

~~Certificate for a period of twelve (12) years after project completion for personal property only, subject to the following condition:~~

~~That KOSTAL Kontakt Systeme, Inc. signs a lease agreement to occupy the building on or before October 31, 2010, and~~

~~**Be It Further Resolved**, that the accompanying agreement between Kostal Kontakt Systeme, Inc. and the City of Rochester Hills is hereby approved and is to be sent to the Department of Treasury and the State Tax Commission along with this resolution no later than October 31, 2010, and~~

~~**Be It Finally Resolved**, that the Mayor is authorized to sign the agreement after review by the City Attorney's office as to form.~~

## NEW BUSINESS

2009-0274 Request for Approval of the Revised PUD for City Place, located on the east side of Rochester Road, north of Hamlin, zoned PUD (B-2, General Business), Parcel Nos. 15-23-301-002, 15-23-152-022, -023, 15-23-300-035 and 15-23-152-021; G&V Investments, LLC, applicant

Attachments: [Agenda Summary.pdf](#)  
[Revised PUD 072010.pdf](#)  
[Letter Staran 072210.pdf](#)  
[Comparison Chart.pdf](#)  
[Minutes PC 072710.pdf](#)  
[Minutes PC 071310.pdf](#)  
[Minutes PC 070610.pdf](#)  
[Minutes PC 042010.pdf](#)  
[Minutes CC 030110.pdf](#)  
[Letter Gaber 072010.pdf](#)  
[Memo Delacourt 072710.pdf](#)  
[Letter Gaber 062110.pdf](#)  
[Staff Report 070210.pdf](#)  
[PUD Comparison Chart.pdf](#)  
[Letter Hill 072310.pdf](#)  
[Letter Weston 062810.pdf](#)  
[PUD Public Hearing Notice 070610.pdf](#)  
[Letter Wagner 062710.pdf](#)  
[PUD Amend Michael 081809.pdf](#)  
[Letter Gaber 041610.pdf](#)  
[Staff memo to PC 42010.pdf](#)  
[Plan PC 081809.pdf](#)  
[Minutes PC 073002.pdf](#)  
[Minutes Joint PC & CC 092402.pdf](#)  
[Minutes PC 071503.pdf](#)  
[Minutes PC 031604.pdf](#)  
[Minutes PC 081809.pdf](#)  
[Memo Delacourt 081809.pdf](#)  
[Letter Michael 070209.pdf](#)  
[Resolution.pdf](#)

*In attendance for the Applicant were **Mr. William Gilbert**, G&V Investments, Inc. (G&V) and **Mr. John Gaber**, Esq., Williams, Williams, Rattner & Plunkett, PC.*

**Mr. Gaber** summarized the changes requested to the original Planned Unit Development (PUD) for City Place, noting that building heights and densities are reduced in exchange for flexibility in building locations, type and design. Limited commercial uses are now proposed along Rochester Road, in exchange for a reduction in a portion of the residential and office use.

He explained that after G&V came before City Council regarding the PUD in March, meetings were held with adjacent neighbors, and adjustments were made based on these conversations. He reported that the Planning Commission voted seven-to-one on July 1, 2010 to recommend to Council that the PUD be amended as proposed. He recapped the project's history, noting that this section of Rochester Road has very little residential property along the roadway and contains mostly commercial frontage, and commenting that this site, along with the Bordines site to the south, were designated as Mixed Use since the 1998 Master Plan. He explained that Mixed Use provides a transition buffer between the busy Rochester Road corridor and the subdivision behind. He pointed out that the original PUD approved in 1994 allowed little flexibility and planned for a greater density of development. He recalled that a PUD was used at that time as the City's Zoning Ordinance did not allow for mixed-use development. The underlying zoning of the project was changed to B-2 because that was the zoning district that would accommodate all the uses that were requested.

