

2023-0057

Public Hearing and Request for Preliminary Site Condominium Plan Recommendation - JRMFD2022-0022 - South Oaks Site Condominiums, a proposed 9-unit detached single family condominium development on approximately 4.8 acres located on the north side of South Blvd., between Coolidge and Crooks, Parcel No. 15-32-376-078, zoned R-4 One Family Residential, Bruce Michael, South Oaks, LLC, Applicant

(Staff Report dated February 21, 2023, reviewed site plans, elevations and renderings, Three Oaks Community letter, Applicant's response table, Bergman traffic memo, development application, EIS, Rochester Housing Solutions Overview, EGLE letter, public comment received and notice of public hearing had been placed on file and by reference became a part of the record thereof.)

Present for the Applicant were Bruce Michael, South Oaks LLC, and Bill Godfrey, Three Oaks Communities.

Chairperson Brnabic read the request for Preliminary Site Condominium Plan recommendation, a Wetland Use Permit and a Tree Removal Permit for South Oaks Site Condominiums, a proposed 9-unit detached single family

condominium development on approximately 4.8 acres located on the north side of South Blvd., between Coolidge and Crooks, Parcel No. 15-32-376-078, zoned R-4 One Family Residential. Bruce Michael, South Oaks LLC is the applicant.

Mr. Roediger stated that the property is almost five acres on the north side of South Blvd. and it consists of two residential parcels that have been privately owned in the past. She said that immediately to the east is the Leuder's Drain which is owned by Oakland County. She said that Leuder's Drain is part of a conservation easement but the two parcels that are part of the proposed site plan are privately owned and were never part of the conservation easement. She explained that this is a four part request, starting with the Preliminary Site Condominium Plan which is a recommendation of the Planning Commission to City Council. The condo process requires preliminary and final plans both to be presented and both require that the Planning Commission make a recommendation to City Council. She noted that the Wetlands Use Permit also requires the Planning Commission to make a recommendation to City Council. She said there is also a tree removal permit request and a natural features modification request. She explained that for any development that occurs within the city, 40 percent of all trees outside of building envelopes have to be preserved. She explained the site is heavily wooded and there would be a lot of trees preserved and also a lot will be coming down. She said that the site is zoned R-4 One Family Residential, and referred to the overall site plan shown on overhead with nine units on a straight road. She said there is also a request for a modification to have a sidewalk on just one side of the street instead of two. She described entering the site from South Blvd., noting that first there is a detention basin, then five units, then a wetland preservation area at the center, and then a second retention basin, and then four more units.

Mr. Roediger explained that the proposed wetland impacts to the site have been reviewed by ASTI, who has been the City's consultant for over 20 years. She noted there are three separate wetlands, two of which are very small with low ecological quality and function per ASTI's professional opinion, and Wetland C which is the largest wetland onsite. She said the City takes into account the quality of the wetlands when assessing such requests. The proposed road goes through a portion of Wetland C and the rest of it would be preserved. She said overall there are 0.44 acres of wetland onsite and there would be 0.28 acres of wetland to be filled, and also a natural features setback modification where the road crosses the wetland.

Ms. Roediger presented the floor plans and elevations for the units, and noted the applicant is using the lot averaging provisions of the ordinance and meets the zoning requirements.

Mr. Michael said he is a partner in the Three Oaks Communities company and said for the sake of brevity he will not be doing a presentation but will be available for questions.

Chairperson Brnabic reminded those in attendance who wish to make public comment that each speaker has three minutes to make comments or ask questions, and she said that all questions would be answered together at the end

of the public comment period. She opened the Public Hearing at 7:31 p.m.

Arthur Siegal, 2777 Franklin Rd. Ste. 2500, Southfield, MI 48025 said that he is an attorney representing two residents. He pointed out that the Code of Ordinances states that the preservation of trees shall be of paramount concern and importance, and there are a number of items that the City has not fully addressed with regard to this request. He said the applicant couldn't provide a 25 ft. natural features setback where the road runs through the wetlands, and it is up to the Planning Commission and City Council to determine if the minimum setback is appropriate, or it should be more. He said the development should be approved by EGLE before the City approval; if the State says no then there is no point to proceed.

