



# Rochester Hills

## Minutes

### Planning Commission

1000 Rochester Hills Dr.  
Rochester Hills, MI  
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Home Page:  
[www.rochesterhills.org](http://www.rochesterhills.org)

*Chairperson William Boswell, Vice Chairperson Deborah Brnabic*  
*Members: Gerard Dettloff, Dale Hetrick, Greg Hooper, Nicholas O. Kaltsounis, David A. Reece, C. Neall Schroeder, Emmet Yukon*

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Tuesday, October 5, 2010

7:00 PM

1000 Rochester Hills Drive

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#### CALL TO ORDER

Chairperson William Boswell called the Regular Meeting to order at 7:05 p.m. in the Auditorium.

#### ROLL CALL

**Present** 8 - William Boswell, Deborah Brnabic, Gerard Dettloff, Greg Hooper, Nicholas Kaltsounis, David Reece, C. Neall Schroeder and Emmet Yukon

**Absent** 1 - Dale Hetrick

#### Quorum Present

Others present: Ed Anzek, Director of Planning and Economic Dev.  
Derek Delacourt, Deputy Director  
Maureen Gentry, Recording Secretary

#### APPROVAL OF MINUTES

Corrections to Minutes: Page 8, first paragraph, change "soles" to "souls."

2010-0398 July 27, 2010 Special Meeting

**A motion was made by Schroeder, seconded by Kaltsounis, that this matter be Approved as Amended. The motion CARRIED by the following vote:**

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

**Absent** 1 - Hetrick

#### COMMUNICATIONS

- A) Planning & Zoning News (2) dated August and September 2010
- B) Rochester Hills Business Report Volume 3
- C) Letter from Community Planning & Mgmt. Dated September 25,

2010 re: Washington Township Master Plan

## NEW BUSINESS

2010-0346 Request for Recommendation of Approval of the Final Preliminary Plat for Rochester Meadows (City File No. 99-011), a 47-lot subdivision located on four parcels east of Rochester Rd., south of Avon, zoned R-3, One Family Residential, Rochester Meadows LLC, applicant.

*(Reference: Staff Report prepared by Derek Delacourt, dated October 5, 2010 had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant were Joseph Check, Rochester Meadows, LLC, 11684 Majestic Ct., Shelby Twp., MI 48315 and Jason Sutton, AR Decker & Associates, Inc., 920 E. Long Lake Rd., Suite 200, Troy, MI 48085.*

*Mr. Delacourt recalled that most of the Commissioners had seen this item previously. There had been several Extensions granted and the applicant had proceeded to the point of requesting Final Preliminary Plat, which was the second to last stage in the process. He advised that the applicant had met all the requirements and would move to construction approval next. The necessary easements and permits had been obtained, and nothing had changed the Tentative Preliminary Plat. All items the Planning Commission reviewed were in compliance, and Staff was recommending approval.*

*Mr. Check summarized that it was a 47-lot subdivision, with an average lot width of 93 feet. There would be 1.59 acres of open space, and they were trying to save trees. He felt it would be a very nice subdivision for the community.*

*Mr. Schroeder brought up saving trees, noting that at the last approval, he had asked if they would consider saving certain trees. He also mentioned the steepness of the slopes of the berms and questioned if that would be hard to maintain. He did not see anything in the motion regarding that.*

*Mr. Delacourt remembered that was discussed, the they decided not*

to add it as a condition of approval, since the applicant had to show them as removals. The applicant was aware of the Planning Commission's recommendation, which stayed the same.

Mr. Check agreed and noted tree numbers 261 and 280. He said that the Ordinance required them to be shown as removals, but they would make every attempt to save them. They were saving 38% of the trees and did not want to spend money to remove any they did not have to. If any died, they would be replaced inch for inch, and he reiterated that they would do everything they could to save them.

