

NEW BUSINESS:

**2. Preliminary Site Condominium Plan Recommendation –
City File No. 99-031**

Project: Saddlebrook Orchards, a ten-unit site condominium
development on approximately five acres
Requests Tree Removal Permit
Preliminary Site Condominium Plan Recommendation
Location: North of Auburn Road, East of Crooks Road
Parcel: 15-28-300-029 zoned R-4, One-Family Residential
Applicant: Kieft Engineering, Inc.
5852 S. Main St.
Clarkston, MI 48346

(Reference: Staff Report prepared by Deborah Millhouse, dated January 31, 2003 has been placed on file and by reference becomes part of the record hereof.)
Representing Brookfield L.L.C, the developer, was Jim Scharl, President of Kieft Engineering, Inc. He introduced Mr. Church, an investor in the project.

Ms. Millhouse stated that this has been a challenging piece of property to deal with. There are numerous trees on site and the Tree Conservation Ordinance requires a minimum of 37% of the regulated trees on site to be preserved. It was after several reviews, and at Staff's suggestion, that the applicant considered looking at lot averaging and adding common areas where there are heavier rows of trees. By doing so, the applicant was able to reach 37%. The only thing she wished to add to the Staff report came as the result of a call from Mr. Kaltsounis. He wondered why a left turn lane was not being proposed. She looked through the file and found that there *is* to be a left turn lane on Auburn Road. The plans show the necessary improvements to the roadway, but the denotation for the lane had been inadvertently omitted. She advised that she prepared an additional condition for the Preliminary Plan motion.

Mr. Scharl said that his company came on line about ten months ago and took over from a previous consultant who had been working on this project for three years. They have received complete authorization from the previous professional for the use of his documentation and complete authorization from the developers to act on their behalf. They are asking for a Tree Removal Permit and Preliminary Site Condominium Plan recommendation to City Council. He acknowledged that all the information regarding the passing lane was in the documentation the previous individual had, but he did not incorporate it into the plans because he thought it was part of construction plans. The location of the curbs facilitates the need for the widening lane. It will be constructed in combination with the Michigan Department of Transportation and the City. As Ms. Millhouse pointed out, they incorporated the use of lot averaging with some open spaces to try and preserve the greatest number of trees possible. They have taken into account the setbacks, easements and so forth, and have reached an accord with the Planning Department as to the correct number of trees to be saved. The construction

plans will be drawn in accordance with City requirements, and they will move in that direction if they receive a favorable recommendation from the Commission and the City Council. He advised that there is one access, immediately opposite the boulevard approach on the other side of the street. He thinks the site will be a forerunner for neighborhoods that are likely to emerge east and west of this site. They have stub streets to the east and west for parcels adjacent to the site. The parcels are of a similar size and they feel it will be just a matter of time until they are developed in accordance with R-4 zoning and with several connections to Auburn Road. He concluded that they are asking for a favorable recommendation to City Council.

Ms. Millhouse said that regarding its history the project came in as a 15-unit cul-de-sac at the concept plan stage. At that point in time, the applicants were advised that they would need to stub under the requirements of the Subdivision Control Ordinance. They were also advised that they would need to make a proper alignment with Wilmington on the south side of Auburn. The applicants came in with a 13-unit proposal for several reviews, which included the T intersection. When it became very difficult to get the percentage of trees to be saved, as required in the Tree Conservation Ordinance, they dropped the units to 10 from 15 using the open space plan. They are showing open space along the rear of the property, which abuts an industrial park. That made a lot of sense as far as buffering, but they still could not reach 37% until they used lot averaging and added common areas. She said that Mr. Sharl brought up that it would not be long before other developments would be added to the area, and she mentioned that Staff has received another proposal within the last two weeks. It is called Grandview Site Condominiums and is going through its first review. They are proposing 17 units on six acres. It also has a T intersection, to line up with the potential extension of Sage Lane.

Mr. Kaiser asked why the project is proposed as site condominiums rather than a platted subdivision.

Mr. Sharl replied that both are fully accepted in this day and age. They are doing it for the timing. His office has been in business for 50 years and he has seen the evolution toward site condominiums. The rate is 6-1 for condominiums over subdivisions.

Mr. Kaiser asked if there were any platted subdivisions being used to gain access to this proposed development. Ms. Millhouse answered no, and said everything to the north of Auburn in this general vicinity is unplatted. Mr. Kaiser commented that the common open space areas C and D show a lot of trees noted for removal.

