

UNFINISHED BUSINESS

2015-0348 Request for Conditional Use Recommendation - City File No. 13-005.2 - Auto Rite Sales, a proposed 714 square-foot office and 1,043 square-foot service bay building for a used car operation on .86 acre at 1923 E. Auburn Rd., located west of Dequindre, zoned C-I, Commercial Improvement, Parcel No. 15-25-482-025, Syed Ahmed, Applicant

(Reference: Staff Report prepared by Sara Roediger, dated January 15, 2016 and site plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Syed Ahmed, Auto Rite, 1923 E. Auburn, Rochester Hills, MI 48307, Chester Stempien, Chester Stempien Associates, 29895 Greenfield Rd., Southfield, MI 48076, and Salem Jiddou, S J Design & Construction, 25857 Lahser, Southfield, MI 48033.

Ms. Roediger stated that the site was zoned C-I, Commercial Improvement with an FB-2 Overlay, and that the project was adhering to the FB-2 standards. The used car lot use was permitted when the applicant first came before the Planning Commission. Since that time, that use had changed per a Zoning Ordinance amendment, and it was not permitted, but Mr. Ahmed's project was grandfathered. The project came before the Commissioners on November 17, 2015. The matter was postponed so the plans could be revised per the discussion. Since that meeting, the applicant had reduced the building from 2,450 square feet with three service bays to 1,757 square feet with two bays. They shifted the building closer to Hessel and opened the area on the western side of the property. The parking had been reduced accordingly, as parking was directly related to the square footage of the building. The required parking went from eight spaces to six spaces. At staff's urging, the fence proposed along Auburn was removed. There was currently a four-foot ornamental fence along Hessel and a wood fence along the north and west property lines that would remain. She noted that there was an Engineering comment regarding the corner clearance that had to be resolved. The drawing showed a triangle area in the southeast corner where the existing ornamental fence would have to be shifted or removed at that location. The applicant had also clarified the display parking areas. There was parking adjacent to the building, and parking in front by Auburn, which would have to respect the corner clearance. Ms. Roediger showed the revised elevations, which had brick, some CMU accent bands and pre-finished aluminum panels to highlight the front door entrance. Code Enforcement had been to the site and noticed that the bulk of the cars had been removed (including from the western parcel, which was not a part of the site plan improvement). The Planning Commission had capped the number of cars that could be parked at five plus employee parking until the site was improved. Five to eight cars had been noticed at times, but she noted that it was a vast improvement from the November meeting.

Vice Chairperson Brnabic announced that she had not received any cards from people wishing to speak, so she turned the discussion over to the Commissioners.

Mr. Kaltsounis referred to the aerial map, and clarified that the Commissioners were discussing the east side of the property and not both the western and eastern sides. Ms. Roediger agreed the site plan was for the .29 acre on Hessel. Mr. Kaltsounis asked if there were any plans for the property to the west, and Ms. Roediger said that staff was not aware of anything. Mr. Kaltsounis noted that the aerial showed the entire property, so it was not really clear, and he was concerned about the number of cars. Five were previously allowed, but they were now showing 18 cars on the east property.

Mr. Anzek explained that after the original Conditional Use Permit (CUP), Mr. Ahmed bought the adjacent property to the west. He filed to combine the properties, and staff was not aware of that. Mr. Breuckman (former Manager of Planning) worked with Mr. Ahmed, and before the Zoning Ordinance amendment went into effect, prohibiting car dealerships in the district, Mr. Ahmed had received a CUP with conditions. Those included that the site had to be improved with asphalt and a new building, and he would be vested and allowed to go forward with the eastern portion of the site, even though there was one lot now. Mr. Anzek thought that they should split it back, but City Attorney Staran did not think that was necessary. Regarding five spaces, that was limited at the time, because there was a gravel parking area. Mr. Ahmed was proposing a hard surface, which would catch oil and so forth, and he would be permitted to store more than five cars.

Mr. Kaltsounis said that similar to a layout for an Open Space Subdivision, a certain density was allowed based on the property, and he wondered if they were allowing a certain amount of cars based on the entire property rather than the eastern .29 acres. Mr. Anzek said that the western portion was not being used to calculate the number of cars. Mr. Ahmed was only permitted to have what could be placed on the eastern site while maintaining access for Fire, customers and employees.

Mr. Kaltsounis reiterated that he was concerned about the number of cars. He recalled that they had talked about requirements for the property over the last couple of years. They went from five cars to more than five cars. The property to the west was loaded with cars. He knew they had been removed, but someone could have removed the cars before the meeting. Mr. Kaltsounis said that he would like to see a condition that there would be no cars on the western property. He could see it getting sold off, and he commented that there had been some games played.

Mr. Ahmed said that Mr. Breuckman told him he could store cars on the western parcel, but he could not advertise, and Mr. Ahmed had a letter to that effect. Mr. Kaltsounis clarified that there was no discussion about the number of cars, and he thought that they should discuss that further.

