

Theresa Pounders - 2866 Avalon Rd., Rochester Hills - inquired whether the Planning Commission or City Council had begun implementing any of the environmental mitigation recommendations previously suggested by the City's ASTI representative regarding soil erosion threats.

Lisa Winarski - said she is President of the Eddington Farms Subdivision, and wanted to speak regarding short-term rentals in single-family residential communities. She expressed concerns from subdivision residents and urged the Commission to place the topic on a future agenda to prevent issues similar to those experienced in Birmingham. Ms. Winarski said that short-term rentals are not necessary within single-family neighborhoods, noting that Rochester Hills is not a vacation destination and that numerous local apartment complexes are available to accommodate such rentals.

Hearing no further comments, Chairperson Hooper closed Public Comment and invited staff to opine on the environmental regulation review conducted by the ASTI consultant.

Ms. Roediger clarified that ASTI has served as the City's environmental consultant for nearly 30 years and reviews every submitted site plan. Regarding the potential implementation of proactive Master Plan recommendations, she noted that the City recently awarded a contract to a consultant to develop a Sustainability Plan. This initiative will evaluate City practices to identify the best possible sustainable methods concerning energy, stormwater, wetlands, and similar environmental factors.

In response to Chairperson Hooper's inquiry about recent developments regarding short-term rentals, Ms. Roediger indicated that the topic had been discussed previously during joint meetings between the Planning Commission and City Council. She explained that the Planning Department has monitored the prevalence of short-term rentals over the past few years and determined that they remain sparse within the City, resulting in a low demand for a dedicated ordinance. She also noted that the issue continues to undergo significant discussion at the state level. While the Planning Department remains open to revisiting the matter at the direction of the Planning Commission or City Council, current tracking indicates that the few active rentals are primarily concentrated near downtown Rochester or close to Auburn Hills near Oakland University.

NEW BUSINESS

2026-0240

Public Hearing and Request for Preliminary Planned Unit Development (PUD) and Site Plan Approval - File PPUD2025-0001 - for Penelope Place Apartments, a proposed development of two three-story apartment buildings, each with twenty-nine units, on approximately 4 acres of land, located at Parcels 15-30-302-034 and -036, on the southeast side of Adams Rd. and north of Auburn rd., zoned O Office Business District and subject to a consent judgment; Ziad Kassab, Penelope's Place LLC, Applicant

(Staff Report dated 5-13-26, Reviewed plans Pt. 1, Reviewed plans Pt. 2, Development application, Environmental Impact Statement, Umlor Group letter date 4-13-26, GAV Associated dated letter 4-13-26, Allen Design letter dated 4-13-26, WRC letter dated 5-9-25, Public hearing notice, PC Minutes 6-17-25, PC Minutes 12-18-18, Adams Vito Settlement, Additional public comment as of 5-18-26, and Public comment has been placed on file and by reference became a part of the record hereof.)

Chairperson Hooper introduced the request for a preliminary Planned Unit Development and site plan approval for Penelope Place Apartments, a proposed development featuring two three-story apartment buildings with 29 units each on approximately four acres of land. The property is located on the southeast side of Adams Road, north of Auburn Road, zoned O, Office Business District, and is subject to a consent judgment. Chairperson Hooper invited the applicant to the dais and noted that several public comment cards had already been submitted. He requested that any remaining individuals wishing to speak on the topic submit their cards immediately to ensure proper time allocation.

The applicant team introduced themselves as Ziad Kassab representing Penelope's Place, Ghassan Abdul from JV and Associates as the project architect, and Chad Holdwick with the Umlor Group as the civil engineer and surveyor on the project.

Prior to the formal staff report, Ms. Roediger provided historical context for the site, noting its complex legal and structural background. She explained that the property was originally a rectangular parcel accessed off what is now referred to as Old Adams Road. Ms. Roediger stated that a little over 20 years ago, a court case resulted in a consent judgment tied to the development of the adjacent commercial shopping center, commonly known as the Walmart shopping center. She further noted that the extensive commercial development in that area also prompted the creation of a new interchange on M-59, which did not previously exist.

Ms. Roediger explained that the development of the M-59 interchange required the realignment of Adams Road by the Michigan Department of Transportation (MDOT). She noted that historically, Adams Road ran straight north and had a bridge over M-59. However, the realignment introduced a near 90-degree curve to shift Adams Road further east, which was necessary to meet minimum distance separation requirements on M-59 between the Squirrel Road and Adams Road exits. This construction directly impacted the subject property, transforming it from a standard rectangular parcel into an irregularly shaped parcel with a curve on the northwest corner, effectively reducing the property owner's land by 1.5 acres.

As a result of the realignment, Ms. Roediger explained that the City entered into a development agreement with the property owners, which established the specific rules and regulations for the parcel. The agreement stipulates that the property must be developed as a Planned Unit Development (PUD), providing flexibility to both the City and the applicant to propose a project that may not strictly adhere to all standard City regulations. This flexibility was granted

because the prior road construction left the remaining acreage irregularly shaped and with significant topographical variations. Ms. Roediger clarified that while a typical PUD involves a standard negotiation and a give-and-take discussion between a property owner and the City, the City is court-ordered to utilize the PUD process for this specific site due to the consent judgment from over 20 years ago. She then turned the presentation over to Mr. McLeod for the formal staff report.

Mr. McLeod thanked the Chairperson and Ms. Roediger, clarifying that this request represents the first phase of the PUD application process. He explained that the PUD process consists of four distinct steps, requiring preliminary PUD approval from both the Planning Commission and City Council, followed by final PUD approval from both bodies should the application move forward. He noted that the plans presented tonight are significantly more intensive and fully developed than what is typically provided at the preliminary PUD stage, as the applicant has proactively worked through the City's site plan review process.

Providing geographic and development context, Mr. McLeod noted that the City of Auburn Hills lies directly to the west, featuring a developed downtown area characterized by large multiple-family developments and higher-density single-family housing on the west side of Adams Road. To the south of the subject site is an office building and the Clinton River Trail, while an existing industrial distribution center is located to the east. To the north sits a recently completed carwash, and further north across Adams Road is a mixture of industrial uses.

Mr. McLeod stated that in addition to the PUD request, the application includes a site plan review and a tree removal permit. He noted that while a tree removal permit is technically not required until the final PUD stage, it was included to provide a complete overview of the project's impact. Using aerial imagery, he pointed out that the subject site is currently heavily treed, and he confirmed that the applicant has submitted a comprehensive tree survey that has undergone full administrative review.

Mr. McLeod explained that there is a severe embankment on the edge of the property caused by the construction and roadbed of the Adams Road realignment. While this feature appears on the City's steep slope maps and was noted in public commentary, he clarified that because it is a man-made road embankment, it can be exempted from standard review provisions. He noted that the consent judgment allowed for underlying office designations or ORT uses on the property, but as Ms. Roediger indicated, it also permitted a PUD application to address the constraints imposed by the road alignment.

Reviewing the overall site plan, Mr. McLeod stated that the development merges two parcels to create just under four acres of land. The project features 58 total units split between two identical three-story buildings containing 29 units each. A retaining wall will be constructed against the north and east sides of the property. The large area on the north end of the site, which is positioned to the left side of the presentation screen, will serve as a tree preservation area. Mr. McLeod confirmed the project has undergone a full forestry review, noting that the applicant meets the City ordinance requiring 40% tree preservation.

Additionally, the site plan includes 116 parking spaces, which fully complies with the City ordinance based on the bedroom count for the proposed building configurations.

