



**CITY OF MADISON HEIGHTS
COUNCIL CHAMBERS - CITY HALL, 300 W. 13 MILE RD.
PLANNING COMMISSION MEETING AGENDA
JUNE 15, 2026 AT 5:30 PM**

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

1. Additions/Deletions

APPROVAL OF MINUTES

- [2.](#) May 18th, 2026 Meeting Minutes

PUBLIC HEARING

- [3.](#) Rezoning with Conditions Request PRZN #26-01 - 31075 John R Road [B-1 to B-2]

MEETING OPEN TO THE PUBLIC: Items not listed on agenda

UNFINISHED BUSINESS

NEW BUSINESS

MEMBER UPDATES

PLANNER UPDATES

ADJOURNMENT

NOTICE: Persons with disabilities needing accommodations for effective participation through electronic means in this meeting should contact the City Clerk at (248) 583-0826 or by email: clerks@madison-heights.org at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

Planning Commission Meeting
Madison Heights, Michigan
May 18, 2026 **(DRAFT)**

A Planning Commission Meeting was held on Monday, May 18, 2026 at 5:30 PM at Council Chambers - City Hall, 300 W. 13 Mile Rd.

CALL TO ORDER

Vice Chair Graettinger called the meeting to order at 5:30 pm.

ROLL CALL

PRESENT

Mayor Corey Haines
Commissioner Sean Fleming
Commissioner Ryan Fox
Commissioner Eric Graettinger
Commissioner Melissa Marsh
Commissioner Matthew Olson

ABSENT

Chair Josh Champagne
Commissioner Clifford Oglesby
Commissioner Grant Sylvester

ALSO PRESENT

City Planner Matt Lonnerstater
Business Services Coordinator Mary Daley
Attorney Tim Burns

PC 26-15. Excuse Absent Members

Motion to excuse Commissioners Champagne and Sylvester.

Motion made by Commissioner Fox, Seconded by Mayor Haines.

Voting Yea: Mayor Haines, Commissioner Fleming, Commissioner Fox, Commissioner Graettinger, Commissioner Marsh, Commissioner Olson

APPROVAL OF AGENDA

PC 26-16. Approval of agenda

Motion to approve the agenda as presented.

Motion made by Commissioner Fox, Seconded by Commissioner Olson.

Voting Yea: Mayor Haines, Commissioner Fleming, Commissioner Fox, Commissioner Graettinger, Commissioner Marsh, Commissioner Olson

Motion carried.

APPROVAL OF MINUTES

PC 26-17. April 20th, 2026 Meeting Minutes

Motion made by Commissioner Fox, Seconded by Commissioner Olson to approve the Planning Commission minutes of April 20, 2026 as presented.

Voting Yea: Mayor Haines, Commissioner Fleming, Commissioner Fox, Commissioner Graettinger, Commissioner Marsh, Commissioner Olson

Motion carried.

PUBLIC HEARING

Special Land Use PSP 26-02 - 27392 Park Court - Major Home Occupation (Pet Grooming)

Planner Lonnerstater introduced the special land use request at 27392 Park Court to operate a pet grooming business out of the home. This is considered a major home occupation. The business scope of work is the following:

1. Pet grooming service for small/medium-sized dogs.
2. One employee (applicant), with services provided on a one-on-one, appointment-only basis.
3. Appointments will take place in the morning/early afternoon hours.
4. All grooming activities to take place inside the house, with occasional use of the backyard to allow pets to relieve themselves.
5. Clients will be instructed to park in the driveway for drop-off and pick-up.

The applicant clarified some additional details that were asked of her. She would require dogs to have a rabies vaccination. She would intend on grooming about 4 dogs per day as each dog is approximately 1-2 hours of grooming.

Planner Lonnerstater reviewed the use specific zoning standards for home occupations set forth in section 7.03.18 of the zoning ordinance.

The Commission found the use appropriate with various conditions. The City's attorney reminded the applicant that upon approval, they would be responsible for applying for a Certificate of Occupancy and Business License.

Vice Chair Graettinger opened the floor to public comment at 5:40 pm. Seeing no members of the public wishing to comment, the public comment was closed at 5:41 pm.

PC 26-18. Special Land Use PSP 26-02-27392 Park Court-Major Home Occupation (Pet Grooming)

Motion by Fox, seconded by Olson, that, following the required public hearing, the Planning Commission hereby recommends that city council approve special land use request number PSP 26-02 for a major home occupation in the form of a pet grooming business at 27392 Park Court based upon the following findings:

1. The applicant requests Special Land Use approval for a pet grooming Major Home Occupation at 27392 Park Court.
2. The Planning Commission held a public hearing for PSP 26-02 at their May 18th, 2026 meeting.
3. The proposed pet grooming Major Home Occupation use is consistent with the Special Land Use review standards and criteria set forth in Section 15.05.3. In particular:
 - a. The use is designed, located, and proposed to be operated in a way that protects the public health, safety and welfare.
 - b. The use will not involve activities that will be detrimental to adjacent residential land uses.
 - c. The use is designed and located so that it is compatible with the principal uses permitted in the R-3, One-Family Residential district
 - d. The use is designed and located so that it is compatible with the Madison Heights Master Plan and the Single-Family Residential future land use classification.
4. The use satisfies the Use-Specific Standards for Major Home Occupations - as contained in Section 7.03.18 of the Madison Heights Zoning Ordinance.

APPROVAL IS GRANTED WITH THE FOLLOWING CONDITIONS

1. The pet grooming business shall at all times comply with the use-specific standards for Major Home Occupations, Section 7.03.18, as effective on the date of this approval, which shall be attached to the record of the Special Land Use approval.
2. Client appointments shall be limited to one at a time and shall occur between the hours of 8:00 a.m. and 8:00 p.m.
3. No overnight pet boarding shall be permitted.
4. A minimum of one (1) parking space shall be provided for clients on the residential driveway. Vehicles shall not overhang the public sidewalk.
5. Upon the transfer of ownership, the Special Land Use designation would be revoked.

Voting Yea: Mayor Haines, Commissioner Fleming, Commissioner Fox, Commissioner Graettinger, Commissioner Marsh, Commissioner Olson

Motion carried.

Special Land Use PSP 26-03 - 32525 Stephenson Hwy. - Minor Auto Service

Planner Lonnerstater introduced the Special Land Use request PSP 26-03 - 32525 Stephenson Hwy. - Minor Auto Service. The applicant proposes to utilize portions of the existing building for vehicle audio and security equipment installation with ancillary office and sales space.

The building contains an 8,272 square foot warehouse space which is currently occupied by a clothing retailer, a 1,014 sq. ft. receiving area, and a 1,500 sq. ft. office and showroom area. Per the project narrative and concept plan, the applicant intends to utilize the office and receiving areas to sell and install automobile security, GPS, and audio systems. The large warehouse space is not included in the scope of work and the existing clothing retailer is proposed to remain. This use is classified as “Minor Auto Repair/Service” in the Zoning Ordinance, which requires Special Land Use approval in the M-1 zoning district.

The Commission discussed the details of the application and requested information from the applicant Jacob Kaufer. He clarified some items of question and explained this is an appointment based business and he intends to work on an average of 4 cars per day.

Vice Chair Graettinger opened the floor to public comment at 6:00 pm. Seeing there were no members of the public wishing to speak, the public comment was closed at 6:01 pm.

PC 26-19. Special Land Use PSP 26-03 - 32525 Stephenson Hwy. - Minor Auto Service

Motion made by Commissioner Fox, Seconded by Mayor Haines that, following the required public hearing, the planning commission hereby recommends that city council approve special land use request number PSP 26-03 for minor auto service at 32525 Stephenson highway based upon the following findings:

1. The applicant requests Special Land Use approval for a Minor Auto Service facility at 32525 Stephenson Highway as permitted by Section 3.17 of the Zoning Ordinance, M-1 Light Industrial District.
2. The Planning Commission held a public hearing for PSP 26-03 at their May 18th, 2026 meeting.
3. The proposed Minor Auto Service use is consistent with the Special Land Use review standards and criteria set forth in Section 15.05.3. In particular:
 - a. The use is designed, located, and proposed to be operated in a way that protects the public health, safety and welfare.
 - b. The use will not involve activities that will be detrimental to adjacent industrial land uses.
 - c. The use is designed and located so that it is compatible with the principal uses permitted in the M-1, Light Industrial district.

- d. The use is designed and located so that it is compatible with the Madison Heights Master Plan and the Industrial future land use designation.
4. With conditions of approval, the use satisfies the use-specific standards for Minor Auto Repair and Service facilities as contained in 7.03.2 of the Madison Heights Zoning Ordinance and is in general compliance with site design standards contained within the Zoning Ordinance.

APPROVAL IS GRANTED WITH THE FOLLOWING CONDITIONS:

1. Special Land Use approval is limited to automobile-related electronic system sales and installation including but not limited to audio, GPS, remote start, and security equipment. Motor vehicle repair such as that related to engines, brakes, wheels, collision-related work, etc., is not permitted through this Special Land Use approval.
2. All trash and discarded equipment shall be disposed of either within the building or in dumpsters fully contained within the freestanding enclosure.
3. A shared dumpster easement agreement shall be recorded for use of the dumpster on the adjacent parcel; if this cannot be obtained, a new dumpster enclosure shall be proposed on site which satisfies Zoning Ordinance standards.
4. The final Certificate of Occupancy shall satisfy the use-specific standards for minor auto repair and service facilities contained in Section 7.03.2 and attached to the staff report. The use-specific operating conditions shall be listed on the final Certificate of Occupancy.
5. Expansion of the auto service use within the existing building shall require new Special Land Use approval under a new application.

Voting Yea: Mayor Haines, Commissioner Fleming, Commissioner Fox, Commissioner Graettinger, Commissioner Marsh, Commissioner Olson

Special Land Use PSP 26-04 - 32371 Dequindre Road - Minor Auto Repair and Auto Sales

Planner Lonnerstater introduced Special Land Use PSP 26-04 - 32371 Dequindre Road - Minor Auto Repair and Auto Sales at 32371 Dequindre.

The Planning Commission considered a similar Special Land Use request for a minor auto repair facility at this location at the February 17th, 2026 meeting. Despite the Planning Commission recommending approval of the Special Land Use, with conditions relating to landscaping, concrete details, and stormwater, City Council denied the Special Land Use request for the auto repair facility by a vote of 4-3 at their meeting on March 9th.

This new request reduces the number of auto repair bays/lifts from 6 to 4 and adds an auto sales showroom with new showroom storefront windows to the front of the building facing Dequindre. Auto sales are permitted by right.

Planner Lonnerstater explained that per Section 15.05.4 (Special Land Uses – General Stipulations), “no reapplication, reconsideration and/or rehearing for a special use permit which has been denied by the city council shall be resubmitted until the expiration of one year from the date of such denial, except on grounds of newly discovered evidence or proof of materially changed conditions sufficient to justify reconsideration by the city council. Each reapplication will be treated as a new application.”

Commission members first discussed if this new application was substantially different and is justified reconsideration. Attorney Burns also noted that this will still move to City Council regardless if approved or denied by the Planning Commission.

Vice Chair Graettinger opened the meeting to public at 6:31 pm to discuss this item only. Seeing no members of the public wishing to speak, the public comment was closed at 6:32 pm.

PC 26.20 Special Land Use PSP 26-04 - 32371 Dequindre Road - Minor Auto Repair and Auto Sales

Motion made by Commissioner Fox, Seconded by Commissioner Marsh to deem this application as substantially different than the previous application submitted and thus qualifying it for reconsideration by this Board for the following reasons:

1. The use changed from primarily minor auto repair to now include auto sales.
2. The level of improvements to the site have changed substantially to include repairs to the parking lot as well as other site improvements.

Voting Yea: Commissioner Fox, Commissioner Graettinger, Commissioner Marsh

Voting Nay: Mayor Haines, Commissioner Fleming, Commissioner Olson

Motion fails 3-3.

MEETING OPEN TO THE PUBLIC: Items not listed on agenda

Vice Chair Graettinger opened the meeting up to the public for items not listed on the agenda at 6:38 pm. Seeing no members wishing to speak, he closed the public comment at 6:38 pm.

NEW BUSINESS

Pre-Application Discussion: Costco Gas Station Modifications - 30550 Stephenson Hwy.

Planner Lonnerstater shared with the Planning Commission some early discussions he has had with Costco about potentially modifying the location of their gas pumps. Costco wanted to gather some early feedback from the Planning Commission about concerns or

items of interest pertaining to this possible future site modification. Some concerns discussed included:

- Concerns about the site being overparked and excessive impervious surface. Incorporate green infrastructure to offset new impervious surface.
- Potential to "land-bank" some of the new northern parking area (Kept as green space for now, but reserved for future parking if needed).
- Concerns about vehicles waiting for gas queuing out onto Mally Drive, disrupting thru-traffic.
- Concerns about losing an industrial user to accommodate a gas station.
- Questions about removing the gas tanks under the existing gas station and environmental remediation.
- Potential for new EV charging stations/parking spaces.

MEMBER UPDATES

Commissioner Fox attended the National Planner Association conference in Detroit and shared that he enjoyed the sessions.

PLANNER UPDATES

No planner updates.

ADJOURNMENT

Seeing no further comments, Vice Chair Graettinger adjourned the meeting at 7:01 pm.

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MEMORANDUM

Date: June 12th, 2026
To: City of Madison Heights Planning Commission
Meeting Date: June 15th, 2026
From: Matt Lonnerstater, AICP – City Planner
Subject: Rezoning with Conditions Request PRZN 26-01 – 31075 John R Road – B-1 to B-2.

Introduction

The applicant, Smokin' Bear Tobacco, on behalf of the property owner, South Lyon Company, LLC, requests to rezone one (1) parcel of land located at 31075 John R Road (TM# 44-25-02-478-021) from B-1, Neighborhood Business District, to B-2, Community Business District. The subject parcel is approximately 1.52 acres in size and is improved with a 17,000 square foot multi-unit retail commercial building. The property is located on the west side of John R Road just north of 13 Mile and is located just to the east of the Madison Heights City Hall/Library/Active Adult Center complex.

