

**MINUTES
CITY OF FARMINGTON HILLS
PLANNING COMMISSION PUBLIC HEARING/REGULAR MEETING
FARMINGTON HILLS CITY HALL – COUNCIL CHAMBERS
AUGUST 18 2016, 7:30 P.M.**

Acting Chair Stimson called the Planning Commission meeting to order at 7:30 p.m. on August 18, 2016.

Commissioners Present: Brickner (7:32 p.m.), Fleischhacker, Mantey, McRae, Orr, Stimson

Commissioners Absent: Blizman, Rae-O'Donnell, Schwartz

Others Present: City Planner Stec, City Engineer Darnall, City Attorney Saarela, Planning Consultant Tangari

APPROVAL OF AGENDA

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

Motion carried unanimously.

PUBLIC HEARING

A. SPECIAL APPROVAL PLAN 64-6-2016

LOCATION:	31221 W. Fourteen Mile Rd.
PARCEL I.D.:	22-23-02-101-062
PROPOSAL:	Swim school in a B-2, Community Business District
ACTION REQUESTED:	Special Land Use approval by Planning Commission
APPLICANT:	Brian Tomina of Aqua Tots
OWNER:	14 Orchard Plaza LLC

Brian Tomina was present on behalf of this application. He explained that they were a local swim club for kids, with locations in Novi, Canton, and Sterling Heights. He was here to ask for approval for a swim school as stated on the agenda.

In response to questions from Commissioner Orr, Mr. Tomina said that they would be excavating inside the proposed building in order to construct inground pools. They would be working with structural engineers to do this safely and appropriately and they would carry adequate insurance.

Commissioner McRae asked if the other locations were in strip malls. Mr. Tomina said the other locations were either inside a strip mall or a stand-alone building. The nearest one was in Novi at the Fountain Walk.

Acting Chair Stimson invited Planning Consultant Tangari to give his review.

Planning Consultant Tangari noted that there would be two motions: one for the Special Land Use approval and one for Site Plan Approval. As this was on an existing site the Commission would be looking primarily at accepting the site as it was.

Referring to the Giffels Webster/Clearzoning review letter dated July 14, 2016, and utilizing overhead slides, Planning Consultant Tangari gave the review for this application. The site was in a B-2 Community Business

District at 31221 W. Fourteen Mile Road. Adjacent zonings included B-3 Commercial Business District, OS-1 Office and P-1 Parking. There was an R-4 District across Greening.

Planning Consultant Tangari said most of the points raised in the review letter mostly related to existing nonconformities of the site or other aspects of the site as it was currently configured. The applicant had provided some of the setbacks that were requested. Further details on the intended use of the property had also been provided. Setback requirements from the RA-4 District were met. Parking appeared to be sufficient.

Planning Consultant Tangari noted that windows were being added to the east elevation.

Because this was an existing site, items left to the Planning Commission's discretion included whether or not a photometric plan was necessary, whether the pedestrian connection to Greening was adequate, and whether rooftop screening was adequate.

Planning Consultant Tangari noted that the landscape development review comments likewise were all comments on the existing site.

Commissioner Orr asked if the rooftop equipment was currently screened, and if there would be additional rooftop equipment added.

Mark Drane, Rogvov Architects, 32500 Telegraph Road, suite 250, Bingham Farms MI said that they were not planning on adding any additional rooftop equipment. Should any be added, the screening would meet requirements.

Commissioner Orr asked if the existing rooftop screening met current regulations, including being screened from all sides. Mr. Drane said that only screening was visible from the right of way. Commissioner Orr said that the building needed to be checked to be sure it was fully in compliance.

Commissioner Brickner noted the map used a plan that did not accurately show the current configuration of the site – it still showed an existing building and a zoning designation in the northwest corner. City Planner Stec said that while this did not bear on tonight's request, he would make sure this was updated.

Seeing that there was no further discussion, Acting Chair Stimson opened the public hearing. As no one came forward to speak, Acting Chair Stimson closed the public hearing and brought the matter back to the Commission.

