

- F) *Proposal re: Walton Shoppes Drive-thru*
G) *Handout from K. Boylan re: Fire Station No. 4*

NEW BUSINESS

2012-0158

Public Hearing and request for Conditional Land Use Recommendation - City File No. 12-006.3 - To construct a drive-through at The Walton Shoppes, a 22,880 square-foot retail center on a 6.33-acre portion of the development at 1200 Walton Blvd., east of Livernois, Parcel No. 15-10-351-081, zoned B-2, General Business, Tower Construction, LLC, Applicant.

(Reference: Staff Report prepared by Sara Roediger, dated December 12, 2014 and site plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant was Arkan Jonna, A.F. Jonna Development Co., 4036 Telegraph Rd., Suite 201, Bloomfield Hills, MI 48302.

Ms. Roediger advised that the site was 6.33 acres, zoned B-2, General Business with an FB-3 Overlay, located at the northeast corner of Walton and Livernois. She outlined that the proposal was for an accessory drive-through on the west side of the retail building east of Walgreen's. The applicant also wished to add two outdoor seating areas on the south side of the building. The building had been previously approved by the Planning Commission, and the drive-through would be a Conditional Use, which was a Recommendation to City Council. The Site Plan was revised to allow for the change and would need approval by the Planning Commission.

Ms. Roediger noted that Staff had talked with some of the neighbors, and there was some concern about the screening along the northern property line. The zoning was RM-1 to the north, and the residents had indicated a lack of a sufficient buffer. As part of the Conditional Use Recommendation, the Planning Commission could consider conditions, and Staff would recommend adding landscaping especially where traffic might be coming in to the drive-through. Staff visited the site and found that there were some trees that had been diseased or dying, and those should be replaced with evergreen trees to fill in the gaps. She said that she would be happy to answer any questions.

Mr. Yukon had observed the traffic flow in the development. The Walgreen's drive-through had a south to north orientation, and the proposed drive-through would be north to south. He asked Mr. Jonna how he foresaw the cars coming in to that area.

Mr. Jonna responded that in between the two drive-throughs, there would be a curbed and landscaped area to separate both movements. The proposed drive-through movement would not come into the drive until someone came into the southern end of the building. It would already be past the movements of the Walgreen's drive-through.

Mr. Yukon had noticed a north directional arrow between the drive-through for Walgreen's and the proposed drive-through. He asked if it would be eliminated or if it would stay.

Ms. Roediger did not believe that was proposed to change, and she added that the plan had been reviewed by the City's Traffic division. They did not have any problems with the proposed traffic movements. Someone could get into the site from the north side of Walgreen's. Mr. Yukon felt that there would be a lot of traffic going in two directions. He also noted two handicap parking spots next to the proposed outdoor seating area, and he asked if those would be moved. Ms. Roediger advised that they had been shifted accordingly. Mr. Yukon indicated that there would be a proposed seating area at the corner of a drive-through, and he had concerns about that. He felt that it would be congested for vehicle traffic flow as well as pedestrian safety.

Chairperson Boswell opened the Public Hearing at 7:15 p.m. He asked that comments be limited to three to four minutes and that all comments be directed to him. He advised that all responses would occur after the Public Hearing was closed.

Darlene Janulis, 1293 Oakwood Ct., Rochester Hills, MI 48307 *Ms. Janulis passed out some pictures to the Commissioners. She said that the recommendation would do nothing for her building. She moved to the complex two years ago, and she had lived in Rochester Hills for 30 years. She wanted to be close to a mall, to the trails and restaurants and even the hospital. She stated that conditions had changed since they added the retail building. She thought that Great Oaks Country Club was a great neighbor, and she felt that she was a good neighbor. She paid \$386 a month for maintenance, because the condo owners had a high standard. She did not want to see any additional development to the mall. She felt somewhat in a quandary because she liked the amenities of the developments, but the dumpster doors were always open; they had an endless stream of trash; the guys that cut the grass did not pick up the trash; the few trees she had for privacy were now dying; and in most areas, she had no buffer at all. She realized that she was not where the*

