



Rochester Hills

Minutes

Planning Commission

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Chairperson William Boswell, Vice Chairperson Deborah Brnabic
Members: Gerard Dettloff, Dale Hetrick, Greg Hooper, Nicholas O. Kaltsounis, David A. Reece, C. Neall Schroeder, Emmet Yukon

Tuesday, December 7, 2010

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

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

Present 8 - William Boswell, Gerard Dettloff, Dale Hetrick, Greg Hooper, Nicholas Kaltsounis, David Reece, C. Neall Schroeder and Emmet Yukon

Absent 1 - Deborah Brnabic

Quorum Present

Also Present: Ed Anzek, Director of Planning and Economic Development
Derek Delacourt, Deputy Director
Paul Shumejko, Traffic Engineer
Maureen Gentry, Recording Secretary

Chairperson Boswell explained that there were cards to fill out if anyone wished to speak on an agenda item.

APPROVAL OF MINUTES

2010-0437 October 5, 2010 Regular Meeting

A motion was made by Schroeder, seconded by Yukon, that this matter be Approved as Presented. The motion CARRIED by the following vote:

Aye 8 - Boswell, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Brnabic

2010-0531 November 4, 2010 Special Meeting

A motion was made by Schroeder, seconded by Yukon, that this matter be Approved as Presented. The motion CARRIED by the following vote:

Aye 8 - Boswell, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Brnabic

COMMUNICATIONS

- A) Planning & Zoning News (2) dated October and November 2010
- B) Memo from M. Gentry dated December 7, 2010 re: 2011 Meeting Schedule
- C) Email from Scot Beaton, dated December 5, 2010 re: Sound Wall Designs
- D) Email from Melinda Hill, dated December 5, 2010 re: Sound Wall Designs

NEW BUSINESS

2010-0501 Conditional Land Use Recommendation (Public Hearing) - City File No. 10-007 - Miss Rita's Daycare, a proposed in-home daycare for up to 12 children at 3508 Summit Ridge, south of Dutton and west of Adams, Parcel No. 15-06-200-009, zoned R-2, One Family Residential, Rita Smith, applicant.

(Reference: Staff Report, prepared by Derek Delacourt, dated December 7, 2010 and documents from applicant, had been placed on file and by reference became part of the record thereof.)

Present for the applicant was Rita Smith, 3508 Summit Ridge, Rochester Hills, MI 48306.

Mr. Delacourt stated that the applicant was present requesting a Conditional Land Use (CLU) Recommendation for a residential daycare for up to 12 children at 3508 Summit Ridge, south of Dutton and west of Adams. He advised that the Zoning Ordinance previously only permitted daycares for up to six children, which was not in compliance with the State, which did allow up to 12 children. The Ordinance was changed to allow up to 12 with a Conditional Land Use Approval by City Council, if certain standards were met. The applicant had submitted the appropriate documentation, including a letter that explained how she felt she met all the requirements for a CLU. There was one letter from a neighbor with a concern about cars during pick up and drop off hours, but nothing else had been received from the neighbors.

Ms. Smith advised that the operation was not new for her; she has had a licensed daycare for 19 years and taken care of more than 200 children, all of which were children of Rochester Schools teachers. She started with two children, and it gradually grew. She stated that it would not be a year-round daycare, and that it would close in the summer and during all breaks and holidays. She stressed that she has never had a complaint from a neighbor or the State. The only thing she had been written up for was that she missed a couple of fire drills. She felt that anyone that had an objection to the parking and drop offs might have a misconception. She emphasized that she did not have 12 children - at the moment she had seven. Because the customers were teachers, there would not be seven cars at one time. There might be one at 7:00 a.m., one at 7:30 a.m. and one at 8:45 a.m., depending on when the teacher started. A couple of children were part time, and the only way she allowed that was if two children split the week - one came Tuesday and Thursday and the other came Monday-Wednesday-Friday, so there would be the same number of children each day. She advised that there would be no changes to the inside or outside of the home. There would not be a fence; there was a screened tree line and they used orange cones. The children knew they were not allowed past the cones. She added that fencing was not required by the State.

Mr. Yukon asked Ms. Smith if she would be the only one watching the children. Ms. Smith answered that if a second person was required (for more than six children), her daughter was available to help. She said that would not be very often. Mr. Yukon asked if the children would always be with her, or on a nice day, for example, if half would be inside and half outside. He asked if they had the option of being in either place.

