



Rochester Hills

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Master

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Type: Project

Status: To Council Liaison

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Reference: 18-016

Controlling Body: City Council
Regular Meeting

File Created Date : 02/05/2019

File Name: RH Trio Preliminary PUD

Final Action:

Title label: Request for Preliminary Planned Unit Development and Conceptual Site Plan Approval - Rochester Hills Trio, a proposed mixed use development consisting of residential units, office and retail space on 5.77 acres located at the northeast corner of Auburn and Livernois Rds., zoned B-1 Local Business with an FB-2 Flexible Business Overlay and RM-1 Multiple Family Residential with an FB-1 Flexible Business Overlay, Designhaus Architecture, Applicant

Notes:

Sponsors:

Enactment Date:

Attachments: 081219 Agenda Summary.pdf, Staff Report 7-16-19.pdf, Review Comments PC.pdf, Response letter recd 6-21-19.pdf, Supplemental Memo - Environmental Clean-up.pdf, EIS.pdf, Letter Designhaus 7-31-19.pdf, Site Plans 6-12-19.pdf, Colored Renderings 6-21-19.pdf, PowerPoint Presentation.pdf, A206 Garage D Elevation.pdf, A207 Garage E Elevation.pdf, A208 Garage F Elevation.pdf, Photometric Plan.pdf, Minutes PC 7-16-19.pdf, Minutes PC 5-21-19.pdf, Minutes PC 4-16-19.pdf, Minutes PC 2-19-19.pdf, Traffic Impact Study.pdf, Resolution (Draft).pdf

Enactment Number:

Contact: PLA 656-4660

Hearing Date:

Drafter:

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	02/19/2019	Postponed				Pass

Notes: (Reference: Staff Report prepared by Kristen Kapelanski, dated February 15, 2019 and site plans and elevations had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Peter Stuhlreyer and Mike Pizzola, Designhaus

Architecture, 301 Walnut, Rochester, MI 48307 and Mr. Fred Haddid, owner, OYK Engineering & Construction, 30700 Telegraph Rd., Bingham Farms, MI 48025.

Ms. Kapelanski stated that the applicant proposed a mixed-use development using the PUD option. She noted that the property, located at the northeast corner of Auburn and Livernois, had split zoning with residential and commercial with a flexible business overlay. Three buildings were proposed; the one nearest to Livernois would be a two-story retail and office building totally 10,500 s.f. of each. Buildings B and C would be three-story, multiple-family buildings. The additional height for Buildings B and C would necessitate the use of a PUD. The applicant had requested four other modifications from Ordinance provisions. The front yard arterial setback along Livernois exceeded the maximum allowed; the parking setback along the north portion of the property was deficient; and the proposed building design materials and façade transparency standards were deficient on a number of the elevations. The applicant had indicated that they believed those could be brought into compliance, which would be discussed. The front yard landscaping was deficient along Auburn. Staff recommended the addition of eight deciduous trees. The applicant was requesting some landscape waivers to accommodate utilities in other portions of the site. Public open space was proposed in the center of the site, and there would be public art at the corner of Livernois and Auburn. Another benefit stated was the remediation of the former gas station parcel at the corner, and all those benefits would not be realized without the use of the PUD. She summarized that the applicant was seeking a recommendation of the Preliminary PUD Concept Plan Approval, and that a Natural Features Setback Modification and Tree Removal Permit would be required at Final should the project move forward. Ms. Kapelanski advised that staff reviews generally recommended approval with the exception of an engineering issue. The applicant had proposed a right in, right out access drive off of Auburn. Engineering, per MDOT's requirement, would like it limited to right in only because of traffic safety concerns. Auburn Rd. was under the jurisdiction of MDOT, and an email indicating that a right in only drive was acceptable had been provided. Mr. Davis from Engineering was present to answer any questions about that.

Mr. Stuhldreier stated that in the middle of 2017, Mr. Haddid came to them with one parcel, and the concept did not include the gas station parcel. They went to great lengths to negotiate with Speedway for the sale and deed restrictions, as well as for the investigation of the environmental issues. He agreed that they would be using the PUD and the FB Overlay to achieve the density and height and still provide a well-designed, reasonably open and interesting project. He felt that it would be a much needed project for the intersection. He pointed out the Auburn Rd. elevation. There were three end caps with some

sort of commercial activity, either a live-work studio that was two floors high or a fully commercial property. He showed some slides of the buildings from various directions. He claimed that it would not be just one long, boring building. The live-work could be for a consultant or CPA and the other side could have a gym or gathering area for residents. The streetscape would be active. He showed a slide of the landscaping, which he described as "heavy." There would be a water feature to provide, as he explained, some acoustical balance for the units in the courtyard. There would be another courtyard set up for a plaza with a gazebo for the public. He noted the proposed boulevard leading back to the apartments to the north, which also led into their site. It was in alignment with the renovated drive into the Mosque. He showed some aerial perspectives. He said that they had been talking with staff and MDOT for several months, and they had a reasonable signoff from all departments.

Mr. Stuhlreyer continued that the drawings were highly refined through engineering, grading, utilities, retention, traffic, etc. Fire had input, and one of the measures of relief they were looking for arose from a conflict between the front setback being close to the street and Fire needing a fire lane around the south end of the western building. He noted that there would be screening between the apartments and the project through the use of garages. The apartments would be higher-end, from one to three-bedrooms, and they were meant for an active community. He talked about the commercial space, but said that there were not tenants in place. He said that the center building would be two stories on one end and three on the other. The topography of the site dropped quite significantly from east to west. Technically, the tops of the buildings would stay aligned, while the bottoms added the extra floor. He stated that there would be brick, metal panel and synthetic wood panel. There would be balconies, awnings and large windows.

Mr. Schroeder said that the drawings showed Buildings D, E and F, but looking at sheet C300, he did not see any detail about those buildings. Mr. Hooper explained that they were the garages. Mr. Kaltsounis asked if there was detail about the garages, which he thought would be covered parking. Mr. Hooper noted that S100 called them attached garages. Mr. Kaltsounis stressed that they needed more detail, because the Commissioners were being asked to do something they never had with garages on a property. Mr. Schroeder agreed that it would help to have details. Mr. Stuhlreyer said that the garages would be brick. The wall in the back of the garage would rise to the roof line, and the water would pitch towards the subject property. The neighboring property would see a brick screen wall. He said that they could provide more detail. Mr. Kaltsounis reminded that it was a big part of the project.

Ms. Morita knew that there was a drain that ran through the property, and she

asked how the water would be handled. Mr. Stuhlreyer said that the water would be captured and retained in underground retention. In between the dumpster and the garage set was an outlet into the property to the east which would outlet at an agricultural rate. Ms. Morita asked if they would not be worried about the garages on the east property line getting flooded. Mr. Stuhlreyer said they were not, but it was a good point. That came up during an engineering review, but everything would run through that portal, and most of it would be caught in catch basins. Any overflow would flow between the garage and dumpster. Ms. Morita commented that it would if they were lucky. She said that she also would like to see more detail on the garages. She was not a fan of zero setbacks. She wondered what would happen if they needed to maintain the backside, and Mr. Stuhlreyer said that he understood.

Mr. Davis stated that he wanted to expand on Ms. Morita's question about the storm drainage. Mr. Stuhlreyer had indicated that it would be captured and delivered to the detention basin. Mr. Davis said that might be fine for the drain that would be abandoned and filled with the development, but there was upstream flow that headed from the gas station on the northwest corner and some Livernois drainage. The plans showed that the storm sewer would be on the north of the buildings and head east towards the detention basin. He asked how they would reroute the flow that presently went on the south part of the development east up to the northerly part of the detention basin. Mr. Stuhlreyer said that the site had been graded, and it was not a delicate grading. There were several elevation pads that made their way from the east to the west. All of that was associated with the grading of the parking lots and the catching of the water into catch basins at appropriate grades. There was nothing left of the drain that crossed through the center of the property. It had been dealt with from an engineering perspective. He said that he could get more answers on the grading. Mr. Davis said that it would have to be answered, because if they were taking it through the detention system, it would affect the outlet size, and eventually it would be directed towards the existing basin offsite to the east.

Mr. Davis reminded that the basin was owned by the apartment development. He asked if the applicants had achieved any agreements with them for the drainage that would be sent to them. He asked if there was a storm water maintenance plan in place or if one would be put in place for what flowed from the subject development toward the basin. Mr. Stuhlreyer said that he could not answer if there was a maintenance plan. He knew that the release of whatever water went to that site naturally would be no greater after their engineering. Mr. Davis recalled that when the Mosque was developed, there was a property owner east of that. When it drained, which was normal concentrated flow going over an undeveloped piece of property and discharged from a pipe, there was a change in the drainage pattern. Although

they could say that the volume from pre-developed to post developed might be the same, because it was released at a controlled rate, the volume would not necessarily be the same. The characteristic of the discharge was not necessarily the same. He was a little sensitive to making sure that the offsite property owner was on board. At the Mosque, it caused problems for years for the City and the Mayor at the time. Mr. Stuhlreyer said that he would make note of the issue, and they would make sure they were doing things right. He said that he did not see a comment from the engineering review that said they were violating.

Mr. Davis explained that in the second engineering review letter, there was a comment about an offsite easement for the drainage perhaps being needed, but that comment disappeared in the next review. He was not the person who reviewed the plans, but he had learned a lot about the site in preparing for the meeting. He said that it was unfortunate that the person who did review the project was on vacation. He would find out what happened with that comment. Perhaps it had been taken care of, but the City would prefer an agreement where the offsite property owner acknowledged and was ok with it. He indicated that he might be, but he had to be aware that there could potentially be a little different type of discharge coming out of a 30" pipe.

Mr. Hooper said that upon further review, there were more things he would need. He needed to see a section of the wall. On the south side of the property, it would be filled ten feet with a retaining wall, and then a garage would be placed on top of the wall with a zero setback. He would like some clarification about the wall - he assumed it would be a block wall, but he would need to see the design. He envisioned a ten-foot wall with a garage on top of it with no setback or relief or anything, and he would be curious to see how it would all look at the end of the day. He was looking at the grades on C201.

Mr. Kaltsounis said that he agreed with Mr. Hooper's concerns. There were things to look into for the applicant's sake. He asked if the garages would be staggered, if they would be different heights or all at an angle. He felt that it would behoove the applicant to look at it, because they might be planning something for the garages only to find out that they were not technically possible. As he mentioned, it was something they had never approved, where buildings were along property lines with garages on top. There were a lot of deficiencies with the subject PUD. He stated that he did not mind the development, but he stressed that the loose ends needed to be tied up before they approved anything. He felt that the applicant would want them tied up. He questioned whether the garages would be usable.

Mr. Stuhlreyer responded that typically, they would stagger the elevations every couple of garages, and there was three or four feet between the doors to

make up the grade. Mr. Kaltsounis said that the Commissioners would usually see that detail. If there was a ten-foot wall, they needed to know what it would look like, especially since a lot of trees would be taken out to put that in. He wanted to make sure everyone was happy.

Ms. Morita asked if the gas station site was contaminated. Mr. Stuhlreyer said that it was not. Ms. Morita asked if they were not doing any cleanup, and if nothing was required. She said that the project looked pretty dense, and Mr. Stuhlreyer had mentioned that part of that had to do with the gas station. She asked why they needed the density. Mr. Stuhlreyer said that the gas station deed restrictions, even though the contamination was at reasonable levels of almost none, because it was cleaned by the previous owner, would not let them place residential units on that parcel. Even the property line (where it used to be for the gas station) was off limits for residential when they had discussed having residential units on the second floor of Building A. Ms. Morita confirmed that they could still put an office building there. She asked why three stories of apartments was needed on the other side of the property. She asked the need to build a project that had zero setbacks on two property lines. Mr. Stuhlreyer said that most of the setbacks to the edges were based on the FB Overlay. He understood the back line, although that would probably have a privacy fence or brick wall either way. It happened to be garages to give an amenity. The garages were the one thing that were not required for an apartment complex. Ms. Morita said that with a fence or brick wall, there would need to be access for maintenance. She pointed out that a garage was a different type of structure. Mr. Stuhlreyer said that it might be a different type of garage, and he would provide details. He claimed that it would be a pretty simple garage - a wall holding up a roof with nine-foot doors across the front. He said that it would be one long garage, basically. Ms. Morita said that previously, Mr. Stuhlreyer said there would be different roof lines and so on, depending on where it was, but she was hearing there would be one roof line. Mr. Stuhlreyer agreed that it would be very simple. He said that the roofline would not be visible from the apartments to the north. Ms. Morita asked why they needed the number of units they were proposing. She asked if they would consider building something smaller. She indicated that she was just not a fan of three-story apartment buildings, noting that the proposed complex would be next to another that was only two stories.

