

Aye 9 - Boswell, Brnabic, Dettloff, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

2008-0303 Rezoning Recommendation (Public Hearing) - City File No. 95-015.3 - An Amendment to Chapter 138 of the Code of Ordinances of the City of Rochester Hills to rezone one parcel of land totaling approximately .91 acre, known as parcel No. 15-27-351-008 at 990 W. Auburn, from B-5, Automotive Service to B-1, Local Business, Ron Jona & Associates, Inc., applicant.

(Reference: Staff Report, prepared by Ed Anzek, dated June 17, 2008, and accompanying documentation from applicant had been placed on file and by reference became part of the record thereof.)

Present for the applicant was Ron Jona, Ron Jona & Associates, 29000 Inkster Road, Southfield, MI 48034.

Mr. Jona stated that he was appearing on behalf of the developer as the architect and planner.

Mr. Anzek noted that he and Mr. Jona had been working for several months on the proposal. The client would like to redevelop the corner, which would take a Rezoning, because a gas station use was not supported by the sellers or the potential re-users. He recalled that there was a previous applicant who wanted to redevelop the site about two years ago. During discussions, they identified that the site was cumbersome because of its configuration. They knew that the required setbacks made the site complicated. If Mr. Jona was approved and wished to pursue the project, a Variance would be needed for the site. They would have to establish the district for the property in order to know the setbacks and what type of Variance would be needed. The sequence would involve first a Rezoning, then a Variance based on the design, and then Site Plan Approval request.

Chairperson Boswell said that no matter what the outcome, the site would require some type of Variances. Mr. Anzek said that with the current zoning, they would end up with a

10-foot wide available building envelope. He added that it was similar to the problem for the Clark station on Auburn.

Mr. Jona said that he had looked at the corner for a number of different people over the last seven years. They felt they had a plan that would make sense, but they would need a Variance. They believed that the density they proposed would be reasonable, and that the development would be far superior than the abandoned building that was there now. They would redesign the curb cuts, and they hoped to be able to put in a neighborhood-type development that would be suitable for the area. They would not keep the gas use.

Mr. Anzek advised that the recently adopted Master Plan supported the corner as a Business Flexible Use 2. That would support neighborhood commercial, and B-1 was an appropriate zoning district for that.

Mr. Dettloff asked if the site was eligible for brownfield redevelopment. Mr. Anzek was not sure, but he indicated that the owners did a good tank cleanup after the Speedway left. It was his understanding that they had an MDEQ clearance. Mr. Dettloff asked if the property was under contract, rather than purchased outright, to which Mr. Jona agreed. Mr. Dettloff clarified that the sale was contingent upon getting the necessary approvals.

Ms. Brnabic asked who did the cleanup, and Mr. Anzek replied that it was owner, Marathon Oil. Ms. Brnabic asked if everything had been removed, and she wondered who would be responsible if further cleanup was necessary. She thought something could have spread, even though the tanks had been removed. She suggested that once the dirt was removed for development, that they might find something. Mr. Anzek agreed it would be wise for the

developer to take soil borings to test the site. If they found something, they would have the right to go back to the seller to make sure it was cleaned.

Mr. Kaltsounis asked if the deed showed that the property could no longer be used as a gas station. Mr. Anzek did not think it was a deed restriction; it was the seller's restriction.

Mr. Schroeder asked Mr. Jona if they had done any preliminary plans to see how the site could be used or where the building would be located.

Mr. Jona said they prepared a preliminary site plan and they were looking at a two-tenant building for approximately 4-5,000 square feet. He said it would be conventionally planned, meaning that parking would be in the front and the building would be in the back. Ingress/egress would be from Auburn and Livernois, with both entrances moved to the far edges of the site. They still would have to look at detention and engineering issues, but they looked at the Ordinance and felt they would comply other than with the rear yard setback. Mr. Schroeder asked if it would just be the rear yard setback, and Mr. Jona believed it would be rear and perhaps one side.

Mr. Schroeder was interested to know whether they would be looking at major or minor Variances, and Mr. Jona said that he would call them minor, because there was a lot of room behind the building. The 50-foot setback would be down to 25 feet, which was normal for other cities, but he acknowledged it would be a 50% Variance for Rochester Hills because of the multiple-family residential zoning on that side of the property. He thought that the size of the property caused a hardship, and that it would warrant the Variance percentage. Mr. Schroeder asked if they had any opportunity to get property to the east. Mr. Jona said that

the owner of that property contacted him, and they discussed potential cooperation, at least, between the developments. They could potentially connect, but as far as joint development, it had not happened yet. If they were approved for the Rezoning, they would show the owner to the east the plans, and Mr. Jona remarked that anything was possible. Mr. Schroeder said he was glad to see that they would work together.