Vehicle access to the development will be provided via two separate driveways. Mr. McLeod noted that staff encouraged the applicant to share an existing driveway with the adjacent office building to the south, but that arrangement was unsuccessful due to the design of the proposed development. Consequently, the applicant is proposing a new driveway on the southern end of the site and a secondary driveway on the more northerly portion of the property. The northern access point will be a directional, right-in and right-out driveway, which was mandated by both the Road Commission for Oakland County and City staff from the Department of Public Services.

Proposed on-site amenities for the residents include a dog park, a play structure area, a gazebo area, and an extensive internal network of pedestrian pathways. For exterior amenities, the applicant is currently in discussions with SMART to enhance the existing bus stop located just north of the subject property. The applicant also plans to install bicycle fixing stations along the front portion of the site to service cyclists traveling to and from the Clinton River Trail. Furthermore, the applicant will extend the pedestrian pathway along Adams Road all the way down to the Clinton River Trail, establishing a complete connection with upcoming pathway work being commenced by the City in this area.

Referencing the submitted tree survey, Mr. McLeod explained that standard operating procedures require surveying trees with a six-inch caliper or greater, meaning trees below six inches are exempted from the ordinance. The applicant is fulfilling the 40% preservation requirement by conserving the highest percentage of trees within the northern preservation area, alongside a tree line on the southeast corner of the site. The applicant has requested to utilize this southeastern tree line as a natural buffer between the subject site and the developments to the southeast. Mr. McLeod concluded by stating that the overall landscaping scheme satisfies all City ordinance requirements, including parking lot landscaping, parking lot perimeter landscaping, and right-of-way landscaping.

Mr. McLeod stated that the applicant's tree removal permit requires 159 replacement trees. The applicant is proposing to plant six trees on-site and pay into the City's tree fund for the remaining 153 trees, an arrangement that is permitted under the City ordinance. He noted that staff worked extensively with the applicant to maximize the number of on-site trees, but due to City regulations governing sight distances and general site requirements, additional trees could not be accommodated while still ensuring an environment where they could survive and flourish.

Turning to the architectural design, Mr. McLeod described the proposed structures as three-story buildings. He indicated that the building materials were the subject of a long discussion with the applicant. The dark gray and mid-gray areas of the facade consist of brick, which is supplemented by Hardie board paneling and limestone paneling, leading up to a shingled roof system on the

upper stories. The four different facades presented are very similar for both building one and building two, and each individual unit will be provided with a balcony.

Mr. McLeod detailed the interior composition of the 29-unit buildings, noting that each structure will contain 16 one-bedroom units and 13 two-bedroom units of two varying sizes. The one-bedroom units will feature one bathroom, while the two-bedroom units will include two bathrooms. He referenced a rendering and a material details sheet provided by the applicant to illustrate the overall architectural scheme, the different brick materials, the roofing, and the limestone paneling. In conclusion, Mr. McLeod reiterated that the criteria for qualification are unique due to the site's history and are essentially pre-qualified under the consent judgment, and he offered to answer any questions from the Planning Commission.

Chairperson Hooper asked if the applicant wished to add any information. Mr. Kassab thanked the Commission and stated that Mr. McLeod had comprehensively covered the details. He noted that it had been about a year since their last appearance before the Commission, during which time they worked closely with the Planning Department to incorporate feedback. He highlighted that they made significant modifications to address density concerns, including removing an entire floor from the buildings and eliminating three units from each structure. He also mentioned that the architectural palette was revised to feature more natural, earthy tones and reiterated their commitment to the proposed amenities, including the SMART bus route improvements and the pathway connections.

Chairperson Hooper announced that a public hearing was required and issued a final call for public comment cards. He explained that speakers would be limited to three minutes, should address their remarks to the Chairperson, and that all questions gathered during the public hearing would be addressed by the Commission and staff after the public hearing concluded.

Richard Bosler - 399 Daylily, Rochester Hills - said he is concerned regarding overall community development throughout Rochester Hills, particularly along major arteries like Squirrel, Adams, Crooks, Rochester, and Dequindre Roads. He argued that developments must coexist with the community both aesthetically and architecturally rather than just fitting requirements on paper. Mr. Bosler expressed concern that the proposed project is too compact for the 3.34-acre site, excluding the 0.62-acre parking lot parcel, by placing two 29-unit buildings and 116 parking spaces in a dense configuration. He raised safety concerns regarding tenants driving to and from the site around the existing road curve and questioned the adequacy of the space allocated for common areas and playground equipment. He stated that the three-story design resembles a short-stay hotel or motel and lacks clear deliverables or amenities for the community. He noted that the view from the upper stories would merely overlook the single-story roof of Gemini, a local transportation warehouse company that has operated there for decades. Mr. Bosler asserted that a two-story maximum medical office building would be more appropriate for the site, which is designated for commercial office use on City maps, matching the office building to the south and the carwash to the north. In summary, he stated

that the development fails to meet necessary architectural, aesthetic, and safety standards for its tenants and the community, and he requested that the Planning Commission and City Council vote no to encourage the developer to seek alternative options.

Theresa Pounders - 2866 Avalon, Rochester Hills - spoke as a neighboring property owner at the end of Avalon Street, noting that she purchased her home due to the quiet nature of the dead-end road and its immediate proximity to the Clinton River Trail. She expressed concern regarding the preservation of the trailway and inquired whether representatives from the Clinton River Trail had reviewed the project, citing extensive development occurring north of other trail areas. Ms. Pounders shared privacy concerns, questioning whether tenants from the upper floors of the three-story buildings would overlook her yard, and expressed worry that trail users might trespass onto her private property. She said that the proposed development does not fit the area and presents severe traffic safety hazards. She noted that drivers frequently speed at 50 miles per hour around the adjacent Adams Road curve, raising concerns about the safety of locating a SMART bus stop in that immediate vicinity where buses might suddenly stop. In addressing the Commission, she referenced Commissioner Neubauer's role in representing Rochester Hills residents and stated that this type of project is not what constituents want to see. She concluded by suggesting that if the City Council rejects the plan and faces a potential lawsuit, the Planning Commission should, at the very least, postpone its decision until a variety of comprehensive studies are completed.

Carol Morlan - 2761 Rhineberry, Rochester Hills - spoke in opposition to the PUD, stating that the project should not pass as currently presented. She agreed with prior safety concerns, noting that she drives that specific section of Adams Road daily and finds it dangerous. Ms. Morlan argued that the City's zoning requirements are established for important reasons and pointed out that the proposed development considerably exceeds the City's height limits, which she asserted should alone require a complete rework of the proposal. Furthermore, she stated that the project fails to be harmonious with the surrounding area, characterizing the modernistic, multi-shaded gray exterior and poor site development as failing to enhance the aesthetic appearance of the City. She concluded by urging the Planning Commission to uphold the City's zoning laws and vote against the development.

Jo Soko - 751 Ironwood Drive, Rochester - spoke from the perspective of a local renter and expressed concern regarding the escalating cost of housing in the area. She noted that after moving from Flint three years prior, she and her roommates wish to remain in the community but are increasingly priced out of the market. Ms. Soko stated that a standard two-bedroom, one-bathroom apartment in the area currently averages between \$1,200 and \$1,300 per month without amenities included. She requested clarification from the applicant team regarding whether the proposed apartments would be affordable, what specific amenities would be included in the rental cost, and how the developers intend to address the traffic and site safety concerns raised by previous speakers.

