

Findings

1. *The site plan demonstrates 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 off-street parking area has been designed to avoid common traffic problems and promote safety.*
3. *The proposed parking lot improvements should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.*
4. *The proposed parking lot will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.*

Conditions

1. *Submittal of an irrigation plan and cost estimate, prior to final approval by staff.*
2. *Address review comments from the engineering, fire, and forestry departments prior to final approval by staff.*
3. *Obtain Soil Erosion Permit prior to Construction Plan Approval.*
4. *Staff Final Approval of the tree locations based on the comments at the December 17, 2013 Planning Commission meeting (move trees farther west from parking area).*

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

**Aye** 8 - Boswell, Brnabic, Dettloff, Hooper, Kaltsounis, Reece, Schroeder and Yukon

**Absent** 1 - Hetrick

*Chairperson Boswell stated for the record that the motion had passed unanimously and wished the applicant good luck.*

**2010-0094** Public Hearing and request for discussion and public input regarding the City Place Planned Unit Development (PUD) property - City File No. 02-027 - a 28-acre site located on Rochester Road, between Avon and Hamlin, zoned PUD, Parcel Nos. 15-23-152-022 and -023, 15-23-300-035 and 15-23-301-022, City of Rochester Hills, Applicant

*(Reference: Staff Report prepared by Ed Anzek, dated December 17, 2013 and various related documents had been placed on file and by*

*reference became part of the record thereof.)*

*Present for the applicant (City of Rochester Hills) was Ed Anzek, Director, City of Rochester Hills, Planning and Economic Development, 1000 Rochester Hills Drive, Rochester Hills, MI 48309.*

*Mr. Anzek stated that their purpose was to have a zoning analysis discussion. In October 2013, Mr. John Gaber, the Attorney for G&V Investments, owner of the property, submitted a letter to City Council, informing them that it was their intent to not file an extension for the Planned Unit Development (PUD) for City Place. The language in the 2010 PUD stated that it would expire if not submitted by November 16, 2013. Council took up the question and determined that the best process was to determine the underlying zoning - what it should and should not be. The matter was referred back to the Planning Commission for a Recommendation. Staff was proposing a discussion to talk about the history, listen to the residents, get recommendations and opinions and then begin to see if there was a common supported direction. Mr. Anzek pointed out that the Public Hearing Notice did not list a specific zoning designation.*

*Mr. Anzek advised that the request was City-initiated and not from the owner. He recalled the Master Land Use Plan done in 1998 and the subsequent studies done to support it, including the Rochester Road Corridor Study. That Plan recommended that the land from Yorktowne to Hamlin on the east side of Rochester Road be considered for mixed-use. In 2002, G&V started meeting with Staff to see what they could do in terms of mixed-use development. Ultimately, that resulted in a PUD in 2004 that had four-story units along Rochester Road with townhome apartments behind that. In 2005, developer Robertson Brothers looked at the property for a possible attached housing development, but that did not go forward due to the beginning of the recession. In 2007, the Master Land Use Plan was updated, which included a designation of FB-2 Overlay (Flexible Business 2) from the Bordine's property to Yorktowne. In 2009, a new Zoning Ordinance was adopted, which spelled out the details of an FB-2 Overlay. At that time, a PUD was no longer required to be tied to the underlying zoning, and the underlying zoning did not have to match the most intense use. In 2009 and 2010, Staff worked with G&V to create some flexibility within the PUD. They were having an extremely difficult time marketing the development from 2004, with residential above retail. The PUD was amended and adopted in 2010. The process to vacate that PUD began in 2013, and Council referred the matter back to the Planning Commission to do a zoning analysis and*

*Recommendation of what the underlying zoning should be.*

*Mr. Anzek next mentioned the permitted uses in the FB-2 district, including residential, retail, office, and multiple-family. The key considerations were that the MLUP from 1998 to 2007 supported mixed-use development and the Future Land Use Map supported FB-2 zoning. Prior to the initial PUD in 2004, the zoning for the site was R-4, One Family Residential. It was believed that if the 2010 PUD was vacated, an automatic reverter would take the property back to R-4. Mr. Staran advised that the City would not do that; the matter would have to go through the process. It was also pointed out to Mr. Anzek earlier in the evening that the 2004 PUD did not have a reverter clause, although it had been referenced.*

*Mr. Anzek showed a map of the subject property. The Fifth Third Bank was not being discussed, but it would be under consideration because it was built under the active PUD under B-2 zoning. They would have to determine the best zoning for the bank, if it wanted to expand and what the appropriate setbacks would be. There were four parcels in question: 3.5 acres immediately east of the bank; .4 acre below the bank; 3.9 acres south of that; and south of Eddington Blvd. was the bulk of the property of about 17 acres.*

*Staff looked at the property on Barclay Circle, one of the City's most intense office corridors, and took some of them to scale and put them on the G&V property to show what it might look like if it were all office. The difficulty they saw with straight office was that it could create the opportunity to be subdivided and give direct access onto Rochester Rd. That was a concern because of all the traffic issues; they did not want to end up with numerous curb cuts on Rochester Rd. He added that one purpose of mixed-use was to control traffic access points.*

