



Rochester Hills Minutes - Final Planning Commission

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*William Boswell, Deborah Brnabic, Kathleen Hardenburg, Melinda Hill,
Greg Hooper, Nicholas Kaltsounis, David Reece, James Rosen, C. Neall Schroeder*

Tuesday, June 14, 2005

7:30 PM

Special Joint Meeting

Special Meeting held jointly with City Council

CALL TO ORDER

ROLL CALL

Present: William Boswell, Deborah Brnabic, Kathleen Hardenburg, Melinda Hill, Greg Hooper, Nicholas Kaltsounis, David Reece, James Rosen and C. Neall Schroeder

Quorum Present

Present President Melinda Hill; Vice President Barbara Holder (enter City Council: 7:36 p.m.); Members Bryan Barnett (enter 8:11 p.m.), Jack Dalton, Jim Duisternars, Linda Raschke

Quorum Present

Absent: Member Gerald Robbins

Also Ed Anzek, Director of Planning and Development
Present: Derek Delacourt, Planning and Development Planner
John Staran, City Attorney, Beier Howlett

DISCUSSION

2005-0415 Conditional Rezoning - New House Bill 6164

Mr. Hooper explained that there would be a discussion only about Conditional Rezoning. He noted that the Planning Commission had recently begun discussing this and that several members attended a workshop in May.

Mr. Anzek advised that at the Planning Commission workshop of May 31, they decided to schedule a joint meeting to discuss the merits and to gather thoughts regarding the tool called Conditional Rezoning (CR), authorized recently by the State. The workshop was held after a May 25th seminar given by McKenna Associates and Miller Canfield to get details from several of the Planning Commissioners who attended. The seminar was offered to assist communities and help them understand the new law, which authorized use of CR, but did not give many parameters. Staff felt there was an opportunity to have it further defined for the City and to consider its use to achieve a desired result for infill

use. He noted that the City had four or five requests for CR recently. Each request was different and he stressed that there was a definite need for a framework to help guide the requests. The Commission had considered whether a Policy or Ordinance should be developed, which would be written by Mr. Staran, who was a proponent of an Ordinance. City Council would make the decision whether to even use CR. He asked Mr. Staran to discuss the threshold for rezonings and how the conditions in a CR would work.

Mr. Staran thought that Council and the Planning Commission were familiar with the fundamentals of CR, which was a variation of conventional zoning. The first question to ask when a CR request came in would be whether there was something wrong with the current zoning. The City would go through the same analysis it went through for conventional rezoning requests - looking at a zoning map, Master Plan, surrounding uses - and make an evaluation whether the Master Plan was still valid or if conditions had changed enough to justify changing the zoning category. If not, the City would not need to go any further. If a rezoning might have merit, an applicant could propose conditions. Conditions offered for a CR were those that related to the proposed land use on the property. The land use itself still had to be appropriate for the zoning district. Someone could not ask for single-family zoning with the condition that it be developed as a football stadium. Rather, if something were rezoned residential, the land use would have to fit within the Zoning Ordinance requirements under single-family residential. A principal distinction between a CR and a PUD was that there was nothing in the CR Act that would give the City any authority to create variances, waivers or deviations from any of the Ordinance requirements. That meant that the setbacks, height limitations and dimensions would stay as they were. If any applicant sought a variance from one of those items, the next step would be to go to the Zoning Board of Appeals. A PUD would allow an applicant to create variations from the Ordinance.

Mr. Staran felt that CR could be a useful tool. There had been many times that the Boards reviewed a rezoning request and saw and liked the proposed development, but they could not consider the Site Plan. There was nothing that would prevent an applicant from selling a property after it was rezoned, and the next person could put up whatever was allowed in the rezoned district. With CR, the City could tie a rezoning to a development with conditions. At the Planning Commission meeting, they discussed that the statute did not provide a lot of guidance or definition. He felt it would be prudent to consider an Ordinance to provide guidelines and procedures. They had already found that each application brought different questions. They did not have answers as to how elaborate each application should be, how they should be advertised, at what point the conditions came into play and at what point

they were no longer discussed. He felt another benefit of an Ordinance was that it would make the City's actions potentially more legally defensible because they could run into due process and equal protection arguments. He felt some uniformity and consistency would be added to the process with an Ordinance, but City Council first had to determine whether to add CR as a tool or if it was not interested.