Rhonda Yates - 56 Texas Ave., Rochester Hills - emphasized that the community's historical roots, built by farmers, merchants, and union workers,

represent a distinct character that must be protected. She asked the Commission to vote no on the apartment complex proposal. Ms. Yates stated she would support the apartments if they were genuinely affordable for young people, seniors, nurses, teachers, and union workers who serve the community but are increasingly priced out of Rochester Hills; however, she expressed skepticism that this development would fulfill that need. Additionally, Ms. Yates argued that because the land is currently zoned for office use, altering the designation to accommodate a developer sets a bad precedent. She asserted that zoning decisions should reflect long-term planning goals and community needs rather than the financial interests of developers. She also raised concerns regarding traffic congestion on Adams Road, noting that there is already an active debate about widening the thoroughfare. Ms. Yates warned that adding this development on top of another proposed apartment complex at South Boulevard and Adams Road would worsen the traffic situation, and she asked for independent answers regarding the sustainability of the project before urging the Commission to vote no.

Kimberly Goforth - 2786 York Rd., Rochester Hills - spoke as a lifelong resident of the area, noting her family's deep roots on Leach Road and her current residence on York Road. She expressed disappointment regarding the loss of local green spaces and the continuous push for new development, which she argued is detracting from the area's visual appeal. Ms. Goforth characterized the Adams Road corridor and its curve as highly dangerous for drivers, noting that navigating traffic near the Meijer and Walmart shopping centers is already incredibly difficult. She questioned the environmental impact of the project, critiquing the applicant's proposal to plant a minimal number of trees onsite. She shared that local wildlife, including deer and foxes, are increasingly displaced and forced into residential yards due to overdevelopment. Furthermore, she expressed concern that the proposed apartment complex is too large for the small, four-acre site. She referenced a Planning policy established 20 years ago affecting Leach Road, which stipulated that if a home sat vacant for six months following a resident's passing, the zoning would automatically revert to industrial. She stated that this policy allowed industrial interests to systematically buy out family properties. She concluded by stating that the remaining ten residents live in constant fear of being pushed out of their neighborhood, and she urged the Commission to deny the request.

Scott Beaton - 655 Bollinger Street, Rochester Hills - spoke regarding the history of the property. He noted that he served on the City Council approximately 40 years ago when the initial discussions occurred, adding that property owners were financially compensated hundreds of thousands of dollars by the state when Adams Road was realigned. Mr. Beaton stated that while everyone has the right to develop their property, the commercial office market is currently soft. He suggested that the applicant, whom he praised as a fantastic citizen and positive contributor to Rochester Hills, could potentially deliver a viable, affordable residential solution for the site.

Mr. Beaton requested that the Recording Secretary read a short resolution he had submitted into the public record. Chairperson Hooper responded that the Commission would take the request under advisement but clarified that they are not legally required to read submitted emails or written documents aloud during

the meeting. Mr. Beaton argued that refusing to read the document would violate the Open Meetings Act. Chairperson Hooper stated that the procedure does not constitute a violation of the Open Meetings Act.

Erin Pruitt - 2541 John R Rd., Rochester Hills - thanked the Commission for their service to the residents of Rochester Hills. She cited Article I, Section 1 and Section 3 of the Michigan State Constitution to emphasize that all political power is inherent in the people, and that citizens possess the constitutional right to peaceably assemble, instruct their representatives, and petition the government for a redress of grievances. While she commended Mr. Kassab's 32-year residency and his desire to invest in the community, she noted that he was appearing before the Commission as Penelope's LLC, a private entity. She argued that a private entity's desires do not supersede the will of the people, and she reminded the Commission that their alliance lies with the residents they represent. Ms. Pruitt clarified that she had no personal objection to Mr. Kassab building in the community, but firmly objected to the construction of another apartment building in Rochester Hills. She pointed out that the City already hosts approximately 15 apartment complexes, excluding condominiums and townhouses, and noted that 16 new developments have arisen within a two-mile radius of her home over the last 10 years. She questioned the urgency to develop every inch of the City, stating that she believed Rochester Hills was essentially a community of single-family homes, yet it is increasingly surrounded by apartment buildings. Furthermore, Ms. Pruitt argued that apartment renters lack a long-term investment in the community because they often relocate when their leases expire, unlike homeowners who build a legacy for their families and stay. She warned that the City might be creating a revolving door of transient residents. Referencing a recent water main break in Auburn Hills, she suggested that neighboring communities have overdeveloped their land while neglecting their critical infrastructure. She questioned whether Rochester Hills was headed down a similar path toward becoming an aesthetically beautiful city with a crumbling foundation, noting that she has personally experienced multiple electrical outages on clear days while utility rates rise. In conclusion, she stated that additional apartments would create a denser population, increase traffic, strain utilities, raise police and fire calls, and overload the infrastructure, and she urged the City to slow down its development pace.

Werner Gottschalk - 2726 Midvale Dr., Rochester Hills - spoke as a 26-year resident of Rochester Hills, noting that he has closely followed local politics for the past 15 years. He expressed frustration with the ongoing push for multi-family residential complexes, arguing that when he moved to the community, Rochester Hills was defined by single-family residential homes. He pointed to the development directly across the border in Auburn Hills, characterizing it as a visually unappealing, high-density urban environment. Mr. Gottschalk warned that if Rochester Hills replicates that style of development with projects like Penelope Place or the complex at Hamlin and Adams Roads, the community's overall appeal will decline, prompting long-term residents to pack up and move away. Mr. Gottschalk said that Rochester Hills does not need any more apartment complexes, particularly given the size and proximity of the newly finished development at Hamlin and Adams Roads. He argued that allowing high-density builds is altering the local voting demographic and

contributing to a progressive shift that threatens single-family homes and families. Additionally, he raised infrastructure concerns, stating that utility networks for water and gas are already operating at their limits. He also agreed with previous speakers regarding traffic safety, calling the proposal to add driveways near that corner dangerous due to a nearby traffic light and drivers traveling at full throttle around the curve. Finally, he noted that the City had already permitted a new carwash to be completed nearby the previous year, and he urged the Commission to deny the apartment request to keep Rochester Hills green and focused on single-family homes.

Chairperson Hooper officially closed the public hearing and noted that the Planning Commission had received eight emails regarding the proposal. He confirmed that all eight emails had been distributed to and reviewed by the commissioners. He summarized that the written correspondence aligned closely with the public testimony delivered that evening, with the writers expressing opposition to the development for similar reasons. He stated that while the emails contained no new topics, they are all a part of the official public record and will be accessible on the City's website for public review.

Chairperson Hooper then transitioned to addressing the specific points raised during the public hearing to provide clarity. He began with the concerns regarding density and the assertion that the project was not being built according to the City's zoning standards. He directed a question to Mr. McLeod to reiterate the site's parameters, noting that the property is currently zoned office and allows for three-story structures by right, clarifying that the current application does not constitute a rezoning request. He then asked what further information could be provided regarding how the project aligns with the City's zoning framework.

Mr. McLeod confirmed that the consent judgment running with the property, which can only be modified by mutual agreement of both parties, permits the site to be developed as a three-story office building. He explained that if the applicant utilized the same building footprints and square footage across three stories for an office building, it would generate two to three times as much traffic as the proposed multiple-family development. He noted that the City would have no authority to prevent such an office development because it would be allowed by right under the underlying office or ORT district.

