

4. That, upon being (but not until) so recorded, this resolution shall have the force and effect of vacating, discontinuing or abolishing the described street, alley, public ground or part thereof.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0163-2004

NEW BUSINESS

2004-0412

Proposed Road Name Change of Gulch Court, part of the "Hillside Creek Subdivision"; Michele Nalu, applicant.

Attachments: Agenda Summary 060204.pdf; Agenda Summary 051904.pdf; Ordinance 2nd & 3rd pgs.pdf; Ordinance 94-142.pdf; Public Hearing Notice - Name Change.pdf; Public Hearing Notice - Vacation.pdf; Draft Minutes 20040519.pdf; 0412 Resolution 2.pdf

A motion was made by Raschke, seconded by Hill, that this matter be Adopted by Resolution.

Whereas, the City Council of the City of Rochester Hills has considered renaming the following described street, alley, public ground or part thereof, located in the City of Rochester Hills, and subject to the jurisdiction and control of the City of Rochester Hills Silver Creek Court.

Whereas, the property located in the southwest quarter of section 3, T.3N., R.11E., City of Rochester Hills, Oakland County, Michigan, more particularly described as: Gulch Court, 60 feet wide, part of the "Hillside Creek Subdivision" as recorded in Liber 280, Pages 2 through 6, inclusive of Oakland County Register of Deeds.

Resolved in accordance with the Code of Ordinances of the City of Rochester Hills, Section 94-144 - 94-170, in the Declaration of Intent, City Council hereby schedules a public hearing on Wednesday, June 2, 2004 at 7:30 p.m. Michigan Time, at 1000 Rochester Hills Drive, Rochester Hills, Michigan as the time and place to hear and consider comments and objections submitted in writing or orally pertaining to the proposed name change, of this street.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0176-2004

PUBLIC HEARING

2004-0458

Approval of Brownfield Plan - Madison Park (City File No. 03-023) a proposed mixed-use development located on the south side of Hamlin Road, east of the proposed Adams Road realignment, identified as Parcel Nos. 15-29-151-015, 15-29-151-008, 15-29-151-017, 15-29-151-012, 15-29-151-011, 15-29-176-004, 15-29-176-008 and 15-29-176-006, REI-Hamlin Road Development, applicant.

Attachments: Agenda Summary-Brownfield.pdf; Letter Bishop 20040430.pdf; Letter EPA 20040421.pdf; Letter McKayDEQ 20040505.pdf; Letter Opfer 20040512.pdf; Madison Park Final Brownfield Plan[4].pdf; Memo Wendt 20040512.pdf; Methane Summary April14.pdf; Tax Table Final M

President Dalton explained that the Brownfield Redevelopment Plan (BRP) had been previously approved, however, that approval was rescinded and a second Public Hearing was scheduled due to an administrative error. He noted that all information presented at the previous meeting is available for review and is "part of the record for this matter."

Mr. Derek Delacourt, Planner, discussed the following issues:

** The original BRP was re-evaluated by Mr. Richard Wendt, a Municipal and Brownfield attorney for Dickinson Wright, PLLC. Mr. Wendt affirmed that the previous Plan met legislative requirements, however, he did make recommendations to strengthen and clarify some of the language in the Plan.*

** The Baseline Environmental Assessment (BEA) report included in Council's meeting packet, for informational purposes only, discusses in detail the completed site assessment work and establishes the reasons that the site qualifies as a Brownfield.*

Mr. Delacourt explained that it is the City Staff's understanding that the Brownfield Redevelopment Act is a tool to promote and provide incentive for redevelopment of Brownfield sites. It is Staff's contention that the BRP proposed "represents the most appropriate remediation of the site, not only as a short-term fix to the existing concerns, but as a long-term solution to the environmental concerns on the site and the redevelopment of the property." Mr. Delacourt stressed that approval of the BRP is required to the next steps in the process taking place. He described these steps:

1) The Brownfield Redevelopment Authority (BRA) is required to submit for approval by the Michigan Department of Environmental Quality (MDEQ) a 381 Work Plan that outlines, in detail, the activities associated with redevelopment and remediation, as well as an evaluation of the costs associated with those activities.

2) A Due Care Plan is then prepared, which delves into greater detail regarding the activities identified in the Work Plan.

