

Presented.

## NEW BUSINESS

2010-0094 Discussion regarding proposed revisions to the City Place Planned Unit Development Agreement

**Mr. John Gaber, Esq.**, Williams, Williams, Rattner & Plunkett, P.C., 380 North Old Woodward Avenue, Suite 300, Birmingham, representing G & V Investments, stated that this a request for modifications to the existing Planned Unit Development ("PUD") which had been approved in 2004, which would allow for family residential development and commercial development to the frontage of Rochester Road. He explained that the benefits of the modifications in the PUD would reduce building height and density, more flexibility with respect to building locations and design thereby creating greater potential for business use. He stated that there has been a request to eliminate the historical designation of the home located at Eddington Boulevard and if that were to be granted, would have no affect on the PUD.

Mr. William Gilbert and Mr. Cornell Vennettilli of G & V Investments and Mark Abanatha, Vice President of Alexander V. Bogaerts & Associates, Architect, were present to answer any questions or concerns that residents and City Council may have.

**Mr. Derek Delacourt**, Deputy Director of Planning, reported that Mr. Gilbert had met with Planning several times with several options and that flexibility of this property to aide in its marketability could be achieved. He asked City Council the following questions:

- (1) If the Flexible Business Overlay 1 (FB1) and a revised PUD is a valid tool, should the City Staff and Mr. Gilbert continue to work together for a presentation to the Planning Commission and to City Council?
- (2) Is City Council comfortable with the status quo of the existing PUD;
- (3) And if City Council is comfortable with the status quo of the existing PUD, the applicant has outlined several areas that deviate slightly either through use or dimension from the existing standards in the Zoning Ordinance, both by the introduction of commercial elements and height elements, would it be acceptable to have discussions of these elements with the Planning Commission?
- (4) Does City Council have any concerns or items that should be included in a revised PUD agreement?

Mr. Delacourt stated that when the Historic Districts Study Committee (HDSC) receives its information from the State regarding the status of the historical home designation, the HDSC will present its report to City Council.

**President Hooper** commented for the benefit of residents in attendance that the historic home is a separate matter and not included in this Agenda item. He commented further that this is a discussion before City Council and that there would be no votes taken this evening regarding this matter. He asked Mr. Delacourt to differentiate between the FB1 and FB2 setbacks.

**Mr. Delacourt** responded that FB1 and FB2 are very similar setbacks but that the interior setbacks from Rochester Road and any internal streets are dependent upon the type of street or alley street that the applicant would construct but that the important type of setback is dependent upon the parameter/perimeter lot which is not included in the FB development. He continued that the minimum setback from a side yard lot is 50 feet, does not apply to a parameter/perimeter side yard lot and there would be no need for a change in the zoning districts or the existing PUD.

**President Hooper** asked City Attorney Staran if the existing Planned Unit Development (PUD) is in good standing.

**City Attorney Staran** concurred.

**Public Comment:**

**Michael Carney**, 1324 Bembridge, stated his objection to the proposed revision to the PUD because it was his understanding that the PUD was approved in 2004 and that the developer had until 2014 for construction. He asked City Council members if they would be in favor of a development located close to their homes.

**Julie Dobies**, 708 Tewksbury Court, represented her parents who could not be in attendance at the meeting, expressed her family's opposition to this revision and would like to see the area rezoned as single family homes so the area would be one neighborhood. She stated that Rochester Road at Hamlin and Avon currently experiences high volumes of traffic congestion without the addition of the proposed commercial development that the revisions to the PUD could permit.

**Amil Patel**, 1566 Farmborough Drive, stated his concern that the development had not been plotted well, could bring more traffic density to the area and could present a safety risk to the residents of Eddington Farms.

**David Bassett**, 624 Essex Drive, expressed his concern that the proposed revisions to the PUD are significantly different from the approved PUD in 2004. He stated his opinion that with the current economic downturn that the residential portion would not be developed at this time and urged City Council to maintain the community's character.

**Martha Black**, 2408 Jackson Drive, spoke against the revision to the PUD and stated that there is an abundance of vacant commercial space for lease located throughout the City.

**Warren DeGrendel**, 695 Tewksbury Court, questioned that the revision to the PUD would present developers with a failed project and then more vacant space for rent in front of residential areas.

