



Rochester Hills

Minutes

Planning Commission

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Chairperson William Boswell, Vice Chairperson Deborah Brnabic
Members: Gerard Dettloff, Kathleen Hardenburg, Greg Hooper, Nicholas O. Kaltsounis,
David A. Reece, C. Neall Schroeder, Emmet Yukon

Tuesday, April 1, 2008

7:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson William Boswell called the Regular Planning Commission Meeting to order at 7:30 p.m. in the Auditorium.

ROLL CALL

Present 8 - William Boswell, Deborah Brnabic, Kathleen Hardenburg, Greg Hooper, Nicholas Kaltsounis, David Reece, C. Neall Schroeder and Emmet Yukon
Absent 1 - Gerard Dettloff

APPROVAL OF MINUTES

2008-0150 March 18, 2008 Regular Meeting

A motion was made by Schroeder, seconded by Kaltsounis, that this matter be Approved as Presented.

The motion CARRIED by the following vote:

Aye 8 - Boswell, Brnabic, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon
Absent 1 - Dettloff

COMMUNICATIONS

- A) Planning & Zoning News dated March 2008
- B) April 8, 2008 Advisory, Traffic and Safety Agenda

NEW BUSINESS

2007-0777 Subdivision Open Space Plan Recommendation - City File No. 89-156.5 - Clear Creek Subdivision No. 5, a 58-lot phase of an existing subdivision on 56 acres, located east of Sheldon, north of Tienken, zoned R-1, One Family Residential, Parcel No. 15-02-200-015,

Elro Corporation, applicant.

(Reference: Packet prepared by Ed Anzek, dated April 1, 2008, had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Harry Terbrueggen and Richard Schoenner of Elro Corporation, 201 W. Big Beaver, Suite 720, Troy, MI 48084.

Mr. Anzek summarized that the project was the fifth phase of the Clear Creek development, and he noted that the plat for phases one through four was first approved in 1996. He advised that there were six items for consideration, including the Tentative Preliminary Plat Recommendation, the first step in an eight-step process, which involved two Staff reviews, two recommendations by Planning Commission, two City Council reviews, Construction Plan review and Final Plat review.

Mr. Anzek noted that the prior four phases were done before he joined the City, and that Phase No. 5 was a little more complicated because of the wetland issues. There had been numerous meetings with the engineers and with ASTI, the City's environmental consultant, to work out details and finalize the proposed plat. Mr. Anzek went over the requests, and advised that the Open Space Plan was a continuation from the previous phases, which were also done under the Open Space Plan. He noted that the Natural Features Setback Modifications were needed for the areas where the boardwalk and pathway would encroach into the buffer along the wetlands. Regarding the Cul-de-Sac Length Waiver, Serene Court was extended beyond 600 feet and ended in a cul-de-sac so as to avoid the wetlands, and that required a Waiver from the Planning Commission. He asked Mr. Terbrueggen to walk the Commissioners briefly through all the phases and to focus

on the fifth phase.

Mr. Terbrueggen related that Elro had been involved in the Township and City since the mid 1970's with various projects. In the mid 1980's, they acquired the property around National Twist Drill at the corner of Tieken and Rochester Roads. They subsequently developed a subdivision there called Cross Creek. They had to bring in the sanitary sewer lines, and entered into an agreement with the City to bring the sanitary from the area by Yates Cider Mill. It was quite an endeavor, and to make it work, they needed a lot of land. They subsequently acquired property on both sides of Sheldon Road, south of Mead. The west side of Sheldon became Cross Creek, and they sold a large parcel to the school district for Hart Middle School. For the east side of the road they developed a Master Plan, which became the Clear Creek development. It was a former gravel pit with a lot of hills and holes. Through a series of land balancing acts, they were able to develop it into the various phases. They were now basically putting the last piece into the whole puzzle.

Mr. Terbrueggen advised that Serene Court was going to be an internal loop street that would tie into another street, but the wetlands got into the way, and they ended up making it a cul-de-sac. They did not deliberately make a cul-de-sac longer than 600 feet, but the DEQ wanted them to leave the wetland alone. He advised that they had about 54.1 acres of open space in Clear Creek Nos. 1-5. Clear Creek No. 5 had 23.5 acres of open space, with most of it being wetlands. That was not the case in the other four phases. The open space varied by the layouts, and Clear Creek No. 4 had no open space at all. All the open space had already been dedicated pursuant to the Ordinance. Clear Creek No. 1 had open space along Stony Creek, and in two retention pond areas. There was additional open space in

Sheldon Park, which was dedicated as part of No. 2. He stated that the total open space was well in excess of what the Ordinance required. They submitted No. 5 in July 2006. The agencies and City departments reviewed it, and the Planning Department was very accommodating. They met with all the consultants two or three times. They had hoped to come before the Commission with absolutely no conditions, but it never worked out that way, and they did their best. The fact that it had taken them 18 months was certainly not indicative of a lack of cooperation on the part of the City or the consultants. They just kept refining the plat and addressing the issues until they got to the point where everyone was on board.