drive-through was, but she was by the building. She took a picture at night, and it showed that all of the lights from the building were clearly visible. The people in the condos had front yards which looked at the Walton Shoppes. She had driven around Rochester Hills and noticed where commercial and residential was mixed, and usually, it was peoples' backyards or side yards that faced the commercial. She saw six-foot fences or rock or brick walls and much denser green screening. She did not know how it escaped everyone that all they got was a four-foot fence and little to no screening. She said that the owner wanted to add parking in the future. She asked the Commissioners to imagine what it would be like for them when their bedrooms faced the mall, and there was not proper screening. She claimed that it had become an eyesore. Two summers ago, the mall struck a deal with the Country Club, and they took down the fence and cut the berm to provide a walking path. It was good for the Country Club and great for the mall because they got additional customers, but they never repaired it properly. She commented that regarding the buffer, space alone did nothing to shield them from noise, debris, lights and privacy. She stated that the neighbors had not been responsible in keeping up the development, and it had negatively impacted the condo owners. She thought that additional consideration should not be afforded to the applicants until they could prove otherwise. The residents needed additional screening, and she asked the Commissioners to please consider the neighbors' quality of life in their decision making.

Sharon Whitmire, 1190 Oakwood Ct., Rochester Hills, MI 48307 Ms. Whitmire said that she was opposed to the proposed drive-through for the following reasons: She had visually inspected the property and found that the modification would go against the premise of the departments that were supposed to regulate and protect citizens and property owners as they pertained to current zoning and building codes; the road was clearly designated as a fire lane with signage; the sliver of land along the west end of the building was not designated for proper landscaping and she wondered why the modification would be considered; traffic was already congested in the parking lot; she wondered who would be responsible if there was a backup in one of the drive-throughs; and emergency vehicles experienced difficulty accessing the area. She maintained that the holiday announcement was a tactic used by architects and developers to strike while residents were distracted with work, family, holiday events and travel. It was a difficult time for neighbors to discuss and organize. They believed that the Planning Commission was much smarter than to allow the developer to steamroll the proposal through, rather than allowing proper community review, discussion and consideration. They asked that

the decision be tabled, so that all involved could plan and discuss the issue in order to come to a proper solution. They expected the City of Rochester Hills to do what voters elected them to do in accordance with all local Ordinances. She stated that the purpose of government was to protect the health, safety and welfare of its residents.

Marlena McLaughlin, 1271 Oakwood Ct., Rochester Hills, MI 48307

Ms. McLaughlin noted that she lived directly in view of the proposed drive-through. She had lived in Fairwood Villas for 14 years, and she had witnessed the development of Walton Shoppes. The residents were led to believe that they would have a berm with a sufficient green barrier prior to any stores being built. They received a Type C Buffer, which was no more than a landscape design with deciduous trees and burning bushes that totally lacked any visual buffer. As the plantings died, they had asked the owner to replace them, and it was not done. Last May, they contacted Mr. Brown of A. F. Jonna, and they were told that it would be taken care of. It had now been seven months, and the trees still were the same. She spoke with Ms. Roediger who thought that the tenant seeking the drive-through was planning a smoothie shop, and that the area could hold eight vehicles. Ms. McLaughlin said that she paced the area, which was approximately 40 feet deep, and the measurement could only handle approximately three-and-a-half, mid-sized cars. She had furnished the Commissioners with photos of a popular eatery with a drive-through, and cars did not line up bumper to bumper as illustrated on the site plan. That would incur more vehicle movement for residents of Fairwood Villas. The proposal would also add lights to the west side of the building. She asked if there would be another dumpster. During another discussion, Ms. Roediger informed her that the point of entry would be from the rear of the building going toward Walton, thus eliminating car lights facing the condos. Ms. Roediger failed to anticipate cars lined up around the rear of the building in the summer with windows open and loud boom boxes. Ms. McLaughlin mentioned buffering, and she said that the Meijer site was similar to theirs, other than its buffer disguised activity to the rear of the homes, as did the wall and trees buffering the Village of Rochester Hills. The residents were plagued with their entry being fronted toward the strip mall, giving the 18 condo owners and any arriving guests full view of activities at Walton Shoppes. She rejected the proposed Conditional Use. Her statement was also supported by the proxy letters she had submitted to the Commission. They had not received any accountability for their lack of privacy of domain. As a residential complex bordering a commercial site with increased vehicle delivery traffic, increased lighting from buildings and cars, subsection to disturbances from the heavy duty highway equipment used to construct parking, which caused severe

vibrations during the process, plus noise disturbance from trash collection, which violated code restrictions, she felt that they were more than entitled to an exception to ask for a Type E Buffer. In conclusion, she asked Mr. Jonna and the members of the Commission if they had walked the Oakwood Ct. site. She asked if their primary residence was in Fairwood Villas, which was a very well maintained community for which they were very proud, if they would be in agreement with living with the disturbances she had brought to their attention.

