

6. That the applicant receive a Soil Erosion Permit from the Oakland County Drain Commission prior to issuance of a Land Improvement Permit.
7. That the applicant make every effort to combine the sump lead and storm catch basin for lot 10 with lot 9 and to make every effort to save as many trees as possible.
8. Increase the landscape easement along the northwest side of lot 10 to 22 feet.
9. Work with the neighbors and the Historic Districts Commission, if necessary, to replace or repair the split rail fence along the entrance to the development.
10. That the developer receive written, specific approval of the septic system by Oakland County prior to final approval.
11. If a sidewalk waiver is granted by City Council, applicant shall submit escrow funds to build a bike path if a connection to additional bike path is available - the cost estimate to be determined by Engineering Services.

**Roll call vote:**

Ayes: Kaltsounis, Boswell, Hooper, Ruggiero, Rosen  
Nays: Brnabic  
Absent: Holder, Kaiser, Myers

**MOTION CARRIED**

Mr. Rosen advocated speaking with the neighbors to ensure that everyone would be happier in the long run and to help the project along. He wished the applicants luck and advised the audience members they would be notified of any future meetings regarding this project.

**3. Rezoning Request - File No. 03-015 (Public Hearing)**

Project: 1812 Rochester Road Rezoning  
Request: An amendment to Chapter 138 of the Code of Ordinances to rezone a portion of one parcel of land totaling approximately 0.97 acre **from** R-3 One Family Residential District, **to** O-1, Office Business District.  
Location: North of Hamlin, West of Rochester Road  
Parcel: A Portion of 15-22-451-033, zoned R-3, One Family Residential District  
Applicant: Finsilver/Friedman Venture I  
34975 W. 12 Mile Rd.  
Farmington Hills, MI 48331

(Reference: Staff Report prepared by Deborah Millhouse, dated October 15, 2003 has been placed on file and by reference becomes part of the record hereof.)

Present for the applicant were Stanley Finsilver, property owner of 1812 and 1814 Rochester Road and Dr. Arnold Tracht, DDS, who leases space at 1814 Rochester Road. Mr. Finsilver stated that he was present to request a rezoning for the purpose of creating additional parking on a landlocked parcel behind his property.

Mr. Finsilver stated that the subject parcel, which he has owned since 1987, is 106 x 400 feet in size. They would like it rezoned from residential to office so they can expand the parking lot for his tenants. Dr. Tracht has patients who come in on the weekends and Mercy Care, leasing at 1812 Rochester Road, also has need for additional parking. Sometimes there are no places to park. Temporarily, they have used the space next door, behind the previous carpet business, because that operation was closed. They are reopening, however, and will need the space, so shortly it will not be an option for the applicant. Mr. Finsilver has owned the subject parcel since 1987 and now needs it for parking. He advised that there would be additional landscaping added to the parking area to buffer the residential.

Ms. Millhouse pointed out that the permitted and special uses listed in the Zoning Ordinance for the existing zoning, R-3, and the requested zoning O-1, have been

provided in the Staff Report. She noted that Staff always looks at Master Land Use consistency when reviewing a rezoning request and within the Staff Report she has pointed out that the front part of the parcel is designated office use and the rear one acre of the parcel is planned for single-family. Therefore, according to the Master Land Use map, the request would not be consistent. She included sections of the Master Land Use Plan that show some support for the rezoning; specifically, that there are office categories intended for parcels occupied by all types of individual office facilities and related parking, included medical. The Report also points out that office may be used as a transition between commercial areas and residential neighborhoods. This would be the case here because the prior carpet store to the south is zoned B-2 and a portion of the parcel requested for rezoning would act as a buffer between that and the residential. The remaining area surrounding the parcel is single-family residential; however, the lots are known as "bowling alley" parcels and there are no structures located adjacent to the site. Ms. Millhouse continued that when a request is inconsistent with the Master Land Use Plan, Staff asks the applicant to provide reasons for the request, knowing that the Planning Commission cannot consider recommendation for rezoning based upon a certain use. The Planning Commission has to review this request based upon all the uses that are potential within the site, but they also have to consider the constraints of the site. If it were to be rezoned and become office, a type B buffer would be required, including a 25-foot buffer width, a six-foot opaque screen and a 20-foot IVO. She advised that staff has recommended approval and asked if there were questions. Mr. Rosen opened the public comments.

