

**MINUTES
CITY OF FARMINGTON HILLS
PLANNING COMMISSION PUBLIC HEARING/REGULAR MEETING
CITY COUNCIL CHAMBER
31555 11 MILE ROAD, FARMINGTON HILLS MI
February 12, 2015**

Chair Topper called the Planning Commission meeting to order at 7:30 p.m. on February 12, 2015.

Commissioners Present: Blizman, Fleischhacker, Mantey, McRae, Rae-O'Donnell, Stimson, Topper, Schwartz

Commissioners Absent: Orr

Others Present: Staff Planner Stec, Staff Engineer Gushard, City Attorney Schultz, Planning Consultants Arroyo and Stirling

APPROVAL OF AGENDA

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

Motion carried unanimously.

PUBLIC HEARING:

A. ZONING REQUEST 4-10-2014

LOCATION:	North side of Thirteen Mile Rd., west of Orchard Lake Rd.
PARCEL I.D.:	Part of 22-23-03-477-058
PROPOSAL:	Rezone parcel currently zoned B-2, Community Business District to B-3, General Business District
ACTION REQUESTED:	Recommendation to City Council
APPLICANT:	Arie Liebovitz, Ari-El Enterprises, Inc.
OWNER:	Farmington Commons, LLC

Applicant Arie Liebovitz, Ari-El Enterprises, Inc., 29355 Northwestern Highway, Southfield MI., spoke on behalf of this zoning request. Mr. Liebovitz noted that he had been before the Planning Commission [on December 18, 2014] for a public hearing, and at that time the request had been adjourned [to January 15 2015] in order to provide further information. Mr. Liebovitz had requested the January hearing be postponed until tonight in order to gather the requested data, especially regarding parking.

Mr. Liebovitz said that they currently had 157 parking spaces exclusively committed for the use of the shopping center that included Advanced Auto, Gordon Food Service, and Love Salon. Under current use calculations they needed 106 parking spaces, based on the long-term 10-15 year leases for Gordon Food and Advanced Auto. This left 51 parking spaces to spare.

Mr. Liebovitz continued that the proposed rezoning for the site anticipated a freestanding drive-thru facility. Based on calculations standard to the industry, parking needs would not exceed the 51 parking spaces available. At the previous meeting the question was asked if this kind of development could happen without requiring variances. Mr. Liebovitz' answer was that it could happen. While they did not yet have a specific user, any potential user would have to comply with the ordinance in

order to get site plan approval.

Mr. Liebovitz pointed out that previously this center was occupied by CVS Drugstore and ABC Warehouse, which were more intense users of parking than the current users, and there were no issues at that time. Current use was significantly less. Current tenants represented long-term commitments by national companies.

Mr. Liebovitz said that he hoped he had addressed questions previously raised by the Planning Commission and was available to answer any questions the Commission might have.

Commissioner Schwartz asked how much parking was needed to service a user such as Tim Horton's or McDonalds. Mr. Liebovitz replied that typically a drive-thru coffee shop would construct an 1800-2000 square foot building. They were not seeking a McDonalds type establishment. Typically the ratio for usable to gross was 60-65%, sometimes even 50%. Based on 30 square feet per car, the site would need to provide space for approximately 43 cars; the site had space for 51 cars after the building was constructed.

Chair Topper invited Planning Consultant Arroyo to give his review.

Utilizing overhead slides labeled *Zoning, Master Plan* and *Existing Land Use*, Planning Consultant Arroyo gave the location and general surrounding zoning for this rezoning request. The property was located on the north side of Thirteen Mile Road and west of Orchard Lake Road. The Master Plan for Future Land Use designated the subject property as *Shopping Center Type Business*. Mr. Arroyo noted the small offices located to the west in an OS-1 zoning district, and single-family cluster abutting the northwest area of the entire site. B-2 zoning was directly north and south of the site, B-3 to the east and southeast of the site.

Planning Consultant Arroyo noted that the Planning Commission had asked for additional information regarding parking on the site. His review letter of February 3, 2015 addressed the entire Farmington Commons property including the north portion that was under separate ownership. His February 9, 2015 review letter addressed only the portion of the property under the control of the applicant.

Planning Consultant Arroyo explained that parking was based on usable floor area. Current users were using a fairly small percentage of total floor area, with Gordon Food Service at 58% and Advanced Auto at 32%. A typical retail establishment had more floor area than would be considered usable, with the standard being closer to 75%. Using a historical parking layout submitted by Allied Supermarkets in 1983 and recent aerials, Planning Consultant Arroyo said there were 155 parking spaces after eliminating those spaces that crossed the property line to the north. If the future "pad site" were removed, there were still 119 spaces remaining, so that in theory there would remain adequate parking spaces as long as the current uses remained. If the uses should change to a more typical 75% of gross floor area, combined with the existing nail salon, the shopping center would require 139 parking spaces. The existing site had sufficient parking to support this scenario; however it would be deficient if the future "pad site" were removed.

Chair Topper asked for clarification regarding the future, more traditional scenario. Commissioner McRae said it would be the responsibility of the leaseholder to find clients that fit into the existing site plan. Staff Planner Stec added that the City would always evaluate any new use for parking requirements. If a new use were deficient, that would be dealt with at that time.

For the sake of the television audience, Commissioner Blizman asked for a summary of why the Applicant was seeking a change in the zoning classification for this parcel. Staff Planner Stec explained that the property was currently zoned B-2, a less intense commercial district than the B-3 District, the district being requested. B-3 permitted drive-thru businesses including restaurants; B-2 zoning did not permit this use.

Chair Topper opened the public hearing.

Ryan Sytsma, Gordon Food Service, 29555 Orchard Lake Road, Farmington Hills MI 48334, said that they welcomed a new business such as had been described by Mr. Liebovitz. The only concern he had was ensuring that discussion was held regarding truck circulation on the site, because the north curb needed enough space and clearance so that their trailer tractor could back up into the loading dock.

Seeing that there was no more public comment, Chair Topper closed the public hearing and invited Mr. Liebovitz to address the concern mentioned.

Mr. Liebovitz said that they had ongoing dialogue with Gordon Food Service, and Gordon Food had approved them being able to do what they were proposing to do. Their lease had some restrictions regarding the landlord not being able to infringe upon their ability, visibility and so forth. When a user was in hand and a site plan presented for approval, all these things would be taken into consideration. They were obligated under the lease, and it made good business sense, to take care of Gordon Food Service.

Commissioner Blizman asked Staff Planner Stec if the issue of truck entry and exit would be addressed at a future site plan review. Mr. Stec confirmed that this would be done.

Commissioner Schwartz pointed out on the aerial the alley access that trucks had by utilizing Bond Street as an entrance or exit point. He did not consider loading and unloading on the site to be an issue. He pointed out that his office was next door to this site, and the parking lot in the subject area was often empty. The choice was whether or not the City allowed this property to be developed or whether it sat empty indefinitely as a piece of asphalt that was rarely used even for parking.