**Verlinda Wallace**, 1299 Pembroke Drive, shared her contentment with her subdivision's beauty as a four-year resident of Eddington Place after having

relocated from the hustle and bustle of Detroit. She requested that City Council continue to maintain the beauty of the City and to be cognizant of developers' plans.

**Lea DeGrendel**, 695 Tewksbury Court, spoke as a resident of the Eddington Farms Subdivision of her concern about the existence of many vacant stores and her desire to maintain her subdivision as residential.

**Scot Beaton**, 655 Bolinger Street, expressed his opinion that Mr. Gilbert should build the PUD as it was originally proposed. He distributed a handout for review by City Council, exhibited the handout on the document viewer and stated that the developer had not finished what it had begun in 2004.

**Tony Deshaw**, 1638 Farnborough Drive, stated his concern that his home's property values would be negatively impacted by the close proximity to this commercial development.

**Susan Deshaw**, 1638 Farnborough Drive, shared that her family had purchased their Rochester Hills home five years ago because of the family-based character and values of the City.

**Stevie Morris**, 1276 Pembroke Drive, a resident of the Eddington Farms Subdivision, stated that she had been against the PUD six years ago and remains against development of the site for anything other than single family residential homes.

**Angela Kadowaki**, 185 Windriff Lane, reported that the wooded land located behind her residence was cleared after the PUD was approved in 2004 and that no activity on the land had taken place. She spoke against revision of the PUD.

**Tim Collinge**, 553 Essex Drive, noted his many years of participation on the board for the Eddington Home Owner's Association and stated there has been poor communication between the developer and the residents regarding the PUD.

**Melinda Hill**, 1481 Mill Race Road, spoke as a former member of the Planning Commission and City Council which had approved the PUD in 2004. She stated that because construction had not commenced within two years of the PUD approval according to Article 12, Phases of the PUD, the number of vacant PUDs currently located in the City and her belief that the PUD should revert back to a residential development to maintain the family residential character of the City.

**Paul Durak**, 480 Essex Drive, spoke as an original homeowner in Eddington Farms and stated that the developer (Mr. Gilbert) had not maintained its property. He continued that there had been no communication with the residents and the PUD should revert back to single family residential.

#### **Council Discussion:**

**President Hooper** stated that comments were made regarding Article 12 and

how it relates to completion of the PUD within a time period. He asked City Attorney Staran for clarification of Article 12 as it relates to completion of the PUD and asked if there was any new information to add.

**City Attorney Staran** responded that the ten-year time period for completion of the PUD is 2014 and that the PUD governs the property. He stated the following:

- The bank was constructed shortly after approval of the PUD.
- The request before City Council is to amend or modify the PUD agreement.
- City Council stated this was a discussion and that no decisions would be voted upon at this meeting.
- There are provisions for extension of time.
- Should this request move forward, it would be referred back to the Planning Commission, Public Hearings would be held and the process for approval of the revision to the PUD would be implemented as it was for the original PUD approval in 2004.

**President Hooper** asked for clarification of the comments regarding property zoning automatically reverting to the prior R4 zoning classification.

**City Attorney Staran** responded the following:

- The State of Michigan has no automatic reversion process of zoning legislation.
- There is no zoning reversion language in the PUD agreement.
- The City has no automatic reversion process in its zoning ordinance.
- There is no automatic reversion process in the Michigan Zoning Enabling Act.
- He stated that if an agreement was terminated or the court were to determine that the PUD agreement was void, then City Council would determine the zoning to be R4 or to a different category. He stated that zoning under Michigan law is a legislative act that can only be done by a zoning ordinance.

**President Hooper** asked if Mr. Gilbert wished to add something.

**Mr. Gilbert** stated that his company is billed a percentage on an annual basis by the Home Owner's Association for the landscaping maintenance costs of the subdivision's entrance located on the company's property.

**Mr. Klomp** commented that there seems to be confusion that this matter before Council is in regards to status of the historic home and that the discussion is regarding whether FB1 and FB2 need to be clarified for Council. He expressed concern that the FB1 could permit drive-through business establishments to be constructed on this site.

**Mr. Gaber** responded that in the FB ordinance itself provides if there was a drive-through type business establishment proposed, it would be a conditional land use approval item for City Council to review. This means it could not go through the site plan review stage through the Planning Commission until it had been approved by City Council and that City Council could place restrictions into the PUD revision to prevent the construction of drive-through businesses or

other businesses that City Council would not grant approval.

