

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Withdrawn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

of all the uses that could be permitted by right or by Conditional Use in the FB-1 district. Under permitted uses, many were residential in character, and it also permitted office and educational uses. Conditional Uses included restaurants, drive-through accessory uses, bars or inns. She said that she would be happy to answer any questions.

Mr. Nirta advised that their restaurant was currently located in the Papa Joe's plaza, and they were looking to move their restaurant, which was modeled after one in a Tuscan village. It would be quiet, treed and authentic. They just wanted to move their location a few hundred yards to the north.

Mr. Hetrick asked if they currently owned the property, which was confirmed.

Mr. Dettloff asked how quickly they wished to relocate. Mr. Nirta said that their lease was up in two years, so it would happen after that. Mr. Dettloff asked if the landlord would not let them out of the current lease, and Mr. Nirta said that he assumed that was the case.

Chairperson Boswell opened the Public Hearing at 8:36 p.m.

Richard Kreuzkamp, 210 Ann Maria Dr., Rochester Hills, MI 48306.

Mr. Kreuzkamp stated that he had lived in his home since 1954. He said that in the 1950s, when it was called Avon Township, they tried to put Ann Maria Dr. through to Tienken, and they had the common sense not to do that or the nice community of Ann Maria Dr. would have been "wrecked." When they moved the Orion Rd. and Rochester Rd. intersection a quarter of a mile north, they originally made Orion Ct. a cul-de-sac. Ann Maria Dr. was great, because they had no traffic. As soon as Papa Joe's went in, the cul-de-sac was gone and traffic, noise and crime had increased tremendously in the area. He noted that they talked about traffic in parking lots in the last agenda item (cut through), and he said that it would be a given. If people went down Orion Rd. into Papa Joe's and onto Tienken, they could skip two lights. He did not know if the City had an Ordinance against that, but if it did, it was not enforced at all. By the traffic circle at Papa Joe's, there used to be a sign that said "stay right." That sign had been lying in a ditch for over a year. When he approached an Oakland County Sheriff about it one day, the Sheriff said it was not his jurisdiction or responsibility. Mr. Kreuzkamp said that he felt sorry for the applicants for where they were at, but he did not see anything happening for his small community that had been there over the years. He had never seen any green space added or anything that would increase his

property value. All he saw was the value of the properties going down and taxes going up. He stated that he was against the proposal, and he hoped they took that into consideration.

Lisa Parsons, 291 Maplehill, Rochester Hills, MI 48306 Ms. Parsons stated that she was concerned about what would happen if Silver Spoon went out of business. She thought it was great that they wanted to add on, but she wondered if it could turn into a potential plaza at some point. Her neighborhood was soon to be facing another development at the end of their dead end street, and they would see an increase of traffic with both developments. It was a quiet, residential street. Old Orion Ct. had already turned into a cut-through, and she could not imagine what it would be like if there were several more businesses so close to their street. It did not make sense to her to place the development in between two residential streets, when there was a fully functioning plaza with empty restaurant space right behind them. She was also concerned about the wooded area that connected their street with the subject parcel. She did not see any wetlands on the overhead picture, and she wondered what would prevent a development from going all the way to Maple Hill. She asked if the wooded area would be protected forever. If the restaurant was approved, she would like to see it remain within the same footprint of the existing building and see nothing else built. She did not want it turned into a string of other businesses. She concluded that they did not want more traffic in the area.

Ed Capa, 270 Maplehill, Rochester Hills, MI 48306 Mr. Capa said that since Papa Joe's went in, they have had to deal with a lot of problems. There were AC units screaming all night. On a nice summer night, they could not even open their windows. At 3:00 in the morning, the units were running, and they were obnoxious, and he was not even that close to it. He could not imagine having a business even closer. He had called the City many times about a rodent problem and the garbage. The garbage was thrown in a pile on the dumpsters, and the rats showed up. He had lived in his home 25 years and never saw rats until Papa Joe's came. He saw the rats at 3:30 or 4:00 in the morning because he was woken by someone with a fork lift beeping or by garbage trucks. He asked if there would be another garbage truck at 3:00 in the morning that was even closer. Those were things they had to deal with, and now the City wanted to change things. They moved there because it was a nice, quiet community, and it was changing. He said that he could understand change, but he maintained that it had to change the right way. He wondered what would happen in six months when people did not want to drive to the restaurant. He wondered how long the owners would pour

money into it before they did not want it anymore and someone else moved in. They had to look at what might happen in the future. He noted that it could turn into a bar or liquor store or 7-Eleven. He thought they should find people who would fit the existing building, such as another church, or that someone should build homes. He stressed that it was residential, and that it was virtually surrounded by residential homes.

