

Tuesday, January 13, 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; Members William Boswell, Deborah Brnabic, Melinda Hill, Greg Hooper, Nicholas Kaltsounis, Kristen Myers, James Rosen, Audrey Ruggiero
Quorum Present.

Absent: None

Also Present: Deborah Millhouse, Deputy Director
Derek Delacourt, City Planner
John Staran, City Attorney
Maureen Gentry, Recording Secretary

draft

MINUTES FOR APPROVAL:

Regular Meeting of December 16, 2003. Ms. Brnabic made corrections to page eight, second paragraph, which was outlined in Communication B below and is on file.

MOTION by Kaltsounis, seconded by Hooper, that the Minutes December 16, 2003 be accepted as corrected.

Voice Vote:

Ayes: All
Nays: None
Absent: None

MOTION CARRIED

COMMUNICATIONS:

- A. SEMCOG Regional Update dated December 15, 2003
 - B. Memo from M. Gentry dated January 13, 2004 re: correction to draft Minutes
 - C. Memo from M. Gentry dated January 13, 2004 re: new Auditorium equipment
 - D. Memo from D. Delacourt dated January 13, 2004 re: Agenda Item 2
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NEW BUSINESS:

2. Final Planned Unit Development (PUD) Review - File No. 02-004 (Public Hearing)

Project: Papa Joe's Gourmet Market, Specialty Retail and Office Development, a multi-tenant commercial development with a Papa Joe's Market as the anchor on approximately 15 acres
Request: Final PUD Recommendation
Location: West of Rochester Road, north of Tienken Road
Applicant: Curtis Properties Group, L.L.C.
2025 Rochester Road
Rochester Hills, MI 48307

(Reference: Staff Report prepared by Derek Delacourt, dated January 10, 2004 has been placed on file and by reference becomes part of the record hereof.)

Mr. Kaiser explained that this meeting would involve a recommendation from the Planning Commission, either for or against approval of the proposals. He advised that approval of a PUD requires both the Planning Commission's, and City Council's, support. Since he was asked prior to the meeting about the sequence of the meeting's events, he spoke with Mr. Staran, who agreed with his intention to hear from the representatives from Papa Joes, the public, the Commissioners, and then to entertain a motion regarding that item, and then to follow with the same sequence for City Walk. He felt that even though there had been meetings held jointly with the applicants, and even though they were geographically and otherwise linked, the projects should be treated as if standing alone. He felt that the road agreements, which would be generated and conditioned in the PUD Agreements, would tie both projects together. If, for some reason, one project failed to gain approval— this evening or at City Council — the other one would be back to square one. He asked if anyone felt the meeting should proceed differently, and hearing no objection, moved to the next order of business.

Ms. Hill asked if there was not a good reason to hear the presentation for the first proposal, have discussion, hear the presentation for the second and have discussion, or crossover discussion, and then separately address the motions. Mr. Kaiser asked for an example, and indicated he felt they should be treated as stand-alones.

Ms. Hill agreed, and explained that there were similarities in the PUD Agreements, yet they were structured differently. She was not sure it was that critical, but noted that the road agreement was not truly addressed. Mr. Kaiser acknowledged that she had a legitimate concern, and felt that because all the parties were in the room, if there was an issue one developer could address, they would be brought forward to do so. With that in mind, he strongly requested that even if the Papa Joe's PUD received a motion, that its applicants stay just for the reasons Ms. Hill stated. He advised that the next step would be City Council, and if there were issues either applicant could have addressed but were not available for, City Council would send the matter back to the Planning Commission for another Public Hearing.

Present for the applicant were Joe Galvin, Attorney, Roman Bonislowski, Architect, Joseph and Anthony Curtis, the applicants; John Johnson, Roncelli, Construction Manager, Michael Lang, TCF Bank, Graham Roach, and Lino Borraccio, Lino's restaurant.

Mr. Delacourt stated that the proposed development is comprised of a mixed-use PUD, including the development of a Papa Joe's commercial center, two outbuildings, the knockdown and rebuild of the Speedway Gas Station, Lino's restaurant and the redevelopment of the TCF Bank. The applicants are requesting recommendation of approval of the PUD Agreement and accompanying Exhibits, and a recommendation regarding the rezoning. He referred to the communication he had handed out, which proposed five additional conditions to the motions (please refer to Communication D on file in the Planning Department).

Mr. Kaiser asked Mr. Delacourt to explain how the two projects would be tied together by a three-party road agreement and the status of the agreement.

Mr. Delacourt responded that one item negotiated in the PUD was the handling of the road improvements as a third-party agreement between the City and both developers for the cost of the road construction. He advised that the projects would be tied together by the road improvements, and Mr. Kaiser asked if he felt that did not need special attention in the list of conditions he had submitted. Mr. Delacourt said that Staff did not feel there was a concern. Mr. Kaiser asked Mr. Staran if he had any thoughts on this topic.

Mr. Staran replied that the road improvements were still a work in process, and he noted that he had not seen a draft of the agreement. He felt the City was covered because they made sure in both draft PUD Agreements that the road agreement was

specifically referenced and incorporated by reference as part of the Agreement. In order to finalize the Agreements they would have to have the road agreement in satisfactory form. He said he did not anticipate that the road agreement would affect the planning and zoning issues the Planning Commission would look at this evening. It would be more in terms of binding legal and economic commitments that would be consistent with what was being considered tonight. The Planning Commission would have the call, but it was his view that having the road agreement would not be critical or material to the deliberations. It certainly should be available by the time it gets to City Council.

Mr. Kaiser asked Mr. Staran if he agreed with the comment that if Papa Joe's was approved but City Walk was not, that Papa Joe's would be precluded from complying with its agreement because there would not be a third party road agreement. He asked where that put Papa Joe's and the City, in terms of "going back to the drawing board."

Mr. Staran replied that going back to the drawing board might very well be the result because these are two independent projects that are close in proximity and are going through the process at the same time. The common thread is that they are both dependent and would ultimately be tied to the construction and completion of the road improvements. He said he envisioned a tri-party agreement that stated that for either project to move forward, it would be contingent upon the road improvements. From the developers' prospective, they want to have a cost sharing arrangement – neither one wants to do the road alone. That could be revisited if the circumstances arose as mentioned, but at this point, both projects would move forward, or not at all, at the same time.

Mr. Kaiser said that all the Minutes and discussion from the beginning of the projects seemed to mandate that the road improvements would end up being a benefit to both projects since they were happening at the same time and can share in the costs. Mr. Staran replied that was correct.

Ms. Brnabic asked about the wording for the road improvements in the Papa Joe's Agreement. She said there was a variation between the two PUDs and that there was more extensive information in the Papa Joe's Agreement. She read from Section 10: "Curtis properties agrees it would pay 50% of the cost of the road improvements to be made at the intersection of Rochester Road and Tienken, when and provided that Tienken Partners L.L.C. pays the other 50% of those costs." She questioned the wording because Curtis Properties was supposedly entering into the agreement when and if Tienken Partners paid 50%, yet the Agreement for Tienken Partners only mentions entering into the road agreement.

Mr. Staran replied that the agreements were not yet in final form, and noted that Mr. Galvin and Mr. Gaber would not represent otherwise. He said that both projects were moving together fairly quickly, yet also moving separately in other senses. He had reviewed the documents prepared by Mr. Galvin and provided some comments which were addressed. He also did the same with Mr. Gaber's documents, but said that certainly, there would be further iterations and revisions. One of the objectives would be to have consistent language in both Agreements, as well as in the as-yet-unseen tri-party road agreement. From the City's perspective, there is an understanding that if the projects move forward, the developers would have to be at a stage where they were ready to move ahead with their projects before building the City a new intersection. From the City's perspective, they must make sure the economic obligations to complete the improvements are clearly understood.

Ms. Brnabic asked if she could assume that if and when everything was finalized that the identical road improvement plan would be incorporated into both PUD Agreements. Mr. Staran replied absolutely.

Ms. Hill referred to the language and asked if it would be fair to say that if, hypothetically, there were a motion to recommend approval of one plan or both, that this body would need to make clear recommendations as to any changes in language this evening. She said she would fear it moving forward to Council without that being part of

the recommendation. Mr. Staran replied that he would request that to the extent that the Commissioners felt there were textual issues to be changed and he would make sure those changes were made.

Mr. Kaiser noted that in the Staff Report for Papa Joe's, Staff recommended that the Site Plan should come back to the Planning Commission for approval. For City Walk, Staff chose not to recommend that. If the proposals were to be treated differently, he felt it would be fair to the applicants for Papa Joe's to have an explanation as to why they should have Final Site Plan approval by the Planning Commission.

Mr. Delacourt responded that there were three reasons for that. If the final Site Plans are consistent with those approved Exhibits of the PUD, the PUD Ordinance allows Staff to approve them administratively. The Site Plan for Papa Joe's has an issue with parking. Staff continues to recommend that they provide the appropriate parking or provide a parking study that can be reviewed by Staff and the Planning Commission that would justify the discrepancy. He recalled that LifeTime Fitness did that. The project would also require a Wetland Use Permit from the City and the MDEQ. The MDEQ has stated that they would not request any mitigation and the City's wetland consultant would not request mitigation. However, when the MDEQ holds a Public Hearing to issue final Permits, Staff feels it should be connected to the Site Plan approval. Lastly, the B-5 uses have been excluded from the PUD language in the Ordinance, even though the underlying zoning is permitted as part of a PUD. That would require an amendment to the PUD Ordinance and should be done at the time of Site Plan approval. Staff did not feel it would be appropriate for the Site Plan to be approved administratively, but rather that it should be reviewed by the Planning Commission and City Council.

Mr. Kaiser asked if, assuming the Planning Commission adopts his recommendation in that regard, there would be a timing problem for the projects. The road improvements have been projected for completion during the non-school period (summer). He asked if the applicants have to come back for Site Plan approval, whether the timing for that would change.

Mr. Delacourt replied that he did not quite honestly know the answer to that. He said that timing was not the concern. Staff recommended approval of the PUD Agreements and Exhibits with conditions, which would give the developer answers to what uses would be allowed, what square footage would be allowed, etc., so that they could move forward. Staff simply felt there were enough outstanding issues that the final Site Plans should come back.

Mr. Galvin said that he did not intend to provide a half hour narrative, as allowed by the Chairman, but said they would welcome any questions. He emphasized that after the December 16, 2003 meeting they went over every issue raised by the Planning Commissioners. They found that the driving issue for making changes was the parking. He stated that there were a number of changes made to the plan. The adjustments have reduced the parking discrepancy. He stated that they want to work with the Commissioners to get the Site Plan to the point where it is the best possible project for the City and for the applicants. He next discussed the language of paragraph 10 of the Agreement and said that the initial draft that was forwarded to the City said in essence that Curtis Properties agrees it will pay 50% of the cost of the road improvements to be made, so long as Tienken Properties pays 50%. Staff said there needed to be more detail. He rewrote it two or three times and submitted the final iteration. They would be happy to amend it to make it conform to whatever language the Commissioners would like to see. The road improvements would be driven by the tri-party agreement and the physical plan itself. The change would be relatively easy to make. He noted that if there were similar concerns, they would like to know how quickly they could be addressed so they could start the road improvements in time for the school year. Referring to timing and bringing back the Site Plan, he felt bringing it back to the Planning Commission was an unnecessary requirement. He went over the original Staff Report and cited Conditions two through eight of the Report, and said they were in the process of completing those – the Wetland Use Permit, the parking, adding a sprinkler system and adding calming devices. He felt that both projects should be

reviewed and processed similarly. The road vacation has to be approved by the City Council and the Wetland Use Permit has to be approved by both bodies, but Staff could handle the other Conditions. He suggested that, for all the facts and circumstances, and given the amount of work that has been done with the plans and the fact that they are tied to the City and to the other project, the projects be allowed to progress together and that the Final Site Plan approval be administrative. He urged that for both projects. He turned the discussion over to Mr. Bonislawski, architect for the project.