Karen Price, 1201 Oakwood Ct., Rochester Hills, MI 48307 Ms. Price had a couple of concerns about the traffic. She had a special needs young daughter and she also ran through the development quite often, and the cars did go quite fast. She was also concerned with the buffer. If someone walked the site, they would see trees that were dying and the garbage.

Phil Bates, 1267 Oakwood Ct., Rochester Hills, MI 48307 Mr. Bates stated that he lived directly north of the proposed drive-through. At least two to three times a week, he picked up debris. He did not have to receive the Walgreen's circular in the mail; it was in his courtyard. There was a southwest wind, and there were circulars, plastic bags, cups and lids blowing over in his direction. Last May, their homeowner's association had a meeting and the situation, which he remarked was deplorable, came up. Their President, Ann Kucher, said that she had talked with the new owner of Walton Shoppes, who said that the dead trees and bushes would be removed and replaced. Six weeks later, Mr. Bates told her that not only had that not been done, but there were 12-inches of weeds growing there. He stated that it was not maintained. Someone had mentioned traffic. The service road to the north had become an often used thoroughfare for people who wanted to avoid the light at the corner of Livernois and Walton in the morning and the evening. He stated that he was opposed to the proposal at this time.

Paula Law, 1234 Oakwood Ct., Rochester Hills, MI 48307 Ms. Law said that she agreed with many people who spoke. She primarily wanted to bring up the issue about the road Mr. Bates had mentioned being used as a way to get around making a Michigan left at Livernois and Walton. She agreed that it had become a thoroughfare for cars, and she believed that it was a problem. Mr. Yukon mentioned that traffic was an issue, so she was confident that it would be addressed in some manner. The trees were mentioned, and she agreed that there was not enough of a buffer, and the property was not very well taken care of. She stated that there was a lot of trash. She was opposed to the drive-through, but if it did move

forward, she would like them to take a look at the traffic flow and how to monitor the traffic moving around the intersection and to make sure that there was plenty of landscaping buffer and keeping up of the property before it was approved.

Janet Motyka, 1209 Oakwood Ct., Rochester Hills, MI 48307 Ms. Motyka said that she lived across from the center of the development. She walked her dog constantly, and she stated that the east side was disgusting. When they originally started adding stores, they had no buffer at all. There were little scrawny bushes and shrubs, which she felt was a big disgrace. The pine trees they had along the west end of the property were dead. She understood that the property, even though it was on the residents' side of the fence, belonged to the owner of Walton Shoppes. The pine trees had been dead for many years, and the owner had done nothing about it. She was paying very close to \$500 a month in maintenance, and she did not like what was happening on the adjacent property. She had lived there a long time, and she felt that the property owner could have done a much better job with the buffer to give them more privacy. She hoped something would be done about it.

Chairperson Boswell closed the Public Hearing at 7:34 p.m. He said that obviously, the buffer was a huge problem. He did not realize that there was cut-through traffic. He mentioned the trash and debris, and he asked Mr. Jonna if he would like to comment.

