



Rochester Hills

Minutes

Planning Commission

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Chairperson Deborah Brnabic, Vice Chairperson Greg Hooper
Members: Susan Bowyer, Sheila Denstaedt, Gerard Dettloff, Anthony Gallina, Marvie
Neubauer, Scott Struzik and Ben Weaver
Youth Representative: Siddh Sheth

Tuesday, February 21, 2023

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Brnabic called the February 21, 2023 Planning Commission meeting to order at 7:00 p.m., Michigan Time.

ROLL CALL

Present 7 - Deborah Brnabic, Sheila Denstaedt, Gerard Dettloff, Anthony Gallina, Marvie Neubauer, Scott Struzik and Ben Weaver

Excused 2 - Susan M. Bowyer and Greg Hooper

Sara Roediger, Director of Planning and Economic Dev.
Jason Boughton, Utilities Services Manager, DPS/Eng.
Jennifer MacDonald, Recording Secretary

Chairperson Brnabic welcomed attendees to the February 21, 2023 Planning Commission meeting. She noted that if anyone would like to speak on an agenda item tonight or during Public Comment for non-agenda items to fill out a comment card, and hand that card to Ms. MacDonald. Members of public may also comment on an item by sending an email to planning@rochesterhills.org prior to the discussion of that item. She noted that all comments and questions would be limited to three minutes per person, and all questions would be answered together after each speaker had the opportunity to speak on the same agenda item.

APPROVAL OF MINUTES

[2023-0078](#) January 17, 2023 Regular Meeting Minutes

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

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

Excused 2 - Bowyer and Hooper

[2023-0079](#) January 30, 2023 Joint Planning Commission/City Council Meeting Minutes

Mr. Struzik requested a typographical correction to page 9 of the meeting minutes changing "lobbies haven't closed" to "lobbies have been closed".

A motion was made by Neubauer, seconded by Struzik, that this matter be Approved as presented with a typographical correction noted on page 9. The motion carried by the following vote:

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

Excused 2 - Bowyer and Hooper

COMMUNICATIONS

None.

PUBLIC COMMENT

Seeing no speaker's cards and no one wishing to speak, Chairperson Brnabic closed public comment.

NEW BUSINESS

2023-0081

Public Hearing and Request for Conditional Use Recommendation - File No. PCU2023-0002 to allow alcoholic beverage sales for on-premises consumption at a proposed pub/restaurant inside the Bellbrook Senior Community, 873 W. Avon Rd., zoned SP Special Purpose, Parcel No., 15-22-151-018, LeeAnn Pennington, Mercy Center for the Aging Nonprofit Housing Corp. DBA Bellbrook, Applicant

(Staff Report dated February 21, 2023, Application, Floor Plans, Pub Menu, EIS and Public Hearing Notice dated January 31, 2023 had been place on file and by reference became a part of the record thereof.)

Chairperson Brnabic introduced the public hearing request for a conditional use recommendation to allow alcoholic beverage sales for on-premise consumption at a proposed pub/restaurant inside the Bellbrook Senior Community, 873 W. Avon Rd., zoned SP Special Purpose, and invited the applicant up to the presenter's table.

LeeAnn Pennington, Executive Director at Bellbrook and Becky Lund, Vice President of Operations for Trinity Health Senior Communities, owner and operator of Bellbrook Senior Community, were in attendance to represent the Applicant.

Ms. Roediger presented the staff report, noting that Bellbrook is looking add alcoholic beverages for consumption at their existing facility. She explained that there are no external changes proposed to the site. As serving alcohol is a conditional use, the Planning Commission must take into consideration factors such as the surrounding properties and any impacts to any other areas in the community and is requested to make a recommendation to City Council. She noted that the site is surrounded with multiple family to the east, single family, Rochester University and some office to the north.

Chairperson Brnabic opened the public hearing.

Carolyn Claerhout, 54 Stonetree, suggested that this item could open a Pandora's box, wondering if one senior community was allowed to have alcohol, others will want it. She noted that her dad is in a facility and there are dents all over the cars in his parking lot. She expressed concern for the safety of everyone.

Having no additional cards and seeing no one else wishing to speak, Chairperson Brnabic closed the public hearing at 7:08 p.m.

Ms. Lund indicated that they had assembled some information about the community and the population they serve. She explained that they are a faith-based not-for-profit senior living provider. On their campus they have approximately 108 independent living apartments, 48 deed-restricted condominiums sitting on Wexford Way, and 48 assisted-living apartments. They provide 36 skilled nursing and rehabilitation beds as well as 30 memory support beds. She stated that the overall idea behind the request is to add a pub in the main independent living area to be used for their independent living residents that live on campus. She noted that they have a full-service restaurant, a café, and this would be an addition of a pub that would be open pretty limited hours three days a week, 3 p.m. - 7 p.m., to allow their independent living residents to be able to purchase alcoholic beverages outside of their apartment. She noted that if they don't drive they would still have the option to take advantage of those services right on the campus. She mentioned that they have been reinvesting in the campus, and in the last 12 months have updated the full-service restaurant and café, added the addition of the pub, are expanding their independent living apartments and are renovating units to have spacious two bed, two bath options. She noted that they also have health and wellness programs, mass and Protestant religious services, a mobile library, and transportation. She added that they did include snapshots of what the pub will look like along with an example of the menu, noting that it is primarily beer and wine sales. She stated that the overall objective is for the significant population of the residents that they serve on the camps will have alternative dining options and have full-service light fare with beer and wine.

Chairperson Brnabic noted that she received one more speaker's card, and invited Mr. Williams to speak.

