



Rochester Hills

Minutes

Planning Commission

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Chairperson William Boswell, Vice Chairperson Deborah Brnabic
Members: Gerard Dettloff, Dale Hetrick, Greg Hooper, Nicholas O. Kaltsounis, David A. Reece, C. Neall Schroeder, Emmet Yukon

Tuesday, July 6, 2010

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson William Boswell called the Regular Planning Commission Meeting to order at 7:00 p.m. in the Auditorium.

ROLL CALL

Present 7 - William Boswell, Deborah Brnabic, Gerard Dettloff, Dale Hetrick, David Reece, C. Neall Schroeder and Emmet Yukon

Absent 2 - Greg Hooper and Nicholas Kaltsounis

Also present: Ed Anzek, Director of Planning and Economic Development
Derek Delacourt, Deputy Director
Maureen Gentry, Recording Secretary

APPROVAL OF MINUTES

2010-0240 May 4, 2010 Regular Meeting

A motion was made by Schroeder, seconded by Yukon, that this matter be Approved as Presented. The motion CARRIED by the following vote:

Aye 7 - Boswell, Brnabic, Dettloff, Hetrick, Reece, Schroeder and Yukon

Absent 2 - Hooper and Kaltsounis

COMMUNICATIONS

- A) Planning & Zoning News (3) dated May, June & July 2010
- B) 2011-2016 CIP
- C) Ordinance 164 (Rezoning Northwest Corner Hamlin and Livernois to O-1)

UNFINISHED BUSINESS

2009-0274

Public Hearing: Request for Recommendation of Approval of the Revised PUD for City Place, City File No. 02-027, located on the east side of Rochester Road, north of Hamlin, zoned PUD (B-2, General Business) and approved by City Council in May 2004. G&V, applicant

(Reference: Staff Report prepared by Derek Delacourt, dated July 2, 2010 and Revised City Place PUD, prepared by Attorney John Gaber, had been placed on file and by reference became part of the record thereof.)

Present for the applicant were William Gilbert, G&V Investments, 2565 S. Rochester Rd., Rochester Hills, MI 48307; John Gaber, Williams, Williams, Rattner & Plunkett, 380 N. Old Woodward, Birmingham, MI 48009 and Mark Abanatha, Alexander V. Bogaerts & Associates, 2445 Franklin, Bloomfield Hills, MI 48302.

Mr. Gaber presented modifications to the City Place PUD, which he noted was approved by City Council in 2004. He advised that in exchange for reduced building height and density, the applicants wished to obtain more flexibility in terms of building location, type and design and greater potential for commercial along Rochester Road. They met with City Council in March to discuss the concept; they met with the Eddington Farms Subdivision residents on March 23, and they were in front of the Planning Commission on April 20 to discuss the project informally. With the exception of the Sycamores and Meadowfield homes on the west side of Rochester Road, the area of Rochester Road from Hamlin to Avon was mainly commercial uses. The proposed site and the Bordine's site had been master planned mixed-use since at least the 1998 Master Plan to serve as a transition between Rochester Road and the residential units.

Mr. Gaber continued that City Place was approved as a dense, high-quality architectural development, but there was little flexibility. Originally, the PUD was used because there was no mixed-use classification in the Zoning Ordinance. The underlying zoning was changed to B-2 to facilitate all the uses in the approved PUD. The property owners attempted to develop it over the last five or six years, but the only thing developed was a Fifth Third Bank. They aggressively marketed the site with very little luck. They spent a lot of money on design and marketing to create a vision supported by the City in 2004, but there were problems with the plan. One problem was that the development was so specific that it required one developer for the whole parcel. Although small developers would buy a portion of the site to build

something on it, it was inconsistent with the PUD. Financing was a difficult dilemma because of the mixed buildings and type of uses. They found that there was not a market for live/work in Rochester Hills.