Mr. Jonna apologized if someone in his organization was supposed to replant dead trees. He said that it was not how they operated. As far as the debris and trash, they had someone on site three hours daily, except for Sundays, hand sweeping and cleaning the properties. He advised that they did not control the Walgreen's store. They owned property east of Walgreen's. Regarding the buffer, he agreed that he would add to it. He said that the buffer was an issue for them as well as the residents. The landscape island to the north of the rear of the building was done on purpose so they could screen the rear of the property even more than they normally would. They did own the vacant lawn property to the north of the development, and they could possibly develop that property as well. They were thinking about adding condos, and they took extra exception in developing the rear of the building and with the rear landscaping areas, because one day they might do something there. If there were dead trees that needed to be replaced, they would be more than happy to do that. He wanted them to realize that he did not create the buffer; it was already in place when his company acquired a portion of the development two or three years ago. He said that regarding traffic,

they had the same situation at another property they owned, which had been in operation for seven or eight years. The reason they were comfortable with it was because they had never had problems. The traffic for the drive-through that would be servicing the shopping center versus the drug store would be controlled. There would not be a criss-cross in traffic, except at the end of the drive-through where it met the east-west traffic, and he believed that adequate signage would control that.

Mr. Yukon said that he frequented the development quite a bit, and he was concerned about traffic movement. He thought that it was a great idea that Mr. Jonna had found a possible tenant, but to have a drive-through next to another drive-through with the vehicle and pedestrian traffic, outdoor seating and handicap parking was very concerning. When he was at the development, parking a car and getting from the car into the shops could be a challenge. When he tried to leave it was also a challenge. People really needed to know what they were doing, especially at night. In good conscience, he did not feel comfortable with the proposal currently.

Mr. Kaltsounis indicated that he held the same sentiments regarding the development. He did not think they were ready for the proposal yet. The Fire Dept. review talked about a fire connection inside the seating area that would have to be reconfigured. He understood that there was a condition in the Site Plan motion saying that all applicable comments from various reviewers would have to be addressed prior to final approval by staff, but he thought the fire connection was pretty major. He was trying to make sense of the situation. There would be a fire connection screened in by cars going in two directions. He commented that there was a lot of kinetic energy in the area. There would be cars going north and south, and a fire lane in between, and he had never seen a fire lane on one side of a drive-through. If there was one stalled car, there could be a problem. He could not park in a fire lane, but there would be a drive-through next to one. He was trying to see the reality of the situation. The development was tricky with regards to the flow of traffic. There were a lot of concerns about the maintenance of the site, which was also concerning. He suggested that it would be a good idea for the owner to talk with the neighbors about it. When it came to the landscaping on the north property line, he thought that they needed to look at it closely. Since the amount of travel in the back of the property would be increased, there would need to be buffering in front of the drive-through to block red brake lights shining into the condos. They would need more buffering on the west side behind Walgreen's from people sweeping headlights to turn into the pharmacy drive-through. They would need buffering for Retail

Building A on the east side. He did know of an area in the City where there were two drive-throughs going in two different directions with a fire lane. He felt that a lot more work needed to be done, if it was reasonable at all.

Mr. Hooper asked where the speakers for the drive-through would be located. Mr. Jonna replied that it would be on the northwest corner of the building. Mr. Hooper said that the big elephant in the room was obviously the screening. The site did not meet the opaque screening requirement. It did not matter what happened in the past, Mr. Jonna owned it now, and Mr. Hooper felt that it was Mr. Jonna's job to bring it up to current standards. At a minimum, the entire north property line (800 feet) should have non-deciduous evergreen trees, eight feet tall and staggered 20 feet on center to create a six-foot opaque screen in order for him to support the project. He hoped that Mr. Jonna would agree with that condition should the matter go forward.

Mr. Hetrick wanted to confirm that a required Type E buffer would be the same as what Mr. Hooper had explained, and Ms. Roediger talked about the buffer requirement.

Mr. Roediger noted that there was a B-2 property abutting an RM-1 property. A Type B Buffer was required, which she believed was planted as part of the original development. If they wished to require a more substantial, solid screen, a Type C Buffer would require four evergreens per 100 feet or one for every 25 feet; a Type D required five per hundred; and a Type E required six trees per 100 feet. As part of a Conditional Use, the Planning Commission had the authority to require a higher buffer.

Mr. Hetrick agreed that it should be a condition if the project moved forward. He would suggest that a Type D or E would be appropriate given the commentary about lights shining, and so on. Another comment was made about stacking, and he wanted to be clear how many cars would stack in the proposed design. It seemed like there were several views. Ms. Roediger stated that the Ordinance required ten stacking spaces for a restaurant or food use. They would have to be eight by sixteen feet, and the applicant showed the same.

