

**Tuesday, June 29, 2004**

**SPECIAL PLANNING COMMISSION MEETING** held at the City of Rochester Hills Municipal Building, 1000 Rochester Hills Drive, Rochester Hills 48309, Oakland County, Michigan.

Chairperson Eric Kaiser called the meeting to order at 7:30 p.m. in the auditorium.

**ROLL CALL:**

Present: Chairperson Eric Kaiser; Vice Chairperson James Rosen; Members William Boswell, Deborah Brnabic, Kathleen Hardenburg, Melinda Hill, Greg Hooper, Nicholas Kaltsounis, Audrey Ruggiero

**Quorum Present**

Absent: None

Also Present: Ed Anzek, Director of Planning and Development  
Deborah Millhouse, Deputy Director  
Derek Delacourt, lanner  
Dan Casey, Economic Development Manager  
John Staran, City Attorney  
Judy A. Bialk, Recording Secretary

**MINUTES FOR APPROVAL:**

1. Regular Meeting of June 15, 2004

Page 1, last paragraph, change Shires to Shores.

**MOTION** by Kaltsounis, seconded by Hooper, that the Minutes dated June 15, 2004 be accepted as corrected.

**Voice Vote:**

Ayes: All  
Nays: None  
Absent: None

**MOTION CARRIED**

**COMMUNICATIONS:**

- A) Planning Commission Minutes of 1998 (3 meetings) regarding Item No. 5

**NEW BUSINESS:**

2. **Rezoning Request - City File No. 04-017 (Public Hearing)**  
Project: Hamlin Properties Rezoning  
Request: An amendment to Chapter 138 of the Code of Ordinances to rezone five (5) parcels of land totaling approximately 21 acres, from I-1, Light Industrial, to ORT Office Research Technology District  
Location: Hamlin Road, East of Crooks  
Parcels: 15-21-376-004, -006, -007, 15-21-351-001 and -002 zoned I-1, Light Industrial  
Applicant: City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309

draft

(Reference: Staff Report prepared by Dan Casey, dated June 14, 2004, had been placed on file and by reference became part of the record thereof.)

Mr. Kaiser advised that the Planning Commission's role in a rezoning request was to make a recommendation to City Council and that it would be City Council that ultimately made the decision whether the property at issue would be rezoned.

Present for the applicant was Dan Casey, Economic Development Manager in the Planning and Development Department of the City of Rochester Hills.

Mr. Casey read some pertinent information from his Staff Report and said he would then take questions: "The referenced application concerns a proposal to rezone approximately 20.88 acres of property located on Hamlin Road, west of Livernois and east of Crooks, from I-1, Light Industrial, to ORT, Office Research Technology district. The City of Rochester Hills currently owns the property. The properties consist of five parcels, with one vacant parcel on .51 acre. Three existing buildings reside on three parcels. The first is a 6,486 square-foot industrial building. The second is an 83,410 square-foot manufacturing building and the third an 11,000 square foot office building. The five parcels are bordered to the northwest by properties zoned RM-1, Multiple Family, and RCD, One Family Cluster. To the south the properties are bordered by RCD, and I-1, Light Industrial. There is property zoned O-1, Office Business farther to the west. The intent of the I-1 zoning is to provide sufficient space, in appropriate locations, to meet the needs of the City's expected future economy for selected types of manufacturing and related uses, protect abutting residential districts by separating them from manufacturing activities, and protect the character and establish a pattern of adjacent development. The intent of the proposed ORT zoning is to provide for orderly and integrated planning, so as to avoid fragmentary development, to optimize the City's tax base, to encourage economic development, to provide for satisfactory transitions to surrounding land use areas, and to provide a tool for redeveloping and revitalizing areas with existing buildings and infrastructure. While the properties are master planned for I-1, circumstances warrant consideration of a zoning change. They are: 1) In late 2002, the City of Rochester Hills was successful in receiving designation by the State of Michigan as a SmartZone. The designation related to nine other SmartZones around the State of Michigan as well. The boundaries of the SmartZone extend along the industrial properties north of Auburn Road, east of Adams Road, south of the Grand Truck Railroad right-of-way and west of Livernois, and also covers the parcels under consideration. The SmartZone designation entitles the City to market this area for high technology related business. Further, City Council entered into a cooperative agreement with other partners in the Oakland Automation Alley SmartZone. The SmartZone Plan requires that all SmartZone areas conform to zoning that supports the development of research and development parks. These parks must be flexible, providing for a mixture of office, flexible space and open floor. They must conform to the requirements of a Certified Business Park. In Rochester Hills, the ORT zoning is most consistent with the requirements detailed in the SmartZone Plan. Finally, the SmartZone program did not exist during the City's previous review and amendment to the Master Plan; 2) The State of Michigan developed the SmartZone program as a means to further diversify the State's economy, acknowledging that its manufacturing base is eroding and much of the industry is relocating out of state or overseas. Consequently, the demand for land zoned for industrial purposes is low. A significant percentage of vacant industrial inventory exists, averaging 20% in the Auburn Hills/Rochester Hills sub-market. Mr. Casey pointed out building locations adjacent to the subject properties that are vacant, including three owned by Unique Fabricating. The State is promoting the attraction of research and development, engineering, computer-related industries, nano-technology and biomedical industries and others as a replacement for losses in the manufacturing industry. The ten SmartZones designated in the State is an attempt to identify defined areas for the attraction of these industries, which typically locate in flexible buildings that consist of varying amounts of office and easily convertible open floor space; 3) The rezoning of the subject properties will likely result in the redevelopment of what currently are underutilized industrial buildings and long vacant land. The proposed ORT zoning will act as a transition of intensity from the existing light industrial areas to the east and to the south and to the residential areas to the north – the Streamwood Condominiums. It is also generally compatible with future