Commissioner McRae was concerned about having access parking a distance from the front entrance and he suggested having access parking right by the front door. Mr. Train said that they would meet handicap access parking requirements.

Acting Chair Stimson indicated he was ready for a motion.

Motion by Orr, support by Brickner, that Special Approval No. 64-6-2016 submitted by Brian Tomina of Aqua Tots, be approved, subject to all applicable provisions of the Zoning Chapter, for the following reasons:

- 1. The use would not be injurious to the district and environs.**
- 2. The effects of the use would not be contrary to the spirit and intent of the Zoning Chapter.**
- 3. The use would be compatible with existing uses in the area.**
- 4. The use will not interfere with orderly development of the area.**
- 5. The use will not be detrimental to the safety or convenience of vehicular or pedestrian traffic.**

Motion carried unanimously.

Motion by Orr, support by Fleischhacker, that Site Plan No. 64-6-2016, dated June 17, 2016 submitted by Brian Tomina of Aqua Tots be approved because it appears to meet all applicable requirements of the Zoning Chapter, subject to the following conditions:

- 1. Rooftop equipment meet current ordinance regulations, subject to administrative approval.**
- 2. Landscaping meet city standards, subject to administrative approval.**

As part of the motion, the Planning Commission finds that exterior lighting may remain as is, the pedestrian connection is sufficient, and parking is sufficient on site.

Motion carried unanimously.

REGULAR HEARING:

A. SITE AND LANDSCAPE PLAN 66-7-2016 (PUD Plan 1, 2015)

LOCATION:	28080 Grand River Ave. and 21347 Colwell
PARCEL I.D.:	22-23-36-404-003,010, & 011
PROPOSAL:	Heliport at existing hospital (Botsford/Beaumont), in a SP-2, Special Purpose District
ACTION REQUESTED:	Approval of Site and Landscape Plan
APPLICANT:	Michael Thompson of HKS Architects, P.C.
OWNER:	Botsford General Hospital

Planning Consultant Tangari said that two decisions were required this evening, one as to whether this was a minor or major amendment to the PUD agreement, and one regarding site plan approval.

Referring to the Giffels Webster/Clearzoning review letter dated August 10, 2016, and utilizing overhead slides, Planning Consultant Tangari gave the review for this application, which was for site plan and landscape plan approval for an at-grade helipad.

Planning Consultant Tangari reviewed the surrounding zoning, and noted that the portion of the site proposed for redevelopment was currently occupied by open ground (formerly a child care center) and a parking lot on the eastern north-central portion of the hospital site.

The helipad was currently located on the roof of the hospital. Changes to the hospital raised the elevation there and the regulating authorities that approved the helipad would no longer permit the helipad to be on the roof.

Interior to the site the closest building was an apartment building that was used for clinical training, etc. The proposed helipad would be 100 feet away from the northern property line. No structures were proposed, apart from a required 16-foot tall wind cone.

14 parking spaces would be gained because of this reconfigured design.

Outstanding issues included:

- The applicant must confirm that the 12 new light fixtures were full cut-off. It did appear that lighting levels around the helipad would not cause the overall site to exceed the required average to minimum ratio of the ordinance.

- The Commission should make a determination as to whether moving the helipad to an at-grade location elsewhere on the site constituted a minor change in the PUD, subject only to site plan approval, or whether it was a major change that required the applicant and City Council to approve a change to the agreement.
- The Master Facilities Site Plan should be amended to show the proposed new configuration of the site.
- While the tree affidavit stated that no trees would be removed, the approved landscape plan for the PUD reflected 8 existing trees that were removed along with the childcare center. A tree removal permit application and plan for the replacement of trees elsewhere on the site (such as along the northern property line) should be submitted.
- Certain notes needed to be added to the plan, as outlined on page 3 of the review letter.
- Tree protection fencing should be provided for all trees in the vicinity of construction limit of disturbance.