Mr. Hetrick mentioned cut-through traffic and traffic calming devices to restrict people from turning the parking lot into a thoroughfare. He felt that it would be an appropriate condition for people who wanted to walk their dogs or walk through the area. He asked the possibility of moving the

drive-through to the other side. Mr. Jonna advised that there was a major grade difference on the east side of the property.

Mr. Reece said that he supported the comments made. He did caution about comparing two different types of drive-throughs. He went to the Walgreen's a lot, and it had a pharmacy drive-through. Every time he had been there, there might have been one or two cars in the drive-through at a time. He said that he could not support the project with the landscaping as it was and with some of the traffic flow issues, but he was less concerned about the two drive-throughs next to each other.

Mr. Kaltsounis observed that the Planning Commission was faced with tough choices. The City was starting to get built out, and they were seeing a lot of developments that posed challenges. The Commission had to evaluate many different situations. The Commissioners always recommended that developers talked with their neighbors, and that might have helped get a lot of the neighbors' comments addressed prior to the meeting. If they had two drive-throughs going in two different directions, he would wonder where the next one would go in the City. He felt that it would set a bad precedent going forward, and he moved the following motion:

MOTION by Kaltsounis, seconded by Yukon, in the matter of City File No. 12-006.3 (Walton Shoppes Drive-Through) the Planning Commission **Recommends** to City Council **Denial** of the **Conditional Use**, based on plans dated received by the Planning and Economic Development Department on November 14, 2014, with the following findings.

Mr. Schroeder asked Mr. Jonna if he had an occupant for the building. Mr. Jonna agreed. Mr. Schroeder clarified that it would not be a McDonald's type with a tremendous amount of traffic. Mr. Jonna said that it would be a smoothie shop with minimal use of the drive-through. Mr. Schroeder stated that the buffer was not there. He asked if it was the buffer from the previous owner's shopping center, which was confirmed. If it met the Ordinance and there were spaces, there would still be a problem. He felt that there should be bushes and other plantings to fill in the buffer. He indicated that it would be very desirable if a berm could be installed with trees planted on the berm, although he did not know what Mr. Jonna really owned or what the future development plans were. He stated that there would definitely need to be a buffer with any future development, and he suggested that an adequate buffer could be installed now that would take care of it for the future.

Mr. Jonna explained that he did not own the property to the north of the Walgreen's. They owned to the edge of the landscaped island for the current drive-through. Anything west of that was controlled by Walgreen's, and they did not have any say about what happened there. Mr. Schroeder thought that he might want to negotiate with the condo owners about putting a berm on their property and incorporating it between the two properties.

Mr. Jonna felt that the economics of doing a berm might be cost prohibitive. He did not mind keeping and maintaining what they had and even planting more trees. He apologized again if there was someone in his organization that did not do what they were supposed. He did not mind planting evergreens, but a berm would not make sense. Mr. Schroeder said that in his opinion, Mr. Jonna did not have a buffer at all now. He felt that it was Mr. Jonna's responsibility to cooperate with the neighbors. Mr. Jonna said that he would find out what happened, because he did not really know. Mr. Schroeder said that he understood; he used to work for a contractor and he understood how difficult it was to get things done because there was so much else to do. He remarked that it was difficult to take care of a small problem like that. Mr. Jonna responded that it was not, and something got passed them, and he would deal with it in the morning.

Mr. Anzek recalled that when the entire site was approved in 2006, the question of the berm came up. The discussion dealt with the topography change between the northern curb line or northern edge of asphalt and the curb line of the condo complex. He believed that there was about a 10 to 12-foot slope difference. For any type of buffer to effectively screen the second floor of the condos, it would have to be 20 feet high, which was virtually impossible to build. The landscape buffer that was installed was triple over what was required at the time, in the hopes that it would grow in the time that the pines there now would die off, establishing another thick row of green buffering. In the seven years that they had been there, the trees had not grown very well, and some had died. The intent for which they were designed had not been met. If they put in an arbor vitae wall, he felt that the best place would be at the curb line at the end of the asphalt. That would block the second floor from headlights and so on. He also wanted to point out that the task of the Planning Commission was to identify if there were treatments that would remediate problems they saw with the development. If those could not be resolved or the applicant could not agree to them, he felt that they then had a basis for recommending denial. There was a discussion about a perceived conflict

with two-way traffic that the City's Traffic Engineer said was acceptable. If the buffer was a concern, he felt that arbor vitae across the northern edge would go a long way in creating a visual buffer and help with sound. There could be a trash collector at that point. The fence that separated the condo development from the shopping center was a decorative wrought iron, so litter piled against that or went through it. It probably came from all sources, not only from Walgreen's. An arbor vitae row at the curb line might be a good catch for the litter.