*Mr. Anzek showed an aerial of the Village of Rochester Hills. It was an example of how the flexible use might work. The Village was significantly larger than the G&V property, and something like it would have to be smaller to work on the G&V site. He noted that the Staff Report was fairly lengthy and gave a history and chronology of the site. There were several letters from Mr. Gaber and numerous emails from the residents included. Mr. Anzek said that he would be happy to answer any questions.*

*Chairperson Boswell stated that as he understood it, when the PUD was amended, the reverter clause was taken out. Mr. Anzek advised that it was actually added in 2010. Chairperson Boswell clarified with Mr. Staran that*

*a PUD was a contract, and he said that if there was a reverter in the contract and the contract came to an end, he wondered why the property would not simply revert to the underlying zoning.*

*Mr. Staran explained that the contract did not provide for that. The contract provided for the procedure that was being followed - for Council to determine whether the project had been abandoned, which process Council went through - and it provided the City the options to initiate an action in Oakland County Circuit Court for declaratory relief to rezone the undeveloped land. There was no need to go to court, because the process was cooperative. It was actually the property owners who came to City Council and said they wanted out from under the PUD. Through the Council's resolution, the matter was referred to the Planning Commission to evaluate the zoning. Specific reference in the 2010 Amended and Restated PUD Agreement was Section 18C, which spelled out the process they were attempting to follow.*

*Chairperson Boswell clarified that in order for a property to be Rezoned, a Public Hearing would be required. Mr. Staran agreed and said that if they viewed this meeting as a kick-off meeting to look at concepts and the history, he would expect that the deliberations would, at some point, focus on a particular zoning or zonings, in which case the matter should be advertised for another Public Hearing to Rezone it to a particular use. Chairperson Boswell confirmed that the property was currently zoned B2/FB-2, and that a request for any other zoning would have to be noticed as a Public Hearing. Mr. Staran agreed, and said that if it was the sense of the Planning Commission and ultimately City Council to keep the zoning as it was, there would be no zoning change, and there would be no need for another Public Hearing.*

*Chairperson Boswell advised that he had received several emails concerning the property, and he stated that they would all be made part of the public record of the meeting and placed on file in the Planning Department. He noted that there was also a petition signed by 141 residents against current proposed changes to the existing PUD Agreement, but he was not sure how that would affect anything because the PUD had been changed - it was no longer going to exist.*

*Chairperson Boswell opened the Public Hearing at 7:31 p.m.*

**Lisa Winarski, 194 Bedlington, Rochester Hills, MI 48307** Ms. Winarski stated that she was the President of the Eddington Farms Homeowner's Association. She indicated that this had been an ongoing

issue for over ten years. She knew that Planning Staff had discussed it for over ten years, and they had given G&V every opportunity to develop the land. She thought that perhaps it was not the problem with the zoning; she thought it was simply a problem with how the property was being marketed. She claimed that B-2 was considered light industrial, which she also claimed was something that the City did not want or need and something that did not fit in the area. She believed that if there had been no discussion about a PUD, there would have been no change in the underlying zoning, which was originally R-4. She suggested that the whole reason why B-2 came about was because at the time the PUD was originally proposed, there was no zoning that would support a PUD as an overlay. The zoning was changed from R-4 to B-2 to support the PUD. She stated that the DEQ would not allow the entire wetlands to be mitigated, and G&V did not currently hold a permit to mitigate the wetlands - it expired in 2010. She spoke with the Regional Manager of the DEQ, and he assured her that there would be no way that all of the wetlands would be mitigated. She commented that someone could not get the perks of a PUD after it was abandoned. The property should, according to Ms. Winarski, by statute revert back to R-4, and the change of zoning should occur with a new land owner. The land was for sale, and she maintained that G&V had no intent of developing the property. The new owner, by right, had the opportunity to come to the City and ask for a zoning change. She thought that the cart was before the horse again, and that the zoning should revert back to R-4, and the new owners could discuss the possibility of a Rezoning. The B-2/FB-2 zoning was under the PUD Agreement, and the zoning was now in limbo. She stated that technically, there really was no zoning on the property. She reiterated that it was not B-2 zoning, and said that was why Council referred it back to the Planning Commission. She said that Mr. Staran's job was to steer the City clear of any possible litigation. She referred to zoning law MLC 125.3405, and read, "the land reverts back to the original zoning," which was R-4. Ms. Winarski concluded that statutory language did not match Mr. Gaber's request on behalf of the applicants.

