

*Mr. Reece asked if a condition could be added about traffic calming devices, but Chairperson Boswell advised that it was something the City would do, not the applicant. He agreed that Staff could look into it.*

*Mr. Schroeder said that he had done hundreds of traffic studies in Rochester Hills and in Troy in the last 50 years. He had found that what was perceived as cut-through traffic, in almost all cases, was really from the residents of the subdivision. Troy kept a record, and it showed that 94-98% of the speeding tickets went to internal residents. He clarified that traffic bumps were different than traffic humps, and traffic humps were effective and not as dangerous.*

**A motion was made by Kaltsounis, seconded by Schroeder, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion carried by the following vote:**

**Aye** 9 - Boswell, Brnabic, Dettloff, Granthen, Hooper, Kaltsounis, Reece, Schroeder and Yukon

*Chairperson Boswell stated for the record that the motion had passed unanimously.*

**2015-0224**

Public Hearing and request for Preliminary Site Condominium Plan Recommendation - City File No. 15-004 - Nottingham Woods, a proposed 17-unit, single-family site condominium development on 8.5 acres, located on the north side of Hamlin, east of Livernois., zoned R-3, One Family Residential, Parcel Nos. 15-22-376-004 and -005, Vanguard Equity Management, LLC, Applicant

*(Reference: Staff Report prepared by Sara Roediger, dated August 14, 2015 and Preliminary Site Condo Plans had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant was Michael Park, Giffels Webster, 6303 26 Mile Rd., Suite 100, Washington, MI 48094.*

*Ms. Roediger summarized that the proposed project was on almost nine acres on the north side of Hamlin, west of Crestline. There were two parcels zoned R-3, One Family Residential, and the site was surrounded by R-3 zoning to the south, east and west and R-4 zoning to the north. The request was for a recommendation to City Council of the Preliminary Site Condo Plan. The applicant was proposing 17 custom, single-family homes with a price point of approximately \$500k. Sample elevations with high quality materials, similar to other developments throughout the community, had been provided. The applicant was using lot averaging with lots ranging from 12k square feet to 21k square feet. The Tree Conservation Ordinance did not apply to the site, as it was previously platted. There would be a 9% preservation of the trees, but Staff had asked the applicant to save as many as possible, and they were committed to adding trees. A stub road to the west was shown for future development.*

*Mr. Park stated that the site plan showed 90 foot wide lots. Due to the terrain and the elevation of the existing sewer and utilities, he claimed that it was the best layout they could provide. There was tree preservation on the east side. The developer did recognize that trees were an asset, although the grading would not save as many as they would like. He said that they were open to any*

recommendations.

Ms. Brnabic referred to page three of the Environmental Impact Statement, which said that construction activities would not take place during day time hours to avoid disturbing nearby residents, and that construction materials would be scheduled for delivery during non-peak traffic hours. She wondered if they would be working in the middle of the night. Mr. Park said that it should have said that construction would be during the day time, and deliveries would be during non-peak traffic hours. Ms. Brnabic clarified that they would honor the City's required hours of operation of 7:00 a.m. to 7:00 p.m.

Ms. Brnabic asked if the square-footage range of the homes would be between 1,200 and 3,600 square feet. Mr. Park said that 1,200 was the minimum size required, but the homes would be from 2,000 to 3,600 square feet. Ms. Brnabic asked the possible vision for the parcels to the west. Mr. Park said that he had no knowledge of those parcels; there was a different owner.

Mr. Kaltsounis asked if lot averaging was used only when a developer gave up open space. Ms. Roediger explained that with lot averaging, a lot width or area could be 10% less so there were not monotonous parcels. The density would not increase, because the average of the lots had to equal the minimum for the zoning district. Mr. Kaltsounis thought that it was used when open space was offered, but Ms. Roediger explained that there were open space or cluster developments, but they were different than lot averaging.

Ms. Brnabic noted that the Survey Technician did not recommend site plan approval. He said that there was insufficient information with the geometry. Ms. Roediger said that it was a technical review that would be addressed as they went forward. It would not change any of the plans, and she agreed that it would need to be corrected on the updated plans.

Chairperson Boswell opened the Public Hearing at 8:23 p.m.

