

Conditions:

1. *Fire and Engineering approval of the plans based on the applicant successfully addressing the comments in the Fire review dated 1/13/14 and the DPS/Engineering review dated 1/13/14.*

**A motion was made by Kaltsounis, seconded by Dettloff, that this matter be Approved. The motion carried by the following vote:**

**Aye** 7 - Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece and Schroeder

**Absent** 2 - Boswell and Yukon

*Vice Chairperson Brnabic stated for the record that the motion had been approved unanimously.*

**2014-0010**

Public Hearing and request for Rezoning Recommendation - City File No. 02-027 - An Amendment to Chapter 138, Zoning, of the City of Rochester Hills Code of Ordinances to rezone four parcels of land totaling approximately 27 acres, located on the east side of Rochester Road between Avon and Hamlin, including 3.56 acres (Parcel No. 15-23-152-022) from B-2 General Business with an FB2, Flexible Business Overlay district and a Planned Unit Development (PUD) Overlay to RM-1, Multiple-Family Residential with FB-2, Flexible Business Overlay and 23.9 acres (Parcel Nos. 15-23-152-023, 15-23-301-022 and 15-23-300-035) from B-2 General Business with an FB2, Flexible Business Overlay district and a Planned Unit Development (PUD) Overlay to O-1, Office Business with FB-2, Flexible Business Overlay district and to prescribe a penalty for violations thereof, G&V Investments, LLC, Applicant

*(Reference: Staff Report prepared by Ed Anzek and James Breuckman, dated January 16, 2014 and application package from G&V Investments had been placed on file and by reference became part of the record thereof.)*

*Present for the City were Ed Anzek, Director of Planning and Economic Development and James Breuckman, Manager of Planning, City of Rochester Hills, 1000 Rochester Hills Drive, Rochester Hills, MI 48309, and present for G&V Investments were Bill Gilbert, G&V Investments, 790 E. South Blvd, Suite 300, Troy, MI 48085 and John Gaber, Williams, Williams, Plunkett and Rattner, 380 N. Woodward, Birmingham, MI 48009.*

*Mr. Anzek suggested a process for going forward. He recalled that the Planning Commission held an introductory meeting on the subject on December 17, 2013. A notice was sent, asking for public input regarding the resident's concerns and for a discussion among Staff and the*

*Planning Commission. During that meeting, several questions came up, one of which regarded the realignment of Eddington Blvd. He reminded the Commission that it was not a zoning subject but one for Site Plan review. The Commission thought it would be best to have the City Engineer come forward and present what he had gone through with MDOT in terms of the realignment. Following Mr. Davis' discussion, he wished to give Staff's presentation and after any questions, the applicants for G&V, who, on December 27, 2013 submitted their own application for Rezoning, calling for a combination of multi-family and office, which was different from what Staff had recommended would present. After that, the Public Hearing could be opened. That way, all the residents would have heard everything presented by both applicants. He introduced Mr. Paul Davis, Deputy Director of DPS/Engineering.*

*Mr. Davis advised that he had been with the City since August of 2000. It was shortly after that when he became involved in the first of two intersections they would talk about. One was the realignment of Yorktowne and Meadowfield at Rochester Road. That intersection, along with a light at Eddington and Rochester, were in the City's 2002 Capital Improvement Plan (CIP), and that was the earliest plan he had on file. He pointed out that Eddington and Rochester Road was planned as a T-intersection, not a realigned intersection. In March of 2002, the City retained OHM, an engineering design consultant, and they put together construction drawings for realigning the intersection of Meadowfield and Yorktowne. That was done because the City really hoped a traffic signal would be installed there. When it was not aligned, it did not meet warrants, and MDOT said that they would reconsider it if the City realigned it. In September of 2003, MDOT submitted correspondence that clarified their position for a future traffic signal at Meadowfield and Yorktowne. They expected the realignments, and they wanted to see right turn lane extensions on Rochester Road in both directions. They also wanted the closing of the southerly most drive entrance and one other entrance at the Winchester Mall drive. They wanted to consolidate the existing six drives to four. They wanted closing of the southerly-most driveway entrance onto Rochester Road from the Chrysler/Jeep dealership. Those were the conditions of approval to put in a signal at Meadowfield and Yorktowne. Work started proceeding in the summer and fall of 2004 when the City hired a contractor. Prior to that, the City met with the Yorktowne Commons Homeowner's Association and the Chrysler owner, and they also met with someone who owned the Winchester Mall at the time. That person informed the City that he was against any type of driveway closures. He had agreements with the tenants that did not permit him to close driveways, and he would not be*

able to cooperate in regards to that condition. He said that if the City really wanted to address safety along Rochester Road, they should build it as a six-lane boulevard. It cost about \$250,000.00 to reconstruct the intersection, and when the work was completed, the subsequent realignment still did not meet traffic warrants. In the meantime, it was obvious they were not going to meet the conditions, and the signal was dropped from further consideration. He remembered at the time being pretty disappointed, because they had put a lot of effort into getting a signal there. In July of 2008, after the City had made another request for reconsideration of a traffic signal at that intersection, MDOT reported that it still did not meet warrants. He read a portion of the correspondence from Steve Stramszak of MDOT: "Traffic signals have great benefits to the motoring public if they are properly used. However, every traffic signal that is installed will increase motorists' delays and also will increase the potential for certain types of crashes. If a traffic signal is poorly designed, ineffectively placed or improperly operated, the signal can actually cause more problems than it solves. In order to delineate the line between benefits and problems for traffic signals, traffic engineers from the Federal and State levels have come up with guidelines. These guidelines have been formulated into signal warrants that give circumstances where signals will provide more benefit than problems. These warrants are used throughout the country by traffic engineers to evaluate the need for stop and go traffic signals." Mr. Davis felt that those remarks summarized the subjective requirement that was required in order for a traffic signal to be installed. He was not saying that it was the only consideration that was given, but it was the initial expectation for when a traffic signal should be done.