Mr. Bonislawski pointed out that the changes that have been made were incremental and that the concept was being retained in its entirety. They have been trying very hard to deal with the parking issues and still have the opportunity to correct more and more of the discrepancy after working with the Commissioners. They worked with the Fire Marshall and the Planning Staff to try to address many of the concerns and he noted that one concern was the drugstore site on Rochester Road. He advised that they approached it with the understanding that nothing on the site is independent of the balance of the site and any change in one area would affect numerous other things. They decided that a better situation would be to rotate the building 90 degrees. They reconfigured the building to get a better parking field around it. They put the drive-thru farther away from Rochester Road. They are proposing a drive-thru that would be covered with a metal trellis with landscaping to disguise it from Rochester Road. He continued that by rotating the building, it propagated other changes which included the removal of the parking along the front of the building and shifting the entire parking field towards the building. They proposed another drive-thru for Building 4, perhaps a gourmet coffee shop, which would also be screened from Rochester Road. The building would be simple, with a transparent element that could be seen through from Rochester Road, yet which screens the parking in back. Elsewhere on site, the parking has been improved and increased. The overall square footage was reduced. They would currently provide 529 spaces and 589 are required, so they have reduced the deficiency. They still have an opportunity to manipulate the plan in pocket areas to bring the disparity down even more. He referred to the TCF Bank and said they have discussed it at great length. They decided that rotating the bank 90 degrees would be less beneficial to the site and would actually pose a conflict. Regarding pedestrian linking, if they rotate the building, there would be a further gap between the buildings on the site. They feel strongly about the orientation of the buildings on the site maintaining a frontage with pedestrian linkage. He pointed out the engineering changes recommended by Staff – enlargement of the cul-de-sac, relocation of the pedestrian paths in numerous areas and the introduction of paths to maintain pedestrian linkages.

Mr. Kaiser asked Mr. Bonislawski to define “gourmet coffee place.” Mr. Bonislawski answered that he was not permitted to answer, but that Mr. Curtis was. Mr. Kaiser noted that Mr. Bonislawski suggested current market conditions required drive-thrus for gourmet coffee shops; however, Mr. Kaiser said he would take issue with that claim. He did not believe a gourmet coffee facility needed a drive-thru and would, in fact, lose some of its shine if a drive-thru were added. Mr. Bonislawski responded that the leasing agent representing the coffee shop insisted on a drive-thru. Mr. Kaiser asked Mr. Staran if there were a reason he could not ask the applicants who the proposed tenant was.

Mr. Staran answered that he could ask, but they would not have to answer. Mr. Curtis answered that at one time, they had a letter of intent from Starbucks. Since then, Starbucks decided they would add no stores without a drive-thru. They also talked with Caribou Coffee, who said the same thing.

Mr. Kaiser said he could not imagine waiting in a drive-thru line at Starbucks, which already takes very long to make a gourmet cup of coffee. Mr. Curtis said they really wanted them, but Starbucks decided they were not going to lease here. Mr. Kaiser said that was too bad for Starbucks, and said that Papa Joe’s should put in their own coffee shop. Mr. Staran noted that the trend was going toward drive-thrus. Mr. Kaiser said that if those coffee shops want one, it is their business; however, this PUD proposal is short on parking and he saw the dropping of a drive-thru as a way to add parking. He opened the Public Hearing.

Ms. Joan Primo, 224 Woodwind Drive, Bloomfield Hills, MI. Ms. Primo asked if she should make her comments after the second presentation, since they relate to that item.

Mr. Kaiser said that the Agenda items are being treated as separate entities, and he told Ms. Primo she was free to make comments after the second item. He suggested she make her comments now, and that they would be incorporated into both Public Hearings.

Ms. Primo stated that she was representing the ownership of the North Hill shopping center. She referred to the December 16, 2003 Planning Commission meeting comments and said that they take a little offense to North Hill being called a “dying center” and it “not doing well and usually empty.” She was not sure if that was a rationalization for granting a PUD. She emphasized that the North Hill Shopping Center has served this community for almost 50 years. The property remains a commercially and financially successful enterprise, and contrary to the comments, it maintains high occupancy rates, in excess of 95%, with a strong and loyal customer base. She remarked that In these economic times, occupancy rates in excess of 95% are not too shabby. She continued that they wish to go on record opposing further commercial development at this intersection for several reasons. They do not believe there is a sufficient market demand and population to support three strip centers in excess of 100,000 square feet each. There is competition and regional draws for people residing in this area, not the least of which is the recently built Village of Rochester Hills. Downtown Rochester also serves as a draw for some people. In the last two years they have also seen, within two miles of this intersection, two new centers - 25 Mile and Dequindre and at Adams and Silverbell, which adds to the drugstore configurations. Both of those have a Kroger’s. She said that the current traffic patterns and road counts could not support additional retail. She said she recognized there were plans in the triumvirate to rectify the road situation, however, she was not sure it would alleviate the traffic congestion. With respect to competition, she questioned whether the corner needed three drugstores and three coffee shops. She noted that North Hill was adding a Caribou Coffee without a drive-thru right now. She mentioned that this proposal would be against zoning and the current Master Plan for the property. She said that about four years ago a rezoning request was made for the southeast corner by another developer, and it was resoundingly rejected. They opposed it then, and at that time she presented a number of visuals on population, density, competition and why they felt there was not the support for incremental retail at this space and now there is a proposal for double the amount. At that meeting, it was brought up that a rezoning would be against the Master Plans (1992 and 1999), and a number of people on the Commission very much countered that proposed development. She questioned how much has really changed in the intervening years that would support an incremental 200-250,000 square feet of commercial development at this interchange.

Mr. Kaiser closed the Public Hearing. He asked the Commissioners for input, with the emphasis on whether there were issues that would cause someone to approve or reject the proposal. He wished to deal with those issues first; for example, if the topic was that they approved or disapproved based on creating competitive opportunities for other businesses. If the topic were that Rochester Hills has enough retail space already, for example, this would be the type of general or philosophical topic he would like to address first. If that causes disapproval, they should deal with that, rather than spend an hour or two on the minutia of the Site Plan.

Mr. Boswell said he probably owed Ms. Primo an apology and said he did not mean to disparage North Hill Center. He was talking about, rather, that the proposals would go against the Master Plan of the City. Ms. Primo made a good point, asking why there needed to be three drugstores at one intersection. He said he bought into the argument several years ago that the City did not need to provide so much newer and shinier retail that it would cause older shopping centers nearby to falter. He questioned whether they would end up with a lot of boarded up buildings by having too much retail.

Mr. Rosen reiterated that the Master Land Use Plan from 1992 and the reviewed 1999 Plan still stands. Unless they go through a formal process to change it, it is the Plan of the City. He acknowledged that people could disagree with it. Some have even

suggested that it would be challengeable in court and he was not sure of that or if it would matter. This Plan is what the Commissioners are obligated to follow. He was getting concerned about the continued viability of downtown Rochester. Despite the annexation, this City has an obligation to the City of Rochester. Both cities are characterized by Rochester with a nice downtown for shopping and eating and with nice residential surrounding it. He did not have a problem with either development, per se; he was concerned with the location and the situation. He thinks the applicant has proposed as much as can be done with the traffic and it is as good as it would ever be unless the whole area was leveled. He felt it was o.k. at best. The only thing he could see for the City with these proposals would be about a million dollars in traffic improvements, in exchange for disregarding the Master Plan with a development that would stretch the parking, and that would not abide by the City's Ordinances. He said he had trouble going along with that.

Ms. Hill advised that there is a new State law, which says that cities' Planning Commissions can join together. Whether they do or do not, she felt it shows that communities adjacent to each other need to review each other's plans so that there would be a good regional plan as well as a good local plan. As Ms. Primo mentioned, she also questioned what has changed in the last four years that would warrant the amount of commercial being proposed. She thought a better transitional mix for the PUDs of residential with commercial might have been better. Planners seem to be going toward a new urbanism, which is to promote walkability within communities, yet more and more applicants are coming forward saying they must add stand-alone buildings with drive-thru accesses. She saw a contradiction in the plans between walkability and driving. She noted that the Commissioners were developing the community for the next 20 or 30 years, and she did not want to be behind the times but rather, move into the future.

Ms. Myers stated that she agreed with Mr. Rosen and Ms. Hill in many respects. She felt the development was very beautiful, but wondered how much commercial the City needs. She has noticed empty stores, and mentioned Zainy Brainy, F & M, Farmer Jack, Damman Hardware, and that Kmart was not doing well. She is scared of the thought of dead zones in this town. She felt that the traffic improvements looked great, but she did not feel there was a market demand for so much commercial at this corner. She agreed that the walkability was something they should look for from both the developments. She drives through here everyday and although she thinks this is a nice development, she did not know if the town could support so much additional commercial.

Ms. Brnabic felt that the developments as proposed would be a wonderful improvement for the corners. The original ORT zoning in the Master Plan might have been ideal, but the market demand for that at this location was not there. She noted that the existing buildings have been abandoned for over 20 years and have become an eyesore, and she felt that 20 years did stand as a test of time. The corner, as it exists, is now largely commercial. The City stands to gain an entire redevelopment of the corner and she strongly felt that was very positive and that the Papa Joe's plan was wonderful. Her concern was that they would sit another 20 years with the ORT zoning. She was more concerned with the commercial at the south end of town. She perceives a nicely designed development replacing an eyesore, improved traffic for this intersection, redevelopment of the corner, additional right-of-way property, and did not see a problem with the proposed plans.

Mr. Hooper referenced Ms. Myers' use of the term "dead zone" and said that he felt the City had dead zones now on the northwest and southeast corners. He felt the proposals offered the possibility of eliminating the dead zones and making them vibrant. He was impressed with Ms. Primo four years ago and voted to deny the rezoning at that time. He was impressed with her presentation regarding the market draw and the population numbers and felt it was appropriate at that time. Since that time, the Village of Rochester Hills and the shopping centers Ms. Hill mentioned have come on line. Yet North Hill still remains vibrant, with 95% occupancy. He felt that what had changed was that the City can sustain additional, vibrant development at these corners if it has the right mix. The benefits for the City are the substantial right-of-way improvements that

would not happen unless the developments occur or unless another source of revenue were found.

Mr. Kaiser noted that this was a sensitive and important issue and he agreed with Ms. Brnabic about much of what she said. He acknowledged that he had been married to the Master Plan for a long time for its usefulness and importance. On the other hand, it is actually a compelling guiding document. When the retail acreage analysis was done in 1992, conditions were as they were then. Since 1992, the corner has continued to be an eyesore. The Commissioners have to pay attention to the traffic at that intersection, and they cannot ignore that the PUDs would help deal with the traffic. Regarding the neighboring cities, the Legislature mandated that Master Plans be shared with surrounding communities. Rochester Hills' neighbors include Oakland Township, Orion Township and cities to the east. A lot of unused land has been taken up. When the applicants first came before the Commission, he said they would not be building this development for Rochester Hills, but for Oakland Township. Even though that might be true, Rochester Hills will get the tax money and a development like this would not be allowed in Oakland Township in the near future. He stated that the City has to provide for the neighbors to some degree. The City would get an intersection that they would not be able to afford for a long time and would get tax money it needs. He referenced a letter from a resident that said the citizens continue to vote for maintaining green space and residential property. Mr. Kaiser indicated that the City does not vote to raise taxes and if people in this community want to continue to receive services without paying more, they have to let the Administration approve ways to generate money. The future of the City is about redevelopment. He recalled that Winchester Mall was an eyesore and that eventually, commercial development was added that has been successful. He said that he supported this redevelopment and said it would be important for the City. He felt the proposal was done essentially in a right way. He said that the City of Rochester has some challenges it has to meet, as do the other malls. He did not feel this project would compete with other malls and felt it would be healthy competition. He stated that there were two completely separate entities that have come together and said they want to redevelop the intersection, work together and work with the City. When Lino called him initially, he was not very thrilled, but he joined in the process. Mr. Kaiser added that he was a little disappointed that the entities in the southwest corner did not join in with the intersection improvements.

