



Rochester Hills

Minutes

Planning Commission

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Chairperson Deborah Brnabic, Vice Chairperson Greg Hooper
Members: Susan Bowyer, Gerard Dettloff, John Gaber, Marvie Neubauer,
Nicholas O. Kaltsounis, Scott Struzik and Ben Weaver

Tuesday, December 21, 2021

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

ROLL CALL

Present 7 - Deborah Brnabic, Gerard Dettloff, John Gaber, Greg Hooper, Nicholas Kaltsounis, Scott Struzik and Susan M. Bowyer

Excused 2 - Marvie Neubauer and Ben Weaver

Also present: Sara Roediger, Director of Planning and Economic Dev.
Kristen Kapelanski, Manager of Planning
Jason Boughton, Utilities Services Manager, DPS/Eng.
Scott Cope, Building/Ordinance/Facilities Director
Jodi Welch, Ordinance Inspector
Jennifer MacDonald, Recording Secretary

Chairperson Brnabic welcomed attendees to the December 21, 2021 Planning Commission meeting. She noted this if anyone would like to speak regarding an agenda item or during public comment for non agenda items to fill out a comment card, and hand that card to Ms. MacDonald. Members of public may also comment on an item by sending an email to planning@rochesterhills.org prior to the discussion of that item. She noted that all comments and questions would be limited to three minutes per person, and all questions would be answered together after each speaker had the opportunity to speak on the same agenda item.

APPROVAL OF MINUTES

[2021-0565](#) November 16, 2021 Regular Meeting

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

Aye 7 - Brnabic, Dettloff, Gaber, Hooper, Kaltsounis, Struzik and Bowyer

Excused 2 - Neubauer and Weaver

COMMUNICATIONS

None.

PUBLIC COMMENT

None.

UNFINISHED BUSINESS

2021-0472

Request for Conditional Use Recommendation - City File No. 21-022 - Biggby - to add a modular coffee drive-through with landscaping within an outlot within the Meijer parking lot, 3099-3175 S. Rochester Rd., south of Auburn Rd., zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, Parcel No. 15-35-100-056, Kyan Flynn and Deanna Richard, 24Ten, LLC, Applicant

Present for the applicant were Kyan Flynn and Deanne Richard, 24Ten LLC, 807 Ironstone Dr., Rochester Hills, MI 48309, and Tonia Olson with BCubed Manufacturing, 666 McKinley Ave., Alpena, MI 49707.

Chairperson Brnabic introduced the request for Biggby to add a modular coffee drive through with landscaping within an outlot in the Meijer parking lot, located at 3099- 3175 S. Rochester Road, south of Auburn Road, zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay. She introduced the applicants Kyan Flynn and Deanne Richard.

Ms. Kapelanski noted that this project appeared before the Planning Commission at their November meeting, and at the meeting the commission requested a number of changes. She noted the applicant made the following changes to the plans in response to those requests: the parking lot islands on the north and west sides were modified to address circulation concerns, the proposed façade of the structure was updated to a brick-style structure with skirting around the building, and the foundation and construction will be per the manufacturer's specifications. She noted that all departmental reviews are recommending approval with some minor comments to be addressed on future submittals. She explained that this evening the applicant is seeking site plan approval, tree removal permit approval, and a positive recommendation of the conditional use permit.

Chairperson Brnabic asked the applicants for their presentation.

Ms. Richard said that they heard everything that was said at the November meeting, and they made some significant upgrades and modifications and took those comments to heart and appreciated them. She referred to the overhead screen showing the Biggby Coffee values and beliefs and said they are aligned with those beliefs. She said they understand that the City has a vision for the community, and they believe that what they have put together today fits this vision better. They would like to thank the commissioners for having them back today and will show exactly what they mean with some renderings. She said they are excited to bring this Biggby Coffee to the community, it is a top notch Michigan-based company that will thrive.

Ms. Flynn explained that their engineers put together a rendering, together with

some suggestions from their landlord who is Meijer, another Michigan based company, and came up with a better traffic flow, with the only entrance and exit being on the south side. She explained that these changes allow for seventeen cars to be stacked, and also nine parking spaces designated just for Biggby. They also took into account the façade that the commissioners were looking for. She said that they have now rolled out the Cadillac version of the façade that BCubed offers, which is brick. She referred to pictures of other such brick structures.

Ms. Olson said the revised site plan pays particular attention to the traffic flow and traffic pattern, creating the entrance and exit at one point to the south, which provided a great deal more stacking capacity and alleviates concerns of the surrounding uses. They added parking and the separating curb in between the Meijer parking area and Biggby's designated space, and enhanced the landscaping, paying attention to the comments that were received last time about some of the trees being too large. Therefore they looked at more shrubbery and grasses to be compatible. She said they heard the concerns that were expressed and have addressed them, and have provided a harmonious appearance with the a brick veneer finish, enhanced landscaping, and concealed foundation, and also provided increased stacking, and one entrance/exit. She referred to the photos showing the curbing at the bottom of the building to act as a skirt so that you cannot see underneath it.

Ms. Richard showed pictures of different locations that are up and running, in Kentucky, and in Akron, Ohio. She said the difference between the building shown and the one they are proposing is that it would not be orange at the bottom, and they would use either brick or a different color there. She explained that at the last meeting they got the feeling they needed to change that and they wanted to make it more Rochester Hills-esque. She showed additional pictures of installations in Cincinnati, Ohio, and Independence, Kentucky. Ms. Richard explained that some of the locations have the original dryvit facades. She said the Kentucky location has the brick exterior, and you can't see under the building at all, in that case they used landscape stone. She said that the Mt. Pleasant, Michigan photo shows the same chairs and railing that they will have but did not show on their rendering. They will also have umbrellas and planters, and they were thinking of doing a larger planter.

Ms. Olson said that they included the Swartz Creek location because it is the closest location to Rochester Hills but did not have the brick façade. Ms. Olson referred to pictures of the interior of the building, which would only be for employees since there is no customer access to the interior. Ms. Olson referred to a news article about Jeff Konczak, BCubed's founder, noting that he came up with the idea and partnered initially with Biggby Coffee. She said that there are other brands now that use the concept. They want to point out that Mr. Konczak has done a lot of really great things and is manufacturing in Alpena, Michigan. The BCubed building is a modular building, for those aren't familiar with modular construction these days it is definitely a trend that is gaining in popularity. She said that more often, even if a whole building is not modular they may have parts that are modular. She said this includes hospitals, schools, apartment complexes, hotels; and while they may not have a complete cube that is part of the assembly they may have wall components. She said that

more of them are coming in cubed fashion as the Modular Construction Institute talks about how there are many advantages to modular construction which is constructed in a manufacturing environment, the main benefit being better quality control.

Ms. Olson said that the other applicants had a choice in how they wanted to proceed with this project, and made what they feel is a very smart choice for their business venture by choosing a BCubed building. She explained it as an affordable entry for entrepreneurs, and so is Biggby Coffee. She said when they do an installation of a BCubed building they cause minimal disruption for development, they are in and out in about 4-6 hours and the building is in place. She said that all of the utility connections are directionally bored and they are not tearing up the parking lot, making trenches or anything like that. She said that the BCubed concept makes use of typically underutilized small spaces, and it is a controlled construction environment, the building is expandable and relocatable. It is considered a permanent structure, it is connected to utilities, but in the event that they want to move it somewhere else or Meijer needs them to move it, they can very easily do that. It is an asset that they own, and when they leave that spot there would be no blight, because they just unplug from the utilities and repave the holes for the pier foundations and they move along their way. She said the other thing about this small 349 sq. ft. building is that it is highly insulated, and therefore super-efficient operationally and environmentally friendly.