Mr. Terbrueggen referred to the Natural Features Setback Modifications requested, and said that a lot of those were being driven by the fact that there were natural features along Mead and Sheldon. They were required to put in a walkway, which needed a Modification. There were some proposed lots that required Modifications, and they were relying on lessons from the City. They understood that in some cases, residents tended to intrude upon the natural features areas by making them part of their lawns or yards. The City came up with a system of using a shelf with boulders to keep out intrusion. They were using that quite a bit throughout, and they would use boulders of a given size, interspersed with natural grasses and plants. The areas would be deed restricted so that no structures could be built in the natural features setback. The documents would be recorded with the County as part of the Homeowner Association documents. They would indicate on the "plot plans" those areas not to be touched, and the title work would be quite specific. If a lot had a wetland or natural features setback area, there would be rules to go with it.

Mr. Anzek asked Mr. Terbrueggen to point out some of the

boulder wall areas. Mr. Terbrueggen showed the wall on lot 282, and he explained that they were asking for a small Modification. Their concern was how to stop that resident from intruding into the natural features or the adjacent wetland. He could not tell the difference in elevation between the lot line of 282 and the wetland, but he assured that the lot line would be higher. He thought it would be no less than a foot. He pointed out the natural features setbacks on lots 292 and 293 and where the boulders would be. He stressed that in all cases where the natural features setback was adjacent to or on the lot, they would establish the shelf system.

Mr. Terbrueggen noted the comment from the Traffic Engineer regarding Sheldon Road (memo on file), who had recommended that they pave a portion of it. Mr. Tergrueggen said that had not come up until a few days ago, and they were not advised that it would become an issue. He indicated that there was not necessarily a lack of desire about working on Sheldon Road. They would be willing to work with the City to develop some kind of a program for Sheldon Road, but timing was a big issue. They did not know when they would be developing No. 5, but he was quite confident that it would be at least two years away. It would probably be longer, and he did not know the City's program regarding paving Sheldon Road. He knew there was a large storm sewer that had to come down a portion of Sheldon to incorporate drainage on the school side. He did not believe Sheldon should be paved until the storm sewer went in because it was such a big system. He was aware that paving Sheldon was not part of the approval, but it was still in the record. He would like to put forth an understanding that they would enter into an agreement with the City when they completed their engineering plans. He suggested that perhaps when they got permits for construction, that they would deal with it

then.

Mr. Terbrueggen said that in general, all the lots were 90 feet or greater, and the Ordinance required an 85-foot minimum width for an Open Space Subdivision. They put all the savings from the lots into the open space. He concluded that the plat, in every way, confirmed to the other phases; the only difference was the timing, which was dictated by the economy.

Mr. Anzek asked Mr. Terbrueggen to go over the wetland mitigation and where the fill areas were. He referred to lots 320, 321, and 322, and said they would be serviced by a common driveway. Mr. Terbrueggen advised that they met with ASTI and the DEQ about the wetlands, and they were in total agreement with what was depicted. They had not applied for permits yet, which was something done after the plat was approved. There were five mitigation areas, which he pointed out (although he referred to them as fill areas rather than mitigation). Where Traceky ran into Mead, they had to put in an intersection improvement, a water main and a bike path. ASTI suggested that they should not piecemeal it, and they did not feel there was any sense in trying to save a wetland that would be isolated. They made an attempt to put all the wetlands contiguously. They did not have any pockets of wetland that did not have an opportunity to get water, which was at the direction of ASTI.

Mr. Schroeder asked about the development to the north. Mr. Terbrueggen said it was a proposed retreat center. They were approached by the Order because they had been waiting for Elro to bring sanitary sewer and water to them. Elro indicated to them that it would be a number of years before they would be ready to do it, so they accommodated them by providing an easement adjacent to lot 245 to provide sewers. It was put on the plat with their

permission to let the City know what would happen with the balance of the land. If the retreat were not there, the cul-de-sac in that area would be a stub street. He added that there was also a gas line to the north of the easement.

Mr. Anzek advised that the Commissioners had not heard anything about a proposed retreat there. Staff only had about two meetings in eight years with Father Gomez, and there were no plans filed formally, so Mr. Anzek was not sure what they were really doing. Mr. Terbrueggen said that was all he knew about that property.

