

**MINUTES** of the **Regular Rochester Hills City Council Meeting** held at 1700 W. Hamlin Road, Rochester Hills, Michigan, on Wednesday, April 2, 2003 at 7:30 PM.

**1. CALL TO ORDER**

President Dalton called the Regular Rochester Hills City Council Meeting to order at 7:37 PM Michigan Time.

**2. ROLL CALL**

Present: President John Dalton; Members Bryan Barnett, Jim Duistermars, Lois Golden, Melinda Hill, Barbara Holder, Gerald Robbins

Absent: None

**QUORUM PRESENT**

Others Present: Pat Somerville, Mayor  
Beverly A. Jasinski, City Clerk  
John Staran, City Attorney  
Ed Anzek, Director, Planning Department  
Bob Spaman, Finance Director  
Deborah Millhouse, Deputy Director, Planning Department  
Paul Davis, City Engineer

**3. PLEDGE OF ALLEGIANCE**

President Dalton requested a moment of silence be held immediately following the Pledge of Allegiance in respect of those serving the country in Operation Iraqi Freedom.

**4. APPROVAL OF AGENDA (A0001) (Members received a copy of a City Council Regular Meeting Action Summary Sheet dated March 25, 2003 from Susan Koliba-Galeczka, City Council Liaison).**

Member Robbins requested Agenda Item **15a** (Zoning Board of Appeals Appointments) be moved prior to Agenda Item **13a** (Public Hearing).

President Dalton noted Agenda Item **18c** (Adoption of Resolution to set Closed Session) would be added to the Agenda.

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Resolution A0001-2003-R0110

**MOTION** by Robbins, seconded by Golden,

**Resolved** that the Rochester Hills City Council hereby approves the Agenda of the Regular Rochester Hills City Council Meeting of Wednesday, April 2, 2003, amended as follows:

**MOVE:**       **15a    Zoning Board of Appeals** – City Council Appointments to fill three (3) three-year terms to expire May 31, 2006. (A0525)

Prior to Agenda Item 13a (Public Hearings), and

**ADD:**       **18c    Adoption of Resolution to Set Closed Session** on Wednesday, April 9, 2003, at 7:30 PM, to discuss a confidential attorney/client privileged communication and to consider the purchase or lease of real property. (A0008)

*The remainder of the Agenda remained the same*

Ayes:           Dalton, Barnett, Duistermars, Golden, Hill, Holder, Robbins  
Nays:           None  
Absent:         None

**MOTION CARRIED**

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**5.    CHAIRPERSON'S REPORT**

President Dalton stated Member Holder would leave the meeting early because she was traveling to Missouri because her stepson, who is in the military, was being sent to Iraq.

**6.    MAYOR'S REPORT**

Mayor Somerville referenced the tragic shooting on Sunday, March 30, 2003 at a church in the City. She thanked the Sheriff's Department on behalf of the City for their professionalism in handling this unforeseen tragedy.

Mayor Somerville stated there had been much publicity regarding opening up the City Charter to propose a city manager form of government, and indicated she supported a strong mayor form of government because it was driven by the residents of the City. She noted the City employed highly qualified and experienced Department Directors. She indicated the original founders and writers of the City Charter were true believers in a City driven by the needs of the residents, and the City had thrived under a strong mayor form of government. She felt the residents had the right to elect their own leadership. She noted the Charter encompassed a good sense of checks and balances that was good enough for the highest office in the land. She suggested the residents exercise their rights and opinions if the Charter is reopened, noting a similar prior referendum was considered and defeated two (2) to one (1). She felt the priorities of a city manager would be to serve the City Council, then to serve the City employees, and finally to serve the residents, while she felt the residents of the City should be the first (1<sup>st</sup>) priority. She felt the City Charter remained strong and was a living testament to the residents of the City.

## **7. COUNCIL COMMENTS**

Member Robbins commented on the terrible tragedy that had occurred in a house of worship in the City on Sunday, March 30, 2003. He discussed the need for Council to address the issue of additional law enforcement for the City.

Member Robbins stated the Holiday Helpers of Rochester Hills would hold an Easter Egg Hunt on Saturday, April 12, 2003 at Bloomer Park. He noted registration forms could be obtained at the Holiday Helpers website (justlendahand.com). He indicated it was a great event and encouraged participation. He stated the organization was still accepting candy donations, which could be dropped off at North Oakland Community Bank, or by contacting the Holiday Helpers directly.

Member Golden stated she had received a suggestion from a resident that yellow ribbons be flown at all City Buildings and the Library in support of the troops.

Member Golden stated residents had been receiving literature in the mail that appeared very official indicating seniors were eligible for some type of coverage. She indicated according to the website called retiredamericans.org, the literature was merely an advertisement for supplemental life insurance.

Member Golden stated Captain Smith of the Oakland County Sheriff's Department had discussed the possibility of creating a directed patrol unit for emergencies such as the one that had occurred last Sunday. She indicated the Public Safety Committee had requested an item be scheduled for a future City Council meeting to consider an additional officer.