MOTION by Schwartz, support by Rae-O'Donnell, that the Planning Commission recommend to the City Council that Zoning Request No. 4-10-2014, petitioned by Arie Leibovitz of Ari-El Enterprises, Inc., to rezone land from the B-2, Community Business District to the B-3, General Business District be approved for the following reason:

Although representing a change in the Master Plan for Future Land Use, the proposed district

- a. Would be compatible with existing or future uses in the area.**
- b. Would not have a negative impact on the policies or goals of the Master Plan.**
- c. Would further the objectives, goals or policies of the Master Plan.**

Motion carried unanimously (Orr absent).

B. ZONING TEXT AMENDMENT 4, 2014

CHAPTER OF CODE: 34, Zoning Chapter
REQUEST: Amend the Zoning Ordinance to include limited Office Uses in RC, Multiple Family Residential District
ACTION REQUESTED: Set for Planning Commission Public Hearing
SECTION: 34.3.1.11
APPLICANT: Jonathan Brateman

Jonathon Brateman, 40015 Grand River, Suite 105, Novi, MI was present on behalf of this request.

Chair Topper explained that the subject parcel had received a use variance from the Zoning Board of Appeals (ZBA), and that Mr. Brateman was requesting a zoning text amendment, previously heard on November 20, 2014.

Mr. Brateman said that when they had started this process in October they had been unsure whether to ask for a text amendment change or a use variance, because there were issues that were applicable to both. They had come before the Planning Commission in November 2014 requesting a zoning text amendment change. The Commission had referred them to the Zoning Board of Appeals to ask for a use variance, and they had appeared before the ZBA on January 13, 2015. The ZBA did grant a use variance for office use but there were conditions associated with that and also the circumstances associated with the property had changed.

Mr. Brateman said that at the time they went before the ZBA, he had a buyer for the property that wanted to use it as a property management office. However, the buyer needed to expand the building, which had some functional obsolescence. The bathroom was tiny; the one-owner structure was old, built in 1955 with some additions since then. The world around this home had dramatically changed since it was built. Mr. Brateman displayed three large picture boards showing aerial maps of the area at different times since the building's construction. The 5-2 motion by the ZBA allowed office use in the existing structure only. The proposed buyer at the time could not use the building just as an existing structure, nor did the buyer think it could be marketed in the future under that restriction. Now the property was back on the market, and prospective users seemed to be all medical users. Medical use was not addressed by the ZBA motion; the use was limited to general office only.

Mr. Brateman said that as a result of the ZBA action, they could have general office use in the building, but they were limited to a building that was functionally obsolete. Also, the market had changed, and now he had a prospective buyer who wanted a pediatrics office in the building, something that would benefit the families who lived in the area.

Mr. Brateman addressed the issue of a zoning text amendment generally. Using the Ten Commandments as illustrative examples, he pointed out that even this holy language was open to subjective interpretation in specific circumstances. If you could find a variance from holy text, then even more so could you look at a zoning ordinance that was written by people and find a way to address specific situations that might not have been envisioned when the ordinance was written. The ordinance did offer a catchall phrase: "additional kinds of buildings" that could also be applied. The intent of the ordinance was to prohibit large office buildings in this zoning district; tonight's request applied to

- 1) 1,400 square foot structure that might be modified to no greater than 4,000 square feet.
- 2) At the end of the day they wanted to be able to service the community that was there. A small medical office could do that.

Mr. Brateman said that he had asked for a minimal number of uses within a tight range of what could be done. There were only a handful of properties that this zoning text amendment could apply to. They were not opening a door to wholesale change. He was asking that *medical* be added to the short list of office uses permitted, and he reviewed the zoning text amendment generally:

- *The total size of the parcel is not greater than 0.63 acres*
- *The total size of all structures is not greater than 4000 square feet*
- *The offices are for the following occupations insurance office, real estate brokerage or management office, attorney's office, accounting office, business consulting.*
- *No more than 15 car parking in the parking lot*
- *Exterior Signage shall be limited to 20 square feet per side, 2 sides total.*
- *The RC-2 property must be on a major street (e.g. 12 Mile Road or any other Mile Road or street with more than 25,000 cars per 24 hour period). This point is included to select for locations in which this type of business's impact on the neighborhood is negligible.*

Mr. Brateman pointed out that this zoning text amendment asked for some things not granted by the ZBA variance: a larger structure, exterior signage, and also, as he said, he was now asking for medical to be added in, if possible. The last point of the proposed text amendment was key, as this home could no longer be marketed as a single family home. When the home was built it was out in the middle of nowhere; now the "everywhere" had come to this parcel.

Commissioner McRae asked the listing price of the house. Mr. Brateman said that while he was happy to give this information he did not believe the listing price was a factor in this request. They had reduced the price from \$180,000 to \$169,000; they would probably accept an offer at \$160,000.

Chair Topper invited Planning Consultant Arroyo to give his review.

Planning Consultant Arroyo said that not much had changed in the way of findings for this request since the November 20, 2014 meeting. Referring to his February 3, 2015 review letter, Mr. Arroyo summarized the *Issues to Consider for a Zoning Text Amendment*, and also reviewed the recent Zoning Board of Appeals action, which now allowed for office use on the subject parcel, with conditions.

Regarding *Issues to Consider for a Zoning Text Amendment*, Planning Consultant Arroyo said that the proposed amendment did not correct an error in the ordinance, did not clarify the intent of the ordinance, had not provided any substantive findings or documentation to support this proposed text amendment or to show that the amendment would protect the health and safety of the public, protect public and private investment in the City, or promote implementation of the goals and policies of the Master Plan/Sub-area Plans, and enhance the overall quality of life in Farmington Hills.

In response to a request from Chair Topper, Staff Planner Stec said the use variance granted by the ZBA specifically permitted office uses that related to what was requested at that time including: insurance office, real estate brokerage or management office, attorney's office, accounting office, business consulting, executive, administrative, professional, writing, clerical, stenographic, draft and sales of a non-commercial nature and excluding showrooms. Medical use was not included in this language.

In response to a question from Commissioner Rae-O'Donnell, Staff Planner Stec said that medical use would be permitted in all of the OS, B, IRO and LI Districts.

Commissioner Schwartz asked how many RC-2 Districts were in the City. Staff Planner Stec said it would take just a moment to find this information.

Commissioner Schwartz asked if a zoning text amendment could be written so tightly as to forever only apply to one parcel. City Attorney Schultz said the City was permitted to do this; however it was not typical.

Chair Topper opened the public hearing. Seeing that there was no one wishing to comment, Chair Topper closed the public hearing.

Commissioner Schwartz asked Mr. Brateman if he had requested that the ZBA grant a medical office use. Mr. Brateman said he had not. At that time he had what he felt was an ideal buyer who then walked away because of the limitation on using the existing structure only.