Mr. Schroeder believed the former owner, Mr. Weinberger, started to develop the property. Mr. Terbrueggen thought that was correct, and informed that the Order bought the old Weinberger parcel, which had curb and gutters installed, but nothing else. He believed they bought the retention pond, but he did not know if they would use it. Mr. Weinberger did not finish it because it would not perk.

Chairperson Boswell noted that in the Environmental Impact Statement, they planned to begin construction in the summer of 2008, and he asked if that was still valid. Mr. Terbrueggen said it was not. He explained that the EIS was done in 2006, when things were not as bad as now. He would be very thankful if they developed in 2010. They had to do a little more business in No. 4 before they anticipated starting No. 5. Chairperson Boswell asked how many lots were not yet built in No.4. Mr. Terbrueggen said that in all phases, there were about 80 unbuilt lots, most of which were in No. 4.

Mr. Kaltsounis clarified the areas of mitigation, as Mr. Terbrueggen had mistakenly referred to them as fill areas.

Chairperson Boswell advised that earlier in the day he had

talked to Mr. Vores, who lived on the west side of Sheldon. Mr. Vores pointed out Pinnacle Ct., which would have five houses, and said that headlights from cars coming out to Sheldon would shine directly into Mrs. Hunt's house. Chairperson Boswell asked Mr. Terbrueggen if he would consider talking directly with that neighbor, and agree to put some type of screening on her property to shield the lights.

Mr. Terbrueggen said that he could not promise anything, but he would be more than happy to talk with her. Mr. Anzek said they would work on it together and talk with both neighbors. Mr. Schroeder said it was a common problem, and suggested that the applicant could put in a berm with some pine trees to block the light. He had been involved in many subs where that had been done.

Mr. Terbrueggen brought up the grading of Sheldon, and said he thought it might be tricky to get a roadway there. Ms. Hardenburg added that she drove a small car, and when she drove down Sheldon, the banks were higher than her car.

Ms. Brnabic commented that she was pleased at how upfront the applicant was going to be with prospective buyers, by letting them know about the properties that included wetlands and natural features setback areas. Oftentimes, it became a "buyer beware" situation, where things were not obvious to homeowners, and they ended up wanting Variances. The wetlands and natural features were clearly identified, and she was glad there would be information in the Deed Restrictions. People would know right away what they were getting into. Mr. Terbrueggen said they learned to do that through Nos. 1-4. Ms. Brnabic said she was also glad they incorporated boulder walls to safeguard the natural features areas.

Ms. Brnabic referred to the tree listing, and questioned whether that sheet (1 of 16) might need to be revised or whether information was included in another sheet. When she was reviewing the trees to be saved and removed, it appeared that a lot of trees to be removed were listed as saved trees. On sheet 1 of 20, regarding the Sheldon right-of-way, they were listed correctly, but they were remaining on the original sheet. Mr. Anzek noted that there was a different Ordinance that governed trees in a right-of-way. The Tree Conservation Ordinance dealt with trees on private property. The City was not calling for the removal of the trees on Sheldon until they knew whether future improvements would occur. Ms. Brnabic said she was referring to those trees off the cul-de-sac from Sheldon, and there was a large group of trees that were listed on 16 as remaining, but sheet 20 showed them as removed. Mr. Anzek said that the City's Landscape Architect would check it. If it affected the Tree Removal Permit, he suggested that they could table it or amend it at the Final Preliminary.

Mr. Terbrueggen said that it was possible there was an error on the plan, because every time they made a revision they had to change the tree counts. When they originally did the tree survey, they did not have to survey the Sheldon right-of-way. They were later told they had to include it because the ownership was to the center of the road, so those numbers were added later. He was very confident that the tree count was right, although the depiction might not have been. Ms. Brnabic identified trees #364 to 382 and 386 and 390 - and realized that they were on the cul-de-sac, not the Sheldon right-of-way. Mr. Terbrueggen indicated that once Sheldon was improved, because of the high hills, he did not see how the trees would be saved.