Gary Williams, 984 Wexford Way, stated that while he is not a resident of Bellbrook, his 93-year-old mother is. He commented that she is distraught that the library is being converted to a bar and she finds it disconcerting in terms of atmosphere. He stated that alcohol being dispensed in his house is not something that he would desire.

Chairperson Brnabic questioned the hours of operation.

Ms. Lund replied primarily 3 p.m. to 7 p.m. three days a week.

Chairperson Brnabic questioned whether alcohol has been served as a meal option prior to this request.

Ms. Lund responded that residents can consume their own alcohol, but they

cannot do any beer or wine sales. She explained that they can host their own happy hours. She noted that in the pub they would be able to purchase beer and wine and light fare. She noted that as they do not currently have a liquor license, the restaurant cannot sell. She explained that for large events or a themed dinner, there is complimentary beer and wine available, but not for sale.

Chairperson Brnabic mentioned that when her mother was in assisted living in Lake Orion, they had the option as a part of a meal.

Ms. Lund commented that it is very common in a continuing care retirement community to have this available.

Chairperson Brnabic stated that they had a pub too, with a happy hour. She commented that she never ran into a problem observing this at that community when she visited a couple of days a week.

Ms. Neubauer expressed her thanks to Bellbrook for the things they do for the community and the seniors. She explained that her colleagues have placed several of their seniors there who have become wards of the State and do not have anyone to take them in. She stated that Bellbrook has always been very accommodating to take these seniors and make it their forever home. She commented that many times residents are placed in a senior facility not of their own will or by choice, and just because they are forced to leave their home, she does not believe that they should be more restricted in a secondary home than they would be in their own home. She stated that a lot of those seniors are not able to leave or drive and this would be their only resources. She commented that she would hope that Bellbrook would make it financially sustainable for them to be able to enjoy the same kind of life they would have if they were still living on their own. She noted that they have her support, and thanked Bellbrook for taking care of their seniors.

Mr. Dettloff questioned whether a resident could bring a bottle of wine to dinner from their own residence.

Ms. Lund responded that she does not know that they have had that situation come up often. She stated that she does know that they will host happy hour functions usually the hour before dinner.

Mr. Dettloff noted that obviously the Liquor Control Commission has to get involved and asked where they were in the process.

Ms. Lund responded that there are three different steps within the City to work through, and commented that Clerk Scott has been working with the team.

Ms. Pennington stated that she has all of the information that she has turned in to the City Clerk's Office and now they are working through those next steps with the Liquor Committee and on to City Council for the final approval.

Ms. Lund stated that those three things have to be done before this application could even be submitted to the State.

Mr. Dettloff stated that he would echo Ms. Neubauer's comments as to what services Bellbrook provides to the community. He stated that he personally does not have a problem with it, and commented that other senior campus have this.

Ms. Lund responded that it is very common. She stated that Trinity Health has over 35 senior facilities across the country and the majority of their lifetime communities do have a liquor license. She stated that it is very common practice for a lifetime community that has independent living that this is an amenity for those seniors.

Mr. Dettloff stated that he supports that and it is a cool factor that this is being added.

Mr. Struzik stated that while he can see concerns with drinking and driving, he can see that this would more likely resolve those and could potentially eliminate trips where a resident could drive to another place to consume beer or wine and would instead do it on site and walk to a common area or back to their room. He commented that this could eliminate the car trip where alcohol is involved. He stated that he sees the largest potential impact within the site and if there is a negative impact the people running it would feel it. He commented that he does not have too many concerns about the adjacent uses. He stated that he sees this as another way to allow residents to be independent and responsible. He mentioned that his grandfather worked 40 years for Michigan Bell and retired and eventually could not live in his home anymore, and he ended up in an independent living facility. He stated that he got three meals a day in the cafeteria and while he did not know if they sold alcohol, the fridge in his room was exclusively for Miller High Life. He commented that people are already consuming alcohol there and in senior living facilities. He stated that he sees this as a good thing and a good way to serve those who worked all their lives and are now in a facility.

Ms. Neubauer moved the motion in the packet to recommend approval, and the motion was seconded by Mr. Dettloff.

After the vote, Chairperson Brnabic announced that the motion passed unanimously.

Ms. Roediger noted that this will move on to City Council once the applicants go through the required process with the Liquor License Technical Review Committee. She explained that both items would be taken together at the City Council meeting.

A motion was made by Neubauer, seconded by Dettloff, that this matter be Recommended for Approval to the City Council Regular Meeting. 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 File No. PCU2023-0002 (Mercy Services for the Aging

NonProfit Housing Corp. dba, Bellbrook), the Planning Commission recommends to City Council Approval of the Conditional Use to allow sales for on premises alcoholic beverage consumption associated with a restaurant use within the existing senior living community, based on documents received by the Planning Department on January 27, 2023 with the following findings:

Findings

1. The proposed use will promote the intent and purpose of the Zoning Ordinance.
2. The existing building and proposed conditional use have been designed and is proposed to be operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the general vicinity, adjacent uses of land, and the capacity of public services and facilities affected by the use.
3. The proposal should have a positive impact on the community as a whole and the surrounding area by providing additional amenities to the existing and future residents of Bellbrook.
4. The existing development and proposed use is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, water and sewer, drainage ways, and refuse disposal.
5. The existing development and proposed use should not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.
6. The proposal will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

Conditions

1. City Council approval of the Conditional Use.

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 contact 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.

Chairperson Brnabic called for a recess at 8:34 p.m and called the meeting back to order at 8:45 p.m.