The applicant, with the property owner's authorization, has modified the application to request a Rezoning with Conditions and has voluntarily offered a list of conditions that would apply to the rezoning.

Rezoning with Conditions

The applicant requests a Rezoning with Conditions to the B-2, Community Business district, with the specific intent to allow for a tobacco/smoke shop to occupy one of the retail units. Per the newly adopted Madison Heights Zoning Ordinance, tobacco/smoke shops are permitted by-right within the requested B-2 zoning district **subject to use-specific regulations** but are not permitted within the existing B-1 district.

Section 15.073.C of the Zoning Ordinance (Rezoning with Conditions) grants property owners the ability to voluntarily propose conditions for the development and use of a property in connection with the submission of a rezoning application. Whereas a straight rezoning to B-2 would permit a much wider range of commercial uses on the property than the current B-1 designation (including a tobacco/smoke shop), the Rezoning with Conditions process allows an applicant to voluntarily restrict permitted uses and voluntarily restrict development standards on a property. Per the Zoning Ordinance, conditions shall be stricter or more limiting than the regulations that would apply to the land under a straight rezoning. Further, conditions shall not authorize uses or development that would not be permitted in the proposed district.

In summary, the applicant has voluntarily offered the following conditions which are tied to the specific tenant space (refer to the attached supplement for the full list of conditions):

- (a) Applicant's business operations would include tobacco sales and anything incident to said tobacco sales (e.g., tobacco accessories).
- (b) The use in the subject location would not include any other uses outside of the current B-1 zoning permitted uses.

- (c) Applicant would not engage in any operations as a financial institution.
- (d) Applicant would not engage in any operations in automobile sales.
- (e) Applicant would not engage in any operations in automobile service/repairs.
- (f) Applicant would not engage in any operations in gasoline sales.
- (g) Applicant would not engage in any operations as a medical facility.
- (h) Applicant would not engage in any operations in automobile sales. (*repeated condition*)
- (i) Applicant would not engage in any operations in alcohol sales.
- (j) Applicant would not engage in any operations in adult/child care.
- (k) Applicant would not engage in any operations in firearm sales.
- (l) Applicant would not engage in any operations as a kennel/boarding facility.
- (m) Applicant would not engage in any operations as a funeral home.
- (n) Applicant would not engage in any operations in home improvement.
- (o) Applicant would not engage in any operations as a hotel/lodging facility.
- (p) Applicant would propose that only one tobacco/smoke shop be authorized for use – at any given time – at the subject property.
- (q) Any other reasonable conditions for which Applicant would voluntarily propose, if necessary, during the evaluation process.

The draft agreement also contains the following provision: *“Applicant recognizes that, even if this Rezoning with Conditions Application is approved, a dimensional variance would still be required from the Zoning Board of Appeals. Applicant is prepared to submit an appropriate Application for Dimensional Variance.”*

Staff has concerns about these proposed conditions, summarized as follows:

- 1) The proposed conditions, as stated, appear to be limited to the individual tenant space occupied by the tobacco sales business. As a general rule, zoning regulations apply to an entire parcel, and district boundaries cannot be reduced to an individual retail tenant space. It is unclear what restrictions, if any, would apply to the other tenant spaces or the remainder of the parcel.
- 2) The proposed conditions repeatedly refer to “the applicant.” The applicant in this case is the business, Smokin Bear Tobacco, and not the property owner. Zoning is tied to the land and not an individual; unless specified as part of the Rezoning with Conditions agreement, zoning regulations run with the land and future property owners would be subject to the same conditions of the rezoning. It is unclear whether the applicant intends for these conditions to become void upon a change of tenant, use, or business owner.
- 3) The proposed conditions prohibit specific uses from operating from the tenant space (e.g. automobile sales, gasoline sales, etc.) but also explicitly state that the applicant’s business operations will, *“include tobacco sales and anything incident to said tobacco sales.”* This condition appears to lock in a tobacco shop as the only use that could ever operate from the unit. For example, if the tobacco sales business closes and a new restaurant business moves in, would the

restaurant be required to offer tobacco sales in order to be compliant with the conditions of the rezoning?

- 4) If the property were to ever be redeveloped, it is unclear as to what dimensional standards and list of permitted uses would apply (B1 or B2).
- 5) The proposed conditions are missing several important substantive clauses, as required per the Zoning Ordinance. Most importantly, the proposed conditions are silent when it comes to the triggers that would revert the property back to the original zoning designation (e.g. upon change of use or redevelopment).

If approved by City Council, city staff and the applicant will draft a formal Rezoning with Conditions agreement which shall be approved by city administration and recorded with Oakland County. The full list of voluntary conditions is attached to this report.

Street View of Property (Looking West)



Subject Parcel – Aerial View



Background Information and History

The applicant had previously applied for a Certificate of Occupancy to open the tobacco/smoke Shop at the subject location; this was denied as the proposed use is not permitted in the B-1 district. The applicant appealed this denial to the Zoning Board of Appeals. At their January 8th, 2026 meeting, the Zoning Board of Appeals upheld the City's denial. A brief history is provided below:

- **March 19th, 2025:** The applicant applied for a building permit to split an existing retail suite into two white-box suites. The Building Official issued the building permit on March 21st, 2025.
- **July 23rd, 2025:** The applicant submitted revised building plans; one sheet denoted a “cigar display room”, which was subsequently approved by the Building Official.
- **November 24th, 2025:** The applicant submitted a Certificate of Occupancy application for “Smokin Bear Tobacco of John R, Inc.” at the subject site. Within the application, the applicant stated, “*the space will be used to operate a retail smoke shop. We sell tobacco, cigarettes, cigars, vapes, hookahs, lottery, ashtrays, lighters.*”
- **November 25th, 2025:** The Planning and Zoning Administrator (City Planner) denied the Certificate of Occupancy based on the following findings, as outlined in an email dated November 25th, 2025:
 - The proposed use is defined and classified as a “Tobacco/Smoke Shop” per Section 2.01 of the Zoning Ordinance.
 - Tobacco/Smoke Shops are not a permitted use in the B-1 zoning district, per Section 3.06 of the Zoning Ordinance.
- **November 26th, 2025:** The applicant formally appealed the decision within the 30-day window set for appeals by Section 15.06.
- **January 8th, 2026:** The Zoning Board of Appeals formally upheld the city's decision to deny the Certificate of Occupancy.
- **April 20th, 2026:** The Planning Commission considered a request for a straight rezoning to the B-2 district, which allows tobacco/smoke shops as a by-right use subject to use-specific conditions. At the applicant's request, the Planning Commission postponed the matter to allow the applicant to explore a Rezoning with Conditions.

The applicant has now applied to rezone the subject site to the B-2 district with voluntary conditions which would allow for the tobacco/smoke shops by right, subject to use-specific conditions including separation/buffering standards, discussed below.

Use-Specific Standards for Tobacco/Smoke Shops

Tobacco/smoke shops are subject to the use-specific standards of Section 8.03.44, which are attached to this report. Section 8.03.44.A states:

It shall be unlawful to operate or cause to be operated a tobacco/smoke shop or smoke lounge within 200 feet (measured from the nearest lot line to the nearest lot line on a straight-line basis) of any of the following:

- (1) A school or childcare facility.
- (2) A public park.
- (3) A public community center.

Proximity of Subject Site to Civic Center Complex



The rear of the subject property is located directly across Brush Street from the Madison Heights Civic Center complex, which comprises City Hall, the Active Adult Center, the Library, Civic Center Park as well the courthouse, police station, and fire station. The separation between the two properties is sixty (60) feet. As the Civic Center complex would be classified as a “public community center”, the applicant would need to seek a separate dimensional variance from the 200 ft. setback requirement stated above.

Rezoning with Conditions Review Standards

Section 15.07.C(3) of the Madison Heights Zoning Ordinance contains standards that the Planning Commission and City Council shall consider when reviewing and acting upon a rezoning with conditions request:

- (1) *The proposed Rezoning with Conditions will further the goals and objectives of the City Master Plan.*
- (2) *Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the Rezoning with Conditions Agreement).*
- (3) *The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, that the following shall apply:*
 - I. *Development and use of the property shall be subject to the more restrictive requirements shown or specified in the Rezoning with Conditions Agreement, and/or in other conditions and provisions set forth in the Rezoning with Conditions Agreement required as part of the Rezoning with Conditions approval. Such Rezoning with Conditions Agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.*

- (4) *The proposed Rezoning with Conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a Rezoning with Conditions.*
- (5) *As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the Rezoning with Conditions. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the City by the City Council and Planning Commission.*
- (6) *The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.*
- (7) *Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the Rezoning with Conditions without negatively impacting the delivery of public services to other properties in the City, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the City.*
- (8) *The offered condition(s) are beneficial to the public good and likely to be enforceable.*
- (9) *The condition does not have the same effect as a use variance.*
- (10) *The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.*

The applicant has responded to these standards within their formal application.

Zoning and Land Use Considerations

Per the Zoning Ordinance, the intent of the existing B-1, Neighborhood Business district is to, “meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. The B-1 District shall encourage uses and design that are compatible with, and accessible to, nearby residential uses, thus reducing the number of vehicle trips required in these areas.”

The intent of the requested B-2, Community Business district is to, “cater the needs of a larger consumer population than is served by the Neighborhood Business District and may be characterized by an integrated cluster of establishments served by a common parking area and generating large volumes of vehicular and pedestrian traffic. The B-2 district is intended along, and at the intersections of, major arterial streets.”

While the applicant is seeking the Rezoning with Conditions to explicitly allow for a tobacco/smoke shop use within the existing strip retail center, the B-2 zoning district allows a much wider range of uses than the B-1 district. Note that the applicant has voluntarily offered to restrict many of these uses so that they would not be permitted within the individual tenant space. Some of these more intense uses and significant use departures are highlighted in the table below, with the list of permitted uses as voluntary offered by the applicant listed in the far-right column.

Use Comparison – B-1, B-2 (straight rezoning) and B-2 (rezoning with conditions)

USE	B-1 (existing)	B-2 (straight)	B-2 (voluntary conditions)*
CURRENT USE: Multi-Tenant Retail	P	P	P
PROPOSED USE: Multi-Tenant Retail w/ a tobacco/smoke shop		P	P
Residential Uses			
Residential/Commercial Mixed-Use	P	P	P
Live/Work	P		
Commercial Uses			
Auto Repair and Service (Minor and Major)		S	
Auto Sales		S	
Banquet Halls (greater than 75 persons)		P	
Bars and Taprooms (alcohol sales)	S	P	
Commercial Kennels and Boarding Facilities		S	
Drive-Through Facilities	S	P	P
Financial Institution	P	P	
Firearm Retail Sales		P	
Funeral Home		S	
Gasoline/Recharging Stations		S	
General Retail	P	P	P
Home Improvement Center	P	P	
Hotels and Lodging		S	
Indoor Recreation Business	P	P	P
Kennel/Boarding Facility		S	
Medical Office	P	P	
Microbreweries, wineries, and distilleries (alcohol sales)	S	P	
Personal Service Establishments	P	P	P
Professional Office	P	P	P
Restaurants	P	P	P
Tobacco/Smoke Shop/Smoke Lounge		P	P
Veterinary Clinic or Animal Grooming	S	P	S
Industrial Uses			
Contractor's Office	P	P	
Industrial Tool and Equipment Sales, Rental, Service, Storage and Distribution		P	

* Proposed to apply only to 'Smokin' Bear' retail unit

P = Permitted by Right S = Special Approval Required Blank = Not Permitted

The full Permitted Use Table is attached to this memorandum.

The proposed Rezoning with Conditions to the B-2 district would permit a tobacco/smoke shop subject to the use-specific standards. While the proposed list of conditions restricts certain uses otherwise permitted in the B-2 district- such as gas stations, auto repair, and firearm sales – it also has the effect of prohibiting

uses that are currently permitted by right in the B-1 district. For example, small home improvement centers, medical offices, and financial institutions which are currently permitted by-right on the property would no longer be allowed in the tenant space. It is unclear what conditions – if any – would apply to the other tenant spaces within the strip mall. Further, it is unclear as to what conditions would apply to a potential future redevelopment of the property. As shown in the table below, the B-1 and B-2 zoning districts have different dimensional regulations pertaining to setbacks and building height. The proposed rezoning conditions do not provide guidance as to which use and dimensional standards would apply to future development, redevelopment, or building expansion.

Excerpt from Section 4.02 – Mixed-Use and Non-Residential Districts Schedule of Regulations

District	Minimum Lot Size		Maximum Building Height (ft.)	Minimum Yard Setback (ft.)					Maximum Lot Coverage
	Area (sq. ft.)	Width (ft.)		Front	Sides			Rear	
					One	Total	Street		
B-1	--	--	30	5	5 (A)	10 (A)	5	15 (B)	--
B-2	--	--	40	10	10 (A)	20 (A)	10	20 (B)	--

Existing Land Use and Zoning

Existing adjacent land uses and zoning designations are denoted in the table below:

Existing Land Uses and Zoning

	Existing Land Use	Existing Zoning
Site	Multi-tenant Retail	B-1, Neighborhood Commercial
North	Funeral Home	B-1, Neighborhood Commercial
South	Drive-Through Restaurant	B-1, Neighborhood Commercial
East	Sam’s Club [Wholesale]	B-2, Community Business
West	Madison Heights Civic Center Complex	N-P, Natural Preservation and Recreation

Adjacent land uses on the west side of John R consist primarily of general retail, fast-food style restaurants, and the occasional small medical office. The east side of John R consists of general retail, including the large Sam’s Club warehouse and gas station site, auto-oriented commercial and multi-family residential. The subject parcel backs up to the Madison Heights Civic Center complex, including City Hall, the library, Active Adult Center, and Civic Center Park.

Future Land Use and Master Plan

Adjacent future land uses, as envisioned by the 2021 Madison Heights Master Plan, are denoted in the table below:

Future Land Use

	Future Land Use
Site	Office
North	Office
South	Office
East	Commercial
West	Public

The future land use designation of the subject site is *Office*. Per the Master Plan, the Office designation is intended to accommodate integrated uses to promote walkability as well as encourage flexibility of building use; this suggests a blend of local service, professional and general office uses into traditional office developments, as well as commercial uses that serve office users. The Master Plan does not necessarily break down the adjacent commercial future land use category into more detailed sub-categories based on anticipated commercial intensity.