Mr. Yukon asked for clarification about the corner clearance. He noted that the display parking in the southeast corner showed cars parked fairly close to the corner. He asked if the parking would be limited in that area because of the corner.

Ms. Roediger agreed. She said that the corner clearance had still not been shown properly. She felt that the easiest solution would be to swing the existing ornamental fence back to meet the corner clearance. Staff wanted to see something permanent that would act as a barrier and prohibit cars from encroaching into the clear vision triangle, whether it was the fence moved or some type of landscaping. Staff was not comfortable moving forward until there was a permanent barrier to keep cars from infringing and to demarcate the corner clearance. Mr. Yukon asked if it would be up to the applicant to demonstrate that demarcation, and Ms. Roediger agreed that staff would want to see it on revised plans.

Mr. Yukon recalled at the last meeting that there was a concern about vehicles being test driven through the subdivision north of the site. Mr. Ahmed stated that there had never been cars test driven there. Mr. Yukon mentioned that there had been an accident. Mr. Ahmed said that he was the one driving; he went to his friend's house on Hessel and did not see the bus. He reiterated that no one drove through the subdivision - they went onto Auburn and to M-59. Mr. Yukon said that he echoed Mr. Kaltsounis' concerns.

Mr. Schroeder asked if the corner clearance distance would cause one car in the corner to be eliminated from parking there. Mr. Anzek agreed.

Mr. Stempien added that Traffic stated that they had shown the corner clearance wrong. He showed it from the right-of-way, but it should have been from the property corner. In essence, the line of right-of-way belonged on the property line, and he acknowledged that he had made a mistake which was corrected. He mentioned that the shrubs specified did not grow higher than 30", so the clearance would not be impeded by landscaping. They had improved the site to allow more cars, and there would be underground detention. Extensive work had to be done on the small site to allow for extra parking. They had complied with the Ordinance and done what staff had asked, and they had done all they could to create a used car lot facility. He indicated that the Ordinance did not govern how many cars should be allowed on a used car lot; it was based on the ability to service cars and show them properly.

Ms. Morita noted that she had met Mr. Ahmed earlier in the day when she drove by the site. She saw an unlicensed vehicle parked on the west lot and nine vehicles parked on the eastern lot. Mr. Ahmed explained that three employees were there working, and there was one customer inside his office. Ms. Morita said that only one vehicle had a license plate. Mr. Ahmed said that he used one dealer plate to show the cars.

Ms. Morita stated that she had some concerns, one being that the site was abutting a residential neighborhood. If she were to consider the proposal, she would want to see a condition that no outdoor storage was allowed; no string lights would be allowed; the gate on Hessel would be removed and replaced with a stationary fence; there could not be two or more citations for the property or the property to the west while owned by the same owner and if there were, the CUP would be revoked, and the City would be directed to initiate action to revoke the CUP; and the project should be finished by October 31, 2016. She asked Mr. Ahmed if he would be willing to agree that he would not have any

other violations in terms of parking vehicles and have no parking on the western lot. If there were two or more violations, she asked if he would agree that the City should be permitted to go forward with revoking the CUP. She added that any violations would include the east or west parcel.

Mr. Ahmed said that he had no violations on the west parcel. He had received one today for parking eight cars, but he said that some were for customers and employees. He asked if he should have to walk to work. Ms. Morita asked Mr. Ahmed if he was not willing to agree that if he had two or more violations that the City should be permitted to revoke the CUP. Mr. Ahmed said that once he had permission, he would build the site as soon as possible. He said that needed some time, because he invested so much money. His lifetime savings were invested. He deposited \$4,500 into an escrow account with the City, and it was empty now. He had only \$600 left. Every time he submitted plans, it cost him \$500. He asked them to please not do that to him.

Ms. Morita said that she was trying to find a way to have the project approved. She was only asking if he agreed that after the project was built, if there were two violations, the City should be permitted to revoke the CUP. Mr. Ahmed said that he would agree, but he needed some time. He had to store his cars somewhere. He said that he would build the lot, move the cars there, and then he would be done with the City. He indicated that he would not be breaking any rules. He asked to be allowed to be able to park a few cars there. Ms. Morita asked if he meant that during construction, he intended to park cars on the west parcel. Mr. Ahmed said he would like to. He added that he would really appreciate it, because he wanted to run his business during construction.

Mr. Anzek felt that two citations had to be put within a time context. He considered two citations a year. He advised that Code Enforcement would not just give a citation; a warning would be given first. Judges had told them that people should be given 30 days to clean something up. If they did not, they would be issued a citation. Ms. Morita realized that, but she said that Mr. Ahmed intended to park vehicles on the west parcel during construction. Mr. Anzek thought that the new building could be built while the old one stood, and Mr. Ahmed could keep five cars. Once the new building was done, he could pull them off, pave the lot and put cars on. Mr. Anzek did not think that using the lot next door was appropriate. He suggested that the gate could be taken out, and there could be a construction entrance. He also felt that the October 31st timeframe was critical. He asked Mr. Jiddou if that was sufficient time to build. Mr. Jiddou agreed that if they got permits in a timely fashion, it would take about eight months. Mr. Anzek thought that if the sales operation was confined to the southern portion of the lot with the existing building, that new construction could take place. Mr. Reece pointed out that the underground detention system would be in the middle of the parcel.

