

ments of the Zoning Ordinance and the Subdivision Control Ordinance.

**CONDITIONS:**

1. Submission of all approved copies of the preliminary plat in accordance with Section 560.120(1)(c) of Public Act 288 of 1967, as amended.
2. Completion of the wetland restoration plan as shown on the preliminary plat prior to issuance of a Land Improvement Permit.
3. Payment by the applicant of \$5,400.00, as adjusted if necessary by the City's Forestry Division, for one street tree per lot. Such payment to be provided prior to issuance of Land Improvement Permit.
4. The developer is required to indicate on the plans and marketing information the deed restrictions of the affected properties due to the wetlands.

Ayes: Barnett, Duistermars, Golden, Hill, Holder  
Nays: Dalton  
Absent: Robbins

**MOTION CARRIED**

**14d. Request for Variance from Tree Conservation Ordinance** - Rochester Meadows L.L.C., consisting of 54 units on approximately 21 acres located south of Avon and west of John R., Parcel Nos. 15-23-201-006, 010, 011, 012 (A0669)

**Mr. Michael Plourde**, 2525 Telegraph Road, Bloomfield Hills, and **Mr. Joseph E. Check**, 4229 Burgundy Pointe, Shelby Township, appeared before Council on behalf of Rochester Meadows L.C.C.

**Ms. Deb Millhouse**, Deputy Director of Planning, reported that the applicant had not presented any alternate designs to meet the ordinance that would preserve some of the higher quality of trees.

**Mr. Plourde** explained the development is a fifty-four (54) lot site condominium development. Mr. Plourde stated they are requesting a variance because the strict compliance with the thirty-seven percent (37%) preservation percentage identified in the Tree Conservation Code would deprive the applicants of the reasonable use of the land. He noted that the numerous tree surveys indicated that the trees that would be affected by the development are those scattered throughout the project and that the developer is proposing to replace trees with a limited life span with trees of substantial quality and extended life spans consistent with the tree identified and preferred within the Tree Ordinance.

**PUBLIC COMMENT:**

**Mr. Fred Hartman**, 532 E. Avon, requested Council deny the request for variance, noting the developer has not maintained the property. He expressed concern with his loss of privacy, decreased property value, and the destruction of the wetlands in the area. Mr. Hartman described an access road that runs next to his home. Mr. Hartman further noted that he has maintained the right-of-way for thirty (30) years.

**Ms. Janet Russo**, 692 E. Avon, stated she has no objection to the development but is opposed to granting a variance to allow the trees to be removed. She indicated that the quality of life in the City is lessened with the removal of shade trees.

**Mr. Dennis Russo**, 692 E. Avon, stated that an attempt should be made to save the trees, noting there are many nice trees along the perimeter of the property. He further noted that the need to remove the trees results from the high density of the development.

### **COUNCIL DISCUSSION:**

**Ms. Golden** stated that she has reviewed the information and inquired who provided the additional information at tonight's meeting. She further noted that she sees no basis for the variance request.

**Ms. Millhouse** indicated that the Planning Department provided the most recent survey that was completed in February 2003.

**Mr. Barnett** stated that there is no justification for a thirty-seven percent (37%) variance, noting Council rarely allows a three (3%) to five percent (5%) variance for trees. He encouraged the developer to pursue other options, noting that fifty-four (54) units may not fit on the parcel.

**Ms. Millhouse** indicated that with any variance it is up to the applicant to demonstrate the reason for the variance. She noted this was difficult for staff to prepare because of the lack of information, noting the boards represent some of the information.

**Mr. Check** reviewed a summary of the trees on the property as follows:

- 15% are apple trees over thirty-five (35) years old
- 28% of the trees have Box Elder Disease
- 6.7% are cottonwood trees
- 6.4% are ash trees
- 0.3% are elm trees
- 64% of the trees are damaged or in a diseased state
- 20% will be lost to Dutch Elm Disease or the Emerald Ash Borer

Mr. Check requested Council table this item until their tree expert can explain the rationale for requesting the variance.

**Ms. Millhouse** stated that Dutch Elm Disease is not as significant as in the past, noting there are a number of Elm trees located on the parcel that are in either fair or good condition.