Mr. Brateman noted that there were OS Districts within “eye-shot” of the subject parcel and they were not asking for something that was incompatible with the neighborhood. At Chair Topper’s request, Mr. Brateman reviewed the zoning classifications of surrounding properties. He pointed out that the goal of the RC-2 district was for multi-family housing, which was impossible on the small parcel being discussed this evening.

Commissioner Blizman asked what the most restrictive Office District was in the City that might fit this site. Planning Consultant Arroyo said that would be the OS-1 District. Commissioner Blizman said he was very reluctant to change the RC-2 Ordinance. Perhaps given the situation, he might not be opposed to rezoning the parcel to OS-1.

In response to a question from Chair Topper, City Attorney Schultz said that the applicant could return to the ZBA for a further variance to include *medical* in the permitted uses. Chair Topper said this made more sense to her, especially as the property had not been on the market very long.

Commissioner Fleischhacker agreed. He was concerned about the impact of changing the text of the ordinance for this single parcel. Additionally he thought that at the time the apartment/condo complexes were built, developers had tried to purchase the subject parcel.

Commissioner McRae said that while he could not predict what the ZBA would or would not do, he thought the January 13 2015 ZBA minutes demonstrated that the ZBA Board had been open to changing the uses that evening, and if they had been asked for medical, they might have granted it. They were not asked. The minutes were also clear that the ZBA Board was reluctant to change the size of the building. Commissioner McRae continued that real estate was all about price; perhaps the price needed to be reduced further.

Commissioner Fleischhacker said that he was not sure any new construction could meet current setback requirements; allowing such a proposal to go forward might necessitate another application to the ZBA for setback variances.

In response to the earlier question by Commissioner Schwartz, Staff Planner Stec displayed an aerial Zoning map, and pointed out the RC-2 Districts in the City.

Chair Topper indicated she was ready for a motion.

MOTION by Rae-O'Donnell, support by Fleischhacker, that the Planning Commission recommend to the City Council that Zoning Text Amendment No. 4, 2014, petitioned by Jonathon Brateman, proposed Zoning Ordinance Amendment to permit Office Uses, subject to certain conditions, within the RC-2, Multiple Family Residential District, be denied, because there were other avenues for the Applicant to pursue, including returning to the ZBA.

Motion carried unanimously (Orr absent).

C. PUD PLAN 1, 2014

LOCATION:	33045 Hamilton Court
PARCEL I.D.:	22-23-15-101-035
PROPOSAL:	Planned Unit Development Plan, for three (3) hotels in OS-4, Office Research District
ACTION REQUESTED:	Recommendation to City Council
APPLICANT:	Scott Bowers of Bowers & Associates
OWNER:	Hamilton Court Development, LLC

Scott Bowers, Bowers and Associates Architects, 2400 South Huron Parkway, Ann Arbor MI, spoke on behalf of this PUD request. Mr. Bowers explained that he would review issues discussed at the December 18, 2014 Planning Commission public hearing. He noted that they had met with City staff and consultants, and he felt they had resolved the most pressing items. Utilizing a schematic on a large board, Mr. Bowers presented the following:

- All the heights were corrected and consistent on all the submitted documents. Other cleanup had been done on the documents, to ensure that they all were consistent with each other.
- Regarding Hamilton Court signage, this was now shown on the drawing, with measurements, including height, shown and with space also shown for additional existing business names to be listed. As a result of working with the City's traffic engineer, and because the sign was in the right-of-way, the sign was now a breakaway sign instead of more permanent masonry construction. The sign might have to be moved to one side or the other because of a utility easement at that location.
- Landscaping trees had been added down the boulevard; deadwood would be removed.
- Sidewalk with lighting was being provided. Originally they had planned on lighting that area from their site, but since talking with the City's traffic engineer they were working on an arrangement with DTE and the City for DTE to place the poles in this right-of-way location. The applicants would work out the utility payment on an annual basis with the City.
- Dimensions had been added to interior wayfinding signs: 30" x 30". They were still deciding whether to put brand names or a more generic title on the signs (to restaurants, shopping, etc.). Mr. Bowers pointed out where these wayfinding signs would be located.
- The pedestrian pathways also showed the location of pedestrian benches and amenities within the pedestrian area.
- The buildings had been updated to include premium materials, including glass, stone, masonry, etc.
- Details had been added to all screen walls around dumpsters, mechanical areas and generators; these were all masonry.
- Each hotel would have a 9'x14' loading area as required.
- The landscape plan had been updated to show the trees to be removed. They were planting 303

- trees; only 224 trees were required.
- They did have an easement to Farmington Road. After meeting with the City's engineers, they discovered that their original plans regarding improving this easement for public access needed to be removed, as the easement agreement did not permit this to be used by the general public. Until they knew differently, plans for allowing public access from Farmington Road needed to be discarded.

Mr. Bowers reviewed the list of benefits resulting from this PUD plan. These had been listed at the December meeting, and remained more or less unchanged. The applicants believed that the proposed development would enhance the entire area, including the shopping area across Twelve Mile Road. They were presenting a good, stable product for this particular site that would attract more people though the use of pedestrian pathways through the site, and which would reach to Twelve Mile Road. They were going for LEEDS standards via their site design and building construction.

Mr. Bowers pointed out that they were demolishing a dilapidated, blighted building. Additionally they had talked with the Fire Department regarding controlled fire exercises being held at this building prior to demolition.

Mr. Bowers said that they did complete their traffic study and the City's traffic engineer had reviewed this. The engineer did have a couple of tweaks that he wanted to review, and a meeting had occurred regarding this yesterday.

Regarding maintaining the right-of-way along the freeway, they had put in their application for a permit to do this with MDOT. Completing this permit process would take about three months, but all indications were that the permit would be granted. They had received letters back from MDOT regarding receipt of the application and with instructions as to how the right-of-way needed to be maintained.

Regarding extending a sidewalk south along Farmington Road to the overpass, and then providing some access to cross Farmington Road at that location, Mr. Bowers said that after much discussion they had decided they could provide an easement for a future overpass for pedestrians on the east side, but to provide a sidewalk and a cross over by the bridge under current circumstances would be detrimental to the people who were using it. Therefore this was not shown on the plan but they were not opposed to placing an easement for some future construction.

Mr. Bowers said that the City had requested an easement for access to a water meter vault; the applicants were not opposed to granting this easement and this could be written into the PUD agreement.

Mr. Bowers continued that they had cleaned up requests that represented deviations from the original zoning district. They had outdoor seating areas for each of the buildings. All the mechanicals on the roofs were screened and would be part of the PUD agreement.

Mr. Bowers concluded his remarks.

Commissioner McRae referred to two letters in the Commissioners' packets. One was from Level One Bank indicating that they were comfortable with entering into an agreement for mutual access for cars. The second letter [from Jerry Troskey, AJT Properties, Inc.] was a little more concerning in that it dealt with the easement. Commissioner McRae noted that the plans would no longer show a

connection from the cul-de-sac on the west to the easement, but it seemed like it would not take long for drivers to discover that the easement existed and use it to bypass the corner of Twelve Mile and Farmington Roads.

