



Rochester Hills Master Report

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File Number: 2005-0192

File Number: 2005-0192 **File Type:** Ordinance **Status:** For Introduction
Version: 3 **Reference:** 04-037 **Controlling Body:** City Council
Requester: Planning/Development **Cost:** **Introduced:** 03/09/2005
File Name: Metropolitan Property Rezoning **Final Action:**

Title: Acceptance for First Reading - An amendment to Chapter 138 of the Code of Ordinances of the City of Rochester Hills to conditionally rezone nine parcels of land totaling approximately 25 acres from R-3, One Family Residential, to RM-1, Multiple Family Residential, City File No. 04-037, located north of School Road and east of John R, known as Parcel Nos. 15-24-100-019; 15-24-100-018; 15-24-100-029; 15-24-100-028; 15-24-100-040; 15-24-100-037; 15-24-100-038; 15-24-100-009 and 15-24-100-010, Metropolitan Property Management, Inc., applicant..

Notes: Metropolitan Property Management, Inc.
42850 Schoenherr R.d
Sterling Heights, MI 48313

Code Sections:

Indexes: Rezoning

Sponsors:

Attachments: Agenda Summary.pdf, Map aerial.pdf, Report Staff 20050607.pdf, DevelopmentAgreement.(1).pdf, DevelopmentAgreementAddendum.MPM.pdf

Agenda Date:

Agenda Number:

Enactment Date:

Enactment Number:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|----------|-----------|-----------------|---------|
| 1 | Planning Commission | 03/15/2005 | Postponed | | | | Pass |
| | Notes: <i>(Reference: Staff Report prepared by Derek Delacourt dated March 11, 2005 had been placed on file and by reference became part of the record thereof.)</i> | | | | | | |
| | <i>Present for the applicant were Greg Cueter, President, Metropolitan Property Management, 42850 Schoenherr Rd. Sterling Heights, MI 48313; Tom Kalas, Kalas Kaladian, P.L.C., 40900 Woodward Ave., Suite 315, Bloomfield Hills, MI 48304.</i> | | | | | | |
| | <i>Mr. Rosen clarified that the applicants had received a copy of the Staff Report, which was confirmed.</i> | | | | | | |
| | <i>Mr. Cueter stated that he had been in the business of managing and</i> | | | | | | |

developing condominiums in Macomb and Oakland Counties for about 26 years. Metropolitan Property also represented two condominium communities in Rochester Hills - Meadowfield and Hidden Hills. He advised that the proposal consisted of seven parcels of land, the smallest of which was about .88 acre and the largest, 6+ acres. He noted that the total acreage was a little less than 21 acres, and that all parcels had a home, three of which were rental properties. To the north, there were four parcels of land currently zoned Light Industrial. To the northeast, there was a 40-acre parcel known as the Highland Park landfill, used in the 1950s for the burial of Dutch Elm Trees. Many believed there were additional illegal things dumped by Highland Park at that time. Mr. Cueter noted another landfill southeast of the proposal (Five Star). To the west and south of the property, there were ten separate parcels of land, the smallest just less than an acre and the largest a little over four acres. Five of the parcels were bisected by a high-tension wire, and five had considerable wetlands, making them undevelopable.

Mr. Cueter indicated that condos in most communities, including Rochester Hills, were built on property that abutted either industrial, commercial or troubled property. He felt that the subject parcels met those characteristics, with industrial to the north, landfills to the east and southeast and property to the west bisected by a high-tension wire. He pointed out that Meadowfield abutted commercial and also had a high-tension wire running through it, and Hidden Hills abutted office, commercial and multi-family. He stated that by allowing condos on these types of properties, a transition would be created to the single-family setting. He acknowledged that single-family could be built on the subject parcels, but that economically, it made no sense because there were many single-family developments in the process. He would usually define "family" as a married couple with children, and stated that people would not want to see their children venture onto the landfills. He stated that the property would not make money being developed as single-family because people would prefer to live somewhere else for those reasons and for resale.