Ms. Richard said this hopefully gives a better idea of what will be going in the Meijer parking lot, they added to the landscaping, and there will be a railing and chairs for a customer experience for them to sit outside and have their coffee. Ms. Flynn said that it was great to get all of the commissioners' feedback last month, which has allowed them to enhance what they are offering. They are quite excited now to see this great rendering and what they are able to bring to Rochester Hills.

Chairperson Brnabic asked for the width of the traffic aisle, from the front curb to the start of the parking spaces that are enclosed. Ms. Flynn responded that the traffic aisle is 12 ft. wide, and corrected herself to say it is 20 ft. total. Chairperson Brnabic thanked the applicants for addressing so many of the concerns that were expressed at the November 16th meeting. She stated that she definitely took notice of the changing of the façade to brick and with the skirting added, and with traffic and the two way aisle to the north, added the curbing and creating the south side entrance and exit only, and said that's a definite improvement. She explained that location is still a big concern to her, she likes the changes made but the location of the modular structure with all of the surrounding current uses, including two other drive throughs in close proximity still concerns her. She said that she is glad they curbed the north side off, although she can still see there could be a backup. But she guessed that traffic from the north will now circle around and may have to yield, cars coming from Rochester Road will be coming in, and then cars coming from Meijer may be trying to enter also. She said this is her biggest concern because this parking lot is already overcrowded, and she is concerned about adding this kind of use, because there will be so many cars. She said her concern is whether this pushes the balance for what is appropriate at this

location at Meijer's.

Mr. Gaber asked whether this a public hearing again.

Chairperson Brnabic responded that the public hearing was held at the previous meeting, however anyone wishing to speak could provide a speaker's card.

Mr. Gaber said that he appreciated the adjustments made to make this a more acceptable development; however the issue is that he just does not think it works. He said that this is not something he wants to see in Rochester Hills. He said this modular construction is very popular now and is being done in many places. He said that if you Google "modular drive through facilities" you will see quite a few of them. The reason these are popular they don't take up much space and they don't cost much, so they're easier to bring to market and they're easier to use for in-fill developments, and therefore they are proliferating around the country. However this is not the look that we want for Rochester Hills. Mr. Gaber said that because of the modular use, the materials, the aesthetics, he doesn't think it's compatible with Meijer, the Panda Express Building, Lowe's, Culvers, or anything around it. He does not think it is compatible or harmonious with surrounding buildings. He said that as he mentioned at the last meeting, he doesn't want to set a precedent that every parking lot where there is a small 1/10 acre spot that you could install one of these type of uses. He said that he thinks of North Hill shopping center, Winchester, the Kroger on Livernois, GFS north of Rochester High School, Adams Marketplace, and University Square in front of Whole Foods; there are a number of areas that could potentially be candidates for these type of uses. He said that these modular uses are not an attractive use, they do not enhance the aesthetics of the community, and they are not something the Planning Commission has endorsed in the past. He said that he doesn't think the commissioners should start down that road, because the precedent is going to be an adverse precedent for the City of Rochester Hills. For these reasons and with all due respect he said that he would put a motion on the table to deny the conditional land use and the motion was seconded by Dr. Bowyer. Additional discussion ensued.

Dr. Bowyer thanked the applicant for all of the updates they did, the way they blocked off the one entrance/exit so there is only one entrance, and stated that it is a much better way to go. She said the modular look in Rochester Hills is not something that the commissioners want, and being on City Council she would be the first one to receive complaints of letting such structures in the City. She asked the lifetime span on the modular building since it's not a brick and mortar building. She also asked the applicants to state the thickness of the brick to be used.

Ms. Olson said that the lifespan is the same as for any regular building once it is in place. She said that once it is in place it is no longer modular and it is a building, and it is the same quality materials. She said that in their factory they use higher quality materials than you would see in other stick built construction. It is intended to last in perpetuity and be able to be modified, added to, just like any stick construction that is in place.

Dr. Bowyer asked how long BCubed has been building these structures.

Ms. Olson responded for three years, but the industry has been around forever. She said that if you research modular construction on the internet it has been around for centuries, it's not new, it's just a concept you are seeing more frequently because there are so many important benefits to it. She said that once it is in place it is a building.

Dr. Bowyer said that the proposal is not harmonious to the buildings around it, if you could do brick and then another veneer like the other buildings around it that may help, but as presented it looks very modular. She asked about the plans for tying into the sump line and utilizing a grinder pump, commenting that those notoriously break down. She asked what happens when the grinder breaks down, and whether they would close the business down for the day.

Ms. Olson responded that the structure would be equipped with a backup, so if it needed to be replaced there would be one there to replace it immediately. Ms. Olson said that to answer a previous question, she showed a sample of the brick veneer material that is on the exterior, and said it would be the same material that you see at Meijer, Panda Express, Taco Bell, and other fast food chain buildings. She said that McDonald's uses the exact same material that they do. She said that she believes that perhaps Taco Bell is now using modular construction. She said that you might never know if new construction was modular.

Dr. Bowyer said that based on the design of the building, she cannot support it. She said that the parking revisions will probably take care of a lot of the issues with Culver's if there is overlap.

Chairperson Brnabic said that the Planning Commission reviews all new construction and development they would know if any construction is modular, they would not be surprised if it was not brick and mortar.

Ms. Olson said that it would be difficult to say, you get a building construction plan and a site plan, if she did not say that was a modular building she asked how would you know and if so how.

Mr. Gaber responded that he would.

Ms. Olson apologized for being defensive and didn't want that to reflect poorly on the applicants, but someone had suggested at the last meeting why they don't build a stick built building to look the same. She said that to her that is contrary.

Mr. Struzik said that he had two major concerns at the previous meeting, and both of those were pretty well resolved. He had concerns about the sight lines exiting to the south, that was blocked off, there is no opportunity now for a vehicle to park there. He likes that it was closed off to the north toward Culvers, stating that it is a smart move to segregate the traffic from those other businesses. He said that he doesn't mind the aesthetics and that it's modular. His concern is that it is a little tight there in that parking lot, he does believe that parking lots in the City are bigger than they need to be. He said that he's never

gone to Meijer and not found any parking spaces open. He said there is still underutilized parking on the west side of Meijer where they could ask employees to park to free up parking spaces in their main customer parking lot.

Mr. Kaltsounis said that he saw the work that was done with brick which looks good, the traffic pattern is good, now it's not that bad. He asked staff whether tables and chairs around the building need to be part of the conditional land use request.

Mr. Kapelanski responded that outdoor seating does not require conditional land use approval, it is identified on the plan and that is sufficient.

Mr. Kaltsounis asked regarding Dr. Bowyer's question at the last meeting, about the building being built on stilts or pylons, whether that was ever answered.

Ms. Kapelanski responded that she spoke with the Building Deputy Director Hollis about that question, and he said it would be built per the manufacturer specifications. Whatever the manufacturer requires for tying that in, that is how that would be reviewed and approved.

Mr. Gaber asked if it is a traditional foundation or not.