Ms. Morita was concerned because Mr. Ahmed was saying that he intended to violate the City's Ordinances while the project was under construction by parking unlicensed vehicles on the parcel to the west. She stated that she could not condone that.

Mr. Ahmed said that he would not be parking there. Mr. Jiddou asked what the

Ordinance said about the number of cars that could be parked on the west site. He asked why they were talking about five and not 12, for example. He asked what governed that number. Mr. Anzek said they were saying zero on the west lot. It was not zoned appropriately to store cars, and the Zoning Ordinance prohibited used car sales in the district. The permitted uses were defined by the FB-2 standards in the Ordinance, and the Ordinance was changed, and Mr. Ahmed was advised, but plans were not submitted soon enough. He went to the ZBA to request a Variance at Mr. Breuckman's suggestion. Mr. Breuckman also advised Mr. Ahmed that he needed to go quickly, because the Ordinance was going to be adopted prohibiting storing cars on the property - for any purposes.

Ms. Morita asked Mr. Anzek if the October date was realistic. Mr. Anzek thought that if Mr. Ahmed was not going to meet that date that he could request an extension. At that time, the Planning Commission could choose whether to seek revocation. He wanted a date specified to know that they would get something done.

Ms. Morita said that in addition to the conditions she had requested, she would like a condition that revised plans be submitted that showed how the corner clearance would be dealt with. She did not want the property owner to think he would be able to park cars in the corner clearance based on the plans.

Mr. Kaltsounis proposed that if there were two or more citations/violations on the east and west lots in six months, the CUP could be revoked by Council. Ms. Morita said that she would prefer to avoid that. She felt that if there were any violations of any of the conditions that staff should be directed to revoke the CUP and initiate legal action to revoke it. She felt that if the Ordinance officers had gone out there and found two or more violations within six months that it should be enough. Mr. Kaltsounis wished to add a condition that no vehicles would be allowed on the west lot as denoted by the plans. It would start based upon an occupancy permit for the east property, and that would give Mr. Ahmed time to build the property. When he was ready to move into the east building, the west lot could not have cars parked.

Mr. Anzek asked if Mr. Kaltsounis was suggesting that Mr. Ahmed could use the west lot in the interim during construction, which he confirmed. Mr. Anzek was not sure that could be done, because the Ordinance prohibited it. Mr. Kaltsounis changed the proposed condition to say that per City Ordinance, no vehicles would be allowed on the west lot. Mr. Anzek advised that the only way to permit it would be through a Variance.

Mr. Ahmed noted that the City forced him to put in the fence so that people did not make a left onto Hessel for a test drive. He claimed that he put in a nice fence, and he kept the gate closed. He stated that he spent a lot of money on the fence, and he asked to be able to keep it. He promised that no one would make a left out of that gate onto Hessel. Mr. Anzek pointed out that there was no driveway there.

Ms. Roediger asked Mr. Ahmed the purpose of the gate if it was going to be closed at all times. Mr. Ahmed said that it would be locked permanently. Ms.

Roediger asked why he could not remove the gate and make it all a fence, as Ms. Morita had suggested. Mr. Ahmed stated that the fence cost him \$12,000, and he did not want to spend more to remove the gate. Ms. Roediger clarified that he did not need the gate for any type of access.

Mr. Kaltsounis asked how the CUP motion would apply to just the east side. He asked if they had to clarify with dimensions and exact location. Ms. Roediger said that the motion referred to the plans dated December 22, 2015, which depicted only the eastern .29 acre. They could spell out .29 eastern acre, which Mr. Kaltsounis agreed they should. Mr. Anzek suggested also including "formerly known as 1927 E. Auburn," because when the lots were combined, that address was eliminated. He felt that should cover what they were talking about.

Vice Chairperson Brnabic acknowledged that the City did request that the fence be placed along Hessel. She asked if they were asking Mr. Ahmed to just remove the gate and replace it with all fencing or to totally remove the fencing. Ms. Morita said that she just wanted the gate removed and to have a stationary fence there. She did not care if it was welded shut, but she did not want it operable.

Mr. Schroeder said that when the corner clearance was corrected, it would clear up the issue of the parking space. Mr. Ahmed said that currently, there was a 14-foot high building right there. He was going to park less than four feet away. Mr. Schroeder stated that it would be to his benefit, and he would not lose a space.