While there are a few small medical offices located along the west side of this stretch of John R Road, the existing land use pattern is better characterized as light commercial with the occasional office use rather than office. The Future Land Use designation of this area should be explored as part of the ongoing Master Plan update process, especially if the proposed rezoning is approved.

Pertinent Goals & Objectives from the Master Plan include:

Community Character:

- Enhance the city’s commercial corridors to support walkability and improve community identity.
- Promote the city’s positive identity in the region.
- Protect established neighborhoods and business districts from the potentially negative impacts of development, including noise, traffic, waste, odor, and other nuisances through effective and thoughtful site and building design.

Commercial & Industrial Development:

- Encourage entrepreneurship and growth for diverse businesses of all sizes to promote a balanced local economy.
- Provide incentives and flexible zoning mechanisms for commercial and industrial property owners and tenants to upgrade existing commercial and industrial sites.
- Promote the mix of commercial, office, and industrial uses in a way that fosters collaboration and business growth, while creating a desirable environment for the local workforce.

Transportation

Per the 2021 Master Plan, this stretch of John R Road is designated as an “urban minor arterial” road which is intended to serve as routes for through traffic while providing access to abutting properties and minor intersecting streets. Minor arterials carry through-travel movements but carry trips of a shorter distance and to lesser traffic generators. Per SEMCOG, this stretch of John R Road accommodates approximately 25,472 vehicles per day, which is a fairly significant number of trips. As a comparison, 11 Mile Road between I-75 and John R Road accommodates approximately 15,000 vehicles per day.

Staff Discussion and Policy Analysis

As noted throughout this report, staff has concerns about the voluntarily proposed conditions included with this rezoning request, summarized below:

- (1) The applicant voluntarily proposes conditions to allow for tobacco sales and incidental operations from the tenant space and explicitly ties the conditions to the applicant’s individual tenant space. By tying the conditions to only one retail space, the proposed agreement essentially has the same effect as a use variance and is ambiguous as to which use and dimensional standards would apply to the remainder of the parcel. The conditions also are silent as to which standards would apply

to future redevelopment or building expansion. Zoning districts and their related regulations – including voluntarily imposed conditions – should apply to an entire parcel.

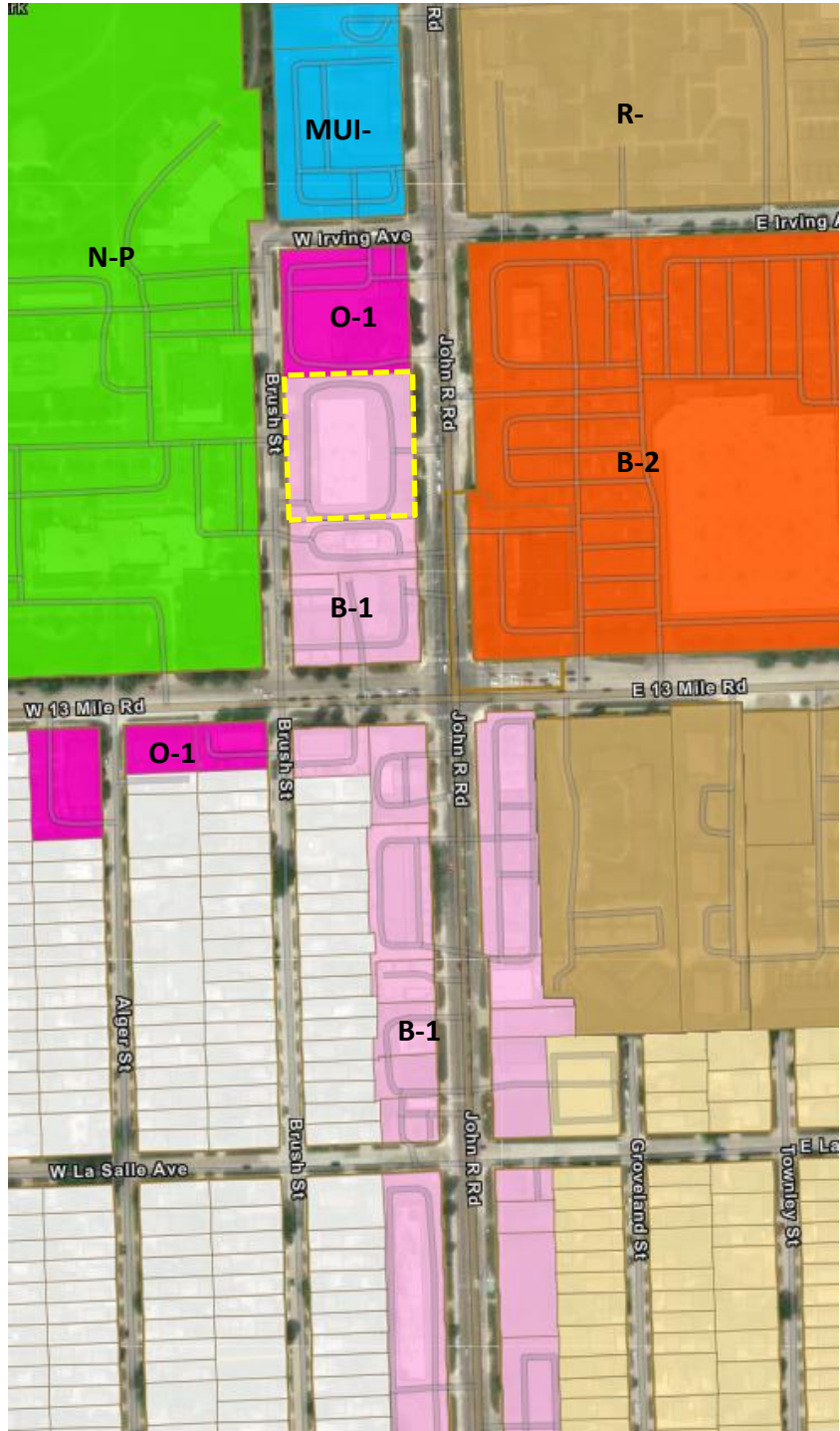
- (2) The proposed conditions prohibit certain uses from operating from the tenant space (e.g. automobile sales, gasoline sales, etc.) but also prohibit uses currently permitted by-right in the B-1 district, including financial institutions and small home improvement stores. One condition also explicitly states that the applicant’s business operations will, *“include tobacco sales and anything incident to said tobacco sales,”* which appears to lock in a tobacco shop as the only use that could ever operate from the space.
- (3) The proposed conditions repeatedly refer to “the applicant” which, in this case, is the business owner rather than the property owner. In general, zoning is tied to the land and not an individual; unless specified as part of the Rezoning with Conditions agreement, zoning regulations run with the land and all future property owners would be subject to the same conditions of the rezoning. Therefore, the proposed conditions should apply to the property rather than an individual business owner or property owner. It is unclear whether the applicant intends for these conditions to become void upon a change of tenant, use, or property owner.

In terms of overall land use considerations, the subject property is located mid-block along a fairly- busy section of John R Road. In Madison Heights, John R Road is primarily characterized by a mix of small-scale commercial, large-scale commercial, office, and auto-oriented uses. **Refer to the map on the following page.** As one heads north on John R from the subject site towards 14 Mile Road, the commercial land uses generally transition from smaller-scale, locally-oriented businesses (with the exception of Sam’s Club) to big-box, regional uses such as Target and Best Buy near Oakland Mall. This transition is reflected through the change in zoning designation, which shifts from B-1 (Neighborhood Commercial) at the southwest corner of John R/13 Mile to MUI-2 (Mixed Use Innovation-2) to B-3 (Regional Commercial).

The Planning Commission should also focus on the core goal for this Rezoning with Conditions request, which is to allow for a tobacco/smoke shop on a parcel where such use is not currently permitted. The use-specific conditions for tobacco/smoke shops require them to be separated from public uses such as schools, parks, and community centers by a distance of at least 200 feet. The rear of the subject property is located directly across Brush Street from the Madison Heights Civic Center complex, which comprises City Hall, the Active Adult Center, the Library, Civic Center Park as well the courthouse, police station, and fire station. The separation between the two properties is sixty (60) feet, well below the 200-foot requirement. Staff questions whether it is in the public interest or beneficial to the public good to allow for a rezoning that explicitly allows a tobacco/smoke shop on a parcel which, on its face, fails to meet the use-specific standards for said use.

If this Rezoning with Conditions is ultimately approved, the separation requirement listed in Section 7.03.44 would still apply and the applicant would need to seek a separate dimensional variance from the Zoning Board of Appeals.

Expanded Zoning Map



If the rezoning request is approved, any major redevelopment on the subject parcel would be subject to site plan approval through the administrative Technical Review Committee (TRC) and, if applicable, Special Land Use approval through the Planning Commission and City Council. As previously noted, it is unclear how the Rezoning with Conditions agreement, if approved, would be carried forward and applied to future redevelopment.

Next Step

After the public hearing and discussion, the Planning Commission may make a recommendation on the proposed rezoning with conditions to City Council. **Any motion which includes a recommendation to City Council shall include concise findings of facts.**

Template Motions | Findings and Recommendations to City Council

Template motions for recommendations of approval and denial, including findings of fact, are provided below.

DENIAL:

Move to recommend that City Council deny the rezoning of 31075 John R Road (parcel #44-25-02-478-021) from B-1, Neighborhood Business, to B-2, Community Business district – Case PRZN #26-01 - with conditions voluntarily proposed by the applicant, as attached, based upon the following findings:

1. *The Planning Commission held a public hearing on June 15th, 2026 on the requested Rezoning with Conditions application and a proposed amendment to the City’s Zoning Map.*
2. *The applicant voluntarily proposed a number of conditions to the requested B-2 rezoning, which are attached in the document entitled “Supplement to Rezoning Application.”*
3. *The proposed Rezoning with Conditions does not satisfy the review criteria for a Rezoning with Conditions request as contained in Section 15.07.3.C(3) of the Madison Heights Zoning Ordinance. In particular, the Planning Commission finds that the conditions voluntarily offered by the applicant fail to satisfactorily address the following Zoning Ordinance standards:*
 - a. *The proposed rezoning conditions do not further the goals and objectives of the City Master Plan, particularly with regards to objectives related to Community Character and future land use.*
 - b. *The proposed rezoning conditions do not result in an enhancement of the project area as compared to the existing zoning, as the rezoning’s core intent is to allow for a use not presently permitted on the subject parcel.*
 - c. *It is not in the public interest to grant the rezoning with conditions as the benefits of such proposal – the allowance of a tobacco/smoke shop – does not outweigh foreseeable detriments, including the proximity of said use from public facilities and parks.*
 - d. *The offered conditions are not likely to be enforceable as they are ambiguous with regards to their application to the remainder of the parcel, especially pertaining to permitted uses and dimensional standards.*
 - e. *The proposed conditions have the same general effect as a use variance in that the core intent of the conditions is to allow for a tobacco/smoke shop in one individual retail unit within a multi-unit retail building, with no further considerations for the remainder of the building or the remainder of the parcel.*
4. *The Planning Commission further cites the following issues with the voluntarily proposed conditions as reasons for denial:*

- a. *The conditions as proposed only apply to one retail space and are tied to one retail business owner (applicant). It is unclear as to which zoning conditions apply to the remainder of the parcel. Proposed conditions should run with the land unless explicitly stated otherwise within the proposed agreement and should not be applicable to only one individual.*
- b. *The proposed conditions appear overly restrictive in that they require tobacco sales to take place from the individual unit and prohibit uses currently permitted by-right within the B-1 district.*
- c. *The conditions do not present clear and enforceable standards that can be applied to the remainder of the parcel or applied to future redevelopment or building expansion.*

APPROVAL:

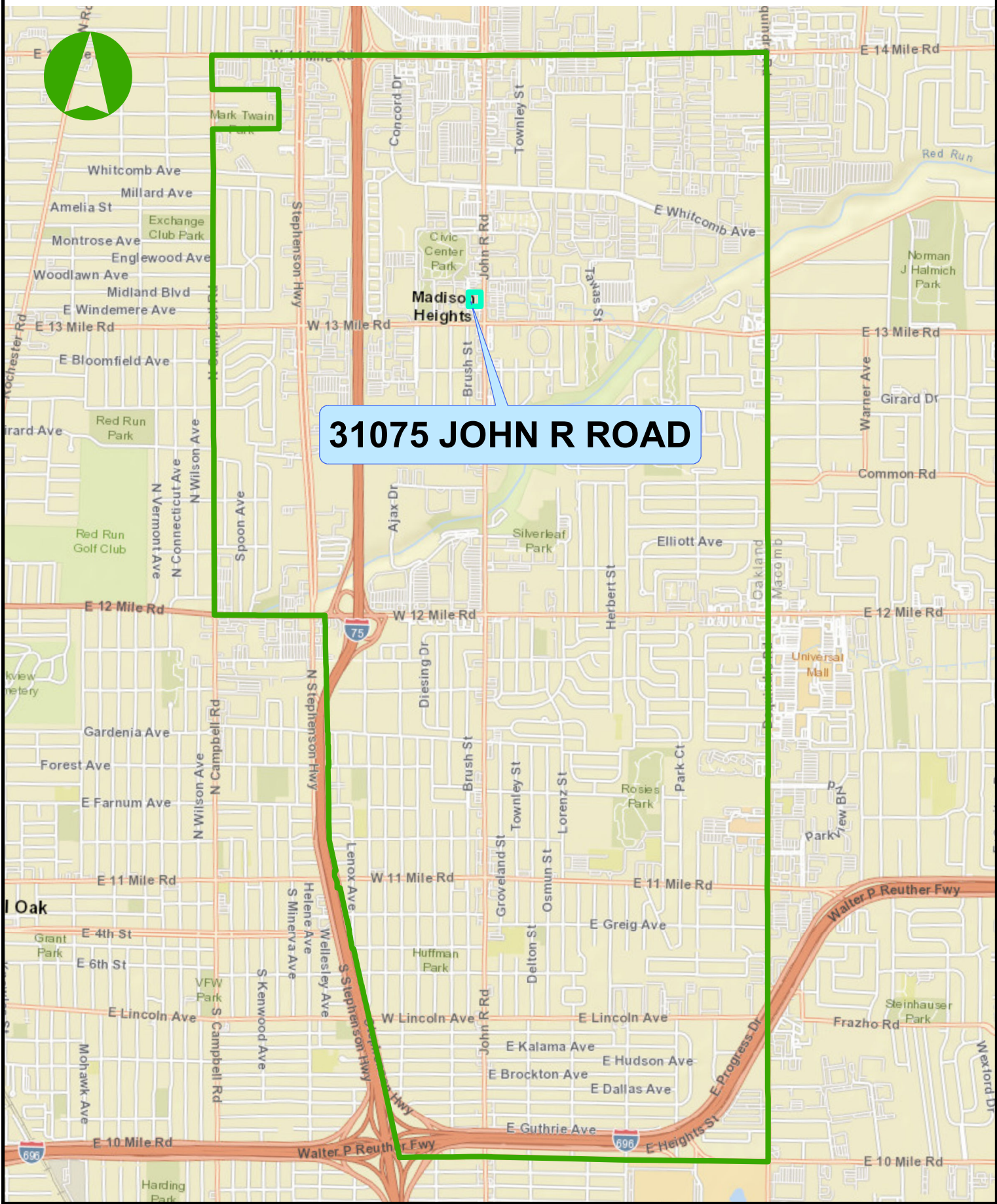
Move to recommend that City Council approve the rezoning of 31075 John R Road (parcel #44-25-02-478-021) from B-1, Neighborhood Business, to B-2, Community Business district – Case PRZN #26-01 - with conditions voluntarily proposed by the applicant, as attached, based upon the following findings:

1. *The Planning Commission held a public hearing on June 15th, 2026 on the requested Rezoning with Conditions application and a proposed amendment to the City’s Zoning Map.*
2. *The applicant voluntarily proposed a number of conditions to the requested B-2 rezoning, which are attached in the document entitled “Supplement to Rezoning Application.” These conditions shall be tied to the rezoning of the parcel.*
3. *The proposed rezoning conditions generally satisfy the review criteria for a Rezoning with Conditions request as contained in Section 15.07.3.C(3) of the Madison Heights Zoning Ordinance.*
4. *The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, special land use, or variance approvals.*
5. *Upon City Council approval, if granted, a formal Rezoning with Conditions agreement shall be executed between the City and the applicant and recorded in accordance with Section 15.07 of the Zoning Ordinance.*

Attachments

- *Rezoning Application PRZN 24-02 [Amended]*
- *Supplement to Rezoning Application [Voluntarily Proposed Conditions]*
- *Compiled Maps*
- *Public Hearing Notice*
- *Letters from the Public*
- *Section 15.07.3.C – Rezoning with Conditions*
- *Section 3.06 – Permitted Use Table*
- *Section 3.14 – B-1 Neighborhood Business District*
- *Section 3.15 – B-2 Community Business District.*
- *Minutes from January 8th, 2026 Zoning Board of Appeals meeting.*
- *Minutes from April 20th, 2026 Planning Commission meeting.*

PRZN 26-01 : 31075 JOHN R ROAD



Site Address: 31075 John R Road



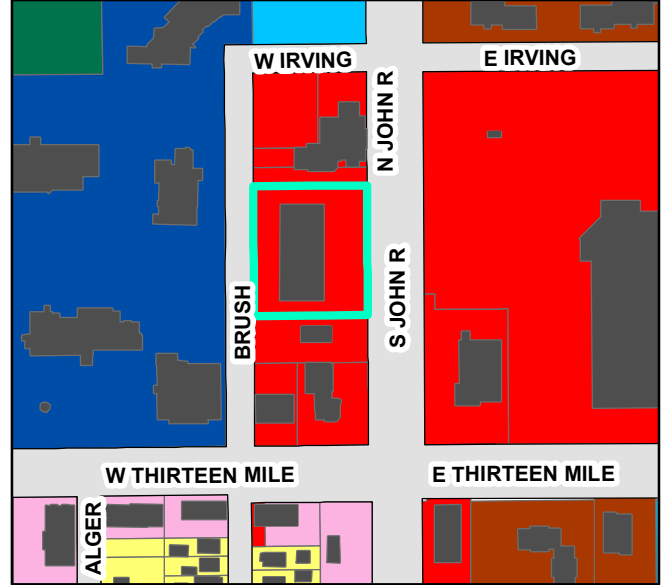
Click for map

Aerial



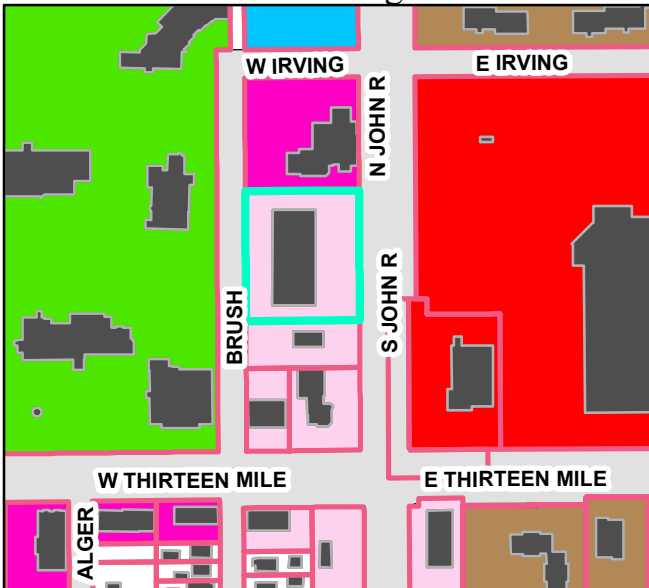
- 31075 John R Road
- Parcels

Existing Land Use



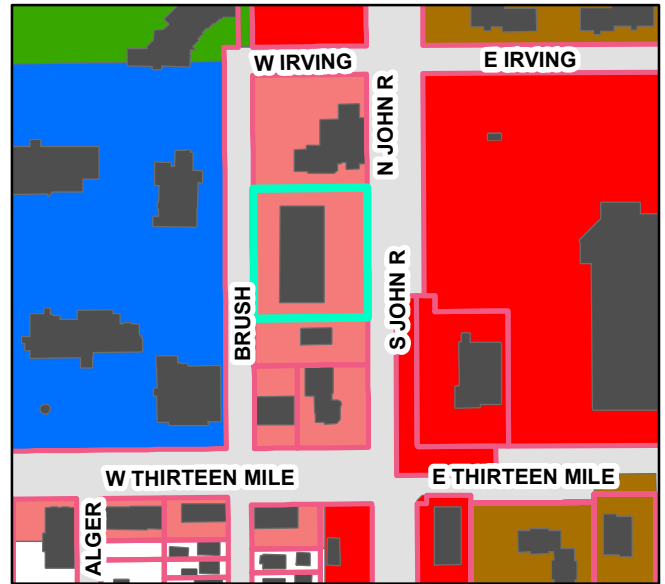
- 31075 John R Road
- Commercial
- Public
- Single and Two Family
- Office
- Multiple Family

Zoning



- 31075 John R Road
- N-P Natural Preservation
- B-1 Local Business
- MUI2
- B-2 Planned Business
- O-1

Future Land Use



- 31075 John R Road
- Commercial
- Office
- Public and Schools
- Multiple Family
- Industrial



CITY OF MADISON HEIGHTS
COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT
ZONING MAP AMENDMENT (REZONING) APPLICATION

I. APPLICANT INFORMATION

Applicant Smokin Bear Tobacco John R, Inc.
Applicant Address 31075 John R Road, Ste. C2
City Madison Heights State MI ZIP 48071
Interest in Property (owner, tenant, option, etc.) Tenant
Contact Person Matthew Abro
Telephone Number [REDACTED] Email Address [REDACTED]

II. PROPERTY INFORMATION

Property Address(es) 31075 John R Road, Ste. C2
Tax ID(s) _____ Zoning District _____
[PROVIDE SURVEYS AND LEGAL DESCRIPTIONS OF ALL PROPERTIES ON SEPARATE SHEETS]
Owner Name (if different than applicant) South Lyon Company, LLC
Address 47448 Pontiac Trail, Ste. 285
City Wixom State MI Zip 48393
Telephone Number [REDACTED] Email Address [REDACTED]

III. CONSULTANT INFORMATION (IF APPLICABLE)

Name Mark B. Berke, Attorney for Applicant Company Law Office of Mark B. Berke, PLLC
Address 29777 Telegraph Road, Ste. 1561
City Southfield State MI Zip 48034
Telephone Number [REDACTED] Email Address [REDACTED]

IV. NATURE OF REQUEST

- Standard Rezoning
- Rezoning with Conditions

Current Zoning Designation B-1 Proposed Zoning Designation B-2

V. PROJECT DESCRIPTION AND SCOPE OF WORK

Brief description explaining need for proposed map amendment:

Applicant has signed Lease Agreement for retail space, has completed build-out (with all approvals from City), and is prepared to order inventory and open business. This is the same space where a previous tobacco shop recently existed. An amendment is needed so that Applicant can obtain a Certificate of Occupancy and open business.

Required Attachments:

- Plot Plan/Survey** specifying the boundaries of the site, with legal descriptions of all properties subject to the request.
- Review Standards Response Form** (Standard Rezoning or Rezoning with Conditions Form)
- For Rezoning with Conditions Only:** Rezoning with Conditions Agreement and, if proposed, Rezoning with Conditions Site Plan

VI. APPLICANT CERTIFICATION

I (we) the undersigned do hereby apply to the City of Madison Heights for review and approval of the above-described Map Amendment application. Applicant(s) and the property owner(s) do hereby consent to city staff to assess the property for purposes of evaluating the site for requested action(s).

Printed Name Matthew Abro Signature *Matthew Abro* Date 05-11-2026

VII. PROPERTY OWNER CERTIFICATION

IF YOU ARE NOT THE PROPERTY OWNER, YOU MUST HAVE THE PROPERTY OWNER PROVIDE A NOTARIZED SIGNATURE, BELOW, OR PROVIDE A NOTARIZED LETTER OF AUTHORIZATION OR NOTARIZED POWER OF ATTORNEY AUTHORIZING YOU TO ACT ON THEIR BEHALF.

Printed Name Becker Almufti Signature *Becker Almufti* Date 05-11-2026

Notary for Property Owner:

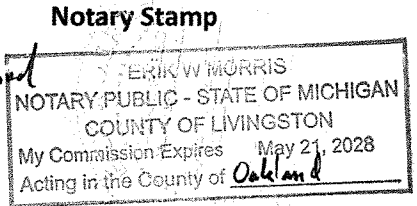
Subscribed and sworn before me, this 11th day of May, 2026.

A Notary Public in and for Livingston County, Michigan, Acting in Oakland

Notary Name (Print): Erik W Morris

Notary Signature: *Erik W Morris*

My Commission Expires: May 21st 2028



STAFF USE ONLY [DO NOT ACCEPT INCOMPLETE APPLICATIONS]

FILING FEE (\$1,500): _____	REZONING NO.: PRZN # _____
DATE APPLICATION RECEIVED: _____	RECEIVED BY: _____

REZONING WITH CONDITIONS: RESPONSE FORM

Section 15.07.3.C of the Zoning Ordinance contains review standards/ criteria for rezonings with conditions. Please provide responses to the following review standards for consideration by staff, the Planning Commission, and City Council. (Provide additional sheets, if necessary).

- A. Describe how the proposed rezoning with conditions will further the goals and objectives of the Madison Heights Master Plan.

First, the proposed rezoning will allow for the opening of a retail business in Madison Heights. This will allow for added commercial development in the City, as well as added employment (needed to operate business). This will encourage economic development and improve the appearance of the commercial corridor (since Applicant's retail space has already been professionally designed, upgraded and developed, with the approval of the City). Second, the Applicant's business will promote diversity and a balanced local economy. In addition, the Applicant's retail business is in demand and this will help ensure the accessibility and availability of local goods and merchandise. Finally, Applicant's proposed business is consistent with the other retailers (cell phone store, battery store, beauty store, etc) in the strip center.

- B. Do you acknowledge the following?

Voluntary rezoning conditions shall not authorize uses or development not permitted in the requested district and shall not permit uses or developments expressly or implicitly prohibited in the Rezoning with Conditions Agreement.

YES NO

- C. Do you acknowledge the following?

The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned including, without limitation, permitted uses, lot area and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply: Development and use of the property shall be subject to the more restrictive requirements shown or specified in the Rezoning with Conditions Agreement, and/or in other conditions and provisions set forth in the Rezoning with Conditions Agreement required as part of approval. Such Rezoning with Conditions agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.

YES NO

- D. Explain how the proposed Rezoning with Conditions will result in integration of the proposed land development project with the characteristics of the project area, and will result in an enhancement of the project area as compared to the existing zoning. Explain how such enhancement would be unlikely to be achieved or would not be assured in the absence of a Rezoning with Conditions.

As noted above, the Applicant has a signed Lease Agreement for the space. In addition, the Applicant's retail space has already been professionally designed, upgraded and developed, with full approvals from the City. The Applicant only needs a Certificate of Occupancy which can be secured once the rezoning (with conditions) has been approved and after the ZBA approves the required variance. If the Applicant is unable to obtain the requisite approvals, the Applicant would be unable to utilize the area, and that retail space would be left unoccupied for an unknown period of time. The approval of the rezoning (and variance) would allow for immediate business operations.

- E. As compared to the existing zoning, and considering the site-specific conditions or proposed land uses, explain why it would be in the public interest to grant the Rezoning with Conditions.


First, the approval and inclusion of this proposed business will help enhance commercial enterprise by allowing competitive retail locations. Second, the proposed rezoning would provide equal access to motor vehicle traffic on southbound John R, as exists for motor vehicle traffic on northbound John R. This will improve traffic flow by allowing customers access to equivalent retail businesses on both sides of John R and, in addition, could reduce traffic accidents from vehicles effectuating left-hand turns across the roadway.

- F. Explain how the proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.