Commissioner McRae asked, based on the tone of the second letter, if the parties involved were not able to come to some agreement and if the western access to Farmington Road – hypothetically - was no longer there, was the entire project in jeopardy?

Mr. Bowers said the simple answer was no, the project would not be put in jeopardy. Meetings with the project engineers and the City's traffic engineer had resulted in discussions regarding having a single entrance for the project off of Twelve Mile Road. This might require some sort of geometric change at that entrance that included right-hand de-acceleration and acceleration lanes.

Commissioner McRae noted that the plan in front of the Commission this evening showed the easement to Farmington Road and that was the plan they would vote on tonight. He wanted to make sure that if by any chance that easement did not exist the project could still go forward, and that the easement was not the lynchpin for the entire development. The Commission could not adjudicate this conflict, and he wanted assurances of an acceptable alternative should the courts decide, for instance, that the easement did not exist. If the solution was to add accel/decel lanes, the plan would have to return to the Planning Commission, and while this might be a minor change, he was just trying to look down the road a little bit.

Mr. Bowers affirmed that the Farmington Road easement was not the lynchpin for the project; that improvements to the Twelve Mile Road entrance would resolve the issue, if necessary.

Neil Silver, 2701 Troy Center Drive, Troy MI, and attorney for Hamilton Development, LLC, said he had the easement agreement in front of him and he interpreted it to mean the access existed as long as "that property needed access to Farmington Road," whether it had been used or not. He felt the easement was granted to anyone who wanted to come to the former Alexander Hamilton building, not just employees and people who worked there. The easement had not been terminated and was still recorded: it was of record. The land could not be adversely possessed as you could not adversely possess something on your own property. In this case the easement existed on the land of the person who was claiming adverse possession.

Mr. Silver continued that they also did not want people cutting through just for the purpose of avoiding the nearby intersection but it was difficult to stop people from this kind of trespass. Mr. Silver understood Mr. Troskey's concerns. However, it was important to understand that most people finding their hotels would be directed by Mapquest to exit from Orchard Lake and 696, and to enter using Hamilton Boulevard.

Commissioner McRae said that he was not thinking that hotel users would use the cut-through so much as people who lived and worked in the area.

At the request of Chair Topper, Staff Engineer Gushard addressed the easement and other issues. Staff Engineer Gushard said that the City's traffic engineer had reviewed the traffic study and had met with the applicant's traffic engineer this week. The City's traffic engineer had requested some additional clarification on a few items and as a result some revisions were being made. The current study did indicate that there would be access to Twelve Mile and to Farmington Road. One of the revisions requested was to provide an impact study if the access to Farmington Road was not

permitted just to see what type of geometric changes might be required along Twelve Mile.

Commissioner Stimson referred to Item 4 in the February 9, 2015 memo from Engineering, which stated that the easement was only for Lot #9, and that the easement would have to be expanded for the entire property.

City Attorney Schultz clarified that the applicant's entire parcel was Lot #9.

Commissioner Fleischhacker was concerned that without the access to Farmington Road, the traffic light at Twelve Mile and Farmington Road would have a hard time handling the increased traffic. The traffic backup in the mornings was horrible. Adding to the traffic going out onto Twelve Mile Road at Hamilton would be a major impact on an intersection that could not handle the traffic that was already there.

Commissioner Stimson noted that already there were a significant number of drivers cutting through the Quakertown complex; this would be intensified if there were no easement. Already it was dangerous with the number of people cutting through; increasing that 25% or 50% more was unacceptable. There had to be an access to Farmington Road.

Mr. Silver said that they had an easement to Farmington Road. The easement was recorded and had never been terminated. They just could not improve it as planned; they could not pave it or do anything to it except go in and out of it. He compared the proposed development to when the Alexander Hamilton building was fully occupied and there were people coming in and out between 8:00 and 5:00 vs. the non-peak time when people go in and out to hotels. The present development was an improvement over that earlier period, and was probably better in terms of traffic than if another office building would be built or the Alexander Hamilton building reoccupied.

Commissioner Stimson noted that when Alexander Hamilton was occupied the easement was used and was not chained off as it was presently. Now everyone was going through the Quakertown complex.

Commissioner McRae asked, if the applicants' position was accurate and the easement did exist, would there be signage that said: *To Farmington Road*?

Mr. Bowers said there would be this signage on their property as part of their wayfinding signs.

Mr. Bowers concluded his remarks, and Chair Topper invited Planning Consultant Arroyo to give his review.

Planning Consultant Arroyo said that they were pleased with many of the changes that had occurred since the last meeting in December. Utilizing overhead slides and aerials, and referring to his review letter of February 6, 2015, Planning Consultant Arroyo made the following points:

- The traffic study had already been discussed this evening.
- Regarding the letter from Level One Bank that referenced shared parking, formal documentation would need to be submitted and reviewed by the City Attorney.
- The connection to Farmington Road had also already been discussed.
- Regarding the location of streetscape and pedestrian fixtures, it appeared that the site plan had been supplemented to include all that, and this could be approved administratively.
- There were a few comments in the review letter dealing with minor landscape plan changes, the

lighting plan, loading and unloading area requirements for Hotel 3, and roof-top mechanical equipment. These were all minor items that could be addressed administratively.

Planning Consultant Arroyo had also included, in response to Planning Commission comments, community benefits and/or qualifiers for using the PUD option; these had been discussed by Mr. Bowers.

Planning Consultant Arroyo reviewed process (items 3-5 of the review letter) in terms of ordinance requirements, emphasizing that the Planning Commission would report its findings, based on specific ordinance criteria, and make its recommendations to the City Council. If the City Council took positive action, the PUD agreement would be reviewed by the City Attorney for further action by City Council, and site and open space plans for the project area would be submitted to the Planning Department for review by the Planning Commission.

Planning Consultant Arroyo referred the Commission to page 4 of his review letter where a chart listed all the ordinance requirements, with deviations – things the applicants were requesting as part of the PUD process – listed in bold print. The PUD included requests for deviations from the open space requirement, sign requirements for both identification and wayfinding signs (information had been submitted for this), and lighting issues. He noted that the pedestrian connection to Twelve Mile Road was a substantial improvement. The applicant would be working with DTE as described, and there were decorative features associated with the proposed lighting. The landscape plan had a few other minor issues, already mentioned, and these could be addressed administratively. The appropriate tree removal permit had been submitted with all required information regarding replacements.

Chair Topper opened the public hearing.