Mr. McLeod stated that the developer is proposing to blend the provisions of the two districts by applying the 42-foot, three-story height limitation of the office district to the multiple-family buildings. The proposed structures measure 39 feet, seven inches to the midspan of the peaked roof, which is within the limits of the underlying office zoning. The site plan then applies setbacks and other regulations that are more characteristic of a multiple-family district. He clarified that this blending of development provisions is precisely why the PUD process is being utilized under the review of the Planning Commission and City Council.

In terms of building massing, Mr. McLeod asserted that the project fits within the context of what is legally allowable on the site. Regarding traffic generation, he referenced standard Institute of Transportation Engineers (ITE) definitions to clarify that a general office would produce twice as much traffic, and a medical

office would produce three times as much traffic, as the proposed apartment complex. Conversely, he noted in fairness that utility usage would be higher for the multiple-family development than for an office use. He concluded by reiterating that these competing factors fall under the purview of what the Planning Commission and City Council must weigh during the PUD review.

Chairperson Hooper acknowledged that traffic was his next point of concern and noted that Mr. McLeod had already addressed it. He spoke regarding the continuous balancing act between private property rights and the laws and ordinances of the City, highlighting the necessity of finding a compromise that allows individuals to monetize and develop their land. He observed that every home within the City of Rochester Hills was constructed by a previous property owner who requested development permissions under the City's existing regulations. He added that the construction of those homes historically required the removal of trees, the potential displacement of wetlands, and the relocation of local wildlife, noting that such impacts are the inherent nature of community growth.

To manage these challenges, Chairperson Hooper explained that the City has enacted various regulations over the years, pointing to the tree ordinance as a key example. He noted that the City now requires developers to preserve 40% of the regulated trees on a property, an increase from the previous 37% standard, and remarked that such stringent regulations constantly skirt the line of property takings. Drawing on his 38 years of local residency and 26 years of service on the Planning Commission, he stated that a common sentiment among neighbors and residents is the desire to keep unowned parcels undeveloped for visual enjoyment. He clarified that completely depriving an owner of their personal property rights and monetization options is neither legal nor right. He emphasized that while these decisions are complex and rarely receive unanimous agreement, the Planning Commission must constantly weigh these distinct factors before projects move to the political sphere of the City Council.

Finally, Chairperson Hooper addressed the public inquiry regarding whether a formal review of the development was required by representatives of the Clinton River Trail. He stated that the project's interaction with the trail is limited to a pedestrian pathway connection, and he questioned staff whether any additional review or requirements were necessary beyond that connection.

Mr. McLeod clarified that the office property directly to the south spans the entire length of the applicant's southern property line, meaning there is no direct, physical connection between the applicant's property and the Clinton River Trail. He explained that the proposed pedestrian pathway connection to the trail will be constructed entirely within the road right-of-way, which places it under the City's purview. He noted that if the project is approved and the pathway is extended down the right-of-way to connect to the trail, the applicant will be required to make minor improvements to the Clinton River Trail at that location. To execute those improvements, the applicant must coordinate with the Clinton River Trail Group.

Chairperson Hooper confirmed that a condition of the development includes

completing this off-site pathway connection to the trail outside of the applicant's property lines, which Mr. McLeod verified. Ms. Roediger added that Ken Elwert, the City's Parks Director, serves on the Clinton River Trail Group and acts as the City's liaison, ensuring the group is fully aware of the proposed path connection.

Chairperson Hooper asked for clarification regarding the location of the SMART bus stop, noting that he had not spotted it on the site plans, though he confirmed that SMART buses currently operate along Adams Road. Mr. McLeod explained that as part of the public improvements required under the PUD process, the City requested that the applicant enhance the existing bus stop. He noted that the current stop is marked only by a sign along the east side of Adams Road near the northern end of the property, technically sitting on the adjacent carwash parcel. He confirmed that the proposed improvements would occur right along the roadway just off the current site plan screen, and that the applicant has already initiated conversations with SMART regarding the potential design of that improvement.

Chairperson Hooper then addressed the public inquiries regarding the cost of the apartments and the included amenities, asking the applicant to clarify the anticipated pricing ranges that had been outlined in their environmental statement. Mr. Kassab provided the pricing clarifications, stating that the rental rates for the one-bedroom units are projected to range from \$1,600 to \$2,000 per month, while the two-bedroom units are expected to rent between \$2,200 and \$2,600 per month.

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Chairperson Hooper acknowledged the pricing and called for order in the auditorium. He stated that rental pricing is a subjective, market-driven topic and noted that developers' initial estimates typically end up being higher in Rochester Hills due to the City's high desirability. He explained that while strong demand and higher price points are beneficial for local homeowners, they present a challenge for maintaining affordability, creating a complex situation that affects both home values and rental rates across the community. He noted that the displacement of wildlife had already been touched upon during his earlier remarks on the general nature of development.

Turning to the architectural appearance of the buildings, Chairperson Hooper noted that aesthetics are subjective, but he highlighted that the City maintains specific ordinance guidelines regarding masonry development and material percentages. He asked staff whether the proposed building designs comply with those existing regulations.

Mr. McLeod confirmed that the proposed building materials are standard elements utilized across all City developments. He explained that the two darker tones on the facade are decorative brick masonry, while the lighter colors consist of Hardie board siding and limestone panels. He noted that at a building height of three stories, structural requirements become more complex, dictating how a building is constructed and how materials react. Mr. McLeod concluded that the selected building materials fully comply with the City's ordinance

standards. Chairperson Hooper thanked him and opened the floor for Planning Commission discussion, calling first on Ms. Brnabic.

Ms. Brnabic noted that she interpreted the consent judgment differently than what had been previously stated, expressing gratitude that the document was provided to the Planning Commission for their review. She read a portion of page three, number seven of the consent judgment, which specifies that the application of a Planned Unit Development is intended to allow flexibility and innovation in site development, and to afford a convenient, practical, and efficient means to obtain reasonable relief from the strict application of development standards, dimensional setbacks, and area regulations contained in the City's Zoning Ordinance. The document notes that the need for this flexibility, innovation and reasonable relief arises from the irregular shape of the remaining parcel and other site development challenges caused in part by the City's partial taking and the relocation of Adams Road.

Ms. Brnabic emphasized the subsequent wording in the judgment, which states, "notwithstanding the foregoing, the subject property may only be used and developed for those land uses permitted under the city zoning ordinance in the O-1 office business district and the ORT office research and technology districts." She pointed out that "notwithstanding the foregoing" serves as a qualifier, meaning in spite of the previously mentioned development flexibility.

She disagreed with the ongoing assertions that the PUD was put in place to allow any type of development or zoning. Instead, she argued that the original expectation was for the site to be developed strictly under the office business zoning parameters. In her view, the history indicates that the property owners sought a PUD specifically to protect the parcel from regulatory compliance issues that would naturally arise from the irregular shape and topography left behind by the City's partial taking and the relocation of Adams Road. She concluded that the language explicitly restricts the property's development to uses permitted under the Office Business District, especially since the ORT designation is no longer a part of the City's current ordinance.

Ms. Brnabic stated that moving forward with a proposal for a three-story apartment complex would violate the terms of the settlement, asserting that the consent judgment should be formally amended before the City even considers the project. She reiterated that the phrase "notwithstanding the foregoing" clearly demonstrates that while the developer originally requested a PUD for some site versatility, the permissible uses remained restricted to office space. She noted that her interpretation was reinforced after reviewing past meeting minutes, specifically from December 18, 2018.

During that 2018 meeting, the City Attorney at the time, John Staran, who was directly involved with the road acquisition, the partial taking, and the consent judgment, stated that the settlement agreement limited the development flexibility of the site and that the seller's right to proceed would be restricted to office uses. Ms. Brnabic emphasized Mr. Staran's conclusion that the City never intended to grant carte blanche regarding land uses, and that there was a clear expectation the property would continue to be developed under its designated office zoning.