Mr. Stuhlreyer said that he understood, and added that from a design standpoint, when they saw the way the roofline matched across the grade, and there were only one-and-a-half buildings that were three stories, he did not think they were asking for a big point of relief along a major road. Ms. Morita said that if she was driving west on Auburn, and she was looking at a ten-foot wall with a garage on top of it and a three-story apartment building behind it, it would look pretty massive.

Ms. Morita said that Council liked PUDs, but there were trade-offs involved. She was trying to figure out what the City would get out of the proposed arrangement, other than some dense buildings with zero setbacks. Mr. Stuhlreyer felt that the commercial corner would be a big deal, for one. There would be a pathway connection eastward and westward with several heavily landscaped places, such as pocket parks. He also felt that it was a big deal that they were able to create a boulevard with parallel parking to be almost an internal street in the center, which would be a benefit to the apartments to the north and create an activated streetscape going north and south.

Ms. Morita had noticed that there were tenant signs on the apartment buildings, and she asked what that was for. Mr. Stuhlreyer pointed out the live/work suites. The lower box would be a resident amenity, which would make the street interactive. Ms. Morita asked how many facades they would be asking for signs. Mr. Stuhlreyer answered four. There would be multiple tenant façade signs on the commercial building that might have three or four tenants on it.

Mr. Dettloff noted that 125 units were proposed, and he asked if there would be 125 single-car garages, which was confirmed. He asked the square-footage difference between the one and two-bedroom units and the proposed rent structure. Mr. Stuhlreyer said that it would be \$1.50 per s.f. for the larger units and \$2.00 for the smaller. He believed that the square-footages aligned with code requirements. The one-bedrooms would be 700 to 850 s.f. and 800 to 1,000 for the two-bedrooms. There would be a couple of three-bedrooms at close to 1,400 s.f. A couple of units would be 550-600 s.f. studios. There would be a two-bedroom, 950 s.f. unit with a balcony. Mr. Dettloff asked, to Ms. Morita's point, if the justification for that many units was based on market demand. Mr. Stuhlreyer said that it was the economics of the site, feasibility and ability to provide amenities. He stated that 40 townhomes would not give them the economics to build something of that quality.

Chairperson Brnabic asked if Mr. Stuhlreyer was calling the proposed project affordable and high quality. Mr. Stuhlreyer said that it would be market rate. Chairperson Brnabic read from the EIS: "The result of the proposed project will be affordable, high quality living to accommodate a wide range of economic backgrounds." She asked what the projected rent ranges would be. Mr. Stuhlreyer said that their studies showed that \$1.50 to \$2.00 per s.f. was acceptable. The term affordable came from working all over the County where people were achieving \$2.50 and \$2.75 in rents and making them reasonably unaffordable for the average person. In terms of affordable housing and what the legal ramifications were, it was not low income housing. Sometimes that term could be conflated with low income. Chairperson Brnabic guessed it was

how someone categorized affordable. She knew that property in Rochester Hills was higher, but someone could be looking for something affordable that was not necessarily low income housing. She mentioned that they had not discussed the traffic issue, and she asked to move on to that.

Mr. Stuhlreyer stated that it was a reasonably important component to the design. They were proposing right in right out at the commercial end on the west. At the beginning, they proposed a conventional driveway entrance and exit. Upon review with Engineering, they gave up their left in and left out on that drive onto Auburn. Over the course of the reviews, it seemed like they had solved the problem. They had a meeting at MDOT where they were given approval for the right in right out. It was not until recently that they were asked not to provide the right out. They understood that the request was made, but he felt that they would be making an improvement. They had a 60% reduction of ingress and egress maneuvers from when it was a gas station. They had more than doubled the distances from the intersection in both cases. In terms of safety improvement, they were making a lot of huge strides. The right out turn into a right turn lane was not the exception in Rochester Hills; it was the norm. They took a sampling of intersections and more often than not, there had been a right out into a right lane approved within 160 feet of an intersection. They looked at the accident patterns. Of the ten they noted, there were only six accidents in 2017, which was half-an-accident per month per right out into a right turn lane. He did not think that could be contributed to the right out. He did not think they were talking about an epidemic of traffic problems caused by that condition or about a condition that people were not completely accustomed to in the region. He said that none of the accidents that they studied were fatal, none were serious, and only one had a minor injury. The standard that was reported to them was that they should have 460 feet from the intersection to a right turn out. To them, in a town that had ½ to two-acre parcels, they did not think that was reasonable. On Auburn, there were zero intersections with 460 feet between a commercial driveway and an intersection. His point was that traffic would redirect through their site from the commercial side through the residential side if someone wanted to take a right out onto Auburn. To them, that risk was greater than a common use of a right turnout lane considering that they could attribute a half-an-accident per month to a right turn out lane. He reiterated that cutting through their apartments would be less safe. That was the position of their traffic engineer and site planners. They were still negotiating with MDOT, but he wanted the Commission to understand why they were standing firm. He maintained that the success of the commercial parcel could be negatively impacted by taking away another access point.

Chairperson Brnabic said that since there was a denial by Engineering, she would like to hear from Mr. Davis. Mr. Davis said that the applicant did

explain MDOT's involvement and decision. He did not know if the half-an-acre was really going to apply to the subject site. MDOT looked at each site individually and in this case, the site had a lot of frontage on Auburn Rd. They felt that there was reasonable access provided to the property from the single entrance off of Auburn. It would be across from the Mosque, and when MDOT denied right in right out, staff questioned them and asked if they would permit a right in only, and they agreed to that. The 460 feet was desirable corner clearance for a 50 mph road. If the parcel was shaped differently, MDOT might consider that, but based on having an access to Livernois and to Auburn, MDOT did not think a third access could be approved for right in right out only.

Chairperson Brnabic asked if the speed limit was 50 mph on Auburn in that area. She noted that to the east, it was 40-45. Mr. Davis said that Auburn was variable. He added that the speed limit on Livernois was 45.

Mr. Stuhldreier stressed that the right out issue was a big deal to them. It seemed as if MDOT was a little bit aggressive, and there was plenty of evidence to show that it would not be unsafe. They would try to hold to that idea. Since there was a school district immediately to the west, they could discuss with MDOT potentially reducing the speed limit down to 35 after Auburn crossed M-59. That would change the standard dramatically. He had photographs of the intersection, and he said that there was not a lot of traffic mid-day.

Mr. Hooper brought up façade transparency and building materials, which were short of the requirements. Mr. Stuhldreier said that he was not exactly sure, but he believed that there was agreement that something did not have to be fulfilled. Ms. Kapelanski suggested that the applicants could choose to not fulfill it and ask for a modification as part of the PUD if they wished. Or, the plans could be modified in order to meet the requirement, which applied only in the FB Overlay. Mr. Hooper asked why they would not just comply. Mr. Stuhldreier indicated that it was not that black and white of an issue. He said that he would look back into it, and Ms. Kapelanski added that they were not that far off. Mr. Hooper asked if they could find room for the eight trees. Mr. Stuhldreier stated that they did not have a problem with the trees. Mr. Hooper said that the issue was solving the Auburn Rd. western access, and they would need some wall and garage sections. He said that he was concerned about traffic going west on Auburn seeing a ten-foot wall and a 12-foot garage (for a total 22-foot wall) for the length of the project. He was not sure how that would look, especially at a zero lot line. Mr. Stuhldreier assured that they would provide that detail. Mr. Hooper said that they would also need some revised drawings showing compliance with the façade and building materials. Mr. Stuhldreier said that there was also a question about the flow pattern. Mr.

Hooper agreed, and said that they needed to resolve the discharge of the outlet so that it was not an issue with the neighbor. He recommended that the matter be postponed until the applicant came back with revised drawings addressing the comments. He asked if he had missed anything.

Chairperson Brnabic asked how the Commissioners felt about the right in right out. Mr. Hooper stated that he did not see an issue with that, adding that he did not own the road, however. Mr. Stuhlreyer asked if they would be okay if MDOT said that they could have it. Mr. Hooper said that he did not think that right in right out was an issue, but they would not want someone trying to make a left. He commented that he was one out of nine.

Ms. Morita said that in the EIS, it stated that there was traffic information as part of the PUD. She said that she did not see anything. The Commissioners had received an 83-page report earlier in the day, but she had not read it, and she doubted that everyone else had. Mr. Stuhlreyer said that they would make sure to include that information. As far as the right in right out, Ms. Morita said that she did not have enough information to make an opinion.

Mr. Reece noted that Mr. Stuhlreyer had made reference that Lower Ridge Dr. would align with the Mosque entry. Mr. Reece said that the aerial photographs did not show that unless the Mosque entry was changed and moved further west. Mr. Stuhlreyer said that not only did the Mosque's entry move, but so did the subject road. Mr. Reece clarified that Lower Ridge would align with the Mosque entry. Mr. Stuhlreyer said that they both had moved entries, and they talked with the Mosque's engineers and tied it to the project's engineering. Mr. Reece felt that relative to Mr. Hooper's comments, they needed to see some sections through the garages. He pointed out that Garage D had over a ten-foot change in elevation from west to east. They needed to see how that would look from the neighboring property line, and whether it was stepped or one big wall being built on a zero lot line. He asked if the applicant would get an easement to build the wall, and if it would be precast concrete with a masonry infill that was tilted up in place, for example. There were a lot of details that needed to be worked out from an engineering and construction standpoint, and they needed to know how it would be maintained without an easement. He suggested doing a cross section from Building D through E and the same thing at Building F so the Commissioners could see how the garages would step. He assumed that not everyone would get a garage, which was confirmed. He asked where the rest of the residents would park. Mr. Stuhlreyer advised that they could park the perimeter of the buildings, the field lot on the east and the lot on the north. He agreed with Mr. Morita that when they saw the traffic study about the right in right out, they could make a better decision. In principal, he said that he was okay with it, but without knowing

what the numbers looked like, it was hard to be definitive.

Chairperson Brnabic opened the Public Hearing at 9:20 p.m. Seeing no one come forward, she closed the Public Hearing.

Chairperson Brnabic said that there had been questions about the necessity of the density, and she advised that it might be something to consider.

Hearing no further comments, Mr. Hooper moved the following:

MOTION by Hooper, seconded by Reece, in the matter of 18-016 (Rochester Hills Trio PUD), the Planning Commission **hereby postpones the request for recommendation of the PUD Concept plans** dated received January 2, 2019 until the applicant returned at a future date addressing the items brought forward, including details and drawings as discussed.

Chairperson Brnabic asked the applicants if they agreed with the postponement. Mr. Stuhlreyer asked if they could have a brief discussion with staff and the Commission about the process. Ms. Roediger advised that a PUD was a two-step process, and both steps involved the Planning Commission's recommendation to City Council. She noted that they were at step one. Mr. Reece reminded that a PUD Agreement would be required at Final. Ms. Kapelanski stated that there would be ten-day a staff review of the changes and updates before it came back to the Planning Commission.

2 Planning Commission 04/16/2019

Notes: (Reference: Staff Report prepared by Kristen Kapelanski, dated April 12, 2019 and site plans and elevations had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Peter Stuhlreyer, Greg Ezzo, Joe Latosis and Mike Pizzola, Designhaus Architecture, 301 Walnut, Rochester, MI 48307 and Fred Haddid, OYK Engineering, owner.