Ms. Brnabic asked Mr. Anzek if the preliminary Site Plan would be presented to the ZBA before the Planning Commission, if the Rezoning were approved. Mr. Anzek said there should be separation between Site Plan issues and the legislative action taken by the ZBA. The ZBA's task was to grant minimum relief, and it was not their job to determine the Site Plan but to determine what was reasonable to make the site work. Ms. Brnabic said she asked the question because it had been brought up by the Chair of the ZBA. He felt that if a Site Plan had been approved by the Planning Commission and it then came before the ZBA for Variance(s), it put the ZBA on the spot, and they felt they had to grant them to make everything work.

Mr. Anzek stated that the sequence would be a Rezoning, then to ZBA, then to the Planning Commission. Mr. Anzek related that Mr. Colling had expressed those concerns to him as well. They would not want either body to dictate to the other. The ZBA had to evaluate something with different standards - minimum relief. It would become Mr. Jona's responsibility to put something workable together and to seek minimum relief, and that was the burden to present to the ZBA. Ms. Brnabic said she agreed. She said she did not, personally, think retail on the corner would be a bad idea. She acknowledged that the property was difficult for a variety of reasons. She did not think it could function

realistically as a gas station even if Marathon would allow it. She stated that it had been an eyesore for years, and that if they could work with the applicant for a retail establishment, she would support it.

Mr. Anzek reminded that B-1 was the least intrusive of the commercial zonings. It was designed for neighborhood support activities, and there were a lot of people that lived in the area, which Mr. Jona's letter also pointed out.

Mr. Dettloff agreed with Ms. Brnabic that it would be nice to see the property finally redeveloped. He asked Mr. Jona who the developer was, and Mr. Jona said it was Mr. Tom Hannawa. Mr. Dettloff asked if he was local or from out of state. Mr. Jona advised that his office was in Troy. He had done a variety of small commercial projects. Mr. Jona said that he had recently been engaged in four or five projects, and Mr. Hannawa knew his background and track record and he trusted Mr. Jona to work with the City to come up with a plan that would suit the corner. Mr. Hannawa was not ultimately opposed to making an appearance, but he had complete faith in Mr. Jona's abilities. Mr. Dettloff asked if he knew the potential users. Mr. Jona said they would be small users, but he did not name a tenant. Mr. Dettloff encouraged him to keep an open dialogue with the neighbor to the east throughout the process. Mr. Jona said they absolutely would do that, and if there was anything preemptively they could do to facilitate his land development, he would.

Mr. Yukon asked whether, in the event the property was rezoned for another use, Mr. Jona had any thoughts about traffic at the intersection. He noted it was a pretty tight corner, especially for traffic westbound on Auburn trying to make a right onto northbound Livernois.

Mr. Jona said that there were two curb cuts by the corners currently, and they would be moved with the new plan. He had only visited the site once, and it was not at peak hours. They might have to have maneuverability restrictions, such as right in, right out only or stacking, and between the Commission and the Road Commission, they would probably have to do some road improvements. He said it was the traffic that enticed them to believe they could make a development work at the corner. Mr. Yukon said he agreed with his fellow Commissioners that it would be nice to see the corner cleaned up because it had been in a sad shape for a very long time. He said that he would support a Rezoning for the property.

Mr. Schroeder said he was in support also, and he felt that Mr. Jona had a good track record, and he moved the following motion:

MOTION by Schroeder, seconded by Dettloff, in the matter of City File No. 95-015.3, the Planning Commission **recommends** to City Council **approval/denial** of the request to rezone Parcel No. 15-27-351-008 (0.91± acres) **from B-5, Automotive Service Business to B-1, Local Business.**

Chairperson Boswell stated that a Rezoning was a Public Hearing, and he opened the Public Hearing at 7:57 p.m. Seeing no one come forward, he closed the Public Hearing. Hearing no further discussion, he read the motion and called for a vote.

A motion was made by Schroeder, seconded by Dettloff, that this matter be Recommended for Approval to the City Council Regular Meeting.

The motion CARRIED by the following vote:

Aye 9 - Boswell, Brnabic, Dettloff, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Chairperson Boswell stated for the record that the motion had passed unanimously and thanked the applicant.