**Scot Beaton, 655 Bolinger Dr., Rochester Hills, MI 48307** Mr. Beaton commented that his words had been falling on a lot of deaf ears at City Hall lately, although he acknowledged that the Planning Commission did a terrific job. He referred to page 5.15 in the City's Economic Development Analysis and Strategy of the Rochester Hills Master Land Use Plan and read, "Considering that three of the four largest regional shopping malls in Southeast Michigan are located close to Rochester Hills (Great Lakes Crossing, Lakeside Mall and Somerset Collection) we conclude that Rochester Hills currently contains sufficient retail space for

the number of households.” He referred to page 6.3 of the Master Plan, Retail/Service Objective number one and read, “Concentrate commercial development in nodes as opposed to strips along major corridors.” He noted page 7.1, Future Land Use, Prohibit Expansion of Commercial Land, and read, “Commercial land uses should not expand beyond their current limits. By not providing new land for commercial expansion, the Master Land Use Plan encourages the redevelopment of existing commercial areas.” Mr. Beaton put the zoning map on the overhead, and said that because the Planning Commission had to go along with the City Council, whom he commented “approved a really lousy PUD idea to begin with,” the Planning Commission had condemned all of the subject land on Rochester Road as commercial. He said that he hoped it would revert back to the original ideas of the Master Land Use Plan, so that everything on the west side of Rochester Road should match everything on the east side of Rochester Road. He showed a plan from the PUD, and said that if the City let it fail or disappear and allowed the zoning to remain, the PUD only allowed so much to be commercial. If the PUD went away, and the Planning Commission let the zoning remain, then he remarked that the world of McDonald’s would take all of the property. He stated that he concurred with the first resident; they should let the property revert back to R-4, residential.

**Melinda Hill, 1481 Mill Race, Rochester Hills, MI 48306** Ms. Hill stated that they clearly needed no more new retail development in Rochester Hills, and that they were saturated for both local and regional users. She mentioned the vacant retail spaces. In 2004, Ms. Hill felt that Mr. Gilbert had an innovative and creative development idea. She commented that it was too bad that his vision was ahead of its time and that the timing, with the unforeseen downturn in the economy was bad. She indicated that unfortunately, she regretted her approval of the original 2004 City Place PUD. She felt that there was no vision, and to suggest that the property should remain zoned B-2/FB-2 was a terrible idea. She reiterated that the City needed no more new commercial retail development, and G&V should not be rewarded for non-performance. She said that she had reread all the Minutes pertaining to the 2004 and the 2010 PUD Agreements. She reminded that she sat on Planning Commission and City Council in 2004, and she stated that there was no reverter clause about R-4 in that Agreement, and there was none in the 2010 Agreement, either. She claimed that the intent was never to have a development any more intense than B-1 or FB-1. She believed that the real reason for the B-2 zoning was due primarily to an error in the Public Hearing notice of March 16, 2004. G&V had asked for B-1, but the notice was for B-2. She felt that a number of the Commissioners should have been able to recall

*the discussion with Mr. Kaiser and Mr. Staran that occurred at that time. She hoped that they were provided the Minutes from those meetings. After re-reading the Planning Commission Minutes leading up to the 2010 Amendment, it was clear that the intent was for a less dense development, governed by B-1 and FB-1 with certain expressed exceptions that allowed up to 45,000 square feet of retail and commercial development. She said that 17C was included to clearly spell out this intent if, for some reason, the PUD became abandoned. She read, "Upon receipt of abandonment notice, the City may initiate the Rezoning of any land which had not been developed according to an approved Site Plan, Plat or Condominium to FB-1 or similar zoning classification that permits office and multiple-family development." She stated that there were many, many hours of discussion to try to contain the intensity of development at this site. She was not sure how much clearer the City could be regarding the intent and action that was needed to take place under the circumstances that existed today. She agreed that the 2004 PUD needed to have an underlying zoning to help support the PUD, but that could have happened with B-1 with the exceptions of some of the allowed commercial uses. She claimed that the only reason the 2007 Master Land Use Plan showed B-2/FB-2 was because it was consistent with the designation at the time. She questioned why in 2010 there was not a Rezoning to B-1/FB-1, since that was the intent of that amended agreement. Also, she questioned why B-1/FB-1 was not changed to meet the same intent of the existing agreement in place during in the 2013 Master Land Use Plan update. She indicated that Mr. Gilbert had always been a residential developer, and she felt that the site would be ideal for a mix of residential uses or for residential and some office. She felt that it would enhance and compliment any future, more intense re-development or new development at the corners of Hamlin and Rochester Road. She remarked that to try and trade a potential traffic signal at Eddington for B-2/FB-2 zoning was a bad idea for the residents of the City. She indicated that the City could well afford a signal if and when warrants were met, and claimed that the City had millions of taxpayers' dollars in the General Fund. She reiterated that the intent had always been for development on this site to be no more intense than B-1/FB-1, and she asked that no more than that be recommended.*

**James Coon, 707 Tewksbury Ct., Rochester Hills, MI 48307** Mr. Coon noted that he was retired from the City of Detroit, and one of his duties was the design and installation of traffic signals. He maintained that the proposed relocation of Eddington Blvd. would be a disservice to Eddington Farms, and it would get rid of a beautiful entranceway on Rochester Road, lowering the public recognition and property values of

*Eddington Farms. He stated that it would add over 100 yards of pavement needlessly that would have to be maintained, and it would make people entering and exiting Eddington Farms drive through an alley to get to their homes. Regarding traffic, if a signal was warranted in the future, he suggested that a three-way signal could be installed at Eddington Blvd. or Drexelgate. If a signal was warranted, the State would install it, whether Eddington Blvd. was relocated or not. He did not believe it was necessary to relocate Eddington Blvd. to meet the warrants for a traffic signal there. Mr. Coon pointed out that \$150,000 of the cost of a signal would be paid for by the City, and since a signal could be installed for \$30,000 to \$150,000, there would be no gift to the City at all. For a three-way signal at Eddington or Drexelgate, the cost of the signal would be borne two-thirds by the State and one-third by the City. If Eddington Blvd. was relocated, the cost would be 50-50. That would be not only for the installation, but for the maintenance and electricity. He commented that there were a number of warrants that had to be met for a traffic signal to be allocated, and one of those was a political warrant, so if the City wanted a light there, it would be installed.*