Mr. Gaber recalled that in 2007, the City added to its planning model in the Master Plan and Zoning Ordinance. Form based zoning was put in the Master Plan, which regarded flexible districts. The intent was to allow mixed-use development with form based controls over the entire project. The purpose was to have consistency of design throughout a zone regarding the dimensional features, the architecture and the aesthetics. G&V initiated discussions with the Planning Department because the PUD project was not going anywhere. They came up with a revised PUD, which they still felt was the right approach and remained consistent with the Master Plan. The reason they were asking for the revised PUD without having a project was because they needed greater flexibility for future mixed-use development. They would like to be ready when the market turned. When developers had various options, they looked for something that had a quick approval process and some certainty. If they used the existing PUD, it would not be likely that one or both of those would be realized. Developers were often not willing to invest in sites that required such extensive approvals. They were not asking the City to relax its standards - the future development would be subject to the City's normal approvals.

Mr. Gaber pointed out highlights of the revisions. He referred to the text, and his first point was that the new PUD would restate the original PUD. Any development remained subject to Site Plan Approval or Conditional Land Use Approval, if applicable. The FB-1 zoning overlay district standards would apply throughout the development, with minor exceptions. He mentioned the permitted uses, which were residential, retail, office and restaurant uses, and said that they limited the square footage for each.

Mr. Gaber advised that there would be no bars in the development, but restaurants that served drinks would be allowed, if they stayed under 35% of sales. He discussed square footages, and said that they came up with three scenarios. They could have 500k square feet if it were developed exclusively as multi-family, which was still below the 710k square feet in the current PUD. The second proposed 50k retail/restaurant, 25k office and 360k for multi-family residential units. Thirdly, they would limit the office to 350k, which was less than half of what was originally approved. He advised that residential buildings would be located no closer than 50 feet from the boundary of the Eddington Farms Subdivision; office

buildings could be located no closer than 100 feet from the boundary; and retail/restaurant buildings could be located no closer than 200 feet. Regarding height between 50 and 100 feet away, there could only be two-story buildings. Over 100 feet away, there could be three-story buildings, and the commercial buildings on Rochester Road could be three stories. The buildings would be harmonious and compatible in style and quality with the Fifth Third Bank. The homes would be compatible, with masonry and brick. He added that they would like to retain the five-foot natural features setback modification.

Mr. Gaber noted that landscaping would be determined as part of site plan approval. They agreed to maintain what was in the original PUD - an enhanced planting mix of deciduous and evergreen trees and shrubs. They agreed that whatever was under control of the Eddington Farms homeowner's association in the boulevard would stay that way. He mentioned a concern about the right-of-way for Rochester Road. They wished to recognize the 75-foot right-of-way from the centerline of Rochester Road. It was contrary to the City's Master Transportation Plan, which called for 180 feet, but 150 feet would allow for development of a six-lane divided highway with a boulevard. They would apply for a curb cut on the south side of the property, subject to MDOT's approval. There would be cross access through the site from Eddington Blvd. to the Bordine's property so people were not traversing Rochester Road to come in and out of the property. That would be developed as site plans came forward. Regarding the historic district, if it was not eliminated by City Council, the house would be controlled by the Historic Districts Commission, but they would request the ability to relocate it. If it were eliminated, they would not be required to maintain the house. Signage would be controlled by the City's Sign Ordinance.

The next issue was about how much time the applicant would have to develop the site and what would happen if they did not. The Agreement stated that the development could be done in phases, and the applicant could submit one or more site plans over time. The first site plan would have to be submitted within five years of the date of the signed Agreement, which could be subject to extensions by City Council for good cause shown. If that did not happen, the City could issue an abandonment notice and proceed in accordance with procedures stated. In the event the project was not substantially completed within 20 years from the date of the Agreement (he explained that 20 years was put in because the applicant did not know what the market would be), the City could issue a notice and initiate a Rezoning for the land not developed. If the applicant objected to that, there could be an appearance in front of

City Council to show they were acting in good faith. If the City believed the applicant failed to show that, it could initiate action in Circuit Court for declaratory relief and Rezone the land. He had discussed it with Mr. Staran, the City Attorney.

Mr. Gaber discussed minor modifications, which were added to give Staff flexibility and authority. If Staff felt the modifications were major, they would be brought before the Planning Commission.