Commissioner Mantey asked for the criteria for deciding whether a PUD change was a major or minor amendment. City Planner Stec read from 34-3.20.5.G:

Proposed amendments or changes to an approved PUD plan shall be submitted to the planning commission. The planning commission shall determine whether the proposed modification is of such minor nature as not to violate the area and density requirements or to affect the overall character of the plan, and in such event may approve or deny the proposed amendment. If the planning commission determines the proposed amendment is material in nature, the amendment shall be reviewed by the planning commission and city council in accordance with the provisions and procedures of this section as they relate to final approval of the Planned Unit Development.

Commissioner Fleischhacker said that he felt that this was a minor amendment, as it did not fundamentally alter the site plan or the landscaping on site, and the flight path had not changed.

Commissioner Brickner asked if the heliport was specifically addressed in the PUD agreement. Planning Consultant Tangari said that while it was not specifically addressed, the heliport was considered an accessory use to the main use, and was thus permitted under the PUD agreement.

Commissioner McRae was concerned that he did not know enough about helicopters to be able to decide whether this was a major or minor agreement. For instance, if the Commission approved adding the trees to the north property line, could the other regulating bodies refuse permission to put them there? It also seemed to him that now the helicopter was landing in someone's back yard. This was a big difference over landing on top of a building.

Commissioner Orr wondered if an affirmative motion could condition administrative approval regarding the placement of trees, without specifically stipulating they had to be on the north side. City Planner Stec said this could be done.

Commissioner Brickner asked if there could be a condition of approval by the FAA for tree placement. City Planner Stec said that the FAA might not actually approve tree placement. Perhaps the applicant could ask for an approving letter from the FAA.

Commissioner Orr asked if the 100-foot distance from the property line was from the edge of the helipad circle or the center. Planning Consultant Tangari said the measurement was from the edge of the circle.

Acting Chair Stimson invited the applicants to make their presentation.

Michael Thompson, HKS Architects, 235 E Main Street, Northville MI., was present on behalf of this application. Joe Siekirk, Plante Moran Cresa, 26300 Northwestern Highway, Southfield MI was also present, along with Joe Ruiz, Beaumont Hospital.

Utilizing overhead slides, Mr. Thompson gave an update on the Beaumont/Botsford campus project. He said they had been a little surprised to discover they could not keep the heliport where originally planned. They felt the proposed area would be noninvasive. There were an average of 2 helicopter trips per month, mostly to take patients away. The heliport would be a small 80-foot diameter concrete pad with a larger green square around it. They would be beefing up the greenbelt to the north, and they were hoping to plant the required trees there. They gained 14 parking spaces, and a change to the truck route promoted better vehicular movements around the site. The flight path would actually be less disruptive than previously. They would have to use an ambulance to get patients from the heliport into the hospital. They had given the City an updated landscape plan.

Commissioner Orr asked how much notice the hospital had when helicopters were coming in. Mr. Siekirk said that most of the use was for helicopters leaving the site to transport patients elsewhere. For those coming in, security would block the road off to give the ambulance safe access.

Commissioner McRae asked if planting the trees along the north property line had been approved by MDOT or FAA. Mr. Ruiz said that they didn't think it would be an issue, especially as the proposed trees would be undergrowth trees that would add to density under existing taller trees.

Commissioner McRae said he would like the motion to be specific about the location of the trees, and if the location changed, the landscape plan would need to come back to the Commission.

Commissioner Mantey spoke to the science of flight paths for helicopters, saying he was comfortable with the applicants' explanation of the location, though MDOT would have to give final approval.

Mr. Thompson said that MDOT had seen the flight pattern and had approved it.

Acting Chair Stimson asked about the impact of noise on the surrounding neighborhood. Mr. Thompson said the greenbelt was as dense as they could get it. Mr. Ruiz said that this location might be less noisy than the one previously planned. The flight path would remain the same. It would certainly not be noisier than the current location.

City Planner Stec said that MDOT had previously approved the location of the trees; this should not be a problem, as the flight pattern had not changed.

Commissioner Fleischhacker indicated he was ready to make a motion.

Commissioner Brickner confirmed with City Attorney Saarela that he could vote on this matter, as he was on City Council when the PUD was adopted. Attorney Saarela said that he could vote on the matter.

