

2022-0393

Discussion of Rezoning of Parcels #15-15-429-026, #15-15-429-027 and #15-15-405-004 from industrial to single family residential

(Roediger memo of 9-14-22, Agenda Summary of 8-29-22, and Council resolution of 9-12-22 had been placed on file and by reference became a part of the record thereof).

Chairperson Brnabic introduced the discussion of rezoning of parcels #15-15-429-026, #15-15-429-027 and #15-15-405-004 from industrial to single family residential.

Ms. Roediger explained that this agenda item was being presented at the direction of City Council. She said that these properties were discussed quite a bit during the Flex Business moratorium, and City Council discussed that these parcels should be considered for rezoning to residential to be consistent with future land use in the area. She stated that there were discussions of what type of industrial development could go there when there is no frontage or access through another industrial parcel. She explained that to the west Parcel -004 is part of a larger city owned greenspace; and there is no intention to develop that property so it doesn't make sense for the parcels to have industrial zoning. Staff also think the -034 and -035 parcels should be included which she referred to on the map. Otherwise there would be a little island of industrial left which wouldn't make sense. She said that she had spoken with both of the property owners to let them know of the direction from City Council. She said depending on the direction from the Planning Commission, a public hearing could be set for the October meeting. Such a rezoning would be consistent with the Master Plan, provides more options for actual use of the property, and would be the most harmonious use that could be developed. She said that property owners for all of these properties are present this evening.

Chairperson Brnabic asked Mr. Harris, the owner of the Rochester Road parcel where Gold Star Restaurant is located, if he would like to speak.

Mr. Harris said that the information they had showed their parcel -035 to be rezoned as residential; and this states different. He said they would have been vehemently opposed to residential zoning but they approve of rezoning to B-2. He explained that as long as it stays consistent they are fine with that. He commented that dropping down to residential zoning would not make sense for them and their 50 year ownership of the property. He said he would be happy to answer any questions.

Chairperson Brnabic asked if the situation had been clarified to their satisfaction. She asked Ms. Roediger if she spoke to the owners of the other three parcels that are zoned Industrial.

Ms. Roediger responded that she did.

Matt Abell with Channel Partners stated they found out on Friday this was happening, which didn't give them time to figure anything out. He said they purchased the property in May on the advisement of the City on what they could do there, for self storage. He said they had asked about residential, and they were told because of the zoning they would have to do something like self storage. He explained that they purchased the property at a price point for self storage and not for single family residential development.

Richard Stephens stated that they relied on the meetings held with the architect and the City, and they were advised that they would have ingress and egress off of Cloverport for that site. He said that they were told that the property was zoned Industrial and that by right they could build a self storage facility. He said that they were also were looking at a possible multifamily development. He said they were advised to go with the self storage since it was already zoned that way and they wouldn't have to get a rezoning. He said they purchased the property with the zoning that was there and with advice from the City. He said they are taken aback that they are here now. He said they have spent considerable money moving this project forward with the additional site plan they have supplied to the City. He said they are not asking for a zoning change and they are not requesting it. He said they want to be a good neighbor, and he understands people don't want a self storage facility. He said the first site plan had more parking on the parcel on Cloverport, and the city asked for the parking to be moved over. He said they accommodated that and it was a verbal approval. He said it's not that they can't have a dialogue, it is a financial situation since they purchased the land planning on the zoning and the project with a certain magnitude and a certain return.

Chairperson Brnabic asked if the owner would like to see the property remain industrial.

Mr. Stephens said that they would like the property remain the zoning that it is, since they just found out about this, they would like to ask for some time to see what is appropriate.

Ms. Roediger said that she would like to respond regarding the conversations with the developer. She stated that there was always a large disclaimer for this specific property that access was an issue. She said she talked to the City Attorney about it and had a few meetings, and any comments provided were always subject to access being provided to the property. She explained that because of the adjacent zoning, access to an industrial property cannot be made by crossing a non-industrial land. She said staff did not provide a verbal approval for the project, and staff was always clear that access was an issue. She said the rezoning discussion would address the issue with the lack of access for the industrial properties.

Mr. Abell asked if it would work if they had access to Rochester Rd.

Ms. Roediger responded that the properties on Rochester Rd. are zoned B-2 and are not Industrial either, and it is not permitted to jump through other zoning districts to get to an Industrial property. She reiterated that it was always very clear that access is an issue for this property, and has been with every conversation about development for the property.

Mr. Stephens stated that this was not the communication he had with the previous Planning Manager. He commented that staff didn't speak to the City Attorney until after the concept meeting. He said that he did not mean to be offensive, he was just going off the communication he received which he received in writing from his architect.

Ms. Roediger reiterated that there was no City approval provided for moving forward with this project.

Mr. Stephens said that it was his communication.

Mr. Abell asked how the Lifetime Fitness was approved because they go through the B-2 zoning to industrial zoning.

Ms. Roediger responded that they have access from Avon, and that a health club is permitted in B-2 zoning.

Ms. Neubauer said that she understands the applicant would like more time, and stated that this is just a discussion item today and no decision would be made today. She explained that she does recall discussing the property at previous meetings that Mr. Abell was present at, if she was remembering correctly. She noted that the limited access was discussed numerous times, and that this parcel already had an issue. She said consent or approval comes from the Planning Commission and not from city staff, and all of the proper procedures must be followed. She said that she didn't take offense but wanted to provide clarity, City staff cannot provide implied or actual approval. She said the commissioners discussed access to this parcel several times at the recent worksessions, and the minutes are publicly available. She said that frankly the negotiations over the property are not the concern of the City, the Commission's concern is the zoning, the access, what is best for the city, and making sure that developments are properly suited. She suggested that the property owner

review the meeting minutes to see the record created about the difficulties for access for this parcel.