3) The developer and the City are required to enter into a Reimbursement Agreement that identifies all the conditions and requirements that must be met before any Tax Increment Funding (TIF) generated from the site is released. This agreement will also identify and limit the City's obligation if the development does not take place or if the cost of remediation exceeds the amount identified.

All of these items must be reviewed and approved by the City and the MDEQ prior to any remediation activities.

Mr. Delacourt then noted some things the BRP does not do:

** Does not obligate the City to cover any of the costs associated with the proposed Plan.*

** Does not affect the taxes on any parcel of property not included in the Plan.*

** Does not obligate the City to pay for any financial shortfalls should the development not take place following remediation or if the value of the property does not increase following development.*

He reiterated that the purpose of the Brownfield Redevelopment Plan is to establish that the proposed site meets the criteria for designation as a Brownfield. He affirmed that

City Staff is confident that the Plan meets that requirement.

Mr. Delacourt then introduced Mr. Robert Carson, 300 East Maple, Birmingham, representing REI Brownstone, LLC (REI), who indicated that the applicant was present to answer any questions.

President Dalton noted that State Senator Mike Bishop was present, noting that Mr. Bishop wished to address the issue before Council.

Senator Mike Bishop expressed his concern for the health threat this landfill poses to the community. While he assured residents that he was not expressing support for the specific plan in question, or the developer, he did support remediation of the landfill and stated that he stands "ready, willing and able to assist you any way I can."

President Dalton OPENED the Public Hearing at 8:50 p.m.

Mr. Lee Zendel, 1575 Dutton Road, noted the reduction in the City's funds, due in large part to State-shared revenue cuts, the Headlee Amendment and Proposal A. He stressed that tax revenue must increase and, if residents are unwilling to raise their taxes, then development is needed.

Ms. Josephine Geraci, 1566 Colony Drive, agreed with Mr. Zendel stating "we need all the development we can get" to increase the tax base if residents are unwilling to allow their taxes to be raised.

Mr. Mark Jacobs, 400 Renaissance Center, Detroit, attorney for Dykema Gossett representing Grand/Sakwa, made two (2) requests:

- 1) Encouraged Council to be sure REI comes forward with a specific development plan before Council agrees to a reimbursement plan.*
- 2) Requested Public Hearings be held to gain public comment when the reimbursement plan is brought forward for approval.*

Mr. Steve Wolken, read a letter into the record for Mr. Gary Jaracz, 582 West Hamlin, which expressed his support for the development and remediation of the landfill.

Mr. Dave Pagnucco, 3069 Quail Ridge, questioned why, considering all of the residential opposition to this development, no Council member has voted against the plan.

Ms. Katie Geen, 3090 Kenwood, questioned why residents were permitted to use the landfill as a recreation area considering the hazardous materials present.

Ms. Debbie Geen, 3128 Walton Boulevard #187, stated that the plan to open the landfill will result in a public nuisance.

Mr. John Geen, 3090 Kenwood, read into the record a letter from Ted Wahby that described a lawsuit brought against the South Macomb Disposal Authority regarding a 175-acre landfill, which included the cost of remediation, legal fees and engineering/consultants fees.

Ms. Suzanne White, 1598 Parke, shared the story of her neighbor's home, which blew up in 2000 due to the migration of methane gas from a nearby landfill.

Mr. Paul Schira, 227 Parkland, expressed his concern that all pertinent information on the hazards of the materials in this landfill has not been fully collected.

Mr. Dan Keifer, 719 Fieldstone Drive, resident and Clinton River Watershed staff

member, noted the benefits of remediating the landfill and the necessity of the development as a means to fund that remediation.

Rev. Dr. Pamela Whateley, 1600 North Livernois Road, expressed her opposition to the plan, fearing more damage will result from opening the landfill during the remediation process.

Mr. Brad Kinker, 3274 Quail Ridge Circle, stated that he objects to moving forward with the project until all of the parameters of the development are revealed to the residents.

Ms. Cindy Kinker, 3274 Quail Ridge Circle, expressed her concern about the negative effects, such as odors and further contamination, that may result from opening the landfill during remediation.

Mr. Vasilios (Bill) Stolakis, 2978 Pheasant Ring Court, stated that when he bought his home he was told by the City that the area in question was residential. He expressed his desire that the area remain as it is today.