Ms. Olson responded that it is case on piers foundation, she said when she Googled on the Rochester Hills website the word "piers", she found a whole page of approvals for buildings with foundations constructed on piers, including foundations for mobile homes, renovations to homes, home additions, and it's on the building permit to identify if you have an pier as your foundation.

Mr. Cope explained that the type of foundation is determined by the engineer who designs it, and from the Building Department perspective they have seen a lot of different designs, even on not what you would consider a modular building but on a stick built or regular building. They can be columns with footings going in between them, so he does not have a particular concern with the type of foundation, that will be determined by the engineer and the support will be placed where it is identified and necessary. The different aspect of this as compared to a stick built building or brick and mortar building is that it will have some sort of tie down to the foundation that is usually from a cabling system or some kind of fixed system that will be anchored into that foundation. He said that all of this would be determined by the engineer and he has full confidence in the structure if it is modular, he has seen them built both ways and would have no concerns about the structural integrity of such a building.

Mr. Kaltsounis said that regarding the modular issue, he doesn't think that's the issue for precedent right now. He said that the issue we're going to have is the type of building that it is. He stated that the city does not currently have a drive through-only, no sit-in type walk up of coffee facility. He said the smallest one is the Starbucks by Papa Joe's, which is probably the smallest coffee house in the City. He said there was one by his house on 16 Mile Rd. and Dequindre where he grew up. He said that's the type of building that he's thinking of when everyone says precedent, and reiterated that there is not one like this in the city. He said that is not a modular issue, Mr. Cope will make sure that stays in line.

He shared his screen and showed a small building on a construction site, the type of building that does not exist in Rochester Hills today. He explained that this is the precedent he doesn't want to set. He showed the Starbucks with a little sit-in area, a brick and mortar building. He said this was the smallest version of a coffee house in the City, it's not modular, and asked if commissioners want to have a drive-through only business. He said that the City has had significant pressure for many facilities to have drive throughs in many strange areas. He said that as Planning Commissioners they have a lot of hard decisions to make as to what can go where, that's in all of our minds. But the new concept is concerning too. He said that is his point of disagreement. He said if the building were made of gold there would still be this issue.

Ms. Olson said that to her knowledge the zoning ordinance does not restrict a drive-through only, nor is there a minimum size requirement for a building.

Mr. Kaltsounis said that is where the conditional land use standards come in. There are the intangibles that they have to deal with and there are a lot of intangibles with this request. In a conditional land use it is meant to come here and say this is a drive through in a certain spot, we've been through a lot of them, the last time with him his concern was the traffic. Again his concern is the concept that if they say yes to this, Wendy's or Taco Bell could come in and do it tomorrow. That's his biggest concern when looking at whether this would be harmonious, it would be the first of its kind and it would not be.

Mr. Hooper said he is going to disagree with other commissioners, he does not have an issue with a modular building. He said that the high end apartments that are being constructed at Adams and Hamlin are modular, and stated that it is a huge development. He said the same thing with pier foundations, they are used all of the time, nothing wrong with them, and as long as you get to a frost free depth, there is no issue. He said the traffic circulation is good and he does not have an issue with it, it is separated now so that there is only one way in and out, and it is separated from Culver's. He said that he really likes the plan. He said that commissioners are always asking how to we get entry level residential or commercial into the community. This is a perfect example of that, these are Rochester Hills residents with Michigan companies, and the commission should want to encourage that. He said that he remembers Starbucks, the discussion at that time, he remembers chairperson Kaiser asked him if he thought it would be a hit, and it was. That was the first drive through coffee restaurant in the community. He said that we are trying to change the rules mid game. If there is a minimum standard, minimum square footage for a building then we should stay that at the start. After they have gone through the process and developed their plans, address previous comments made and now they come back and tell them it's too small, he disagrees with that. He said that he personally doesn't have a problem with it and he supports it.

Mr. Gaber said that to clarify, it's not the modular aspect, it's the aesthetics. He addressed Mr. Hooper, noting that to his point, discussions regarding entry level are in terms of residential. He commented that he does not think he has ever heard a discussion about entry level commercial developments. He said it is really the aesthetics, and they have the ability and the obligation to review a

conditional land use by certain criteria. One of the criteria that has to be found to approve a conditional land use is that the site has been designed and is proposed to be operated, maintained and managed so as to be compatible, harmonious, and appropriate in appearance with existing and planned character of the general vicinity and adjacent uses of land and public services. He said that he challenges his colleagues to say that this is compatible and harmonious with the adjacent uses in the rear. He said from that standpoint it fails that particular requirement of the conditional land use approval. He said that as mentioned if the City approves one of these uses, the dominoes will fall, and he asked where they would stop when land is valuable and shopping center operators are looking to maximize their value. He said that where you may see an opportunity for 2/10 or 3/10 of an acre, those spots are all over our commercial landscape. That will encourage developers and shopping center owners to look at this and to do this all over, at the Village for instance. For example the Taco Bell concept they are ugly in his personal view, some are on stilts and they are very strange looking. Those are the concepts that we are dealing with and that's what the ordinance gives the opportunity to review in this context, and that's what we are doing. He commented that this is what he finds by his analysis, this conditional land use request does not comply with all of the criteria that it has to comply with to be given a recommendation for approval by this body and then approval by City Council. He said that's where he's coming from and would encourage his colleagues to think about it in those terms as well.

Mr. Dettloff thanked the applicants for listening to commissioners' comments at the previous meeting. He said that his thought, as a nearby resident of the previously mentioned Papa Joe's, is whether this has the same concept but not the same look as the Starbucks that is there by Papa Joe's. He commented that place is a gold mine, noting that Covid dealt the cards that are still being dealt with today that many fast food restaurants are strictly drive through and who knows when they'll open their dining rooms. He doesn't have a problem and would support it, he hears Mr. Gaber's concerns and he said he's not an attorney, he doesn't get into the legalese here. But his opinion has one concern, packing a lot into that particular site, with Culvers, not opposed and would support it.

Chairperson Brnabic asked Mr. Dettloff to comment regarding the Starbucks at Papa Joe's since she only goes that way every so often, had heard complaints quite a while ago, and asked whether they have a problem with stacking spaces, does it line up through the parking lot.

Mr. Dettloff responded that yes it is amazing particularly in the mornings, and in his opinion there is a stacking issue in that location.

Chairperson Brnabic said she's heard that over the years from residents that live in the vicinity that weren't happy about it.

Mr. Dettloff said that he was not on the Planning Commission when that project was put forth so he was not aware of the concerns that were discussed at that time. He commented that this being said, it's a very successful business there but there is a stacking issue there.

Chairperson Brnabic said yes it is successful but there is a problem, especially after all of these years. She explained that we are considering that now with drive throughs and stacking problems. It has become a bigger issue but she just wanted verification about this location.

Mr. Dettloff said that in his opinion, the current request is a larger space than the Starbucks, which is packed in the Papa Joe's parking lot pretty tightly.

Mr. Hooper said to address Mr. Gaber's concerns, there should then be square footage minimums on building size; if something this small is not going to be acceptable in the community and they would proliferate, then there needs to be minimums in the ordinance for construction to make it work. He asked staff how that could be addressed, whether the ordinance should have a minimum square footage for commercial developments.