Mr. Davis said that at that time, since the intersection did not meet a single signal warrant out of the nine, the City's request was denied. Three years went by and in November 2011, a traffic impact study was submitted to MDOT by Parsons Brinckerhoff, a consultant retained by G&V. In that study, they reviewed the existing conditions for traffic along that part of the Rochester Road corridor. There had been a number of different reviews. In September 2011, the same engineer that wrote the letter in 2008, working in a little different capacity for MDOT, commented on the conceptual roadway improvements, and he gave conditional approval for a realignment of Eddington and Drexelgate. Upon reviewing the traffic impact study, MDOT indicated tentative, conditional approval of a traffic signal at Eddington and Drexelgate in February 2012, and in July 2012, MDOT provided a memo recommending a traffic signal. There was some opposition to that, and perhaps rightly so, he added. When studies were done, people reviewed them and questioned whether there was any

*incorrect information or whether the study was valid. MDOT agreed to perform a corridor study at the request of some residents in the City from July to August of 2012. In 2012, Mr. Davis requested information from the Traffic Improvement Association (TIA), which he forwarded to the gentleman at MDOT who would be reviewing the traffic signal in the revised request. In November of 2012, MDOT collected vehicle count information. They were going to do a separate study to determine whether they agreed with the initial traffic impact study. In January 2013, MDOT recommended a conditional traffic signal installation at the Eddington and Drexelgate intersection. It had conditions which were listed in the September 16, 2013 letter (in the packet and on file): They would permit a signal if Eddington Blvd. was realigned directly across from Drexelgate; constructed with a minimum of two-approach lanes in each direction; the signal would not cost MDOT anything; it would be installed within 60 days of completion of the realignment; and they would not permit a signal at M-150 at Meadowfield and Yorktowne. MDOT did not do any additional signal studies along the corridor.*

*Mr. Davis mentioned that in a September 2003 correspondence, MDOT had indicated if a traffic signal had been placed at Yorktowne and Meadowfield, it would have precluded any other future traffic signals along the Rochester Road corridor between Hamlin and Avon. Although the CIP anticipated two signals along that corridor, in 2003, MDOT started taking the position that they would not approve two along that corridor. It became clear that whichever intersection was approved and constructed, it would probably be the only one along that corridor.*

*Mr. Davis said that today, MDOT was saying they would not study the corridor further, but he indicated that tomorrow, that position could change. People changed at MDOT, traffic counts might change, and the Wellbridge development was going in on Meadowfield which could generate additional vehicles. When the warrant study was done, neither intersection met traffic warrants, which was true for existing conditions. Eddington and Drexelgate met warrants for seven out of eight hours, and they were only five vehicles short of meeting it for the eighth hour. Any type of development on the G&V site would probably generate enough vehicles to meet the eighth warrant. For the Meadowfield and Yorktowne intersection, it was met for three out of eight hours. With Wellbridge, it was possible that the traffic counts would go up, and things would change, but given how it was today, if he were to recommend which intersection should be a candidate for a traffic signal, based on the TIA recommendation and support and the information he had, he would choose Eddington and Drexelgate. He was aware that conditions could change and after ten*

*years, nothing had been installed. Although it would not help progression along Rochester Road, because a traffic signal would cause more delay, the cross streets were experiencing enough of a delay where a signal at one of the two intersections would probably be a benefit overall to the health of the side streets and also to the City.*

*Vice Chairperson Brnabic asked the Commissioners if they had any questions for Mr. Davis.*

*Mr. Hetrick asked for confirmation of the location where Mr. Davis would recommend a signal. Mr. Davis said that he would recommend Eddington and Drexelgate. He thought that the ideal location on a one-mile corridor would be at the half-mile mark if there were side streets, which would be the furthest away from the influence of the other intersections. The intersection at Meadowfield and Yorktowne was approximately 1,650 feet south of Avon. A realigned Eddington and Drexelgate intersection would be approximately 1,900 feet north of Hamlin. It was about a 250-foot difference, but with the developer's traffic impact study, there was a traffic model created. It was one the Planning Commission had seen at other times. Papa Joe's and City Place used a model, and it basically reflected how future conditions would operate during peak traffic hours. That model also indicated that the corridor would be better served with a signal location at Eddington and Drexelgate.*

*Vice Chairperson Brnabic thanked Mr. Davis and moved to Staff's recommendation.*

*Mr. Breuckman stated that there were two potential Rezoning scenarios in front of the Commissioners, both of which were noticed, and both of which would require an action. He explained that there were three potential actions that could be acted upon. The Commission could act on the two proposals, which would require making a motion for each; a motion to Recommend Approval of one and Recommend Denial of the other. The third option would be to postpone. Both requests proposed an FB-2 Overlay district for the four parcels. The City-initiated Rezoning was asking for a Rezoning to R-4 base zoning for all four parcels. The property owner had submitted a request to Rezone the property behind the bank to RM-1 with an FB-2 Overlay. The parcel to the south of the bank and the parcels to the north and south of Eddington were requested to be Rezoned to O-1 with an FB-2 Overlay.*

*Mr. Breuckman indicated that the primary consideration when looking at a*

*Rezoning was its consistency with the Master Land Use Plan (MLUP) and the Future Land Use Map. In 2007, the City adopted an updated MLUP, which had the explicit goal of transitioning the City away from a use-based planning and zoning system to more of a design-based system. The Future Land Use Map designated the entire G&V site for Flexible Business Overlay 2 (FB-2). The transitioning from a use-based to a design-based planning and zoning system emphasized different things. Under a use-based system, uses were strongly focused, and there were much looser design standards. Under a design-based planning and zoning system, the City set higher and more specific design criteria for the types of development it would like to see. The tradeoff was that there would be more flexibility in the types of uses permitted. The general idea was to create buildings that were more permanent and to allow for transitions in uses to occur over the life of the building. Another benefit was that it allowed moving away from an automobile-based increment of development to a more human increment. Currently, it was difficult to accommodate walking and biking or other forms of transportation besides the car. Use-based required a different way of thinking about development - thinking more about nodes with a little more density. The majority of the City was not planned to change, but the former City Place site was designated for FB-2, and some different types of development than seen in the past was encouraged.*

