

UNFINISHED BUSINESS

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 5/2/23, Reviewed Plans, revised Wetland Plan, floor plans and renderings, EIS, ASTI letters of 3/24/23 and 4/11/23, tree letter, Applicant's presentation, attorney letters and response tables, J. Staran letter and email, public comment received and Public Hearing Notice had been placed on file and by reference became a part of the record thereof.)

Present for the applicant was Bruce Michael, South Oaks LLC, Bill Godfrey and John Danowski with Three Oaks Communities, their Legal Counsel Sarah Karl with Makower, Abbate, Guerra, Wegner Vollmer, PLLC, and Alan Green with Dykema.

Chairperson Brnabic introduced this item and noted that the request was for a recommendation for the South Oaks Site Condominiums, a proposed nine-unit detached single family condominium development on approximately 4.8 acres located on the north side of South Boulevard between Coolidge and Crooks, zoned R-4 One Family Residential, with Bruce Michael from South Oaks LLC as the applicant. She invited the applicant to the presenters' table.

Mr. McLeod explained that this request is for recommendation for preliminary site condominium approval, tree removal permit, wetland use permit, and natural features setback modification for the proposed development, located on the north side of South Boulevard between Coolidge and Crooks. He explained that the request if granted would allow for the development of nine site condominium units. He explained that if a recommendation can be made and is approved by City Council, it will come back to both Planning Commission and City Council for final approval. He pointed out that the property is currently zoned R-4 and he stated that two parcels make up the overall development. He noted that surrounding residential units, the open area to the east and the residential development to the north.

He displayed the overall potential impact for the environmental features on the site. He explained that there were three different environmental features that are of specific concern to the Commission, Wetland Area E which is proposed to be filled in total, Wetland Area C in the middle which is proposed to be modified and partially filled as well as the natural feature to be modified as well in conjunction with the filling of that wetland, and Wetland Area B to the far north, a small wetland, which is proposed to be filled and the modification to the natural feature setback eliminated as well in relationship to the actual fill area.

He explained that one of the things that was of primary concern and is the amount of tree removal on the site as well as the replanting of tree material on

the site as well of the size of that material. He recalled that back in February the discussion was whether or not additional trees could be planted on site to try to bring the amount of trees being potentially banked to the City's Tree Fund leveled out and more plantings done on the site, as well as provide for larger plantings on the site itself to help provide additional screening or buffering between the proposed development and the neighboring properties. He stated that the developer has done that in part and he pointed out that throughout the site there are 12-foot evergreens being proposed in certain areas. He noted that this was reviewed by the Natural Resources Department intended to limit the amount of trees being banked and provide those on-site. He explained that the City's ordinance in part allows for that to occur, but in another part does not allow that to occur. He noted that the Natural Resources Department worked with the developer where possible to provide larger trees on site, going from 8-foot to 12-foot to try to limit the tree credits not being fulfilled on the site. He mentioned that one of the other things that came up with the Planning Commission was relative to the current tree canopy size and what that delineation might be, and that was also provided by the developer; and in those areas where the existing trees would remain, there is a general outline provided showing a dashed outline of where that canopy is shown relative to the overall development. He added that the sidewalk was also subject of the debate as to what side it would go on, and it is now proposed for the house side of the roadway to be more directly accessible to the residents. He noted that the developer is still seeking a modification for a sidewalk only on one side of the street.

He showed units 6 through 9 and noted that this is where some of the larger evergreen trees are proposed mainly along the west side of the development where Rouge Court would extend and where the existing trees and the proposed trees will fill in surrounding the units.

He detailed what would be happening with the wetlands, and explained that Wetland Area E to the far south would have 155 linear feet of natural feature setback reduction as a result of the proposed filling of about 5,800 square feet of wetland area which the City's wetland consultant has deemed to be of low ecological value or quality and function. Wetland Area C would have a potential modification of 330 linear feet of natural feature setback reduction and would come as a result of the proposed 4,772 square feet of wetland modification. He explained that this wetland scored a little higher than the other two wetlands on site in terms of its quality and function. He noted that this wetland is designed to stay largely intact with some modification and the developer is also creating a drainage pathway under the roadway which would keep the two sides of the wetland intact and allow for the natural traversing of water so that the wetland on either side is not negatively impacted, at least in the eyes of the wetland consultant. He noted that Wetland Area B is proposed to fill about 1,500 square feet of wetland which would result in 398 linear feet of natural feature setback reduction. He added that these are all proposals the Planning Commission will be considering.

Mr. McLeod stated that in terms of overall architecture of the units being provided in this particular development he noted that the developer did provide additional facades available to create a diversity of housing types and forms.

He explained that most are based off of two base models and additional features provide diversity between all of the different units proposed.