Ms. Ruggiero said she appreciated the concern a few Commissioners had about downtown Rochester, but said she did not share the concern, and gave downtown Ferndale and Royal Oaks as examples of older cities that have grown and become very lively. She feels Rochester will have to get very creative with its storefronts. She noted that she lives by University Square, near the Village of Rochester Hills, and said that the Village has only made University Square more lively. It has become more difficult to get into that center. She said she appreciated Ms. Primo's concerns about competition, but she was not as concerned about the practicality of that. She said she was surprised and rather disappointed that the applicants had not shown a comparative plan using ORT to show what could be expected relative to size, height, traffic, and so on. When she asked Mr. Galvin at the last meeting how to answer the residents about more commercial development, her question "begged" for that comparison. The applicants have many resources to be able to show that. She said she was also concerned about the timing of the road improvements relative to the developments and said she really had hoped those could be done before the construction started.

Mr. Kaltsounis said he would lean toward Mr. Kaiser's comment about the Master Plan. He said an assumption in the Master Plan was that Great Lakes Crossing and Lakeside Mall were sufficient to take the retail brunt of this area. They have found out that because of the traffic, the residents needed something closer to home and that is why Winchester and the Village of Rochester Hills are working. He questioned if they would have a different opinion if the proposals came back next year and the Master Plan had been re-looked at. He noted that a lot more homes had gone up in the last three or four years, and if they take that into the equation, along with the proposed road improvements, the developments could work today.

Ms. Brnabic referred to the timing of the road improvements and said she was under the assumption that the road improvements would be done prior to construction.

Ms. Hill said that the developments had more or less been touted as neighborhood developments, even though they would be designated as B-2. She questioned adding more retail mix because she was not aware of another intersection in the community that had nearly the identical mix on three corners out of four. She questioned the traffic improvements also. She agreed it would be an improvement over what existed, but felt it was nowhere near what would be needed to ease congestion or make it any different once the developments went in. To her, it would apples to apples. She agreed the development would bring tax dollars, but the community would bear the burden of the impact it would have on the community. Oakland Township is the only area within three miles that does not have the commercial development and would need it. Oakland Township gets tax dollars from its large homes and would not have the impact this community would. She questioned whether the development was truly needed. She said she would be less concerned about the proposal on the northwest corner, but felt that the southeast corner could have a much better mix, which would help to lessen the burden. She believed that North Hill had revamped and was trying to improve. The northeast corner holds a lovely historic landmark. She noted that she has lived here for 16 years and was aware of the congestion. She was trying to be open, but still questioned the mix and what the City would get in exchange.

Mr. Galvin stated that he was not unsympathetic to anyone's concerns. He said that the Master Plan recognized that non-residential use would occur in this area. The Master Plan proposes uses which, if built out, would be equally or more intense than what is proposed for the Papa Joe's PUD. He called it the "phony bunny" and said ORT would never be built. He said he would not throw a parade of "horribles" about what would go there, because nothing would. The Planning Commission could make a principled decision. Those who opposed this development asked if there was enough commercial land use in the City of Rochester Hills, either to serve the City or a greater area. Regarding serving the City, he responded that there was a market demand and a sufficient amount of disposable income that people hold that would support the proposal at this location. The economic truth is that the neighbors would use this facility. He believed that the premise of the Master Plan at the time was flawed. He advised that the road improvements were anticipated to be done before the beginning of the next year. For that reason, he would ask that they not have to bring the Site Plan back to the Commission. Anything that could be eliminated would help with the timing of the road improvements. He concluded that the City of Rochester Hills was in a position to receive tax dollars, to get road improvements, to correct at least a parcel-specific mistake in the Master Plan, and to bring a use to this location that is needed.

Mr. Rosen said Mr. Galvin hit it. It is not about this kind of development or use, it is about this location. That is what it is about for him. If this were being proposed for the old Jacobson's site, or at another commercial site, none of this discussion would happen.

Mr. Kaiser decided to ask for a straw vote and asked the Commissioners to assume there was a motion to disapprove the PUD on the floor and vote because they felt there was too much commercial in Rochester Hills. He asked them not to consider any minutiae. He explained that a yes would be to disapprove, and he voted first and voted no. Ms. Myers and Ms. Hill replied that they did not know, Ms. Ruggiero, Mr. Hooper, Ms. Brnabic, Mr. Kaltsounis and Mr. Boswell voted no and Mr. Rosen voted yes. Mr. Kaiser said that given those results, they would move into the minutiae, and asked about the proposed drive-thru coffee business.

Mr. Galvin said that the drive-thru was what the proposed tenant demanded. The basic notion was whether they must give up the drive-thru to gain parking, but if they have to give it up because no one liked the concept, he would have to further discuss it with his client. He stated that he would entertain all thoughts. Mr. Kaltsounis asked if it was necessary to have two drive-thrus for the proposed pharmacy. He noted that his wife was a pharmacist and there is a feeling in that industry that drugstores are becoming like McDonald's'. He felt one drive-thru could work, but that two would be too many.

Mr. Curtis asked if people could even distinguish between one or two the way it was designed, because he did not feel people would be able to see it. Mr. Bonislowski said they would provide a screen. They were provided with plans from the tenant that they have to meet, and they have gotten the tenant to agree to the architectural elevations proposed. He said there might be an opportunity to see if they would agree to one drive-thru. He said that the applicants were aggressively trying to market the spaces for numerous types of tenancies and they were showing the worst-case scenarios in the best possible light. Mr. Curtis said that he heard a drive-thru was going on a County building and commented that the nation was turning to drive-thrus for convenience purposes. He did not think they had to be looked at as terrible things. Mr. Kaiser said that California and Vegas had drive-thru churches, but he did not feel drive-thrus were something Rochester Hills should be a leader in.

Mr. Rosen asked if Building 4 was new, which was confirmed, and said he felt it was not needed in the development.

Mr. Boswell noted that the bank on Tienken has a drive-thru which is never busy. If they eliminate a few of the drive-thrus on the proposed bank, they would have room for another row of parking. Mr. Bonislowski wondered whether they would be having the discussions about drive-thrus if the parking was sufficient and introduced the architect for the TCF Bank.

Mr. Michael Raine introduced himself and stated that one reason TCF was very anxious to be a part of the development was the opportunity to upgrade in this area. They are looking at other sites within Rochester Hills. He explained that the prototype for TCF is a 6,000 square foot bank with six drive-thrus. The first lane of a TCF bank is designated for an ATM and nighttime deposits. They do not have kiosks or walk up ATMs for safety reasons. That leaves four lanes for two tellers. TCF is trying to differentiate themselves from other banks by adding additional services. They have extended hours. The expense to eliminate the drive-thru would not be in their best interest. He did not think they would realize a substantial gain in parking by doing that either. Mr. Boswell remarked that there was a bank in Waterford that did the same thing and people started complaining because they were getting poorer service. Mr. Raine said he would take that information back.

Mr. Kaiser said they are being asked to be on the cutting edge of an edge that he did not think existed, just so the corporate entities could experiment by taking up valuable space – of landscaping, screening or walkability. It was not just parking for him - it was more about walkability and having a place to go, sit and drink coffee on benches.

Ms. Hill said she agreed, and noted that she drives around the town a lot and could not think of many banks at all that had six drive-thru lanes. She believed banks would eventually get rid of tellers and she felt the drive-thru lanes could be cut to three. She commented that being open longer would give people more time to go through the drive-thrus. Regarding the coffee shop, she felt the intersection was already congested and that they really did not need more morning traffic trying to go through a coffee shop drive-thru. She agreed with Mr. Kaiser about the walkability. She felt that the neighborhood could be served very well by the development. She would like to see nice walking entrances to the development. They have shown walkways, but not a grand walking entrance. People would otherwise walk across the parking lot, and she did not feel that was very appealing. A shop becomes the destination rather than the whole area, and that is a concern. She asked about the architecture of the gas station and advised that the PUD process should allow for some control over the architecture, and she did not think the gas station looked very appealing. She would like to see it resemble the majority of the development rather than look like a convenience store with gas pumps. Referring to drive-thrus, they require a Conditional Land Use in a B-2 zoning district and even though there is not a separate approval for that, if approved as shown, she was not sure this would meet the requirements. There are a number of requirements to be met and she was not happy seeing drive-thrus.

Ms. Hill referred to the meeting of December 16, 2003 when she brought up amending the underlying zoning in the PUD process. She was opposed to changing the

underlying zoning. She felt the PUD Ordinance was wrong in that requirement and she would much prefer to see an amendment. The City would create a contract with this development and if, for some reason, it were not built, the City would be stuck with B-2 zoning, which would allow many other businesses. That issue would be a much greater factor in her decision.

Recess: 9:20 to 9:35 p.m.

Mr. Kaiser asked Mr. Staran about Ms. Hill's concern regarding an underlying zoning change and the development not proceeding. Mr. Staran said the underlying zoning would be changed, which is somewhat atypical from what other PUD Ordinances require. Ms. Hill suggested amending the text of the Ordinance so that the underlying zoning would not be changed but would allow a PUD overlay. The City could consider that, and it would be a relatively easy text change. Mr. Kaiser asked if it would affect the timing of the projects. Mr. Staran said it would not have to. Mr. Kaiser said that if the text changed and the PUD failed, someone could scoot in with something undesirable. Mr. Staran said that once the PUD Agreement was approved, it would effectively become the Zoning Ordinance for the property, whether or not the development proceeded. As long as the PUD Agreement was in place, nothing would happen other than what was in the Agreement. For the PUD Agreement to terminate, it would be a mutual decision, unless it was worded somehow otherwise. For it to terminate, it would be a function of Papa Joe's abandoning it or proposing something different, and the City agreeing to it. The City has the ability to control the termination of the PUD and also the ability to deal with the zoning issue. The City would not be losing the right to change the zoning if the PUD Agreement was no longer in affect.

Mr. Kaiser said that to change the zoning back would be defensible because it could be argued that it was changed for one reason only – because of the PUD. If that did not happen, it could be changed. He asked if the PUD would run with the land, which Mr. Staran confirmed. Mr. Staran said that Papa Joe's could sell it, but the next applicant would be bound by the Agreement.

Mr. Rosen said he agreed with Ms. Hill. He felt it would be a good to pursue the idea of not changing the underlying zoning.

Ms. Myers said she would also like to see a few lanes removed from the bank's drive-thru. She said that in this town, it does not matter how many are open, people will sit and wait for a lane to open before getting in a line. There is no stacking room in the proposal. She said she liked the idea of a drive-thru ATM. She also felt Building 4 was unnecessary and would like to see it removed. Regarding walkability and bikeability, she felt more could be done with the plan. The development would be very close to the Paint Creek Trail and if it were bike-friendly, people would come down Tienken Road from the Trail and shop there. They could add bike racks or bike lanes and it would become popular for bikers. A deal breaker for her would be if the Site Plan did not come back to the Planning Commission. She did not want it to be administratively approved.

Mr. Kaltsounis commented that the development would be special and the first one people would see coming into Rochester Hills from three directions. He said he was a big fan of first impressions and noted that the first thing people would see on the corner would be a pre-fabricated awning (he referenced Exhibit E, Speedway). A lot of the details for the stores and the bank were done nicely, with brick, but the rendering of the gas station shows it towering over the bank. It is 21 feet high and there was no detail shown for the canopy. He did not like the "stilts" that held it up. He said two renderings for the canopy were shown and asked which was correct – T-shaped or rectangular. Mr. Bonislowski replied they would have a T-shaped canopy. Mr. Kaltsounis asked what they could do about the "stilts."