Ms. Smith said that the State required all children to go out every day. She had infants, and she might use a double stroller with two infants outside. She would never be inside if the children were outside. If some were out and some were in, she would have a second person (her daughter). The children would be in the backyard only, and people across the street would not even know she had a daycare. Mr. Yukon clarified that the basement met the ingress/egress requirements.

Mr. Schroeder indicated that he was concerned about the landscaping and trees being used as fencing to try to control six or seven little kids. He did not feel that was acceptable because kids could wander into other people's yards. He would rather see a more positive enclosure. Ms. Smith noted that she was now in the City of Rochester, and had been for the last 18 years, and her license was good there through the end of May.

She did not have a fence there, and never had a problem with anyone going off alone. Mr. Schroeder said he was not convinced it was a good thing. He asked if a daycare was allowed within the neighborhood association guidelines. Ms. Smith said she had just gotten a letter from Ben Jones, the President, saying it was allowed in her new sub. Mr. Schroeder asked if the basement was finished with a bathroom, which was confirmed, and Ms. Smith added that there was also a kitchen.

Mr. Dettloff referred to having only one citation regarding fire drills in 19 years, and he said he assumed that because it was State licensed that the State would conduct periodic inspections. He asked how many were generally done. Ms. Smith said that the license was good for two years for 12 children and three years for six. If there were no problems, she would usually not see the State because of the work load. When she started, they came once or twice a year. She was also with an association for child development, which was a food program with the State, and four times a year they conducted inspections. They talked with the children and inspected the food and the menus. She added that she loved what she did.

Mr. Kaltsounis said that Ms. Smith mentioned that the children rode bikes, and Ms. Smith said it was only on a patio in the backyard and someone would always be with them. They did not go on walks, and they were in the backyard or basement only.

Mr. Hetrick said he thought it was fantastic that Ms. Smith was passionate about her work. He asked if her property in Rochester abutted a large street like Dutton or if she was imbedded in the subdivision. Ms. Smith said that they backed to a commons area, which also had an overflow retention pond, so there was a small amount of water behind her property. The State did not object to that even without a fence.

Mr. Hooper asked how long Ms. Smith had been at the current location. Ms. Smith said that they moved about a month ago, but they had not sold the house in Rochester, so she was still running the daycare from the Rochester location. Mr. Hooper clarified that no one had seen a daycare operate at the new location, which Ms. Smith confirmed. Mr. Hooper agreed that her passion for her work showed.

Mr. Reece asked how old her daughter was, and Ms. Smith said 26. Mr. Reece referred to the letter from the neighbor, and he asked if she had any conversation with that person. Ms. Smith had not, but the neighbor next door asked if she could keep her children sometime. Mr. Reece

thought it might be a good idea to have a conversation with the person who sent the letter, to let her know how the daycare would be run, the hours of operation and the parking and to alleviate any misconceptions or concerns. He thought that not having the daycare open during the summer and vacation times was a positive point.

Mr. Schroeder asked the ages of the children, and Ms. Smith said that the youngest was three months and the oldest was three years. Mr. Schroeder asked the oldest child she had ever watched, and Ms. Smith said five, after which they started kindergarden.

Chairperson Boswell opened the Public Hearing at 7:21 p.m. Seeing no one come forward, he closed the Public Hearing. Hearing no further discussion, Mr. Kaltsounis moved the following:

MOTION *by Kaltsounis, seconded by Dettloff, in the matter of City File No. 10-007 (Miss Rita's Day Care), the Planning Commission recommends to City Council approval of the Conditional Land Use, based on plans and information dated received by the Planning Department on November 4, 2010, with the following five (5) findings.*

Findings:

- 1. The use is consistent with the intent and purpose of the Zoning Ordinance in general, and of Section 138-4.300 in particular.*
- 2. The proposed development has been designed to be compatible, harmonious, and appropriate with the existing character of the general vicinity and adjacent uses of land.*
- 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 development should be not detrimental, hazardous, or unreasonably disturbing to existing land uses, persons, property, or the public welfare.*
- 5. The development does not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community*

Mr. Schroeder mentioned an omission in the Environmental Impact

Statement about the Master Plan and not disrupting land surrounding the development - the EIS only mentioned an indoor daycare. Mr. Delacourt said that something would be added about the rear yard use.

Mr. Reece asked if the matter would have to come back before the Commission if the hours of operation changed from what was represented. Mr. Delacourt said it would not, but if the Planning Commission wanted the hours as shown, he would recommend adding a condition. The Staff Report referred to how the current owner intended to operate only. Mr. Reece asked Ms. Smith her thoughts about that, and if she would agree to a condition based on what was represented. Ms. Smith said she would. Mr. Kaltsounis and Mr. Dettloff (motion makers) agreed to add a condition about the days of operation.

