

Attachment

**Application to Rezone
G&V Investments, LLC**

<u>Parcel ID#</u>	<u>Acreage</u>	<u>Location</u>	<u>Requested Zoning</u>
15-23-152-022	3.567 acres	East of Fifth Third Bank	RM-1 & FB-2 Overlay
15-23-152-023	.40 acres	South of Fifth Third Bank	O-1 & FB-2 Overlay
15-23-301-002	3.891 acres	North of Eddington Blvd.	O-1 & FB-2 Overlay
15-23-300-035	19.62 acres	South of Eddington Blvd.	O-1 & FB-2 Overlay

STATEMENT IN SUPPORT OF APPLICATION TO REZONE

APPLICANT: G&V INVESTMENTS, LLC

December 27, 2013

G&V Investments, LLC, a Michigan limited liability company (“G&V”) requests rezoning of the subject property (“Property”), which it owns. G&V provides the following information in support of its Application to Rezone to both:

- (1) satisfy Requirements 2.C. (Statement Why Change is Necessary) and 2.D. (Letter of Intent for Development) of the Instructions for Application to Rezone, and
- (2) show how the Criteria for Amendment to the Official Zoning Map set forth in Section 138-1.200D of the City’s Zoning Ordinance have been satisfied to justify the requested rezoning.

Below please find a table summarizing the requested rezoning:

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I. The Requested Rezoning is Consistent With the City’s Master Plan

A. FB-2 Overlay

The Property is currently zoned with the FB-2 overlay zoning classification, which should remain pursuant to the policies of the City’s Master Plan. Both the map and the text of the City’s 2007 Master Plan indicate that the Property can properly be developed with the FB-2 Overlay, which is therefore an appropriate zoning classification for the Property.

The City’s Master Plan has designated this Property for mixed use development since at least the 1998 Master Plan. The 2007 Master Plan retained the mixed use concept, but became more specific, designating the Property as “Business/Flexible Use 2.” Therefore, the claims that have been made that the Master Plan designated the Property as FB-2 only to support the abandoned PUD are wrong; the Master Plan designated the Property for a mixed use transitional zone in 1998, several years before the abandoned 2004 PUD was adopted. The Property was designated Business/Flexible Use 2 by the Master Plan to provide a transition buffer. The City implemented this Master Plan policy when it adopted the 2009 Zoning Ordinance with the Flex

Business Overlay Districts. Section 138-8.100 of the Zoning Ordinance provides “The FB districts are adopted to implement the vision of the Master Land Use Plan.”

The policies set forth in the Master Plan for the Flexible Use 2 designation certainly indicate that the FB-2 Overlay is appropriate for the Property. The Master Plan provides as follows:

Flexible Use 2 areas are intended to create non-residential “nodes” at key intersections and **to provide a transition between the residential land categories and the more intense Business/Flexible Use 3 areas.** (2007 Master Plan at Pages 7.5 – 7.6) (emphasis added)

The Property is designated as FB-2 to further the above highlighted policy of the Flexible Use 2 planning designation. The Property is located between the Bordine property to the south, which is planned for the more intense Business/Flexible Use 3 in the Master Plan, and the less intense Eddington Farms Subdivision. In this location, the Property therefore provides a transition between these two different land uses, which is exactly the intent of the Flexible Use 2 designation.

For these reasons, G&V requests that the FB-2 overlay zoning classification remain on the Property.

B. RM-1 (Multiple Family Residential) & O-1 (Office Business) Base Zoning

While the Master Plan designates the Property for the Business/Flexible Use 2 overlay, G&V’s requested underlying base zoning of RM-1 for the parcel behind the Fifth Third Bank and O-1 for the remainder of the Property is also consistent with the Master Plan. The 1998 Master Plan designated the Property for Mixed Use, which could support office and higher density residential use (1998 Master Plan at Page 59).

Similarly, the 2007 Master Plan provides that in the Business/Flexible Use 2 zone, uses including multiple family housing and office uses would be appropriate in this area (2007 Master Plan at Page 7.5).

The parcel behind the Fifth Third Bank is appropriate for multi-family use because it is bordered by office uses to the north and west and single family uses to the south and east. The ITC high tension lines are adjacent to the south side of this parcel, isolating it from the remainder of the Property. This parcel also has direct access to Rochester Road via the driveway that services the Fifth Third Bank. Therefore, the G&V believes some type of multi-family development is appropriate for this parcel.

G&V requests that the balance of the Property be zoned O-1 as the base zoning underlying the FB-2 overlay. This zoning district primarily permits professional and medical offices, as well as retail businesses normally associated with and complementary to such office uses. Such uses may be developed on the Property.