He reported that when the City's new Zoning Ordinance was approved in 2009, an FB-2 overlay was imposed on the project, allowing residential, office and commercial uses. He noted that the only portion of the site developed to date includes the Fifth-Third Bank, which has a high-quality architectural look consistent with the theme approved by the PUD in 2004. He explained that G&V has aggressively and unsuccessfully attempted to market the site since 2004. He commented that the original PUD is so specific that it requires one developer for the entire 24-acre project. Opportunities for smaller developments within the project require amendments to the PUD. He explained the financing for mixed-use projects is difficult, presenting an impediment to the development of the project. He also noted that the live-work concept proposed in the original PUD has no market in Rochester Hills, pointing out difficulties with the Lorna Stone project. He stated that a PUD is the right approach for the site, in conjunction with Flex Zoning standards. He pointed out that the proposed revision to the PUD remains consistent with the Master Plan designation for the site, and future development would be subject to all normal City approval processes. He stated that the Owners need greater flexibility for future mixed use development of this property and are requesting the amendment to the PUD now to be ready when the market improves. He stated that developers are not willing to invest in sites with uncertain outcomes for approval.

Mr. Gaber listed the specific changes proposed to the PUD agreement:

- (Paragraph) 1. Provision amends and restates the original PUD and provides that it is subject to obtaining site plan approval along with all the other processes of the City.
- 2. The use and development of the land shall be subject to the requirements of the FB-1 zoning overlay district.

- 3. *Permitted Uses:*

\* A. *No more than 50,000 square feet of retail and restaurant uses, with conditional land use approval required for buildings proposed to exceed 12,500 square feet in size or closer than 50 feet to Eddington Boulevard.*

\* B. *Density of office and residential uses shall be controlled by the FB-1 requirements.*

\* C. *A provision is added to prohibit drive-through restaurants or food facilities. The only drive-throughs permitted will be banks, credit unions or other financial institutions.*

\* D. *No bars or night clubs will be permitted. This requirement will be controlled by a guarantee that the gross revenues of any restaurant liquor sales cannot exceed more than 35 percent of total gross revenues. Posted hours of operation will be limited as well from 7:00 a.m. to 11:00 p.m. The Applicant is requesting this proposed change be amended to allow an establishment to be open until Midnight on Friday and Saturday nights, to be competitive and consistent with other similar businesses.*

\* E. *Total square footage ratios will be subject to the design requirements of the FB-1 zoning, and shall not exceed:*

i. *500,000 square feet maximum if developed exclusively as multi-family residential units with no retail, restaurant or office.*

ii. *435,000 square feet maximum if developed with 50,000 square feet of retail/restaurant, 25,000 square feet of office and 360,000 square feet of multi-family residential units.*

iii. *350,000 square feet maximum if developed exclusively as office with no retail, restaurant or residential.*

4. *Building Setbacks have been adjusted subject to the requirements of the FB-1 standards. (An overhead was displayed noting the setbacks and the use permitted for each distance from the property line. Mr. Gaber mentioned that this change protects the Eddington property owners.)*

5. *Building Heights have been revised from a previously-allowed maximum of up to four stories to the following:*

A. *Between 0 to 50 feet of the property line adjoining the Eddington Farms Subdivision, no building allowed. Between 50 to 100 feet of this property line, not higher than two stories of residential only. Beyond 100 feet from this boundary, residential shall not exceed three stories.*

B. *Between 100 and 150 feet from this boundary, office buildings may not exceed two stories. Beyond 150 feet, office buildings shall not exceed three stories.*

C. *Retail, restaurant, residential and/or office buildings located anywhere else on the site may be up to, but not higher than 45 feet above grade. Buildings used solely for retail and/or restaurant uses shall not exceed two stories. Any buildings used for residential, office, or mixed retail/office uses shall not exceed three stories. Mr. Gaber noted that this change is in consideration of sight lines and visual barriers to the neighborhood to the east.*

