



Rochester Hills

Master Report

1000 Rochester Hills Drive
Rochester Hills, MI 48309
(248) 656-4660
Home Page:
www.rochesterhills.org

File Number: 2005-0481

File Number: 2005-0481 **File Type:** Ordinance **Status:** For Introduction
Version: 2 **Reference:** 04-013 **Controlling Body:** City Council Regular Meeting
Requester: Planning/Development **Cost:** **Introduced:** 07/12/2005
File Name: Talon Development Group Rezoning Request **Final Action:**

Title: Acceptance for First Reading - An Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone two parcels of land totaling approximately 4.2 acres, located at the northeast corner of Hamlin and Livernois, from R-3, One Family Residential, to O-1, Office Business, known as Parcel Nos. 15-22-351-001 and -002, Talon Development Group, Inc., applicant.

Notes: Talon Development Group, Inc.
Steven Vanden Bossche
Kathy Wilson
550 Hulet Drive, Suite 103
Bloomfield Hills, MI 48302
(248) 745-3531
(248) 334-1915 fax

Code Sections:

Indexes: Rezoning

Sponsors:

Attachments: Agenda Summary.pdf, Map aerial.pdf, Report Staff.pdf, Rezoning Application[1].pdf, Zoning Ord 138-752.pdf, Ordinance Amendment.pdf

Agenda Date:

Agenda Number:

Enactment Date:

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	07/19/2005	Recommended for Denial	City Council Regular Meeting			Pass
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Notes: *(Reference: Memo prepared by Ed Anzek, dated July 19, 2005, had been placed on file and by reference became a part of the record thereof.)*

Present for the applicant were Michael Posinelli, President of Talon Development Group, 550 Hulet, Suite 103, Bloomfield Hills, MI 48302; Kathy Wilson, Vice President of Acquisition and Brokerage and Steve Vanden Bossche, Acquisitions Manager, Talon Development Group.

Mr. Posinelli noted that they were before the Commission on April 19, 2005

to discuss the possibility and opportunity to use Conditional Rezoning (CR) for the parcels. They did not receive any input from the Commission, and it was their feeling that Conditional Rezoning was not acceptable at that time. They were requesting traditional rezoning from R-3, One Family Residential to O-1, Office Business. He stated that the subject parcels were located at the northeast corner of Hamlin and Livernois and totaled 4.7 acres. He advised that the north parcel had a single-family residence and the south parcel was vacant. Once the right-of way proposed for both Hamlin and Livernois were taken into account, there would be about 3.3 acres.

Mr. Posinelli noted that Talon had been involved with the subject parcels for about nine months. They first proposed a senior housing development and were discouraged by Staff who did not feel it was an appropriate type of development. He noted that they had also been awarded the Stiles School project (South Boulevard and Livernois) and he said they looked forward to working with the Commission on a proposal for that site in the next 30 to 60 days.

Mr. Posinelli continued that they were present to talk about the viability of residential zoning at the subject corner, and the resulting changing environment, both there and within the City of Rochester Hills. He reiterated that Livernois and Hamlin were scheduled to be widened with boulevards and turn-arounds. He believed that would affect the subject property adversely, to the extent that it would create restricted access, additional traffic, and it would become much less desirable as a residential piece. The amount of traffic on Rochester Road to the east had forced Livernois to be an alternate north-south avenue, and additionally, Crooks and the Adams Road improvements would make Hamlin an east-west connector. Over time, the intersection would see an extensive amount of additional traffic, further compounding residential development. He showed the Master Plan and said the subject site was surrounded by institutional use, although there was residential zoning. One church had plans to expand and the other had a desire to expand. They would be low intensity, but non-tax uses. He referred to the Master Plan and said it spoke to promoting a compatible arrangement of land uses for homes, with the intent to keep neighborhoods relatively quiet and free of unrelated traffic noises. The subject corner would have just the opposite effect and that would not be consistent with the Plan. In most municipalities, the corner would be called an infill, because it was surrounded by non-compatible uses and was on a major thoroughfare. Talon had done many infill projects in other cities and none had been single-family - they had all been multiple, including high rises and brownstones.

Mr. Posinelli talked about the fact that CR was adapted for cases such as his, noting that the existing zoning might not be appropriate. They still felt that using CR would be the way to go because it would allow a different use and allow the applicant to restrict the development. However, the City did not think they should pursue that. He said that Staff had done a thorough

job of talking about the specific parcels and why they were requesting O-1 zoning in lieu of the residential zoning. He felt that the only issue was that the summary of the Staff Report recommended a legal answer, not the appropriate answer for what was best for the site. He indicated that the review spoke to the fundamental threshold issues of the developer proving that the rezoning requested was appropriate. He did not believe residential zoning was consistent with the Master Plan or Ordinance for that location. The location did not promote the criteria in the Ordinance needed for residential development. While single-family zoning might exist for the churches, they were not going away and were expanding. He indicated that they were before the Commission with a conundrum; there was a Master Plan showing R-3 zoning, but two parcels that did not fit what they City was looking for in an R-3 or any single-family zoning. They had talked about developing a 12,000 square foot child-care operation and a 20,000 square foot office. 4.7 acres could permit up to 47,000 square feet with a multi-story building. They would propose about 32,000 square feet. There would be two separate uses, open space, and limitations. He concluded that he believed Talon had proven the case that the two parcels were not appropriate for residential zoning, and were much more conducive to office.

