



# Rochester Hills Master Report

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**File Number: 2005-0497**

**File Number:** 2005-0497      **File Type:** Ordinance      **Status:** For Introduction  
**Version:** 2      **Reference:** N/A      **Controlling Body:** City Council  
Regular Meeting  
**Requester:** Planning/Development      **Cost:**      **Introduced:** 07/19/2005  
**File Name:** Conditional Rezoning Ordinance      **Final Action:**

**Title:** Acceptance for First Reading - An Ordinance to amend Section 138-7 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to prescribe a procedure for considering Conditional Rezoning requests, to repeal conflicting ordinances and to prescribe a penalty for violations.

**Notes:**

**Code Sections:**

**Agenda Date:**

**Indexes:** Ordinance

**Agenda Number:**

**Sponsors:**

**Enactment Date:**

**Attachments:** Agenda Summary.pdf, Ordinance Amendment.pdf

**Enactment Number:**

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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1	Planning Commission	08/02/2005	Recommended for Approval	City Council Regular Meeting			Pass
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**Notes:** *(Reference: Memo prepared by Ed Anzek dated July 29, 2005, had been placed on file and by reference became part of the record thereof.)*

*Mr. Delacourt advised that Mr. Staran had prepared a proposed amendment to the Zoning Ordinance to identify the use and law for Conditional Rezoning (CR). There had been several discussions by the Planning Commission and City Council regarding whether the City should develop a policy or an Ordinance. The Planning Commission had reviewed several versions of much more detailed amendments and it was indicated that they would like something simpler with ease of use. The amendment was prepared for a Public Hearing and recommendation.*

*Mr. Boswell opened the Public Hearing at 7:33 p.m. Seeing no one come forward, he closed the Public Hearing.*

*Mr. Boswell noted that the amendment included an optional pre-application*

meeting between the applicant and the Commission. He wanted clarification why that route was taken rather than requiring a mandatory meeting. He explained that he questioned it because many times people came before the Commission before they should have. He believed that if the Commission reviewed requests for CR and told the applicant no, the applicant would go back and redo the proposal anyway.

Mr. Delacourt said there was debate about whether to require a pre-application meeting as a part of the amendment. Staff recalled previous Planning Commission meetings, which showed they wanted something simple and comparable to standard rezonings. Mr. Anzek's memo had directed that a discussion with the Commission could be held. Mr. Delacourt did not believe it was any different than a regular rezoning. An applicant was always able to come forward and request a discussion item with the Planning Commission.

Mr. Staran stated that the amendment was set up so that the pre-application meeting was not at the applicant's discretion, but the Planning Commission's discretion to require or not. He did not make it mandatory, but rather permissive, because he felt some requests would be very simple. There would be some that did not require much discussion and some would be more complicated.

Ms. Hill questioned how the Commission would know whether the pre-application meeting would be needed. Unless the applicant spelled out the program first and they saw something ahead of time, she was not sure how the Commission would make that determination.

Mr. Staran replied that it would be similar than how it was now. Staff was the clearinghouse, and they would flag the items and bring them to the Commission's attention. Ms. Hill said she understood that, but it was not the case each time. The Commission was informed on some projects, but many items appeared on a schedule without them having knowledge. She concurred with Mr. Boswell and felt that if something was very simple it could be waived, but she thought there should be a requirement for all projects. It was a little different than a straight rezoning, since there were conditions.

Mr. Staran indicated that if it was the preference of the Commission, he could certainly reword it to get to the same result, and rather than have it in the permissive, he could set it up to be mandatory, unless waived or deemed unnecessary by the Commission.

Ms. Hill referred to paragraph (b) and said it referred to "landowner." She noted that the applicant did not necessarily own the land, and wondered if that should be referred to as an applicant or petitioner. Mr. Staran said he used the word landowner because the statute used the terminology, "owner of land." He wanted to be consistent with the statute. Also, on his advice, it was Staff's practice that the City would not process rezoning requests unless

there was documentation from the title holder, who also had to sign the application, or some type of written consent. Someone could not come in and rezone someone else's land without the owner's consent.

Ms. Millhouse advised that if the owner was not applying for the rezoning, there must be a notarized letter from the property owner, authorizing the individual to act as the agent. Ms. Hill indicated that she was aware of that.

Ms. Hill referred to paragraph b, the last sentence, and read in part, "the Planning Commission may, prior to scheduling the Conditional Rezoning request for Public Hearing, meet with the landowner to consider," and she questioned whether it should say, "meet with the landowner to discuss" potential Conditional Rezoning requests. She thought the word "consider" sounded as if a project was being done a certain way, and Mr. Staran agreed it could be taken out, since it might be superfluous.

Ms. Hill suggested that if Staff determined a request was simple enough and a pre-application meeting was not necessary, Staff could waive that requirement. Ms. Millhouse agreed, and gave the example of a property owner who said he wanted to put a bank on the property, and did not want any other uses. She felt that would be a pretty simple request the Commission (or City Council) could consider or not. It would depend upon certain things, of course, but she felt that some requests would require more explanatory conditions and others that were truly simple.

Mr. Schroeder commented that he thought the proposal was a shorter and sweeter amendment to a short and sweet State statute. He thought it was great and moved the motion in the packet.

**MOTION** by Schroeder, seconded by Rosen, that the Planning Commission **recommends** that City Council **amend** sections 138-7 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, and adopt sections 138-7(a) and a new section (b) for the consideration of conditional rezoning applications, with the following changes:

1. Delete the words "consider and" from paragraph (b), last sentence.
2. Change wording in paragraph (b) to reflect a mandatory preliminary meeting which may be waived by Staff.

Mr. Rosen felt that the important thing about the amendment was that it did not change the basic criteria for rezonings. Without something like this in the Ordinance, people could contend that the Commission should not see a request beforehand and that it should all be public, with no opportunity to discuss it beforehand at all. This would give the Commission permission, in the Ordinance, to actually sit down and discuss whether a project was complete and would work, and for that he thought it was very worthwhile.

*Mr. Staran thought the Commission had the authority to do that anyway, but he believed it would save them a potential argument.*

Aye: Boswell, Brnabic, Hardenburg, Hill, Kaltsounis, Rosen and Schroeder  
Excused: Hooper and Reece

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**Text of Legislative File 2005-0497**

..Title

Acceptance for First Reading - An Ordinance to amend Section 138-7 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to prescribe a procedure for considering Conditional Rezoning requests, to repeal conflicting ordinances and to prescribe a penalty for violations.

..Body

**Resolved** that an Ordinance to amend Section 138-7 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to prescribe a procedure for considering Conditional Rezoning requests, to repeal conflicting ordinances and to prescribe a penalty for violations is hereby accepted for First Reading.