Member Duistermars stated events such as the occurrence at the church on Sunday could be extremely taxing for personnel of both the Sheriff's Department and the Fire Department. He agreed City Council should address the issue of additional law enforcement.

Member Barnett stated a Support the Troops Rally would be held on Saturday, April 5, 2003 at 1:00 PM the Oakland County Courthouse.

Member Holder stated the Fire Department, the Oakland County Sheriff's Department and Crittenton Hospital had previously held disaster drills, which turned out to be very beneficial with the events on Sunday, March 30, 2003. She suggested the Sheriff's Department provide information to Council regarding the balancing or rearranging of duties for the Deputies within the Department, prior to Council discussion regarding any additional expense.

## **8. ATTORNEY'S REPORT**

Attorney Staran had nothing to report at this time.

**9. PRESENTATIONS / COMMENDATIONS**

- 9a. Proclamation - Garrett Johnson** - Troop 298, Eagle Scout Project: Veterans - Van Hoosen Jones Stoney Creek Cemetery (A0003) (Members received a copy of an Agenda Summary Sheet dated March 25, 2003 from Susan Galeczka, City Council Liaison, with attachments)

President Dalton congratulated Eagle Scout Garrett Johnson on behalf of the City and Council. Mayor Somerville presented Scout Johnson with a plaque containing the following proclamation:

City of Rochester Hills  
Proclamation  
Honoring  
Eagle Scout Garrett M. Johnson

**Whereas,** Eagle Scout Garrett M. Johnson of Troop 298 provided leadership and skill in identifying and marking Veterans' graves at the Van Hoosen Jones Stoney Creek Cemetery in Rochester Hills; and

**Whereas,** Garrett and his crew of 17 marked over 150 Veterans' graves and created a database which will be beneficial for the Veterans' families, the Cemetery, the Veteran's Association of Rochester, and the City of Rochester Hills for many years to come.

**Now, therefore, be it known,** that on April 2, 2003, the Mayor and City Council of Rochester Hills hereby extend out thanks and appreciation to Scout Garrett M. Johnson for his outstanding service to the community.

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Pat Somerville  
Mayor

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John L. Dalton  
City Council President

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Lois Golden  
Council Member

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Barbara L. Holder  
City Council Vice President

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Melinda Hill  
Council Member

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Bryan K. Barnett  
Council Member

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Gerald Robbins  
Council Member

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Jim Duistermars  
Council Member

President Dalton complimented Scout Johnson for his hard work on accomplishing such a significant project. Member Hill noted the information contained in the packet included a very nice presentation of Scout Johnson's excellent project. Member Golden clarified the database prepared by Scout Johnson would be maintained. Ms. Jasinski indicated it would be maintained.

- 10. CONSENT AGENDA** (All matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion, without discussion. If any Council Member or Citizen requests discussion of an item, it will be removed from the Consent Agenda for separate discussion.)

Consent Agenda Items **10a** and **10b** were approved by a single motion.

- 10a. Approval of Minutes** - Regular Meeting, Wednesday, February 26, 2003 (A0005) (Members received a copy of the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, February 26, 2003).

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Resolution A0005-2003-R0111

**MOTION** by Robbins, seconded by Barnett,

**Resolved** that the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, February 26, 2003, be approved as presented.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Holder, Robbins  
Nays: None  
Absent: None

**MOTION CARRIED**

- 10b. Request for Purchase Authorization** - DPS: Water Vulnerability Assessment Study, blanket purchase order, not-to-exceed \$28,000.00; Finkbeiner, Pettis & Strout, Inc., Novi, MI (A0600) (Members received a copy of an Agenda Summary Sheet dated March 14, 2003 from Barbara Key, Contract Specialist, Department of Public Service, with attachments)

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Resolution A0600-2003-R0112

**MOTION** by Robbins, seconded by Barnett,

**Resolved** that the Rochester Hills City Council awards the Continuing Services Agreement between Finkbeiner, Pettis & Strout, Inc., Novi, Michigan, and the City of Rochester Hills for Professional Engineering Services for the Water Vulnerability Study to meet the new Federal Regulations in the amount not-to-exceed \$28,000.00, and authorizes the Mayor and the City Clerk to execute a contract on behalf of the City.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Holder, Robbins  
Nays: None  
Absent: None

**MOTION CARRIED**

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## 11. PUBLIC COMMENTS

**Josephine Geraci, 1566 Colony Drive** provided an update on the Cemetery Committee, noting the 2002 year end report would be provided to members prior to the next meeting. She complimented Mr. Adams on the fine job he did at the Cemetery during Mr. Leach's absence. She stated the new fencing was complete and the new gates would be installed shortly. She thanked all the contributors to the Beautification Fund during 2002. She stated she had noted the many letters in the newspapers regarding a single waste hauler, and stated she felt the issue should be put on the ballot for the residents to decide. She indicated she felt most homeowners would prefer taking care of this matter themselves, rather than having the City take care of it.

