

2. *Provide a landscape cost estimate for landscaping and irrigation, plus inspection fees, as adjusted as necessary by staff in the amount of \$30,110.00, and posting of bond prior to temporary grade certification being issued by Engineering.*
3. *The applicant will work with staff to provide pedestrian features such as benches in the grassy area in the rear.*
4. *Based on Building Dept.'s recommendation, the temporary building must be removed either 60 days from the temporary or 60 days from the final Certificate of Occupancy.*
5. *The applicant shall revise the plans to show the correct elevation names (directions), prior to final approval by staff.*

**A motion was made by Kaltsounis, seconded by Reece, that this matter be Approved. The motion PASSED by an unanimous vote.**

*After each motion, Chairperson Brnabic stated for the record that the motion had passed unanimously, and she congratulated the applicants. Mr. Hooper thanked the applicants for their investment in Rochester Hills.*

**2019-0444**

Request for Planned Unit Development Agreement Approval - City File 18-016 - Rochester Hills Trio, a mixed-use development on 5.77 acres, located at the northeast corner of Auburn and Livernois, zoned RM-1 Multiple Family Residential with an FB-1 Flexible Business Overlay and B-1 Local Business with an FB-2 Flexible Business Overlay, Parcel No. 15-27-351-009, Designhaus Architecture, Applicant

*(Reference: Staff Report prepared by Kristen Kapelanski, dated October 10, 2019 and site plans, PUD Agreement and elevations had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant were Peter Stuhldreier, Mike Pizzola and Joe Latozas from Designhaus Architecture, 301 Walnut Blvd, Rochester Hills, MI 48307 Fred Haddid and Motaz Kaakarli, OYK Engineering, 30700 Telegraph Rd., Bingham Farms, MI 48025.*

*Ms. Kapelanski summarized that the proposal was to add 120 residential units plus 21,000 s.f. of retail and office space at the northeast corner of Auburn and Livernois. She noted that the Preliminary PUD was recommended for approval and approved by City Council at its August 12, 2019 meeting. The applicant was requesting recommendation of the PUD Agreement and Final PUD Plans and approval of a Tree Removal Permit and Natural Features Setback Modification. There was one*

condition that needed to be included in the Agreement, which was a completion date and that the project would not be phased, and those items were addressed. Staff had recommended approval, and there were no plan changes proposed from the Preliminary PUD.

Chairperson Brnabic brought up a Planning Commission request at the July 16, 2019 meeting that Mr. Stuhlreyer provide a letter that apologized and corrected inaccuracies listed in the June 20, 2019 letter. A letter dated July 31, 2019 was submitted to staff, but she stated that the apology letter was far from adequate and did not correct any inaccuracies or untrue statements in the June 20th letter. A letter of clarification dated October 7, 2019 was submitted referencing inaccurate statements made in the June 20, 2019 letter in regard to the term unanimous, correcting the contamination stats of the Speedway site and acknowledging that the Planning Commission never asked the developer to purchase the Speedway site. She said that she would have liked to see a few other inaccuracies addressed. The June 20th letter was a blatant misrepresentation of facts, and the Planning Commission had never received a letter like that. She did not expect to ever receive something like that again. She mentioned that the dates in the October 7th letter did not coordinate. It stated that there was a letter written on July 2, 2019, but it was June 20, 2019 and July 22, as stated in the October 7th letter, should have read July 31. She asked that those dates be corrected before the matter moved forward to City Council.

Chairperson Brnabic asked the timeframe for commencement and completion for the entire project. They had mentioned that they would not be phasing and that everything would be done simultaneously, but a start and finish date was not stated.

Mr. Stuhlreyer said that they were in a position to start immediately. They had finished construction documents on one building completely. They had finished civil engineering of the entire site. That had been submitted two weeks or three weeks ago. They were ready to clear and mass grade and begin underground this year. Chairperson Brnabic asked how long they projected the project to complete. Mr. Stuhlreyer said that he did not believe it would be more than 24 months.

Chair Brnabic asked the timeframe for commencement and completion for the entire project. She noticed that no phasing would be done and that everything would be done simultaneously, but there was not a start and finish date. The wrong version had been included in the packet, but the correct one was put online, and she was shown a copy. 3 (c) included the

*requested information.*

*Chairperson Brnabic read "both public infrastructure improvements and internal site improvements shall commence upon the developer obtaining site plan approval and applying for building permits within one year of the effective date of the PUD Agreement. In association to the PUD both public infrastructure and internal site improvements shall be completed and constructed in continuous sequence, not exceeding 36 months after all relevant permits are delivered." That was the correct version that was online and nothing else had changed from the hard copy.*

