

FARMINGTON PLANNING COMMISSION PROCEEDINGS
City Council Chambers, 23600 Liberty Street
Farmington, Michigan
July 8, 2019

Chairperson Crutcher called the Meeting to order at 7:02 p.m. at City Council Chambers, 23600 Liberty Street, Farmington, Michigan, on Monday, July 8, 2019.

ROLL CALL

Present: Chiara, Crutcher, Kmetzo, Majoros, Perrot, Waun, Westendorf
Absent: None
A quorum of the Commission was present.

OTHER OFFICIALS PRESENT: Director Christiansen, Attorney Zalewski, Recording Secretary Murphy

APPROVAL OF AGENDA

MOTION by Chiara, seconded by Perrot, to approve the Agenda.
Motion carried, all ayes.

APPROVAL OF ITEMS ON CONSENT AGENDA

A. June 10, 2019 Minutes

MOTION by Majoros, seconded by Perrot, to approve the items on the Consent Agenda.
Motion carried, all ayes.

PUBLIC HEARING AND CONSIDERATION OF SPECIAL LAND USE AND SITE PLAN REVIEW – BURGER KING, FORMER PARAMOUNT HOME CARE, INC. 31806 GRAND RIVER AVENUE

Chairperson Crutcher introduced this item and turned it over to staff.

Director Christiansen stated this item is a Public Hearing and Consideration of Special Land Use and Site Plan Review for a proposed Burger King with a drive-thru at the former Paramount Health Care, Inc., located at 31806 Grand River Avenue. The Applicant has submitted plans for a 3,065 one-story building addition, a restaurant building, with a drive-thru to be constructed on the commercial portion of the existing property.

The existing commercial site is zoned C-2, Community Commercial. Drive-thru establishments are a Special Land Use in the C-2 Community Commercial District and require a Public Hearing and site plan review.

The Applicant appeared before the Planning Commission at their June 10, 2019 meeting for review and discussion of their site plan for the proposed restaurant building with drive-thru and other improvements to the existing site. A copy of the draft minutes from that meeting were just approved and are attached with the staff packet under Consent Items this evening since that was the last meeting and that was the last meeting in June.

The Planning Commission scheduled the required Public Hearing back in June and the site plan review for this evening as requested. So the purpose of this agenda item this evening is the Public Hearing as scheduled and to consider the request for Special Land Use and a review of the site plan as proposed.

OHM Advisors, the City's planning and engineering consultant has reviewed the Applicant's submitted plans and has provided a planning and engineering review letter dated May 3, 2019. And a copy of that review letter was attached with your June packet, you reviewed it at that time and it is again attached this evening. There are some additional comments that have been made by OHM, they've had an opportunity to look at the most recent submittal which is a set of revised plans that was really a response sent with a letter and we'll take a look at that. In response to the May 3rd letter from OHM, there were some additional comments and the OHM letter is being distributed this evening and I'll pass them out right now.

Christiansen stated the Applicant has submitted a response letter which is a supplemental submittal dated June 24, 2019, and again, OHM has had an opportunity to look at that and comments that they made are being distributed to you and he knows the Applicant will review the supplemental review with you this evening as well as their June 24th plans and that was all attached with the staff packets for this evening.

Christiansen stated the Applicant is here this evening to present this Special Land Use and proposed site plan to the Commission and again, the requested action of the Planning Commission is to hold the required Public Hearing as scheduled and to review and consider this Special Land Use application and site plan for the proposed Burger King with a drive-thru.

If we look at the screen, this is the site overview, an aerial of the site, we've looked at this before, Grand River Avenue, Lakeway. Grand River is the front street, Lakeway is the side street. The property 31806 Grand River Avenue is a C-2 zoned property, at least the front portion. The triangle piece that we've had a discussion about to the rear, is a R-1-P Residential Parking zoned property. The application was submitted by the Petitioner. This is a revised site plan, and I'll let them go through this with you, a June 24th site plan submitted in response to the May 3, 2019 review letter by OHM.

Flipping through this quickly, this is the June 24th, 2019 submittal by Mannick and Smith Group representing Carrols, Inc., who are the Applicant/Petitioner for the proposed Burger King with the drive-thrus. So this is the Burger King at 31806 Grand River Avenue, the supplemental submittal response letter to OHM's comments, and again they've gone through and have reviewed it point by point and again, OHM has had a chance to look at this and they're here this evening. And this is OHM's review letter back from May 3, 2019. So these are the materials you have this evening. And Mr. Chair, the purpose this evening is to get an update from OHM, also to then allow the Petitioners present their Special Land Use Application and their site plan to the Commission, and then hold the Public Hearing as scheduled.

Chairperson Crutcher called the representative from OHM to the podium.

Austin Downing, OHM Advisors, came to the podium and stated he is present to speak on the proposed Burger King. Strictly from an engineering standpoint, their May 3rd letter still stands but there are two specific site plan comments that he'd like to address tonight that before they are corrected they can't issue site plan approval. The first of which is the existing sanitary sewer which runs through the north side of the site on a diagonal. So on the site plan currently there's a masonry screen wall proposed and the location of that impedes the sanitary sewer that is existing. Also, the drive-thru, there's a conflict there as it runs underneath the drive-thru. To prevent future accident issues, they would like to reroute the existing sewer actually around the wall and out of the drive-thru, that way it can be accessed if need be on site.

And then the second issue they have is with the site circulation, so where the trash enclosure is currently located, they have garbage trucks proposed to pull in and then back out into proposed parking spaces. Well, if vehicles are parked there on site, a truck cannot turn around and they will back into a car, that's an issue, so they would like to see the circulation for the garbage truck rerouted around the site as a truck trailer would be shown in the other location. Those are the comments from OHM.

Chairperson Crutcher asked Downey if he had looked at the revised plans and Downey replied yes; those are comments per the revised plan.

Chairperson Crutcher opened the floor for questions from the Commission. Hearing none, he called the Applicant to the podium.

Ronn Nadis, attorney with Couzens Lansky, came to the podium. He stated he is representing Carrols LLC, which is the Petitioner, the proposed party that is to purchase what is now a vacant parcel. Vacant in the sense that there's nobody operating there and to develop a Burger King at that location.

He stated he is accompanied by Amanda Aldrich and Mark Mathe who also participated in the presentation initially. Mr. Mathe will follow up in a moment and take you through the proposal with particular focus on the things that have changed since the last time it was presented to you, but we'll go through the whole proposal so you'll see how it's supposed to work. And then when he's finished, with your indulgence, I'll take a few minutes to do what you asked at the last meeting, which is to anticipate other issues that have cropped up from neighbors, concerned citizens and they will take a crack at addressing those and explaining our point of view and why we think this is okay to do and then we'll see how that goes.

Mark Mathe, engineer with Mannick and Smith Group, came to the podium. He asked Director Christiansen to put the landscape plan on the screen. He stated he believes the Commission has the response letter that they provided dated June 24th that was forwarded with the revised set. He said he'd be happy to answer any specific questions in regard to OHM's comments in the previous letter. There are a few items he would like to specifically point out, some items that they specifically made in order to address the screening requirements and the screening comments that were received at the previous meeting.

At the earlier meeting there were 6-foot tall arborvitaes behind the drive-thru, coupled with a 4-foot masonry wall. That masonry wall is intended to be complementary to the building, similar type materials, it will be incorporated into the architectural plans and then full actual design details will be added to the construction drawing. But behind that wall, previously they had some bushes and shorter trees, 6-foot arborvitaes with a 4-foot wall. Now, that they're adding a 6-foot wall, they're increasing that wall height to 6-foot, they've provided 8-foot arborvitaes on the back side of that wall to soften that. They've added some crabapple trees. To clarify they've also shown the existing large trees in the rear of the site to remain and they have changed the area of the retention basin to accommodate leaving those trees in place. They've also added some bushes and increased the height of some spruce trees at the corner from 6-feet to 7-feet in an attempt to provide both physical screening of the wall and landscaped screening with the plantings that would be intended to be taller than the order board and appurtenances that are outside of the store. They did also want to clarify that the height of the actual order board is around 5'4" tall, with the intent that that is a backlit board and we can talk about the actual details of the design of the board. Basically, it's a TV screen. The TV screen senses what ambient light is, the light levels of that board vary with respect to the light. During the day when the sun is very bright, that screen is brighter so that it can be seen. And I'm sure many of you can relate to it, if you look at your cell phone out in broad daylight, it's really difficult to see unless the backlight comes on. Then in the evening, that board will automatically dim along with what the ambient light levels are, the intention so it is not blinding and not

casting any additional light. Of course that light is blocked as we noted with the wall and the landscaping.