Ms. Roediger responded that if that is a desire of the Planning Commission to go in that direction, that could be explored. She explained that the ordinance currently does not have minimum size standards for commercial buildings.

Mr. Hooper commented that it is then left to the harmonious and compatible standard for the overall site.

Mr. Struzik said that in terms of not having a lobby, it is not a show stopper for him, he frequents Taco Bell more than he'd like to admit and if that building were 500 sq. ft. smaller and did not have a lobby he would still go there and would still order tacos and burritos. He does not have a desire to hang out there since it's so close to his house. He said that there are trends with consumers, and Biggby will be competing with Starbucks, in that if people want to have that sit down experience they are going to go across the street. In regards to the stacking spaces, preprinted Condition #2 from the staff report states "If, in the determination of City staff, the intensity of the drive-through changes or increases, in terms of traffic, queuing, noise, hours, lighting, odor, or other aspects that may cause adverse off-site impact, City staff may require and order the conditional use approval to be remanded to the Planning Commission and City Council as necessary for re-examination of the conditional use approval and conditions for possible revocation, modification or supplementation." He said that if this ends up seeing more traffic than what they are anticipating or if they are not able to efficiently run the location, then they risk having that Condition #2 kick in and they would need to come back to the Planning Commission for a remedy.

Mr. Dettloff asked the land lease terms and whether it is a five year lease.

Ms. Olson responded that the lease is five years with three auto renews, so a twenty year lease.

Mr. Kaltsounis said regarding Mr. Gaber's comments, with a type of building like this, imagine McDonald's, Chick-fil-A, or Burger King, everyone would want to make life easier for themselves and make all of their businesses drive throughs, that's what he's worried about. He said this would be setting a precedent with a coffee house, but put a McDonald's on there you are going to

get it because we allowed it. He agrees with Mr. Hooper, that the ordinances should be looked at to address some of the questions that have come up with regard to other dense developments. His biggest concern is not having the dining room, this concept is brand new and he is concerned about it. He said with Covid, restaurants may not want anyone inside their dining rooms, and they locked them. And now they want to build without dining rooms because of Covid and people don't want to get together any more.

Ms. Olson responded that they started this venture before Covid, but Covid did accelerate things.

Mr. Kaltsounis said that it goes back to the intangibles that he mentioned before. There are a lot of intangibles and they are always torn as to which direction to go. But he could see a Chick-fil-A on that property tomorrow, if one were proposed, and they would have people lining up for a meeting to complain that we would let a Chick-fil-A in with no seats and a drive through, the emissions and stacking, that is in his mind now. His vote would be mainly because of that, it's not because of the modular structure, it is a new concept. He agrees with Mr. Hooper that they need to draw the line and these applicants have drawn a new line for the commissioners to think about, whether this passes or not today.

Chairperson Brnabic said in response to Mr. Struzik's comment about the City re-reviewing a project and coming back to the Planning Commission, that condition has been put in place recently because of some of the unexpected problems from existing drive throughs. He commented that if one considers the Starbucks on Tienken that was approved years ago and it's more difficult to take action now, viewing this current proposal now, it should be strongly considered how many stacking spaces are provided, and not just wait to see how this goes. She explained she would prefer to think about it now and what is projected and not worry about bringing them back. She said that especially when we can expect a certain number of cars, that is her opinion on waiting to see how it goes and meet again in the future. She doesn't want to have to do that if at all possible.

Dr. Bowyer said that she knows the applicants have done a lot of work, however when looking at the City there could be 100 of these by next year if this is approved. She stated that this is not something that Rochester Hills residents are going to want to see, and being on City Council, that is what she is concerned with. This is clearly not the type of building that the city would want to proliferate throughout all of the parking lots. Based on that, she is still a hard "no". She commented that if the applicants make it past the Planning Commission they have to go to City Council. Council will review all of the comments that are made, they will have to make a decision about if such structures are allowed, you may get McDonald, Taco Bell, Chick-fil-A who will all know that they don't need a sit-down restaurant and they will just put up a modular building that is cheap and they can run 100,000 cars a day. Then residents would wonder how they ended up with a city that has that; Rochester Hills is innovative and residents want businesses that are established and aesthetically pleasing. She admires the idea and what the applicants are doing

but she doesn't want to see these buildings proliferate throughout the City. She commented that as Mr. Gaber said, that would not be harmonious; and she said she doesn't think that they have to worry about having standards for minimum building size, it comes back to what is fitting. There have been a couple of projects that have passed through and approved by the Planning Commission that don't look anything like the surrounding area and they look bad. She said that she doesn't want to be part of a commission that leads to residents asking what is that doing out here. She appreciates all of the applicants' efforts and the investment that they want to make, and noted that if the proposal does pass here it still has to go to City Council.

Chairperson Brnabic noted that there have been no comment cards received at this meeting and the public hearing was held as part of the November meeting.

Chairperson Brnabic restated the motion on the table made by Mr. Gaber and seconded by Dr. Bowyer with the preprinted Findings and Conditions. Mr. Gaber said that those Findings and Conditions do not apply to a motion for denial.

Ms. Richards said that it may be a moot point now but thinking back to the discussion about McDonald's and Taco Bell, they are a coffee shop and they don't serve fast food, the stacking is at most a minute in that line. They are not frying up things, it would not be a stacking issue because they go through so quickly. She explained that during their on-the-job training they literally have a counter right above them, they can see how quickly people are getting through the line and it's very quick. She concluded they're not making burgers, chicken or fries - it's espresso.

Ms. Olson asked regarding the comments made, hoping they could get in writing any record of public comment of how harmonious and compatible is defined, and some acknowledgement of their design exceeding stacking requirements.

Chairperson Brnabic asked for clarification if they are requesting that after the motion is voted on.

Ms. Kapelanski said that some of those items would be in the minutes, it's on the record how many stacking spaces are required and how many are provided. She said regarding the compatible and harmonious standard, she would suggest that as part of the motion the commission should lay out some findings as to why it is not compatible and harmonious.

Chairperson Brnabic said that they do need to provide Findings and Conditions because it is a motion to deny and the current preprinted ones only fit any approval, they could take them and do the opposite, that these wouldn't promote the intent and purpose of the zoning ordinance. Mr. Gaber and Dr. Bowyer have both explained why they do not believe it is compatible and harmonious, as have other commissioners, that information has already been stated for the record that will become the minutes.

Ms. Olson asked to reiterate is it because the building is too small that seems

to be the primary comment that it is not harmonious and compatible. She said that the brick exterior and the structure's skirting were largely agreed to address concerns from the first meeting.

Chairperson Brnabic said that is one of the reasons; there are a few different opinions here on what the problem is, it is not just the size of the structure itself. She said that she is still concerned about the location and with everything that is going on right there, and would agree that this would set a precedent in the community.

Mr. Gaber said that the commission is not obligated to provide such a document. He appreciated the applicants asking for that information, but if they refer to the minutes the rationale will be clearly stated in the minutes. The commission is not obligated to provide a bullet point list of exactly what the reasoning is; it will be in the minutes and the applicant can glean from that once the minutes are approved.

The vote was taken at this point in the meeting.

A motion was made by Gaber, seconded by Bowyer, that this matter be Denied. The motion failed by the following vote:

Aye 4 - Brnabic, Kaltsounis, Bowyer, Gaber

Nay 3 - Hooper, Dettloff, Struzik

Excused 2 - Neubauer, Weaver

There was some discussion on whether this motion passes or fails with a 4-3 vote. Chairperson Brnabic said that they have a quorum.

