



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, May 21, 2013

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.

ROLL CALL

Present 9 - William Boswell, Deborah Brnabic, Gerard Dettloff, Dale Hetrick, Greg Hooper, Nicholas Kaltsounis, David Reece, C. Neall Schroeder and Emmet Yukon

Quorum present.

Also present: Ed Anzek, Director of Planning and Economic Development
James Breuckman, Manager of Planning
Maureen Gentry, Recording Secretary

APPROVAL OF MINUTES

2013-0188 April 30, 2013 Special Meeting

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

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

COMMUNICATIONS

- A) *Planning & Zoning News dated March 2013*
- B) *Email from K. Reilly dated May 20, 2013 re: Used Car Lot request*
- C) *Letter from J. Horne of MDOT dated May 20, 2013 re: Rochester Retail*
- D) *Memo from A. Schneck, dated May 21, 2013 re: CIP*
- E) *Pictures of the proposed used car lot (agenda item one)*

NEW BUSINESS

2013-0189 Public Hearing and Request for Conditional Land Use Recommendation - City File No. 13-005 - to construct a used car lot on .28 acres at 1927 E. Auburn, between John R and Dequindre, zoned C-I, Commercial Improvement, Parcel No. 15-25-482-021, Syed Ahmed, Applicant

(Reference: Staff Report prepared by James Breuckman, dated May 17, 2013 and Site Plan had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Syed Ahmed, 890 E. Hamlin, Rochester Hills, MI 48307, owner of the property and Siraj Ahmad, Ahmad Associates, Engineering Consultant.

Mr. Breuckman referred to the submitted application to establish a used car lot, noting that it was at 1927 E. Auburn in the C-I, Commercial Improvement district. He advised that the list of uses in the C-I district referred to the B-2 district, and that used car lots were a Conditional Land Use at the proposed site. Mr. Breuckman mentioned that the proposal was before the Commissioners a few months prior to discuss the use, and that the attached Minutes from that meeting summarized the discussion. The applicant was proposing to use the site as is, and to establish a limited sales lot there. Mr. Breuckman had discussed the future of the site with the applicant, who stated that the intent was to expand with improvements and to use the back half, which was currently grass. That would have to come back for approval when and if that happened. Mr. Breuckman indicated that the proposal was a starter application to be able to begin to use the site and build the business. The site, like many in the C-I district, was deficient in terms of meeting some Ordinance standards; however, without any proposed improvements, triggers to require improvements were not necessarily required by Ordinance.

Mr. Breuckman noted that the Staff Report showed that the applicant planned to display 15-25 cars, for which Mr. Breuckman had some concern, and he felt that would have to be further explored. He thought that exterior lighting was important and could have a real impact on the neighbors in the area. He advised that no changes were proposed on the plans, for which the applicant needed to further clarify. Mr. Breuckman concluded that there were two motions in the packet for consideration, and said that he would be happy to answer any questions.

Chairperson Boswell asked Mr. Ahmed if he had anything to add. Mr. Ahmed said that he did not plan to change anything on the site now, but

in the future, his plan was to add a nice building and fence the lot.

Mr. Schroeder addressed exterior lighting, which he felt was a major concern. He asked Mr. Ahmed what he intended to provide. Mr. Ahmed responded that he would add whatever the City required. Mr. Ahmad stated that there would be lighting on either side of the building and on the back, so it would be well lit. Mr. Schroeder cautioned that they did not want light spilling onto the neighbors' property. Mr. Ahmad said that it would be shielded. Mr. Schroeder added that the lights should not be too high.

Chairperson Boswell asked if the lights would be on a light pole, and Mr. Ahmad claimed that they would be on the building only. Chairperson Boswell asked about the number of cars on the site, and Mr. Ahmed said that they would start with 15 cars or less. In the future, there would not be more than 15-20 cars. Mr. Schroeder asked if they would put a lower sign on Auburn Rd. He clarified that there would not be a really high sign or any hoods propped up with signs. Mr. Ahmed advised that most of the cars would be sold on the internet. Mr. Schroeder asked if they would use the existing gravel or if Mr. Ahmed would do any paving. Mr. Ahmed said that he would not now. Mr. Schroeder referred to the plan which showed access to Auburn Rd., and he felt that was good. He noticed from the pictures that someone could exit the site onto Hessel. He asked what Mr. Ahmed would do to block people from driving onto the side street.

Mr. Ahmed said that people would make a right turn when doing a road test. One of his people would go with them to make sure. Mr. Schroeder asked if he could put a fence up to stop them. Mr. Ahmed agreed he could. Mr. Schroeder did not think the existing fence at the back of the lot might be adequate or high enough, and he thought the Commissioners might want to explore that issue.

Mr. Kaltsounis recalled talking about paving certain areas at the last meeting. He asked Mr. Ahmed if he considered that. Mr. Ahmad explained that the surface was not plain gravel; it was enriched with asphalt and was a very hard surface. Mr. Kaltsounis believed that it had to be redone every year to compact it. Mr. Ahmad said that he was initially a skeptic, but once he looked at it, he saw it was a smooth and hard surface, and he recommended using it as it was. When Mr. Ahmed developed it fully, they would have to pave it.

