

NEW BUSINESS

2011-0495 Request for Final Preliminary Plat Recommendation and Public Hearing - File No. 89-156.5 - Clear Creek Subdivision No. 5, a 58-lot phase of Clear Creek on 56 acres, located north of Tienken and east of Sheldon, Parcel No. 15-02-200-015, zoned R-1, One Family Residential, Elro Corporation, Applicant
(Reference: Staff Report prepared by Ed Anzek, dated December 28, 2011 and Plat plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Jesse Kranz, Vice President, and Harry Terbrueggen, Executive Vice President, Elro Corporation, 201 W. Big Beaver, Suite 720, Troy, MI 48084.

Mr. Anzek summarized that the applicants were requesting Final Preliminary Plat Recommendation for phase five of the Clear Creek development. The Tentative Preliminary Plat was approved by City Council in June of 2008. He advised that Elro had been actively pursuing the Final Preliminary plans, outside agency permits and Engineering Construction Documents, so there was no need to request an Extension. There was a consideration by the Green Space Committee to pursue a portion of phase five, and Elro worked on alternate plans, but ultimately, they continued with the original plat. There had been no change from the Tentative Preliminary, with the exception of two points: MDEQ had requested off-site mitigation, which Mr. Anzek felt was a plus for the development, and they were working on a joint conservation easement to be granted to the Clear Creek Homeowner's Association and the City of Rochester Hills. He concluded that Staff recommended approval, and he asked if there were any questions.

Mr. Terbrueggen stated that they had been working with the Planning Department for quite a while. He said it was a thrill to be in front of the Planning Commission, and they would start the project as soon as they received appropriate approvals. He said it had been a long time since they had an opportunity to build something, and they were ready to go. It was a testament to Rochester Hills, because they had property in seven communities and about the only one they were getting any activity with builders was Rochester Hills. He agreed that the layout was the same as the Preliminary.

Chairperson Boswell noted that he drove through the entire Clear Creek subdivision, and he was amazed at the amount of construction.

Mr. Anzek advised that in accordance with the 2008 State Planning

Enabling Act, plat reviews were required to have Public Hearings. He added that there was a notice in the paper and that direct notification was given to adjacent property owners, so the City was in compliance.

Chairperson Boswell opened the Public Hearing at 7:30 p.m.

Natalia Kostylev, 6175 Sheldon Road, Rochester Hills, MI 48306 *Ms. Kostylev said that the only lot they (she and a later speaker live at the above address) were a little worried about was the one on the corner behind their home. It appeared that the orange tree protective fencing came right up to the creek where their lake drained. They were worried about how the construction might affect that. They bought the house in August, and the last owners told them that some river otters had set up a den in the hill. She noted that there were also turtles.*

Chad Kovala, 1477 Galena, Rochester Hills, MI 48306 *Mr. Kovala stated that he had a couple of concerns, and that he presumed he could speak for most people in the subdivision who had built since 2008. He thought that very few people knew that an expansion was planned. A lot of them knew there were wetlands behind their homes and although an assumption was a bad thing, the builders were not going to tell them something was planned. They would have liked to have been informed that the wetlands their houses backed to were planned to be destroyed and turned into future development. Another concern was that their sub had hundreds of lots and the notification was sent to 17 people. He understood the State law and that only people that abutted the development had to be notified. He believed that if the entire subdivision was given the same mailing, they would see many more people at the meeting. His backyard of wetlands was now going to be developed - over an acre destroyed - and there was a stream that would be destroyed and there would be a road put in with dredging over wetlands. He thought his backyard was wetlands, and he would have appreciated more information. He mentioned that there was already an issue with traffic for the sub, with an entrance nearby to a large high school. He thought that the roundabouts did help; however, speed was an issue on the main road going into the subdivision. They appreciated the speed sensors put in, and he thanked those responsible. The 20-some homes that were built on Traceky, which appeared to most to be a cul-de-sac, would now be on a main thru-way in the back of the sub leading to the new 58-lot sub. There was already an issue with speed, and now there would be another long thru-way in quite a large sub. He thought there were multiple issues with expanding such a large sub, but the biggest thing was the acreage of wetlands he presumed the DEQ approved, but he thought there must*

have been concerns since it took such a long period of time. He did not think sending the notice to 17 people got all the public's comments.

Chairperson Boswell closed the Public Hearing at 7:35 p.m. He asked Mr. Terbrueggen about the wetlands concern and asked for clarification about what was being done.

Mr. Kranz advised that they were only impacting one acre of wetland in phase five. They were preserving 23 acres of open space, and that included 18 acres of wetland and some upland. They were not destroying the wetland; they had one minor impact where the road would cross. He pointed out the open space. He stated that Traceky was always planned as a stub street in phase four with the intention that it would be extended in the future to be able to get out to Mead Road. They were impacting one acre of wetland, and it had to be mitigated to get a permit.

Chairperson Boswell noted that Ms. Kostylev was concerned about the area where her property would abut a lot. He saw the protective fencing and asked what that indicated regarding her property. Mr. Kranz said that before the weather froze, they wanted to install all the tree protective fencing required by the City. The fence protected the wetland, and it would not go onto Ms. Kostylev's site. They could not get into the stream, and he assured that they would only take down trees in the area they had to develop.

Mr. Anzek noted that an Engineering Inspector from the City went to the site to verify that the tree protective fencing was placed properly. There was only one small portion that needed to protect three trees on the very northern portion of Sheldon where there was no fencing.

Mr. Kranz said that they would only be removing trees along Sheldon that were identified on the plans, and not necessarily all the trees.

