

**MINUTES
CITY OF FARMINGTON HILLS
PLANNING COMMISSION REGULAR MEETING
VIA TELECONFERENCE
SEPTEMBER 17, 2020, 7:30 P.M.**

Due to the COVID-19 pandemic, the September 17, 2020 City of Farmington Hills Planning Commission meeting was held via teleconference in compliance with Executive Orders issued by Governor Whitmer, for the temporary authorization of remote participation in public meetings and hearings. Members of the public body and members of the public participating electronically were considered present at the meeting and could participate as if physically present, as outlined on the City website and posted per Open Meetings requirements.

CALL MEETING TO ORDER

Chair Stimson called the Planning Commission meeting to order at 7:34 p.m. and gave instructions regarding public participation in the meeting.

ROLL CALL

Commissioners Present: Brickner, Countegan, Mantey, McRae, Orr, Schwartz, Stimson, Trafelet, Turner

Commissioners Absent: None

Others Present: City Planner Stec, City Attorney Schultz, Planning Consultant Tangari

APPROVAL OF AGENDA

MOTION by Orr, support by Brickner, to approve the agenda as published.

Roll call vote:

Yeas: Brickner, Countegan, Mantey, McRae, Orr, Schwartz, Stimson, Trafelet, Turner
Nays: None
Absent: None
Abstentions: None

MOTION carried 9-0.

PUBLIC HEARING

A. REZONING REQUEST 2-7-2020

LOCATION: 33466 Eight Mile Road
PARCEL I.D.: 23-33-477-023
PROPOSAL: Rezone a parcel currently zoned OS-2 Planned Office District, to B-3 General Business District
ACTION REQUESTED: Recommendation to City Council
APPLICANT: Hans Kuhlmann
OWNER: Michael Daneshvar

Hans Kuhlman, HK Holdings, LLC, 3405 East Yale Avenue, Denver CO, was present on behalf of this application to rezone a parcel located at 33466 Eight Mile Road, currently zoned OS-2 Planned Office District, to B-3 General Business District. Owner Michael Daneshvar was also present.

Mr. Kuhlman explained that agenda items A and B were related, and he would be making points relevant to both.

HK Holdings had purchased the vacant lot just west of this one in 2004 for a bank branch building. At that time the single-family home on the western lot was demolished and the property was rezoned to OS-2. However, the bank building was never constructed, and the bank's lease expired two years ago. HK Holdings was asking to rezone the western property as well as this property in order to broaden possible uses, and believed this could be accomplished without negatively impacting the surrounding properties, including the residential uses to the north.

The ultimate goal for the vacant property to the west would be a restaurant/retail mix. Mr. Kuhlman had reviewed B-2 District uses as well as B-3 District uses, and was considering asking for a B-2 District instead of B-3. He had provided a conceptual site plan that met the zoning requirements of all the B districts, and that also addressed the issue of the setback for the access drive.

Mr. Kuhlman spoke regarding the Master Plan for the area. The uses allowed in the B-2 or B-3 Districts were not significantly more intense than those allowed in the OS-2 District. He emphasized that the Master Plan provided guidelines, was flexible and could be changed. The western property had been vacant for more than 15 years with very little interest from developers. However, knowing that a rezoning had been requested, a local developer had already provided a Letter of Intent for retail/restaurant development. Across the street in Livonia there was a general business designation along the entire southern stretch of 8 Mile Road. He pointed out that Farmington Road and 8 Mile Road were both major roads.

Mr. Kuhlman responded to the comments in Planning Consultant Tangari's September 8 memorandum, emphasizing the commercial nature of 8 Mile Road. He again suggested he might actually come in for a new request to rezone the properties to B-2 rather than B-3. Impact on infrastructure would be very minor. Mr. Kuhlman also emphasized the current pandemic and how that impacted the two properties being considered for rezoning this evening.

Chair Stimson asked for Consultant comments.

Referring to his September 8, 2020 memorandum, and noting again that agenda items A and B were related, Planning Consultant Tangari gave the background and review for this proposal to rezone the parcel currently zoned OS-2 Planned Office to B-3 General Business District. No proposed use was given in the application. The B-3 district was intended to accommodate intensive commercial uses; the OS-2 district is intended to accommodate small office uses. Within the OS-2 district, "In those instances where the planning commission finds that an excessive number of ingress or egress points may occur with relation to major or secondary thoroughfares," the Commission may require a marginal access drive to connect sites within the district. This site has a marginal access drive stubbed to the west; no marginal access drive to the parcel to the east is provided. The parcel to the east is zoned B-3 and does not have a stubbed marginal access drive. Per Section 34-3.11, these drives may be required by the Planning Commission. However, in the B-3 district, a 10-foot setback for the drive is required. Because the existing

marginal access drive is not set back ten feet from the property line, the rezoning would render the access drive nonconforming. The site has a driveway directly onto 8 Mile Road as well.