Mr. Dettloff said that in hearing the discussion tonight and in the spirit of cooperation and compromise, he asked Mr. Jonna if he would be receptive to the condition about additional buffering. He did not think that Mr. Hetrick's issue about traffic calming was that overbearing, and he asked Mr. Jonna if that would be acceptable. Mr. Jonna said that it would. He asked if they were asking for a continuous row of arbor vitae or for evergreens placed 20 feet on center.

Mr. Anzek said that the Ordinance detailed that if someone wanted to create a green wall as a barrier, arbor vitae could be placed so that in three years' growth time, there would virtually be a solid wall. The arbor vitae would grow to six to eight feet. They would need to replace the dead trees also. Mr. Jonna asked if he meant an 800-foot line of arbor vitae, which Mr. Anzek confirmed. Mr. Jonna said that he would need about 700. Mr. Anzek corrected that they would not be a foot on center - they would be three to four feet on center, so they would need about 200. Mr. Jonna said that he would be willing to add 200. He said that they had done arbor vitae before, and if it was done next to a drive where there was salt, they were not the hardiest plant, and they died off quite a bit. He wondered if there was another species. Mr. Anzek said that could be researched. He knew that the Village of Rochester Hills did not use arbor vitae, and it had been a very effective, solid hedge around the entire development. He added that it could be back five to eight feet from the curb line rather than right at the curb line. Mr. Jonna said that oftentimes instead of doing a straight hedge, it looked more natural to scatter the trees where extra buffer was needed. People did not usually see a straight line of evergreens in a natural setting. Mr. Anzek said it would be fine as long as they did not end up with gaps.

Chairperson Boswell reminded that they would want them at least five feet back from the curb because of snow. Mr. Anzek agreed that would be wise.

Mr. Dettloff agreed with Mr. Reece that the pharmacy drive-through at

Walgreen's was not very busy. He had never seen a major back up and only saw one or two cars at the most. He was not sure about a smoothie shop as much. Mr. Jonna said that the intensity would not be there. He added that it was not anything like a McDonald's by any means.

Mr. Hetrick said that he was a little concerned that they were not quite in sync. It sounded like conditions such as a green wall or something that improved the buffering at the back part of the property was acceptable as were traffic calming devices. He did not know if that would cover the issues with the drive-through. He was in support of Mr. Reece's commentary, and Mr. Hetrick did not personally see where the drive-through was a potential traffic problem. It seemed as if things would flow fairly well. He was not sure if the motion could be adjusted. If not, he suggested that there was an opportunity to revisit the site plan and make the suggested changes and the change with regard to the outdoor seating that was in conflict with the Fire Dept. He was not sure what that would look like, and he acknowledged that it was not part of the Conditional Use, but it appeared that it would have a significant impact on the plan going forward. He would support the project going forward with the additional conditions. Unless they were willing to adjust the motion, he felt that it might make sense to table the matter and try again.

Mr. Jonna stated that the tenant would not be around next month. They would have to revisit something else, because the potential tenant had the opportunity to go somewhere else. Mr. Hetrick asked if there was agreement to adjusting the motion.

Mr. Reece said that for him to approve a new landscape wall, he would have to see it first. He was not prepared to approve something they were designing on the fly. He would like to see the species and the height. He thought that the residents in the condo complex deserved a screen that would work today, not in three or five years. It might be a smoothie shop today, but in five years when the lease expired, he wondered what would prevent a Starbucks from going in. That would make the drive-through significantly worse. He felt that they owed it to the residents to see and review a plan. If the smoothie shop went away, that would be the unfortunate part of it. He considered that it was the middle of winter, and he questioned when the wall would go in. He questioned if the tenant would be operating until April or May until there was a chance to put in the landscape wall.