Mr. Anzek brought up the comment that the developer was adding to the subdivision. He reminded that the fifth phase went back to the inception of the entire Clear Creek development, in about 1990, with approvals for the first and second phase occurring in the early 1990's and the third and fourth phases in the late 1990's. It was not a surprise addition; it had always been planned for development. As pointed out, there were 18 acres of wetland being preserved, and the only impact was for the road crossing. There were no lots on wetlands. MDEQ was requiring offsite mitigation at 1.5 to 1, and that would further preserve the natural setting behind some future homes. If it had been done onsite, the land would

have been dug out and the dirt removed and it would have been planted with wetland materials. Now they would be able to stay in their natural state. Regarding the otter family, he was not sure what the City could do about natural fauna, but he hoped they would stay in their habitat.

Mr. Hooper said that when the Commission last discussed the project in 2008, they talked about possibly paving Sheldon Rd. He asked if anything had occurred with that.

Mr. Anzek said that Elro had been working with the Traffic Engineering Division, and the plan was to pave Sheldon from the terminus of asphalt by the schools just past the cul-de-sac (Placid Ct. in phase five). Mr. Hooper asked if the City would install any means of speed reduction, such as speed humps, noting that City Council had approved the radar signs in Clear Creek.

Mr. Anzek did not recall any discussions with Engineering regarding speed humps on Sheldon Rd., and he was not sure if the neighborhood had requested anything. Mr. Hooper indicated that if they were going to improve Sheldon Rd., adding speed humps would be a nominal cost as a physical means to ensure reduced speeds in the neighborhood. Mr. Anzek said he would take it up with Engineering. Mr. Hooper congratulated the applicants and wished them luck.

Ms. Brnabic asked the applicants if they still planned to provide information within the Deed Restrictions in regard to the wetlands and natural features. Mr. Kranz said there would be language stating that the area would be preserved. Ms. Brnabic said she had read the 2008 Planning Commission Minutes, and there were statements made in regard to the fact that they would make people who purchased lots aware up front of the wetland area so there would not be a "buyer-beware" type of situation. The applicants had said previously that they would have that information within the Deed Restrictions.

Mr. Terbrueggen said that Rochester Hills had language they had to incorporate into the Deed Restrictions. When they did the other phases, there was language in the Deed Restrictions, and it would be the same for phase five. It would let everyone know that there were wetlands and that no one could do anything to them.

Mr. Anzek advised that the first homeowner had to sign a letter of notification. That letter was recorded at the County and anytime there was a sale of the land, a title search would show the letter and notify any

subsequent buyers of the wetland adjacency.

Mr. Kaltsounis indicated that with the Preliminary Plat, the vetting was done in 2008. The Planning Commission's job was to make sure that what they were reviewing now was the same as what was approved in 2008. He concluded that there was nothing different between the Preliminary and the Final Plat. He moved the following motion, which was seconded by Mr. Schroeder:

MOTION *by Kaltsounis, seconded by Schroeder, in the matter of City File No. 89-156.5 (Clear Creek Subdivision No. 5), the Planning Commission recommends that City Council **grant Final Approval of the Preliminary Plat**, based on plans dated received by the Planning Department on October 24, 2011, 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. That the applicant receives all appropriate MDEQ permits prior to Final Plat Approval.*
- 2. That the applicant receives a Land Improvement Permit.*
- 3. That the applicant receives all Engineering related permits and approved Construction Documents required by Public Services prior to Final Plat Approval.*
- 4. Address comments in the Fire Department memo dated November 17, 2011, prior to Final Approval by Staff.*
- 5. All proposed street names must be approved by the City's Communication Division prior to Final approval by Staff.*
- 6. Address comments in the Building Department memo dated November 15, 2011, prior to Construction Plan Approval.*

7. *Provision of a performance guarantee in the amount of \$275,600.00, as adjusted if necessary by the City, to ensure the proper installation of trees, for replacement of damaged trees, and for all other landscaping expenses. Such guarantee to be provided by the applicant prior to issuance of a Land Improvement Permit.*

8. *Discuss with Traffic Engineer consideration of traffic calming devices for Sheldon Rd. and throughout the subdivision.*

Another card had been turned in after the Public Hearing. At this point, Chairperson Boswell asked the speaker to come forward.

Mayu Bajpai, 6175 Sheldon Rd., Rochester Hills, MI 48306 *Mr. Bajpai said that the property that abutted his had a couple of pine trees that looked about 60 years old. He knew the developers would come through and clear cut everything, but he said he hoped they would be considerate enough to leave the pine trees.*

Mr. Kranz offered that after the meeting they could discuss whether the trees were even being removed or not. He said they would only remove trees if they were in the way of an improvement. Mr. Bajpai said that it was on the property where a Clear Creek house would go. Mr. Terbrueggen said they would be happy to show Mr. Bajpai the plans after the meeting.

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, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Chairperson Boswell stated for the record that the motion had passed unanimously. He noted that it had been a long, long time working with Mr. Terbrueggen - almost 20 years - and wished them good luck.

UNFINISHED BUSINESS

- 2011-0365** Request for Zoning Ordinance Amendments Recommendations and Public Hearing - Amendments to Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, including Sections 138-11.300, 138-4.300, 138-4.438, 138-11.304, 138-11.307, 138-5.100, Table 6, 138-5.100, footnotes B, J and N, 138-4.404, 138-6.400, Section 12 Article 6, Chapter 4, 138-4.300, 138-3.104.C, and 138-8.603 and to repeal conflicting Ordinances and prescribe a penalty for violations