Planning Consultant Tangari reviewed the items to consider for a Zoning Map amendment, noting that much of this information would also pertain to agenda item B:

- Regarding consistency with the Master Plan: The Master Plan designates the site as Small Office on the Future Land Use Map, which is consistent with the current zoning. The Master Plan and existing zoning for Eight Mile Road between Middlebelt and I-275 reflect a gradual decrease in intensity of development as one moves from east to west. From Orchard Lake Road along 8 Mile and into the City of Farmington development is primarily industrial. The portion of this area that is in Farmington Hills is designated as part of the Southeast Business and Industrial Redevelopment Area; the Master Plan envisions an expanded range of uses for this area, but generally sees it as continuing to be an industrial/heavy commercial area. Within the City of Farmington, industrial uses transition to commercial at the intersection with Farmington Road, and this is mirrored in Farmington Hills on the west side. The two proposed rezoning parcels are situated just to the west of this commercial node. Continuing west, the plan calls for small office, transitioning to multi-family, and then single-family west of Founder's Park, with a commercial node at Gill Rd.
- Regarding impact on public services, in general commercial uses have a somewhat higher demand on infrastructure and services than small office uses.
- The Applicant had not provided evidence that the property cannot be developed or used as zoned. The property is already developed under the current zoning district.
- Regarding compatibility with surrounding uses, the Planning Commission may wish to consider the potential impact of retail traffic on an office marginal access drive if this rezoning is approved. In the broader context of the 8 Mile Road corridor, the Farmington/8 Mile intersection is a commercial node; east of this is primarily industrial to Middlebelt Road. West of these sites, small office uses continue to Gill Rd, where there is another small commercial node before a transition to multi-family uses and zoning, which extend to Founder's Park.
- It is unlikely that the proposed zoning would place a burden on 8 Mile Road, a regional roadway.
- The City has undeveloped land zoned B-3, though little of this is located in this area of the City.
- Regarding a development being able to meet zoning district requirements, in the absence of a plan it appears that it would be possible for appropriately scaled development on the site to meet the requirements of the ordinance. Because the property abuts RA zoning to the north, no drive-through use will be allowed.
- Regarding whether rezoning is the best way to address a requested use, no specific use had been requested when the application was submitted. The site is currently developed with a use that is permitted as zoned.
- The area is substantially similar to its state when the last Master Plan was developed.
- Regarding whether or not the request would result in the creation of an unplanned spot zone, Planning Consultant Tangari provided the following information:
 - *Is the rezoning request consistent with the Master Plan for the area?*
The Master Plan for the area designates this land for small office, consistent with current zoning.
 - *Is the proposed zoning district a logical extension of an existing zoning district in the area?*
The parcel would be adjacent to neighboring B-3 zoning; the parcel directly to the west is also requesting rezoning to B-3. Across 8 Mile, land in the City of Livonia is zoned C-2 General Business.

- *Would approving the request grant a special benefit to a property owner or developer?*
The rezoning would expand the range of uses available on the property; it is unclear whether any imminent plan for redevelopment would be forthcoming if the rezoning were granted.

Commission discussion included:

- Approving this parcel without approving agenda item B would not make sense.
- Commissioner Orr acknowledged that it appeared that this parcel would be able to meet the 50% open space requirement, contrary to his comments at the last meeting.
- Per ordinance, the Planning Commission has discretion over marginal access drives. This project might work, but creating a property where a marginal access drive needs a zoning variance was not a good use or result of the rezoning amendment.
- The site to the west does not have direct access to 8 Mile Road and appears to have been developed with the idea of a future marginal access drive. However, that property could possibly have access to 8 Mile Road.
- City Planner read from Section 34-3.11 B-3 District Required Conditions as follows:
 1. *All uses shall also be subject to the conditions of Section 34-3.22 on marginal access drives, provided however, that:*
 - A. *The edge of the marginal access drive nearest the street shall be located ten (10) feet from the future street right-of-way.*
- Section 34-3.22 Marginal Access Drives gave the Planning Commission discretion to require access drives in the OS-2 and B-4 districts at the time of site plan review. However, a marginal access drive was clearly intended on the vacant parcel, with stubs on either side.
- Mr. Daneshvar, property owner, said that he had been unable to fully lease the building on this site, and had moved his own practice from Dearborn to this building in order to have the building at least partially utilized, but it was still half empty. He supported the rezoning request to either B-3 or B-2.
- Commissioners Orr and Brickner said they would view B-2 as spot zoning, and would not support it.
- In response to a question from the Commission, City Attorney Schultz said the Commission could act on agenda item A or B in whatever order they wanted, and the two could be tie-barred together. Tonight's action was for a recommendation to City Council. Also, tonight's action was for a rezoning request to B-3 only. If the applicant wanted to change the request to B-2, a new application would need to be submitted and the meeting would have to be re-noticed.