Ms. Brnabic said that it had been awhile, but earlier in the process, there had been concerns about drainage. She asked Mr. Check if he recalled a homeowner complaining about property damage because of the drainage. Mr. Check advised that the property owner had since moved, but Mr. Check had gone out to the property and said he could barely see anything visible. He had offered to meet with the homeowner, but the homeowner did not follow up, and he subsequently moved out of state. He had worked out issues with Engineering. Ms. Brnabic said she was glad to see that he had made the effort.

Mr. Schroeder moved the following motion:

**MOTION** by Schroeder, seconded by Dettloff, in the matter of City File No. 99-011 (Rochester Meadows Subdivision), the Planning Commission recommends to City Council Approval of the Final Preliminary Plat, based on plans dated received by the Planning Department on June 22, 2010, with the following two (2) findings and subject to the following eight (8) conditions.

Findings:

1. The Final Preliminary Plat is consistent with the street and lot layout of the previously approved Tentative Preliminary Plat.
2. The Final Preliminary Plat conforms to all applicable City ordinances, standards, regulations, and requirements.

Conditions:

1. *Address comments from the Parks and Forestry memo dated May 10, 2010, prior to Final Approval by Staff.*
2. *Provide cash bond in the amount of \$11,058.00 for transplanting trees, prior to Final Plat Approval.*
3. *Provide a performance guarantee in the amount of \$116,856.00, as adjusted if necessary by Staff, to ensure the proper installation of replacement trees and other landscaping, prior to issuance of a Land Improvement Permit.*
4. *Payment by the applicant of \$9,400.00, as adjusted if necessary by Staff, for one street tree per lot. Such payment to be provided prior to issuance of a Land Improvement Permit.*
5. *Address comments from the Public Services memos dated August 2 and August 5, 2010, prior to Final Plat Approval.*
6. *Install tree protective fencing, as reviewed and approved by City Staff, prior to issuance of the Land Improvement Permit.*
7. *Prior to issuance of the Land Improvement Permit, Submission of a letter of Warranty to the City for the 12 regulated trees being transplanted onsite, stating that the trees will be warranted for a period of two years and if, at the end of the warranty period the trees are dead or declining, they will be replaced on an inch for inch basis. The tag numbers of the transplanted trees are to be listed in the letter (#243, 250, 322, 357, 515, 525, 620, 1007, 1077, 1080, 1090 and 1092). The letter will also state that the City Staff has final approval on the inspection and approval rights for the type, size and location for any replacement trees necessary.*
8. *Payment into an escrow, amount to be determined by Engineering Services prior to issuance of a Land Improvement Permit, to remove temporary tee turnarounds on Robinson Dr. when it is connected to future development.*

*Mr. Kaltsounis noted that things were slowly starting to pick up, and he appreciated the applicants bringing the development forward. It*

*was one of the first developments to come after what had happened with the economy, and he wished them luck obtaining funding. He commented that the Planning Commission always advised people to make developments nice and friendly. He recommended using the open space and adding things like benches and small park-like settings, which he felt meant a lot to people. A lot of residents in subdivisions asked for amenities like that, including those in his sub. He wished Mr. Check good luck and asked that they "make the City proud." He indicated that it had certainly been a long time since the Commission had seen a Final Preliminary Plat.*

*Mr. Dettloff agreed with Mr. Kaltsounis, and said it had been a long time coming, and it was nice to see it moving forward. Regarding funding, he asked if they were working with a local bank. Mr. Check said that they were, and they hoped to start construction in the spring of 2011. Mr. Dettloff asked if the banks were cooperating, and Mr. Check said not too much, but they were working on it. Mr. Dettloff thanked him for bringing the opportunity to the City.*

**A motion was made by Schroeder, seconded by Dettloff, that this matter be Recommended for Approval. The motion CARRIED by the following vote:**

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

**Absent** 1 - Hetrick

Chairperson Boswell stated for the record that passed unanimously, and he wished the applicants good luck.

**2010-0379**

Request for Conditional Land Use Recommendation (Public Hearing), City File No. 10-006, to allow an in-home day care for up to 12 children at 28 Montmorency, on the northwest corner of Montmorency and Rochester Road, Parcel No. 15-27-276-025, Diane Kapanka and Kristen Parker, applicants.