Additionally, Ms. Brnabic addressed the developer regarding statements made in the Environmental Impact Statement (EIS), which claimed the project conforms to the Master Land Use Plan's mixed-use designation. She clarified that standalone apartments on their own are not legally considered a mixed-use development, as a true mixed-use project must blend multiple distinct uses together, such as combining multiple-family residential with retail, office space, or a medical clinic.

Concluding her review of the 2018 minutes, Ms. Brnabic noted that while Mr. Staran mentioned the City's intent to maintain existing zoning he would not construe that as preventing the Planning Commission from considering alternative land uses under a PUD, the underlying point remains that the consent judgment itself would first have to be formally amended. Because no such amendment has occurred, she questioned how the Planning Commission could legally continue reviewing the application when it fails to meet the clear intent and requirements of the active consent judgment.

Chairperson Hooper directed the question to Ms. Roediger to see if the City Attorney had weighed in on the concerns raised by Ms. Brnabic.

Ms. Roediger responded that multiple-family residential uses for the property had been discussed for upwards of 10 years. She acknowledged that the current consent judgment specifies office use, but explained that a consent judgment can be amended if both parties are in agreement. She stated that the administrative approach was to make an amended consent judgment a condition of the project's approval, rather than involving legal counsel to amend the document upfront. Ms. Roediger noted that the 20-year-old consent judgment predated extensive local development, such as the major residential growth on the Auburn Hills side of Adams Road and the retail centers to the north. Because the originally envisioned office and industrial area had not materialized as zoned, staff believed a multi-family project would be consistent with the surrounding area. She confirmed that an amended consent judgment would ultimately run concurrently with the site plan when it moved forward to the City Council.

Ms. Brnabic said that this proposed process was backwards and that the consent judgment must be formally amended before the application can move forward, rather than treating it merely as a condition of approval. She questioned the legality of the Planning Commission reviewing a PUD that explicitly contradicts the intent of the active consent judgment. Ms. Brnabic asserted that the City must first make a definitive decision on whether it actually wants to permit multiple-family residential on the site before any further planning reviews take place.

Chairperson Hooper noted that the proposed process appeared to link the amended consent judgment directly to the review of the specific development proposal, whereas Ms. Brnabic was advocating that the consent judgment should be amended first prior to initiating the development review process.

Ms. Brnabic confirmed that was her position. She expressed disappointment

that a written legal opinion from the City Attorney was not included in the meeting packet. While staff indicated that verbal consultations had occurred, she requested that a formal, written opinion from the City Attorney be provided to the Commission before moving forward.

Transitioning to the project design, Ms. Brnabic stated that despite the addition of two stories of brick, the architectural coloring and design remained unchanged from the concept plan and looked unappealing. She asserted that the project is still too dense for the property and that the density needs to be lowered. While she acknowledged that the applicant did a commendable job adding the requested amenities, she noted that they all appeared to be located at the front of the site due to a lack of space elsewhere, and she requested the exact dimensions of the proposed dog park.

Mr. Kassab stated he would locate the exact dimensions of the dog park and asked if he should respond to the comments immediately or wait. Chairperson Hooper directed the applicant to wait until more commissioners completed their deliberations so they could address all feedback at one time.

Ms. Brnabic inquired whether the proposed bio-retention area would function as a shallow rain garden. Mr. Holdwick confirmed that is the intention, though soil borings and infiltration testing have not yet been completed. He explained that the designated area is envisioned to feature various plantings, serving a dual purpose by complementing the surrounding residential amenities. In response to Ms. Brnabic's concern regarding child safety and the depth of the water, Mr. Holdwick clarified that these types of systems typically have a maximum ponding depth of six inches.

Ms. Brnabic then raised a question regarding a monument sign shown on the plans at the property corner, asking Mr. McLeod to confirm if it was a newly planned feature. Mr. McLeod verified that a new monument sign is proposed for each entrance way, as nothing has been built on the site yet. Ms. Brnabic noted that the City currently has an ongoing gateway monument sign program and asked the applicant if they would consider funding a "Welcome to Rochester Hills" gateway sign outside the development as an additional public amenity.

Mr. Kassab and Chairperson Hooper sought clarification on whether she meant a City gateway sign or the development's identification signage. Mr. McLeod clarified that he had misunderstood her initial question, explaining that the plans actually show standard identification monument signs representing the development itself rather than a City gateway sign. Ms. Brnabic acknowledged the clarification and concluded her remarks by reiterating that her primary objection remains the legality of moving forward before the active consent judgment is formally amended.

Ms. Neubauer expressed agreement with Ms. Brnabic, stating that consent judgments or litigation matters involving the City must go through the City Council and the City Attorney first rather than being initiated as a condition within the Planning Department. She noted that nobody on the panel, with the exception of herself, has the right to practice law or give legal advice. She then clarified the earlier introductory remarks by stating that the Commission is not

court-ordered to develop the property as a PUD, which she asserted is incorrect.

To support this, Ms. Neubauer referenced the consent judgment and noted that John Staran, who remains one of the City Attorneys, drafted the document and provided his notes in 2018. She read from the judgment, highlighting that the property may only be used and developed for land purposes permitted under the City's zoning ordinances in the O-1 Office District. She reiterated Mr. Staran's 2018 opinion that the judgment was not intended to grant carte blanche, and that any variance or flexibility was strictly provided to ensure the site could be developed with an office building.

Ms. Neubauer then read a portion of the City's ordinance criteria required to qualify for a PUD option. She noted that a PUD cannot be used for the sole purpose of avoiding applicable ordinance requirements, and that any proposed building or use not normally permitted must result in an improvement to the public health, safety, and welfare of the affected area, which she argued is not demonstrated in this case. She also cited the requirement that a PUD option shall not be utilized in situations where the same land use objectives can be accomplished through conventional zoning provisions. Consequently, she rejected the notion that enforcing the ordinance would constitute a property taking, stating that the developer is simply being asked to build what the property is zoned for, an office building. She pointed out that the applicant purchased the property with full knowledge of the active consent judgment.

Finally, Ms. Neubauer raised concerns regarding the density and height issues brought forward during the meeting, stating she could not support the project. She noted that although a traffic study had been submitted, she had not seen it and wished to review it. She also disputed the claim that the project fits into the Master Plan, providing history on how the Planning Commission worked tirelessly to ensure residents were heard. She recalled that the City did not extend its contract with the consulting firm, Giffels Webster, because the firm was initially unresponsive to the residents' desire for low-density developments, smaller buildings, and an absence of new apartment complexes.

Ms. Neubauer elaborated on the history of the City's Master Plan, noting that the City Council chose to terminate its contract with the consulting firm, Giffels Webster, after one year rather than granting a two-year extension. She explained this decision was driven by the fact that residents were very clear about their desires, and the resulting Master Plan firmly reflects a commitment to single-family residential areas rather than apartment complexes. She reiterated that requiring a property to be developed in accordance with its existing zoning does not constitute a property taking or a deprivation of property rights, as the developer purchased the parcel with full knowledge of those restrictions. While she acknowledged the applicant's status as a respected friend and positive contributor to the community, she emphasized that personal relationships cannot influence the Commission's decision.