Mr. Gaber addressed the Staff Report, which listed conditions attached to the motion. He mentioned that the PUD should be revised to indicate the hours of operation for any establishment serving alcohol should be limited to 7:00 a.m. to 11:00 p.m., but they would like it to be until 12:00 p.m. He said that a Conditional Land Use was required for any establishment serving alcohol, but the applicant would rather not include that because he felt there were enough protections in the Agreement given the 35% threshold and hour restrictions. City Council would also have approval over the liquor licenses for the site, and Planning Commission would have to approve the site plan. If there were concerns with lighting or noise, they could be addressed at that time. There were conditions that the development would conform to the City's Master Transportation Plan for proposed right-of-way, and that land would be dedicated to the City at the time of site plan approval. The applicant wished to decline those because they would like to retain the existing 75-foot right-of-way approved in the original PUD.

Mr. Gaber referred to changing language in the PUD to provide that it was clear that the B-2 zoning was put in the plan to facilitate the existing PUD and that B-2 did not at any time represent the City's future desired land uses or zoning requirements of the subject site. They would agree to that, but requested the wording "absent the PUD" added at the end, because some of the uses in B-2 could be used in the PUD.

Chairperson Boswell asked the applicants to elaborate on the landscaping for the berms. Mr. Abanatha explained that originally, they looked at the existing residents on the western edge of the sub and how their homes related. They tried to evaluate how to best buffer them, and they proposed enhancing the berm and raising the grade. They would strategically locate the trees along the berm edge to get the best buffer. They would stay with that plan, and use enhanced materials.

Mr. Delacourt referred to the conditions regarding the right-of-way, and said that he talked with the City Engineer about it. The current Master

Transportation Plan (MTP) called for a 180-foot right-of-way for Rochester Road, and he said that any site plan would have to conform to the MTP in place of that time, which was different from the original PUD. It came up at the last moment, and the applicant was not aware of it, but it was an attempt to meet in the middle. Regarding CLUs for restaurants, Chapter 8 for flex business districts required restaurants to have a CLU approval, and that was why the condition was added. He brought up the landscaping and asked for clarification about the 50-foot screening and buffering zone along the subdivision.

Gilbert said that 50 feet was the setback, and Mr. Gaber added that the plantings would be in the setback. Mr. Delacourt wanted to make sure there would be no parking or building within the 50 feet because the setback did not limit parking lots and other improvements, and the landscape plan showed a 50-foot width for landscaping. He wanted to know if they were talking about a 50-foot setback and a 50-foot screen, or if they were talking about overlapping, different dimensions for both. It was decided to add language to the PUD to clarify that the minimum requirements would be enhanced and might encroach into the setback.

Mr. Gaber noted that regarding the Rochester Road right-of-way, they developed the site to allow a 200-foot protection from any commercial buildings, which was predicated on having a 75-foot right-of-way with parking up to the edge. If they were squeezed on the road side, it would not make the project feasible, as there would be not enough buildable area. Mr. Gilbert asked the difference between the 75 feet the City agreed to in the first PUD - and he agreed to give right-of-way to the City - and what they might do in the future. Rochester Road was a State road, and MDOT did not have any improvements planned along there. Troy widened Rochester Road and everything that was on the wish list (6-lane boulevard with green space and a pathway) was done within 150 feet and there were easements for utilities. It cost them \$8 million to acquire right-of-way, and he was giving it free. He asked Mr. Delacourt what would change on the frontage if they brought a site plan forward.

Mr. Delacourt said that the first Agreement was based on a specific set of site plans and City Council might agree that 75-feet would work for what was being given up on the east side. He worked with the City Engineer, who wanted the Agreement to include the 180-feet as shown in the MTP. When the first PUD was approved, there was discussion about whether the 180 feet would stay in the Plan, and the City recently updated the Plan and reaffirmed it.

Mr. Gilbert said he understood wanting free right-of-way, but he thought it was a little "over the top." Because of the cost, MDOT was not going to do anything with Rochester Road, and he felt that because everything could be done in 150 feet that it should stay in the Agreement as originally approved. Mr. Delacourt agreed that MDOT recognized 150 feet for Rochester Road, and that it was the City that recognized 180 feet.