*Chairperson Brnabic mentioned page C-601 under Public Benefit Markings. 2a. listed remediation and development of a contaminated site, and she wished to see the word "previously" added in front of contaminated before it went to Council. Also, under G-002 under Allowable Stories and Height and what was proposed, she questioned the two stories, 39.4 feet. That appeared to be more than two stories. She asked how high of a parapet there would be. Mr. Latozas said that the 39.4 was to the tallest tower parapet in the corner of the building. The parapet was four feet. Mr. Stuhlreyer clarified that the 39 feet was the tall tower in the corner, which included a four-foot parapet. Chairperson Brnabic said that two stories was 30 feet and with a four foot parapet, it would be 34 feet. Ms. Kapelanski said that the Ordinance allowed two stories up to 35 feet. A parapet was not specifically called out in the Ordinance as an architectural element that could be above and beyond the height. The Ordinance defined building height as to the top of the top roof beam of a flat roof, which would not include a parapet. For the subject building, the applicant was proposing a 35-foot high building to the top roof beam and a four-foot parapet on top of that. Staff was working on Ordinance amendments to clarify how tall a parapet could be.*

*Chairperson Brnabic said that under General Building Heights and Area, it showed that three stories, 75 feet were allowable for Building A; five stories, 75 feet for Building B; four stories, 60 feet for Building C; and for D, E, and F, the allowable height was 55 feet. She stated that it was not correct information, because the PUD did not allow more than three stories.*

*Mr. Latozas explained that it was referencing the allowable building height per the 2015 Michigan Building Code. He suggested that they could revise it to be more aligned with what the zoning allowed, and Chairperson Brnabic said that she would appreciate that. Mr. Stuhlreyer added that*

*the Building Dept. requested that those metrics be included in the drawings.*

*Mr. Gaber stated that he was still not clear about the timing of the project. He thought that provision 3.(c). was somewhat confusing as written. He asked if they were giving themselves one year from PUD approval to get all approvals and pull building permits. Mr. Kaakarli said that they would like to start as soon as possible. He suggested that they could add specific dates. Mr. Gaber thought that they wanted one year to pull all permits, and after that, they would have three years to complete everything. He asked if that was the intent, and Mr. Kaakarli said that they were just conditions they felt were appropriate. Mr. Gaber asked if they were outside parameters that they felt they could live with, which Mr. Kaakarli confirmed. Mr. Gaber said that he would like that clarified. He felt that it was not written well because it talked about infrastructure improvements and internal site improvement, but not about buildings at all. He asked about having some type of security for construction of the public improvements. He knew that other communities required letters of credit or cash bonds to ensure that all the public improvements were constructed if something happened. He was not sure if the Commission had ever considered that, but it was not uncommon. The PUD Ordinance required, "a timeframe for commencement and completion of improvements associated with the PUD, including public infrastructure improvements and internal site improvements, along with the means of ensuring that all public improvements are constructed and maintained." To him, that meant implementing some type of security provision.*

*Ms. Kapelanski asked what public improvements Mr. Gaber would include. Mr. Gaber said that it would be the pathways and the offsite pathway. Mr. Davis asked Mr. Gaber if he was asking about something the City typically required with private developments. The City required performance bonds for the utility work to be done. The water and sewer would be a utility the City owned, so they would typically require a 100% performance bond posted. Once the City took preliminary acceptance of the utility, it would be reduced to a 25% maintenance bond. After a couple of years, a final inspection would be done and if everything was fine, they would take final acceptance of the utilities. They did the same thing for pathways. They would not do it for storm sewer. If Mr. Gaber wanted it in the PUD Agreement, it could be added, but it was common for the City to already require bonds. Mr. Gaber said that if it was part of the standard engineering requirements, he felt that was fine. He would just request that timing clarifications be made. Mr. Kaakarli read, "shall be completed and constructed within 36 months." Mr. Gaber read, "in*

association with the PUD, both public infrastructure improvements and internal site improvements” and said that it should include buildings. He suggested saying, “developer shall be required to get site plan approval and pull building permits and commence improvements within one year from the approval of the PUD. All improvements will be completed within 36 months after all building permits are obtained.” Mr. Kaakarli thanked him for the suggestion.

Mr. Schroeder noted on the plans that the parking structures had been moved, and they were not on the property line any longer. Mr. Stuhlreyer said that was correct. Mr. Schroeder asked if the last two pages showed the walls at the back of the site behind the parking - A-207 and A-209. Mr. Latozas agreed that they were the low walls at the edge of the carports.

