

FARMINGTON PLANNING COMMISSION PROCEEDINGS  
23600 Liberty Street  
Farmington, Michigan  
April 11, 2022

Chairperson Majoros called the meeting to order in Council Chambers, 23600 Liberty Street, Farmington, Michigan, at 7:00 p.m. on Monday, April 11, 2022.

**ROLL CALL**

Present: Crutcher, Kmetzo, Majoros, Perrot, Westendorf  
Absent: Mantey, Waun  
A quorum of the Commission was present.

**OTHER OFFICIALS PRESENT:** Director Christiansen; Recording Secretary Murphy; Beth Saarela, City Attorney; Brian Golden, Director of Media Services; Brian Belesky, Audiovisual Specialist.

**APPROVAL OF AGENDA**

MOTION by Crutcher, seconded by Perrot, to approve the agenda.  
Motion carried, all ayes.

**APPROVAL OF ITEMS ON CONSENT AGENDA**

- A. February 14, 2022 Minutes
- B. March 14, 2022 Minutes

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

**SITE PLAN AMENDMENT/FAÇADE MODIFICATION – BELLACINO’S, 22424 ORCHARD LAKE ROAD**

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

Director Christiansen stated the City has received a site plan application for proposed modifications and improvements to the existing Bellacino’s located at 22424 Orchard Lake Road, which I think you might know as the former Dan’s Subs within the Grand River Corridor. The property is currently zoned C-2, Community Commercial, and is within the mixed use zone in the Grand River Corridor Overlay District. The Grand River Corridor Improvement Authority recommended approval of the submitted site plan and the proposed modifications and improvements for Bellacino’s at their April 7, 2022 meeting. Attached for your review and consideration is a copy of the site plan application and a proposed site plan submitted by the Applicant. The proposed modifications and improvements to the existing building and site improvements include an outdoor seating

City of Farmington Planning Commission

April 11, 2022

Page 2

area and building façade upgrade enhancements. This evening representing the owners of the property are the Applicant/Petitioner is Mr. Steve Schneemann, owner of S3 Architecture here in Farmington and they prepared the plans that you have this evening. So, with that, Mr. Chair, I do have materials here and I'll turn it back over to you and Mr. Schneemann can walk you through it.

Chairperson Majoros invited the Applicant to the podium.

Steve Schneemann, S3 Architects, came to the podium. He stated I am here tonight to talk about the outdoor seating and some minor façade improvements to the building that Bellacino's is currently in at Orchard Lake and Grand River. You can see on the screen and in your packet, I'll sort of point, the existing building here has got sort of a mansard roof. The owner actually owns another business in addition to Bellacino's, a hot dog place, so he would actually like to use a portion of the building using the same kitchen facilities for the hot dog business. There's an overhead door there right now so during the warmer months they would like to open up the door and then have the hot dog stand, if you will, back there, with outdoor dining. The outdoor dining would be available for use for anybody that's enjoying a hot dog or anybody that's enjoying Bellacino's product as well, pizza and subs. So this enclosed area takes up essentially two parking spaces, you can see that here and actually see the stripes of the two parking spaces it will take up. We're proposing a trellis at the southern portion of it which will provide a little shading and some delineation creating a nice hedge and actually a little bit of protection as well as some foundations and some wooden posts that would provide a little bit of protection for diners outside, proposing five tables, a total of 18 patrons outside. And we did the calculations and the bathroom counts with the additional patrons there. There's also some fencing that is being proposed to kind of delineate again, define that area with some flower boxes and then up on the building itself we're proposing to attach essentially a structure that carries the same language with what is being proposed with the fencing, the trellis on the building potentially with the Old English "D", with some signage and sort of tie it all together esthetically in kind of its own space. For right now we're not actually asking permission for the hot dog stand for the interior but it's really the outdoor seating and the small amount of improvements to the façade. I'll be happy to answer any questions.

Commissioner Perrot stated this seems to be pretty permanent, there's no plans to take this down in the winter to get the parking spaces or anything like that and Schneemann replied I believe that's the intent of the owner, I think the tables potentially and chairs will be brought in for the winter months but I think that is the intent of the owner.

Perrot stated in the staff packet it shows a parcel view of the neighborhood and to the immediate east or behind the building is a row of spaces that show as separate, is there any kind of access to that and Schneemann replied it's owned by the same owner, so we

City of Farmington Planning Commission

April 11, 2022

Page 3

are actually counting that as part of the required parking and based on the use of that parking as well as the remaining parking, they still meeting the parking requirements.

Christiansen stated on the screen right now and included in your staff packet is the current Bellacino's and the access to the site, the existing building and the parking in front, you can see the two spaces that are going to be utilized for the outdoor seating area. A second piece but it's also owned by the same owner and part of this overall property is this piece here, 22434, and you can see the array of parking there. So, both of these two properties have parking that supports Bellacino's and is sufficient to continue to meet the requirements and meet the needs of the restaurant.

Commission Crutcher asked if they were compliant with the parking requirements and Schneemann replied they would be compliant when you count the extra parking. Schneemann added I think the parking calculations that we did include not only the additional outdoor seating but if you'll notice in the plan, it listed two, maybe four seats in addition in that hot dog space on the inside and I believe it also included them.

Commissioner Westendorf stated the structure appears to have a trellis over one end of it and the rest of it is open is there any intent to cover that or at the moment it's just open and Schneemann replied it's open. I think the owner talked about doing umbrellas at the tables but right now there's no permanent structure that will be covering that area.

Crutcher said there's no gate into the structure, it's just open, and Schneemann replied there is no gate, just a gap and Crutcher stated so you're handicap accessible and Schneemann replied yes.

Majoros said I was just wondering for both Bellacino's and the proposed hot dog, there's no wait staff, it's more you purchase the food inside and it's just a place to sit basically, so it's not like a sit-down service restaurant, it's more just a nice place to sit outside and enjoy your food and Schneemann replied that's correct. My understanding is patrons will come in and order and then they go sit down with a soft drink or whatever and staff will bring food out to where they're sitting, but there is no table staff, that's true.