Seeing that discussion had ended, Chair Stimson opened the public hearing. As no public indicated they wished to speak, Chair Stimson closed the public hearing and brought the matter back to the Commission.

As a member of the public now indicated they wished to speak, the following motion was made:

MOTION by Orr, support by Schwartz, to re-open the public hearing.

Roll call vote:

Yeas:	Brickner, Countegan, Mantey, McRae, Orr, Schwartz, Stimson, Trafelet, Turner
Nays:	None
Absent:	None
Abstentions:	None

MOTION carried 9-0.

Kimberly Ross, Goldsmith Street, was concerned that resale shops and CBD distribution would be allowed if the properties were allowed to be rezoned as requested; she opposed this.

Seeing that no other public indicated they wanted to speak, Chair Stimson again closed the public hearing.

Commissioner Schwartz thought the market for small office was diminished, especially for services, because the pandemic had shown people how to effectively work remotely at home. He felt that over time all the current OS-2 properties from Farmington to Gill Road might be rezoned to B-3. Mr. Kuhlman had tried to market the vacant lot for 15 years, and Mr. Daneshvar, the owner of the developed property, had said he could not fill his building. Therefore, he was ready to make the following motion:

MOTION by Schwartz, support by McRae, that the Planning Commission recommend that City Council approves Rezoning Request 2-7-2020 petitioned by Hans Kuhlmann, to rezone the property located at 33466 Eight Mile Road from OS-2, Planned Office District to B-3 General Business District, because the change is a reasonable alternative to the Master Plan because it will promote the land use policies of the Master Plan and will not conflict with present policies, provided the Planning Commission also recommend Request 3-7-2020, 33474 Eight Mile Road, be rezoned.

Commissioner Brickner agreed that there would be less demand for small office in the future.

Chair Stimson said he would not support the motion because he was not comfortable with the 3-story height change that would be allowed in the B-3 District, especially as these properties were located so close to residential properties.

Roll call vote:

Yeas:	Brickner, Countegan, Mantey, McRae, Orr, Schwartz, Trafelet, Turner
Nays:	Stimson
Absent:	None
Abstentions:	None

MOTION carried 8-1.

B. REZONING REQUEST 3-7-2020

LOCATION:	33474 Eight Mile Rd.
PARCEL I.D.:	23-33-477-022
PROPOSAL:	Rezone a parcel currently zoned OS-2 Planned Office District, to B-3 General Business District
ACTION REQUESTED:	Recommendation to City Council
APPLICANT:	Hans Kuhlmann
OWNER:	HK Holdings, LLC

Hans Kuhlman, HK Holdings, LLC, 3405 East Yale Avenue, Denver CO, was present on behalf of this application to rezone the parcel located at 33474 Eight Mile Road, currently zoned OS-2 Planned Office District, to B-3 General Business District. Since this property had been discussed in conjunction with agenda item A, Mr. Kuhlman said he did not have anything to add at this time.

Planning Consultant Tangari noted that the review comments were similar to the previous agenda item, with the following differences:

- The land is currently undeveloped and virtually identical in size to the OS-2 lots to the east and west, both of which are developed in compliance with ordinance standards.
- The B-3 marginal access drive would not align with the existing marginal access drives absent a variance for the setback.
- During the previous discussion, the applicant had discussed his attempts to develop the property as zoned.
- If the previous parcel was not rezoned, rezoning this parcel would create spot-zoning. However, the previous motion tied the two requests together.

City Planner Stec pointed out that the B-4 District had the same setback requirements as the OS-2 District and tied into the marginal access drive requirement as well. Should the applicant want to ultimately look at another zoning district, B-4 might be the most appropriate district to request.

Chair Stimson opened the public hearing. Seeing that no public indicated they wished to speak, Chair Stimson closed the public hearing and brought the matter back to the Commission.

MOTION by Orr, support by Schwartz, that the Planning Commission recommend that City Council approves Rezoning Request 3-7-2020 petitioned by Hans Kuhlmann, to rezone the property located at 33484 Eight Mile Road from OS-2, Planned Office District to B-3 General Business District, because the change is a reasonable alternative to the Master Plan because it will promote the land use policies of the Master Plan and will not conflict with present policies, provided City Council also approves Request 2-7-2020.