Mr. Kaltsounis asked who wrote the apology letters. Mr. Stuhlreyer said that he did. Mr. Kaltsounis said that at the last meeting, everyone called him off and said to hold back about the letter, because Designhaus would do the right thing. Chairperson Brnabic had said that the right thing was not done. Mr. Stuhlreyer said that he did his best to forensically put together the dates and the statements that were made through minutes and through his own files. He might have he missed a couple of dates on certain letters. He believed that he set straight the record that the City did not make any guarantees, the City did not promote the idea that they had to make any purchases, and although the minutes of the original meeting stated that five members spoke well of the architecture, it was not unanimous, and the latest letter clarified those issues. He apologized for the dates, but it was an 18-month process. He said that he would go back and study the dates in the October letter and clarify. Mr. Kaltsounis asked why they got the letters. Mr. Stuhlreyer said that it was due to frustration. Mr. Kaltsounis said that they hoped to see him in the future, but they wasted a lot of time with it. He said that he appreciated the Chair’s diligence in going through everything. He thought it had been put to bed at the last meeting, but it was not. He would add a condition that a letter be written to correct inaccuracies. Chairperson Brnabic said that in the October 7 letter written to correct inaccuracies, it stated that on July 2, 2019, Mr. Stuhlreyer prepared a letter summarizing issues regarding the project status of Trio. Members of the Planning Commission expressed displeasure with the letter. She said that it was the June 20th letter that they were displeased about. Mr. Kaltsounis went over that condition as well as one regarding clarification of timing for 3 (c). Chairperson Brnabic mentioned C-601 under Public Benefit Markings. 2 a. listed it as remediation and development of a contaminated site. She would like the word previously added before contaminated. She also noted the

information that talked about stories up to 75 feet and asked that to be corrected. Mr. Latozas claimed that the information was a requirement from the Building Dept. as part of the submittal. Mr. Stuhlreyer said that a few pages later, there were charts and tables about the allowable height by zoning (S-100). Chairperson Brnabic had noticed it on G-100 and knew that five stories would never be allowed regardless of whether it was a PUD. Mr. Kaltsounis added one more condition about Exhibit C in the PUD being updated to match the print in the site plan.

**MOTION** by Kaltsounis, seconded by Reece, in the matter of City File No. 18-016 (Rochester Hills Trio PUD), the Planning Commission **recommends** that City Council **approves** the PUD Agreement dated received August 29, 2019 with the following five (5) findings and subject to the following seven (7) conditions.

Findings

1. The proposed Final PUD is consistent with the proposed intent and criteria of the PUD option.
2. The proposed Final PUD is consistent with the approved PUD Concept Plan.
3. The PUD will not create an unacceptable impact on public utility and circulation systems, surrounding properties, or the environment.
4. The proposed PUD promotes the goals and objectives of the Master Plan as they relate to providing varied housing for the residents of the City, and mixed-use was anticipated at this corner.
5. The proposed plan provides appropriate transition between the existing land uses surrounding the property.

Conditions

1. City Council approval of the PUD Agreement.
2. The appropriate sheets from the approved final plan set shall be attached to the PUD agreement as exhibits, including the building elevations.
3. Address outstanding comments at building and construction plan permit review.

4. *All other conditions specifically listed in the agreement shall be met prior to final approval by city staff.*
5. *Revise the October 7, 2019 letter to correct the dates of other letter(s) referenced (June 20, July 2 and July 31), to be confirmed by staff, prior to the matter going to City Council.*
6. *Clarify the timeline in 3.(c). as stated in the discussion, as approved by staff, prior to the matter going to City Council.*
7. *Update Exhibit C in the Agreement to match the site plan, to be approved by staff, prior to the matter going to City Council.*

**A motion was made by Kaltsounis, seconded by Reece, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion PASSED by an unanimous vote.**

**2019-0443**

Request for a Tree Removal Permit - City File No. 18-016 - for the removal and replacement of as many as 57 trees for Rochester Hills Trio, a proposed mixed-use development on 5.77 acres at the northeast corner of Auburn and Livernois, zoned RM-1 Multiple Family Residential with an FB-1 Flexible Business Overlay and B-1 Local Business with an FB-2 Flexible Business Overlay, Parcel No. 15-27-351-009, Designhaus Architecture, Applicant ***MOTION*** by Kaltsounis, seconded by Reece, in the matter of City File No. 18-016 (Rochester Hills Trio PUD), the Planning Commission grants a Tree Removal Permit, based on plans dated received by the Planning Department on August 19, 2019, with the following two (2) findings and subject to the following two (2) conditions.

