



Department of Planning and Economic Development

Staff Report to the Planning Commission December 17, 2013

City Place Rezoning Discussion	
REQUEST	Recommendation to City Council for requested rezoning
APPLICANT	City of Rochester Hills, Planning and Economic Development Department
LOCATION	East side of Rochester Road, south of Yorktowne, north of Hamlin
FILE NO.	02-027
PARCEL NO.	15-23-152-022 (3.57 acre parcel east of 5 th /3 rd Bank) 15-23-152-023 (0.40 acre parcel with ITC Transmission easement) 15-23-301-002 (3.89 acre parcel north of Eddington Blvd.) 15-23-300-035 (19.62 acre parcel south of Eddington Blvd.) Total acreage: 27.48+/- acreage
CURRENT ZONING	PUD Overlay B-2 General Business District (Underlying Zoning District) FB-2 Flex Business Districts (Overlay)
REQUESTED ZONING	To Be Determined
STAFF	Ed Anzek, AICP, Director of Planning and Economic Development Jim Breuckman, AICP, Manager of Planning

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Summary and Analysis

The property under consideration is owned by G&V Investments and has been known for over 10 years as “City Place”. In October of this year G&V, through their attorney, submitted a letter to City Council informing Council that they intended to abandon their Planned Unit Development (PUD). The PUD Agreement contained provisions that if a site plan had not been submitted within 3 years of the approved and amended PUD that the owner (G&V) could request an extension. If an extension were not sought the PUD allowed the City to proceed with appropriate Notice of Abandonment to the owners and commence with the vacating of the PUD. The amended PUD was approved on November 16, 2010 and the 3 year time limit to submit a site plan was November 16, 2013. Shortly before the expiration date the property owners notified the City that they did not intend to submit a site plan and requested that the PUD be vacated.

During City Council’s deliberation regarding the vacation of this PUD the question of the property’s zoning was discussed. The property is currently zoned B-2, General Business District along with FB-2 Flex Business Use 2

overlay. The B-2 Zoning was put in place with the first PUD of 2003. The Planned Unit Development procedures at that time required that the underlying zoning permit the most intense use allowed by the PUD. In this case it was deemed to be the retail/commercial activities.

Subsequently, the City amended its PUD ordinance to remove the need to tie the PUD to the underlying zoning district, and in 2009 the City completed a comprehensive Zoning Ordinance update to implement the recommendations of the Future Land Use Plan. The 2009 zoning ordinance established the FB-2 overlay district and added the FB-2 overlay designation to the City Place site. The 2004 PUD remained in place, and “trumped” the newly established FB-2 designation. In 2010 the PUD agreement was amended and referenced the new FB-2 development standards as a basis for some of the use and development standards, while also adding certain other development standards.

With the requested vacation of the PUD, the City must determine what the most appropriate zoning designation(s) is(are) for the site. The City Attorney and staff recommended that the question as to **what is the appropriate zoning for this site** be referred to the Planning Commission to evaluate the matter using the process for Zoning Amendments. The task before the Planning Commission is to review the history of Master Land Use Plans and previous zoning, obtain public input, discuss alternatives and make a recommendation to the City Council.

For this meeting staff did not identify or recommend a base zoning or overlay zoning district for this site as published with the Public Hearing Notice. Instead staff is deferring that recommendation in order to receive the Planning Commissioners’ input along with any residents and other nearby property owners. Once clear direction is identified staff will advertise another Public Hearing with the recommended Zoning designation for the January 21, 2014 (or subsequent) meeting.

Staff is not going to discuss herein all the details associated with the proposed City Place development in the general context of why it did not work. That discussion is not relevant to what the zoning of the parcels should be. For your information a chronology of the various benchmarks that have occurred involving this site is included as Attachment A.

Master Land Use Plans

Relevant to this question involves 3 Master Land Use Plans: 1998/99, 2007, and 2013. The 2013 update continued the use designation as FB-2 that was first assigned in 2007.