2023-0059

Public Hearing and Request for Preliminary Site Condominium Plan Approval - Walton Oaks Site Condominiums, a proposed 11-unit, detached single family condominium development on approximately 6.8 acres at 3510 Walton Blvd., located on the north side of Walton Blvd. between Adams Rd. and Firewood Dr., zoned R-2 One Family Residential, Bruce Michael, Walton Oaks, LLC, Applicant

(Staff report dated 3-21-23, Reviewed site plans, floor plans and renderings, Three Oaks Communities LLC letter and response table, Rochester Housing Solutions Overview, Development Application, EIS, WRC Letter dated 4-14-22, Public Comment 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, Walton Oaks LLC, and Bill Godfrey, Three Oaks Communities.

Chairperson Brnabic introduced the request for preliminary site condominium plan and tree removal permit approval for Walton Oaks, an 11-unit detached single family condominium development on approximately 6.8 acres located at 3510 Walton Blvd., on the north side of Walton Blvd. Between Adams and Firewood Dr., zoned R-2 One Family Residential, Bruce Michael, Applicant.

Ms. Roediger explained that this is a similar request to the South Oaks proposal, although there are different site conditions and concerns, and there are no wetlands on this property. She said the proposal is for 11 site condos and the applicant is looking for preliminary site condo recommendation to City Council. She said this is a heavily wooded property, and this will be the first of four public meetings for this project. She presented the zoning map and noted the site is on the edge of two different single family residential zoning districts and the proposal meets all of the R-2 district requirements, using the lot averaging provisions which allows for differences in lot sizes but does not increase the density allowed. Ms. Roediger explained that the layout utilizes a modified "T" turn at the end of the road and shows a sidewalk only on the side of the road with the homes, with a modification required for that. She noted that the subject parcel immediately abuts a Consumers Energy gas line to the east side of the property and this land provides additional buffering around the development. She said there is an existing residence along Walton that will remain. She explained that entering from Walton, first there would be a detention basin, then the condominiums and there would be a shared detention basin at the rear on the west side, and it culminates with the modified "T" turnaround. She said the look and floor plans are very similar to the South Oaks development.

Mr. Michael said that for the sake of brevity he would not give a presentation and would just answer questions.

Chairperson Brnabic noted there have been many emails received along with 338 petition signatures dated between June and September 2021 that were in

strong opposition to a rezoning, a conditional use or a PUD for this property. She explained that none of those options are being requested tonight, and she noted that the ZBA did deny the subdivision open space request that was before them for this project last year. She stated that the ZBA determined that no practical difficulty existed and the land could still be developed under the R-2 zoning, the owner would not be prevented from using the property for the permitted use, and that granting the variance would void the intention and purpose of the subdivision open space plan option. She said the applicant is now using the lot averaging provisions and the average cannot be less than the required width for the district which is 100 ft. She reviewed the lot widths from the plans and opened the public hearing at 8:49 p.m.

Noreen Meganck, 172 Stonetree Circle, opposed the development due to the difficulty of developing a property with such issues, water concerns, the location and sufficiency of the proposed detention, and the inappropriateness of a "T" road for emergency vehicles.

Jessie Lee, 190 Stonetree Circle, said she always knew the property would be developed and had questions and concerns regarding construction traffic, noise, hours, and timeline; the need for guarantee that trees are replaced onsite and the timeline; procedures if a new buyer does not want the trees on their property; flooding of her yard and whether the proposed detention system would be sufficient; and safety risks for children playing outside with the detention pond.

Ray Toma, 202 Stonetree Circle, opposed the development and expressed concerns regarding lot widths and increased density; stormwater detention being located partially on the condo lots and whether that was done to increase density; concern about the "T" at the end of the road because it is the least practical option and ugly and is done to increase density; and the lack of conservation of preservation areas. He said that the development has been designed to increase density and the developer then cannot replant all the required trees onsite.

Roger Smith, 139 Bellarmine, thanked the Planning Commission and said this request has come a long way since the first presentation a few years ago, the density is down but there are still concerns regarding protecting the character and economic and social stability of the surrounding areas. He said they went to Maple Oaks in Saline and their nearly identical houses do not preserve the character of Rochester Hills and he showed pictures of that development. He referred to a lease they have with Consumers Power for property on Bellarmine for their use and they maintain the property, and behind that is a narrow strip where the developer will plant a small amount of deciduous trees which will not provide sufficient screening.

Susan Mason, 308 Shellbourne Dr., opposed the development and said during a neighborhood meeting when the developer wanted to rezone to R-5 with 36 units, with IDD people there were statements made that they didn't want the people in their backyard but that is not the case. She said at a meeting last year they said it was a hardship to not be granted a variance and they do not even own the property. The code states that the new homes need to be similar

to surrounding homes with 50% brick, that if the homes look similar it may cause issues for the intellectually disabled adults, and with four people buying a home it is no longer a single family home it is a multi-owner unit; and questioned continuity of care if the parents pass on.

Don Courtright, 1130 Whispering Knoll, supports the developments at Walton Oaks and South Oaks because his son has Down's Syndrome and he works and participates in the community. He said Walton Oaks and South Oaks are great locations for them, and there are many other young adults with similar backgrounds in Rochester Hills. He said they all want the same opportunity for a forever home in Rochester Hills and this is a great opportunity that will offer a safe environment to live interdependently with the neighborhood and the community.

Steve Raffin, 460 Gunder Dr., said he is a licensed builder and has worked in similar communities and he has worked on projects in Rochester Hills small and big. He said he worked on a project with Mr. Rewold and went around and around with the building department and were told to up their game to a higher standard. He said what is comical to him now is one of the exact things a building official said to them is they will never be Auburn Hills or Sterling Heights. He said Rochester Hills will let anybody building anything, anywhere. He said if Rochester Hills wants to maintain what we have the City is ruining that by letting every little parcel get developed.