Mr. Hooper said that they faced this circumstance several years ago and it was the same thing, it's a nine member commission, five votes is the majority.

Chairperson Brnabic said they would review whether the yes vote with four (4) members to deny was sufficient to pass the vote or if there needs to be five (5) votes for a majority. She said that since this is being questioned Ms. Roediger is going to review the Bylaws.

Ms. Roediger said that in her reading of the Bylaws it states that for all transaction of ordinary business at any regular meeting, five (5) members shall constitute a quorum, and an affirmative vote of at least five (5) members present shall be necessary in order to take action. So Mr. Hooper is correct.

Chairperson Brnabic instructed the applicants that they would be scheduled for the January 18th agenda. She asked if they had any further questions and thanked them.

Chairperson Brnabic called for a brief break at 8:08 p.m. prior to the next agenda item.

Postponed

[2021-0473](#)

Request for Site Plan Approval - City File No. 21-022 - City File No. 21-022 - Biggby - to add a modular coffee drive-through with landscaping within an outlot within the Meijer parking lot, 3099-3175 S. Rochester Rd., south of Auburn Rd., zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, Parcel No. 15-35-100-056, Kyan Flynn and Deanna Richard, 24Ten, LLC, Applicant

See discussion under Legislative File 2021-0473.

Postponed.

NEW BUSINESS

[2021-0569](#)

Request for approval of a Tree Removal Permit - City File No. 21-022 - for the removal and replacement of one regulated tree for Biggby, a modular coffee drive-through with landscaping within an outlot within the Meijer parking lot, 3099-3175 S. Rochester Rd., south of Auburn, zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, Parcel No. 15-35-100-056, Kyan Flynn and Deanna Richard, 24Ten, LLC, Applicant

See discussion under Legislative File 2021-0473.

Postponed

DISCUSSION

[2021-0571](#)

Ordinance Amendment Discussion

In attendance were Jill Bahm and Joe Tangari, Giffels-Webster.

Ms. Kapelanski reviewed the staff-led proposed zoning ordinance amendments to address front yard parking in residential districts, swimming pool fences, maximum building parapet height, the keeping of poultry, as well as other code amendments regarding blight and temporary signs. If the Commission is interested in reducing the standard for the size of property required to keep chickens, then staff can research this further and bring them forward to a future Planning Commission meeting.

Chairperson Brnabic asked whether generally parapet heights are 3-4 ft. and asked if that seems to be pretty consistent. Ms. Kapelanski said that a lesser height is not wanted since the parapets are used to screen rooftop equipment; the intent is to consider a maximum. She said a minimum standard is probably not necessary, it really is dictated by whether there are rooftop units for a particular building.

Chairperson Brnabic said that requests for variances have been brought to the Zoning Board of Appeals for poultry, and they have also seen nuisance complaints. She said one nuisance complaint was for someone keeping twelve

chickens on a smaller lot. She commented that she had no issue with researching to determine a reasonable standard for reducing the property size requirements to have chickens, and perhaps six chickens would be reasonable.

Mr. Kaltsounis said that his house on Hazelton had an old chicken coop on 5/8 of an acre. He said that the only thing that concerns him is that when he would stay at his grandmother's house the roosters woke him up every day. He asked where on the property a chicken coop would be allowed.

Ms. Roediger responded that the ordinance can stipulate that there would be no roosters allowed.

Ms. Kapelanski added that coops would be required to be located and screened per the existing accessory structure provisions of the ordinance.

Mr. Kaltsounis noted that regarding parapets, he would make 4 ft. the minimum because the newly manufactured roof mounted mechanical units are higher, and can be 6 ft. high; and high efficient units are even higher.

Ms. Kapelanski responded that in such an instance additional screening would be required.

Chairperson Brnabic asked for clarification as to whether poultry would be required to be kept in a rear yard.

Ms. Kapelanski responded that a chicken coop would be an accessory structure and would be required to follow those regulations. For discussion this evening the goal is to determine whether the Commission may be interested in lowering the standard for the size requirement of the property to keep poultry. She suggested that if the Commission would like staff to look at additional standards regarding the keeping of poultry, that can be done.

Chairperson Brnabic said most people would probably not want to see poultry kept in a front yard.

Mr. Hooper said that he agrees with the proposed amendments for residential parking, pool fences, parapet heights, and he agrees with 4 ft., blight and signs, but not for poultry. He said that there are very few new houses on half acre lots and there shouldn't be chickens allowed in existing subdivisions.

Mr. Struzik said that he agrees that parking in the front yard of a residence should be restricted. He explained that he did a lot of research on keeping chickens and his wife grew up on a farm. He said that chickens are less of a nuisance than some dogs. He said that for a one-half acre property perhaps allowing six chickens would be a good number, and to restrict the chickens to female hens since only roosters are noisy.

Dr. Bowyer said that sometimes she may have 30 people parking at her home for a party or get together.

Ms. Kapelanski said the intent of the ordinance is to address repeated use of

parking in the front yard.

Ms. Welch clarified that this is not meant for instances when people have a party, it's meant for people who continuously parking on their grass.

Dr. Bowyer said that it's hard to differentiate and asked who the ordinance would be trying to stop parking in the front yard.

Mr. Cope responded that in Ordinance they keep track of concerns expressed by residents, and they receive five complaints each year about people continuously and daily parking their cars in their front yard. He said he feels it is the Building Department's obligation to bring the issue forward for discussion. He said that currently they don't have the tools to address the concern.

Dr. Bowyer asked for clarification about the location of the parking of concern.

Mr. Cope clarified the concern is about parking on their own yards.

Dr. Bowyer suggested this may be opening up a can of worms.

Mr. Cope said many people don't think that Rochester Hills is a place where people should be parking all over their front yards.

Dr. Bowyer said she understood the concern is about the front lawn. She said that she agrees with the proposed pool fence language, and is accepting of allowing a 4 ft. high building parapet. She said that she does not think that the keeping of poultry is necessary in a city and it attracts coyotes. She agreed with the blight and temporary sign language.

Mr. Kaltsounis shared his screen with an aerial photograph of cars parked in the front lawn of a residential property and where the grass was worn away from parking.

Mr. Cope noted that the ordinance doesn't control where people could park on pavement, and the whole front yard could be paved. He said that the green area of lawns being used for parking is the general concern.

Mr. Gaber agreed the City should look into the residential parking language. He agreed with the pool fence language and asked why the parapet height maximum is necessary and if people abuse the use of parapets.

Ms. Kapelanski responded that it hasn't been a problem; it is considered a revision to clean up the language.

Mr. Gaber said that he's not sure why it needs to be addressed. He said that he is against expanding the allowance for having poultry, noting that if you were to look at the number of parcels in the city that are one half acre or larger it may be triple or quadruple the number and this would open it up to a lot more residences.

Chairperson Brnabic said that she doesn't have a problem with moving ahead

with the parapet maximum, keeping one step ahead. At this point it seems that we have unanimous agreement regarding prohibiting residential parking on a front lawn. It looks like we also have unanimous support with regard to the swimming pool fence provisions. With regard to the keeping of poultry there are a few different opinions.

Ms. Kapelanski said since there is some interest in poultry, staff will look into it more and will bring the topic back to the Commission who can then as whole can decide if they want to move forward.