*Mr. Breuckman continued that the vast majority of areas planned for Flexible Business Use were already zoned and used for commercial purposes. Another words, they had a B zoning designation. In that case, the Flexible Use designation was set over the existing development as an Overlay district. That was the preferred method of implementing the new vision for the City during the Zoning Ordinance creation in 2009. Because the vast majority of the Flexible Business Overlay areas were where commercial development was already located, there was a lot of investment-backed expectations. People invested in their property under one regulatory system, and rather than completely changing how the City regulated development by creating the Flexible Business districts as standalone, mandatory districts, they were created as optional districts. The properties would retain their existing zoning, and they could be improved under that, but the Overlay zonings were placed on top as an option available to a property owner. An owner could, for example, mix residential and commercial areas. It would also be a natural area to add multiple-family development. He explained that townhouses were called that because the value in a townhouse was the town, and not so much the house. With a single-family house, the value was in the yard and the amenities. You would not want to put a townhouse where you could not*

walk to something or take advantage of a town. By adding multiple-family into existing commercial areas, the value of both could be increased. It would add in a built-in customer base for the commercial area and add some value to the multi-family development. He summarized that it was the idea in offering Flexible Business Overlay districts in commercial areas as an option. There were a few areas where the MLUP called for Flexible Business uses where there was not existing B zoning. Most of those were in PUDs in the early 2000s. He recalled the Lorna Stone PUD, which had a Flexible Business Overlay designation, because it matched what the owners were trying to accomplish. The Village of Rochester Hills, which was done under a Consent Judgment, was almost a textbook example of retail only, but it was an example of a walkable development. That was also designated as Flexible Business. City Place PUD was also designated as FB-2. When it came to implementing the MLUP, it became a little challenging, because the Flexible Business Overlays corresponded with FB-2. The intent was to encourage that type of development, but there was no vesting in the underlying B zoning, because it did not exist. That left them with the question of how to answer what the best underlying zoning at the subject site would be. The clear intent of the MLUP was that the former City Place site be developed according to the FB-2 Overlay standards, and for that reason, Staff was recommending that an R-4 underlying zoning with FB-2 Overlay was the most appropriate combination of zoning districts. R-4 was in place prior to the adoption of the City Place PUD in 2004, and the site had long been planned for mixed-use (since 1998). That combination of zoning would be consistent with the MLUP and would also be the most likely combination to lead the property owner to develop the site using the FB-2 standards.

Mr. Breuckman advised that the property owner had requested a combination of RM-1 and O-1 for the underlying zoning. Both of those districts permitted a range of uses that were also permitted in the FB-2 Overlay district. It would not provide the property owner with potential uses on the site that they would not have through the FB-2 district, but it would allow them to develop under the conventional zoning standards. There were some advantages with this for the property owner. It would be consistent with a mode of development, particularly in suburban areas that had been done that way for the past 50 years. Everyone know how to do it, and it was straight-forward. There was less risk, effort and brain damage on the part of the developer under the two conventional zoning standards. The FB-2 Overlay standards were consistent with a car-based, drivable development pattern. They knew they were not going to create a walkable, in-town development pattern everywhere, but it was more of

*setting the stage for continued development along that path. There were higher development standards in the FB-2 district that were not “business as usual.” They did require a little more “brain damage.”*

*As a final consideration, Mr. Breuckman stated that developing the site under the traditional RM-1 or O-1 standards would create a situation where it would be possible to parcel out the sites. It would be possible to get cross access easements and even shared stormwater agreements across the site under a traditional RM-1 and O-1 development pattern, but the FB-2 Overlay district would serve as a better method to coordinate development across the entire site. They could possibly reach an acceptable development scenario using RM-1 and O-1 as the base zoning districts, but implementing R-4 as the base zoning would increase the likelihood that the property owner would use the FB-2 district, and that would provide more certainty for the City, consistent with the vision established in the 2007 MLUP. Mr. Breuckman noted the potential motions in the Staff Report. Both had a choice to Recommend Approval or Denial, and there were findings for each provided. He recalled that at the last meeting, Staff said they would come back with more of an overview of the Flex districts, and they had tried to incorporate that into the Staff Report.*

*Vice Chairperson Brnabic asked if Commissioners had any questions before they moved to the second request. Hearing none, she asked the applicants for G&V to come to the presenter’s table.*

*Mr. Gaber introduced himself as the Attorney for G&V and Mr. Gilbert, who was one of the principals of G&V Investments. Mr. Gaber said that their request for the overlying district was FB-2, the same as the City’s, but their underlying zoning requests were different. The City wanted R-4, but G&V was asking for RM-1 behind the bank and O-1 for the balance of the site. Mr. Gaber outlined that FB-2 was the medium intensity of the Flexible Business Overlay areas. FB-2 areas were intended to provide a transition between the residential land categories and the more intense FB-3 areas, which in this case would be the Eddington Farms subdivision and the Bordine’s property on the corner of Rochester and Hamlin. Even though the commercial uses along Rochester Road existed and might be appropriate for the corridor, they understood that the City would not want an underlying B classification, and they were not asking for that because of the potential negative impacts it would have on the neighbors. That was why FB-2, which provided protections, fit the area. He added that it was an Overlay that imposed several development requirements upon the property, which, in large part, went to protections of adjacent properties*



