



Rochester Hills

Minutes - Draft

Planning Commission

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Chairperson Deborah Brnabic, Vice Chairperson Greg Hooper
Members: Gerard Dettloff, John Gaber, Nicholas O. Kaltsounis, Stephanie Morita,
David A. Reece, C. Neall Schroeder, Ryan Schultz

Wednesday, June 5, 2019

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Deborah Brnabic called the Regular Meeting to order at 7:00 p.m. in the Auditorium.

ROLL CALL

Present 8 - Deborah Brnabic, Gerard Dettloff, Greg Hooper, Stephanie Morita, David Reece, C. Neall Schroeder, Ryan Schultz and John Gaber

Excused 1 - Nicholas Kaltsounis

Quorum present.

Also present: Sara Roediger, Director, Planning and Economic Dev.
Kristen Kapelanski, Manager of Planning
Paul Davis, Deputy Director, DPS/Engineering

COMMUNICATIONS

A) *Planning & Zoning News dated June 2019*

PUBLIC COMMENT

Chairperson Brnabic opened Public Comment at 7:02. Seeing no one come forward, she closed Public Comment.

UNFINISHED BUSINESS

2018-0173 Request for Final Site Condominium Plan Recommendation - Cumberland Village, a proposed 57-unit site condo development on approximately 23 acres, located on the east side of Livernois, south of Hamlin, zoned R-3 One Family Residential with a MR Mixed Residential Overlay; Various Parcels, Lombardo Homes, Applicant

(Reference: Staff Report prepared by Kristen Kapelanski, dated May 31, 2019 and site condo plans and elevations had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Greg Windingland and Cosimo Lombardo, Lombardo Homes, 13001 23 Mile Rd., Shelby Township, MI 48315.

Ms. Kapelanski stated that the proposal was for a 57-unit site condo development. It had been considered at the May 21, 2019 Planning Commission meeting and postponed. She noted that the Preliminary Site Condo Plan had been approved by City Council on June 4, 2018 after a positive recommendation by the Planning Commission. There had been a change to the Final Plan in that the northern access had been changed to emergency only, and a gated access had been proposed. A right in, right out only and a full access were discussed for that drive in the provided Engineering memo and a letter from the applicant. The gated access was the preferred option both by the applicant and the City's Engineering staff. It would provide the required Fire access and would not increase the potential traffic conflict on Livernois, which had been a concern by staff, especially given the proximity to the roundabout at Hamlin and Livernois. The Fire Department had indicated that a gate with a Knox box was the acceptable standard for emergency access, and that bollards and grass pavers were not acceptable options. She noted that Mr. Davis of the Engineering Dept. was present to answer questions.

Mr. Windingland apologized for not being at the last meeting. He had a conflict and had sent another project manager to the meeting who did not know the site as well. They did not know the issue would come up. The history of how it went from what was shown on the Preliminary to what was shown on the Final Plan involved a lot of discussion and meetings with staff, the Road Commission, and their traffic consultant and design engineer. They first looked at full access for the northern drive, but there were issues in being able to construct it within the existing right-of-way (ROW). The west side of Livernois only had a 33-foot ROW, and the Road Commission (RCOC) would not let them offset improvements. There was an issue being able to construct the lanes to the full width, and one would only be 11 feet wide. They talked about right in, right out, but that was not desirable from an enforcement standpoint and controlling movements closest to the roundabout. They talked with Mr. Cooke of the Fire Dept., and he told them they could do an emergency access that would satisfy the requirement of having two means of ingress/egress. Mr. Cooke pointed out a couple of locations on South Boulevard where the gated configuration they were proposing was in use in the City. The City had not had any issues, and they met the Fire Code requirement. He concluded that they were present to answer any additional questions, and they were seeking approval.

Mr. Gaber said that he was trying to understand how traffic was going to flow out of the main boulevard entrance. He wondered how left turns would be accommodated into both the development coming from the north and for across the street going from south to north. He asked if there would be any bypass lanes. He just saw a single lane going in each direction.

Mr. Windingland responded that they would be providing a bypass lane at the southern entrance. There would be two outbound lanes - one for northbound and one for southbound traffic. There would be significant stacking ability if needed. If they had to put in the northern entrance, the concern was having traffic movements that close to the roundabout. The southbound traffic would use the southern entrance, and there was enough room to queue for northbound traffic. Also, the warrants necessary for a second entrance were not met. The second entrance was exclusively to satisfy the Fire Code.

Mr. Gaber said that made sense, but he was still trying to figure out how traffic would flow relative to the entrance. If someone wanted to turn left from either the north or south, he did not see a bypass lane for traffic to go around them, like there was for Cumberland Pointe. He said that he would have a problem if people were in rush hour traffic turning left across the street from the proposed development and not allowing anyone to get around them. That congestion was provided for in all the other subdivisions up and down Livernois. Mr. Schultz asked if there was a lane striping set provided. Mr. Windingland said that it was not in the site plans, but it would be in the engineering plans. He was trying to determine if there was sufficient room to accommodate a bypass. Mr. Gaber reiterated that Cumberland Pointe had them.

Mr. Davis said that if people were going northbound and wanted to turn into the subdivision on the west side of Livernois, they would turn from the through lane, but northbound traffic would have the bypass lane and go around that person. For the south side, it would be the same. It was wide enough to get around.

Mr. Gaber said that with respect to the northerly entrance, he understood the concerns that it might not be needed, or that it would be too close to the roundabout. He respected the Fire Dept.'s position as well. He just had difficulty with putting a gate as the type of mechanism to use for emergency accesses. He pointed out that the City's policy over the years was to have an interconnected community with roads connecting new and old subdivisions and stub streets. He was sure it would be an attractive

gate, but it would be big. It would be like a gated entrance to a neighborhood, which he thought they were trying to get away from. He believed that Walnut Brook Estates used to be gated, but it was removed. He was not sure if there were any other alternatives to satisfy the Fire Dept. other than an imposing gate. He encouraged them to try to come up with a resolution that looked less intrusive. Mr. Windingland stated that they would be willing to work with the Fire Dept. to see if there was something other than a gate that would satisfy.

Mr. Davis indicated that the issue was a classic example of competing requirements amongst departments. The Fire Dept. had something they preferred, Engineering might come up with a different recommendation, and Planning Commission and Planning Dept. might have different ones as well. They were trying to figure out the best situation, which might not be the best alternative for all departments. The noncompliance with right in, right outs had been mentioned, and they knew that would be a problem. They were only as good as the ability to enforce them. They were confusing, and people would violate. Engineering felt that the development was sufficient with one entrance to the south, getting it further away from the roundabout. Part of the objection to the northerly entrance, whether it was full access or limited, had been that people would come out of a dual lane roundabout. Traffic might negotiate that from the roundabout to the entrance in 7 ½ seconds. There would be traffic on Hamlin turning south on Livernois competing with someone coming south on Livernois through the roundabout. That Hamlin Rd. person might want to get into the center turn lane, and they would have a shorter period to make one lane movement and slow down and get into the center turn lane. He realized that the Fire Dept. had a requirement for a second entrance, but from an engineering and access management standpoint, they did not recommend it.

Mr. Gaber asked Mr. Windingland if he could make the gate as inconspicuous as possible and blend it in with landscaping. Mr. Windingland said that they would be happy to work with staff.

Mr. Hooper noted that the Preliminary passed six to three, so he considered that if two yes votes were lost, the Final would not pass. He went over the two conditions added for the Preliminary approval: provide modified plans showing a center left turn lane at the northern entrance at Final, which had been changed. He felt that was where things went sideways. Two entrances were shown on the Preliminary, so that situation should have been halted back then. The other condition was to add trees and shrubs along the eastern property line to discourage cut-through

traffic to Hamlin. He asked if the Juniper trees were added to satisfy that requirement, which Mr. Windingland confirmed. Mr. Hooper noted that Mr. Shumejko had talked about Foxboro Subdivision in his memo. Mr. Hooper mentioned Hazelton Condos. 22 years ago he was on the Commission, and there was the same argument. It was a long, circular subdivision similar to what was proposed that had a single entrance. At that time, the Fire Dept. wanted two entrances in and out, and they ended up putting in a boulevard. He said that he had been opposed to that right from the start, although it eventually passed. He stated that he did not want to repeat that situation again. He had been a yes vote for the Preliminary, but he could not support the current plan. He would support it if the northern entrance was a right in, right out with no gate. He said that he wanted to see the development happen. It was a great subdivision with a great developer, and he knew Mr. Windingland personally as a great guy. He felt that they needed to do the right thing, however, and provide a second means of entrance, and a compromise for him would be a right in, right out.