**Mr. Delacourt** added that prior to the site plan review process, any items that are currently permitted in the FB1 could be restricted or limited in the proposed revisions to the PUD which would be brought before City Council for its approval before continuing further.

**Mr. Klomp** commented that while there are plenty of vacancies in the City, the PUD exists and because of its location along Rochester Road, it will continue to come before City Council for proposed development.

**Mr. Pixley** stated that the revisions to the PUD are viable, the parameters identified are appropriate and that he has nothing to add other than he would expect the drive-through types of businesses would be discussed. He asked City Attorney Staran what the procedure if revision of the PUD were to move forward and his understanding that the PUD could have a renewal or extension granted beyond the expiration date.

**City Attorney Staran** stated the procedure begins as it has at this meeting with discussion before City Council level, a proposal is formulated and would proceed to the Planning Commission which would hold a public hearing and notice to the public would be made and then the Planning Commission would return with a recommendation to be voted upon by City Council.

**Mr. Rosen** reminisced that had not been in support of this PUD back in 2004 but voted for approval because of the difficulty it would have been to develop the area along Rochester Road for single family homes. He stated that he could review proposed revisions to the PUD which would include a few professional buildings with fewer floors but that it is important to maintain the City's development standards and the residential community style that brought Rochester Hills to where it is currently. He suggested his preference for the use of townhouse style apartments than stacked apartment design styles. He commented that he is not in support of developing this area for drive-through type businesses, retail and boutique businesses.

**Mr. Yalamanchi** suggested that Mr. Gilbert should begin with the residents to assure their quality of life will be maintained before he pursues revisions to the PUD.

**Mr. Webber** expressed his concern regarding the increase of retail development and the decrease in residential development and that the revisions to the PUD would have to address both the business and the residential concerns of all interested parties. He stated he would like to see a better plan regarding the historic home.

**President Hooper** concurred that the historic home issue will have to be settled, that FB1 and FB2 setbacks should be clearly defined in the revised PUD should this move forward. He stated he does not support drive-through type businesses to be constructed on this area and would like the architectural integrity and style retained such as what was used for the construction of Fifth Third Bank and the Cavalier Building. He agreed that reduced density is

*important but residential development along Rochester Road would not work with the City's character. He suggested that site plan sketches would be very helpful to show what the proposed revisions to the PUD would be between the existing residential, office/retail/commercial along Rochester Road. He concurred with Mr. Pixley that the next step to moving forward would be a discussion with the Planning Commission or that City Council could have a joint meeting with Planning Commission regarding the proposed revisions to the PUD.*

**Mr. Gilbert** responded that from the beginning, he had attempted to address the concerns of density, mixed use plans, setbacks, buffering and that his greatest difficulty is to predesign a very large development which was tied to the architectural plan. He continued that the PUD has been through the hot market, okay market and down market and was not working in any of the markets. He stated that the flex zoning would be very helpful but he will not be able to come forward with architectural drawings for a specific building design.

**Mr. Defacourt** added that through revised language in the PUD, architectural controls for setbacks and building envelopes could be put into place. He suggested that the individual site plans be set aside and work on the parameters could be done to prepare revisions to the PUD.

**Mr. Yalamanchi** asked if a site plan could be prepared for a consultation with the residents and how could this process be smoother for the residents.

**Mr. Gaber** responded that they could talk to the residents but that the revisions to the PUD are definitive dependent upon the purchaser, the type of use of the proposed building.

**Mr. Gilbert** stated that it is difficult to predetermine what will be constructed on the PUD but the proposed revisions to the PUD involve reductions in height and setback requirements which immediately impact the residents but the square footage of retail has increased on Rochester Road. He stated that they are trying to keep the entrance pristine and the buildings further from the residential area.

**Mr. Rosen** commented his understanding of the Developer's request for flexibility in the PUD, that he is in agreement with the amount of retail currently presented in FB-1 and stated his concern that too much retail would negatively impact the City. He stated that continued work on the proposed revision to the PUD is a second chance to benefit the City in furthering its Master Use Plan and the character of the City.

**Discussed.**

## **ANY OTHER BUSINESS**

*None.*