Mr. Sharl explained that if they are noted for removal, it is simply because of conflicts with physical improvements or the potential to be on building envelopes. The drip line of a tree might be in conflict with a utility easement or right-of-way, which does not allow it to be counted as a saved tree. Mr. Kaiser wondered what they could do to make sure the trees are saved unless absolutely necessary to be removed. Mr. Sharl said they would be protected with fencing. He said that the likelihood of some of the trees remaining is very strong. They have to show them as being removed because the drip lines encroach into either a buildable area or an easement. He said that if they look at

the buildable envelopes on lots four and five, they are clearly about twice the size of the others. He is required to show that everything in the envelope is to be removed. It was obvious to him that homes to be constructed on those lots will not take up the entire area.

Mr. Kaiser said he understood that, but he wished to address the open space areas and find out which trees are slated for removal and which are to be saved.

Ms. Millhouse advised that the Tree Conservation Ordinance is very specific that everything in the building envelope must be considered a removal. Anywhere there is proposed grading or filling under the drip line, trees must be considered as removals. Mr. Kaiser asked what kind of activity would occur in the common space areas denoted as A, B, C and D. Ms. Millhouse replied none, and added that in A, there is a rear surface drainage easement; C will have installation of improvements and D will have a public utility strip. Because there is potential for development to extend further in either direction, they have to allow for the public utility easement for the future. If this were a standalone project, D would not have to have a utility easement. She said that B also would have a utility easement. She noted that as far as protecting the trees to remain, the tree protection fencing is shown around all the trees on the plan. The applicant has spoken more than once about the desire to save as many trees as possible and the protective fencing will be extended around as many trees as possible during construction. Staff feels comfortable that there is a high likelihood that more than 37% of the trees could be saved. She added that this plan has been scrutinized more severely than any other she has reviewed.

Mr. Hooper referenced J & L's wetland report which mentioned wetlands on adjacent parcels. He asked where those were and if they were located near the T intersection. Ms. Millhouse retrieved the wetland map from the file and pointed out the areas under discussion. She said it appeared there would be no problem extending the roadway.

Mr. Kaiser asked if Mr. Hooper's question was related to the concerns in the year 2000 letter or another letter. Mr. Hooper meant if they extended the intersection, he wondered if they would be going through a wetland. Ms. Millhouse clarified that it appears that the wetlands to the west are within the front two-thirds of the property.

Ms. Holder said that in the 2000 J & L report, it referred back to the 1996 report and said the wetlands were more full in 2000 than previously reported, and that it could be due to a plugged catch basin. She wondered if there would be problems in the future if the wetlands were filled with more and more water.

Ms. Millhouse replied that she was not familiar with a situation there, but noted that Dr. Jaworski said there was a problem with the surface drainage that dried up the wetland between 1996 and 2000. She said that as far as surface drainage for this development, that would be a part of the construction plan and drainage would be contained on site and controlled before it is released. Ms. Holder explained that the letter said the

wetlands on the three parcels appeared to be more extensive than in the 1996 report so they are getting larger. She wondered if drainage would be a problem.

Mr. Sharl said he could not add to the discussion because his firm came on board ten months ago. They assumed any problems previously did not appear on plans he was working with and he was not able to obtain the entire file from the previous professional. He indicated that the site would handle all drainage on it as well as that drained toward it. He imagined some of it would pass through a wetland. He was not aware of any wetland problems for this site. Ms. Holder agreed that this site did not have a wetland problem, but she was referring to the parcels further to the west. Mr. Sharl said those would be below this site and he would not anticipate a problem.

Ms. Holder asked if this subdivision would have a Homeowner's Association. Mr. Sharl said there would be an Association, and by State statute it is required. That is something the Condominium Act provides as a basis. The Master Deed and By-Laws are for the condominiums and the Association. That will fully address what can and cannot happen within the natural areas. When condominiums were intended, general common space and limited common elements were always part of a condominium and they addressed what would happen in hallways and parks. He added that the Association would address detention maintenance also.

Mr. Kaltsounis asked when the tree survey was conducted. Mr. Sharl answered 1999. Mr. Kaltsounis asked if he saw any changes from then until now. Mr. Sharl replied not substantially. Mr. Kaltsounis asked why they were using asphalt for the streets instead of concrete. Mr. Sharl said both are acceptable surfaces. He thinks concrete gives a little more of an urban look. Mr. Kaltsounis asked who would be responsible for the road once the homes are built. Mr. Sharl answered that they would become City roads. Mr. Kaltsounis asked how long asphalt roads last as opposed to concrete roads. Mr. Sharl said that in the State of Michigan, there are problems with roadways. Asphalt does fail, but if they are both installed properly, he would assume the life expectancy would be very similar. He said that the Oakland County Road Commission uses either material and they would not allow someone to put in something less than what meets their specifications. Mr. Kaltsounis asked Mr. Sharl if he would use asphalt if this were his own development. Mr. Sharl answered that he would probably use asphalt because it is easier to grind it down than to tear off ten inches of concrete.