The concern raised in the Staff Report dated December 17, 2013 (“Staff Report”) that the Property not be developed in multiple individual parcels, each with drives accessing Rochester Road, can be mitigated by the City. The City can require internal cross access between such parcels, as it often does for site plan approval. The Property can be designed to accommodate such internal cross access, thereby reducing the number of curb cuts on Rochester Road. As an example, the former plan for this development and the former plan for the redevelopment of the Bordine property provided for internal cross access between the G&V Property and the Bordine site.

Single family development is not an appropriate base zoning for the Property, from both a land use and a marketing perspective. The Property runs along a 5-lane state trunkline with significant traffic and access issues. Rochester Road frontage in this area has been zoned and developed for primarily commercial uses, which buffer residential neighborhoods in the rear of such properties. The only residential areas along this mile of Rochester Road are the Sycamores (R-4), Winchester Village (RM-1) and the Meadowfield Condominiums (RM-1). Only the Sycamores is zoned for single family residential.

A review of these developments confirms that single family zoning is inappropriate for the Property. Most of the homes at the Sycamores are buffered from Rochester Road by the large detention basin adjacent to Rochester Road. Winchester Village was constructed with a six-foot brick wall adjacent to Rochester Road. Meadowfield Condominiums are a type of multiple family cluster development, not traditional single family homes. Therefore, any single family neighborhoods in this area are buffered from Rochester Road, either by commercial development or these buffering design features. The reason the Eddington Farms Subdivision was not developed further west to border Rochester Road was to enable the development of other uses more compatible with the busy frontage, which would provide a transition buffer to Rochester Road. For these reasons, single family zoning is not appropriate for the Property and is inconsistent with the Master Plan. RM-1 and O-1 would be more appropriate underlying zoning districts.

II. Rezoning Is Necessary For The Preservation Of Substantial Property Rights of G&V

The owner of any property has the right to develop its property in a manner that is permitted under the local zoning ordinance, subject to any other applicable governmental regulations. Such development is necessary to enable the property owner to realize a return on its investment in the property.

Until the City either confirms the underlying B-2, FB-2 overlay zoning of the Property or approves an amendment to this zoning designation, G&V is precluded from developing its Property for any purpose. The PUD has been abandoned and terminated, but City Council conditioned the PUD termination on its confirmation of the existing zoning or a different zoning designation for the Property. Therefore, the City must approve or amend the zoning of the Property before G&V can take any steps to develop the Property. Either by confirming the existing FB-2, B-2 zoning, or amending the zoning to the FB-2, O-1, RM-1 zoning

classifications requested by G&V would enable G&V to realize a reasonable return on its investment in the Property.

Rezoning the Property to R-4 would not enable G&V to receive a reasonable return on its investment, thereby depriving G&V of its property rights. As discussed above, there is very little single family residential development along the Rochester Road corridor, with the Sycamores being the only R-4 zoned development, which was developed decades ago. The City has long recognized in its Master Plans that single family residential development is not appropriate for the Rochester Road corridor.

III. Rezoning Will Not Be Detrimental To The Property Rights Of Neighboring Properties Or The Public Welfare

The rezoning of the Property to FB-2 is compatible with, and not detrimental to the surrounding land uses. When it adopted the 1998 and 2007 Master Plans, the City recognized that the Property should not be used for single family residential purposes, due to its location on a very busy Rochester Road. The City realized that some type of mixed-use development would be appropriate, both to accommodate uses such as retail and/or office along the Rochester Road frontage, with uses such as office and/or multi-family residential adjacent to the existing single family residential Eddington Farms Subdivision. The City therefore rezoned the Property with the FB-2 overlay in the 2009 Zoning Ordinance.

The key to the Flex Business Overlay Districts is the heavier emphasis on the design of the development, with less emphasis on its use. See Section 138-8.100 of the Zoning Ordinance. The building and development standards which the FB-2 zoning classification impose upon the Property are consistent with the Master Plan policy of providing a transition between Bordine's and Eddington Farms. Such standards will allow for adjacent developments being compatible.

The nature of the transitional buffer the Master Plan created with the FB-2 overlay zoning protects the adjacent residential properties from potential harm that could be generated from more intensive uses. The Zoning Ordinance explains that FB is a form-based zoning regulation that regulates use, site design, building design and management, with the emphasis on design, which permits greater flexibility in use. Such zoning requires "development that permits a mixture of land uses in close proximity; streets that serve the needs of pedestrians, bicyclists and motor vehicles equitably; provides places for informal social activity and recreation; and creates building frontages that define the public space of streets." Sec. 138-8.100. The FB-2 design requirements address the following design issues:

- Street design (Sec. 138-8.302)
- Setbacks (Sec. 138-8.401)
- Frontage design (Sec. 138-8.500)
- Building height (Sec. 138-8.501)
- Building and material design standards (Sec. 138-8.502)
- Parking requirements (Sec. 138-8.600)
- Outdoor amenity space (Sec. 138-8.601)

- Landscaping and buffering (Sec. 138-8.602)
- Signage (Sec. 138-8.603)

These form-based criteria help to ensure that a project developed as FB-2 embodies continuity of design throughout and is designed to respect the adjacent residential neighborhoods. The emphasis is on design, not on uses, which can change over time. These site and building design requirements work to ensure the FB-2 project is developed so as to minimize any undesirable effects on the adjacent properties. These requirements enable the City to protect neighboring properties more effectively than relying merely upon the requirements of the standard underlying zoning districts.