Mr. Schroeder suggested that they could put in a pork chop that would force right in, right out. Mr. Windingland advised that the RCOC would not allow any improvements to extend into the row. When they plowed, they did not want to encounter a high curb or obstacle. Mr. Schroeder considered that it could be moved back.

Mr. Reece said that he agreed with Mr. Hooper. When the project came before them for the Preliminary, there was discussion about the density. Getting rid of the second entrance would be a show stopper for him. He could not support it as it was currently depicted.

Mr. Gaber commented that he respectfully disagreed with his colleagues. He lived in that area, and he did not think that right in, right out would alleviate any of the issues. The real difficult turning movement would be going south in the morning. In morning traffic, most people wanted to go south and with a right in, right out, they would not be able to do that. If they wanted to go north, they could go to the southern entrance. In the evening, most of the traffic would be coming from the south, and they could easily turn into the south entrance. It did not think right in, right out would alleviate the traffic they were concerned about.

Chairperson Brnabic asked Mr. Gaber if he had a solution. He said that he could live with what had been presented. The options were to close it, do a right in, right out or have a full access. He understood what Mr. Davis had said about Engineering's concerns about proximity to the

roundabout. He felt that those were valid concerns.

Ms. Morita said that she tended to agree with Mr. Gaber in terms of staff's recommendations and trusting that they had made the right decision. If the Fire and Engineering Depts. were okay with it, then she should be okay with it. The problem was that she did not want a gate there, either. She did not think that it would look good. The project had already faced opposition on Council, because there was no park or open space. Even if it got through Planning Commission, she was not sure whether there would be support on Council with the changes. She did not think that some of her colleagues would find it acceptable. She was not sure how she would vote. She asked the applicants if they wanted the Commission to vote or if they wanted to take the plan back and see if there was another option to make the proposal a little more desirable.

Mr. Windingland said that regarding a full access, he did not think it was in anyone's best interest. The right in, right out would not really address any of the concerns he had been hearing. The concerns were mostly about people leaving the sub to go southbound. A right in, right out would prevent that, unless the curbing was disregarded. They would be happy to work with Fire and Planning to try to make the gate look less inconspicuous. He suggested that they could make it look like a landscape feature. He understood the objection to gates in the community.

Ms. Morita was not sure, because she did not have a gate design in front of her to be able to weigh in. She commented that a picture "speaks a thousand words." She asked if they wanted to look at that and come back, and she considered that it might be more palatable once people could see what the gate looked like. She appreciated their hard work and investment in the community, and she did not want it to be any more difficult than necessary, but she stressed that it would be on a major north/south thoroughfare in the community. She did not know what the traffic count was, but it was not a minor road. She added that people would see the gate every day.

Mr. Windingland understood that the right in, right out was Engineering's second choice. If that would satisfy the Commission, they could do that. He did not want to go against professional staff, but he indicated that he was in the middle.

Mr. Davis pointed out that the secondary entrance would only serve two homes. They required a 22-foot wide roadway, and he suggested that

they could try to minimize the appearance of the gate and work with Fire to come up with something acceptable.

Mr. Schultz asked if Fire was not on board with a grass paver solution, and if it had to be paved. He questioned how often the emergency access would ever be used. In that one instance where it was, he believed that they would put the fire truck where they wanted. Ms. Kapelanski stated that the policy of the Fire Department was to not accept grass pavers, because it would not be plowed, and it was against the fire code. Ms. Morita wondered who would plow the gate. Mr. Schultz said that he knew enough about civil engineering to be dangerous, but he struggled when the professionals on staff rendered decisions, and the Planning Commission sometimes undermined staff's decision. He said that he could be on board with the proposed plan as presented.

Mr. Windingland said that as far as plowing the gate, they would have a Master Deed, and the Association would be responsible to do the private streets. There would be a snowplowing contractor. One of the obligations would be to make sure that the access was maintained in the winter. Ms. Morita thought that the grass pavers could be plowed as well. Mr. Windingland agreed. He suggested that they could also add colored, stamped concrete to look more decorative. He understood the gate issue, but it was kind of a corner they were boxed into.

Chairperson Brnabic pointed out that the Fire Dept. would not budge on grass pavers. Ms. Kapelanski agreed, and said that stamped concrete might be something that would work. Mr. Davis agreed. He said that it was not often that Mr. Cooke dug his heels, but for this project, grass pavers were totally unacceptable.

Mr. Reece stated that one of his issues was that they had talked about pocket parks, and it was turned down by the applicant. A bigger issue was 57 homes with one entrance across the street from another subdivision. He respected the City's Engineering Dept. and their professional opinion. However, with that many homes and one entrance directly across from another major subdivision on an already congested road, he maintained that it was a recipe for disaster. He did not care what the warrants said, and it came down to common sense. There would be 57 homes with one entrance on a major thoroughfare that was already congested, which made no sense to him.

Mr. Davis agreed that Mr. Reece made a fair point. They had to determine at what point the second entrance would be required from an

Engineering standpoint. They showed an example of Foxboro on Walton with 54 homes with a single entrance that had been effective. For many years, Kings Cove and the Summit did not have a traffic signal, and there were far more homes onto a busy road. At some point, professional judgment came into play, whether it was a Planning Commission member or an Engineer or the developer. From Engineering's standpoint, one should be sufficient, but he said that he could respect contrary opinions.

Mr. Gaber asked if the development met all the Ordinance requirements, which Ms. Kapelanski confirmed. Mr. Gaber said that it would be hard to say no to the development when the Ordinance allowed the applicants to do what they proposed. If the Commissioners did not like it, they needed to revise the Ordinance. He pointed out at the last meeting a problem with the Ordinance for average lot width. For the proposed development, it allowed the widths to go down to 81 feet, and it did not require an average of 90. He felt that the proposed layout took full advantage of that, although the lot area did require the right threshold. He would have liked to see something less dense, but the question was whether they had a right under the Ordinance. In terms of landscaping and tree preservation, he asked if they were replacing as many as they could on site as opposed to paying into the Tree Fund. Mr. Lombardo explained that they were not subject to the Tree Conservation Ordinance.

Mr. Windingland said that they were trying to work with the competing interests of the City, but they were caught in the middle. They would do what they needed to move forward, whether that was working with Planning staff and trying to minimize the width of the entrance and masking the look or coming up with something that was not a gate. If it meant having right in, right out, they were willing to do that. They understood that it was not the first choice of Engineering.

Mr. Dettloff said that Mr. Davis raised an interesting point. He lived in King's Cove, and he lived with the issue before having a traffic signal for many years. There were times he wondered if he could ever get out of the sub. He asked if the development could possibly merit a traffic signal. Mr. Davis said that it would not at this point, and with the roundabout proximity, he was not sure it ever would. He thought that Livernois would come up in the Master Thoroughfare Plan update. The last one said to not touch Livernois, and they did not want to expand it to a five-lane road no matter what the traffic. The traffic on Livernois was 15,140 vehicles (from 2016). That was less than what Tienken had. It was approaching capacity, and at some point, the City would have to decide about widening

Livernois or not. If it was kept at a two-lane roadway, there would be congestion regardless of the proposed development.

Chairperson Brnabic stated that the whole situation was difficult. She realized that the applicants were trying to cooperate. The Planning Commission had concerns, and there was advice from staff. She had a concern because of the density and having one entrance, but the Ordinance was being followed and lot averaging was allowed. The Ordinance did not require open space for the development, and that was more of a discretionary item.

Mr. Gaber mentioned that as Mr. Windingland said, there were ways to provide a Master Deed mandating the plowing in the sub and to provide self-help remedies with penalties the City could exercise if, for whatever reason, that was not done. He had seen that in a lot of condo documents. He understood the competing concerns, and he saw different opinions on the board, so in order to give the project its best chance for success, he moved to table the request so the applicant could look at the northerly drive issue. They could look at the options, such as right in, right out, colored pavers, more landscaping and trying to obscure the gate, reducing the width of pavement and working with Fire and Engineering to try to come up with a solution. Mr. Dettloff seconded the motion.

Mr. Windingland said that he appreciated everyone trying to help move the project along. If they came back with a decorative gate, he was still not sure that would be compatible to some of the Commissioners. He was willing to do a stamped, decorative concrete to a narrower width, but he was not sure that would get enough votes. He asked if they should just agree to the right in, right out in an attempt to satisfy everyone.

Mr. Gaber said that it was hard to say. There had been a variety of opinions, and there was not a consensus. Ms. Morita made a great point about pictures being worth a thousand words. If some kind of rendering could be provided and what right in, right out might look like, it would be up to the Commission to make a decision.