Mr. Hetrick said that he knew Ms. Smith was passionate about her work, and he did not feel that any of the children would be in harm's way, but it concerned him that if they set a precedent, that not everyone that came before them with the same request might have the same passion. He did not know how to rectify allowing the day care to happen and then finding that the next person was not as prepared or qualified. He did not think there could be a condition - certain criteria by which someone could demonstrate a capability. He was bothered that, as someone who would allow business to go forward, even though he felt Ms. Smith would do well, the next person might not be quite so qualified.

Chairperson Boswell reminded that any applicant that came before the Planning Commission would be a totally different case. Decisions would be made based on the circumstances at that time. Mr. Hetrick said that what the Commission was suggesting was whether a person was in compliance with ordinances, not whether they were good at business. He felt those were different issues. Chairperson Boswell agreed, but said that as a Planning Commissioner, he would have wide discretionary latitude regarding health and welfare criteria to base decisions.

Condition:

- 1. That according to the applicant's representation, the hours of operation shall be based on the Rochester Schools calendar year - the day care will not be open during the summers, holidays, breaks or weekends, according to the schools' schedules.*

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

Aye 7 - Boswell, Dettloff, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Nay 1 - Hetrick

Absent 1 - Brnabic

Chairperson Boswell stated for the record that the motion had carried, and he wished Ms. Smith good luck.

2010-0534 Rear Yard Setback Modification Request - City File No. 00-041 - AutoZone Store #4319, a reduction of 22 feet to allow a 28-foot rear yard setback for a proposed 6,846 square-foot automotive supply and parts store on .94 acre, located on the south side of Auburn, west of John R, zoned B-2, General Business, Parcel No. 15-35-226-049, AutoZone, Inc., applicant.

(Reference: Staff Report, prepared by Derek Delacourt, dated December 7, 2010, and backup documents and Site Plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Wade Davis, AutoZone, Inc., 123 S. Front St., Floor 3, Memphis, TN 38103 and Michael Motte, Atwell, Two Towne Square, Suite 300, Southfield, MI 48076.

Mr. Delacourt advised that the applicant was requesting a Rear Yard Setback Modification and Site Plan Approval for a proposed 6,800 square-foot AutoZone facility on a vacant parcel zoned B-2 on the south side of Auburn, west of John R. The property was appropriately zoned and master planned for the proposed use. The Site Plan had been reviewed by all applicable City departments and all recommended approval. The applicant had met all screening and buffering and interior landscape island and parking requirements. He noted that a normal rear yard setback for commercial in a B-2 district was 50 feet, but the applicant was requesting a modification of 22 feet to allow a 28-foot rear yard setback. The Zoning Ordinance allowed the Planning Commission to grant a reduction if the parcel was not adjacent to residential and if the site warranted it for a better development. Staff reviewed it and agreed that the lesser setback would allow better parking, landscaping and building layout. There were also existing easements to consider. He stated that Staff recommended approval of the reduced setback and Site Plans.

Chairperson Boswell asked the applicants if they had anything to add, and Mr. Delacourt asked Mr. Motte to go over the Site Plan.

Mr. Motte referred to the reduced setback, and said that there were some limitations as to how the building could be laid out. There was an existing storm sewer easement that serviced the commercial property to the south (Sherwin Williams). To maintain that storm easement, they needed the building closer to the rear property line. Another unique item was the 15-foot easement across the rear of the property that was shared with Sherwin Williams for drive access. There was a shared access agreement between sites. They had worked hard to maintain the landscape requirements and to meet the right-of-way requirements and needed the additional space up front. For the parking and surface ability to function correctly, they needed to be able to put parking, including ADA parking, in front of the store. If they had to push the building forward they could not do that, and the store would not function correctly.

Mr. Dettloff asked how many AutoZone stores were currently in the metro Detroit area. Mr. Davis was not sure, but he thought five or six in Oakland County, and the store closest to Rochester Hills would probably be an older store in Pontiac.

Mr. Kaltsounis said he understood that there were challenges with the site, but he wondered if they could flip the building and driveway to the opposite side of the site. Mr. Delacourt said that MDOT approved the location of the driveway for traffic safety - it lined up with the driveway across the street.