Ms. Liliana Kleine, 3074 Quail Ridge Circle, read a letter from Ms. Sarah Dees, 1665 Park Creek Court, indicating that Council should not approve this plan because REI intends to remove only approximately one third of the waste material from the landfill.

Ms. Janet Moscato, 3146 Kenwood Drive, read a letter on behalf of Mr. Kip Hilbert, 3234 Quail Ridge Circle, President of the Quail Ridge Homeowners Association, which expressed his opposition to the redevelopment plan for the following reasons

* Tax dollars will be used to benefit REI.

* Park land will be used.

* This development is unique to the area and will change the area substantially.

Mr. Ed Baron, 3310 Greenspring Lane, stated that the tax benefits of this development will not be felt for many years. He indicated that residents do not want new taxes, nor do they want this type of development in their community.

Ms. Brenda Savage, 1715 Northumberland Drive, asked that the vote be tabled to allow for further evaluation.

Mr. Tom Stevenson, 708 River Bend Drive, resident and member of the Brownfield Redevelopment Authority, expressed his support for the development noting the need for increased tax revenue.

Mr. Gerald Carvey, 936 Ironstone, suggested that this development provides an opportunity to clean up a toxic location while eventually increasing the City's tax base.

Mr. Vincent Mungoli, 3435 Palm Aire Drive, requested that an oversight committee be established to assure that the remediation plan is adhered to properly.

Ms. Donyale Mahorn, 3091 Mapleridge Court, expressed her concern for the safety of her children and their "quality of life" if the landfill is opened.

Ms. Margaret Stolakis, 2978 Pheasant Ring Court, read a letter from Ms. Christine Weglarz, 3136 Greenspring Lane, expressing her concerns regarding a loss of green space, increased traffic and noise, and the hazards of opening the landfill.

Mr. Mark Zausmer, 31700 Middlebelt Road, expressed opposition to the development stating that "it is moving too fast given the risks." He suggested that further research is needed.

Ms. Deanna Hilbert, 3234 Quail Ridge Circle, suggested that ASTI's involvement in the development represents a conflict of interest and a study should be conducted by an independent consultant.

Mr. Larry Schloss, 2851 Current Drive, expressed his concern that the remediation of the landfill is not being approached properly.

Ms. Jane Leslie, Deputy City Clerk, and President Dalton read letters of support for the redevelopment plan into the record from the following residents:

*J. Martin Brennan, Jr., 515 Old Perch Road
Stephen Kirksey, 1337 North Acre Drive
Alfred Miller, Jr., 1870 Ludgate Lane
Vince Robinson, 1487 Antler Court
Howard and Phyllis Zeller, 829 West Hamlin Road
John Langford, 1571 Avon Circle West
Duane and Darlene Justin, 845 Wexford Way
Doug and Kyle Southern, 1128 Seville Road*

A petition signed by six (6) residents of Parke Street was also read into the record urging support of the redevelopment plan and the reduction of methane gas.

President Dalton CLOSED the Public Hearing at 10:19 p.m.

(RECESS 10:19 p.m. - 11:00 p.m.)

President Dalton REOPENED the Public Hearing at 11:00 p.m.

Mr. Steve Robinson, 32100 Telegraph Road, Bingham Farms, a representative of Lake Village apartments, asked that Council explore every alternative to the redevelopment plan and to protect the residents of Rochester Hills.

President Dalton CLOSED the Public Hearing at 11:03 p.m.

STAFF RESPONSE:

Mr. Delacourt introduced representatives from the Michigan Department of Environmental Quality (MDEQ), Mr. Ben Mathews, Ms. Karen Klingman and Ms. Darlene VanDale, who addressed questions posted by residents as well as City Council members:

- * All of the waste on the site will be addressed, either through removal or containment (i.e. capping of the remaining waste materials).*
- * Only those plans that are protective of the environment will be approved.*
- * The project seems consistent with other projects the MDEQ has approved.*
- * The Brownfield Redevelopment Plan (BRP) was not conceived to remediate sites without redevelopment.*
- * The BRP is typically generic, with the subsequent Work Plan providing greater detail.*
- * The Work Plan will address the public health issues.*
- * For a project this size, the MDEQ anticipates multiple phases, with multiple Work*

Plans approved in stages.