MOTION by Fleischhacker, support by Orr, that the proposed revisions to the site Plan for PUD 1, 2015 are of a minor nature and do not violate the area and density requirements or affect the overall character of the plan, and do not change the flight path of the helicopter.

Commissioner Mantey said he would support the motion, as the flight path was not changing.

MOTION carried unanimously.

MOTION by Fleischhacker, support by Orr, that Site Plan and Landscape Plan No. 66-7-2016, dated July 22, 2016, submitted by Michael Thompson of HKS Architects, be approved because it appears to meet all applicable requirements of the Zoning Chapter. This approval is subject to the following condition:

- **A revised plan is submitted for administrative review showing 8 required replacement trees planted in the landscape buffer between the helipad and the apartments to the north. If the location of the trees in this area is not approved by MDOT or the FAA the revised plan will come back to the Planning Commission for review and approval of the alternate location(s)**

MOTION carried unanimously.

B. SITE AND LANDSCAPE PLAN 67-7-2016

LOCATION:	38271 Twelve Mile Rd.
PARCEL I.D.:	22-23-18-200-064
PROPOSAL:	Addition to existing building in an IRO, Industrial Research District and an OS-1, Office Service District
ACTION REQUESTED:	Approval of Site and Landscape Plan
APPLICANT:	Arthur Seiter of MDI Worldwide
OWNER:	Marketing Displays

Referring to the Giffels Webster/Clearzoning review letter dated August 9, 2016, and utilizing overhead slides, Planning Consultant Tangari gave the review for this application, which was a request for site plan and landscape plan approval for an addition to an existing facility. Mr. Tangari reviewed the location and property and the surrounding zoning, as well as characteristics of the existing site. The property had two zoning classifications, with the majority of the site being IRO Industrial Research Office, and the northernmost portion being OS-1. The proposed work was entirely within the IRO district.

The existing site was divided into 26,898 square feet of office space and 60,797 square feet of production space. The proposed 29,654 square foot addition was a warehouse.

Outstanding issues included:

- No information on rooftop screening was provided. Was rooftop equipment being installed?
- The applicant must clarify locations for loading and unloading, and the intended use of new pavement along the east side of the addition.
- Were there formal easement agreements for the service drive to Enterprise, or a driveway with an access easement permitting the applicant to use it?
- The Landscape Plan indicated two ornamental trees that should be changed to two larger deciduous trees at a minimum 3-inch caliper.

Acting Chair Stimson invited the applicant to present.

Jay Wheeler, Licensed Engineer, 1475 Washington Avenue, Saginaw, MI was present on behalf of this application. He made the following comments:

- The paved area to the east side of the addition was for loading and unloading.
- The maximum building height was 40'8".
- Photometric plans and cut sheets had been provided.
- They would change the species of the two trees to meet ordinance requirements.

In response to questions from Commissioner Orr, Mr. Wheeler said:

- The milling pile on the existing site plan was an existing stockpile; this would be removed. There would be no outdoor storage of any materials outside.
- The proposed building would house MDI's marketing displays and signage in preparation for shipping.
- There would be no rooftop equipment.

Commissioner McRae asked about the Fire Marshall's letter. Mr. Wheeler said they would work with the Fire Department regarding hydrant placement on site. The architect and owner would work with the Fire Department regarding the gated entry on site.

Acting Chair Stimson asked if there would be an elevated dock for loading/unloading. Mr. Wheeler said the existing elevated dock would be used.

Acting Chair Stimson asked about existing truck trailers on site. Mr. Wheeler said he could not speak to the trailers on site, but there would be no trailer parking on site with the new addition.

Commissioner Orr indicated he was ready to make a motion.

MOTION by Orr, support by McRae, that Site Plan No. 67-7-2016, dated July 18, 2016, submitted by Arthur Seiter of MDI Worldwide be approved because it appears to meet all applicable requirements of the Zoning Chapter. This approval is subject to:

- **Compliance with the items outlined in the Fire Marshal review report dated July 26, 2016.**

Motion carried unanimously.