Mr. Kaltsounis said he was concerned about the neighbors. There would be car lights shining into the houses to the west. People would try to cut through to Sherwin Williams. If the building was moved to the other side, he thought it would help with those things. Mr. Motte reminded that the adjacent zonings were commercial and commercial uses. The ingress/egress easement that existed ran through the western part of the property. Mr. Kaltsounis asked about moving the building to the other side of the property. The parking would be moved to the east side of the property and lights would not shine on the existing building to the west. Mr. Motte responded that there was a 25-foot easement for the City on the east side of the property they wanted to avoid. They worked very hard with the City to come up with the best situation to provide adequate functionality for the site that could also allow AutoZone to service customers properly.

Mr. Schroeder felt they had done the best they could do with the site. Mr. Kaltsounis agreed there were challenges with the curb cut, but he wanted

to restrict the lights and slow things down.

Mr. Reece asked if the store was stocked using a step van or semi-truck. Mr. Davis said they would use a semi for set up and after that, smaller trucks would be used once or twice a week. Mr. Reece asked if there was a loading dock, and Mr. Motte said that the loading zone was at the rear of the store. Mr. Reece realized that, but in reference to the cross access with Sherwin Williams, he wondered about the frequency of deliveries. He looked at the landscape plan and saw a couple of trees planted in the island, and he wondered if they would obscure the driver's vision as he tried to pull out. Mr. Motte said they were deciduous trees, not evergreens.

Hearing no further discussion, Mr. Schroeder moved the following motion:

MOTION by Schroeder, seconded by Yukon, in the matter of City File No. 00-041 (AutoZone Store #4319), the Planning Commission grants a rear yard setback reduction of 22 feet to allow a rear yard setback of 28 feet to achieve optimal development of the site, based on plans dated received by the Planning Department on November 3, 2010 with the following three (3) findings.

Findings:

- 1. The building will be positioned on the site in the best manner to allow optimum development, and safe vehicle and pedestrian circulation.*
- 2. The reduction will allow a shared ingress/egress and cross access easement with the adjoining property to the south.*
- 3. The common storm water detention facilities can be maintained with the proposed building location and site layout.*

Mr. Dettloff asked if there would be a land lease or if they owned the site. Mr. Davis said it was a 20-year land lease with an option. He said that they very seldom closed stores; they had closed 20 stores out of 4,000 in the United States and usually relocated them to bigger stores.

Mr. Yukon asked if they had done a market study prior to choosing a site, which Mr. Davis confirmed.

A motion was made by Schroeder, seconded by Yukon, that this matter be Granted. The motion CARRIED by the following vote:

Aye 8 - Boswell, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Brnabic

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

2010-0533 Site Plan Approval Request - City File No. 00-041 - AutoZone Store #4319

MOTION by Schroeder, seconded by Kaltsounis, in the matter of City File No. 00-041 (AutoZone Store 4319), the Planning Commission approves the Site Plan, based on plans dated received by the Planning and Development Department on November 3, 2010, with the following five (5) findings and subject to the following six (6) 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 development will be accessed by ingress to and egress from Auburn Road and proposes a cross access agreement with the site to the south to access John R.*
- 3. Off-street parking areas have been designed to avoid common traffic problems and promote safety.*
- 4. There appears to be a satisfactory and harmonious relationship with existing contiguous development and adjacent neighborhoods.*
- 5. The proposed development should not have an unreasonably detrimental nor an injurious effect upon the natural characteristics and features of the site or those of the surrounding area.*

Conditions:

- 1. That all off site drainage easements, stormwater agreements and calculations regarding the proposed detention system must be reviewed and approved by Engineering Services, prior to Construction Plan Approval.*

2. *Appropriate approvals from MDOT, if required, must be obtained prior to issuance of a Land Improvement Permit for this project.*
3. *Install tree protective fencing, as reviewed and approved by the City, prior to issuance of the Land Improvement Permit.*
4. *Provide a performance guarantee in the amount of \$13,240.00, as adjusted if necessary by the City, to ensure the proper installation of trees and other landscaping. Such guarantee to be provided by the applicant prior to issuance of a Land Improvement Permit.*
5. *The applicant shall obtain a Land Improvement Permit prior to starting any work on site.*
6. *Provide cross access agreement to adjacent property to the south, prior to Construction Plan Approval.*

Mr. Reece asked if they used their own crews or local contractors. Mr. Davis advised that they used local contractors. Mr. Reece confirmed that they bid out to local generals, which he thought was great.

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

Aye 8 - Boswell, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Brnabic

Chairperson Boswell stated again for the record that the motion had passed unanimously, and he thanked the applicants for coming to Rochester Hills.