Ms. Kaltsounis referenced the fencing around the ponds. Mr. Sharl had a brochure that showed what he was proposing, which he said holds up very well. Mr. Kaltsounis asked if the fence would go all the way around the ponds A and B. Mr. Sharl said he was not that familiar with Engineering's requirement for safety factors. They may require the fence to be six feet high. He advised that what they are showing would satisfy their requirements.

Ms. Millhouse asked if they would not install fencing if it was not required by Engineering Services. Mr. Sharl said there would be no reason to do so if they were not required. Mr. Kaltsounis said it appears there is a requirement. He said he has seen

steel fencing with brick corners and he asked if that had been considered as an option. Mr. Sharl answered not at this point in time. Mr. Kaltsounis said he ^{was} very concerned about driving by and seeing a tall white fence along Auburn Road.

Mr. Sharl replied that the fencing was flexible. He said it was something they would have to explore with Engineering. Mr. Kaltsounis felt something more aesthetically pleasing for the street view would be better. He asked if they would consider a metal fence with stone across the front. Mr. Sharl said he would have to take it up with the developers, but he did not think that would be a problem. Mr. Kaltsounis commented that the fence proposed is not allowed in some developments at all.

Ms. Millhouse said the detail on Sheet 6 indicates gray, not white, for the fence. She advised that one of the conditions for approval asks for a decorative fence, which must be approved by Engineering Services.

Mr. Kaiser indicated that Mr. Kaltsounis' point was very well taken, as the applicant concedes. He advised that before the Commission departs tonight, they should let City Council know what they want regarding the fencing. People will see it from Auburn Road. He noted that some of the discretionary language might apply, in light of the applicant's statement that this will be the first of several developments that will go in this area, and the Planning Commission has to make sure the fence will be harmonious and compatible with future development. If there is polyvinyl fencing approved for this development, they will see more polyvinyl in the future. He stressed that he would not say yes to that. He clearly feels there needs to be fencing, and he feels that it should be a very aesthetic looking, perhaps wrought iron connected by masonry piers. He said there seems to be a question of whether Engineering will require fencing, so they should perhaps take this item out of the recommendation.

Ms. Millhouse responded that the plans indicate a one to three slope, which would require a fence. Mr. Sharl asked if anyone had concrete information, from an engineering standpoint, as to height and purpose of the fence.

Ms. Millhouse said she understood that in the past couple of years, developers have used chain link fencing. She said in recent projects, the Planning Commission and the applicant have agreed to decorative type fencing. She pointed out that this issue does have to come back before the Commissioners for Final Preliminary Plan recommendation and they might condition it at that time.

Mr. Kaiser indicated that tonight he would like to know where the Commission stands, and what the applicant intends to do. They are not talking about minimal requirements to satisfy a technical compliance. They have to think about how this will look with the existing development in the City, as well as with the future development in that area. He did not think a chain link fence would work.

Mr. Sharl asked if there were suitable alternatives. He said they could possibly use a combination of wrought iron and masonry across the front and they could use

something different for the sides and back. He agreed that what Mr. Kaiser proposed made sense for the front. He asked when it would come back to the Planning Commission. Ms. Millhouse replied when the construction plans are approved. Mr. Sharl said he would like to take this issue off the table and present something more palatable.

Mr. Kaiser thought the sides should have the same fencing as the front. He said a condition could be added that the applicant will have to come up with a satisfactory solution to that issue prior to Final Preliminary Plan.

Mr. Hooper referenced Sheet L-2 and said it showed masonry columns on the sign. He wondered if they could propose something similar for the fence. Mr. Kaiser said he has seen masonry piers with cedar fencing and noted that there are a lot of alternatives that could be explored.

Ms. Ruggiero brought up the wetland issue. She said the J&L letter of 2000 said that beyond the fact that the wetlands exist, they appear to be getting larger, and it also said that the vertical relief between the wetlands on the site and the rim elevation of the two catch basins near Auburn Road is relatively small. It continued that stormwater management on the three parcels could be problematic for future development. She was concerned about the connection and wondered about additional access off of Auburn Road to another parcel. She wondered if the City or the applicant had talked about a boulevard entrance.