Mr. Kaltsounis commented that he was not too wild about the plan in front of him. He was not a fan of how it looked like gravel. He understood that

they wanted to get the business going, but he wondered if it would be possible to add conditions to the recommendation. Mr. Breuckman felt that it was within the Commissions' ability. Mr. Kaltsounis noted that there could be areas with oil and it could become a brownfield, and he wondered what they could do to spruce up the site so they could get going. He wondered if they could put in a timeframe to improve the lot as a condition.

Mr. Ahmed agreed that he wanted to get going and then add a nice building. Mr. Kaltsounis said that he was more worried about the paving, and if they had shown a paved lot, he would have been a lot happier. It was his opinion, and he was interested to hear what the other Commissioners thought.

Chairperson Boswell asked Mr. Ahmed if he had purchased the property, which was confirmed.

Mr. Dettloff clarified that Mr. Ahmed would use the existing building for the office, and that he would put up a nicer building in the future. Mr. Dettloff asked the timeframe to do that. Mr. Ahmed said it would be less than two years. Mr. Dettloff asked if he would demolish the existing building, and Mr. Ahmed agreed. Mr. Dettloff said that in looking through the Minutes from the last meeting, he had strongly encouraged that Mr. Ahmed take advantage of a business plan. He realized that Mr. Ahmed had experience selling cars, but it was a different venture being an owner and operator. Mr. Dettloff recommended that Mr. Ahmed pay a visit to Oakland County's One Stop Shop and talk with the Staff, who dealt with a lot of startups. He encouraged that the more Mr. Ahmed prepared up front, the better his chances of succeeding down the road. Mr. Dettloff said that he still strongly encouraged having a business plan, and he asked Mr. Ahmed if he had done one. Mr. Ahmed said that he had worked in the business since 1986. His long time dream was to open a used car lot, and he had prepared a business plan. Mr. Dettloff asked if the financing would be through a bank, which Mr. Ahmed confirmed. Mr. Dettloff asked which bank, and Mr. Ahmed answered that he had several different banks - Chase, primarily, and also Charter One Bank.

Mr. Hetrick said that from looking at the lot size, it did not appear that Mr. Ahmed would be able to put in more than three or four cars. He wondered how and where Mr. Ahmed would park 12 cars.

Mr. Ahmed said that he had space to park more cars. When he demolished the building, he could put more cars on the lot. Mr. Hetrick

asked Mr. Ahmed how many cars he would have if he started his business tomorrow. Mr. Ahmed said there would be seven to eight, and that he sold cars very quickly on the internet. Mr. Hetrick asked Mr. Ahmed if he had any inventory. Mr. Ahmed said that he could buy cars at an auction, and he did not have to bring them to his lot. He could leave cars at the auction for six to seven months, but most of the cars were sold on the internet. Mr. Hetrick asked why Mr. Ahmed would need a lot if he was going to sell the cars via the internet. Mr. Ahmed said that he wanted to be his own boss. Mr. Hetrick said that it was still a little confusing as to how many cars would be on the lot. Mr. Ahmed said there would be seven to eight cars. Mr. Hetrick asked about security for the vehicles on the lot. Mr. Ahmed said that he would install a security camera. Mr. Hetrick asked if there would be a fence in front of the egress to Hessel. Mr. Ahmed said there might be one in the future, but not right away. He added that if the City asked for it, he could put one up. Mr. Hetrick believed that it had been asked as part of the Site Plan. Mr. Ahmed agreed that he would put up a fence. Mr. Hetrick recommended that it would be important to think about what the business really would be. If Mr. Ahmed was selling over the internet versus selling via the lot, it would be two different things. He could perhaps use the property for something other than a car dealership. Mr. Hetrick was still a little confused as to how the property would be used. Mr. Ahmed said there would be less than 10-15 cars. Mr. Hetrick asked Mr. Breuckman if the Commissioners could stipulate the number of cars on the lot. Mr. Breuckman said they absolutely could. Mr. Hetrick also suggested that they might want to stipulate the hours of operation.

Mr. Hooper asked the applicants to put the Site Plan up for the overhead camera. He pointed out the area shown for used car parking, and he did some measurements and said that there was no way 15-20 cars would fit there. He referred to the east/west line that touched the corner of the used car parking and asked if it denoted the milled asphalt area, which was confirmed. Mr. Hooper said that if they stacked cars pointing north/south, they could probably get nine cars. Mr. Ahmad said that if nine was correct, they could do another line of nine behind them. Mr. Hooper said they would have to improve the lot because they could not park cars on grass. He stated that the Site Plan would be conditioned on a maximum of six cars on the lot if they were going to use the area shown for used car parking. He believed that they would stack cars north/south along the edge of the asphalt and they could fit nine going north/south and they could fit a couple more on the west side. Realistically, they might get 11 cars using the gravel portion. He stated that he was not interested in seeing parking on the grass, and they would have to improve that.