Mr. Rosen asked if there was codification which stated what was required of an applicant requesting a rezoning. Mr. Staran replied that it was codified to some extent in case law, and there were some basic things in the City's Zoning Ordinance that pertained to amending the Zoning Ordinance and map, but there was not a step-by-step guide. Mr. Rosen noted that the Commission used compatibility with the Master Land Use Plan and surrounding properties and uses when reviewing a rezoning, and, clarifying that the requirements were not written down, said he thought they would have to do the same with CR.

Mr. Staran recommended against writing anything down because a rezoning had been, and remained, a legislative decision. That was something the Michigan Supreme Court upheld, and that made it different from an administrative decision such as a Variance or Site Plan approval. They had to be guided by objective standards, and the decisions had to be supported by findings that correlated to the standards. The same was not true for a legislative decision. Legislative decisions could be made based on almost any reason, and he noted the doctrine called Separation of Powers. When he talked about procedural Ordinance, he did not mean an Ordinance that would spell out the criteria used to approve a rezoning. He was speaking more about the application and review process, not the criteria, because that remained a legislative decision.

Mr. Rosen asked if he meant that everything the City would do for a regular rezoning they would do for a CR. Mr. Staran said they were identical, except there would be one more step with a CR. After the City had gone through the conventional land use analysis, they would consider whether the proposed conditions should be attached to the decision. Mr. Rosen asked if that would be to rectify any deficiencies in the analysis, such as not meeting the Master Plan. Mr. Staran disagreed. He said the City should determine that it met the Master Plan before they voted to approve. He gave an example of a historic building where someone proposed to rezone the property to a different use, but they wanted to preserve the historic structure. He stated that without CR, there would be no ability to do that. The City would have to rezone the property and hope the applicant would do as they represented, or the City might deny it, fearing the applicant would not and the City would potentially have lost an opportunity. Previously, there

was no legal ability for a City to tie a condition onto a rezoning. He suggested that they had to decide if and how the City would use CR and how elaborate they would make the conditions.

Ms. Holder asked if the conditions attached to a rezoning would follow a developer's plan rather than run with the land. Mr. Staran advised that a CR would run with the land. The property would be rezoned based on a particular set of conditions, and those would run with the land, regardless of ownership. It would be much like the principle of a PUD. Mr. Anzek noted that it could be amended in the future, and Mr. Staran added that the applicant would have to come back before the Commission and City Council for re-approval, like a PUD.

Ms. Brnabic asked for clarification about a CR request having to meet the Master Land Use Plan. She was under the impression that oftentimes the decision to rezone a particular area, if it would benefit the community, would not always be in conformance with the Master Plan. Mr. Staran agreed it did not have to follow the Master Plan, but he felt it probably should. As with any zoning decision, the Master Plan was used as a guide, it was not the law. The Zoning Ordinance and Map were the law. In most cases, the Planning Commission and City Council strove to make them correspond, but they did not always. He noted that the Master Plan was revisited on an on-going basis. Once in awhile, decisions to rezone were made, even though the Master Plan and proposed rezoning did not match, but there were other compelling reasons to justify the rezoning.

Mr. Anzek added that it was the applicant's burden to prove that conditions in an area had changed and why the Master Plan or existing zoning was not appropriate.

Ms. Brnabic referred to the sample Ordinance from McKenna and read in part from page 6: "approving the deviation would be consistent with the City Master Plan and compatible with the surrounding area." She thought that stated that the CR should be consistent. Mr. Staran said that meant that a City should not conditionally rezone a property to a particular use and through conditions, deviate or nullify from that use category. For example, the City should not rezone something to office with a condition that said a football field would be built.

Ms. Brnabic asked if the sample Ordinance Mr. Staran had provided previously would be something he would like the City to use. Mr. Staran thought it had some good ideas, but there were things he would change. He referred to an Ordinance that the Michigan Township Association put together, which he also felt had merit. They would use those as starting points and take the best parts from each and tailor it to the City's needs.