To demonstrate that zoning regulations must apply equally to everyone, Ms. Neubauer shared recent local examples. She noted that the previous year, an applicant requested a minor 1.83-foot variance to split their land for two homes

and was denied. Furthermore, just two days prior, an individual was denied a 1.5-foot variance to move a gazebo. She argued that the same strict standard must be upheld for this commercial proposal.

Additionally, Ms. Neubauer voiced significant safety and infrastructure concerns based on direct conversations with local fire department personnel. She stated that firefighters are not in support of the project, warning that a three-story development of this height and density would drain their limited resources and require specialized equipment in an emergency. She noted that the department is already facing resource constraints, which would be compounded by the higher utility usage referenced by Mr. McLeod. Citing the recent water main break in overbuilt Auburn Hills that impacted Rochester Hills residents, she asserted that Auburn Hills' developments should not be used as a baseline for continuity, stating that it is a completely separate city with different standards.

Finally, Ms. Neubauer criticized the proposed public benefits of the PUD. She drew a contrast with the Legacy PUD, noting that while the Legacy apartment project remains unpopular among residents, the developer contributed \$10 million to clean up that property, representing a true public benefit. In contrast, she argued that installing a dog park-especially after the City just used taxpayer funds to build two dog parks at Nowicki Park-and "making a bus stop pretty" do not qualify as genuine public benefits, particularly on such a small acreage close to a major road. She concluded by stating that while her opposition is not personal, the rules must apply across the board to everyone, and she cannot support the development. Chairperson Hooper then called on Mr. Hetrick.

Mr. Hetrick asked Mr. McLeod to identify other developments in Rochester Hills that feature a similar density to the proposed project. Mr. McLeod responded that the project falls right in the middle of the City's density range. He noted that while it is denser than projects built 15 to 20 years ago, most multiple-family developments constructed within the last decade are actually more dense than this proposal. By way of comparison, he stated that the Legacy development is slightly denser, whereas the proposed project is slightly denser than the Barrington development. Mr. McLeod added that while density is often unpopular, it is the primary real-world mechanism used to achieve the housing affordability that many residents desire.

Mr. Hetrick agreed with Ms. Neubauer's past assessment that defining affordability quantitatively in Rochester Hills is exceptionally difficult, noting that whether a \$1,600 one-bedroom apartment is considered affordable depends heavily on market dynamics. He stated that he is not personally opposed to the development, characterizing the proposed density as reasonable. He suggested that if the applicant could slightly improve the architectural appearance of the buildings based on the feedback received, it would enhance the project's chances of approval. Finally, addressing the amenities, Mr. Hetrick acknowledged that they were not well received by some panel members and asked the applicant for an update on the status of their negotiations with SMART regarding the bus stop improvements.

Mr. Kassab confirmed that discussions with SMART had taken place, noting that both the bus stop enhancements and the dog park were added to the plan

based on recommendations from City staff and the Planning Commission.

Mr. Hetrick stated that given the active debate surrounding the current standing of the consent judgment and the legal requirements to amend it, securing an approval that evening would be exceptionally difficult. He reiterated that while he is not personally opposed to the development, the consent judgment must be amended before the project returns to the Planning Commission. He warned that if it is legally impossible to proceed under the current judgment, the applicant would face a negative vote regardless of individual opinions on the project's merits. He concluded that seeking a formal amendment to the consent judgment is the necessary next step, as he did not foresee a positive outcome for the applicant under the current conditions.

Chairperson Hooper then called on the remaining panel members to share their deliberations, acknowledging Ms. Denstaedt.

Ms. Denstaedt expressed agreement with previous comments that the consent judgment needs to be formally amended before the development process moves forward, characterizing the current approach as putting the cart before the horse. She raised several concerns regarding the site design, agreeing that the building would benefit from warmer color tones and stating that she also wished to review the traffic study, noting that Adams Road was fairly busy even during her Sunday morning site visit. Furthermore, Ms. Denstaedt expressed safety concerns regarding the proximity of the playground to Adams Road, warning that young children chasing balls could easily run toward the busy street. She also flagged the adjacent bio-retention area as a hazard for children playing nearby if it filled up during a heavy rain event, and she suggested either adding fencing or swapping its location with the fenced dog park. Chairperson Hooper thanked her and recognized Mr. Struzik.

Mr. Struzik, whose name was transcribed as Mr. Schusek and Mr. Struzik in the record, agreed that the language of the consent judgment appears quite clear regarding the site's limitations and noted that the issue could not be resolved during the current meeting. However, assuming that legal hurdle could be fixed, he voiced support for the project. He recalled that the Planning Commission was previously unreceptive to a four-story proposal and commended the applicant for compromising by reducing the height to three stories. He noted this height is comparable to the residential structures located directly across the street in Auburn Hills. Mr. Struzik emphasized that the parcel's odd shape is a direct result of the City's realignment of Adams Road. Drawing on his municipal training, he explained that partial government takings that leave behind awkwardly shaped remnants typically grant a developer more legal leeway for a variance or specialized development.

Mr. Struzik praised the site's layout and logistics, noting that restricting the northern driveway to right-in, right-out access is the only logical approach, and that a left-turn entrance would function like a standard left turn against oncoming traffic. He highlighted the property's excellent connectivity to M-59 and I-75, its close proximity to retail and dining, and the utility of the nearby SMART bus stop. He shared that he researched the specific transit route, noting it connects riders to Meijer, Walmart, Oakland University, and the Oakland County

government complex.

Furthermore, Mr. Struzik noted that the Clinton River Trail would provide future residents with excellent walking and biking opportunities. He shared that he personally toured the site by bicycle earlier that day, finding navigation difficult due to a lack of existing sidewalks, and he praised the project's plan to fill in those sidewalk gaps. While acknowledging that an apartment complex would be inappropriate for many areas of the City, he stated that this specific location is highly suitable if the consent judgment issue can be resolved.

Addressing public concerns about overdevelopment, Mr. Struzik argued that the permanent conservation of land must be achieved through direct ownership rather than stripping private property owners of their development rights. He defended the City's preservation track record, pointing out that Rochester Hills already maintains four major parks with a fifth on the way at Nowicki Park, alongside numerous school open spaces. He added that the City owns eight dedicated green spaces totaling over 140 acres that will remain permanently undeveloped, with an additional parcel expected soon. Coupled with green spaces preserved by local HOAs, Oakland University, and Rochester Christian University, Mr. Struzik concluded that the City and its residents have already committed substantial resources toward local land preservation. Chairperson Hooper then recognized Mr. Dettloff.

Mr. Dettloff stated that his comments would be brief, expressing that he readily agreed with the remarks made by Mr. Hetrick and Mr. Struzik in finding the proposal to be a good development. He recalled the applicant's appearance before the body the previous June, noting that the Planning Commission had several concerns at that time, and he thanked the applicant for taking those issues to heart by making the adjustments presented. He noted his appreciation for the clarification regarding the "dos and don'ts" of the consent judgment, emphasizing that the City does not want to go against the legal system and leave itself open to a lawsuit. He reiterated that back in June, no one opposed the overall concept of the development; rather, the concerns centered on the height factor, density, and amenities. In light of this, Mr. Dettloff asked Mr. Kassab if he would be willing to take the necessary steps to get the consent judgment amended to allow the project to move forward.

Mr. Kassab thanked Mr. Dettloff and replied that he would have no choice but to have it amended. However, he explained that his team has been coming back and forth to the City for the better part of a decade, for as long as they have owned the property, and has held numerous meetings with both the Planning Commission and the Planning Department specifically regarding a multiple-family development. He expressed deep frustration that in all those years, and despite all the money spent on engineering and architectural plans, no one had ever informed him that he could not pursue this use.