Chairperson Brnabic asked for confirmation if chickens would need to be kept in a coop and would not be running around in other people's yards. She said that they had a case before the ZBA where that scenario happened, they did have a coop in the rear yard but the chickens got out and a lot of the complaints were due to the chickens getting out of the yard. She said that there is unanimous support for the pool fence, temporary signs and parapet height provisions with the exception of Mr. Gaber's comments.

Mr. Hooper asked for clarification that the parapet provision is to address screening rooftop mechanical units.

Ms. Kapelanski agreed.

Mr. Hooper said that perhaps it could say that the parapet must be 4 ft. or less depending on the size of the mechanical units to be screened. Mr. Hooper said with regard to chickens, on a half-acre lot and a 35 ft. rear yard setback, and if a person puts a 20 ft. deck in their backyard, that chicken coop is within the 15 remaining feet and backing up to the neighbors. He said that he just doesn't see that this is a workable solution at all. If people thought about it they would see that's not going to work.

Ms. Bahm said that at Giffels Webster they have been working on potential amendments to areas of the ordinance pertaining to uses and their impact on adjacent properties, including home occupations, lighting, and performance standards. With regard to home occupations, she said the aim is to make the provisions sound more positive instead of presenting them in a negative tone, and in other ways to address specifics of what the City is trying to regulate. In looking at the provisions, they considered the impact to neighbors, in order to discern more clearly whether a home occupation is a nuisance or if it is similar to other activities that are taking place in the neighborhood.

Chairperson Brnabic referred to the proposed provision allowing employment of two people as part of a home occupation. She said that her understanding was that home occupation is confined to the people who live in the dwelling. She said that she doesn't know that she's comfortable allowing people with a home occupation to hire people.

Ms. Bahm responded that that concern has been discussed, and that way of writing the ordinance is typical, but the thought is in recognition of the fact that where we work is changing. It is not uncommon to see an office or administrative use as a home occupation, those workers are not always working

out of an office now.

Chairperson Brnabic asked whether people are going to work in someone else's home. She said that what this brought to mind that would be comparable to their own small business, they could be selling retail, which concerns her a little bit.

Ms. Bahm asked Chairperson Brnabic to be specific about her concerns about this, what would the impact be, such as traffic generated, so that those concerns could be accessed. She said that the ordinance conditions address these items, such as complying with the performance standards which would be discussed later, including noise, served by limited traffic, etc. She said you still have traffic in a neighborhood. With the home occupation, everything has to be contained within the house and no external impacts to the neighbors are permitted. She said that if you think about those things the number of people employed may not be critical if the other conditions are met.

Mr. Kaltsounis asked what people like hobbyists can do in their garage. He said that he performs metal fabrication and welding in his garage. He asked whether such activities would have been covered by the old ordinance. He said someone down the street from him operates a lawnmower repair business in their garage and people complain because they leave equipment outside.

Ms. Bahm said that it would be considered whether the activities are going to impact passers-by. She said that the noise for metal fabrication would be covered by performance standards provisions for noise. If the resident was storing equipment outside that not allowed.

Mr. Kaltsounis asked the difference between a home occupation and a hobby, the lawnmower repair is a hobby.

Ms. Bahm said that has not been discussed but perhaps the blight standards would apply.

Mr. Cope said that small engine repair could be addressed as blight if it was taking place outside of the garage. He noted the ordinance provisions presented here are fine tunings that staff feels would be helpful. He explained that staff sees changes that are happening about how people are using their homes. For instance, an accountant can easily employ two people. He said that the reality is the only way such provisions are enforced is through a complaint basis. If no one complains then the City does not know about it. He said that there are a lot of home occupations right now in the City, if they are doing it in a respectful way, keeping cars parked in the driveway, and if they are not impacting the neighbors the city is not aware of them.

Mr. Kaltsounis said that many years ago he interviewed at a fuel oil supplier that was operating out of a house off of Brewster. He said in that instance the number of employees would have applied. He asked if the ordinance should address whether the business has customers visit and whether they are generating more traffic than a regular house.

Ms. Bahm said that would be addressed by #3.

Mr. Hooper said that such uses for home occupations would be less obtrusive than having a child care service, and those are permitted and he does not have an issue with it.

Mr. Struzik remarked that he works 32-40 hours per week in his home and doesn't have an issue with that. He said that he knows people who operate as hair dressers and he has no issue with that. With regard to signs, he said that he is not sold on allowing a small nameplate sign for a residence. He suggested that would be more appropriate for the City of Rochester, adjacent to a downtown area, where there are residential structures but it isn't necessarily a residential area. He said that he once lived next to a home occupation that was an issue, an old neighbor worked on racecars, and he would fire up the engines; however that would be addressed by another ordinance. He said that he had another neighbor who worked on power boat motors, he hired a few people and it was never an issue.

Dr. Bowyer said that she doesn't want to have a business next door to her, and does not think there should be any home occupations allowed in residential zoning. She said that she thinks this will open it up so that you can't say anything.

Mr. Gaber said that he is reluctant to open up the home occupation provisions; he wants to have the ability for enforcement purposes and he commented that some of this language makes that more problematic. He said that his biggest issue is with the two non-residents employed, it could create a nuisance and he read provision #3. He said that he thinks this is a very subjective standard, he doesn't think "limited traffic" is a good standard because it's not objective, although he understands the concept. He asked whether commissioners should look at other considerations, such as whether to look at if customers are coming to the residences.

Ms. Bahm said that would be covered by provision #3. Ms. Bahm suggested the commissioners think about all of the Amazon trucks that are driving through residential subdivisions every day, which are not regulated. She asked the commissioners to consider if someone was home bound, and is currently having all of their goods delivered, that is not regulated. If commissioners are concerned about an abundance of traffic, it is hard to draw that line with other such traffic being generated.

Mr. Gaber said that there is no problem with a resident getting deliveries for a residential use, but he wants to look at restrictions for operating a home occupation. He said that someone with a home business could have a client come to their home every hour which may not be desirable, plus two employees. He said that he had a friend who ran a silk screening shirt business out of his basement with two employees and UPS or Fedex making deliveries all of the time, it was much more intensive than a regular residential use. He said that the standards need to be tightened up.

Mr. Gaber asked if there are any ordinances to contemplate short term rentals.

Ms. Roediger acknowledged that the "bed and breakfast" ordinance section is very outdated; however that provision was left alone since there will be some new state legislation regarding that and anything written could be overturned in a month. She explained that the lines are blurred between home and work with Covid, and a lot of these activities are already happening in neighborhoods. She said if you Google there are eight people running businesses out of their homes on her street; they are having assistants and many people come to their homes. She said we are trying to acknowledge what is already happening out there, and give ordinance the tools for enforcement when it becomes a problem. She said that we talked extensively about how to look at traffic generated by a home occupation, and realized between Grub Hub and Shipt shopping deliveries, Amazon, FedEx and UPS trucks up and down residential streets every hour. She said this is the way life is going to be, it is common for someone to for example, run an Etsy business out of their basement or a hairdresser, a repair shop or a hobbyist. She said that we want to specifically identify what are the concerns. We are looking at the disruption of the neighborhood character. If it is addressed in a way that looks at the specific concerns, such as noise, aesthetics, outdoor usage, traffic; then these are things that Mr. Cope and his team can monitor and address. This is already happening, and these provisions would give the City more realistic teeth to help with enforcement.