Mr. Schroeder asked if it would be possible to put in a decorative, wooden fence that could break away. Mr. Windingland said that they could do that, but he was pretty sure that the Fire Dept. did not want a break away. That was why they wanted a Knox box. Mr. Schroeder noted that there were break away wooden signs, and when trucks hit them, they broke at the bottom. He acknowledged that it would be the Fire Dept.'s decision. He asked if they had a traffic engineer look at it, and Mr. Windingland

said that they used Mike Labadie. Mr. Schroeder suggested that someone else should look at it.

Mr. Hooper asked what ROW improvements were proposed. Mr. Windingland advised that there were some storm sewer and improvements at the south end. There was a taper that would go to the emergency entrance. It would be minimal based on the need to install the two connections. Mr. Hooper noted that the southern entrance was existing. Mr. Windingland said that there was not much. Mr. Hooper said that the Preliminary approval was conditioned upon providing a center left turn lane at the northern entrance, but they would now not do anything. He felt that there were other things they could do. He asked why they could not eliminate the piece on the west side of Livernois at the southern entrance and extend the center turn lane. Mr. Windingland was not sure that would alleviate anything. Mr. Hooper said that it would provide more stacking for someone going southbound in the center turn lane. It sounded like due diligence was missed all over, and he asked what ROW improvements they could do to mitigate the problem. Mr. Windingland said that the center through lane would still have the existing bypass lane, but he saw the point. Mr. Hooper suggested that there might be other options.

Chairperson Brnabic asked the applicants if they agreed to table the matter. Mr. Windingland said that they did.

MOTION by Gaber, seconded by Dettloff, in the matter of City File No. 17-019 (Cumberland Village Site Condominiums), the Planning Commission hereby **tables** the request for **Recommendation of Approval of the Final Site Condominium Plan** so the applicant can further investigate options regarding the northern entrance as discussed.

A motion was made by Gaber, seconded by Dettloff, that this matter be Tabled. The motion PASSED by an unanimous vote.

DISCUSSION

2019-0027 Tree Preservation Ordinance Update

(Reference: Memo prepared by Ken Elwert, dated June 5, 2019 and Draft Ordinance had been placed on file and by reference became part of the record thereof.)

Present for the discussion were Ken Elwert and Matt Einheuser, Parks and Natural Resources for the City.

Mr. Elwert advised that the memo and draft ordinance in the packet talked about the changes made based on the initial joint Planning Commission/City Council meeting on January 29. They had been working on revisions with the Planning Dept. and the City Attorney for several months. They tried to make things simpler, to incentivize the preservation of larger trees in development and to increase the percentage of trees preserved. The first major change proposed was to the land covered under the Ordinance to include all land in the City except for pending plans for land platted prior to August of 1988. The second change was to go from 37% to 40% of trees that needed to be preserved. Also, that would apply to all zoning districts instead of just one-family residential developments. The current code called for a one to one replacement of trees. If there was a 30" tree, it could be replaced with one two-inch tree, or payment could be made into the Tree Fund. They were recommending creating a class called Specimen Tree, which would be 24" or above depending on a tree's growth. They were proposing a 50% replacement of the larger trees. If a 24" tree was taken down, it would require replacement of 12" dbh or six two-inch trees - either planting or paying into the Tree Fund. They were not recommending removing any current exemptions. A concern had been brought up at the joint meeting about removing exemptions for residential and limiting the ability for a landowner to take down a tree on his own property. There were not changing that. They were changing three classes to two. Currently, there was a landmark tree class and an historic tree class, and they were merging those classes. A landmark tree was of significant natural historic value. The Bebb Oak was a landmark tree. The requirement for those would be replacing at 100% instead of 50%, but someone would still need a permit. Chairperson Brnabic called a speaker forward.

Ralph Nunez, Nunez Design, 249 Park St., Troy, MI stated that he had reviewed the proposed ordinance. He understood the landmark value and the increase to 100% for replacement. If a property owner saved a landmark tree, he asked if a deduction would be taken from what had to be replaced. For example, if he removed 100 trees and owed 100 trees but he saved two landmark trees at 40" caliper, he asked if he would get a credit. He mentioned the tree survey requirements on page nine, including the shape and dimensions of the property and the location of the existing and proposed structures or improvements. It stated that the location of proposed structures "must be staked" on the site. He asked when that would be done, because normally, if someone did a survey, they would not be clearing the site to put in stakes to show the roads and structures at that point. He claimed that it would be very expensive. He knew that the purpose was to preserve trees, but he thought that they

should be considering the quality of trees. He understood the increase to try to save all the trees, but he felt that quality should be very important. The idea was to keep trees on site. If that could not be done, they had to be placed elsewhere or into the Tree Fund. The problem was if there was 100% replacement for a landmark tree plus 50% for specimen trees plus the regular one-to-one replacement, plus Planning requirements for buffers on each side, right-of-way (ROW) trees and detention pond requirements, there was not enough room on a development to put all those trees, so there had to be payment into the Tree Fund. The cost of a tree was \$216.75, and he was not sure if that would stay the same, because it stated "fair market value." He noted that City Council could grant a Variance if there was a hardship, and he said that he would like to know that process.

Mr. Elwert clarified that they did not offer a credit for preserving a landmark tree. Their default position was that the expectation was to try to save as many trees as possible, whether landmark or otherwise. Regarding the staking question, they did not change any language from the code, because it had not been brought up as an issue. He said that they would look at the language and see if there was a burden and consider whether it made sense to change it. As to the quality of trees, they had seen a desire by developers to get more credit and to not count very poor or poor trees in a survey. Staff's view was that whether poor or very poor or medium, the trees still provided the same benefits to the community, which was water retention, aesthetics, carbon sequestration and a variety of other things. They attempted to clarify what dead or diseased meant further by defining it as a tree that could be readily observed by professional Foresters that would die within two years. That was a conscious recommendation by staff and to not have to get involved and decide if a tree was poor or medium quality. If it was dead or would die within two years, it would not be counted. Mr. Nunez had mentioned how other City elements came into play during development. Mr. Elwert stated that it was a challenge. The goal was to keep as many trees or plant as many replacement trees as possible. He agreed that there were competing interests. They reviewed the percentage and the replacement credits, and they were still not anywhere near the top averages of other communities in the State. They felt that it was a fair increase; it did not go dramatically from 40% to 80% as some communities had done. Many other communities had a stronger tree recovery process, and the City was about average.

Chairperson Brnabic mentioned the question about a process for a Variance. Mr. Elwert said that it was a City Council issue. There was a

process in place currently, and a developer would have to go through Planning and City Council to request a Variance.

Ms. Morita said that she needed to understand the end game. She asked if it was to regulate every single residential parcel that had trees on it. Mr. Elwert stated that it was not. The proposed code would not change any requirements for individuals who owned a small parcel of an acre or less. They could still take down three trees. Ms. Morita said that the way she read it, there was an exception for small, residential parcels except that "the exception does not apply to trees located in the public right-of-way or to trees designated as landmark trees pursuant to Division 4 of the Article." She said that it did apply to residential lots to the extent that the trees were in the ROW (street trees) or larger City designated trees. She asked the qualification to put a tree on the City's big tree registry. That was not contained in the proposed Ordinance.

Mr. Elwert said that they had not modified anything regarding ROW trees, and the requirement was the same. As to how to get on the landmark tree list, a tree could be nominated, but the landowner had to accept being on the list. Ms. Morita said that it was called the Big Tree List in the ordinance, and Mr. Elwert said that it was previously called that. Ms. Morita asked if the only way landowners who had a big tree in the middle of the lawn would be put on the list was if they voluntarily accepted regulation. Mr. Einheuser said that was correct, and Ms. Morita asked why anyone would voluntarily accept regulation. Mr. Einheuser said that they might want to permanently protect the tree after they passed or something. If there was a new landowner, it would be a question for the attorney. Ms. Morita said that if she lived in her house for 50 years with her beautiful Tri color Beech that she did not want the next landowner to be able to chop down under any circumstance, she would go to the City and ask to be on the list. Mr. Elwert said that the City would have to accept that process. Ms. Morita said that was not explained in the ordinance. Mr. Elwert agreed that it was not as an operational issue. Ms. Morita said that the problem was that it was not explained, and there were no rules of procedure pertaining to it. If they adopted the ordinance the way it was written, it could be interpreted differently in a week. If they wanted the Big Tree List to be a voluntary concept, the language needed to be in the ordinance - what the list was, what the qualifications were, etc. Council would need to understand what was being adopted. She understood that it was for parcels that had not been developed, but she wondered about a situation where, hypothetically speaking, there was a greenhouse on Crooks Rd. that had been shuttered. There were big trees and technically, it had been developed, but the way the definitions sat in

the ordinance, that parcel would not be subject to the ordinance, because it had been developed.