*(Reference: Staff Report prepared by Derek Delacourt, dated October 5, 2010 and documents supplied by the applicant had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant were Diane Kapanka and Kristen Parker, 28 Montmorency, Rochester Hills, MI 48307.*

*Mr. Kaltsounis asked the Commission if he should be recused from the discussion. His mother owned a daycare, for which he was a board member. He felt it could technically be in competition, because it was three miles from the proposed daycare.*

*Chairperson Boswell did not really see a great conflict. No one else did either, and Mr. Kaltsounis was not recused.*

*Mr. Delacourt stated that the proposal was for something the Commissioners had not reviewed in the past. The previous Ordinance prohibited more than six children, which was different than the State's requirements. When the Zoning Ordinance was redone, Staff looked at what the City could do for home occupations with 7-12 children, and it was decided to require a Conditional Land Use. He advised that the requirements for a Conditional Land Use were the same as in the previous Ordinance.*

*The applicant came to the Planning Department with a request for a home day care, not commercial. The primary use of the residence was as a home, which separated it from the larger centers. The applicant submitted paperwork showing that they could meet the Ordinance requirements for amount of play area, screening and fencing. Mr. Delacourt noted that no Site Plan approval was required, although the applicant had submitted drawings and floor plans. The matter was noticed as a Public Hearing, and Staff had not received any calls with concerns. Staff recommended approval.*

*Ms. Parker advised that she and her mother would work out of the home. They would use the 1,300 square foot basement area for the daycare. They had approval from the Neighborhood Association for the use and for a fence, which would be chain link with slats with natural vegetation around it.*

*Mr. Yukon asked if there were egress requirements for the basement, and Ms. Parker said that she had been in contact with the liaison for State licensing and the Fire Marshall. There would be three exits from the staircase exit on the first floor. They had special window variances from the Fire Marshall - stairs would go out of the basement windows.*

*Mr. Delacourt said that he did not put in stringent site plan requirements because the applicants had to go through a review and approval process through the State. That authority would exceed Staff's in this matter. Ms. Parker agreed, and said there were several inspections required, but*

*the permit from the City was required before getting licensed.*

*Mr. Yukon asked about the trampoline, and if it would be moved into the play area. He was told it would be taken down. He asked about the in ground pool, and what provisions they would take to ensure safety for the children.*

*Ms. Kapanka advised that there would be locks on the door at the top of the fence around the pool, and it would always be locked. There was a childproof gate. Ms. Parker said that met the requirements of the State. Mr. Yukon asked what steps would be taken so the children would not wander into Rochester Rd. He hoped every effort would be made to make sure the children were always watched. Ms. Kapanka noted that she was a care giver in memory care and responsible for five elderly residents. She felt she could handle children.*

*Ms. Brnabic had the same concerns. She asked how high the fence around the pool was, and was told four feet. She confirmed that to get to the play area, children would not have to go through the pool area. She asked how many people would take care of the children. Ms. Parker said that they were applying for 12 children, hoping to get eight. If they grew out of the facility, they would seek to add more employees. The State required one person for every six children at different age levels and different levels of training.*

*Ms. Brnabic said it looked as if they had done their homework, and it made her feel better, but the Commissioners were the ones recommending a Conditional Land Use, and she explained that was why they had to express any concerns.*

*Mr. Reece asked for clarification about whether the number of children over seven included up to 11 or 12, which was shown as less than 12 at one point in the Staff Report. Mr. Delacourt said that the Ordinance included up to 12, including 12 children. Mr. Reece commented that his biggest concern was not the ability to watch up to 12 children but rather the people trying to turn left onto Rochester Rd. at 5:30 p.m. in the evening.*

*Ms. Kapanka said that her family did not do it; they went around. Mr. Reece suggested that they make every effort to try and convince their customers not to try to turn left onto Rochester Rd. at that time.*

*Mr. Dettloff noted that the hours of operation would not exceed 12 hours a*

day. He asked if it would be Monday through Friday, which Ms. Parker confirmed.