Ms. Brnabic asked if the McKenna Ordinance was the one they should try to use. It was determined that Mr. Staran had not reviewed that Ordinance, and Mr. Anzek responded that it was solely an example, not a recommendation.

Mr. Delacourt said that McKenna used several documents and took into account discussion by the Planning Commission, and at Staff's request, quickly put a sample together for the packet. He stated that it was not in any way intended to be the final Ordinance, as it was rather extensive. Staff was looking for input about what parts of the sample might be useful for the City's Ordinance or Policy. He apologized that Staff received it in very short notice and they had not had time to review it at length.

Mr. Hooper asked if City Council members wanted to proceed with CR as a tool. Mr. Dalton felt it could be a very useful tool and he thought they should proceed using an Ordinance over a Policy. Ms. Raschke agreed with Mr. Dalton. She felt it would help guide the City. She indicated that CR was not a new idea and it had been implemented in other cities. She stated that change was inevitable to the Master Plan and she felt CR would be an excellent tool. Ms. Holder felt that CR would be a useful tool, especially because the pieces left in the City were very difficult to develop. She felt it would be easier for the Planning Commission to review the plans if they could use CR. Ms. Hill said she was not opposed to using CR as another tool for the City, and she felt there were places it could be used and that it could have merit. They obviously had to be careful that the Master Plan was not overloaded or dysfunctional. There could be properties all over the map that were conditionally rezoned, which would change its entire picture.

Ms. Hill advised that she went to the workshop and found that McKenna was more restrictive in how they would apply CR, and Miller Canfield was a little more open. She remarked that there were 192 words in the Act but the Ordinance supplied by McKenna had about 8,000. She stated that it was very difficult to read through. She believed that in the last meeting, the majority of members wanted an Ordinance which was simple and usable. She did not think it had to be so strict, since they had a Zoning Ordinance already. With CR, an applicant would voluntarily bring forward conditions that would make the rezoning more beneficial than a regular rezoning. It would then be up to the legislative body to make the determination about whether those conditions were appropriate. First they would decide if there was even a reason to look at a rezone in the first place and then they would determine if the conditions made it palatable and appropriate to do something in a particular situation. Each case would be different and would not set a precedent for another. She reiterated that a CR Ordinance could be a

lot simpler than what was provided and she hoped complicated was not the way they were going.

Mr. Anzek said they could just set the sample aside if they wished and they could try to find a better prototype. They were surprised when they got such a lengthy document and he thought McKenna apparently misunderstood the requirement.

Mr. Hooper summarized the consensus, noting that the City wanted to use CR as a tool and wanted to have an Ordinance.

Mr. Kaltsounis asked how many of the CR requests were opposite what the zoning or Master Plan showed. Mr. Anzek said he did not think there were any opposites in zoning - there was more of a pyramid of intensity or change of use. Mr. Kaltsounis thought that if any of the proposals had a high density, the Commission might deny them. He wondered if applicants would now come forward with proposals they would not have requested, before CR, and if it would become a burden on the City. Mr. Anzek agreed there would be developers who built certain products that would want to build in Rochester Hills. He suggested their product might be appropriate for a site if they could demonstrate how the neighborhood had changed, which might make it worthy of consideration. He stated that there was no one set rule to rezoning.

Mr. Delacourt agreed with Mr. Staran that the City would not see any more or any less rezonings. If the applicant's request was in conformance with the Master Plan, the applicant would not add conditions or limit themselves. He noted that applicants for rezoning requests where the parcels were not in conformance with the Master Plan could attach conditions, hoping to allay concerns by the City.

Mr. Kaltsounis asked if the CR Ordinance would make the burden on the City greater or less if someone went to court. Mr. Staran did not believe it would change anything; CR was just a variation of conventional zoning. He did not believe that a declination of a CR would put the City in a better or worse position than with a conventional rezoning. The City was still faced with the same issues. It would potentially reduce the prospects for litigation because the City might not have to say no to something because the conditions would alleviate concerns. He thought the threshold question should be more important to consider than whether litigation would occur.