The proposed conditions would be specific to the Applicant. In other words, the agreement that Applicant would enter into with the City would be limited to the business operations of the Applicant, only. If a future owner or tenant acquires the specified location, the City should be able to consider future zoning and planning actions.

- G. Are existing and available public services and utilities (including roads, sewers, water mains, etc.) capable of serving proposed or potential development that will occur as a result of the Rezoning with Conditions?

Yes, the public services available at the Applicant's location are capable of serving the Applicant's business operations. As noted above, the Applicant's retail space has already been professionally designed, upgraded and developed, with the approval of the City. The Applicant only needs a Certificate of Occupancy which can be secured once the rezoning (with conditions) has been approved and after the ZBA approves the required variance.

 DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

Date of this notice: 03-03-2025

Employer Identification Number:
33-3716002

Form: SS-4

Number of this notice: CP 575 A

SMOKIN BEAR TOBACCO JOHN R INC
43348 TUSCANY DR
STERLING HTS, MI 48314

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 33-3716002. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

Taxpayers request an EIN for their business. Some taxpayers receive CP575 notices when another person has stolen their identity and are opening a business using their information. If you did **not** apply for this EIN, please contact us at the phone number or address listed on the top of this notice.

When filing tax documents, making payments, or replying to any related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear-off stub and return it to us.

Based on the information received from you or your representative, you must file the following forms by the dates shown.

Form 941	10/31/2025
Form 940	01/31/2026
Form 1120	04/15/2026

If you have questions about the forms or the due dates shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, *Accounting Periods and Methods*.

We assigned you a tax classification (corporation, partnership, etc.) based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2020-1, 2020-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, *Entity Classification Election*. See Form 8832 and its instructions for additional information.

IMPORTANT INFORMATION FOR S CORPORATION ELECTION:

If you intend to elect to file your return as a small business corporation, an election to file a Form 1120-S, U.S. Income Tax Return for an S Corporation, must be made within certain timeframes and the corporation must meet certain tests. All of this information is included in the instructions for Form 2553, *Election by a Small Business Corporation*.

CITY OF MADISON HEIGHTS
CITY CLERK'S OFFICE
300 W 13 MILE RD

MADISON HEIGHTS, MI 48071

Mail To:
SMOKIN BEAR TOBACCO OF JOHN R IN
31075 JOHN R RD SUITE C
MADISON HEIGHTS, MI 48071



BUSINESS LICENSE INVOICE



Invoice #
00018362

Post Date
11/24/2025

License #
26-0004205

Invoice Date
11/24/2025

Due Date
11/24/2025

Amount Due
\$100.00

Business ID:
BUS2705
Business Name:
SMOKIN BEAR TOBACCO OF JOHN R INC

Business Address:
31075 JOHN R RD SUITE C

Please Return This Portion with your Payment

Invoice #:	License #:	License Type:	Application Date:	Expiration Date:
00018362	26-0004205	SQUARE FEET 0-5000 SQFT	11/24/2025	12/31/2026

Fee Items	Qty	Amount
0-5,000 SQ FT.	1	\$100.00

PAID

NOV 24 2025

CITY OF MADISON HEIGHTS
TREASURER'S OFFICE

Billing/Invoice Date: 11/24/2025

Total Due: \$100.00

Penalties and Late Charges will be applied after: 11/24/2025

CITY OF MADISON HEIGHTS
Date Entered 11/24/2025 1:12:41 PM
Posting Date: 11/24/2025
Ref 00018362
Receipt 110878156
Amount \$100.00



City of Madison Heights

BUILDING

Permit No: PB 25-0112

CDD - Building Division

300 W. Thirteen Mile

Madison Heights, Michigan 48071

Phone: (248) 583-0831

Fax: (248) 588-4143

Hours: M-F 8-11:30 am - 12:30-4:30 pm

<p style="text-align: right;">Location</p> <p>31075 JOHN R RD APT C</p> <p>44-25-02-478-021</p>	<p>SOUTH LYON COMPANY LLC Owne</p> <p>47448 PONTIAC TRL STE 285</p> <p>WIXOM MI 48393-2558</p>
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<p style="text-align: right;">Applicant</p> <p>SOUTH LYON COMPANY LLC</p> <p>47448 PONTIAC TRL STE 285</p> <p>WIXOM MI 48393-2558</p>	<p>Issued: 03/21/25 Expire Date: 09/17/25</p> <p>Code: M.H. ZONING ORDINANCE</p> <p>24 HOURS NOTICE REQUIRED FOR INSPECTION</p> <p>PERMIT HOLDER MUST REQUEST INSPECTION.</p>
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Work Description:

SPLIT ONE SUITE C 4000 SF TO TWO SUITES 2000 SF EACH SEE ATTACHED DRAWING

7/21/25 ENCLOSING A ROOM FOR CIGAR DISPLAY ROOM

Stipulations:

ROUGH AND FINAL INSPECTIONS-METAL STUDS REQUIRED. EGRESS AND INGRESS AT BOTH UNITS

MECHANICAL APPROVE THE UNIT WITH THE FOLLOWING CONDITIONS. THE UNIT IS NOTED AS THE ONE BEING INSTALLED ON PLANS SUBMITTED TO THE BUILDING DEPARTMENT PRIOR TO INSPECTION. FIELD VERIFICATION BY INSPECTOR.

Permit Item	Work Type	Value	Item Total
Administrative Fee	Admin. Fee	1.00	\$30.00
Commercial Construction	Commercial	25,000.00	\$325.00
Commercial Plan Review	Plan Review	25,000.00	\$200.00
Commercial Construction	Commercial	10,000.00	\$130.00
Commercial Plan Review	Plan Review	10,000.00	\$200.00

NOTICE - ALL PERMIT HOLDERS ARE REQUIRED TO HAVE OR INSTALL A CARBON MONOXIDE DETECTOR IF THE BUILDING HAS FUEL FIRED APPLIANCES.

Fee Total: \$885.00

CALL (248) 583-0831 FOR INSPECTIONS 24 HOURS AHEAD.

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and will become null and void if work is not started within 90 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced; and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code and that I will provide access to all building areas and roofs for all inspections.

I hereby certify that the proposed work is authorized by the owner, and that I am the owner or that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.

I hereby certify that I have read and understand the above information.

Owner's or Authorized Agent's Signature:

Date:

TYPE OF INSPECTION: Rough work

APPROVED

COMMENTS: 31075 JOHN R

05-28-2025

DATE CITY OF MADISON HEIGHTS

TYPE OF INSPECTION: INSULATION

APPROVED

COMMENTS: 31075 JOHN R

09-04-25

DATE CITY OF MADISON HEIGHTS

CDD - Building Division
Phone: (248) 583-0831

300 W. Thirteen Mile
Fax: (248) 588-4143

Madison Heights, Michigan 48071
Hours: M-F 8-11:30 am - 12:30-4:30 pm

Location
31075 JOHN R RD AP
44-25-02-478-021

SOUTH LYON COMPANY LLC Own
47448 PONTIAC TRL STE 285
WIXOM MI 48393-2558

Contractor
W M ELECTRICAL INC
32361 CRAFTSBURY
FARMINGTON HILL MI 48334

Issued: 03/26/25 Expire Date: 09/22/25
Code: 2023 NEC
24 HOURS NOTICE REQUIRED FOR INSPECTION
PERMIT HOLDER MUST REQUEST INSPECTION.

Work Description:

Stipulations:

PROVIDE NEW SERVICE 200 AMP

Permit Item	Work Type	Value	Item Total
Administrative Fee	Admin. Fee	1.00	\$30.00
Permanent Service	Perm. Service	1.00	\$70.00
Final Inspection	Final Insp.	1.00	\$70.00
Rough Inspection	Rough Insp.	1.00	\$70.00
Registration Fee	Registration	1.00	\$15.00

CALL BEFORE YOU DIG - NATIONAL MISS DIG CALL CENTER - DIAL '811'

CALL (248) 583-0831 FOR INSPECTIONS 24 HOURS AHEAD.

Fee Total: \$255.00

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and will become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced; and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code.

I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.

I hereby certify that I have read and understand the above information.

Owner's or Authorized Agent's Signature:

Date:

TYPE OF INSPECTION: Electr Service / Wall
PE 25-0125 Rough

APPROVED

COMMENTS: _____

6/6/25 [Signature]
 DATE CITY OF MADISON HEIGHTS

TYPE OF INSPECTION: Rough Ceilings
PE 25-0125

APPROVED

COMMENTS: _____

8/11/25 [Signature]
 DATE CITY OF MADISON HEIGHTS

TYPE OF INSPECTION: ABOVE CEILING
25-0112

APPROVED

COMMENTS: 31075 JOHN R

08-13-2025 [Signature]
 DATE CITY OF MADISON HEIGHTS



City of Madison Heights

Item 3.

MECHANICAL

Permit No: PM 25-0108

Community Development Department
Building Division
300 W. Thirteen Mile Road
Madison Heights, MI 48071
(248) 583-0831 Fax (248) 588-4143

Office Hours
8-11:30a.m. 12:30-4:30 p.m.

Fire Department
Fire Prevention Bureau
31313 Brush St.
Madison Heights, MI 48071
(248) 588-3605 Fax (248) 588-3604

Location
31075 JOHN R RD APT C
44-25-02-478-021

SOUTH LYON COMPANY LLC **Own**
47448 PONTIAC TRL STE 285
WIXOM MI 48393-2558

Contractor
BECKER AL-MUFTI
1316 ANDOVER DRIVE
WIXOM MI 48393

Issued: 03/26/25 Expires: 09/22/25
24 Hours notice is required for all mechanical inspections

Work Description:
PROVIDE NEW DUCTWORK, SMOKE DETECTORS FOR EXISTING RTU

Stipulations:

Permit Item	Work Type	Value	Item Total
Administrative Fee	Administrative	1.00	\$30.00
Commercial Heat or Air	Commercial	1.00	\$70.00

CALL (248) 583-0831 FOR MECHANICAL INSPECTIONS 24 HOURS AHEAD.

CALL BEFORE YOU DIG - NATIONAL MISS DIG CALL CENTER - DIAL 811

Fee Total: \$100.00

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and will become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced; and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code and that I will provide access for to all building areas and roofs for all inspections.

I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.

I hereby certify that I have read and understand the above information and all information contained in the application and its attachments.

Owner's or Authorized Agent's Signature:

Date:

TYPE OF INSPECTION: Rough (Heard)
Gas
APPROVED
 COMMENTS: From previous PR
8/09/2025
 DATE CITY OF MADISON HEIGHTS

TYPE OF INSPECTION: Rough (VAC)
APPROVED
 COMMENTS: 6-5-25
Boath
 DATE CITY OF MADISON HEIGHTS

TYPE OF INSPECTION: INS DUCT
APPROVED
 COMMENTS: 8-11-25
Boath
 DATE CITY OF MADISON HEIGHTS

TYPE OF INSPECTION: Suppression
APPROVED
 COMMENTS: 8-13-25
FM [Signature]
 DATE CITY OF MADISON HEIGHTS

TYPE OF INSPECTION: Fire Suppression Final
APPROVED
 COMMENTS: 9-17-25
FM Faverda
 DATE CITY OF MADISON HEIGHTS

STATE OF MICHIGAN
CITY OF MADISON HEIGHTS
COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

In re:
Zoning Map Amendment (Rezoning) Application

SMOKIN BEAR TOBACCO JOHN R, INC.
31075 John R Road, Ste. C2
Madison Heights, Michigan 48071
Tax ID: 44-25-02-478-021,

Applicant.

LAW OFFICE OF MARK B. BERKE, PLLC
By: MARK B. BERKE (P54935)
Attorney for Applicant
29777 Telegraph Road, Suite 1561
Southfield, Michigan 48034
(248) 703-2982

Applicant's Amended Supplement to
Zoning Map Amendment (Rezoning) Application

In addition to the information provided by Applicant in the Application Map Amendment (Rezoning) Application, Applicant provides the following:

1. Upon information and belief, Applicant believes all required documents and information were provided with Applicant's original Application in March 2026. The content of the original Application and the documents previously provided in March 2026 are incorporated herein by reference. In addition to the materials previously provided, please see the following:
 - a. Department of the Treasury, Internal Revenue Service, EIN Verification
 - b. Business License Invoice No. 00018362 (License No. 26-0004205)
 - c. Building Permit No. PB 25-0112, with approvals
 - d. Electrical Permit No. PE 25-0125, with approvals

- e. Mechanical Permit No. PE 25-0108, with approvals

If additional documentation or materials is required, Applicant is prepared to provide any such requested information.

2. Applicant previously submitted a filing fee (\$1,500) with its original Application. This Application is being submitted as an amended Application. As such, per the City Planner, no additional filing fee is required.

3. Applicant is submitting this Application for Rezoning with Conditions, and is voluntarily proposing a Conditional Rezoning to B-2, limited to the specific retail space of Applicant's location within the property owner's property. The following conditions are being voluntarily proposed by the Applicant and property owner:

- a. Applicant's business operations would include tobacco sales and anything incident to said tobacco sales (e.g., tobacco accessories)
- b. The use in the subject location would not include any other uses outside of the current B-1 zoning permitted uses
- c. Applicant would not engage in any operations as a financial institution
- d. Applicant would not engage in any operations in automobile sales
- e. Applicant would not engage in any operations in automobile service/repairs
- f. Applicant would not engage in any operations in gasoline sales
- g. Applicant would not engage in any operations as a medical facility
- h. Applicant would not engage in any operations in automobile sales
- i. Applicant would not engage in any operations in alcohol sales
- j. Applicant would not engage in any operations in adult/child care
- k. Applicant would not engage in any operations in firearm sales
- l. Applicant would not engage in any operations as a kennel/boarding facility
- m. Applicant would not engage in any operations as a funeral home
- n. Applicant would not engage in any operations in home improvement

- o. Applicant would not engage in any operations as a hotel/lodging facility
 - p. Applicant would propose that only one tobacco/smoke shop be authorized for use – at any given time – at the subject property
 - q. Any other reasonable conditions for which Applicant would voluntarily propose, if necessary, during the evaluation process
4. Applicant is prepared to enter into an appropriate Rezoning with Conditions Agreement with the City incorporating the various conditions outlined above, as well as any other reasonable conditions proposed by the Applicant and agreeable by the City.
5. Applicant recognizes that, even if this Rezoning with Conditions Application is approved, a dimensional variance would still be required from the Zoning Board of Appeals. Applicant is prepared to submit an appropriate Application for Dimensional Variance.