Mr. Anzek stated that Mr. Posinelli did a very good job of summing up the history and how they got to the present. Staff had worked with Talon for well over nine months, and every time they brought forward a proposal, Staff cautioned that the City was in the middle of a Master Land Use Plan update. It would always be difficult to make a decision about rezoning a property until that effort was completed. He wished to note that Staff did not make legal opinions because they were not attorneys. The burden was on the applicant to prove that the current zoning was not of value. Staff would make a recommendation, in zoning cases, based on what the Master Land Use Plan showed, and it called for the subject parcels to be single-family, which was the basis of the recommendation.

Mr. Hooper opened the Public Hearing at 9:35 p.m.

Anna Reseigh, 2036 Cumberland, Rochester Hills, MI 48307 Ms. Reseigh stated that she had been a resident of Rochester Hills since 1989. She believed that the rezoning of the parcel and the building of professional office space was not in the best interests of the City. One reason was because the current supply of this type of space in the City exceeded the demand, which was evidenced by the number of "for lease" signs posted at existing professional office buildings. She took a drive around a portion of the City and found 14 buildings with for-lease signs. There were six on Barclay Circle, three at the intersection of South Boulevard and Rochester Road, one at Crooks and Auburn, one at Crooks and Hamlin, two on Livernois north of Avon, and she noted the new building for lease at Yorktowne on Rochester Road. She also believed that development of the parcels would not align with the wishes of the citizens. An attraction of the City had been its large residential lots with trees and green space. During

the past six years, much of the green space had been lost to development, and she knew many citizens did not want to lose the remaining green space. She indicated that while development was necessary at times, she believed that the proposal was not. It would add more unneeded professional space and further reduce the natural beauty of the City. She pleaded that the Commission not change the zoning of the land.

Richard Robinson, 875 W. Hamlin, Rochester Hills, MI 48307 Mr.

Robinson said he had lived in the area quite a few years and, in his opinion, spot zoning was not a good thing in most cases. He felt that if the subject parcels were rezoned, the property to the west of him would be rezoned commercial. He did not feel this was in the best interest of the residents in the area, and he hoped the City did not make the change. He believed it would be a much more congested area and he would appreciate if it remained residential.

Gary Jaracz, 582 W. Hamlin, Rochester Hills, MI 48307 Mr. Jaracz noted

that he lived on one of the larger parcels on Hamlin. He told a story about telling people which direction to use to come to his house, and it was to avoid Rochester and Crooks Roads to get to Hamlin. He advised them to take Livernois because he was proud of the City and what Livernois still looked like. He told people to look at the huge Bebb Oak tree at South Boulevard. He noted that at Hamlin, there were three corners that were great looking, wooded areas, which the City was losing. He understood where the developers were coming from. He had been very in tune with the Master Plan, which kept things the way they were so commercial spot rezonings could not happen. Mr. Posinelli had mentioned that he felt the parcel was not next to residential, but there was an existing home that would be torn down. People liked to see the existing home. He would like the City to purchase the corner and turn it into a mini-park. It would be perfect for that, since bike paths are being encouraged and the rails-to-trails was nearby. He hoped the Commission had considered his comments, and if they wanted more proof that people in his area did not want the rezoning, he would get a petition signed that showed that the majority of the people did not want the zoning change.

Barney Odoerfer, 900 W. Hamlin, Rochester Hills, MI 48307 Mr.

Odoerfer advised that he was the Pastor of Covenant Christian Church, which adjoined the subject property. His concern was that the applicants had a survey done and the lines were 35 feet into the church's property. He stated that his property was the only one with sidewalks, which went from lot line to lot line and there was a fence line, but the surveyors put stakes onto his property.

Mr. Hooper indicated that it was something that should be resolved between the land surveyors for each property.

Mr. Odoerfer concluded that it was a very high traffic area, and more

commercial would make it worse.