He stated that in summation a number of the evergreen trees have been increased in size from eight feet to 12 feet, landscape plans include existing tree canopy sizes estimated, an updated environmental impact statement was provided per the Commission's request, a meeting with the neighbors was conducted back in March, review of single family status was forwarded to the City Attorney and the City Attorney provided a general summation as indicated that the physical living situation of these units would constitute a single family residential home, the sidewalk was relocated to the home side but a modification is still being requested to provide sidewalks only on one side, and additional elevation variations have been provided.

Mr. Michael expressed appreciation for the Commission's agreement to hold a Special Meeting. He introduced the team in attendance. He stated that he believed that they followed up with the items that were requested of them. He thanked Mr. McLeod for his summarization.

Chairperson Brnabic stated that before she opened the Public Hearing, she would like to know whether the meeting was held with the neighbors and how that went.

Mr. Michael responded that they had 21 people on the sign-in sheet which was provided to the Planning Staff along with a summary of items discussed. He explained that there were questions about what was actually proposed and commented that there were some misconceptions regarding how much wetland or floodplain was actually on the property and he stated that they addressed all of those questions and concerns. He stated that there was also an extensive discussion about whether the IDD homes were considered single family or not and out of that came the discussion between their attorneys and the City Attorney regarding that fact that it is considered a single family land use. He added that they took into considerations their concerns about being able to screen their residences from the property. He stated that other than Mrs. Ernst, none of the neighbors actually touched the property directly adjacent and there is approximately a football field length between the proposed houses and the ones that exist on the road to the west. He noted that their revised landscape plans provide screening all along the west side of the roadway that is all evergreen.

Chairperson Brnabic noted that she would like to acknowledge that the Planning Commission received 65 emails in support of both South Oaks and Walton Oaks for the preliminary site plan approval. She stated that the majority of the emails were from Rochester Hills, Rochester residents but there were also some emails that did not state if they were a resident or some that were showing support for the housing projects but stated that they lived in another city. She stated that they also received 15 emails opposed to approval of the developments due to concerns regarding removal of trees, wetlands, flooding between Sanctuary of the Hills and Walnut Brook developments, displacement of wildlife, and feeling that the city is just pure and simply overdeveloping.

She opened the public hearing and stated that there were quite a few speaker cards. She noted that each speaker will have three minutes and that questions will be answered together after every speaker has the opportunity to speak.

Patrick Fayad, 3609 Cedar Brook Drive, expressed concerns regarding potential flooding. He stated that the flooding comes up fairly close to his walkout basement. He stated that they were under the impression that this property would stay wetlands and commented that they want to make sure that the flood situation is fully taken care of prior to any groundbreaking.

Allen Pyc, 3849 Walnut Brook, stated that they would be presenting a powerpoint regarding the flooding. He expressed concern that Rochester Hills is in the top ten places to live in America and it is not because everything is built up. He asked if the tax benefit of nine houses is worth destroying wetlands and wildlife and expressed concern regarding flooding and possible litigation. He stated that flooding occurring on March 31 went over the sidewalks. He requested denial.

Chairperson Brnabic called Lyle Dougherty and he did not come forward.

Greg Scott, 44244 Chedworth, Northville, stated that he was the father of a 26-year old special needs individual and they need to find a long-term solution for him. He stated that he has a reservation for a home in South Oaks and commented that there is no legal reason to deny it as it appears to comply with all city and state requirements. He requested approval.

Lisa Kowalski, 1411 Ternbury Drive, stated that she has a son with special needs and she is the President of Arc of Oakland County, which is an advocacy organization for people with developmental and intellectual disabilities. She noted that a number of the residents who are looking at South Oaks and Walton Oaks grew up here and choose to live here. She stated that it is hard to understand why anyone would put roadblocks to these residents and the development meets all requirements and is the right thing to do.

David Mingle, 1555 Rochester Road, Leonard, stated the he is Chair of the nonprofit Rochester Housing Solutions (RHS), and is commenting on both this project and Walton Oaks. He stated that he is the father of a 31-year old man with autism, and commented that many of these individuals choose to live in Rochester Hills as they live, went to school, and work here and enjoy the city. He noted that RHS has collaborated with the developer from the start and has worked hard to meet every detail of the current zoning for the two projects. He stated that there is a housing crisis in Oakland County and across the country especially for the disabled and these projects are part of the solution. He stated that the model is recognized by State and local agencies and is in line with Federal mandates and is only unique in scale and vision and the fact that it is new construction. He mentioned Susan Mason's email to the Planning Commission following the last round of neighborhood meetings, and noted that she stated that when she moved in in 2001, her realtor stated that the area could be developed.

Susan Chaplin, 4239 Sugargrove Ct., Troy, stated that she is the parent of a

29-year old man with intellectual and development disabilities who is interested in living in Rochester Hills. She stated that her son works at Oakland University and attended OU Cares, and her son has a right to live here. She stated that for his life she and her husband have advocated for his rights. She noted that two-thirds of the adult population with disabilities in Michigan still live with their parents, and 25 percent of those parents are over the age of 60. She stated that she and her husband need a place for her son to live.