One thing I wanted to comment on, is the light fixtures, the light poles that are proposed as part of this site, they are LED type fixtures, they're not a halide or a mercury vapor bulb, like we were accustomed to in the past. And with those LEDs, the optics, they can select the type of fixture that will cast light over a certain area much more constraining than they had with the old type fixtures. So with that they can actually control more of that light to land on their site with less light leaving the site and try and both maximize the efficiency of the expense of those lights as well as respect the neighborhood in keeping that light on their site.

Just pointing out a few things, the height of the spruce trees has increased, we can see these large trees, the trunks of these trees are 2 to 3 feet in diameter. The 6-foot masonry wall is just behind the back of this drive-thru lane, these are the crabapples that I've described. One of the questions was how tall those trees are, and they're proposed to be 10-feet tall when they're planted and they'll grow to full height at 20 years. And these are the arborvitaes that were formerly 6-feet, are now proposed to be 8-feet.

One of the comments with respect to the garbage truck access which OHM identified, they did previously show pulling in the driveway, servicing the dumpster, backing out and leaving through where it came in, they have no issue with it backing out and circulating the site in the same configuration that the combination truck did, that's not an issue, that's just how we laid it out that first time.

With regard to the alignment to the existing sanitary sewer, they'd certainly be very open to explore any possibilities on how they're going to accomplish either relocating that or adjusting some of their site features so that we can keep that in service for the short term as well as accommodate any major maintenance concerns in the future.

With that, I think that's essentially, basically the larger changes, but if you have any specific questions, I'll be happy to answer those.

Chairperson Crutcher asked about the wall on the north end of the site and what material would that be and Mathe replied that would be a masonry wall that would be either the same or very similar appearance as the building construction. He then asked Christiansen to pull up the building elevations to get a feel for that, it's a grey/tan.

Crutcher expressed concern with that as they've got a flat wall and the sound is going to bounce off of the wall back towards Grand River and bounce off the south side of the

building back the other way, so it may tend to amplify the sound. He then asked if the wall would have any acoustic treatment so that it could minimize the reflection of sound.

Mathe replied he thinks the intent would be to have some kind of a split base block or some kind of a brick that would absorb some of that sound. I know we had talked last time how the order board and the order system will quiet down depending on what the ambient sound level is. But we have to remember that the sound is intended to go towards the vehicle, we want to minimize sound transmission beyond that vehicle that's in the drive-thru lane. So yes, that is a real concern and we'd be certainly open to any kind of acoustical treatment on that brick, especially if you have any specific recommendations, but we will definitely take that into consideration and add that when we get to the building permits, the building and structure drawings.

Crutcher stated it's a smooth concrete wall and it's probably not going to help acoustically and Mathe stated he agreed.

Chairperson Crutcher then opened the floor up for questions from the Commission.

He then asked the Petitioner about the light levels and if they drop off before they get to the neighboring property lines, and another thing is photometric.

Mathe stated the requirement is one foot candle at the property line or half a foot candle at a residential property line. We are between half and a third of a foot candle at a part of the northern property line and we drop off to zero somewhere in the right-of-way on Lakeway as well as Grand River. So yes, we do meet those requirements at the property line.

Crutcher said it looks like at the property line to the north it seemed like you were going over a foot candle on the other side of the property line.

Mathe replied he knows that the brightest number he found was a .5 around in here, but I'll definitely look into it and if we do need to make that change, that's simple enough to make the change. He said if he's not mistaken, he thinks it's a half a foot at a residential property line.

Kmetzo stated she read the response to OHM about the twelve engineering site plan review comments; however, she did not see where he commented on land use requirements, specifically the use of R-1-P and what percentage of that is part of the parcel.

Mathe replied offhand he doesn't have that percentage, but that anecdotally it was about half of that R-1-P area. But the intent being the C-2 District hosting the building and the

majority of the commercial related improvement. The R-1-P District being the Residential Parking District where intended to act as a buffer between the commercial and a residential area and just basically providing only that parking and circulation area. We had thought we had met that intention or that goal by providing just a portion of our parking and some ancillary uses like the detention basin and softening landscaping in that Residential Parking District.

Kmetzo then asked if OHM specified that this would occupy not more than 25 percent of the area.

Mathe replied he knows there was a comment with regard to expansion of an existing commercial building, and I don't have it in front of me, so I can't quote it, but a comment about expansion of an existing commercial building into an R-1-P District and that's not the case that we have here where we're demolishing an existing building and starting fresh. I guess that case would be if there were an existing building that were to cover more of the lot, the entire lot, you wouldn't be allowed to expand that building over a certain percentage in the R-1-P Zone.

Kmetzo then asked about the speakers and the number of decibels and Mathe replied that he knows that is something they talked about.

Nadis then stated that Carrrols, in the ordinary course of business, measures these things and the requirement is that the decibel level at the property line or if there's a wall, just beyond the wall at the property line, not exceed 30 decibels. What Carrrols research shows for these speakers, is that the sound, without reference to any other blockage of the sound like the car or whatever, a big truck, the sound isn't going to go through that as easily. But within 16 feet the sound and right now we're speaking at about a 50-60 decibel level, the sound declines to 36 decibels 16 feet away from the speaker. That back wall that is in the plans is approximately 30 feet from the speaker, a little over 30 feet. And so if we measured the decibel level at the property line, we're fairly confident that we will be below the 30 decibels. In fact, 30 decibels are effectively a whisper, and we will be below the 30 at the property line. Obviously, the neighbors are not right at the property line, we're not abutting any of the homes but it's going to be a whisper or less at the property line.

Majoros stated he had one question for the Petitioner. And Mr. Christiansen, please keep me honest here if this is an inappropriate question then we don't have to get the answer. Can you give us a history of why you left the property you left? What happened with the

relationship you had with the property owner where you were that necessitated this potential move down here.

Christiansen replied that Carrols actually had no relationship with the property down the block.

Aldrich said she would like to correct that statement. That Carrols did not build that restaurant, they bought the market so to speak, so she doesn't know if anybody had any relationship with them but they didn't create issues.

Christiansen stated the then franchisee was leasing from that party, and for whatever their reasons are, that franchisee, it didn't work out for them, and Carrols then bought the franchise rights for the area but had no other connection with the property. It's apparently being repurposed for a "Detroit Eats", which is the prerogative of that property owner.

Aldrich also stated it's very small.

Christiansen stated the property actually offers less in the way of –

Majoros then asked if it was Carrols desire to have a larger space in addition then transition that property and Aldrich replied yes.

Christiansen then stated to the Chair that he wasn't sure if the Applicant was going to speak of their intention to talk a little bit about their proposal and Special Land Use and site plan. He went on to say he thinks for the Commission's benefit, for the benefit of all that are interested here, for the Applicant's benefit, that it might be reasonable just to have a quick summation of what is being proposed and what the requirements are and what the process is a little bit so that we're altogether on the same page and then maybe allow the Applicant to move forward then with that. We're at a second meeting, I think as you know, subsequent to an introduction type meeting, which there was discussion, we had a lot of attendance at that meeting by those interested, and there was the scheduling of tonight's Public Hearing. There was also review of the site plan that was originally submitted, the first site plan which would be April 25th, 2019 site plan and the City's planning and engineering consultants, OHM Advisors did a review of those plans, conducted a review of those plans and they provided you with a letter dated May 3rd, which you reviewed at the last meeting which is again in your packet this evening.

Long and short, I think it might help all of us if we had a quick little recap of that and I'd like to have an opportunity to do that just so that we're all on the same page and if we can go back, and this is up on screen, so if anybody wants to watch, whether you're here live or you're at home, you can watch this. This is the packet information. I reviewed the staff

report for tonight's meeting. After that we looked at this aerial photo which is an overview. This is the Special Land Use Application submitted by the Petitioner, it is required to be submitted for what they are proposing, a restaurant with a drive thru is a Special Land Use in the C-2 Commercial District. The Special Land Use has information required and then it has questions that need to be answered. These are criteria, five criteria under the Special Land Use Section of the City of Farmington's Zoning Ordinance which must be addressed. And they address this here in this dialogue in the application.

