



Department of Planning and Economic Development

Staff Report to the Planning Commission September 13, 2012

Tim Horton's	
REQUEST	Conditional Land Use Recommendation Site Plan Approval
APPLICANT	Tim Horton's 585 East Grand River Avenue, Suite 101 Brighton, MI 48116
AGENT	Mark Kellenberger
LOCATION	940 South Rochester Road (west side of Rochester Road, north of Avon)
FILE NO.	12-008
PARCEL NO.	15-15-476-011
ZONING	B-2 General Business with FB-1 Flexible Business Overlay
STAFF	Jim Breuckman, AICP, Manager of Planning

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Summary

The applicant proposes to construct a new 1,334 square foot Tim Horton's restaurant with drive through on the .5 acre site at 940 South Rochester Road. The site is the former Dunkin Donuts site, and Tim Horton's is proposing to demolish the existing building and to construct a new building with associated site improvements.

Flex-Business 1 Overlay Option

The applicant is proposing to develop the site using the Flex Business 1 overlay standards. While the site is designed using a standard driveable suburban layout, it is actually set back about 19 feet from the future Rochester Road right-of-way line which extends about 32 feet onto the property (measured from the existing right-of-way line). The Zoning Ordinance requires setbacks to be measured from the future right-of-way line, and so compliance with the conventional B-2 setback requirements would result in an 82-foot setback requirement from the existing Rochester Road right-of-way.

Adjacent Land Uses and Zoning

Drive-thru restaurants are permitted in the FB-1 overlay district as a conditional land use (CLU) after Planning Commission recommendation and City Council approval. The site is surrounded by B-2/FB-2 zoning to the north, I/FB-1 zoning to the south and west, and B-3/FB-3 zoning to the east across Rochester Road. Adjacent uses are commercial to the north and east, and industrial to the west and south.

Requested Actions

Specific actions are site plan approval and a recommendation of conditional land use approval to City Council.

General Requirements for Conditional Land Uses (Section 138-2.302)

There are five areas of consideration for the Planning Commission to regard in the discretionary decision of a conditional land use. They are:

1. Will promote the intent and purpose of (the Ordinance).
2. Will be designed, constructed, operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing or planned character of the general vicinity, adjacent uses of land, the natural environment, the capacity of public services and facilities affected by the land use and the community as a whole.
3. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, refuse disposal, or that the persons or agencies responsible for the establishment of the land use or activity shall be able to provide adequately any such service.
4. Will not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.
5. Will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

Site Plan Review Considerations

1. **FB-1 Dimensional Standards.** The FB-1 standards require buildings to be set back between 15 and 25 feet from an arterial street. The building is set back 19 feet from the future ROW line and meets this requirement. However, the FB-1 standards also require that buildings occupy a minimum of 40% of the width of the lot.

The proposed building occupies about 21.3% of the width of the lot. The Planning Commission may modify the setback standards per Section 138-8.604 upon finding meets one or more of the following criteria: that the modification is necessary to make development practical, that the modification will permit innovative design, and that the modification is the smallest modification necessary. Staff believes that the modification is justified because it will result in a better site layout than if the site had to develop using the B-2 standards.

2. **Parking.** The minimum parking requirement in the FB-1 district is one space per 400 sq. ft. of building area. In this case, that would require 3 parking spaces. Given the site's context, it will function in the foreseeable future as a conventional development, and so it is important to note that the site meets the minimum parking requirements of the B-2 district. The plans note that the

building will have a maximum occupancy of 9 people, requiring 5 parking spaces. A total of 20 parking spaces are proposed.

3. **Parking Side Yard Setback Reduction.** Section 138-11.102.B.3.c requires a 10 foot setback for parking spaces from side lot lines. The proposed plan has a 2.54 foot setback from the north property line, and a 5 foot setback from the south property line. The north property line is a retaining wall (about 1-3 feet tall), and the neighboring property to the north is paved up to the property line. There is an extensive grass area to the south on the Sanyo Machine property.
4. **Irrigation.** The applicant must submit an irrigation plan for the irrigation of all landscape areas on the site, including the Rochester Road right-of-way adjacent to the site.
5. **Cross Access.** The plans show the location of a cross access easement to the property to the north. The easement must be approved by the City and filed with the Register of Deeds prior to final site plan approval being granted.

The site complies with all other ordinance requirements.

Site Plan Summary

As part of the technical review for this project, the plans and supplemental documentation have been reviewed by all applicable city departments. Based on the review comments included in this report or contained within the enclosed information, and if the Planning Commission agrees the addition will be harmonious and compatible in appearance with the existing development, staff recommends approval of the following motions relative to City File No. 12-008 (Tim Horton's Rochester Road).

Conditional Land Use Motion

MOTION by _____, seconded by _____, in the matter of City File No. 12-008 (Tim Horton's Rochester Road) the Planning Commission **recommends** to City Council **approval** of the **conditional land use**, based on plans dated received by the Planning Department on August 8, 2012, with the following findings.

Findings

1. The proposed building and other necessary site improvements meet or exceed the standards of the Zoning Ordinance.
2. The expanded use will promote the intent and purpose of the Zoning Ordinance.
3. The proposed building has been designed and is proposed to be constructed, operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the hospital, the general vicinity, adjacent uses of land, the natural environment, and the capacity of public services and facilities affected by the land use.
4. The proposal should have a positive impact on the community as a whole and the surrounding area by further offering jobs and another dining option.
5. 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.
6. The proposed development should not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.

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

Site Plan Approval Motion

MOTION by _____, seconded by _____, in the matter of City File No. 12-008 (Tim Horton's Rochester Road), the Planning Commission **approves** the **site plan**, based on plans dated received by the Planning Department on August 8, 2012, with the following findings and subject to the following 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 development meets the intent and standards of the Flex Business 1 overlay district, inclusive of a modified frontage requirement as part of this approval.
3. The reduced side yard parking setback is justified based on existing conditions on neighboring sites.
4. Off-street parking areas have been designed to avoid common traffic problems and promote safety.
5. The proposed improvements should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.
6. The proposed development will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.

Conditions

1. City Council approval of the conditional land use.
2. Provide a landscape bond for replacement trees in the amount of \$5,748 prior to issuance of a land improvement permit for this development.
3. Submittal of an irrigation plan, including irrigation of the Rochester Road right of way.
4. Submittal of a cross-access easement for City review and approval, and filing of the easement with the Register of Deeds.
5. Addressing all applicable comments from other City departments and outside agency review letters.

Attachments: *Site Plans, dated received August 8, 2012: Cover Sheet; Existing Conditions, Sheet SP-1; Dimension and Paving Plan, Sheet SP-3; Grading and Drainage Plan, Sheet SP-4; Utility Plan, Sheet SP-5; Soil Erosion and Sedimentation Control Plan, Sheet SP-6; Miscellaneous Details, Sheet SP-7, prepared by Zeimet Wozniak & Associates; Landscape Plan, Sheet L-1, prepared by Russell Design; Lighting Proposal, Sheet 1, prepared by LSI Industries; Site Details, Sheet SD2; Equipment Plan, Sheet A2; Exterior Elevations, Sheets A5.0 and A5.1, prepared by Shremshock Architects, Inc. and Building Colored Renderings.*

Assessing Department memo dated 06/20/12; Building Department memo dated 07/03/12; Fire Department memo dated 06/21/12; Public Services Department memo dated 08/13/12; Letter from OCWRC, dated 06/22/12; and PHN