**Paul Schira, 227 Parkland, Rochester Hills, MI 48307** Mr. Schira advised that he was President of the Sycamores Homeowner's Association. He noted the 9% tree preservation, and said that he realized that one of the properties had very little, if any, trees. The applicant said a tree line along the east side would be provided, but there was no mention of the north side, which was where his property was. He said that there would not be a buffer zone, and he was concerned about that. Mr. Schroeder had mentioned that a cul-de-sac would not allow two accesses from a site. It worried him that the proposed road would dead end into a property, and there would be only one entrance. He guessed that would be something for the developer to worry about. He understood that the working hours would be 7:00 a.m. to 7:00 p.m., but he did not know why Saturday was included, because the residents loved to have their weekends. He concluded that his main concern was the destruction to the properties along the north line and buffering. He asked if there would be a tree line or fence along the northern property, although fences were not allowed in his neighborhood per their By-laws.

**Dean Sanborn, 699 Parkland Dr., Rochester Hills, MI 48307** Mr. Sanborn noted that he lived just northwest of the northwest corner of the proposed development. He stated that he had some major reservations about the development, and that the removal of 90% of the trees was very concerning to him. Many of the trees were the largest trees in the area. He appreciated trying to replace them, but it would be generations before they had that tree line back. There was quite a bit of wildlife on the site, and he liked to sit on his deck and watch the deer and coyote come through. With this development, and the one south of Hamlin, east of Livernois, he was not sure where they would go. The trees blocked a lot of the sound from Hamlin Rd. If they took most of them out, there would be a sound tunnel back to his neighborhood. He lived in Avon Hills, and their Association also did not allow fences. They were concerned that the land behind them would be developed, and it would be tight. He did not know where they would put trees, because there were utilities directly overhead. He did not know why they needed such a glut of new homes in the area. He noted that there were 500 homes for sale in Rochester Hills. He realized that the housing market was looking up, but there were a lot of new developments that were not even listed for sale yet. He realized that the area had once been undeveloped. He grew up in White Lake across the road from a corn field. It was now a giant shopping center. However, just because areas had been developed, he did not think that they should continue to be. His biggest issue was with the economic impact. The plans said that the homes would be similar to adjacent properties and would start at \$500k. He purchased his home six months ago for \$220k. Most of the homes in the area went for \$200-\$350k. He was concerned about what the home values would do. He moved to Rochester Hills because of the green spaces and the chance to raise a family in a family atmosphere that was not like a Madison Heights or Royal Oak with people on top of each other, and that was another concern.

**K. Rao, 6212 W. Hamlin Rd., Rochester Hills, MI 48307** Mr. Rao said that he had a lot of concerns about the west part of the property. He read from a prepared statement: The development of the parcels was a problem for he and his wife. He was worried about his privacy, the value of his property and his personal life. The Planning Commission and City Council had taken great interest in the area east of Livernois and north of Hamlin. The nearby Legacy development had two homes constructed in the last two years and only one sold. In the name of public interest and progress, the widening of Hamlin was initiated. With this progressive concept, Hamlin had lost 80+ trees that were 30 to 60 years old. Basements and front yards were flooded. The value of the properties had gone down. The sound pollution had doubled and, in some cases, tripled. Strangers could see through the front door into their homes. Neighbors had planted sunflower plants to keep some privacy. Presently, there was an existing wooden fence extending north to south between his lot and the subject lot to the east. He was asking to keep that fence undisturbed; it existed prior to this concept and should be left alone even after development. If not, they feared that their back yards would become a playground for the residents and their pets who resided at the condos, an estimate of about 100 people. They did not want their back yard to turn into a recreational field for strangers. For those reasons, they would like to keep their privacy of what was left of their space with a permanent barrier between the lots. He concluded that he hoped the Commissioners would take their wishes into consideration.