Lisa Juriga, 3090 Collins Rd., Oakland Township, stated that they are loving parents and responsible citizens of the community frequenting its businesses, attending churches and participating in recreational opportunities and events and this is the only home many of their adult children have known and they should be able to continue to live where they are already thriving. She stated that they want their children to enjoy their independence in a home close to their own home to ensure their success now and in the future. She stated that the plans have been modified to address concerns and meet every code and requirement.

Don Courtright, 1130 Whispering Knoll, stated that his son has Downs Syndrome and they want him to continue to live in Rochester Hills. He supported both developments and stated that they meet the needs for securing a forever home for their kids as they have struggled with the challenges of finding them a secure and accommodating opportunity.

Brad Michaud, 550 Thornridge Dr., spoke in support of both Walton Oaks and South Oaks, stating that he works in the housing arena and knows how important this development is for individuals who would live there. He stated that this should be approved as it meets all legal requirements.

Ray Toma, 202 Stonetree Circle, stated that he does not think anyone objects to the purpose of the developments, but they want to make sure the laws are complied with. He questioned the legality of the four-unit structures and stated that what is not addressed in any of the attorneys' letters is zoning classification. He noted Walton Oaks is zoned R-2. He stated that zoning classification and other relevant criteria must be considered.

Patrick Bell, 3924 Donley, stated that he backs up to the wetland system on this development, and commented that flooding is a great concern. He stated that there is no infrastructure to drain the area, and he sees nine new homes with eight-foot basements and pumps running all the time, and he stated it will push water to the neighbors. He noted that this is a part of a roughly 20-acre wetland system. He asked if there is a DEQ permit in place on the project and questioned the wetland consultant for the City. He stated that he would welcome the development into the city but this is not the place for it.

Sudesh Ebenezer, 3871 Walnut Brook Dr., stated that he has lived in Walnut Brook Estates for about four years, and welcomes and respects diversity in all forms. He noted that there is significant flooding in his backyard and makes his backyard not usable in March, April and May. He noted that one neighbor was denied putting a pool in his backyard and stated that going forward anyone purchasing in his neighborhood should know the potential for flooding.

Nick Jushkewich, 236 Stonetree Circle, stated that their objection is squarely with the irresponsible nature of the development and how the properties will be deeded and maintained. He commented that there has been no plan set forward for maintenance and no plan for supervision of the individuals there. He commented that while the property might be developed, the plan is not something that there is precedent for.

Chairperson Brnabic noted that the next speaker had arranged for a presentation, as he was speaking to represent four different people, so she agreed to give him ten minutes of time.

Mike Lambert, 2512 Golf Crest, stated that while he identifies with and appreciates the emotional pleas made tonight, his objection is to this particular parcel and its planned use. He made the following points in his presentation:

- There is significant potential damage to their properties, yielding potential increases in insurance rates and destruction of surrounding wildlife.*
- The area is a priority two area surrounded by priority one areas in a study Rochester Hills commissioned in 2005, showing a need for protection against destruction and is a drainage area for well over 150-200 homes. FEMA designates the entire area as a flood zone.*
- Several residents have spoken about floods they currently experience without additional remediation and it has the potential to get worse.*
- MDNR identified 58 additional endangered and threatened species of flora and fauna, several of which were identified in Oakland County. There is no proof they do not exist in these wetlands.*
- From the FEMA floodplain maps, there is a high risk to established neighborhoods.*
- Removing natural features destroys why many chose to live in this area.*
- With this development, there is a higher probability of pollutants going into the Rouge River.*

Karen Wilson, 3695 Cedarbrook, continued the presentation:

- Area rainfall since 2002 has increased by five inches a year and 20 percent since 2006 and has become alarming since 2021. Her house backs up to the retention area for Walnut Brook Estates. Photos showed that a Frisbee golf area became completely covered and water was coming into their backyards.*
- The Lueders Drain came over the banks into their retention area. This same drain is the area that the nine proposed homes will be backing to.*
- Approximately 25 mature trees will be taken down per house being built. The evergreens will not do well in wet soil. The deep tree roots absorb groundwater and once taken down the soil is less impervious. How will they prove that the flooding will not become worse, and whether there are better alternatives for the property.*
- A photo showed what happened on June 25, 2021 which was quite alarming. She stated that they want to know what is the plan to prevent continued flooding.*
- Photos of her neighbors' flooding issues show what is already happening. How do you stop the drain from overflowing into the backyards of these homes.*

She stated that the project is great but not in this spot.

Chairperson Brnabic stated that she had said that she was going to allow ten minutes for every one of those speakers to speak, and was originally under the impression that one person would speak.