Mr. Kaltounis wondered what would happen if they said no to a CR because of the density and the case went to court. He asked if the court would use a clean slate for the zoning or if they would consider the

conditions. Mr. Staran stated that the court could not zone property. The court could invalidate a zoning category and it could approve a specific use as being reasonable.

Ms. Hardenburg agreed with Ms. Hill that the sample Ordinance was too extensive, and she thought they had decided to use something much more simple. She brought up the CR Public Hearing from the last Planning Commission meeting and stated that she did not like what happened. The Commission had not met with the applicant prior, to try and negotiate anything. She would like to see a meeting for negotiation if an applicant was able to request a CR. She believed that once a CR was before the Commission, the conditions could not be altered.

Mr. Anzek said they did discuss having pre-application meetings with the Planning Commission and applicants, but that was not put in the sample provided. It would be a good idea for the applicant to know more up front before the Public Hearing was held because the conditions had to be voluntary, not imposed by the Commission.

Mr. Staran thought a preliminary meeting made sense so that the applicant could be given feedback about what the conditions should be. He mentioned the comment about conditions not being able to change by the Public Hearing and said that was not entirely accurate. Once the conditions were proposed and the CR was advertised, the conditions would have to be re-advertised if they were changed. It would be similar to a ZBA meeting when a Variance was noticed one way and then changed. He agreed it would make a lot more sense to work things out with the applicant before the Public Hearing. The conditions had to be voluntarily presented in writing by the applicant, which meant that the Commission could not tell an applicant what to add at the Hearing.

Ms. Hill referred to an applicant being willing to change a condition and asked if that change could be made prior to meeting with the legislative body or if the applicant would have to go back to Planning Commission. Mr. Staran said that it potentially could. He used a ZBA analogy where an applicant applied for a 15-foot Variance and the ZBA said only 10 was needed. In that case, it would not have to be re-advertised because the request was less intense. The same thing might apply with a CR. There might be certain conditions posed that could make the proposal less intense, for example. He suggested that would not stop something from moving ahead in the process. If a condition were eliminated altogether or intensified, he would suggest that it had to be re-advertised.

Ms. Hill said she understood that, but she wondered what level of discussion would take place before the formal negotiation took place.

Mr. Staran said it was difficult to give hard and fast rules because the Statute did not provide much guidance. His best guess was based on how he understood the intent and his experience with zoning law. He stressed that there clearly needed to be more "flesh put on the bone." They might get CRs that were very easy to evaluate. When one was more complicated, he felt they had to deal with the request based on a particular circumstance at the time. His general rule would be that any significant changes from what was proposed and what was advertised for a Public Hearing would probably necessitate that the matter go back a step.

Ms. Hill reminded that the applicant could voluntarily come back before the Commission if they cared to make a change. Mr. Staran had mentioned that a condition might tie a rezoning to a Site Plan. Ms. Hill said it could be easier to show conditions by looking at a concept plan, which they could not do with a straight rezoning. If something was being honed into a certain use or uses, she thought it would be all right to view a conceptual plan at the Public Hearing level. Mr. Staran replied that was absolutely right because sometimes it was hard to visualize something without some level of detail. Planning Commission and Council would have to decide on a case-by-case basis what information they would need and that would be another good reason for a preliminary meeting.

Ms. Hill indicated that they needed to be able to provide some documentation for what was required from the applicant. The Commission would not necessarily discuss Site Plan issues because that was not the purpose, but it would be useful to be able to visualize a condition that was offered. Mr. Staran clarified that the CR process would not eliminate Site Plan approval or Conditional Land Use approval.

Ms. Holder said she had gotten a few emails regarding CR. Some comments referred to the City being more lax and giving less consideration to the decisions made by the Planning Commission. She asked Mr. Anzek to give an objective of why the City would look at CR.