Chairperson Boswell closed the Public Hearing at 8:45 p.m. He asked Ms. Roediger to show again what uses could go in under FB-1 zoning. He pointed out that Ms. Parsons had the answer to her question. He advised that with a Conditional Use Approval, a bar or tavern could go in, but there would not be a strip mall.

Mr. Anzek said that one of Ms. Parsons' other questions had to do with wetlands. He related that there were pretty extensive wetlands identified on the parcel, and building to the west of the existing building would be highly unlikely.

Chairperson Boswell did not think it was the applicant's issue, but there was a concern about cut-through traffic.

Mr. Kaltsounis stated that the request was obviously for a Rezoning, so they could not say what was going to go on the parcel. The Commissioners had to ask whether they wanted to Rezone the property with an FB-1 Overlay. The Master Plan did say that FB-1 was a possibility for the area. He felt that this side of the equation was really a "no-brainer." There was a list of Conditional Uses under FB-1. If the request passed and a restaurant was planned, he highly recommended that the owners should work with the neighbors to try to come to a happy medium. He then moved the following motion, seconded by Mr. Dettloff:

MOTION by Kaltsounis, seconded by Dettloff, in the matter of City File No. 14-016 (6780 Old Orion Ct. Rezoning) the Planning Commission **recommends approval** to City Council of the proposed rezoning of the eastern portion of Parcel No. 15-03-476-013, per the 2013 Master Land Use Plan amendment to add an FB-1, Flexible Business Overlay in addition to the R-1 One Family Residential underlying zoning, which will remain, with the following three (3) findings.

Findings for Approval:

1. FB-1 is an appropriate zoning district at this location as it is compatible with the future land use map and the goals and

objectives of the Master Land Use Plan.

- 2. Approval of the proposed rezoning will allow for flexibility in uses that are consistent and compatible with the surrounding area.*
- 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.*

Mr. Hetrick asked the applicants if they were planning to use the building as it was. Mr. Nirta agreed that it would just be renovated. Mr. Hetrick also recommended that it would be a good idea to talk with the residents to let them know that the building would be kept where it was but updated to look better. He advised that the 2013 Master Plan did show the Overlay and if the applicants' opportunity did not go through in the next couple of years, the Planning Commission could initiate a Rezoning. He wanted to make it clear that the woods, the screening, etc., that were already in place would more than likely not go away. Mr. Nirta agreed that they were not modifying the woods.

Mr. Reece referred to the Staff Report, which read that the subject parcel was specifically changed in the 2013 Master Land Use Plan to FB-1. Ms. Roediger explained that zoning districts versus future land use planned designations were different. The Master Plan talked in terms of uses, and the uses the Master Plan called for were more consistent with the FB-1 Overlay. The Master Plan did not talk about underlying versus overlying zoning. A Rezoning would be the implementation tool to enact the recommendation of the Master Plan.

Mr. Yukon asked if the applicants had reached out to the residents at all yet. Mr. Lisi advised that he sent a letter recently to tell them to come to the restaurant so he could introduce himself and to talk with them about any concerns. His message to them was that they were not going to do a shopping center plaza. The restaurant was very quaint and small, and that was what they were going to do again. There would be no Starbucks or Walgreen's or anything else next door. The restaurant would not be bigger than the existing; they just wanted to move to be in a greener area. He did not know what would happen in 20 years. Hopefully, they could stay there, but if they left for some reason, another good restaurant could move in. Mr. Yukon asked if any residents responded to his letter. Mr. Lisi said that a couple of people came into the restaurant, but no one really asked about anything. Regarding noise, he thought that not being a plaza would help. Mr. Yukon said he understood that, but he had

concerns about putting a restaurant in a residential area and whether it would be compatible and consistent. He acknowledged that they had a great restaurant. Mr. Lisi said that was why they wanted to move. They felt like they were in between an anvil, but if they moved, they could have a nice garden outside, and he felt that would give value to the people that lived around it.