land use as shown on the Master Plan and further, the proposed boulevarding of Hamlin Road from Crooks Road to the west to Livernois to the east between 2006 and 2008 will change the character of the corridor, providing more visible and valuable frontage; 4) The City hired Value Trends Inc. to complete an appraisal of the subject parcels in early 2003. The appraiser concluded that the two manufacturing buildings are functionally obsolete. Further, the appraiser stated in a report dated March 28, 2003 that it was his opinion that the highest and best use of the subject is for development with an office, research or technology type use; 5) The office building, located at 1700 W. Hamlin, if leased or sold separate from the manufacturing building to the east will result in a non-conforming use to the current I-1 zoning. That building was used as an office building. Previously, Letica Corporation owned the building and it served as their corporate offices.”

Mr. Casey explained that the Ordinance requires screening and buffering of ORT developments from adjacent residential districts and that a Type A screen of 50 feet of buffer width would normally be required. The Clinton River Trail, which is situated along the former Grand Truck Western Railroad, provides a wooded buffer of approximately 94 feet.

Mr. Casey further advised that McKenna and Associates had completed an Environmental Impact Statement on behalf of the City. The results of the study were included in the packet and he read the following determinations that were made: “Access to the property is readily available via Hamlin Road; the subject parcels do not provide scenic value; the rezoning would not have an adverse affect on the region from a social or economic standpoint; the proposed rezoning is generally compatible with future land use as shown on the Master Plan’s Future Land Use; the rezoning of the site is inconsistent with the intent of the SmartZone program; and uses within an ORT district will ensure adequate buffer to the adjacent residential uses to the north and will encourage reinvestment in what is now an older, underutilized industrial area.” He stated that Staff recommended that the Planning Commission recommend approval of the proposed rezoning to ORT, Office, Research, Technology for the following reasons:

1. Uses permitted within the proposed ORT district would be compatible with existing and proposed uses south and west of Hamlin Road.
2. ORT zoning would be a transition to the RCD and RM-1 zoning to the northwest and RCD zoning to the southeast.
3. ORT zoning would bring the office building at 1700 W. Hamlin into compliance.
4. Development of the subject site under the proposed ORT zoning would be generally consistent with the Office, Research, Technologies of the City’s Master Land Use Plan.
5. The ORT zoning is in keeping with the City’s commitment to the State of Michigan as it relates to the SmartZone Program and the development of technology parks within flexible buildings.
6. The proposed rezoning will not impact the social or economic characteristics of the area.

Mr. Kaiser opened the Public Hearing. Seeing no one come forward, he closed the Public Hearing.

Mr. Kaiser referred to the SmartZone designation, noting Mr. Casey stated it did not exist during the last Master Land Use Plan update and concluded that it would generate and enhance land values. He asked how a SmartZone would enhance land values and what it would do for the City of Rochester Hills.