Mr. Reece referred to lots 320, 321, and 322, and said that in his opinion, the plat flowed well with the exception of

those three lots. It seemed as if they were forced. He said he could appreciate the desire of the applicant to get as many lots as possible, but they seemed to be out of place with the rest of the subdivision. Mr. Terbrueggen remarked that he would defend their position as strongly as he could. They had a variety of layouts, and in the original they did not have Traceky Road come out to Mead. It originally came out to Sheldon, and those lots fronted on another proposed road. After meeting with the City and ASTI, it was decided they needed an exit to Mead. He said they were perfectly good lots, and probably larger than the rest in the subdivision. They accommodated the driveways by putting in a shared driveway. They used that in the past, and it had worked very well. He indicated that the three lots almost would become an enclave by themselves. Mr. Reece agreed. He asked if there was any consideration for coming off of Traceky Drive with a stub cul-de-sac road, noting that they would probably lose two lots. Mr. Terbrueggen said they wanted another entrance for fire safety. Mr. Reece agreed, and said they would still keep the entrance off of Mead, but the other road could come off perpendicular from Traceky. Mr. Terbrueggen said they did a layout that way, but the one they ended up with was the preferred. Mr. Anzek said he did not believe the width was there to accommodate a cul-de-sac similar to Pinnate Court.

Mr. Reece said the lots seemed to be just by themselves, and Mr. Anzek wondered whether the owners would feel a part of the neighborhood. Mr. Reece recalled that in the Minutes from 1996, Mr. Ferrara, then a member of the Planning Commission, made a comment that the intent of the developers was that the subdivisions be developed with a sense of community. Mr. Terbrueggen reminded that Sheldon had houses on the west side that fronted on Sheldon, and he said that the three lots would be no

different than those.

Mr. Reece asked Mr. Terbrueggen if he had any conversation with the lone resident on the east side of Sheldon. Mr. Terbrueggen said that he had not had talked with him in a while.

Mr. Hooper noted that Mr. Terbrueggen had earlier mentioned consideration for paving Sheldon. He asked exactly what he was offering regarding that. Mr. Tebrueggen said that the Traffic Engineer sent a memo suggesting that the roadway be paved from its present terminus, or half-mile point, to 300 feet north of the existing Clear Creek Boulevard. He believed that was 780 feet of pavement. His concern was that by the time it was developed, Sheldon might already be paved. The issue of the storm sewer might be a topic. He recalled that the storm sewer pipe would be six feet in diameter, and he stated that the roadway should not be paved until the utilities were in. Mr. Hooper said he agreed, but he could just about assure that the City would not pave Sheldon. Mr. Terbrueggen said that it really just came up, and he had not had an opportunity to talk to the City. He would not want to get locked into something with the plat where they were not supposed to do it or they could not fulfill it. He was not trying to avoid it, but he would rather try to incorporate it into a program where the City would participate. He suggested that they could resolve it when they were ready to start construction, and he said that approach would be appreciated. Mr. Hooper acknowledged that nothing was being finalized at the meeting, and he clarified that Elro agreed to participate somehow at a future date, with the parameters to be worked out at a future date. Mr. Terbrueggen agreed.

Mr. Schroeder pointed out that in regards to paving the

road, there was a legal decision called the Arrowhead Decision, whereby a City could not require a developer to pave any more than what would service the development. They could not require a developer to pave a public road just because he was there. Mr. Hooper agreed, and said he was not requiring it; Mr. Terbrueggen offered it. Mr. Schroeder indicated that the City would seek cooperation, but walk considerately.

Mr. Schroeder referred to the trees on Sheldon, and agreed that they would have to go. The City ran into the same situation with a sub on Brewster. They decided the trees on Brewster would have to go, and that it would be done by the developer with the development because it would save money. Similarly, the residents living in Clear Creek would not be happy losing trees behind their homes down the road. He suggested that was something to consider.

Mr. Kaltsounis brought up the Tree Removal Permit and said that if it was approved, the developer could remove all the trees tomorrow. Mr. Anzek corrected that the site could not be touched until the applicant received a Land Improvement Permit from Engineering. At that point, the Construction Plans would have to be approved. Mr. Kaltsounis recalled that the Sheffield development off of Meadowfield had been sitting for two years, but the applicant cleared the trees right away. He wondered if there was a way to keep the trees until the developer was ready to begin (Mr. Terbrueggen had mentioned 2010). Mr. Kaltsounis wondered if they could have an agreement of some sort to keep the trees, just in case 2010 became 2012.

Mr. Anzek said he could not answer for the developer, but in his experience, developers would not spend money on a site until they were ready to go full bore. They would

remove the trees and start digging trenches for infrastructure simultaneously. He did not think there was any value to removing trees and then walking. Elro would not begin until they felt the market was back. Mr. Kaltsounis asked Mr. Terbrueggen if he agreed, which he emphatically did, and he said there would be absolutely no reason to remove the trees now. Mr. Kaltsounis said he wanted to address the issue because Tree Removal Permits only lasted one year. If they waited until 2010, they would have to come back for review and approval. If the trees were gone in 2009 and 2010 became 2013, there would be bare land for a long time. He noted that a lot of applicants had come back for Extensions lately. He remarked that the area for Clear Creek was beautiful, with a lot of trees, and he would like to see it stay that way until they were ready to build.