Mr. Gaber said that allowing for two nonresident employees opens this way up and in some ways it's more restrictive, and he's not sure how he comes out on this.

Ms. Bahm asked if it would help to say that employees shall park not on the street, so parking must be provided on the driveway.

Mr. Gaber said that would help.

Mr. Kaltsounis asked if hours of operation are regulated.

Ms. Bahm responded that the City does not currently regulate that. She said that can go back to what is happening in the particular neighborhood, if it is consistently quiet at 10:00 p.m. and someone is out repairing their engines then someone would probably call to complain.

Mr. Cope said that hours can be regulated based on enforcement of the existing noise ordinance. Hours for something like an accountant or a hairdresser operating a home occupation would be more difficult. He explained that at one time the City tried to regulate the square footage of a home that was being used for a home occupation, however that is not a reasonable method that is enforceable. He noted that after hours, noise complaints go to the Oakland County Sheriff's Office.

Dr. Bowyer asked why the number of two nonresident employees was picked.

Ms. Bahm responded that two employees would not allow for a full blown office situation, but that it's going back to the impact. She asked the commissioners to consider what specifically would be the impact to neighbors of having two

employees, and whether it would be a problem of the noise or the actual activity.

Dr. Bowyer said the City should not put a number on the number of employees allowed because it would not be enforced based on that.

Ms. Roediger clarified that the provision could stay silent about the number of employees allowed, and then a homeowner could have four employees as long as it was not a problem otherwise. She said there are people coming and going homes all the time, various workers, nannies, etc., and a lot of people have assistants. If it stays silent on it, they could have three or four employees if it's not a problem.

Ms. Roediger said this is just for discussion; staff will present another version in January. The purpose is to give ordinance better and more updated standards to enforce.

Ms. Bahm explained with the lighting provisions, the ordinance is looking to acknowledge new lighting types. Definitions were added for fixtures like Edison bulbs, a definition added for lumens, and a definition provided for strip lighting outlining windows. Staff is also looking at the applicability of this to some older buildings, and when there are upgrades made, considering when we require them to bring lighting up to code. Also there is a section for glare, and a lot of communities are trying to address glare since it can really affect drivers, especially at night. With regard to light trespass standards, additional standards have been written, including minimum standards for pedestrian areas, building entrances, driveways, and making sure lighting is not creating "hot spots". The provision prohibits flashing and moving lights, and lights that reflect upwards, while providing exemptions for holiday decorations and public right-of-way lighting.

Mr. Tangari explained a new color temperature standard which was developed because LED lighting seems brighter because it's bluer. He said there is a color temperature limit of 3000 Kelvins and included a graphic to depict what is allowed. He said that a warm yellow light is much less intense at the same brightness than a bluer light, and many LED fixtures use a bluer light.

Ms. Roediger explained that staff reviewed the lighting ordinance and took into account complaints from residents, including complaints from neighbors of places of worship. She said that the ordinance team has been challenged with how to address those lights. This is not a dark sky ordinance, but it definitely decreases the intensity of lights allowed, and she said that the City may see some pushback from businesses such as gas stations and car dealerships who typically want very bright lights on their properties. She said that the ordinance needs to protect the night sky and residential neighborhoods from light pollution. She said that this is a big change in the ordinance and was intentional on the City's part.

Chairperson Brnabic referred to the T-Mobile on Auburn Rd. which has flashing and moving colorful lights, and asked how that was permitted to begin with.

Ms. Roediger said that existing condition would be grandfathered; these

provisions would be for moving forward.

Mr. Cope said they can look into the T-Mobile, staff may not have necessarily observed those conditions at night.

Chairperson Brnabic suggested that the concrete base of light poles should be included as part of the permitted 15 ft. height.

Mr. Tangari explained that the height of a light pole is measured from the ground to the face of the fixture itself, so the height of the base is taken into account with this measurement.

Dr. Bowyer said that she has been meeting with residents regarding the proposed Chick-fil-A on Rochester Road and there are lighting concerns there. She said residents have complained to the City numerous times regarding the existing Wendy's restaurant and have just given up. She said that Wendy's has four lights in their parking lot that are tilted up and it looks like daylight 24 hours a day. She said those lights are very bright and glaring when you drive by and you would need blackout drapes if you lived in one of the houses behind there. She asked if these new provisions would apply to this situation, and asked who is responsible for enforcement of such matters.

Mr. Cope replied that he was not aware of complaints regarding lighting at Wendy's. He said that it is common for businesses to replace their lights with LED lights which may prompt complaints. He explained that staff has a light meter which they can use to verify if lights are in compliance with the ordinance. If they are not in compliance, they require them to provide us with a lighting/photometric study which gives details and will show what they need to do to bring it into compliance. He said that he will check the Wendy's location.

Ms. Roediger said sometimes businesses take lights that were downward facing and aim them up which causes that issue, and all that takes is for Ms. Welch to go out there and remind them the lights need to be directed downward.

Mr. Hooper asked if staff has compared the proposed required illumination standards with OSHA requirements. He explained that OSHA has required lighting for parking areas and maneuvering lanes and 4 footcandles is not enough; that may be an issue.

Ms. Bahm responded that they would look at that. He commented that allowed footcandles at the property line used to be 0 or 1, now it's 0.1.

Mr. Tangari responded that 0.5 footcandles were allowed at the property line previously.

Mr. Hooper referred to the new Section C requiring that all outdoor light fixtures be fully shielded, and asked how this would be possible at Borden Park.

Ms. Roediger responded that Section C is being removed, there is no reason to call that out. She said that you can actually now purchase fully shielded fixtures for athletic fields. Any existing fixtures would be grandfathered.

Mr. Struzik said that he is someone that cares about color temperature and he wholeheartedly agrees with the limits on color. He questioned whether this applies to LED signage such as on an educational campus, and noted he is concerned about a sign that was installed by Rochester Community Schools on John R at the Schultz Educational Campus.

Ms. Bahm said the provisions have a reference to the sign ordinance.

Ms. Roediger said that public schools are exempt from such local zoning regulations.

Mr. Struzik said that sign has a fence in front of it, when you drive by it seems like it is flashing like a police car. He asked if we already have a mechanism to deal with broken and flashing signs and lights. He said this can be an issue for people with photo sensitivities who are driving at night and is also an issue from an appearance standpoint.

Ms. Welch said such issues would be addressed under property maintenance regulations.

Mr. Struzik said there is a sign at the gas station at John R and Auburn has a very bright that is flashing on and off; and if there is already a mechanism to address that then it can be done. Sometimes lighting on properties like gas stations is necessary for safety but too much can provide distraction and be blinding for people driving and can affect pedestrians as well. Especially on days like today, which would be the shortest day of the year, people may want to take their dog on a walk and can be blinded by the lights which may also make it harder for drivers to see those pedestrians.

Mr. Kaltsounis said that he assumes that all future lighting will be LED, or could they still install other lights that would be outside of the color palette.

Mr. Tangari agreed, noting he's not sure if you could save any money using a mercury light for example; generally the color temperature of those lights is already in the range.

Ms. Bahm said that part of the reason for the ordinance amendments is in recognition that lights are already changing for their energy saving properties, but not specifying they have to use a certain light.