Mr. Elwert said that he understood that view, and they could get a written clarification from Mr. Staran. It was his interpretation that it would be covered. Ms. Morita said that she would have to respectfully disagree with Mr. Staran, which she did not do often, but if they wanted it to apply to the redevelopment of parcels in addition to undeveloped parcels that needed to be clearly and plainly stated. People reading the ordinance would not think that it applied to redevelopment of parcels.

Mr. Einheuser offered that at the beginning under Applicability of Article, he thought it addressed it because it said "or redevelopment." Ms. Morita said that it read, "Except that this Article shall not apply to land included within pending site plan, plat, condominium or other development or redevelopment plan." Mr. Einheuser said that was for pending items. Ms. Morita said that the first sentence said, "This Article shall apply to all land in the City which is undeveloped." Mr. Einheuser said that it was their intention to include redevelopment. Ms. Morita said that it should include "which is subject to redevelopment" at the beginning.

Ms. Morita asked where the specimen tree list in the back came from. Mr. Einheuser said that it was based on other communities that had a similar tree ordinance. The City's Arborists went through it, and it was pretty consistent with other communities, and that was how they decided on the sizes. Ms. Morita had asked about the list of trees, not the sizes. Mr. Einheuser said that the trees were identified to be specimen sizes below the catch-all of 24". Ms. Morita pointed out that they would recognize 18" Hickorys and 10" Chestnuts, but Tri color Beeches were not on the list. Mr. Einheuser said that it would be for the 50% dbh. It was for designation of a specimen tree. The Beech was still regulated if it was over six inches. It would become a specimen tree at 24" if not on the list. It was only in regards to replacement.

Ms. Morita recommended that Mr. Staran looked at the numbering in the Ordinance, which was not consistent. She gave an example of Section 126-262, the first subsection was (1). However, on the next page for 126-266, the first subsection started at (a). If the first section number was a number, she thought that the next subsection should always be a letter otherwise it was too confusing. They would have 126-263 (1) and maybe (a). She just wanted to make sure that the numbering was consistent throughout.

Ms. Morita said that going back to her big tree and hypothetically not letting anyone else cut it down, she wondered if they would be concerned about impairing property value and the ability to sell or transfer property, because one owner put a restriction on the property. If someone could not take that tree down, and it was tearing up a driveway and making a house unsaleable, she wondered if there would be an out for that. The City could say that even though the homeowner decided she wanted the big tree put on the list, now that it was 30 years later, it was destroying the property value and make the house uninhabitable, and an ambulance could not come up the driveway. If someone wanted, how could he or she get the tree off the list. She felt that it was something they needed to look at. Mr. Elwert said that there could be a clause stating that someone would have to come back and show a hardship. Ms. Morita felt that the City should be able to remove trees from the list if it was felt that they were a danger or something. If there was a big tree in a residential neighborhood of quarter-acre lots, and it was a hazard, but the property owner did not want to take it down because of the restriction, she felt that the City should be able to take it off the list. The City should not make the property owner have to appeal it. She would also add that if it was a property owner coming in to ask for a tree to be on the list, that person should have to pay into an escrow for the evaluation and the cost to have it put on the list. She did not want the taxpayers to have to pay for others to put a restriction on their own property.

Chairperson Brnabic noted that there had been a question about a variance process. She asked if there was a process involving Council currently. Ms. Morita said that there was a process described in the ordinance in the back in Division 4, Section 124-464. There were conditions and findings that had to be made by Council to grant a variance. She would think that was better suited for the Zoning Board of Appeals as opposed to Council. Ms. Roediger explained that the proposed ordinance did not sit in the Zoning Ordinance. Chairperson Brnabic had just wondered if there was a process currently in place. Ms. Morita said that the process was there; it had just been renumbered. Mr. Elwert said that he had seen very few variance requests, because they tried to work with developers as much as they could to accommodate.

Chairperson Brnabic had noticed that the nomination process for historic, now landmark, trees had been removed from the ordinance, but it was still referred to in 126-461. She asked if any person could still nominate a tree within in the City. Mr. Elwert said that the intention of removing the process was to remove it from HDC and assign the operational process to staff. His department had standard operating procedures and ways they

implemented specific things. The process was removed from the code, because it was not attached to a formal HDC committee. Someone could still nominate. There was one tree on the list, and the HDC had never been asked about getting a tree on the list. He maintained that it made more sense to have it go through staff.

Mr. Hooper felt that Mr. Nunez was spot on to the point about re-staking. He referred to 126-359, Tree Survey. He pointed out that the purpose was to find out where the trees were, but a developer would have no idea how a site would lay out until the trees were determined. It would be impossible to do what the ordinance was requesting, and he felt that it definitely had to be rewritten to reflect reality. He said that he looked for the definition of landmark, specimen and invasive species. There were some in the back, but he wondered if they could add a definition at the front or state a section to find a definition. Regarding people who could actually do the survey, he joked that they were picking on his poor, impoverished, out of work registered engineers. He asked if they could not do a survey any longer. Mr. Elwert said that the people listed were specifically qualified for trees. They found it that way in other codes. The feeling was that a Landscape Architect or Certified Forester were preferred to evaluate. He indicated that it was not non-negotiable. Mr. Hooper felt that there were some PEs who could certainly do surveys. He asked about bats. He thought that there should be something in the ordinance to comply with non-removal of trees at certain times when bats were in season. Mr. Elwert agreed that there were Federal laws involving Federal funding that required that tree removal only be done at certain times. It did not come up as a discussion for the local code. He said that they had not seen any other local codes that had any requirements for bats and tree removal. Mr. Einheuser said that they added something about oak wilt, so he suggested that they could do something along those lines. If they went that route, Mr. Elwert also suggested that it could be more of a recommendation. They would have to enforce and inspect, which would become challenging. Mr. Hooper concluded that it would only be important if Federal money was involved; otherwise they did not care about the bats. Ms. Morita thought that the reason Mr. Hooper was not finding it in any other ordinances was because those communities had not gotten around to revising their ordinances. That law was only a few years old, and it was not on the top of the list for municipalities. Instead of being a follower, she suggested that they should be a leader and add the language while they were revising the ordinance.

Mr. Hooper referred to the diameter of a specimen tree, and he read 8" Spruce (diameter at breast height). If someone planted a Spruce tree,

within five years, they would have specimen trees. Mr. Einheuser said that their Foresters were looking at some of the numbers. He considered that it could be a typo, so he would check it. Mr. Hooper felt that it seemed low. A ten year-old subdivision would have a lot of specimen trees. If someone never trimmed an arbor vitae, within 15 years it could be 18" diameter. Mr. Elwert reminded that the intention was to shift the focus to larger trees. He agreed that they would look into the 8" listing.

Mr. Schroeder recalled that Tienken Rd. had been held up and the scheduling was off because of bats and a Federally-financed project. Regarding the Bebb Oak, he felt that its protection would be covered where it was, but he wondered what would happen if it was on a half-acre with a house on it. According to the ordinance, it would not be covered. Mr. Einheuser said that it was a landmark tree, and that was why they split the specimen tree away from the landmark tree. They wanted to have an extra level of protection for that type of scenario. Because it was a landmark tree, someone would have to get a tree permit. The exceptions, such as a minimal number of trees to be removed, would not apply to landmark trees.

Mr. Gaber said that regarding specimen trees, he believed that a qualitative element was important. He had a hard time saying that an 18" Silver Maple or 18" Arbor Vitae should get special protection and should be treated as a higher class of regulated trees. He said that there was no qualitative element, and it was just size that mattered. He had a problem with that. He had seen ordinances in other communities that exempted certain trees from being regulated because they were considered junk trees. Mr. Einheuser claimed that the ordinance had that language. Mr. Elwert said that a junk tree or an invasive tree would require a one-for-one replacement, no matter what the size. The quality of trees was a very subjective judgment. Two of their Foresters, who had 60+ years between them had a hard time deciding on the difference between a very poor and a poor and a medium tree. There were not clear standards industry wide for that. They were trying to encourage protection of larger trees. Mr. Gaber said that some communities looked at the specimen of the tree and made a determination about it being worthy of extra scrutiny and protection. Mr. Einheuser pointed out that below the table on page 16, the section talked about species deemed to be a nuisance by the City not being considered specimen trees, and they would require one-to-one replacement. Mr. Gaber asked why there was not a list of those trees. Mr. Einheuser said that there would be a list, but it could change, so it would be housed within the department. Mr. Elwert said that it would also be on the web site. Mr. Gaber asked if they would look at the list of specimen

trees. He did not see how Arbor Vitaes could be considered specimen trees.