Majoros said the owner is comfortable because what you're doing now is potentially pushing a lot of pedestrian traffic into the flow of people parking, has there been discussion with them on that. If it were fenced off, to Commissioner Crutcher's point, if it was closed off you would have to go in the entrance and go in and out through there but now you have people kind of walking in, I'm assuming they're okay with it. Schneemann replied currently the way it's used there really is no dedicated pedestrian walkway, it's really just an asphalt parking lot so all of the pedestrians sort of funnel through there to traverse the parking lot regardless of which section of parking they're in, they're all using the asphalt. There is a public sidewalk along Orchard Lake Road but that's all there is.

Majoros stated I have one question for staff, how does this fit with outdoor seating and all the discussions we've been having about more permanent facilities, is this kind of beholden to the traditional Farmington definitions of outdoor seating and is more spring, summer, fall, or is this something that could also become a 365 a year or what's the rules here.

Christiansen replied the protocol that we put in place utilizing outdoor seating year round due to the Covid pandemic have now expired and so now the outdoor seating requirements allow for seasonal outdoor seating in Farmington from April 15<sup>th</sup> to October 31<sup>st</sup>. Permanent outdoor seating areas that have wait staff service require a site plan and review and approval of the Planning Commission. This is kind of a middle ground because this isn't like tables and chairs just outside that bring out outdoor seating other than for convenience for customers are brought back in. This is the next step of that because it's not table service and it's not a place where wait staff comes and it's not also a place that has both food and beverage. A lot of our outdoor seating along Grand River has food and alcoholic beverages and it's enclosed with gate, etc., etc., that's really the traditional. This is kind of a step back from that but it is a defined area, it is improvements to the site, it is intended to be a permanent structure and used seasonally which necessitates a review and recommendation because it is in the Grand River Corridor and it's been to the CIA and then to you for site plan review.

Chairperson Majoros called for a motion from the Commissioners.

MOTION by Crutcher, supported by Perrot, to approve the site plan amendment and façade modification for Bellacino's 22424 Orchard Lake Road, as presented.  
Motion carried, all ayes.

**SITE PLAN AMENDMENT/FAÇADE MODIFICATION – JILL'S GENUINE CARE PHARMACY, 23603 FARMINGTON ROAD**

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

Director Christiansen stated the City has been working with the new property owner, Jill's Genuine Care Pharmacy, the former Joe's Headquarters, regarding proposed changes, improvements and upgrades to the existing building. The proposed changes include exterior changes to the existing building façade. The building is located in the CBD, Central Business District, and requires review and approval by the Planning Commission. No changes regarding building dimensions or other site improvements are proposed. The Downtown Development Authority Design Committee recommended approval of the submitted site plan and the proposed changes, improvements and upgrades to the existing building at their 4-7-22 meeting. Attached for your consideration is a copy of the

City of Farmington Planning Commission

April 11, 2022

Page 5

site plan application and a proposed site plan submitted by the Applicant for the proposed building façade improvements. Mr. Steven Schneemann, representing the owner of the property, with S3 Architecture, is here this evening to present the site plan application and the site plan to you.

Chairperson Majoros invited the Applicant to the podium.

Steve Schneemann, S3 Architecture, came to the podium. He stated this is the existing building where Joe's Headquarters was. This is the existing east facing door on Farmington Road, this is also the existing west facing door likewise that faces the municipal parking lot. I believe there's another door in here that we're actually proposing is going to be closed off, inaccessible. One of the things you'll note is we're introducing two large areas of glazing at the corners that do not exist there today. Right now it's solid, you really can't see through, so we're going to completely change that and make it much more open and transparent to both pedestrian traffic and vehicular traffic as well, it's a really good prominent site on the corner. And if you're familiar with Jill's Genuine Care, her shop is right across the street currently, next to Mimosa or a door down from Mimosa, so she's purchased this building and will be moving in here once the improvements are complete. I invite you all to peek in the window if you're walking by because they've redone the interior and it is a really cool space inside all the way up to the roof and the way the rafters are all exposed and it's really beautiful inside there and they intend to keep that for the new design, keep that rustic feel to it and then brick on the inside and rafters above. You can see in the plan that most of the pharmacy operations will be here kind of centered in the space with an entrance here, an entrance here, she does offer vaccinations so she's got a room for vaccinations here as well and then this wall will be product and will allow her to expand her square footage significantly over what she has today for her retail offering. And then obviously we're intending to use these two windows up at the corner to be able to give the public opportunity to really see what's going on and what's potentially available at this new location for Jill's. We are proposing some signage, blade sign that's there, I understand that's a separate application that will have to be done for that but our hope is that will be part of the esthetics and also some signage on the side of the building facing south to capture a larger scale, this is really intended for pedestrians scale as it's relatively small, and this is a little bit larger for vehicles off of Farmington Road. The intent is to basically paint the brick. You may know the building, it's already painted brick, I think it's kind of a beige color so we're intending to paint the brick white, we want to have a real classic look for the building. We're going to introduce some martens into the window to give it a kind of classy feel. We're also proposing to paint the existing canopy awnings that are there, I think they're kind of a maroon color right now so we're proposing to paint those black. We are also and you may have noticed that the wood tie planter that was there that got taken out, we are actually proposing to replace that with a new planter and we'd like to use colored concrete to match the concrete that we've used and have established as the design esthetic for downtown so

City of Farmington Planning Commission

April 11, 2022

Page 6

that's kind of the benchmark that we're targeting for that same colored concrete so there will be a nice curb about 20-inches high or so and then a row of some plantings and shrubs in there to kind of soften that edge up against the sidewalk. As I mentioned, there's a door here now that will be taken out, otherwise we're really intending to kind of leave it as it other than some color changes in these windows, if you've ever noticed there's kind of a decorative trim kind of colonial or classic looking trim around the front door, we're proposing to keep that in place and to keep that in place and just paint that to match the overall esthetic. I'll be happy to answer any questions.

Chairperson Majoros opened the floor for questions from the Commissioners.