1998/99 Master Land Use Plan

The 1998/99 Master Land Use Plan was supplemented by 4 Area Development Plans. Area Development Plans are done routinely as a more detailed analysis with recommendations for areas considered viable for change, or that change is desired by the city. In this case the Rochester Road Corridor Study identified the land on the east side of Rochester Road from Hamlin to Yorktowne as “Residual Area Two”. Copies of the pages from the Corridor Study discussing this area follow. (Residual Area One are those lands on the west side of Rochester Road and part of the Juengel Orchards Plat)

Key to this discussion is that the Corridor Study offered an alternative development concept for the lands known as Bordines, G&V’s parcels, and the parcel on the southeast corner of Yorktowne and Rochester Road and that they should be planned together. Overall, an “illustrative sketch” was provided showing one way that a mixed-use development could be provided for on these collective lands. It is important to note that an “Illustrative Plan” is only intended to connote an idea or possibility; not to serve as a concept for review. The mixed-uses were:

- retail/commercial
- office
- senior housing
- apartments, and
- single family homes.

Several issues with the parcels were identified in the 1998/99 Corridor Study regarding “Residual Area Two”. (Rochester Road Corridor Study, Page 26-28.) They are:

- The irregular parcel sizes make the area difficult to plan.
- Single-family residential uses are not desirable on the Rochester Road frontage.
- Existing zoning moves from retail business to office to single-family on a parcel-by-parcel basis, which limits opportunities to provide shared parking and open space areas.
- The residual parcels in combination with Bordines offer an opportunity to provide for attractive mixed-use development.
- The “leg” which extends along the transmission power line is most suitable for single family residential use. [Note: this area has been developed as Eddington Woods containing 19 SF homes.]
- The corner containing Bordines can accommodate higher density commercial use.

It is this 1998/99 Master Land Use Plan that served as the genesis for G&V developing mixed-use concepts for their lands. [Copies of pertinent pages provided as Attachment B]

2007 Master Land Use Plan

The next Master Land Use Planning effort began in 2005 with the adoption in 2007. Key to this discussion was the introduction of Flexible Business Use categories.

Goals and Objectives. The Master Land Use Plan 2007 represents a shift away from a use-based land planning focus to a character-based planning focus that places equal or greater importance on the physical characteristics of development compared to uses. The guiding philosophy of the current Master Land Use Plan is to encourage the transitioning of existing retail and commercial areas to nodes of walkable development, with the potential for a mixing of uses.

The goals and objectives for retail/service uses on page 6.3 set forth the City’s intent to encourage the use of creative development concepts on commercial sites and to promote and maintain high standards for site and building design. The continuation of sprawling, auto-dependent development is not a goal of the Master Land Use Plan.

Correlation of “Conventional” Zoning Districts with Business/Flexible Use Designations. The long-used zoning district structure in the Zoning Ordinance was a conventional Euclidian approach which regulated primarily based on use, and secondarily based on physical and design characteristics. As the current Master Land Use Plan envisioned a new approach to development regulation based primarily on physical design characteristics and secondarily on use, there was no attempt in the Master Land Use Plan to correlate appropriate conventional Euclidian zoning districts (i.e. B-1, B-2, B-3, B-4, and B-5) to the flex business designations. The Master Land Use Plan envisioned commercial areas being able to “develop or redevelop under the existing conventional land use standards set forth in the existing Zoning Ordinance, or under the flexible use guidelines set forth herein” (page 7.4).

It is important to note that the assignment of FB-2 to the lands held by G&V, 5th/3rd Bank and the Cavaliere Office Building in 2007 was a natural progression from the FB-3 designation assigned to the Bordine’s site. The FB-2 is intended to be more aligned to serve a community where the FB-3 is intended to contain activities that serve a region with both being designed to have cross access connections.

Relevant to this discussion, as first brought forward in the 1998/99 Master Land Use Plan, is the acknowledgement that these multiple parcels are best used as a mixed-use coordinated development with generally all uses permitted except industrial and some limitations to the intensity of the retail/commercial (community instead of regional). To that end the only zoning categories available to anyone to build a mixed use development is:

- Flex/Business 1
- Flex/Business 2
- Flex/Business 3

- Planned Unit Development

Table 7. Permitted Use in Flex Business Districts is provided as Attachment C.