Mr. Gaber said that it seemed that certain developments in the community over the past had used the Tree Fund as an excuse to take the easy way out instead of replanting on site. He felt that they should encourage replanting on site. He thought that the language regarding the Tree Fund was pretty loose. He read, "Where it is not feasible and desirable to relocate or replace trees on site or at another approved location in the City, the tree removal permit holder shall pay into the city tree fund." He asked who determined whether it was not feasible or desirable. He thought that it was very broad language that was open to interpretation. Mr. Elwert said that as Mr. Nunez had referred, there was a lot of interplay between the different codes and departments. There were drainage and roadway issues and other things to be worked out. The question became one for developers and whether they wanted more trees in a development or not. It became complex and challenging to try to put another incentive in the code to encourage developers to plant more than they put into the Tree Fund. The other challenge was people taking down residential trees on small parcels. Occasionally, developers had said that they would not take down a tree at the beginning, but if a homeowner did not like it, he or she could take it down in six months themselves. Encouraging keeping trees planted was a way around any replacement value, depending on where it was on a property. Mr. Gaber asked how they would encourage that. For example, for the Cumberland Village sub they discussed, if that fell under the TCO, they would have had to remove and replace everything. There would not be much room for preservation on that site. He asked how they would encourage someone in that position to save trees on site. He asked what the mechanism was in the ordinance to encourage or incentivize that. Mr. Elwert did not believe that there was anything specifically that incentivized that versus putting money into the Tree Fund. Mr. Gaber said that his vote would be to do what they could to try to encourage replanting on site rather than making it easy to pay into the Tree Fund, which he thought was what the ordinance did. Mr. Elwert said that most developers did try to save trees, because they recognized their value, but he agreed that there were those who would try to find a way around it. He asked Mr. Gaber if he had a specific recommendation to incentivize that. Mr. Gaber said that he did not, but he did not think it was a novel concept to other communities.

Mr. Schultz asked the current balance in the Tree Fund. Mr. Elwert said that in 2016, it was \$1.7 million. They were targeted for the current year to be at \$900k. They were spending significant funds and planting trees at

Innovation Hills and on Auburn Rd. as well as street trees for residents. They were planting trees in quite a few different areas. Mr. Schultz asked the typical financial income into the fund annually. Mr. Elwert was not really sure, but he thought perhaps \$30-50k. Mr. Schultz asked how that fund would be affected going forward. Mr. Elwert said that it was hard to balance. If development slowed down, even though there would be more funds coming into the Tree Fund, more larger trees would be saved. There was a chance it could increase based on the ordinance, but it depended on increasing development (or not). They had not run a fiscal scenario. Mr. Schultz just wondered at what point the number became unmanageable and high. He explained that there was a law firm that was well known for suing municipalities who had large funds. He said that the only people who benefitted from the fund was the law firm. He was thinking about them trying to incentivize and balance and all of a sudden, the fund could start snowballing out of control, and then they got sued and tax dollars were going out. There would be taxpayers who were not benefitting, because they saddled themselves to an ordinance that was too far in one direction. He was not saying that it was yet, but it was the worst case scenario he would hate to see happen. They would have exposed themselves to a problem.

Mr. Elwert said that they were looking at other ways to encourage the planting of trees in other areas that would draw the fund down. Council had passed a minimum fund balance policy for most of their funds. Their goal was not to have the fund grow and grow. It paid for some of the Forestry staff expenses to plant trees, and, that was almost \$200k per year.

Mr. Reece stated that he respected Mr. Nunez's earlier comments. One thing that intrigued him was about incentivizing developers to save landmark trees. He thought that they all agreed that having landmark trees within the community was a good thing. There might be some value to incentivizing a developer to save such a tree that was of particular value to the community. He suggested that they just considered that. He thought that great work had been done on the ordinance, and he did not think that they had gone overboard. He thought that they had found a good middle ground without going so far left.

Ms. Morita asked about a property owner trying to flout the rules, where they topped a tree and cut off all the branches, but the tree was still there. They had done it in front of a commercial property, and people could see all the store fronts. She asked if there was anything they could put into the ordinance to address that. She said that technically, the tree was still

standing. She noted the property on the west side of Rochester Rd. by C. J. Mahoney's. There were trees still intact, but they had been topped. She asked if they could add something that gave them some teeth. Mr. Elwert asked if she wanted a clause that would limit what commercial could do with certain tree elements. Ms. Morita agreed.

Ms. Roediger said that she knew exactly what Ms. Morita was referring to, and she concurred. Ms. Morita brought up the junk tree list. She said that the ordinance read "junk tree list as determined by the City." She felt that connoted that it was a resolution that was passed by Council. If there was going to be such a list, her expectation would be that if there was going to be a change to the list that it would have to be presented to Council to approve. Ms. Morita reminded that the only group who could make a decision on behalf of the City was City Council. Mr. Elwert said that it could be determined by staff. Ms. Morita said that she did not want someone challenging what was approved or not, because Council did not approve it by resolution.

Chairperson Brnabic thanked Mr. Elwert and Mr. Einheuser for doing such a good job with the amendments. She hoped they were happy with the feedback from the Commission. She asked if they planned to return with the final draft. Mr. Elwert said that it had been a courtesy review, and they heard the comments. They could bring it back, although he was not sure another meeting was necessary. Ms. Roediger said that it was part of the general code so technically, the Planning Commission would not make a recommendation. It was brought to them as a courtesy, because the Commissioners dealt with the issues first hand during site plan reviews and tree removal permits. The question was whether the Planning Commission wanted to see it again based on the comments or if it should go right to Council. She guessed that they wanted to see it again. Ms. Morita said that she would like to see it again before it went to Council to make sure they were all on the same page. She would not want Council to have to go through the Minutes to make sure all the changes were made. She remarked that she did not mind looking at it three times. Mr. Elwert said that one more time was fine with them.

Chairperson Brnabic agreed that was a good idea. She asked if they had any further questions for the Commissioners. Mr. Elwert said that he appreciated the variety of input, which would improve the code. He was not exactly sure when it would come back, but they would bring it back.

Chairperson Brnabic called for a break from 8:57 p.m. to 9:08 p.m.

2019-0246 Zoning Ordinance Amendments:

Auburn Road Corridor Zoning Amendments
Potential R-5 Zoning District

(Reference: Memos prepared by Kristen Kapelanski, dated May 31, 2019 and Giffels Webster, dated May 29 and May 30, 2019 and associated draft Ordinance language had been placed on file and by reference became part of the record thereof.)

Present for the discussion were Jill Bahm, Eric Fazzini and Rod Arroyo, Giffels Webster, 1025 E. Maple, Birmingham, MI 48009.

R-5 District

Ms. Bahm said that they had put together two working drafts - the new R-5 district and the Brooklands District. They wanted to get as much done as they could up front to continue the momentum from the Master Plan. The drafts still needed refinement, and they were looking at having a Public Hearing as early as August if everything was satisfactory.

Ms. Bahm reviewed that R-5 did not make up a substantial part of the City. It took up relatively small areas, and some of it covered existing manufactured home areas. The uses proposed were generally consistent with those found in the other single-family residential districts, except that attached dwelling units would be permitted. Ms. Morita asked why alcoholic beverage sales were not permitted. Ms. Roediger said that it had been in all of the districts, because there were instances where it would be used for places of worship banquet halls, for weddings and for barn weddings. Some golf courses were in residential districts, and all of those uses would require larger parcels. Ms. Bahm asked if there were any uses missed.

Mr. Hooper mentioned the raising and keeping of animals and kennels. He stated that R-5 was small, so he asked why they want to entertain that. Ms. Bahm stated that they would not, but Mr. Hooper pointed out that it shown as permitted. Chairperson Brnabic noted that the raising and keeping of animals also included an average person having a maximum of three household pets of any one species, but she agreed that kennels were different. Ms. Bahm said that they would check it, because it should not have included kennels.

Mr. Hooper asked where the areas were proposed. Ms. Bahm explained

that they were proposed for smaller and denser single-family areas, and would have four to six dwelling units per acre. They had included the existing manufactured housing communities, but they would not propose changing the zoning of those. There could be expansion areas around them that could be R-5.

Ms. Bahm advised that the minimum lot area would be 6,000 s.f., and maximum lot coverage would be 50%. That would make the residential areas more dense and compact with the goal of increasing walkability and affordability. They wanted to see if there was consensus for those, although they did not have to decide at the meeting.