Crutcher asked if the planters encroach on the sidewalk at all and Schneemann replied that the sidewalk on the eastern part of the building is actually concrete right up to the building but I believe that the property line is actually the edge of the planter so the planter is fully in the owner's property. Crutcher then asked what is the actual front door, is it the parking lot or the Farmington side and Schneemann replied well, basically there's two front doors. I think probably most people will access it from the parking lot side because I envision at least the majority of people will be driving there, but there will be some nuance reparking with Farmington Road and certainly pedestrian traffic off of Farmington Road, we think this will get a reasonable amount of traffic on that east side as well. It's sort of set up on the interior with the plans so that anybody that's here has visual control of both these entrances at any given time.

Christiansen said to add to Mr. Schneemann's comments as well as Mr. Crutcher's comments, one of the things that I think might contribute to more use of the street front access which is the Farmington Road access, is the Streetscape Project which is going to be implemented and we can see that going on actually preliminarily and moving forward because the whole idea of a streetscape is to generate more pedestrian oriented environment with pedestrian elements, etc., so I'm going to believe that's going to contribute to potentially more use of that front door access area. But because the parking is to the rear, that's why we have the double access situation and that exists throughout the downtown.

Commissioner Perrot confirmed that the parking lot is a common parking lot and Christiansen replied City lot, yes.

MOTION by Kmetzo, supported by Perrot, to approve the proposed exterior changes to the existing building façade changes to Jill's Genuine Pharmacy, located at 23603 Farmington Road, Farmington, Michigan.

Motion carried, all ayes.

**PROPOSED ZONING ORDINANCE TEXT AMENDMENT – ONLINE RETAIL DELIVERY STORAGE & PICKUP FACILITIES**

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

Director Christiansen stated this item is continued discussion and scheduling of a public hearing for a proposed zoning ordinance text amendment regarding online retail delivery storage and pickup facilities. The proposed amendment would allow online retail delivery storage and pickup facility establishments within the City of Farmington in the C-2, Community Commercial, and the C-3, General Commercial, zoning districts as a Special Land Use. The Planning Commission discussed and reviewed an initial draft amendment at their March 14, 2022 meeting. The Commission tabled the proposed zoning ordinance text amendment at that meeting in order to allow staff and the City Attorney to review the comments made by the Commission regarding the proposed draft and to investigate this type of ordinance as to how it's being handled in other communities and also to prepare a definition for this proposed use. A copy of a proposed revised draft ordinance including the requested definition is attached with your staff packet. The materials that you have in your packet tonight then would be the draft amendment and you'll note as you've gone through it there are changes being proposed to the C-2 and C-3 zoning districts and it's really within the Commercial Zoning District section which is Chapter 35, Article 7, but specific to C-2 and C-3 as Special Land Use and you can see here in red online retail delivery storage and pickup facilities. And then as you go on through the proposed amendment you'll note that there are additional changes that have been added, there is specificity in Special Land Use already regarding the online retail delivery storage and pickup facilities and then as you move through you'll see some additional elements that relate to it regarding proximity. You had some concern last meeting and you made some comment regarding number of limitation or if there was going to be any restriction as to how many there might be within certain areas, and that's this provision here on the revised draft. Then you'll note here as requested in Chapter 35, Article 21, Definitions, the definition as requested that has been added for online retail delivery storage and pickup facilities. So, this is the revised draft. You also asked that staff and the City Attorney research what's being done in other communities and I can tell you this, there is no consistency and treated different in different communities depending upon what their circumstances are and how they handle this kind of use and their current retail environment so there is really no set standard. Some communities treat it as commercial use just straight up. Others treat it as a warehouse use and it just varies across the board. so, we've talked to other communities, there is no consistent methodology here, it's a matter of what you as a Commission would like to see if you move forward with this. Mr. Chairman you asked what the action potentially of the Planning Commission is requested to be. If you are comfortable with this draft as revised, the next step then is to schedule the required public hearing which our suggestion would be for your next

City of Farmington Planning Commission

April 11, 2022

Page 8

meeting, that would be your May meeting. If there are some additional questions, concerns, if there are some additional changes, if you want some additional time, you can always table this item again for additional work to be done if you so choose. and the third thing is you can choose not to move forward with the proposed amendment as presented right now. So, those are your alternatives and that would be up to you, Mr. Chair. The City Attorney is here tonight, too, in case the Commission has any questions for her.

Majoros called on City Attorney Saarela for her input.

Saarela stated the changes from the last time are pretty much we're limited to Section 2, regarding the spacing limitation that was requested, I left it blank so that you can decide whether there's any property that exceeds a certain size, so there is a blank there and you can either take that provision out and have to come up with a proposed parcel size to insert in there or just take that out. In looking into whether this type limitation would be permissible under current law and I did find case law that supports this type of spacing limitation in Michigan, not specific to this type of use, but other uses have been allowing it if you can articulate the public health, safety and welfare needs for that type of spacing. But if you do want to include this spacing limitation, I would suggest you put the reasons why you think it's beneficial from a public health, safety and welfare aspect.

Commissioner Crutcher said I thought the percentage of use related to the percentage of sales within a proposed facility being a certain amount before it's considered online retail.

Saarela stated that is a separate issue that you're talking about, it's percentage of square footage, I did not add that to the definition. I did add a definition but I didn't have any consistency from anyone whether it was necessary or not. So, if the Commission does feel some type of space limitation like that is warranted, I can add that to the proposed definition.

Christiansen said to answer Commissioner Crutcher's question, we would consider and apply zoning ordinance provisions that any particular use that has more than 50% of a particular activity as the activity that they perform, their operation, that would be the primary, so that's the primary use. Anything then that would be less than that that would also be in association with would be considered ancillary to or associated with or wouldn't be the primary. And so there's flexibility; it could be zero, it could be ten, it could be 49% and still would be subordinate to or ancillary to a primary use.

Majoros said the issue on that one is different potential tenants could be different and we could be oh, well, it's 30. Well, you know, we're 38, but the Sterling Heights facility, we can talk ourselves into most anything, right. It feels like the primary use and look, we kind of realize there's a governor there that will take us up to a certain percent and as soon as it passes that threshold it becomes a primary permissible use in essence. So, I guess



City of Farmington Planning Commission

April 11, 2022

Page 9

the issue is on the first item of do we need to articulate a certain percent that is a sliding scale between its primary use, let's call it warehousing for a simple term, and then retail, as soon as it's 51%, do we even need to come up with a number, I guess is the question.