MOTION by Orr, support by Brickner, that Landscape Plan No. 67-7-2016, dated July 18, 2016, submitted by Arthur Seiter of MDI Worldwide be approved because it appears to meet all applicable Zoning Chapter requirements and applicable Design Principles as adopted by the Planning Commission. This approval is subject to the following condition:

- **The ornamental trees shown as parking lot trees be switched to an approved canopy tree species.**

Commissioner Mantey confirmed with staff engineer Darnall that engineering requirements would not impact the landscape plan.

Motion carried unanimously.

C. LOT SPLIT 4, 2016 (Preliminary)

LOCATION:	30623 Twelve Mile Rd.
PARCEL I.D:	22-23-14-101-012
PROPOSAL:	Split existing parcel into two (2) parcels in OS-1, Office Service District
ACTION REQUESTED:	Preliminary land division approval
APPLICANT:	Robert Markovs of St. Paul's Latvian Lutheran Church
OWNER:	St. Paul's Lutheran Church

Referring to the Giffels Webster/Clearzoning review letter dated August 10, 2016, and utilizing overhead slides, Planning Consultant Tangari gave the review for this application, which was a proposed land division. He described the location and current configuration of the site, which fronted on 12 Mile east of Orchard Lake Road. Outstanding issues included:

- There were existing nonconformities on the site. Each proposed parcel had zoning ordinance requirements that did not appear to be met, but were also requirements that were currently not being met on site regardless of the proposed split. These included:
 1. The proposed split did not meet all setback standards of the district. This existing condition did not create a nonconformity due to the proposal. In this instance, the Planning Commission had jurisdiction over permitting this nonconformity.
 2. The 50% front yard open space requirement for all parcels in the OS-1 District was not met. Parcel A might meet the requirement, but the applicant had not provided any documentation. Parcel B was unlikely to meet the requirement as well.
- The new property line would be drawn through the parking lot of the church campus. Cross access easements must be provided in all locations where vehicular circulation required that users of one parcel must cross onto the other parcel to access public rights of way. Those easements must be shown on the plan. If an agreement for a blanket easement was reached, this should be noted on the plan.
- The covered walkway would have to be removed in order for the lot split to continue, as it did not meet setback requirements.

Commissioner McRae wondered how difficult it would be to build an OS-1 building on the proposed lot, including meeting setback requirements.

Planning Consultant Tangari said the western parcel would probably meet dimensional requirements fairly easily. The eastern parcel would be more difficult, but it could be done.

In response to a question from Acting Chair Stimson, Planning Consultant Tangari said the existing parcel was one lot. City Attorney Saarela further explained that until a parcel was sold, the entire lot would still be considered one zoning lot and the rectory could be used for its current use (housing maintenance staff).

In response to a question from Commissioner Orr, City Planner Stec said the covered walkway had to be addressed because the lot split would be creating a new nonconformity if the walkway were allowed to remain. Both parcels would have a zero setback. He pointed out that lot splits could not have conditions, so this needed to be addressed.

Acting Chair Stimson invited the applicant to speak.

Robert Markovs, Church Council President for St. Paul's Latvian Lutheran Church, was present on behalf of this application. He explained that the congregation was aging and they were finding it difficult to maintain the entire parcel. They were proposing to sell the actual church on the west parcel, which was too large for them. They were looking at the potential value of the property, whether they sold it as a church or an OS-1 site. Their game plan was to reconfigure the cultural hall on the east to have an area within that to use as a church.

Commissioner Brickner asked if the parking would be reconfigured to access off of Stansbury instead of 12 Mile Road. Mr. Markovs said this would have to be done. Commissioner Brickner said that without easements, the church would lose its access off 12 Mile Road.

Mr. Markovs said the covered walkway could be easily removed.

In response to a question from Commissioner McRae, City Planner Stec said the residence on the east would still be accessory if the church met in the building on that parcel. The applicants would have to make sure that the eastern parcel met zoning requirements for a church use, since currently both the cultural hall and the rectory were accessory to the church on the western parcel.