6. *Architectural Standards for the retail, restaurant and office frontage along Rochester Road will be compatible and harmonious with the current look of the Fifth-Third Bank. FB-1 standards will control the remaining areas.*

7. *Trees and Woodlands regulated will comply with the City Ordinance.*

8. *Wetlands will comply with all regulations.*

9. *Natural Features Setback: The developer is requesting a relaxation of this requirement, asking that the setback be reduced to five feet from any regulated wetland.*

10. *Open Space and Landscaping:*

A. A 35-foot greenbelt is proposed to the Eddington Farms Subdivision boundary for all residential development. The greenbelt to any office development shall be 50 feet from this boundary. The existing berm will be enhanced with trees and screening to create a green wall. Six feet of opaque green screening will add protection. He noted that if at all possible, the landscape buffer will be installed before, or as soon as possible after construction commences.

B. The landscape island at the entrance to Eddington Boulevard will be kept as-is, and will remain the responsibility of the Eddington Farms Subdivision property owners.

11. *Right of Way (ROW): Vehicular Access*

A. The original PUD provided that the ROW would be 75 feet from the center line of Rochester Road. The ROW proposed will recognize the section line of the road, instead of the center line, actually giving the City 18 feet additional to the east. As such, the Applicant is requesting that a ten-foot easement of additional land specified in the proposed PUD revision be eliminated.

B. Only one new curb cut to Rochester Road is being requested.

C. Continuous cross-access between Eddington Boulevard and the adjacent Bordine's property will be provided.

D. The owner will consider the possible realignment of Eddington Boulevard to facilitate the installation of a traffic signal.

12. Street and Utility Construction will require the City Engineer's approval and be in compliance with all City Ordinances.

13. The City acknowledges that the Fifth Third Bank branch is in compliance with the original PUD and Zoning Ordinance.

14. Signage will comply with all City requirements.

15. A list is provided of all parties to be notified in regard to the PUD.

16. Government Approvals: All final site plans will be submitted for Planning Commission approval and will also be subject to review and approval of the City Engineer and the Fire Department.

17. *Development Sequence and Timing:*

A. The proposed PUD amendment provides that the site may be developed in phases over time.

B. The Owner shall have three years to come forward with the first site plan, subject to two one-year extensions.

C. If the project is not substantially completed within ten years of the PUD agreement (defined as 75-percent of the land developed), the City can send a Notice of Abandonment. If the Owner does not respond within thirty days, the City can take steps to rezone the balance of the property. The Owner may come before City Council to object to the rezoning. The original PUD did not contain a mechanism for this process.

**Derek Delacourt**, Deputy Director of Planning and Development, recapped the original PUD development process and noted that both City Council and the Planning Commission have reviewed the PUD a number of times. He commented that the current PUD zoning is still in good standing and this amendment, if approved, will be recorded to replace the existing document. He stated that upon review, Mr. Gaber's request to eliminate the 10-foot utility easement noted in Section 11(A) of the revised PUD would be acceptable.

**President Hooper** questioned whether extending the hours of operation of any restaurant to midnight is acceptable.

**Mr. Delacourt** responded that City Staff and the Planning Commission are agreeable to either 11:00 p.m. or 12:00 Midnight.

**Public Comment:**

**Deanna Hilbert**, 3234 Quail Ridge Circle, commented that surveys conducted report that residents do not want more strip centers. She questioned whether the reduction in right-of-way might interfere with a possible future boulevard for Rochester Road. She noted that Council Member Rosen had expressed concerns during the Master Land Use Plan update process regarding form-based zoning.

**Alice Benbow**, 1582 Northumberland, stated that the City has too many vacant retail locations and commented that the City Attorney should object to this project. She mentioned that the City should be enforcing its Blight Ordinance on the property and expressed concern over the removal of the Historic Designation of the home on the property.

**President Hooper** questioned whether the agreement would provide enough right of way for a boulevard of Rochester Road.