Mr. Casey replied that facilities that companies occupy in a SmartZone could be distinctly different than the inventory found in traditional industrial buildings. The companies would be located in flexible buildings – flexible in the percentage of office within the buildings or the layout of the building. The key was that the buildings could be converted for varying types of uses. Typically, those buildings housed engineering firms, cad designers, technology companies, computer companies, software

developers, product testing, possibly a wind tunnel, and he advised that a number of other options were available.

Mr. Kaiser asked if the State gave incentives for companies that wanted to develop in SmartZones and if not, what the attraction would be for people who wanted to do business in a SmartZone area.

Mr. Casey replied that when the State created the program, there was existing LDFA legislation to allow local communities to use tax increment financing within SmartZones, or certified technology parks. That would be used to make infrastructure improvements, including for streets, water and sewer extensions, fiber optic extensions to support the park, construction of incubators and the staffing and operation of incubators. In addition, the State was actively marketing those areas globally to try to attract companies. He noted that there had been a number of success stories around the State in that regard. They were also supporting the use of a high-tech mega, a tax incentive program used as an attraction, which would provide a tax credit on personal income tax for employees that locate in that area. It would also require a local community match, typically a tax abatement, but it might also involve infrastructure.

Mr. Kaiser reminded that the Commission would soon be embarking on a Master Plan update, and he asked Mr. Casey if he thought that to attract business development along M-59 it should be zoned light industrial.

Mr. Casey stated that in his opinion, the industrial market in the Auburn Hills/Rochester Hills area had declined significantly. In regard to the number of manufacturing companies that were seeking space in the market, the vacancy rates reflected a vacancy rate of 20%. He advised that from some of the industrial parks along M-59, numerous manufacturing companies had relocated from the City. In their places, there were companies developing prototypes, developing specialized tools, there were high technology companies, bio-medical companies and other computer companies. In looking at the tax abatements the City approved for some districts in the past, he found they were for manufacturing based companies which were now gone. They had been replaced with research and development companies. He stressed that he believed the M-59 corridor would have much more value, long term, with a combination of office, research and development uses.

Ms. Hill wanted it clarified that research and development would not be allowed in I-1 zoning. Mr. Casey answered that he was not saying that, and he indicated that it could certainly happen; however, he felt they had to acknowledge that technology companies' needs could vary significantly from what was allowed in I-1. For example, there were call centers with high density parking requirements and technology companies that were largely engineering in nature and developed with open floor plans, but would be primarily office uses. Some of those uses are seen in I-1, but they were restricted and would not provide the flexibility being sought through the SmartZone Program.

Ms. Hill questioned what the downside would be if the properties were left as I-1. She wondered if there would be a disadvantage to leaving it I-1, especially since there was no proposed applicant. Mr. Casey advised that there was a lot of existing inventory in the industrial parks so companies looking to purchase or lease buildings still had options in I-1, but they would be restricted if their need was greater than 50% for office use within the building. With ORT there would be the ability to have flexible use of their space.

Ms. Hill advised that the Master Land Use Plan currently had I-1 parcels around the City that had been down-zoned to ORT and Office. That resulted in eliminating areas, especially those without good freeway access, that were difficult for manufacturers to utilize. She noted that the subject properties had freeway access and the concentration of industrial was within this area, more so than other areas of the City. While Mr. Casey mentioned a 20% vacancy rate, she believed it was somewhat less than that. She indicated that she would be somewhat hesitant about a rezoning, from the fact that there was vacant land at the subject site and because this site was different from what

existed in other I-1 areas. She emphasized that she wanted a clearer picture of the present need to make this change.

Mr. Casey responded that he had been marketing the property since January, and prior to that it had been marketed by the City as well. The vast majority of requests for information about the property were from developers seeking office development or land they could develop for office use. Flexible buildings would fit into that category. Requests were from technology companies, computer companies, and engineering firms, but in general, from companies wanting land to develop office buildings. He noted that the Master Plan had limitations regarding how much land zoned ORT or O-1 was available, which limited the choices for developers. That was why they inquired about the potential to rezone it to something else.