Moving forward, they submitted a site plan. The site plan was the April 25th, 2019 site plan. That site plan was reviewed and they made sure that the letter that OHM Advisors submitted reflected their review of that site plan.

Subsequent to the June 10th meeting, where the May 3rd letter from OHM was reviewed, the Applicant submitted a response letter supplemental submittal, and this plan. This plan set is an updated set of plans, it's in the packet, it's dated June 24th, and that's what we're looking at this evening.

This is the letter in response to the OHM Advisors May 3rd letter and then they reviewed that one June 10th by the Planning Commission and was provided by the Applicant, in this case their consultant Mannik Smith Group and this is the supplemental submittal, a response letter to OHM Advisors comment letter and they address the items in the OHM May 3rd letter.

If we look at the OHM May 3rd letter as quickly as I can here, just so everybody's on the same page. What was requested of the City's planning and engineering consultants was a review of the plan dated April 25th, this is the original plan, the plans prepared by Mannik Smith, again reviewed by OHM, a project description. The Applicant proposing to demo the existing building on the site, the bank that's been there since the mid '70s and was originally the NBD Bank. There's other history there but we won't go into that this evening but it's been on this site for a long time. And it's been the bank, it's been some other uses, most recently Paramount Health Care, it's still the same facility and it's been vacant for a period of time.

The intent of the Applicant is to raze the existing structures, demolish them, and to construct a 3,065 square feet building and associated parking, with a single land drive thru. Site construction will include new storm sewer and associated detention area as well as sanitary and water main leads to the proposed building. The existing Grand River curb cuts are intended to remain while the existing curb cut off of Lakeway Street is intended to be abandoned. The development is being proposed on five lots which includes Lots 118, and 82 through 85 in the subdivision part of the property, the C-2 portion.

The R-1-P portion which is the triangle piece we've talked about it is not intended to have structures on it except for infrastructure and some of the circulation for the parking lot.

The review by OHM is several fold. If you look at Section 35-152, Special Land Use Application procedures. So everybody is aware, prior to approving a Special Land Use Application the Planning Commission shall require the following general standards in addition to the specific standards noted for individual uses in Section 35-158(J), Special Land Uses, specific requirements be satisfied. The proposed use or activity, and this is a Special Land Use standards, number one, to be compatible and in accordance with the goals, objectives and policies of the City of Farmington's Master Plan. Two, to promote the intent of the Zoning District in which the use is proposed. Three, to be constructed, operated and maintained for as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed. Four, be served adequately by public facilities and services such as traffic, operation along streets, police and fire protection, drainage structures, water and sewage facilities with primary and secondary school. Five, not involve uses activities where such materials and equipment or conditions of operations that in comparison to permitted uses in the district and will be detrimental to the National Environment Public Health Safety and Welfare by reason of excessive production of traffic, noise, smoke, odors or other such uses.

And I mention these, just so everybody is clear. This is the Special Land Use Section of the Ordinance. That is what the application requires that will be addressed. The Petitioners filled out that application and responded to those questions. OHM has expressed the requirement for those to be satisfied here by the Applicant through the Commission and all of those five standards must be satisfied in accordance with ordinance requirements.

Properties for which applications for Special Land Use Approval is made also are subject to the site plan review requirements in accordance with the requirements of Article 13, Site Plan Review. Failure to obtain site plan approval will constitute denial of the approved Special Land Use. So, it's two-fold. The Special Land Use conditions, all five criteria must be satisfied, and the Land Use Section must be satisfied so everybody is aware. Again, there was discussion about Lot 118, it's currently zoned Single Family, R-1-P Parking, I had a little discussion about it. R-1-P requirements talk about buildings not being located, talk about expansion onto which was alluded to a little bit earlier, and again, the R-1-P requirements for that triangle piece are very specific in terms of what can cannot be there and that's identified in this letter and in the plan.

The C-2 requirements for a drive-thru must meet the following: Drive-thru uses shall be designed to minimize conflicts with pedestrian or vehicular circulation and shall meet the

following standards: The number of drive-thru lanes shall be limited to the following: drive-thru banks, car washes, have their requirements, they can go up to three. There's three there now, I believe, from the old days. All other drive-thru uses shall have a maximum of one drive-thru. So, for a restaurant you can have one, that's what the requirements are in the site plan standards of the Zoning Ordinance. Stacking spaces shall be provided as required in Article 14, Off Street Parking, and loading standards and access design, and that's specific, communication and speaker boxes shall meet the following requirements: speakers shall be placed as close and safely as possible from the edge of the drive-thru lane and in no case can the speakers be more than three feet from the drive-thru in itself or feasible speakers shall face away from residential neighborhoods. Noise to communicate with the speakers shall not exceed 50 decibel levels at any nonresidential property line and 30 decibels at any residential property line. Where a screen wall is provided the noise level shall be measured on the residential side of the screening wall. Site design for a drive-thru usually shall use the minimum number of driveways possible. Use of two direction driveways may be allowed only if there are no other reasonable alternatives such as access to a side street, rear alley, cross access easement or a shared driveway. Circulation patterns shall separate pedestrian/vehicular traffic where possible. Clear delineation of pedestrian crossings shall be provided in the form of textured concrete or asphalt striping or other methods that clearly draws attention.

So, again, two-fold, just for everybody's understanding since we're all on the same page. There is the Special Land Use portion and five criteria that have to be satisfied and there is a site plan section of the ordinance and the requirements in the site plan section of the ordinance must be satisfied as well.

So, Mr. Chair, I just wanted to share that, again this was reviewed before, you have this letter in your packet, you had dialogue about this at your meeting in June but I thought it might be important if we all understood what the requirements are so that we can continue to move forward. Thank you.

Chairperson Crutcher asked if there were any other questions or comments from the Commission?

Majoros stated he has one follow-up on a question that was asked previously. Not knowing or understanding restaurant/franchisee laws, but will the same people operating the previous Burger King be operating this Burger King or are you looking for a new franchisee? So are you a parent franchisee and you sell this?

Aldrich replied they are not the franchisee, we're never the franchisee.

Majoros stated he wasn't sure if they subcontracted this out to other people or you own or rent all your facilities to manage; so the same people and the same management company that managed the previous Burger King would be the same people here and Aldrich replied correct. Majoros said essentially new employees or whatever and Aldrich said yes.

Nadis stated he hoped that was clear.

Chairperson Crutcher stated going back to the engineering in the sewer, is there an easement, a right-of-way for that sewer going across the property right now?

Downing replied on the resubmitted plans that OHM recently reviewed, they did not see any easement for it, though with them going through this property, there should be one, so that would be something moving forward that they would ask for.

Crutcher asked if looking at the plans, is it possible to be located and Downing replied yes, it's definitely possible and there's multiple ways that it could be done and he's sure those will be explored.

Crutcher then asked about the traffic patterns coming out of there, he noticed in the packet there were some traffic flow diagrams, is that something the Commission should be concerned in terms of the traffic patterns because this is going to be a higher use than the bank was, the traffic flow.

Downing replied he definitely think it's something that can be fixed and as Mark indicated they seem to be able to. Obviously right now the way it was shown and what OHM saw, they don't believe that that works but there are other opportunities to correct that and if it is, they may circulate around the site, that would probably acceptable if it doesn't interfere with anything else.

Crutcher then asked if the Petitioners had addressed the outstanding concerns from the engineers.

Mathe replied that they responded to the original May 3rd letter but there are some the won't be able to address until they get a little further down the road as far as construction plan approvals and right-of-way permitting goes but haven't seen the comments letter but if those are the highlights and the gist of the major comments, he doesn't foresee any problems addressing those comments.

Mathe indicated with regard to the garbage truck, that's very simple to reconfigure and show a different way. One of the items that was brought up in the earlier review, was add

some directional signage, "Do not enter", "One way", and they did incorporate that in the site plan so that the eastern approach would be a two-way, in and out approach, and then what would be kind of the drive-thru lane and the bypass lane would be an outgoing lane driveway towards that direction.

Crutcher said he has some concerns leaving the site and making a left turn, it seems that that would be a little problematic.