Chairperson Brnabic called Thomas McDonald but he did not come forward to speak.

Ellen Smith, 215 Bellarmine, said she was speaking as an HOA representative and expressed concern that since this is a road and not a driveway it will generate a larger volume of traffic and noise; the inadequacy of the landscape plan to shield them from noise, headlights and exterior lighting; the loss of trees and the leveling of the rolling hills; and stormwater on the west property line. She said that due to the lack of privacy they are requesting a wall along the back of the 4-5 lots that have roadway running along their property line. She asked if the 138 trees that they will be paying into the tree fund for could be better used on this site to purchase larger, better quality trees instead of being used elsewhere in the city.

William Kerr, 438 Bellarmine Dr., said he hopes to have the same opportunity to meet with the developer, since they received an email with 29 pages of plans that was hard to understand and he would just like a clear picture of what is being asked for.

Julie Chinoski, 48 Stonetree Circle, questioned whether the developer owns the property and if not can they be asked for all of this; whether the detention pond is being figured in as part of the green space, and if so whether it has to drain within a certain amount of time; whether the IDD homes should be considered single family homes if they have multiple owners; that if this is a condo development and it would be managed by a management company and not an HOA; concern about the amount of space between the back of the homes and the property lines; not sure it is affordable housing; with the IDD housing the lack

of crosswalks to help residents for the main roads; and request a meeting with residents with the revised plans which was not offered.

Chairperson Brnabic asked for any additional speakers to provide speakers cards before she closes the public hearing.

Carolyn Claerhout, 54 Stonetree Circle, expressed concerns about water and having a neighborhood meeting with the developer. She asked why these homes are not considered licensed group homes, since those are permitted in R-2 zoning.

Mark Lula, 196 Stonetree Circle, expressed concerns that Rochester Hills is going the way of Naperville, Illinois where all of the green space was developed and it became second in population to Chicago. He said when they moved here all the homes in the downtown area were one story now they are allowed to do two story. He said to sandwich 11 condos between two mature subdivisions is not appropriate and to level the trees, dust, dirt, noise is inappropriate.

Noreen Meganck, 172 Stonetree Circle, said that she forgot to mention that as she studied the plans, 3 ft. diagonally off the corner of her property is the storm drain. She said they have a pool with a fence right on their property line, and when the drain was constructed in the 1990s it collapsed and their pool was damaged and their fence was destroyed, and she has a major concern with them tying in at that corner and said it will dump more water to Stonetree Circle which already floods.

Greg Scott, 44244 Chedworth Dr., Northville, MI said that he is the father of a 26 yr. old who is blind and cognitively impaired, and they have been looking for a long time for a place to him to live, and there are not many solutions out there. He said they are looking this over very carefully and feel this is a fantastic solution and urge the commissioners to approve this as soon as possible.

Chairperson Brnabic closed the public hearing at 9:23 pm. She noted there were quite a few questions posed from the public. She said the comment about this developer choosing questionable properties was answered earlier by Ms. Roediger, who stated that there are not many properties left in the city and those properties usually have issues to deal with. With regard to emergency vehicles, she said that is reviewed as part of the process and asked Ms. Roediger for clarification.

Ms. Roediger responded that as part of the site plan review process there have been many iterations of the road that have all been reviewed by the Fire Department. She said that there are different options for how a road can terminate and this is one of the approved options. She said that the City's hours of construction are 7:00 a.m. - 8:00 p.m. Monday - Saturday.

Chairperson Brnabic asked the developer for his planned timeline.

Mr. Michael responded that it should take two to three years to completely build out the development.

Ms. Roediger responded to a public comment about projects that have stalled through the years. She said Medilodge had an unfortunate situation with COVID and a change of ownership, but the City has performance guarantees and bonds, and projects have various expiration dates. She said from a planning standpoint, once approved a project has one year to get through construction plan review and the land improvement permit. Basically, they have one year to "move dirt" and start construction with underground utilities. All permits have expiration dates and there are many checks and balances; however there can be unexpected situations arise and that's why the City holds performance bonds in the event that the City can be put in the situation of having to close out a site, as is the situation with Medilodge.

Chairperson Brnabic asked Mr. Boughton about the proposed detention areas and if this development would make flooding in the vicinity worse because the neighboring homeowners have had experience with flooding. She asked if the lot width averaging provision allows for increased density.

Mr. Boughton responded that he understands the concerns with regard to flooding. He said currently on Bellarmine there are about 9 acres of property draining from the northeast to the southwest corner, and it drops about 40 ft. in that distance, and that is why a lot of flooding has occurred in that location. He stated that in the 1960s when that subdivision was constructed there were only ditches provided in the front yards and no drainage provided in the back yards. He said when Stonetree Circle was constructed in the 1970s it was only designed with a few rear yard catch basins adjacent to the property line. He said that the Walton Oaks system has been designed and will provide a buffer with regards to capturing that 9 acres of drainage and discharge it to the Walton Blvd. ditch. He said there is an emergency overflow that may be used and has been designed to meet a 25 year storm event which is the current standard, however back in the 1970s only a 10 year storm event design was required.

Ms. Roediger explained that using the averaging provision, it would not allow for an additional lot. If some lots are larger and some are smaller, it wouldn't allow for additional density. She stated that additional items such as the "T" turnaround and tree removal were also noted to be ways to allow for increased density; however those items meet the City ordinances and the density is allowed per the zoning.