Harsha Gowda, 3805 Walnut Brook, questioned why taxes are being used to purchase and restore wetlands in other locations in the city if they are allowed to be removed here; there are many standards in the wetland and tree preservation ordinance that should be weighed and other locations should be considered; and EGLE should review the proposal before the City.

Gary Chopp, 2529 Elm Brook Court, concurred with his neighbor's comments and stated that although they expected this property would be developed, no one expected the wetlands to be developed or adjacent to wetlands. He noted that he contacted his neighbors and no one is in support of this and strongly objects.

Karen Wilson, 3695 Cedar Brook Dr., expressed concern regarding flooding since there was a flood last year that came up to within 15 ft. of her walkout basement, and with the new development there will be nowhere for the water to go; regarding removal of wetlands and displacing of wildlife and disappearing green space in the city. She said that the last time it flooded it went past the extent of the flood zone shown on the map.

Chairperson Brnabic noted there were emails received in opposition to the development due to the wetland issue, from Loananh Pham, Helena Balon, and attorney Siegel who already spoke tonight. She asked Mr. Boughton if he would like to speak to Ms. Wilson's concern regarding flooding.

Mr. Boughton noted that when Sanctuary Blvd. was constructed, the FEMA maps stopped at South Blvd., and a study was done to determine how much of the floodplain entered into the Rochester Hills. He said the FEMA maps have been updated and the most recent maps show the elevation from that development, which is the elevation shown for this development as well.

Chairperson Brnabic asked Ms. Roediger about the reference of the City purchasing 11 acres of green space nearby the development.

Ms. Roediger responded that is correct, and explained that the City recently purchased 10 acres on Auburn Rd. north of this property. She said the City has an Open Space Committee that ranks and evaluates properties in the city based on their ecological value and the presence of natural features, and the City has tried to acquire properties whenever feasible. She is not aware that this

property ever came to the City for such a discussion for purchase with open space funds.

Chairperson Brnabic clarified that this is not the Zoning Board of Appeals, and the Planning Commission is not granting a variance here today, as that can only be granted by the ZBA. She asked staff to address questions regarding the 25 ft. minimum natural features setback.

Ms. Roediger responded that there are proposed wetland impacts at the centrally located wetland on the property, and normally at the edges of the wetland there is a 25 ft. required natural features setback to allow for cleansing of surface water before it goes into the wetland. She said that can't happen for this development with the proposed road, so on the east side a buffer cannot be provided. She noted she would like to respond to the letter received by Mr. Siegel this afternoon, and stated that the City's consultant ASTI has not had time to provide a response to the letter. She said that the tree review was conducted by Matt Einheuser, the City's Natural Resources Manager. She stated of the missing information Mr. Siegel noted, all but one of those items are provided on the landscaping sheets submitted, with the exception of the landscape cost estimate which will roughly be \$188,000 based on the standard cost per tree, and that would go into the City's tree fund to plant trees in other locations. With regard to the EGLE permit needing to be issued first, she said in all of her professional planning history the State requirements such as EGLE and MDOT come at the final level of review, after the City initially determines if the project is feasible. She said that any recommendation of moving forward would have an EGLE permit, as well as any other required permits, as one of the conditions of approval. She said that ASTI has over the years really bulked up their reviews about the quality of wetlands and they feel fully confident they have met all of the standards of the ordinance for approval of the wetland use permit.

Chairperson Brnabic noted that all of the emails received would become part of the record along with comments from speakers tonight. She closed the public hearing at 7:51 p.m.

Mr. Michael explained that they had EGLE out for a pre-application conference; they walked the site and confirmed the flagging of the wetlands. He said they are proposing a retaining wall along the street and will be providing an open bottom culvert as recommended to minimize impact to the wetland. He said they have feedback from EGLE, and this project is not sight unseen for them.