Mr. Cueter felt that condos were a good choice for the area, noting they were geared toward the empty nesters who had lived in Rochester Hills for 20-30 years, raised families and wanted to downsize. They paid taxes toward infrastructure for a long time and wanted to stay in the City, but they did not want to live in a home any longer. He indicated that his one-story condo proposal was the type of development they were looking for. He advised that a ranch condo in Meadowfield would sell overnight but the townhouses there just sat on the market. He stated that seniors wanted a place where they did not have to go up and down stairs and that Rochester Hills did not offer that in abundance whatsoever. He added that the second group of condo buyers were young, first-time buyers, or single people who wanted to start building equity before buying a larger home.

Mr. Cueter discussed how the proposed condo development would affect the

current property owners as it related to population, traffic and noise. If developed under single-family, the proposal would allow 50 lots. His proposal was for a ranch condo community, with a density of about six units to an acre. The proposal would have 110 units, however, studies had shown that a single-family home averaged five people and a ranch condo would have 1.5 residents. Even if they doubled the density, they would not double the "people" density. He noted that everyone was concerned about traffic, but statistics showed that the average single-family home created ten trips per day and a ranch condo created less than five. He also found that about 30% of people in ranch condos left for warm weather in the winter. He commented that less people would create less noise, and that the proposal would not house many children. In addition, by creating additional units on the same parcel of land, tax dollars would be collected based on property value. If the homes cost \$200-225,000.00, and did not increase the noise and traffic, the burden would be less and the City would keep additional tax money. Also, condos were privately maintained, and owners would not ask for street repair or relief from trash or snow removal.

Mr. Cueter continued that a condo community was a turnkey operation. In a single-family setting, roads would be built and the lots subdivided. The lots could be sold to individual builders and the architecture would not be controlled. With the condo community, that would not happen. The people surrounding the development would see one type of architecture and turnkey landscaping. The proposal would be sodded, irrigated and fully landscaped. There would be boundaries between the development and the surrounding neighbors. That would be a selling point for the condos. Also, the Association would pay for maintenance and upkeep. There would be a fiduciary responsibility to the owners and lenders to keep the condo development to high standards.

Mr. Cueter said it was amazing that single-family could have many zoning classifications, for example, R-1 to R-4. For multiple-family developments, cities had one or two zoning types. He stated that they needed RM-1 to build what was proposed. He had provided pictures of other developments he had done in the area and said that in each case, they had to go to the city and ask for RM type zoning, even if the zoning would allow 10 units per acre. They had been asked what would happen if a property was rezoned and they no longer had an interest, and he assured that building condos was what they did. He believed the City needed this type of product for its residents and that the request for RM-1 zoning should be approved, even if it were done with some type of requirement that they had to build what they said they would.

Mr. Delacourt noted that the Staff Report recommended denial of the rezoning request, based on the City's Master Land Use Plan. He felt there would be many concerns over what else RM-1 zoning would allow, but he stated that it was the only vehicle the City offered for condo development. He reminded that the Master Land Use Plan was being reconsidered and the

subject area would be discussed.

Mr. Rosen opened the Public Hearing at 8:06 p.m.

Steve Aulph, 1247 John R, Rochester Hills, MI Mr. Aulph said that he had 1.4 acres, that they had lived there approximately 20 years, and they enjoyed the land and neighbors very much. He was concerned there would be traffic, noting there already was a problem on John R. He was concerned about the landfills, and advised that there was a very bad stench, and that on some days he could not even be outside because of the smell. He wondered what the condo owners would be told when they complained about the smell.

Raymond Anderson, 1480 Gravel Ridge, Rochester Hills, MI Mr. Anderson said that his road came right out to the subject property. He thought what Mr. Cueter said sounded good, but he did not recognize the map shown. Mr. Anderson had lived there for 40 years and he noted that the northern boundary of the proposal was approximately one block from Avon. The traffic in that area was terrible. He referenced School Road, and said it could not be maintained now. He remarked that "the Mayor left the cookie jar open and too much money was taken out so there was none for maintaining the roads." School Road to the east had a decayed bridge which fell down. It was supposed to have been replaced two years ago, but it had not been touched. The residents were supposed to get storm drains installed because there was a tremendous amount of water in the area. That was to be completed in August 2004 but it had not even been started. He stated that all the people on Gravel Ridge were against the rezoning, and he produced letters from people out of town, who wished to state displeasure with the rezoning.