Anna Angel Bakos, 3610 Galloway Ct., #2513, stated that she was not capable of keeping up her property so she moved into River Oaks Apartments. She stated that she came to speak regarding wetlands conservation, and the flooding issue has been known for a long time. She stated that she is certified in many aspects of conservation. She stated that she has also worked with an organization that strives for affordable housing. She noted that she has firsthand experience with members of her extended family with developmental disabilities. She commented that this is a big issue in California and putting people into contracts of areas devoted to people with developmental disabilities is creating a ghetto.

Chairperson Brnabic noted that other individuals wishing to speak were listed with Mr. Lambert who was granted the extra time to speak for them. She closed the Public Hearing for this item. She noted that the majority of concern seems to be surrounding the flooding issue. She asked Mr. Davis whether there was a higher risk for flooding for the new development.

Mr. Davis stated that this development is similar to every other development where the Engineering department will review and require detention for the development. He stated that the City has standards in place. He mentioned that some of the adjacent subdivisions such as Walnut Brook Estates was based on a 10-year design storm criteria whereas the current standard is a 25-year, so more detention is required for developments in the last 15 years than in the past. He stated that stormwater is the utmost importance for any development they review. He pointed out that the 100-year flood plain is approximately at elevation 800 and it will require a permit from the City and also one from the State through EGLE, and the City has an ordinance regarding structures built either within a floodplain or adjacent to a floodplain and the requirement is that the lowest habitable floor is two-foot above the flood plain.

He commented that they haven't seen anything that is insurmountable with this development. He commented that he looked at rainfall over 50 years and he would concur that over the last 10 years rainfall was at 36.7 inches average of annual rain in southeast Michigan; but since 1970 it was 33.74, so it is up approximately three inches recently. He pointed out that there are a lot of differences that can occur from one year to the next, and he added that this does get taken into account when doing stormwater review, along with detention criteria submitted by the applicant along with floodplain information. He noted that most of the easterly homes in Walnut Brook Estates appear to be have an elevation at their home of about 810, 10 feet over the 100-year floodplain. He stated that nine homes on a five-acre site will not cause an increase of 10 feet that would contribute to the flooding.

He commented that having said that, stormwater design is all based on design storms, and that sets the criteria. He noted that Walnut Brook Estates was set for a 10-year design storm, meaning that in any given year there's a 10%

chance that a storm can exceed the design storm and cause flooding or maybe cause a detention basin to exceed its limits. He commented that they are now requiring a 25-year design storm condition, so there's approximately a four percent chance in any given year that a storm could exceed that for this one hundred year analysis.

He mentioned that frozen ground conditions can cause drainage problems as well, and with a warm day and a lot of rain with frozen ground conditions there is still a chance for flooding to occur. He stressed that they do the best they can through our stormwater review process and make sure that the detention criteria that has been established with this City for many years is kept and this development will be held to that just like every other one has.

Chairperson Brnabic asked if a DEQ permit was in place.

Mr. Michael asked if he could comment first and explained that in the central wetland they are doing a compensating cut where they will be cutting down parts of the land adjacent to the floodplain to actually add more floodplain volume storage on the site and increase the net amount of flood volume storage available to the area by 2,700 square feet. In addition, he noted that the elevation of the stormwater basin itself is actually lower than a hundred year floodplain, so there will be additional storage volume over what actually exists now.

He explained that they have had the DEQ permit at this point and now EGLE will require a wetland fill or floodplain fill permit. He stated that they have prepared their application and are going to submit it after they get through this step of the process along with the application directly to the City. He added that they have already had EGLE onto the site and they reviewed the wetlands that were flagged on the site, along with having discussions regarding the floodplain. He noted that this permit would have to be obtained through EGLE as well as the one that's required through the City before they will be allowed to proceed.

Mr. Davis noted that he has dealt with Mr. Bell in the past regarding his home on Donley. He noted that ASTI is involved in this development; and while Bar Engineering might be the engineer that the developer used to delineate a wetland, the City uses ASTI to confirm this and look out for the City's interests.

He noted when Mr. Michael commented about the volume of compensatory cut it is cubic feet rather than square feet and is in excess of what is being filled in on the property. He stated that regarding the concern of homes having multiple sump pumps running, there are a number of homes in the community that have multiple sumps running as they were built near a wetland and groundwater is high during certain times of the year. He stated that this is going to be something that they will have to decide whether that is acceptable for their development and the City does not dictate that.

Mr. Michael noted that soil borings were done on the site last July and at that point in time, the groundwater elevations were between seven and ten feet deep. He stated that most of the property will be higher when the development is done,

and noted that the basement slab elevations are two feet above the hundred year flood plain. He questioned whether Walnut Brook had that standard when it was developed.