Mr. Schroeder noted that Mr. Ahmed said that he wanted to maintain business while the building was being constructed. Mr. Schroeder did not think Mr. Ahmed understood that he would not just be building in the footprint of the current building. There would be construction around it and trucks and employees working. The whole parking area would have to be dug up to put in the detention, and it would cut off driveways. Mr. Ahmed would want the materials - brick, sand, etc. - put on the west lot, and Mr. Schroeder felt that should be addressed. Mr. Schroeder did not believe Mr. Ahmed would be able to operate his business. He asked when the building would be torn down. Mr. Ahmed said that after the new building was built, he would demolish the existing building. Mr. Schroeder stated that there absolutely was not enough room to operate the business during construction. Mr. Ahmed disagreed. Mr. Schroeder said that Mr. Ahmed would have a difficult time, because any business done would have to be constrained to the site, but there would not be the ability to do that.

Mr. Jiddou explained that Mr. Ahmed would only be maintaining the office. They would not store cars. Mr. Schroeder said that they would be working all around the footprint of the building, and there would not be enough room to maintain the business. He saw no end to problems that would be incurred. Mr. Jiddou agreed that Mr. Ahmed would not be able to maintain the volume of business he was doing. When the building was finished, he would demolish the building for the storm sewer. He would have some idle time. Mr. Schroeder asked how many people would be working at the site. Mr. Jiddou said that there would be

the most workers when they did the masonry, perhaps five or six people. Mr. Schroeder pointed out that they would use five or six vehicles to get to work. Mr. Jiddou said that they would be Mexican workers who would come in one car.

Mr. Schroeder asked if material storage would be allowed on the west lot. Mr. Anzek said that he personally did not see a problem with material storage, because it would be temporary. Mr. Schroeder could see workers parking there. Mr. Anzek said that as long as the building was getting built, he did not see why the west lot could not be used for construction purposes. Mr. Jiddou said that they could instruct the workers to park farther away. Mr. Anzek thought that they would park in the neighborhoods, which was not a good idea. They could just park next door.

Mr. Reece asked how many employees would be on site (for Mr. Ahmed's business). Mr. Ahmed said three. Mr. Reece asked the purpose of the office upstairs. Mr. Ahmed said that it would be for storage and his office. Mr. Reece asked if the building would be sprinkled, and was advised no. Mr. Reece clarified that an elevator would not be required.

Mr. Reece said that as far as the elevations of the building, he was opposed to the blue color of the fascia panels and the color of the sign. He did not feel it would fit in with the neighborhood, and he did not feel it was appropriate, so he would like to see it toned down for him to even consider. He asked if the east wall of the upper floor was painted CMU rather than split face. Mr. Stempien said that it would be split face, and Mr. Reece asked why it said painted CMU. He added that if it was painted, it would not get maintained. Mr. Stempien said that his CAD operator did put painted, but if it had to be a natural finish block, they would change it. Mr. Reece agreed that it had to match the rest of the building.

Mr. Reece agreed that trying to keep the building open during construction would be a disaster waiting to happen. The underground utilities would have to be put in, there would be deliveries of material, big trucks, concrete pourers, scaffolding for the masonry, etc., and it would not work. If he was a business owner, the last thing he would want would be to have one of his customers come onto a construction site and risk getting hurt. He commented that he knew construction, because he was in the business, and he thought it was a ridiculous claim for anyone to say that they could keep the current building operational while trying to build the new building on the back 2/3 of the property.

Mr. Reece observed that the cars shown on the plan were double parked for the appropriateness of the site. The aerial of the site to the west had almost the same number of cars on a bigger lot as were shown on the eastern lot. He stated that it was excessively over parked. He would not support anything less than half the number shown. He thought that the building was far too close to Hessel; there was not adequate landscaping along Hessel; and they were doing that because they were trying to cram five pounds into a one pound box. He remarked that it was a poorly thought out plan.

Mr. Anzek responded that it was at his urging that the applicants placed the building closer to Hessel. If not, there could be an accumulation of outdoor

storage, so staff asked them to bring it towards Hessel.

Mr. Hooper noted that he was on the Planning Commission when the project was first approved for five cars, and they discussed five cars because of the grass and an un paved surface. He echoed Mr. Reece's thoughts, and he felt that there should be a maximum of ten cars. There would be four employees, so there could be 14 cars, and that should be the maximum allowed at any one time. He suggested that parking for 10 display vehicles should be the maximum. In regards to the color scheme for the sign, he agreed with Mr. Reece that it was inappropriate. He noted that Shelton Buick GMC had a silver background, and he wondered if that might be more appropriate, rather than a flashy blue and red color. Mr. Reece said that he would like to see the color scheme more in line with the rest of the building. It was not a dealership that had a mandatory color requirement, and it needed to fit in with the surrounding neighborhood. Mr. Hooper agreed an earth tone would be better, if the project moved forward.

With regards to construction, Mr. Hooper agreed that Mr. Schroeder and Mr. Reece were right on. There would be no way Mr. Ahmed would be able to operate his business and build a new building at the same time. The only thing he saw close to it was 30 years ago when D&H Quick Lube on Rochester and Auburn rebuilt. They stayed in business while the owner built a new 3-bay building with a 2-bay building right there, and they did not do much business, if any. The construction took up all the room.