Joyce Somero, 1191 School Road, Rochester Hills, MI Ms. Somero stated that she could understand all of the concerns about bringing in new development, but she felt that the area desperately needed development of this type. She felt it was difficult for a person near retirement age to find a beautiful ranch style home, without a lot of upkeep, in a wonderful community with wonderful neighbors. She also felt that the proposed development would do nothing but improve the area. They have had ups and downs in the area because of the landfill and degradation of the road, but people had to realize that development would help solve some of those problems and make life better for everyone. When Arcadia Park went in, people thought it would destroy everything, but she stated that it was absolutely beautiful and that School Road also deserved that type of development.

Joe Geibel, 1219 School Road, Rochester Hills, MI Mr. Geibel said he had lived east of the proposal for two years. They moved there for a specific reason - they loved the land. Anyone who visited School Road said how beautiful and untouched it was. He acknowledged that something would have to be developed there and that they supported single-family homes; however, they were strongly against condominium development.

Linda Schattmaier, 1271 John R, Rochester Hills, MI Ms. Schattmeier stated that she lived on 4.6 acres near the proposal. She mentioned that Ms. Somero was one of the people who planned to sell her property and leave, so that might be why she was in favor of developmen, but the others who lived there were not. The applicant discussed that there would be less traffic with this type of development, but there were only seven families who lived there now and she did not see how what was proposed could have less traffic. She noted new condos being constructed on Avon and said that would add traffic problems. She also did not know how putting in 100 homes would cause less noise than having seven homes. The applicant brought up that they would be helping the City out because there was undesirable land, but she stated that there were families living on that land now. She had lived in her home about ten years and it was right under the high-tension wires. They knew about those and about the landfills, but they opted to live there, as did other people. She mentioned that there was a deer run through the property and a lot of wildlife in the area, and that the development would definitely have an effect on the wildlife. There was a high incidence of deer/car accidents and they would be displacing the deer even more. The applicant said condos would help out the area because they would not have different types of homes and everything would look the same. She stated that their homes did not look the same and it gave the area character. They all did not have the same landscaping and they liked it that way because it was not a cookie cutter neighborhood. The applicant would put condos right in the middle of their established neighborhood. She handed in letters from neighbors on School Road.

Mr. Rosen closed the Public Hearing at 8:18 p.m.

Mr. Hooper said he looked at the property and noted that it was extensively wooded. He asked if the property would fall under the requirements of the Tree Conservation Ordinance. Mr. Delacourt agreed it would apply to the site. Mr. Hooper asked if the Wetland Determination had been completed. Mr. Delacourt confirmed there was not one on file. Mr. Hooper noted those facts, and the easement that ran through the property, and said that the applicant made a supposition that 110 units could be developed. Mr. Hooper asked Mr. Delacourt if the yield would be realistically less than that. Mr. Delacourt said that the Tree Conservation Ordinance did not work the same under RM-1 zoning as single-family, where 37% of the trees were required to be saved on site. The applicant would only be obligated to replace one tree for one or pay into the Tree Fund, which would be less of an obstacle. He agreed that the Wetland delineation could have a significant impact if there were regulated wetlands on site. Mr. Hooper did not believe 110 units could be possible while complying with the Ordinances. Mr. Delacourt said he would be hesitant to give an estimate of the total number the applicant could develop, but thought 110 condo units might be possible if apartment-style buildings were built.

Mr. Rosen said that when considering a rezoning, the Commission could not really look at a specific proposal, although he allowed Mr. Cueter to speak to that a little further than normal. He reminded that they had to consider everything that would be allowed in the RM-1 district. He realized the applicant's intentions, but he cautioned that things could change. He wished to focus less on the proposed development and more on the general concept for RM-1.

Ms. Hill asked about condo developments in the City that were similar to what was proposed and if rezonings were involved to allow infill development or if the parcels existed with the correct zoning. She also questioned whether all the RM-1 areas in the City were developed.

Mr. Rosen mentioned the Summit behind King's Cove that was zoned RCD in the 1970's. He advised that clustered zoning required something special about the terrain to be allowed. Ms. Hill said she was trying to determine how the City arrived at the zoning for some of the condo areas. Mr. Rosen said it appeared that many of the older condo developments were zoned RM-1. Ms. Hill said she realized there would be the potential for other developments under RM-1 zoning, such as apartments, but she questioned not considering potential condo development because of that. She felt there was somewhat of a dilemma, and stated that there were plusses and minuses for single-family or multiple-family. She did not feel there was enough diversity in the community as there should be, and that the proposal would be a nice transition toward the single-family. She realized they were going through the Master Plan update, but indicated that the choices were relatively limited for condo development.