Ms. Kapelanski stated that the applicant was proposing a mixed-use development located at the northeast corner of Livernois and Auburn. The property was zoned B-1 and RM-1 with the FB Overlay over both districts. A PUD was proposed to facilitate the development, consisting of 125 residential units in two three-story buildings and a two-story building at the corner for commercial and office uses only. There had been a number of modifications requested, including for the height, the front yard arterial setback, the parking setback and the front yard landscaping. The building design entrance transparency had been updated since the last meeting. The applicants were closer to compliance with the Ordinance standards, but a modification was still required. She noted that the matter had been considered and postponed at

the February 19 Planning Commission meeting. There had been several issues raised, but the engineering issues raised had been satisfactorily addressed (storm water issues), and there were two outstanding. The first was the proposed right in, right out drive on Auburn. It was the City's contention that a right in only was the only access that should be permitted because of significant safety concerns. Auburn Rd. in that location was under the jurisdiction of MDOT, which had concurred with the City's opinion. The second outstanding issue had to do with the renderings and elevations of the rear portions of the garages on the retaining wall. The applicant had provided views from the adjacent property.

Mr. Stuhlreyer recalled a question about the tree deficiency, and he advised that they would pay for eight trees into the City's Tree Fund. He would get into more detail about the rear garages being used as a screen wall and a retaining device in some cases. He indicated that he was at a loss about the façade transparency, which he thought they had figured out. He felt that there was some confusion about the commercial façade being on the residential buildings and the live/work studios and the blend not working out, but they were entirely willing to work out the façade issues, which he felt were very close. He agreed that they were asking for relief for the parking setbacks.

Mr. Stuhlreyer said that there was a question about the garages and how they were stepped down because of the grading of the parking lot that was on a slope. They wanted to assure that it was common practice. There was a six-inch fall between each garage door and 12 feet from the center of each garage. Only on the north line was there a problem. He did not think that it would be anything that would strike anyone as troublesome. The roofs would step down about five or six times, and the doors would step down, each slab about four to six inches. Going further east on the property, the parking grade was flat. At the highest grade in the northeast corner of the property, they created terraces and bowed the wall down towards the natural woods to the north and east and softened the edge. The garage wall would be buried in some cases by the grade, and in some cases flush and in others, outside of the grade by several feet. The higher the wall, the further away from the property line (about five feet in the corner).

Mr. Stuhlreyer talked about the water course in the center, which was the flow way across the site. It terminated on the northeast where their outlet pipe would be, which would outlet the detained retention onto the property to the east where it went currently. He asked if there were any questions.

Chairperson Brnabic asked Mr. Stuhlreyer to put up the colored renderings. She noted that they were proposing a water feature and a piece of art, but it was somewhat difficult to see on the plans. Mr. Stuhlreyer said that in the

U-shaped building, there would be a feature that was not part of the storm water feature. It would be a self-contained water feature between the arms of the larger building. It would be a small waterfall that would navigate the grade between the two-story and the three-story portion. Chairperson Brnabic said that she did not see anything showing the proposed artwork. Mr. Stuhlreyer believed that the art sculpture would go in the gazebo area, but he did not think they had anything commissioned for the art. They would be happy to come back to show what they had selected. Chairperson Brnabic suggested that it would be a good idea.

Chairperson Brnabic stated that she had a concern with the use of a PUD with the high density proposed. Even though there would be a water feature and an art sculpture, she did not think that was enough to offset the density. She said that the building on the corner was not objectionable. They were projecting that the average rent for the apartments would be \$1,800+ and affordable. She maintained that there were plenty of apartments in the City that were more affordable. She was concerned that they wished to use a PUD, but they were not proposing enough of a public benefit. She did not think that PUDs should be used for everything, and she did not see where the proposal was offering something that stood out that the community needed.. She reiterated that she was concerned with the high density.

Mr. Schroeder asked if the garage on the east end would be five feet above grade. Mr. Stuhlreyer asked if he meant before the floor slab of the garage from the backside, which was confirmed, and he answered that it would be roughly five feet. Mr. Schroeder considered that it could be built within the one-foot offsite. Mr. Stuhlreyer said that they could do that, and they were going to pursue an offsite construction easement with the neighbor.

Mr. Schultz said that he went through the elevations to compare them with some of the floor plans. A couple of times in the past, the Commissioners had seen a situation where the balconies were not shown in a consistent fashion, or they were shown one way in the rendering and ended up differently in a set of construction documents. They became a Juliet balcony, when they were supposed to be projections. He felt that the clarity on the plans was a little lacking where the elevations, in rendered form, did not necessarily match what they were in floor plan form. He wanted to make sure that before the next step, they had clarity. One isometric rendering showed the building with a Juliet balcony, but in the floor plans, it was shown as a projection. That had led to a lot of frustration in the past for the Commission, so he wanted there to be consistency, so they knew what they were getting.

Mr. Stuhlreyer advised that they were working off of the architectural drawings. The floor plans and elevations were more advanced than normal at this stage

of site plan approval. They could condition approval on the architectural drawings. Mr. Schultz said that they just did not want to give an approval and have the applicant come back six months later stating that costs had become an issue, and they wished to do a different balcony than was approved. He thought that it would also be helpful if the Commission could see a section view cut through the property as to what the neighbors to the north would look at with respect to the back of the garages. He advised that he was a developer, and he knew how things could be tweaked so a model looked convenient for an argument. He needed to see a section view to see what the back of the garage would look like. If it got obscured by the berm, then it did, but at this point, he did not think that they had all the cards in front of them to make a fair decision. He would like to see it broken up into a carport/garage/carport/garage to break up the massing. It felt like mini-storage the way it looked.

Mr. Kaltsounis had pulled up pictures to see the architectural drawings and to take a closer look at the balconies. The cross section layout showed a balcony that protruded, but on another drawing, it just called out an aluminum railing. He thought that the drawings needed to be updated to help with their final decision when it came to the balconies. He wanted to make sure that things were documented. The plans did not call for balconies, and that was something he would prefer. If something was not called out, it would not happen in his experience. The note said "prefinished aluminum railing system" with no details of a protrusion or anything about the structure. He did not want to get into a same problem that had happened in the past. Mr. Latosis stated that they designed all the balconies to be occupy-able. Mr. Kaltsounis outlined that he would like notes and cross sectional views and details for the balconies.

Mr. Kaltsounis said that Chairperson Brnabic had questions about the density, and he said that he was back and forth about that. He felt that the materials and the colors were stunning. He assumed they were expensive and would set the project apart from anything in the City. He would approve a PUD with the materials shown, because it was over and above what they would typically get. However, the garages were an absolute no go for him. He remarked that they had storage units in the City that looked better than the garages. He would regret driving down Auburn Rd. for the next 20 years and seeing a wall 30 feet tall, and he stated that he could not do it.

Mr. Stuhlreyer pointed out that the back wall of the garage was ten feet. Mr. Kaltsounis said that the City would not even allow a wall that high. He looked at a rendering where it looked as if they had a suspended parking lot. He did not see a ten-foot wall. Mr. Stuhlreyer said that with 30 to 50-foot trees in the woods, they would not be caught off guard. They had to look at the grades to

understand that it modulated its way around the site. He pointed to a garage that would be buried with a six-foot wall in the back. It went to a 16-foot wall and back to where the parking lot almost met grade. The site dropped significantly, and the roofs would stay about the same height, so that the three-story buildings were really the loss of the ground and not the rising of the roof. The carports in the apartment development would block most of the back of the garages, and there would be landscaping and trees. He had not seen any resistance from the apartment community. Chairperson Brnabic wondered how much of an awareness that community had about the project, indicating that Mr. Stuhlreyer could not say that there was not resistance if there was no awareness.

Mr. Kaltsounis reiterated that they needed more details, commenting that he was horrified about the garage. He stated that it needed to be broken up or have some kind of feature. He felt that they were taking a beautiful project and ruining it. He said that there had been a lot developers before the Commission that had shown different elevations from the neighboring properties. To him, it looked like a 30-foot wall, but he just did not know, and he needed to see the numbers. There was a beautiful development finished with garages, which did not appeal to him at all. He did not want to look at the wall from Auburn. He said that he looked forward to hearing from the other Commissioners.

Ms. Morita asked Mr. Stuhlreyer to put up page S-100. She said that she was trying to figure out how far back from the lot line the garages were. It looked as if the building on the far east was about seven feet, three inches from the lot line at the southern portion and six-and-a-half feet at the northern portion. She could not tell how far from the lot line Building E was or if Building D was right on the lot line. Mr. Stuhlreyer said that Building D was right on the lot line. Ms. Morita asked how they proposed to maintain the back side of that building if they did not own the property behind them. Mr. Stuhlreyer said that it would be a solid brick wall, and it would only pitch towards their (applicant) side so there would be no exposure of weather or storm water. It would be very similar to building a brick wall on a property line for screening. There would be no maintenance of the other side of the brick wall. Ms. Morita asked if it would be black brick with black grout. She pointed out that grout occasionally needed to be repaired, and she wondered how they would do that repair if they could not even legally get onto the property. Ms. Morita said that she lived in a brick house, and she had three bricks shatter over the winter that needed to be replaced. She pointed out that there would be a wall with a roof on it. If they could stand on their side of the property and rebuild a wall, that would be one thing, but they would have a building in the way. She asked if they would take down the entire garage in order to get to the back wall. Mr. Stuhlreyer said that if there was a problem with the back of the brick wall, there would have to be an

agreement with the neighboring property owner. Ms. Morita asked if they had contacted the owner to see if he would be amenable to an easement to allow maintenance to be done. Mr. Stuhreyer said that it was something for the developer to do.

Ms. Morita noted that City Council liked PUDs, because the City got a tradeoff of sorts, such as some type of amenity or increased quality. Contrary to Mr. Kaltsounis, she did not particularly like the look of the project. She did not think it fit in with the area. It was very modern and atypical for the other buildings in the area, especially the apartments to the north. She thought that it would stick out, and not really in a good way. She understood the quality of the materials, but she asked what else the City would get. Mr. Stuhreyer said that when they started discussing the project with the City in 2018, they talked about the FB-2 and what it meant from a 30,000-foot view. It was to bring a more walkable area and something that would engage with pedestrians moving east and west and north and south. By moving the buildings close to the property lines and having end caps and using each of those bookends to provide some sort of light retail, commercial function and live/work studios, there would be connection to sidewalks with a business entry. People walking by would get engaged with the building as opposed to at an apartment complex looking at a parking lot. They provided three pauses along the pedestrian connection. The first was at the restaurant/retail building end cap, the second was the large, landscaped water feature and the third was the gazebo with the sculpture. That connectivity was what FB was all about. They had to ask for relief to not be as close to the road with the retail because of the Fire Department's road. The PUD and the public benefit were intertwined in the conception of the planning of the project. He understood that it was not as traditional of a building, but he felt that it had the appropriate line of massing and materiality, combining a soft suburban yet commercial edge.

Ms. Morita asked if it was still his position that without the right turn out at the west side of the property that the project would not be successful. Mr. Stuhreyer said that it was their position that the right turn out was less safe than forcing the blending of commercial traffic with the residential components of the project. Ms. Morita commented that he did not answer the question. Mr. Stuhreyer thought that the project would be much better off, as most of the intersections in town, with a right out, and not worrying about something being 450 feet away based on MDOT's standard. Ms. Morita asked if it was his position that if they did not have the right turn out that the project could still be a success. Mr. Stuhreyer felt that it would still be a success, and they were still going to work with MDOT and negotiate, regardless of the outcome.

Mr. Schultz indicated that he fell somewhere in between Ms. Morita and Mr. Kaltsounis regarding the buildings. He did think that the materiality and

massing created a new language for the community, because there was not the same type of product mix. To go full apartment building such as that to the north was probably not appropriate and would not fit. He felt that it was good that they were creating new language. He thought that it would get him over the hump regarding the garages if they varied the materials and deviated from the dark brick. He thought that breaking it up with a brick patterning or doing some long board might help break up the long expanse which felt somewhat prison-like. They should cut as many sections as they could to the back side of the property and give the Commissioners a realistic view of what would happen there. If the berm obscured it, it did, and they were telling the truth. The story did not tell itself at this point, and he thought that they needed a few more answers.