A motion was made by Kaltsounis, seconded by Yukon, that this matter be Recommended for Denial to the Planning Commission,. The motion carried by the following vote:

Aye 5 - Brnabic, Hooper, Kaltsounis, Reece and Yukon

Nay 4 - Boswell, Dettloff, Hetrick and Schroeder

Mr. Kaltsounis commented that there was a light at the end of the tunnel. He just did not see it where they were at now. There had been a lot of discussion about how things could get better. He said that he respectfully disagreed with the City Engineer. As a resident, he did not want to see a double drive-through in two different directions. If it was flipped around, it might make it safer. He would be worried that someone could pull into Walgreen's make a left turn and come upon the drive-through, and someone could go over a curb or hit a person pulling out of the drive-through. There would be a lot of energy and people going in different directions. He remarked that it was there but not there, and that was why he made the motion to deny.

Ms. Brnabic said that she agreed with her fellow Commissioners. With all the talk about the buffer, the basic conversation had pertained to the development, but there was also the Walgreen's side of the development. She wondered if the Planning Dept. could approach the Walgreen's people to see if they would be willing to do something about the inadequate lack of screening. The original buffer did not work out, so it might be a good will gesture from them so that something might move forward. Mr. Anzek said that he would be happy to talk with Walgreen's.

Chairperson Boswell summarized that the consensus was that the buffer was not adequate. The Commissioners would like to see arbor vitae or some equivalent that would completely screen the development from the condos to the north. He agreed with Mr. Reece and Mr. Dettloff about the drive-throughs, and he did not see a terrible conflict with two drive-throughs going in opposite directions. He thought that they were far enough apart, and he agreed that a pharmacy drive-through did not get much traffic. He was not sure how bad the cut-through traffic was and whether traffic calming devices were needed. They would have to take that up at the time of the site plan review.

Mr. Yukon wanted to further impart that they knew that it would be a smoothie shop today, but they did not know what it would be tomorrow if the tenant left. As a Commission, they needed to think of today as well as the future.

Mr. Reece asked if it would be an option to table or postpone the matter to give the developer an opportunity to go back and revisit the site plan that

showed some longitudinal north/south sections through the property so they could look at traffic impacts to the residents to the north. If they voted no, he believed it would be a done deal. He asked if the developer could come back next month, which was confirmed, and he clarified that it would just be a "no" vote for the subject plan. Chairperson Boswell agreed that it would be a no to the drive-through only - the outdoor seating was not part of the CLU.

Mr. Anzek added that if the vote was no on the drive-through, it would go to Council as a denial. If the applicant wanted to revise plans and come back, he would have to restart the process.

Mr. Dettloff clarified that if they voted no that the process would have to start over again with revised plans. Mr. Anzek agreed. The Commission would have made its decision based on the plan in front of them and unless the applicant withdrew, it would go to Council. If the applicant came in with another set of plans, the matter would have to be re-advertised and another Public Hearing would be conducted. If the matter was postponed, the applicant would have the opportunity to change the plans without it going to Council. He added that it would delay the matter, and Mr. Jonna might lose his tenant.

Mr. Dettloff asked if the matter could potentially get resolved next month if the matter were tabled and a new buffering, etc., plan was presented. Mr. Anzek said that if the Commissioners identified issues they did not think would work, they would have the opportunity to ask the applicant what it would take to mitigate the problem. They could impose the conditions they discussed, but as Mr. Reece said, he would also like to see what the landscaping would look like. Mr. Anzek would suggest tabling, if the applicant was interested. He stressed that he was not advocating anything; he was just speaking to the process.

Mr. Dettloff said that in his opinion, tabling it would make more sense. Mr. Schroeder said that in his opinion, he would approve the drive-through, but he would definitely not approve the site plan until they saw more definitive plans. He also recommended tabling.

Mr. Anzek asked Ms. Roediger if a motion to table took precedence over the motion to deny. Ms. Roediger said that the motion maker could withdraw the motion or they would have to proceed with the motion placed. It could be followed up with a motion to table or postpone.