Roll call vote:

Yeas:	Brickner, Countegan, Mantey, McRae, Orr, Schwartz, Trafelet, Turner
Nays:	Stimson
Absent:	None
Abstentions:	None

MOTION carried 8-1.

City Planner Stec addressed the earlier resident comments regarding businesses that would be allowed in the B-3 General Business District. CBD was different than marijuana, and could be sold by any retailer. A drive-thru use would be prohibited. Other than that, any uses permitted in the B-3 district would be allowed, as long as it met zoning ordinance requirements. B-3 did allow a 50-foot height, with a maximum of 3 stories. However, it might be difficult to place a 3-story building on this small lot.

REGULAR MEETING

A. LOT SPLIT 3, 2020 (Preliminary)

LOCATION:	21050 Goldsmith
PARCEL I.D.:	23-32-326-043
PROPOSAL:	Split one parcel into two parcels in an RA-1, One-Family Residential District
ACTION REQUESTED:	Preliminary lot split approval
APPLICANT:	Richard Bringardner
OWNER:	Bringardner Living Trust

Planning Consultant Tangari said that based on the written opinion of the City Attorney that the property had already received all the splits for the property permitted under the Michigan Land Division Act, and no additional splits for the subject property are permitted, he could not recommend approval of this request for a lot split.

Richard Bringardner, 21050 Goldsmith, said that he was the original developer for this area, and gave some history of its development. He had been considering the lot split being requested this evening since 1999.

Philip DeLoach, Adams Law, 45209 Helm Street, Plymouth MI, attorney for the applicant, gave legal arguments as to why the requested land division was lawful and should be granted, specifically based on how the “parent parcel” was defined. The legal arguments were laid out in Mr. DeLoach’s September 16, 2020 letter to City Planner Stec and the Commission, which is part of the permanent record for this application. Additional documents were also submitted, including:

- For The Kids, LLC, vs Charter Township of Chesterfield, Macomb County Circuit Court, Case No. 2004-1386-AW (2004), which was also heard and upheld by the Michigan Court of Appeals in an unpublished opinion dated November 2, 2006
- Peter Swiecicki, “Dividing Platted Parcels: Harmonizing Sections 108 and 263 of the Land Division Act”, *Michigan Property Review*, Winter 2004 – Page 193
- David E. Pierson, “Update on the Land Division Act: 1996 P.A. 591 and P.A. 87”, *Michigan Property Review*, Summer 1998 – page 71

City Attorney Schultz pointed out that this requested lot split was originally flagged by the City Assessor. The City’s position was that the requested lot split is not permitted.

Commissioner Schwartz said the Planning Commissioners were not acting as lawyers, but as lay Commissioners. The Commission had a well-reasoned and thorough memorandum from City Attorney Schultz, and a counter argument by the applicant’s attorney Mr. DeLoach. However, the Commission’s role was not to decide between two legal arguments. The Commission should follow the written counsel from the City Attorney, which was unequivocal in its language.

MOTION by Schwartz, support by Orr, that approval of Preliminary Lot Split 3, 2020, submitted by Richard Bringardner, be denied based on the finding that the property has already received the maximum number of land divisions allowed under the Michigan Land Division Act.

Discussion focused on the Commission’s consensus to follow the City Attorney’s counsel in this matter.

Roll call vote:

Yeas:	Brickner, Countegan, Mantey, McRae, Orr, Schwartz, Stimson, Trafelet, Turner
Nays:	None
Absent:	None
Abstentions:	None

MOTION carried 9-0.

B. SITE PLAN 54-6-2020

LOCATION:

30836 & 30790 Eight Mile Rd.

PARCEL I.D.:	23-35-352-015, 017, 018 & 23-35-376-017
PROPOSAL:	Office & garage for contractor equipment in LI-1, Light Industrial
ACTION REQUESTED:	Approval of site plan
APPLICANT:	Casey Leach, P.E., Sidock Group, Inc.
OWNER:	D' An-Co Properties II, LLC/RD.MJ Investments, L.L.C.

Referencing his September 4, 2020 memorandum, Planning Consultant Tangari gave the background and review for this request for site plan approval to construct a new garage building with an office suite at 30836 and 30790 Eight Mile Road. The building would be 23,000 square feet and would provide storage for construction equipment, which is a permitted use in the LI-1 district. 1,250 square feet of the building would be devoted to the office suite, while another 1,250 square feet would be occupied mostly by the maintenance office and locker room. The existing building at the far rear of the site would be demolished. The rest of the site is proposed to be paved with concrete.