**Rev. Dr. Pamela Whateley, 1600 N. Livernois Road**, suggested the items listed on the Agenda for Council meetings be expanded to provide a better understanding about the items being discussed and considered, such as the first (1<sup>st</sup>) and second (2<sup>nd</sup>) readings of Ordinance amendments or adoption of policies. She referred to the possible elimination of leaf burning, and stated smoking caused more health problems to both smokers and non-smokers. She felt if seasonal leaf burning was eliminated, then smoking should be eliminated from all public places within the City, including entrances and exits. She referred to the Mayor's 2003 State of City Address, and indicated she disagreed the Village of Rochester Hills was a downtown area. She felt the Village of Rochester Hills was only a glorified, fancy shopping center. She stated Rochester Hills was a bedroom community and should remain as such. She stated the residents had voted against a single trash hauler, and felt the issue should be closed. She indicated the residents preferred to select their own trash hauler services based on their own needs.

## 12. LEGISLATIVE / ADMINISTRATIVE RESPONSE

Member Robbins questioned whether the City had ever voted on a single waste hauler. Ms. Jasinski stated she would check, but did not believe the matter had ever been brought to a vote.

Agenda Item **15a** was moved prior to Agenda Item **13a** at the beginning of the meeting.

## 15. REPORTS AND COMMUNICATIONS

**15a. Zoning Board of Appeals** - City Council Appointments to fill three (3) three-year terms to expire May 31, 2006 (A0525) (Members received a copy of an Agenda Summary Sheet dated March 27, 2003 from Susan Galezka, City Council Liaison, with attachments)

Member Hill stated nominee Susan deCaussin had contacted her and indicated she would be unable to attend this meeting.

President Dalton explained six (6) nominations had been made at the March 25, 2003 meeting, and the City Council *Rules of Procedure* required appointments to be made two (2) weeks after nominations were made. He suggested Council suspend the *Rules of Procedure* so the

appointments could be made at this meeting, due to the fact the positions needed to be filled prior to the next Zoning Board of Appeals (ZBA) meeting.

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Resolution A0525-2003-R0113

**MOTION** by Robbins, seconded by Golden,

**Resolved** that the Rochester Hills City Council, pursuant to Article IX, Suspension and Amendment of these Rules, Section .01 Suspension of these Rules, **waives** Article VII Boards, Commissions and Committees, Section .01, Boards and Commissions b(2) which states "voting on appointments shall take place at least two (2) weeks after the meeting at which nominations were made, except when only one (1) nomination is made, voting may be immediately following the nomination" to allow appointments for the Zoning Board of Appeals to be made at the April 2, 2003 City Council meeting.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Holder, Robbins  
Nays: None  
Absent: None

**MOTION CARRIED**

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President Dalton stated he had also been contacted by Ms. deCaussin, who indicated she could not be present for the meeting, but expressed her desire to serve on the ZBA.

President Dalton called for a roll call vote for the three (3) appointments to the Zoning Board of Appeals, noting there were six (6) nominees.

Roll Call Vote for the Zoning Board of Appeals:

Brennan: Holder, Barnett, Duistermars, Golden, Hill, Robbins  
deCaussin: Dalton, Hill  
Verschueren: Dalton, Holder, Barnett, Duistermars, Golden, Hill, Robbins  
Weisberger: Dalton, Holder, Barnett, Duistermars, Golden, Robbins

President Dalton announced that **J. Martin Brennan, Gerard Verschueren** and **Paul Weisberger** had been appointed to the Zoning Board of Appeals, each for three (3) years terms expiring March 31, 2006.

Member Golden noted it was much appreciated that so many fine applications had been received for these positions.

**13. PUBLIC HEARINGS**

**13a. Grand/Sakwa Properties Acquisitions, LLC v. City of Rochester Hills** for property consisting of approximately 107 acres located adjacent to the planned new Adams Road and M-59 interchange in the City of Rochester Hills, Oakland County, MI (A0613) (Members received a copy of an Agenda Summary Sheet dated March 28, 2003, from Susan Galeczka, City Council Liaison, with attachments)

Mr. Anzek and Mr. Davis provided a PowerPoint presentation regarding the Adams Road and M-59 interchange describing the background of the project and the proposed Consent Judgment with Grand/Sakwa Properties.

Mr. Anzek stated in 1986 a plan was established by the State of Michigan, Oakland County and the Cities of Rochester Hills and Auburn Hills, and other communities, to attract, retain and keep business in the area. He explained the plan involved three (3) interchanges including the dedicated entrance to the DaimlerChrysler World Headquarters on I-75; the reconstruction of the Squirrel Road interchange on M-59, and the Adams Road interchange on M-59. He stated the Adams Road interchange would be relocated and rebuilt with the realigned Adams Road. He explained each community was responsible for the engineering, environmental work, and acquisition of the necessary right-of-way.