2010-0532 Discuss potential sound wall design for M-59

(Reference: Memo, prepared by Derek Delacourt, dated December 1, 2010 and associated documents, had been placed on file and by reference became part of the record thereof.)

Mr. Anzek explained that the issue of the sound wall design was brought up by MDOT last January. They held a focus discussion with the

residents in the area of M-59 (between Rochester and Dequindre), as part of the M-59 widening project. He showed two areas identified that met the criteria for sound walls, which included an area along the Whispering Winds condos and along the south side of M-59 east from Rochester Rd. He noted that the widening of M-59 was completed, except for some lights to be added and equipment that needed to be picked up. He stated that they would not be discussing any other sound wall areas or the cost. The package put forward was funded through the stimulus recovery act. Through the process with MDOT, the residents supported a floral design. Recent consideration included using the design from the City's branding campaign. He felt that the Planning Commission was the best forum for a public discussion to see if another design was appropriate. MDOT allowed the City to re-open the process to see if another decision would come about, but the window would shut very soon. There was not enough time to carry it forward to next year, based on the bidding timeline, and he was asking for a decision and recommendation for MDOT.

Mr. Anzek showed the design selected by the residents - he called it a Hibiscus flower pattern. It would be painted on concrete panels about eight by 20 feet in length. There were inserts that went into the forms that would create a recessed or embossed image. He showed a design that replicated the theme of what had been designed for the new branding campaign, which the City thought should be considered for the walls. He noted that the branding campaign update would be presented to City Council next week. The branding theme used the bebb oak tree from Livernois, with white striping representing hills. He would like the Planning Commission to choose one of the two designs presented, and he reiterated that the City administration preferred the tree design.

Mr. Dettloff clarified that MDOT was leaving it up to the Planning Commission to decide. Mr. Anzek agreed that MDOT was re-opening the matter to allow the Planning Commission to provide a new direction if it chose - to consider one or the other, but not another alternative. Mr. Dettloff also clarified that the new idea presented would coincide with the branding campaign the City was undertaking. Regarding the panels, he asked how frequent the tree pattern would be. Mr. Anzek said it could be on every panel or there could be different sequencing, such as one every five panels. It would add costs to do more, because it would take an additional interior mold. Mr. Dettloff said that personally, he would like to see consistency in the image the City wanted to project. If the tree fell in line with the image the City was trying to get across to people traveling M-59, he would not have a problem with it, and he thought the tree version would be fine. He asked if the residents who weighed in would have

another opportunity. Mr. Anzek advised that a letter was sent to those residents who spoke, inviting them to attend the meeting. There was not a good showing, unfortunately, which could be due to the weather, but they did not have time to keep looking at it. Mr. Dettloff asked if the maintenance would be the same for either pattern, and Mr. Anzek said that it would be the City's responsibility to maintain it, and he thought that the tree would use less maintenance because it would be easier to repaint.

Mr. Schroeder asked if the designs would be on both sides, which Mr. Anzek confirmed. Mr. Schroeder said that in his opinion, there should not be too many trees. He thought it would be too cluttered. He said that he definitely did not like the Hibiscus design. His concern, having been in freeway construction for 15 years, was maintenance and future costs. His experience with colored concrete and painting concrete had been very poor because it did not last very long, and there would be an ongoing maintenance costs.

Mr. Anzek asked Mr. Schroeder how far apart he thought the trees should be. He said that painting might not even be required, and they would have to look at the value and how expensive it would be to maintain. There was always a concern with graffiti. Mr. Schroeder said that they could sandblast the wall and not re-paint. He said that in driving down the freeway at 70 miles per hour, someone would not see the pattern if it were every 20 feet. He thought they should consider adding it every 70-100 feet. Mr. Anzek reminded that they would be on the residents' side also. Mr. Schroeder thought the pattern could be closer on the residential side and further apart on the highway side.

Mr. Kaltsounis concurred with Mr. Schroeder about alternating designs on either side. He said he would not like to drive down M-59 and see "explosions of flowers" coming at him. He thought the tree was simpler and more of a representation of Rochester Hills. He said he would like the tree design, but with the colors toned down. Mr. Anzek said that those details could be worked out. Mr. Kaltsounis noted that he drove to the airport along Telegraph, and the sound wall designs were a glaring dark blue. When the paint peeled, it would really stand out, and he did not feel that was a good look for Rochester Hills. He would like to see more earth tones and subtle colors. He had seen it in other areas, and felt it looked o.k. His vote was definitely for the tree design, but with less contrast in colors. He wondered about casting, and he talked about mixing the concrete with brown and having the textures the different colors. He stated that they would not have to paint it at all then.