Mr. Davis responded that he has been with the City for 22 years and Walnut Brook Estates started a little prior to his coming to the City, but he believes the ordinance was in place prior to him starting.

Ms. Roediger stated that she would like to add that when Mr. Toma's commented regarding the schedule of regulations related to setbacks and building sizes, it related to multiple family development; and she reiterated that the structures and houses that are being built are viewed and are treated as single family houses. She noted that this is something that they did consider and it meets all of the ordinance requirements for single family.

Mr. Hooper questioned whether the Lueders Drain was responsible for some of the flooding that has occurred. He asked if there was any history of a backup or blockage in the drain that contributed to these flooding events.

Mr. Davis responded that he could check into it with the County if there is a specific date regarding any downstream problems that might have occurred. He noted that this is very close to the City of Troy and something could have happened that might have backed up and affected Rochester Hills.

Mr. Hooper questioned the buy-right and how individual owners are buying interest in these homes. He questioned individual ownership or fractional ownership and whether a portion of the home is deeded.

Ms. Karl responded that the structure of the home is going to be units with limited common elements, and limited common elements are owned as undivided interest. She stated that they have full ownership interest of those limited common elements, limited to the owners in that building. So those limited common elements in these are going to be the living room, laundry, kitchen, basement, dining, and everything like that. And the units as understood in the condominium sphere will be the bedroom and bathroom. And those are what the legal description on the deed is going to refer to as unit one or two or three. But they will have an undivided interest in the limited common elements of pertinent to their unit as well as the general common elements for the entire condominium, similar to the neurotypical owners in the same condominium.

Mr. Hooper questioned the plot plan of the bedroom and bathroom and what they own when they purchase it.

Ms. Karl responded that this is their unit, and they have undivided interest of the common elements on top of that just like any other condominium owner.

Mr. Hooper questioned how they have sole interest of a bedroom and bathroom and if all the bedrooms have bathrooms.

Mr. Michael responded they are suites including a bedroom, bathroom, sitting area and walk-in closet. He explained that Mr. Hooper was looking at the plan

for the Huron which is a neurotypical home that would be on lots 1-6 for sale to someone who does not have a disability. He added that the Chelsea plan has three suites and three bathrooms. The Huron would not apply to the fractional ownership and single family homes would be on lots 1-6.

Dr. Bowyer commented that she thinks these are great ideas for the parents with disabilities to have that home so that everyone can buy into it. She asked who would be in charge of the Chelsea so that if the sump pump overflows or does not work; would it be the condominium association dealing with that.

Mr. Godfrey stated that this issue would be handled the same way that it would be for the neurotypical owner and the HOA would have a property manager and they would send out a maintenance tech.

Dr. Bowyer stated that she previously lived on Donley and knows the flooding issue there. She commented that these homes will flood for sure as this is a flooding area. She stated that this would be a beautiful property for the wetlands, and explained that in order for the City to have the property it would have to be nominated by the owner before the Green Space Advisory Board could look at the land to see if we could actually be interested in buying it from the homeowner. She noted that beyond the two wetlands that are going to be filled in that two more retention ponds would be created as well as the middle one which is part of the flood plain.

She commented that most of the homes are shown to have walkout basements and asked if those are the communal living ones.

Mr. Michael responded that it would depend on the individual lot as to whether there is that much grade change from the front to back of the lot. He commented that some of the individual homes would have that walkout or a large daylight basement.

Dr. Bowyer mentioned the flooding that was shown in one backyard and asked if the County could have an issue with the Lueders Drain and if there was any way to have the County look at all of the drains in the city.

Mr. Davis responded that unrelated to tonight, the City is looking at the Lueders Drain with the County, and Tim Pollizzi has made a request because of some flooding that has been occurring by Sanctuary Blvd., and they are going to try to improve some of the conditions there to try to eliminate some of the flooding in Sanctuary Blvd. He stated that it is unrelated to this project. He commented that they will make the County aware of this project as well.

Mr. Struzik questioned why the Staff Report indicated that Traffic was recommending for denial and asked if that was still true.

Mr. Davis responded that he believes that the issues were related to the pathway ramps that were going to be constructed and the detectable warnings. At that time there might have been a question whether a left-turn lane was warranted, but it is not required for this development, and that has been answered. He stated that he is not sure why DPS did not recommend approval for something like that. He commented that something like that typically can be taken into account during construction review. He mentioned that site plan might be able to get through Planning Commission and the Planning Department, but there is a whole level of more detailed review done by DPS afterward called construction review and there are generally multiple submissions to their department for that. He stated that he is sure that if it is related to the pathway ramps it will get worked out.

Mr. Struzik read from the comment on the plans regarding ADA and asked if it was an issue that the plan did not have sufficient information on it.