*and the objective of the MLUP.*

*Mr. Gaber said that the City was promoting R-4 for the underlying zoning, but the applicants did not believe R-4 was appropriate for the area. Beginning with the 1999 MLUP, the City determined that single-family use there was not appropriate. The 1999 MLUP promoted a mixed-use concept with commercial, office and higher density residential for the area. The Rochester Road Corridor Study done in conjunction with that MLUP stated "Single-family residential uses are not desirable on the Rochester Road frontage." Mr. Gaber indicated that the Rochester Road frontage was used primarily for commercial purposes up and down that corridor, and in a lot of areas there was single-family behind it. The commercial provided the buffering. He stated that they had to take issue with the City's request to Rezone to R-4 for the purpose of discouraging the development of the property under R-4. He commented that it was really backwards. They believed that it was an improper use of the Zoning Ordinance to try to accomplish that. He felt that the Commissioners should look at changing the underlying zoning to be the best fit to support the policies of the MLUP, which they believed were for a mixed-use concept.*

*Mr. Gaber continued that the 1999 MLUP "contemplated commercial, office and higher density residential uses, as mixed-use was appropriate for the area" (page 59). The MLUP recognized that office and multi-family were the traditional transition-type of uses between busy roads, such as Rochester Road, with adjacent residential development and higher intensity commercial development, such as the Bordine's parcel and the single-family neighborhoods. The 2007 MLUP reinforced the concept - office and multi-family were transition uses appropriate for the area. Those were the uses found in the FB-2 district, which the MLUP designated for the area. They did not feel that the concern mentioned by Mr. Breuckman that the property could be divided and built in a piecemeal basis with RM-1 and O-1 should be a big concern. They were only asking for one parcel to be RM-1 (behind the bank). That parcel was already isolated by surrounding uses of single-family and office. It was cut off from the remainder of the property by the ITC utility easement. The parcel had direct access onto Rochester Road via the driveway just south of the Fifth Third Bank. They installed the driveway to service the other areas of the development, not just the bank. They were asking for O-1 for the rest of the site. He mentioned that a lot times, they would see office uses adjacent to one another, which had not been developed under some type of an Overlay but under conventional zoning. He reminded that the Site Plan would control the building design to make the structures*

compatible. They could also require cross access at the Site Plan stage. When the old PUD was proposed and the redevelopment of the Bordine's parcel was proposed, a driveway was proposed between the sites. The north office parcel could utilize the curb cut just south of the bank and both parcels north and south of Eddington could also access Eddington Blvd., as opposed to having direct access to Rochester Road. There were many possibilities other than having piecemeal parcels with direct access onto Rochester Road. He reminded that MDOT would have to approve everything as well.

Mr. Gaber concluded that if they looked at the 1999 and 2007 MLUPs, they both supported a policy of mixed-use, transition buffer zoning for the property. That was why the property was zoned with FB-2 Overlay in 2009. The MLUP supported O-1 and RM-1 for the underlying zoning for mixed-use purposes on a major arterial road with commercial property to the south. For those same reasons, the MLUP did not support an R-4 underlying zoning. They asked for consideration of their application and the request for RM-1 and O-1 underlying zoning and FB-2 Overlay zoning.

Vice Chairperson Brnabic asked if anyone had further comments or questions before she opened the Public Hearing. Hearing none, she opened the Public Hearing at 8:05 p.m. and asked that everyone keep comments to three minutes.

**Scot Beaton, 655 Bolinger, Rochester Hills, MI 48307** Mr. Beaton held up a poster of Eddington Village that he had drawn and proposed (a part of the packet and record). He asked Mr. Gaber to remember that the underlying zoning would not require any special FB character building ideas for developing the area. With RM-1 behind the bank, the applicants could build a traditional apartment complex. If it was Rezoned to Office, the applicants could build traditional office buildings along Rochester Road that might look like what was on Barclay Circle. He wanted residents to understand that the underlying zoning district was almost more important than the FB Overlay. He supported the City's recommendation of R-4. He thought they could all concur that no one would build an R-4 subdivision on the property. It was probably not economically viable, and it was not even in style nowadays. He reiterated that another cookie-cutter subdivision would not economically work. If there was an FB-1 over an R-4, it would force whoever developed the property to build the small town character traits that would make the area really adorable. He said that he broke the cardinal rule and did a Site Plan, even though they were not supposed to discuss a Site Plan with a

*Rezoning. His Site Plan was not a Site Plan to him - it was kind of like a word cloud. The biggest word he had heard in the Auditorium was "residential." The second biggest word he had heard was single-family residential. Eddington Village was a zero lot line, single-family residential development. There were more houses than in a traditional R-4 development, which would give Mr. Gilbert the money to be able to develop the property correctly. It supported an FB-1 Overlay. His recommendation would be for R-4 with FB-1 Overlay, and he would only do FB-2 in a couple of sections by Bordine's and perhaps at a new intersection where the light would be.*