Respectfully submitted,

LAW OFFICE OF MARK B. BERKE, PLLC

By: /s/ Mark B. Berke
MARK B. BERKE (P54935)
Attorney for Applicant
29777 Telegraph Road, Suite 1561
Southfield, Michigan 48034
(248) 703-2982

DATED: June 11, 2026



NOTICE OF PUBLIC HEARING

Notice is hereby given that the **Planning Commission** for the City of Madison Heights will hold a public hearing on **Monday, June 15 th at 5:30 p.m.** in the City Hall Council Chambers, 300 West Thirteen Mile Road, Madison Heights, Michigan 48071, to consider the following rezoning request(s):

Amended Rezoning Request No. PRZN 26-01 by Smokin Bear Tobacco, on behalf of property owner South Lyon Company, LLC, to rezone one (1) parcel of land located at 31075 John R Road (TM# 44-25-02-478-021) from B-1, Neighborhood Business, to B-2, Community Business district. The amended application involves a Rezoning with Conditions in accordance with Section 15.07.3.C of the Madison Heights Zoning Ordinance.

The application and any supporting documents can be viewed during regular business hours at the Community and Economic Development Department. In addition, the agenda item can be viewed online after 4:00 p.m. on the Friday prior to the meeting at www.madisonheightsmi.gov in the Agenda Center.

For further information, please contact the Community and Economic Development Department at (248) 583-0831.

Advertiser Name / ID: CITY OF MADISON HEIGHTS / 261707 - Ad ID: 75068-292721 - PO: - Affidavit ID: 19785



Please Consider the Impact of the Proposed Tobacco Retailer Rezoning Request

From Kimberly Heisler <[REDACTED]>

Date Wed 5/13/2026 8:41 PM

To [REDACTED]

Cc [REDACTED]

 1 attachment (88 KB)

Madison Heights 2026 Tobacco Retailers.pdf;

Good evening, Planning Commissioners,

I respectfully ask the Planning Commission to carefully consider whether the proposed rezoning for Smokin Bear Tobacco aligns with Madison Heights' long-term vision and identity.

The proposed location is directly next to a boba tea shop and an area where high school students frequently gather and walk after school. In addition, the location is just over 1,000 feet from the Madison Heights Library and less than one mile from Lamphere High School, placing it within a highly youth-centered corridor of our community.

As the Executive Director of the Madison Heights Community Coalition (MHCC), I believe this concern is not about opposing business growth, but about balancing development with youth wellness, community environment, and thoughtful planning.

Madison Heights already has a significant number of tobacco and vape retailers operating throughout the city. In fact, MHCC recently visited all 34 tobacco retailers in Madison Heights to provide tobacco prevention education and verify compliance with proper signage. I have attached the list of these retailers to demonstrate the current level of saturation in our community. Here is a link to the 34 reporting forms we will be sharing with the State.

 [MHCC SYNAR VENDOR EDUCATION Invoice and 34 Reporting Forms 1.pdf](#)

Prevention research consistently shows that repeated exposure to nicotine and substance-oriented retail environments contributes to normalization and lower perceptions of harm among youth.

Madison Heights proudly uses the slogan "Creating Community." Creating community should also include creating environments where youth and families can thrive.

Additionally, communities across Michigan are beginning to address concerns surrounding emerging intoxicating products such as kratom, recognizing the importance of proactive, prevention-focused community planning.

Thank you for your time, service, and consideration.

Kind Regards,

Kimberly Heisler
Executive Director

Madison Heights Community Coalition, "MHCC"
Direct: 248-837-2665

**My email address has changed to kheisler@madisonheightsmi.gov.
Please update my contact information.**





Additional Resource Regarding Tobacco Density

From Kimberly Heisler <[REDACTED]>
Date Thu 5/14/2026 3:58 PM
To Matt Lonnerstater <Mlonnerstater@Madisonheightsmi.gov>
Cc [REDACTED]

Good afternoon, Matt,

I respectfully ask the Planning Commission to further consider the cumulative impact of tobacco retailer density within Madison Heights as you review the proposed rezoning request for Smokin' Bear Tobacco.

As a follow-up to my previous email, I wanted to share an additional resource: a web-based application that visually details tobacco retailer density by zip code and population. The data provides helpful context regarding the concentration of tobacco retailers already operating within Madison Heights and surrounding communities. [Oakland County Tobacco Retailers Web App](#).

Given the proposed location's proximity to youth-centered spaces, including the Madison Heights Library, Lamphere High School, and a popular student after-school gathering area, I believe this information is important to consider in the rezoning discussion.

Thank you again for your time, service, and thoughtful consideration.

Kind Regards,

Kimberly Heisler
Executive Director

Madison Heights Community Coalition, "MHCC"
Direct: 248-837-2665

**My email address has changed to kheisler@madisonheightsmi.gov.
Please update my contact information.**



Zoning Board of Appeals Meeting
Madison Heights, Michigan
January 08, 2026

A Zoning Board of Appeals Meeting was held on Thursday, January 08, 2026, at 7:30 PM at Council Chambers - City Hall, 300 W. 13 Mile Rd.

PRESENT: Chair Kimble and members: Corbett, Covert, Holder, Loranger, Oglesby, Sagar, and Thompson

ABSENT: Councilwoman Aaron and Marentette

ZBA 01-26. Excuse member(s).

Motion made by Ms. Holder, Seconded by Mr. Oglesby, to excuse Councilwoman Aaron and member Marentette from tonight’s meeting.

Voting Yea: Corbett, Holder, Kimble, Loranger, Oglesby, Sagar, Covert, Thompson

Absent: Councilwoman Aaron, Ms. Marentette

Motion carried.

ZBA 02-26. Minutes.

Motion made by Ms. Corbett, Seconded by Ms. Covert, to approve the December 4, 2025, Meeting Minutes as presented.

Voting Yea: Corbett, Holder, Kimble, Loranger, Oglesby, Sagar, Covert, Thompson

Absent: Councilwoman Aaron, Marentette

Motion carried.

ZBA 03-26 PZBA #25-11: 31075 John R Road

City Planner Lonnerstater reviewed the staff report provided in the meeting packet, incorporated herein:

REQUEST

The applicant, Matthew Abro, is appealing an administrative decision made by the City Planner, acting in the capacity of the Planning and Zoning Administrator, to deny a Certificate of Occupancy application for a tobacco/smoke shop at 31075 John R Road.

STAFF COMMENT AND ZBA ACTION

The City Planner, Matt Lonnerstater, summarized the staff report: The applicant has appealed the Planning and Zoning Administrator’s decision to deny a Certificate of Occupancy (CofO) for his business. The facts presented in this staff report and the included attachments provide the reasoning for the Planning and Zoning Administrator’s decision. This is not a variance request, and the criteria for reviewing an appeal differ from that of a variance request. In this case, the Zoning Board of Appeals is tasked with determining whether the Planning and Zoning Administrator (City Planner) made an error in their decision to deny the CofO. The onus is on the applicant/petitioner to prove that an error was made.

Based on general zoning practice, a reversal or modification of the Planning and Zoning Administrator's decision may be made if the ZBA finds one of the following to be true:

- (1) The decision was arbitrary or capricious; or
- (2) The decision was based on erroneous findings of fact; or
- (3) The decision was a clear abuse of discretion; or
- (4) The decision was based on an erroneous interpretation of the Zoning Ordinance.

The ZBA should not treat the appeal as a new decision. Rather, review of the decision should be limited to the information that was available to the Planning and Zoning Administrator when the decision to deny the Certificate of Occupancy application was made.

Following the consideration of all testimony, documentary evidence, and matters of record, and following the public hearing, the ZBA shall make a determination on the appeal unless an extension of time is agreed to by the applicant and the ZBA. Any ZBA motion, including a decision to either uphold or overturn the decision of the Planning and Zoning Administrator, shall include clear and concise findings of fact relating to the appeal.

Chair Kimble opened the public hearing at 7:37 p.m. to hear comments on application #25-11.

Appellant, Matthew Abro, explained the appeal: He sought to open a "Smokin Bear Tobacco" retail shop in a suite zoned B-1, Neighborhood Business. The appellant argued that significant investment was made in the build-out, including interior modifications, plumbing, and a new facade, and that city inspectors were aware of the intended use throughout the process. He further noted that a tobacco shop had previously operated in the same plaza.

City Planner Lonnerstater clarified that while building permits were issued for construction, issuance of a permit does not guarantee compliance with zoning codes. Upon review of the Certificate of Occupancy (CofO) application, it was determined that a "tobacco and smoke shop" was not a permitted use in the B-1 district under the current Zoning Ordinance adopted in 2024. The Zoning Ordinance defines such shops as stores primarily selling tobacco products, which are excluded from the B-1 use table.

Assistant City Attorney Burns advised the Board to determine if the City Planner was the appropriate authority and if the regulation was properly enforced.

There being no comments on application #25-11, Chair Kimble closed the public hearing at 8:13 p.m.

Motion made by Ms. Holder, Seconded by Mr. Oglesby, **MOVE** that the Zoning Board of Appeals hereby affirms and upholds the administrative decision of the City Planner, acting in the capacity of the Planning and Zoning Administrator, to deny a Certificate of Occupancy for a tobacco/smoke shop at 31075 John R Road, zoned B-1, Neighborhood Business. This decision is based upon the finding that the Planning and Zoning Administrator acted on the submitted Certificate of Occupancy application in accordance with the Madison Heights Zoning Ordinance.

Voting Yea: Corbett, Holder, Kimble, Loranger, Oglesby, Sagar, Covert, Thompson
Absent: Councilwoman Aaron, Marentette
Motion carried.

ZBA 04-26. Public Comment: For items not listed on agenda.

Seeing no one wished to comment, Chair Kimble opened public comment at 8:14 p.m. and closed the public comment at 8:15 p.m.

ZBA 05-26. PZBA #25-10: 32500 John R Road

City Planner Lonnerstater reviewed the staff report provided in the meeting packet, incorporated herein:

REQUEST

The applicant, Marija Dedvukaj on behalf of property owner VDG John R, LLC, requests variances from Section 12.04 (Prohibited Signs) and Section 12.07 (Regulations for Permitted Signs) to permit the installation of a pylon sign that exceeds that maximum permitted height for ground signs. The property is located at 32500 John R Road (tax parcel #44-25-01-151-063) and is zoned B-3, Regional Business. The property is located on the east side of John R Road, south of Mandoline, and is improved with a drivethrough fast-food restaurant which is in the process of being converted into a Coney Island restaurant. At their December 4th, 2025 the Zoning Board of Appeals postponed action on the variance requests to allow time for the applicant to explore alternative sign heights and designs.

VARIANCE FINDINGS AND CRITERIA

Section 15.06.2 of the Zoning Ordinance grants the Zoning Board of Appeals the power to authorize variances from sign regulations, provided that such variances will not be inconsistent with the purpose and intent of such requirements. In granting a variance, the Zoning Boards of Appeals shall make findings that the petitioner has adequately proven the existence of a practical difficulty, explicitly with regard to the following criteria:

- A. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- B. That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- C. That the plight of the owner is due to unique circumstances of the property , such as the shape of the parcel, unique topographic or environmental conditions, or any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary; and
- D. That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and

APPROVAL OF MINUTES

PC 26-12. Minutes.

Motion to approve the Planning Commission meeting minutes of February 17, 2026, as printed.

Motion made by Commissioner Fox, Seconded by Commissioner Graettinger.

Voting Yea: Chair Champagne, Commissioner Fleming, Commissioner Fox, Commissioner Graettinger, Commissioner Haines, Commissioner Marsh, Commissioner Olson, Commissioner Sylvester

Motion carries unanimously.

PUBLIC HEARING: Rezoning Request PRZN 26-01 – 31075 John R Road [B1 to B2]

City Planner Lonnerstater reviewed the staff report for a request from **Smokin Bear Tobacco** to rezone the property at 31075 John R Road from B-1 (Neighborhood Business) to B-2 (Community Business).

STAFF ANALYSIS: The applicant seeks to operate a tobacco and smoke shop, a use permitted in B-2 but not B-1. A previous Certificate of Occupancy application was denied for zoning non-compliance and that decision was upheld by the Zoning Board of Appeals in January. Planner Lonnerstater noted that even if rezoned, a variance would be required because the site is 60 feet from the Civic Center/City Hall property, failing the 200-foot separation standard from Community Centers and Parks. Staff highlighted that B-2 allows more intensive uses like auto repair and drive-thrus, and the Future Land Use designation is Office, which aligns with neither district. For clarification, a tobacco shop is defined as a store *primarily* selling tobacco products; ancillary sales (like those in a gas station) are permitted in B-1.

Planner Lonnerstater reviewed the use specific standards for tobacco/smoke shops, the map amendment rezoning review standards, and zoning and land use considerations as detailed in the packet. He especially noted #6 in the rezoning review standards states that if a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

APPLICANT PRESENTATION: Attorney Rich Sulaka and owner Matthew Abro spoke on behalf of the Smokin Bear Tobacco. They noted a vape store operated at the site previously and that significant investment had been made in the build-out. Mr. Abro clarified the store sells nicotine-based vapes, glass pipes, and whippets (inhalants), but does not sell THC. It was also noted that Smokin’ Bear Tobacco currently has another location on Dequindre and 12 Mile.

COMMISSION DISCUSSION: Mayor Haines expressed concern that a B-2 rezoning would allow for banquet halls, bars, and firearm retail adjacent to a park where children are present. Additional

concerns revolved around the distance of the site is 60 feet from the Civic Center/City Hall property, failing the 200-foot separation standard from Community Centers and Parks.

Attorney Sulaka requested the commission postpone the matter to allow the applicant to explore a rezoning with conditions to restrict certain B-2 uses.

PC 26-13. Postponement of PRZN #26-01.

