

9. The word gazebo will be eliminated from an allowance under paragraph 7, under the General PUD Provisions.
10. That the Master Deed and PUD Agreement bar the use of any non-organic fertilizer and/or pesticide anywhere in the development.
11. The gravel road may not be treated with chemicals for the purposes of dust control.
12. Up to 40 trees, 10 feet in height, be installed along the south property line and planted in a straight, though staggered line, as approved by Staff.

Roll call vote:

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

MOTION CARRIED

Mr. Kaiser thanked the neighbors and the applicants for all the time and effort they put into this project.

Recess at 9:21 for 10 minutes.

3. Request for Final Preliminary Plat Recommendation – File No. 90-253.2

Project: Butler Ridge Subdivision Phase II, a 92-lot subdivision on approximately 60 acres.
Requests: Tree Removal Permit
Recommendation of Final Preliminary Plat Approval
Location: South of Butler Road, West of Adams Road
Parcel: 15-19-300-005
Applicant: Roscommon Company
2301 West Big Beaver Road, Suite 900
Troy, MI 48084

(Reference: Staff Report prepared by Ed Anzek, dated August 29, 2002 has been placed on file and by reference becomes part of the record hereof.)

Present for the applicant were Stanley Frankel, Roscommon Group, and Lloyd Dubiski, Donald C. Westphal Associates, Inc.

Mr. Anzek stated that since the first phase of this project was approved in December 2000, Staff has been working consistently to get the second phase on line. There has been a lot of work on final grading and tree preservation issues, and Phase II has recently come into compliance and is supported by Staff for approval.

Mr. Frankel advised that there is not much new. They have spent years getting Phase I completed and the Final Preliminary Plat for Phase II to approval. Phase I is under construction now. As Mr. Anzek stated, the issues they have been working on with the City are the trees and some minor grading issues.

Mr. Kaiser asked if the applicant had a concern with anything in the Staff report. He replied there was nothing.

Mr. Rosen asked if a Tree Removal Permit was approved the first time they met for Phase II. Mr. Anzek answered that they approved one for Phase I. Mr. Anzek added that all adjacent property owners were notified about the Tree Removal Permit request.

Mr. Rosen clarified that the Tentative Preliminary Plat was approved for Phases I and II. He asked if a Tree Removal Permit was granted then. Mr. Anzek said it was deferred to the phases. Mr. Frankel said the first time around they did everything else – the roads,

lot sizes and locations, and so on. When they came in for plat approval for Phase I they requested a Tree Removal Permit, necessary to construct Phase I. Mr. Rosen asked if there would be any significant difference in the tree counts if they had done a Tree Removal all at once rather than separately. He asked what the percentage of trees saved was for Phase I. Mr. Frankel answered 43%. Mr. Rosen asked what it would be for Phase II. He was told 60%. Mr. Frankel said that most of the major trees taken were in the first phase.

Mr. Hooper referenced the two growing seasons and asked if City Staff would go to the site next year and look over the landscaping. If not, he wondered when Staff reviews the landscaping.

Mr. Anzek replied that the trigger would be when Mr. Frankel requests the bonds released because the work has been completed. Once the performance work has been done and he calls the City for an inspection, the project moves to the maintenance phase. That is when the growing season of two years starts. Mr. Hooper assumed Phase I was not inspected because he noticed about six trees that are dead by the detention pond, behind lots 25, 26 and 27. Mr. Frankel admitted they are very stressed out, but he was not sure they were dead and if they were, they would be replaced. Mr. Anzek added that Mr. Frankel has not completed the Phase I landscaping, and has not called for the performance inspection yet. Mr. Hooper said that other than that, the silt fence is in good shape, the vegetation is established, and the snow fence is about half up and needs to be re-established. He did not see any soil erosion issues in Phase I.

Mr. Anzek informed the Planning Commission of what Staff had recently adopted. They had noticed a few developers being haphazard with soil erosion fencing. The Building Department and Engineering inspectors have adopted the policy that upon entering a site for a requested inspection, the first thing they look at is the soil erosion fencing. If any of it is down, the applicant fails the inspection and Staff leaves the site. They notify the applicant they will not come back until the fencing is in place. The City has taken a little stronger line with this issue because soil erosion and sedimentation is a big problem. It is working well, he added.

Mr. Frankel commented that as the Commissioners might recall, for part of the approval process for Phase I, he was requested to submit monthly to the City a soil erosion inspection by an independent source. That has been done for a year and a half. To his knowledge, they are the only developer in town that was required to do this. Mr. Hooper recalled one other.

MOTION by Hooper, seconded by Brnabic, in the matter of City File No. 90-253.2 (Butler Ridge Subdivision Phase II), the Planning Commission **grants a Tree Removal Permit**, based on plans dated received by the Planning Department on August 28, 2002, with the following 4 findings and subject to the following 4 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 60 percent of the regulated trees on-site.
3. The applicant is proposing to replace 185 of the 391 regulated trees to be removed with three-inch caliper hardwoods and 10-foot evergreen trees.
4. The applicant will compensate for the remaining 206 regulated trees to be removed by payment into the City Tree Fund.