Christiansen stated I think that's a good question, I may refer back to the City Attorney on that. but I would also say to you, the way this ordinance amendment is structured, is for any use like this being considered a Special Land Use has to come before you. So, all of the elements for Special Land Use including percentages of particular parts of the use and operation, all that fall in your purview as Commissioners when given a site plan with a Special Land Use.

Majoros asked Crutcher if he was satisfied with that and Crutcher replied are we looking to be explicit, I see where there's an overlap with what this is doing and retail and that this delivery service stuff is not going away and if we make it that it is what the primary use is going to dictate then we should probably say that in there. If the primary use is delivery driver pickup as opposed to retail pickup, then if primary is at 50% then that's what we need to be saying there.

Commissioner Kmetzo asked what's the point of having 50% when the definition clearly defines it as an order that you place online and you can have your order delivered or you can pick it up; so what's the relationship of having a percentage defined.

Christiansen replied what we're seeing in the industry, let's just take a typical grocery store, a grocery store that is primarily customer based through the front door where you come in and you buy your groceries and you check out and your groceries leave with you. They now are involved in, they have defined and designated spaces set apart for pickup and delivery services like a Door Dash or an Instacart or whoever it might be. That to date is accessory, it's not a primary, the primary still is walking through the front door. The issue here we're dealing with with this particular situation is the use that came before you before, its primary was the warehousing storage and pickup and delivery, it wasn't customers so it didn't meet the criteria and standards for and definition for retail commercial use. If in a proposed development we see that in this case that it was going to be that, the alternatives where it has come to date and now with the ordinance text amendment to facilitate an opportunity and acknowledge the Special Land Use as its being proposed right now. If it is where the delivery again is primary then we're looking at this particular ordinance amendment if it moves forward, as being then what we would follow. If it is the delivery portion accessory to, then we would have to look to see how much and how that is structured and how they function but then we wouldn't fall within this. The primary still may be right through the front door.

Majoros said I understand your point. If it's 51% primary approved use, it doesn't have to come before us in the first place and Christiansen replied that's correct. Majoros said

City of Farmington Planning Commission

April 11, 2022

Page 10

just by nature of default, if it's going to come in, it's going to be 51% and Christiansen replied unless there's extenuating issues and we don't know that, yes, that's correct.

Crutcher stated my concern is what if something changed into this use. Let's say Fresh Thyme Market which has walk-in only and what happens when everyone does online delivery and now 80% of their business is delivery drivers picking things up.

Saarela said if the use is changing they would have to come back here for your approval and further discussion was held. Christiansen said we would have to look at the circumstance and see what the ordinances allow and assess what the impact is and then determine the course of direction. So, what's interesting as time goes on, people's needs and service needs change and businesses change, some are able to make adjustments and change within the ordinance requirements, others need special consideration and we look at that at a case by case basis.

Crutcher asked if we're making a distinction between that and any other service that uses a variety of services like the grocery shopping services and Christiansen replied it's not based upon who, it's what, and it's based upon operation and function, whether than who's performing. Crutcher said if a pizza place has a delivery person, they are delivering pizzas but if Door Dash is also delivering pizzas, that's something different or it's not. Westendorf stated a lot of delivery places are using Door Dash also and Christiansen stated which is fine, rather than hiring an employee who they pay and maybe they're on the payroll or not, they hire a service as a third party service provider, but it's the same thing, they're delivering pizzas. Crutcher said there's a distinction about the amount of sales that are being done by the delivery driver versus a regular customer, how are we supposed to know what that is. How do we know if these are delivery drivers or customers when the process of making the purchase is someone walks in and picks up an order.

Christiansen stated every business coming into Farmington is required to submit a zoning compliance application and they identify what their use is and how it's performed and what it intends to be and the certain elements of it, we can make a determination at that point as to whether they fit. And once we do that, we issue the zoning compliance certificate, they comply, and then they move forward to the next step, whether they need to do some modifications with plans and permits and/or business registration with the Clerk's Office, but if they need a Special Land Use they stop there and need to come here with a site plan.

Crutcher said my question is how do you tell when someone is shopping in the store and they're a delivery pickup person or if they're a customer if they preorder. Because the process is you order online and show up at the store to pickup your order.

City of Farmington Planning Commission

April 11, 2022

Page 11

Kmetzo asked are we concerned about the percentage of delivery drivers picking up versus the customer actually picking up their order.

Saarela replied I don't think that's what we're concerned about, whoever is working at the Dash Mart or whatever, is collecting items for an online order and dropping them at the front and Crutcher said that's exactly my question, if this benchmark is off because they said their service is available to delivery drivers, but you can also order online and come in and pick your own order up.

Saarela said the function is the same and Crutcher asked if we're making a distinction on whether it's a delivery driver or someone picking up their own order and Saarela said no, we're not making that distinction. Crutcher said so any business that has preorder where you show up to pick up, that's what we're putting under this ordinance. Saarela said but I think we're talking about still is there an option like Fresh Thyme where people can also go in and shop the store or isn't there and that's when we were talking about meeting that 50% distinction for a primary use versus accessory, I think that's what I was still trying to decide in the event more than 50% of the business is going to be shopping, customers going in and shopping themselves, you're talking about a retail use there.

Majoros said I think we're talking about a 51% from what Kevin told us that the primary use is defined as 51% of the business is generated in this instance in a commercial zone and it's not let's call it traditional retail where you would walk in as a customer, have the ability to self select product and leave, if it's 51% more storage and pick and pack and pickup either by an individual, discreet retail customer ordering it themselves or through a delivery service, I think that's the usage that we're talking about and Saarela replied yes. Majoros said if the existing definitions note that 51% or primary usage is inherent in the definition of a business, then perhaps we're okay. but since this is such new, uncharted territory, if we want to put something in there that says it has to be 51%, the use case that we're talking about which is storage, etc., I'm fine putting it in there, it can't hurt to be clear. Because a lot of what we're talking about is uncharted territory and we may be better served to be clear in that regard. I'd agree with you, I don't think it matters if it's a Door Dash person or an individual customer.