Jerry Trosky, AJT Properties, 27500 Farmington Road, Farmington Hills MI, referred to his February 10, 2015 letter to the Planning Commission. He highlighted the following:

- The easement discussed this evening went through his property. If that was opened up, it would be used not only by hotel patrons but also by all the workers and owners of the office buildings within this area. There were multiple two and three story office buildings there. Local residents would also be cutting through, as already noted.
- Mr. Trosky was deeply concerned about the safety of his employees and customers. He had an insurance agency at this location and customer traffic was constant.
- The situation regarding the upkeep of his parking lot had never been addressed. About five years ago roadwork was done at Farmington and Twelve Mile. A big truck used their property as a turnaround, and left gigantic holes in his property. When Mr. Trosky complained to the City the company came back out and threw asphalt at the holes, and the next year Mr. Trosky spent \$50,000 to redo the parking lot.
- Mr. Trosky said that he believed the easement had been terminated under its own provisions. The Alexander Hamilton Life Insurance Company abandoned the easement in 1997 when the moved out. The easement agreement read that it shall continue “*until it is no longer necessary and required for ingress and egress to and from Farmington Road, after which the Easement shall cease and shall come to an end.*” Mr. Trosky said the easement had not been used since 1997 because at that time he put a chain link guard across the easement and posted signs that identified it as *private property, no through traffic*. The easement had not been used since that time, and it was Mr. Trosky’s contention that the easement agreement terminated itself by its own provisions.

- Regardless of how the easement was interpreted, Mr. Trosky felt he had complete control of the property due to the concept of adverse possession. He quoted from a Wikipedia section entitled “*Adverse possession of easements*” to justify this claim.
- Mr. Trosky said he had received a phone call from Ken Koza, the owner of Hamilton Court development, today. Mr. Koza wanted Mr. Trosky to remove the barrier. Mr. Trosky refused, and Mr. Koza said if Mr. Trosky didn’t do it, he would do it for him. While Mr. Trosky didn’t want this to move to a court battle, he didn’t know how the Commission could contemplate approving the idea of this easement when it was going to be the subject of legal challenge. The best solution would be for the applicants to pursue the improvements to the Twelve Mile Road entrance at Hamilton Boulevard.

Hannan Lis, 28555 Orchard Lake Road, Suite 100, Farmington Hills MI 48334, said that he was one of the owners of two of the properties that were right across the street from this proposed development, the QDP office buildings at 32985 and 32969 Hamilton Court. His partner Brian Kepes could not be here this evening. They had been complaining about the subject property for a long time, in terms of the blight that had direct adverse impact on their property and the rest of the properties in the area. As property owners in the area, they would like for the Alexander Hamilton building to be gone and the area to be improved, but they did have concerns about this plan. They also had continuing concern about the blight. In spite of the consent agreement to bring the building down that was reached three years ago, the building was still standing and becoming a larger source of blight. They were just as eager as anyone else to have the blight removed. However, they had a list of issues that they felt needed to be addressed:

- During the last Farmington Hills Master Plan update the general Quakertown area was identified as an area that warranted additional study, yet this study had never happened. The proposed project seemed like a huge change in use that was occurring without any study being done of what was the best for the area. It would be best to study the overall area rather than look at one type of use for one parcel from one developer.
- The proposed development was not in compliance with the existing deed restrictions that encumbered all other properties in the area:
 - Front yard setbacks had been exceeded and violated.
 - Buildings were in excess of 40-foot height limitations.
 - Building materials differed and were inferior to the standards that were established.
 - All operations according to the deed restrictions were to be carried on in a fully enclosed area; the proposed development contained exterior operations to all the buildings including the restaurant.
- The proposed building and uses were not harmonious with adjacent property owners.
- The plan was not being presented for approval to any of the property owners within the association or to the association as a group. Association members had not known much about the details of this plan until it was presented late last year.
- The proposed signage was not agreed to by the office center or the property owners.
- The traffic study was completed during a time of heavy snow. Businesses and schools were closed due to the weather and there was a serious decrease in traffic during this time.
- Farmington Road traffic in terms of visibility was currently extremely poor during morning and evening rush hours. The suggested Farmington Road access – regardless of concerns about whether the easement existed or not – could not adequately handle the volume of traffic that would utilize the access point. Additional barriers would need to be created to prevent access through other properties, including property controlled by Mr. Lis’ partner, which was adjoining the property that had the easement. Mr. Lis and his partner were very concerned

- regarding the issue of the easement, and the traffic that would be created that would also affect neighboring properties on Farmington Road. The Social Security building was also not built for through traffic, and pedestrians crossed the parking lot constantly.
- Regarding Twelve Mile Road, traffic often backed up all the way from the Twelve Mile and Farmington Road corner.
 - Additional traffic created by this proposed development would increase the risk to the community in terms of health, safety and welfare issues, especially due the poor visibility at the Farmington Road access point for traffic proceeding northbound due to restricted visibility because of the topography created by the freeway overpass.
 - One justification given for this project was that it would rid the community of blight. In fact, the City had condemned the building and there was a consent decree to bring the building down. It was supposed to have been demolished by the previous owner. Yet three years later the building was still standing.
 - Mr. Lis said they were eager to sit down with the developer and have a discussion regarding these issues. Their concerns were significant.

Dawn Macaddino, 39555 Orchard Hill Place, Suite 245, Novi MI, explained that she was the attorney for the owners of 27600, 27620, 26750 Farmington Road and 32985 and 32969 Hamilton Court. There was a representative of these building at the December Planning Commission meeting and the owner of those properties continues to have concerns about the viability of this project despite the further information presented tonight. They were not sure this mix of uses was consistent with the Master Plan. As already indicated there seemed to be direction for this entire area be considered as a whole and yet approval of this PUD was just the development of this one parcel without really considering its impact or compatibility with the rest of the area. This project introduced a whole new use inconsistent with what was already there. This project introduced bar, restaurant, overnight events, partying and so on. This created one-time users as opposed to the everyday, business and community person going to work and created a different regard for the use of the property, including nighttime use. It was just a completely different use than other uses in the area and they were concerned that this development was incompatible.

Ms. Macaddino said that traffic and parking was a big concern. The traffic study was not completed at an appropriate time and might not be reliable because of the existing weather conditions. Regarding parking, they were concerned with overflow that was hard to measure since the use hadn't been there before. They were concerned that parking might overflow to the adjacent properties and cause damage to the parking lots, and that littering and loitering may result.

Ms. Macaddino continued that whether the easement was recognized and used, either way it would create big problems for existing property owners. She represented properties that fronted both Farmington Road and Hamilton Court, so whichever way the easement was decided these properties would be affected. Regarding Farmington Road, drivers would quickly ascertain that there were cut-throughs through her client's property, including the new Social Security building.

Ms. Macaddino concluded that all these issues would have a very big impact on a somewhat small, delicate area. It was doubtful the benefits provided by this PUD outweighed the negative impact that would result.

Chair Topper acknowledged the letters received from Level One Bank and from Mr. Troskey of AJT Properties, Inc.

Chair Topper closed the public hearing.