Mr. Rosen commented that recently there were people before the Commission saying there was a huge glut of office space. He stated that the Commissioners had seen cycles of business recessions and changes in the market, but cautioned that they had to be very careful not to make a "decision of the moment." He said Mr. Casey mentioned there were three vacant buildings across Hamlin, two more vacant buildings in the industrial park and a large vacant piece of property that the schools owned. He wondered why rezonings were not being requested for those parcels.

Mr. Casey replied that Staff looked at that. The School Board had not defined plans for their property. He noted that he talked with members from Rochester Community Schools and found that they were not opposed to being included, but in his opinion, the school property had limitations – because of wetlands, access, and no frontage on Hamlin Road. If, at some point in the future, someone were to develop it for office, he felt it would be a hindrance when they tried to sell or lease the buildings. To the east, there was another four-acre parcel that abutted the school's property. He explained that it was part of a two-building complex recently purchased by TA Systems. The southernmost building was occupied by an existing company with a five-year lease, and TA would occupy the other building. The long-term plan was to construct an administration and engineering building on those four acres. There was some thought about including the school property and the TA property in the ORT zoning. At this time, Staff believed a better option would be to go forward with the subject properties, as they fronted on Hamlin Road.

Mr. Rosen asked about the vacant buildings across from the subject site. Mr. Casey explained that those buildings were constructed as traditional industrial buildings and were owned by a single owner. The front building had a little more office than the rest, but it only had about 10% office and the rest of the area had a high ceiling with overhead doors. The buildings behind that were almost completely constructed and designed for industrial and had very little office.

Mr. Rosen clarified that the City-owned properties were not suitable for re-development, and a rezoning to ORT was requested so the site would appeal to someone who wished more office-oriented, flexible buildings. He questioned what made the buildings across the street different from the subject parcels.

Mr. Casey replied that a differentiating factor was that the 20.88 acres was a re-development or development site and would provide an option for a developer to do something that stood alone, was substantial and would act as a transition to the residential to the northwest. He referred to the industrial parks on the south side of Hamlin and said that many of the companies located there were office users that had located in industrial buildings because the lease rates were lower.

Mr. Hooper asked Mr. Casey if he felt going from I-1 to ORT would be up-zoning or down-zoning. Mr. Casey said he would consider that down-zoning. Mr. Hooper indicated that the crux of the argument was SmartZones, and he asked Mr. Casey if he felt the City would need to create a zoning district called "SmartZone." Mr. Casey said that the concept of an overlay zoning was discussed, however not substantially, for the SmartZone areas. He advised that it would probably be discussed in detail in relation to the Master Plan. The majority of the SmartZone properties, other than two properties

on M-59, are already largely built-out. Mr. Hooper asked if he felt a new zoning classification would then have to be created for the SmartZone. Mr. Casey replied that based on his experience, the ORT zoning was the closest to the type of zoning envisioned by the State and was what existed for other SmartZones around the State.

Mr. Hooper asked if Mr. Casey felt that wherever a SmartZone district existed that currently had I-1 zoning, if he would want all the properties in that area changed to ORT or to a future SmartZone district. Mr. Casey deferred to Mr. Anzek.

Mr. Anzek stated that Staff had considered, after looking at the areas, product mix, buildings, ages of the buildings and how they might be evolving to house research and development type activity, that they might want to merge I-1 and ORT. It would be something that would allow light industrial activities that could be supported with research, engineering and administrative functions as well. It would be a hybrid use. ORT met the flexibility needs the best currently. He noted that the industrial parks had evolved gradually to the point where there were quite a few that were maxed out as far as office and research and development activities. He noted that the Lear building on Waterview was first constructed to build seats, but now the building was full of people who designed seats. He felt that there was a need for industry, but felt there was a stronger need for flexible uses. When they review the Master Plan, the industrial areas would be looked at in detail to find out the projected needs or if the current needs were being met. He stated that they would do things for the retention of businesses.

Mr. Hooper asked where the SmartZone existed currently. Mr. Anzek defined the boundaries as from Adams and Auburn east to Livernois, north to the old Eton Building, to the GrandTrunk Railroad line, to Hamlin Road and included Fanuc Robotics. The SmartZone also included all of Oakland University and land holdings by Oakland University within the City. Mr. Hooper felt they would be looking at a piecemeal approach by rezoning the subject parcels, knowing they would come back and review other areas during the Master Plan update. Mr. Anzek said that by delaying it until that time, it would take 16 months or more before any action could be initiated. He stressed that Mr. Casey had pursued marketing the property and had not found one potential industrial user. He stated that there just was not the interest and that other industrial buildings had evolved into more research and development type uses.