**Jeff Kragt, 200 E. Long Lake Road, Suite 110, Bloomfield Hills, MI**

**48304** *Mr. Kragt stated that he was the Attorney for the Eddington Farms Homeowner's Association. He had sent a communication requesting that he be given other residents' time, and he asked if he could be given a little more flexibility, since he was speaking for more than one. Vice Chairperson Brnabic agreed that she had received some requests from residents giving Mr. Kragt their three minutes, and she asked if he considered five minutes reasonable. Mr. Kragt said that he did. He stated that it was strictly a Rezoning issue, and while he appreciated Mr. Beaton talking about a Site Plan, they all knew that was not why they were there. They were there to talk about what the proper zoning was. Mr. Gaber wanted the City to give them what they had been looking for all along, which was unbridled flexibility when it came to development of the property. Mr. Kragt believed that City Staff's Recommendation was quite reasoned when it came to what the underlying zoning should be, and he believed that the property should revert back to R-4. He found it a little disingenuous from the developer's standpoint to ask for RM-1 and O-1, because they knew that if the PUD went away that the R-4 would rear its head again. The only reason it was not R-4 today was because of the development. He referred to Mr. Anzek's March 1, 2010 memo that said, "At the time of the new 2010 PUD Agreement, it was understood that if the PUD were to become void that the property would revert back to its original zoning classification of single-family. The reversion would take place automatically or by action of Council." Mr. Kragt stated that the developer knew that was what the zoning should turn into if the PUD went away, which happened. The B-2 zoning was only put in place because of the PUD. He indicated that Mr. Gaber painted a picture of the MLUP of 2007 which showed that the vision was not single-family. The PUD was in place in 2004 that made it commercial. He thought that Staff had provided great reasons why R-4 was preferable to RM-1 and O-1. However, he wondered where the discussion was about not having an Overlay district. There was no reason why the City could not turn the*

zoning into purely R-4. That would look like it did before the developer came into play. The developer was not foreclosed on the property and not stopped from coming back to the City with an actual PUD he could sell if he had a buyer. They could do a Conditional Rezoning. If the developer wanted a different zoning in the future tied to a particular plan, he was not precluded from doing that. Regarding putting the developer in a bad economic position, the developer was not in any worse position, other than he could not go freely under the zoning he wanted. Mr. Kragt said that he had a little trouble as to why an FB-2 Overlay was appropriate for residential zoning. He agreed that R-4 was proper. He looked at the City's Zoning Ordinance, Section 138-4.200, which talked about the R-4 district, and it said that one-family residential districts were designed to provide for one-family, low density dwelling and residentially-related uses, in keeping with the Master Plan of residential development of the City. Regarding Section 138-4.215, it said that the FB districts were designed to permit a wider range of uses in areas already used for commercial purposes. FB Overlay districts suggested that property should only be used for commercial purposes. He concluded that they had to be careful allowing FB-2, let alone O-1. FB-2 would allow by right an assembly plant, a bar next to residential, a rail terminal, bowling alleys and movie theatres, so when they talked about an Overlay district, they needed to make sure they knew what uses were permitted as a right. He summarized that he believed the zoning should be R-4 without an overlay.

**Mr. A. Scott, 516 Essex, Rochester Hills, MI 48307** Mr. Scott handed in a card (after Mr. Kragt) that said that he would give his time to Mr. Kragt.

**Melinda Hill, 1481 Mill Race, Rochester Hills, MI 48306** Ms. Hill asked why they would recommend R-4 with an FB-2 overlay or why they would allow RM-1 and O-1 with an FB-2 overlay. She questioned why it felt that Staff and Council seemed to be ignoring what had been discussed, planned and agreed to over the past 15 years regarding the development of the G&V property. She wondered why the 2010 PUD Agreement reversion clause was not being discussed or initiated. She quoted, "The City may initiate Rezoning to B-1, FB-1 or similar zoning classification that permits office and multi-family development." She thought that was clear enough. She said that the 1998 MLUP update by Katherine BeBee, where the Rochester Road Corridor Study recommended low intensity, mixed-use for the G&V property, the 2004 PUD, the 2007 MLUP update and the 2010 amended PUD all documented that intentions by the community for the G&V property were for mixed-use development with an

extremely limited amount of commercial, if any. She asked why Staff kept trying to insist that FB-2 zoning upheld the current MLUP. She felt that it was something like a shell game - shuffle the facts enough and perhaps no one will know the truth. The Staff Report did correctly state, "For a property like the City Place development, where the B-2 zoning was only put in place to support the PUD, Staff believes that there is no vested right to the B-2 zoning," and thus a Recommendation for R-4 was made. However, instead of Recommending an FB-1 Overlay, which would be consistent with the long intended development of the property, Staff recommended FB-2, saying that it would be consistent with the MLUP and lead the property owner to develop the site using the FB-2 Overlay district. She mentioned that Staff said that G&V had no vested right in the underlying B-2 zoning, which was the only basis in 2009 for the FB-2 Overlay in the first place. The Zoning Ordinance stated that the FB districts were designed to permit a wider range of uses in areas already used for commercial purposes. She wondered why the City was now promoting more commercial development. More intense use of properties like City Place or Lorna Stone, had restrictive and controlling PUDs concerning retail commercial development. She stated that neither property had been used for anything to date, let alone commercial. Staff believed that an R-4, FB-2 combination would lead the property owner to develop using the FB-2 district. She claimed that would leave the property wide open for commercial development, which was never the intention. She was curious why the zoning requests were even brought to this meeting. She remembered that the Planning Commission called for more information and discussion on various possibilities of zoning. FB-1 would allow for single-family as well as multi-family, and the FB Overlay would allow for all uses that had been intended for the property. She felt that the shells were being moved around on the table faster than one could keep an eye on them. She believed that the Commissioners should choose not to approve the request or at least postpone, if not deny, until they had come to a proper Recommendation for Council. If the Commissioners had really done their due diligence and gone back and read all of the Minutes, Plans and Agreements since the late 1990s for the property, she stated that they would have to agree that it clearly spelled out that B-1 and FB-1 was and had been the intended use for the property, and to recommend anything beyond that was not in the best interest of the community as a whole and would only support an inappropriate manipulation of the facts.