Mr. Reece said his vote would be no for the Hibiscus. He liked the tree design, and he asked if they would be embossed on the concrete - engraved into the concrete. Mr. Anzek said it would be recessed. Mr. Reece recommended not painting. He would prefer to see it sandblasted in different shades to bring out the design. He indicated that people driving by at 70-80 miles per hour would not notice it. He felt that something classic, with less color, every 100 feet would be best. He quoted from a known architect who once said, "Less is more."

Mr. Hetrick joked that Mr. Reece stole his thunder. From his perspective, he would rather see the panels embossed rather than painted. Painting would add to the cost, and they could save that money and role it into the spacing. He echoed the other Commissioners who would rather see embossing and sandblasting and not bother painting. He did not think it would make much difference if they had a design on every panel because of how fast drivers would go, and sandblasting would be fine even if they did every panel. He would like to see a nice clean look, however they were spaced.

Mr. Schroeder said that people would not notice something that was sandblasted from the freeway. To sandblast, they would have to put the pattern back on. The areas would have to be separated because it could not be sandblasted around the tree or the hills. Mr. Reece suggested that it could be casted with different textured concrete.

Mr. Hooper said that he believed they would set in precast panels, which would be the most inexpensive. He agreed with the other Commissioners about the maintenance of painting, and he did not think people would see much traveling at a high rate of speed. He supported the tree pattern, by far.

Mr. Kaltsounis asked Mr. Anzek if he would like a motion that recommended the design. Chairperson Boswell first opened the discussion to public comments.

Laurie Puscas, 1806 West Ridge, Rochester Hills, MI 48306. *Ms. Puscas stated that she tried to stay abreast of the issues, read the paper online and looked at the Rochester Hills' website. She said that the Rochester Hills website was far more difficult to navigate than Rochester's. She was a little surprised when she saw this item on the agenda and heard that only a few people were notified to come and look at the design. Regarding the sense of transparency and public input, she*

had hoped that everyone in the City could have taken a look at the designs. She said that all the residents were affected by it and that property values were important to everyone. When sound walls were going up on M-59, it mattered to everyone, not just a few people who happened to live behind them. She asked that everyone be notified when something of this magnitude came up and affected the City. Regarding the flower design, she thought it looked like something you would see at the Miami airport. It was not reminiscent of something in Michigan or Rochester Hills. She was concerned about painting, and stated that paint would chip and look horrible and cost money to redo. There would not be any money, and it would look awful and reflect on the community. It was too bad that it came down to having to make a decision that night. She said she had heard that many times in the City. She said it was too bad it could not be done in a more timely fashion so people could give public input. She did not see why they could not have walls that looked like stone or brick, which would not have to be painted every few years. She referred to the walls on Telegraph, and said she could not see how anyone thought that was aesthetically pleasing. She hoped that if the City was stuck with two choices that the tree would be chosen. She liked the suggestions that if they had to use paint, that it be used as little as possible or not at all, and she thanked the Commission for the opportunity to speak.

Scot Beaton, 655 Bolinger St., Rochester Hills, MI 48307. *Mr. Beaton advised that he attended the MDOT meeting earlier in the year. He filled out an application, and he was told they would send him a letter to be part of the process to choose the design. He never got a letter to be part of the input and only five residents showed up at that meeting. There was a three-to-two vote, so there was not a lot of citizen input. He advised that there was a reddish colored reclaimed brick panel available on the market, which could be slipped into the forms. He said that obviously, one person's aesthetic judgment could be entirely different than someone else's. He noted that his grandfather had one of the first suites in the Empire State Building. He was in the fashion business and was very successful. One gentleman came to his office with a bunch of cartoon drawings of a mouse, and his grandfather told him it was a rather dumb idea. It turned out to be Walt Disney and it turned out to be the biggest mistake he ever made. Mr. Beaton's father was a very gifted writer. He wrote a book about World War II, which was available on Amazon.com. He was not left handed, but Mr. Beaton said that he was and he was from that gene pool and people would have to accept him for what he was. He did not spell very well, but he tried to make his own personal accomplishments. He had been married for 28 years and he had raised*

two wonderful kids who were in their mid-twenties. He had been on the Cleo Award television show five times. A Cleo was equivalent to an Academy Award but in the advertising business. He felt that was a pretty good accomplishment for someone who knew something about art direction and graphic design. The flower design was not, to him, for Rochester Hills. He wished they would have gotten the red reclaimed brick. It looked beautiful in Grosse Point and absolutely stunning in Royal Oak. It was a timeless aesthetic. Whatever they put in would be in place for 100 years, and it was a very important decision. He did not think they needed flowers or a tree or paint. He thought a great job was done with M-59, and the bridges across the freeway were simply straight up and down concrete. He thought they could use that aesthetic. They did not need trees or flowers - they needed to plant more flowers. He hoped that the Commission could just tell MDOT the City needed something that did not need painting and something that was very simple. He agreed with Mr. Reece that "less is more." Chairperson Boswell closed the public comments at 8:21 p.m.