Mr. Anzek said he was sure that there were board members who had considered rezoning requests, and would have liked to see an applicant build what was proposed, but could not approve the rezoning because many other things could potentially be built in that rezoned district. He thought that made a case for CR. He noted a recent rezoning where a high-end townhouse development was proposed across from an industrial park. There was some merit to the development and Council deliberated about it because it seemed to be an answer to a lot of things that had changed in the neighborhood. CR would have made sure the

product would be built if the applicant went away and the property was rezoned.

Mr. Hooper opened the Public Comments at 8:33 p.m.

Ms. Debbie Geen, 3128 Walton Blvd., Rochester Hills, MI *Ms. Geen stated that she was present as the Chairperson representing the Residential Vision Committee in Rochester Hills. She read, "My committee believes that the application of the new contract zoning legislation, known as House Bill 6164, will create a hodge podge of zoning categories which will, in turn, lead to unsightly conditions in our neighborhoods in Rochester Hills. We believe that an implementation of this legislation constitutes illegal spot zoning and a give-away of local government zoning power. My research on this Bill indicates that contract zoning is legally not enforceable by the City. The source of this information was obtained from the legislative analysis for this Bill, found on the State of Michigan Governmental website. My committee understands that the effectiveness of the legislation is dependent upon the enforceability of the contract between the developer and the municipality. We believe that we must ask the following question and receive a detailed legal response: Has this new contract zoning law been thoroughly tested in the courts? My committee believes that before we get knee deep in the application of the contract zoning law that it should be well investigated as to whether any city or township has challenged the validity of this new law and whether the law has been tested in the court of appeals. I would ask the Council and Planning Commission to use prudence in the implementation and application of this law. I am glad to see the City Attorney, John Staran, is here tonight, so he can address the important question on the validity of this new law. Unfortunately, the Rochester Hills Council has not listened to business owners and residents on past zoning issues. One such example on which the City ignored public input was the REI Suburban Softball project. City Council's lack of prudence has resulted in a project that has not materialized due to all the lawsuits against it. We look forward to your detailed legal response to the questions asked tonight."*

Larry Schloss, 2851 Current Drive, Rochester Hills, MI 48309 *Mr. Schloss asked Mr. Staran to enlighten them on the legislative purpose of the new House Bill. He would like to know how Mr. Staran perceived the Bill, in his legal experience with the Council, would assist in the process of organized society with an abundance of rezonings. He particularly believed that Mr. Kaltsounis and Ms. Hill brought up very interesting and major issues that were unresolved. They questioned what to do when a project was too dense and overwhelming.*

Brenda Savage, 1715 Northumberland Drive, Rochester Hills, MI

48307 *Ms. Savage asked what the downside of the proposal was. She was concerned about that. She wondered if the City would find itself in a courtroom, as Mr. Kaltsounis suggested, with a judge saying the City had to use the new Ordinance, even if it did not suit the City's purpose. They might have thought they had the option to say no but might find that, legally, they were unable to do so. She wondered if there was a means by which, even with the potential for CR, they could insure they did not further reduce residential zoning. They were still waiting for the updated Master Land Use Plan and she thought it was significant that they did not have that accomplished, but they were talking about CR. She felt it might be important not to take the step to use CR. It might be more appropriate to wait until the Master Plan was updated one more time, to discover the benefit of using CR, if it in fact existed. She reminded that Rochester Hills was struggling to support an aging infrastructure with serious concerns about financial health. If they had to be concerned about increased density, and that was exactly what they needed to be talking about with only 1,000 acres left to develop, they had to consider roadways and water pumping stations. Although any number of things might be doable on a particular parcel, the City's ability to maintain them and to maintain general health for the community might be at risk. They were asking the City to seriously consider that and to answer what situations it would put the City in if they approved CR as an Ordinance or Policy.*

Mr. Hooper closed the Public Comments at 8:44 p.m. He asked Mr. Staran if he had any thoughts about seeing the law tested in court before the City used it.