Motion to postpone case PRZN #26-01 per the applicant’s request until the next meeting that can fulfill state noticing requirements, for the purpose of potentially seeing the request converted into a rezoning with conditions.

Motion made by Commissioner Fox, Seconded by Commissioner Oglesby.

Voting Yea: Chair Champagne, Commissioner Fleming, Commissioner Fox, Commissioner Graettinger, Commissioner Marsh, Commissioner Oglesby, Commissioner Sylvester

Voting Nay: Commissioner Haines, Commissioner Olson
Motion carries.

NEW BUSINESS

Street Right-of-Way Vacation Request PEE # 26-01 - GWK/WRC - Unimproved Rights-of-Way

Planner Lonnerstater reviewed a request to vacate six "paper only" street rights-of-way (Red Run Boulevard, Jared Avenue, Osman Avenue, Delton Avenue, Woodside Avenue, and Parkdale Avenue) platted in the 1920s within the **Red Oaks Golf Course**. The underlying property is owned by the George W Kuhn Drainage District/Oakland County Water Resources Commission.

PC 26-14. Street Right-of-Way Vacation Request PEE # 26-01 - GWK/WRC - Unimproved Rights-of-Way

Motion by Commissioner Haines, seconded by Commissioner Olson to move that the Planning Commission hereby recommends that City Council approve street vacation request # PEE 26 - 01 to vacate the following unimproved rights-of-way located within the platted Northeastern Highway Subdivision No. 1 and North Acres Subdivision, and as reflected within the attachments to the staff report:

- Red Run Boulevard (ROW width 120 ft.)
- Girard Avenue (86 ft.)
- Osmun Avenue (50 ft.)
- Delton Avenue (50 ft.)
- Woodside Avenue (50 ft.)
- Parkdale Avenue (60 ft.)

Section 3.06 Permitted Use Table

Uses not listed in a particular Zoning District but permitted elsewhere in the Zoning Ordinance shall be considered prohibited in that Zoning District. However, the Planning and Zoning Administrator or their designee may determine that a use which is not specifically mentioned in this Ordinance is comparable to a permitted or prohibited use in any district, either by right or as a Special Land Use. The Planning and Zoning Administrator may refer a use interpretation to the Zoning Board of Appeals.

The City Center Zoning District is regulated in [City Center District, Section 6.02](#)

Key:

P = Principal Uses Permitted By-Right

S = Uses Permitted on Special Land Use Approval

A = Permitted as an Accessory Use

P/S = May be Permitted By-Right or as a Special Land Use. Refer to use-specific standards

A+S = Permitted as an Accessory Use upon Special Land Use Approval

[blank] = Not Permitted

* = Refer to City Center, [Section 6.02](#), for additional use matrix based on building type.

† = Only permitted in Primary Caregiver Marihuana Grow Overlay District, [Section 5.01](#)

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUI-1	MUI-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
	Residential Uses																
Accessory Dwelling Unit	A	A	A	A	A												7.03(1)
Detached One-Family Dwelling	P	P	P	P	P											S	7.03(10)
Townhomes, Attached One-Family Dwellings				P	P						P	P					7.03(45)
Duplexes				P	P												7.03(12)
Multiplexes				P	P												7.03(29)
Multi-Family Dwellings					P					P*		P					7.03(30)
Residential/Commercial Mixed-Use							P	P	P	P*	P	P					7.02(2)
Live/Work				S	S		P				P	P					7.03(23)
Manufactured Homes															P		3.12
Senior Housing, Assisted					S	S						S					7.03(41)
Senior Housing, Independent					P					P*		P					7.03(42)
Child Family Day Care Homes	P	P	P	P	P						P	P				P	7.03(7)
Child Group Day Care Homes	S	S	S	S	S						S	S				S	7.03(7)
Foster Care Family Homes	P	P	P	P	P						P	P				P	7.03(14)
Foster Care Group Homes	S	S	S	S	S						S	S				S	7.03(14)
Commercial Uses																	
Artist Studio						P	P	P	P	P*	P	P	P	P			
Auto Repair and Service (Minor)								S	P		S		S	S			7.03(2)
Auto Repair and Service (Major)								S	S		S		S	S			7.03(2)
Auto Sales (New and Used) and Rental								S	S		S	S	P/S	P/S			7.03(3)
Auto Wash								S									7.03(4)
Banquet/Assembly/Meeting Halls (less than 75 persons)						S	S	P	P	P/S*	P	P	P	P			7.03(5)
Banquet/Assembly/Meeting Halls (greater than 75 persons)								P	P	P/S*	S	P					7.03(5)
Bars and Taprooms							S	P	P	P/S*	P	P	P	P			
Business or Trade Schools						P	S	P	P	P*	S	P	P	P			

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUJ-1	MUJ-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Child/Adult Day Care Center and Preschools	S	S	S	S	S	P	P	P	P	P*	S	P					7.03(6)
Commercial Kennels and Boarding Facilities								S	S			S	S	S			7.03(8)
Drive-Through Facilities						A+S	A+S	A	A		A+S	A					7.03(11)
Financial Institutions						P	P	P	P	P*	P	P	P	P			
Firearm Retail Sales								P	P				A	A			7.03(13)
Funeral Homes						S		S	S			S					7.03(15)
Gasoline/Recharging Stations								S	S								7.03(16)
General Retail, Small to Mid-Format (up to 30,000 sq. ft.)							P	P	P	P*	P	P					
General Retail, Large Format (>30,000 sq. ft.)								P	P		S	S					
Home Improvement Centers and Garden Centers, Small to Mid-Format (up to 30,000 sq. ft.)							P	P	P	P/S*	P	P	S	S			7.03(17)
Home Improvement Centers and Garden Centers, Large Format (>30,000 sq. ft.)								P	P		S	S	S	S			7.03(17)
Hotels and Lodging Facilities								S	P	P/S*	S	P					7.03(20)
Incubator Kitchen or Catering Facility						S	P	P	P	P*	P	P	P	P			
Indoor Recreational Business							P/S	P	P	P/S*	P/S	P/S	P	P			7.03(21)
Indoor Shooting Range									S				S	S			7.03(22)
Medical Office						P	P	P	P	P*	P	P					
Microbreweries, Wineries and Distilleries							S	P	P	P*	P	P	P	P			
Mobile Food Court (Principal Use)										S*	S	S					7.03(27)
Mobile Food Site (Accessory Use)										A*	A	A					7.03(28)
Outdoor Dining and Seating						A	A	A	A	A*	A	A	A	A			7.03(31)
Outdoor Recreational Business								S	S			S					7.03(32)
Outdoor Sales and Display						A+S	A+S	A	A	A*	A	A	A	A			7.03(33)

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUI-1	MUI-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Personal Service Establishments						P	P	P	P	P*	P	P					
Pharmacy						P	P	P	P	P*	P	P					
Professional Office						P	P	P	P	P*	P	P	P	P			
Restaurant						P	P	P	P	P*	P	P	P	P			
Self-Storage Facility									S				S	S			7.03(40)
Tutoring and Instructional Services						P	P	P	P	P*	P	P					
Tobacco/Smoke Shop or Smoke Lounge								P	P	S*	S	P					7.03(44)
Theater							S	P	P	P*	P	P					
Veterinary Clinic or Animal Grooming						S	S	P	P	P*	P	P					7.03(46)
Industrial Uses																	
Artisan Manufacturing/Makerspace										P*	P	P	P	P			
Contractor's Office						P	P	P	P	P*	P	P	P	P			7.03(9)
Light Industrial, Assembly, Repair and Manufacturing											P		P	P			
Heavy Industrial, Assembly, Repair and Manufacturing														P			
Lumber Yard													S	S			7.03(17)
Fleet Vehicle and Trucking Storage Yard. Commercial Storage of Boats, Trailers, Recreational Vehicles, or other Operable Vehicles or Equipment.													S	S			
Research, Development and Testing Facilities										S*	P		P	P			
General Warehouse and Distribution											P		P	P			
Wholesale Sales/Retail									P		S	S	S	S			
Industrial Tool and Equipment Sales, Rental, Service, Storage and Distribution								P	P	S*	S	P	P	P			
Incubator Workspaces								P	P	P*	P	P	P	P			
Yard Waste Transfer and Composting Facilities														S			
Junk, Tow, or Salvage Yard														S			

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUI-1	MUI-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Recycling Drop Off Centers													S	S			
Recycling Transfer and Processing Facilities														S			
Public & Quasi-Public Uses																	
Hospital						S		S	S								7.03(19)
Public Library, Museum, Art Center, Community Center	S	S	S	S	S	P	P	P	P	P*	P	P	P	P	S	S	
Government Office Building/Courthouse/Public Police and Fire Services	P	P	P	P	P	P	P	P	P	P*	P	P	P	P	P	P	
Post Office					P	P	P	P	P	P*	P	P	P	P			
Religious Institutions, Private Clubs, and Lodges (less than 75 persons)	S	S	S	S	S	S	S	P	P	P*	P	P	P	P			7.03(39)
Religious Institutions, Private Clubs, and Lodges (greater than 75 persons)	S	S	S	S	S			P	P	S*	S	P					7.03(39)
K-12 Schools, Public or Private	S	S	S	S	S	P	S	S	S	S*	S	S					
Institutions of Higher Learning						P	S	P	P	S*	P	P					
Public Parks	P	P	P	P	P	P	P	P	P	P*	P	P	P	P	P	P	
Cemetery	S	S															
Essential Public Utility Services	P	P	P	P	P	P	P	P	P	P*	P	P	P	P	P	P	
Other Uses																	
Accessory Buildings, Structures and Uses	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	8.03
Temporary Buildings/Uses	P	P	P	P	P	P	P	P	P	P*	P	P	P	P	P	P	7.03(43)
Home Occupation, Minor	A	A	A	A	A					A*	A	A			A	A	7.03(18)
Home Occupation, Major	A+S	A+S	A+S	A+S	A+S					A+S*	A+S	A+S			A+S	A+S	7.03(18)
Parking as a Principal Use	S	S	S	S	S	S	S	S	S	S*	S	S	S	S	S		7.03(34)
Regulated Uses								S	S								7.03(38)
Wireless Communication Facilities	Refer to Section 7.03(47)																
Medical Marihuana Caregiver											P ⁺	P ⁺	P ⁺	P ⁺			7.03(24)
Medical Marihuana and Adult Use Marihuana Safety Compliance Facility						P					P	P	P	P			7.03(25)

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUJ-1	MUJ-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Medical Marihuana and Adult Use Marihuana Facilities	Refer to Section 7.03(26)																

Section 3.14 B-1 Neighborhood Business District.

PREAMBLE		
<p>The B-1 Business District is designed to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. The B-1 District shall encourage uses and design that are compatible with, and accessible to, nearby residential uses, thus reducing the number of vehicle trips required in these areas.</p>		
PERMITTED USES	SPECIAL LAND USES	ACCESSORY USES
<ul style="list-style-type: none"> • Artist Studio • Child/Adult Day Care Center and Preschools 7.03(6) • Contractor’s Office 7.03(9) • Essential Public Utility Services • Financial Institutions • General Retail, Small to Mid-Format (up to 30,000 sq. ft.) • Government Office Building/Courthouse/Public Police and Fire Services • Home Improvement Centers and Garden Centers, Small to Mid-Format (up to 30,000 sq. ft.) 7.03(17) • Incubator Kitchen or Catering Facility • Indoor Recreational Business 7.03(21) • Live/Work 7.03(23) • Medical Office • Personal Service Establishments • Pharmacy • Post Office • Professional Office • Public Library, Museum, Art Center, Community Center • Public Parks • Residential/Commercial Mixed-Use 7.02(2) • Restaurant • Temporary Buildings and Uses 7.03(43) • Tutoring and Instructional Services 	<ul style="list-style-type: none"> • Banquet/Assembly/Meeting Halls (less than 75 persons) 7.03(5) • Bars and Taprooms • Business or Trade Schools • Drive-Through Facilities 7.03(11) • Indoor Recreational Business 7.03(21) • Institutions of Higher Learning • K-12 Schools, Public or Private • Microbreweries, Wineries and Distilleries • Outdoor Sales and Display 7.03(33) • Parking as a Principal Use 7.03(34) • Religious Institutions, Private Clubs, and Lodges (less than 75 persons) 7.03(39) • Theater • Veterinary Clinic or Animal Grooming 7.03(46) 	<ul style="list-style-type: none"> • Accessory Buildings, Structures and Uses Section 8.03 • Drive-Through Facilities 7.03(11) • Outdoor Dining and Seating 7.03(31) • Outdoor Sales and Display 7.03(33)

The above list is a summary of Principal Permitted Uses, Special Land Uses, and Accessory Uses in the district. Uses provided with a section reference indicates uses that have specific use standards. Refer to [Article 2](#) for definitions of uses.

DIMENSION REGULATIONS			
Lot Standards		Minimum Setbacks	
Min. Lot Area (sq. ft.)	--	Front Yard (ft.)	5 ft.
Min. Lot Width (ft.)	--	Side Yard (one) (ft.)	5 ft. (A)
Max. Lot Coverage	--	Side Yard (total of 2) (ft.)	10 ft. (A)
Min. Floor Area/Unit		Street Sides (ft.)	5 ft.
Max. Building Height (ft.)	30 ft.	Rear Yard (ft.)	15 ft. (B)
Max. Building Height (stories)			
Footnotes: Refer to Section 4.02 wherever a footnote is referenced in parentheses after one of the design regulations.			