Mr. Kalas said that he could appreciate the concern amongst the Commissioners that a developer might say one thing and end up doing another, but he believed Mr. Cueter's reputation spoke for itself. He continued that generally, a specific development was irrelevant to the zoning because the municipality had to look at every permitted use that would be allowed under that zoning district. He pointed out the new Contract Zoning law which took effect in January 2005.

Before Mr. Kalas went further, Mr. Rosen advised that the Commissioners had received a copy of Planning & Zoning News, which included articles about Contract Zoning, something that had until now been illegal in Michigan. He explained that it was now legal in certain circumstances but that was the extent of the Commissioner's knowledge about it. There was also a letter advising that people should not consider Contract Zoning because they did not know what they were doing. He asked Mr. Kalas not to go further with this because the Commissioners could not respond in any intelligent way, and none of them knew what should happen in that process. He suggested that if the applicant wanted that considered, they should wait until the Commission found out exactly how it would work.

Mr. Kalas said that the only reason he offered it was because of the Commission's concern with the issues. He stated that they would be more than willing to offer the conditions voluntarily to limit the development to single-story, ranch condos with basements. Mr. Rosen said the Commission was on very difficult ground yet.

Mr. Cueter said that they had found no available land left in the City zoned RM-1. That would mean that without some leap of faith to RM-1, there would be no product available for the residents of the community in the future. Regarding traffic, he asked the Commissioners to keep in mind that the majority of people who moved into those types of communities were retired. Traffic would not be created. He addressed the storm drain issue and said it had been approved, even though it was delayed last year because of acquiring right-of-way, and was scheduled to be completed in the summer. Regarding wetlands, he noted that nothing had been submitted to the City, but they had done their own study and there were no wetlands on the subject parcels. He advised that there were extensive wetlands on adjacent parcels.

Mr. Boswell addressed the statement that condos were generally used as a buffer between residential and industrial, office or commercial. The problem the developer posed was that the southern part would be surrounded by residential. The neighborhood would be broken up, not buffered, and they would be putting a buffer in the midst of the neighborhood.

Mr. Cueter agreed that would be true for a portion of the site. He mentioned that they could not buy some of the surrounding parcels, but there was a huge buffer on the parcels west of the proposal. He said that it was not a perfect world, but they were trying to find a "better world" than seen today with single-family.

Mr. Kaltsounis said that the Commissioners had to look at things by the book and they would be expected to recommend denial because the request was not supported by the Master Plan. As Mr. Delacourt mentioned, the City was updating its Master Plan, and the subject site would be an interesting site to look at and see what they could do.

MOTION by Kaltsounis, seconded by Hardenburg, in the matter of City File No. 04-037, the Planning Commission **recommends** to City Council **denial** of the request to rezone 20.42± acres, identified as Parcel Nos. **15-24-100-018, 19, 28, 29, 37, 38, & 40**, from R-3, One Family Residential to RM-1, Multiple Family Residential.

Mr. Rosen said that he felt the issue was larger than the rezoning request. The Master Plan process included looking at parcels subject to change, such as existing, acreage parcels with homes on them, and the neighborhood situations. He stated that the economics of those were beginning to be attractive for redevelopment and that the proposed parcels were classic examples and necessary to study because of the pressure to redevelop for

the aging population. He indicated that they needed to study integration into existing neighborhoods that might or might not change as part of the Master Plan update.

Mr. Cueter asked the Commissioners not to lose sight of the difficulty in compiling seven parcels of land and of the opportunity for the community as a whole. He stated that was very rare and the Planning Department was surprised they brought seven different parcels together. Mr. Rosen said they all recognized that a couple of those parcels were of the biggest left in the City.

Ms. Hill noted that she sat on the Technical Committee for the Master Plan update, and she understood they needed to look at various areas of the City to try to determine the best future land use. There was potential for all kinds of things to happen with the larger lots. She said it was interesting to note the number of PUD applications and "new urbanism" - greater density and mixed-uses of residential and commercial. She did not think the Master Plan update would solve everything or that it would change potential zoning throughout the City. She was certain they would address it to some degree, as they did with the last update, and noted that some of the recommendations were similar to what the applicant proposed. She was in sort of a quandary and she wondered how the City should diversify its housing. She was not hearing an argument other than they had not looked at the whole area. She was not hearing reasons that were compelling her one way or the other and that was a concern.