Mr. Stuhlreyer said that he understood. In defense of the garage design, he remarked that it was the foil. It was either a big, black brick wall with a bunch of carports or a set of long garages. There would be trees surrounding them and beautiful buildings. He agreed that the garages were backdrop and not heavily detailed. Mr. Shultz stated that he liked black, glazed brick, which had been done on buildings before. What was proposed was something close to that, but the starkness in the renderings was probably what was putting most of the Commissioners on edge. It was tough to sell materials using SketchUp, which did not necessarily render true to form. He concluded that the more detail the better.

Mr. Hooper said that he fell in line with Mr. Shultz. He referred to sheet C-2.01 and the southeast corner. The top of wall was 822 and bottom of wall was 815, so the wall was seven feet tall with a ten-foot garage on top of that. There would be a 17-foot tall wall at the southeast corner at Auburn Rd. Going north along the wall, the garage stayed ten feet, but the wall went from seven feet to ten feet to eight feet to 11 feet to ten feet, and then there was a step down in the northeast corner that dropped to six feet. At its worst case, the wall was 21 feet high. Traveling west down Auburn Rd., he did not think there was vegetative screening that would screen. There was no berm there. The existing grades dropped, and it fell away. Mr. Stuhlreyer agreed that it fell away from the street, which Mr. Hooper claimed was worse. There was not a berm to hide anything, and the grade continuously fell to the east. He added that along the north property line, the wall was six feet in the corner and went to eight-and-a-half feet to seven feet to two feet to a foot. It went to nothing at the road that cut through to the apartments to the north. From the apartment road to the west, someone would see a ten-foot garage, but to the east, there was a lot of massing to the wall. He felt that there had to be something to break it up, and vegetation would not do it. He suggested getting an easement from the neighbors to plant screening trees on their property in addition to adding something to break up the view. He referred to a rendering of the northeast

corner looking west. Mr. Stuhlreyer said that was exactly the worst case scenario of the situation, which they broke down with a terrace. Mr. Hooper said that was where it dropped to a ten-foot garage going west. He said that vegetation next to the wall did not exist, but they were trying to show it. Mr. Stuhlreyer claimed that it was a tree and shrub area. Mr. Hooper asked if it was 20 feet tall, which Mr. Stuhlreyer did not believe. Mr. Hooper said that was his concern. He was trying to look for options and to work with the applicants, and he asked if there was something they could do to reduce the visual impact of the wall.

Mr. Hooper mentioned the request for relief from some FB standards. He did not have a problem with paying into the Tree Fund for the eight trees. He understood the parking lot setbacks. The issue would be maintenance and whether they could get an easement from the neighbors to the east and north to do work. The applicants said that they could work out the building transparency issues with staff. It came down to the road - the western entrance in and out. MDOT owned the road and stated that they would not allow right in right out, and the City agreed. That sounded like a done deal to him, but if they were able to get MDOT to change its mind, then so be it, however, MDOT did not want it, and staff did not want it.

Mr. Stuhlreyer said that they understood, but he sat in a meeting where MDOT allowed it, and they shook hands and left. Mr. Hooper said that something changed, so they had to get back to whoever that was. The Commissioners could not tell the people who owned the road that they had to allow something they did not want. It was not their argument to make. He said that he really liked the project, but there were a couple of things that needed to be improved to make it a better project.

Mr. Reece felt that the summary of comments were pretty spot on. Ms. Morita's comment about the PUD and what the City was getting was that in reality, it was the owner getting the benefit of the PUD. He did not see the project as being particularly walkable in that part of town, other than for people coming from the apartments over to a restaurant. There was not a lot to make people want to walk up and down Auburn Rd. He did not see the City gaining a lot from the development. He thought that it was nice, although in his opinion, it was a little overbuilt. The bigger problem was the entry at the west end of the site and how that was worked out. Without that, it would really make it a congested in and out with the volume of single-family units and the retail. The tree line shown on the east was not realistic. The reality was that the applicant would have to cut in at least a ten-foot road to build the wall. Any trees up against the wall would be gone and need to be replaced. Any of the foundation work that would have to be done would go into the root structure of those trees, and they would most likely die. In the wintertime, people would

look at a black wall. Most of those trees were deciduous and would lose leaves, so all someone would see in the winter going down Auburn Rd. would be the wall. He thought that Mr. Schultz' comments were good. There were a lot of benefits to the development, but the Commissioners needed to see more detail. They had to get the balconies worked out, and they had to be clear that what was shown was what they would get. They wanted to make sure that the applicants would not come back with changes to the colors, and something had to be done with the garages. The way they were currently depicted was not acceptable to him. The Commissioners were willing to work with the applicants, but they needed to do something about the stark walls. He stated that was not Rochester Hills, although he realized that changes were coming in the City. He mentioned the dentist building at Hamlin and Livernois. In his opinion, now that it was built, it looked like it had been dropped from the sky, and it did not belong there. He felt that it was horrendous-looking. He was afraid that they would kick themselves if the garages were approved as shown. The colors and the breakup of the renderings for the buildings were acceptable, but the garages were a show stopper for him.

Chairperson Brnabic stated that a PUD was a request and not an automatic given when a developer applied. Ms. Roediger agreed. She continued that as the applicant indicated, they had been talking about the project for quite some time. Initially, when the project was brought forth, the City was going through its Master Plan process. In terms of the types of uses the City wanted in certain locations, they discussed that it would be a truly integrated, mixed-use project. They discussed affordability and creating a variety of housing options. The Planning Commission had struggled with the balance of creating different types of housing and keeping it affordable with density. A lot of communities dealt with trying to get the right mix of housing at a price point that was affordable without overdeveloping a site. Staff thought the proposal was a worthy project because of the mixture of uses and amenities. They had not touched too much on the walkability of the area, but they had an injury report for pedestrians trying to cross the subject roads. There were people who walked to the IAGD to the south, and there was an injury, because there was a gap in the pathway system at the intersection. There were requests to improve the walkability in the area because of the IAGD, and there were also schools not too far away.

Chairperson Brnabic considered that walkability could be created under the current zoning without going the PUD route. Ms. Roediger agreed. Chairperson Brnabic asked what the gain was for the developer applying for a PUD versus using the current zoning to develop. Ms. Roediger said that it was the height and the mixture of uses. The underlying zoning would not allow residential, office and commercial uses. Chairperson Brnabic said that the

commercial would face Livernois, and the apartments would face Auburn, so the projects could be done under the current zoning. She asked if the height was the only thing that could not be done under the current zoning, which was confirmed.

Mr. Kaltsounis was not sure about all the iterations staff had seen, but he did not think that the Planning Commission had seen many. They had just asked for more detail, and they were asking for more again. At the last meeting, there were no renderings for the garages. They thought that there would be a problem with the height and grades. They discussed the balconies not being defined, talking with the neighbors and getting those approvals in place. There was an assumption of communication with the neighbors, but he asked if anyone had been notified besides the apartment complex owner.

Mr. Haddid said that he did talk with the owner who knew what was going on and what was planned. It was his understanding that the owner even came to the City, but Ms. Roediger said that she had not talked with him. Mr. Kaltsounis said that the Commissioners needed more details and iterations. He recommended postponing the matter to give the applicant time to sort out the issues raised as well as the issue with MDOT. He felt that there were a lot of loose ends and too many questions with the concept.

Mr. Davis said that he had just heard that Mr. Haddid had talked with the adjacent property owners. He stated that there would be a private street that connected to a private street. The development to the north had rights to cross the subject property to get to Auburn Rd. He was often asked, years after developments were in place and the developers were gone, how something happened and why something had not been foreseen. He asked what would prevent the traffic from Trio going through the apartment complex. He asked Mr. Haddid if he had talked to them about that and if they were okay with that. He asked if an amendment could be in place so the Trio traffic could drive through the apartment's roads. There was a legal document in place so that the apartment traffic could use Trio's roads, but he had not heard anything about the other way around. As far as the storm water, they had approved the calculations, and detention volumes had been provided, and the outlet direction all made sense. He had also wanted to see some discussion with the apartment owner on how the route would go through their property. He indicated that it seemed as if it would be pretty harmless, but the City had a problem across the street that was of the same nature. When the Mosque developed, there was a natural water course and when the calculations were run, it showed that the existing amount of water was consistent with .2 CFS per acre allowed to be discharged from a detention basin. They had years of problems with that, because of a property owner who said that all the shallow concentrated flow was concentrated into a pipe and discharged right at his

property line and carved out a ditch through his property. There was the same potential with the subject development. If the adjacent property owner and the applicant were okay with that, he would be. He wanted to hear that communication, not that someone came to City Hall, and said he had seen the plans. That was not enough. It needed to go to the next level where there was something in writing about the flow and about going on his property to repair some bricks or planting some trees on the adjacent property for screening. He suggested having a meeting between MDOT and the City and the applicant to talk about the west entrance, but as it stood, it was a right in only that had been approved. Regardless of what might have happened in a previous meeting that was where it stood.

Mr. Haddid stated that they had a long meeting with the adjacent owner. They met in his office and showed him the plans and discussed sharing the wetland for detention. He said that the neighbor was planning to expand, so he came to the City to discuss the option of expanding. They had talked with the neighbor about the wall, the garages, the three-story building and everything. Mr. Davis said that having a written document for the Commission in support was a lot different than hearing that a meeting was held. Mr. Haddid did not know if that was needed, since the other owner did not come to the Public Hearing. He saw what was planned and did not have a problem, so Mr. Haddid questioned why a letter was needed. Mr. Kaltsounis said that there was a term in his industry called "industrial amnesia." If the traffic from the proposed development impeded on the other owner's property, and he decided to come after Mr. Haddid for road repairs, and they started going back and forth, it would just protect Mr. Haddid in the future. To avoid industrial amnesia, the Commission made sure that things were well documented. They had recent experiences of things not being well documented that made trouble for people. He reiterated that it was just to protect Mr. Haddid, and it was a good thing to do. He said that it would avoid pain and lawsuits in the future. He would not just trust anyone's word, and he would be much more comfortable seeing something in writing. Mr. Haddid wondered if his project would be a no go if the owner did not want to write a letter, but he said that he would try.

Mr. Schultz said that for projects of this scale, he thought that the Commission needed to talk a little more in detail about a phasing situation. He guessed that the project would potentially be \$30-50 million, but there could be an economic swing during some of the development, and things might not get developed. He felt that it would help to have a phasing document in the PUD Agreement that stated that certain things would happen first, and afterwards other phases could happen, especially with a project of that size. He indicated that if they had to have another meeting with the neighbor to be a good neighbor and document things, it would be a \$50 million insurance policy. He stated that the more meetings the better.

Notes: *(Reference: Staff Report, prepared by Kristen Kapelanski, dated May 17, 2019 and PUD Plans had been placed on file and by reference became part of the record thereof.)*

Present for the applicant were Joe Latozas, Mike Pizzola and Greg Ezzo, Designhaus Architecture, 301 Walnut, Rochester, MI 48307 and Fred Haddid, OYK Engineering, owner.

Ms. Kapelanski advised that the proposed mixed-use PUD was planned for the northeast corner of Auburn and Livernois. The property was currently zoned B-1 and RM-1 with an FB Overlay. 125 residential units were proposed in two, three-story buildings, and a two-story, commercial and office building was proposed at the corner. There had been a number of modifications requested, including for the height of the building, the front yard arterial setback, the parking setback and the front yard landscaping. The building design and transparency had been modified, but she indicated that some of those requirements still needed to be met. She noted that the matter had been considered and postponed at the April meeting. The Planning Commission had identified several outstanding issues they wished to see addressed. The proposed right out driveway on Auburn had been eliminated per the City and MDOT's recommendations, and that was no longer an issue. There had been a question about whether the balconies were shown on all the plan sheets. Balconies were now shown consistently throughout the plan set, so the elevations and site plans matched. The applicant had communicated with the adjacent apartment manager and would elaborate. Cross sections had been provided for the rear garage views. The applicants had also made some modifications to the garages to break up the façade, which they would explain further.