Mr. Hooper observed that the plan was not accurate regarding the used car parking; there was no shielding for the lights shown; the ground-mounted sign was not shown; and adding a fence along Hessel had to be on the plan. He commented that the plan was one step above a napkin sketch, and it was really limited in the details. He needed to have more of a comfort level with what they would be approving. He believed Mr. Ahmed was a great guy, and he wanted to wish him the best of success, but if something went wrong and they had to go back and look at the plan, they would really question what they approved. He felt that they needed to see more details and more accuracy so they were all looking at the same thing and not approving a plan that was subject to 12 conditions. He did not want there to be any misunderstanding about what was approved. There was nothing in writing about what Mr. Ahmed said. Mr. Hooper stated that in his opinion, and to be fair, if the project moved forward there should be better clarity on the plan to address some of the significant issues. If they were going to have lighting on the building, that was fine, but it needed to be shielded, and it could not project onto the neighbor's property next door. If they were going to add a fence along Hessel, they had to show what it would be made of, how high it would be and what it would look like. He did not want to see a chain link fence along Hessel. He would like to see a decorative fence so it looked presentable for the neighborhood. The parking area was not accurate. There should be a location shown for the ground-mounted sign, and even though it would be subject to a permit, the proposed location and size should be shown. It could not be put in the right-of-way, and Mr. Hooper was not sure where it could be put.

Mr. Ahmed advised that he would put the sign on the building. Mr. Hooper said that Mr. Ahmed said he would be putting up a ground-mounted sign, and Mr. Ahmed said he would not do that right now. He was going to use the same signboard that was on the existing building. Mr. Hooper said that was another example of what he was talking about. He heard one thing, and Mr. Ahmed said another. If the proposed plan was approved, some people might say something was there they did not remember. He stressed that the plan needed to be accurate so the Commissioners knew what the applicants wanted. Mr. Hooper believed Mr. Ahmed was asking for an approval, saying that he would do something later on when he got some money. Mr. Hooper indicated that was fine, but for the starting point, things needed to be accurate. He summarized the issues that needed clarification: the used car parking; shielded lighting; signage on the building; details for the fence; and stating on the plan that there would be no parking on the grass.

Conditions could include hours of operation. Mr. Hooper said that he did not want Mr. Ahmed to think he was opposed to the project - he wanted him to be successful. Mr. Hooper wanted to be sure that what might be approved was accurate, and that everyone was on the same page.

Mr. Schroeder agreed that the plan was inadequate. They were talking about things Mr. Ahmed said he would do which kept changing. Mr. Schroeder noted that the existing wood fence was shown on someone else's property. There was space on the east side of the building where there was gravel, and where he believed there would be parking. He stated that the Commissioners had to have more detail. They could not just talk about what was going to be done and when. They had to have more specifics and an accurate picture to look at.

Ms. Brnabic said she absolutely agreed that there were significant issues about accuracy and details, and there were other questions. She kept hearing different numbers about the amount of cars. Mr. Ahmed first said that there would be up to 25 cars, then 10-20 then seven to eight. That raised a red flag for her - stories that kept changing. Mr. Ahmed said that most of the cars would sell on the internet. Ms. Brnabic said that she understood that but at times, Mr. Ahmed said there would be up to 25 cars on the lot. Mr. Ahmed said that he had enough space to park 20 cars. Ms. Brnabic questioned that he was making no improvements to the property. Mr. Ahmed agreed that was right for now, but in two years, he would get a bank loan and make improvements. Ms. Brnabic asked Mr. Breuckman if the used car lot would have to follow current Ordinance standards, because she did not think the Commissioners were reviewing a Site Plan that was completely sufficient with Ordinance standards.

Mr. Breuckman said that typically for existing sites that did not meet current Ordinance standards, the City tried to require proportional improvements to the use being established or changes being made. They could address things like lighting and screening. When there were significant changes being made to the site, that was where the City would require the site upgrades to meet current Ordinance standards as best as possible. The C-I district was different from other parts of the City, so they would require things proportionally.

Ms. Brnabic asked if the applicant would have to follow basic rules, such as no cars allowed to be parked five feet from the lot line or no parking on the grass. Parking on the grass would breach the Conditional Land Use in her opinion. Mr. Breuckman said that the plan stated "no parking or other use of grass area proposed or allowed." The issue of the parking

being separated from the sidewalks by five feet was being met. Those were legitimate things to consider when looking at a Site Plan.

Ms. Brnabic agreed with the other Commissioners that they needed more accuracy and details. It would really bother her if the grass area was used. It could turn into an enforcement issue, and she would want to see something stronger regarding using the grass area. She believed the grass area was more than 25 feet. She thought that what was proposed could look very unsightly. She said that she did not have anything against used car lots, but she felt that another location, perhaps the parcels on the south side of Auburn, would be a better site for one. They could put up a new building and pave the lot, and there was more room. She would like to see more details before she could approve a Conditional Land Use.

Mr. Reece agreed with Ms. Brnabic about the location. What concerned him more was that in the future, the applicant would put up to 25 cars there. If Mr. Reece was a resident of the neighborhood, particularly on Hessel, he would not have expected to sign on for a used car lot moving into the neighborhood. He had been concerned about the location the last time the applicants were before them. He was also concerned that there would be no improvements. The applicants might or might not come back in two years and ask to do improvements, but Mr. Reece still did not think it was the right location for a used car lot.