**Lisa Winarski, 194 Bedlington, Rochester Hills, MI 48307 Dr.**

Winarski stated that the PUD overlay was originally intended to live with the property. She did not understand how the PUD could go away. She

*claimed that just because G&V abandoned their segment, it did not mean there was an abandonment of the PUD. It was always intended that it would move forward with whoever the owner was to give the City more control over what would be built. She said that somehow, the original acreage went from 23 acres without the Fifth Third Bank to almost 28 acres with the bank built, and she did not understand how property could grow. In 1998 G&V presented mixed-use as a concept to the City. In 1999, the MLUP was changed to benefit their concept. She stated that the MLUP was a guide; it was not set in stone or a bible, and she said that it changed with the vision of the Planning Director. The 2007 MLUP indicated mixed-use, but she maintained that was because the PUD was already in place. She asked the purpose of having R-4 when it was suggested by the City to have FB-2 over it. She commented that R-4 was useless, and people could do whatever they wanted with an FB-2 Overlay. Someone could put as much density or commercial as possible and ignore the R-4 all together. Just because Staff said it enough, she indicated that it did not make it true, and she felt that they needed data and hard evidence. She noted that she was a physician - a surgeon - and she did not go into an OR without looking at all the data first. She felt that was lacking. She reiterated that just because it was said enough, it did not make it true.*

**Ken Barnes, 1107 Bembridge, Rochester Hills, MI 48307** Mr. Barnes said that he was an Eddington Farms homeowner and board member, and he just wanted to thank the Commission for the time allocated to Mr. Kragt.

**Susan DeShaw, 1638 Farnborough, Rochester Hills, MI 48307** Ms. DeShaw stated that she and her husband lived on Farnborough, and it was important to them and many of the residents that the land stayed residential behind the homes there. They felt it was important so it did not impact the home values. The residents maintained the tax base for the City and if the value of the homes stayed, it would be a win-win for all of them. They would like to see a layout of what was going where once everything was decided, and she concluded that they would prefer it to stay residential.

**William Karam, 1710 Farnborough, Rochester Hills, MI 48307** When called upon, Mr. Karam advised that his question had already been answered.

**James Coon, 707 Tewksbury Ct., Rochester Hills, MI 48307** Mr. Coon noted that he was a Professional Engineer registered in the State of

Michigan. He retired as the Director of the Public Lighting Department for the City of Detroit, and for several years, he was in charge of the traffic signal section and responsible for the design, installation and maintenance of 1,100 traffic signal installations. He also noted that he was a resident of Eddington Farms. He was aware of the letter from MDOT which said it would approve a signal at the realigned Eddington Blvd. and Drexelgate. He was not sure if they were asked about a signal without realigning the streets, but he did know that if Eddington Blvd. was not realigned, and a signal was warranted due to a new development, the installation would be approved. He had worked with MDOT in the past, and they could be reasoned with. He pointed out that contrary to what seemed to be opinion, a staggered intersection as it existed now was inherently safer than a four-way intersection that was proposed. In the past, he had presented several studies that indicated that. He wanted to point out that elimination of the Eddington Farms entranceway and monument on Rochester Road would decrease their property values, because it would decrease the public recognition of Eddington Farms. They would no longer have a public presence on Rochester Road. It was not just a sign; it was a monument that identified Eddington Farms. The way Eddington Blvd. was currently, they had a straight route and easy access for EMS, Fire and the Sheriff's Department. If it were realigned, there would be a longer route for them and several turns, which would slow access for emergency services. Any traffic engineer that was up to date would know that a staggered intersection was safer than a four-way cross intersection. If safety was a consideration, he maintained that they should leave the street as a T-intersection and install a signal at Eddington Blvd., which was closer to the half-mile point, or add a staggered signal at Drexelgate. He stated that the developer was wrong to consider realigning Eddington Blvd. with Drexelgate. He was also against the destination of RM-1, because it would increase the population density. He passed out a couple of handouts for the Commissioners.

**Lorraine McGoldrick, 709 Essex, Rochester Hills, MI 48307 Ms.**

McGoldrick said that Mr. Davis's presentation, while primarily accurate, had a few presentations that were conveniently misleading. She said that she had learned a lot about zoning in the past six months. She was very concerned that they would let someone abandon a PUD and also get to benefit from that PUD without looking at all the steps that went in to it so they would get an appropriate legal zoning in the end. Regarding MDOT, she had been leading the charge for Eddington Farms. She had met with a regional member and a local member from the Pontiac office on several occasions. There was a conditional approval that was given just to G&V and the consultant they used to do the study. The study on a

*realigned Eddington was only done to service the proposed PUD. Once the PUD was abandoned, the conditional approval for a light at Drexelgate would be null and void. MDOT was supposed to present parameters when some type of study went to fact. The only parameters they used were the conditions from the 2010 restated PUD. She claimed that when Mr. Davis said that the corridor would not be studied any more because it had been studied enough, that it was very inaccurate. When they redid the vehicle counts, it was at the urging of the Eddington Farms people at a meeting with MDOT, because they showed that it was not done properly, and MDOT could not get accurate counts. There were many people who cut across to Avon in front of the shopping mall. She talked with someone at the KinderCare, and not one person would drive up to Rochester Road on Meadowfield, but they would like to if it was safe. Without studying the road segment and giving it equal opportunity, there would be different results. When MDOT redid the numbers, they never did gaps or a projected, generated study. They took the new numbers and said they were not that different. Ms. McGoldrick stated that there were 12 different numbers, and she remarked that if she submitted a report at work with 12 errors, she would not have a job. Some numbers were little, but others were significantly different for the vehicle count from when the paid consultant did it to when MDOT did. There were a lot of concerns about that. It was her understanding that if the City asked MDOT about a light at Meadowfield, MDOT would reconsider everything. She recalled that Mr. Bordine said they had the same problem with cut-thru traffic to Hamlin. She commented that the Avon intersection was the worst in the region, and that a light might help. She was asking that they got real data and compared apples to apples and got it in the system for safety, because the word safety was not in any of the reports.*