Mr. Latozas stated that they were back in hopes of gaining approval to move to the next step of the process. At the last meeting, there had been additional information requested about the art feature, what the public benefit was, contacting the neighbor in regards to the proposal, any maintenance agreements required for the northern edge of the development, cross access between the two parcels, information about the balconies, the garages and how they interacted with the northern parcel, what the view would be driving west on Auburn, the right in right out issue, which had been removed, the phasing of the project, and the exterior finishes of the project.

Mr. Latozas advised that they had a meeting with the developer and the owners to the north, Dart Properties on April 19th. They discussed the issues from the April 16th meeting and showed them the project, and they were in favor of what was being proposed. They discussed cross access from the

proposed site to the property to the north, and they (the applicant) agreed to post "No Thru Traffic" signs so that access into the north site would not be allowed. There would be no construction traffic from the proposed site to the north. The neighbors were concerned about utilization of their dumpsters during construction, and he stated that they would not be used for any construction materials during that process. They discussed the need for a maintenance agreement to work on the retaining walls and garages. The neighbors had agreed that they would work with them to form an agreement, and it would be in place as the project moved forward.

Mr. Latozas showed a slide of what they proposed in April and what was currently proposed, noting that the difference was the size of Building A. Due to the deed restrictions, they were not able to have any residential use on the corner. They made that building smaller and limited it to commercial and office. He said that they had revised their renderings to correctly illustrate the balconies and façade materials to match the elevations. They were proposing that the art be kinetic wind sculptures, approximately 13 feet high and six feet in diameter.

Regarding the public benefit, Mr. Latozas showed a park on Auburn with one of the sculptures. He showed a view looking at the commercial and office building on the corner of Auburn and Livernois. There would be an outdoor pocket park that would provide a view of the Bebb Oak. He explained that it would give the corner a sense of life and action. One of the concerns raised was the view from Auburn going west. They had since removed four of the garages, and the southern edge of the garage would now be approximately 83 feet from the road. Where they removed the garage, they created a boulder retaining wall with landscaping and a split rail fence. The landscaping would provide cover from any headlights. There were three parking spots where the garages were removed. He showed a rendering of how they would deal with the water transference from the subject property to the neighboring property. They would detain water on the subject site, and it would be released at the current rate through the exact spot. They were releasing it from their property into a spillway so as to not create instability on the neighbor's property. There would not be any erosion on the neighboring property, because the water would dissipate through the spillway. Since the last meeting, they had re-detailed the garages. They proposed a wood-look garage door with the stacked black brick, and all the trim would be the color of the wood on the main buildings. That was to soften the look of the garages. He noted that the proposed materials were not changing. There would be brick, metal panel that looked like wood and other metal panels.

Mr. Latozas noted that after the last meeting, they went to the site and took a series of photographs from spots around the development to illustrate what

the garages would look like from in and around the development. They had re-detailed the back edge of the garages and used two different materials to break up the mass. The lower portion would be retaining wall, and the upper portion would be the garages. He felt that the existing vegetation did a decent job of screening the back of the garages. He showed a photo from the highest section of the wall. There was a ridge that hid the back of the garages somewhat. The ground was higher in that area. He showed a photo of the drive between both developments and talked about the grade difference. Looking at the back of Buildings C and B and the garages, he claimed that there was a lot of existing vegetation that would mask the back of the garage.

Mr. Latozas mentioned that another item raised was the public benefit. They had listed eleven items, and first was connection of the pedestrian network. Currently, no access was provided across Auburn or Livernois. The Mosque was under construction, and people would walk there. They created commercial spaces along Auburn to activate the street scape and create an interesting space; they removed the gas station and were proposing a retail/commercial use in its place; there would be an increase of tax revenue; exemplary landscaping; public art sculptures; vest pocket park with gazebo; a mix of residential unit types at a price point that was needed in the community; contribution to the Tree Fund; removal of two curb cuts; and an outdoor dining area at the retail portion of the project. He showed an example of the split rail fence for the southern portion of Auburn where they removed the garages. They had provided details of the balconies, which would have a black finish. It was a pre-engineered system that was finished in a factory, so there was no concern about deterioration or rust. They were aluminum, and they would be ten feet wide and four feet deep. Another item raised was the grade as it ran across the site and how the garages would interact with the grade. The grade increased across the site to be above the line of the floor of the garages. He showed several views, and said that as the grade went up, the garages stepped up with the grade. The grade behind the garages would increase so that the height of the wall facing the apartments to the north would be much less than the actual height of the garages on the inside. He claimed that someone would never get a chance to see a 17-foot wall. Regarding phasing, if the project moved forward using that, phase one would include all the site work. Phase two would include Building C and two of the garage buildings. Phase three would be the office and commercial building, and phase four would be the central building and the garage building directly behind it. He hoped that they had answered everything that had been raised at the last meeting and gave a better feel of what they were proposing. He asked if there were any questions or concerns.

Mr. Schroeder asked if they had gotten an easement or a method of building the wall. He noted that it was right up against the property line, and he did not

see how it could be built without going on to the other property. Mr. Latozas claimed that the wall could be built from their side, but through their discussions with Pine Ridge's ownership, it would not be an issue to get a construction easement agreement from them to build the wall. Once construction was completed, they would enter into a maintenance agreement so they could access the wall. Mr. Schroeder asked if they would not be going on the neighboring property to build the wall. Mr. Latozas said that they might, but they would get a construction easement to do so. Mr. Schroeder said that he would like to see the proposed construction for the wall. He would like to see the detail, and he thought that they would want to have the easement before they started construction. Mr. Latozas agreed that moving forward, they would have easements in place.

Mr. Gaber thanked the applicants for their presentation. He stated that he was at somewhat of a disadvantage since he had not sat through the previous presentations. He knew that the Planning Commission had discussed it a lot in the past, so some of his comments might have been addressed. Looking at the project from the larger picture, he thought that it would be great if it complied with the ordinances, but it did not, which was why a PUD was being sought. To qualify for a PUD, adequate public benefits needed to be provided. He questioned some of those that had been offered. He thought that some were great, such as getting rid of the gas station property and the curb cuts. He thought that diversification of the residential types of units would be helpful. He thought that the pocket park with the gazebo and art sculptures would really be more of private benefits and would benefit the people in the community as opposed to the public at large. Some of the benefits would occur with any development, whether it was a PUD or not, such as increased tax revenue. He questioned whether the project qualified from that standpoint for a PUD. He had seen other Designhaus projects, and he knew that they did a good job, and they did creative projects to fit specific needs depending on where they were proposed. He mentioned one in Ferndale, for example. He felt that a lot of the features of the proposed project were more suited to that type of venue. The proposed project was innovative and more urban and modern and industrial-looking. It had minimalistic features. He wondered whether the proposed site was right for that type of look. If it were in a downtown community or a walkable community, such as adjacent to downtown Rochester, he would think that the water feature and the gazebo would be perfect, because there was a lot of pedestrian traffic there. He did not see that for the proposed project. He saw that what they were proposing would benefit the residents of the project. He thought that the commercial building on the corner looked great and would serve a great purpose for that location, but he felt that the residential buildings needed to be softened up quite a bit. There was a stark wall, which Mr. Latozas explained was a dark gray masonry, and the light gray would be a metal siding. Mr. Gaber maintained that the whole

development looked very stark; there were no awnings or real parapets or design features to soften the look and make it look more residential in character. He questioned whether the project was suited for that area of the community. In terms of landscaping, one of the waivers being requested was for eight trees, and he asked them to explain why they were asking for that.

Mr. Pizzola explained that Rochester Hills had some extensive guidelines as to where landscaping could go, including site triangles, the safety path and the right-of-way. Pulling into an intersection, someone's view could not be blocked by landscaping. In addition, underground and overhead utilities had to be considered. Landscaping had to be placed within a certain distance of property lines and pavement edging. Everything overlapped, and it was difficult to find room to place the required number of trees. There was a provision that allowed them to pay in lieu of into the Tree Fund.

Mr. Gaber said that he understood about corner clearance at the entrance, but he did not think that they had that issue where they eliminated the right out. There were three points in the apartment buildings that were close to Auburn, and he believed that they were 17 feet from the right-of-way. He wondered if they could add landscaping in front of those areas. He wondered if they could put some of those eight trees in those areas. Mr. Pizzola stated that it was packed in as much as it could be, and he could not get another tree on the site.

Mr. Gaber brought up existing vegetation behind on the adjacent site. He asked if that would be within the temporary construction easement area, and if so, if it would be affected by construction. Mr. Pizzola responded that it would not. The vegetation that they showed was five to seven feet off of their (applicants') property line. They would only need two to three feet. That vegetation was brush. The larger trees were farther out. Mr. Gaber asked if there was a buildable lot to the east. Ms. Kapelanski believed that it was owned by the apartment complex. Mr. Pizzola said that it might be part of their open space. It was a wet area and not likely to be developed.

Mr. Gaber noted that phase one would be building all the site improvements, and he asked if they would propose completion guarantees to ensure that all three structures would be built. Mr. Latozas said that they could definitely work with staff to provide that. It was their intent to not have it a phased project. Mr. Gaber concluded that the project showed a lot of ingenuity and creativity; he just questioned whether it qualified for the PUD option, and whether it was the right project for the site.

Mr. Latozas said that when the project originally came before the Commission, it was similar to what it was now with the exception of the building

on the corner. The Commission had commented that moving forward was the right direction. They were asked to come back with a project that was similar and were not asked to make large changes. They talked about the height and the way the site sloped, and three stories seemed to make sense because of the drop in the grade. The parapet height of the three buildings would be consistent across the site; it was the grade that dropped. The materiality of the project was brought up, and it was liked by four or five different members. They felt that the aesthetic was appropriate. That was over a year ago, and they had treaded down the path of that same style of architecture from the direction of the Commission. Mr. Gaber said that he would just like to see it softened more. It would be a real step forward for Rochester Hills, and he was not aware of another development like it in the City. He felt that it might be more appropriate to soften it up with different architectural features to make it more of a baby step than a big step for the City.

Mr. Kaltsounis thanked the applicant for doing due diligence since the last meeting and addressing a lot of the things the Commissioners had mentioned. He felt that they were on much safer ground than at the last meeting. He asked what happened with the deed restrictions and the building on the corner. Mr. Latozas advised that the deed restrictions for that corner did not allow residential uses. Mr. Pizzola added that due to the former gas station, there were leaking, underground tanks and extensive contamination. They had a phase two done for the site, and it was determined that the remediation was compliant. There was minimal further remediation required, but due to that, Speedway put in place a deed restriction for the life of the property that no residential could be on that site, no matter what they did. They did not learn that until the purchase agreement was in place. Mr. Kaltsounis asked him to show the two different renderings. He observed that they had taken a lot of what was proposed for Building A and moved it to Building B, which became a larger mass. Mr. Kaltsounis noticed that a lot of the wood features had been lost. Mr. Latozas said that it was a result of satisfying the façade proportionality of the primary material versus the secondary material. They increased the brick and reduced the metal and wood. Mr. Kaltsounis asked if the number of residential units went up or down. Mr. Latozas said that it stayed the same. Mr. Kaltsounis asked if the renderings shown in the presentation could be made available, and Mr. Latozas agreed that they would submit hard copies.

Mr. Kaltsounis said that the applicants talked about an access agreement where their tenants could not go through the apartment property to the north. He asked if the neighbors to the north were allowed to go through the subject property, which was confirmed. Mr. Latozas said that they currently had access, and they would not be denied future access. Mr. Kaltsounis said that he appreciated that the garages were moved away from Auburn. He said that

he was still not clear about some features of the retaining wall. He asked if they could see samples of the materials. Mr. Latozas went over the colors and materials of the proposed wall. The intent was to break up the wall so it was not so monolithic.