Mr. Anzek, in response to one of the speakers, said that the flower decision was made in March of this year. MDOT had been gracious enough to allow the City to revisit the issue and offer an alternative to it. It was MDOT's process and responsibility. Regarding notifying the residents, it was MDOT's decision, and the only letter the City sent was to notify the people who participated last January about tonight's meeting.

Chairperson Boswell said that as he understood it, there were two choices presented. He felt it was pretty safe to say that he did not know of anyone in the auditorium that wanted the flowers. Chairperson Boswell concluded that it should be as simple as possible, without contrast. Mr. Kaltsounis moved the following:

MOTION *by Kaltsounis, seconded by Hetrick, that the Rochester Hills Planning Commission recommends to MDOT that the proposed oak tree and rolling hills design be used going forward, using the least amount of contrast and/or no colors, and consider options to forgo paint, using textures.*

Mr. Reece agreed with Mr. Beaton in terms of the freeway design. He did not agree about the reclaimed red brick, but he liked the simplicity of the design of the overpasses on M-59. They were not trying to make a purse out of a sow's ear, and he thought that keeping it simple and clean, and to mimic the design, was the best thing. He had said earlier that 100 feet would be the closest he would like to see between designs, but he would

not have an issue having them only at the entrances and exits of the panels. He agreed that the tree design somewhat signified what the City was - everyone knew the tree. He maintained that using the design entering and exiting the walls and simple stratification of the concrete in between worked well for him as a designer and an architect.

Mr. Hetrick said he really liked what Mr. Reece said. From a branding perspective, they were far better to do it one or two times versus all the time. It would be like looking at a press conference with a logo behind the speakers that got washed out. If they were looking for a branding link, he agreed with the design at the entrance and exit (front and back of panels).

Mr. Anzek said he was not sure exactly how much leeway the Planning Commission would have to vary the spacing. He said he understood the concerns, and he would take it up with MDOT. Mr. Hetrick said that to the extent possible, he would agree with one in front and one in back. Mr. Anzek said that if they went too far from what was decided in March it might trigger a re-do, which would probably end the funding and the chance to get the walls built next year. Mr. Hetrick said they did not want to be in a position that would increase the cost significantly. Mr. Schroeder added that proposing fewer designs on the panels should decrease the cost.

Mr. Anzek assured that all the questions raised would be taken up with MDOT, and that he would get back with the Commission.

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

Aye 8 - Boswell, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Brnabic

UNFINISHED BUSINESS

2010-0441 Medical Marihuana Act Resolution - Planning Commission directed Staff to prepare a Resolution for City Council regarding the Moratorium and asking for support in requesting clarification of the Medical Marihuana Act from State Legislators.

(Reference: Memo, prepared by Ed Anzek, dated December 3, 2010 and Resolution and Letter to Legislators, had been placed on file and by reference became part of the record thereof.)

Mr. Anzek recalled the November 4 meeting, when the Planning

Commission discussed how the City might approach developing appropriate regulations and land use standards for the Medical Marihuana Act of 2008. The meeting was poorly attended by the public, although Staff had personally contacted 15 people that had previously inquired about such operations. There were no real clear guidelines in the Act. It did not provide guidance for the local level. The Planning Commission eventually directed Staff and the City Attorney to draft a Resolution documenting concerns about how it might be applied to the local level and requesting that the State Legislature go about some means to provide consistent guidance throughout the State. Mr. Staran had assured him that the City's position with the Resolution did not put it in jeopardy. The Commission also directed that a letter be prepared for its signature for the Governor, Governor-Elect and other Legislators, asking for clarification of the Act. He added that the Resolution also recommended that the Moratorium be extended another six months.