Mr. Kassab emphasized that this is a highly unique parcel operating under a complex PUD structure. Responding to Ms. Neubauer's earlier critique, he stated that because this is his first development in the City, it is unfair to characterize him as not being a good developer under such complex circumstances. He remarked that it would have been nice to know about this

legal limitation 10 years ago. He concluded by stating that every time they have returned for a meeting, they have taken all feedback to heart, made every effort to fulfill everything requested by the panel and the Planning Department, and successfully addressed those requirements.

Mr. Dettloff added that he frequently hears similar complaints from his neighbors regarding new commercial developments, such as a new Starbucks being built, but argued that if the market demand exists, the City should not simply reject it. He noted that a developer would not pursue a project of this scale on a whim without market support, and while he understood the public's sentiment, he reiterated that it is a good development overall. However, he emphasized that the City must handle the legal hurdle of the consent judgment first, and he again thanked the applicant for addressing the concerns raised by the panel nearly a year ago. Mr. Kassab thanked him. Chairperson Hooper then recognized Mr. Gallina.

Mr. Gallina acknowledged that the consent judgment is a significant issue and represents the primary obstacle. He explained that as appointed members of the Planning Commission, their job is to evaluate whether a proposal is something they would want in their own backyards, noting that the panel spends a great deal of time conducting site visits to properly assess these projects. He stated that he travels past the location frequently and recently visited the site, confirming that traffic is a major concern. However, he pointed out that if the apartment complex is rejected and the site is instead developed as a three-story office building under its current zoning, it would introduce a completely different set of traffic concerns. He emphasized that resident safety and public feedback are very important to him, and he expressed his appreciation for all the citizens who attended and shared their opinions.

Mr. Gallina noted that the evening's division of opinions was a positive thing for the process, but stated that he still harbors personal concerns about the project. He recalled that when the applicant presented a four-story concept the previous June, the panel strongly objected to the height. He clarified that the City does not simply rubber-stamp projects, adding that the Commission is now deliberating on many complex factors that were not on the table last year. He concluded by echoing the concerns previously raised by other panel members regarding the project's density, traffic impacts, and the color of the building's facade.

Chairperson Hooper stated that the Planning Commission had reached a point where it would need to postpone the proposal to a future meeting, pending a review by the City Attorney regarding the applicability of a consent judgment amendment for the project to proceed. He then invited the applicant to share any additional comments.

Mr. Abdul stepped forward to respond to the criticisms regarding the facade colors, explaining that following the meeting a year prior, the development team had returned to the City with two different color options and had brought physical samples with them to the current meeting. Mr. Kassab added that these options featured more earthy tones. Ms. Neubauer requested that Mr. Abdul speak directly into the microphone so his comments could be accurately captured for

the record, noting that she could not see the samples from her position.

Mr. Abdul continued, stating that they had visited the City twice and provided architectural renderings featuring brown, beige, limestone, and bronze tones. He noted that these specific colors are seen everywhere across Rochester Hills, a community where he has done a significant amount of building. Chairperson Hooper acknowledged the point but maintained that the Commission first needed to tackle the "elephant in the room", referring to the legal status of the consent judgment, before finer design details could be discussed. Mr. Abdul reiterated that the development team is fully willing to cooperate on any color modifications to satisfy the panel, describing the building as having a very traditional look complete with a shingled hip roof to elevate its appearance. Chairperson Hooper accepted the statement and called on Mr. Kassab for his final remarks.

Mr. Kassab provided several clarifications to address the panel's concerns, noting first that he purchased the property 10 years ago, had inherited the parcel as it was, and received no financial compensation from the City related to the past road taking. He stated his goal of making the development both beautiful and affordable, acknowledging that balancing the two is challenging under high local construction costs and noting that one cannot get a Cadillac for the price of a Ford Escort. He highlighted that he is not an out-of-town developer, having lived in the community for 32 years, and emphasized that his team has fulfilled every request made of them. He reminded the body that they had actually presented a mixed-use concept years prior, but it did not move forward at that time.

Addressing aesthetic feedback, Mr. Kassab explained that while design and color choices are a matter of preference, his team brought the earth-tone samples because they heard the previous criticisms loud and clear, despite some past panel members favoring the original look. Regarding density, he clarified that they not only removed an entire floor from one of the buildings but also eliminated three residential units from each remaining floor to minimize the project's intensity. On the subject of traffic, he asserted that a three-story office building permitted under current zoning would generate far more traffic than a residential development, particularly during daytime hours. He then answered an earlier question regarding the dog park, stating its dimensions are 65 by 30 feet.

Mr. Kassab admitted he was caught off guard by the debate surrounding the consent judgment, expressing surprise that no one had flagged the project as illegal across a decade of collaborative meetings and engineering expenditures. He also disputed Ms. Neubauer's remarks regarding the Fire Department, stating that his team had met with fire officials multiple times, secured their approval on nearly everything, and had never been informed of any lack of support. He reiterated that the proposed dog park and SMART bus stop enhancements were public amenities directly recommended to them by City staff and the panel.

Concluding his remarks, Mr. Kassab addressed the remaining site concerns. He verified that the development meets the City's tree ordinance, noting that

they are actively preserving the trees to the north to maintain a buffer with neighboring properties. He promised to take a close look at the playground's layout to eliminate any safety risks to children, noting that he had personal experience with such dangers. He concluded by highlighting that the site sits on the outskirts of the City along a wide five-lane road, that they resolved previous safety issues by restricting the northern driveway to right-in, right-out access, and that a formal traffic study had been submitted. He expressed a willingness to adjust the architecture and colors to the panel's exact preferences and thanked them for their time.

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Chairperson Hooper appreciated Mr. Kassab's clarifications, noting that information continuously evolves, but reaffirmed that the best course of action was to postpone the matter. He emphasized his desire for the City Attorney to formally weigh in on the situation rather than relying on external opinions. He then asked Ms. Roediger if she had found any additional information.

Ms. Roediger admitted that the debate over the project's legality had taken her by surprise. She explained that because she did not anticipate the approval procedure being questioned, she had not included a specific email chain in the Planning Commission's meeting packet. She then referenced a 2022 email from City Attorney John Staran, which stated that there was no immediate need to alter the consent judgment upfront and that it made practical sense to wait until the project was further along in the development process, noting it was not an issue the Planning Commission needed to be concerned with at that stage. Ms. Roediger apologized if the panel felt the administrative process was handled incorrectly, reiterating that staff had been consulting with the City Attorney for the past decade on how to process the application. She stated they would coordinate with him once again to ensure all details are properly addressed.

Chairperson Hooper thanked her and called for a motion to postpone the topic pending a review by the City Attorney regarding the existing or amended consent judgment. Mr. Dettloff made the motion to postpone, which was supported by Mr. Hetrick. Chairperson Hooper then opened the floor for discussion on the motion, asking the panel members if the wording of the motion was clear to everyone.

Ms. Neubauer asked for the exact language of the motion to be repeated. Chairperson Hooper stated that the motion was to postpone the review of the development pending a City Attorney review of the existing consent judgment or an amended consent judgment for potential future development.

Ms. Neubauer stated she was not comfortable with that phrasing. She said that any such review must be conducted openly with the City Council first. She responded to Ms. Roediger's previous comments, stating that while she respected her, she was relying on the written minutes, notes from the attorney regarding the original intent of the consent judgment, and the explicit text of the document itself. She noted that she could not rely on the 2022 email mentioned by staff, because she possessed a separate email from the City Attorney stating that zoning and ordinances must be applied equally across the board to avoid exposing the City to litigation.