Mr. Schroeder indicated that he had pools all his life, and that they were very dangerous. He did not feel a four-foot fence meant anything to a little kid who wanted to climb it. He asked if they planned to have a child proof cover on the pool - one someone could walk on. Ms. Kapanka said it would be a trampoline- type cover. Mr. Schroeder asked if it was electrical and if it had a lock button. Ms. Kapanka said that it was attached with bolts, with no way for someone to get under it. She acknowledged that they would leave it open in the summertime, which Mr. Schroeder did not feel was acceptable. He did not feel that a four- foot fence with an open pool would be good at all for little kids. He did not feel the applicants could watch 12 kids every minute of the day, and he felt it would be a major problem. Ms. Parker said that when they were in the daycare center there would be a gate so they could not go upstairs. She suggested that they could also get door alarms to install in the house. Mr. Schroeder stressed that it would be much safer if they had an electrically operated cover - one that would be fastened at the sides and that adults could walk on. There was no way kids could get in the pool once it was closed. It had a button with a key and when locked, it would not open, and he hoped they would look into that.

Chairperson Boswell opened the Public Hearing at 7:35 p.m. Seeing no one come forward, he closed the Public Hearing.

Mr. Hooper welcomed the applicants. He asked if Buttons and Bows was a corporation or just the name they came up with. Ms. Parker said it was a corporate name and they were filing for an LLC. Mr. Hooper felt there was an obvious need for the center because Rochester Hills was a residential community of families. He asked if they had operated a day care in their home for less than six children. Ms. Parker said she had babysat for six and that she was a camp counselor and ran a hotel for 150 people. Mr. Hooper thought it was a great location, but he was surprised they built a home there. He never thought there would be a residence on Rochester Road and now there also were two State licensed group homes down the street. He recalled that the deed restrictions for the land kept certain things from being built, but a home daycare was allowed. He wished the applicants good luck.

Mr. Schroeder moved the following motion:

**MOTION** by Schroeder, seconded by Reece, in the matter of City File



*No. 10-006 (Buttons and Bows Day Care), the Planning Commission recommends to City Council approval of the Conditional Land Use, based on plans and information dated received by the Planning Department on September 13, 2010, with the following five (5) findings.*

**FINDINGS:**

1. *The use is consistent with the intent and purpose of the Zoning Ordinance in general, and of Section 138-4.300 in particular.*
2. *The proposed development has been designed to be compatible, harmonious, and appropriate with the existing character of the general vicinity and adjacent uses of land.*
3. *The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, and refuse disposal.*
4. *The development should be not detrimental, hazardous, or unreasonably disturbing to existing land uses, persons, property, or the public welfare.*
5. *The development does not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.*

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

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

**Absent** 1 - Hetrick

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

## **ANY OTHER BUSINESS**

*The Commissioners discussed the new roundabout at Hamlin and Livernois. It was seen as a positive for traffic flow and the future for intersections in the City.*

*Ms. Brnabic asked if the Commission could have placed a condition*

about the pool cover for the previous agenda item. Mr. Anzek agreed that they could have because it was a discretionary decision based on the health, safety and welfare of the community. Mr. Delacourt read Section 138-2.300 of the Ordinance: "Conditions shall be designed to protect the natural resources, the health, safety welfare and social and economic well being of those who will use the land or use an activity under consideration." Ms. Brnabic said that she wished she had added the condition, and Mr. Delacourt reminded that the matter would still go before City Council.

Mr. Reece commented that a family could have eight or ten kids and no one on the Commission would require a different pool cover. He felt that the parents who took their children there had to make their own decisions about whether it was the right or wrong thing to do. He did not think it was the Commission's place to do something the State law did not require.

The members discussed road updates for the Tienken Road bridge, Crooks and M-59 interchange and Auburn Rd. resurfacing.

Mr. Anzek advised that Crittenton Hospital has decided to proceed with its second tower, but in order to begin the site prep, they would like to move the oxygen tanks. He wanted to find out if the Commission objected to an administrative approval for that. Screening could be required when it came in for Site Plan approval. Mr. Schroeder asked the height of the tanks, which are ten feet. Mr. Yukon asked if there had been options for screening discussed. Mr. Anzek said they had just discussed moving them, but he could make screening a condition of administrative approval.