Mr. Nirta agreed that they would not turn the restaurant into a neon restaurant with a big sign. They had been criticized for not having much of a sign - it was 10" wide. That would be the same sign they would use at the new restaurant. They wanted to be quiet, and people came to their place because it was small, quaint and quiet. He felt that it would fit well in a residential area.

Chairperson Boswell pointed out that if the zoning overlay were added and someone wanted to put something there or if Silver Spoon wanted to enlarge, it would have to come before the Planning Commission.

Mr. Hetrick noted that there was a restaurant in Farmington Hills on a main road in a residential area. He stated that it was beautiful, and the people around it just loved it. It was a setting he found very pleasing. Mr. Nirta knew about that restaurant, and he said that the type of restaurant they wanted to build would not be loud and flashy. Around the hills of Tuscany when people pulled into a little, quiet place with a few cars and white linens, they loved that kind of restaurant in their neighborhood.

Mr. Reece commented that in his opinion, Silver Spoon was the best restaurant in the City. However, the decision the Commissioners had to make was not based on that restaurant, because in two or three years things could change, and that was the unfortunate part of the decision. He was fully supportive of putting the restaurant as it sat today in the subject location, because it would not be obtrusive to the neighborhood because of the type and style of restaurant they owned. However, the Commission's job was to guard against the future and what could potentially happen. He was worried about some of the other things that could happen if the direction changed in the future. He was o.k. with the allowable uses, but he was more concerned about the Conditional Uses. He understood that the applicants would have to come back because it was a Conditional Use, and the City would have a much better opportunity to protect the residents and perhaps not approve something, but he remarked that it could still be a Hooter's.

Mr. Anzek wanted the Commissioners to know that what they were voting

on was the identical match to what was in the Master Land Use Plan. It included the eastern half of the parcel, not the entire parcel. Mr. Kaltsounis asked if that was designated in the motion. Mr. Anzek said that there was one parcel number, but it would have split zoning. He explained that the Master Land Use Plan only supported the eastern half of the parcel, from the woodlands east. He felt that the intent was to put the FB-1 Overlay only over that portion. It would keep the scale down. The motion was amended to add "eastern portion of the parcel, in line with the Master Plan."

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

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

Nay 1 - Yukon

Chairperson Boswell stated that there was a Recommendation to City Council. He asked if the City owned Orion Ct. or if it was a County Rd. Mr. Anzek said that it was a City road. When Papa Joe's went in, there were several complications, because the old urban rail used to be there, and it still held an easement. The Road Commission had to vacate that, and the City took ownership. Chairperson Boswell noted that when Papa Joe's went in they added the roundabout, and he asked if that was on Papa Joe's property. Mr. Anzek believed that it was half and half, but the City required the roundabout for snow plow turnaround, and the City had to enter their property to do that. Chairperson Boswell mentioned that Mr. Capa had asked about the sign, and Mr. Anzek said he would look into it.

The Commissioners took a recess from 9:00 p.m. to 9:17 p.m.

2014-0083

Request for Recommendation of a Planned Unit Development (PUD) Agreement - City File No. 14-008 - Sanctuary at Rivers Edge PUD, a proposed 20-unit residential development on 6.19 acres, located north of Avon, east of Livernois and south of Harding, zoned RCD, One-Family Cluster, Parcel No. 15-15-403-010, MJ Ridgepoint, LLC, Applicant

(Reference: Staff Report prepared by Ed Anzek, dated December 12, 2014, PUD Agreement and Final Site Plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Jim Polyzois, MJ Ridgepoint, LLC, 49587 Compass Pte., Chesterfield Township, MI 48047 and Ralph Nunez, Design Team Plus, 975 E. Maple Rd., Birmingham, MI 48009.