Mr. Davis responded that this is what it sounds like and noted that ADA has some strict requirements for sidewalks and pathways, and commented that you cannot have a cross slope on an eight-foot pathway or five-foot sidewalk that exceeds two percent. He noted that the same thing happens with ramps when you are coming from road entrances, and he stated that he did not think that the details were on the plans yet. He stated that typically that detail comes at the construction plan review and it will get reviewed and required for approval on the construction plan.

Mr. Struzik stated that ADA compliance is always important and even more important for this development. He noted that one of his major concerns from the last meeting was whether or not this qualified as a single family home, and he and several other commissioners asked that the City Attorney provide an opinion on whether this met the definition of a single family home and the opinion says that it does. He stated that some of the main differences is that all of these folks will be sharing living space and a kitchen, and they will be living with each other even though the ownership model underneath it might be a little bit different. He stated that any decision he would make would rely on that opinion.

He stated that the inclusional housing for people with intellectual and developmental disabilities is a huge positive of this project. He commented that these folks are already a part of the community and he hopes that they continue to see more projects with inclusive housing designed for and reserved for the members of the community.

He stated that flooding is also at the top of his mind. He mentioned that his neighborhood flooded back in 2021. He noted that they have to balance the rights for property owners in the city, and he stated that they cannot simply deny the rights of property owners because they may feel that the city is already sufficiently developed. People who own property have rights and they have certain rights and abilities to do something with it. He commented that his Rochester Hills home sits on what once was the Ferry Seed Farm, a full square

mile of rain-absorbing land, and now it is one of the densest neighborhoods in Rochester Hills. He noted that his property owners' association owns over 100 acres of green space that they can control completely and are able to prevent development there through ownership. He added that there are also undeveloped lands near his neighborhood that eventually the pressures to develop those will probably see developments hit them.

Mr. McLeod stated that he wanted to reiterate Mr. Davis' comments regarding why the plans were pushed forward with traffic concerns, and it was determined that it would be a construction issue that would address ADA compliance, and it would be overkill to send plans for another set of full reviews for that one issue. If a motion is made, motions are always made subject to addressing all applicable and all remaining City comments.

Mr. Dettloff thanked Mr. Michael for taking the Commission's comments from the last meeting to heart and taking the time to address a lot of the concerns with the residents. He asked the attorney on the deed how four people invest in the unit would be listed on the legal document that will be recorded.

Ms. Karl responded that they will each have their own deed for their respective unit, but along with that it will include all of the common elements that go along with it as well, just like any other condominium unit.

Mr. Dettloff asked Mr. Davis whether the City regulates multiple sump pumps. He commented that obviously for a development such as this a sump pump will be a requirement for the units.

Mr. Davis responded that at least one will be required.

Mr. Dettloff questioned whether the City would regulate if there were multiple sump pumps.

Mr. Davis responded that the City would not regulate that they could not propose a home with two or three sump pumps, and he stated that the city does have homes with multiple sump pumps due to high groundwater conditions to ensure that the basement stays dry or they have a backup if one pump goes out.

Mr. Dettloff asked if this is part of the plans for some or all of the units to have more than one sump pump.

Mr. Michael responded that there is a sump pump backup system that if one pump goes out another one can go in place. He commented that the big concern is what happens during a storm when the power goes out. He stated that usually they get the hydraulic backup pump that comes off of City water and they continue to run, and they would provide this system with every house.

Mr. Dettloff questioned the on-site care of that and asked if it would be up to the individual families that have an ownership right or a group that will be associated with this.

Mr. Michael noted that a couple of submissions ago they provided a slide overview of the system of management and staff. He stated that nobody will be left without some form of supervision and it would depend on the level of their disability or need.

Mr. Dettloff questioned whether that would be on-site.

Mr. Michael responded that it would.

Mr. Dettloff thanked them for addressing the concerns and he commented that when they first proposed the concept the general consensus was yes that there was a void here in Rochester Hills and this is all inclusive and a shining example of why Rochester Hills is the community that it is.

Chairperson Brnabic noted that her questions are related to the one home with the units, and asked how property taxes would be worked out.

Ms. Karl responded that their client has been working with an attorney who specializes in tax law as well to get that squared away with the municipality.

Chairperson Brnabic questioned what would happen if there was a complaint on the home who would be responsible.

Ms. Karl responded that her firm represents over 2,000 associations and sees multiple instances of multiple owners, and multiple tenants. Much of the maintenance and upkeep will be taken care of by the association. If there was an issue everyone in the home would get a notice.

Mr. Weaver thanked Mr. Struzik for mentioning the traffic concern. He commented that he does see MDOT ramp details on sheet S-3 which he assumes were added since the original review when it was denied. He asked for clarification regarding the flood plan and stated that it appears that the subject property is between the flood plain and the neighboring residences. He commented that if the property were to flood it would cross this property to get to the neighbors and he stated that this property could act as a buffer to the neighbors.