Mr. Staran said that the law had not been tested - it was a brand new law the Governor just signed on December 30, 2004. He advised that it would take four or five years for an Appellate Court decision on this matter. It would not be challenged by municipalities because it was an amendment to the City's Zoning Act, which allowed a City to have Zoning Ordinances, PUDs, ZBAs, Conditional Land Uses, and now CR. He stated that it was not Contract Zoning. He stated that Contract Zoning had been, and remained, illegal in the State of Michigan. There were similarities to CR, but with Contract Zoning, the applicant and City would basically make a deal, such as getting a fire truck for allowing a development. CR was different and it had the same attributes as conventional rezoning, with one important difference. For the first time, Cities could add conditions to a rezoning that would restrict the permitted use to some degree. Spot zoning would create an island of incompatible uses within a larger area of different uses.

Regarding the legislative purpose, he referred to several documents that analyzed the Bill and said they offered pros and cons. They discussed

that CR would give an additional tool to the City to deal with incongruent situations and to solve problems that might otherwise arise if not controlled through the rezoning process. If Planning Commission and Council decided not to take advantage of CR, it would not stop people from requesting rezonings. Every property owner in the City had the right to come before the City and request a rezoning of the property. It did not mean the City had to approve it. Regarding the question about whether the City would be put in a situation where they had to grant a CR, he did not believe that would happen. He stated that Courts could not tell cities how to zone property. If a City was faced with a rezoning challenge, they could argue that before someone went to court, they had to exhaust all available, local administrative remedies. Now the law required an applicant to apply for a Use Variance. He believed in addition to a Use Variance, an applicant would also have to pursue a Conditional Rezoning, to make sure they had a final decision from the City and that they had explored all avenues with the City to try to get a reasonable use approved. If they failed to pursue one of those, it would be a basis to throw it out of court. Rather than weakening the City's position, it would potentially strengthen the City's abilities to defend against zoning challenges.

Mr. Hooper asked if there was any downside or risk. Mr. Staran replied that the potential downsides were that the Law could be confusing when a City tried to implement CR and it created procedural issues. Also, as with any zoning tool, if it was misused, it could create some problems - but the same could be said about PUDs, Variances, or even conventional rezonings. If CR were misused, he was certain it would cause problems. Mr. Hooper clarified that there was no new downside risk. Mr. Staran said there would be the same variation of issues the Commission was already dealing with under conventional zoning.

Mr. Hooper referred to the comment about waiting until the Master Land Use Plan was completed to use CR, and said he suggested that the process was continually being updated - there was never a point where the "game" ended. Mr. Anzek added that communities were dynamic.

Mr. Staran reminded that they were just talking about a tool. The City would decide, on a case-by-case basis, which tool to use. He reminded that the City used PUDS for some time, then did not use that tool for several years and then began using it again. He felt CR had fairly significant upside potential, in cases where volunteered conditions could provide considerable benefits for things that otherwise might be detrimental to the residents. This was an opportunity to limit those problems up front. He reiterated that the threshold consideration was whether the property should be rezoned in the first place. After that determination was made, there could be conditions attached that would

make it more attractive or more harmonious with the surrounding areas.

Mr. Hooper asked about infrastructure concerns with new development in a rezoning. He thought a key finding when they reviewed anything was whether the infrastructure would handle it. Mr. Anzek agreed that infrastructure was considered for rezonings, in any Master Land Use planning, and any time a change was made.

Mr. Rosen said it struck him that rather than a complicated Ordinance, the documentation for CR could be as simple as adding a paragraph noting that conditions shall be recorded with the deed, and enumerating the things that would make conditional rezoning different. That would leave intact everything else the City did for a regular rezoning. It would make it fairly clear that there were no special rules. There would be very limited things someone could do with a condition - the degree or extent of the use could be limited - but he was not sure they would want to get into any major tweaks with a Site Plan, because they probably would not have the ability at that stage. All they could do would be to limit or exclude the kinds of uses they might be concerned about or limit it to exactly what was proposed, but nothing else. That would not be saying there was a great benefit to something, either. It would have to make sense as a rezoning as the first threshold, and the second would be that the particular proposal would at least meet the goals of the Master Plan or community. He thought they were putting way too fine an edge on everything and making it much more complicated than it really was. The more he read, he gathered they wanted really just to allow for the very unusual cases. He thought they had to keep the Ordinance simple and make it clear that CR was not different than regular zoning.