Mr. Galvin replied that the applicants did not have the authority to change the design because it was being done by Speedway. He suggested that they could take back the Commission's suggestion to them and try to negotiate it then. He suggested adding a condition, if a motion were made.

Mr. Kaltsounis commented that there were many details that would justify the Site Plan being brought back and approved by the Commissioners.

Mr. Kaiser asked about the height of the canopy. Mr. Roach replied that it was 16 feet to the bottom of the canopy. Mr. Kaiser asked if that complied with the Ordinance. Mr. Delacourt said the PUD Ordinance did not provide an exception from the height requirements, so Staff would require a dimension detail of the canopy to make sure it conformed.

Mr. Rosen reviewed the Ordinance and found that a canopy could not exceed 17 ½ feet in total height. Mr. Kaiser said the proposed canopy was 16 feet from the bottom and asked what it measured to the top. Mr. Roach replied 38 feet. Mr. Rosen said there was also a 14-foot minimum clearance and he said the canopy could not be attached to any other structure and "shall be supported by columns." He noted that signs in a development could not be attached to or a part of gas pump canopies. Mr. Bonislowski replied that it was removed (refer to Exhibit E #5).

Mr. Kaiser indicated that Mr. Galvin explained there were too many players on the applicant's side to be able to resolve all of the issues now. Mr. Galvin stated that if the Commission added conditions that would apply to the other entities' designs, he would ask that they be mindful of the fact that the role he would be put in is vaguely like one of a "herder of cats." He explained that in order for someone to effectively herd cats, one must have the ability to persuade an uninterested animal in doing something it does not want to do. He would, therefore, ask that they be mindful that the users are providing the dollars to do the road and that it is a lot easier for him to negotiate a lesser reduction and to perhaps leave unscathed one of the uses (bank lanes or two drive-thrus for example). He added that he would try to go back and get whatever they asked for, however.

Mr. Bonislowski explained that Mr. Kaltsounis was talking about the entrance canopy over the front door and not about the canopy over the gas pumps Mr. Rosen referred to. Mr. Kaltsounis asked where the "S" for Speedway would be. Mr. Roach explained that it would not be on the awning at all.

Ms. Brnabic commented about the bank and said that they could provide a bigger bank and more drive-thrus, but the key would still be customer service. If the ability to accommodate that were not there, what was being provided would not matter. She also mentioned that she was under the impression the roadwork would be completed before everything was opened for business. She asked if that was the wrong impression.

Mr. Galvin responded that he never had that understanding. His notion was that the road construction would begin immediately and simultaneously with the construction of the businesses. He said he apologized if he conveyed otherwise.

Mr. Brnabic asked when the roads would be done and Mr. Curtis replied they would be done before the majority of the project was completed and before Papa Joe's was open for business. He thought the bank might be done, but it already existed. Mr. Kaiser suggested adding a condition that there would be no Certificates of Occupancy issued until the road improvements were completed. Mr. Galvin felt that would be onerous for the smaller users. Mr. Kaiser said that the Commissioners have to look at the bigger picture. Mr. Kaiser said that the bank already had a Certificate of Occupancy and he said he was referring to the new users.

Ms. Ruggiero asked if there would be four phases – Papa Joes, Speedway, Lino's and the bank, which was confirmed. She referred to the phasing mentioned on page 15 and read, "the phases may be constructed in any order or simultaneously, and each separate phase shall require separate, final Site Plan approval." She asked to what extent they would need to get into the architectural details of any of those businesses this evening.

Mr. Delacourt replied that the premise is that the entire site would be submitted for Site Plan approval for recommendation by the Commissioners. He felt the terms she read should refer to the submission of construction and engineering plans. Mr. Kaiser said those words should be removed then. Ms. Ruggiero said the word "shall" is there as well. Mr. Delacourt said he did not have a problem with *shall*, as long as one full Site Plan approval was required, with separate engineering and construction plan approvals by Staff. Mr. Kaiser clarified that the word "separate" before the word "final" on page ten, sentence three of paragraph (15) should be removed. Mr. Delacourt said he felt that was correct, but he said he did not know if that would accommodate the developer's desire to submit construction plans separately. Mr. Kaiser said those plans were separate issues for the Planning Commission.

Mr. Staran agreed with Mr. Delacourt's suggested language change and felt it clarified the intent. It would read, "The phases may be constructed in any order or simultaneously and each separate phase would require final Site Plan approval."

Ms. Ruggiero referenced paragraphs (12) and (13) and said there was a consistent sentence that said, "Rochester Hills agrees that the reconfigured Speedway land and all buildings and other improvements to be constructed on it are and will be lawful and conforming under all applicable Ordinances to the extent variances are necessary to support this Agreement, they are deemed granted." Referring to the canopy at Speedway, she questioned if there would be a connection between the Planning Commission granting a variance for the canopy and the fact that they must allow the applicant to get a variance for the height. Mr. Kaiser said the PUD is saying they must let them have one. Ms. Ruggiero asked if the Planning Commission would have no say about a canopy three feet higher than what is allowed by Ordinance. Mr. Delacourt said the PUD Agreement also states that the variances be spelled out. The fact that the canopy was not dimensioned was missed by Staff and he said he was glad that was pointed out because he did not feel the PUD Agreement would deem the variance granted without it. He felt it was very important to get that verified and if there was a request for something different, it would need to be spelled out and discussed.

Mr. Galvin said that was quite correct and the notion was that they laundry list the variations and the documentary language would grant the variances. The entities are supposed to work together. They did not know the discrepancy about the canopy was there; it would have been listed otherwise. Ms. Ruggiero asked if TCF had a similar situation. Mr. Galvin said that any changes for them were laundry listed in the plans. Ms. Ruggiero asked about Lino's and Derek answered that they had the ability to leave the parking that is pre-existing, but nothing else is new.

Mr. Kaiser clarified that the PUD Ordinance stated that any modifications to the Ordinances that were somewhere in the plan would be granted. He would personally like an express laundry listing of all the variances the applicant is expecting, or that Staff would acquiesce to, as part of the written PUD. The applicant should design the canopy as defined in the Ordinance and if not, it must be written in Exhibit G. If there was a motion to approve, he would like a condition that says that the only variances that would be granted as part of the PUD Agreement are those that were expressly listed in the PUD. His concern stemmed from the fact that he was not an expert at reading Site Plans, and did not want to grant a variance he was not aware of.

Mr. Rosen said they should think of Lino's when considering that because it is not changing, but the property lines and roads around it would be. Mr. Kaiser said they would except existing businesses. Mr. Galvin said that Lino's could be treated separately, but regarding TCF and Speedway, he asked if they change the language in the clause referenced and new variances were necessary, if they would be deemed granted if listed on Exhibit G. Mr. Kaiser replied no. He said that now was the time that things could be brought into conformity and any variances required should be listed in the PUD. Mr. Galvin replied that he could add that.

Mr. Rosen referenced item (5) under Exhibit C, the Lighting Plan, which discussed two sets of poles, both thirty feet high, which would result in lighting levels around seven. He recalled that the Planning Commission required 20-foot poles and less lighting than

that. His suggestion was that the poles be limited to 20 feet and that the lighting level should not exceed 3 or 4 footcandles (wattage). Mr. Kaiser agreed that if the developments occur, the lighting would be the most dramatic change at this intersection.

Mr. Rosen noted that he felt the Commissioners needed to approve the Site Plan for both developments.

Mr. Hooper referenced page six, item ten, regarding extending the westbound center left turn lane further east. He asked if this was in relation to the east side of Rochester Road.

Mr. Labadie, the Traffic Engineer replied it was. Mr. Hooper said he thought the agreement would include two center left turn lanes. Mr. Labadie said that was correct. Mr. Hooper said the drawing on Exhibit B did not indicate that. Mr. Labadie said the language and diagram needed correcting. Mr. Kaiser asked if the eastbound turn lanes were depicted correctly and six lanes east and west were verified.

Mr. Hooper thought there should be a maximum building area listed in the PUD Agreement. He said it was proposed for 125,000 square feet approximately, but the Agreement should have a maximum. He referenced item 22 on page 12 and asked if there were minor modifications that would not be coming back to Planning Commission and asked that they be listed. He agreed that the Planning Commission should make the final recommendation to City Council regarding the Site Plan. He read a few of the minor modifications listed and said they could make a significant impact on the parking layout. Mr. Kaiser agreed with Mr. Hooper. Mr. Hooper discussed the language regarding parking and that the applicant would comply with the Ordinance or prove that the parking they would provide could be sufficient. He recalled when Lifetime Fitness asked for a reduction of the parking requirements and he noted that there were times now people could not even get in the parking lot. Lifetime showed a parking study and said they had built centers around the country to justify their request, but it proved out to be wrong. He did not want that to happen with the proposal and observed that parking studies could be skewed.

Mr. Kaiser referred to the language on page 12 which mentioned that modifications which exceeded the authority granted to Staff should be submitted to City Council for approval. He thought a few Council members might want the Planning Commission to review that and asked Ms. Hill if that should be written in at this point. Ms. Hill agreed and said she had the same thought when she read it.

Mr. Galvin asked about 22(b) and the 10% a building size shall not increase. Mr. Kaiser said they were eliminating that. Mr. Galvin asked what difference it would make if the parking could not be changed. Mr. Kaiser replied that with the sensitivity and compactness of the site, he personally felt it should be taken out and that the Commission should approve any increase, not just Staff. Mr. Galvin said there would be some percentage that should be allowed in the Agreement, as long as the parking was not incorrect, because there would be tolerance changes in buildings. Mr. Kaiser suggested starting out 5% less. Mr. Rosen said he would agree to 1% but he agreed 10% was too high. Mr. Kaiser confirmed that only 22(b) would be removed completely.

Mr. Hooper stated that his opinion was that the number of drive-thrus for the bank should be reduced to three and the pharmacy's to one, and parking would be gained by doing that. He said that he was dead set against drugstores personally, but suggested that it must look appropriately and architecturally in line with the other buildings. Mr. Galvin asked if Mr. Hooper would consider four lanes for the bank and Mr. Hooper clarified three lanes plus one lane for a drive-thru ATM. Mr. Hooper said he was not opposed to the drive-thru for Building 4.

Mr. Rosen referred to page five, number 8, Common Areas. He said it appeared that an Association would own the cul-de-sac, but would give the City right-of-way. Mr. Galvin said there would be a right to use it. Mr. Rosen asked if the cost of maintaining it would be allocated by each owner's site and he wondered if that meant that Speedway would

pay for the cul-de-sac. Mr. Galvin said that was in negotiations. They are representing that the owners would take care of the cost and they have to discuss it further with each other. Mr. Rosen said it seemed unfair that someone not connected to the cul-de-sac (Lino's, Speedway) would have to help pay for it. Mr. Galvin said they would be getting the benefit of the entire project.

Mr. Rosen referred to page 12, 22(c) and read, "changes in floor plan which do not alter the character of the use," and said he did not have a problem with a change in floor plan as long as it did not alter the footprint. Mr. Delacourt said that floor plans do not equal footprints. Changing a floor plan in no way gives someone the ability to change the footprint. The floor plan would only exist inside of the approved footprint. Mr. Rosen said he would be happy with that.

Mr. Kaltsounis said they discussed previously that the signage would be taken off the Speedway canopy and he asked if they planned for a consistent theme for signage throughout the development. Mr. Bonislowski replied that all the signage was addressed in the PUD. The total of the signage is per the Ordinance. Mr. Kaltsounis asked if there would be signage in the vinyl of the canopy and Mr. Bonislowski said there would not be vinyl in this development.