Section 3.15 B-2 Community Business District

PREAMBLE		
<p>The B-2 Community Business District is designed to cater to the needs of a larger consumer population than is served by the Neighborhood Business District and may be characterized by an integrated cluster of establishments served by a common parking area and generating large volumes of vehicular and pedestrian traffic. The B-2 district is intended along, and at the intersections of, major arterial streets.</p>		
PERMITTED USES	SPECIAL LAND USES	ACCESSORY USES
<ul style="list-style-type: none"> Artist Studio Banquet/Assembly/Meeting Halls (greater than 75 persons) 7.03(5) Banquet/Assembly/Meeting Halls (less than 75 persons) 7.03(5) Bars and Taprooms Business or Trade Schools Child/Adult Day Care Center and Preschools 7.03(6) Contractor's Office 7.03(9) Essential Public Utility Services Financial Institutions Firearm Retail Sales 7.03(13) General Retail, Small to Mid-Format (up to 30,000 sq. ft.) and Large-Format (>30,000 sq. ft.) Government Office Building/Courthouse/Public Police and Fire Services Home Improvement Centers and Garden Centers, Small to Mid-Format (up to 30,000 sq. ft.) and Large Format (>30,000 sq. ft.) 7.03(17) Incubator Kitchen or Catering Facility Incubator Workspaces Indoor Recreational Business 7.03(21) Industrial Tool and Equipment Sales, Rental, Service, Storage and Distribution Institutions of Higher Learning Medical Office Microbreweries, Wineries and Distilleries Personal Service Establishments Pharmacy Post Office Professional Office Public Library, Museum, Art Center, Community Center Public Parks Religious Institutions, Private Clubs, and Lodges (greater than 75 persons) 7.03(39) 	<ul style="list-style-type: none"> Auto Repair and Service (Major) 7.03(2) Auto Repair and Service (Minor) 7.03(2) Auto Sales (New and Used) and Rental 7.03(3) Commercial Kennels and Boarding Facilities 7.03(8) Funeral Homes 7.03(15) Gasoline/Recharging Stations 7.03(16) Hospital 7.03(19) Hotels and Lodging Facilities 7.03(20) K-12 Schools, Public or Private Outdoor Recreational Business 7.03(32) Parking as a Principal Use 7.03(34) Regulated Uses 7.03(38) 	<ul style="list-style-type: none"> Accessory Buildings, Structures and Uses Section 8.03 Drive-Through Facilities 7.03(11) Outdoor Dining and Seating 7.03(31) Outdoor Sales and Display 7.03(33)

<ul style="list-style-type: none"> • Religious Institutions, Private Clubs, and Lodges (less than 75 persons) 7.03(39) • Residential/Commercial Mixed-Use 7.02(2) • Restaurant • Temporary Buildings and Uses 7.03(43) • Theater • Tobacco/Smoke Shop or Smoke Lounge 7.03(44) • Tutoring and Instructional Services • Veterinary Clinic or Animal Grooming 7.03(46) 		
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The above list is a summary of Principal Permitted Uses, Special Land Uses, and Accessory Uses in the district. Uses provided with a section reference indicates uses that have specific use standards. Refer to [Article 2](#) for definitions of uses.

DIMENSION REGULATIONS			
Lot Standards		Minimum Setbacks	
Min. Lot Area (sq. ft.)	--	Front Yard (ft.)	10 ft.
Min. Lot Width (ft.)	--	Side Yard (one) (ft.)	10 ft. (A)
Max. Lot Coverage	--	Side Yard (total of 2) (ft.)	20 ft. (A)
Min. Floor Area/Unit		Street Sides (ft.)	10 ft.
Max. Building Height (ft.)	40 ft.	Rear Yard (ft.)	20 ft. (B)
Max. Building Height (stories)			

Footnotes: Refer to [Section 4.02](#) wherever a footnote is referenced in parentheses after one of the design regulations

- (3) Consistency with the goals, policies and objectives of the Master Plan (including the Future Land Use Plan), and any sub-area or corridor plans. If conditions have changed since such plans were adopted, consistent with recent development trends in the area shall be considered.
- (4) The boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.
- (5) The requested zoning district is considered to be more appropriate from the city's perspective than another zoning district.
- (6) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.
- (7) The requested rezoning will not create an isolated or incompatible zone in the neighborhood.
- (8) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- (9) That the amendment will not be expected to result in exclusionary zoning.

C. Rezoning with Conditions. The Planning Commission and City Council recognize that, in certain instances, it would be an advantage to both the City and to a property owner seeking rezoning if the property owner proposes certain conditions and limitations as part of a petition for rezoning. Therefore, it is the intent of this Section to provide a process consistent with the provision of Section 405 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3405, to permit property owners to offer conditions regarding the use and/or development of land as part of the rezoning request. It is the further intent of this ordinance to accomplish, among other things, the objectives of the Zoning Ordinance and the Master Plan to achieve integration of the proposed land development project with the characteristics of the surrounding area.

(1) Authorization and Eligibility.

- (a) The standards of this Section shall grant a property owner the option of voluntarily proposing conditions for the development and use of property in connection with the submission of a petition seeking a rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.
- (b) In order to be eligible for consideration of a Rezoning with Conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a Rezoning with Conditions Agreement) that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:
 - (i) The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other physical features of the proposed development.
 - (ii) Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use. For example: units per acre, maximum usable floor area, or hours of operation.
 - (iii) Preservation of open space, natural resources and/or natural features.
 - (iv) Improvements to address traffic issues, including paving, substantial improvements to or funding of improvements to major roads to the benefit of the entire City.
 - (v) Site improvements such as signage, lighting, landscaping, building materials for the exterior of some or all structures above and beyond what would otherwise be required by City Ordinance.
 - (vi) Limitations on permissible uses of the property.
 - (vii) Any other conditions that may be voluntarily proposed by the property owner.

(2) Application and Review Procedures.

- (a) Application.

- (i) At the time of making application for amendment of this ordinance seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning a property owner may submit a complete application for approval of a Rezoning with Conditions to apply in conjunction with the rezoning.
 - (ii) The application, which may be amended by the applicant during the process of consideration, shall specify the Rezoning Conditions proposed by the applicant, recognizing that Rezoning Conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.
 - (iii) An application for a Rezoning with Conditions shall include a Rezoning with Conditions Agreement ("the Agreement"). The Agreement shall set forth the rezoning conditions and may incorporate a Rezoning with Conditions Plan.
 - (iv) The application shall include a notarized signature of the property owner indicating that the conditions attached to the rezoning are voluntarily offered.
- (b) Technical Review Committee Review. The proposed Rezoning with Conditions will become an agenda item for the Technical Review Committee, with comments forwarded to the Planning Commission.
- (c) Planning Commission Review.
- (i) The proposed Rezoning with Conditions shall be noticed for public hearing in accordance with [Section 15.01](#) before the Planning Commission as a proposed legislative amendment of the Zoning Ordinance.
 - (ii) Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Council on the proposed Rezoning with Conditions.
- (d) City Council Review. Upon recommendation by the Planning Commission, the City Council shall make a final determination to approve or deny the Rezoning with Conditions as offered by the applicant. The City Council may only consider the conditions offered by the applicant and may not attach any other conditions to the rezoning other than those offered by the applicant. Any new conditions voluntarily offered by the applicant shall require Planning Commission review and a new public hearing. The City Council's deliberations shall include, but not be limited to, a consideration of the review criteria for a Rezoning with Conditions.
- (3) **Review Criteria.** A Rezoning with Conditions shall only be approved if it meets the following requirements and standards:
- (a) The proposed Rezoning with Conditions will further the goals and objectives of the City Master Plan.
 - (b) Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the Rezoning with Conditions Agreement).
 - (c) The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:
 - (i) Development and use of the property shall be subject to the more restrictive requirements shown or specified in the Rezoning with Conditions Agreement, and/or in other conditions and provisions set forth in the Rezoning with Conditions Agreement required as part of the Rezoning with Conditions approval. Such Rezoning with Conditions Agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
 - (d) The proposed Rezoning with Conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a Rezoning with Conditions.
 - (e) As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the Rezoning with Conditions. In determining whether approval of a proposed application would be in the public interest, the benefits

which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the City by the City Council and Planning Commission.

- (f) The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.
 - (g) Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the Rezoning with Conditions without negatively impacting the delivery of public services to other properties in the City, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the City.
 - (h) The offered condition(s) are beneficial to the public good and likely to be enforceable.
 - (i) The condition does not have the same effect as a use variance.
 - (j) The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.
- (4) **Effect of Approval.** Approval of the Rezoning with Conditions and Rezoning with Conditions Agreement confirms only the rezoning of the property, subject to any conditions reflected in the Rezoning with Conditions Agreement. Any applicable site plan, plat, condominium, special land use, or variance approvals shall be required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Rezoning with Conditions". The Zoning Map shall specify the new zoning district plus a reference to "CR" e.g., the district classification for the property might be "B-1, Neighborhood Business District (CR, Rezoning with Conditions)", with a Zoning Map Designation of "B-1/CR." Use of the property so classified and approved shall comply with the conditions set forth in the Rezoning with Conditions Agreement. No development or use of the land inconsistent with the conditions of the Rezoning with Conditions Agreement shall be permitted.

(5) **Compliance with Conditions.**

- (a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Rezoning with Conditions Agreement. Any failure to comply with a condition contained within the Rezoning with Conditions Agreement shall constitute a violation of this Zoning Ordinance and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- (b) No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Rezoning with Conditions Agreement.

(6) **Period of Approval.**

- (a) The Rezoning with Conditions and Agreement shall expire after a period of one (1) year from the effective date of the Rezoning unless substantial progress towards obtaining site plan and other required approvals has been made, and shall expire after a period of two (2) years unless development of the property is substantially begun within such two (2) year period and proceeds diligently and in good faith as required by ordinance to completion.
- (b) In the event substantial progress towards obtaining site plan and other required approvals has not commenced within one (1) year and bona fide development has not commenced within two (2) years from the effective date of the rezoning, the Rezoning with Conditions and the Rezoning with Conditions Agreement shall be void and of no effect.
- (c) The property owner may apply for a one (1) year extension two (2) times. The request must be submitted to the Community and Economic Development Department before the approval time limit expires. The property owner must demonstrate why the extension should be granted, and must also demonstrate that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently thereafter to completion, and if the City Council finds that there has not been a change

in circumstances that would render the Rezoning with Conditions incompatible with adjacent or nearby use and zoning of land or is otherwise inconsistent with sound zoning policy.

- (d) An extension request shall be considered by the City Council following a recommendation by the Planning Commission.
 - (e) If the Rezoning with Conditions becomes void in the manner provided in this section, the following procedures shall apply:
 - (i) The property owner may seek a new rezoning of the property within thirty (30) days of the expiration of the period of approval.
 - (ii) If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in MCL 124.286i (as amended). The City Council shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Ordinance.
 - (iii) Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.
- (7) **Rezoning with Conditions Agreement Requirements.** A Rezoning with Conditions Agreement shall be executed between the applicant and the City at the time of City Council approval of a Rezoning with Conditions.
- (a) Rezoning with Conditions Agreements shall, at a minimum, contain all of the following items:
 - (i) Identification of the requested zoning district and a listing of the conditions offered by the applicant.
 - (ii) A statement acknowledging that the Rezoning with Conditions was proposed by the applicant, and further agreement and acknowledgment that the conditions and Rezoning with Conditions Agreement are authorized by all applicable state and federal law and constitution, and that the Agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.
 - (iii) Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the Rezoning with Conditions Agreement.
 - (iv) Agreement and understanding that the approval and Rezoning with Conditions Agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.
 - (v) If the City Council grants an extension of approval, a new Rezoning with Conditions Agreement with the new expiration date shall be recorded.
 - (vi) Agreement and understanding that, if a Rezoning with Conditions becomes void, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
 - (vii) Agreement and understanding that each of the requirements and conditions in the Rezoning with Conditions Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved Rezoning with Conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.
 - (viii) A legal description of the property affected by the Rezoning with Conditions.
 - (ix) Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.
 - (x) Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the Agreement. A Rezoning with Conditions Plan may be included as an exhibit to the Agreement.
 - (b) The Rezoning with Conditions Plan may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of a Rezoning with Conditions Plan as an exhibit to a Rezoning with Conditions Agreement shall not replace the

requirement for preliminary and final site plan, subdivision, condominium, special land use or variance review and approval.

- (8) **Amendment of Rezoning with Conditions Agreement.** Amendment of a Rezoning with Conditions Agreement shall be proposed, reviewed and approved in the same manner as a new Rezoning with Conditions.
 - (9) **Recordation of Rezoning with Conditions Agreement.** A Rezoning with Conditions shall become effective following publication in the manner provided by law, and, after recordation of the Rezoning with Conditions Agreement, whichever is later.
 - (10) **Termination.** The City Council shall be the only body with the authority to terminate a Rezoning with Conditions agreement. The consideration to terminate the agreement shall be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The Termination shall comply with any applicable provisions of this ordinance or the Rezoning with Conditions Agreement.
 - (11) **City Right to Rezone.** Nothing in the Rezoning with Conditions Agreement or in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Rezoning with Conditions to another zoning classification. Any such rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act.
 - (12) If land that is subject to a Rezoning with Conditions Agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Rezoning with Conditions Agreement, the Rezoning with Conditions Agreement attached to the former zoning classification shall cease to be in effect.
4. **Notice of Adoption of Amendment.** Following adoption of an amendment by the City Council, one (1) notice of adoption shall be filed with the City Clerk and one (1) notice shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk, which shall identify all map amendments. The required notice of adoption shall include all of the following information:
- A. In the case of a newly adopted Zoning Ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City of Madison Heights."
 - B. In the case of an amendment(s) to the existing Zoning Ordinance, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).

Section 15.08 Temporary Use Permits

1. **Purpose.** This section sets forth the requirements for the application, review, approval, and enforcement of temporary use permits in the City of Madison Heights. Temporary use permits may be reviewed and acted upon by the Planning and Zoning Administrator, Technical Review Committee, or Planning Commission.
2. **Use-Specific Standards.** Temporary uses are subject to the use-specific standards of [Section 7.03\(43\)](#)
3. **Planning and Zoning Administrator/Technical Review Committee Review.** The Planning and Zoning Administrator may review and approve certain temporary uses addressed in Section 7.03(XXXX). The Planning and Zoning Administrator reserves the right to refer any request for a temporary use permit to the Technical Review Committee or Planning Commission for review and approval.
4. **Planning Commission Review.** The Planning Commission shall review and act upon temporary use permit requests where the applicant seeks approval for a time period longer than otherwise allowed by [Section 7.03\(43\)](#) or for a temporary use not specifically permitted in [Section 7.03\(43\)](#) nor deemed similar by the Planning and Zoning Administrator; provided, that the temporary use complies with all other relevant development and operational standards for the use as provided in this Zoning Ordinance.