**John Gaber, 1024 Adele Ct., Rochester Hills, MI 48309** *Mr. Gaber introduced himself as the Attorney for G&V Investments, which owned the property in question. He wanted it made clear that the PUD did not control the site any longer, so the provisions of the PUD did not apply given the action taken by City Council. He said that the reason they were meeting was to look at the Master Plan and the Zoning Ordinance and determine what the proper zoning of the property should be so the Planning Commission could make a Recommendation to City Council. There were two concepts - the overlay zoning and the underlying zoning. They (he and the applicants) believed that FB-2 was the proper overlay zoning. In terms of the underlying zoning, they did not think R-4 was appropriate. They understood the concerns with B-2 without the overlay and its protections in that district. They wished to suggest something in the middle, such as RM-1 (Multiple Family Residential) and O-1 (Office Business) for the underlying zoning. Specifically, they meant RM-1 for the property behind Fifth Third Bank, which was surrounded by office and single-family residential on two sides, and office for the remainder of the property, both with the FB-2 overlay. The Planning Commission had received some correspondence that said that the existing zoning classification (B-2/FB-2) was put there to support the PUD. He pointed out that in the 1998 Master Plan, the whole corridor from the office property north of the Fifth Third Bank to the Bordine's property was designated for mixed-use development. That was five years before the PUD came forward. In 2007, after the first version of the PUD was*



adopted, the mixed-use zoning classification was continued in the Master Plan update. The City went further to include not only mixed-use, but it put a flexible business overlay (FB-2) on the site. He stated that it was the Master Land Use Plan that governed the property, with or without the PUD, and it provided for flexible business uses. The FB-2 use was put in because it was a transition use. He referred to page 7.5 of the Master Plan, which talked about the FB-2 use and flexible business uses in general. It talked about FB-2 being a transition use between FB-3, which was Bordine's, the busy Rochester Rd. corridor and the residential on the other side. He felt that it was a perfect transition for the property, and it was why they felt that FB-2 should remain. They understood why the City might not want B-2 for the property. They felt that FB-2 provided protections the City should consider in its zoning discussions. There were protective mechanisms in the FB-2 ordinance that dealt with provisions such as street design, setbacks, frontage requirements, building height restrictions, building design standards, parking requirements, amenity space, landscaping, buffering and signage requirements. FB-2 could be applied as a transition between an intense use and a much less intense use, and it had protections built into the ordinance. Mr. Gaber stated that single-family residential was not appropriate because of how busy Rochester Rd. was. They maintained that O-1 and RM-1 were much more appropriate. The Sycamores across Rochester Rd. to the west was buffered by a detention pond. Winchester Village had a wall. Meadowfield was a cluster development, which was what they were proposing for one of the parcels. He concluded that they believed that FB-2 was an appropriate overlay zoning classification, and they asked the Planning Commission to consider O-1 and RM-1 rather than R-4 as the underlying districts for the property.

**Bill Gilbert, Owner of the subject property, G&V Investments, Troy, MI** Mr. Gilbert came to the microphone and said, "ditto."

**Carol Hannah, 846 Dahlia, Rochester Hills, MI 48307** Ms. Hannah said that her house backed up to Drexelgate Pkwy. in the Rochester Glens subdivision. She stated that she agreed wholeheartedly with individuals previous to Mr. Gilbert.

**Ken Barnes, 1107 Bembridge Dr., Rochester Hills, MI 48307** Mr. Barnes advised that he was a Board Member of the Eddington Farms Homeowner's Association. He thought that the events regarding the PUD over the past ten years had borne out whether it was zoned FB-1, B-2, FB-2 or one of the other flavors proposed for the now abandoned PUD. It was not something that was profitably marketable under the current

*economic conditions; therefore, he felt that it was in the best interest of the City, the homeowners and also in the spirit of what was previously discussed, that the most prudent course of action was for the site to revert back to its prior, original, statutory language, which was the R-4, single-family zoning status.*