** The tax dollars used to reimburse the developer for approved activities would not be generated without the proposed development or remediation.*

** The MDEQ does not get involved in oversight until after the BRP is approved.*

** There are far more landfills in Michigan than there are funds and resources to remediate them all.*

** If the landfill were only capped (no remediation), development would be prevented, thus eliminating the opportunity for increased tax revenue.*

** It is only following approval of the BRP that the MDEQ is permitted to enter the process and, thus, enforce environmental standards.*

Mr. Mike Hartner, Director of Parks & Forestry, explained the purpose of the detention pond proposed to be created in River Bend Park noting the following:

** Storm water naturally drains south to north through the park.*

** By law, when water drains through your property you must accept it.*

** In effect, the developer will be paying to clean the water as it passes through the park before it reaches the Clinton River.*

** This system will be an improvement of the park habitat, and a model of better environmental stewardship for other communities.*

Mr. Trevor Woollatt, Project Manager for ASTI of Brighton, addressed questions posed by Council members:

** Conestoga Rover prepared an affidavit based on the findings reported in ASTI's Baseline Environmental Assessment (BEA) report. The BEA is a preliminary document prepared to establish that the toxins in the landfill exceeded household standards and, thus, qualified for Brownfield Redevelopment. More detailed information has been gathered since that initial study upon which Conestoga Rover based their affidavit.*

** Additional studies indicate a continuing threat from methane migration. Methane has been found in some areas of the landfill at 15%. Methane is combustible at levels between 5% and 15%.*

Mr. Delacourt indicated that he had met with or contacted the interested taxing entities that were not informed of the previous public hearing and they voiced no concerns or objections to the plan. He further explained that ASTI was engaged by REI to conduct the BEA study to ensure that the City received all relevant information, as opposed to only the information the developer might have wanted to reveal. He assured Council that this practice is not unusual.

A motion was made by Robbins, seconded by Duistermars, that this matter be Adopted by Resolution.

Resolved that City Council APPROVES the BROWNFIELD REDEVELOPMENT PLAN for the matter of City File No. 03-023 - (Madison Park) with the following findings and subject to the following conditions.

FINDINGS

1. The Brownfield Plan constitutes a public purpose and will facilitate the reclamation, redevelopment and revitalization of an old, distressed, improperly

capped, poorly maintained, leaking, leaching landfill site that poses a continuing environmental problem to the community, its residents and its natural resources.

2. The submitted Brownfield Plan meets all requirements of Section 13 of the Brownfield Redevelopment Financing Act. All of the required provisions under Section 13 are included and addressed in the Plan.

3. The proposed method of financing the costs of the eligible activities from tax increment revenues is feasible, and the Brownfield Redevelopment Authority has the ability to arrange the financing, which will be accomplished through a reimbursement agreement to be prepared, approved and entered into.

4. The costs of the proposed eligible activities are reasonable and necessary to carry out the purposes of the Brownfield Redevelopment Financing Act.

5. The amount of captured taxable value estimated to result from adoption of the Plan is reasonable and is expected to produce tax increment revenues sufficient to pay for the proposed eligible activities identified in the Plan.

6. The subject parcels are a site of a former landfill and a source of known contamination within the City. The Plan provides a reasonable course of action for the remediation of this site.

CONDITIONS:

1. A reimbursement agreement shall be prepared, approved and entered into between the City and the applicant prior to any TIF financing being paid out for approved eligible activities.

2. If the extent of Due Care activities related to the subject site are materially altered or revised, an amended Plan shall be for review and approval or rejection following the same procedure as applies to this Plan.

3. The Applicant shall obtain the MDEQ's review and approval of a work plan or remedial action plan in accordance with the Act.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0165-2004

~~NEW BUSINESS~~

~~2004-0465 Adoption of Resolution to cancel May 26, 2004 Regular City Council Work Session~~

~~Attachments: Agenda Summary.pdf; Resolution.pdf~~

~~A motion was made by Raschke, seconded by Duistermars, that this matter be Adopted by Resolution.~~

~~Resolved that the Rochester Hills City Council hereby agrees to cancel its Regular Work Session scheduled for Wednesday, May 26, 2004 at 7:30 pm, due to lack of agenda items.~~

~~Further Resolved that the City Clerk shall provide proper notice of the Meeting Time change pursuant to 15.265, Section 5(3) of the Michigan Open Meetings Act, Public Act No. 267 of 1976 as amended.~~