Conditions:

1. Additional silt fencing be shown in front of the tree protection fencing on sheets 8 and 10 of 20.

2. Indication that tree #4205 and tree #2113 are to be saved rather than removed, as well as adjustment of the total number of on-site trees to be removed, total number of on-site trees to be saved, replacement tree credits required, and amount of contribution to the Tree Fund to reflect this change.
3. Provision of a performance and maintenance guarantee in the amount of \$37,080.00, as adjusted if necessary by the City, to ensure the proper installation of replacement trees. Such guarantee to be provided by the applicant prior to issuance of a Land Improvement Permit.
4. Payment of \$38,522.00 into the Tree Fund prior to issuance of the Land Improvement Permit with the understanding that the amount will be adjusted as necessary based upon the final tree preservation inspection. This inspection will occur when infrastructure construction is complete and prior to construction of new houses. The applicant will request this inspection in writing in conjunction with the request to release lots for building houses.

Roll call vote:

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

MOTION CARRIED

MOTION by Brnabic, seconded by Hooper, in the matter of City File No. 90-253.2 (Butler Ridge Subdivision Phase II), the Planning Commission **recommends** City Council **grant Final Approval** of the **Preliminary Plat**, based on plans dated received by the Planning Department on August 28, 2002, with the following 2 findings and subject to the following 2 conditions.

Findings:

1. The preliminary plat is in substantial compliance with the approved tentative preliminary plat.
2. The proposed final preliminary plat conforms to all applicable City ordinances, standards, regulations, and requirements.

Conditions:

1. Provision of a performance guarantee in the amount of \$2,400.00, 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.
2. Payment by the applicant of \$18,400, 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 a Land Improvement Permit.

Roll call vote:

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

MOTION CARRIED

Mr. Rosen asked if the applicant was aware of trees on the Rookery Woods development and the problems there. Mr. Anzek answered that he and Mr. Dubiski discussed this when going through the grading issues, and he informed him of the erosion issues the Rookery homes that front the Clinton River face. Mr. Frankel said this was discussed with members of the Land Conservancy over a year ago. A person bought a lot in Rookery and started to re-grade, without permission, the back of the property. They removed some material, which caused severe erosion. That was the only one he knew about. Mr. Rosen said he was not trying to be negative, he was only giving a word to the wise. If there is anything that can be done to Butler Ridge's side to make sure erosion does not happen, it would be to their advantage to do it. Mr. Frankel advised that there is a tremendous setback between the conservation easement and the Conservancy land from where a building envelope could be, but he understood Mr. Rosen's concern.

ANY OTHER BUSINESS:

Mr. Kaiser indicated that Mr. Anzek is looking for two people to serve on the Technical Review Committee that deals with the Zoning Ordinance re-write. Mr. Anzek said the meetings would be during the day, which would preclude some people. He said the primary consultant was coming from Grand Rapids. The meetings will last three or four hours because they have to scrutinize the work products before they are presented to Planning Commission and Council. Mr. Rosen and Ms. Ruggiero volunteered.

Mr. Anzek emphasized that if anyone sees an area in the Code that should be focused on or revisited, they should not wait until after the fact. They should start building the language now. He informed them there will be a kickoff for the public forum. Builders and developers will be invited in the morning and afternoon. There will be public forums in the evening for citizens. All the Homeowners' Associations and anyone who has expressed an interest in zoning definitions and interpretation are invited.

Mr. Rosen asked if they should plan to give a five-minute update at every other Planning Commission meeting. Mr. Anzek answered that he thought an update should be added to the end of each meeting after the Review Committee has met.

Mr. Anzek brought up the September 24 joint workshop. After Mr. Gilbert's conceptual meeting with the Planning Commission in July, his next step would be to prepare the architectural and engineering drawings for the development. It has been estimated it will cost around \$300,000.00. He asked for the opportunity to get in front of City Council to get their input before spending so much money. The other item scheduled for that meeting regards forming a brownfield redevelopment authority. In 1990, the Planning Commission asked for this to be looked into for the City's landfills. City Council did want to hear from an MDEQ official as to how successful this has been around the State and Staff lined up a retired MDEQ official, Mr. Bob Terry. He set up the program and ran it for four years and is probably the best authority to hold the discussion with Council. Mr. Anzek was not sure how much time they would have for items left hanging from the last joint meeting, but if other matters were brought up, he would like Mr. Kaiser there. Since he cannot be there, they will probably just discuss these two items and schedule another meeting. Mr. Rosen will chair the meeting in Mr. Kaiser's absence.

NEXT MEETING DATE:

The Chair reminded Commissioners that the next regular meeting is scheduled for September 17, 2002.

ADJOURNMENT:

Hearing no further business to come before the Planning Commission, the Chair adjourned the regular meeting at 9:55 p.m. Michigan time.

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