Mr. Ahmed said that his customers came by appointment only. He could ask his neighbor at the gas station if people could park there and come to his office. Mr. Hooper said that would be one car. He understood that as a property owner, Mr. Ahmed wanted to do what he could, but realistically, it would not happen. He could try, but Mr. Hooper did not feel it would happen with the construction activity. As far as use of the western property for storage of construction materials, Mr. Hooper could understand that as a condition for the site plan.

With regards to the conditions for the CUP, Mr. Hooper agreed with Ms. Morita about the local streets. He felt that they were being too generous by saying two or more citations within six months. He would add: "Use of local streets for Auto Rite Sales was strictly prohibited." He would also add: "Two or more court convictions within one year resulting in violation of the conditions would result in the loss of the CUP for the eastern most property formerly known as 1927 E. Auburn Rd." He said that when Mr. Ahmed came before them three years ago, Mr. Hooper viewed him as a small businessman trying to get into the business. He heard that Mr. Ahmed should be given the chance, and he would do the job right, but Mr. Hooper indicated that those words had, frankly, rung hollow. Mr. Hooper wanted to give every small business owner an opportunity, but in this case, for Mr. Ahmed to continue in business, the City had to be very crystal clear on what it expected and what would occur and not have leniency, because it appeared that the history was not following the laws and Ordinances of the City.

Mr. Ahmed said that since he opened his business, he had paid close to \$18k a month to the State in sales taxes. There was a barber shop there before, and

they did not pay nearly as much in taxes. For the past two months, he did not pay one penny to the State, because he had no business. He said that he was trying to do the best he could, and he had proof that he had paid \$105k in sales taxes. He commented that the City should appreciate his business and not try to close it down. Mr. Hooper said that he did appreciate small business owners trying to stay in business. However, beyond spending money, Mr. Ahmed had to comply with the laws of the City. It was not simply buying something and doing what he wanted. Mr. Ahmed said that a customer could come to his office, but he did not know how many would come each day. It would be up and down. Mr. Hooper reminded that it was hard to get approval in the first place. No one wanted a used car business on Auburn in Olde Towne. At the time they said five cars, it was an uphill battle. Mr. Ahmed said that Mr. Breuckman asked him to design it for 17 cars. There was someone (when he bought it) that told him he could park many cars. He did not know he would have a problem. If he could do what Mr. Breuckman told him he would not be having a problem.

Ms. Morita said that like Mr. Hooper, she appreciated small businesses, but she appreciated small business that abided by the same rules the City expected from all its businesses. In terms of being on Council and Planning Commission, it was her responsibility to apply those rules to everyone equally. Whether it was the business down the street or Mr. Ahmed's business, the expectation was to follow the rules. From what she could tell, those rules were not being followed. She had another condition she felt should be considered. Regarding the second floor office, she would condition approval on it not being used for residential purposes. Mr. Ahmed said that it definitely would not be.

Vice Chairperson Brnabic asked Mr. Reece if he had a suggestion for building materials and colors. Mr. Reece said that he was fine with the masonry color schemes, but he was opposed to the blue and the red sign.

Mr. Schroeder asked Mr. Anzek if the second floor was for business use if there would be a handicap elevator requirement. Mr. Anzek was not sure of the rules, but he thought that if the business could be conducted on the first floor, an elevator would not be required. He did not believe that there would be business conducted on the second floor.

Mr. Kaltsounis said that he had been working on the motions, and there were a lot of conditions added mainly because of the history. He appreciated small businesses, but as the voice of the residents, the Commissioners had to make sure the rules were followed as if they lived next door. Mr. Ahmed had been before them many times, and there were discussions about the violations. Mr. Ahmed said that he did not know that the City would give him a violation. Mr. Kaltsounis asked if there could be a rebuttal to Mr. Breuckman's letter allowing cars on the west side, or if the Minutes and motions would reset what Mr. Breuckman had said.

Mr. Anzek said his response would be "all of the above." He read Mr. Breuckman's letter, and he was there when Mr. Breuckman advised Mr. Ahmed that everything had to be done before the Zoning Ordinance amendment went into effect. The applicants waited too long to file plans. He noted that B-2 permitted outdoor storage, but FB-2 did not. The letter also said that it should

be a temporary use. Mr. Ahmed went before the ZBA to seek a Variance, but it was not approved. Mr. Anzek believed that the letter was null and void.

Vice Chairperson Brnabic asked about a condition in regards to test driving of vehicles in the surrounding residential area, which she would like as a condition. Mr. Kaltsounis said that he was going to propose that. Vice Chairperson Brnabic noted that there was no loading space proposed. She asked how and where they would be unloading. She had seen car haulers on the property, and oftentimes, Auburn was blocked.

Mr. Ahmed said that another dealer nearby parked haulers on the side and unloaded them. For his business, it would happen only once every 15 days or so, and they were only there for about ten minutes. Vice Chairperson Brnabic asked where that would occur. Mr. Ahmed said that it could be on the side of Auburn Rd.