Mathe replied he doesn't see it being any more problematic than turning out of Lakeway, turning out of the existing approach that is there now. He said with that being a one-way out, it does lend itself a little bit better to one less traffic movement you have to worry about with that approach specifically.

Nadis said he would like to quickly go through the five criteria that were listed for the Special Land Use Approval.

It does talk about compatibility, compatibility with the Master Plan. This is also an overlay district with the Grand River Corridor Improvement Authority. And in reviewing the Vision Statement of the Corridor Improvement Authority and the Master Plan, what's intended and was hoped for in the City of Farmington is that certain things are recognized as realities, such as certain of the properties, the commercial properties along Grand River simply are really depth properties and there's really an opportunity for significant redevelopment on those sites to create green spaces and some walkability areas and so forth. So those result in opportunities in the Vision Statement are focused in four areas, the so-called focus sites. This isn't in there. Rather, this is a part of the corridor that really is serviced by automobiles. It's not part of the corridor that even in the Vision Statement is specifically contemplated to be Parks and obviously on Grand River itself. And one of the things I wanted to tell you and I will now is that there's been a number of comments about why we can't put it somewhere else? Well, I understand why somebody doesn't want a Burger King, they want it to be anywhere but where it is, but in terms of location in the corridor, we think it actually does fit the corridor vision. The whole idea of this development plan is to provide for mixed uses for opportunities for residents to take advantage of different kinds of uses. And there are sit down restaurants in the area, there are carry out restaurants in the area, there actually are very few drive-in, drive-out, drive-thru, fast food establishments. And while I get that that isn't the thing that everybody was hoping for for their street, the fact is that it services the area and it's something that's actually something that people will want and want to be able to use. And so what we suggest to you is that to the extent that a fast food restaurant with a drive-thru, to the extent that that is something that is part of a grander mix. We're not talking about having the whole street just be McDonald's and Burger King or Arby's or whatever, what we're saying is it's part of the mix for the neighborhood. And the extent that it's going to be on

that main thoroughfare, you put it at a place where people are really driving and not where you're hoping to create urban walkability, which I understand is the hope for certain parts of the Farmington area, the downtown, apparently there's a hope for, a plan for taking that Orchard Lake corridor and turning it into something a little more trendy and upscale and so forth, all great. And what we're saying is we have – this is a relatively small lot, not much you can do with it towards redevelopment but what we can do is take what is a borderline blighted site, it's an empty building that is not in great shape anymore, and we can redevelop it into a brand new site that looks good and it services the community just as it's intended in this residential – sort of this residential community.

So, in addition to that, I just want to note that you know we spoke to promote the intent of the Zoning District, well, this is a C-2 District, it's supposed to be for commercial. We're trying to harmonize this with the surrounding area. I'm pretty sure that the ordinance does not mean that it's supposed to look like a house. It's supposed to harmonize with the rest of the commercial development and we think we do that. We are – it's supposed to be constructed, operated and maintained to be compatible with the existing character in the vicinity and then be served by public facilities. One of the things that technology has changed over the years, storm water systems used to be a manhole cover and it drops in there and it feeds right into the sewer. But to the extent that you're able to do it, having a detention area actually helps the storm water system. It doesn't overload it in the heavy times and this property allows us to do that.

And then it says does not involve uses, activities, processes, material and equipment, but then it goes on to say, that in comparison to permitted uses in the district, will not be detrimental to the natural environment, public health, safety or welfare, and unreasonable excessive production of traffic, noise, smoke, odors and other such nuisances. I point this out, and certainly the Commission is well aware of it, that I point it out because this site could be a restaurant without a drive-thru that is a permitted use in this district and could be open until 11:00 and if you compare any of the issues that have been raised about the parade of horrors that may occur if there's a Burger King in town, that you'd find that there will be no increase in any of those things, noise, odor, compared to a restaurant use. Restaurants have a garbage bin in the back. They will have odors coming out, some fast food restaurants, and they smell pretty good or not so good. But the point is that we're talking about a permitted use that is very similar to what we have here and all we're really talking about is adding a drive-thru.

So let me try to address some of these issues that have been raised in hopes of getting our point of view as part of our presentation.

Traffic has been raised as an issue. It turns out that Burger Kings are a traffic diverter, not a traffic generator. The people that use Burger King are typically people from the

surrounding neighborhoods and those who are traveling on Grand River, they could be coming from anywhere and going to anywhere, but they happen to be traveling down Grand River and they stop at the Burger King. No one goes to another neighborhood's Burger King. If you want to go to Burger King, you go to the one in your area and that's why we say this isn't going to create a lot of extra traffic, it basically will pull cars off the road and then let them back on one by one. This does not create a big traffic issue. This has been raised as a big problem here but Burger Kings are simply not destination restaurants. They are convenience restaurants that allow for people who want affordable food and a drive-thru opportunity.

There was a concern about extra traffic on Lakeway. It's hard to understand how there could possibly be extra traffic on Lakeway. People will come to the Burger King, or not come to the Burger King, and they'll turn on Lakeway or not. One of the things we're going to do with this restaurant, the entrance to Lakeway is being cut off. And so the only way to get into this restaurant would be from Grand River. So anybody coming up Lakeway to the Burger King, is someone from the neighborhood. One of these folks probably that's sitting here with us today, and that's it, no one else is going to be using Lakeway to go in or out.

So I say there was also a question about the rush of traffic at lunchtime from the students and the concern that they don't drive well or something and they'll race up and down Lakeway. Well, what you've heard from many of the homeowners already is that Lakeway has a problem. At least in their perception. That is there are already people, students who come in late to school and are racing down Lakeway to get there on time or want to get home and race up Lakeway, that has nothing to do with us. That is an issue with Lakeway that the folks on Lakeway can take up with the City but it won't have anything to do with Burger King.

Now, it turns out though that this concern that somehow, we're adding a third time during the day when these people will be coming up and down Lakeway is not really factual because the school has a closed campus policy and students are not allowed to leave the campus to go to lunch. So this available, publicly available in the school district. And so, again, it's just not adding any extra traffic on Lakeway.

Mark has already addressed this, this idea of the left turns out and this concern expressed about making a left turn out of the Burger King and into the left turn lane and then making a left on a diagonal road. I don't know if that's a hard thing to do, I've tried it myself, it didn't seem all that difficult but once again, it has nothing to do with the restaurant there. Any user, anybody coming out of a user of that facility and wants to make a left turn on Lakeway is going to have to make that left turn and there's a left turn lane to accommodate it and I can't really see how that is a concern. That's been a big issue raised. All the

noise, the racket that this is going to cause and I will tell you that I was wondering about it myself. So I did a tour of Burger Kings and I could not figure out what the commotion was about the noise.

Now, as you can see through the plans, you can't see it on this drawing, but if you look at where the order boards are and the speaker, the speaker is right in the middle and it's facing directly towards the wall. The 6-foot wall that is going to be enhanced with this row of landscaping, the trees and so forth. And so whatever sound we're committed to making sure that at the property – well, this wouldn't be a property line, at this property line it's about the same 30 feet, you will not hear that speaker. But to the extent that the speaker is directing its sound toward the wall, the wall will be a direct buffer of that sound to whatever extent it still exists 30 feet away. And as we say, our studies show that the decibel level 16 feet away is down to 36 decibels and below 30 where that wall would be and then it has to hit the wall. And so the sound is not really an issue. There have been some who have said well, gee, there's going to be people blaring their radio while we're waiting in line. That's not my experience. But it turns out that people are allowed to blare their radio wherever they want to be, whether they're in line, whether they're driving down Lakeway or Grand River, if they're blaring their radio, they're blaring their radio. But it's not any more likely that when you're driving up to a drive-thru window where you have to speak to somebody through your window, they're not going to be blaring their radio. So it's just hard to understand where that concern comes from. There may be occurrences where someone is blaring their radio, it's possible, but even that is not likely to be heard by anybody on Lakeway.

Lighting, that is another big bugaboo in the discussion. This is modern LED lighting. It is designed to not only be downward in its direction, but the optics of the bulbs, and now you can tell I'm a little bit in over my head on the technology here. But the lights which are on the perimeter of the property, are essentially designed to have the light go down so that it illuminates the area of the parking lot because they want safe driving if somebody is in the drive-thru in the evening when it's dark. And the same thing here and here. There is no reason to believe that any of that light is going to leave the premises in any significant amount.