Mr. Anzek said that the requests for Extensions involved site condos, which involved a shorter process. Elro could not begin to remove trees until the plat was recorded. Once that was finalized, he was vested with the right to develop it, but he annually had to renew the Land Improvement Permit. A Tree Removal Permit would run for one year or if the plat was active. As long as he kept the process going, the Permit would stay alive. He suggested that the Commission could remove the Tree Removal Permit request until the Final Preliminary Plat. Mr. Kaltsounis felt that would solve concerns about the tree counts, as raised by Ms. Brnabic, and it would protect Elro.

Mr. Terbrueggen asked them to presume he received Tentative Preliminary Plat approval from Council in May, which would only be good for one year. He would have to get it renewed, or start on the Final Preliminary review. He was pretty sure he would not be in the position to get Final Preliminary approval within the year, and that he would be

back for an Extension, which would include the Tree Removal Permit. Mr. Kaltsounis asked if he would accept delaying the Tree Removal Permit until the Final Preliminary.

Mr. Terbrueggen was not sure they could do that. He thought it had to go with the Preliminary. Mr. Anzek said they did not have to, and recalled that the City had postponed them before. Mr. Terbrueggen said he would rather get the Tree Removal Permit and have the whole package, and keep going forward. Mr. Kaltsounis said he would be concerned if they took down the trees and the development was not done until 2012. Mr. Terbrueggen said that before he got a Land Improvement Permit, he would need DEQ, sewer, water, etc., Permits and Final Preliminary Plat approval. Mr. Kaltsounis acknowledged that, but said he wanted to hold off the trees until the last moment. Chairperson Boswell suggested that it would not make a difference because the applicant could not do anything until after Final approval, and the applicant had to come back to the Planning Commission first. Mr. Terbrueggen said that after Tentative Preliminary Plat approval, he would do the engineering based on what was presented. The Tree Replacement and Preservation Plan was proper, but if he did not have the approval, there was an opportunity for the Commission or Council to say they wanted to take another look at the Tree Plan. If he had already engineered the site, he would not have any other options. He was looking for a guarantee. Mr. Kaltsounis said he agreed on that point with Mr. Terbrueggen; he reiterated that he was concerned about how early the trees would go versus when the development actually started. Mr. Terbrueggen said it would cost him \$4,000 an acre to clear trees, and he was not about to spend any money he did not have to. Mr. Kaltsounis said he wished the best for all the subdivisions with the economy, but he just wanted to

protect everyone, including the neighbors and anyone else who would look at the trees. Mr. Terbrueggen reminded that the trees were as much of a benefit to them as they were to anyone, because they enhanced the site.

Ms. Hardenburg thanked the applicant for continuing with development in the City, although she was amazed to see someone new coming forward, considering the number of projects that had come for Extensions recently. She was concerned about the lone person on Sheldon and how the home would fit in with the style of homes being built. She commented that there were beautiful two-story homes in Clear Creek, but the home on Sheldon appeared to be a single-story home. She wondered how the home on lot 292 would impact the existing home. Mr. Terbruggen advised that the home on Sheldon was a two-story home with a walkout and pond in the back. He thought there would be about 300 feet of separation between the homes, and there were trees to shield it.

Ms. Hardenburg commented that it would be wonderful if the applicant wanted to pave Sheldon, but she wondered if the homeowners along Sheldon would really want that. It might bring more traffic. She pointed out the lots on the corner of Mead and Sheldon and asked if a lot of fill would have to be brought in to build there. Mr. Terbrueggen advised otherwise. Ms. Hardenburg noted that it was very marshy, and Mr. Terbrueggen related that the marsh was to the east, and that the wetland at Traceky and Mead was the marshy area she was referring to. The corner was heavily wooded, so it was hard to tell that the land was actually very flat.

Ms. Hardenburg pointed out that the Sheffield property Mr. Kaltsounis referred to was cleared with the intention of building immediately, but it happened just before the

market dropped, which was a unique circumstance. Mr. Kaltsounis said he understood the circumstances of today, but he commented that the property had looked so beautiful, and then the trees were just gone. Ms. Hardenburg offered that it would have to happen with Clear Creek also, when 58 homesites came in.

Mr. Yukon asked where the offsite mitigation would be, but Mr. Terbrueggen was not yet sure. He said it would be in the general drainage district of the Stony Creek. Mr. Yukon asked about the boulder walls, and if they would be put west of Glacial Court. Mr. Terbrueggen said there would be a boulder shelf at the northwest corner lot 314.