Ms. Ruggiero said she was not opposed to the development if they could meet the parking requirements. She had a problem with a drive-thru for Building 4 because it appeared there might be a conflict with the pedestrian walk. Mr. Bonislowski said they could manipulate the site. Mr. Delacourt indicated that the last configuration of the pedestrian path had major conflicts with the loading and unloading. From a planning standpoint, he liked it better. He did not mind the two crossings, as long as they were safe. Engineering has not reviewed it for safety and if he were told it was fine, he would agree to it. Mr. Bonislowski said they would agree to whatever was recommended. He added that they have increased the cul-de-sac radius from 45 to 57 feet.

Ms. Hill was concerned about where Building 3 was planned and that people would be directed to walk through the dumpster area. She was concerned about the dumpster location for Lino's. The majority of the parking would be done in the back by the dumpsters. She agreed the bank needed to reduce the number of drive-thrus. She said it would be a fabulous site but she did not like the way people would be led into it. Everything is about driving. She brought up the issue of the underlying zoning and said that rezoning was difficult. She said that if something happens and the zoning was changed, it would not necessarily mean that another PUD would be proposed and it would leave it open for a lot of other things to happen. The City is controlling the site with the PUD and the underlying zoning would have nothing to do with it. She said she sees what is being asked of the developments as being the pivotal point in utilizing the PUD Ordinance. The last two PUDs were small and the underlying zoning was not being changed. This is another story and she thinks they would make a mistake if they do not address this issue. It would not delay the process if they addressed it at this point.

Mr. Kaiser said there was one thing he felt was not factually correct in Ms. Hill's comments. He said that this PUD runs with the land and it becomes the zoning. If the PUD fell through, this piece of land would not be just B-2; it would be B-2 plus the PUD Agreement. Anyone other than the Curtis' that develop this site would have to abide by that. Ms. Hill referenced item g of Final PUD review of the PUD Ordinance and said it stated there was a two-year window for Site Plan approval and if the development did not happen during that time, re-submittal and re-review of the PUD application would be required. City Council could extend that for another two years but if the PUD did not happen, and if the applicant did not re-submit, she wondered about the contract. Mr. Staran said that the provision she referenced was really an "out" provision for the City. If the developer did not follow through, the City would not be stuck. Ms. Hill said that the zoning would be changed and Mr. Kaiser added with the PUD attached to the land. Mr. Staran said they could not use the zoning independently of the PUD Agreement. Ms. Hill asked if there was absolutely no way this would become B-2 without the proposed development. Mr. Staran answered no, other than the way Mr. Rosen mentioned, which is if the development fell apart and the City decided not to revert to

the prior zoning, but decided to leave it as rezoned. Ms. Hill said to revert would be another whole process. She said she did not see the harm in not changing the underlying zoning when the majority of cities do not do that. Mr. Staran said he did not disagree with the provision, but he said that even if that were not done, the City would still have a tremendous amount of pull over what would happen on the property, presently and in the future. The PUD Agreement is binding on all successive owners and users of the property unless and until mutually terminated, at which time the City would have the ability to revisit the zoning. Mr. Kaiser said that changing the PUD Ordinance would not cure the harm Ms. Hill perceives. He said that if the current zoning was offensive to Ms. Hill, but someone came in with a nice PUD and the underlying zoning was not changed, the offensive zoning would stay. Either way, the nightmare she perceives could happen. Changing the PUD Ordinance would not change that. It mandates that bodies must pay attention - that is all. Ms. Hill responded that with a PUD, a contract would be created, but with regular zoning, there are a lot of other things that could happen on this site that would not necessarily happen if there were a PUD Agreement and that bothers her.

Ms. Hill referred to page four, under Architectural Standards, and read the last sentence, "Lino's new pole sign shall be reviewed and approved by the City of Rochester Hills Building Department." She noted that the City was not allowing pole signs and asked if that word could be dropped to conform with the Ordinance. Mr. Delacourt said he did not believe the PUD Agreement could reference any variances from the Sign Ordinance. Mr. Staran said that was correct. The PUD provisions are part of the Zoning Ordinance but other Ordinance requirements cannot be waived, including the Sign Ordinance. Mr. Delacourt clarified the correction for the Agreement.

Ms. Hill agreed that the maximum square footage should be listed in the Agreement.

MOTION by Hooper, seconded by Ruggiero, in the matter of City File No. 02-004 (Papa Joes), the Planning Commission **recommends** that City Council **approve** the Planned Unit Development. Such approval shall include the Planned Unit Development Agreement and Exhibits dated January 9, 2004 (as may be amended by City Council) and constitutes an amendment to Chapter 138 of the Code of Ordinances to rezone Parcel Nos. 15-03-477-018, currently zoned O-1 and I-1, and 15-03-477-019,-020 & -021, currently zoned I-1 Light Industrial, to B-2, General Business and to add the PUD overlay, and which adds the PUD Overlay District to Parcel Nos. 15-03-477-030, -031 & -033, with the following four (4) findings and subject to the following twenty-three (23) conditions.

Findings:

1. The proposed PUD has met the qualifications of Section 138-1002 of the Zoning Ordinance in that the proposed improvements to the intersection will minimize, alleviate or improve the traffic situation. Further, it provides for the appropriate redevelopment of parcels occupied by obsolete buildings.
2. Dedication of additional road right-of-way, intersection improvements at no cost to the City, increased design and aesthetic controls, and the ability to restrict undesirable uses are substantial public benefits of the proposed PUD that could not be achieved under the B-2 district alone.
3. The PUD will not create an unacceptable impact on public utility and circulation systems, surrounding properties, or the environment. Moreover, the proposed PUD will improve public utility and circulation systems.
4. The proposed PUD has been designed to promote convenient vehicular and pedestrian circulation within the site. Proposed improvements to the intersection will minimize, alleviate or improve the traffic situation to the site.

Conditions:

1. That Final Site Plan Approval shall require recommendation of the Planning Commission to City Council and Approval by City Council.
2. That prior to Final Site Plan approval the applicant shall provide the minimum number of parking spaces required by ordinance on site or provide a Parking Study for the review and approval of Staff and the Planning Commission that identifies the reason for the discrepancy.
3. That approval of a Wetland Use Permit from both the City and DEQ shall be required prior to issuance of a Land Improvement Permit.
4. That vacation of Old Orion Court is approved by City Council and documentation provided by the applicant that indicates the ability to develop the entire vacated area.
5. That if required the City's PUD Ordinance be amended to allow B-5 zoning uses within an approved PUD prior to Site Plan Approval by City Council.
6. That the Final Site Plans and Elevations are consistent with those approved as part of the Final PUD agreement.
7. That appropriate traffic calming devices are incorporated throughout the site, to reduce potential "cut through traffic", to be reviewed and approved by Staff prior to Final Site Plan approval by City Council.
8. That both Building #1 and Building #2 shall be fully sprinkled, to be reviewed and approved by the City's Fire Department prior to Final Site Plan approval by City Council.
9. That the PUD Agreement will expressly list in words all variances or modifications that are anticipated, as agreed upon by the parties.
10. All signage is to be within the Rochester Hills Ordinance.
11. That the PUD and any related plans show canopies for the Speedway Gas Station that are within Ordinance compliance.
12. That the proposed gas station be compatible with the other structures on the site and will be approved during Final Site Plan.
13. That the drive-thru lanes of the bank be reduced to three, plus an ATM lane.
14. That the drugstore have only one drive-thru lane.
15. That the poles and lighting fixtures be no higher than 20 feet with none being greater than four foot-candles.
16. That the PUD and the related Site Plans specifically recite and express the total maximum building area that will be included in the PUD.
17. That the other textual changes discussed on the record be corrected.
18. That no Certificate of Occupancy be issued to any new business entities until road improvements are made.
19. That the final cul-de-sac dimension be reviewed and approved by the City Engineer prior to Final Site Plan approval (Section 8 of the PUD text).

20. That language be changed to indicate that all signage shall conform to the City of Rochester Hills Sign Ordinance and is to be approved by the Building Department, any additional language should be removed (Section 9 PUD text).
21. That the indicated number of years be changed from 5 to 3, in conformance with the City Walk proposed PUD Agreement (Section 10 of the PUD text).
22. That language be revised to be consistent with the proposed condition of approval. Any reference to exception to the ordinance needs to be removed. The change shall be made prior to review and approval of the PUD by City Council (Section 11 of the PUD text).
23. That language should be changed to state that road abandonment/vacation should be done in accordance with established Rochester Hills Process.

Ms. Hill referenced Condition #5 and suggested that when that issue is addressed, if they change the PUD to include B-5 as a use that it would open the door for other things to happen in future PUDs. She suggested that perhaps the reason it was not included was to not create more gas stations or automotive areas. She felt they should try and find other ways to work with this situation, to which she is not opposed. She said she would be cautious about making this change in the PUD Ordinance. Mr. Kaiser said he agreed with that. He said the Condition would remain as written, but because of the concerns shared, if there is a quick way to do something else, they should try to do so. He did not think it would be a good thing if it slowed the process down, but he felt Ms. Hill's suggestion was a very good one.

Roll call vote:

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

MOTION CARRIED

Mr. Kaiser noted that during the earlier straw vote, there were two "I don't knows" and two firm "nos," and that the applicants should be aware of the issues. When this matter comes back, the applicant would rather have nine "yes" votes, and he suggested that if this is worked out the right way, they can get them. Mr. Galvin thanked the Commissioners for all their work.

Recess 11:18 to 11:30 p.m. Commissioner Myers exited at 11:18 p.m.

3. Final Planned Unit Development (PUD) Review - File No. 98-047.2 (Public Hearing)

Project: City Walk (formerly known as Holiday Village Square), a commercial retail development on approximately 12.4 acres
Request: Final PUD Recommendation
Location: East of Rochester Road, South of Tienken
Applicant: Tienken Partners, L.L. C. & Frank Aragona Trust
37020 Garfield, Suite T-1
Clinton Twp., MI 48036

(Reference: Staff Report prepared by Deborah Millhouse, dated January 9, 2004 has been placed on file and by reference becomes part of the record hereof.)

Present for the applicant were Paul Aragona and Paul Henderson, applicants; Greg Tysowski and Jim Griesby, JPRA Architects; John Thompson, Atwell Hicks, Engineer; and John Gaber, Attorney.

Ms. Millhouse advised that Staff talked with Mr. Gaber about some minor modifications and that the applicant had agreed to them. She outlined that on page 11, there is wording that both the City and the applicant agree that two buildings with a walkway between are actually one building and she said that the sentence should end after the word "buildings" and the rest of the sentence deleted. On page one, five buildings

should be referenced, not seven. On page five, #9, the last sentence references drive-thrus, and Staff recommends that the applicant not exceed 2,500 square feet of building area per establishment.

Mr. Gaber spoke next and commented that they did not want to belabor the point and go over the issues that were previously raised. They feel they have addressed the issues that were raised by the Planning Commission on December 16. He thanked Ms. Millhouse and the Planning Staff and said they appreciated their efforts greatly. He summarized that City Walk would be a neighborhood center redeveloped from a blighted area. As a neighborhood center, it would serve approximately a three-mile radius. They are attempting to put a signature piece at this location for the City of Rochester Hills, with a complex of high quality architecture. They are trying to take the same quality of architecture as used with the Village of Rochester Hills and use it in this center. They also believe that this development will help transform Rochester Hills' retail and be an incentive to upgrade and be competitive. They have agreed to make road improvements without cost to the City and have agreed to donate right-of-way for Rochester and Tienken roads. They are seeking a recommendation of approval to City Council and have timing issues regarding the road improvements they would like to complete by the end of the summer. It is their intention that the road improvements would be started simultaneously with or before any other development of the project. The road improvements would take 90-120 days and should be completed rather quickly. He introduced Mr. Tysowski, the Architect for the project and explained that the designs were not set in stone. There might be some modifications, depending on the tenant, and they brought examples of designs as requested by the Commissioners at the December 16 meeting.