The requested underlying base zoning of RM-1 and O-1 would not be detrimental to adjacent property owners because such zoning districts are compatible buffers between single family neighborhoods and main roads. There are several areas in Rochester Hills where O-1 and RM-1 border single family residential neighborhoods throughout the City. For example, office abuts single family residential on Barclay Circle, Crooks north of Auburn, Walton east of Brewster and east of Rochdale, and even the office north of the Fifth Third Bank adjacent to the Property. Similarly, multi-family abuts single family residential on Barclay Circle, Brooklands north of M-59, East Hampton, north of Tienken between Livernois and Rochester Roads, and even Rochester Glens and the Sycamores west of the Property.

IV. Plans For Development Of The Property

G&V intends for the Property to be developed for a mixture of uses, which may include retail/restaurant, office and/or multi-family residential uses, permitted by and subject to the requirements of the FB-2 overlay zoning classification, and/or the RM-1 and O-1 base zoning requested by G&V.

V. Criteria for Amendment of the Official Zoning Map (Sec. 138-1.200D)

1. Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans.

As discussed above, the 1998 and 2007 Master Plans both support the FB-2 overlay zoning of the Property. The O-1 and RM-1 underlying base zoning districts are also consistent with a transitional buffer from Rochester Road and the Bordine's property to the Eddington Farms Subdivision.

2. Compatibility with the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

The Property does not have any such environmental features that would prohibit or restrict the development of the site for any uses permitted in the O-1, RM-1 or FB-2 zoning districts.

3. **Evidence that the applicant cannot receive a reasonable return on investment through developing the property with one (1) or more of the uses permitted under the current zoning.**

G&V has explained to City Council why it cannot receive a reasonable return on investment through development of the Property with the Amended and Restated City Place PUD Agreement. City Council agreed, and enacted a resolution to terminate the PUD pending its approval of the underlying zoning of the Property. G&V can receive a reasonable return on investment if the Property remains zoned B-2 with the FB-2 overlay, or RM-1 and O-1 with the FB-2 overlay, as G&V has requested with its rezoning application. However, G&V is currently precluded from taking any action to develop its Property until City Council approves the zoning of the Property and thereby completes the termination of the PUD.

4. **Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.**

As the Staff Report indicates "As pointed out in the 1998/99 Master Land Use Plan, single family detached housing is the least desirable use along Rochester Road. The conflict virtually demands some form of transition zoning . . ."

As discussed above, office and multi-family residential uses are compatible transition uses between single family residential and main roads within Rochester Hills, as evidenced by the multiple examples of such adjacent uses cited in the last paragraph of Section III above.

Retail and/or restaurant uses that would be permitted within the FB-2 overlay zoning also provide compatible transition uses between R-4 and FB-3 zoning as indicated in the Master Plan and discussed in Section III above. The design and building standards of the FB-2 district mitigate any adverse effects of such uses on adjacent zoning districts.

5. **The capacity of City's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the City.**

G&V is not aware of any issues with obtaining adequate utility service from the City to service the development of the Property pursuant to the requested zoning.

6. **The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.**

Rochester Road is a major thoroughfare designated in the City's Master Thoroughfare Plan, as well as a MDOT trunkline, allowing it to handle any traffic generated by the development of the Property. G&V seeks to realign Eddington Blvd. with Drexelgate and have a traffic signal installed at this new intersection to allow for safe ingress and egress to and from the Property, as well as Eddington Farms Subdivision.

7. **The boundaries of the requested rezoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the requested zoning district.**

G&V does not anticipate any issues with these requirements, which will be addressed during the site plan review for the development of the Property.

8. **If a rezoning is appropriate, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.**

FB-2 has been deemed by the City to be the appropriate overlay zoning district for the Property, as it is the zoning designation called for by the Master Plan, as discussed in Section I above. Also discussed above are the reasons why G&V believes RM-1 and O-1 are appropriate base zoning districts for the Property, and why R-4 is inappropriate.

9. **If the request is for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or conditional uses in the current zoning district to allow the use.**

This criteria does not apply to the current situation, as the City must approve the zoning on the Property since the PUD is being terminated.

10. **The requested rezoning will not create an isolated or incompatible zone in the neighborhood.**

Pursuant to the Master Plan, as discussed in Section I above, the FB-2 overlay will create a compatible transitional zoning district between the Bordine's property and the Eddington Farms Subdivision. Also as discussed above, developing the property as multi-family residential and/or office would also be compatible with the uses of the developed property on Rochester Road between Avon and Hamlin Roads.