Chairperson Brnabic asked about wireless telecommunication facilities. She realized that it was a conditional use in residential, but since the lot sizes would be smaller, she wondered about a tower 100 feet high. Ms. Bahm said that given the relatively small parts of the City that would be designated as R-5, it might be reasonable to not include them. Chairperson Brnabic noted state licensed residential facilities, which were conditional uses for 7-12 residents. They just saw a case in an area that was not considered smaller and more dense, and the Commissioners had been concerned about parking. If someone applied who lived in an R-5 area, she felt that parking would be a problem. Mr. Arroyo felt that someone would have to have a larger lot, because it most likely could not be accomplished with a 6,000 s.f. lot. Conditional meant that it might be allowed, subject to conditions and meeting all ordinance requirements. Chairperson Brnabic asked if less than seven residents was permitted currently. Ms. Arroyo said that it had to be by State law. Chairperson Brnabic indicated that she would like to see wireless telecommunication facilities removed.

Mr. Gaber felt that they should think further about wireless telecommunication facilities. The industry was going to 5G, which had a different platform. It was not about 100-foot towers; it used smaller towers. As a result, more of them might need to be located around the area. He did not think that they should be precluded from R-5. He felt that the way to deal with it would be to look at the wireless ordinance and revise that accordingly. Chairperson Brnabic agreed that might make sense.

Ms. Bahm referred to lot area, and she noted that 6,000 s.f. would allow seven units per acre. She said that they were trying to improve affordability by considering allowing some smaller minimum floor areas. Efficiencies might have only 500 s.f., for example. They would not want to see an entire development of 500 s.f. units, so it would be limited to 25%

of the total. The rest could be one-bedroom at 600; two bedrooms at 900 s.f. and three bedrooms at 1,100 s.f. They would add 200 additional s.f. for every bedroom over that. They were trying to improve the options and affordability.

Ms. Morita asked how many units could be inside an acre and where everyone would park. She considered that if there were seven units with two cars for each unit that would be 14 cars. She wondered if 14 cars would fit on an acre. Mr. Arroyo said that the maximum would be four units on one 6,000 s.f. lot. Ms. Morita asked how many units there would be in an acre. She thought that it could be about 40 units, but Ms. Bahm said that it would be about 28. Ms. Morita said that would still be 56 if each unit had two cars. Ms. Bahm showed some slides for parking. Access would be from the rear. They were trying to place the emphasis on the front yard and the pedestrians and make main streets a place for social interaction. She showed a bungalow court with units that were centered around a common area. Each unit would have some parking associated with it in the rear. There would also be on-street parking.

Ms. Bahm showed slides of varied housing types with garages in the back, including duplex and quadplex units. With the quads, there could be about 23 units per acre, but they looked like single-family homes. Mr. Gaber asked if they could have attached garages. Mr. Arroyo agreed. Ms. Bahm talked about proposed reduced setbacks.

Mr. Gaber said that it looked as if those areas would appeal to developers to build homes for empty nesters. He thought that to do that, however, there would need to be one-story homes instead of two. He asked if there was anything in the ordinance to encourage single-story homes to fill that housing need. Ms. Bahm said that they would include renderings of one-stories. Mr. Arroyo said that what they typically saw with that type of unit was that there was a bonus half-story where an upstairs bedroom could be added for kids that had moved out or grandkids.

Ms. Bahm pointed out the defined building frontages. Those included a projecting porch, an integral porch, a stoop, which could be covered or uncovered and a court. They were trying to frame the streets and to encourage interaction with neighbors and to create a nice, walkable, dense environment. She felt that pictures were helpful, and they would incorporate more of them into the code. She asked if there were any further thoughts. She asked if the photos helped and if so, what they liked about them. Mr. Hooper said that he liked the variety, and he commented that a picture was worth a thousand words.

Auburn Rd.

Ms. Bahm mentioned the open house where they were looking for input on uses, building heights, drive-throughs, building materials and setbacks. They got some good feedback, which she noted had been summarized in the packet. She outlined that the proposal was to replace the C-I Commercial Improvement district with the B Brooklands zoning district. She showed a chart about uses and asked about artist studios and galleries as well as small artisan manufacturing being added to the district. She also asked for feedback about maintaining the existing gas stations and auto repair services. They were listed, which could allow them to expand, but she did not think that was necessarily the vision for the corridor. If those uses were removed, however, the existing would become nonconforming.

Mr. Fazzini noted that there were substantial regulations currently by reference for the FB Overlay. Their approach was to start with a blank slate with a new, main street type of ordinance and pull in things they liked from the FB Overlay, rather than try to analyze everything that was in C-I and FB-2 together. With the auto related services, there were two sites zoned B-5, and they would not be affected, because they were not zoned C-I. They could decide later whether those two sites should be rezoned. Mr. Arroyo added that they could potentially strike gas stations and auto repair services as permitted uses, because it would not affect the district unless they wanted to see more of them in the district.

Mr. Hooper said that he would like to see the existing gas stations become nonconforming. They might eventually get redeveloped as something else. Ms. Roediger said that in talking with the businesses there, she knew that the Sunoco owner wanted to knock the building down and make it much larger with a 7-Eleven. If it was made nonconforming, they would not be able to do that. The Commissioners had to think about an existing business owner who wanted to invest, and if they would be able to do that or not. Mr. Hooper suggested that they could encourage the owner to invest in something that would be more profitable than a gas station.

Ms. Bahm said that they might want to consider the cost associated with the removal of all of the tanks and related cleanup to make it something completely different. Mr. Hooper pointed out that they were dealing with it currently at Auburn and Livernois. Ms. Bahm suggested that if they kept them zoned B-5, they might only allow an expansion of the convenience

store.

Ms. Bahm talked about small scale breweries and distilleries. Drive-through facilities with no direct access onto Auburn Rd. would be prohibited for restaurants and cafes.

Chairperson Brnabic said that after seeing the surveys from the open house, she wondered about hotels as a conditional use. She stated that they were overwhelmingly not wanted. She did not think anyone envisioned hotels. She emphasized that it was not Rochester Rd., and they were trying to keep it more neighborly. Regarding parking, if there was a three-story apartment, she felt that there had to be dedicated parking. She was definitely not in favor of a hotel, and Ms. Bahm agreed that should go. Chairperson Brnabic had wondered why theatres, auditoriums and concert halls were included. She thought that those uses would bring a larger crowd, and that would cause a parking issue.

Mr. Fazzini said that it depended on how the district evolved. It could be more entertainment oriented, and there could be small theatres that worked well. Parking would be in high demand during the day, so there could be opportunities to share parking with a church or an office use in the evening. That was in the model code that they used for the area, and it was shown in the shared parking table.

Mr. Gaber mentioned drive-throughs as a conditional use, and it listed that there could not be drive-through restaurants. He asked what drive-throughs there could be. Ms. Bahm said for a bank or a dry cleaners or small drugstore. Ms. Roediger said that they wanted to create a walkable area, but they knew that they lived in a world of cars. They talked about whether it would be okay to have a small coffee shop or ice cream shop with a drive-through. They knew that they did not want a lot of fast food places. In West Bloomfield, the ordinance prohibited drive-throughs for any place that had a deep fryer. If they wanted to allow a Panera or something similar with a drive-through, they could while keeping fast food restaurants out.

Ms. Morita stated that she did not like drive-throughs for the area. She thought that they would completely defeat the purpose of the \$15 million they were spending to make it walkable. She would not want to see them, and she did not know how they would exit onto Auburn. She wondered how someone would even know how to get to one.

Mr. Schultz showed a Starbucks out in front of a Meijer in Pittsfield

Township, which had not been receptive to retail development. They had a complete change of heart, and they asked him (as a developer) to drive the buildings all the way to the right-of-way to create pedestrian engagement. It was tough for him as a commercial landlord, because they usually did not deal with mom and pops. They were able to get a Starbucks to work, and it still was walkable. There was not access onto the main road - the drive-through was in back where all the parking was. He would hate to see a use that they kept saying no to with no ability to envision something that might be successful in the corridor. With the Starbucks, there was engagement, and he was proud of the end result and how it worked.

Ms. Morita agreed that it was a great development for the right place. The problem was, the corridor did not have a Meijer behind with lots of parking where people were driving to it anyway. The idea was to create a walkable community where people could leave their cars at home and walk to Auburn Rd. They did not want it to necessarily be a driving destination just for the sake of a drive-through. Mr. Schultz said that he totally got that. However, there was the context that there had to be businesses that wanted to locate there. He maintained that a small coffee shop could be successful with a drive-through. He said that he like the walkable component, and that was why he really liked the project. He just felt that it was important that they offered some flexibility rather than saying no. They would end up with no one coming if the requirements were too strict. Ms. Morita said that she just did not want to have to fight off a battle from a goliath like Burger King who wanted to locate in the middle of the district. She stated that it would be a disaster and defeat the entire purpose of everything that they were doing.