Now, I found it curious that some of the complaints we got, I believe, were from people who live in those homes or the home to the west and south which if you can find that home from the street, you're a better person than I am because I can't find that home when I'm driving down Lakeway, it's buried behind the building next door. And so it's not clear to me how that property would be affected by light in any way. But on the easterly side of the street, the first two homes which are really the only homes that have any kind of sort of eyeshot to the property at all, although they would be looking through shrubbery that lines Lakeway, it turns out that there's an LED streetlight right in front of their home.

So the idea that somehow that whatever extra lighting is coming from our property which is unlikely to be of any significant amount and as you can see from the presentation, the light levels are nonexistent when you get really to those other houses.

Partly relevant to the light issues, they aren't going to be affected. Headlights, coming into the property they are going to be facing directly into, they come in, you will go back right into that 6-foot wall. Now, that demarcation was originally stating a 4-foot wall, we heard the concerns with the Chair of the Commission mentioned its concern about that issue, we're happy to raise it by two feet so that there wouldn't be any concern then. And so as the cars go around, they will be facing into the 6-foot wall and the landscaping behind it and then as they come around here, they are pointed away from any of the residential nearby and then they come out this way.

So the lighting, the headlights is really no issue for any of the surrounding area and again I would say to that to the extent that there are lights on at 10:00 or 11:00 o'clock at night, that's consistent with any restaurant that's open at that hour and that is a permitted use in the district.

This concern that there's going to be lots of litter and trash, I suggest to you go to any other Burger King in the area, whether it's a Carrols or otherwise, but Carrols is particularly conscious of this. It's bad for business. You're not going to see a fast food restaurant have trash in their area. If there is, they would go pick it up because no one wants to go to a fast food place that looks like it's not clean. So this is something where the operator is going to have a common interest with the citizenry that might be concerned about it and it's just not an issue there. And there are a series of other complaints having to do with pests and other things. The fact is that this is no different than any restaurant, in fact, we have the garbage container abutting the building. It's as far away as you can get to any of the neighborhoods and it follows all of the ordinance requirements, with the screening, with the brick and a door so animals can't get in. It's emptied periodically so that you don't have accumulations of waste. Nobody, and certainly the operator does not want smells or anything else to affect people's decision about where they will shop for their dinner.

It's difficult for me to address the suggestion that there will be a drop in property values. I would like to think that there will be, if anything, an increase in property values over time. Didn't know that was funny, but apparently it was.

I'm going to go back to two issues that I kind of skipped over. One is with respect to this issue, if I can hand this up to you. We've been listening as carefully as we could to the complaints that the sky is falling and all of the concerns of the residents. And I'm sympathetic. I live in the neighborhood. But I am sympathetic because my client is

sympathetic and because we would like to be good neighbors. What I've handed you is a letter that I sent to the neighborhood. Not everybody, I think we picked those who had sent letters and those who were primarily close to the area that we're developing. And the reason we sent this letter is that we wanted to hear why there's laughter right now. We wanted to hear what the nuance was that we were missing, if anything. You know, we can look at this in a rationale fashion. We can't deal with the emotions without talking to people directly. And we guessed that there is emotion associated with this, but we deal with the rationale part and the ordinance and how we can comply with the ordinance and do our best to minimize any interference with the neighborhood. I'm certain that you probably can't guess, but the number of responses that we got was zero.

An audience member asked when it was sent out and Nadis replied on the 25th.

Chairperson Crutcher called the meeting back to order and indicated to the audience they would have an opportunity to speak during the Public Hearing portion.

Nadis stated it was sent out on June 25th, it was dated June 24th. My staff tells me, I was out of town but my staff tells me that it was sent out on the 25th. And if people normally send – our office is in Farmington Hills, the postal service usually gets things out in a day or two to local areas, and I expected to have heard from people. If people didn't receive the letters, I just heard from the public that they didn't get it until the Friday before the July 4th weekend, I guess, I'm not sure what date they're talking about, but could have still made the call. Would have been happy to talk to anybody to get more insight. So we're going based upon what we can go on. Based on the letters that had been submitted, based on the public comments from the last meeting, and so forth.

The second thing is, that there was a response submitted to the Commission to our application which was in the packets that you have. And the response, I mean I have to hand it to those that prepared it, they tried really hard to get some sort of see the technicalities and find some glitch in all of this. But I want to point out that there were some distinct errors of fact in their conclusion. Some of which are not their fault because they didn't know what we were proposing, they didn't see any revised plans. I'm handing you a drawing of the order board. It turns out there's one single order board. Mark did mention this. It's basically a television screen, a large screen television with colored pictures that is simply not that bright. And it is shown on there to be what its actual height is, which is 5'4". Now, there was some discussion, there's a picture put in one of the packages of an order board that was exceeding the height of a truck, whatever that was, 6', 7' high in Westland. That's not what's being used anymore and not what's being contemplated for this brand new Burger King. What we're proposing is this, basically a Samsung screen that is only 5.5' tall, shorter than the back wall and is unlikely to create any light beyond the limits of our property in any direction. Now, it is angled a bit, away

from the back wall, but actually it's angled to the easterly edge end of the back wall. So, in theory anyway, if you could see over the wall and you could know that there is a screen there from as far away as people are talking about, it's actually you have to see it through the wall because the neighbors to the east in the first couple of houses actually they'd have a hard time seeing it if they were looking hard for it.

The other error of fact I think we should point out is, there was an assumption I think based on our original plan that we were going to remove some of the large trees that are in that buffer area. We are not removing. We have redone the plan so that we aren't having to remove any of those trees. So, any of the eyeshot that you have looking towards the property through those trees or without the trees wouldn't really be accurate, those trees are going to remain and that's part of our contemplated plan. And we've added, in response to some of the comments that were made, we've added some evergreens to the mix instead of – they're all evergreens, we've made them taller, we've made them wider and we've made them more plentiful so it's not just deciduous trees that in the wintertime might not be as good a buffer.

And also, I want to address the issue of the buffer itself. That is to say, the area in the back of the R-1-P District, now as you can see what's in the back there as Mr. Christiansen pointed out, it's just a parking area and the drive. There has been some concern that we've paved over some of what's now a green space. True, however, it leaves in place of what you see to be the entire back part of the green area and because we're using that for detention pond, it's basically green. It's going to be a nice green area in that part of the subdivision and it will remain a buffer and the buffer is not just the trees and the wall; it is the space. It's the distance between the wall here and the tree line that runs along the property line to the north. And so we wanted to point that out because it's difficult to read some of the response comments that we got in the package today without reference to some of the facts just aren't true and we're aware that in a City that is promoting itself as new urbanism and it's trying to have some walkable panache, great, we're all for it. And I suppose I can understand that if you hear that Burger King is the net thing in line to be developed, you might roll your eyes and say, well, wait a minute, that isn't open walkability, that isn't – that's car traffic. Well, you need to step back and I'm certain that the Planning Commission will. This is a much larger, long term effort to redevelop the City. What we're doing here is a small piece of that. We are redeveloping what amounts to a blighted building. And we're going to turn it into a nice building. And I said at the first meeting, cocooned in large part from the residential area, cut off from the access, but it will be there to service the residents who want that as part of the mix of services they receive.

I tried to address the issues; I don't know if there are others that I've missed but I'm happy to take any questions.

Chairperson Crutcher thanked Nadis and opened the floor for questions from the Commissioners.

Majoros said he has no questions but wanted to let the Petitioner know he appreciated taking the time to do that, he knows this is an issue that's important to him and the citizens and the City and so to take the time to respond to those, he thinks was helpful, and appreciated and thanked him for doing that.

Chiara indicated he had one question. From all the people that the letter was sent to, did any of them respond at all and Nadis replied no, there wasn't any at all.

An audience member asked if it was sent registered mail and Nadis replied no, it was regular mail.

The audience member then stated so they don't know if anyone got them?

Chairperson Crutcher stated they would talk about that during the Public Hearing.

Nadis stated the letters did go out on the 25th of June, it's now the 8th of July, there's a holiday weekend in between, we can argue all you want about who got what, we weren't trying to build a case for court in terms of who got the letter and who didn't, we were simply reaching out to the community and we got no response.