Mr. Anzek explained in 1994 the City established a Local Development Finance Authority (LDFA) as a funding mechanism to generate money to pay for the right-of-way acquisition. He stated during a study conducted in 1996, it was estimated that right-of-way acquisition would cost Ten Million (\$10,000,000.00) to Fourteen Million (\$14,000,000.00) Dollars. He noted the adoption of Proposal A in 1995 eliminated the capture of school tax dollars, weakening the LDFA funding mechanism. He indicated in 1994 it was believed the City would generate approximately Two and one-half Million (\$2,500,000.00) Dollars per year, which ultimately was reduced to approximately Four Hundred Thousand (\$400,000.00) to Five Hundred Thousand (\$500,000.00) Dollars. He noted sufficient funds had not been generated for right-of-way acquisition.

Mr. Anzek indicated in December 2000, the City was put on notice by the Michigan Department of Transportation that unless sincere and dedicated action began to move the project along, the funding could be withdrawn and the project eliminated. He stated the City identified the Adams Road Relocation and the Adams Road Interchange as a primary objective for emergency access, traffic flow, congestion relief and economic development.

Mr. Anzek stated since December 2000, he and Mr. Davis had been working to complete the roadway improvements. The City hired an engineering firm to assist in preliminary design, engineering and environmental work, and had consistently met with the Michigan Department of Transportation (MDOT) and the Road Commission for Oakland County (RCOC). He indicated the environmental work had been filed, and clearance from MDOT was expected within a few weeks.

Mr. Anzek stated in the Spring of 2002, meetings were held with property owners, including Grand Sakwa Properties. He indicated Grand Sakwa Properties submitted a plan, which included the construction of a long cul-de-sac along the northern portion of their property. He noted later discussions indicated such a cul-de-sac would not meet City Standards and was denied. In subsequent discussions, it was determined that a possibility existed for the City to construct a road on right-of-way dedicated by Grand Sakwa.

Mr. Anzek indicated in the Fall of 2002, MDOT began eliminating projects from their funding cycle due to financial shortfalls at the State level, and the City was put on notice that the project



was in jeopardy of being eliminated from the funding program. The City was also informed at that time that funding might not be available until 2012 or later.

Mr. Anzek explained in December 2002, a lawsuit was filed against the City by Grand Sakwa Properties to force discussion toward a solution and establish an agreement to secure the right-of-way per the requirements of the MDOT.

Mr. Anzek noted the key components of the project were:

- To resolve the right-of-way issues to expedite improvements to Adams Road and the construction of the Adams Road Interchange;
- To donate approximately eleven (11) acres of right-of-way by Grand Sakwa;
- To meet the LDFA goal to connect Leach and Technology Drive, providing better traffic access to two (2) of the City's major industrial parks;
- To assure coordinated high-quality development;
- To insure adherence by the Developer to City Regulations;
- To provide the Developer with flexibility to mix uses, and
- To grant approval to certain modifications for setbacks and height due to limitations imposed by poor soils.

Mr. Anzek noted the Developer's property consisted of one hundred seven (107) acres of land. He stated there was no certain market at this point in time, and the proposed plan would be of little value until the road was constructed and the interchange completed. He indicated the Developer would consider a conceptual planned unit development (PUD) type of proposal, which would accommodate a variety of uses.

Mr. Anzek stated a portion of the property contained poor soils, which would not support a structure, and pointed out the location of a centralized natural feature/pond area. He noted the upland areas, which were the only areas suitable for development.

Mr. Anzek discussed the Land Use Concept, which would propose a mixed-use project in response to market conditions; would provide additional tax base and employment, and would complement the surrounding area. He indicated the permitted uses for the property included:

Commercial uses	Industry accessory to R&D
Up to a six (6) story hotel	City facilities
Corporate offices	Parking structure
Research and development (R&D)	Automobile dealership
Light industrial	Drive through restaurants
Multiple family (low-rise)	

Mr. Anzek noted the prohibited uses were:

Mobile home parks	Non-profit school/church
Adult regulated uses	Billboards
Senior housing	Mini-storage

Heavy industrial  
Certain incompatible uses

Auto sales or maintenance mall  
RV dealership

Mr. Anzek stated the conceptual plan alternatives included mixed uses, retention of the central natural area, locations fixed by poor soils, eight hundred thousand (800,000) square feet of ground floor area (seventeen (17%) Percent of lot coverage), and five (5) alternatives. He noted the plans were not specific at this time, but rather were concepts or a series of ideas. He discussed several combinations of concept ideas.

Mr. Anzek indicated Grand Sakwa had pledged to provide high-quality buildings with the use of complementary design elements throughout the project, which could include:

- M-59 facades having a "front door" appearance
- Extensive landscaping
- Natural feature/pond incorporated into the site design
- Streetscape elements
- Pedestrian friendly

Mr. Anzek stated the consent agreement process would refine the uses allowed or restricted; follow most City Ordinances; allow limited modifications from the Zoning Ordinance for setbacks and height due to soil conditions; coordinate design standards; allow City Council approval of individual site plans; allow City Council approval of overall landscape, lighting and signs, with any variations approved by City Council.