Findings

1. *The proposed removal and replacement of regulated trees is in conformance with the Tree Conservation Ordinance.*
2. *The applicant is proposing to remove and replace 57 regulated trees on site.*

Conditions

1. *Tree protective and silt fencing, as reviewed and approved by the City staff, shall be installed prior to issuance of the Land Improvement Permit.*

2. *Should the applicant not be able to meet the tree replacement requirements on site the balance shall be paid into the City's Tree Fund at a rate of \$216.75 per tree.*

**A motion was made by Kaltsounis, seconded by Reece, that this matter be Granted. The motion PASSED by an unanimous vote.**

**2019-0445**

Request for Natural Features Setback Modifications - City File No. 18-016 - Rochester Hills Trio, for permanent impacts to as many as 1,000 linear feet for a proposed mixed-use development on 5.77 acres at the northeast corner of Auburn and Livernois, zoned RM-1 Multiple Family Residential with an FB-1 Flexible Business Overlay and B-1 Local Business with an FB-2 Flexible Business Overlay, Parcel No. 15-27-351-009, Designhaus Architecture, Applicant.

***MOTION*** by Kaltsounis, seconded by Reece, in the matter of City File No. 18-016 (Rochester Hills Trio PUD), the Planning Commission **grants Natural Features Setback Modifications** for the permanent impacts to as many as 1,000 linear feet of natural features setbacks associated with the development, based on plans dated received by the Planning Department on August 19, 2019, with the following three (3) findings and subject to the following one (1) condition.

Findings

1. *Natural Features Setback Modifications are needed for development of the project.*
2. *The Planning Commission has the ability to waive the natural features setback modifications as a part of accepting the site being developed as a PUD.*
3. *The City's environmental consultant, ASTI, has determined that the natural features areas are of poor floristic quality.*

Condition

1. *Add a note indicating that Best Management Practices will be strictly followed during construction to minimize the impacts on the Natural Features Setbacks.*

**A motion was made by Kaltsounis, seconded by Reece, that this matter be Approved . The motion PASSED by an unanimous vote.**

**2019-0065** Request for Final Planned Unit Development (PUD) Approval - City File No.



18-016 - Rochester Hills Trio, a proposed mixed use development consisting of residential units, office and retail space on 5.77 acres located at the northeast corner of Auburn and Livernois Rds., zoned B-1 Local Business with an FB-2 Flexible Business Overlay and RM-1 Multiple Family Residential with an FB-1 Flexible Business Overlay, Designhaus Architecture, Applicant

***MOTION*** by Kaltsounis, seconded by Reece, in the matter of City File No. 18-016 (Rochester Hills Trio PUD), the Planning Commission **recommends** that City Council **approves** the **Site Plan**, dated received August 19, 2019 by the Planning and Economic Development Department, with the following six (6) findings and subject to the following four (4) conditions.

Findings

1. *The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards and requirements can be met subject to the conditions noted below.*
2. *The location and design of the driveways providing vehicular ingress to and egress from the site will promote safety and convenience of both vehicular and pedestrian traffic both within the site and on adjoining streets.*
3. *There will be a satisfactory and harmonious relationship between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.*
4. *The proposed development does not have an unreasonably detrimental, nor an injurious, effect upon the natural characteristics and features of the parcels being developed and the larger area of which the parcels are a part.*
5. *The proposed Final Site Plan promotes the goals and objectives of the Master Plan by providing an alternative housing option and mixed-use office and commercial.*
6. *The design and site layout modifications requested were approved with the Preliminary PUD and are included in the PUD Agreement.*

Conditions

1. *City Council approval of the PUD Agreement and Final Site Plans.*

2. *Provide landscape bond in the amount of \$127,109.00, plus inspection fees, for landscaping and irrigation, as adjusted as necessary by the City, prior to issuance of a Land Improvement Permit by Engineering.*
  
3. *Address all applicable comments from City departments and outside agency review letters, prior to final approval by staff.*
  
4. *Page C-601 under Public Benefit Markings, 2a. add the word previously before contaminated, prior to the matter going to City Council.*

*Mr. Gaber wanted to confirm that the final site plan had not changed from what was reviewed previously, which Ms. Kapelanski confirmed.*

**A motion was made by Kaltsounis, seconded by Reece, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion PASSED by an unanimous vote.**

*Chairperson Brnabic stated for the record that the motions had passed unanimously, and she thanked the applicants.*

### **ANY OTHER BUSINESS**

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

### **NEXT MEETING DATE**

Chairperson Brnabic reminded the Commissioners that the next Special Meeting was scheduled for October 28, 2019.

### **ADJOURNMENT**

Hearing no further business to come before the Planning Commission and upon motion by Mr. Kaltsounis, seconded by Mr. Reece, Chairperson Brnabic adjourned the Regular Meeting at 11:02 p.m.

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Deborah Brnabic, Chairperson  
Rochester Hills Planning Commission

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Nicholas O. Kaltsounis, Secretary