Mr. Schroeder questioned the mitigation ratio, and Mr. Terbrueggen advised that it would be 1.3 to 1.0. He believed high value was two to one, and that mid-value was something less, so they would be in the mid-value range. Mr. Anzek added that it was one to one for a road and two to one for a development, but it depended upon the quality. Most of the interruption would be for Traceky moving north toward Mead. DEQ was moving towards offsite mitigation to create better wetlands.

Chairperson Boswell opened the Public Hearing for the Tree Removal Permit at 8:29 p.m. Seeing no one come forward regarding that or any other matter relating to Clear Creek, he closed the Public Hearing. Ms. Brnabic moved the following motion:

MOTION by Brnabic, seconded by Kaltsounis, in the matter of File No.89-156.5 (Clear Creek Subdivision No. 5) the Planning Commission recommends that City Council approve the Open Space Plan, based on plans dated received by the Planning Department on February 25, 2008, with the following six (6) findings and subject to the

following one (1) condition.

Findings:

- 1. The proposed open land identified on the plans dated received February 25, 2008 are appropriate and suitable for open space purposes.*
- 2. The need to utilize the Open Space Plan provisions is established by the desire to protect and preserve wetlands.*
- 3. The location and layout of the open spaces have a beneficial relation to the lots within and adjacent to the proposed subdivision*
- 4. The proposed plan can be suitably provided with all supporting and necessary utilities as proposed.*
- 5. The plan can be developed without injuring the abutting lands as to capacity available in existing utility services.*
- 6. The sum of all lots with land area below the required 20,000 square feet (4.1 acres) does not exceed the total amount of land area to be dedicated to private open space, which is 23 acres.*

Conditions:

- 1. That an Open Space Agreement be submitted to and approved by the City Council prior to Final Plat Approval.*

A motion was made by Brnabic, seconded by Kaltsounis, that this matter be Recommended for Approval to the City Council Regular Meeting.

The motion CARRIED by the following vote:

Aye 8 - Boswell, Brnabic, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Dettloff

Chairperson Boswell stated for the record that the motion had passed unanimously. Mr. Kaltsounis commented that it was nice to see all the homework they had done for the development. He thought it was very well laid out, and that the applicant obviously had a lot of experience in front of the Planning Commission. He looked forward to seeing the development in the future. He hoped they got through some of the engineering issues so they could proceed, because he felt it was a beautiful area, and that it would be a beautiful development.

2007-0790

Tree Removal Permit - City File No. 89-156.5 - Clear Creek Subdivision No. 5

MOTION by Kaltsounis, seconded by Schroeder, in the matter of City File No. 89-156.5 (Clear Creek Subdivision No. 5), the Planning Commission grants a Tree Removal Permit, based on plans dated received by the Planning Department on February 25, 2008, with the following four (4) findings and subject to the following two (2) conditions.

Findings:

- 1. The proposed removal and replacement of regulated trees on-site is in conformance with the Tree Conservation Ordinance, as 54% of the trees will be saved.*
- 2. The applicant is removing 645 regulated trees from the site.*
- 3. The applicant is proposing to locate 645 replacement credits on-site.*
- 4. No payment into the City's tree Fund is required.*

Conditions:

- 1. Address all comments per memo from the City's Landscape Architect dated March 10, 2008, prior to Final Approval of the Tentative Preliminary Plat by Staff.*
- 2. All tree protective fencing must be installed, inspected and approved by the City's Landscape Architect, prior to issuance of a Land Improvement Permit.*

A motion was made by Kaltsounis, seconded by Schroeder, that this matter be Granted.

The motion CARRIED by the following vote:

Aye 8 - Boswell, Brnabic, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Dettloff

2007-0778

Wetland Use Permit Recommendation - City File No. 89-156.5 - Clear Creek Subdivision No. 5.

MOTION by Brnabic, seconded by Yukon, in the matter of City File No. 89-156.5 (Clear Creek Subdivision No. 5), the Planning Commission recommends City Council approve a Wetland Use Permit to impact approximately 59,116 square feet for the construction of streets, lots and pathways, based on plans dated received by the Planning Department on February 25, 2008, with the following five (5) findings and subject to the following two (2) conditions.