Consequently, Ms. Neubauer asserted that the proposed motion to postpone was inappropriate. She maintained that the Planning Commission lacks the legal authority to communicate independently with the City Attorney on these issues without the City Council. Instead, she stated she would like to make a motion to deny the proposal as presented, suggesting that the applicant could subsequently handle the legal issues with the attorney as a separate matter if they chose to do so.

Chairperson Hooper asked Ms. Neubauer to clarify the specific reasons for her proposed denial. Ms. Neubauer explained that the Planning Commission lacks the authority to engage in communications with the City Attorney independently of the City Council, reiterating that all consent judgments and settlement agreements must clear City Council first. She stated she was trying to be as gentle as possible despite past statements that were untrue, and she reiterated her motion to deny the development as proposed, noting that any necessary amendments should be handled by the City Council.

Chairperson Hooper acknowledged the motion to deny the development as proposed, which was seconded by Ms. Brnabic. Speaking during the ensuing panel deliberation, Chairperson Hooper cautioned against a flat denial, calling it a strong action that could expose the City to legal liability. He maintained that a postponement was the safer and more appropriate path.

Ms. Brnabic questioned Chairperson Hooper's interpretation regarding legal risk, asking why a denial backed by a legitimate legal basis would be problematic. She clarified that a denial does not mean the Commission would never review the project again; rather, it indicates that the development cannot move forward under its current proposal and existing framework, which requires amendments anyway.

Chairperson Hooper responded that a formal denial requires explicit, justifiable reasons. Ms. Neubauer then specified that her motion was for a denial of the development as proposed because the conditions outlined in the language of the previous settlement agreement and consent judgment have not been met. Chairperson Hooper accepted this clarification and opened the floor for further discussion on the motion, calling on Mr. Struzik.

Mr. Struzik agreed that a denial was too strong of an action and stated he would not support it. He pointed out that the applicant had been working collaboratively with the City and the Planning Commission and had been led down this specific development path, noting it would not feel right to suddenly have that path dead-end. He expressed greater comfort with obtaining a formal opinion from the City Attorney to see what it would say, highlighting that the panel has routinely relied on written legal opinions included in their meeting packets to make past decisions. He suggested that if the current motion to deny fails, the body could subsequently reconsider a motion to postpone pending either that legal opinion or an amended consent judgment.

Mr. Dettloff then questioned the procedural status of the meeting, asking what happened to the original motion to postpone that had already received a motion

and a second. Chairperson Hooper admitted that the panel had "jumped the gun" procedurally, explaining that they never took a formal vote on the original motion before Ms. Neubauer requested a language clarification and introduced her alternative motion.

When Ms. Neubauer asked for the exact phrasing of that original motion, Mr. Dettloff and Chairperson Hooper clarified it was a motion to postpone the review pending a City Attorney evaluation regarding the applicability of the existing consent judgment or an amended consent judgment for the development of the property. Chairperson Hooper explicitly noted that the Planning Commission lacks the authority to approve a consent judgment, as that power rests solely with the City Council.

Ms. Roediger asked to confirm if the first motion had ever received a second, prompting Mr. Dettloff and Chairperson Hooper to clarify that Mr. Dettloff had made the motion and Mr. Hetrick had supported it. Acknowledging that the procedural sequence had become tangled, Chairperson Hooper stated that to correctly follow Robert's Rules of Order, they needed to recognize that the original motion to postpone by Mr. Dettloff, supported by Mr. Hetrick, was the active motion on the table.

Ms. Neubauer disputed the viability of the active motion, arguing that it could not be legally made with its current phrasing. She stated that the panel needed to either clean up the text or postpone the entire matter without attached conditions, as she did not believe the Planning Commission possessed the legal authority to impose conditions related to a consent judgment amendment.

Seeking a middle ground, Chairperson Hooper asked Mr. Dettloff and Mr. Hetrick if they would be willing to modify their original motion to simply be a motion to postpone to a future date, completely devoid of any conditions. Both Mr. Dettloff and Mr. Hetrick agreed to the modification. Ms. Neubauer acknowledged that the updated language was clear and stated that the body should proceed directly to a vote. Chairperson Hooper then reopened the floor for discussion on the revised motion.

During this final discussion, Ms. Neubauer directly addressed Mr. Kassab's earlier comments regarding his lack of awareness about the legal hurdle. She asserted that failing to identify the restrictions of the consent judgment was a failure in the developer's due diligence, not the City's, emphasizing that the Planning Commission was only provided with the document for the very first time in their current meeting packets. She also clarified her previous statements regarding the Fire Department, specifying that her feedback came from personal conversations with individual firefighters rather than the official who issues formal project approvals.

Additionally, Ms. Neubauer recalled that during the applicant's prior appearance, a single-family unit price of \$3,000 had been mentioned. While she assumed the lower rates presented earlier were an amendment to the application, she warned the panel that nothing legally binds the developer to those lower numbers, meaning they could still ultimately charge \$3,000. Finally, she challenged Mr. Struzik's earlier training points regarding zoning variances,

clarifying that variances are legally permissible only when a hardship is not self-created. She argued that the hardship in this case is entirely self-created because the developer simply does not want to construct an office building on land specifically zoned for office use.

Following her remarks, Chairperson Hooper summarized that the active motion on the table was the modified motion by Mr. Dettloff, supported by Mr. Hetrick, to postpone the development as proposed. After confirming that the panel members were perfectly clear on the item, he called for a roll-call vote, noting that a "yes" vote would be in support of the postponement.

Ms. MacDonald conducted the roll-call vote on the motion to postpone the development to a future date. When completed, Chairperson Hooper announced that the motion passed with a 6-2 vote, meaning the development would be officially postponed to a future date pending the outcome of discussions involving the City Attorney and City Council. He informed the audience that anyone who had submitted a comment card during the meeting would be formally notified in the future if and when the project returns to the Planning Commission. Chairperson Hooper then called for a 10-minute recess.

A motion was made by Dettloff, seconded by Hetrick, that this matter be Postponed. The motion carried by the following vote:

Aye 6 - Denstaedt, Hooper, Struzik, Hetrick, Dettloff and Gallina

Nay 2 - Brnabic and Neubauer

Excused 1 - Weaver

Resolved, that the Rochester Hills Planning Commission **POSTPONES** the Request for Recommendation for Preliminary Planned Unit Development and Site Plan - File No. PPUD2025-0001 Penelope's Place to a future meeting date.

2026-0241

Request for Tree Removal Permit approval - File No. PTP2026-0001 - to remove 110 regulated trees and 5 specimen trees with 159 replacement trees required, for Penelope Place Apartments, a proposed development of two three-story apartment buildings, each with twenty-nine units, on approximately 4 acres of land, located at Parcels 15-30-302-034 and -036, on the southeast side of Adams Rd. and north of Auburn rd., zoned O Office Business District and subject to a consent judgment; Ziad Kassab, Penelope's Place LLC, Applicant

See discussion under Legislative File 2026-0240.

A motion was made by Dettloff, seconded by Hetrick, that this matter be Postponed. The motion carried by the following vote:

Aye 6 - Denstaedt, Hooper, Struzik, Hetrick, Dettloff and Gallina

Nay 2 - Brnabic and Neubauer

Excused 1 - Weaver

Resolved, that the Rochester Hills Planning Commission **POSTPONES** the Request for Tree Removal Permit - File No. PTP2026-0001 Penelope's Place to a future meeting date.