MOTION by Waun, supported by Perrot, to open the Public Hearing.
Motion carried, all ayes.

(The Public Hearing was opened at 8:14 p.m.)

PUBLIC HEARING

The following people spoke on the above matter during the Public Hearing:

Peter Lichtenberg, 31817 Valley View, spoke about his concerns with safety and increased traffic.

James Kuhl, 22738 Lakeway, spoke about the five criteria necessary for a Special Land Use and that Burger King does not meet that criteria.

Tess Wulf, 22805 Lakeway, spoke about Burger King not meeting the criteria for a Special Land Use.

Hallie Bard, 22738 Lakeway, spoke about her concerns on the impact that the Burger King drive-thru would have on her neighborhood and that it is not in concert with the Master Plan.

Connor Cetas spoke about how the Burger King would impact property values.

Allison Gaspard, 22829 Lakeway, spoke about her concerns with making a left hand turn onto Grand River out of Burger King and that traffic is especially heavy when school gets out.

John Casine, 22805 Lakeway, spoke about his concerns with traffic and safety.

Michael Ritenour, 22823 Lakeway, spoke about the letter that Carrols sent out to residents for input and that he was doubtful that responses to the letter would give credence to their concerns.

Mike Smith, 22809 Lakeway, spoke about the fact that no Burger Kings within a six-mile radius is adjacent to residential properties.

David Gaspard, 22829 Lakeway, spoke about the detrimental impact on property values that Burger King would have and that the Master Plan spells out exactly what is anticipated for the City.

Joe Gdowik spoke about his concerns with increased traffic from inexperienced drivers congregating at the Burger King location.

MOTION by Waun, supported by Majoros, to close the Public Hearing.
Motion carried, all ayes.

(Public Hearing closed at 8:50 p.m.)

Chairperson Crutcher opened the floor for a motion from the Commissioners.

MOTION by Waun, supported by Majoros, to deny the Special Land Use Application and Site Plan Review of Carrols, LLC, the construction of a new 3,065 square foot one-story restaurant building with a drive-thru at 31806 Grand River Avenue, located in the C-2, Community Commercial, and R-1-P Single Family Parking District.

This motion is based on the following findings of fact:

Regarding the Zoning Ordinance Section 35-152, the Standards for Approval of Special Land Uses, this use is not compatible with the goals, objectives and policies of the City of Farmington Master Plan:

The Future Land Use designation of Neighborhood Centers, which favors small scale and low intensity uses to meet daily needs of the City's residents and discourages uses that are heavily auto oriented. The proposed use is heavily auto oriented and promotes high traffic volumes circulating through the site.

This land use will not promote the intent of the Zoning District with the use as proposed. This does not promote the intent of the C-2 District to create businesses that harmonizes of neighboring uses, provide convenience to those residing in nearby residential areas, and that do not create traffic hazards, offensive noises and late hours of operation and high traffic.

The proposed use is not compatible with the nearby low-intensity office, neighborhood retail, and residential uses.

The proposed use will not be constructed, operated and maintained with the compatible existing or intended character of the general vicinity and so as not to change the essential character of the area to which it's proposed.

Through the years, the use on this site has gradually reduced in intensity from auto-oriented uses such as drive-thru bank, down to an office building that is compatible with the current character of the area. Returning this property to an auto-intensive drive-thru use is not consistent with this development pattern.

The proposed use will not be served adequately by public facility such as traffic operations, increased traffic volumes and proximity of the site's ingress and egress to an intersection creates an increase or risk of traffic hazard.

The proposed use will not involve uses, activities, processes, materials, or equipment, conditions of operation that in comparison to permitted uses in the district will be detrimental to the natural environment, public health, safety or welfare, by reason of excessive production of traffic, noise, smoke, odors, and other such uses.

Increased traffic volumes and proximity to the site's ingress and egress to the intersection of Lakeway, creates increased traffic risk.

The overall character of the use promotes elevated noise levels from vehicles, patrons, and individuals ordering at the speaker.

Regarding the specific requirements for drive-thru facilities required by Zoning Ordinance Section 35-158(J):

There are no waiting spaces. They're not provided and the vehicles are forced to wait for their orders past the drive-thru window would create a risk of obstructing egress from the site.

Connections to commercial development:

Direct vehicular access connections with adjacent commercial developments shall be provided where feasible as determined by the Planning Commission.

The proposed development's commercial character is in contrast to neighboring office and residential developments, which restricts progress toward making vehicular connections across compatible developments.

The outdoor speakers:

The proposed speaker's ability to increase its volume to overcome ambient noise conditions creates a risk of increasing noise pollution to neighboring uses at times when ambient noise levels are already high.

Chairperson Crutcher called for a vote from the Commissioners.

MOTION to deny carried, 6 -1 (Kmetzo)

Chairperson Crutcher said the motion to deny carried. He then asked Director Christiansen to explain what the next step would be.

Christiansen stated the action of the Planning Commission with respect to the Special Land Use Application which includes the site plan as well, at the municipal level, the City level, is final and that is the final action, again, the responsibility of the Planning Commission on this Special Land Use Application and accompanying site plan.

Attorney Zalewski stated that any further action would be at the Oakland County Court level.

INTRODUCTION/DISCUSSION AND REQUEST TO SCHEDULE PUBLIC HEARING FOR REZONING REVIEW – CERTAINTY HOME BUYERS, LLC, 22100 HAWTHORNE STREET

Chairperson Crutcher introduced this item and turned it over to staff.

Christiansen stated the applicant is here, Mr. Vincent Coleman, and his associate. The Applicant has submitted a rezoning application to rezone the existing residential property located at 22100 Hawthorne Street.

The existing legal nonconforming multiple-family use family is currently zoned R-1, Single Family Residential. The subject property is identified as Single Family Residential on the current City of Farmington Master Plan, the Future Land Use Plan, the Future Land Use Map.

The Applicant is proposing to rezone the property from R-1, Single Family Residential, to R-3, Multiple Family Residential.

A Public Hearing and recommendation to City Council on the proposed rezoning are required.

The purpose of this item this evening is to introduce and discuss the proposed rezoning and to schedule the required Public Hearing for the August 12, 2019 Planning Commission meeting as requested.

As I indicated, the Petitioners are here this evening to introduce themselves and to introduce their request and present the rezoning application requesting the scheduling of a Public Hearing as required.

Chairperson Crutcher called the Petitioner to the podium.

Vincent Coleman came to the podium and introduced his partner in the building of the proposed development, Joseph McCullough.

Coleman stated McCullough is the building arm of the proposed development that they have at 22100 Hawthorne, forty-plus years' experience in doing condos and in fact, they one starting in two weeks in Mt. Clemens on a much larger scale.

He stated they purchased the Hawthorne property, which is behind the A & W, and it's a short block. Christiansen put the picture of the site on the screen.

Coleman pointed out the area where the A & W Restaurant is, and stated there is a concrete fence, and that the uniqueness of the property is that it is zoned with the Master Plan expected to continue as one. It has this special use since the '20s. We presently utilize it as a four-unit facility. You have the one central building which has two units, two one-bedroom, one-bath unit. And then you have these two standalone offset units that have also been around for some time that are also one-bedroom, one-bath. You have a short block where we have two single families or three single families that consist of that particular block, and you have three additional single families. It just so happens that each one of these three happen to be rental units presently, we happen to know that, and once again this has been here since the '20s so it's not as though a multi-residential wouldn't want an R-3 on a smaller scale as not accepted so far. We have had an opportunity to speak with a couple of the residents and we have not gotten any real negative response. We just purchased the facility in February. Originally when we purchased the facility, we were looking at doing a major potential rehab, but as we got

into the cost effectiveness and we ran into issues that we weren't accustomed to, we decided that we could do a complementary brand-new condo development.

So what we propose to do is put not high-rise condominiums, but side by side residential condominiums that would blend in really nicely I believe, which we have also done successfully before in a single residential environment.