Mr. Schroeder said that his peers were getting older, and people in the City were getting older, and they could not find a single-floor ranch home with a washer and dryer and master bedroom on the same floor. All of his friends were moving away from Rochester Hills. He said that the Commission had to recognize that change and consider that there was not much opportunity left in the City to do the type of development proposed.

Ms. Hardenburg stated that what the applicant proposed was wonderful; the problem was that the City was in the middle of a Master Plan update and the subject site had been recommended as a potential area for change. She felt that it would not be fair to do anything before looking at the whole Plan.

Mr. Cueter said he knew through working with Mr. Delacourt that the City was in the process - he just wanted them to look at "seizing an opportunity," which did not come along that often. Mr. Schroeder brought up that he was one of the people who had lived in this community for years. Those people were the backbone but they were given no place to go. The City had to be concerned about those people and there was now a rare opportunity to make a leap. As Ms. Hill brought up, they could wait another 12-18 months and still not fix the problem. He indicated that there would be few times during any Commissioner's tenure where an opportunity to provide this type of housing would come along.

Ms. Brnabic said the applicant mentioned two other developments that were mainly townhouses. She asked what it was exactly that would lead them to believe their development would attract mostly empty nesters. She assumed it might also attract young couples, yet they only seemed to mention retirees or empty nesters.

Mr. Cueter referred to three developments they recently completed which were all ranch condos, and said that between 60-70% of the buyers were empty nesters. He said that one of his developments was visited by 80-90% of people with a 248 area code, which meant they were coming from Oakland County, which did not make what the people needed. He referred to Meadowfield and said that someone trying to sell a ranch condo there would sell it overnight. Mr. Cueter stated that his homes had been well received in other communities and he believed that Rochester Hills needed that type of development very much.

Ms. Brnabic said she would agree with a lot of what Mr. Cueter had to say because the City needed diversity in its housing. She referred to Ms. Hill's comments about RM-1 zoning and said she would like to know more about that evolution. She said she was somewhat in the middle on this issue and did not want to close the door, but she was not also completely ready to change the zoning.

Ms. Hill asked if there was potential for using a PUD, noting that the PUD Ordinance was currently being revised to make it more workable for developments such as this. Since they were closer to finalizing an amendment to that Ordinance than they were to finishing the Master Plan update, she suggested that Staff try to find a workable solution.

Mr. Rosen said the reality was that if the Planning Commission recommended denial and City Council denied, the applicant could always interact with the Master Plan process or they could resubmit. Ms. Hill indicated that she was asking about the PUD process, and she was not sure if Staff had entertained that.

Mr. Anzek felt the PUD Ordinance could be applicable to any site in the City. They had previously discussed Contract Zoning as another tool or to use a variation of a PUD. He felt the problem the Commission faced was that the RM-1 request was too open-ended. The zoning for RM-1, in the City's history, was more after the fact or when they clearly knew what was on the land and the appropriate zoning category was fit to the development. If Contract Zoning or a PUD were the desired project, and he stated that from the Public Forums of a few weeks ago, residents very much wanted affordable housing for seniors, he felt both could work, although Contract Zoning would be proceeded with caution.

Mr. Cueter said he was aware of the letter about Contract Zoning, and, trying

not to be offensive, indicated that it was written by an attorney probably to add workload. An attorney was not faced with the same problem as the Commissioners, which was to create a product for the people of Rochester Hills. They should not be swayed by one letter from one individual, telling everyone that Contract Zoning might not be what people thought it was.

Mr. Anzek assured him that even without a letter from an Attorney, the City would be very cautious about Contract Zoning. Mr. Cueter said he was willing to concede a number of issues. He was not looking for RM-1; he wished the City offered something different, but there was not something else. He was not looking for 10-12 units per acre; he was looking for about six.

Mr. Hooper echoed Ms. Hill's comments and said that a straight rezoning was probably not the way to go, but he would support a PUD or Contract Zoning process. Ms. Hill asked if there was a possibility that the applicant could postpone the request while the Commission took a better look and got better input from Staff. She would like to find something more comfortable for everyone that would have controls and guarantees that were uncertain under the straight rezoning process.