Attorney Staran stated this matter provided benefits to Grand Sakwa through the allowance of a mixed-use development, tied to the benefit to the City of the Adams Road Interchange and Adams Road Alignment. He noted the additional benefit of maximizing the use of a vacant stretch of land along M-59 through an enhanced tax base and development of a quality mixed-use project. He indicated the property was comprised of multiple zoning districts. He explained due to constraints at the State level, the City was required to have the right-of-way, engineering and funding in place in order to keep the project viable. He stated Grand Sakwa would contribute eleven (11) acres to the City, resulting in a considerable savings to the City in right-of-way acquisition costs.

Attorney Staran explained the development of the project through the conventional process would not meet the State's timetable. He stated the lawsuit was filed to challenge the denial of the private road plan previously submitted by Grand Sakwa. He indicated subsequent negotiations of the lawsuit resulted in a Consent Judgment providing Grand Sakwa with a mixed-use land approval, while providing the City with the necessary right-of-way and other controls over and above those that could be imposed by Ordinance. He stated the Consent Judgment was a detailed PUD Agreement, which if agreed to, would be authorized by the Court and presented to MDOT to demonstrate the City's commitment to the Adams Road Realignment and Interchange Project.

**(i) Public Hearing**

President Dalton **opened** the Public Hearing at 8:31 PM.

There being no individuals wishing to speak, President Dalton **closed** the Public Hearing at 8:32 PM.

(ii) Approval of Consent Judgment

Mr. Anzek introduced Mr. Bill Eisenberg of Grand Sakwa, and Mr. Robert Jacobs, the Attorney for Grand Sakwa.

Mr. Anzek stated the Consent Judgment was revised earlier in the day to include the number of lot splits the developer would be entitled to under State Law, along with a revision to the sign section allowing up to a maximum of four hundred fifty (450) square feet per sign. He stated the sign allowance was about twice as much as permitted by City Ordinance, and explained it represented a maximum number, but was still dependent upon site plan approval with demonstrated justification. He noted the buildings could be located a considerable distance from the road, requiring a larger sign in order to be visible.

Mr. Anzek indicated the Consent Judgment included the correct time frames for appropriate reviews, and provisions for a multi-party agreement with the Drain Commission, MDOT and the RCO. He noted although the Consent Judgment provided flexibility, Council would still have final approval of the design, the buildings, and the proposal.

Attorney Staran stated Council had reviewed a prior draft of the Consent Judgment, and the comments and concerns expressed by Council had been addressed in the current version. He indicated the procedure for the conveyance of the right-of-way was revamped, and the most significant change had been the change to the sign area allowance along M-59.

Mr. Jacobs stated the reason for the sign area allowance change was due to the alternative uses that might occur. He explained the tenants or occupants of the buildings were unknown at this time, and might not be known for several years. He noted because of the severe limitations of the soil conditions on the property, and the fact the buildings might not be located near the right-of-way, there could be sufficient setback requirements whereby visibility and signage would be very important. He stated Council approval would be required for any plans for landscaping and signage. He explained the number chosen for the sign area allowance included in the Consent Judgment was selected based on the potential distance from the right-of-way.

Member Golden stated she understood the importance of the project, and appreciated the explanation regarding the sign area allowance. She expressed her concern that any site plans should be referred to the Planning Commission for review. She requested the City Attorney provide a review of the approval process.

Attorney Staran clarified the approval process outlined in the Consent Judgment; City Council retained and reserved the authority to make the site plan decisions, variance decisions, and all significant approvals. He explained the Consent Judgment also included the authority for administrative approval for items that do not stray from the clear intent of the document. He

stated the Consent Judgment did not prohibit City Council from seeking the advice and assistance of the Planning Commission, although City Council would reserve the authority to make approvals.

Member Golden stated a grant opportunity existed through the MDOT Economic Development Fund. She indicated she understood that a specific project was necessary to apply for the grant, and suggested the criteria be reviewed.

Member Robbins questioned the need for a "front door" façade on the side of the buildings facing M-59. He suggested those preference features be utilized on the Adams Road side of the buildings. Mr. Anzek explained the buildings along Adams Road would also have a "front door" appearance. He stated the location of the project was at a key entranceway to the City, and it was important to maintain a high-quality appearance. Attorney Staran explained the view of buildings from M-59 and Adams Road would not appear to be the "back" of the building.

Member Barnett questioned whether there were any concerns about the lighting for the project. Attorney Staran stated Grand Sakwa agreed to reduce the height of the light poles. He noted the Consent Judgment contained some flexibility that upon presentation of a site plan and review of the design and needs of a proposed occupant, Council could approve a higher height. He stated the Consent Judgment currently capped the poles at twenty-four (24') feet in height, measured from the base.

Member Barnett requested that Council be kept advised of the progress of the project on a regular basis. Mr. Eisenberg stated Grand Sakwa would be willing to provide updates on a periodic basis. Mr. Jacobs stated this was a complex development and would require professional input from the Administration and Staff, and updates would be provided as a matter of course.