Ms. Neubauer advised the applicant that the Commissioners always want developers to meet with residents before coming to the public hearing, and noted some of these issues could have easily been already addressed. She asked Mr. Michael if he had reached out to the neighbor to address concerns.

Mr. Michael said that he sent them an email notification with an attachment and gave them the ability to get ahold of him, and he did not receive any feedback.

Ms. Neubauer said that with regard to the EGLE issue, the City could approve the development and then the State could say no. She said that a lot of the

issues brought up are beyond the scope of the Planning Commission's responsibilities. She said the Commissioners have to balance the residents' concerns with the property rights of the owner. She commented that she wished the developer would have held a meeting with residents before today, and it would have alleviated a lot of the issues. She said the Commission is looking if the development fits in with surrounding communities and is appropriate. She commented that there is a gap in communication between the developer and residents and she is not sure if he is willing to have a meeting with them.

Mr. Struzik supported Ms. Neubauer's comments and agreed that as a resident it is unfortunate to see trees come down on undeveloped properties. He stated that the City's tree ordinance is a great mechanism to take trees that are in the way of development and move them to other areas and therefore have opportunities to add trees elsewhere where they are needed. He said that he was able to get three trees from the tree fund in his front yard along the right-of-way. He asked the applicant about the homes reserved for people with intellectual or development disabilities (IDD) and asked how many houses it would be. He asked if that would be for perpetuity or just until the first sale of the home. He said the educational system has separated out people with disabilities and it is a fantastic opportunity to provide integration.

Mr. Godfrey responded that the homes for those with disabilities will be the three northern houses, and that Three Oaks Communities will be governed by a HOA. He explained that there are restrictions on the homes being purchased, that the purchases must be by IDD adults. He said that according to the bylaws they will have to sell to someone else who has a disability. Mr. Godfrey noted they would be customizing each home.

Mr. Weaver asked Ms. Roediger to explain the lot averaging provisions. He also asked where the split rail fence would be going and referred to Sheet S-6.

Ms. Roediger responded that the provisions allow a developer to break up the monotony of having the same sized lots as long as the average meets the minimum requirement, and noted it does not result in an increase in the number of units.

Mr. Michael responded that the split rail fence would go along the edges of the wetlands at the recommendation of ASTI, and noted that usually EGLE wants that too to keep people from mowing into the wetlands. He said there will be a safety fence along a portion of the wall where the height requires it for safety.

Ms. Roediger said that in the past they have required boulders or something to demarcate the edge of the wetlands.

Mr. Weaver asked staff if there is a limit on how much money a developer can put into the City's tree fund as opposed to planting onsite. He noted that over 82% of the trees they are removing are being put into the tree fund. He asked for confirmation if the credits would be based on the size of trees planted. He asked if there is a possibility for the developer to install larger trees and then put less into the tree fund.

Ms. Roediger explained that staff struggles with that issue and wants to encourage trees in the ground as opposed to paying into the tree fund. She stated that they can't plant them in the wetlands and there is not a maximum amount that a developer can put into the fund. She said that it is a balance from the City's standpoint and the City recently increased the amount to be preserved to 40% of the trees outside of the building envelopes, which was the maximum amount the City Attorney felt comfortable with without it being a taking of property rights. She stated that all of the difficult-to-develop properties are the ones that are left in the city now, and it is the City's job to balance individual property rights with getting as much tree and natural feature preservation as possible. She said the tree replacement requirements used to be 1:1, and the ordinance has been modified to recognize specimen trees that if those are removed, a higher replacement value is required.

Mr. Michael said that now that he is aware they would consider doing that in their final plans. He pointed out they are providing a dozen trees on each homeowner's lot at their cost.

Mr. Weaver asked what would happen if a homeowner doesn't want the trees on their property. He asked if they would be clearing homesites even if they don't have a home buyer yet.

Mr. Michael said there will be association bylaws to maintain the trees and they will give them the plot plan, and the trees will be part of the contract. He explained they would need to clear the homesites to grade, they have no choice, and they will plant as they go. He said with their last development they were 80% sold before they started site work.