Chairperson Brnabic noted that some residents said that deciduous trees would not provide for adequate buffer for privacy at their homes.

Ms. Roediger responded that from a screening standpoint, the City could work with the developer to use some evergreen trees. In terms of the request for a solid screening wall, she explained that the City has preferred green screening instead of a solid wall. The tree fund would not allow that money to be spend on a solid wall, but more green screening could be planted to beef up the plantings along the property lines.

Chairperson Brnabic asked if it would make a home multi-family residential if four different people are purchasing the home. She said in essence that would be having four different homeowners and asked whether that would pose a

problem. She asked if it would mean four different people having a mortgage on the home.

Mr. Godfrey responded that not every home would be the same, and if individuals want to live together and own the same home that is no different than one family owning the home. He said it will be like having a family cottage when there are multiple owners, and he commented that this is the analogy they see here. He said for some of the homes the whole family may buy the home and then have their kids live there. He said for families in this situation usually their only option is to rent and then they have nothing at the end of their lives. He said one of the biggest challenges for these families is their financial planning. He said the flip side would be condemning such people to a lifetime of renting; this gives people choices, and there has been a lot of interest expressed. He said that the IDD adults would have a lot more control over their services and the life that they lead when they own the home.

Chairperson Brnabic thanked Mr. Godfrey for the explanation and said that offers a better or different understanding.

Ms. Roediger said there is the topic of whether the houses are for sale or rent. She explained that the City doesn't get involved or regulate in whether someone owns or rents their home. She stated that what the City does regulate is multiple family vs. single family, and staff has had that conversation with the developer from the beginning. She said the definition in the ordinance gets into what the definition of family means. Historically, it was a married couple, and obviously that definition has evolved substantially over time since the first zoning ordinances. The definition of family from a zoning standpoint is a group of people living together under a somewhat permanent basis of people that are living as one household unit, meaning that they share a kitchen and common areas, and they are essentially roommates living together. From the City's review and discussion with legal counsel, it really is a single family home because it is like a group of friends living together, they are just owning instead of renting. She said it is not individual apartments, it is a shared house.

Chairperson Brnabic asked about the property's ownership, and asked the applicant to confirm if they bought the property in 2020.

Mr. Michael said they have never made a representation that they own the property, and explained that they have a long term option to purchase the property.

Chairperson Brnabic noted the property would have to be purchased before they move forward with development, and she is thrown off because of what was presented at the ZBA she thought they were told that they purchased it in 2020.

Ms. Roediger responded that for most of the developments brought to the City, the developer has an option to purchase the property. She explained that normally developers don't purchase property unless they know that they can build what they are proposing. The application requires the property owner's permission to pursue approvals with the city, similar to the property on South Blvd.

Chairperson Brnabic said there was someone who thought there might be a need for an added crosswalk.

Ms. Roediger responded that she loves that idea, she spoke with Engineering about that today, because this stretch of road does not have any additional crosswalk between Adams and Squirrel Rd. She said it wouldn't be warranted just for the addition of 11 new homes, but for all of the existing homes to walk to Meadowbrook and Oakland University. She explained the City's Capital Improvement Plan's call for projects is due tomorrow for this year. She said she would take a look at it for 2024 and it would be weighed against other requests for capital improvements in the city.

She noted there were also public comments about the building architecture, individual neighborhoods may have their own deed restrictions and this neighborhood would be different. She pointed out that they did add stone to these buildings; however, they don't have to match other neighborhoods' deed restrictions.

Ms. Roediger said that there was a question about whether the detention pond counted as green space, and she noted that there is not a green space requirement with this type of development. She said that if the new homeowners don't like the trees in their yards they can work with forestry to make changes as part of the approved site plan and their deed restrictions.

Mr. Michael said there would be a variation of the house designs; they showed one floor plan they are offering but there will be four different floor plans and they are not going to be having the same house with the same elevation side by side. He stated that the designs of the elevations would be "anti-monotony". He offered they would be willing to change the trees on the east side of the road from deciduous to evergreens as long as it is acceptable to Engineering since they are in the right-of-way.

Ms. Neubauer asked if four families purchase and get a mortgage, what would the deed look like, if it would be joint tenancy, or rights of survivorship and it will revert back. She stated that she works with developmentally disabled and the elderly, and she understands people are neglected and it can bankrupt someone to take care of them, and everyone should have a home. She asked if they will own a percentage of the home or the home in its totality.

Mr. Godfrey said it would be none of those, each portion, each individual unit purchased would have a separate legal description. He said they haven't worked out the legal details as to what each unit's legal description would include.

Ms. Neubauer asked if an individual can own 1/4 of a property and how the deed would look, if each deed would have its own legal description. She said if one person passes there will be other people on the deed and asked how that would work. She said if the deed situation is not worked out and there are separate units this project can't be represented as single family and this needs to be sorted out. She said this issue gives her pause and noted additional screening

would be better than a stone wall. She commented that usually when a developer comes to the Commission, they are presented with what all of the homes would look like and that would be nice to have. She mentioned the City's Street Committee review that was denied.

Ms. Roediger said that the definition of single family would require one integrated housing unit.

Mr. Godfrey responded that they have consulted with their attorney and the City's attorney about the deed as they want to ensure people can own the units as a suite within the structure, and that was resolved months ago. He said there would be separate legal descriptions.

Mr. Michael said that the home would be deeded to all the people buying it, and suggested that they could form an LLC.

Ms. Neubauer said that what is told and presented does not correlate, and there is a disconnect in how it will actually be done. She said she thinks it would be better if their attorney was here, it's either one family units or not. She said that it would be a big assumption to say that all of the people would be buying the home at the same time.