**Teresa Storinsky, 153 Grosvenor Dr, Rochester Hills, MI 48307 Ms.**

*Storinsky said that she had been a resident of Rochester Hills for almost 22 years. She lived in Yorktowne Commons, which was a subdivision of over 128 homes just north of Eddington. She agreed with the residents' comments about hoping that the property reverted back to R-4, regardless of any possible intersection realignment and promises from G&V for a signal. Her main focus all these years had been safety on Rochester Rd. For the last 22 years, she had seen a dramatic increase in traffic. She felt that what should be discussed, in the hopes that when it did revert back to R-4, was the traffic signal scheme that addressed all the issues of the heavy traffic, including the left turn lock ups she saw continually at her intersection of Yorktowne and Meadowfield Dr. and the numerous head-on and side-impact collisions. That area had one of the highest numbers of accidents. There were more safety and traffic issues at that location, and moving forward with the focus of having a new light at Eddington Blvd. was, to her, unwarranted. She felt that they needed to additionally address the numerous driveways and street entrances that might not have the appropriate spacing within the area from Fifth Third Bank through the mall, as well as going into the Burger King area. She noted that MDOT's spacing standards were about 750 feet for a 50 m.p.h road, and she did not believe that the driveways from Fifth Third Bank, the new medical center, Yorktowne, Chrysler and those on the west side of Rochester Rd. complied. She maintained that all traffic studies done by MDOT, be it real or projected numbers, whether being manipulated by G&V's use or not, had shown that putting a light at Eddington Blvd. and Drexelgate would not result in any correctable crash results. She stated that the signal they had been waiting for upon realigning their street with Meadowbrook and giving property to Rochester Hills to realign in preparation for a light would impact the crashes, but a signal at Eddington would not. She stated that a light at their intersection would. She indicated that the real issue was making sure that Rochester Rd. remained safe and usable to the community, rather than indulging zoning changes that would not benefit anyone except the developer. They needed to make their street safe, because it was not. If the zoning was not changed back to R-4, which would increase traffic, and it was zoned B-1 or B-2, it would increase traffic unbelievably. The Rochester Road Access Management study showed that the City planned to have two lights - one*

at Eddington and Drexelgate, planning for the G&V development as well as one at Yorktowne, for which they had prepared. She claimed that two lights were proposed, and for some reason, the one at Yorktowne was no longer being looked at. She questioned why, and stated that they needed it now, not five or ten years in the future.

**Anil Solanki, 506 Lexington Dr., Rochester Hills, MI 48307 Mr.**

Solanki said that he had lived in Eddington Farms for about 20 years, and he said "ditto" to what was just said.

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

McGoldrick noted that she lived in Eddington Farms at the back and closer to John R. She stated that hers was not an issue of "not in my backyard," and that there had been a series of mishaps. Ms. Hill had talked about mistakes and negotiations, and when she checked the parcel numbers at an Oakland County site, the lines were different. When G&V put in a request for Rezoning in May 2013, which the City decided should not go forward, there were six parcels, and the City only listed four. There were a lot of things she was not sure about, if they were talking about an apple to apple comparison. She cited State law MCL125.3450, which she claimed confirmed that if a Site Plan was not developed by November 16, 2013 the site should revert back to the original zoning. She commented that G&V should not be able to abandon the PUD and also reap the benefits of a PUD by the subsequent five-year land use planning that went on because the PUD was in place. She said that the Planning Commission and the City in years past had worked very hard to bend over backwards to accommodate G&V's every whim and change directions as G&V played the blame game. First it was the economy; second, it was the cost of demolition by neglect (also illegal, she claimed); it was then the historical house location; uncooperative homeowners; the Eddington Blvd. location; the wetlands; and it was about safely turning into a retail development. As some of the other speakers mentioned, zoning was the best time to talk about safety and changing the in and out accesses. She stated that the Planning Commission was not supposed to be creating another hazard, or the City could be liable. If the zoning went to retail, it would create a lot more traffic, as the traffic study suggested. Their (did not mention who) study also clearly stated that a light at Drexelgate would not stop the progress on Rochester Rd. There were many statements made, and they were kind of playing a game about "if it was said enough and early enough," it was true. She had emails from the City that said the same thing - Eddington and Drexelgate already met warrants. She claimed that it never did and it did not currently. As they moved forward, she said that they had to look at all

*those details and not fall in the rut of making mistakes. They had to make it very clear what would happen in the future. City Council gave the Planning Commission the charge to evaluate the area and initiate an appropriate zoning designation for four parcels, but Oakland County showed six parcels. There were about 600 single-family homes and over 1,000 apartments and condos and multiple-family homes in the area. She noted that Jim Rosen, who was on Council and had a lot of planning experience, indicated that residential would work in the area. At the last Planning Commission meeting, City Walk was approved for a retail building with apartments on the top. G&V had said that there was no way that they could possibly make that concept work. She felt that they needed a study for Rochester Rd. to make it safe, and it was the time to do it, before decisions were made, so they could look at Rochester from Hamlin to Avon and make the best decisions as they moved forward. She concluded that she appreciated the time, and that she was looking forward to R-4.*

**Hector Urteaga, 1573 Farborough Dr., Rochester Hills, MI 48307** *Mr. Urteaga said that he had lived in Eddington Farms since 1995, and he moved there to live the American Dream.. He said that the issue had been ongoing for ten years, and he was living the nightmare, not the dream. The neighbors have had many concerns, and they came to the Planning Commission many times, but he said that they were not being listened to, and their vote would not count. His main concerns were for safety and density. He believed that safety was being compromised. Recently, there had been many traffic accidents, including fatal ones, and there would be more to come. If the City wanted to attract new residents, he did not think they would like it that safety was compromised. Regarding density, with more people, there would be more traffic. He said that many people came for the nature, and they had wildlife that they used to enjoy, but they did not have that any more, because it had turned into an urban area. Their sons and daughters were leaving, because they were not interested in belonging to a city of concrete. For Rochester Rd., which was a State road, they were not planning for widening or anything for the next five years, because there was no infrastructure. In all the planning, they had not heard any predictions or an outcome. He concluded that those were the reasons why the people of Eddington Farms were suggesting going back to R-4, and that it was better to have a residential community where everyone could live the American Dream.*