Member Barnett noted although the project was only in the beginning stages, it was an exciting development on one (1) of the last large parcels of land remaining in the City, and would be beneficial to the community.

Member Hill stated the M-59/Adams Road interchange was extremely important to the community from the standpoint of access for the residents and businesses, and was part of the viability of the community. She indicated the area had been earmarked as LDFAs, and the City was fortunate at the end 2002 to receive a SmartZone designation, in partnership with Oakland University, which would allow for the development of high-tech businesses. She stated she did not want to see large monument signs along the development because she felt there would be high visibility of the development from both M-59 and the realigned Adams Road.

Member Duistermars clarified the additional square footage for signs was intended for the wall signs. Attorney Staran indicated that was correct, and explained the signs could not extend beyond the parapet of the building.

Attorney Staran noted the proposed resolution contained in the packet should be corrected to indicate that the Mayor and the City Attorney were authorized to execute the Consent Judgment on behalf of the City. President Dalton stated the resolution would be corrected.

Member Holder stated the outcome of the development would be very beneficial to the residents and the City as a whole due to the increased tax revenues.

Mayor Somerville stated this type of development was necessary to the City because it provided an increased tax base, which would provide City services without raising taxes. She noted this type of high-quality development should be encouraged along the outskirts of the City.

President Dalton thanked Mr. Davis, Mr. Anzek, Attorney Staran and the Grand Sakwa representatives for their hard work, quick response and diligence in developing this project. He noted the State of Michigan was proposing large cutbacks, and funding could still be lost. He stated the project would save the City several million dollars that would otherwise have had to be expended for right-of-way acquisition.

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Resolution A0613-2003-R0114

**MOTION** by Robbins, seconded by Duistermars,

**Resolved** that the Rochester Hills City Council approves the settlement set forth in the Proposed Consent Judgment pertaining to Grand/Sakwa Properties Acquisitions, LLC, a Michigan Corporation, v. City of Rochester Hills, a Municipal Corporation, Case No. 02-048199-AW.

**Further Resolved** that the City Attorney and the Mayor are authorized to execute the Consent Judgment on behalf of the City of Rochester Hills.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Holder, Robbins  
Nays: None  
Absent: None

**MOTION CARRIED**

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(*Recess: 9:09 PM to 9:29 PM*)  
(*Depart Member Holder – 9: 20 PM*)

**14. PETITIONERS REQUESTS**

**14a. Request for Conditional Land Use and Site Plan Approval** for Waltonwood @ Main located at the northwest corner of Rochester Road and North Lane (South of Tienken), Parcel Nos. 15-10-226-019 & 020, zoned SP (Special Purpose) District; Singh Development Company, Applicant (A0496) (Members received a copy of an Agenda Summary Sheet dated March 24, 2003, from Derek Delacourt, Planner II, Planning Department, with attachments)

President Dalton stated this matter had previously been discussed at the March 5, 2003 Council Work Session, during which concerns had been expressed regarding a pedestrian pathway.

Mr. Anzek explained the prior discussion regarded the pathway reflected on the site plan and how it would be used by the residents located along Pine Street, proceeding across the property toward Rochester Road. He stated when the project was first approved in 1998, which later expired due to lack of activity, the sidewalk was included by the applicant to provide a walkway for the residents of the complex to the church on Pine Street. He indicated the sidewalk was not requested by staff, Planning Commission or City Council.

Mr. Anzek stated the applicant had indicated they did not have a problem with allowing residents to utilize the sidewalk; however, they requested it be redirected to the northern side of the property. He noted a revised plan was included in the packet information, reflecting a sidewalk that tapered up, but would still allow access across the site to either Rochester Road or to the North Hill Shopping Center.

Mr. Anzek stated another question brought up at the March 5, 2003 Work Session was whether the improvements along Rochester Road were in accordance with the Tienken Corridor Study and the intersection improvements to Rochester Road. He stated the Study indicated a boulevard would be constructed, and it would not be appropriate to require the applicant to build a short segment of boulevard on Rochester Road.

Mr. Anzek noted an aerial map, as requested by Member Barnett, had been included in the packet information.

Member Hill stated she liked the revised sidewalk because it provided better flow, although she understood it crossed over private property. She questioned whether the appropriate right-of-way was available for the potential future road improvements along Rochester Road. Mr. Anzek stated that section of Rochester Road, according to the Master Thoroughfare Plan, required one hundred fifty (150') feet of right-of-way. He explained the applicant's plans were prepared in accordance with that requirement.