Mr. Bowers and Mr. Silver addressed the concerns stated as follows:

Mr. Bowers said they did meet the setbacks of the neighborhood regulations, and in their opinion the materials met the builders' covenants as well. City regulations were also met. He felt they were doing a really good job of making this project harmonious with what was there and provide a new project and new development to this blighted building. They were committed to tearing down the building once they had approvals, and they would do that immediately. They had contracts underway for this that were waiting to be signed.

Regarding the easement, Mr. Silver said he was hearing it both ways. Neighboring properties didn't want them to use Hamilton Drive and they didn't want them to use the easement to Farmington Road. They needed to be able to use one of the two roads to get in and out of their property. The previous use was as intensive as the use they were proposing. They were trying to minimize traffic issues to the extent they could. Theirs was not a peak-hour use and would be less intrusive than if they had a nine-to-five office space.

With respect to the night activities mentioned, Mr. Silver said the Courtyard by Marriott was a high-end hotel. There would be no advertising for the bar there; this were considered an amenity only for those people who were staying in the hotel. There would be a small restaurant/bar area that would not be likely to draw people from the outside world. This would be a high-end amenity for those people who were staying at a \$200+ per night room.

Commissioner Rae-O'Donnell asked if the traffic study addressed just traffic on Twelve Mile Road if the easement on Farmington Road was not allowed. City Planner Stec said that was one of the specific things that the City wanted answered as well. This was a revision that they expected would be provided.

Noting that there was clearly a property dispute regarding the easement on Farmington Road, Commissioner Schwartz asked if there was any other way to access Farmington Road. Mr. Silver said there was no other way. In response to a further question from Chair Topper, Mr. Bowers said they were too close to the overpass to utilize the southern portion of the property to access Farmington Road.

Commissioner Schwartz asked for comment regarding the weather conditions during the traffic study. Mr. Bowers said that the traffic study did state that schools were closed due to weather and numbers from other days were reapplied to raise the traffic count as a result. That was one of the issues the City traffic engineer also raised, and they were going to present further data to the City. Several times when they went out they were having snow days and holidays. This time of year was a little difficult but they did utilize normal practice and add additional traffic counts to that intersection from what they had already done.

Commissioner Stimson noted that the project would take three years. What were the contingencies if the economy died? This project added a lot of hotel rooms to the City. What happened if they got through the first or second building and suddenly they realized that they were adding too much capacity to the City? What happened either in a downturn or if it was discovered they had more rooms than the City could support?

Mr. Silver replied that what they were doing this evening was lay out a PUD that allowed for three hotels. The first hotel was planned and underway and would go up. This was a stable company that owned numerous hotels throughout the State. They were not going to build a hotel and use their funds for something that was not going to succeed. This was a conceptual site plan PUD. They would build one hotel. They would also build two. If the market didn't sustain a third hotel they would not build a third.

Commissioner Stimson asked when the improvements and benefits to the City would occur. Mr. Bowers responded that those had to go in right away, with the first building.

At Chair Topper's request, City Attorney Schultz addressed the easement issue. He advised that neither he nor the Planning Commission could rule on the easement issue this evening – this was the function of the Court. For tonight's purposes, there was an easement and it was recorded. The applicants were maintaining a reasonable representation that they thought it was available. The plan showed the easement, and the Planning Commission should address the plan that they had in front of them this evening. One of two things would happen. The easement would either be there or not when it came time to build. If it was not there, someone in the City would have to determine if the plans had to come back to the Planning Commission. Alternatively, when the PUD went before the City Council and an agreement was drawn up, the agreement could deal in advance with what would happen if the easement was disallowed. By that time the traffic study revisions would be made, and the City Engineer would have a recommendation as to whether it was possible to go forward without the easement.

City Attorney Schultz concluded that the Commission had a plan in front of them this evening, and that was the plan that they should consider. If it turned out the applicants did not have the access as presented they would either have to return to the Planning Commission or it would be dealt with at the City Council level.

Chair Topper addressed the issue of whether the area had been studied by the Planning Commission; she thought it had been studied. She spoke to the benefits of having the blighted building demolished and something useful constructed in its place.

Commissioner Schwartz noted that if the issue of the easement was litigated it would be two to three years before resolution. The building on the subject site had been empty for some years and no office user had come forward to either use the building or construct a new one. The market was communicating that there was no market for office use at this location. No one else had come forward with a proposal for the site, and additional studies of the area would not give the City a developer. Commissioner Schwartz continued that most weddings and other nighttime activities would take place on weekends, when the surrounding office buildings were unoccupied. This did not seem to be a conflict to him.

Chair Topper said that she was ready to entertain a motion.

MOTION by Fleischhacker, support by McRae that the Planning Commission recommend to City Council that P.U.D. Plan No. 1, dated February 4, 2015, including Site and Landscape Plan, submitted by Scott Bowers of Bowers & Associates be approved subject to:

- 1) All items be resolved as set forth in the February 6, 2015 ClearZoning review letter**

- 2) **Final PUD Agreement approval by City Council**
- 3) **The site plan is revised to eliminate the direct access across the subject parcel to Hamilton Court from 27500 Farmington Road. The access must be rerouted to connect directly into the subject parcel.**
- 4) **The easement granting access to the subject property from Farmington Road across 27500 Farmington Road is legal and in effect until shown otherwise by either responsible party.**

Commissioner Blizman said that he would support the motion. This was a major blighted area that had been sitting undeveloped for some time, and this was the first proposal received that would demolish the blighted building and construct something new on the property. There were issues to be resolved dealing with the easement and with traffic, though the hotel traffic would most likely peak at different hours than the existing traffic in the area. The fact was this development would change the area, hopefully for the better. While he was not in favor of development for the sake of development, he could not see any significant negative impact to the neighboring buildings resulting from the proposed development. There would be brand new buildings and additional activity in the area, and in fact might very well enhance not only the subject parcel but the surrounding areas, encouraging redevelopment of close-by properties. Commissioner Blizman continued that he drove this area frequently and used the light at Hamilton Court when banking, or when going to lunch, etc., and he was able to utilize the light to get out of those locations and so could the other drivers at that location. Farmington Hills was not a city with insurmountable traffic problems. He thought this plan ought to move forward. There were issues to be resolved by the courts, by City Council, and regarding financing, but he thought the Planning Commission should move the P.U.D. forward.

Chair Topper said that if the motion carried, she encouraged Mr. Bowers and Mr. Silver to communicate and have discussions with their neighbors in the area.

Chair Topper called the motion.

Motion carried unanimously (Orr absent.)

Chair Topper closed the public hearing.

REGULAR HEARING:

A. LOT SPLIT 1, 2015 (Final)

LOCATION:	32356 Ten Mile Rd.
PARCEL I.D.:	22-23-22-451-006
PROPOSAL:	Split existing parcel into two (2) parcels in RA-1, One-Family Residential District
ACTION REQUESTED:	Approval of Land Division by Planning Commission
APPLICANT:	John and Marie Jeannette Mulheisen
OWNER:	John and Marie Jeannette Mulheisen

Utilizing overhead slides, Planning Consultant Stirling gave the location and background for this proposal. The property was located at the northeast corner of West 10 Mile Road and Power Road. The applicant was proposing to split a 40,800 square foot (0.93 acre) parcel into two separate parcels – Parcel A and Parcel B. As presented, Parcel A would maintain frontage on Power Road and Parcel

B was a corner lot with frontage on both West 10 Mile Road and Power Road.