Vice Chairperson Brnabic asked what the two service bays would be used for. Mr. Ahmed said that one would be for service and one to check the brakes and things like that. Vice Chairperson Brnabic clarified that there would be a hoist in only one bay, which was confirmed. Vice Chairperson Brnabic asked if oil changes would be provided, and Mr. Ahmed said that nothing like that would be done.

Hearing no further discussion Mr. Kaltsounis moved the following, seconded by Mr. Schroeder:

MOTION by Kaltsounis, seconded by Schroeder, in the matter of City File No. 13-005.2 (Auto Rite Sales) the Planning Commission **recommends** to City Council **Approval** of the **Conditional Use** to construct a used car sales operation on the .29 eastern acre, formerly known as 1927 E. Auburn, based on plans dated received by the Planning Department on December 22, 2015, with the following five (5) findings and subject to the following five (5) conditions.

Findings

1. The proposed building and other necessary site improvements meet or exceed the standards of the zoning ordinance.
2. The proposed building has been designed and is proposed to be constructed, operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the general vicinity, adjacent uses of land, and the capacity of public services and facilities affected by the use.
3. The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, and refuse disposal.
4. The proposed development should not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property,

or the public welfare.

5. *The proposal will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.*

Conditions

1. *That the construction of the new facility and all site improvements be completed by October 31, 2016. If the completion date is not met the applicant can request an extension to be granted by the Planning Commission. If no extension is requested the City will initiate action to revoke the conditional use permit.*
2. *A total of 12 vehicles shall be allowed for display and two in the bays at one time.*
3. *The use of surrounding local, neighborhood streets by Auto Rite customers shall be strictly prohibited.*
4. *If two or more violations, as determined by the local district court or violations of the conditions occur in one year on the west or east lot, the Conditional Use Permit shall be considered revoked, and staff shall be directed to initiate legal revocation proceedings of the Conditional Use Permit*
5. *No cars will be allowed to be displayed or stored on the west property.*

Mr. Dettloff asked if the applicant was agreeable to the conditions and if he understood the added conditions. Mr. Ahmed said he did with the exception of only being allowed to park ten display cars (original condition).

Mr. Reece asked if there was any discussion about hours of operation, but staff had not discussed that with the applicant. Mr. Reece asked if would be open to Sunday sales at midnight. Mr. Anzek replied that there were no Ordinance restrictions as to hours of operation on any use in the City.

Mr. Anzek asked Mr. Ahmed how many cars he felt he needed to have on site. Mr. Ahmed said 18 plus two in the bays. Mr. Anzek asked if the three employee count included Mr. Ahmed, and Mr. Ahmed said that he was included. Mr. Anzek noted that there were four employee spaces and one handicap space. He asked where the customers would park. Mr. Ahmed said that one customer would come by appointment. Mr. Anzek asked what would happen if there were two customers at the same time. Mr. Ahmed said that it rarely happened. Mr. Anzek suggested that if someone called for an appointment, Mr. Ahmed could ask them what kind of a car they would like to see and it could be available. It could be in Mr. Ahmed's inventory, and he could bring it to the dealership for the appointment. Mr. Ahmed agreed. Mr. Anzek asked why he would need 18 spaces then. Mr. Ahmed said he needed to park more cars. He had made a mistake before, and for the money he was spending, he needed more cars. Mr. Anzek did not think Mr. Ahmed's operation was typical for used car sales. Mr.

Ahmed said that he needed to have cars for customers to look at. He had to have 18 cars to make a living, and it was his only business. He said that he was a resident of Rochester Hills, and he paid taxes for his home and his property. He asked how he could make money if the City squeezed him. Mr. Anzek said that he was just trying to find out the magic in 18 or 20 cars. Mr. Ahmed said that he could manage things with that number of cars.

Mr. Kaltsounis said that he originally made the condition allowing ten cars per Mr. Hooper's recommendation. Mr. Kaltsounis said that he could possibly see 13. If Mr. Ahmed showed a lot of Porche 911s in the display, or little cars, Mr. Kaltsounis did not think that even those cars could be backed out of the service bay and driven forward without hitting other parked cars or the gate. He felt that should require the removal of a row of cars in the display parking at the bottom. At the top, there should only be three cars. Mr. Ahmed again asked him to please not cut the number of cars. He said that he could not survive with 13 cars, and he maintained that the City had to work with him.

Mr. Schroeder asked if there was consideration for putting "No Parking" signs on Hessel. Mr. Anzek said that it would have to be monitored, because if there was going to be short term delivery from a carrier, it might need to park there.

Mr. Hooper asked how big the western property was and he was advised .57 acre. He said that someone could park 27 cars on it, but he could not see trying to squeeze that many onto the eastern parcel. If it was twice as big as the east side, Mr. Hooper considered that if they cut the parking in half to 13, which would include employee parking, he could come up with ten display cars. If the Commissioners wanted to go to 12, he could agree, but any more than that, Mr. Ahmed would be kidding himself. Mr. Ahmed was squeezing too much on a small property, and he bought the wrong property for 18 cars. Mr. Hooper said that was his opinion as one of nine on the Commission. Mr. Ahmed could not come to the City and say that he had to have that many on such a small piece of property.