**Mr. Wen Zhigang, 133 Sandalwood Dr., Rochester Hills, MI** Mr. Zhigang pointed out his home north of the current parking lot and stated that he has lived there for 7 years. He questioned the need for additional parking because in all the years he has lived here, he has never seen a full lot. He believes there should be an investigation regarding that and he offered to take pictures. He noted that there is a wall behind his house and about 1-2 years ago the woods behind his house were cut and gravel put down. He spoke with Mr. Finsilver who said that was done to pile snow. Mr. Zhigang commented that the wooded area is very nice for the two families next to him. He received a discount when he bought his house because he backed to a commercial building and now his neighbors would be affected and they never got a discount. He noted that the parcel is very close to the Hamlin School's nature area and he has seen deer in his neighbor's backyard. He feels the parking and building are already big and adding to it will invade the area. He advised that years ago the building held an EMS unit and there were ambulances every night and he could not sleep. There was a diesel engine running every night keeping him up. He is very glad there is now a dentist leasing the space, but he wondered if the parking lot would accommodate another EMS-type business again in the future.

**Tricia McDonald, 161 Sandalwood, Rochester Hills, MI** Ms. McDonald indicated that her house would be right on the edge of the proposed parking lot. She feels that by allowing the zoning change for this parcel, the Planning Commission would be rewarding an offender. Over a year ago, the owner made an illegal parking lot on this parcel. He tore down trees and placed down gravel. As an adjacent neighbor, it became an eyesore to her. There was also a large dumpster placed on the gravel extension and cars began to park there. Eventually, the County was called and the entrance to the gravel lot was closed down. When the owner purchased this property, he was obviously aware that the land was zoned residential. By allowing the rezoning, the owner would be able to make more money by keeping tenants and increasing parking, but this will not increase the value of her property. She is sure parking lot lights will need to be installed, as will another dumpster. When she looks out her yard, she sees what is every person's dream – there is nothing behind her. She has stood on her neighbors' decks and seen a parking lot. The Commissioners would not like to look at a parking lot and she does not want to either, and she stated that was why she was here this evening.

**Rinaldo Lucchesi, 153 Sandalwood Dr., Rochester Hills, MI** Mr. Lucchesi expressed that he had the same concerns as his neighbors. He explained that his home was next to the subject site, and said that the ambulance service had been using this area as a parking lot until the residents shut it down. The adjacent neighbor had to move because it was such an eyesore. Vehicles can still park there now because it is all gravel. He has a two-year old son and when he moved here, for safety and other

reasons, he checked that the zoning behind him was residential. He emphasized that he would not stay in Rochester if this area were turned into a parking lot. He knows it will not stay wooded forever, but he would like the value of his home to stay as it is and he would rather see homes behind him. All of the homes along the parking lot wall take longer to sell because people do not want to live next to a parking lot. He loves his home and wishes there could be homes behind him, not a business. If he knew there was a parking lot there before he bought his home, he would not have moved into it. The house next to him took over a year to sell. He stated that he was pleading for his home's value and he was strongly concerned about what would happen on that parcel in the future. He hoped the Commissioners would consider his concerns.

Mr. Rosen restated that the request was for a recommendation of a rezoning and read from the By-Laws of the Planning Commission: "The adoption of any recommendation for approval or denial of a zoning or rezoning shall be by the affirmative votes of at least (5) members of the Planning Commission. If any recommendation relative to a zoning or rezoning fails to obtain five (5) votes and any member of the Planning Commission is absent, the request shall be tabled to the next regular scheduled meeting of the Commission or such other time as set by the Commission, and the recommendation for approval or denial shall be determined at such later meeting by a majority vote of the Commission members present at said later meeting." He indicated that there was potential for a tie, three to three, for a four to three vote, a five to one vote, or a vote of six to zero. There are two opportunities to fail to achieve five votes - for approval or denial. He added that if there were not five votes to recommend approval or denial, it would be tabled until the next meeting.

Mr. Hooper referenced parking raised by a neighbor who said he had never seen the lot full. He asked if the parking requirements had been addressed and if what was there currently was accurate.