Mr. Tysowski said the primary goal was to create something of high quality that would last a long time and bring a new fabric to the corner. The project would be inward facing, four-sided, and not just a parking field with buildings off to themselves. It would be pedestrian friendly with many amenities that are seen with the Village of Rochester Hills. The tenant would be able to express a brand with a variety of storefronts. It would be a contemporary interpretation of the traditional neighborhood main street. The corner would be perceived as one continuous fabric, not a series of buildings. There would be a gateway on the corner for pedestrians to get onto the site. They would control the signage and architecture, yet the tenants need to express an identity, so the developer would build a framework and allow the tenant, using the materials provided, flexibility within the framework for their identity. He explained the signage detail and area that would be allowed. He pointed out the anchor on the corner and noted that it would have to work within the framework of the rest of the site. They have a format to deal with all sides of the buildings and he explained the various materials – stone, brick, cast stone, brick, glass and metal - that would be used. He discussed landscaping and said there would be pocket parks to sit and have a cup of coffee. Mr. Tysowski asked if there were any questions.

Mr. Gaber indicated that they appreciated that not everyone likes the drugstore use proposed for the corner, but he said there is a market for it and the community would use it. They would integrate it with the center, not have it as a stand-alone building out on the corner. He said Staff had a concern with the traffic and the driveway and he said there would be a right-in, one way for the north entrance on Rochester Road. He referenced the PUD Agreement, which had a provision to deal with the alignment of a drive on the north side of Tienken across from the development's westerly drive. Staff had questions about how that would be handled. In the Agreement, the mechanism would have the developer escrow funds for five years to re-align the driveway on the north side, if the City determines that was necessary. Mr. Aragona added that they have received permission from the adjoining landowner to revise that entrance, if necessary. Mr. Gaber referred to Building D and its proximity to the east property line of the site and any impact it might have on the neighbors there. They have looked at it in great detail and believe what they propose would mitigate the concerns raised. He continued that Building D is 80 feet from the property line and 75 feet is required by Ordinance. The loading docks would be recessed, giving an additional 10 feet. They propose quite a bit of screening along the eastern property line. Ms. Millhouse added a condition that the applicant would use a natural buffer, as opposed to a fence or wall.

He pointed out the houses to the east and said they were quite a way from the subject property line. The backs of the houses are approximately 150 feet away and then it would be 80 feet further to Building D. He noted that there was quite a bit of existing vegetation and they would supplement that. They would spend over \$60,000.00 to plant trees. He advised that Mr. Aragona held a meeting with the neighbors to show them the plans and get their input. The feedback they received was that the neighbors were happy to see the blight go away and they also received positive responses about the layout. The neighbors did not want to see a continuous wall, but rather wanted to keep the natural vegetation.

Mr. Aragona referred to the allowance of two drive-thru facilities for food/restaurant businesses. He advised that they limited that to 2,500 square feet and they are also willing to state it would be in a multi-tenant building versus a stand-alone situation. That would preclude a Starbucks, for example, from having a stand-alone facility.

Mr. Kaiser asked him to address how the Planning Commission might approve the PUD as it relates to drive-thrus without knowing where one might be located and how the traffic would circulate. Mr. Aragona suggested handling it through the PUD. There would be modifications through the inception. The PUD does not allow any increase in the total square footage and they do meet the parking requirements. He referred to the discussion about lighting for the Papa Joe's proposal and said it would not be possible without putting an extreme number of poles on the property. He turned the discussion over to Jim Griesby, JPRA Architects.

Mr. Griesby went over the criteria for lighting, including minimum number of footcandles. He said that typically, in a retail project, the requirements are one to two footcandles as a minimum maintenance. He had concerns with the criteria that were established for the Papa Joe's project. For this project, they propose 20-foot pole on a two-foot base. They do want to install lighting that the City approves. If they can decrease the brightness, they certainly want to do so. However, with a 20-foot pole and a 60-foot bay, he was not sure they would maintain a one-footcandle minimum lighting, and he felt it would be almost impossible and that there would be a safety issue.

Mr. Kaiser opened the Public Hearing. Seeing no one come forward, he reiterated that Ms. Primo's comments should be included for this project and closed the Public Hearing.

Ms. Joan Primo, 224 Woodwind Drive, Bloomfield Hills, MI.

Ms. Primo said she was representing the ownership of North Hill shopping center. She referred to the December 16, 2003 Planning Commission meeting comments and said that they take a little offense North Hill being called a "dying center" and it "not doing well and usually empty." She was not sure if that was a rationalization for granting a PUD. She emphasized that the North Hill Shopping Center has served this community for almost 50 years. The property remains a commercially and financially successful enterprise, and contrary to the comments, it maintains high occupancy rates, in excess of 95%, with a strong and loyal customer base. In these economic times, occupancy rates in excess of 95% are not too shabby. She continued that they wish to go on record opposing further commercial development at this intersection for several reasons. They do not believe there is a sufficient market demand and population to support three strip centers in excess of 100,000 square feet each. There is competition and regional draws for people residing in this area, not the least of which is the recently completed Village of Rochester Hills and also downtown Rochester serves as a draw for some people. In the last two years they have also seen, within two miles of this intersection, two new centers - 25 Mile and Dequindre and at Adams and Silverbell, which adds to the drugstore configurations. Both of those have a Kroger's. She said that the current traffic patterns and road counts could not support additional retail. She said she recognized there were plans in the triumverate to rectify the road situation, but she was not sure it would alleviate the traffic congestion. With respect to competition, she questioned whether the corner needed three drug stores and three coffee shops. She noted that they were adding a Caribou Coffee without a drive-thru right now. She mentioned that this proposal would be against zoning and the current Master Plan for

the property. She said that about four years ago a rezoning request was made for the southeast corner by another developer, and it was resoundingly rejected. They opposed it then and she presented a number of visuals on population, density, competition, and why they felt there was not the support for incremental retail at this space, and now double the amount is being proposed. At that meeting, it was brought up that a rezoning would be against the Master Plans (1992 and 1999), and a number of people on the Commission very much countered that proposed development. She questioned how much had really changed in the intervening years that would support an incremental 200-250,000 square feet of commercial development at this interchange.

Ms. Millhouse referred to meeting the parking requirements and pointed out that the applicant was meeting the standards for parking center parking. Within the PUD Agreement they show a medical office use, and although they do not anticipate many of those uses, it would necessitate a greater parking requirement.

Mr. Kaiser asked how long the trend would continue of having one drugstore on each corner of an intersection. Mr. Aragona replied that given the demographics of an aging population, the trend would continue for a long time. People are taking more drugs at an earlier age. Mr. Kaiser asked if he was aware of how many drugstore chains that had gone out of business in the last eight years. Mr. Aragona said there have been consolidations, but no bankruptcies. Mr. Kaiser agreed that people are getting older, but he suspected that drugstores would change over time. It is the Planning Commission's job to prepare for the future, a different goal than the developer has. He shared the concerns of the other Commissioners about the large number of drugstores in the community. He acknowledged that the site was beautifully conceived. If he drove by it and saw a big Walgreen's on the corner, however, he would not pull in to shop there. It would appear to be a cheap operation and he did not think having a drugstore as the anchor would do much for this development.

Mr. Aragona said he would beg to differ. A drugstore is a major draw for a shopping center of 100,000 square feet. It provides convenience and in and out traffic that a lot of other tenants use to survive. The most profitable area of the drugstore is the drug counter. This one would not be a big box, but 15,000 square feet. He said it would be incorporated into the streetscape. Mr. Kaiser said the question concerns whether they want a third drugstore at this intersection. Mr. Aragona said this concerns the health, safety and welfare of residents in a three-mile radius. The drugstore would not be put in if they did not feel they were not going to be profitable.

Mr. Kaiser asked about the potential two drive-thru windows for a restaurant that would not exceed 2,500 square feet and (9) that approval shall be made by Staff. Mr. Hooper said he was opposed to that, and he felt that Site Plan recommendation should be by the Planning Commission.

Mr. Rosen said that it appeared as if the Commission was being shown a palette of possible things, and that once it is approved, the owner of the center would have the ability to put whatever he wants wherever he wants it and change it from one to the other.

Mr. Aragona explained they were setting up a framework and possible list of palette colors and portal designs that would set the character. Mr. Kaiser asked if they could finish the discussion about drive-thrus. Mr. Rosen said he felt that it should be seen by the Planning Commission for recommendation. Mr. Rosen said there is a larger issue if the applicant wants latitude throughout the project. Mr. Gaber said they could not tie down the storefronts because they do not have each tenant, but they would provide the framework. Mr. Rosen said it would be like interchanging different colors in a lego design. Mr. Gaber said it would, but there would be a finite set of parameters.

Mr. Griesby said they could come in with a typical storefront for a strip center, but it would not be compatible architecturally with the rest of the community. He said that the portal concept would be a way of working with tenants so they do not end up with typical glass and aluminum storefronts. They would be very specific about materials and they

were asking for the ability to shrink and expand the storefronts, depending on the tenant.

Mr. Rosen asked how many times they anticipated doing and re-doing a storefront over a five-year period. Mr. Griesby thought it could happen twice. Mr. Aragona felt for the first five years there would not be a change. Mr. Griesby advised that new tenants would be bound by the criteria in the PUD.

Mr. Rosen said he got the impression there would be a constant rollover. Mr. Griesby said that is the nature of retail. Mr. Rosen said ordinarily, the Planning Commission sees a new building with everything planned. With this proposal, they do not get to look at much and the applicant would get to decide everything that would go on afterwards. He said that Papa Joe's would design everything and then come back to the Planning Commission for final Site Plan approval. There would be one time when the Planning Commission would look at the whole plan with a global eye.

Mr. Griesby said they were not talking about major building issues. The height of the buildings, the signage and the materials would be set. The only variable is the storefront. Mr. Rosen said he understood that, but when a building is done, if the change is major, it would warrant coming back before the Planning Commission. This would not be required here and that makes him uncomfortable. Mr. Griesby said they took each building elevation and were very specific about the materials and elements. The height, bulk, material, and character would be defined by criteria they put together. He felt there was a very tight building framework and the options were limited. If the tenants were not in, it would be built as drawn. It would only be changed if a specific tenant came along and asked for more than one bay.

Mr. Rosen said that clarified it for him. He asked if they intended to build it as shown, unless a tenant wanted another storefront and then the storefronts would be swapped. Mr. Griesby replied that was right. Mr. Rosen at first thought they meant they did not know what was going where and they would figure it out as they went along. He asked if he could look at the plan and be correct in thinking that if nothing changed, the buildings would be built as on the plan. Mr. Griesby replied absolutely.

Ms. Millhouse clarified the designs. Mr. Griesby said they were sure they could accommodate a tenant within the framework of a particular building. They are not that divergent. They have purposely tried to distinguish each building so they do not appear identical, although they would have common elements. Mr. Aragona said he wanted to maintain some architectural flexibility with the development. He did not think it was the Planning Commission's duty to be an architectural control committee. He said he relies on experts with training and experience and depends on that to be able to customize entrances for a specific tenant. Many would fit into what is shown, but he needs flexibility to revise an entry to suit a tenant's needs. They have given the character of the development very specifically. If the Commission is not comfortable with that concept, they should let him know, but he would like to customize individual store entrances for tenants. They would build the shell of the building, and then if they have a tenant, they will take the plan to Staff to see if it conforms to the PUD Agreement and Site Plan.