Commissioner Orr asked if the lot split could be approved before the walkway was removed. City Attorney Saarela addressed some of the issues in this case, including the walkway. If the lot split were approved the walkway would have to be removed or both lots would be in violation of the ordinance.

City Planner Stec said that the land division act required that the new lots met zoning requirements. If they didn't the lot split could not be approved. Since the walkway was there tonight, the Commission could deny or table the request, but they could not approve. There could not be any structure within 10 feet of the side lot lines

MOTION by Orr, support by Mantey, to postpone Lot Split 4, 2016 to date uncertain to resolve the issue of the setback deficiency created due to a covered walkway which will cross over the new property line.

City Planner Stec said because there was a 45-day deadline for acting on a lot split request, the applicant had to formally agree to the postponement in order for the item to be rescheduled. If the applicant did not agree, the Commission would need to make a motion to deny the request.

Mr. Markovs agreed to postpone the request beyond the 45-day limit. He would, however, like to be on the agenda in a timely way. Staff Planner Stec said the church would be on the agenda as quickly as new materials were submitted. Mr. Markov confirmed he could work with the Engineering Department in the meantime.

Commissioner Fleischhacker addressed access concerns from 12 Mile Road. Staff engineer Darnall said 12 Mile Road was under Road Commission for Oakland County jurisdiction, and they would be the body deciding if the 12 Mile entrance could be used for both properties, or if any other options were available. Nevertheless, from a lot split perspective, both lots had access, with the parcel on the east having access from Stansbury Court. Closing the 12 Mile access was also an option, with access to both properties off Stansbury.

Commissioner Mantey felt there were multiple problems with this potential split, including how developable the parcel on the east was, due to topography limiting the visibility from 12 Mile Road, making the parcel difficult to market. Eventually that piece of property had to be marketable, and due to size and topography, it might not be marketable. Also, would the Commission be creating a lot that would require variances for a future development?

Commissioner McRae said he was prepared to deny the lot split for the reasons Commissioner Mantey stated.

Acting Chair Stimson said he agreed with Commissioner McRae; he was not in favor of this lot split.

Planning Consultant Tangari explained that lot size was not grounds for denial because there was no minimum lot size that would be violated by this split. Parcel B was .6 acre.

Commissioner Brickner spoke to the need for the applicants to seek a variance. Commissioner Orr noted that if the walkway were removed, there would be no need for a variance.

Commissioner Fleischhacker asked City Attorney Saarela that if the lot split were approved, with the church on one lot and the residence and cultural hall on another, how would this work?

City Attorney Saarela explained that the applicants said they were planning on using the cultural hall as a church, which they could do. The residence would be allowed to remain as accessory to the main use.

Mr. Markovs wondered if the church spent the money to remove the covered walkway, could the lot split still be denied?

Planning Consultant Tangari said if the walkway were removed, there would not be any grounds for a denial. City Attorney Saarela concurred.

Commissioner Mantey remained concerned that parcel B would not be developable. Planning Consultant Tangari pointed out that the land was developed presently. The marketability of a site was not a factor that played into the decision regarding a lot split.

Commissioner McRae confirmed that if the walkway were removed, the Planning Commission would be required to approve the lot split.

Acting Chair Stimson called the motion.

Motion carried 5-1 (McRae opposed).

D. LOT SPLIT 5, 2016 (Final)

LOCATION:	29555 Orchard Lake Rd.
PARCEL I.D.:	22-23-03-477-058
PROPOSAL:	Split existing parcel into two (2) parcels in B-2, Community Business District and B-3, General Business District
ACTION REQUESTED:	Approval of final land division
APPLICANT:	Orchard Lake Road Partners, LLC
OWNER:	Orchard Lake Road Partners, LLC

Referring to the Giffels Webster/Clearzoning review letter dated August 10, 2016, and utilizing overhead slides, Planning Consultant Tangari gave the review for this application, which was an application for Lot Split Final Review to permit two parcels.