Crutcher said so what we're doing is we're discriminating against folks who are going to preorder as opposed to ones that are going to go into the store and Saarela replied I don't think we do, we're looking at how the store operates. Crutcher said the discrimination is between people who are just ordering online as opposed to people who are coming into the store. Christiansen stated I don't think it's discrimination at all, I think that it is, if I might, I think that what you're doing here is you're defining what this particular use is that's presented here and is up on screen now and you're identifying that the majority of this particular use as defined is a delivery type use, 51%. And you're concerned about that because of the impacts of that and how it's all conducted. We are able to find that

City of Farmington Planning Commission

April 11, 2022

Page 12

out when there's an application for zoning compliance certificate, that the petitioner says this is what our business is, this is what we're going to do. Now we know. And you either fit within this category or you fit within this category. And if your delivery is less than 51% then it's not your primary and it's through your front door and now we're going down that road. If it's more than 50% of the 51% and that's your primary, then we're going down this road, it's one or the other. So, it's not a discrimination, it's where do you fit here. and the whole purpose of this is because as you might recall with your proposal for DashMart at Farmington Crossroads, they were proposing a 90% delivery with a 10% customer base so they were looking to do it with delivery services out the back door in an area adjacent to residential development and they initially wanted to do it 24/7 and that's where all the concern came and we tried to look and see where they fit and then it ended up before you with a determination of use and it went through that process. Now you're looking to establish an opportunity for that but with conditions and with some control that the City has and you as Planning Commissioners and how it operates if it's to be the primary use; if not, then we wouldn't be talking about it.

Crutcher said discrimination is not the right word, I'm looking for a distinction between retail where you walk into a store and retail where you don't walk into the store and then there's the middle where you do both.

Christiansen said I think your point is well taken, too, but that could change. Let's say eventually there was the intent of delivery being the primary, maybe as time goes on it wanes a little bit, isn't as economically attractive to the business and they want to reduce that a little bit and have more customer traffic, then we certainly would work with them but we always have a willingness to work with all of our businesses to help them adjust.

Majoros stated I think what I'm hearing is if someone makes a motion if we go down that road and I'm not sure we need to clarify that because it's inherent in the definition of the business but I'll leave it up to if someone decides to make a motion. The second one was the 30% of the use which was one of my questions from last time. Again, in the world where ten years from now, twenty years from now, there may be completely different things being discussed. That was my question about as we crawl, walk, run, into this brave new world that we set guardrails up and the 30% I'm assuming that's maybe 30% of the total of available square footage of the – and I'll need to clarify that because is it 30% of the businesses or 30% of the total available retail square footage.

Saarela replied that is for you to decide. Majoros said the only reason I bring it up is because if you are by nature if you are a potential online retail delivery storage facility by the nature of that, you may have the need to consume more square footage, take the place we're talking about, right, a Subway doesn't require a lot of square footage, so Subway, there's a check cashing place, there's a Mediterranean place, whatever. So, let's say there are twelve businesses in that shopping plaza or whatever the number is,

you know, there's a big difference to me of 30% of square footage or 30% of available tenants because 30% of tenants is you could have, if you have twelve tenants, rough math, 30% so let's call it four tenants, and using this facility as an example, you could take Alexander's, Ollie's, the Dollar Tree and another one, that's four businesses, but it's 60% of the available square footage, if Commissioners want to put such a condition on and that was my point. Now, again, we may approve this and see how it goes and other people may come in and say, it's not so bad, we can lift that. I was concerned about too much density too quick until we figure this out. So, that was my only question. The other criteria that have been written up are fine by me, I just wanted to see if there is any question on the clarity of the 30% but I would vote for a percentage, 30, 25, again Special Land Use if it comes in at 28.4, okay, but I think it's more of the available footage than the raw number of businesses. And with that, I don't have any other comments on this, I think the teams did a nice job here and I think I'm comfortable where it's going.

Crutcher stated I still don't understand what this is supposed to do. Majoros replied my question was very simple, I was concerned because what could happen is Brixmore could say I'm going to take Ollie's, Alexander's, the Dollar Tree, Anytime Fitness and whatever, crash all that together, make one big warehouse. We all know where retail is going, right, like it or not with the Amazon and everyone else, you have a massive warehouse in Canton and whatever but it's micro delivery and it's all about speed to market. So, speed to market says if I can get a Canton massive warehouse but if I can get a facility with high moving goods within half a mile of my retail customer, we're going to do it, and this is in an industrial setting.

Crutcher stated but we're also going to prevent Ollies, ACO, the Dollar Tree, and whatever comes in here from now offering online delivery storage at the same time. Saarela replied if it's not their primary use they can do whatever they want, but if they are going to change over to that for the primary use, they would have to come in for a Special Land Use.

Crutcher said I'm seeing that that decision is not something they necessarily have control over in terms of where their business is coming from. If they decided to do a brick and mortar store, a walk-in business only, and they offer a little bit of online delivery and the world decides, the market decides that is the better way to go now we're just going to only order online, are we going to then penalize them because that's just the way the business has turned.

Saarela said that's not really penalizing them, any time the primary use of any business changes because of market trends or whatever, you're going to allow apartments to condos, you have to come back in and adjust for that. If there's a change in the primary use for people shopping in a store, people picking up at the store, how the business operates, it brings a different type of health safety and welfare concerns than it would have been a primarily customer oriented store. But you're just looking at one of the changes that change the concerns for health, safety and welfare, it's different needs,

City of Farmington Planning Commission

April 11, 2022

Page 14

that's what we're looking at here. We wouldn't do that at a public hearing to decide that DashMart was a retail use, you decided that it wasn't and that's why we're here, where is that demarcation.

Majoros said we know retail is changing, for sure. What I'm trying to avoid is, I can't order a haircut online, okay, and I can't go get the ¾" No. 12 screw at Alexander's online because I have to take it in and say is it this one, is it this one, whatever. I'm looking to avoid those people being pushed out, that's why I recommend a square footage percentage. If that changes over time because retail changes, but it's very easy to take the small business which is about public welfare and punch them out and just turn stuff into something bigger, that's my concern. Ten years from now that may change but there are certain things that I think the community recognizes and respects with businesses that provide fundamental services that are not delivery or storage based.