**Alex Kiwior, 1860 Crestline, Rochester Hills, MI 48307** Mr. Kiwior said that he purchased his 3.2 acres in June 1976. His west property line of 670 feet bordered the proposed development. When he moved to Avon Township, Hamlin Rd. was a tree-lined dirt road, and there was only one other house on Crestline, which was then a dead end street. Since then, Crestline had been converted to a heavily traveled, cut-through street. Large subdivisions had been added to the north and south of him. A new subdivision was planned for the east of him and Nottingham Woods was proposed for the west side of him. Hamlin Rd. was being widened to a boulevard width. He said that he only became aware earlier in the day that the packet was available on line, and he had not had sufficient time to review it. He had concerns about the increased housing density. He asked the Commission members to serve prudently to keep the resulting noise and congestion issues to a minimum. He claimed that the southeast monument marker was not there any more, and it had been bulldozed. His east monument was gone also. He observed that the first 200 feet of the entrance into the subdivision had a road running along his property line and then it diverted back into the middle of the subdivision. It seemed a little strange to him to have a road on both sides of his property. He pointed out that Mr. Hooper mentioned that usually 37% of the trees were saved, and in this case, it was only 9%. Mr. Kiwior claimed that equaled 1,583 trees to be cut down. He agreed about the wildlife and not knowing where it would go. He stated that he looked forward to participating in the follow-up meetings.

**Kathy Brown, 675 Parkland, Rochester Hills, MI 48307** Ms. Brown said that she and her husband bought their home a year-and-a-half ago. Their backyard abutted the proposed development. They felt that an irrigated berm or privacy fence should be erected by the builder, because their backyards were only 35 feet deep. Their deck was 20 feet from the property line. It looked as if the developer planned 35-foot setbacks, which would put their decks only 40 feet away from each other. There would only be four or five houses to the north that would not have any trees or ponds. Their concern was that the four properties on Parkland would be used as a walk through for people trying to get from Nottingham to their subdivision. She felt that was a legitimate concern, because there would be no buffer, but the rest of the area would have one. They would like to see something put up that would protect them. She had been in Rochester Hills for two years, and they only saw two houses erected in the Legacy. She stated that it would be a long, long process for Nottingham, and she wondered what would protect her property during all the years of construction. There would be digging 20 feet from her deck. They were concerned about workers looking in their back windows. In the Sycamores, everyone had common areas except for her and her neighbors, because the farms were the commons area. Now the farms were being taken away, and they were concerned that the value of their property compared with the other homes in the neighborhood would decline. They would not have the breathing room that people liked. They moved from Royal Oak, because everyone was on top of each other there. Rochester Hills was noted for the green space and good family orientation, and they were very happy to move. They were also worried about the placement of floodlights, garage doors, trash receptacles and things like that, and they did not want them in their backyard. If they could buy 10 feet from the developer, they would.

**Shirley Gower, 663 Parkland, Rochester Hills, MI 48307** Ms. Gower said that her concerns had mostly been presented. She asked if the homes were to be built at one time or as purchased. If they were built at one time, she commented that at least the dirty work would be over sooner. If it were to be one at a time, it would be an ongoing thing, and they would be living with dust forever. She also had nothing behind her home as a barrier, and she would like to see some trees planted to divide the properties.

**William Hewett, 722 W. Hamlin, Rochester Hills, MI 48307** Mr. Hewett said that his home was built in 1806, and they worked very diligently to maintain the grounds and the home. They bought it about 19 years ago, and they loved the area. They just allowed the pathway to go through on Hamlin, and it took down many trees. Some others had not been very happy with it. He said that his main concern was that he knew nothing of the meeting until two days ago, and many of the neighbors also had no knowledge of the meeting. From the standpoint of what was right and fair, he felt that the decision should be set aside until the people of the community really knew what was taking place. He did not think it should be just to have new taxpayers, but to have what fit in the community and to keep the lifestyle for people who moved into the community.

**Luard Mandija, 711 Parkland, Rochester Hills, MI 48307** Mr. Mandija said that most things had been covered: the wildlife that would be removed by the development; the changes in the tree structure on half of the proposed development; and the dust and construction concerns. He asked why they were overcrowding the City. Earlier, he heard someone say that 30 years ago, there were 40k people and now there were over 70k. He asked where it stopped, and that was a concern of his. He said that he grew up in a city where there were no trees, and he moved to Rochester Hills because of that. He did not want to live in Madison Heights or Troy or any other over populated neighborhood. He did not think that the proposed homes fit the neighborhood, and they would not be something he would expect to see out of his back yard, where there was a field now and where there had been horses in the past.