Mr. Weaver said if there is an opportunity to hold off on taking trees down until they absolutely have to, they should wait. He asked Mr. Michael that for the next Planning Commission meeting to show the existing trees as more of their actual size, and expressed concern about the health of all the existing trees during construction. He asked if there is a maintenance plan for the seed mix that will be used in the wetland areas. He asked for confirmation if there is a culvert over the main Wetland C. He noted the detention areas can become like wetlands if they are properly designed and seeded. He said that he is not crazy about the sidewalk on the other side of the road and asked if there is any way it could be flipped to be in front of the homes.

Mr. Michael said that EGLE and ASTI both want bottomless culverts so wildlife can more easily traverse them. He said that Matt Einheuser was also very concerned about the existing trees being shown as their actual size to ensure the new trees would be planted sufficient distance away so both new and existing trees survive. He said that they put funds in their HOA budget in case the plants from the seed mix do not survive. He said the two wetlands on the end of the property are of low value and have invasive species, while the center wetland is very nice and they have done everything they can to avoid disruption as much as is possible.

Chairperson Brnabic agreed with Mr. Weaver and said that she would not support the development without a sidewalk in front of the houses. She asked

Mr. Michael whether these are all single family homes and there is not a group home.

Mr. Michael responded that they are residences that will house developmentally disabled adults with three to four individuals in one home and they will own the homes. He said there would be some clustering of families together and they would receive some funding from the county to allow a critical mass to be able to make the numbers work.

Chairperson Brnabic noted that with regard to the EIS, the applicant compares the development to more affordable housing but the prices are indicated to be between \$500,000 and \$900,000, and she said she doesn't see that this provides the missing middle housing.

Mr. Michael suggested that may be an old version of the EIS, and apologized if the information is incorrect.

Chairperson Brnabic said if the information is incorrect the applicant needs to go through it and update it.

Ms. Denstaedt said she is concerned that the community should have an opportunity to have a town hall meeting with the developer, and the fact that the applicant sent an email to the community and didn't get any responses when there are so many people at this meeting doesn't correlate. The neighbors should have an opportunity to sit down and chat with the developer, and then she would feel better about the request.

Ms. Neubauer stated that since the applicant has to come back with an updated EIS, she asked that the developer have that meeting with the residents so that there is a better understanding. She said that in the ASTI report there were some conditions to be met, and she asked the applicant whether those have been addressed; one was a typo or a mislabeling error but the other two were not.

Mr. Michael responded that they have addressed all of the concerns that were important. He said there are some questions as to how to interpret the wetland setback and how to compute it, whether it is measured from the outside edge or the inside edge, but anything physical needing to be done they complied with. He noted that only five residents spoke tonight.

Ms. Neubauer read condition "5a" from the ASTI report. She encouraged the applicant to clean up the terminology, as well as provide an updated EIS for the next meeting. Additionally she strongly urged them to have a town hall with the residents, and with regard to the emails received she said she assumes the HOA representatives are speaking for more than one person.

Ms. Roediger stated that ASTI reviews the same plans as staff, and there may be some inconsistency with terminology among the different landscape sheets which are completed by different disciplines.

Mr. Dettloff asked the price point planned for the homes, and if they are to be all

privately funded with no public money. He urged the applicant to hold neighborhood meetings, stating that because of the magnitude of the projects that would be the smart way to go. He thanked the applicant for bringing the project to Rochester Hills.

Mr. Michael said he would be happy to hold the meetings with residents.

Mr. Godfrey stated that the base price per ownership interest would be around \$180,000 and for the neurotypical homes it would be high \$600,000s or low \$700,000s.

Ms. Roediger noted that the City can provide HOA contact information that is on file with the City.

Mr. Struzik stated that sidewalks are needed on at least one side of the street, and he is in favor of the current positioning. He said if the sidewalk is placed on the side of the houses there will be 10 or 11 conflict points with people backing out of their garages. He is in favor of it where it is shown opposite of the houses.

