

*condo layout, it did not mean they would approve the density necessarily; the density was not rubber-stamped.*

*Recess: 9:28 to 9:42 p.m.*

**2006-0235**

Review possible uses for the House of Denmark property on Rochester Road north of Avon, Russell M. Shelton, Shelton Pontiac Buick, applicant.

*(Reference: Memo prepared by Dan Casey, dated March 17, 2006, was on file and by reference became part of the record thereof.)*

*Present for the applicant were Russ Shelton, Shelton PontiacGMCBuick, 855 W. Rochester Rd., Rochester Hills, MI 48307 and Tom Sovel, Spaulding DeDecker.*

*Mr. Casey stated that Mr. Shelton came to the City a little more than a year ago to discuss the possibility of expanding the dealership, and expressed his interest in acquiring the House of Denmark property. Mr. Shelton wondered if Mr. Casey could find them another location so they might be more willing to sell. He noted that the discussions had progressed for more than a year. He explained that the GMC Dealership, owned by the Pat Moran franchise, was sold to Mr. Shelton to make way for the Lowe's ground leases. Mr. Shelton acquired a new GMC truck franchise he had to try and fit onto an existing dealership property that was already full.*

*Mr. Casey continued that over the past year, significant discussions occurred with the owners of the House of Denmark to acquire some or all of the property or to lease some. Ultimately, the owner of the House of Denmark entered into a purchase agreement for Shelton Pontiac to acquire most of their property. The issue was that most of the property was zoned B-2 and Shelton Pontiac was zoned B-3, which was needed for new cars. They wished to use the House of Denmark property to support the operations of the dealership and to provide vehicle storage they were currently storing offsite.*

*Mr. Casey advised that there were two parcels that made up the existing Shelton Pontiac. The House of Denmark property consisted of three parcels, including two parcels to the east that extended south to Avon. He noted that south of the House of Denmark property was the Comerica Bank, which was also B-2, and a gas station on the corner, zoned B-5. Two parcels on Avon were zoned O-1 and it was zoned R-3 to the east of the subject properties.*

*Mr. Casey advised that the City and the Engineering Department had met with Mr. Shelton to answer many of his questions related to retention and other issues, and they were still continuing to work on some of those*

issues. He turned the discussion over to Mr. Shelton.

Mr. Shelton stated that they would like to expand the property. When he picked up the truck franchise, it was obvious that trucks took up a lot more room than cars did. He had six acres currently, and with the purchase of the House of Denmark, it would give him another four. That would be more than enough to house his operation. He had a question about the zoning. Because the House of Denmark was zoned B-2, there were restrictions about him using it as a car dealership. He understood B-2 would be easier to deal with as far as setbacks. He wished to keep his neighbors happy, which he had done for all the years he had been in business. He was actually there before the neighbors and would not be impacting them. He said he was looking for guidance and what they needed to do to move forward.

Mr. Delacourt said that Staff looked into the differences between B-2 and B-3. The parcel Mr. Shelton referred to incorporating into the dealership was zoned B-2. New car dealerships were permitted in B-3 and B-2 allowed used car dealerships, so the use was not completely foreign. Staff recommended that if the parcel would be used in combination with the dealership, it should be combined and done with the more restrictive setbacks required by B-3.

Mr. Dettloff asked Mr. Shelton if his intent would be to tear down the existing House of Denmark building and use the entire site for vehicle storage.

Mr. Shelton said that the intent was still up in the air, and that they did not have a Master Plan at this point. The front part of the building would go, but he was not sure about the back part of the building.

Mr. Boswell noted that Mr. Shelton was there when the subdivision behind him was put in, so the dealership probably did not meet the B-3 standards for setbacks. Mr. Delacourt said that was correct for the buffering, although he was not sure about the setbacks. Mr. Boswell asked if Mr. Shelton could leave his present property in the state it was in, if the B-2 parcel were rezoned to B-3.