Mr. Hetrick suggested that they tabled it and allowed another opportunity

given that there was an interest in doing the buffering and traffic calming. He agreed with his colleagues that if they were going to go another route, it would be best to see what it would look like, since those were certainly issues.

Mr. Jonna asked why a property owner would not want to better his property. He asked why he would want to do something that would negatively impact the customers of the businesses. He said that they would not survive if they did not do things right, and they had to do them long-term to work. They were not going anywhere, and they were going to run the property the way it should be run. If it was turned down and he went away, the residents would not get anything. He had already agreed to work on the buffer. He would replace dead trees, but the residents would not better their position if he went away. Mr. Hetrick agreed, and he said that was why his suggestion was to table rather than deny.

Mr. Yukon asked how serious the tenant was with the drive-through. He assumed that it was very serious because it was in the plans, but he wondered if there was a chance Mr. Jonna could ask the tenant if they could remove it. Mr. Jonna said that the business would not work without it. Mr. Yukon reiterated that he felt it was great that Mr. Jonna had found a tenant for the vacancy, but he emphasized that businesses came and went. Mr. Jonna said that he owned the property at the corner of 14 Mile and Crooks where there was a CVS and Tim Hortons. It had the identical situation with the drive-throughs. He suggested driving by it to see how it worked. It was not as prohibitive as they thought. They had done it several times before, and it worked with proper signage and the island that separated the two drives. Mr. Yukon mentioned a Starbucks in Troy at the corner of Rochester and South Boulevard. It did not have a dual drive-through on the corner and it had outside seating. If someone was not careful, he or she could have an accident, and it only had one drive-through. Mr. Jonna suggested that the seating areas could probably be screened with a wrought iron fence.

Mr. Kaltsounis reiterated that he saw light at the end of the tunnel. He still did not agree with the drive-through as it was. He thought that they needed to see the existing traffic patterns for Walgreens and to see what was originally planned. He stated that it could be a dangerous situation going forward.

Mr. Kaltsounis said that he would be willing to rescind his motion if Mr. Yukon did. He would rather postpone indefinitely until the Chair determined which agenda it should be on in the future. Mr. Yukon did not

wish to rescind.

Chairperson Boswell called for a Voice Vote:

Ayes: Brnabic, Hooper, Kaltsounis, Reece, Yukon

Nays: Boswell, Dettloff, Hetrick, Schroeder **MOTION CARRIED**

Chairperson Boswell stated that the motion had passed five to four.

2014-0552

Request for Revised Site Plan Approval - City File No. 12-006.3 - To add a drive-through and outdoor seating areas at the Walton Shoppes, a 22,880 square-foot, multi-tenant retail building at on 6.33 acres at 1200 Walton Blvd., east of Livernois, zoned B-2, General Business, Parcel No. 15-10-351-081, Tower Construction, LLC, Applicant

Withdrawn

2014-0497

Public Hearing and request for Rezoning Recommendation - City File No. 14-016 - An amendment to Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills to rezone one parcel of land totaling 3 acres, located at 6780 Old Orion Ct., north of Tienken, west of Rochester Rd., Parcel No. 15-03-476-013 from R-1, One Family Residential to R-1, One Family Residential with an FB-1, Flexible Business Overlay, Silver Spoon Ristorante Italiano, LLC, Applicant

(Reference: Staff Report prepared by Sara Roediger, dated December 12, 2014 and letter of intent had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Rito Lisi and Joe Nirta, The Silver Spoon Ristorante Italiano, LLC, 6850 Rochester Rd., Rochester Hills, MI 48306.

Ms. Roediger outlined that the request was for a Rezoning for 6780 Old Orion Ct., located on the west side of the road and west of Rochester. She noted that the parcel was about three acres, it was currently zoned residential, and the applicant wished to add the FB-1, Flexible Business Overlay over the underlying zoning. The applicant intended to use the building for a relocated restaurant. She reminded that the Commissioners could not consider a Site Plan as part of a Rezoning, but rather, they had to consider all uses that could be permitted in the district. She showed the zoning for the surrounding parcels, which included R-1, office and FB-1. The site was looked at as part of the most recent update to the Master Land Use Plan in 2013, and the site and the site to the south were changed to add the FB-1 Overlay. The request would implement the recommendations of the Master Plan. She showed a list