Chairperson Brnabic said that Mr. Schultz's example showed a three-lane road in one direction. Her concern was with parking and traffic. She agreed with Ms. Morita. Mr. Schultz said that he was just suggesting that they should keep options on the table rather than completely eliminate them. Drive-throughs could be a conditional use approval, and if something did not meet all the criteria or have the right context, they would be denied. He was not saying to give someone a carte blanche right to locate. He knew that there were fewer and fewer mom and pop entities that were locating, and they had to be able to attract some corporate-type tenants. Those corporate tenants had very specific requirements. Without them, there would not be a viable commercial district. They were not the only players, but they were some. They had the good credit, and banks would loan to them. That was what he did, and it was the reality of the game.

Mr. Gaber added that they had the ability to put conditions in the ordinance putting in tight parameters. He said that he sided with Mr. Schultz, because for that right scenario, there should be the opportunity instead of making someone have to get a variance. They could write a condition that required access from the side street instead of Auburn, for example.

Chairperson Brnabic said that there would have to be really good reasoning even as a conditional use. It would not be about having too many cars coming out. Mr. Gaber said that if a Chick Filet wanted to be there with 28 stacking units, the City would have the ability to say no as a conditional use. Chairperson Brnabic said that she was not arguing that, but Starbucks would be questionable. Mr. Schultz agreed that it could be busy. He stated that there were nine members on the board. Some might see it one way and others another way. He thought that they should at least give people the opportunity to present a case as to why they felt they should be there rather than tell them no. Mr. Gaber said that there could even be a parcel size requirement. They might not be able to get a Starbucks because of the stacking requirements. They could put constraints in place, and he agreed that people should be given the opportunity to have a drive-through at an ice cream shop if the community wanted it. They were allowing banks and dry-cleaners to have drive-throughs, and he questioned why they would have the ability but a small restaurant use would not. Chairperson Brnabic commented that it was fun to walk to the Dairy Queen. Mr. Schultz said that it was fun to walk, but he had a two-year old and a couple of older kids, and it was not always convenient to get them out of the car.

Ms. Bahm said that Mr. Schultz's was a good example of a very nicely done, suburban drive-through Starbucks model, but the subject area was not intended to be that district. There were so many other parts of the City where those would be great. Auburn Rd. was a special area that they were trying to create. She reminded that it was not the only time the ordinance could be done. They could test it for a couple of years. If the Planning staff got ten calls in the next three months asking about a drive-through in the district on a perfect piece of property, the ordinance could be amended. As things evolved, they would probably want to make changes. She thought that everything Mr. Schultz had said was right on. For example, if someone wanted a drive-through, they might have to also add an outdoor café. There had to be pedestrian connections, access off the rear, all stacking provided on site, etc. She suggested that they could add that and continue the discussion next time.

Ms. Bahm brought up building height, and she asked if they wanted to see a minimum height of two stories or have the ability to do one story. FB-2 allowed three stories. Mr. Hooper said that the biggest thing would be stepping the building back, and the higher the building, the more it should be stepped back. He was not sure of the ability to do that with the smaller lots there. Chairperson Brnabic said that there was a good example of three stories shown, but she had hoped they could stick with two stories. She understood that with investors, additional height was desired. She hoped that they remembered that it was important to mitigate the impact of the building height and form, as it was a residential area. She pointed out that the north side of Auburn had more two-story homes, but the south side had more single-story ranches or bungalow. The height would seem a little more towering to them. She agreed that if there were three stories, the top story would have to be set back.

Ms. Bahm asked the thoughts about requiring a two-story building. Mr. Gaber asked what the Master Plan said or if there had been any guidance regarding that for the area. Ms. Bahm said it talked about two to three stories. They did not say that one stories were prohibited.

Mr. Schroeder considered that the more stories, the more people, the more parking required and the more traffic there would be. He felt that they would be creating two major problems with traffic and parking. He claimed that westbound in the evening would be at a standstill. There would be two roundabouts, and they would be blocked, and people in the sub would not be able to get in and out. The more they added, the worse the problem would be.

Chairperson Brnabic agreed. She said that currently, Auburn Rd. could back up from Dequindre to Barclay Circle. There was a lot of congestion now, and the roundabouts would slow the speed. She agreed with Mr. Schroeder that they would have to accommodate parking. It would depend on the use. She thought that the purpose of the project was to make it be more residential and walkable. If they built too much, it would seem too commercialized.

Mr. Arroyo said that the market would dictate to some extent how much three story would be built. If there was no parking, someone would not build it. The City would have the ability to influence that by building more public parking. There had already been some investment, and that would help spur some development, and potentially more could be initiated through additional improvements maybe five years down the road. The

advantage of the district would be that retail and restaurant uses would capture the traffic already on the road. They hoped that people driving through would decide to stop off and get a bite to eat. It would not be generating new traffic necessarily. Chairperson Brnabic said that Johnny Blacks did not have adequate parking. They had done very well, but the owner had businesses across the street where cars parked. She felt that there would have to be lot buyouts for parking. Some of the lots were very small and would need more parking. Mr. Arroyo said that for the area to be successful, there would be a parking problem, which was a good and a bad thing. It would be good that there was redevelopment, but they would have to continually monitor the parking situation. They would have to ultimately make a decision whether or not to expand the parking.

Chairperson Brnabic reminded that it was the older end of town. They wanted it to be impressive, but they did not want it to turn out overwhelmingly commercial. They did not want to lose the atmosphere and the family walkability. She considered that the splash pad would draw people from across the City and from neighboring cities. She reiterated that parking would be a problem, and she hoped that everything stayed comfortable and residential feeling.

Mr. Reece maintained that three-story buildings were not residential. He agreed that parking would be an issue, and that people would not want to come because they could not park.

Mr. Gaber asked what the vision was in the Master Plan, and if it was to basically spur development to have quality retail and other commercial development. He asked if it was to follow a form-based look and have a downtown with taller buildings. He said that if they were trying to spur economic investment by private individuals, they would generally want to make it easier for them. If they wanted a look they were set in stone to have, they would be more restrictive, but it would be more difficult to get it developed, in his opinion. He asked the goal for the corridor in terms of the Master Plan.

Chairperson Brnabic agreed with Mr. Reece. It was the older end of town, and they wanted to give it an update. If they started going tall, it would get too crowded, and they would be ruining the neighborhood. They had to consider the surrounding neighborhood and residents who lived there. They were looking for investment, but they had to respect what was there.

Mr. Gaber said that regarding the answer about allowing one-stories, he thought that Chairperson Brnabic said that it was yes. Chairperson

Brnabic said that for her, ideally there would be no more than two stories. That did not seem to be the vision for the investment community. She thought that they would ruin the original vision of it being a cozy, residential, walkable area.

Mr. Schroeder said that the only way to control it would be with parking requirements. When people developed, they had to provide parking. Ms. Bahm agreed. She said that would be the fine line that had to be balanced. They had to make sure they were accommodating the uses that were there without intruding into the neighborhood while still allowing for redevelopment. Ms. Bahm concluded that they would allow one-story buildings.

Ms. Bahm brought up parking and noted that C-I had reduced parking space size which would be maintained. They were updating the provisions for shared parking, and there was a comprehensive list for that. They added standards for valet parking within 1,000 feet of the use. The lot would not have to be striped, with the idea that valet drivers knew how to pack in cars.

Ms. Morita asked where that parking lot would exist. Mr. Arroyo said that there could be an existing church that had an agreement with a restaurant so that in the evening, the restaurant could use that church's parking lot. If it was roped off as a valet lot, the valet could stack vehicles in a way that was not consistent with normal parking lot striping, as long as it was only available for valet drivers. Ms. Morita asked if there was a church within 1,000 feet of the district, and Ms. Roediger advised that there were two. Ms. Bahm said that they could also use a doctor's office that was only open until 5 p.m. Mr. Arroyo added that they could maximize the use of some of the vacant lots during off hours.

Ms. Morita said that in the meantime, there would be a congested, messy looking parking lot. Mr. Arroyo said that the idea was that ultimately, those would not front on Auburn - they would be in the back where parking occurred already. Ms. Morita said that would be next to residential. She commented that a church parking lot on a Sunday morning was not a haphazard mess. Ms. Bahm did not believe the valet would park in a haphazard way, just tighter.