So now as we worked with the Economical Development Department, we met with Kevin and others on several occasions, we discussed how can we accomplish that, clean up the site, and present something that would bring great blending and momentum from a residential standpoint. Not rental, but actual homeownership, residents that own those condominiums. And originally, we felt that rezoning was the best way to go. But in later conversations, we became aware of a PUD, the Planned Unit Development. We like that idea better because it will allow us to work in concert with the City and get that feedback and really act in partnership for that particular site. We feel that that way we know that the outcome of what we do, we will be able to raze those old units, we'll be able to clean up the site tremendously, add a complementary condominium development, that are not offsetting to the neighborhood and what will set a good momentum in the area. Now I did personally do this application, I personally did it, I researched it and we know the environment in Farmington. We know that Farmington doesn't have a lot of room for new housing and we know the Master Plan hopes to find ways to provide complementary housing and there is a shortage of three-bedroom, open floor plan, and amenities that the market looks for, the combination of what is really asked for in today's housing market.

Both my partner and myself actually are also licensed realtors, my partner is actually a broker and I'm a licensed realtor and we know the market and all of these aspects. So today we are not here to continue with the thought of rezoning, although we do feel it would be very viable to consider rezoning. It would be even more viable because it's been used for R-3, although the technical zoning is single-family, but it's been used as R-3 since the '20s in that capacity. But we know rezoning is kind of a hard stretch sometimes, especially when the Master Plan calls for its vision, but I do feel what we have here will work in concert with the vision because we're not – and I'm not trying to be funny seeing the Burger King, we have really nice residential here with homeownership, not tenancy, which will generate a great deal, it's a win/win, not to mention the tax revenue for the City without disturbing and presenting more momentum for sorely needed housing stock in the City of Farmington.

There are some things going on, there is the campus there on Oakland, the medical campus that is nice, so forth, and we feel that this can add to it.

One other point, farther north of our property, you already have R-3 north of Nine Mile. A longstanding R-3 condos, much older, but that have there, been in concert with the

single-family environment. I believe some of it is on the Farmington Hills border because we're right on the border, but you do have some in the Farmington locale as well. And actually that development, those developments are much larger than what we are proposing, twelve, up to twelve units. You're talking thirty, forty, something like that up further north.

So, once again the residential communities have been working in blending with those developments for decades. And what we're proposing I really don't feel is out the norm of what's been going on per se.

So understanding that, however, getting back to the point, when we decided after finding out the viability of the PUD, that that probably is the better way to go, work in concert with the City's Planning Department, having the flexibilities. It's a longer process, of course, you know, investors don't particularly like that, but it is the best solution we have. We are a little nervous that we are getting into the winter and we're losing the construction season. We know that that's something that the longer process will deliver to us, but ultimately, we feel it's the best way to go.

So what we're proposing today instead of continuing with our application for the rezoning, we're proposing to come back at the next slotted time, having a completed PUD Application, continuing transitioning over to the PUD, working in concert with the City, partnership, and contractual partnership, getting the complete synergies and moving forth accordingly. So we look to present the new application, to be placed on the next available slot, I think that's in August.

Christiansen replied August 12th.

Joseph McCullough, came to the podium and stated that he and his partner bought this property in February, it was in too far need of repairs, and it's better they not do those. He then stated he's currently building a forty-unit in Clinton Township, he's been building for 43 years and Kevin know me from high school. He's stated he built probably 500 units over the last forty years plus residential homes, custom homes. He just finished Bob Seger's house which was 17 million dollars. He indicated Coleman pretty much covered it all, he's a talker.

Coleman stated they do have experience as well, they have the expertise, the market, the capability even to sell those units effectively although they feel they really will fly off

the shelf looking at some of the other minimal condominiums. These will be three-bedroom, two full bath, open floor plan, those are amenities that today's market really

looks for and they have priced them very much in line with the going price, very effective for this area.

He went on to state that's pretty much it, they changed gears a little bit tonight. They were prepared to try to get you in concert with the vision that we have, knowing that it would call for rezoning and we know all the hard work that goes into that, but once again, I will just stress that because of uniqueness of that property it's really not a far stretch from what's there, what's being envisioned. It's behind the A & W, west of us is Orchard Lake and the other commercial developments. The subdivision is accustomed to older condominiums, just not even two blocks up, a much larger scale, and is a win/win for the City, certainly from a revenue standpoint and they're not rental units. These will be home ownerships, they will be homestead types of properties and they will have an association with the facility so the grounds will certainly be impeccable as well. That's what we envision for the area.

Crutcher said in looking at your packet and in coming back with the PUD application, looking at the site plan, you might want to do a more accurate site plan when you come back.

Coleman replied yes, they will do a more appropriate one and that's what the PUD is for, you can work with densities and such. And if you read further, he didn't want to particularly get into this at the moment, but they do have an option to purchase the property right next door, adding another 40 feet and we are looking to even possibly the other two units potentially. In the future if this goes well, we might be looking to make it even more for that particular block, extend a beautiful condominium block.

Crutcher then stated they need to include as much information on a site plan to understand what's going on.

Christiansen then stated they've been working with Mr. Coleman and Mr. McCullough for quite a period of time now, very interested in the property. Their initial engagement with the City was in rezoning the property. But after receiving the application and working with them, looking at it and what they wanted to do and what might be best serving their interest but also serving the City's interests and needs in providing a long-range plan, we had dialogue about alternative processes which Mr. Coleman looking to modify the rezoning application to the Planned Unit Development Application, in trying to achieve something unique and specific to the site was one of the challenges to him is that the City's long range planning doesn't hope for multiple family, per se, but certainly allows opportunity and flexibility for things like utilizing a PUD, to achieve these elements, so that's the approach.

I would say, the easiest way to comment, Mr. Chair, if I might, more detailed plans. I think as everybody is aware rezoning is not based upon plans, so the plans that were submitted were just Mr. Coleman's quick broad-brush stroke concept, so the plans that are in there don't relate to his interest in the PUD, to say that in response to your comment. They have talked about more detailed plans, but again, at a rezoning level that's not part of your rezoning. At the PUD level, that will certainly be part of it. Again, his discussion with us, as recent as even this evening, was to look to modify his application to be a PUD application and come back to you at the next meeting in August, introducing that with a revised application and moving forward with scheduling a Public Hearing for a PUD.

Majoros commented that if we're rescheduling a Public Hearing why did we go through all of this and spend twenty minutes on something that's going to be something different in a month from now.

Christiansen replied he thinks it's important for the Commission to understand what's going on.

Majoros then stated moving forward it would be his recommendation that we table the things that are not ultimately what they're going to react to.

Christiansen said that happens typically, but this is a unique circumstance for him.

Majoros then indicated it should be pulled from the agenda and brought back next time.

Christiansen stated they could have gone through with the rezoning application, but in response to discussions with the City Attorney as well, it was already on the agenda tonight for you and that this was most prudent in terms of direction, give you information in terms of what's certainly important to you.

Majoros said what's relevant is to have information on the matters that come before the Commission.

Christiansen replied which is in this packet with his Application and said that what the Commission has done is actually accomplish the first step in the PUD this evening, and that's allowing him to have an opportunity to introduce himself.

Chiara asked if the PUD requires a rezoning and Christiansen replied no, the PUD actually acts like, and you know this, because you've dealt with many of them, like an overlay district.

Chiara asked if there are two issues here, the PUD and then the rezoning and Christiansen responded no, you're either going to look to rezone if there's an Application for Rezoning which is what's been submitted, or to look at an alternative direction utilizing a different process, you go through a PUD process which in the end creates its own overlay, its own conditions on the property, in effect you're rezoning the PUD if you want to look at it that way. But it's much more comprehensible, it allows them flexibility, and allows the Planning Commission to do a lot more because you can get a lot more selective and be flexible and the Council is also engaged.

Chiara asked if tonight the Planning Commission could agree to zone this to R-3?

Christiansen replied the request tonight this evening under the application was just that, but the Planning Commission is not being requested to take any action tonight.

Chiara then said he would make a motion that the Planning Commission not address this tonight and Christiansen replied there's no motion necessary.

REQUEST TO SCHEDULE PUBLIC HEARING FOR SPECIAL LAND USE FOR PROPOSED DRIVE-THROUGH – PANERA BREAD BAKERY, 34635 GRAND RIVER AVENUE

Chairperson Crutcher introduced this item and turned it over to staff.

Christiansen stated the Applicant/Petitioner submitted a Special Land Use Application and Site Plan to construct a drive-thru on the east side of the existing Panera Bread Bakery located at 34635 Grand River Avenue.