**Anthony Deshaw, 1638 Farnborough, Rochester Hills, MI 48307** *Mr. Deshaw advised that he was a resident of Eddington Farms, and he and his wife had lived there since 2005. Their home was the fourth one from*

*Eddington Blvd. With the exception of the applicants, he wanted to say "ditto" to all the comments that had been made. He fully rejected the notion that R-4 was not an acceptable use for the property, and he asked that the Commission seriously considered and approved an R-4 designation for the property. He stated that it was the best use, and it made the best sense. He felt that it would be a win-win for everyone, and the developer would still make money. They had a safe neighborhood, and residential would have a limited impact.*

**William Karam, 1710 Farnborough Dr., Rochester Hills, MI 48307** *Mr. Karam said that he lived at the end of Farnborough Dr. His main concern was that in the back, there was a berm, and they would have two sides backing up to the subject property. He was involved in a development on Livernois next to Whispering Willows. He put together the deal all the way from the entrance to Whispering Willows to M-59 in 1990. All along Livernois it was residential, and he said that it was beautiful. He drove down University going east and west, and at one point, there were homes backing up to University that were mansions. They were probably some of the most valuable homes in Rochester Hills. He did not see anything wrong with having homes on the subject site. He said that he could understand Mr. Gilbert wanting to make it commercial, but the homeowners felt opposite from that. Mr. Gilbert was looking to make money, and he would be gone and they would still be there, and he felt that was worth something.*

*They did not know anything about what would be proposed - all the developer wanted to do was Rezone the property. Mr. Karam said that he had been involved in a lot of Rezoning, and they always had to have a buyer before they could even ask for a Rezoning. The buyer would try to buy it subject to getting a Rezoning. He claimed that people would not put money out unless something was ready to go. He was at one meeting where someone said that Mr. Gilbert was asking \$1 million an acre. That was fine, but he believed that \$1 million per acre in this economy would be hard to get unless there was a Rezoning.*

*Chairperson Boswell closed the Public Hearing at 8:20 p.m. He asked the Commissioners if they had any comments.*

*Mr. Kaltsounis said that when he opened his packet, he was glad to see that this was a discussion item, and that no decisions would be made. He was glad Staff brought it forward in this manner. He wanted to be able to listen to Staff, the residents and Mr. Staran to try to figure out their task with regards to the Rezoning. The Master Plan showed FB-2, and the applicant could ask for that, and the Planning Commission would have to*

*seriously consider it. The Commission was being tasked to consider an array of zoning options, such as R-4, RM-1, B-1, B-2, O-1, SP, FB-1 and FB-2, but outside of that, there were a lot of questions that had to be answered. He would like to look back at old zoning maps to see if there was any guidance. When it came to selecting zoning for the area, he was not sure he could comment. He knew that there was an FB-2 overlay, which was supported by the Master Plan and if the applicant came in tomorrow asking for that, they could probably get it. Other than that, he needed more information as to the history of the property. When they did the Master Plan, they looked at the environment around the property. There were businesses and offices and homes. He estimated that with R-4, someone could put in 60-70 homes. There were a lot of complaints about traffic and turning out of a development, and they had to figure out what issues adding 60-70 homes, all coming out at once, would arise. They needed to find out whether there was a reverter clause and answer the questions that were raised at the meeting and have another discussion.*

*Mr. Staran emphasized that there was no automatic reverter clause in the 2004 or the 2010 PUD Agreements. He noted that Ms. Hill was correct about the history of the project. The only thing he would take issue with was the reference to Section 17 of the PUD Agreement, which actually should have been pointed out as Section 18, which contained the provision. He reiterated that there was no reverter language, and it was quite the opposite. The language called for the process that they were undertaking. It gave Council the option of choosing B-1/FB-1. Council wanted the Planning Commission to take a look at it without any restrictions and look at the whole array and come to some determination and Recommendation as to what the zoning should be - whether it should go back to single-family residential or to some combination of office and multi-family or to something else altogether. There were a couple of speakers that cited a Michigan law, and he wished to clarify that. The citation MCL.125.3450 was referenced earlier, and Mr. Staran explained that there was no such section. He thought the speaker intended to reference MCL.125.3405. That was the section in the Michigan Zoning Enabling Act which authorized Conditional Rezoning, and they were not discussing that. He read: "An owner of land may voluntarily offer in writing and the local unit of government may approve certain use and development of the land as a Conditional Rezoning of the land or an amendment to a zoning map. In approving the conditions under Subsection (1), the local unit of government may establish a time period during which the conditions apply to land and except for an extension under Subsection (4) if the conditions are not satisfied within the time*