Mr. Yukon said that based on their discussion on March 19, he was hoping the applicants would come back having taken some of the Commissioners' suggestions to heart. He said that he was very uncomfortable with the Site Plan. It was incomplete, and things were missing. He noted that when the applicants came before them previously asking for advice, the Commission was there to give their thoughts. It was important for the applicant to take that advice when they were putting together a plan. He had said at the last meeting that he thought it was a great concept and great that Mr. Ahmed wanted to put his business in Rochester Hills, but Mr. Yukon stated that he could not support what was before them.

Mr. Kaltsounis agreed that the Commissioners expressed a lot of things at the March meeting. The Commissioners wanted Mr. Ahmed to succeed, but there were some things they needed first. What they were hearing and what was being said did not work. He said that he gave thought to making a motion for denial or possibly a postponement to a later date. He suggested that the applicants should write down the

concerns, and the first one was to show a plan where the cars were parked. The plans needed to have more details, and he agreed with Mr. Hooper that it was more of a napkin sketch. He felt that things could be worked through. He also believed that six cars total should be allowed at one time for sale, and that no parking on the grass would be allowed. For the Conditional Land Use, they needed to add hours of operation. The Site Plan also needed to show an acceptable buffer plan in the back for the parking lot. They should add that no cars would be allowed to be displayed on the corner of Hessel and Auburn. A lighting plan needed to be submitted to Staff. They needed to put in some type of traffic calming device for Hessel. It was currently all open, and they needed to keep cars off of Hessel. Mr. Ahmad asked Mr. Kaltsounis if he felt that a fence would do that. Mr. Kaltsounis said that Mr. Ahmed could work with Staff, but he thought that a fence could work. Mr. Kaltsounis said that he understood that Mr. Ahmed wanted to get started, and that there would be improvements in the future, but how those were documented today would be critical. He wished to propose a finding: The Planning Commission was concerned with the current content of improvements to parking surfaces and recommended a time period for when the improvements had to happen in the future. He would also add a condition to the Conditional Land Use motion: The Conditional Land Use Plan would expire after one year from the date of approval. The applicants could come back, and the Commissioners could see how they were progressing. It would be a way to get them going and be a way to check on the improvements in the future. He was more concerned about the parking surface than the building. He would also add a condition to the Site Plan motion: The Site Plan would expire when the Conditional Land Use expired.

Mr. Hetrick would add on the Site Plan that the security camera had to be mounted on a structure that was in a place that made sense.

Mr. Dettloff clarified that Mr. Ahmed was the owner, and that he did not enter into a land contract. Mr. Ahmed said that he bought it outright. Mr. Dettloff asked Mr. Breuckman if the Commission could add a timeframe to the Conditional Land Use. He wondered if the Commission needed a legal opinion about that. Mr. Breuckman said that he was not aware of anything that would stop the Commission from doing that. He did not, however, feel that it was a great thing to do. Mr. Dettloff said that he would feel a little more comfortable if they got a legal opinion.

Mr. Reece wondered what would happen after a year, where they would be and what they would be left with. Chairperson Boswell felt that it was pretty

much a moot point, because he did not feel that they would make any motions at this meeting.

Chairperson Boswell opened the Public Hearing at 7:45 p.m.

Marie Demres, 2915 Hessel Ave., Rochester Hills, MI 48307 Ms.

Demres stated that she was opposed to the used car lot. She did not see a plan that would improve the site. At this point, she indicated that it was an eye sore, and it would become more of one, in her opinion. She knew the Commissioners had asked for clarification on the very vague plan. She could envision some type of cheap fence put up. The applicants were using the same decrepit building, which had been used over and over for several different businesses. The area needed a continuation of improvements. It needed curbs, and there was no grass or sidewalk in the front. She and her husband would like to see improvements to the site and a concrete plan - one which would add to the aesthetics of the site.

Seeing no one else come forward, Chairperson Boswell closed the Public Hearing.

Mr. Kaltsounis agreed with Mr. Dettloff and Mr. Reece about getting a legal opinion about adding an expiration date to the Site Plan. He asked Mr. Ahmed to work with Staff to try to get everything worked out, because he did not want to add a finding if he did not have to. He moved the following motion:

MOTION by Kaltsounis, seconded by Hetrick, in the matter of City File No. 13-005 (Syed Used Car Lot), the Rochester Hills Planning Commission hereby postpones the Conditional Land Use and Site Plan Approval requests until a later Planning Commission meeting so the applicant can address the concerns raised at the May 21, 2013 meeting.

Chairperson Boswell said that personally, he would not feel comfortable voting for a Conditional Land Use knowing that the Site Plan was incomplete, and he said that he certainly could not vote for the Site Plan. He told Mr. Ahmed that he realized it inconvenienced him, and he realized that Mr. Ahmed wanted to get started, but the Planning Commission was charged with certain duties, and they could not fulfill those duties looking at a Site Plan that had so many holes in it. They needed to have a more definitive Site Plan, and they needed to know what improvements could be made and would be asked to be made. If they were to vote on it, he believed that both items would go down 9-0.

Postponed

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Chairperson Boswell stated that the motion had passed unanimously. He hoped that Mr. Ahmed had taken some notes, and he offered that Mr. Breuckman would be happy to work with him. He knew Mr. Ahmed was probably disappointed, but he stated that the Site Plan could not be voted on as it was.