Findings:

- 1. Of the approximately 15 acres of City-regulated wetlands on site, the applicant is proposing to impact approximately 1 acre.*
- 2. No prudent alternatives exist for constructing the streets for the development, due to the City and County traffic requirements.*

3. *The Wetland/Watercourse impacts caused by the road crossings appear to be unavoidable.*
4. *The applicant is proposing to construct 1.3 acres of replacement wetlands in order to mitigate the loss of 1.0 acre of regulated wetlands.*
5. *Most mitigation will occur in the same wetland as the impact and is designed to improve the same functions as the wetland to be impacted, as well as all wetlands on the site.*

Conditions:

1. *That the applicant receive all applicable DEQ permits and Oakland County Drain Permits Prior to issuance of a Land Improvement Permit.*
2. *That the applicant provide a detailed soil erosion plan with measures sufficient to ensure ample protection of wetlands areas, prior to Construction Plan Approval.*

A motion was made by Brnabic, seconded by Yukon, that this matter be Recommended for Approval to the City Council Regular Meeting.

The motion CARRIED by the following vote:

Aye 8 - Boswell, Brnabic, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Dettloff

2007-0791 Natural Features Setback Modifications - City File No. 89-156.5 - Clear Creek Subdivision No. 5.

MOTION by Hardenburg, seconded by Schroeder, in the matter of City File No. 89-156.5 (Clear Creek Subdivision No. 5), the Planning Commission grants Natural Features Setback Modifications for the permanent impact to as much as 3,667 linear feet of natural feature setback associated with the required pathway construction, and for impacts to the streets, lots and mitigation areas as identified on plans

dated received by the Planning Department on February 25, 2008, with the following two (2) findings and subject to the following six (6) conditions.

Findings:

- 1. Natural Features Setback Modifications are needed to construct lots, streets and mitigation areas.*
- 2. Impacts associated with required pathways appear to be unavoidable.*

Conditions:

- 1. All restoration to natural features areas will utilize native seed and vegetation, to be reviewed and approved by the City's Wetland Consultant prior to Final Approval by Staff.*
- 2. Review proposed pathway locations in an attempt to locate them outside of any natural features setback location prior to submittal for Final Plat.*
- 3. Add a note to the plans indicating how natural features areas will be permanently marked prior to construction, to be reviewed and approved by staff prior to issuance of a Land Improvement Permit.*
- 4. Add a note that states how the lot purchaser will be informed of the setback boundary and restrictions, as approved by the City.*
- 5. Add a note indicating that Best Management Practices will be strictly followed during construction to minimize the impacts on the Natural Features Setback.*

Mr. Hooper asked if they should consider a condition requesting that the boulder walls be placed more definitively on the plans now or discuss it at the Final Preliminary. The plans did not show exactly where they would be currently, and they were related to the Natural Features Setback Modifications. Mr. Schroeder said they should definitely be shown on the Construction Plans so it was very clear. Mr. Anzek recommended that it be shown as a condition of approval so Staff would be aware during the process.

6. Add boulder wall locations on Final Preliminary Plat to demarcate the protected Natural Features Setback areas.

A motion was made by Hardenburg, seconded by Schroeder, that this matter be Granted.

The motion CARRIED by the following vote:

Aye 8 - Boswell, Brnabic, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Dettloff

2008-0151 Cul-de-Sac Length Waiver - City File No. 89-156.5 - Clear Creek Subdivision No. 5.

MOTION by Schroeder, seconded by Hardenburg, in the matter of City File No. 89-156.5 (Clear Creek Subdivision No. 5), the Planning Commission Approves a Cul-de-sac Waiver, based on plans dated received by the Planning Department on February 25, 2008 with the following three (3) findings.

Findings:

- 1. When Clear Creek No. 4 was built, the length and layout of the street Serene had not been determined, and a cul-de-sac was used so the road would not disturb the wetland area.*

2. *The proposed cul-de-sac length and lot layout have been reviewed and recommended for approval by both the City's Public Services and Fire Departments.*
3. *The proposed street design incorporates a cul-de-sac bulb that meets City's Standards allowing for easier movement of fire vehicles.*

A motion was made by Schroeder, seconded by Hardenburg, that this matter be Approved.

The motion CARRIED by the following vote:

Aye 8 - Boswell, Brnabic, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Dettloff

2007-0774

Tentative Preliminary Plat Recommendation - City File No. 89-156.5 - Clear Creek Subdivision No. 5.

MOTION by Yukon, seconded by Brnabic, in the matter of City File No. 89-156.5 (Clear Creek Subdivision No. 5), the Planning Commission recommends City Council grant Tentative Approval of the Preliminary Plat, based on plans dated received by the Planning Department on February 25, 2008, with the following seven (7) findings and subject to the following eight (8) conditions.

Findings:

1. *The Tentative Preliminary Plat, after conformance with conditions, meets all applicable requirements of the Zoning Ordinance and the Subdivisions Ordinance.*
2. *The Tentative Preliminary Plat for Clear Creek No. 5 is the fifth phase of Clear Creek Subdivision; Clear Creek No. 4 Final Plat was approved by City Council in May 2005.*
3. *Adequate utilities are currently available in the Sheldon/Mead Road R.O.W., and sanitary sewer will*

be extended from the existing stub streets in Clear Creek, to properly service the proposed development.