The existing commercial property is zoned C-2, Community Commercial. Drive-thru establishments area a Special Land Use in the C-2 District. A Public Hearing and site plan approval are required.

The purpose of this item is to schedule the required Public Hearing for the August 12, 2019 Planning Commission meeting.

The Applicant is here this evening. This is a copy of the aerial photograph, this is the Panera Bread site located on Grand River Avenue, it is adjacent to commercial development both to the east and to the west of the site. This is the Application and let's go back, this is a corner lot location with Whitaker as the side street. This is the floor plan layout and I'm going to let the Petitioner take you through his plan. What I will tell you and I will go back to the aerial photograph really quick. Again, this is an introduction for

you, the request then is to schedule the Public Hearing for the drive-thru. You'll see the Panera Bread. They currently do not have a drive-thru. They've been at this site for over 20 years. They do not own the property, they do own the facilities, the building, and the site elements. They're looking to put a drive-thru on the east side of the building. You'll note on this aerial photograph that there appears to be a driveway between the Panera Bread, the east side and the five-unit strip center to the east. That is an alley access. Actually it's City alley with a public right-of-way that provides access to a dumpster that's behind the western two units of the five-unit strip center, and also to a dumpster that is on the southeast corner of the Panera site.

If you've had opportunity to look in your packet, the Petitioner is looking to reorient the dumpster and to use that area for the drive-thru, so they're going to use that alley area for the drive-thru on the east side. A number of things will have to happen for that and that's being coordinated right now because it's a public right-of-way. There are several alternatives. Either it can continue as a public right-of-way, agreements can be put in place. A dumpster for the five-unit strip can be relocated. The dumpster on the Panera site can be reoriented. There can be a combination of dumpster in part. All of that is in process right now.

The first step is considering the Special Land Use Application, having its introduction this evening to you, and then scheduling the Public Hearing and letting them continue to work on their elements as part of their site plan.

Chairperson Crutcher called the Petitioner to the podium.

Scott Tukere with Diffin Umlor came to the podium. He stated he is present tonight to talk about the retrofit drive-thru for Panera. Basically it will be a drive-thru with a bypass on the outside. So, there will be a portion of the alley vacated, it would be used for the drive-thru, stacking around the back, this property will remain, the dumpster location would be flipped facing this way, and the two businesses would have access to that dumpster is right now the way they're looking at it. You would then have your bypass lane around the drive-thru coming through the east portion of that alley and that would also be those businesses loading area. There will be 320 square feet of additional parking, additional landscaping, screening the residential area. The site itself, I've been told most of the existing trees on the site will remain and there's some pretty mature spruces and they will be filling in the holes along the back side and the rest of the residential along the east side. Most of the parking lot that is there will remain as is. The area of additional paving will be along the back and then the dumpster pad. The building itself along the back, they're looking to modernize it and getting rid of the brick, but they would do something to make it look more like the rest of the building, a finished product like that. There would be a screening wall that they're proposing off of the dumpster to help with the situation

and it would dive into a boulder wall that is currently there now, but it would be all new adjoining to the property to the east.

Crutcher opened the floor for questions from the Commissioners.

Crutcher then asked if there were plans in to address the sound coming from the speakers of the drive-thru and Tukere replied the screening should take care of most of that, the wall will, there's going to be a 6-foot wall, this site is basically in a hole is my understanding from the engineer and I've seen from Google maps that you've got about a 4-foot berm behind the existing dumpster and then a wall behind that so there should not be any issue with noise for the adjoining residential.

Perrot said the residential looks like it sits up higher and Tukere replied it is, but it meets grade once you get back towards the strip building.

Christiansen stated this is the third engagement the City has had over many years with the interest of Panera Bread wanting to put a drive-thru here. On two different occasions they didn't move forward with their application and now they have. Again, the challenge with this site is going to be how to retrofit an existing building with a drive-thru with existing conditions. And the condition that we have here that is most challenging is really trying to show where they would like the drive-thru to be at is in a public right-of-way and how that is handled is still yet to be determined. And also, too, the dumpster for the strip center, that's behind the two western units, it's not utilized that much but it's still there as that site's operation so that has to be address and then the dumpster on the Panera site. And there's dialogue of combining the two as one and having a joint use agreement which is possible.

Also, too, the alley still being an alley, to abandon that alley and vacate, and that's not unprecedented throughout the community. There is a process and there is a breakdown of that public property, that alley, that right-of-way and how that happens typically is that the vacation portion that goes to the property owner on one side and a portion goes to the other side and they would have to enter into some kind of use agreement and the

maintenance. So all of that will be worked out as part of the site plan and are all in process right now.

MOTION by Majoros, supported by Chiara, to request a Public Hearing for Special Land Use and Site Plan Review for proposed drive-thru, Panera Bread, 34635 Grand River Avenue, at the August 12, 2019 Planning Commission meeting.

MOTION carried, all ayes.

PUBLIC COMMENT

None heard.

PLANNING COMMISSION COMMENTS

Kmetzo asked Christiansen about the C-2 classification and designation in the Farmington Master Plan, and what's going to prevent another plan for fast food or a drive-thru being planned for that area and going in that area; is there a way to make a designation that you can't have a fast food or drive-thru.

Majoros replied there was a lot of comment about Burger King, but the notion of what it was, it was the hours of operation and the traffic and a number of things that aren't exclusive to Burger King.

Crutcher said if this was not a drive-thru and just a restaurant and Majoros said some of the concerns would still apply.

Kmetzo then asked if there could be more specific language in the zoning ordinance, that might be helpful.

Christiansen replied if you look at the City's Zoning Ordinance, it is pretty specific and detailed. It actually has specificity as it relates to certain uses in certain zoning districts, depending upon its uses in the district they're located in. There are two types of uses, some are permitted uses, meaning they're allowed and there aren't any special considerations for them, they're allowed. A house is allowed in a Single-Family District. A restaurant is allowed in a C-2 District. They just have to meet what the setback requirements are, and the building code requirements are for that construction. So, let's go back to the C-2, if it's a restaurant without a drive-thru in that C-2 District, restaurants are permitted, an enclosed restaurant, not a drive-thru. That restaurant has to meet the spatial requirements, the setbacks, and building height and other elements because they also require site plan compliance. So you have to have parking and you have to have a certain number of barrier free spaces, and you have to have dumpsters, and landscaping, and other things. Those are site plan requirements but they're not special considerations. And the ordinance is very specific and lays those out. It's special land uses that have a lot of uniqueness to them and that's why they're special and that's why they have special

considerations. Whether it's a drive-thru or other impactful type uses whether it's in a C-2 or any other zoning district. And our ordinances are very good, it lists those uses by districts and spells out what the requirements are. Not only does it look at special land use, special land use has the six criteria you have to meet. And then it also has to meet the site plan requirements as well as building code and construction requirements as well. So there are a lot of things that have to be complied with and addressed so it's not really that open.

Again, there are permitted uses in every single zoning district that don't have special unique conditions or considerations where they don't have to have public hearings and those type of things, they're typically just site plan reviews. But things like drive-thrus and other impactful uses do have special requirements and considerations that do require a public hearing.

The C-2 is the commercial district, there's three commercial districts, there's the neighborhood, there's the community commercial district and then there's a C-3 that's a general commercial district, that's even more broad and allows more types of uses to it, so it just depends on what it is.

Anytime the Commission has a concern about a particular use or a provision, the way to deal with that is to amend the ordinance, amend the zoning ordinance, turn around and change it. If you don't like what your plan lays out, your Master Plan, then amend your Master Plan and that is certainly available to you through public process. If you are not comfortable the way your zoning ordinance reads or the provisions in your ordinance, uses specified in a district, or special land uses or conditions or whatever the criteria are, then you can certainly look to amend that and is certainly available to your through the public process.

He went on to say that the planning tools are absolutely very comprehensive, especially the ones that have been updated in the last five years. They're going through a Master Plan Update right now that you've already been through a review of your own. What's likely to happen after the Master Plan is updated and approved by the Planning Commission, a typical subsequent step to that is to do an audit of your zoning ordinance in case there's something in updating your Master Plan you want to change the rules changing your zoning ordinance.

ADJOURNMENT

MOTION by Waun, supported by Perrot, to adjourn the meeting.
Motion carried, all ayes.

The meeting was adjourned at 9:37 p.m.

Respectfully submitted,

Secretary