**Jennifer Goldstein, 722 W. Hamlin Rd, Rochester Hills, MI 48307** Ms. Goldstein noted that she lived in the beautiful home where the totem poles were, and it was her great pleasure to maintain the beautiful grounds that Mr. and Mrs. Hewett owned. She had been there for two-and-a-half years with her family. She said that she borrowed cups of sugar from her neighbors and had a very congenial relationship all up and down the street. People might think that a busy road might not be as community-minded as it was, but the neighbors shared bonfire evenings and sugar and talked about their children, and it was a communal thing. She was very surprised to learn about the impact to the road and the community two days ago. She went around the neighborhood, and not a single person, except one two houses down had received any information. She felt that there should be better communication and a chance to discuss things. She asked what the hurry was. With all of the homes going up and the huge road project that was definitely impacting the wildlife (she was the one who planted the sunflowers), she wondered if there was a way to slow things down, take a deep breath and give the community a moment after losing all the trees in their front yards. She realized that change happened, but she wondered again

*if it could be slowed down.*

*Chairperson Boswell closed the Public Hearing at 8:50 p.m. He referred to the communication question and people not knowing the project was happening. He advised that Public Hearings had to be noticed at least two weeks in advance. Any resident within 300 feet of a project was sent a letter by the City. He felt that the City did a good job of advertising projects.*

*Chairperson Boswell said that several people asked for some type of buffering along the northern property line, but there was an easement behind lots 10 and 11. He agreed that 9% preservation was a little disappointing.*

*Ms. Roediger responded that along the north property lines, lots 9, 10 and 11 were essentially where the field was shown. The bulk of the trees were on the easterly portion of the property. The eastern portion was a natural place to save some trees, but because of the drainage of the site, the grading and where detention ponds were located, it made preservation of the trees difficult, if not impossible. The applicant did propose, per Staff's urging, a conservation easement along the east property line, because there would be lots that backed up to properties with trees that could be saved. There were really not any trees to be saved on the northwest corner of the property. Staff had challenged the applicant to preserve whenever feasible and to propose a replanting plan to help make up for some of the lost trees. Chairperson Boswell had looked at the tree conservation easement, and it appeared that more than 9% of the trees would be saved, but Ms. Roediger said that unfortunately, that was not so.*

*Chairperson Boswell brought up Mr. Rao's comment about a fence, but there did not appear to be one on the drawings, and he wondered whose property it was on. Mr. Park said that it was right on the property line. Mr. Hooper pointed out that it was on sheet 05. Ms. Roediger said that on sheet 02, it said that the existing fence was to be removed, and on the east side, it showed a wood fence that was not indicated for removal. Her understanding of the plans was that the fence along the east property line would remain and the fence along the west would be removed. She felt that the applicant should work with the adjacent property owners to determine the desire to keep the fences or not.*

*Chairperson Boswell asked Mr. Park if all the homes would be built at one time or spread out over time. Mr. Park believed that they would be built as they were sold as semi-custom homes. Chairperson Boswell asked about the concern that the houses were over priced for the area, especially since the Legacy had not been able to sell homes. Mr. Park said that he could not really answer, but he was sure that the applicants had done their due diligence in looking at the market. Chairperson Boswell realized that Mr. Park was not a real estate agent or economist, but if homes to the north were selling for \$220k, and the Legacy had only sold two, he felt that it should tell them something.*

*Mr. Hooper stated that he did not feel that the fence on the west should be removed. It appeared to be mostly off the property line. He would also leave the east fence. For the north property line, there would be a storm sewer eight feet off the property line, so it might preclude a fence.*