Mr. Schroeder asked Mr. Ahmed if he sent the plan to MDOT for review and approval of the driveway. Mr. Ahmad said he was not advised that it was required. Mr. Schroeder said that he was, and he explained that Auburn was an MDOT road, and they had to get a permit for the driveway from MDOT. It was talked about at the last meeting.

Mr. Ahmad said that the issues raised were not mentioned to him, but he would hopefully bring back a complete plan to the next meeting.

2013-0190 Request for Site Plan Approval - City File No. 13-005 - Used car lot at 1927 E. Auburn Rd., Syed Ahmed, Applicant

Postponed

2012-0292 Public Hearing and Request for Rezoning Recommendation - City File No.12-010 - Rochester Retail, an amendment to Chapter 138, Zoning, of the Code of Ordinances to rezone one parcel of land totaling approximately .73 acre, located at the southwest corner of Rochester and Auburn Rd. (gas station), Parcel No. 15-34-227-031 from B-5, Automotive Business to B-3, Shopping Center Business, Rochester Auburn Associates, LLC, Applicant
(Reference: Staff Report prepared by James Breuckman, dated May 17, 2013 and Site Plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Doraid Markus, Rochester Auburn Associates, LLC, 4036 Telegraph Rd. Bloomfield Hills, MI 48302; Mark Drane, Rogvov Architects, 32500 Telegraph Rd., Suite 250 Bingham Farms, Michigan, 48025; and Jim Butler, PEA, 2430 Rochester Ct., Suite 100, Troy, MI 48083.

Mr. Breuckman stated that there were three agenda items before the

Commissioners. The matter was before the Commission several times prior for a discussion. Since that time, the applicant had worked diligently to revise the plans to address all of the significant concerns. In addition to redesigning the site to meet the B-3 intent standards of the Zoning Ordinance, the applicants also did significant work to address the traffic concerns. They went through numerous iterations with MDOT and with the City's Traffic Engineers. MDOT had signed off on the access, and the City's Engineers were comfortable with the access. Staff was comfortable that the plans were compliant and ready for review. Mr. Breuckman advised that the Conditional Land Use Recommendation was for the drive-thrus proposed. There were also Site Plan Approval and Rezoning Recommendation requests. The gas station on the corner was currently zoned B-5 and needed to be rezoned to B-3. The site had previously been designed more as a B-2 development, but it was now designed for a B-3 layout. The Rezoning request was first on the agenda. If the matter went to Council, it would be handled in the same manner. Mr. Breuckman added that the proposed B-3 zoning was consistent with the future land use designation for the site. It was planned for Business Flexible Use 2, and B-3 was consistent with that. He said that he would be happy to answer any questions.

Chairperson Boswell asked what would happen with the Rezoning if something were to go wrong, and he asked if the gas station would be o.k. Mr. Breuckman said that at that point, the gas station would become a legal, nonconforming use and could continue. If the gas station wanted to come in and change anything, they might have a problem.

Chairperson Boswell opened the Public Hearing for the Rezoning request at 7:57 p.m. Seeing no one come forward, he closed the Public Hearing.

Mr. Kaltsounis said that based on Staff's comments that it was a downgrade, and he also questioned what could happen to the gas station, he felt comfortable that they could still operate if needed. He moved the following motion:

MOTION by Kaltsounis, seconded by Yukon, in the matter of City File No. 12-010 (Rochester/Auburn Rezoning) the Planning Commission **recommends approval** to City Council of the proposed rezoning of parcel no. 15-34-227-031 from B-5 to B-3 with the following three (3) findings.

Findings:

1. *B-3 is an appropriate zoning district in areas designated for Business/Flexible Use 2 on the Future Land Use Map.*
2. *Approval of the proposed rezoning will permit the unified redevelopment of the approximately 5 acre combined parcel at the southwest corner of Rochester and Auburn.*
3. *The proposed rezoning is consistent with the criteria for approval of an amendment to the Zoning Map, listed in Section 138-1.200.D of the Zoning Ordinance.*

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 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Chairperson Boswell stated for the record that the motion had passed

2012-0293

Public Hearing and Request for Conditional Land Use Recommendation - City File No. 12-010 - Rochester Retail, to construct drive-thrus in conjunction with a stand-alone restaurant and a restaurant in a retail building at the southwest corner of Rochester and Auburn, Parcel No. 15-34-227-037 , zoned B-3, Shopping Center Business, Rochester Auburn Associates, LLC, Applicant

Mr. Breuckman noted that at the time he prepared the Staff Report, MDOT's review had not been received. Since then, MDOT had signed off and approved the plans. He had provided a potential motion to grant Site Plan Approval if the Commissioners were inclined. He said that most of the conditions in the Staff Report were detail-oriented regarding landscaping, lighting and other departmental reviews. The Fire Department did deny the plans, but he remarked that they usually denied everything, and their conditions were easily addressable.

Mr. Markus stated that they had been through quite a process to try to get before the Planning Commission with a presentable plan and one that was worthy of the City's expectations. He hoped that they had the best Site Plan they possibly could bring. They took the comments they had heard previously and put them on paper. They moved the potential McDonald's all the way to the west; they changed the Site Plan to make it more pedestrian-friendly and gave it more of a downtown feel as B-3 called for. He said they would be happy to answer any questions about the site.