Christiansen said that's a good point and everyone's dialogue here is important in terms of the perspectives. We as a community have always been very mindful and good stewards on behalf of our business community. And if there are needs or nuances that change, we are certainly very willing to consider what those needs might be for change and to make adjustments accordingly if they make sense and are in the best interest of the City and in this case of the businesses. I can tell you that we as a City and the Planning Commission in 2010, went through the entire zoning ordinance and did an extensive amendment at that time to the commercial districts in particular, to make adjustments, to address the circumstances of the time were, that was post recession, you might recall, economic downturn. Now here we are doing it again. We're doing a zoning audit again now in 2022, so twelve years later. There's always been a willingness here to do that, if we need to make an adjustment to accommodate change in market trend, to make sure that our business community stays strong and vibrant and thrives, then certainly we typically have always done that and I would expect we would do that again. One of the things we don't have that we don't have the crystal ball looking to see what it's going to be like in ten years or twenty years from now. Without that we can't necessarily plan for everything but we can certainly address the changes on an as needed basis that are going on now, where we are today. So, I think trying to be as prepared as possible, making changes in consideration to continue to provide opportunity for the businesses that are here now the way that they are and then maybe to make adjustments for new types of businesses as well is what we have always attempted to do and will continue to do so. with that in mind, it's always hard when we make some of these changes, you don't want to necessarily create nonconformities but you want to provide opportunities. And I think in all of your conversations here, my working with the City Attorney, taking your comments, talking to other communities and making the adjustments that you requested, it seems like we're pretty close at least with circumstances now and if we need to make changes in the future, we can make those adjustments just like we always have.

Majoros said to recap what Kevin said, we have three choices: Choice number one is we could approve the language and perhaps 's some modifications, I'm assuming, in the language to be made, to be approved with the intent to schedule the public hearing at our May meeting. Number two, we can continue to table this and have more dialogue; or number three, we could take no action or move on and I guess it would be the end of it. But it feels like number one is a suitable solution, I think the staff has done a nice job with responding to feedback, we have the flexibility to change things forward, we have the flexibility with what our residents want to say about it, too, because at that time we could approve this as is with some modifications and at public hearing people could say, hey, get more of these and maybe we lift the cap from 30% square footage or something, I don't know. So, it feels like it's moving in the right direction, again everyone has their point of view and their thoughts, but I think we can try to move forward with this one.

Kmetzo said I do have a question about the second sentence in Section 7 about the blank acreage. How is that acreage to be determined, what is the largest size like a plaza here in downtown Farmington, would that be the determination?

Saarela replied if you think there's an appropriate size to put in there, if not we can strike that language. I didn't have a thought in mind for that, maybe Kevin can give some input on it.

Christiansen replied if you want the easy way to determine based upon percentage of use per business, we have 435 registered businesses in the city, we can count those numbers. If it's on a square footage basis then we have to calculate on a per business. and then again, with your shopping centers, individual units within a building and some of them are 100,000 plus, 200,000 square feet, so we would just have to assess it and we have the information to do it.

Kmetzo stated I don't think the second sentence is necessary and Majoros said if there's a cap, if there's a governor on the percent of square feet, which again if all of my fellow commissioners agree or have a point of view or don't on, I think with the limit that Kevin has applied and told us about with the 51% majority use and we apply kind of again, could be 30%, could be 25%, could be whatever, a square footage kind of governor that allows us to crawl, walk, run, take some public comment, see how these businesses start to operate, this could open up a lot of greatness for us.

Crutcher asked why the percentage limitation imposed if you say you can't have another one within 1,000 feet or 500 feet or whatever, as opposed to 30%.

Majoros said my take is one, Amazon can be really big, so I'm still in the camp of square footage.

Saarela asked should it put within a shopping center and Majoros replied I really don't mind in a shopping center because I think consumers process things as a plaza, right.

Crutcher asked if we're trying to limit the total size of the business relative to the area of shopping and Majoros said yes, and I think what's important is if you look at that plaza, if you want to go to the worst case, very few people do online pickup and retail of hardware, no one gets their workout at the gym delivered to them, etc. Crutcher said I appreciate you making the distinction, you've said it a couple times now, but obviously personal services you're not going to get delivered, a haircut is never going to be delivered. Majoros said understood, I'm making a point to make a point, which is if large businesses which are fundamentally changing retail with deep pockets and aggressive retail moves, look at Farmington or certain plazas, as an ability to say, someone could go to Brixmore and say I want the whole plaza and I'll sign a ten year lease, what do you think Brixmore is going to do? They're going to kick out Anytime Fitness and Subway and Alexander's and everyone else, that's exactly what's going to happen which is why I think you want a square footage limit there. Now, x number of years from now we may revisit that, I'm not comfortable having an open door.

Crutcher said so we want to limit it with a certain percentage and within the space available to be dedicated for this particular use and Majoros replied that's what I would do.

Westendorf stated if we didn't limit the square footage, why not say not another one within 500 or 1,000 feet or something. that would potentially spread them all out and still leave you with space. Crutcher said that's what I was thinking but then a big business could take up the entire mall and it doesn't matter how far apart, they just rented the whole space, the concern is not have it be the primary tenant in any space. What other tenant do we limit like that and Christiansen replied there are some special uses that have separation distances but they are very unique. I will tell you for lack of another one, adult businesses have a separation distance. It was one methodology and so they aren't able to be located within proximity to churches, schools, and also separation from each other and that was court tested years ago and every community has to provide for them, they can't be exclusionary, so we have some of that to a certain extent. Sometimes you might have very impactful uses that impact that, so you don't have a proliferation of them or a concentration of them and you space them so you don't get overwhelmed based on whatever the elements might be. In this case you know I think what's being discussed here if I'm correct, these uses and their characteristics, and not wanting to have a proliferation or an overwhelming amount within a certain area which is why you have this provision. Again, you could do it in different ways. if you do it by percent of uses is one way, if you do it based upon square footage, it does tend to address what the Chairman is concerned about regarding a bigger space, a bigger amount of floor space area being



used. you could certainly relate it to a shopping center, you can have it within a shopping center, and you can also have the separation of distance, too, or within a certain dimension because not all locations are shopping centers, so you can give consideration to both if you're so inclined. But you start somewhere, you let it be implemented and you see if it's effective and usable and if not, you can always make adjustments.