Mr. Tangari said a fluorescent light could still be installed but it would have to meet the same standards. He said most modern lights are not rated by wattage standards so a new standard is needed.

Mr. Kaltsounis said the ordinance needs to address the LED strip lights that businesses are adding either inside or outside their windows and he shared some photos. He said that with any architectural light one should not be able to see the bulb.

Ms. Bahm said the ordinance does not allow those.

Ms. Roediger said the new ordinance clarifies that window lighting visible from the outside must comply.

Mr. Gaber asked if these provisions would apply to residential properties, and noted sometimes security lights within a subdivision can be a nuisance.

Ms. Roediger said that when that issue was discussed with the commission years ago there was not a desire to regulate lights on residential properties. The thoughts were that as long as the light is not trespassing onto other properties there was not a desire to regulate residential properties.

Mr. Gaber said it wouldn't bother the neighbor if it does not trespass, he thinks that circumstance should be addressed. With regard to road lighting, the traffic circle at Hamlin and Livernois is great, then you come up to Tienken and it looks like an airport with all of the light.

Ms. Roediger said the public right-of-way lighting is exempt.

Mr. Gaber asked if staff could show examples of the light values allowed.

Ms. Bahm referred to the section that says that the Building Director can take steps to address residential light issues, so the City does have the ability to regulate that.

Ms. Welch commented that in the instance of a neighbor making a complaint about another resident's light, they would send a letter asking the resident with the offending light to be a good neighbor and to redirect their light.

Ms. Bahm explained the last set of provisions for performance standards. She said this is a bigger umbrella of regulations that didn't fit into other categories, including smoke, odor, gases, noises, hazardous substances, more about glare, and vibration, and how to create measurable standards for enforcement. She said these will be removed from the zoning ordinance and added to the general ordinance. These are looking at airborne emissions for instance, using standards that are used on a federal level. She said that for electrical disturbances they are just being consistent with FCC regulations. With regard to hazardous substances, it's about the City being aware of when those are used onsite. They had talked about an overall improvement for enforceability is to move this from the zoning ordinance to the general code and to remove the possibility for an existing nonconforming situation.

Ms. Roediger said that moving the vibration standards out of the zoning ordinance will eliminate nonconforming sites and for requests to the Zoning Board of Appeals for relief from the requirements. She said it gives more teeth for ongoing enforcement situations in the City that are what prompted this rewrite to begin with. Secondly, she said that unlike lighting which is fairly well defined, a lot of these are more difficult to measure, and this puts the onus on the property owner to prove that they are meeting the ordinance. These two big changes will really help the ordinance team and in turn provide a large benefit to residents and businesses that are on the receiving end of some of these

issues.

Mr. Hooper referred to a mosque using loudspeakers and if the vibration requirements would affect that. He said there is no way they could comply with the vibration standards.

Ms. Bahm noted that a place of worship would be exempt.

Ms. Roediger agreed that could not be enforced based upon freedom of religion.

Mr. Hooper noted the vibration standards for construction and for work on public residential streets, he said in construction there is no way he can comply with that.

Ms. Roediger said there could be an exemption provided for such activities.

Dr. Bowyer asked with regard to the odor, the dilution to threshold number 7, she said that 4 is the normal city odor that is allowed. She said that is pretty noxious based upon her reading and it should be moved to 4 instead of 7. She said that it is pretty interesting that you can put a number to measure odors,

Mr. Gaber asked how these standards compare to comparable communities.

Ms. Bahm responded that a lot of other communities in Oakland County don't have this level of detail in their ordinances, but certainly other communities across the country do.

Ms. Roediger explained that specifically regarding vibration, staff has been looking at amendments to make the ordinance enforceable for a few years. Staff has looked at how nearby communities have addressed this issue and many have taken a very "gray" approach. She explained that we tried to go by that; however this method has proven to be unenforceable. The current ordinance, nobody can meet, a car driving by would violate the vibration ordinance. So we were looking to fix it without getting into an in-depth study, and that's what prompted us to look into some language that would be enforceable and not so gray. The existing performance standards have not been touched in decades. Ms. Roediger explained that the proposed ordinance amendments are in much greater detail than any community she has been involved with, and said this will be pretty cutting edge. It will be up to property owners to prove they meet the provisions, and the requirements only come to light when there is a complaint, it will not be common, there have been one or two vibration complaints in 20 years.

Mr. Gaber asked if there are any issues with proving you are not guilty.

Ms. Bahm responded that it is demonstrating that you are in compliance.

Mr. Hooper said that OSHA has a great standard for lighting requirements and we should look at that.

Chairperson Brnabic asked when staff will be coming back with a final version of

the amendments.

Ms. Roediger reminded the commissioners there will be January 31st joint meeting with City Council, and said amendments may or may not be ready to present in January.

Discussed

She said that for the January 31st meeting there will be discussion of a City Mural Program, and an evaluation of uses in all zoning Districts, including the Regional Employment Centers, Industrial, and Flexible Business overlay districts.

Chairperson Brnabic wished everyone a Merry Christmas and Happy New Year.

ANY OTHER BUSINESS

[2021-0573](#) City of Rochester Master Plan Update

Ms. Roediger said that regarding the City of Rochester Master Plan update, the City would traditionally prepare a short memo commenting if the update is consistent with the City's goals; so a letter will be drafted on behalf of the City. She requested any Commissioners provide any comments to Ms. MacDonald and they would be incorporated into the letter.

Discussed

[2021-0564](#) Request for Approval of the 2022 Meeting Schedule

Chairperson Brnabic asked if regarding the memo for the 2022 meeting schedule, the commissioners consider changing the June 21, 2022 to June 14th due to a personal conflict. Mr. Kaltsounis said that would work better for his schedule also. The commissioners agreed to this new date. Ms. Roediger asked for December 2022 if they would prefer to have the December meeting on December 13th instead of on December 20th which is right before Christmas, and the commissioners agreed.

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

Aye 7 - Brnabic, Dettloff, Gaber, Hooper, Kaltsounis, Struzik and Bowyer

Excused 2 - Neubauer and Weaver

Resolved, that the Rochester Hills Planning Commission hereby establishes its 2022 meeting schedule at the December 21, 2021 Regular Meeting as follows:

ROCHESTER HILLS PLANNING COMMISSION

2022 MEETING DATES*

January 18, 2022	July 19, 2022
January 31, 2022 (Joint PC/CC Mtg)	August 16, 2022
February 15, 2022	September 20, 2022
March 15, 2022	October 18, 2022
April 19, 2022	November 15, 2022
May 17, 2022	December 13, 2022
June 14, 2022	

**Meetings will be held on the third Tuesday of the month at 7:00 p.m., except as noted above. The Planning Commission reserves the right to add Special Meetings or Workshops on the first Tuesday of the month at the applicant's request and cost or as necessary. Meetings may be cancelled if no applications are received in the appropriate timeframe. Meetings will be held in the Auditorium of the City Municipal Offices at 1000 Rochester Hills Dr., Rochester Hills, MI 48309.*

ADJOURNMENT

Hearing no further business to come before the Planning Commission and upon motion by Mr. Kaltsounis, seconded by Mr. Struzik, Chairperson Brnabic adjourned the Regular Meeting at 9:58 p.m.

*Deborah Brnabic, Chairperson
Rochester Hills Planning Commission*

Nicholas O. Kaltsounis, Secretary