Mr. Kaltsounis noted that the elevations were different than previously shown. He asked about the colors and the look. At first, the applicants said it would look like the development in Troy just down the street. He asked them to explain why they changed it.

Mr. Drane related that he was not before the Commissioners for the first go-around. When that concept was brought to him, as an architect, he felt that it was a little overwhelming for the site. It was so tall, and it had too many things going on. The architecture proposed was similar to the Adams Marketplace development. There would be brick on all four sides and facing the street, there would be a lot of glass. There would be fabric and metal awnings to try to break up the façade and to get some ups and downs. He felt that it had a really nice street presence.

Mr. Kaltsounis said that the first applicant did not really listen to the concerns raised by the Commissioners, but Mr. Markus did. Mr. Kaltsounis thought that the building layout and curb cuts were much better than before.

Mr. Hetrick agreed that the plans before them were significantly better than the first ones, and they fit the B-3 zoning. He noted the item about people driving through the site too fast, and he wondered if it would be possible to put in speed humps or some type of traffic calming device, especially given that they wanted it to be a pedestrian-friendly environment. It looked like there were a lot of places they wanted to get foot traffic off of Rochester Rd. into the site, and he felt that it might be good to try to slow things down a bit.

Mr. Drane noted the three curb cuts, which were pared down from seven, and said that the way they were designed, people would have to slow down. He was not a fan of speed humps, and in the past they had brought the landscape material closer to the edge of the curb, something with more of a hedge, and that naturally made people slow down. He thought that there were several spots on the site they could do that. Mr. Hetrick thought that anything along those lines would be great. If they were trying to make it pedestrian-friendly, he agreed that landscaping would be nice.

Mr. Hetrick referred to page eight, and said that it looked as if people would be making a left turn into the site. He asked if that was expected or if they expected a truck coming in to make a right turn.

Mr. Drane said that the purpose of the drawing was to show that a WB-50

truck was capable of making it in and around all curb cuts. It was not that the truck would be making a left hand turn on a regular basis, although a driver was permitted to do that.

Mr. Reece said that they had done a great job from where it was to where it was at today, and he appreciated their patience with the Commissioners. The Commissioners also appreciated the opportunity of bringing the project into the City. He mentioned that the McDonald's further north on Rochester Rd. was rebuilt a year or so ago, and the Commissioners had some comments about the elevations. Mr. Reece asked if the elevations for the proposed McDonald's would match that one, noting that there had been minor comments. He asked if the proposed would be a standard McDonald's, and whether Staff could take a look at it for the sake of consistency within the City. The only concern he had with the Site Plan was with people turning right into the site off of Auburn to try to circumvent the light at Auburn and get out onto Rochester Rd., but he did not think it would be a significant issue. Regarding traffic calming devices, he thought the suggestion to move landscaping was a good one, and he would not do much more. He asked Mr. Drane to put the elevations up for the overhead camera, and he asked if the material at the top was a stone banding. Mr. Drane had brought samples of the materials, and he advised that it was a synthetic plaster or effis. He added that they only used that material where it could not be touched, and that when it was that high, it came off as a stone look. Mr. Reece asked about the canopies, and Mr. Drane advised that they would be fabric, except for the gray ones over the taller windows, which were aluminum. Mr. Reece questioned whether the gray band shown would be a stone, and Mr. Drane said that it was a decorative, smooth faced, polished block. Mr. Reece asked if the glazing would be tinted, and was informed that they generally did clear.

Mr. Dettloff recalled that when the gentleman representing McDonald's was at one of the meetings, Mr. Dettloff had asked if it would be corporate or a franchise. The gentleman had replied that corporate would be in the fore front, but they identified a franchise. Mr. Dettloff asked if the franchisor would be the one involved with the other Rochester Rd. McDonald's or one that was further south in Troy. Mr. Markus said that McDonald's did not discuss that with him. He had a suspicion, knowing their model a little bit, that they did offer it to a franchisee in the area first. Mr. Dettloff commended Mr. Markus for taking things to heart and coming back with a first class plan.

Mr. Reece asked Mr. Markus where he was at with the phase one and

phase two environmental. Mr. Markus advised that they had done phase one and phase two on the gas station and the dealership. They filed a BEA, and they were in the process of doing due care plans. Mr. Reece wondered if they had come across any significant issues. Mr. Markus stated that there were a few hot spots at the gas station that had to be cleaned up. There was some penetration into the dealership on the north end of the gas station to the parking lot of the dealership. They were things they would have to work through. Mr. Reece clarified that Mr. Markus was comfortable knowing what was there, and he answered that he absolutely was.

Mr. Schroeder asked Mr. Markus if he had looked into green building. Mr. Drane said that generally, they designed buildings to be more energy efficient than what the standard code was. That had been their response, and he said that it had been very onerous to put all of the LEED items into a commercial retail building, because a customer would be using the building. It was difficult to achieve a LEED-type project on that basis. Mr. Drane stated that they would make the building more energy efficient than they normally would.