- 4. The Tentative Preliminary Plat represents a reasonable and acceptable plan for developing the property.*
- 5. The Tentative Preliminary Plat represents a reasonable street layout, as well as a reasonable lot layout and orientation.*
- 6. The proposed development is compatible with surrounding zoning districts and land uses.*
- 7. Architecture of the new homes will be similar in style to what currently is being built in the other Clear Creek phases. (per Environmental Impact Statement provide by applicant)*

Conditions:

- 1. That the Open Space Plan is approved by City Council prior to the approval of the Tentative Preliminary Plat.*
- 2. That the Wetland Use Permit is approved by City Council prior to the approval of the Tentative Preliminary Plat.*
- 3. That the applicant receives all appropriate DEQ permits prior to Final Plat approval.*
- 4. That the applicant receives a Land Improvement Permit prior to commencing any work on the site.*
- 5. That the applicant receives all engineering related permits and approved Construction documents*

required by Public Services prior to Final Plat approval.

- 6. Change the diameter of the water main proposed on Mead Road to 16" (12" shown), prior to Construction Plan Approval.*
- 7. All proposed street names must be approved by the City's Communication Division prior to Final Approval by Staff.*
- 8. Provision of a performance guarantee in the amount of \$305,375.00, as adjusted if necessary by the City, to ensure the proper installation of trees, for replacement of damaged trees, and for all other landscaping expenses. Such guarantee to be provided by the applicant prior to issuance of a Land Improvement Permit.*

Chairperson Boswell asked the Commissioners whether or not they wished to add a condition stating that Elro Corporation agrees to discuss improvements to Sheldon Road with the City at the appropriate time. Mr. Schroeder cautioned that it would have to show that it was voluntary. Mr. Anzek believed that if it was added as a condition, it could be construed as a requirement for approval, which would step over the legal threshold. Mr. Schroeder agreed that would be a concern. Mr. Anzek reminded that their discussion, in which Elro had offered to participate, if possible, as a partner in the improvement of Sheldon, would be reflected in the Minutes. Staff would have to determine the timing of the storm sewer and other improvements and bring that information back to the Commission.

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

Aye 8 - Boswell, Brnabic, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Absent 1 - Dettloff

Chairperson Boswell stated for the record that the motions had passed unanimously and he thanked the applicants. He remarked that it had been a long hard road for Mr. Terbrueggen, and noted that the file was from 1989. Mr. Terbrueggen advised that he would see the Commission in about a year, and Mr. Kaltsounis said he hoped things turned around in a year for everyone.

ANY OTHER BUSINESS

Upon nomination by Schroeder, Chairperson Boswell was unanimously re-elected as Chairperson of the Planning Commission; upon nomination by Kaltsounis, Deborah Brnabic was unanimously re-elected as Vice Chairperson; upon nomination by Schroeder, the Planning Department was unanimously re-elected as Secretary.

ANY FURTHER BUSINESS

Mr. Anzek briefed the Planning Commission about the on-site traffic movements for the recently approved Taco Bell, which the City's Traffic Engineer was to review as a condition of approval. Staff visited the current restaurant for two days during lunch hour (2 hours) and monitored the traffic flows. They verified that the majority of people were making a right out of the drive-thru, but they found no significant backup for traffic moving northbound on the service drive. They felt there was more than adequate ability to continue with that. They moved a curb back on the plan and painted the bypass lane, so if someone needed to leave the drive-thru lane, they could exit with minimal conflict to the right. If people had to wait for an order, they would be able to move to the parking spaces to

the north, which were no longer angular. The traffic would be two-way into the site. They moved the landscape island back about three feet so they could meet standards for perpendicular parking and for the 24-foot maneuvering lane, and added a stop sign before the exit. They also moved the dumpster location closer to the building and corrected the handicap parking to add room to exit a vehicle. The Traffic Engineer found that the hedge had overgrown in front and was in the line of clearance, so that would be cut back.

NEXT MEETING DATE

The Chair reminded the Commissioners that the next regular meeting was scheduled for April 15, 2008. They were also invited to attend the Advisory, Traffic and Safety Board meeting on April 8, 2008.

ADJOURNMENT

Hearing no further business to come before the Commissioners, the Chair adjourned the Regular Meeting at 8:52 p.m., Michigan time.

William F. Boswell, Chairperson
Rochester Hills Planning Commission

Maureen Gentry, Recording Secretary