Mr. Michael said that discussing how the homes would be purchased is outside of the purview of land use. He said they will have to have a legal mechanism to allow each person to have their own suite and lock the door, so the people can own a home together, but they have the ability to be private within their own area. He would like to let the buyer make a decision about how they buy it, the group of families will decide how they do it. It might be an LLC, it might be as tenants in common, but they will get to make that decision.

Ms. Neubauer said that she understands that but what was presented does not correlate with her understanding of single family residential.

Mr. Godfrey said there are times when single family homes are owned by people who are unrelated or receive a home through an inheritance.

Ms. Neubauer said those types of situations often end up in litigation.

Mr. Struzik said that he sees an opportunity here in that there is a City owned parcel which seems like an awesome place to put a road to connect to Bellarmine Dr. He said he would want a pathway connection to connect these two neighborhoods, and he sees no reason why they wouldn't be able to walk through at least by foot walk to Adams High School without going out to Walton. He said that he understands the objections but that not providing the connection would be a huge missed opportunity. He said this is a community and it's disjointed, and stressed that he likes connected communities. He said if they wanted to build a walking pathway there would they need an easement, to have a walkway to the road and then have a crosswalk to the west side.

Ms. Roediger said that originally there was a street connection, and many residents did not want that option. She said that connection would have to cross

Consumers Energy property as well. She said that based on meeting with the neighbors that was removed.

Mr. Struzik said he doesn't want to see another neighborhood where there is only one entrance and exit. He commented that not every neighborhood should just be connected to a main road, when there are opportunities to provide connection. With regard to density, he said the proposed density is similar to the R-2 zoned neighborhood to the west, this is not being crammed in compared to the neighborhood to the west. He said he likes having owners live in the neighborhood, if the owners live there they care about the property since it's their investment. He said the City attorney should provide his opinion about the ownership questions in writing. He said he doesn't want a problematic ownership model but that issue might be outside of the purview of the Planning Commission. He noted that a green wall is much better than a masonry wall for screening purposes.

Mr. Weaver said that he has questions about the lot widths, and commented that it looks like the 9 lots running perpendicular to the road seem to be shorter, and the larger lots that increase the average are at the end. He asked if caretakers would be living inside the IDD homes at the rear of the development. He asked why the bottom of the detention basin is shown as concrete.

Ms. Roediger explained that the intent of the lot averaging provisions is to allow for smaller and larger lots but they have to meet the required average of the district.

Mr. Godfrey responded that it would be an option to have caregivers live there, or they can just staff the position and they would not be living onsite but just working onsite.

Mr. Michael noted that each IDD home has an office for caregivers.

Mr. Boughton explained that it is designed to be a dry basin, if it was just grass it would be difficult to drain.

Mr. Weaver asked about the type of fencing that would be used on top of the wall, and noted he doesn't see images of it in the plans. He said that he agrees with showing the green screening along the road with some larger trees. Regarding the overflow structures, he questioned if there was still water sitting in the detention basin would the depth require a fence. He asked the applicants to show existing trees on the plans as more representative of what is out there, to draw a crown and show the canopy size. He said there is a lot of grading proposed which could be within the drip line of the existing trees and he wants to ensure their survival. He asked staff whether the detention basin grading is allowed on the homeowners properties.

Mr. Michael said that the safety fencing is only for the retaining wall; it will be a metal fence with a handrail and not a split rail. He said it is shown for the South Blvd. project also, it was requested by Planning and they complied.

Mr. Boughton responded that the slopes on the detention basin are 1:6 so a

fence is not required.

Mr. Roediger responded that the grading for the detention basin is allowed on homeowners properties. She said that a maintenance plan would be required.

Mr. Weaver said there is a note on the plans about the irrigation requirements that they can be waived.

Ms. Roediger said there has not been a formal request for that.

Mr. Michael said it was not their intention to ask for such a waiver, they would not be irrigating the detention basins but they would everywhere else.

Chairperson Brnabic asked wither the EIS for this project has been updated to reflect accurate prices.

Mr. Michael said that it is accurate.

Chairperson Brnabic referred to plans where it said single family residential homes and then condos, and suggested the applicant clarify that on the plans for consistency.

Ms. Neubauer said that the applicant needs to provide a true and accurate representation of their request so that there is not confusion. She asked if they would like the Commissioners to vote on their request or to postpone it tonight. She suggested that it might be in their best interest to come back with their attorney.

Mr. Michael said that technically their request is for a site condominium. He said they would like a vote today; it takes forever to come back.

Chairperson Brnabic said that if the request is not approved it will be a year until they can come back unless the plan is totally different.

Mr. Godfrey said they would like the request to be postponed.

Ms. Neubauer made motions for postponement of the request for Preliminary Site Plan Approval Recommendation and the Tree Removal Permit until the developer comes back with an updated EIS with consistent terminology, includes in their the presentation the variations of home design, updates the screening and fencing, and addresses comments about the trees, and any other items on the record, and holds a meeting with the neighbors. She stated that she understands property rights and is an attorney and wants to encourage and help the developmentally disabled, but the developer needs to present a clean application.

Mr. Dettloff seconded the motions.

Mr. Godfrey asked if they could have a worksession or a preliminary conference to make sure they are checking all the boxes to ensure they will not be postponed again.

Ms. Neubauer suggested they work with staff and review the minutes of the meeting to ensure they resolve all of the issues.

Chairperson Brnabic asked for any discussion of the motions and there was none. After the voice vote on both motions to postpone, she noted the motions passed unanimously.

