



**City of Rochester Hills  
AGENDA SUMMARY  
NON-FINANCIAL ITEMS**

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**Legislative File No: 2007-0070**

**TO:** Mayor and City Council Members

**FROM:** Ed Anzek, Director of Planning and Development, ext. 2572

**DATE:** January 29, 2007

**SUBJECT:** Request for Variance from the Tree Conservation Ordinance for Saddlebrook Orchards, City File No. 99-031, a proposed 10-unit site condominium development on approximately five acres, located on Auburn, east of Crooks, zoned R-4, One Family Residential.

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**REQUEST:**

Saddlebrook Orchards is requesting a variance from the 37% requirement of the Tree Conservation Ordinance (TCO). When the development received Preliminary Site Condominium approval from City Council on June 4, 2003, damages from the Emerald Ash Borer were unknown, and as a result of the death of the Ash trees, which are no longer counted as regulated trees, the project does not meet the requirements of the TCO by seven trees.

**BACKGROUND:**

City Council granted approval of the Preliminary Site Condominium Plan for Saddlebrook Orchards on June 4, 2003 and the Planning and Development Department received the Final Site Condominium Plan on June 11, 2004. The Ordinance (Section 122-368) also requires, within the one-year timeframe, that evidence that all necessary state and county agency approvals have been obtained, including utilities, water supply, sewage disposal, drainage, wetlands and roads. Engineering Services approved the Construction drawings on June 29, 2004, but since the appropriate approvals have expired, the applicants asked for, and were granted, two extensions, until November 30, 2007, for Construction drawings only.

The City processed the Final submittal and requested revised drawings; letter dated August 30, 2004. The City received revised drawings on June 17, 2005. The drawings were again reviewed and a letter requesting revisions was sent August 17, 2005. The City received revised drawings on June 13, 2006. When these plans were conditionally approved and Staff began preparing for Planning Commission review and recommendation of the Final Site Condominium Plan, it became apparent that the approvals from 2003 had expired with no request from the applicant for extensions. The major complication from this realization was that the Tree Removal Permit (TRP) that was granted on June 4, 2003 had expired. Tree Removal Permits are good for the length of an approved Site Plan, Plat, Site Condo OR one year, whichever is less.

With the expiration of the TRP and the loss of the Ash Trees on site, the plan, as previous approved, comes up short. According the attached letter from the City's Landscape Architect, the current plan is 7 trees short of the requirement. In the attached memo it is stated that the trees being preserved are in the significant open space areas provided and in the lot areas outside of the building envelopes. The remainder of the trees is in the roadway or utility easements, and the only way to save the additional seven trees would be to lose one of the ten units. In reviewing the plan as previously approved it is

apparent that quite a bit of land area was committed to open space for developments of this kind. This open space was committed to meet the 37% tree conservation requirement when Preliminary approvals were granted in 2003.

The initial tree removal permit was based on 237 regulated trees, removing 147, and preserving 90 (37.9%). There were 30 ash trees as part of the initial regulated count. Of these 30, 20 were to be preserved and 10 removed. Since the 30 are no longer counted as regulated, the math works as follows. There are now 207 (237-30) regulated trees, removing 137 (147 less 10) and preserving 70 (90 less 20). That results in a preservation percentage of 33.8% (70/207) or 7 trees short to make the 37% (77/207 = 37.2%) standard of the ordinance.

In the Tree Conservation Ordinance, Division 2; Variance, Section 1226-299 states that, in granting any variance from the City’s Tree Conservation Ordinance, City Council must find as follows:

1. There are special circumstances or conditions affecting the property such that the strict application of this ordinance would deprive the applicant of the reasonable use of his land.
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
3. The variance will further the objectives and policies of this ordinance, this Code, the Zoning Ordinance and the Master Plan.

Since the Preliminary Plan has expired, and because of the length of time the applicant has been working with the City, they will re-apply for recommendation of approval of the Preliminary and Final Site Condominium Plans concurrently from the Planning Commission, if granted a Variance from the Tree Conservation Ordinance.

**RECOMMENDATION:**

It is the applicant’s responsibility to demonstrate to City Council that the above conditions for granting a variance have been met or mitigated; therefore, Staff continues its policy of not providing a recommendation on any variance request.

**RESOLUTION**

**NEXT AGENDA ITEM**

**RETURN TO AGENDA**

<b>APPROVALS:</b>	<b>SIGNATURE</b>	<b>DATE</b>
<b>Department Review</b>		
<b>Department Director</b>		
<b>Mayor</b>		
<b>City Council Liaison</b>		