Planning Consultant Tangari said the south end of the parent parcel was rezoned from B-2 to B-3 on February 12, 2015. The rezoning request was brought with the intention to redevelop this area for a drive thru restaurant. This development had not yet occurred.

With the lot split, there would still be enough parking spaces on the parent parcel to meet ordinance requirements. It would have 115 parking spaces; 106 spaces were required.

Outstanding issues included:

- The B-2 district required 20% of front yard open space and B-3 required 50% front yard open space, which was not currently met by the subject site due to the off-street parking located there. It would also not be met by either proposed Parcel A or B. Redevelopment of Parcel B could bring the site into compliance
- Section 34-5.2 permitted off-street parking in the front yard so long that parking was set back at least 10 feet, and that 10 foot area be landscaped. This requirement was not met, and would not be met by the proposed parcels.
- Section 34-5.2 required that all yards abutting a street should provide landscaping. Neither yard abutting 12 Mile Road or Orchard Lake Road had landscaping meeting ordinance requirements, nor was landscaping proposed on Parcels A or B.
- Cross access easements must be provided in all locations where vehicular circulation required that users of one parcel must cross onto the other parcel to access public rights of way. Those easements must be shown on the plan. If an agreement for a blanket easement was reached, this should be noted on the plan.

Subdivision of Land Ordinance 27-110(2)(3) Compatibility with Existing Parcels standards that were not met included:

- If any parcel does not meet zoning ordinance requirements, the request shall be denied by the planning commission. *As noted, each proposed parcel had zoning ordinance requirements that did not appear to be met, but those were also requirements that were currently not being met on site regardless of the proposed split.*

Commissioner Orr said that it seemed that most of the consultant's review was a site plan review. Yet tonight all the Commission was doing was looking at a lot split, which really only included the 4 items under c. on page 4 of the review letter, which dealt with compatibility, orientation of the yards of proposed parcels in order to avoid incompatible relationships, impact on natural features, and relationship of the front, side, and rear yards to the yards and orientation of buildings on other existing and potential parcels.

Planning Consultant Tangari said this was correct. However, he had tried to give some background and context to this proposed lot split.

Planning Commissioner Fleischhacker was concerned that the Commission might approve a lot split that would require any new development on the resultant lot to seek variances because it would have setback deficiencies. There would not be an existing nonconformity because there was no building on this lot.

Planning Consultant Tangari said that any site plan that came forward for this lot would have to meet ordinance requirements. He had provided more information tonight because there had been concerns when the property was rezoned. However, though the site was small, it could potentially be developed.

Commissioner Orr said the lot split needed to be decided on its merits. The Commission did not have a site plan before them. The parcel was buildable to some extent. He did not see a reason to deny.

Acting Chair Stimson invited the applicant to speak.

Harry L. Cohn, Cohn Commercial Properties, 6230 Orchard Lake Road, Suite 110, West Bloomfield MI was present on behalf of this application. He could not speak to engineering concerns. He would be happy to answer questions.

Commissioner Mantey asked if Mr. Cohn could demonstrate that this was a buildable lot, with a building with enough parking spaces and that met setback requirements.

Mr. Cohn said he did not have a proposed development. They had not received any offers, proposals, or plans. They had received inquiries. Most of those businesses inquired about owning the lot. One of the purposes behind splitting the lot was that it allowed ownership to be able to facilitate that transaction. He noted that the shopping center was purchased by the current owners just a little over a year ago; they were not part of the rezoning action referenced earlier.

Commissioner Mantey asked if Mr. Cohn would like some time to prepare a graphic showing how the lot could be developed. Mr. Cohn said that he could do this if it was required. Commissioner Mantey said it was not required but it was such a small parcel that several commissioners had reservations about the viability of developing it.

Commissioner Fleischhacker said that if the lot split had to be approved because it met basic requirements, he wanted tonight's discussion on record about the concerns regarding this parcel. He wanted it on record that *hardship* would not be met in order to get variances from the ZBA.

Commissioner Brickner reviewed the businesses that were part of the existing lot.