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. PSP20220005 Walton Oaks Condominium, the Planning Commission Postpones Recommendation of Approval of the Preliminary Site Condominium Plan, until the developer submits an updated EIS with consistent terminology, provides the variations of home design, updates the screening, fencing and landscape proposed, and holds an meeting with the neighboring residents.

[2023-0086](#)

Request for Tree Removal Permit Approval - to remove one hundred sixty-seven (167) regulated trees and thirty-nine (39) specimen trees and provide two hundred sixty-two (262) replacement trees for Walton Oaks Site Condominiums, a proposed 11-unit, detached single family condominium development on approximately 6.8 acres at 3510 Walton Blvd., located on the north side of Walton Blvd. between Adams Rd. and Firewood Dr., zoned R-2 One Family Residential, Bruce Michael, Walton Oaks, LLC, Applicant

See Legislative File 2023-0059 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. PSP20220005 Walton Oaks Condominium, the Planning Commission Postpones the Request for Tree Removal Permit Approval, until the developer submits an updated EIS with consistent terminology, provides the variations of home design, updates the screening, fencing and landscape proposed, and holds an meeting with the neighboring residents.

DISCUSSION

[2023-0082](#)

Drive Through Uses Ordinance Amendment Discussion

(Giffels-Webster memo dated February 13, 2023 and PC-CC Draft Minutes from January 30, 2023 had been placed on file and by reference became a part of the record thereof.)

Chairperson Brnabic introduced the ordinance amendment discussion for drive-through uses.

Ms. Roediger apologized for her inability to attend the recent Joint City

Council-Planning Commission meeting. She noted discussion at the Joint Meeting centered on various ordinance amendments that the Planning Commission wanted to work on at a more rapid pace and included what she would call the learning lessons from the Biggby drive-through that came before the Commission approximately one year ago. She explained that the issues that came out of that site plan review included the aesthetics of what the building looked like as the building was one of the shipping container-type of buildings, site circulation as that project was proposed in a Meijer outlot that did not have a great deal of circulation on the property, and the amount of traffic that was generated from these drive-throughs. She stated that in speaking with the City's consultant Giffels-Webster and working with them, they have developed what they think are some pretty easy tweaks to the drive-through ordinance. She added that all drive-throughs in the community are discretionary conditional uses through the Planning Commission, and commented that this is fairly unique as in many communities they are permitted by right as the trend for developments is fast casual convenience. She stated that because of the concerns that they have had it is a conditional use here; and ways were explored to beef up the language to address these concerns.

She explained that the first thing added was a condition that the structure has to be larger than 2,000 square feet, which prohibits the micro buildings that do not have any indoor component. She noted that if they are a part of a multi-tenant building, that would work just fine; and if they are on an outlot free-standing building, they must be on a permanent foundation and compatible with the neighboring development in the area. She stated that this would prevent the transient shipping container type of facilities that the Commission did not care for.

She stated that they also got away from drive-through windows because of the trends of mobile pickup and online ordering, the way people get their takeout is different than it was four years ago. She stated that they have clarified the difference between drive-through facilities and drive-through windows and where they can be located. She commented that in terms of stacking lanes, the trend is having a service lane instead of having a window to order. She mentioned Chick-Fil-A noting that they do not have a window to order and customers order from people with iPads in different stations. She commented that it was discussed to have ten stacking spaces per delivery. She noted that they increased the landscape buffer, and pointed out that the current ordinance required a Landscape Buffer B, and the proposal increases it to a Landscape Buffer D which requires a wall and landscape additional to the wall. She pointed out that Landscape Buffer B does not even require a solid wall. She commented that while it was established that solid walls are not wanted in residential neighborhoods, in the case of a drive-through abutting residential a solid wall is wanted.

She noted that a requirement been added that there must be uses inside of the building and clarification that there has to be a separation of the drive-through lane from the general circulation of the site through landscape islands. She mentioned that the best example is a Starbucks in Auburn Hills at University and Squirrel that has a landscape island separating the drive-through lane from the general circulation lane which demarcates circulation and avoids conflicts.

She mentioned that the current ordinance had a 16-foot stacking space for a vehicle, while with larger F150s and other vehicles this is not an accurate representation of the length of vehicles. She added that in looking at other communities, 20 feet is more of the industry standard at this point and the proposed language increases it to that length. She stated that the drive-through regulations have been modernized, recognizing that it is still a conditional use and there are still industry trends. She stated that society is telling that this is what people want and it is still a convenience. She commented that she does not think drive-throughs will be going away. She stated that obviously there are some concerns regarding the Chick-Fil-A type of drive-throughs and commented that this is the reason why the City has conditional uses. She stated that it is difficult to quantify as Chick-Fil-A may be very popular today, and other restaurants have had popularity. She noted that in terms of drive-throughs, having the conditional use allows the Planning Commission and City Council the flexibility to evaluate them on a case-by-case basis; and also gives the flexibility with the additional requirements to address traffic, noise, aesthetics and other impacts.

She stated that tonight the Commission was being given the language and if it feels comfortable with it a public hearing would be scheduled for next month. She noted that changes could still be made to the proposed language and asked if the Commissioners had any thoughts or tweaks to the language.

Chairperson Brnabic stated that she did not have any problem with the proposed language that was presented for amending the ordinance.