Mr. Michael stated that they are putting a culvert in.

Mr. Weaver commented that the City does use ASTI as their wetland consultant and he does not think it is in the City's best interest to pick and choose when they agree with them or not. Based on their recommendation and review he would have to say that they should share ASTI's comfort in approving this as well. He noted a comment regarding evergreens struggling in wet soils and stated that this is true, and he noted that there are several native trees to Michigan proposed. He suggested that some alternate trees be looked at if there is a problem and the developer should continue working with their landscape architect and the City for additional recommendations.

Mr. Michael commented that looking at the soil borings the resting groundwater level is six to ten feet below proposed grade level and generally the soils on the

top are a sandy clay or clay sand, then a seam of clay and then a sandy clay farther down. He stated that they will be taking any recommendations by the City and talking to their landscape architect to confirm.

Mr. Weaver commented that generally there is a warranty period and if there is an association looking over this he would imagine that they would identify trees that are in poor or declining health for replacement.

Mr. Gallina stated that the last time this project came before the Commission he had some questions and concerns, but looking at all of the information provided he feels confident that a lot of his personal concerns have been addressed. He stated that he has full confidence in the City employees and engineer and those who have looked at the site. He commented that there is a challenge regarding the flooding but there were some solutions discussed and there is effort to have further area for flooding to become absorbed. He suggested that there is more work to be done for the City and the County. He stated that he is proud of this project and that it is being brought forward to Rochester Hills, and he commented that this model is incredible. He stated that he is confident in RHS and their ability to make this successful for many generations to come.

Ms. Denstaedt stated that she would echo the sentiments of her fellow Commissioners and express appreciation that they have paid attention to all that was said. She suggested that the flooding issues be kept in mind as they move forward in the process.

Chairperson Brnabic stated that she would concur that the project has evolved over time, and that they took the comments, dug in, and spoke with the neighbors. She commented that she is happy how this turned out. She noted that they obviously had the Planning Commission's support for Rochester Housing Solutions to move forward and it was just the case of ironing out a lot of concerns and gaining some answers.

Mr. Hooper stated that he has been on the Planning Commission for 25 years and has lived in the city for 34 years. He noted that three common things come up anytime there is a development; one, tree removal, two, filling or not filling wetlands, and three, displacing wildlife. He stated that this is true for every development, and it was true for his own house in Rochester Hills, and for all the homes people live in when they were developed. He stated that the issue that the Planning Commission has is how to find the right balance between private property rights for an owner to monetize their property versus the City's ordinances, laws, regulations, standards and requirements. He stated that the City cannot be burdensome to the point where it is taking someone's property away or allow development that is not responsible according to the ordinances, laws and standards that are in place at that time. He commented that this is a long process and they have decided to go the site condominium route, which requires preliminary approval for City Council and then final approval for City Council. He stated that he would make the motion in the packet for recommending approval of the preliminary site condominium plan. The motion was seconded by Mr. Struzik.

After the voice vote Chairperson Brnabic stated that the motion passed

unanimously.

Mr. Hooper then made subsequent motions in the packet for the recommendation for approval of the wetland use permit. This motion was seconded by Mr. Struzik.

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

Mr. McLeod noted that there was also a motion for a natural features modification in the packet, and he mentioned a correction to the linear foot number that it should be updated to 883 versus the number in the motion in the packet.

Mr. Hooper made this motion for the natural features modification with Mr. McLeod's correction, and it was seconded by Mr. Struzik.

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

Mr. Hooper moved the motion in the packet for the tree removal permit, and it was seconded by Mr. Struzik.

After the voice vote, Chairperson Brnabic stated that the motion passed unanimously. She offered congratulations to the applicant on moving forward and stated that they will be appearing before City Council for the site plan and wetland use permit.

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

Aye 8 - Bowyer, Brnabic, Denstaedt, Dettloff, Gallina, Hooper, Struzik and Weaver

Absent 1 - Neubauer

Resolved, in the matter of City File No. PSP2022-0014 South Oaks Condominium, the Planning Commission recommends approval of the Preliminary Site Condominium Plan, based on plans dated received by the Planning Department on March 16, 2023 and supplemented with an updated sheet 6 dated April 7, 2023 and updated landscape plans received April 10, 2023, with the following findings and subject to the following conditions.

Findings

1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City Ordinances, standards, and requirements, can be met subject to the conditions noted below.
2. The proposed project will be accessed from South Blvd., thereby promoting safety and convenience of vehicular traffic both within the site and on the adjoining street.
3. Adequate utilities are available to the site.
4. The preliminary plan represents a reasonable street and lot layout and orientation.

5. The proposed improvements should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.

6. The proposed development will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.

7. The requested modification for sidewalks to be located solely on the east side of Rouge Ct. is warranted due to the limited number of home sites and the home being located only on one side of the street, the same as the revised sidewalk location.

