. Anzek did not think their discussions with the Road Commission were done, and he felt that the Planning Commission could make a condition that Staff continued to pursue it. He added that it would be helpful for Staff if the Planning Commission recommended cross access to Avon Industrial.

Mr. Reece asked if Taco Bell owned the property directly to the north of its property line. He was looking at the snow removal notes, which showed 4,000 square feet of snow storage area. He asked if that was Taco Bell's property. Mr. Overmyer said that they did not own it. The property Taco Bell would acquire was bounded by the lot lines, and the area up to the Shell station was common area. Mr. Reece stated that there was not a lot of room to push snow. Mr. Overmyer said that the cross access was not finalized, but they would install and maintain it until such time that the rest of the area was developed. Then all of the users would participate in the maintenance throughout the whole development.

Mr. Reece was concerned about the parking. Based on the City's experience with Taco Bells in the area, the Commissioners did not think there was enough parking proposed. The Commission typically liked to see colored elevations, and it was hard for him to make a decision on a photo from a phone. The drawings called for stucco, but someone mentioned EFIS, which he indicated were different materials. He asked what there would be. Mr. Overmyer said that it would be EFIS. Mr. Reece asked if that would go down to the ground, which Mr. Overmyer confirmed.

Chairperson Boswell opened the Public Hearing at 9:45 p.m. Seeing no one come forward, he closed the Public Hearing.

Mr. Kaltsounis agreed with Mr. Reece's comment about EFIS. He agreed that it was not a good material, especially in a cold climate like Michigan, and he would recommend a block or half block facia, and he wished to

add it as a condition. Mr. McNally responded that he had shown a picture of a Taco Bell in Saginaw, and it had stone and wainscot. He agreed that along the sidewalk, stone would be a much better option, and they could do that.

Hearing no further discussion, Mr. Kaltsounis moved the following, seconded by Mr. Yukon.

**MOTION** by Kaltsounis, seconded by Yukon, in the matter of City File No. 14-015 (Taco Bell at Crooks and Avon Industrial) the Planning Commission **recommends** to City Council **Approval** of the **Conditional Use** to construct a drive-through, based on plans dated received by the Planning Department on December 22, 2014, with the following seven (7) findings and subject to the following one (1) condition.

**Findings**

1. *The proposed building and other necessary site improvements meet or exceed the standards of the Zoning Ordinance.*
2. *The expanded use will promote the intent and purpose of the Zoning Ordinance.*
3. *The proposed building has been designed and is proposed to be constructed, operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the general vicinity, adjacent uses of land, and the capacity of public services and facilities affected by the use.*
4. *The proposal should have a positive impact on the community as a whole and the surrounding area by further offering jobs and another dining option.*
5. *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.*
6. *The proposed development should not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.*
7. *The proposal will not create additional requirements at public cost for public facilities and services that will be detrimental to the*

*economic welfare of the community.*

Condition:

1. *The Conditional Use shall be applied to the Taco Bell operation only.*

**A motion was made by Kaltsounis, seconded by Yukon, 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

*Chairperson Boswell stated for the record that the motion had passed unanimously.*

2014-0503

Request for Site Plan Approval - City File No. 14-015 - for a proposed 2,159 square-foot Taco Bell restaurant with drive-through on .63 acres, located west of Crooks and south of Avon Industrial, zoned B-3, Shopping Center Business, Parcel No. 15-29-276-005, Guggenheim Retail Real Estate Partners, Applicant

***MOTION*** by Kaltsounis, seconded by Dettloff, in the matter of City File No. 14-015 (Taco Bell at Crooks and Avon Industrial), the Planning Commission **approves the Site Plan**, based on plans dated received by the Planning Department on December 22, 2014, with the following seven (7) findings and subject to the following six (6) conditions.

Findings:

1. *The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City Ordinances, standards, and requirements, can be met subject to the conditions noted below.*
2. *The requested 10 foot reduced rear yard setback is justified as it will allow for better development and will be compatible with adjoining properties as the project is part of a larger condominium development.*
3. *Based on evidence submitted by the applicant, the requested reduction from 37 to 30 parking spaces is justified due to the nature of the drive-through business. Should the uses change or expand, this modification may be reconsidered.*
4. *The proposed project will be accessed by an existing driveway, thereby promoting safety and convenience of vehicular traffic both*



*within the site and on adjoining streets. Walkways have been incorporated to promote safety and convenience of pedestrian traffic.*

- 5. Off-street parking areas have been designed to avoid common traffic problems and promote safety.*
- 6. The proposed improvements should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.*
- 7. The proposed development will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.*

*Conditions*

- 1. City Council approval of the conditional use.*
- 2. Provide a landscape bond for replacement trees in the amount of \$38,203, prior to issuance of a Land Improvement Permit for this development.*
- 3. Payment of \$1,200 into the City's Tree Fund, prior to final approval by staff.*
- 4. Addressing all applicable comments from other City departments and outside agency review letters, prior to final approval by staff.*
- 5. Staff, Taco Bell and the property owner work with the Road Commission regarding access to Avon Industrial.*
- 6. A masonry alternative to EFIS be approved by Staff for the lower four feet of the entire building, prior to final approval by staff.*

*Mr. Kaltsounis indicated that it was Taco Bell's business, and they could ultimately lose customers if there was not enough parking, and that was why he added the condition to the Conditional Use Recommendation.*

*In Mr. Reece's opinion, the parking was short, and if the Commission approved it, they would have approved something they knew would not work in the first place.*

*Hearing no further discussion, Chairperson Boswell called for a vote.*

**A motion was made by Kaltsounis, seconded by Dettloff, that this matter be Approved. The motion carried by the following vote:**

**Aye** 7 - Boswell, Brnabic, Dettloff, Hooper, Kaltsounis, Schroeder and Yukon

**Nay** 1 - Reece

*Chairperson Boswell stated for the record that the motion had passed seven to one.*

*Mr. Anzek asked Mr. Ashley if he could update the City's logo on pages C11.0 through C11.5. The one used was about five years obsolete, and the drawings were 2007 prototypes, so he felt that it could be worked out during construction plan review.*

*Mr. Schroeder asked why the Road Commission would be involved if a driveway was created. Mr. Anzek said that the Road Commission thought that the employee base on Avon Industrial would use it as a shortcut, increasing the load on the driveway. He assured that Staff would continue to work with them.*

## **ANY OTHER BUSINESS**

### **2015-0029**

Discuss potential text amendment to the B-3, Shopping Center Business District

*Mr. Anzek advised that Staff had been contacted by several owners of outlot parcels that were part of a B-3 complex that could not divide them off and have separate ownership, because B-3 required parcels to have 400 feet of frontage and five acres at a minimum. It had always been a philosophy that ownership did not matter; it mattered how a center functioned. They would not want to suggest text changes to the B-3 district that would enable an outlot, whether it was the Taco Bell at Rochester and Auburn or the Olive Garden on Rochester Rd., to have their own curb cuts. The parcels would have to be serviced internally. As long as they were served and accessed by an ingress and egress easement, it would meet State statues for subdivision. Staff thought that there might be the possibility that if people owned more of those, they might do a better job with maintenance. Ms. Roediger and he were hoping to bring language to show what they were thinking about, but Ms. Roediger left on maternity leave. He reiterated that Staff wanted to be careful that they did not create a scenario where an out parcel became its*