Mr. Rosen said he had a feeling that there might be a lot of people who developed properties that thought this would be a very positive deal. He suggested that if the cities did their jobs properly, it would be barely noticed and be a lot like a Use Variance. It would come along once in awhile, maybe one out of 500. He agreed it was a good tool for the toolbox, but he did not think they would exercise it very often.

Mr. Barnett agreed with Mr. Staran regarding the Master Land Use Plan and the timing issue. He referred to the sample Ordinance from McKenna, D4(a), and read: "In the event bona fide development is not commenced within two years from the effective date of the rezoning, the CR and the CR Agreement shall be void and of no effect." He asked where two years came from. Mr. Delacourt said they drafted the Ordinance using one from the Michigan Township Association.

Mr. Staran read from the Statute: "In approving the conditions (voluntarily offered by the applicant), the City or Village may establish a time period during which the conditions apply to the land, except for an

extension under (subsection), if the conditions are not satisfied within the time specified under that subsection, the land shall revert to its former zoning classification." He said two years was added as a normal variation of how the City usually conducted business. It would allow the City to put a time limit on a CR for implementation. He reminded that Site Plans and Variances expired after one year. He said it did not have to be two years.

Mr. Delacourt believed that if they put that language in the Ordinance, it would be very restrictive. They had to decide about the zoning reverting or they might want to do things on a case-by-case basis.

Mr. Barnett asked if "bona fide development" was tried and tested verbiage and he said he would rather see a better definition. Mr. Staran assured that wording did not have legal significance.

Mr. Anzek summarized that an Ordinance for CR- simple, but one that got the job done - was a tool Council members would like Staff to put together and to go forward with. He asked if Staff could be given the opportunity to come back with a better example of an Ordinance, rather than try to go page by page through the sample. Mr. Hooper agreed they should do that, and said Planning Commission could analyze it and make a recommendation to Council. Mr. Anzek suggested it could be brought back in a workshop or even at a Public Hearing.

Ms. Hill asked where they would go from this point. She said the Commission was in the process of reviewing CR requests. She wondered if they would utilize the Act and just do the best they could with the discussion they have had. Mr. Anzek felt there was a sense of urgency and he felt they could pull something together in a week or so. He mentioned there were applicants in the pipeline, but he felt they recognized that they needed to be respectful of the City. There were those willing to take chances. Ms. Hill summarized that they would move forward and hopefully, within a short time, see something to assist them with the process.

Mr. Schroeder remarked that they really hit the big one. He referred to the new Law, new mindset and new Ordinance. He did not think they needed an Ordinance because they had rules and everything was already in place. CR was just a modification of regular rezoning. He thought they should just alter the existing Ordinance slightly by adding a paragraph. He did not think they should get carried away with it or it would be overkill. Mr. Hooper agreed there was a lot to be said for that.

Mr. Hooper was concerned about uniformity as to what was required from the applicants, but he thought they could add that to the paragraph.

They had to be able to know what the City expected when they came forward for a CR - such as a Site Plan or concept plan. Mr. Anzek felt the pre-application meeting was a critical part and that it would solve a lot of issues because the Commission really could not pass judgment on something without seeing some type of plan. The applicant could put the Agreement together after the preliminary meeting, when they knew more of what the Commission expected. It would be the applicant's choice. Mr. Hooper asked if the pre-app meeting would be with Staff, and Mr. Anzek thought the discussion should be with the Planning Commission. Mr. Staran noted that it had been the City's policy that rezonings were scheduled for Public Hearings right away, but he suggested they did not have to be.

NEXT MEETING DATE

The Chair reminded the Commissioners that the next regular meeting was scheduled for June 21, 2005.

ADJOURNMENT

Upon motion by Rosen, and hearing no further business to come before the Commission, the Chair adjourned the special meeting at 9:12 p.m., Michigan time.

Greg Hooper, Chairperson
Rochester Hills Planning Commission

Melinda Hill, President
Rochester Hills City Council

Maureen Gentry, Recording Secretary

Approved as presented at the July 19, 2005 Regular Planning Commission Meeting