Conditions

1. Address all applicable comments from other City departments and outside agency review letters, prior to final site condominium approval.

2. Provide a landscape bond in the amount of \$108,150, plus the cost of the additional noted storm water basin plantings, inspection fees, etc. as adjusted by staff as necessary, prior to the preconstruction meeting with Engineering.

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

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

Aye 8 - Bowyer, Brnabic, Denstaedt, Dettloff, Gallina, Hooper, Struzik and Weaver

Absent 1 - Neubauer

Resolved, in the matter of City File PSP2022 0014 (South Oaks Site Condominium) the Planning Commission recommends to City Council approval of a Wetland Use Permit to permanently impact approximately 0.28 acres of wetland to construct the building lots for single family units, private roadway, and the associated retaining walls based on plans dated received by the Planning Department on March 16, 2023 and supplemented with an updated sheet 6 dated April 7, 2023 and updated landscape plans received April 10, 2023, with the following findings and subject to the following conditions.

Findings

1. Of the 0.44 acre of wetland area on site, the applicant is proposing to impact approximately 0.28 acres.

2. ASTI recommends approval of impacts to wetlands B and E since they are of low ecological quality and are not a vital natural resource to the city, and impacts to wetland C be allowed since they are taking measures to minimize impacts and the impacts are necessary to allow for prudent engineering design for accessing the northern portion of the site, as outlined in their report dated April 11, 2023.

Conditions

1. City Council approval of the Wetland Use Permit.
2. That the applicant receives an EGLE Part 303 Permit (as applicable) prior to issuance of a Land Improvement Permit.
3. That the applicant provides a detailed soil erosion plan with measures sufficient to ensure ample protection of wetlands areas, prior to issuance of a Land Improvement Permit.
4. That any temporary impact areas be restored to original grade with original soils or equivalent soils and seeded with a City approved wetland seed mix where possible, and the applicant must implement best management practices, prior to final approval by staff.
5. The applicant abide by all conditions and recommendations as outlined in ASTI’s review letter of April 11, 2023.

2023-0058

Request for approval of a Wetland Use Permit 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

A motion was made by Hooper, seconded by Struzik, that this matter be Granted.

The motion carried by the following vote:

Aye 8 - Bowyer, Brnabic, Denstaedt, Dettloff, Gallina, Hooper, Struzik and Weaver

Absent 1 - Neubauer

Resolved, that the Rochester Hills City Council hereby grants a natural features setback modification for South Oaks Site Condominiums, for 883 linear feet of permanent impacts to three different natural features identified on the site plans to construct the proposed private road, to provide the building area for single family residential units, and associated development infrastructure, based on plans dated received by the Planning Department on March 16, 2023 and supplemented with an updated sheet 6 dated April 7, 2023 and updated landscape plans received April 10, 2023, with the following findings and conditions:

Findings

1. The impact to the Natural Features Setback area is necessary for construction activities related to the proposed development.
2. The proposed construction activity qualifies for an exception to the Natural Features Setback per the ASTI Environmental letter dated April 11, 2023, which also states that the areas are generally of low ecological quality and function and offer little buffer quality.

Conditions

1. Work to be conducted using best management practices to ensure flow and circulation patterns and chemical and biological characteristics of wetlands are not impacted.

2. Site must be graded with onsite soils and seeded with City approved seed mix.

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

A motion was made by Hooper, seconded by Struzik, that this matter be Granted. The motion carried by the following vote:

Aye 8 - Bowyer, Brnabic, Denstaedt, Dettloff, Gallina, Hooper, Struzik and Weaver

Absent 1 - Neubauer

Resolved, in the matter of File No. PSP2022-0014 (South Oaks Site Condominium) the Planning Commission grants a Tree Removal Permit (PTP2023-0004), based on plans received by the Planning Department on March 16, 2023 and supplemented with an updated sheet 6 dated April 7, 2023 and updated landscape plans received April 10, 2023, with the following findings and subject to the following conditions:

Findings

1. The proposed removal and replacement of regulated trees is in conformance with the City's Tree Conservation Ordinance.
2. The applicant is proposing to remove 136 regulated trees and 85 specimen trees, and provide 191 replacement trees with the remaining balance of replacement tree credits to be paid into the City Tree Fund.
3. The applicant has increased the size of plantings in certain areas of the site to reduce the number of trees being paid into the City's tree fund and to provide additional plantings and screening onsite above and beyond ordinance requirements.

Conditions

1. Tree protective fencing, as reviewed and approved by the City staff, shall be installed prior to temporary grade being issued by Engineering.
2. Provide payment, equal to the current required fee for replacement trees, along with any additional fees associated with such, into the City's Tree Fund for the remaining 570 replacement trees required.

Chairperson Brnabic called for a ten minute recess before proceeding to the next item.