Mr. Delacourt indicated that if the parcel was a straight rezoning to B-3, he would not be obligated to bring the current site into compliance. If there was a Conditional Rezoning, the Planning Commission could attach conditions. If it were rezoned, there would be a condition that it be combined with the existing dealership, because the parcel in and of itself did not meet the road frontage requirements or size for B-3. Any development would require Planning Commission approval. The Commission would be allowed to bring a site into reasonable compliance

*with current Ordinances.*

*Mr. Casey advised that a potential land division and combination was being contemplated as a result. There was split zoning on the two eastern parcels owned by the House of Denmark (B-2 and O-1) and they were retaining ownership of the office to the south. They discussed combining the House of Denmark piece with just the southern portion of the Shelton site. There would still be two parcels for the Shelton dealership.*

*Mr. Shelton wanted to make sure he did not lock himself into something he could not change down the road. If he decided to pick up another franchise, he would need to keep the parcels separate. General Motors would not allow him to use the parcel for a franchise down the road. He said he would consider combining his southern parcel with the House of Denmark property.*

*Mr. Delacourt felt that would resolve issues. The combination would give Mr. Shelton 400 feet of frontage. As far as the City was concerned, even though Mr. Shelton's two parcels were not combined, they were under common ownership for Site Plan review. He added that all of the parcels would be under review for any new Site Plan.*

*Mr. Schroeder asked what the setback would be if Mr. Shelton had to change (conform) the back of the existing dealership. Mr. Delacourt said that the buffer would go from zero (landscaping and a wall) to 50 feet. They had to remember it only had to come into reasonable compliance. Mr. Schroeder noted that if the House of Denmark property were combined with Mr. Shelton's southern most property and reviewed as a Site Plan, would they have to include the existing building on the site.*

*Mr. Delacourt explained that the City did not consider the two parcels Mr. Shelton owned separate for Site Plan review. He could sell it, but he would be required to do a land division. Mr. Schroeder clarified that the worst-case scenario would potentially be a 50-foot setback on the existing site. Mr. Delacourt said that B-3 would require that, but Staff had not looked at the full Site Plan for conformance to all Codes. The discussion had centered around use, and whether redevelopment of the parcel would be better as part of an existing dealership or under the B-2 requirements if the property were sold in the future. They felt there was merit for the City that B-3 might be better than an unknown B-2 development of the future.*

*Mr. Schroeder felt it should be the same zoning and that it would make it much easier for a business operation to have one set of rules. He*

*recommended that they change it to B-3.*

*Ms. Brnabic asked Mr. Shelton if it was certain there would be other construction - another building or another dealership.*

*Mr. Shelton said that possibility always existed, but it was too far down the road to really think about today. He just needed a place to park his vehicles and remodel his current facility, and he could not do it with the six acres he had. Ms. Brnabic said she had to consider that there might be more building on the property.*

*Mr. Reece agreed with Mr. Delacourt and Mr. Schroeder in terms of combining the properties into B-3. He felt that would be better for the long run. He indicated that Mr. Shelton had a known entity, and he thought the House of Denmark property would be difficult for a B-2 development. He questioned what the City would get by the time all the setbacks were met. He indicated that like it or not, the area was where all the automotive dealers seemed to be located. He would rather see them grouped together there than anything else.*

*Mr. Boswell agreed also. If the parcel were left B-2, it would solve the problem for the moment because they could store vehicles, but they could not build much else, dealership-wise.*

*Mr. Shelton wondered if he would be able to rezone the parcel back to B-2 in the future if it were rezoned to B-3 but he decided he did not want it. Mr. Delacourt said that if the parcel were going to be redeveloped commercially, either B-2 or B-3, Staff would like to know if the Commission felt there was merit in using it in combination with the existing dealership, as opposed to what would be allowed under B-2. He asked how the Commission felt about a Conditional Rezoning that excluded many of the existing B-3 uses that would be allowed, other than a car dealership.*

*Mr. Schroeder asked Mr. Shelton his opinion. Mr. Shelton remarked that it was pretty hard to determine what would happen in ten years. He was trying to keep his options open if he needed.*