Mr. Galina said the concept and partnership with RHS is outstanding. He commented that a meeting with the surrounding neighborhoods has to happen; he stated that he would have difficulty if the information was received through an email if he lived there. He said hopefully this comes together for a nice neighborhood.

Ms. Neubauer noted that she would make motions to postpone the site plan, wetland use permit and tree removal permit items. Mr. Dettloff indicated that he would support these motions.

Ms. Neubauer motioned to postpone this item until the applicant provided an updated EIS; cleaned up plans with regard to labeling; and for the other reasons stated on the record. She explained that she hopes the residents are getting a better knowledge of the role of the Planning Commission especially with Ms. Roediger's comments, and they can always feel free to contact the department with questions. She stated that many of the concerns brought up are outside of the purview of the Planning Commission. She urged the developer to meet with surrounding residents and neighborhoods.

Mr. Dettloff pointed out that in the packet it noted the applicant had contact with EGLE in 2021, but then tonight it was discussed that they were out to the site recently. He asked the applicant when that occurred.

Mr. Michael responded that he did not recall the date.

After voice votes on the motions to postpone each item, Chairperson Brnabic announced that each motion passed unanimously.

Chairperson Brnabic told the applicant that to be clear as part of the postponement the applicant needs to set up a neighborhood meeting and have those discussion results before returning to the Planning Commission.

Mr. Michael acknowledged he would set up the meeting.

A motion was made by Neubauer, seconded by Dettloff, that this matter be Postponed. The motion carried by the following vote:

Aye 7 - Brnabic, Denstaedt, Dettloff, Gallina, Neubauer, Struzik and Weaver

Excused 2 - Bowyer and Hooper

Resolved, in the matter of City File No. PSP2022- 0014 South Oaks Condominium, the Planning Commission hereby postpones the Request for Preliminary Site Condominium Plan Recommendation, until the applicant provides an updated EIS, provides updated plans with regard to labeling, and has the opportunity to hold a town hall with the neighboring residents.

2023-0058

Request for Wetland Use Permit Recommendation to impact approximately 12,200 square feet of wetlands and modify the required natural features setback for South Oaks Condominium Development, a proposed 9-unit detached single family condominium development on approximately 4.8 acres located on the north side of South Blvd., between Coolidge and Crooks, Parcel No. 15-32-376-078, zoned R-4 One Family Residential, Bruce Michael, South Oaks, LLC, Applicant

See Legislative File 2023-0057 for discussion.

A motion was made by Neubauer, seconded by Dettloff, that this matter be Postponed. The motion carried by the following vote:

Aye 7 - Brnabic, Denstaedt, Dettloff, Gallina, Neubauer, Struzik and Weaver

Excused 2 - Bowyer and Hooper

Resolved, in the matter of City File No. PSP2022- 0014 South Oaks Condominium, the Planning Commission hereby postpones the Request for Wetland Use Permit Recommendation, until the applicant provides an updated EIS, provides updated plans with regard to labeling, and has the opportunity to hold a town hall with the neighboring residents.

2023-0083

Request for Tree Removal Permit Approval - JRMFD2022-0022 - to remove one hundred forty (140) regulated trees and provide one hundred twenty (120) replacement trees for South Oaks Site Condominiums, a proposed 9-unit detached single family condominium development on approximately 4.8 acres located on the north side of South Blvd., between Coolidge and Crooks, Parcel No. 15-32-376-078, zoned R-4 One Family Residential, Bruce Michael, South Oaks, LLC, Applicant

See Legislative File 2023-0057 for discussion.

A motion was made by Neubauer, seconded by Dettloff, that this matter be Postponed. The motion carried by the following vote:

Aye 7 - Brnabic, Denstaedt, Dettloff, Gallina, Neubauer, Struzik and Weaver

Excused 2 - Bowyer and Hooper

Resolved, in the matter of City File No. PSP2022- 0014 South Oaks Condominium, the Planning Commission hereby postpones the Request for Tree Removal Permit Approval, until the applicant provides an updated EIS, provides updated plans with regard to labeling, and has the opportunity to hold a town hall with the neighboring residents.