Mr. Rosen said he was bothered that they could take something from another area and plop it in somewhere else. The Agreement said that details and materials would vary, dependent upon what the tenant selected. That means they intend to do one thing but could do anything else. He realized their intent, but he has a problem not knowing what each phase would turn out to be.

Mr. Kaltsounis asked if would be a good idea to shade what areas they would need to change. Mr. Aragona felt that would be almost impossible operationally because if he got a tenant the day after he went through that process and the tenant wanted to change the storefront, he would have to come back to the City again. Mr. Kaltsounis suggested that he meant shading the storefronts gray, and then the Commission could decide if that would sufficient and that they would not have to come back to the Planning Commission in the future. Mr. Aragona said that under that scenario, he

would be back all the time. The portals are not unlike what occurs in malls. They need the parameters set now. Mr. Kaltsounis said they could keep the renderings as is, but change the fronts and that would be acceptable, but it sounded like they would change the entire perspective of the building. Mr. Kaltsounis said he would rely on the experience of the Planning Commission regarding this.

Mr. Kaiser said they had to remember that, as with existing development in the community, if there were a storefront change, it would not come before the Planning Commission. Unless the footprint were going to be changed or unless there was a severe change in the profile of the building as seen from a major road, Staff would approve it. The applicant was not asking for anything conceptually different than what has been practiced previously.

Ms. Hill said one of the purposes of a PUD is to give the City greater architectural control over a development. She understands the proposed concept and she does not have a problem with the materials shown. She noted that it was done that way for the Village of Rochester Hills, although many of the tenants were known. She said she is hearing that if business XYZ came in and demanded a certain "look" and the applicant really wanted this tenant, they could stretch what is supposed to be compatible. She would not want to see a completely different look plugged in because one company demanded a certain look. The City would lose the intent of having the PUD in the first place, which would be to give the City control. She did not mind choices, but she would wonder why they are using the PUD in the first place if the applicant could change something drastically.

Mr. Kaiser said he did not see what the applicant wanted as far as changing the architecture. He disagreed with Mr. Aragona's comment that the Planning Commission should not be an architectural committee. If Mr. Aragona read the Architectural Guidelines in the Master Plan, approving architecture is one of the Planning Commission's missions with non-residential development. On the face of a strip mall, if one storefront changes, that does not require approval by the Planning Commission.

Ms. Hill agreed, and she said she could conceptualize, but she did not want drastic changes. Mr. Kaiser suggested for 11(b): "All phases of the project shall be architecturally harmonious, *consistent*, and compatible with the architectural renderings." The next sentence change: "Notwithstanding the foregoing to the contrary, the parties acknowledge that the renderings and materials are conceptual and intended to maintain and indicate the general, *consistent* character of the development. Specific details and materials *may vary slightly*, dependent upon final tenants selected. Accordingly, the renderings and materials may be modified by the developer later *with Staff approval*, to comply with the requirements of tenants or occupants of the project, provided such architectural renderings and building materials are architecturally harmonious, *consistent* and compatible with the renderings and materials submitted."

Ms. Ruggiero said she was not concerned about the "franchise" look and she felt that might be what was bothering some people. If they accepted the color palettes of the materials for the project, they would not get a pink Dunkin Donuts and a blue Burger King or a pink and white Victoria's Secret. It would be very harmonious. She is hearing that the only changes that could occur would be the combining of storefronts. If they do combine three fronts, they must replicate the design standard and materials. They would not be introducing something they have never seen before. Whatever the material is over each archway would be one continuous band, for example.

Mr. Aragona wondered about a tenant wanting to pick a different color material for the surround. Ms. Ruggiero said it would be all right as long as that elevation was present and they did not add towers or start raising the roof or things like that. If they replicated the look and there was a metal surround into something on the color palette and did not change the look, for example, that should be acceptable. She asked if there were some way to add that language. Mr. Aragona explained they have given enough information to show how the forest would look, although the trees might change around. He felt that Ms. Ruggiero was trying to make it a little too refined and unworkable. Ms. Ruggiero said she did not have a problem with what he was trying to do. She was trying to address the concerns of the Commission. She said she loved the materials selected

and the various elevations shown, and she did not believe the applicant would deviate much. She was trying to help the Commissioners who were trying to tie the renderings to the PUD and the Site Plan.

Mr. Rosen referred to Building D on the east boundary and Building E on the south boundary. He said they show two quite different storefront characters. Building E looked very pastel-colored with awnings. Building D did not show any awnings. He asked if they could take a three-bay unit from Building E, with awnings, and put it in Building D. He asked if that was the type of flexibility they were looking for. Mr. Griesby said it was his opinion they did not need to do that. He felt that Building E was meant to look slightly different than D. The elements are there, they are just arranged a little differently. He said that Building D could have one, two or three bays. Mr. Rosen explained that he was asking if they planned to keep the look of Building D roughly the way it was shown, or if they would plug in a storefront that looks quite different from another building.

Mr. Griesby said if a tenant wanted another storefront from another building that is what they would be provided. That is the flexibility the applicant would like to give. The storefront would still be in a defined portal. Mr. Rosen said they would do this once in the beginning for each building. If the applicant stuck with the designs shown on the renderings but got a different request, other than combining, to substitute one design in the midst of three other designs that made it look funny, he felt the Commission should look at the design. Mr. Aragona thought that is what they had to look at now.

Ms. Hill wondered at what point or percentage a building has to be leased before the plan is completed. The applicants could have a few tenants who are anxious to move in, but there might be other bays vacant for a long time. She did not feel there were any assurances and Mr. Kaiser agreed that exactly the opposite was true in the Agreement. Ms. Hill said that was a concern for her. Mr. Kaiser said he appreciated everyone's concerns and comments, but he indicated that the developer is in this for the money and is not going to let someone come in with a funky design that would keep everyone away forever. He felt that the desire to market and fill up the buildings was a common sense drive. The market would demand that they keep the center looking good the whole time, and if it were not filled up in five years the Plan would expire.

Ms. Hill said she was not sure she liked the fact that they had five years to finish, especially for a neighborhood development.

Mr. Griesby said that whether the building was 100% or 80% leased, in order to occupy the building, the shell would have to be complete and the requirements met. At some point, the developer would have to make a decision about how to enclose that building. He would have to determine the rhythm of the portals. Once the project was open for business, the flexibility would be much more restricted. Ms. Hill said she would hate to see five years pass and see half of the stores not done. She would not care to see them just enclosed.

Mr. Kaiser read page six, paragraph (5), "Notwithstanding the foregoing to the contrary, within five years from the date the developer obtains its first Building Permit for the project, developer shall have completed the construction of all the buildings in the project." He asked Mr. Staran the enforceability of such a statement.

Mr. Staran responded that it was new language and he had not had a chance to give it much thought. He said he would have to think about it and was not sure what the enforcement mechanism would be. Mr. Kaiser said that this developer and the one for Papa Joe's would share in the road improvement costs. This development seemed a lot more speculative than the Papa Joe's, which was just recommended for approval. The road improvements were tied to the construction and he wondered what would happen if Papa Joe's was way ahead of this development's construction schedule. He wanted to make sure the road improvements would get done, and wondered how to handle it.

Mr. Staran replied that it would be a function of the tri-party road agreement, which he has not seen. He said they have to make sure that the improvements happen. A party might mean well, but things could happen and the developments are interdependent. Those issues would have to be looked at and perhaps some type of bonding would be required.

At Mr. Kaiser's questioning, Mr. Boswell answered that the applicant was making a good attempt to somewhat camouflage the drugstore. He agreed with Mr. Kaiser that it would say Walgreen's on the side and, while it does not mean he would not drive into that particular mall, he did believe it would lessen the desirability.

Mr. Kaltsounis said the center would be known as the "Walgreen's Plaza." He said he talked with someone from Hampton Circle who said no one knows that is the name of the center. They call it the "Target Mall." Regarding the architecture, he felt that what they had done was a step in the right direction, and he appreciated that. He said he had a problem with the location of the drive-thru. He wondered where the traffic would go when it is backed up. He said it would go into the path where they redirected the northbound Rochester traffic. He was also concerned that when someone entered the facility into the right-in-right-out lane, that person would have to cross three car widths' of lanes to get to the far left drive-thru and the driveway would be blocked.

Mr. Aragona said that the national average usage for drugstore drive-thrus is five cars per hour. Mr. Kaltsounis asked why they would need two drive-thrus. Mr. Aragona said they would be able to handle two customers at one time. Mr. Griesby said there would be an additional 60 feet of stacking behind the windows. This is the specific reason they would have a one-way drive between the two buildings. Mr. Kaltsounis said he was very uncomfortable with the possibility of cars stacking up and did not like the idea of two drive-thrus.

Mr. Kaiser asked Mr. Aragona if he had ever been to McDonald's or Wendy's drive-thrus. He replied he had. Mr. Kaiser asked how many drive-thrus they had and he answered one. Mr. Kaiser asked how many customers an hour go through and he said 60-80. Mr. Kaiser clarified that there would be about five an hour for a pharmacy. He said he had not heard a case for two drive-thrus for this site, which is very compact. He felt there should be one, if any.

Tom Zimmer of Cornerstone Real Estate said that going through the drive-thru for a prescription is typically for elderly people or young mothers coming from the doctor who do not want to get out of the car. The acute need to service two of these people is felt more than the need to get a cheeseburger quickly. Mr. Kaiser indicated that this could be debated all night, but he felt that the mandate was not there for two drive-thrus.

Mr. Gaber said that at the last meeting, this was presented with two-way traffic for the drive-thru lanes. Given the configuration of the site, there really was not a need for additional space to drive through. They were able to add a landscaping buffer. Mr. Kaiser said if there were only one lane, they could add even more landscaping. He did not feel there was a compelling reason for two. Mr. Aragona said he did not see why one was better than two. Mr. Kaiser asked why two was better than one and Mr. Aragona repeated that it would serve two customers at once. If stacking was an issue, he felt they could make an argument that they would have the ability to stack better with two lanes.

Mr. Kaltsounis recommended that the driveway have one lane and be placed near the northeast part of the building. He would rather have the loading zone on the side of the building because Building B and C already have loading zones. That would be harmonious and the drive-thru would be out of sight. Stacking would be taken care of and there would not be a one-way street. Mr. Aragona said they would have to rotate the building 90 degrees and that would put the entrance in a bad spot for pedestrians. The drive needs to be located where it is for the inside of the pharmacy. The loading zone would be a better presentation on the side it is shown. Mr. Kaltsounis said they could just flip the building, but Mr. Aragona said the cars would be on the wrong side. Mr. Kaltsounis said the pharmacy could be on the other side of the building from what is proposed. Mr. Aragona said that Walgreen's is the author of the corner location. The

internal layout is dictated by the store, so that wherever you are in the country, when you walk into Walgreen's, you know where everything is. Ms. Ruggiero pointed out that the Walgreen's by Hamlin had a different layout.

Mr. Griesby said they believe the way it was proposed gave a better solution. The landscaping breaks down the space between the buildings. The archway connecting the drugstore to Building A helps hide the screening elements. If they rotated it, they would lose the element of the canopy and landscaping associated with it. The trash enclosures would stick out. If the drive-thru were on the east side of the drugstore, it would complicate the ability to link in the arch idea to architecturally solve the problem with the building elevation. They would end up with something less desirable.

Mr. Hooper said there was a home run with the Village of Rochester Hills architecturally. This development is fine architecturally, but he had serious doubts about Walgreen's being the anchor. He said that Mr. Aragona felt it would be viable, and Mr. Hooper acknowledged not being as knowledgeable about retail sales and leasing. He said that no one had mentioned the easternmost entrance drive into the site off Tienken. If someone wanted to make a left turn from westbound on Tienken into that eastern drive but they could not, they would back up traffic. He questioned if the center lane could be extended to allow people going west on Tienken to pass.