**Mr. Delacourt** responded that the proposed agreement provides for more right of way than what currently exists in the City on any road project, and is consistent with the Michigan Department of Transportation's (MDOT) current plans.

**Paul Davis**, Acting Director of DPS/Engineering, commented that Hamlin Road is a four-lane boulevard within a 120-foot right-of-way. He explained that two 75-foot half-right-of-ways would allow for a tight six-lane boulevard, with additional right-of-way required at intersections. He noted that there are no plans for a six-lane boulevard on Rochester Road. He commented that MDOT has tried to turn over jurisdiction of the road to the local communities; however, neither Rochester Hills nor Rochester desire to take over control at this point. He mentioned that there is the possibility of roundabouts at intersections negating the need for a six-lane boulevard. He commented that the notion is to "widen the nodes, not the roads" to increase capacity.

**Mayor Barnett** noted that in conversations with Mr. Gilbert, the City's desire to have the home saved from demolition as long as possible was discussed. He requested Council consider as an amendment to the PUD that the home not be destroyed for a period of one-year from the date of PUD approval unless the applicant can produce a viable site plan that requires the use of the land the home sits on. It was also discussed and agreed to by Mr. Gilbert that should the group that came forward to raise funds be successful, G&V would contribute \$20,000 toward the refurbishing of the home on its new location. He stated that Mr. Gilbert further agreed that the commercial square footage maximum would be reduced from 50,000 square feet to 45,000 square feet, a reduction of 10 percent.

**President Hooper** questioned whether Mr. Gilbert would be agreeable to these additional changes and conditions. He noted that in July, resident Martha Black had requested a month to raise money to relocate the home.

**Mr. Gilbert** responded that he would agree with the additional changes and conditions, and noted that upon the group's success in locating a site and moving the building, he would contribute \$20,000 toward its restoration. He commented that he has not heard anything regarding the progress of fund raising efforts for relocation.

**Council Discussion:**

**Mr. Klomp** stated that he is pleased with G&V's efforts to work with the community, commenting that many of the residents' concerns were addressed in this revision and noting that no one is in attendance from the adjacent subdivision to speak in opposition. He concurred with allowing a later hour of operation for restaurants on Friday and Saturday nights. He questioned whether a possible realignment of Eddington Boulevard would loop the roadway southward to line up with Drexelgate to the west.

**Mr. Delacourt** responded that the realignment of Eddington Boulevard would be considered if part of a proposed site plan if all parties, including MDOT, would be agreeable.

**Mr. Yalamanchi** questioned the following:

- Whether adoption of this revision voids the existing PUD agreement.
- Whether the revision would start a new ten-year period.
- Why the PUD Agreement is needed.
- Why the Fifth Third Bank is included in the PUD and whether it owns the property it is on.
- Whether G&V would consider a lesser percentage of retail development, noting that he would consider a retail/loft apartment mix.
- Why the PUD revision is required at this time; and whether it could instead be revised later.

**Mr. Gaber** responded that the revised PUD would replace the original agreement. He noted that the ten-year time period would begin with the acceptance of the revised PUD. He stated that the bank owns their own parcel and is included in the revision because the site is a part of the original PUD.

**Mr. Gilbert** commented that including the Fifth Third Bank site in the revised PUD will make them a party to the agreement to protect them.

**Mr. Delacourt** noted that as a PUD was in place before, a PUD amendment is called for now.

**Mr. Gaber** commented that the square footage for each use could be adjusted, pointing out FB-1 zoning specifies maximums.

**Mr. Gilbert** commented that if the existing PUD remains in place and a developer comes along with a plan requiring an Amendment, it could take a year or longer for approvals. He noted the proposed revisions provide for 30 percent less density than the original PUD and stated that he would not consider additional reductions in retail square footage maximums. He commented that G&V is looking for flexibility, noting that the market will drive the percentage for each use and stated that it was entirely possible that a future proposed plan might include offices and condos and no retail.