Mr. Rosen said he was not particularly concerned about rezoning because he felt the site could be marketed as having the potential for ORT. That would be a relatively less intense use than I-1. He acknowledged it might be easier to talk about it if it were already zoned ORT, but he felt the considerations in the Staff Report and what was discussed this evening were excellent material for the Master Land Use discussion for future land use for the subject parcels and for the surrounding parcels. He saw this subject as a much larger discussion and said he would be uncomfortable going outside of the Master Land Use process now when it was coming up in the near future. He realized it would be take about 16 months and noted that if there were a prospect for this site, it would change the discussion. He said he understood the reasons for the rezoning request and felt Staff was on the right track, but he did not feel they could discuss it at this time and in this context. He said they had not discussed what the various land uses might be or why that would make sense for these parcels from a land use prospective.

Mr. Kaiser asked Mr. Rosen if he felt the City could market this property and tell a prospective buyer that someday it might get rezoned. Mr. Rosen answered no, he meant that since ORT was a less intense zoning, any applicant could discuss the potential for rezoning. Developers could always market flexibility and if a rezoning made sense, an applicant could come back to the Planning Commission and City Council. Mr. Kaiser felt there were opportunities to go elsewhere, and until it was rezoned, prospective buyers would keep saying they were not interested and they would go to Auburn Hills or Troy or some place else.

Mr. Boswell questioned whether Mr. Kaiser felt they should rezone the property now to give the City an economic advantage. He recalled that they had told any other applicant they could not be given an economic advantage. Mr. Kaiser said that an honest answer

to Mr. Boswell's question might be yes, because the Planning Commission and City Council do things to ultimately benefit all the residents of Rochester Hills, and the land right now was not doing much. If it were to be developed and utilized, it would benefit everyone, arguably, with additional tax revenues.

Mr. Boswell said that they were doing a Master Land Use Plan update shortly and if they added a new zoning classification, they would be rezoning these properties again and again. He said he was a little uncomfortable as to why it had to be done now. They tell other applicants to come back during the Master Plan review, but they would be saying something else to the City. Mr. Kaiser responded that they do not give blanket answers to applicants and whether this was one they should treat differently or one they should tell Mr. Casey to come back about, he was not sure.

Ms. Millhouse suggested that it was difficult to look at this request without seeing that it came from the City of Rochester Hills. Another way of looking at it, as Mr. Rosen suggested, was that every property owner had the right to request a rezoning from the City. It just happened in this case that the owner was the City. They had to ask whether the request adhered to the Master Land Use map and if not, how this request relates to the Master Land Use policies, and she felt Mr. Casey had represented that in his Staff Report. The third test, if the request was not consistent with the Master Plan, and regardless of who the applicant was, would be to convince the Planning Commission and City Council that there were justifiable reasons why the City might want to consider an alternative use than what was suggested in the Master Plan. Mr. Casey pointed out that for numerous reasons, the City was making the argument and attempting to justify why ORT might be an acceptable or better use for the property.

Mr. Kaiser said he appreciated those comments, but they could not ignore that they would be making a decision whether this would benefit all the citizens of Rochester Hills. He suggested that Mr. Rosen's and Mr. Boswell's position about waiting until the Master Land Use review process would benefit the citizens also. Mr. Casey's argument was that he was getting inquiries and that this might be more useful to the citizens to market this now rather than in 16-20 months. They could not ignore that the applicant was known as 68,000 people of the City.

Mr. Rosen said that was what was bothering him. They would be treating this applicant differently than any other applicant solely because it was the City. He felt they had to treat everyone the same and that they could not show favoritism. They had to divorce themselves from the fact that it was the City.

Mr. Kaiser indicated that every decision they made was supposed to be done for the benefit of all of the citizens. In this instance, the applicant was all of the people within the borders of the City. They also had to make sure it would be the appropriate thing, but he disagreed that they were supposed to ignore in this instance who was coming forward and asking for the rezoning. It was not Mr. Casey or Mr. Anzek or even the Mayor. He commented that this was land that belonged to the people and Mr. Casey had been charged with trying to develop it.