Crutcher stated I can see the shopping mall owner saying I don't want to have more than 30 percent of my malls be restaurant business for some reason, I can see that. I can see him saying I don't want to have more than 30 percent of my space being hair salons, I can see that as a thing. What businesses and what ordinance and what communities would say you can't put your business in this space more than so many square feet of business.

Saarela stated the case law is not based on how many square foot, there's cases out there now on short term rentals not being within a certain distance from other short term rentals, so the courts are looking at that. But I think what the court is going to look at is what are your reasons for saying you need that. So, it doesn't really matter as long as you have public health, safety and welfare reasons, they would say it is needed. I think in this case we are within your rights to say there are public health, safety and welfare needs for it, and if there's a challenge, you made a record here of why that is and it would be up to the court to find that out, whether they could justify the use based on the arguments of the property owner, the arguments of the city. In Michigan there is no other case law on this specific issue. What are the public health, safety and welfare concerns rather than what's already out there. So, we're trying to specify why you have the concern and we'll draft the language as closely as we can to reflect that public health, safety and welfare. I don't think it necessarily means anything that there's nothing else out there that says this because we're getting close to the concerns at hand.

Kmetzo asked if it would be helpful or necessary to say before we specify the no greater than 30 percent, what the density is.

Saarela stated I think what happened is the owner of the center said this is the taking of my property, you're trying to limit my use, so the court is going to look at why did you put this regulation in place and why did the city put this regulation in place because of this concern. So, does it need to be in there? No. Would it be helpful, sure, we feel this is a new use, we have concerns, you can put a preamble so you don't have to figure out what the concerns are.

Crutcher said that 30 percent is kind of an arbitrary number set for that and Saarela replied that you can make that determination based on your experience as people who live in the City and use these facilities, what you think would be your concerns for the public health, safety and welfare. I don't think it's arbitrary, I think it's based on your experience with

City of Farmington Planning Commission

April 11, 2022

Page 18

the City as you consider the size of the shopping centers, I wouldn't call it arbitrary, I would call it based on your experiences, that's why you're here as residents of the City, that's why Planning Commissioners are residents of the City because you know how the City operates, what the concerns are, how we should operate, so I wouldn't say arbitrary. But if you feel it should be a different number, say I think it should be 40% or 25%, we can adjust that number and you can articulate a different number.

Crutcher replied the only reason I challenged it is 30% based on what size, 30% of a big space is one thing, as opposed to 30% of a smaller space may be a different situation; is there a way to adjust for that?

Saarela said if you have a large business that's operating, they're not going to be looking at a small shopping center and further discussion was held.

Christiansen stated not all existing facility is the same, the same size, the same configuration, same square footage, in the shopping center, out of the shopping center, all the spatial conditions are different, right, and so I think it comes down to economics, it comes down to market, it comes down to availability, it comes down to real estate. And all of those elements place factors into it, there's no one size fits all for everybody and that's circumstantial. But you try to put together an ordinance like this that's flexible enough and within the existing environment and conditions. I'll tell you right now the only interest that we've had like this to date has been the DashMart interest at the level that we're at. I can't see the crystal ball what that might be in the future but I think this particular draft is allowing for what we see of interest right now with DashMart and are anticipating coming on more and it seems like we'll be together here and talking to other communities, the City Attorney, working together with your comments, would satisfy today's needs and for the future for a period of time as we go on. And I think it's a great opportunity putting something like this as it seems to be drafted here with the language being proposed, to provide for what's shown interest to date, but that's it, we haven't had any others that have been knocking yet and not knowing when if that's going to be. But that would be what we're having right now to date.

Crutcher said looking at the delivery store's pickup facilities under Section 2.b.b., Item 3, I guess I don't understand what's the distinction for having a dedicated parking for delivery personnel, is that talking about delivery trucks delivering to the space or for people picking up from the space and Saarela replied people picking up because there would be a loading requirement, too, if there was.

Crutcher said I question why because the delivery services, they typically just park in the parking spaces and walk in, so they don't load from a nonloading zone.

Christiansen said that's what you're talking about, you've had comments where you don't want them to do that and in fact, the DashMart representative, they didn't want to have that in their shopping center main field, they wanted to have it behind where they didn't have customer parking, it had dedicated parking for their delivery drivers, you'd want to see that on a plan. One of the concerns that we have from an administrative perspective on something like this that's going to be primarily delivery is the intensity of use, the amount of delivery, how often that's going to be and most of our commercial facilities are directly adjacent to residential, so that's the dynamic of our development in Farmington, our shopping centers are all right next to residential behind them, we want to see how that works. And if you might recall, DashMart was proposing to do it behind the building, they had area, that was one of their existing conditions, but you might recall a lot of the discussion was and they even proposed and Brixmore indicated this, too, in that center, not to have the delivery drivers parking out in the general customer traffic. So, you see that on plan, then you know, it's dedicated. And every shopping center is a little different, they really are, if you know them to a level of detail. Some have no area behind and they're going to have to figure out how that might be handled out in other areas. So many are single loaded access for loading and unloading, which is limited, this one was a little different. But again, it comes down to the existing conditions, the built structure and real estate and if it's suitable, does it meet their needs. but I think you're just asking for that to be shown here on the site plan if I'm correct.

Saarela said you can modify it under Item 5, if you don't see loading, you can modify this to say loading shall be identified on the plan. So, this is just draft language, if you want something different, that's what we're here for today, to discuss this.

Crutcher stated my concern with that is if you have a designated certain area of spaces for parking for just the delivery drivers, when that number is exceeded what are they going to do, are they going to end up double parking, stacking, doing crazy stuff.

Christiansen replied that's where there may exceed their ability to operate under the existing conditions and now they are maybe beyond what their original Special Land Use was approved to be and there's an adjustment that has to be made or they need an amendment to the site plan or the owner of the shopping center would have to work with them as a tenant to identify how that would be adjusted and they might have to come back here to get that adjustment approved by the Planning Commission. But those are the kind of circumstances as time goes on you would have to deal with with a Special Land Use that's approved with certain conditions and certain required elements to be met and if they deviate from them or there's a need to adjust, then they'd have to go through that process to do that, not saying they couldn't, there's just a process they'd have to go through.