**Scott Armstrong, 625 Lexington, Rochester Hills, MI 48307** *Mr. Armstrong advised that he lived in Eddington Farms, he was a 22-year Air Force veteran, had 10 years in the lending industry and was the Vice President of the Eddington Farms Homeowner's Association. He said that he had listened patiently, and he had a question. As they knew, G&V has had ownership of the property for quite a long time. They have had several zonings put in place over the past 10-15 years and had yet to develop the property. If he was a member of the Planning Commission, he would ask himself why they would allow the same person who was asking for a Rezoning, who already owned the property and had demonstrated an inability to develop, to redevelop the property. If they did allow a change to the development, he wondered what limitations would be placed. They had worked very hard with G&V as a subdivision to try to make sure that both sides were taken care of - where G&V could*



*develop, and where their children and area would be safe and where not too many bars or a Walmart would be. The last time the change was done, G&V said that it was wonderful, and that they could work with it, and now they could not, and they wanted to abandon everything. They wanted to start at the very beginning and change the R-4 and ask for other another overlay that would give them even more of an advantage and to put something in that they had not been able to tell what it was. He asked how it was that they had not developed in 15 years and what it was about the changes that they were asking for that would make it so they could develop within the next 15 years.*

*Vice Chairperson Brnabic closed the Public Hearing at 8:35 p.m. She asked the Commissioners if they wished to comment.*

*Mr. Hetrick asked if the PUD stayed with the property and was not considered an expired contract. He advised that the comments around MDOT and the traffic studies were not really related to zoning, and he pointed out that it was a different topic for a different time.*

*Mr. Staran said that with regards to the PUD, it had not expired. He referred the Planning Commission to the Resolution adopted by the City Council in October 2013, whereby in a matter initiated by G&V, they came before Council, and he read that, "Council hereby decides to terminate the PUD Agreement between G&V Investments and the City of Rochester Hills pending referral to and report and Recommendation from the City Planning Commission as to the appropriate zoning designation for the property." Mr. Staran explained that Council determined that it had been abandoned, and that it should be terminated, but it would be pending the Planning Commission following through and determining what the zoning should be.*

*Mr. Breuckman added that Mr. Hetrick was correct that zoning was a separate matter from the traffic and access, which was a Site Plan matter.*

*Mr. Hetrick said that from his perspective, it seemed that there was, at a minimum, one thing that the two proposals agreed on, and that was FB-2. The underlying zoning appeared to be a bit of a challenge. It was his view that the two sides needed to meet and come up with a way of deciding what the underlying zoning should be. If FB-2 was what everyone wanted, it seemed to be what was wanted to drive the development of the property. Whatever the underlying zoning should be, it needed to support FB-2, but it should not give all the options that FB-2 allowed. His suggestion would be to find some common ground between the two parties for what the*

*underlying zoning should be. The 2007 MLUP said that residential was the zoning, and that the future zoning was FB-2, which was what the City had proposed. If there was something that needed to change with regards to the underlying zoning, he thought it was best if the two parties agreed on what it should be. Otherwise, he did not see how they could Recommend a Rezoning that allowed the PUD to be dissolved.*

*Mr. Kaltsounis said that when it came to the PUD, if the contract was terminated but it stated in the contract that the underlying zoning would return to something else, he wondered if that actually counted. He did not think Council was seeing that, and they were asking for a Recommendation from the Planning Commission.*

*Mr. Staran said that first and foremost, the PUD Agreement did not say that the zoning returns to something else. It authorized the City to reinitiate the zoning process. It did express an initiation to Rezone to B-1 and FB-1, but he had indicated to Council and what they understood and passed on to the Commission, was that the Planning Commission should not feel so constrained. If the PUD Agreement was being terminated fully, it meant that the City needed to revisit the zoning and determine what it should be, whether residential or not or if it should have an overlay and what it should be. He stated that the Planning Commission had a blank slate. Mr. Kaltsounis clarified that they had that regardless of what the PUD said. Mr. Staran said that was correct, because the PUD was being terminated.*

*Mr. Kaltsounis summarized that there were two options laid out and the third was to postpone. The first was Recommendation for Approval or Denial of RM-1 and O-1. Unfortunately, in his opinion, RM-1 for the parcel behind the bank was not harmonious with the environment surrounding it. He also thought that office buildings would disrupt the feel driving down Rochester Road. He moved the following, seconded by Mr. Schroeder.*

***MOTION*** *by Kaltsounis, seconded by Schroeder, in the matter of City File No. 02-027 (Former City Place Rezoning) the Planning Commission recommends denial to City Council of the proposed rezoning of parcel no. 15-23-152-022 to RM-1 multiple family residential with an FB-2 flexible business overlay, and parcel nos. 15-23-023, 15-23-301-002, and 15-23-300-035 to O-1 office business with an FB-2 flexible business overlay, with the following three (3) findings for denial.*

Findings for Denial:

1. *The RM-1 and O-1 zoning designations are unnecessary because the uses permitted in the RM-1 and O-1 districts are also permitted in the FB-2 overlay district, but without the higher design standards required in the FB-2 overlay district.*
2. *The RM-1 and O-1 zoning designations could create a patchwork development pattern on the site if parts of it are developed using the conventional zoning standards and other parts are developed using the FB-2 overlay standards.*
3. *RM-1 and O-1 are not the most appropriate zoning designations for the site because they decrease the incentive to the property owner to use the FB-2 overlay district and could result in a type of development that is not envisioned in the Master Land Use Plan.*