Ms. Millhouse commented that the Commission should not really be addressing the potential use for parking. In deference to that, however, the structures were readapted historic structures and no one present was privy as to how the parking was determined at that time. She noted that the Ordinance provides minimums, but it does not mean that based on perceived need or desire that there could not be additional parking provided.

Mr. Finsilver explained that if he did not need the parking he would not be here to request a rezoning. He has tenants that are very busy and there would be no reason for him to create a parking lot and do landscaping if he did not need it. Mr. Rosen asked Mr. Finsilver when he purchased the property. He replied that he bought both pieces in 1987. Mr. Rosen asked if he knew when the subject property was split. Ms. Millhouse suggested it might have been when the subdivision to the north was created. Mr. Rosen said it appeared that the people who owned the bowling alley lot got an offer they could not refuse. Mr. Rosen clarified that Mr. Finsilver combined the parcel this year. Mr. Finsilver replied that was correct.

Mr. Rosen read from the Staff Report: "Therefore, the only access to any single-family home constructed on this site would be through the existing medical office complex. This is also not in accordance with sound planning principles. It should be further noted that the petitioner has owned both parcels since 1987." His sense of the area was that it all should be redeveloped at some point as residential. He hoped that whoever would put that together would buy all the pieces and make a subdivision, as opposed to piecemealing development. He did not feel that there would only be one access to this site. He felt that the access could potentially be through other residential parcels.

Ms. Millhouse said it was added given the fact that there is single ownership, whether two lots or one. She indicated that the only access at this point in time would be through the property owned by the applicant and noted that this statement was relative only to the current situation.

Mr. Kaltsounis advised that the proposed parking covers 3/8 of the subject site. He indicated that there is the probability for a building or a larger parking lot to go there and that is something he would have to consider - that and the fact that the driveway could potentially continue. Mr. Finsilver pointed to the retention pond and swale on the site

and showed the drop-off. He responded that even though someone suggested moving the parking, it would not be possible. Mr. Kaltsounis mentioned that he visited the site and noticed the parking lot was fairly full. He wondered if what could potentially go on this parcel, if rezoned, would be harmonious to the rest of the area. Not following the Master Plan and having a non-residential parcel in the middle of residential are concerns. There is also the potential for a large residential development of the area, as Mr. Rosen mentioned.

Ms. Brnabic asked for some background about the tree removal and placement of gravel. Mr. Finsilver explained that it got to the point where there was significant snowfall and there was no place to put the snow. In the last few years there has been no significant snowfall. They knew there was no access to the back property, but there was access on the Site Plan they were allowed to use to get to the property. He put gravel in the back to be able to use a loader and dump the snow there. He said that he did not tear down the big trees, but rather, the brush. He did not take down the spruce in back. He advised that they could not use parking spaces to store snow. He was not aware his management allowed ambulances to use the area as a turn around or of the noise.

Mr. Boswell asked if the Planning Commission had, prior to this request, recommended rezoning a small nub such as this. He did not recall doing so and did not think that at this point it was a good idea to make this small piece of residential an office piece. He commented that if Hamlin Pub, located at the end of this strip of commercial, wanted to enlarge their parking lot, there would be nothing to stop them or any other business along this stretch from requesting the same thing. He wondered about the timing of rezoning this small piece.

Ms. Millhouse stated that this was not an easy, obvious matter. Staff looked at the specifics of this case: the property has been owned by the same gentleman since the building was redeveloped for medical uses; the applicant has the right to request a rezoning; and a key is that the parcel is landlocked as it exists today. Its use for a single-family dwelling is suspect. The recommendation was not an easy decision or cut and dry. Staff recommended the rezoning because it is a narrow lot, there would be screening around the entire perimeter, and there are only two abutting homes.

Ms. Ruggiero said she was wary that this would be the beginning of the fall of land to more commercial development. She agreed with Mr. Boswell's point about Hamlin Pub; there is also an Outback Steakhouse being developed near there and this could be the beginning of further encroachment into residential zoning. She said she could appreciate the situation and that the parcel is landlocked, but that is just the situation today; that could change. They are seeing more and more parcels being purchased and redeveloped. The uses that would be allowed on that property would be significant in encroaching into the surrounding residential.

Mr. Kaltsounis asked Mr. Finsilver if he had ever approached the business owners to the south to inquire about purchasing some of their land. Mr. Finsilver replied that he had many conversations, but they did not seem interested in selling or leasing. That parcel is zoned B-2 and they might need it in the future.