*specified under this subsection, the land shall revert to its former zoning classification.” They were dealing with a Planned Unit Development, a completely different zoning device, which was regulated under a different section of the Michigan Zoning Enabling Act. There was nothing in that section that talked about an automatic reverter. He also took issue with any statement that the property was left unzoned as a result of the Council’s declaration that the PUD had been terminated. The property was zoned B-2 with an FB-2 overlay, and the City had to determine if that was what it should be or if they should do something differently.*

*Mr. Kaltsounis asked about the history of B-2/FB-2. Mr. Anzek explained that in the original PUD of 2004 within the Zoning Ordinance to use the PUD provisions, it was required that the underlying zoning match the most intense use. That PUD contained retail and commercial activities, and they determined that B-2 was the appropriate designation. Accompanying that PUD approval was a Rezoning to B-2. That stayed in place. When the City updated the Master Plan, flexible business areas were identified as a means to bring about a coordinated and quality design based more on better design than actual uses of the land. When they updated the Zoning Ordinance in 2009, the PUD was still in good standing. The FB-2 overlay was part of the consideration from the 1998 Master Plan for the area from Hamlin to Yorktowne to get a coordinated, mixed-use development. In 2009, they also eliminated the need for the underlying zoning in a PUD to match the most intense use. The use would be negotiated as part of a PUD contract, and it did not require a Rezoning. They did not institute an elimination of the B-2 because the PUD took precedent. Now that the PUD was being vacated, the zoning was still B-2/FB-2. There was a question about B-2. From his perspective, it would create vulnerability, in that the property could be split and all parcels could have a driveway on Rochester Rd. They went through a similar concern with the Rochester and Auburn retail development when they first approached the City with four drive-thru restaurants and a lot of curb cuts. Staff did not want the land parceled if it was going to be anything other than residential.*

*Mr. Kaltsounis asked if the land was R-4 before it was B-2, which Mr. Anzek confirmed. Mr. Kaltsounis said that he agreed about B-2. Mr. Anzek thought that Council recognized that also, and that was why they deferred to the Planning Commission to go through the analysis to make a Recommendation.*

*Chairperson Boswell thought they could all agree that the present zoning of B-2/FB-2 was not wanted. Their job was to figure out exactly what it*

*should be in the future and what would be best for the City.*

*Mr. Reece asked for some history about the traffic light. The Commissioners had received a letter from MDOT dated September 16, 2013 to Paul Davis, the City's Deputy Director of Engineering, stating that MDOT had performed various studies along the M-150 corridor between Avon and Hamlin. They would only support a traffic light at Eddington Blvd. and Drexelgate if Eddington Blvd. was relocated. There had been a lot of conversation about different locations, but he asked if the letter was the City's most current understanding.*

*Mr. Anzek agreed that the City believed that was MDOT's position. It had been discussed and re-discussed, and different opinions had been offered to the contrary. It was a very detailed issue, and he thought it would be best to hear about the history from Mr. Davis. Going back to the early 2000's, there was a traffic signal in the CIP for Eddington Blvd. However, because of Cavaliere Office Building coming in, the City thought that the signal would meet warrants at Yorktowne and Meadowfield. The driveway from the Chrysler dealership was not permitted, and there were other issues, and MDOT told the City that the Yorktowne and Meadowfield intersection did not meet warrants.*

*Mr. Reece said that the letter was very emphatic that MDOT would not permit a signal at Yorktowne and Meadowfield. Mr. Anzek said that to permit a signal, MDOT wanted a driveway closed at the Winchester Mall and at the Chrysler dealership, and it got complicated. Also, as the Commissioners might recall, Mr. Anzek advised that in 2005, Bordine's started looking at redevelopment. The City could not get a traffic signal to support that development, but MDOT had given tentative consideration for a traffic signal at Sandalwood, and it would also service the G&V properties with cross connection. Sandalwood was not ideal, because it was not a collector street but rather a local residential street. Eddington Blvd. and Drexelgate were designed as collector streets. He said that he would like Mr. Davis to come to a subsequent meeting to provide more detail. Mr. Reece agreed it would be good if he was available to discuss it further. Mr. Reece thought that relocating Eddington to realign with Drexelgate was the only thing that made sense in terms of getting a traffic light, and lot of the discussion they had been having centered around safety, but the reality was that the right plan was relocating Eddington south to Drexelgate.*

*Ms. Winarski came back to the mike, and said that MDOT was not even considering the light anymore. She stated that when they did away with*



*the PUD, they did away with the opportunity for a light. MDOT would look at staggered lights. The City only looked at the one intersection, and G&V did a study only looking at Eddington Blvd. If the Planning Commission wanted to sit down with MDOT and go through things step by step, the residents would be open to doing that. She claimed that there were many inconsistencies from the City to MDOT to Parsons, who did the traffic study. The residents questioned the eligibility of the study. She reiterated that the light was null and void and was not even being looked at any more by MDOT.*

*Mr. Anzek suggested bringing Mr. Davis to the next meeting to discuss the history of the light, and Mr. Anzek and Mr. Breuckman would do a little more analysis to show what an office complex might look like or what might work under different zoning categories. That might allow them to eliminate some of the options. He knew it would not be an easy decision, and he knew the Commissioners wanted to do it right by getting the best research. If there were any other things they felt Staff should look into, they could let Staff know.*