Mr. Anzek added that several months ago, he and Mr. Casey went before City Council and presented various offers received for the western parcels on the site. Those numbers were all over the board. Staff suggested a rezoning as a potential to create an overall unified approach to the site, rather than having people put in less than desirable uses in the existing structures. He had also had conversations with people from the adjacent Streamwood Condos and they expressed that they would support offices because they did not like the noise from the previous Letica development. For no other reason, the ORT zoning would be a good transition zoning between the multi-family and the rest of the industrial activities. Staff had considered this rezoning as a strategy to move the property into the next generation. If they tried to retrofit into the existing structures, it would not be a desirable situation.

Mr. Delacourt referred to Mr. Rosen's question about the difference between these properties and other vacant buildings in the area. Mr. Delacourt felt that the major difference was that the buildings on the subject parcels were functionally obsolete and

blighted. The rest of the vacant buildings would be usable as light industrial buildings and would not have to be razed to be redeveloped.

**MOTION** by Hooper, seconded by Brnabic, in the matter of City File No. 04-017, the Planning Commission shall **table** this matter pending further investigation.

**Roll Call Vote:**

Ayes: Hardenburg, Brnabic, Hooper  
Nays: Kaltsounis, Boswell, Hill, Rosen, Ruggiero, Kaiser  
Absent: None

**MOTION FAILED**

Mr. Kaltsounis stated that when they consider a rezoning request, regardless of who the applicant was or what was proposed, he would try to determine if the request would benefit the City in any way. For this matter, he determined it would be a less intensive zoning with a SmartZone overlay. He felt it would be a step in the right direction and noted they would look at this again during the Master Plan review. He considered whether there was enough of an incentive dangling in front of them and determined there was.

**MOTION** by Kaltsounis, seconded by Boswell, in the matter of City File No. 04-017, the Planning Commission **recommends** to City Council **approval** of the request to rezone 20.88± acres of Parcel Nos. 15-21-376-004, 15-21-376-007, 15-21-376-006, 15-21-352-001, 15-21-352-002, **from** I-1, Light Industrial **to** ORT, Office, Research, Technology.

Mr. Kaiser asked if the parcels remained I-1 if they would *not* fit into the SmartZone definition, and therefore, could not be marketed as such. Mr. Casey did not feel that would be the case and said that feasibly, the site could be developed as light industrial within the SmartZone, but the nature of the types of companies that might want to locate there would be restricted. They determined that the market was soft for the light industrial types of uses. Additionally, they would have to consider the office building on one of the parcels. Mr. Kaiser clarified that if it stayed I-1, it would be non-conforming use and it could not be used that way. Mr. Casey agreed and said they had received a significant amount of interest in that office building for office use.

Mr. Staran highlighted that the I-1 zoning could be consistent with the SmartZone. He felt the point was that the ORT zoning, although a down-zone, would allow more flexibility in terms of the types of uses and what was required for those uses. There were a number of restrictions under the I-1 zoning that did not necessarily apply under ORT zoning. ORT would allow flexibility and also lead to more creative use of the property in the way it could be divided. The office building could be a stand-alone use, as opposed to just existing as an accessory to the industrial building. If the industrial building were torn down, which was likely, it would create a non-conforming use for the office building and it would be a detriment to the use and its marketability. Unlike most down-zones, which tend to restrict what the property could be used for, this down-zone would actually afford more flexibility as to how the property could be used.

Mr. Kaiser clarified that the current office building could not be marketed and could not be used unless continued as an accessory to the existing industrial. Mr. Staran confirmed that it was not a principle permitted use in that zoning district and only existed as an accessory to the industrial. Without a rezone, it could not legally stand alone. Mr. Rosen said the City could market it, but an office user could not come in and occupy it. They could also request a rezoning. Mr. Kaiser said not marketing meant no one would buy it with all the other opportunities out there.

**Roll call vote:**

Ayes: Hill, Brnabic, Ruggiero, Boswell, Kaltsounis, Kaiser  
Nays: Rosen, Hooper, Hardenburg  
Absent: None

**MOTION CARRIED**

Mr. Kaiser advised that City Council would receive the recommendation.