Mr. Hooper remarked that he loves to see thriving businesses, but he did not think it would be appropriate to rezone this parcel to O-1 and made a motion to deny.

**MOTION** by Hooper, seconded by Kaltsounis, in the matter of City File No. 03-015, the Planning Commission **recommends** to City Council **denial** of the request to **rezone** 0.97± acres, identified as the rear portion of Parcel No. 15-22-451-033, from R-3, One Family Residential to O-1, Office Business.

**Roll Call Vote:**

Ayes: Boswell, Brnabic, Hooper, Kaltsounis, Rosen, Ruggiero  
Nays: None  
Absent: Holder, Kaiser, Myers

**MOTION CARRIED**

Mr. Rosen informed the applicant he had the option of taking the matter to the City Council, where a final determination would be made.

## DISCUSSION

**Gateway Office Phase II**, a conceptual office/retail complex located north of the Gateway Office on the northwest corner of South Boulevard and Rochester Road, zoned B-3 Shopping Center Business District.

Mr. Anzek stated that he and Mr. Delacourt met with the developers on several occasions. They have proposed a concept of hybrid uses, with service retail on the first floor and offices on the second and third floors. When they first entertained this concept, Staff's quandary was that B-3 zoning does not permit three floors and the O-1 zoning does not permit service retail, so Staff suggested that the applicant seek the guidance of the Planning Commission. It was then brought to Staff's attention that under subsection (i), height standards of B-3 zoning in the Schedule of Regulations, for five acres or more an applicant can request three stories after Planning Commission recommendation and City Council approval. He read it for the record: "For planned developments of five acres or more under one ownership, there may be a modification of the maximum height requirement subject to Planning Commission review and City Council approval, after public hearing, pursuant to section 138-1306, (special and conditional land uses) but the maximum height of hospitals shall not exceed eight stories, and the maximum height of any other structures shall not exceed five stories. Before approving an increase in height, the City Council shall require that each front, side and rear yard setback shall be at least equal in its depth to the height of the structure and shall find the increased height would not be incompatible with the surrounding and nearby topography and existing and reasonably expected development, the zoning plan for the area and the health, safety and welfare of the city." Staff has discussed the plan in conjunction with the surrounding uses – office, residential and commercial - and they felt the applicants should get input because they would need special approvals when they proceed.

Mr. Eugene D'Agostini, 38700 Van Dyke, Sterling Heights, MI introduced himself and said that he was present representing Gateways, L.L.C., the owner of the subject property. They also own the property on the corner of South Boulevard and Rochester Road, which houses an existing office building. He explained that in 1993 he, along with the Bolyard family, purchased a ten-acre parcel of land. Subsequent to that, they built the 44,000 square-foot medical building on the corner. 60% of that building is occupied by St. John's Hospital and there are other medical uses in the building. The building is zoned office, which was accomplished by a rezoning very early on, while they were in the process of buying the property. The remaining six acres were zoned B-3 and they requested at the time that it should remain B-3 and the City agreed. The property is bordered to the west by a residential subdivision and is currently vacant. It is their intent to develop it and make the development a seamless one. They want to tie into the aesthetics of what they have created on the corner. He showed a proposed rendering and said they are trying to incorporate a commercial use on the first floor, possibly a restaurant, a coffee shop, or other uses that would service the offices. They have been talking to a bank also. They are trying to keep the building proportionate to what is there and maintain the general theme. They have had ample opportunity to develop it as commercial. Home Depot approached them early on; car dealerships and others have also approached them, however, they have a vested interest in the site and do not want to create design discord at that intersection.

Mr. Rosen explained the process the applicant would have to go through – Site Plan review and recommendation of the height to City Council. Mr. Anzek indicated that a few weeks ago, Staff thought the applicant would need an amendment to the Ordinance, but subsection (i) shows that the height can be increased potentially. Mr. Rosen said the question is about whether an office and mixed-use commercial make sense for this area and if there is enough harmony shown to go forward with this plan.

Mr. Frank Grocki, introduced himself as an architect with Mode Development and said he has worked with Mr. D'Agostini. He indicated that the consequence of going to three stories would be to maximize use of the property and give an additional office facility. If it were two-stories, it would become shorter than the building on the corner. He felt that