Mr. Ahmed said that he worked with Mr. Breuckman who told him that he would have to put the building in the middle of the two parcels. He spent close to \$18k trying to do that project. After he submitted the plans on May 22, 2014, Mr. Breuckman told him that the Engineering Dept. was happy he was putting the building in the middle. Mr. Ahmed thought there would be no problem getting approval. On June 19, 2014 he submitted plans to Planning, but Mr. Anzek did not know what Mr. Breuckman had told Mr. Ahmed. Mr. Ahmed asked why he would spend \$18k. The City gave him the idea to do the project. When Mr. Ahmed submitted plans on May 22, 2014, Planning told him he needed engineering drawings. It took him a month to get the engineering drawings, and he paid \$4,500. He said that he had proof of everything, and a copy of a letter Mr. Stempien wrote to Mr. Anzek. Mr. Ahmed submitted the plans on June 23, 2014, and that was the day the zoning for his lot was changed. He then said that he submitted on June 19, 2014.

Mr. Hooper said that Mr. Ahmed's history did not match the factual history lesson, and the bottom line was that he bought too small a piece of property to park the number of cars he felt he had to have, which in Mr. Hooper's opinion

was way too many. As he mentioned three years ago, it was very questionable as to putting a used car dealership on Auburn Rd. in Olde Towne. It was not a popular decision at the time to allow even five cars. The City was trying to work with Mr. Ahmed, but he just could not park 18 cars. Mr. Hooper said that he would not support more than 12 display vehicles, but he would see how the vote went.

Mr. Ahmed said that he was investing so much money that he needed that number of parking. He asked them to please give him 20 spaces. He said that most of the cars would not be drivable, just show pieces for people to come look at. He would have only one plate on a car for a test drive.

Mr. Kaltsounis said that the Commissioners recently had a used car lot for approval come before them. They had also seen new car lots recently. He asked if it was fair to say that the used car lots had followed the Ordinance with regards to parking spaces and if they were designed correctly. Ms. Roediger agreed, and said that typically, the lots showed parking spaces. She recalled the Audi used car lot, and said that they did not get into the specific number of display vehicles. They just ensured that there were adequate drive aisles. Mr. Kaltsounis said that the Commission had laid out parking spaces for used cars and dealerships in the past based on the Ordinance for parking and egress and ingress. He stated that he was unwilling to set a precedent for the subject matter. He would allow no more than 12 display spaces and two in the bays. If there were more than that, he would be concerned about setting a precedent. The Commission had not done it for anyone else, and he did not want anyone else lining up to get the same density.

Mr. Schroeder said that he understood Mr. Ahmed's situation, but if the City sympathized with everyone, it would not be holding up its standards. If they bent on one, they would have to bend for all, and they would end up like Detroit - no parking, no setbacks - and they had to maintain minimum standards. He said that he sympathized with Mr. Ahmed, and he was sorry that he did not understand, but a diligent businessman would know all of those things and have those things in mind before making commitments. The City could not bend that far, just because there was too much being proposed for the site.

Ms. Morita called for a vote. Vice Chairperson Brnabic noted that Mr. Ahmed did not agree to one of the conditions. She told Mr. Ahmed that the motion on the table had a condition restricting the number of cars to be parked to 14. She asked Mr. Ahmed if he was willing to agree to that condition, and Mr. Ahmed said it was too low.

A motion was made by Kaltsounis, seconded by Schroeder, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion carried by the following vote:

Aye 7 - Brnabic, Dettloff, Hooper, Kaltsounis, Morita, Schroeder and Yukon

Nay 1 - Reece

Absent 1 - Boswell

Ms. Roediger reminded that it was a recommendation to City Council, and that the applicant could plead his case there. Vice Chairperson Brnabic stated for the record that the motion had passed seven to one.

2013-0190

Request for Site Plan Approval - City File No. 13-005.2 - A new 714 square-foot used car sales office and 1,043 square-foot service garage building for Auto Rite Sales, on a 86-acre parcel at 1923 E. Auburn Rd., west of Dequindre, Parcel No. 15-25-482-025, zoned C-I, Commercial Improvement, Syed Ahmed, Applicant

MOTION by Kaltsounis, seconded by Yukon, in the matter of City File No. 13-005.2 (Auto Rite Sales), the Planning Commission **approves the Site Plan**, based on plans dated received by the Planning Department on December 22, 2015, with the following eight (8) findings and subject to the following thirteen (13) conditions.