*Chairperson Boswell said that when he looked at everything, he could see arguments for R-4 and for what Mr. Gaber had suggested, although that could possibly lead to several office buildings and extra curb cuts on Rochester Rd. He added that if it were developed as R-4, with 70 homes, it would create traffic problems as well.*

*Mr. Kaltsounis said that he would like Staff to look into R-1, but he would consider R-4 and FB-1. He asked Staff to consider the wetlands. Every plan done for the PUD, it seemed to him, utilized the wetlands in a way that should not have been done. Mr. Anzek said that the City's environmental consultants had reviewed the PUD, and advised that the wetland area close to Rochester Rd. was of low quality. Their suggestion was to mitigate the land on the lower eastern portion of G&V's property and expand the wetlands to the southeast and create a better one. Mr. Kaltsounis reiterated that at this point, his vote would be for R-4 and FB-1. Mr. Anzek reminded that the Master Plan supported FB-2, although everything would have to be negotiated. It was a difficult parcel because of its irregular shape.*

*Ms. Hill asked if the residents could have clarification from Mr. Staran as to the exact resolution that Council set forth regarding the PUD and Planning Commission's charge. It was her understanding that the PUD was not terminated. It was the intent of Council to terminate it once they had a Recommendation from the Planning Commission as to the*

direction they should take. She had heard a number of times that the PUD was terminated, and she would like clarification.

Mr. Staran responded that it was Council's resolution declaring an intention to abandon the PUD, and a final decision was pending upon review and Recommendation by the Planning Commission as to what the zoning of the property should be. The reason the pending language was kept in was because Council wanted to maintain some level of control over the property while the process was going on. Without the PUD, the property was left zoned B-2/FB-2, and someone could come in the next day with land division plans or a request to put up office buildings, fast food restaurants, etc. Council wanted to see a full process commenced and completed before it made any final decisions, and Council did determine that the project had been abandoned but stopped short of formally terminating the PUD pending the outcome of the process.

**Calvin Bordine, Bordine's Nursery , Rochester Hills, MI 48307** Mr. Bordine stated that his family had owned the property at the northeast corner of Rochester and Hamlin since 1939, and he said that it was where he used to live, long before any of the houses around it were there. He said that he would like to help the Commission in its decisions. He understood it was not what was planned in 2004. His site had the biggest border along the G&V property, and he said that he would welcome any consideration of redeveloping his site with regards to traffic. Any type of connectivity between the sites would only help with traffic and safety. The Rezoning being considered would affect his family's site. If the idea was to have buffer zones between higher and lower intensity, if they were moving the line toward his property, it would be doing the opposite of what the residents were saying about infringing on their properties. He could see both sides. He was not trying to make the Commission's decisions more complex, and he was very available if there were meetings to discuss trying to develop some sort of connectivity between the properties. They had an issue with people cutting through his property by going south on Rochester Rd. and cutting to Hamlin. They were trying to avoid the light, and he would love some solution for that. He said that he appreciated everyone's history and saying they had been residents for 20 years, but it really was about what was best for everyone and all property owners, and safety was key. He thought that having a plan to get people to Hamlin Rd. was a great opportunity that could not be done on the other side of the road. He reiterated that he would love to try to help out.

Chairperson Boswell asked if there were any other tasks for Staff. Mr. Kaltsounis said that he would like to see research for R-4 and FB-1. Mr.

*Anzek said that they would do more analysis. They had to determine whether the Master Plan designation should or should not be supported. Regarding the underlying zoning, they had to be cautious because for anything it was zoned, an applicant could ask for a Conditional Rezoning. If the City wanted to control the development, the access and the design, the flexible business designations gave that opportunity, as did a PUD. Mr. Kaltsounis felt that B-2 had to be changed, and Mr. Anzek agreed that would leave the City vulnerable.*

*Mr. Anzek summarized that he and Mr. Breuckman would do some more analysis and see how different zonings might work. He thanked Mr. Bordine for offering his support, because the continuity through it all was critical for safety.*

## **ANY OTHER BUSINESS**

**2013-0486** Request for Approval of the 2014 Planning Commission Meeting Schedule

*Mr. Kaltsounis moved the following motion, seconded by Mr. Yukon after discussion about changing the February date to the last week of the month. Mr. Hooper observed that the third week was a school holiday break, and Mr. Kaltsounis agreed that he would not be able to make the 18th.*

***MOTION*** by Kaltsounis, seconded by Yukon, the Rochester Hills Planning Commission hereby establishes its 2014 meeting schedule at the December 17, 2013 Regular Meeting as follows: January 21, 2014; February 25, 2014; March 18, 2014; April 15, 2014; May 20, 2014; June 17, 2014; July 15, 2014; August 19, 2014; September 16, 2014; October 21, 2014; November 18, 2014; December 16, 2014.

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

**Aye** 8 - Boswell, Brnabic, Dettloff, Hooper, Kaltsounis, Reece, Schroeder and Yukon

**Absent** 1 - Hetrick

## **ANY FURTHER BUSINESS**

*Ms. Brnabic wondered about the correct terminology for a Planned Unit Development. When she started on the Planning Commission, she referred it as a PUD, and some people looked at her as if she was saying*