Mr. Hooper disclosed that he had lived in the Sycamores subdivision since 1988. He had spent time with Mr. Kiwior on various issues over the years, and he knew Mr. Schira. The Sycamores was built as an open space sub. It allowed the lots to be slightly smaller in size, and the trade off was that the trees on the east side of Crestline, north of Parkland were saved. When his subdivision was developed, there was extensive tree removal. Regarding home values, he agreed about the Legacy. Originally, when the developer came before the Planning Commission, he said the price point would be \$750k. Mr. Hooper said that based on the two homes established there, he did not think they were selling for that. He was not sure why they were not developing more quickly. He guessed that the two homes sold were in the \$450-\$550k range. With regards to new development, Mr. Hooper said that almost universally, questions were raised about home values and that existing homes would be affected negatively. In the case of Nottingham Woods, the homes would be higher priced, and he did not think that would decrease current home values negatively. He had been on the Planning Commission for seventeen years and lived in Rochester Hills for 27 years, and he had never seen home values drop from new development. As far as tree removal, he advised that the property was not subject to the Tree Conservation Ordinance, because the lots were platted in the 1920's. He said that he supported tree preservation where at all possible, but they were in the balancing act of private property rights versus tree removal. People liked the view of someone else's property, but the current law did not require the applicants to save trees. If there was a majority support to re-write the Ordinance it would be something to investigate as a community. The trade-off would be the impact to personal property rights and a potential government taking without just compensation. With regards to the north property line, Mr. Hooper agreed that if at all possible, he would like to see additional screening placed there, even though it was currently a field. There could be some variety of non-deciduous trees staggered along the north property line. For the east property line, the landscaping plan showed some significant screening around the pond and a tree conservation area. The fence would be maintained. Other than over the storm sewer that would run out to Hamlin, he would support additional plantings for screening purposes between the future road and the east property line. Several people mentioned the future pathway to be installed on Hamlin. It was not mentioned that the City purchased the easement in the right-of-way from Mr. Hewett and others, and they were paid a considerable sum of money by the taxpayers. Regarding tree removal, wildlife, sounds and new people coming to town, the comments were valid and he understood them. When his subdivision and others were developed, the same things were argued. He did not think that they wanted to be viewed as a drawbridge community, that is, some people got to be there, but no one else could come. It was not right that people could say they enjoyed looking at someone else's property, so the owner could not develop it. They had to determine how to preserve property rights versus the feel of community and not negatively impact anyone in the City.

Mr. Schroeder advised that with private property, the City was subject to State laws. The Plat Act generally controlled things. The entrance to the property was mentioned, and he said that everyone had a right, and the City had the responsibility, to allow an owner access to his or her property. The property that abutted Hamlin had to have an access. He suggested that it might look better

to put it to the west, but there was another road (Avonstoke), and there would be a left turn conflict. The road would have to be as far to the east as possible. Regarding the property irons, the plans noted that nails were found. A corner could be delineated many ways, but the plans indicated that the corners were found. If they were missing, however, it would be the developer's responsibility to replace them. They had to be there in order to develop the lots.

Mr. Kaltsounis asked if Hamlin Rd. was going to a continuous center lane down to Rochester. Mr. Hooper confirmed it would be a three-lane road from Livernois to Rochester. Mr. Kaltsounis said that he was concerned about the left turn lane and the proximity to Avonstoke, as Mr. Schroeder had mentioned. Mr. Kaltsounis indicated that if there was not a center lane on Hamlin, he would not vote for the development. He had commented with the previous development about property rights, and he echoed things Mr. Hooper said about doing a balancing act. They had to think about future properties and surrounding views, and they tried to do the best they could. He said that he was not happy with the 9%, but he understood that according to the Ordinance, it was allowed. He would like to try to do something about it in the future. He went over some suggested conditions that he hoped could be done before the matter went to Council: Add detail about the tree protective fencing; delineate what trees were being saved and how; and have the applicant work with adjacent property owners to determine where the fences on the east and west property lines were and to keep them. He stressed that the applicant needed to talk with the neighbors before going to Council. He would also like to see additional screening added on the north and east property lines (east line along the road and north line west of the detention pond). Mr. Kaltsounis asked the applicant if he would agree to those, which was confirmed.

Mr. Reece noted the tree removal plans, tables 1 and 2, and he asked the difference between a regulated and a non-regulated tree. He did not believe it could be by species, because there were some that were tagged as unregulated versus regulated. Ms. Roediger thought that the applicant was a little unclear about the Tree Ordinance, because none of the trees were regulated. Mr. Reece said that was his impression, so it was not necessary to tabulate the number of each.

Mr. Reece said that he supported the additional conditions. For him to be comfortable, and he echoed Mr. Kaltsounis' comments about the 90% tree loss, they needed to have some dialogue with the neighbors to the north, and not just throw in a few pine trees. They needed to have something to preserve the neighbors' privacy. It would only enhance the lots along the north property line. He also clarified, especially for Mr. Rao, that the homes would be single-family residences not attached condominiums. It was a condo development in terms of how the property was owned and developed, but the development would look just like a regular subdivision. They would be half-a-million dollar, single-family residences with an average of four people in each. He commented that he took exception to statements that if people lived in condos, they were not suitable next door neighbors.