(i) Conditional Land Use

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Resolution A0496-2003-R0115

**MOTION** by Robbins, seconded by Duistermars,

**Whereas**, the Rochester Hills City Council finds that the proposed senior assisted living facility seems to promote the purpose and intent of the zoning ordinance based on the submitted Site Plan. The Site Plan indicates that the site can be designed in a manner to meet the spirit and intent of the Master Plan, Zoning Ordinance, City's Architectural Guidelines, and City Engineering standards; and

**Whereas**, the Rochester Hills City Council finds that the proposed building has been designed to complement the adjacent residential neighborhoods and is expected to act as

an effective transition from residential uses to the south and west to commercial uses to the north. The use itself is residential in nature and is expected to be compatible with the adjacent residential properties; and

**Whereas**, the Rochester Hills City Council finds that sufficient capacities of public facilities currently exist to service the proposed use. Additional public facilities at public cost will not be necessary; and

**Whereas**, it is not believed that the proposed senior assisted living facility negatively impacts the surrounding properties. The use and enjoyment of neighboring homes will not be diminished due to the proposed landscaping and buffering, and building design of the proposed building; and

**Whereas**, the Rochester Hills Planning Commission has granted Site Plan Approval contingent on the granting of the Conditional Land Use Request:

***Now Therefore Be It Resolved***, that the City of Rochester Hills City Council grants a request for Conditional Land Use for a 105-bed senior assisted living facility on the west side of Rochester Road, south of Tienken, identified as Parcel Numbers 15-10-226-019 and -020, incorporating the findings in the Staff Report dated January 31, 2003, and based on plans dated received January 21, 2003 for Waltonwood @ Main, City File No. 95-046.2 (Singh Development).

Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Robbins  
Nays: None  
Absent: Holder

**MOTION CARRIED**

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(ii) Site Plan Approval

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Resolution A0496-2003-R0116

**MOTION** by Duistermars, seconded by Golden,

***Resolved*** that the Rochester Hills City Council approves the Site Plan for a 105-bed senior assisted living facility on the west side of Rochester Road, south of Tienken, identified as Parcel Numbers 15-10-226-019 and -020, incorporating the findings in the Staff Report dated January 31, 2003, and based on plans dated received January 21, 2003 for Waltonwood @ Main, City File No. 95-046.2 (Singh Development) with the following findings and conditions:

Findings:

1. All requirements of the Zoning Ordinance, other City ordinances, standards, and requirements can be met.

2. The location and design of driveways providing vehicular ingress to and egress from the site will promote safety and convenience of both vehicular and pedestrian traffic both within the site, and on access and adjoining streets.
3. Automobile parking areas are designed to avoid common traffic problems and promote safety.
4. There can be a satisfactory and harmonious relationship between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
5. The proposed development will not have an unreasonably detrimental, nor an injurious effect, upon the natural characteristics and features of the parcel being developed and the larger area of which the parcel is a part.

Conditions:

1. That all remaining engineering issues be addressed and approved by the City's Engineering Services Department prior to approval of Construction Plans.
2. Submission of an elevation of the proposed retaining wall for review and approval by Staff prior to issuance of a Land Improvement Permit.
3. Submittal of documentation of ingress/egress rights for the southern drive access for review and approval by staff prior to issuance of a land improvement permit.
4. Submission of revised building elevations identifying all building material colors for approval by staff prior to issuance of a land improvement permit.
5. Submission of a landscaping performance and maintenance guarantee for two growing seasons in the amount of \$69,394.00 as adjusted if necessary by the City, prior to issuance of a Land Improvement Permit.
6. That the applicant receives a soil erosion permit prior to issuance of a Land Improvement Permit.
7. That the two parcels composing the subject site be combined in perpetuity prior to approval of construction plans.
8. That the applicant obtains Conditional Land Use Approval from City Council.
9. That the applicant revises the site plans to reflect the change in sidewalk location indicated in the drawing presented to City Council subject to review and approval by Staff.



Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Robbins  
Nays: None  
Absent: Holder

**MOTION CARRIED**

- 14b. Request for Wetlands Use and Floodplain Use Permits** to fill approximately 0.34 acres of wetland and floodplain along the Clinton River for the construction of a single-family home, yard, and driveway, Parcel No. 15-20-477-024. The subject property is located on the north side of Hamlin Road, east of Crooks and south of the Clinton River crossing of Crooks consisting of 7.21 acres including approximately 7 acres of wetland regulated by the City of Rochester Hills; Olympus-Orion, L.L.C, Applicant (A0498) (Members received a copy of an Agenda Summary Sheet dated February 11, 2003 from Paul Davis, City Engineer, Department of Public Services, with attachments)

Mr. Michael Lamb, P.E., President of Orion Homes, and a partner in Olympus-Orion, LLC, Applicant, was present.

Member Barnett noted this particular parcel had been before Council several times, and stated in order to be consistent and due to a past business relationship with Mr. Lamb, he would recuse himself from the table during discussion on this matter.

Mr. Lamb stated since he had been before Council, he had reviewed his plan and the City Council comments, and resubmitted an amended, more detailed plan. He stated he had submitted several letters to Paul Davis, City Engineer, detailing the comments made by Applied Science and Technology, Inc. (ASTI) regarding this parcel.

Mr. Lamb stated his request involved seven and one-half (7-1/2) acres of land located along the Clinton River at the corner of Crooks and Hamlin Roads. He indicated the request was for minimum use of the property for one (1) single family building site, and stated he would dedicate the remaining seven (7) acres to a Wetlands Conservation Easement, if the request was granted. He explained the home would be built near the intersection on the least valuable portion of the property.