The lot split would result in an equal division of the property with both Parcel A and Parcel B containing 20,400 square feet. This lot size was in compliance with the required minimum lot area of 18,000 square feet and the minimum average per subdivision of 20,000 square feet for the RA-1, One Family Residential District.

All the properties in Farmington Hills surrounding this parcel were also zoned RA-1. The City of Farmington was directly to the south.

Planning Consultant Stirling continued that the proposed land division would result in two 120 foot by 170 foot parcels. There was an existing single-family residential unit on Parcel B that covered approximately 2,056 square feet or 10% of the proposed parcel. The lots met the minimum 100-foot lot width requirement and fell under the maximum lot coverage of 35%.

Per Section 34-3.1.4.E, the front yard setback requirement was 40 feet, the side yard setback was 10 feet (25 feet total side yard), and rear yard setback was 35 feet. The existing structure on Parcel B appeared to meet the minimum requirement. However, there were some issues with labeling on the report that were noted in the review letter and needed to be corrected.

Planning Consultant Stirling explained that per Section 27-110(e) of the Subdivision of Land Ordinance, standards for compatibility with existing parcels for all new divisions shall apply:

- a) If any parcel did not meet zoning ordinance requirements, the request shall be denied by the Planning Commission.

Parcels A and B did comply with the minimum dimensional ordinance standards.

- b) Any partition or division shall be of such location, size and character that, in general, it would be compatible with the existing development in the area in which it was situated.

Proposed Parcel A and Parcel B were not compatible in area, width or depth with the parcels bounded by Power, Broadview, Dohany and West 10 Mile Roads.

Planning Consultant Stirling directed the Commissioners' attention to a table on page 2 of the review letter which showed all the acreage of the parcels in the area, the lot width and the lot depth. The smallest acreage in the area was .58; the applicant was proposing two parcels that were .47 acre. The smallest lot width was 102 feet; the applicant was proposing two parcels that were 120 and 170 feet wide, so this was not an issue. The average lot depth was quite deep, with a range of 340 feet to 600 feet. The applicant was proposing lot depths of 120 and 170 feet, smaller than anything in the area.

The averages for the area were 1.1745 acres, with a lot width of 133.2 feet and a lot depth of 416 feet.

Planning Consultant Stirling said that the requirements were that the Planning Commission should give consideration to the following:

- 1) The conformity of the resultant parcels with zoning ordinance standards and the creation of parcels compatible with surrounding lands as to area, width, and width-to-depth ratio.

The average lot area (1.17 acres) and the lot depth (416 feet) within the subject area were

more than twice the size of proposed Parcels A and B. The existing lot width was consistent with the majority of the lots in the subject area, although slightly lower than the average.

- 2) The orientation of the yards of proposed parcels in relationship to the yards of surrounding parcels in order to avoid incompatible relationships, such as but not limited to, front yards to rear yards.

The parcels to the north had an east-west orientation and the parcels to the east had a north-south orientation. Due to the significant difference in lot area and lot depth of the existing land development patterns and the proposed lot size, there was an incompatible relationship with the adjacent parcels.

- 3) The impact of any existing flood plains, wetlands, topography, or other natural features and physical conditions on the resulting parcels so that such parcels are compatible with other surrounding lands in terms of buildable area.

This did not appear to be an issue.

- 4) The relationship of the front, side, and rear yards to the yards and orientation of buildings on other existing and potential parcels. This shall include the probable orientation of buildings on the parcels resulting from the proposed division or partition.

Parcel B would maintain its general yard orientation consistent with the parcels to the east. However, the rear yard had been reduced from its current 230 feet to approximately 55 feet as measured to the principal building which was inconsistent with the parcel to the east. The resulting parcels were inconsistent with the existing lots front and rear yards and lot orientation.

Commissioner Schwartz said that he thought the concept for how this neighborhood was laid out with such huge back yards was perhaps obsolete. If this area was being developed right now, he wondered if they would approve lots as deep as these. Today's lifestyles did not seem to include spending all day Saturday riding a lawnmower. Related to that, did it matter that this parcel was on a corner so that if a driver on Ten Mile or Power Road saw a new house on the proposed split lot, would the driver really notice a difference with other homes in the neighborhood? Clearly when you look at all the lots, this one was different than the rest. Did the compatibility ordinance really make sense any more?

City Attorney Schultz said that the compatibility ordinance made sense in that it was part of the ordinance and the ordinance required the Commission to take it into consideration. Whether the ordinance language was still appropriate might be a fair question, but tonight the ordinance had to be followed.

Commissioner Mantey said that he lived on a large lot, and large lots had economic value. He did not think it made sense to wonder what would happen if the existing neighborhood with houses, yards and families was not there and what would be put there instead.

Commissioner Fleischhacker said that compatibility was added to lot splits in 1997 because the residents complained that lot splits had to be approved because they met the requirements of the zoning ordinance, yet the residents were very unhappy because lot splits were destroying the look of

their subdivisions and neighborhoods. Was Commissioner Schwartz was suggesting getting rid of the compatibility requirement?

Commissioner Schwartz said he wasn't suggesting getting rid of the compatibility requirement, but he was throwing out for discussion whether this size lot made sense and whether if it was on a corner made a difference.

Commissioner Fleischhacker said that the problem they had – and this was seen in other areas in the City before the compatibility ordinance was adopted – was that the Planning Commission ended up having to split lots, having to put roads back in and redeveloping a neighborhood internally and the residents were upset. That's why the compatibility ordinance was put in – lot splits were literally changing neighborhoods.

Chair Topper invited the applicants to speak.

Marie Jeannette Mulheisen and John Mulheisen, 32356 Ten Mile Road, owners of the subject parcel, were present to speak on behalf of this lot split request.

Mr. Mulheisen said he understood the discussion just held by the Commissioners. The only thing he thought was that there might be some exception because of the location of the lot. They were located on a corner, and the access to Parcel A would be off of Power Road. The split would not necessarily affect the whole subdivision as far as appearance, and a new attractive home would add to the neighborhood. Right now it was a lot that had a lot of trees on it. The grass got cut and that was fine but why not add to the neighborhood and bring in another family that could contribute to the area?

As there were no questions for the applicant, Chair Topper brought the matter back to the Commission.

Commissioner Blizman said that when the debate over the compatibility ordinance got drafted and City Council approved it, there was panic because large lots were being split and it was sometimes in the middle of subdivisions and it was very disruptive. He did not like the ordinance but it was part of the Code. At times he had voted against using it as a criteria for a decision, in other cases he thought that it was a useful tool, though he still didn't like it.