Mr. Kaltsounis asked why there was so much more white in the current renderings. Mr. Latozas did not believe there was more white proposed than before. He offered that there was a cap that ran along the building that could be made a darker color, and reminded that the insets of the balconies would provide shadow lines to create some darker contrast. He felt that there was a limitation with the photo renderings. Mr. Kaltsounis said that he liked how the wood had blended into the design, and he felt that it was being lost. He felt that Mr. Gaber had a point about using a PUD. They just reviewed a development that added a lot of features, such as green space and larger buffers, and they had cleaned up a landfill. He asked what the City would be getting other than more density. He said that he was still fighting with that.

Mr. Kaltsounis went over potential conditions:

Developer must obtain an easement agreement with the neighbors before the start of construction;

Developer must update the material board to add retaining wall details and materials, including the color of the grout for the garages;

Developer shall work with staff to provide guarantees related to the phases of construction.

He asked the applicants if they agreed to those conditions, which they did.

Chairperson Brnabic reminded that as part of the PUD Agreement, a timeframe for completion was required. If it was being phased, that information would be added to the timeframe accordingly.

Mr. Dettloff thanked the applicants for taking a lot of the concerns into consideration and addressing them. He thought he heard that the units would rent at a price point that was needed in the City, and he asked how they determined that and what kind of research or data was used. Mr. Latozas replied that the developer had done research about the market average in the City and surrounding communities. He wanted to assure that what he was proposing was not out of reality to attract tenants. He was not proposing high rents, but he was not proposing a lower-end facility. It would be more middle of the road, and there would be opportunities for people of all income ranges to find the right sized unit within their budget. There would be live/work units and accessible units available. Mr. Dettloff asked what the price ranges would be. Mr. Latozas said that the range would be from \$1.50 to \$2.25 per square foot.

Ms. Morita commented that she did not like the way the development looked.

She stated that from the rear, it looked like a prison behind a prison wall. There was a black wall with a very square, industrial-looking building. She acknowledged that the aesthetics from Auburn were a lot better, but from the rear perspective, it was really not appealing to her. She indicated that she would not want to live there. She also did not feel that it would provide a public benefit in terms of aesthetics. She appreciated the idea that they were trying to be unique with the black wall, but she felt that it made it worse. It made it more stark and harsher, which she did not think was what people wanted to look at if they lived next door. She noted that they had listed 11 items they felt would provide a public benefit, but she stated that any time someone put an addition on a property tax revenue should go up. The only way they would really provide a public benefit was if the property owner was willing to agree to not appeal property taxes for eight years from the time a Land Improvement Permit was issued, absent an addition or loss of taxable value she would expect any property owner to be able to dispute. If that was put into the PUD Agreement, she would consider it more of a benefit than just providing an increase in value. She thought that Mr. Gaber had a good point about the pocket parks. They were really private parks, and people from the public could not just sit there - they were in the middle of an apartment building. If she was a tenant living there, and someone was sitting there smoking outside her window, she would be calling management. She did not think that the applicants would necessarily want those parks to be public when there would be residential apartments right next to them. In terms of the wall, she felt that it was really incumbent upon the applicants to not only have a maintenance agreement in a form acceptable to the City and recorded with the Register of Deeds prior to getting a Land Improvement Permit, but to soften up the look of the wall to talk with the neighbor to the north to find a way to plant evergreens or landscaping on that property. She believed that it would be better for everyone, and no one would see a black wall. She did not think that they could rely on the scrub trees or brush on the neighboring property to keep the project from being stark, because it was. The neighboring property owner could come in and completely clear that area. She emphasized that they needed an agreement with the neighbor to be able to install trees. She agreed with Mr. Kaltsounis about the change in materials and how there was more white, and that it was more industrial-looking. She did not like it as much as what they had seen previously. At this point, without the agreements in place and how it looked and not knowing what the owner would agree to in terms of the PUD, she was not in favor of moving it forward to Council. She could not vote in favor, and if it went to Council, she could not vote in favor of it there, either. She hoped that they heard the comments, and that they went back to the neighboring property owner and asked about securing a maintenance agreement and see if he would consider allowing plantings on his property to soften the look. The applicants could come back with a design that was more like what they first saw, which was not so harsh looking. She

reiterated that it looked like an industrial-type of building being plopped into an area that did not have anything like it. She said that she was not afraid of new stuff, as long as it was interesting and not so square and industrial-looking. The new Holiday Inn Express at Adams Marketplace had the same type of look, and she felt that it was one of the most hideous buildings in the City. She did not like it when the design changed. It was not inviting, and the view from the highway was the worst part, and that was what people saw the most. Mr. Kaltsounis had brought up the property that had a Consent Agreement because of contamination. She pointed out that the property owner gave the neighboring properties 100 feet of buffer. There was nothing sitting on the property line. There would be 100 feet of naturalized landscape area sitting in between an apartment building and the residents next to it. The height was four stories in some places, but as it sloped toward the residences, there would be nothing higher than two stories. There would be a park that would connect to Innovation Hills that was intended for use by the public. There would be huge open areas, and many trees would be planted - way more than required. There would be no donation to a tree fund for that site. Not only were the developers dumping \$14 million into cleaning up the site and making it safe for future generations, but they would be providing a very large green space. That was not what was being proposed for the subject site. There was almost no green space, and there would be a contribution to the tree fund. She did not consider that a benefit to the public; she would rather have them find a way to plant the trees.

Mr. Schultz stated that the one thing they really needed to focus on was the public benefit, and he was struggling to find that. He felt that the City was making all the concessions. A mixture of unit types was just that, and it was typical of any apartment. If the applicants said that they would do market rate, 60% or 80% AMI, that would be a public benefit. That would be providing a benefit, because they would bring people to the community who might not be able to afford to live in Rochester Hills. The subject apartments would all be market rate, regardless of whether there was a studio or a two-bedroom unit. He said that he was struggling with the public benefit and why they were utilizing a PUD for which the community was not realizing any benefit.

Chairperson Brnabic said that she held the same opinion, and she had expressed it at the last meeting. Listening to the struggle about the qualifications for using a PUD confirmed to her that there was not a public benefit. She had heard a lot of doubt from the Commissioners, and she thought that they really had to reflect on that moving forward. The project seemed as if it had more of a shadow than a bright spot, and that was not the way they should be feeling to move a project forward as a PUD.

Mr. Kaltsounis said that it was the first time he had taken notes on the motion

page. That was when he could tell that a development was not quite ready to go on to the next step. He felt that they were close, and that every step they had taken had been progressively better for the development. There had been a lot of good changes, but he thought that there might need to be a couple more. Every time he started to propose a motion, he gauged everyone's sentiment about a project, and he did not know if he could get the applicants enough yes votes. If it went to Council, it would probably get shut down there as well. He recommended another postponement until the comments could be processed.

Chairperson Brnabic asked Mr. Kaltsounis what he thought could improve. If there were so many questions about the qualifications for use of a PUD, she questioned postponing again. Mr. Kaltsounis indicated that it was not an easy development. Ms. Morita had mentioned things that could be done that would be beneficial to the public. A styling change was big on his list, and public benefit was number one. Chairperson Brnabic said that the Speedway property could have been developed under the normal zoning. If it was not for the density proposed, the whole project could be done under the regular zoning. There was not enough that stood out, and she felt somewhat that the applicants were using a back door to get density, and that bothered her. She was not wowed. She was concerned about postponing again and asking for a few changes when there were concerns about the public benefit for the community. Mr. Kaltsounis asked the applicants what the benefit to the City would be.

Mr. Latozas responded that they wanted to go back and take another look at it and take the comments and show that there was a true public benefit within the development.

Mr. Gaber summarized that in terms of the public benefits, the ordinance clearly spelled out criteria for qualification. He suggested that it might be helpful for the applicants to take that section, 138-7.103 (d): "A PUD shall meet as many of the following objectives as may be deemed appropriate by the City...", and go through those one by one and tell the Commission if the project was providing something to meet those criteria. That way, the Planning Commission and City Council could have a guide to gauge whether or not the public benefits being provided were substantial enough to merit the project. He also felt that Ms. Morita was spot on with her comments. He agreed that if the garages were softened, it would add more life to the project. Instead of using metals and stone to show differentiation, he suggested putting in trees and landscaping offsite. The City was more accustomed to that, and it would probably be accepted better by the Commission and Council.

Mr. Hooper said that he agreed with most of everything that had been said. They needed to get over the PUD hurdle. He pointed out that the balconies would be black. They needed to do something at the top, whether it was a parapet or something else, and change the color, and add awnings or a different relief treatment. They changed the garages as was suggested. If they could get the easement for the landscaping that would take care of the east and north elevation. He felt that a huge benefit would be the development of a long vacant corner with a former gas station and putting it back into a good purpose that would serve the needs of the community. He said that he would like to find a way to work with the applicant, not against him. Mr. Hooper had walked the property, and he observed that the existing vegetation would more than cover the east wall. He agreed that it would be completely screened. He realized that it was owned by the Pine Ridge Apartments, and even though he doubted that the vegetation would be removed in the future, it could be. He hoped that they could satisfy the criteria for the PUD and work out the other features to make it more appealing and less stark-looking.

Hearing no further discussion, Mr. Kaltsounis moved the following:

MOTION by Kaltsounis, seconded by Dettloff, in the matter of 18-016 (Rochester Hills Trio PUD), the Planning Commission **postpones review of the PUD Concept plans** dated received May 2, 2019 until a later date so the applicant can address the concerns raised by the Planning Commission at its May 21, 2019 meeting.

4	Planning Commission	07/16/2019	Recommended for Approval	City Council Regular Meeting	Pass
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Notes: (Reference: Staff Report prepared by Kristen Kapelanski, dated July 12, 2019 and site plans and elevations had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Peter Stuhlreyer and Joe Latozas, Designhaus Architecture, 301 Walnut Blvd., Rochester, MI 48307 MI 48315, Fred Haddid, OYK Engineering, 30700 Telegraph Rd., Suite 2665, Bingham Farms, MI 48025 and Aaron Fales, Attorney, 1080 Canyon Creek Dr., Rochester Hills, MI 48306.

Ms. Roediger noted that the project had been seen several times by the Planning Commission and was most recently tabled at the June 5 Planning Commission meeting. There had been some outstanding issues: The Planning Commission wished to see more clarification regarding the public benefit; there was direction to soften the façade of the elevations; and there were many concerns about maintenance, construction and screening of the garages. She advised that the garages along the northern property line had been replaced with carports, and a row of evergreens were added along the property line. The applicant was adding a safety path along Auburn to extend beyond their property line east to connect to the bridge that went over M-59.

Mr. Stuhlreyer recalled that in March of 2018, they approached staff with a project. They were aware that a project had been proposed previously for townhomes that was looked down upon, and they were driven to get a better project for the site. They talked about the improbability of obtaining the gas station on the corner. They also talked about the PUD process and the FB Overlay. The crux of the discussion was about obtaining the gas station, taking out four curb cuts, and cleaning the site and incorporating it into a mixed-use development. The public benefit would be all of that, and the trade-off allowed in the PUD would be having a partial third floor. In the following month, they brought the plan as a discussion item to the Planning Commission. They felt that the proposal was received very positively among the members. As they developed, they engaged things like materiality and other code concerns. They found that the gas station had deed restrictions which did not allow residential and other uses. They could not sell packaged alcohol or have a convenience store. That was what drove the major change to the design. He claimed that the three-story version was always the full width of the easterly buildings, and it was now less because of the topography. He advised that the rear elevation had been modified to engage a more architectural complete front so that the apartments to the north had a more pleasing elevation to view. They spoke with staff again because of an issue with the fire lanes. That was resolved, but they were asking for a modification for the minimum setback. The building on the west was further from the street than the FB Overlay allowed. MDOT had an issue with the ingress/egress points, which they initially fought. They decided to take the recommendation and the right in right out at the west had become right in only. The Commissioners thought that some of the materials were not warm enough, and they made a modification. They changed the brick, which really was not black brick. It had some copper and brown tones, and was a much softer color than previously. The lighter of the gray panels was softened from a more stark white to a more neutral gray. He stated that the design was a very classic, contemporary but warm building, and he felt that it was a perfect transition for a major intersection that was primarily commercial to the apartments and single-family homes. He pointed out that the mosque across the street was at least 20 feet higher and more massive than their buildings. Upon the City's request, they met with the ownership of Pine Ridge, who were very positive about the development. They were not opposed to the garages or the screen wall in the rear or the dumpster locations. They had removed the large brick wall and made the north garages into carports, which reduced the height of the brick wall to, at its worst case, eight or ten feet. Most of it was behind the dog park and the dumpsters and a large hill, so it would not be an eyesore for the apartment dwellers. He noted that there had not been public opposition at the Public Hearing.