Mr. Sharl said that given the nature of a ten-unit site, they did not feel the expense of a boulevard was justified. He reiterated that the wetlands are below this site. He referenced Sheet one regarding drainage, and said there are 14 acres to the east draining towards this site. There will not be 14 acres draining into the wetland when this site is developed because the flow will be cut off and drain through the retention facilities on the site and then be taken away through the storm drains. They are not constructing a dam and taking away a lot of drainage. He said there is only 2 feet of fall across their site and it is very flat. When it rains, a torrent of water does not run across the property. More than likely, it soaks into the ground. There are underground circumstances that are feeding the wetlands. The wetlands are not going to grow and the owners will not be discharging additional water into them. They have to take care of the storm drainage from the site. He reiterated that he did not see the wetlands as a problem.

Ms. Ruggiero agreed that this development would cut off the wetlands. She wondered if they would know the quality and condition of them because they will be lost.

Ms. Millhouse said that the Commissioners are obviously referring to a letter that was done in 2000 regarding four parcels. Saddlebrook's parcel is the furthest east of the four. The findings for that parcel indicate there are no regulated wetlands, and the wetlands to the west do not have a connection to this parcel. She did not feel it would be an issue.

Mr. Sharl referenced Sheet three and said that on the west edge of the property there was a 25-foot surface drainage easement. That has a swale and is to be constructed so the rear yards of the houses do not drain on the adjoining property to the west. The Ordinance requirements might cause it to dry up because it would not get the drainage it normally would. The rear yards from a drainage standpoint will be no different than they area now.

Ms. Ruggiero said that an additional access to Auburn Road might not be able to occur because of the wetlands on the front of adjacent parcels, and she wanted to make sure that what they design supports future needs.

Mr. Kaiser suggested a Condition: Prior to Final Preliminary Plan approval, applicant submit a report regarding impacts of this development to adjacent properties and wetland areas, especially as it relates to future development possibilities.

Mr. Sharl said again that he could not imagine that there would be an impact this site would have on the wetlands. Ms. Ruggiero replied that there will be asphalt and building, and there will not be ground absorption this particular area has had. They will contribute to run-off while collecting it on their site. Mr. Sharl said that is why the engineering plans provide for positive drainage and retention facilities. Ms. Ruggiero said she was concerned more about future development and access to future development. There is a single entry for ten units, but at some point in time, given the probability of not being able to have another access point, they might have 15 or 20 units with one access to Auburn Road. That is something the Commission works very hard to prevent in the City. Mr. Sharl said they could look north for a potential connection. Mr. Kaiser explained that is why he used the word "adjacent" in his proposed condition.

Mr. Kaiser said that one of the problems is that the letter in the Staff report is fairly old. Ms. Millhouse said the City has a new wetland consultant and they will advise Mr. Sharl when he reviews the area.

Mr. Kaltsounis agreed with Mr. Kaiser about the fence. He said the fence would reflect the look of the development and he would not want to see a six-foot white fence every time he drives by.

Mr. Kaiser said that if trees change in size several years after a tree survey, it was not supposed to be worrisome when an applicant uses the words "not substantially changed" when discussing their size. He said that Mr. Anzek pointed out that the rule of thumb does not require a new tree survey unless five years have passed, but Mr. Kaiser surmised that some trees have probably grown. He said he was a little concerned that the only method to protect the open space areas would be to rely on the Master Deed and By-Laws of the Condominium Association and the ultimate enforcement by them. He proposed that rather than relying on the Master Deed or By-laws, if there is a recommendation for approval, they might add a condition that the applicant submit a

proposal prior to Final approval to denote that open space areas are designed to remain in their natural treed state. He suggested that in some cases, small signage has been installed. He cautioned that the Master Deed could be changed by a certain percentage of votes and they might decide they want to allow swingsets, for example, in the open areas. He would rather have protection in the Site Plan approval for those areas and the trees.

MOTION by Hooper, seconded by Kaltsounis, in the matter of City File No. 99-031 (Saddlebrook Orchards Site Condominiums), the Planning Commission **recommends** City Council **approve** the **Preliminary Plan**, based on plans dated received by the Planning Department on January 9, 2003, with the following 5 findings and subject to the following 8 conditions, excepting that the proposed fencing around the detention ponds is not recommended for approval.

FINDINGS:

1. Upon compliance with the following conditions, the preliminary plan meets all applicable requirements of the Zoning Ordinance and the One-Family Residential Detached Condominiums Ordinance.
2. Adequate utilities are currently available to properly service the proposed development.
3. The preliminary plan represents a reasonable and acceptable plan for developing the property.
4. The preliminary plan represents a reasonable street layout, as well as a reasonable lot layout and orientation. In addition, all lots have access to the interior local street.
5. The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.