Summary. It is the clear intent of the Master Land Use Plan to transition to a more mixed-use, design-driven style of development in the City's existing and planned retail commercial areas. For this reason, the Master Land Use Plan does not have traditional "commercial" land use categories, but rather 3 business/flexible use categories which increase in intensity, business/flex 1 being the least intense and business/flex 3 being the most intense.

The vast majority of lands located within the business/flex 2 and 3 categories are already-developed retail commercial centers with existing conventional B zoning districts. The City Place sites are an exception in that they are undeveloped lands designated for business/flex 2 land use. As such, the Master Land Use Plan clearly supports a FB-2 overlay district designation. However, there is no clear guidance as to the underlying zoning. This means that the City must balance the stated goal and recommendation of the Master Land Use Plan that the City Place sites be developed using the FB-2 zoning standards by choosing an underlying zoning designation or designations that support and encourage the use of the FB-2 standards.

Zoning Considerations

Base Zoning

The larger question in this task is the identification of the base zoning. Prior to the initial PUD of 2004 the land was zoned R-4, Single Family. That was changed to B-2 in support of the PUD due to the fact the PUD required the underlying zoning to support the PUD. At that time it was determined that B-2 was the most appropriate zoning to implement the vision set forth in the PUD, and as such, the PUD was the basis for the B-2 zoning, and not vice-versa. The PUD of 2004 contained language that should the PUD be vacated, the zoning of the land would "revert" back to R-4.

Upon further counsel by the City's attorney, the use of "automatic reverters" is not the best way to proceed. Mr. Staran has advised that the city should go through the rezoning process to establish the zoning thereby making clear public record of the intent and the actions taken to effect the zoning change. Mr. Staran has provided this same recommendation with the vacating of the Amended PUD approved in 2010.

The amended PUD of 2010 contained provisions that should the PUD be vacated the city could initiate a rezoning to FB-1 or similar. A few problems exist with this provision. First, it's contained in a contract (PUD) that is no longer valid and secondly, the FB-1 is a different category from what the Master Land Use Plan recommends for these parcels (FB-2). I would offer that the provision in the PUD that the land be re-zoned FB-1 was offered up by the owners without challenge from the city knowing that should the PUD dissolve the city would still go through the zoning process.

This opinion that a zoning process/analysis of the site would be conducted is further supported in a March 1, 2010 Agenda Summary. That summary was sent to the City Council to begin the discussion with that Board over the proposed changes to the 2003 PUD. The pertinent paragraph states:

"Land use and dimensional requirements for future development of the site are controlled by the existing PUD agreement. The subject site is zoned B-2 General Business, however, that zoning designation was put in place only to support the applicants requested PUD. At the time, the City's PUD Ordinance required the rezoning to B-2 to accommodate the applicants requested uses. At the time of the agreement it was understood that if the PUD were to become void that the property would revert back to its original zoning classification, Single Family. **The reversion would take place automatically** or by action of Council. The City's Master Plan identifies the site as **FB-2, Flexible Business Overlay; this was put in place to support the existing PUD.** It is Staff's opinion that if the PUD agreement no longer governed development of the site **that the City would need to revisit both the Master Land Use Plan and existing zoning classification.**" [copy of March 1, 2010 memo included as Attachment D]

As stated previously the matter of an “automatic reversion” to a previous zoning category is not supported by the City Attorney.

The paragraph also states that the FB-2 was put in place to support the existing PUD. That is correct but it is not an exclusive reason. Also stated previously, the FB-2 was a natural progression from the FB-3 placed as an overlay on the Bordine’s site and that the FB-2 designation continued north of G&V’s parcels to include the 5th/3rd Bank and the Cavaliere Office Building. It would perhaps be even more accurate to say that the existing PUD implemented the vision of the 1998 Master Land Use Plan, which vision eventually evolved into the Business/Flexible Use recommendations of the 2007 Master Land Use Plan. It is only speculation at this point, but it is likely that the City Place sites would have been identified for Business/Flex Use 2 future land use designations regardless of the existence of the City Place development.