Commissioner Blizman recognized that this subdivision had all large lots. However, across Ten Mile Road, in the City of Farmington, there were smaller lots and smaller houses. Even with the lot split the resulting parcels were bigger than those lots. It was a corner lot and the new lot, if split, would face Power Road. He didn't think it impacted the neighbors to the east, west, north or south. He also didn't think it set a pattern for anything else. He was willing to support the lot split despite the compatibility ordinance because it was on the corner.

MOTION by Blizman, support by Schwartz, that Lot Split No. 1, 2015, submitted by John and Marie Jeannette Mulheisen 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 relate to adjoining parcels in a reasonable manner; and that the City Assessor be so notified.

Commissioner Mantey said that this was not an easy call either way. This lot split would create the smallest lot in the neighborhood directly adjacent to the largest lot in the neighborhood. It was on a

corner. He felt somewhat uncertain but he was going to vote against this motion.

Chair Topper said she would also vote against the motion. She appreciated the fact that it was a corner lot. However this lot was in the middle of very large parcels. She also acknowledged the smaller properties in the development in the City of Farmington to the south. However, she felt the proposed lot split was very much out of character with the predominant lots.

Commissioner Fleischhacker asked Commissioner Blizman if he remembered another proposal on Ten Mile Road reasonably close to this one where the proposal was to split a large lot into four smaller lots. In that instance the lot was split only in half, and not the four parcels requested. Commissioner Fleischhacker's concern was that if the City started down this path there were other parcels along Ten Mile Road that could be split and an access road constructed. The house that had 1.8 acres could end up with 5 different houses. This had been attempted in the past and the Planning Commission had denied it.

Commissioner Blizman said that he recollected a proposed project in the middle of a block, a street in from a major mile road. This would have been a division right in the middle of a subdivision. It was not approved because it was absurd to put it in the middle of a subdivision.

Commissioner Fleischhacker continued to express concern, as the lots in the subdivision being discussed this evening were deep enough to split and still meet ordinance requirements. The depth of the houses on Power Road could easily lend themselves to splitting and the construction of an access road from Power.

Chair Topper said that lot splits generally started somewhere and then continued throughout an area.

Commissioner Schwartz asked if an easement would be necessary to construct an access road. Commissioner Fleischhacker said that all it took was for a couple of neighbors to plan something together. An example of this was the subdivision off of Power Road north of Eleven Mile Road.

Chair Topper called the motion.

Motion failed 3-5 (Fleischhacker, Mantey, McRae, Stimson, Topper opposed; Orr absent).

Chair Topper asked for another motion.

MOTION by Fleischhacker, support by McRae that approval of Lot Split No. 1, 2015, submitted by John and Marie Jeannette Mulheisen be denied because the proposed Lot Split would result in lots that are not compatible to others in the area in overall area and the depth of the lot.

Motion carried 5-3 (Blizman, Schwartz, Rae-O'Donnell opposed; Orr absent).

APPROVAL OF MINUTES: January 8, 15, and 22, 2015

Motion by McRae, support Stimson, to approve the minutes of January 8, 15, and 22, 2015 as published.

Motion carried unanimously (Orr absent).

PUBLIC COMMENT: None.

COMMISSIONER'S COMMENTS:

Commissioner Mantey announced that there would be a ribbon cutting at his store *The Cheese Lady* in downtown Farmington at noon tomorrow, coordinated by the Farmington Area Chamber of Commerce. He noted that State House Representative Christina Greig had been especially helpful regarding obtaining the liquor license in a timely way – in fact this license was going to be hand delivered right before the ribbon cutting.

Commissioner Fleischhacker asked Staff Planner Stec to check as to whether there should have been site plan review for the new façade for the new Petco store just south of the 13 Mile and Orchard Lake intersection, on the west side. He pointed out that the façade now had an overhang that was sticking out further than it used to and also had been extended the entire length of the building, to include the old Direct Optical location. Staff Planner Stec said that this had not altered the footprint of the building; he would however make sure that the approvals had been handled appropriately.

Commissioner McRae addressed the neighborhood of the proposed lot split denied this evening. If enough neighbors got together and wanted to change to smaller lots or to redevelop the area, this would probably be possible. Then the compatibility ordinance would attach itself to the new lot dimensions.

Commissioner Blizman said that he had driven through the Orchard/Twelve Plaza this evening, and the parking lot was jammed because the new Craft Brew City was open. He expressed concern regarding the approved PUD, which might need to be changed, because there was no room for an additional building next to the bank there.

Commissioner Blizman also noted that he had skied with Commissioner Orr in Colorado since the last meeting, and Mr. Orr sent his regards.

Commissioner Schwartz said that at the last study session he was advised that Farmington Hills did not have an ordinance regarding snow removal from sidewalks. The rationale for this was that when property owners cleared their sidewalks and then someone slipped and fell the owner assumed liability. If the snow was not cleared no liability would result. Commissioner Schwartz thought this legal rationale was outdated. He requested that City Attorney Schultz research this issue. He thought that the Commission should have a serious discussion about this, especially regarding the idea that Farmington Hills wanted to be a walkable community, was spending money to expand sidewalks, and yet by policy the City had sidewalks that were impassable for four months of the year. Should this continue or should Farmington Hills require property owners to clear the snow from sidewalks within a reasonable time, as other cities did? Commissioner Schwartz had seen people walking down Twelve Mile and Thirteen Mile Roads because the sidewalks were impassable. Thirteen Mile Road had a high school and lots of kids walked from that location. The policy made no sense to him and he would like to have a discussion regarding this issue.

City Attorney Schultz said he would be happy to do this, if the Commission so directed.

Discussion followed. Chair Topper and Commissioner Blizman agreed that this was worth talking about. Commissioner Fleischhacker noted that the Planning Commission could not change the ordinance; this had to be done at the City Council level. Planning Consultant Arroyo pointed out that this was a “general law issue,” and not a Zoning Issue. Commissioner Schwartz said that as planners, the Commission listened to presentations regarding sidewalk improvements. The Planning Commission could raise this as a policy issue and ask City Council to revisit it. To him, this policy was inconsistent with a community that was trying to be more walkable. Commissioner Fleischhacker did not think the Planning Commission should spend time on this issue since it was out of their purview. Commissioner Mantey felt that the law regarding liability for cleared sidewalks had changed, and it was appropriate to ask City Council to look at this matter.

After further discussion and surveying the Commission, Chair Topper asked City Attorney Schultz to research this issue. Chair Topper asked that this be placed as the last item at a future study session.

Chair Topper asked Staff Planner Stec to follow up with Public Works regarding the disintegration of Twelve Mile Road [a county road].

The next meeting of the Planning Commission, a study session, was set for February 26.

ADJOURNMENT:

Hearing no further comment, Chair Topper adjourned the meeting at 10:01 p.m.

Respectfully submitted,

Steven Schwartz
Planning Commission Secretary

cem