Findings

1. *The site plan and supporting documents demonstrate that all applicable requirements of the zoning ordinance, as well as other city ordinances, standards, and requirements, can be met subject to the conditions noted below.*
2. *The proposed use was approved in 2013, prior to the ordinance change, and the applicant is vested for automobile sales in the CI and FB-2 districts.*
3. *The requested 66 foot increased front yard setback is justified as it will allow for a better display of the vehicles in front and allow the building to the rear, as is typical with automobile sales establishments.*
4. *The proposed project will be accessed by an existing driveway which will be reduced to 24 feet, thereby promoting safety and convenience of vehicular traffic both within the site and on adjoining streets. Walkways have been incorporated to promote safety and convenience of pedestrian traffic on Hessel.*
5. *Off-street parking areas have been designed to avoid common traffic problems and promote safety.*
6. *The proposed fencing had been recommended for approval by the Planning Commission.*
7. *The proposed improvements should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.*
8. *The proposed development will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.*

Conditions

1. *City Council approval of the conditional use.*
2. *Provide a landscape bond for replacement trees and landscaping in the amount of \$5,935, plus inspection fees, prior to issuance of a Land Improvement Permit for this development.*
3. *Provide an irrigation plan and cost estimate, prior to issuance of a Land Improvement Permit.*
4. *Payment of \$2,600 into the City's Tree Fund, prior to final approval by staff.*
5. *Reduce access approach on the eastern property line to 24 feet in width if access is ever provided off of Hessel.*
6. *Address all applicable comments from other City departments and outside agency review letters, prior to final approval by staff.*
7. *The gate on Hessel shall be shown as removed and replaced with a solid fence, prior to City Council consideration of the plans.*
8. *The color blue on the façade shall be replaced with an earth tone color, as approved by staff, prior to City Council consideration of the plans*
9. *The CMU on the second floor east elevation shall be a natural finish split face block to match the rest of the building, as approved by staff, prior to City Council consideration of the plans.*
10. *The western most property can be used for construction material during construction of the property to the east.*
11. *The second floor area is not allowed to be used for residential purposes.*
12. *No string lights or outside storage shall be allowed on the property.*
13. *The plans shall be amended regarding the corner clearance issue prior to City Council consideration of the plans.*

Mr. Schroeder asked if there would be engineering plans that showed the drainage. The plans showed storage and a pipe to the street, but he wondered if site/building drainage would go to the detention basin. Mr. Anzek advised that Engineering would require that in the construction documents.

Mr. Dettloff asked Mr. Ahmed if he understood and agreed to the additional conditions. Mr. Ahmed said that he was not satisfied with the parking allowed. Other than that, he was satisfied. Mr. Dettloff pointed out that the motion was for the site plan, and he asked again if Mr. Ahmed agreed to the seven additional conditions. Mr. Ahmed said that except for the parking he did. Mr. Dettloff explained that that issue had passed.

A motion was made by Kaltsounis, seconded by Yukon, that this matter be Approved. The motion carried by the following vote:

Aye 7 - Brnabic, Dettloff, Hooper, Kaltsounis, Morita, Schroeder and Yukon
Nay 1 - Reece
Absent 1 - Boswell

Vice Chairperson Brnabic stated that the motion had passed 7-1, and she thanked the applicants.

NEW BUSINESS

2016-0002 Request for Final Planned Unit Development Agreement Recommendation - City File No. 15-001 - Brampton Parc Condominiums PUD, a proposed 12-unit residential development on 2.93 acres, located on the east side of John R between Hamlin and School Rds., zoned R-4, One Family Residential, Parcel No. 15-24-301-052, 1459 John R, LLC, Applicant

(Reference: Staff Report prepared by Sara Roediger, dated January 15, 2016, PUD Agreement and site plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Jim Polyzois, 1459 John R, LLC, 14955 Technology Dr., Shelby Twp, MI 48315 and Ralph Nunez, Design Team Plus, 955 E. Maple Rd., Suite 210, Birmingham, MI 48009.

Ms. Roediger noted that the applicants were in front of the Planning Commission in October 2015 for the first part of the two part PUD process (Concept Plan). The matter went to City Council on November 9, 2015 where it was unanimously approved. She stated that the Final PUD Plan was essentially the same as the Concept. The key change was in response to the neighbor's concerns about screening, for which the applicant added 15 evergreen trees and enhanced plantings on the eastern property line. That was done in coordination with staff and the property owners to create the desired buffer along that property line. Ms. Roediger also noted that a Wetland Use Permit Recommendation was being requested. The site contained .026 acre of wetlands which had been reviewed by ASTI Environmental. The wetlands were determined to be of low quality. A small Natural Features Setback Modification (675 linear feet) was being requested for grading around the cul-de-sac area. All reviews had recommended approval, and there was a copy of the draft PUD Agreement included, which was reviewed and approved by City Attorney Staran. She said that she would be happy to answer any questions.

Mr. Kaltsounis indicated that he would like to have the existing zoning concept plan removed from the plans. He thought that it was confusing and was not necessary. It did not bring the wetlands into the equation, and he did not see why it should be part of the Final Plans. Ms. Roediger said that it was included as part of the Concept Plan and was showing what could be alternatively