**Ms. Hill** stated that the goal is to have good trees in the community. She noted there was nothing in the information that indicated the applicant would meet the requirements of the Tree Conservation Ordinance. Ms. Hill further noted that the City is committed to open space and expects the developers to be creative in their developments to maintain that aspect of the City. She further stated that she has not seen any proof tonight to meet the criteria for granting a variance.

**Mr. Barnett** stated that Council is proud that Rochester Hills is a “Tree City.” He further suggested the developer come back to Council with a redesign of the project that recognizes the City’s ordinances.

**Ms. Duistermars** referenced the number of trees that are affected by the Emerald Ash Borer that will need to be removed, noting that he did not feel it is fair to count the doomed trees in the tree count.

**Ms. Millhouse** explained that the City does not include those trees in the tree count. She noted that the Forestry Division has indicated in the count which Elm trees are in very poor or poor condition and have exempted them from the count. A policy decision needs to be made regarding the Emerald Ash Borer, noting that, in this case, exempting those trees would not have made a difference.

Resolution A0669–2003–R0219

**MOTION** by Golden, seconded by Hill,

**Resolved** that the Rochester Hills City Council hereby denies a variance of 37 percent from the 37 percent requirement of Section 126-327(2) of Chapter 126, Article III, Tree Conservation, of the Code of Ordinances for Rochester Meadows Site Condominium (City File No. 99-011), identified as Parcel Nos. 15-23-201-006, -010, -011, 012.

**FINDINGS:**

1. There are no special circumstances or conditions affecting the property such that the strict application of the Tree Conservation Ordinance would deprive the applicant of the reasonable use of his land.
2. The variance is not necessary for the preservation and enjoyment of a substantial property right of the petitioner, as there are alternatives available to meet the requirement of the Tree Conservation Ordinance.
3. The variance will not further the objectives and policies of the Tree Conservation Ordinance.
4. The quality, age, and potential life span of a regulated tree are not a factor in determining the applicability of Section 126-327(2) of the Tree Conservation Ordinance.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Holder  
Nays: None  
Absent: Robbins

**MOTION CARRIED**

*(Recess from 9:23 p.m. to 9:34 p.m.)*

- 14e. Request for Elimination of Noncontiguous Historic District** - 44 acres located at 800 West Avon Road, Parcel No. 15-15-451-002, Rochester College, Applicant (A0671) (Members received an Agenda Summary Sheet dated June 12, 2003, from Derek Delacourt, Planner II, with attachments)

**Mr. John Gaber**, Attorney for Rochester College, 380 N. Woodward, Bloomfield Hills, MI, **Dr. Ken Johnson**, Rochester College President, **Mr. Barry A. Nebhut**, AIA, TMP Associates Inc., 1191 West Square Lake Road, Bloomfield Hills, **Joyce Todd**, 2110 Munster Road, Rochester Hills, MI were present.

**Dr. Johnson** provided a Power Point presentation regarding the development process for Rochester College including the following points:

- Early 1990's process to develop Rochester College began with eighty-three (83) acres.
- Were told by professionals engaged to design the twenty (20) year College Master Plan that the eighty-three (83) acres was not enough usable land for all the facilities and parking needed to achieve the College's objectives.
- Planning within the land constraints would require filling in wetlands or destroying woodlands in the Clinton River corridor.
- Request tonight is driven by near-term needs and near-term plans and would like to develop the property where the house and barn are now located.
- Before consideration could be given to the request, the College must demonstrate that all other buildable land is genuinely required for future purposes; this is accomplished through the Master Plan.
- Additional buildings beyond the Master Plan, if it were possible, would be a Health Sciences building, Communication Arts building, Behavioral Sciences building and Computer Technology building.
- Tremendous space constraints for building and parking and a sensible approach to campus development is to build as the Master Plan indicates, including near-term development of the land now occupied by the barn and the house.
- Conclusions from Planning Efforts indicate that there are two limiting factors:
  - Small amount of land owned.
  - Willingness of the City to allow the College to maximize the potential of its land.
- Planning conflict facing the College:
  - Essential College expansion requires efficient development of all usable, owned land.
  - Prevented by City ordinance.