CONDITIONS:

1. Correction of the Tree Status Symbols Legend on Sheet 6 of 6 to read "Tree to remain with protection."
2. Addition of a note to the Preliminary Site Condominium Plan stating that the items listed in the Orchard, Hiltz, & McCliment letter dated October 22, 2002 will be addressed with the construction plan submittal.
3. Approval by Engineering Services of the decorative fencing and guardrail details on Sheet 6 of 6.
4. Provision of a performance guarantee in the amount of \$3,610, as adjusted if

necessary by the City, to ensure the correct installation of the proposed landscaping. Upon approval of the installation by the City's Landscape Architect, a maintenance guarantee shall be retained for a minimum of two growing seasons. The performance guarantee to be provided by the applicant prior to issuance of a Land Improvement Permit.

5. Denotation of a left turn lane and associated improvements to Auburn Road, consistent with Sheet 7 of 14 (Auburn Road Turn Lanes) dated revised September 25, 2001.
6. Prior to final approval, the applicant propose an acceptable fencing alternative to the now planned polyvinyl fencing at the detention ponds.
7. Prior to final approval, the applicant submit a proposal to denote that the open space areas are designed to remain in their natural treed and otherwise natural state, other than in the Master Deed and in the By-Laws.
8. Prior to final approval, the applicant submit a report regarding impacts of this development to adjacent properties and wetland areas, especially as it relates to future development possibilities.

Voice Vote

Ayes: Boswell, Brnabic, Holder, Hooper, Kaiser, Kaltsounis, Myers,
Ruggiero
Nays: None
Absent: Rosen

MOTION CARRIED

Prior to the next vote, Mr. Kaltsounis asked when two growing seasons start regarding tree planting. Mr. Anzek replied that the applicant must guarantee the trees for two growing seasons from the time they are planted. Mr. Anzek said the Commission has also dictated when the trees are to be planted. They cannot make the developer liable forever for the trees. Mr. Kaltsounis asked about trees by the building envelope. Mr. Anzek added that replacement trees are not allowed to be planted near any construction sites. They can only be planted in public spaces. Ms. Millhouse said that the City's previous Landscape Architect recommended two-growing seasons and that is how it started to be included.

MOTION by Hooper, seconded by Brnabic, in the matter of City File No. 99-031 (Saddlebrook Orchards Site Condominiums), the Planning Commission **grants a Tree Removal Permit**, based on plans dated received by the Planning Department on January 9, 2003, with the following 3 findings and subject to the following 2 conditions.

FINDINGS:

1. The proposed removal and replacement of regulated trees on-site is in conformance with the Tree Conservation Ordinance.
2. The applicant is proposing to preserve 37 percent of regulated trees on-site.
3. The applicant is proposing to replace as many as 148 regulated trees with 75 replacement trees (i.e., 150 replacement tree credits) on-site.

CONDITIONS:

1. Deletion of the second set of numbers dealing with regulated trees on Sheet 6 of 6, and correction of the Tree Replacement Requirements on Sheet L-1, as approved by City staff.
2. Provision of a performance and maintenance guarantee for two growing seasons in the amount of \$28,850, as adjusted if necessary by the City, to ensure the proper installation of replacement trees. Such guarantees to be provided by the applicant prior to issuance of a Land Improvement Permit.

Ms. Ruggiero asked about lots four and five, about what exists on the property line and if there was a lot of vegetation. Mr. Sharl answered that there might be some small brush. Ms. Ruggiero said some of the trees will be replaced there, but she would like to maintain as much vegetation and/or replacement trees in the back as possible to provide some privacy and buffering from the industrial property for the people who will be living in the development. Mr. Sharl noted that replacement trees are not put on private property. Mr. Anzek said that trees are not counted on private lots because once the lots are occupied, people can remove the trees. Ms. Millhouse said there is nothing precluding the owner or developer from doing landscaping, but it is the City's responsibility to maintain the integrity of the replacement trees as best as possible, and that is why they are required in common areas. Ms. Ruggiero commented that they are close to the 37% and she would like to see as many replacement trees as possible on this site. Ms. Millhouse replied that they will be, and they will have two more than required. Ms. Ruggiero said she could appreciate the note on the plan about saving more trees on lots four and five given the size of the building envelopes. She added that it is still so close to 37% and she wanted to be careful.

Voice Vote:

Ayes: Boswell, Brnabic, Holder, Hooper, Kaiser, Kaltsounis, Myers, Ruggiero
Nays: None
Absent: Rosen

MOTION CARRIED

Mr. Kaiser wished the applicants good luck.

3. **Request for Site Plan Approval – City File No. 95-046**
Project: Waltonwood @ Main, a 97,080 square foot, two-story