Shirley Metzler, 1311 New Life Lane, Rochester Hills, MI 48309 Ms. Metzler said her thoughts were the opposite of the others. She felt that zoning was about being consistent and that the three vacant corners at Livernois and Hamlin should be consistent. All the residents used many of the businesses and offices that had been developed on some of the residential properties, through PUDs, rezonings, or consent judgments. People preferred not to have to drive to other cities to use these facilities. This proved to her that changes had been made already, and that many of the corners worked well for the residents. The three corners at Hamlin and Livernois were very difficult to be developed as zoned. She indicated that she and her husband did not have any problem with the rezoning request. She took a ride up Livernois, from South Boulevard to Tienken. At South Boulevard there was a school and animal clinic; at Auburn Road there were two gas stations, an auto repair and a church; and on Hamlin, there was light industrial and three residential vacant pieces. She believed that on the one corner there was a house that had to be moved because of the traffic and noise. On Avon, there was a rental hall; a church-owned piece on the northwest corner; and City-owned property on the other corner. On Walton, there were two gas stations, a school, a bank, and a Walgreen; and on Tienken, there was a golf course and three residential sites. She saw it all working in the City. She believed that residents drove to many restaurants and it was all right for people in Rochester Hills to drive far. For some reason, the Livernois Hamlin corner was a problem, and it had been like that for many years. She felt that the City needed to take another look at it, whether at the meeting or through the Master Plan.

Mr. Hooper closed the Public Hearing at 9:46 p.m.

Mr. Hooper clarified that the applicant had been advised that the City was in the middle of the Master Land Use Plan update, which would not be decided for six months or more. He brought up the statement about the City buying the property for a park and said it would be highly doubtful, given the City's current finances. Regarding the natural features, he noted that if a home were built on the property as zoned, the owner could take all the trees down to build it. Should the property ever be developed as residential, it might not exist as in its current state. Regarding supply exceeding demand for office property, he indicated that the market was cyclical and they lived in a dynamic world. What existed today might not exist tomorrow or five years from now. The intent of the Commission is that the Master Plan was a dynamic plan for the future, not for what existed today.

Mr. Rosen stated that the subject property had been under single ownership for about 15 years and had been before the Planning Commission two or three times for a change in the zoning. He noted that a daycare would be permitted as a conditional use in the current residential zoning. He believed the house was still occupied because there was a for-sale sign and that there

had been an effort not to develop the corner parcel, in the hopes that it would eventually turn commercial and be worth a lot more. It was usable for a daycare and usable for residential. He said he was surprised at how many new homes had been built on Livernois, South Boulevard, on Auburn and in places he thought they never would be. The north parcel was clearly viable as residential because it was being used that way. Even though there were churches around the parcels, they were permitted uses in residential zoning.

Mr. Posinelli said they originally looked at the corner parcel for a childcare center, as it would be a good fit. Their approach was that the existing residential home would be sandwiched between two different uses, which, although they were in residential zoning, were not consistent with residential quality of life. They thought it would be best to look at the two pieces as one and do a unified development. They would be prepared to come back, although they did not think it would be fair to the owner of the home and for the person who lived there. He thought that for good planning practices, it would be much better to look at both of the parcels as unified parcels. He felt doing only a childcare center would be shortsighted land development for them and for the City's future.

Mr. Hooper asked if he felt the house would be sandwiched between the church and the childcare center, which Mr. Posinelli confirmed, and Mr. Hooper reminded that there was a childcare center down the street next to residential with the freeway on the other side.

MOTION by Rosen, seconded by Kaltsounis, in the matter of City File No. 04-013 (Talon Development Rezoning), the Planning Commission **recommends** to City Council **denial** of the request to rezone 4.74 acres, identified as Parcel Nos. **15-22-351-001 and 002**, from R-3, One Family Residential to O-1, Office Business.

Mr. Hooper commented that the parcel on the corner had been vacant for a long time, and he felt that if it was a great residential piece of property, it would have had a home on it already. He agreed with Mr. Rosen that they would only need to put together a Site Plan for a childcare center and bring it forward.

Ms. Hill advised that the Commission also needed to consider the other possibilities that could happen to the property with O-1 zoning. She thought there were still viable uses under the existing zoning, and noted that it was not limited to what the applicant wanted to do.

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

Text of Legislative File 2005-0481

..Title

Acceptance for First Reading - An Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances

of the City of Rochester Hills, Oakland County, Michigan, to rezone two parcels of land totaling approximately 4.2 acres, located at the northeast corner of Hamlin and Livernois, from R-3, One Family Residential, to O-1, Office Business, known as Parcel Nos. 15-22-351-001 and -002, Talon Development Group, Inc., applicant.

..Body

TWO OPTIONS:

Option 1 - Deny Request

Resolved, that the request to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone two parcels of land totaling approximately 4.2 acres, located at the northeast corner of Hamlin and Livernois, from R-3, One Family Residential, to O-1, Office Business, known as Parcel Nos. 15-22-351-001 and -002, Talon Development Group, applicant, is hereby denied.

Option 2 - Accept for First Reading

Resolved, that an Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone two parcels of land totaling approximately 4.2 acres, located at the northeast corner of Hamlin and Livernois, from R-3, One Family Residential, to O-1, Office Business, known as Parcel Nos. 15-22-351-001 and -002, Talon Development Group, applicant, is hereby accepted for first reading.