



Rochester Hills

Minutes

Planning Commission

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

Tuesday, March 6, 2012

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson William Boswell called the Regular Meeting to order at 7:00 p.m. in the Auditorium.

ROLL CALL

Present 9 - William Boswell, Deborah Brnabic, Gerard Dettloff, Dale Hetrick, Greg Hooper, Nicholas Kaltsounis, David Reece, C. Neall Schroeder and Emmet Yukon

Quorum present

Also present: Ed Anzek, Director of Planning and Economic Development
James Breuckman, Manager of Planning
Maureen Gentry, Recording Secretary

APPROVAL OF MINUTES

2012-0059 February 7, 2012 Regular Meeting

A motion was made by Schroeder, seconded by Yukon, that this matter be Approved as Presented. The motion carried by the following vote:

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

COMMUNICATIONS

- A) Planning & Zoning News dated February 2012
- B) Letter from David Nagel, dated February 28, 2012 re: Avon Lakes Condo
- C) MDOT Rochester Rd. Reconstruction Notice for April-November 2012

NEW BUSINESS

2012-0056 Request for Preliminary Site Condominium Plan Recommendation and Public Hearing - City File No. 11-011 - Avon Lakes Condominium, a two-unit development on Mackwood, west of Dequindre, zoned R-4, One Family Residential, Parcel No. 15-25-202-040, Hamlin Associates, Applicant
(Reference: Staff Report prepared by Ed Anzek, dated March 6, 2012 and Preliminary Plan had been placed on file and by reference became part of the record thereof.)

Present for the applicant was Dale Garrett, Hamlin Associates, 5877 Livernois, Suite 103, Troy, MI 48098.

Mr. Anzek advised that Mr. Garrett had submitted a single-family detached site condominium plan, which was required, under State law, if someone wished to divide property that had been previously platted. The parcel was part of the Mac Kary Subdivision. The site was 1.25 acres and proposed to be divided into three parcels, one of which would be a Limited Common Element, or preserved area. The other two would reflect two single-family lots, which would meet the City's R-4 zoning requirements for width, depth and lot size. Mr. Anzek further advised that the Tree Conservation Ordinance did not apply to the site because it applied to subdivisions platted after 1988. A small piece of land was split off of a lot in Avon Lakes No. 3 and made part of the subject parcel. Avon Lakes No. 3 also received approval prior to 1988. Mr. Anzek noted that the plan had been approved by the reviewers, and that subject to City Council approval, the next step in the process would be to develop construction documents for engineering-related work. Once that was completed, the applicant would be entitled to come back to the Planning Commission for a Recommendation for the Final Plan. As with any site condo development, a Master Deed and Exhibits would have to be recorded with the County. He said that without calling it a lot split, it was basically a lot split, but the procedure for that would not be applicable.

Mr. Garrett noted that they would be doing minimal work to the site. There were already two existing sanitary sewer leads that would service each of the lots, a watermain on the same side of the street which was easy to tap into and a small amount of storm sewer to install.

Chairperson Boswell opened the Public Hearing at 7:06 p.m.

Gerald Turgeon, 1711 S. Shore Drive, Rochester Hills, MI 48307. *Mr. Turgeon stated that he was speaking for the Avon Lakes Homeowner's*

Association, for which he was a Board member. He said that they had no objection per se, although they were a little unsure at first because of site condos on platted property. He did not think it would be a problem and asked if they would be treated as homesites, which Mr. Garrett confirmed. He noted the trees in the commons area, and said he hoped they would not be deeded to their Association because they did not want to have to maintain the trees. Mr. Garrett had informed him that they would actually be deeded to the homeowners who would be responsible for them. They would also like the new homeowners to be members of the Avon Lakes Homeowner's Association and pay dues, rather than having a separate Association, because they would be allowed to use the lake and Avon Lakes association maintained the lake. They believed they understood the difference between platting and the site condo rules. He asked if storm sewers would be maintained the same as for other homes on the site, which Mr. Garrett confirmed.