Commissioner McRae asked if there was a minimum building size in the B-3 district. City Planner Stec said there was no minimum lot size and no minimum building size.

MOTION by McRae, support by Fleischhacker, that Final Lot Split 5, 2016, submitted by Orchard Lake Road Partners, LLC be approved because it appears to meet applicable provisions of the Zoning Chapter and of Chapter 27, Subdivision of Land, of the City Code and will result in land parcels which are generally compatible with surrounding lots in the area; and that the City Assessor be so notified.

Motion carried unanimously.

Discussion was held as to whether conditions regarding cross-easements could have been attached to this motion, and whether the motion should be reconsidered. City Attorney Saarela said that both lots had access to a public road, so that cross-easements were not a necessity to meet zoning requirements.

Commissioner Fleischhacker was concerned that without cross-easements, businesses including Gordon Foods and ACO hardware were placed in a very difficult position regarding loading and unloading.

City Planner Stec said that should the lot split be approved, both properties would have access to a major thoroughfare. Not having a cross-easement was not grounds to deny.

Commissioner Fleischhacker spoke about the need for existing businesses to use 13 Mile Road for access. City Attorney Saarela explained that those businesses did not necessarily have any right to cross over the property to 13 Mile Road. However, if a documented cross easement was already in place, the lot split would not change that. Commissioner Fleischhacker said that there was no easement because it was all one property. There was a cross easement access for the businesses for the two ownership parcels of the strip mall, so that customers and delivery could go back and forth across the length of the strip mall. However, there was no easement for Gordon Foods to be able to use 13 Mile Road, because –again – right now it was all one property.

Commissioner McRae said that when the property owners came in for the rezoning, Gordon Foods came and spoke about the need for them to get their semi trucks in from 13 Mile Road to their loading dock. He wasn't sure a tractor trailer could back up to the loading dock if Gordon Foods didn't have the ability to enter through the property that was just split off.

City Attorney Saarela described process regarding cross access easements. She said that if the property owners were creating some sort of circumstances where Gordon Foods could no longer use the site, it was not really the Commission's problem. That would be a landlord-tenant issue.

Commissioner McRae asked if there were any legal grounds to deny the lot split at this point. City Attorney Saarela said she was not aware of any legal grounds. Any existing cross access agreements would remain in place.

Commissioner Orr asked if the decision should be tabled for one meeting, so that the existence of cross-easements could be verified.

City Planner Stec reiterated that whether or not cross-access easements existed, they were not grounds to deny the lot split.

Mr. Cohn repeated that there was no deal on the table.

Commissioner McRae said that if a site plan came to the Planning Commission without a cross-access agreement, it would almost certainly not be approved. Mr. Cohn said he would make sure ownership understood this concern.

APPROVAL OF MINUTES: July 7, 2016 and July 21, 2016

Commissioner McRae asked that the July 21, 2016 minutes be amended to show that his comment under *Commissioners' Comments* be shown as a question rather than a statement: *Commissioner McRae asked if the ordinance prohibited drive-through lanes in front of buildings . . .*

MOTION by McRae, support by Fleischhacker to approve the July 7, 2016 minutes as published and the July 21, 2016 minutes as amended.

Motion carried 5-0 (Brickner abstained).

PUBLIC COMMENT: None.

COMMISSIONERS' COMMENTS:

Commissioner Mantey commented about how cold the Council Chambers was this evening.

Commissioner Brickner commented that it was nice to be back on the Commission. He explained that he had run into Dream Cruise traffic this evening.

Commissioner Orr said he calculated that a 5,610 square foot building could be placed on the last parcel discussed this evening. This was a good-sized building.

Commissioner McRae said that it seemed the Commission was getting materials very late, often the day of the meeting.

The Commission set meeting dates for:

- September 8 (study session), September 15 (public hearing)
- October 13 (study session), October 20 and/or 27 (regular/public hearings)

ADJOURNMENT:

Seeing that there was no further discussion, Acting Chair Stimson adjourned the meeting at 9:50 p.m.

Respectfully submitted,
Steven J. Stimson
Planning Commission Secretary

/cem