Mr. Kaltsounis asked about speakers for the drive-thrus. He knew that the City required a lighting plan - to show intensity of lighting - but he wondered if there was some type of sound plan for a drive-thru window in terms of what someone could hear and at what times from the speakers. Mr. Breuckman stated that light was easy, but sound was almost impossible, because there were many rating scales, and sound acted differently on different sites. The Ordinance had performance standards which did set some decibel limits at property lines for what was acceptable or not. That was what they relied upon to regulate those uses. Mr. Breuckman commented that he was in no way qualified to speak about managing noise from speakers, because it was complex.

Mr. Kaltsounis asked how the 10-foot landscape buffer would silence the noise at the drive-thrus for the neighbors. Mr. Drane did not think the landscaping would stop the sounds. He thought an architectural element would be needed, and there was a six-foot high wall to the south. The speakers on the boxes would get louder when the ambient noise level of the area got louder. It was self adjusting, so at night when traffic was quiet and there were less people, the box would be quieter, but when there was heavier traffic or wind noise, the volume would go up. Mr. Kaltsounis asked if they would mind if a condition was added about that. Mr. Drane suggested that they could add a condition about meeting the Sound Ordinance requirements at the property line, but he could not commit as

to what McDonald's would do.

Mr. Markus said that the deal with McDonald's was kind of interesting. He really had no control over them; he only had control of the property. They did not discuss what they would or would not do. Mr. Kaltsounis said that he wished the gentleman from McDonald's could have been there. Mr. Markus said that he actually was taking a big risk by getting the plan approved. He stated that McDonald's could still walk, and that would be a problem he would have to deal with. If he got Site Plan Approval, he could go back to them. He had a meeting scheduled in Illinois to try to salvage things. They were not committed to being there until he had an approved Site Plan. Mr. Drane said they were 95% sure that McDonald's would sign on. Mr. Kaltsounis maintained that the way it was before, the City would not approve it. Mr. Markus said that was the situation; McDonald's wanted them to get an approval, and then they would finish the deal.

Chairperson Boswell said that in all the years he had been on the Commission, he had heard one complaint about speakers at a drive-thru. He did not think it would be a big problem. He reminded that there was a wall to buffer the neighbors to the south.

Mr. Drane mentioned that they did the original building on the site in 1991. It was monumental to him that what he built in the past was being torn down for something new. There were pagers at the car dealership, and they were not allowed to use speakers back then.

Chairperson Boswell opened the Public Hearing for the Conditional Land Use Recommendation at 8:21 p.m.

Gretchen Komarzec, 3248 Hickory Lawn, Rochester Hills, MI 48307

Ms. Komarzec stated that she lived adjacent to the property. Currently, there was an issue with a person jumping the wall from Wendy's into the residential area and exposing himself. There were a lot of children in the neighborhood, and she wanted to comment on the Ordinance for the wall size. She felt that the wall sizes were too low in Rochester Hills between businesses and residential. She asked for some better understanding of the landscape plan. The current wall stopped, so the predator could go from the business into the neighborhood very easily. She was not sure that landscaping could reduce noise. She thought that it could, and she said she would like to see if the landscape plan could be used as a buffer from the noise. They were also concerned about lighting and about the smell that would come from a fast food restaurant. She was not sure what

the actual Ordinance for the walls was, but she wished it could be considered going forward. There was an existing wall from the dealership that was higher than part of the wall that ran north/south. She wondered if the wall could be heightened to make it equal to the dealership wall.

Chairperson Boswell closed the Public Hearing. He asked Mr. Breuckman what the Ordinance required for walls. Mr. Breuckman said that six feet tall was required. Mr. Anzek noted that a six-foot wall was shown. Mr. Breuckman said that he believed the wall was six feet tall along the entire perimeter of the property. It might be shorter for properties to the south.

Chairperson Boswell referred to the landscape plan, as mentioned by Ms. Komarzec. Mr. Drane described that there was a considerable amount of evergreens in the greenbelt, and the idea was to keep the mature trees and supplement with additional landscaping. Mr. Schroeder cautioned that some trees shown could not be planted because of utilities. Mr. Breuckman said that the trees that could not be planted were not shown on the plans. They were required, but because of utilities, the applicant would have to pay into the tree fund.

Chairperson Boswell advised that the lighting plan showed no light escaping the property. Mr. Breuckman said that was correct, although it was not to say that there would be no light at the property line. The requirement was that there would be no lights generated by the applicant's lights. The pole height was 20 feet, so the applicant has to update the photometric plan to show pole detail. The photometric plan itself was compliant.

Mr. Kaltsounis pointed out that there were a lot of grown evergreen or arbor vitae trees in the buffer on the other side of the wall. He asked the plans for the larger trees on the applicant's side. Mr. Drane advised that they would remain. Mr. Burton pointed out the asterisks between the circles on the landscape plan, which represented the existing, mature trees, which would remain. They would add trees to supplement.

Mr. Schroeder recommended that it would be a good idea if Mr. Markus met with the resident who spoke to talk about the problem she brought up. Mr. Markus said that he understood the resident's concern about the wall, but he could only really control what was on his property. The resident's concern was about the Wendy's three parcels to the south. He claimed that if it was his property, he would do something about it.