Mr. Schroeder agreed that six lanes, a median, bikepath and green space could be put in 150 feet, but they could not get Detroit Edison, cable for t.v.'s or phone lines in, so they would have to obtain easements. They would also need a decel lane at the intersection or an easement for a fire hydrant.

Mr. Delacourt said that Staff would be fine if the PUD acknowledged that appropriate easements would be granted at the time of road construction. Mr. Schroeder suggested that they would also need drainage easements, which might mean having to take out part of the parking lot. It bothered him that the PUD said parking could go up to the right-of-way line. Mr. Gilbert said it was misconstrued that it would be to the property line, which would be in the roadway. Mr. Gaber said it would go to the right-of-way line, which was in the prior PUD. Mr. Schroeder said that would be a problem because there were requirements, such as a berm, and they would have to have space for the utilities. If the paving were right to the right-of-way line, it would be difficult, and he felt that it had to be clarified. Mr. Gilbert said they did not have a plan to present, but he assumed that a lot of the easements were in parking lots in Troy. He hoped the lines would be underground, so he did not see why they could not be under a parking lot. He reminded that a lot of homes had utilities running under the driveways. Mr. Schroeder asked if there was a setback requirement from the road. Mr. Delacourt advised that normally, it was ten feet from the right-of-way before the start of a parking lot.

Mr. Yukon observed that the existing PUD showed much less square footage for retail than what was being proposed. Given the current state of retail and even for the future, he wondered why the retail was being increased.

Mr. Gaber said they were trying to maintain flexibility. They did not know what the market would do in future years, and that was why they put in a long timeframe for development. Mr. Gilbert was giving up density, height, and setbacks as a tradeoff to get more commercial along Rochester Road. It did not mean it necessarily would be developed that way. If someone had a great office proposal, it could be all office. In the

original PUD, there was 35,000 square feet of office and retail combined, with a maximum of 15,000 for retail, and they were asking for 50,000 for commercial. Mr. Gilbert stated that there was no market for anything, and the residents did not want to see anything, so nothing would be built this year or probably next year. Mr. Yukon said he was asking because having mostly commercial appeared to be the preference, and he asked if that was correct. Mr. Gilbert said that he had no preference, and reiterated that the market drove everything.

Mr. Yukon indicated that he did not read anything about what would happen if they built one thing and then stopped. He asked what the City could do so that the property was not left in disarray. Mr. Delacourt said that all the requirements of an approved site plan would be in place.

Mr. Yukon felt that the house on the site was very important, whether it was an historic district or not. It was a gateway to the City, and he hoped that Mr. Gilbert would take every step possible to save it. Even if it were eliminated as a historic district, he hoped Mr. Gilbert would try to keep it in good shape.

Ms. Brnabic said that she had some concerns about the timeframe proposed in the PUD. She referenced page 11B, and stated that the Commissioners were well aware of the economic climate and market circumstances. She questioned having five years to submit a site plan, more time to begin construction and then being allowed to request extensions. It concerned her that site plans could be submitted for any portion of the project, and she was worried about getting a piecemeal development. She thought the wording was vague, and she felt that having 20 years to substantially complete the project was a very long time. She understood the economy, but felt the timeframe was unreasonable. She maintained that any other project would not be given that long and if a plan were submitted in five years, she would want to see a projection for the balance of the development.

Mr. Gilbert said they could talk about the timeframes and try to get more comfortable with them, but he stated that he did not know. If a property was Rezoned, there was no requirement that the owner had to do something within a timeframe. The process had been one they tried to work without specifically Rezoning to commercial, multi-family or office and to work within a negotiated PUD. The flex zoning gave restrictions and guidance on how things were done. They had every incentive in the world to develop it as quickly as possible. He did not have a problem with trying to tighten it up, but there was no way he could predict things, and

that was why they were trying to get some flexibility with which everyone was comfortable. They did not have a site plan, although he wished he did for the whole site.