**Mr. Gaber** noted that densities were reduced as a trade-off to achieve some commercial road frontage. If further reductions in the retail component were required, the development would no longer be financially feasible.

**Mr. Delacourt** stated that the FB-1 Zoning District, along with requirements for trees, parking spaces and setbacks will dictate the density on the site. The only specific cap on use is the addition of a limitation on retail to 45,000.

**Mr. Pixley** expressed his appreciation for the applicant's willingness to compromise and spend time with the residents. He commented that his only concern is the extension of restaurant hours to midnight. He questioned whether any proposals for use have come forward.

**Mr. Delacourt** responded that while this extension was not acted upon by the Planning Commission, discussion at that level indicated that it was not a large issue to increase the operation by an hour.

**Mr. Gilbert** stated that he has not received any proposals yet and commented that the market is still pretty quiet.

**Mr. Webber** expressed his appreciation to the residents who came forward at the Planning Commission level and stated that the market will dictate the site's development. He noted that the proposed PUD revision attempts to alleviate traffic concerns.

**Mr. Rosen** questioned what the limit to the amount of office use would be if the site were developed exclusively as office. He stated that he wished to ensure that the percentage of office could not go higher. He questioned how much of the land would be utilized if the development consisted of all office and whether it could be dictated in the Agreement that the most green space could be located on the east side.

**Mr. Gaber** noted that section E.3. of the Agreement specifies the maximum that could be developed. If FB-1 design standards kick in, the amount could be less.

**Mr. Gilbert** responded only a few acres would be used if all office use was developed at a height of three-stories. He noted that dictating the location of development would only be easy to accomplish if one office development came in for the entire site rather than development in phases.

**Mr. Delacourt** noted that whether one overall office development or a phase development was proposed, the opportunity exists for the Planning Commission to review all site plans. He commented that the practice of the Planning Commission is to push development away from adjacent residential properties.

**Mr. Rosen** commented that the world has changed and there is not likely to be an spec retail development similar to what existed 20 or 30 years ago anytime in the near future. He noted that there is no market for a live/work concept in this area of the country. He mentioned that a big inducement for his support of the original PUD was a preservation of the previously listed historic home, commenting that he thought it might have an effect on the character of the development.

**President Hooper** pointed out that this recent proposed revision has been before the Planning Commission five times and had been previously discussed at City Council. He commented that he wishes to see the property developed to become an added-benefit for the City.

**A motion was made by Pixley, seconded by Klomp, that this matter be Adopted by Resolution. The motion CARRIED by the following vote:**

**Aye** 5 - Brennan, Hooper, Klomp, Pixley and Webber

**Nay** 2 - Rosen and Yalamanchi

Enactment No: RES0211-2010

**Resolved**, that on behalf of the City of Rochester Hills, the Rochester Hills City Council hereby approves the Revised City Place Planned Unit Development Agreement, a mixed-use development on approximately 28 acres located on the east side of Rochester Road, north of Hamlin, zoned PUD, dated received July 20, 2010 between G&V Investments, LLC (G&V), whose address is 2565 S. Rochester Rd., Rochester Hills, Michigan 48307 and the City of Rochester Hills, 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309.

**Be It Further Resolved**, that the Mayor and the City Clerk are authorized to execute and deliver the Agreement on behalf of the City, subject to the five following conditions:

1. The posted hours of operation of any restaurant that sells alcoholic beverages shall not be earlier than 7:00 a.m. or later than 12:00 midnight on Friday and Saturday nights; 11:00 p.m. on Sunday through Thursday nights.
2. The ten foot (10') easement for utilities and construction purposes east of the right of way is eliminated.
3. The previously-listed Historic Home will not be demolished for one year from the date of approval of the PUD unless a viable site plan has been approved for that subject location.
4. Should the group that previously felt they could be successful in relocating the home obtain the funds and relocate the home, G&V will contribute \$20,000.00 toward its restoration.
5. The Retail Component shall be reduced to no more than 45,000 square feet.