City of Farmington Planning Commission

April 11, 2022

Page 20

Crutcher said similar to how we do a restaurant use as opposed to a retail use, it's a different level and Christiansen replied you're right. Crutcher said having the space limited in size is a way to limit the size of it and also based on the number of parking spaces available.

Christiansen stated what's interesting, what you have done as a Commission and other municipal bodies that were involved, you have provided for this in the zoning ordinance, made adjustments at shopping centers to new uses where there have been changes in the parking field because of the new building that's come in to reduce the parking. Or there's a new use in a new building in the parking lot and there's a drive-thru and based on existing conditions they couldn't meet the stacking requirements and there's been adjustments made. It's on a case by case basis through the Special Land Use and that's really how typically it's done where there's a unique circumstance. You can put a limitation in there but there's always circumstances and when you have a little bit more of a general overview, you always can ask as a Commission under Special Land Use and I'll defer back to the City Attorney, for conditions and requirements meeting whatever your concerns are and considering the Special Land Use. So it might be something that might even not be specified right here but based upon existing conditions or circumstances, you might go ahead and account for in a Special Land Use. So, it's hard to capture everything, you know you could put some limitation of percentage of parking lot, I don't think you want to do that because you might want to have the flexibility to consider something that might be a little bit larger. you know maybe the owner of the shopping center is really looking to have something more like delivery so you want to provide that opportunity so you don't want to limit them with a spatial requirement or a limitation but that's certainly up to you.

Crutcher said to speak to Steve's point, to try to limit the size of the space and not have it squeeze out other businesses and tying it to that parking requirement so there's only so many parking spaces available for customers, if your delivery service is going to be this big, you've got to have that many spaces available for it to be that big.

Christiansen said that's a good point and I would tell you this: if you're going to come in with a use that would take up customer parking, that is approved for and dedicated to customers of those businesses because you have to comply with the ordinance requirement for the minimum required parking as a shopping center and if in citing a use like delivery and reducing the number of parking spaces, you got below that, you couldn't do that without modification, without variance, or changing it. So, let's just say for example there's 150 spaces required for the retail center based upon the current zoning ordinance standard, and you came in and you had a delivery use and you could only go into the customer parking field and you took a number of spaces and reduced that number of spaces that were there or required, you couldn't do it without a variance or other consideration and Crutcher said or limiting the size and Christiansen replied or limiting the size. Crutcher said that seems like a fair way than just having a square foot number.

Saarela said if having a Special Land Use by its own nature is more impactful than the current use, that's why we have the Special Land Use, you want to give the Planning Commission the ability to look at the circumstances relating to this proposal and the impact and what it might be on a particular area. So, you have the Planning Commission with its discretion to look at what is the parking like in this particular shopping center and what do we need to do here in this specific plan.

Kmetzo asked for clarification on number 3, at first when you said delivery personnel, this is really when people pick up and Saarela replied yes, that's the loading. Kmetzo stated this says delivery personnel, this is a storage facility, we need the parking spaces for people to pick up and Crutcher replied that's a different type of customer and Saarela said we can call them delivery driver and Crutcher said they're basically customers because they're working as contractors. Saarela said we need to distinguish from delivery drivers dropping off or retail customers and further discussion was held. Crutcher said I think we're making a distinction between things we don't know, if it's a delivery driver or somebody going to the store.

Westendorf stated that's why they call it a pick-up driver or pick-up space and Kmetzo stated there are restaurant pick-up spaces as well and Crutcher stated the typical pick-up driver will just park in the parking lot.

Saarela stated for a Special Land Use you can look at that on a case by case basis, whether they require one space, two spaces, so I think that leaves that open right there and I think that will vary. I think with having to come up with a percentage, it's not going to help in this instance because I think this is really a case by case basis now for these new types of businesses and it's a Special Land Use which is a different kind of land use than a retail business but I think that these standards are just to give the Planning Commission an opportunity to add these in and what are the needs of that parking lot.

Major opened the floor for a motion from the Commissioners.

MOTION by Westendorf, supported by Kmetzo, to move to approve the draft amendment as proposed, and recommend the changes that have been discussed this evening to include the changing of the delivery personnel to pick-up personnel, omitting the line "greater than \_\_\_\_ acres", and changing the 30% of uses to 30% of square footage, and to formally schedule the public hearing for the May 9, 2022 Planning Commission meeting.

Motion carried, all ayes.

**PROPOSED ZONING ORDINANCE TEXT AMENDMENT – ONLINE RETAIL DELIVERY STORAGE & PICKUP FACILITIES**

**REVIEW AND DISCUSSION – ZONING ORDINANCE AUDIT**

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

Director Christiansen stated this is an overview of Article 14 and 15 of the Farmington Code of Ordinances, the ongoing audit over the past year, subsequent to the adoption of the updated Master Plan that the Planning Commission has been going through and yes, you're getting close to the finish line. All the articles in Chapter 35 and there are 21 articles in Chapter 35. We've gone through and we're now on Articles 14 and 15 and they are really the last two articles before the administrative articles which are after this short of the last article, Article 21, Definitions. I think these two articles Off Street Parking and Loading Standards and Access Design and Landscape Standards. The City Attorney has put together a memorandum for your consideration.

City Attorney Saarela gave a brief overview and stated if anyone has encountered any issues with these two topics, they should be brought up now so that a modification of the regulation can be made.

**UPDATE – CURRENT DEVELOPMENT PROJECTS**

Director Christiansen gave an update on the current development projects in the City, the Farmington and Nine Mile Gas Station, and the Maxfield Training Center, and the redevelopment of the TCF Bank/Savvy Sliders progress.

**PUBLIC COMMENT**

None heard.

**PLANNING COMMISSION COMMENT**

None heard.

**ADJOURNMENT**

MOTION by Crutcher, supported by Perrot, to adjourn the meeting.  
The meeting was adjourned at 8:52 p.m.

City of Farmington Planning Commission  
April 11, 2022  
Page 23

Respectfully submitted,

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Secretary