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

MOTION by Kaltsounis, seconded by Hetrick, in the matter of City File No. 12-010 (Rochester Retail) the Planning Commission **recommends** to City Council **approval** of the **conditional land use** to permit two drive-through facilities based on plans dated received by the Planning Department on May 3, 2013, with the following seven (7) findings and the following one (1) condition.

Findings for Approval

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 development 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 neighboring development and the planned character of the area 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, shopping alternatives and other dining options.*
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 and should mitigate potential traffic impacts by eliminating curb cuts and improving adjacent roadways.*
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.*

Conditions

1. *Planning Commission approval of the Site Plan.*

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

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

2013-0192

Request for Site Plan Approval - City File No. 12-010 - Rochester Retail, a 32,191 square-foot, four building retail and restaurant development on 5.2 acres, zoned B-3, Shopping Center Business and B-5, Automotive Business, Parcel Nos. 15-34-227-037 and 15-34-227-031, Rochester Auburn Associates, LLC, Applicant

MOTION by Kaltsounis, seconded by Yukon, in the matter of City File No. 12-010 (Rochester Retail), the Planning Commission **approves the site plan**, based on plans dated received by the Planning Department on May 3, 2013, with the following five (5) findings and subject to the following eleven (11) conditions.

Findings for Approval

1. *The development meets the intent and standards of the B-3 Shopping Center district and the Rochester Road Access Management Plan.*
2. *Off-street parking areas have been designed to avoid common traffic problems and promote safety.*
3. *Closure of existing access drives on Rochester and Auburn should mitigate potential traffic impacts, as reviewed and approved by MDOT.*
4. *The proposed improvements should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the area.*
5. *The proposal should have a positive impact on the community as a whole and the surrounding area by further offering jobs, shopping alternatives and other dining options.*

Conditions

1. *City Council approval of the rezoning for the B-5 portion of the*

property to a B-3 designation.

2. *City Council approval of the conditional land use.*
3. *Addition of a typical detail on the photometric plan of the proposed poles along with a note that the maximum mounting height for pole-mounted fixtures is 20 feet.*
4. *Addition of a note on the photometric plan stating that all exterior light fixtures will be fully shielded and downward directed with flat lenses.*
5. *Addition of 2-3 trees in landscape islands where no trees are currently proposed.*
6. *Addition of landscape cost estimates on the landscape plans.*
7. *Submittal of an irrigation plan, including irrigation of the Rochester Road right of way.*
8. *Payment of \$9,800 into the City tree fund in lieu of the 49 required trees which cannot be accommodated on-site.*
9. *Submittal of a cross-access easements for City review and approval, and filing of the easements with the Register of Deeds prior to the City's issuance of a land improvement permit.*
10. *Address all applicable comments from other City departments and outside agency review letters.*
11. *Add landscaping for traffic calming, to be approved by Staff prior to Final Approval.*

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

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Mr. Dettloff asked Mr. Markus the anticipated timeframe for the project. Mr. Markus said that he would like to start this year; he was meeting with the Construction Manager and his banker the next day. He said that it would depend upon how fast they got in front of City Council. He was not sure if it would be realistic to start this year, although he would like to get it off the ground as soon as possible. Mr. Dettloff wished him good luck and thanked him for investing in Rochester Hills.

Mr. Breuckman said that the applicants should be able to get on the first City Council meeting in June. Mr. Hooper informed the applicants that they had done a nice job.

Chairperson Boswell asked how long after finishing the first three buildings Mr. Markus would start phase two. Mr. Markus said that if McDonald's was a done deal, they would like to start demolishing this year and perhaps get McDonald's up and going this year. They would do all three buildings simultaneously.

Mr. Schroeder asked if they had any proposed tenants yet. Mr. Markus advised that he was working on a few and that some were confidential. He stated that there was a tremendous amount of interest, and that a lot of retailers wanted to be on that corner.

Mr. Reece asked Staff to make sure that the resident's comment about the "predator" was passed along to the Sheriff's department.

ANY OTHER BUSINESS

Mr. Kaltsounis wondered if there were any exciting programs in the hopper, and Mr. Schroeder asked what was going up on the Grand Sakwa (Adams and Marketplace Circle) property. Mr. Anzek advised that it was a Bank of America, and that a Flagstar was also going in. Mr. Schroeder asked if the hotel was going in. Mr. Anzek related that they were having problems with construction details, and the owner was doing another one somewhere else, so he had put it on hold for now.

Mr. Kaltsounis noticed that Chapman's Mill (Crooks and M-59) had gone out of business, and he asked if anything else was planned. Mr. Anzek thought that a hamburger place might locate there. Mr. Kaltsounis remembered the Mexican restaurant that was there before Chapman's Mill, and he remarked that it was going gangbusters before they lost their lease.

NEXT MEETING DATE

Chairperson Boswell reminded the Commissioners that the next Regular Meeting was scheduled for June 18, 2013.

ADJOURNMENT

Hearing no further business to come before the Planning Commission, and

upon motion by Reece, Chairperson Boswell adjourned the Regular Meeting at 8:40 p.m.

William F. Boswell, Chairperson
Rochester Hills Planning Commission

Nicholas O. Kaltsounis, Secretary
Rochester Hills Planning Commission