Mr. Cueter said that when he walked into City Hall, one of the people from his office asked what would be a good night. He said the best night would be if RM-1 were granted. A good night would be where the Board recognized there was a problem and asked to table the matter to find another "mousetrap" in a short period of time and before they lost the opportunity. He would be willing to table the matter in the hopes that they could find a way to work with the new tool.

Mr. Delacourt advised that the PUD Ordinance was being reviewed by the City Attorney and should be before the Commission one more time (April 5) before the Public Hearing, scheduled for April 19. He added that the way the PUD Ordinance was currently structured, the subject property would not qualify.

Ms. Hill suggested that if something else was not determined by mid-May, the applicant could come back before the Commission and ask for a vote. Until then, they could have discussions with Staff regarding using a different approach.

Mr. Rosen said he was a little concerned about encouraging the applicant. Ms. Hill said she was not trying to do that or guaranteeing anything. She did not feel it would be fair for the Commission to ask the applicant to wait six or eight months until they finished the Ordinances to address the matter. She felt they had to at least say they would be committed to addressing it one way or another. It would be the applicant's choice then and they could still request a straight rezoning.

Mr. Cueter said the PUD would probably not be the answer because certain criteria would not be met. Mr. Delacourt advised that the amended PUD Ordinance would allow it, but the existing Ordinance would not. A lot of the restrictions that would prevent the applicant from using it would no longer be a part of the PUD Ordinance.

Mr. Kalas added that the current PUD operated as an overlay district, which would still require the underlying zoning to be RM-1 in order to put in attached housing. He did not know if the amendment would require the underlying zoning to be secured to get the required use. Mr. Delacourt replied that it would operate as an overlay district. It would not require a change in the underlying zoning, if the Planning Commission and City Council felt the proposed use would be consistent with the existing zoning or intent of the Master Plan, and that would be different.

Mr. Rosen said that his concern regarded putting the development right in the middle of a neighborhood and whether that would be appropriate. He said he understood the desire for ranch condos and the economics driving it. However, they would not be managing the process, which was the purpose of the Master Plan study for that issue. He called for a Roll Call vote but asked if there was discussion.

Ms. Hill questioned whether the applicant had been offered the opportunity to withdraw and if they given an answer. Mr. Rosen said the applicant was asked to think it over. Ms. Hill wondered if the action to postpone was ever on the table. Mr. Rosen did not think anyone actually said they wanted to postpone the matter.

Mr. Cueter said that if the Commission believed the product was right, but they needed another tool and a little time to figure things out, the answer would be yes, but if the Commission did not believe in the product, the answer would be no. He said he was willing to work with the City.

Mr. Rosen asked if someone would make a motion to table the matter until the next meeting. Mr. Hooper believed they could make a motion to postpone and Mr. Anzek said that a motion to postpone would supercede the motion on the floor to recommend denial.

MOTION by Schroeder, seconded by Hooper, in the matter of Metropolitan Property Management Rezoning, City File No. 04-037, the Planning Commission **postpones** the item until a future agenda.

Voice Vote:

Ayes: All

Nays: None

Absent: Kaiser

Excused: Kaiser

MOTION CARRIED

2 Planning Commission 06/07/2005 Recommended for City Council Pass
Denial

Notes: *Mr. Kalas agreed that was the intention. It meant that if they were going to develop the property, they would be contractually obligated to develop it the way it was written, but if they decided not to, they would not be forced to develop it.*

Ms. Brnabic asked if the zoning would revert if the property was rezoned and the applicant decided to pull out of the Agreement. Mr. Staran replied that according to the Agreement, the zoning would apply for three years after Site Plan approval and if the applicant did not move forward, it would revert. The three years was added by the applicant, but that would be determined by the City. Ms. Brnabic asked what would happen if the applicant sold the property. She thought it ran with the land, which Mr. Staran confirmed. He said it was similar to the provision in a PUD which said that the developer would agree that once they began to develop a property, they had to develop it the way it was in the Agreement. The City would not be contracting with the applicant to "build a development or else." That was similar to Variances, Site Plans, Building Permits, and so on.