Perhaps most important of all in this paragraph is the last sentence stating that if the PUD no longer existed “the City would need to revisit the Master Land Use Plan and the zoning classifications” and that is the process we have begun with the Planning Commission on December 17, 2013.

Base Zoning Issues

The problem with any traditional zoning category is the potential for land division or “parceling up” that result in multiple parcels fronting on Rochester. That would entitle each parcel to obtain direct access via a drive approach to Rochester Road. The issue is not to dissimilar in what the Planning Commission first faced with the original concept that was submitted for the redevelopment of the southwest corner of Rochester and Auburn Roads.

This subdividing could happen with any of the Business, Office, or Residential uses and to a lesser extent Multi-family and single-family. When individual sites are parceled out there is typically a right of access to the road upon which they front, and so there is a very real possibility of creating numerous new, individual parcels each with their own driveway if the underlying zoning is changed to an inappropriate “conventional” zoning district (i.e. B-2, B-3, O-1, RM-1, etc.).

Finally, if a base zoning district or districts is chosen for the City Place sites that is sufficiently attractive to standard prototype development, it could undermine the Master Land Use Plan by promoting more conventional development when flex-business development is the recommended pattern.

Criteria for Amendment of the Official Zoning Map (Section 138-1.200.D)

There are ten criteria for consideration by the Planning Commission and City Council in making findings, recommendation, and decision for a rezoning request. Those criteria are listed below with annotated comments by Staff.

1. *Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.* First identified in 1998/99 as part of that Master land Use Plan; further supported in the 2007 effort, and again in 2013 because it was not identified as an issue. This paper was written with the presumption that a mixed-use development that is planned with Bordine’s to the south and the bank and the office building to the north is still supported.
2. *Compatibility with the site’s physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.* There are no significant environmental features of this site that would prohibit any zoning district.
3. *Evidence that the applicant cannot receive a reasonable return on investment through developing the property with one (1) or more of the uses permitted under the current zoning.* This is not applicable as the City is the responsible party for initiating this action.

4. *Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.* The one use that would be clearly compatible would single family detached housing. But that compatibility only relates to the existing homes on the eastern side. As pointed out in the 1998/99 Master Land Use Plan, single family detached housing is the least desirable use along Rochester Road. The conflict virtually demands some form of transition zoning or reliance on the established landscape buffers within the Zoning Ordinance.
5. *The capacity of the City's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the City.* Not an issue
6. *The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.* Probably the single biggest issue to any use of these parcels. Rochester Road can handle the traffic...the issue is getting on and off Rochester Road.
7. *The boundaries of the requested rezoning district are reasonable in relationship to surrounding and construction on the site will be able to meet the dimensional regulations for the requested zoning district.* To be determined
8. *If a rezoning is appropriate, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.* To be determined
9. *If the request is for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or conditional uses in the current zoning district to allow the use.* Not applicable
10. *The requested rezoning will not create an isolated or incompatible zone in the neighborhood.* The FB-2 overlay already provides for the transition from the FB-3 to the south. An incompatible zone may occur in the future depending on what may develop on the Bordine's property at some time in the future.

Conclusion

The Master Land Use Plan's recommendations support use of the FB-2 Flex Business overlay district on the City Place sites, which provide for unified design control and a site layout that provides a higher level of access management. However, the FB-2 overlay is optional as our Ordinance is written and an underlying zoning district must be determined.

It is my opinion that the development of this site will be best handled using our FB provisions, however that is at the option of the developer.

I would suggest the realistic choices for the underlying zoning are:

- R- 4, Single-Family
- RCD, Cluster Housing
- RM-1, Multiple-Family
- B-1, 2, 3, Business Districts
- O-1, Office
- SP, Special Purpose

The Flex District choices are:

- FB-1 Flex Business overlay
- FB-2 Flex Business Overlay (supported by Master Land Use Plan)

Mr. Staran will be attending the meeting should there be any legal questions.

End of document