*Mr. Hooper noted that the property has had the existing zoning and PUD Agreement since 2004 with an FB-2 Overlay. In 2010, the FB-2 Overlay continued, but it was modified with further restrictions on a portion of the development to be controlled by FB-1 standards rather than FB-2 standards. So, for the last 10 years, the property had been under the FB-2 standards. In his opinion, the property would not be developed as residential, although portions of it might be, but the majority of it would not. An argument had been proposed that FB-2 as an Overlay district should not be used if it was not already commercial, but a counter argument could be made that when the initial PUD contract was established in 2004, Fifth Third Bank was installed under that Agreement, which was a commercial development that had started. In essence, the FB-2 Overlay had been utilized. As far as the underlying zoning, he firmly believed that the property would be developed as FB-2 in some fashion, and he felt that FB-2 would be the appropriate Overlay zoning. As far as the underlying zoning, Staff's argument was for R-4 because they knew it would not be developed as R-4, and it would ensure it would be developed as FB-2. The applicants were asking for RM-1 and O-1 so if it was not developed under FB-2, they would still be able to develop with those underlying zonings. Mr. Hooper said that his fear about that would be that since they would definitely want one uniform development and not have the property split off as O-1, the City would not have the ability to control the access points onto Rochester Road. He was not saying that was what the developer would do, but it was a concern. He said that he definitely saw the point for having R-4 as the base zone, because he was confident that was not how it would be developed, and it would be*

*developed as FB-2 in some form. Regarding having the underlying zoning as O-1, he would agree that it was not appropriate for fear of a piecemeal development occurring. He agreed that other issues could be dealt with in the Site Plans - what it would look like, the intensity, the uses, etc. There were standards that provided flexibility and conditional uses, because they would like to see a single, harmonious development. City Council would have final approval of any conditional uses, and if those were not requested, the permitted uses in the FB-2 district would provide a wide flexibility in uses, including residential.*

*Hearing no further comments from the Commissioners, Vice Chairperson Brnabic asked for a roll call vote.*

**A motion was made by Kaltsounis, seconded by Schroeder, that this matter be Recommended for Denial to the City Council Regular Meeting,. The motion carried by the following vote:**

**Aye** 6 - Brnabic, Dettloff, Hooper, Kaltsounis, Reece and Schroeder

**Nay** 1 - Hetrick

**Absent** 2 - Boswell and Yukon

*Vice Chairperson Brnabic stated for the record that the motion had passed 6-1. She asked if anyone wished to make a motion regarding the City's request.*

*Mr. Kaltsounis said that they had talked about FB-2 many years ago during the Master Plan review, and it was what the property was overlaid with today. If someone came in tomorrow and asked for FB-2, it would be permitted. The subject property was tricky, and there had been a lot of developments and recommendations before the Planning Commission. FB-2 was something that fit the bill for the future to get a harmonious transition for the property, which was one of the hardest properties in the City to develop. He moved the following motion, seconded by Mr. Dettloff.*

**2010-0094**

Public Hearing and request for Rezoning Recommendation - City File No. 02-027 - An Amendment to Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills to Rezone four parcels of land totaling approximately 27 acres (Parcel Nos. 15-23-152-022, 15-23-152-023, 15-23-301-002 and 15-23-300-035) located on the east side of Rochester Road between Avon and Hamlin from B-2 General Business with an FB2, Flexible Business Overlay district and a Planned Unit Development (PUD) Overlay to R-4, One-Family Residential with FB-2 Flexible Business Overlay district and to prescribe a penalty for violations thereof, City of Rochester Hills, Applicant

***MOTION*** by Kaltsounis, seconded by Dettloff, in the matter of City File No. 02-027 (Former City Place Rezoning) the Planning Commission **recommends approval** to City Council of the proposed rezoning of parcel nos. 15-23-152-022, 15-23-023, 15-23-301-002, and 15-23-300-035 to R-4 one family residential with an FB-2 flexible business overlay, with the following four (4) findings for approval.

***Findings for Approval:***

1. *FB-2 is an appropriate zoning district at this location as it is compatible with the goals and objectives of the Master Land Use Plan, and is the most appropriate zoning district to implement the type of development envisioned in the Master Land Use Plan for this site.*
2. *R-4 is an appropriate zoning district at this location as it was the zoning designation that existed prior to the adoption of the City Place PUD (and associated zoning actions).*
3. *Approval of the proposed rezoning will allow for uses and a development character that are consistent and compatible with existing uses to the north, west and south.*
4. *The proposed rezoning is consistent with the criteria for approval of an amendment to the Zoning Map, listed in Section 138-1.200.D of the Zoning Ordinance.*

*Before he voted, Mr. Hetrick said that it was his view that the vote should be tabled for the opportunity to redefine the underlying zoning. Since FB-2 appeared to be the Overlay that people wanted, it was the underlying zoning that was the critical element. Given that they all knew that residential development would most likely not occur, having R-4 as the fundamental zoning did not appear to be appropriate, in his view. He would have suggested that they tabled it, but since they had started the vote, he voted "no." Commissioner Reece agreed with Mr. Hetrick, and said that they needed more information.*

**A motion was made by Kaltsounis, seconded by Dettloff, that this matter be Recommended for Approval to the City Council Regular Meeting,. The motion carried by the following vote:**

**Aye** 5 - Brnabic, Dettloff, Hooper, Kaltsounis and Schroeder

**Nay** 2 - Hetrick and Reece

**Absent** 2 - Boswell and Yukon

*Vice Chairperson Brnabic stated for the record that the motion had passed 5-2.*

**ANY OTHER BUSINESS**

*Mr. Schroeder and Mr. Hetrick both said that they would like to continue serving on the Policy Team.*

**MOTION** by Kaltsounis, seconded by Dettloff, the Planning Commission hereby affirms the re-appointments of Dale Hetrick and C. Neall Schroeder to serve on the 2015-2020 CIP Policy Team.

Ayes: All  
Nays: None  
Absent: Boswell, Yukon

**NEXT MEETING DATE**

Vice Chairperson Brnabic reminded the Commissioners that the next Regular Meeting was scheduled for February 25, 2014.

**ADJOURNMENT**

Hearing no further business to come before the Planning Commission, and upon motion by Mr. Kaltsounis, seconded by Mr. Schroeder, Vice Chairperson Brnabic adjourned the Regular Meeting at 8:59 p.m.

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Deborah Brnabic, Vice Chairperson  
Rochester Hills Planning Commission

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Nicholas O. Kaltsounis, Secretary