Ms. Brnabic indicated that it was a different circumstance than if Mr. Gilbert just owned property and decided he did not want to build, and it could sit there. They were trying to work together to get a decently relevant plan that might fit the City's vision and Mr. Gilbert's vision, but she wanted to see it tightened up a bit. She realized that Mr. Gilbert did not have a plan, but once he submitted one, she felt it should be completed in a timely fashion.

Mr. Gilbert said he understood the point, but he did not know how to get there because he did not see anything in the near future. Everything was market and finance driven, and no one would spec build something and abandon it. He remarked that if it did just sit there, they would just have to keep cutting the weeds.

Chairperson Boswell acknowledged that it was a new concept and somewhat difficult for the Commissioners to get their heads around. Generally speaking, an applicant would come in with a plan with the PUD. They were trying to deal with an economic situation and no one knew what would happen. He felt that Ms. Brnabic was questioning having one medical office built, for example, in five years and having it being the only thing sitting there.

Mr. Delacourt explained that it was exactly the intent of the PUD. The project could be done in phases, but each would be required to be compatible and follow the guidelines in the PUD. It was designed to prevent piecemeal development and as each site plan developed, it would have to be seamless and compatible with the others.

Ms. Brnabic commented that she was having a hard time with that vision and the fact that construction could start and stop and start and stop. The design of the buildings might be nice, but it would still be piecemeal and take a very long time.

Mr. Delacourt said that the revised PUD process was more individually site planned based than the current PUD, but it would be less piecemeal than the normal Rezoning and Site Plan process.

Ms. Brnabic maintained that there was generally a projected timeframe for projects done in phases, and if it was not met, the applicant would be

back before the Commission to explain. She did not expect the PUD to be done in five years, but she felt it could look unsightly if it took 20 years.

Mr. Gilbert said he understood, and he thought that no matter how it was worded, they would be faced with a dilemma. If it was 60% done in 10 years and they had two pieces left, he felt that the Commission would extend the project because there was not much else they could do. He was trying to take a realistic approach and be conservative. He hoped it was all done in ten years. The dates were arbitrary, but looking at the situation today, there was a lot they did not anticipate. They were willing to work with the City to tighten up some of the parameters if necessary.

Mr. Dettloff supported Ms. Brnabic and Mr. Yukon, and he noted that Mr. Gilbert wanted to see a shorter timeframe. He encouraged that, since the original PUD called for ten years, there was no reason why the proposal could not hold to the same terms. He pointed out that there were inconsistencies with the acreage - the PUD Agreement, Staff Report and another document showed different numbers. He asked the correct number, and Mr. Gilbert said he would find out.

The power went out at this time at City Hall (approximately 8:56 p.m.) and Chairperson Boswell called a five-minute recess.

When the meeting resumed, Chairperson Boswell stated that since there was no way of knowing whether the recorder was working and because there was no ventilation in the auditorium, he would open the Public Hearing and ask for a motion to table it. He opened the Public Hearing at 9:05 p.m.

MOTION by Hetrick, second by Schroeder, that the Rochester Hills Planning Commission hereby tables the Public Hearing until the next available meeting, due to the power outage.

A motion was made by Hetrick, seconded by Schroeder, that this matter be Tabled. The motion CARRIED by the following vote:

Aye 7 - Boswell, Brnabic, Dettloff, Hetrick, Reece, Schroeder and Yukon

Absent 2 - Hooper and Kaltsounis

Chairperson Boswell announced that the Public Hearing would be taken up at the July 13th meeting if the process was approved by the City Attorney, and he apologized to the audience and Commissioners.

Mr. Anzek asked people to leave their names and emails in case the

meeting had to be re-advertised.

ANY OTHER BUSINESS

There was no further business to come before the Planning Commission.

NEXT MEETING DATE

The Chair reminded the Commissioners that the next Special Meeting would be July 13, 2010, as determined.

ADJOURNMENT

Due to the power outage, the Chair adjourned the Regular Meeting at 9:08 p.m., Michigan time.

William F. Boswell, Chairperson
Rochester Hills Planning Commission

Maureen Gentry, Recording Secretary