Martin Goschnick, 2059 Baron Dr., Rochester Hills, MI 48307. Mr. Goschnick stated that he was from Avon Woods, to the west of the subject parcel. He said that his was one of three houses that abutted to the subject property. He spoke with all three property owners and they had objected to the proposal. He acknowledged that he was hearing better information, and that there would be two houses following the correct ordinances, and the applicant would not be crowding two homes on the parcel to get around things. He asked if the parcel would remain part of the Mac Kary Subdivision, which was a non-ruling entity. He pointed out that people in that subdivision were capable of doing a lot of things, like parking motor homes in their driveways, and he would be concerned if the proposed homes did not fall under the rules and regulations of the subdivisions on both sides. He asked if the proposed homeowners would have to pay maintenance fees that most condos required. He would be concerned if there were a two-person condo association, which he thought would be completely useless. He would be concerned if it failed. He questioned whether a two-person association would hire a lawyer to oversee the mandatory association. He mentioned that he had walked up and down the streets talking to neighbors. He wondered the rules as to how many people had to be informed of the meeting, because he was amazed at the number of people on Mackwood that had no clue. He had collected signatures from people that were against it "until they had more information."

Seeing no further people that wished to speak, Chairperson Boswell closed the Public Hearing at 7:12 p.m. He asked Mr. Anzek about the notification requirements.

Mr. Anzek advised that in accordance with State law passed in 2008, notification requirements must go to those property owners adjacent or contiguous. It was somewhat new for the City and only the second time it had been done. Prior to that, site condos and plats did not require any notification. He said that Mr. Goschnick raised good legal questions about the structure of the association. It was more of a private contract between property owners, and the City did not get involved. He would defer to Mr. Garrett as to how they would structure their Master Deed, which might become part of the Avon Lakes overall Homeowner's Association. Some mechanism would need to be in place, because the Limited Common Element would be a taxable parcel, and a tax bill would be submitted to the property owners. Whether that burden became a cost to the Avon Lakes Homeowner's Association, he was not sure. As far as the Mac Kary requirements, if there were Deed Restrictions, the City did not enforce them. If there were issues with RVs or boats or other things, the City would enforce its ordinances for property maintenance and code compliance. He realized that the term "site condo" did cause confusion and some people did not understand it. It was basically a way of dividing property that was once platted. The State put that into play many years ago and it was the only tool available to the Garretts to divide the property. The minimum lot size was 9,600 square feet and the proposed lots were about 19,000 square feet. He believed that the Limited Common Element was intended to be preserved in its natural state.

Mr. Garrett agreed that was correct. It had always been their intent to include the parcel as part of the Avon Lakes Homeowner's Association. (They built that subdivision also). The two new owners would be subject to the same rules and access and be required to pay the same dues. Regarding the common area, it was supposed to stay in its natural state. They could walk a dog there, but the point was to leave it as it was.

Chairperson Boswell asked how large the common area would be, and Mr. Garrett replied that it would be 16,217 square feet.

Mr. Kaltsounis asked when the property was originally platted, and Mr. Anzek said it was the fifties. Mr. Kaltsounis asked if it had been put aside as open space. Mr. Anzek said that in the Mac Kary Subdivision, the frontage along Mackwood was one large parcel and it had been split into five parcels. It could not be split into more than five from the original parcel. The subject parcel was the remaining parcel and could only be split using the site condo rules. Mr. Kaltsounis agreed, and he remarked that open space rules probably were not around in the fifties.

Hearing no further discussion, Mr. Kaltsounis moved the following motion, which was seconded by Mr. Yukon:

MOTION by Kaltsounis, seconded by Yukon, in the matter of City File No. 11-011 (Avon Lakes Condominium), the Planning Commission recommends that City Council **grants Tentative Approval** of the **Preliminary Site Condominium Plan**, based on plans dated received by the Planning Department on November 3, 2011, with the following five (5) findings and subject to the following two (2) conditions.

Findings:

1. *Upon compliance with the following conditions, the preliminary plan meets all applicable requirements of the Zoning Ordinance and One-Family Residential Detached Condominiums Ordinance.*
2. *Adequate utilities are available to properly service the proposed development.*
3. *The preliminary plan represents a reasonable lot layout and orientation.*
4. *The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.*
5. *The proposed use will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.*

Conditions:

1. *Provision of \$200 per unit for street trees, payment made prior to obtaining a Land Improvement Permit.*
2. *That the applicant receives all engineering-related permits, including a Soil Erosion and Sedimentation Control Permit and approved Construction documents required by Public Services prior to Final Plan Approval.*