Mr. Schroeder requested that the developer meet with the neighbors individually. He said that there was a comment about the dead end street, and

he reminded that the City was developed with stub streets. The next developer would connect to the stub street and have an outlet to the road - that was how there would be dual outlets.

Mr. Kaltsounis added to Mr. Reece's comments about site condos, and said that it was a name for a subdivision that was being put on an existing plat. He noted that he lived in a site condo. He had a 2,000+ square-foot home with ten feet to the lot line and ten feet to another person's house. There would be an Association and By-laws with the proposed development. Hearing no further discussion, he moved the following, seconded by Mr. Yukon:

**MOTION** by Kaltsounis, seconded by Yukon, in the matter of City File No. 15-004 (Nottingham Woods Site Condominiums), the Planning Commission recommends that City Council approves the Preliminary One-Family Residential Detached Condominium plan based on plans dated received by the Planning Department on July 10, 2015, with the following five (5) findings and subject to the following eleven (11) conditions.

Findings

1. Upon compliance with the following conditions, the proposed condominium plan meets all applicable requirements of the zoning ordinance and one-family residential detached condominium.
2. Adequate utilities are available to properly serve the proposed development.
3. The preliminary plan represents a reasonable street layout.
4. The Environmental Impact Statement indicates that the development will not have substantially harmful effects on the environment.
5. Remaining items to be addressed on the plans may be incorporated on the final condominium plan without altering the layout of the development.

Conditions

1. Provide all off-site easements, on-site conservation easement and agreements for approval by the City prior to issuance of a Land Improvement Permit.
2. Provide landscape bond in the amount of \$68,629.00 plus inspection fees, prior to issuance of a Land Improvement Permit.
3. Provide an irrigation plan and cost estimate, prior to issuance of a Land Improvement Permit.
4. Payment of \$3,400 into the tree fund for street trees prior to issuance of a Land Improvement Permit.
5. Approval of all required permits and approvals from outside agencies.

6. *Compliance with applicable staff memos, prior to Final Site Condo Plan Approval.*
7. *Compliance with Building Department memo dated July 21, 2015, prior to Building Permit Approval.*
8. *Submittal of By-Laws and Master Deed for the condominium association along with submittal of Final Preliminary Site Condo Plans.*
9. *That tree protective fencing is shown on the drawings, prior to City Council review.*
10. *That the applicants work with adjacent property owners to work out a solution to keep the fences on the west, north and east property lines, prior to City Council review.*
11. *That additional screening is shown for the north boundary west of the detention pond and the east boundary along the road, as approved by Staff, prior to City Council review.*

**A motion was made by Kaltsounis, seconded by Yukon, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion carried by the following vote:**

**Aye** 9 - Boswell, Brnabic, Dettloff, Granthen, Hooper, Kaltsounis, Reece, Schroeder and Yukon

*Chairperson Boswell stated for the record that the motion had passed unanimously.*

## **ANY OTHER BUSINESS**

*Ms. Brnabic agreed that the Tree Conservation Ordinance needed reviewing and updating, especially since the City had been in redevelopment for quite a few years. They were seeing parcels in fully developed areas with 12-15 new homes, because someone happened to own four or five acres. She wondered if other Commissioners felt the same, and if they should put forward a formal request. Ms. Roediger said that she would talk with Mr. Anzek and Staff would revisit, check with other communities and talk with the City Attorney. She knew that they had to walk the fine line of balancing property rights and protecting trees, and there could be legal implications. Mr. Hooper said that he was fairly certain Mr. Staran would say it involved takings, but unfortunately, currently anyone with property platted before the Ordinance could take every tree down without asking anyone. Ms. Branbic considered that most of the properties were changing ownership from one long-time owner.*

*Mr. Reece brought up the noticing requirement of 300 feet, where in a situation like Nottingham, few of the neighbors were reached. He did not know if Staff could look at it on a case-by-case basis, but if there was a different way to do it, he hoped that they could look at it.*

*Ms. Roediger said that it could be investigated, but her concern was that the 300*