Ms. Morita said that they were talking about allowing valet parking in a church parking lot that was next to residential that was usually used on a pretty limited basis. There would be cars pulling in and out until 2:00 a.m. in the morning or whenever the establishment closed. Mr. Arroyo said

that it would have to be evaluated when a plan came in. They might have to add screening to get approved. Ms. Morita said that they allowed churches in residential areas; they did not allow commercial businesses in residential areas for a reason. They were talking about changing the nature. Ms. Bahm said that the churches would be in the district. They could be redeveloped as a commercial use. Ms. Morita commented that she would not want to live next to it. If there was a church in her backyard that started parking cars until 2:00 a.m., she claimed that it would be awful. Ms. Bahm wondered about a church that sold to a restaurant to be redeveloped as a new restaurant. They would not be introducing it into a residential district.

Mr. Dettloff asked about adding a small parking structure such as downtown Rochester had. Ms. Morita said that would add \$5 million to the project. Ms. Bahm said that they would start having the hard conversations. They were talking about creating a brand new district with new form and new uses and a new way of living in the area that was beyond the beautiful streetscape. They had to talk about what happened when things started to change. They might put something into place that they decided to revise in a year, because there were new things coming in they had not thought about.

Ms. Morita thought that it would be easier to fight the fight if something was not in there, and they put it in later. Mr. Fazzini asked if they allowed shared parking with churches currently. Mr. Morita was not sure that type of stacked parking was allowed. Chairperson Brnabic said that the churches in the area were not that big. There was a church on the north and on the south, and she did not think they would ever see more than 15 cars at the one on the north. The one on the south could have 20 on a Sunday. They were not churches that drew 100 cars every Sunday.

Ms. Bahm said that the valets would be the people picking up the cars, not the people stumbling out of a pub at 2:00 a.m. Ms. Morita said she understood, but the car doors would get closed and lights would turn on. Ms. Bahm said that would happen with any other use in the district. It was not specific to the valet. She said that it could certainly be revisited. Mr. Schroeder stated that people would park on the side streets. Ms. Bahm said that was what they really wanted to help limit. The residents were concerned about that, and they had seen it in other communities.

Ms. Bahm said that there were other strategies to consider. They talked about the number of required off-street parking spaces, which had been reduced. That would rely on the availability of public spaces in the new lot

as well as on street spaces.

Ms. Morita stated “absolutely not,” and that the public spaces would be limited. The City obtained the property with the idea that the businesses would still have to provide their own parking. They would end up with the classic 500 lb. gorilla building on a site the size of a postage stamp. Ms. Bahm agreed, and said that she wanted to talk about creating a parking study outside of the zoning discussion. They would create a buildout analysis and look at future parking demand. They would evaluate potential locations for additional shared lots. She felt that it was important to think about a funding mechanism that could support ongoing development.

Ms. Morita stated that there was no more City funding for the project. Ms. Bahm said that was not what she was suggesting. A funding mechanism could be payment in lieu of parking, where a developer would contribute a fund to build parking. They could consider a business improvement district.

Ms. Morita stated that they had been through that already, and it was a no. She suggested that perhaps they should be discussing it with Council first instead of the Planning Commission. She thought that the direction from Council would be different. Ms. Bahm said that they were only talking about the zoning portion. In talking about the zoning portion, they were suggesting that there were other things the City needed to think about and address on a parallel track or later down the road. They should do more than just reduce the parking standards and allow for shared parking and valets. That would not be the end of the story. The end of the story was that a build out analysis would have to be done, and they would have to think about how to develop more parking and manage the parking already under construction. When they approved new development and allowed shared parking, they should monitor on a quarterly or yearly basis to see if they had a healthy balance.

Ms. Morita felt that they were creating a monster. She thought that they were creating a hugely dense situation where a developer would come in and think they would be able to do a lot, and it would only be putting the City in a position of saying no. She did not want to be the City that just said no. She wanted to show the rules and have the developer meet the rules. She did not want to show someone a picture of a three story building and tell him that he could not do that unless he provided a lot of parking knowing the probability of meeting those requirements would be nil. She asked why they would set it up for failure. She noted that it was

not her district, and she had taken a hands off approach, because she was not necessarily happy with the amount of funds being spent. She understood the necessity to redevelop the area, but she thought that the people they needed to talk to first were Council members Ryan Deel and Susan Bowyer. They were most in tune with the district, and they would be able to tell whether or not coming in with a three-story building with the potential for parking garages was possible. She felt, however, that it would make their constituents go bonkers.

Mr. Arroyo indicated that they had to be realistic. If the City required someone building a new business in the district to put 100% of the parking on a lot, they would not see redevelopment. That was what some of the public parking investment was intended to do - help spur new, private development and offset the burden of having to place all of the parking on a private lot. Their role was to point that out and to help the City try to find a way to get that private development and reinvestment. It was an economic situation.

Mr. Schultz agreed. For him to build something new and put in a tenant, it cost \$30 (per s.f.) and up all day long. He said that \$30 rents did not exist in the district. For the current tenants to migrate to a new building, there had to be an economic tool. They were doing a project in Ferndale, but they had to get MEDC money to help bridge that gap. They could not go from \$10 to \$30 in a brand new building and expect it to happen. He did not see a brand new, two-story building happening in the near term. It would not be financially feasible. Mr. Arroyo said that they had to be realistic about what was going to happen. They were trying to improve a corridor, and they needed to talk about what it would take in the Zoning Ordinance and what types of incentives to give to someone in order for them to want to develop in the corridor.

Ms. Morita said that she understood that, but she felt that they were losing the focus of why Council chose to move forward with improving the corridor. The area was the most neglected sector of the City that had had no investment for decades. They took over the road, they were rebuilding the road, and they were making it safer for people to walk in the area because it was a health, safety and welfare issue. It was about making the area more livable and safer for the people who lived there. Three-story buildings and parking structures would not make it a more livable situation. Having church parking lots stacked with cars was not more livable. She did not think that was the intent behind the investment in a neglected area of the City. She said that she was fully behind improving the City and improving the traffic flow there and providing safer ways for

people to get around. She did not have a problem spending money on that. It was not with the intent to punish the people who lived there with an intense, economic redevelopment that would price them out of their homes and make trying to find a parking spot in front of their home ridiculous. If they created an ordinance to make people come, she did not think they might right away, but eventually, they might. She did not want the City to be in a position to have to constantly say no to people. She thought that it was worth having a discussion with Council about the real purpose of the project and then drafting the Zoning Ordinance to meet that purpose. What she was seeing did not meet that purpose.

Mr. Fazzini said that at the open house, a three-story building with the step back was the most favorable style of building. Ms. Morita asked how many people were there, and Mr. Fazzini said 20. Ms. Morita considered that it was not very many. She said that it was not the intent behind the initial capital expenditure. If the people who lived there wanted three-story buildings eventually, and someone came in with a great project that needed a variance, and the ZBA liked it, that would be great. She did not want them to set it up where staff and the City had to keep telling people no.

Ms. Bahm said that if the Planning Commission and the City Council wanted to direct the form and appearance and walkability of the district the way it was outlined in the Auburn Rd. Corridor Plan and Master Plan, she did not think there would be a hardship to take to the ZBA. She did not think the ZBA should ever grant a variance for something like that. Even if they did, she questioned what it would look like.

Ms. Bahm said that it sounded like there were mixed feelings. She thought that they should provide some additional graphics and more refinement, and they could have more discussion with staff. Ms. Morita felt that it would be worth a sit down with Mr. Deel and Ms. Bowyer. Ms. Bahm said that they were both at the open house and seemed very supportive of everything shown. Ms. Morita did not think that they understood all the implications. She did not think that they understood the suggestion to turn church parking lots into stacked valet parking lots with cars coming in and out at 2:00 a.m. Ms. Bahm said that they would look at other ways to park without imposing on the neighborhoods or having people park on the side streets. Ms. Morita said that the idea was to make the neighborhood more livable and to make people want to live there, not to force people away. Mr. Arroyo responded that the proposal was absolutely not looking to force anyone away.

Ms. Bahm advised that they had a meeting with staff in a couple of weeks, and she thanked everyone.

ANY OTHER BUSINESS

Ms. Roediger reminded that De-escalation training was scheduled for June 17, 2019 prior to the City Council meeting. Dinner would be provided, so the Clerk's office needed a count. She advised that it was mandatory for City Council, and it was highly encouraged for other boards and commissions, and she asked the members to let Ms. Gentry know if they could make it by June 10, 2019.

NEXT MEETING DATE

Chairperson Brnabic reminded the Commissioners that the next Regular Meeting was scheduled for July 16, 2019.

ADJOURNMENT

Hearing no further business to come before the Planning Commission and upon motion by Mr. Reece, seconded by Mr. Schultz, Chairperson Brnabic adjourned the Regular Meeting at 10:30 p.m.

Deborah Brnabic, Chairperson
Rochester Hills Planning Commission

Nicholas O. Kaltsounis, Secretary