Mr. Struzik stated that he was on the other side of the Biggby decision, noting that once they modified the building he thought it did not look bad. He commented that they are butting up against consumer trends that everyone wants a drive-through, but at the same time he feels that they have received a significant amount of feedback from the community both about the intensity and also relative to drive-through only facilities. He stated that personally he wants to see more connected, walkable and bikeable communities, but at the same time consumer trends and property rights are at the front of his mind. He commented that he worries that the City might be putting itself in a position where they might see buildings that technically meet the requirements that are bigger than they might have been and the lobbies are closed because there simply isn't enough staffing or financial incentive to keep the lobby open. He stated that he is seeing it across metro Detroit and gave the example of a Taco Bell in Clawson that still has not reopened their lobby since before the pandemic.

He commented he worries that the City will run into issues like that where people will technically comply. He also commented that perhaps the city is not a drive-through community, and values the ability to walk or drive to a place and sit down and have a meal or coffee. He stated that he is not advocating either completely for or against this.

Ms. Roediger stated that the industry trends are moving to drive-through only facilities; however, by making it a requirement, they will have to meet it. She commented that she does not know how to establish what the Planning

Commission is willing to do.

Mr. Struzik questioned whether the intention is that they have to have a dining room or a lobby area, and if there is any recourse if there is a lobby area but it is closed.

Ms. Roediger stated that perhaps the language could be tweaked to note a lobby that needs to be open to the public or a dining area. She mentioned that there are real issues about staffing and who knows how that will be in the future.

Mr. Struzik commented that there is a Chinese restaurant in the city where they have a dining area but it is sectioned off and cannot be used.

Ms. Roediger noted that there is a difference between a drive-through restaurant and a carry-out restaurant. She pointed out that there are a number of restaurants with zero dining, however the issue that they have typically seen is with traffic, idling, and circulation.

Mr. Struzik stated that if the intention is that they have to have a dining area open, it may have to be written into the language; however, if the intention is drive-through only, he would require that they also have a walk-up capability.

Ms. Roediger commented that the intent is to get away from the 100 percent drive-through and they must have an indoor component. She stated that they could get creative.

Ms. Neubauer stated that they could have an example where only restrooms were open to the public. She commented that there is only so much the commission can do and demand. If the goal is to get away from porta potties in the middle of parking lots, this is the way to do it. She stated that there are only so many limitations they can make on a property owner because they do not want to get into a position where there is the issue of a legal taking because the government is telling a property owner what they have to do. She stated that she thinks the way it was written is pretty good and there is only so much they can control.

Ms. Roediger stated that they struggled on how to define things. She commented that the approach is to get to the root of the issue and identify the concerns and determine how to address them, as this is why it was narrowed down to the aesthetic, the traffic, and circulation as the main concerns. She commented that they are still conditional uses and there is flexibility on a site by site basis.

Mr. Struzik stated that he does not have the same concerns as other folks, but sees how this could address the concerns that have been brought up.

Mr. Dettloff questioned whether the language was modeled after anything.

Ms. Roediger responded that this is ground breaking.

Chairperson Brnabic noted that there have been some emails received that

were not necessarily directly on this proposed amendment from a couple of residents that wanted to see a more thorough work session to look at further amendments to the Ordinance in regard to additional considerations. The emails brought up Chick-Fil-A and drive-through proposals that are excessive with vehicle volumes that are disproportionate to the business establishment and the overall site location size. She stated that they would like to see stacking limits addressed and drive-throughs that have adjacent properties for the health and welfare of the residents that are close to those. She noted that comments were that they wanted to limit the number of drive-throughs per block. She stated that the comments wanted to see some further thought and investigation put into the drive-throughs. She listed the names of the commenters as Melanie Martin and Gretchen Komarzec.

Ms. Roediger stated that while these came in later in the day they were discussed, and noted that approximately 95 percent of commercial properties back up to residential. She added that when discussing drive-throughs it also includes places such as Walgreens and Huntington Bank. She stated that the conditional use really gives the flexibility on a case-by-case site basis. She noted that limiting the number is also accomplished by doing spacing requirements. She stated that they want to get to the root of what the issue is, and staff felt that this was step one; and the Master Plan work later this year could get to some of the deeper issues on trends and construction moving forward through better design guidelines. She commented that there are different things that can be done through regulations to get to the root of the issue.

Chairperson Brnabic asked the Commissioners if they would give a nod to moving forward toward a public hearing.

The Commissioners concurred with moving forward toward a public hearing.

Discussed

ANY OTHER BUSINESS

2023-0064

Request for recommendation of a Planning Commission representative to the Zoning Board of Appeals for a one-year term to expire March 31, 2024

Chairperson Brnabic read the request for a recommendation for a Planning Commission representative to be nominated to the Zoning Board of Appeals for a one year term to end March 31, 2024.

Ms. Neubauer said she would love to nominate Chairperson Brnabic to continue as the representative on the ZBA, and the nomination was seconded by Mr. Struzik.

Chairperson thanked everyone for their support and said that she loves to serve on the ZBA, it is a different animal than the Planning Commission and there is not as much discretion.

After the voice vote, Chairperson Brnabic announced that the motion passed unanimously.

A motion was made by Neubauer, seconded by Struzik, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion carried by the following vote:

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

Excused 2 - Bowyer and Hooper

Resolved, that the Rochester Hills Planning Commission hereby recommends to City Council that Deborah Brnabic shall serve as its representative on the Zoning Board of Appeals for a one-year term to expire March 31, 2024.

NEXT MEETING DATE

Regular Meeting, March 21, 2023, 7:00 p.m.

ADJOURNMENT

Hearing no further business to come before the Planning Commission and upon motion by Neubauer, seconded by Denstaedt, Chairperson Brnabic adjourned the Regular Meeting at 10:40 p.m.

*Deborah Brnabic, Chairperson
Rochester Hills Planning Commission*

Marvie Neubauer, Secretary