Mr. Rosen said that Mr. Cueter referred to the Meadowfield site as a Conditional Rezoning, but it was a PUD under discussion and a different set of circumstances. He thought they had to determine whether ranch style condominiums were a good thing for someplace in Rochester Hills - and he thought the answer was probably yes. They had to determine whether properties subject to change were driving people to buy and redevelop them because of economics and whether the proposed area was or was not subject to change. They also had to ask whether this was the right product or if RM-1 was appropriate for the area, knowing what would be left at the intersection of School and John R and east and north. If it was a good project, and the area was subject to change, the proposal could precede the Master Plan. However, whether RM-1 was appropriate for the area did not preclude the Master Plan and that was the threshold question. If it should not be RM-1, it should not be RM-1 under any set of circumstances. If it was zoned RM-1 with conditions, he stated that they had to consider the above separately so they were not led to a false conclusion. If people thought that because the applicant bought the property, and because the applicant wanted to develop it that it was the right thing to do, that was the wrong answer. It was only the right thing to do if it was the right thing to do irrespective of whether Mr. Cueter owned it or had options on it, or because some day something was going to happen so the request should be approved. He said he appreciated the position Mr. Cueter was in, and that he was sorry, but if someone wanted to develop R-3, that would not be a problem, but RM-1 did not seem right. That was why they were having difficulty and why he did not feel it was the right thing to do.

Ms. Hardenburg said it was her understanding that if a parcel was rezoned and the applicant went away, the parcel would stay zoned with conditions

and would not revert back unless the City re-zoned it. Mr. Staran said she was partly right. The proposal was worded so it fairly closely followed the language in the State law, but it did refer to an automatic reverter. Although authority for an automatic reverter seemed to be in the Agreement and in the State law, it would be his recommendation that the City zone the property back to have a clear record and in ten years they would not have to try to figure out what the zoning on the property was.

Ms. Hardenburg clarified that once something was rezoned, with conditions, the conditions would stay with the zoning forever unless it was re-zoned. Mr. Staran agreed, unless the Agreement and the rezoning were withdrawn and expired. In that sense it would be similar to a PUD or Use Variance and would run with the land.

Mr. Hooper asked, and Mr. Staran confirmed, that if the motion were to fail, the applicant could come back at a future meeting with a different request and/or different conditions. The recommendation would go to City Council, who would make the final decision.

Mr. Schroeder felt they were being premature to deny the proposal. There were too many unanswered questions about Conditional Rezoning and the Master Plan and they did not see a concept. He stated that the proposal might be the best option they had. The property would be developed because of the demand for housing. He did not think they should close the door on the proposal, which he felt would be better than single-family.

Aye: Boswell, Brnabic, Hill, Hooper, Kaltsounis and Rosen
Nay: Hardenburg and Schroeder
Excused: Reece

Text of Legislative File 2005-0192

..Title

Acceptance for First Reading - An amendment to Chapter 138 of the Code of Ordinances of the City of Rochester Hills to conditionally rezone nine parcels of land totaling approximately 25 acres from R-3, One Family Residential, to RM-1, Multiple Family Residential, City File No. 04-037, located north of School Road and east of John R, known as Parcel Nos. 15-24-100-019; 15-24-100-018; 15-24-100-029; 15-24-100-028; 15-24-100-040; 15-24-100-037; 15-24-100-038; 15-24-100-009 and 15-24-100-010, Metropolitan Property Management, Inc., applicant.

..Body

TWO OPTIONS

OPTION 1 - DENY THE REQUEST

Resolved, that an Ordinance to amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills to conditionally rezone approximately 25.59 acres, identified as Parcel Nos. 15-24-100-009, -010, -018, -019, -028, -029, -037, -038 and -040 from R-3, One- Family Residential to RM-1, Multiple Family Residential for Metropolitan Property Management, Inc., is hereby denied.

OPTION 2 - ACCEPTANCE FOR FIRST READING

Resolved: That an amendment to Chapter 138 of the Code of Ordinances of the City of Rochester Hills to conditionally rezone nine parcels of land totaling approximately 25 acres from R-3, One Family Residential, to RM-1, Multiple Family Residential, City File No. 04-037, located north of School Road and east of John R, known as Parcel Nos. 15-24-100-019; 15-24-100-018; 15-24-100-029; 15-24-100-028; 15-24-100-040; 15-24-100-037; 15-24-100-038; 15-24-100-009 and 15-24-100-010, Metropolitan Property Management, Inc., applicant is hereby accepted for **First Reading**.