Mr. Struzik stated that if access is provided off Cloverport, self storage will have less traffic, whereas residential development will lead to more traffic. However he said that he would rather be looking at more residences in his back yard if he lived on Cloverport. He said that one thing that weighs into the conversation is what is harmonious for the area; he is sympathetic to both the residents and the people who purchased the property for development which in this case are conflicting needs. He explained that he rode his bike there a few times, and asked whether there is there an opportunity to bring the hill down and to pave the road, since the front yards of the houses have very small setbacks. He said there are some Cloverport residents at the meeting and he wants to hear what they have to say.

Ms. Roediger responded that Cloverport is a public dirt road and there would be topography concerns. It would have to be graded, any pathways would have to meet ADA requirements, and there would certainly be some challenges.

Dr. Bowyer said that when the Commission reviewed that property, they noted the same owner owns the one parcel that is half residential and half industrial, and the commissioners thought it makes more sense to make it all residential so that it could be easily accessed. She stated that also with the steep slopes on the property it would not be able to be all developed, but maybe there could be bigger houses and the fact that houses are selling for high prices would offset the costs. She noted that when the commissioners looked at the three businesses that about the property on Rochester Rd., all of those are extremely small and it may be unlikely to get land to be sold so that it could be rezoned to Industrial. She said people want to live in such a location and a residential development would be more harmonious with the Cloverport residences. She apologized that the owner only received notice of this discussion on Friday. She commented that she would be really supportive of making this property residential. She said that access has always been an issue with this parcel.

Chairperson Brnabic asked for public comment at 8:12 p.m.

Pamela Wallace, 168 Cloverport, said that there is some back history to the industrial property and access has been an issue. She explained that during the Flex Business Overlay moratorium the Cloverport residents met with Mr. Abell and another gentleman in December, and they were aware there were access issues at that time, and they were aware that the property had been nominated for greenspace. Ms. Wallace said the residents have been in constant conversation with the Planning Department and with the property owners. She said that the city cannot control if someone bought the property that they know is landlocked. She commented that they were fully aware of the issues since the property didn't sell until May, and they stepped in with their eyes wide open. She said the residents are concerned about a bait and switch since multifamily housing has also been proposed, and the property is not suited for that either. She said there could be 60, 80 or 100 homes if they were going to do an R-4 development, and she hopes the R-4 will be firmly planted.

Mr. Stephens said that is incorrect and that they were not aware of an access issue. He said they were in conversations with the City and the City did not speak to their attorney until after. He said they learned more information when they went to the moratorium meeting, and there is not a bait and switch going on.

Chairperson Brnabic questioned whether the owner purchased the property in May.

Mr. Stephens said that was correct.

Ms. Neubauer said this is a discussion item and it is not personal. She said the commissioners' interest is to do what's best for the city. She said that if the property were to be rezoned to R-4 it would not be so horrible. She suggested the owner could do really well with an R-4 development and the owner should take the time to consider that. She reiterated this is just a discussion item, and noted being a good neighbor is very important in Rochester Hills. She said there is no point in building a business and have everyone boycott you. She said the Commission had a huge turnout from the community for the worksession discussions, and noted residents are very active and care a lot about the city.

Chairperson Brnabic asked the owners to confirm if they attended a Flex Business worksession.

Mr. Abell said that when buying a property you can't go before the City, and they considered the City discussions to be a verbal approval. He said that when you buy a property you expect the zoning will stay the same. He said they did not consider single family homes when looking at development options. He said that the residents on Cloverport have not asked for architectural renderings of their proposed building and said they won't even be able to see it.

Ms. Neubauer commented that at this point, whether they don't understand, this is where the Commission is now. She said that they are all business people and unforeseen things happen. She said they could make a residential development profitable. She said developers will always have someone mad at them but don't let it be the neighbors. She suggested they could find a way to make it profitable and to communicate with neighbors.

Mr. Abell asked whether rezoning to R-5 would be a possibility.

Ms. Roediger said that could be something to look into, it would allow for smaller lots and multiple family development.

Mr. Abell asked how Pulte got away with their development off of Avon Rd.

Ms. Roediger said that is a PUD on a campus, and that property was always intended for multiple family residential development. She explained that the PUD was established many years ago. She asked the commissioners if there is there direction to set a public hearing to continue to discuss this topic.

Dr. Bowyer said that Council would not entertain multiple family residential there.

She asked whether the property owner could they explore a PUD.

Ms. Roediger replied that a PUD can go anywhere but there needs to be substantial public benefit from the development.

Chairperson Brnabic said that this topic is not ready to schedule a public hearing, and that there needs to be more discussion with the developers, the Commission, City Council and the residents to find something satisfactory for everyone involved.

Andy Krupp, 168 Cloverport, noted that this came from a City Council proposal and the residents had nothing to do with it. He said they are not in support of a multifamily development due to the large amount of traffic that would be coming out on to the dirt road. He said they would be tolerant of a single family development.

Ms. Neubauer asked the owner how much time they would need to prepare for a public hearing.

Mr. Abell responded that they would need 60 days.

The commissioners agreed that is fair.

Mr. Struzik said that more discussion is needed before the public hearing. He noted that Ms. Wallace didn't say she meant it was a planned bait and switch for R-4 zoning; he thought she was just expressing her worries.

Chairperson Brnabic concluded that it appears there is agreement that parcels 15-15-429-035, Gold Star, would like to remain B-2. She said that she wanted to clarify there is total agreement so that the owner is confident with what is being proposed. The commissioners agreed. Chairperson Brnabic said that hopefully this will work out to everyone's satisfaction.

Discussed