Mr. Reece noted that the City of Wyoming, Michigan passed an Ordinance banning medical marihuana, and the ACLU had already stepped in to file an appeal. Mr. Anzek said that the ACLU also sent a letter to Bloomfield Hills, indicating some type of legal action. That was a concern, and everyone had an opinion, but until they had a better understanding of the Act, they were not ready to go forward. Mr. Reece said he had lunch with a Planning Commissioner from Birmingham. He did not know if they had even broached the issue because the Commissioner was dumbfounded that his Planning Commission had not taken it up. Mr. Anzek suggested that it was the City Council of Birmingham that discussed the matter of prohibition. He believed that Livonia, Bloomfield Hills and Birmingham were parties to the suit. Mr. Reece asked Mr. Hooper if Rochester Hills' City Council would form its own Resolution, and Mr. Hooper said they would, based on the Commission's Resolution.

Mr. Schroeder said he had been cutting articles out of the paper, and was finding that it was a national problem. Mr. Kaltsounis liked the sentence in the letter that said, "it is apparent that the Act lacks guidelines to implement the safe program for the citizens it was meant to protect." He felt that was important and a major reason they were looking into the matter. He asked if City Council had to approve the letter, and Mr. Anzek advised that they would be sending it as a body separately. Mr. Kaltsounis then moved the following:

MOTION by Kaltsounis, seconded by Yukon , that the Rochester Hills Planning Commission adopts the Resolution recommended for City

Council concerning the Medical Marihuana Act and extending the Moratorium an additional six months, per the packet received for the December 7, 2010 meeting. The Planning Commission also recommends signing the letter in the packet for Staff to mail to the appropriate State Legislators, asking for clarification of the Medical Marihuana Act to allow implementation of a safe program for the citizens it is meant to protect.

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

Aye 8 - Boswell, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Brnabic

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

ANY OTHER BUSINESS

2010-0546 Request for Approval of the 2011 Planning Commission Meeting Schedule

MOTION by Schroeder, seconded by Dettloff, the Rochester Hills Planning Commission hereby establishes the Year 2011 Regular Meeting Schedule on Tuesday evenings at 7:00 p.m. at the City of Rochester Hills Municipal Offices. The City Clerk shall provide proper notice of the 2011 Meeting Schedule pursuant to 15.265, Section 5(3) of the Michigan Open Meetings Act, Public Act No. 267 of 1976, as amended:

Regular Meetings:

- January 4, 2011*
- February 1, 2011*
- March 1, 2011*
- April 5, 2011*
- May 3, 2011*
- June 7, 2011*
- July 5, 2011*
- September 6, 2011*
- October 4, 2011*
- December 6, 2011*

A motion was made by Schroeder, seconded by Dettloff, that this matter be Approved. The motion CARRIED by the following vote:

Aye 8 - Boswell, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Brnabic

ANY FURTHER BUSINESS

Mr. Schroeder asked the status of the Crooks Rd./M-59 interchange improvements. Mr. Anzek advised that it was scheduled to begin in the spring of 2011, and that it had gone out for bids. Mr. Hooper noted that it would be on the December 13, 2010 City Council agenda. Mr. Schroeder asked the low bidder, which was Dan's Excavating.

Mr. Anzek further advised that City Council approved eligible grant money to fix Crooks from Star Batt to Hamlin north of the interchange. The City was eligible because of new businesses moving in. Mr. Schroeder asked the cost, and Mr. Anzek said that the Road Commission had an estimate of around \$4.5 million. Mr. Schroeder was surprised it was that expensive. Mr. Hooper agreed, and said it included the cost of buying right-of-way and other associated items. Mr. Anzek said that the low bid for the bridge was about \$9.3 million, which was the only bid below the Road Commission's request of \$9.5 million or lower.

Mr. Anzek wished everyone a happy holiday, and the group talked a little about 2011 (hopefully) being a better year. Mr. Anzek said he was cautiously optimistic and was seeing more activity. Housing starts were up and plats were being reactivated.

Mr. Dettloff asked if Mr. Gilbert (City Place) had brought forward any plans or if there was any interest in his site. Mr. Anzek said not yet. There was still hope that someone would buy the house and move it. Mr. Kaltsounis said he hoped the lull was over. Mr. Anzek mentioned that the City was working on some deals, and there were new businesses moving in bringing many jobs.

NEXT MEETING DATE

The Chair reminded the Commissioners that the next Regular Meeting was scheduled for January 4, 2011.

ADJOURNMENT

Hearing no further business to come before the Commission, and upon motion by Kaltsounis, the Chair adjourned the Regular Meeting at 8:45 p.m., Michigan Time.

William F. Boswell, Chairperson
Rochester Hills Planning Commission

Maureen Gentry, Recording Secretary