The site is primarily a gravel lot at present, with one garage building at the far rear of the lot; this building has a nonconforming rear setback and is proposed to be removed. The gravel lot is used in part for truck and other equipment parking.

Planning Consultant Tangari reviewed the site configuration and access, and the dimensional and other requirements of the LI-1 zoning district. Outstanding issues included:

- Regarding storage in the LI-1 district, per Section 34-3.14, all storage of materials in the LI-1 district shall be in the rear yard. The building's purpose is storage; this is compliant with the ordinance. However, a large portion of the site east of the building is proposed to be a concrete yard and the intended use of this yard area is not clear. The label on the site plan proposes a contractor's storage yard, but the extent of outdoor storage proposed is unknown. This should be discussed with the Planning Commission.
- Regarding screening fences, the applicant proposes to screen the concrete yard on the eastern portion of the property with a six-foot galvanized steel fence. The fence is set back 51 feet from the right-of-way, as required in Section 34-5.12.2.B. The intended use of the area behind the screening is unclear. This should be discussed with the Planning Commission. Any screening shall completely obscure what is stored.
- Regarding exterior lighting. The lighting plan shows 10 wall-mounted fixtures, three pole-mounted fixtures for the large yard, and two pole-mounted fixtures in the grass area within the required front setback; the purpose of these last two fixtures is not clear. The design of all fixtures appears to meet the cut-off standard of the ordinance and light levels at the property line are compliant.
- Tree survey. The applicant has not provided a superimposed tree survey showing the surveyed trees on an aerial image of the site; the sheet labeled "superimposed tree survey" instead places them on a site plan.

Commissioner Orr pointed out that a larger subject site was shown on the cover sheet. Was there ownership of a larger piece of property than what was being discussed this evening? There was a shared driveway on the eastern edge of the property. Was a cross access easement necessary?

Casey Leach, Sidock Group, 45650 Grand River Avenue, Novi, was present on behalf of the request for site plan approval. Owner Vince D' Angelo was also present.

Mr. Leach gave the following information:

- D'Angelo Brothers is an underground contractor. They were seeking to construct a building for vehicle storage.
- There was an existing easement for the drive on the east portion of the site.
- The larger property was shown because there was co-ownership between D'Angelo Brothers and the property company D'An-Co Properties II.
- They will provide a superimposed tree survey.
- The driveway needed to be lit at night, since emergencies often needed a night-time response. This was the reason for the two pole-mounted light features in the front setback.
- The east yard is needed for maneuvering and staging; it would not be used for bulk storage. Any storage would be under the six-foot limit.
- Deliveries would be received at the southwest overhead doors.

City Planner Stec asked if the four parcels shown on the site plan would be combined into a single parcel. Mr. D'Angelo said they did not intend to combine the parcels. Due to growth, they were slowly moving their operation west. The building to the east would probably be leased.

MOTION by Orr, support by Trafelet, that Site Plan 54-6-2020, dated August 17, 2020, submitted by Casey Leach of Sidock Group Inc. be approved because it appears to meet all applicable requirements of the Zoning Chapter, subject to the following conditions:

- Superimposed tree survey be provided for administrative review.
- Use comply with requirements of Section 34-3.14, including storage on the site.
- Any outdoor storage be completely screened per ordinance requirements.

Roll call vote:

Yeas: Brickner, Countegan, Mantey, McRae, Orr, Schwartz, Stimson, Trafelet, Turner
Nays: None
Absent: None
Abstentions: None

MOTION carried 9-0.

APPROVAL OF MINUTES August 20, 2020

MOTION by Brickner, support by Trafelet, to approve the August 20, 2020 meeting minutes as published.

Roll call vote:

Yeas: Brickner, Countegan, Mantey, McRae, Orr, Schwartz, Stimson, Trafelet, Turner
Nays: None
Absent: None
Abstentions: None

MOTION carried 9-0.

PUBLIC COMMENT

No public indicated that they wanted to speak.

COMMISSIONERS' COMMENTS

As this was Chris McRae's last meeting, the Commissioners made individual comments of appreciation regarding Commissioner McRae's contributions and long service to the City.

ADJOURNMENT:

MOTION by McRae, support by Brickner, to adjourn the meeting at 9:52 pm.

Commissioner Mantey said he would not support the motion, as a protest vote against Commissioner McRae leaving the Commission.

Roll call vote:

Yeas:	Brickner, Countegan, McRae, Orr, Schwartz, Stimson, Trafelet, Turner
Nays:	Mantey
Absent:	None
Abstentions:	None

MOTION carried 8-1.

Respectfully Submitted,
John Trafelet
Planning Commission Secretary

/cem