*Mr. Reece thought there was some logic in looking at a Conditional Rezoning. It could be set up strictly for an automotive use. He said that unless they were going to do a wholesale renovation of the existing building that would require Site Plan approval, he wondered if they could actually ask the applicant to add the proper buffering because of the change. Mr. Boswell said the Commission had the ability to waive some rules. Mr. Reece reminded that Mr. Shelton had been a good citizen of the community for many years.*

*Mr. Delacourt said that the Commission had looked at many properties that were non-conforming, buffer-wise, because there was a relatively new Ordinance. The past Commissions had asked applicants for ways to improve the situation and to not bring a plan forward that the Commission had to make better. As long as an applicant made every effort, it seemed to work reasonably well.*

*Mr. Casey added that they could address setbacks through a Conditional Rezoning. He pointed out that there was currently a wall at the back of the property, or a zero lot line, that appeared to be acceptable to the residents. He was not sure they needed to make an adjustment to that. They still needed to address setbacks on the remainder of the property. Mr. Reece said they could potentially put a tree buffer between the B-2 and the R-3 on the north portion of the property. Those things could be addressed with a Conditional Rezoning and would serve the City's best interests and give Mr. Shelton a reasonable proposal for the property.*

*Mr. Reece asked if the House of Denmark had a showroom area and a warehouse, which was confirmed, and which building would be torn down. Mr. Shelton said the showroom would be torn down at some point, but he was not sure about the warehouse.*

*Mr. Schroeder said they had a "good problem." There was a business that was bursting and had to expand, and he felt that they should work with the business owner. They should consider the Conditional Rezoning and give the applicant a direction - either B-3 or Conditional Rezoning.*

*Mr. Anzek referred to the issue of the setbacks, and he said that Mr. Delacourt mentioned there should be a 50-foot buffer when B-3 abutted residential. That would affect the two homes to the north, and it would also apply to the back of the property with its frontage on Rochester Road, running the full length of the eastern line, which abutted a church. He noted that was not a residential unit. The property was zoned commercial, and was expensive, and pulling it 50-feet off both the lines would be a lot. With Conditional Rezoning, they could about a buffer that met the intent, perhaps with intense landscaping but something shorter. The storage of vehicles was not active use, and the applicant would like some consideration in that area as well.*

*Mr. Schroeder stressed that was his point; they should give the applicant a rezoning so he could work with it. The details would be worked out. If the Commission were not going to do it there was no point in the applicant wasting his time and money. Mr. Reece agreed.*

*Ms. Holder said that when Conditional Rezoning came up, she thought it would be the best scenario for the properties left in the City. She indicated that there were some very unique pieces left that were also controversial. She felt it was the best time to begin laying out that type of plan and working towards the rest of the pieces in the City.*

*Mr. Dettloff asked if there were any environmental issues on the site. Mr. Shelton said he would find out more shortly, but there were none that he was aware. He knew the history, and when he got the piece in the middle he did not have any problems with that. He recognized that there was a gas station nearby, but he did not anticipate any problems.*

*Mr. Anzek stated that the consensus of the Commission would direct Staff to find a reasonable solution, based on the guidelines given.*

*Mr. Boswell said they talked about a Conditional Rezoning on the parcel presently zoned B-2. He said he was not opposed to it, he just wondered what the real advantage would be. There were certain things in B-3 that the Commission probably would not want to see, but the property was narrow. They could also consider someone buying up several dealerships and putting in something they would not want to see. He asked the advantage Conditional Rezoning would bring over rezoning.*

*Mr. Delacourt replied that one would be use. Staff would not necessarily recommend Conditional Rezoning, but it was a vehicle to protect against uses that were allowed in B-3. Secondly, the City could get potential additional buffering of the newly rezoned piece; lighting could be more controlled. If there were protections the Commission wanted, Conditional Rezoning might be a way to get them. If there was no real concern with the uses, they could allow a regular rezoning or have another discussion.*