Mr. Stuhlreyer said that they removed the garages and pulled the asphalt back from the north property line and added about 70 trees to screen the parking and carports from the apartments to the north. They could fit the required vegetation on site. They were retaining the easterly garages, but they were set back from the street about 30-40 feet, which was shown at the last meeting. They would be hard to notice traveling west down Auburn, and it did open up the building. He also noted that they had added more of the wood product at the Commission's request. They added an extensive pathway (1,900 linear feet) east to the bridge to provide neighborhood connection. He stated that he went to great lengths to push some commercial and live/work activity out towards the edges of the property so that the streetscape was activated. All the end caps would be commercial, and not everything on the street would be straight up apartments. There would be retail in the west building, including

a restaurant on the ground floor, and on the second floor, there would be about 10,000 s.f. for a medical lab. He said that they would be happy to answer any questions.

Chairperson Brnabic said that before going forward, she wished to take the opportunity to address a memo to the Commission dated June 20, 2019, because she felt that there was a decent amount of inaccurate information stated. The memo stated that at the April 17, 2018 meeting, the design aesthetics were unanimously supported by all nine members of the board. She reviewed the minutes from that meeting, and only five Commissioners spoke that night. To state that the design aesthetics were unanimously supported by all nine members was inaccurate. The meeting was to get feedback on a very basic concept plan, and no vote was taken. The memo stated that the only material issue at the time was the board asking if the applicants could clean up the gas station and incorporate it into the design. She stated that the reference to the gas station in the April 17, 2018 minutes involved a question asking if the applicant owned all the property. The response was, "all but the Speedway, which was under contract." There was also a statement by Ms. Morita that the applicants were willing to use a former gas station and turn it into residential, which was very brave, and she hoped that it all worked out. Mr. Anzek made a statement that he was glad to see it totally incorporated into the development along the corridor. She reiterated that it was also inaccurate that the only issue at the time was the board asking the applicants if they could clean up the gas station. At that meeting there had also been questions about the elevation, drainage, wetlands and caution that the Commission would be critical of building materials used. The next mention was the February 19, 2019 meeting, which stated that the outstanding items were raised and addressed, and none were about aesthetics, and the applicants asked to come back to a subsequent meeting. She stated that was not true, because the garages were in question. More detail was asked for in regards to the garage design, elevation, height, retaining wall, roofline, three-story design, façade transparency and building materials which were short of the requirements, and the PUD option was questioned by Ms. Morita. Next, they skipped to the last meeting on May 21, 2019 and stated that after addressing outstanding items, several members changed their position on aesthetics, and the public benefit was raised for the entire project. They did not mention the April 16, 2019 meeting. At that meeting, in addition to the above, questions were raised in regards to the proposed balcony design and detail, the use of a PUD and the public benefit. There were comments by three members that night, so it did not just come up at the May meeting. There had been comments about amenities and increased quality, whether the owner got the major benefit of the PUD, and that the benefit to the community did not stand out. Their statement that the PUD qualifications were never an issue until the last meeting was not correct. The applicants did provide a list of the PUD benefits at the May 21 meeting. At that meeting, another Commissioner questioned the public benefit and whether the project qualified for use of a PUD. There were three additional Commissioners who spoke, raising the number to six that had questioned the public benefit and qualification for the project's use of a PUD.

Chairperson Brnabic stated that she objected to the fact that on page two, as part of the qualification, the applicants said that they were developing a contaminated site and repurposing it. She maintained that the site was not contaminated. The gas station owners did all the work to remove the building, to remove the pumps and tanks and to totally clean the site. It should have stated that it was a previously

contaminated site. At the February 19 meeting, Ms. Morita asked if the gas station was contaminated, and the applicant stated that there was almost none, because it had been cleared by the previous owner. Chairperson Brnabic referred to comment 7, for which the applicant stated that they were strongly encouraged to purchase and incorporate the gas station into their plan, and they relied upon the belief that the Planning Commission would approve the plan once they did that. It said that they were providing a viable alternative to the use of an otherwise obsolete and dangerous site. She said that she would agree with obsolete, but she did not consider the site dangerous. She wondered why the applicants relied upon the belief that the Planning Commission would automatically approve the plan if they contracted for the gas station property, because there was nothing in any of the minutes she read that would give that impression. The Planning Commission would never automatically approve any plan due to a purchase. She could say that perhaps if that property had been totally contaminated and the applicants had to demolish everything, take the tanks out and do the cleanup that it would weigh heavily as a benefit to the community. She knew that the applicants were proposing an extended pathway, which would be another benefit of the PUD. Regarding open space, the applicants had mentioned pocket parks, and she asked how the open space was distributed. She asked how many parks there would be and where they would be located.

Mr. Stuhlreyer replied that there were two components to the pocket parks that were public, and one was more of an outside dining component. He showed the parks, which he said would have cut-ins and sidewalks, small shelters, public art, water features and benches. They would provide pauses along the new pathway. They were "niches" to be used by pedestrians, joggers and bike riders, whether they were residents or not.

Mr. Kaltsounis asked what the letter was about. He appreciated Chairperson Brnabic going through it in detail and pointing out some of the comments and comparing them to the minutes. Mr. Stuhlreyer responded that the letter was a summary of what the team had felt were either housekeeping items, such as balcony details not matching on plans or unsurmountable ideas such as the Planning Commission could see no way to agree to a third floor. It was a summary, and he said that there was some rather harsh language. In defense of the document, it went through the entire team, and everyone had input on the wording. He felt that it was a reasonable summary, and some things talked about the unanimousness of what people liked when they were first showed the plans, because no one was in opposition to the project scope or architecture at the beginning. He agreed that it did not guarantee an approval, nor did the acquisition of the gas station. Their role in the gas station work was not a small piece. The rights that were given up to own that property was not a small thing, either. They felt that it was a good thing to redevelop a vacant site. Their ask to have half of the buildings have a third floor that was, in their opinion, conditioned upon the dropping of the grade, was not a giant chasm between benefit and cost. They were surprised that it was not a public benefit. He said that not every community treated public benefits the same. They were a little gray. They had not come before the Planning Commission and gotten any kind of absolute debate about unsurmountable ideas. When it came to access, fire, retaining walls, views and neighbors' approval, they had been able to accommodate. They softened the materials. He maintained that the density was not that great with regards to units per acre. They never felt as if they were up against a great wall. They thought that they had a very complicated site with a lot of issues they could housekeep their way

through meeting by meeting. He suggested that perhaps the letter reflected frustration about that, and he apologized for that. He agreed that it could have used softer language and less summative language.

Mr. Kaltsounis said that he was concerned why the Commissioners even got a letter like that. Chairperson Brnabic had pointed out that there were a lot of statements in it that were contrary to the minutes. He said that if the project went forward, he would want the letter thrown out. He was not sure that they could, but he did not want it as part of the record, because it was untrue in most cases. They were not trying to swing public opinion. The first day he saw the development, there were garages on one level and massive walls of black 17 feet tall that went right up to Auburn Rd. They questioned the buildings and asked them to talk to the neighbors. He was particularly upset at the last meeting when they came and had changed the style of the outside of the building altogether. He had looked at a picture of a white industrial building with white vertical metal on the sides and back. It looked like what the applicants had shown at the last meeting. They had been going down a good path, and things were sort of pulled out from under the Commission. He was upset about that. The applicants were talking about changes again. As the development had progressed, it was looking like a property they could probably build compared with what was first presented. A lot of the back and forth were things to improve the development so as to be a benefit to everyone. Personally, he liked the site plan. It was a PUD, and there had to be give and take, but at the last meeting, he agreed with other Commissioners that it was more about density, and more one-sided. He questioned whether they would want to go into an agreement with an applicant that had slapped them across the face. He said that he would be interested to hear what others had to say.

Chairperson Brnabic felt that in many ways, Mr. Stuhldreier's response was a spin. She used the minutes to back up her comments. She looked at the statements in the letter and went over the minutes, and the information was inaccurate. She did not know how five people could have worked on one memo. It should have been done by someone who was at the meeting. They should all have conferred. She read, "All of a sudden at the May 21 meeting, the qualification came up for the PUD." She reminded that it had been mentioned in February and in April. On May 21, three additional members chimed in. She did not feel that he had taken responsibility for some of the inaccurate information.

Mr. Gaber stated that the points were well made about the June 20 letter. As a matter of proceeding forward, the comments would be on the record and would be transmitted to City Council for consideration, in terms of deciding what to do with the Preliminary PUD proposal. He wished to move beyond it and try to move the discussion forward. He had asked for clarification about the ordinance deviations being requested. He knew the setback of the corner building had been mentioned, but he asked about the other deviations being requested as part of the concept plan.

Mr. Stuhldreier did not think that there were many. One regarded the front minimum setback for the westerly building, and another was having a 3rd floor on half of the center and easterly building.

Ms. Roediger said that there were some building design and façade transparency modifications being requested for the FB Overlay as well as for the front yard

landscaping and parking lot setbacks. Mr. Stuhlreyer added that there was more open space than required by ordinance.

Mr. Gaber noted the eastern area of the project. The garage was still shown, and he wondered why they were going to carports on the north side but keeping the garage on the east side. They had added a carport on the east side as well. Mr. Stuhlreyer stated that the carport would add a feature and benefit for the residents. Taking out the garages was taking the quality for some. He believed that garages would be preferred, but carports were a requirement at the level of apartment they were proposing. He felt that leaving the easterly garage was the least visually impacting, because it would be tucked into a very large stand of trees. Mr. Gaber asked if he felt that the retaining wall at the rear and the garage on top of it would be covered, and if the visibility for people driving westbound on Auburn would be minimal. Mr. Stuhlreyer agreed that it would be minimal and maybe zero. There would be eight feet of space behind the garage on their property, which would alleviate the concern about maintenance of the rear of the structures. Mr. Gaber asked Mr. Stuhlreyer if he had any diagrams or cross sections of the carports, which were shown on the overhead. Mr. Gaber asked if there was any concern about nighttime and lights from vehicles facing north into the apartments across the open space. Mr. Stuhlreyer said that there would be a brick wall to shield and a tremendous amount of trees along there. He noted the photometric, and said that there had been a bright spot that exceeded code, but it was 50 feet within their property. There would not be any light bleeding offsite.

Mr. Gaber asked to see the plan for the pathway. He asked if the IAGD was building any sidewalk with its expansion project on the south side. Ms. Roediger believed that they were required to add a pathway along their property, which she would confirm. Mr. Gaber said that Mr. Stuhlreyer had mentioned the pathway over the bridge, and he asked if there was a pathway to the east of that on the north side, which he did not recall. Ms. Roediger said that the pathway started immediately east of the first residential road. Mr. Gaber agreed that extending the pathway as far as they could to the east would be a public benefit of the project. He asked Mr. Stuhlreyer to talk about their plan.