Mr. Labadie said it could be done, but the plan was to prohibit the left turn into that driveway. He did not think the pavement could be widened because of the topography. It could be considered, but he felt that was a low volume entrance and they were comfortable with the solution. Mr. Hooper said that when he drove there, he saw people making a right out of the easternmost entrance, and the approach to Courtland is about 120 feet away. He thought they should extend the eastbound Tienken lane past the entrance. Mr. Labadie said they looked at that but they did not hold the right-of-way and they would impact the home there. Mr. Hooper asked about the north side and suggested that the pavement could be widened on the north side. Mr. Labadie said they would have to line up the lanes from the intersection and they would be jagged. Mr. Hooper said they have a tapered center lane that is hatched out now. If they added pavement on the north side they could maintain a lane. Mr. Labadie said that they were not working off an engineering drawing. They were not sure about the right-of-way. He felt there were issues about widening the centerline of the road. If the widening were on the north side, the pavement would be offset. Mr. Hooper said that would not be unusual. Mr. Labadie said that if there is something they could do, as they move forward and get into more detailed information, they might see a different outcome for the drive.

Mr. Kaiser asked Ms. Millhouse if there was a right-of-way issue or an issue about a 200 year-old tree. Ms. Millhouse advised that there was a right-of-way issue on the south side, from the easternmost driveway to Courtland. The applicant did not own the right-of-way on the north side. She said she was curious as to why there could not be something done within the existing right-of-way to the north, which might allow a passing lane. Mr. Labadie said they could add a passing lane, but he did not know if they could extend the left turn lane. Mr. Hooper said he would like to see a passing lane for the driveway if possible.

Mr. Hooper referenced page 11, paragraph (14), item 2 and read, "For the reason that developer has conveyed to the City the right-of-way required pursuant to the proposed Tienken Road Corridor Study, the requirement of Section 138-1216 of the Zoning Ordinance that the Type B Buffer along the south property line of the Project must be twenty-five (25') feet in width is hereby modified to require that such buffer by only twenty (20') feet in width."

Mr. Gaber explained that the applicant provided additional right-of-way on the north side of the project to make the road improvements to comply with the Study. That pushed the project south. In order to get the buildings and parking in, they needed an extra five feet. That is why they were asking for the modification. Mr. Hooper commented that if they dropped the drive-thru lane they could move back northward.

Ms. Millhouse said Staff felt it was better to get the additional right-of-way in return for the five feet of buffer. Mr. Hooper asked if item (3) was the same, which was confirmed and if item (4) was necessary since they met the parking requirements. Ms. Millhouse explained that they might add medical offices, which would change the requirements. Mr. Hooper asked if they would not then meet the requirements and Ms. Millhouse replied that was correct.

Mr. Hooper referenced item (15) and said they added, "For purposes of expediency, minor changes to the Final PUD Plan shall be reviewed and approved by City Staff, provided that such changes do not affect the architectural character of the Project." He asked if they would add Planning Commission recommendation and City Council approval. Mr. Kaiser confirmed it would be added. Mr. Hooper said he was not opposed to the development architecturally. He did not like the drugstore as an anchor and was not convinced that would be good for the whole center. He asked for another example where a drugstore was an anchor for a shopping center.

Mr. Aragona replied that the center at 16 Mile and Garfield was anchored by a CVS; another center at 17 Mile and Hayes was anchored by a CVS; and one at 21 Mile and Romeo Plank also had a drugstore anchor. Mr. Kaiser asked if any of those were of the nature and quality of the proposal. Mr. Aragona replied that they were different in design concept.

Ms. Brnabic asked about proposing parking stalls of 16 rather than 18 feet. Ms. Millhouse replied that was very common on Site Plans when there is a sidewalk of at least seven feet attached. Ms. Brnabic noticed that a lot of the handicap parking was located in those spaces and she wondered why they would not be placed in the larger spaces because they often use larger vehicles. Mr. Griesby said that the handicap access was not affected by the 16-foot dimension and they would have the benefit of the curb. They have an 18-foot stall in effect, by allowing a seven-foot walk and a 16-foot stall that the car can overhang two feet. It is no different than having a five-foot walk, a curb and an 18-foot stall.

Mr. Kaiser asked Mr. Hooper about a motion regarding the easternmost entrance on Tienken. Ms. Hill said she would prefer a "no left turn" into that from westbound Tienken. She said that the property on the south had some issues. She wondered what the road plan would be for Tienken. She would not like to see a zigzag for the road into the right-of-way. She would like to see one consistent movement there, or they do not allow the left turn. She felt people would move up and use the more westerly entrance. Mr. Kaiser said he thought people would make left turns into the development all day long, no matter how big the sign was. He was not sure how it could be accomplished exactly, but he felt a condition should be added about a left turn lane. If the condition could not be complied with, they would find out at Site Plan review.

Mr. Gaber said it was difficult because they do not own the right-of-way on the north side. Mr. Kaiser said he did not say it would be easy, and everyone kept giving excuses, but unless something was mandated, nothing would happen. Mr. Gaber said the right-of-way would have to be acquired. Mr. Kaiser responded that might be. Mr. Gaber said that given the extent that the developers were going to make the road improvements, he felt asking them to do something that might or might not work, as opposed to prohibiting left hand turns was something he suggested should not be imposed as a condition. Mr. Kaiser said that situation would definitely back up traffic. Mr. Hooper said he looked at the right-of-way and felt there would be enough room for a lane. Mr. Aragona said they would have to bend the whole road and Mr. Hooper replied that it was being bent south right now. Mr. Aragona said to get the lanes to match up they had to start from the intersection. Mr. Hooper said the northern most left turn lane is the centerline of the road and everything is shifted to the south now. Going further east, the road skews to the north. He thinks the experts could figure something out.

MOTION by Ruggiero, seconded by Hooper, in the matter of City File No. 98-047.2 (City Walk PUD), the Planning Commission **recommends** that City Council **approve** the Planned Unit Development. Such approval shall include the Planned Unit Development

Agreement and Exhibits dated January 8, 2004 (as may be amended by City Council) and constitutes an amendment to Chapter 138 of the Code of Ordinances to rezone Parcel Nos. 15-11-101-027, -029 and -030 zoned ORT, Office, Research, Technology to B-2, General Business and to add the PUD overlay district to all three parcels, with the following five (5) Findings and subject to the following twelve (12) Conditions.

Findings:

1. The proposed PUD has met the qualifications of Section 138-1002 of the Zoning Ordinance in that the proposed improvements to the intersection will minimize, alleviate or improve the traffic situation. Further, it provides for the appropriate redevelopment of parcels occupied by obsolete buildings.
2. Dedication of additional road right-of-way, intersection improvements at no cost to the City, increased design and aesthetic controls, and the ability to restrict undesirable uses are substantial public benefits of the proposed PUD that could not be achieved under the B-2 district alone.
3. The PUD will not create an unacceptable impact on public utility and circulation systems, surrounding properties, or the environment. Moreover, the proposed PUD will improve public utility and circulation systems. Further, preservation of a vast majority of the existing vegetation along the south and east property lines and additional proposed plantings should mitigate any negative impacts on adjacent properties.
4. A judicious effort has been used to preserve as many existing trees as possible on-site.
5. The proposed PUD has been designed to promote convenient vehicular and pedestrian circulation within the site. Proposed improvements to the intersection will minimize, alleviate or improve the traffic situation to the site.

Condition:

1. Addition of a fifth Zoning Ordinance modification to the PUD Agreement stating that existing and proposed plantings will be used to meet the intent of the six feet opaque screening along the south and east property lines.
2. The PUD shall express all variances and modifications that the applicant and City are agreeing to somewhere in the document in full.
3. Delete the second sentence of Parentheses (9) on page 5 and add the sentence, "No restaurant shall provide drive-thru service."
4. Some ability to pass on westbound Tienken shall be established so that left southbound turns can be made into the site at the eastern most drive.
5. At the end of the first full paragraph of paragraph seven on page seven add a sentence, "In any case, no Certificate of Occupancy shall be issued until all road improvements are completed."
6. Paragraph #11 on page nine shall read, "All phases of the Project shall be architecturally harmonious, *consistent* and compatible with the architectural renderings ("Renderings") and landscaping plans attached hereto as part of the Final PUD Plan, and the exterior building materials identified on Exhibit D attached hereto ("Materials"), which are all hereby approved by the City for the improvements to be constructed on the Property as part of the Project. Notwithstanding the foregoing to the contrary, the parties acknowledge that the Renderings and Materials are conceptual and intended to *maintain* and indicate a *consistent* general character of the development. Specific details and materials *may vary slightly*, dependent upon final tenants selected. Accordingly, the

Renderings and Materials may be modified by Developer, *with Staff approval*, to comply with the requirements of tenants or occupants of the Project, provided that such architectural renderings and building materials are architecturally harmonious, *consistent* and compatible with the Renderings and the Materials *submitted for tonight's review*. For purposes of expediency, any such modifications to the architectural renderings shall be reviewed and approved by City Staff. All trees and woodlands will be preserved as shown on the Final PUD Plan.

7. On pages ten and eleven, delete the words after buildings to the end of the sentence.
8. On page 13, paragraph #15 will end with "shall be submitted to the Planning Commission for recommendation and to City Council for approval."
9. Page 13, paragraph #16 shall read, "Final site plan approval for the Project and any modifications or amendments to the site plan shall be by the Planning Commission." The balance of the sentence shall be deleted.
10. Page 5, number (14) shall be changed to "One freestanding walk-up ATM."
11. Page 6, paragraph #5, last sentence, shall be changed from five (5) years to three (3) years.
12. The drug store, in the position shown, shall have one drive-thru lane.

Roll call vote:

Ayes: Boswell, Brnabic, Hooper, Kaiser, Kaltsounis, Rosen, Ruggiero

Nays: Hill

Absent: Myers

MOTION CARRIED

Ms. Myers was not here for the vote but before she left had informed Mr. Kaiser that she was in support of the project. A couple of issues she raised were answered during the course of the discussion.

Regarding number 10 above, Mr. Kaiser noted that the applicant could come back with a request for a drive-thru ATM at the time of Site Plan recommendation. Regarding number 11, Ms. Hill requested that the development be completed in three years, rather than five because five seemed much too long. Mr. Gaber explained that the reason it was five was because the PUD has a lifespan of three years and if the development were not built until year three, they would like a couple of years to complete it. They discussed that number with Staff and Mr. Staran to arrive at that conclusion. Ms. Hill asked if they could also get an extension. Mr. Kaiser asked what had to occur within three years. Mr. Gaber replied they had to commence the development under the PUD Agreement. Mr. Kaiser asked what the difference was between commencing the development and obtaining the first Building Permit. Mr. Gaber replied probably none. Mr. Staran said they were probably one and the same. Ms. Millhouse said they would not have to pull a permit for the utilities. Mr. Kaiser asked what they would need for that. Ms. Millhouse replied a Land Improvement Permit. Mr. Kaiser then suggested requiring three years from obtaining a Land Improvement Permit or Building Permit.

Regarding number 12 above, Mr. Boswell questioned why there could not be two drive-thrus for the drugstore since nothing else would go there. He suggested they could not add too many more trees. Mr. Kaltsounis said he would like one drive-thru, but on the east side of the building. Mr. Boswell felt the location was fine, and the condition stated one.

Mr. Kaiser informed the applicants they would be before City Council next and wished them luck.

NEXT MEETING DATE:

The Chair reminded Commissioners that the next regular meeting was scheduled for January 20, 2004.

ADJOURNMENT:

Hearing no further business to come before the Planning Commission, the Chair adjourned the special meeting at 2:16 a.m. Michigan time.

Eric Kaiser, Chairperson

Maureen Gentry, Recording Secretary

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