*Mr. Boswell asked if a Conditional Rezoning would give the City an advantage if Mr. Shelton said he would not put anything there but a dealership and the City had to give him something in return. He asked if there was something that would help both the City and Mr. Shelton - for example, setbacks could be eased with a Conditional Rezoning.*

*Mr. Delacourt said that regarding relaxing the standards in the Ordinance, the opinion from the City Attorney had been to not use Conditional Rezoning. That should only be used to provide additional protection above what the zoning request would allow. Mr. Shelton's proposal had a lot of merit, but there was a question about down the road and what other uses would be allowed in B-3 should Mr. Shelton go away. A Home Depot would be allowed in B-3, for example. Mr.*

*Boswell stated that the City was already vulnerable to that because the whole strip was B-3. Mr. Delacourt said that was correct.*

*Ms. Brnabic asked if the property to be purchased was over four acres, which was confirmed. She stated that it was not a small piece, and she still had some reservations about Conditional Rezoning. In this instance, however, she felt it would be worth a shot. She realized it was somewhat of a new frontier for the City, but she would be willing to look at it. She had given it some thought and she felt it was the way to go because they would limit the use. She would rather limit the use with what Mr. Shelton proposed, and she would prefer Conditional over straight rezoning.*

*Ms. Hardenburg asked Mr. Shelton if he planned to combine his southern parcel with the House of Denmark parcel, to which he agreed. Ms. Hardenburg clarified that a straight rezoning on the House of Denmark piece would not be in conformance. She felt Conditional Rezoning was the way to go because the City could restrict the property.*

*Mr. Boswell said that the consensus was that the Commission would rather see it rezoned than left B-2, and most were leaning toward Conditional Rezoning. Mr. Reece confirmed that Staff would make a recommendation about the process, or that it could be left as B-2 for a while.*

*Mr. Shelton said he appreciated the feedback and he was pleased with the discussion.*

## **ANY OTHER BUSINESS**

*Mr. Anzek advised that a suggestion was made by a Council member to televise Planning Commission meetings. He asked the media department to develop a cost estimate for televising the meetings, and he asked to have the opinion of the Commissioners about televising the meetings.*

*Mr. Boswell said his opinion was no. Ms. Holder stated that the structure of the Commission would change as soon as it was televised. The Commissioners would not get really involved, and they would have to be very careful of what they said and did. It would become very difficult, at times, to be productive.*

*Mr. Anzek noted that former Commissioners, when asked about televising meetings, had brought up similar thoughts. Mr. Anzek stated that previous Commissioners advised that there was not a desire to televise meetings because they were not elected officials, and as such, they felt they could be more direct or candid in dealing with issues.*

*Ms. Brnabic stated that she would not like to see the meetings televised. She did not believe that the Commission's purpose was to be political, and she agreed it should not be. She indicated that people knew what the Commission did and that they could come to the meetings, and she felt that the format in place should stay there - without cameras. Mr. Schroeder agreed they should not be televised, for various reasons.*

*Mr. Anzek said he was looking into it at the request of a Council member. The Mayor had not weighed in on it, and they were developing cost estimates of paying overtime for 32 meetings a year to two media specialists.*

*Ms. Holder recalled that the Council member also wanted the Planning Chairman to attend all of Council's closed sessions. She asked if Mr. Anzek checked with the City Attorney about that. Mr. Anzek advised that he had not yet asked Mr. Staran the viability of that request.*

## **NEXT MEETING DATE**

The Vice Chair reminded the Commissioners that the next regular meeting was scheduled for April 4, 2006.

## **ADJOURNMENT**

Hearing no further business to come before the Commission, the Vice Chair adjourned the regular meeting at 10:25 p.m., Michigan time.

---

William Boswell, Vice Chairperson  
Rochester Hills Planning Commission

---

Maureen Gentry, Recording Secretary

Approved as presented at the April 4, 2006 Regular Planning Commission Meeting.