Mr. Stuhlreyer advised that there was not a long-term phasing plan. It would not be doing one building and then two years later doing another. The site work would be done on the eastern side and the first building would be constructed, and they would work on the west. They would not want to create impassable parts of the site while it was being constructed. There would be a single-phase of construction, but it would be building by building by building. They would not wait for a building to get full before starting another one. He reminded that it would only be 120 units. Mr. Gaber asked if there would be no objection to stating in the PUD Agreement that it was a single-phase that would be done as one consistent development at one time and to put up a completion guarantee. Mr. Stuhlreyer said that would be up to the developer, but the goal was as he had explained. Mr. Gaber realized that was the objective, but unless it was written into the PUD Agreement with a performance guarantee to ensure that, all they would have would be a statement on the record. Mr. Stuhlreyer agreed that it would be in the Agreement.

Mr. Gaber wanted to make sure that the two pocket parks were not too dense with trees and shrubs. He said that it looked they were putting quite a bit into very small

areas. The occupants would need the ability to enjoy the area and not just look at it.

Ms. Morita said that she assumed that Mr. Staran would review the PUD Agreement before it was signed, but she asked who would draft it. Ms. Roediger said that it would be the applicant. Ms. Morita asked if there was an escrow for Mr. Staran's legal fees. Ms. Roediger advised that there was an escrow for all reviews. She would confirm how Mr. Staran billed for his time. Ms. Morita asked if there was a limit as to how much the applicant was charged for legal reviews. Ms. Roediger agreed that it was a pass-through. Ms. Morita said that she did not appreciate the letter, either. There had been some blatant mistruths that she found extremely troubling, and if the City was entering into an agreement with the applicant that was highly problematic. There had been a lot of issues with the plans that came forward, including the zero setbacks, the lack of trees, drainage and the plethora of other issues to be addressed meeting after meeting. The Commissioners tried to work with the applicants. If there was an issue, they brought it up and expected it to be handled. She agreed with Mr. Gaber that the plan was better than what they had seen in the past, and she liked it better, but they did a lot of damage with the letter. Her concern was that the City would enter into an agreement with someone who, despite the minutes, which were public record, would try to submit something into the record that was not accurate. She said that she would appreciate an apology letter. She thought that it would be nice to have it as part of the file to explain that they had an opportunity to review the minutes and that maybe some of things that were said in the letter were not quite accurate. The fact that the applicants indicated at a prior meeting that the site was no longer in need of clean up and it was not contaminated anymore when she questioned them, and that the client did not do the cleanup; it had been cleaned to nonresidential standards before the purchase would go a long way towards mending the situation if stated. She said that it would be helpful if the applicants looked at the minutes. Mr. Stuhlreyer had said that it was his signature on the letter, and she felt that he should read the minutes and not leave it up to his staff, and that he should write the letter himself. That said, she appreciated the changes that had been made with the carports versus the garages, because it made it look less like a building behind a wall. She liked the trees bordering the carports, which she felt was more inviting. The things they were looking for the PUD Agreement such as the allowance for a two-foot setback instead of a ten-foot required setback with the changes with the trees and carports as opposed to the garages, were much more acceptable. The colors were better, and she appreciated the variation. Going back to the original design scheme from April 17, 2018, there were no garages behind the building. In June, there were carports. They were missing that in between when the garages came in. She felt that it was important to note that the plan had gone through several changes. She was not convinced that the pocket parks would provide any public benefit at all. She did not think that they would be used by the public. She liked the fact that they were extending the trailway as a public benefit. She said that she would like to see a letter clarifying the misunderstandings which would help her a lot. She would like it to become part of the file.

Mr. Dettloff said that Mr. Stuhlreyer indicated that he met with the Pine Ridge owners and received a letter from them in support. He asked if Mr. Stuhlreyer would share some of the discussion or their initial concerns and the remedies that were proposed.

Mr. Stuhlreyer said that the owner and the property managers came to his office two versions ago with the garages. They were shown all the different elevations and

different photo inserts of the back wall which would be brick and 17 feet tall. The neighbors would be getting 70 trees if they wanted. They said that they liked the brick wall and the security. They did not want the future residents to drive through their development, so a "Residents Only" sign would be at the cross access easement entry point into Pine Ridge. The Pine Ridge people had some problems with their retention pond, and they did not want that made worse. The applicants added underground detention, they pulled the outlet back, and it would be dumped back in the same course and volume that had existed. They would not be adding load to the neighbor's pond. Pine Ridge did not want their trash bins used for construction debris. They were very nice, welcoming people. They were excited about having a little commercial nearby.

Mr. Dettloff asked about the split rail fence, and Mr. Stuhlreyer said that it was a detail for the southeast corner of the parking lot where there was an elevation change. It would give a rural landscape feel. Mr. Dettloff said that he thought that some of the changes made were good, but he considered that the letter could come back to bite. He agreed with Ms. Morita that addressing it in a timely fashion would be good so things did not linger, and there was a sense of trust going forward.

Mr. Hooper said that from the last meeting, the items left that did not technically comply were the front yard setback, which was greater than the ordinance requirement; the minimum façade transparency, where the two buildings could be averaged and the intent would be met; building materials, which he thought were fine as presented; a spot on the photometric that was not compliant for which the fixture would be adjusted; the minimum parking setback of two feet proposed when ten was required, which he did not have an issue with since it would be surrounded by vegetation; and a waiver for eight trees. He thought they said they would be able to plant all the trees and not need a waiver.

Mr. Latozas said that they were short eight trees in the right-of-way of Auburn Rd. There was not enough room due to the building having to be so close to the road, the utilities and the drive around the west building. They were providing eight, but they were on the northern property line in between the proposed project and Pine Ridge.

Mr. Hooper said that on the whole, he felt that they had met the intent of the standards for using a PUD. He supported the project's most current iteration. He thought that it would be a good benefit for the community. There was an obsolete corner that would be put back into appropriate use. He felt that they should move forward, and he intended to support. He indicated that he would not belabor the letter. He had seen it before in his line of business. He did present that "you don't poke someone in the eye when you're shaking their hand."

Mr. Kaltsounis proposed additional conditions regarding single phasing for the PUD Agreement and about providing a letter that apologized and corrected all the inaccuracies listed in the June 20, 2019 letter to staff. The applicants accepted the conditions. Mr. Kaltsounis recommended doing a short and sweet letter that did not get into much detail. Hearing no further discussion, he moved the motion below (with the two additional conditions).

Mr. Gaber realized that he was the newest member, and he was trying to get up to speed with the project. He felt that it had come a long way from what he had

originally seen. He felt that the public benefit had been demonstrated to justify the use of the PUD option, and that it made sense to have the proposed, high quality development at that intersection to improve and enhance the corner. He thought that the project was warranted for the location. He appreciated the changes and upgrades that had been made and that the applicants had worked with the Planning Commission to address the concerns to move the project forward. He restated condition eight for clarification (see below). Mr. Kaltsounis asked if a financial guarantee would be made.

Mr. Davis said that it had not happened much since he had been with the City, but he recalled an instance when the Village of RH was redeveloping, and there was a big incentive for that to happen, because there was a \$2 million forfeiture bond. That bond guaranteed that the property was redeveloped as it was currently. As far as getting a bond to ensure the improvements got in place, he remembered that Arcadia Park had something like that. The infrastructure went in before the developer went belly up, and ultimately that subdivision was redeveloped. The second owners were handicapped by some of the utilities that were already in place, so he cautioned that they would not want to install something for a future developer that might want to do something different and perhaps not want water or sewer lines in a certain location. He felt that it would be better to have more of a forfeiture cash bond put up to the City's benefit. It would take a lot for the City to try to pursue a performance bond to make sure improvements were done.

Chairperson Brnabic reminded that they were reviewing the Preliminary PUD, so the issue of timeframes and other items would be addressed when there was a PUD Agreement at Final. Mr. Gaber said that was fine; he could not recall if the PUD Agreement went straight to City Council or if it came before the Planning Commission. Chairperson Brnabic advised that it went before Planning Commission first.

Mr. Gaber thought that having a second condition about the letter was a little heavy handed. He felt that in the spirit of cooperation and good faith that instead of obligating the applicants to do that, he would expect that. The project would come back at Final, and he would expect to see something then. He did not think that it needed to be a condition.

Ms. Morita said that she agreed. She did not think that it needed to be a condition. Mr. Stuhlreyer came before the Planning Commission regularly on different projects, and she was sure that he wanted to maintain a good working relationship with the City. She was sure that he would do what he needed to keep that relationship. She was certain that Mr. Staran would be put on notice so that when he was reviewing the PUD Agreement, there would be no issues. There had been several Commissioners expressing displeasure, including one who also sat on Council, so hopefully, the right thing would be done. She asked Mr. Kaltsounis if he would amend his motion to remove that condition unless the rest of the Commission felt that it should be there.

Mr. Hooper agreed that in his perspective, it was not needed. Chairperson Brnabic also agreed that it did not have to be a condition. She felt that it was pretty plain what the applicants needed to do. Mr. Kaltsounis said that hearing the will of his fellow colleagues, he would remove the condition about the letter. Mr. Dettloff agreed,

because, he joked, he had never been one to disagree with two attorneys. Chairperson Brnabic asked about the other condition (eight). Ms. Morita said that she felt that it should remain. The applicant could at least clarify that the phases would not be how they were normally thought of but that the development would be constructed at the same time. Mr. Kaltsounis agreed that Council needed to know that at the concept level. Ms. Morita said that the idea was not to have one building done one year and another done another year - it should be a continuous build.

Text of Legislative File 2019-0065

Title

Request for Preliminary Planned Unit Development and Conceptual Site Plan Approval - Rochester Hills Trio, a proposed mixed use development consisting of residential units, office and retail space on 5.77 acres located at the northeast corner of Auburn and Livernois Rds., zoned B-1 Local Business with an FB-2 Flexible Business Overlay and RM-1 Multiple Family Residential with an FB-1 Flexible Business Overlay, Designhaus Architecture, Applicant

Body

Resolved, that the Rochester Hills City Council hereby approves the Preliminary Planned Unit Development and Conceptual Site Plan Approval for Rochester Hills Trio, a proposed mixed use development consisting of residential units, office and retail space on 5.77 acres located at the northeast corner of Auburn and Livernois Rds., zoned B-1 Local Business with an FB-2 Flexible Business Overlay and RM-1 Multiple Family Residential with an FB-1 Flexible Business Overlay, Parcel No. 15-27-351-009 based on plans dated received by the Planning and Economic Development Dept. on June 21, 2019, Designhaus Architecture, Applicant, with the following findings and conditions:

Findings

1. The proposed PUD Concept Plan meets the criteria for use of the PUD option.
2. The proposed PUD Concept Plan meets the submittal requirements for a PUD concept plan.
3. The proposed development should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.
4. The proposed development is not expected to have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.
5. The proposed development is consistent with the Master Land Use Plan to provide an alternate housing option and flexible uses.
6. The front yard arterial setback for Livernois, minimum façade transparency, building materials and parking setbacks are modified as part of the PUD to allow flexibility and higher quality development.
7. The minimum number of deciduous trees required along Auburn Road as part of front yard plantings in an FB District is modified from 16 required to 8 due to lack of planting space.

Conditions

1. Approval shall only confer the right of the applicant to submit detailed site plans consistent with the layout and at a density not exceeding that shown on the PUD Concept plan.
2. The site plans, including but not limited to landscaping, engineering, tree removal and setback modification plans will meet all applicable City ordinances and requirements while remaining consistent with the PUD Concept layout plan.
3. The architectural quality of building plans submitted with the site plans and PUD Agreement in step 2 of the PUD process will be equal to or better than that approved with the PUD Concept plan.
4. Recommendation by the Planning Commission and approval by City Council of a PUD Agreement, as approved by the City Attorney, at Final PUD review.
5. Obtain a Tree Removal Permit at Final PUD Review.
6. Provide landscape and irrigation bond in the amount of \$107,009.00, plus inspection fees, as adjusted as necessary, prior to issuance of a Land Improvement Permit.
7. Address comments from applicable City Staff memos, prior to Final PUD submittal.
8. Developer shall provide in the PUD Agreement that the development will be constructed simultaneously

(not phased) and a completion date.