Mr. Reece said he would be concerned about trees around the oxygen tanks, which might not be allowed. Mr. Anzek did not think there were any there now. Mr. Reece reminded that once they were in, that was it, because of underground lines.

Mr. Kaltsounis recalled that some of Crittenton's past plans had been highly contested by residents. If they moved a potential hazard in front of someone's home where there might not be buffering or screening, he wondered if it would hurt the City when the hospital tried to put in the tower.

Mr. Hooper indicated that they had to go someplace, and he wondered where else they could be put. Ms. Brnabic asked the distance they would be from the property line. Mr. Anzek said about 180 feet. Ms. Brnabic asked how far it would be from the wooded wetlands, and Mr. Anzek said

*about 100 feet.*

*Chairperson Boswell asked if the architects had any other ideas of where the tanks should be put. Mr. Anzek said that they never focused on the relocation of the tank as they were shown on the Master Plan. Mr. Schroeder said he did not see a problem with the location.*

*Mr. Hooper felt that if there were screening issues, the Commission could resolve them when the tower came back for Site Plan review. Mr. Reece said they should be cautious about what type of screening could be used. Mr. Kaltsounis noted that the Fire Department would have to look at it - they might want access all around it. Mr. Delacourt added that even if it was an admin approval, the Fire Department would look at it.*

*The members discussed the upcoming medical marijuana forum for October 26th and which professional organizations might attend. Mr. Anzek said that he would contact some groups, and he noted that Mr. Staran was working with other cities to determine how to apply the law.*

*Mr. Schroeder said that Auburn Hills just said no to allowing medical marijuana. Mr. Anzek added that other communities were starting to lean that way, too. Chairperson Boswell stated that 62% of people in town voted for it, and the idea of just saying no seemed against the will of the majority of those voters.*

*Mr. Schroeder did not see how they could turn down an individual that had a card, but he did not feel that the City needed parlors. Mr. Anzek advised that the use of dispensaries was the crux of the debate occurring at the State and local level. State law never acknowledged them, and the County Prosecutor stated that because the law did not provide for it, they could leave it as an illegal operation. There were some models being put forward that took the home occupation approach. A caregiver could grow 12 plants for each patient (up to five) in his home.*

*Mr. Kaltsounis said he would cringe if the day came that he drove by a store with a large marijuana leaf on the sign. He would not like to see dispensaries. He liked the idea of a home occupation, but he would not want to be a neighbor of someone growing it. He stated that it was a tough issue, and that there were a lot of variables.*

*Mr. Anzek said that a lot of care givers had to deliver to disabled people. Mr. Kaltsounis said that they had to make sure that if someone sold to someone illegally that they would never be allowed to sell in the City*

*again. He wondered about a commercial property with multiple tenants; there could be 20 caregivers with many pot plants. He questioned if it might be viable in a commercial district.*

*Mr. Schroeder said it would be nice to know how many patients there were in the City, although that was private information. Mr. Anzek agreed that was confidential information, and he noted that the police departments could not even get it.*

*Mr. Delacourt said that he and Mr. Anzek had been discussing it in terms of a home occupation with a Conditional Land Use. They could put distance requirements in between operations, have no employees, and the primary use of the house would stay residential.*

*It was discussed that the meeting for the medical marihuana forum originally scheduled for October 26th would be rescheduled due to the unavailability of Commissioners.*

#### **NEXT MEETING DATE**

Upon learning that there would only be five members at the Special Meeting scheduled for October 26, 2010, the Planning Commission requested that the meeting be rescheduled. Staff will follow-up with a new date.

#### **ADJOURNMENT**

Hearing no further discussion to come before the Commission, and upon motion by Kaltsounis, the Chair adjourned the Regular Meeting at 8:27 p.m., Michigan time.

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William F. Boswell Chairperson  
Rochester Hills Planning Commission

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Maureen Gentry, Recording Secretary