Mr. Lamb stated he would address the items included in the resolution of denial previously adopted by Council in 2001, as follows:

1. The applicant had not provided the City with a copy of the wetland conservation easement that was required as a condition of the Michigan Department of Environmental Quality (MDEQ) Permit issued for the proposed work.

Mr. Lamb stated he was informed he should have granted the MDEQ a permit prior to obtaining approval from the City, which he felt was unfair. He stated he had prepared more elaborate drawings indicating the nature of the easement, its location and its description.

2. The applicant had not submitted a complete Wetland Use Permit application that is responsive to or satisfactorily addresses the review criteria set forth in City Code Section 126-565, subsection (b).

Mr. Lamb stated he could not satisfy the review criteria because he did not own any other property in the City, and the project was not large enough to allow for the purchase of compensatory property in the City for wetlands mitigation.

3. The proposed activity to fill a portion of this property for the construction of a single-family home, yard, and driveway will cause existing wetlands to be permanently lost.

Mr. Lamb agreed wetlands would be permanently lost, which was the reason for his request.

4. The applicant's property is almost entirely wetland, with minimal upland area.

Mr. Lamb stated the property was virtually all wetlands and floodplain.

5. The applicant had not shown there are feasible or prudent alternatives. The proposed development does not utilize any of the available upland on the site that exists along Hamlin Road to reduce the wetland impact; rather, the proposed development is located in the middle of the wetland complex and will decrease its wildlife value due to fragmentation of the habitat.

Mr. Lamb stated his submitted plan reflects that there is no useful upland area on the site. He stated without the granting of the permit, there was no usable area on the site. He noted he was requesting the minimum possible use for the site. He indicated City Staff had not provided any alternatives to allow him the use of the property, but denied his request because it did not meet the City's requirements.

6. The applicant had not satisfactorily identified the extent and permanence of beneficial and detrimental effects of the proposed activity. There is no allowance for on-site storm water retention or detention, and runoff from the house, yard, and driveway may adversely impact the quality of the wetland.

Mr. Lamb stated the Michigan Department of Natural Resources (MDNR) would not allow any other use on the property other than the amount of fill requested for the proposed building. He stated he understood there was joint jurisdiction over the wetlands, and the MDNR regulated the floodplain of the Clinton River Watershed. He explained the MDNR indicated he could fill in the requested area without detriment to the watershed. He stated the City had indicated to him that he had to provide storm water detention, and noted he did not understand how he could satisfy that requirement if the MDNR would not allow it.

7. No mitigation for the wetland impact has been proposed; consequently, the beneficial functions associated with the wetland will be lost.

Mr. Lamb explained he did not have an available site to mitigate wetlands impact. He stated he would dedicate Ninety-five (95%) Percent of the site to the permanent preservation of wetlands, if he is allowed to use Five (5%) Percent of the site for a single-family residence.

8. Similarly, the proposed activity will involve filling of the floodplain of the Clinton River as well, and no mitigation of the floodplain loss is proposed.

Mr. Lamb stated the hydraulic engineers from the MDEQ have a model of the Clinton River Watershed, and they were the preeminent authority on what is good for the floodplain of the Clinton River Watershed. He did not believe he could duplicate their work or provide any data or any argument beyond their ability.

9. Due to the site's adjacency and close proximity to the Clinton River, a major watercourse for southeastern Michigan, the proposed activity may adversely impact the ecological and hydrological features of not only the wetlands in the vicinity, but the wildlife and habitat in the surrounding areas as well.

Mr. Lamb stated he felt his proposal was less impactful than the existing properties within one thousand (1,000') feet of his property. He indicated his proposal would have a huge buffer between the proposed home and the river, along with a conservation easement. He did not feel he could do anything additional to further mitigate the disruption to the watershed.

10. City Code Section 126-565(a)(2) expresses the City's legislative intent and concern for protection of natural resources, and directs that decisions on Wetland Use Permits shall take into account the paramount public concern for the protection of natural resources from pollution, impairment, and destruction. The City has been trying to preserve the functions and values of the Clinton River and associated wetlands, and the applicant has not satisfactorily shown that the applicant's proposed activities will not adversely impact the River.

Mr. Lamb stated this statement indicated the City wanted to preserve wetlands, and he agreed the City was going a good job of preserving wetlands. He indicated the Clinton River was doing very well.

11. The wetland area is an important natural resource to the City because the wetland provides flood storage for the Clinton River, treatment of the runoff from Hamlin and Crooks Roads, important wildlife habitat, and a buffer to the Clinton River. It is important that any activities on the subject property avoid and minimize impacts and mitigate for any unavoidable impacts, and the Council is not satisfied this will be accomplished if the requested Wetland Use Permit is issued.

Mr. Lamb stated he had an optimal plan for the site, with the smallest possible use with least possible disruption. He noted the only other use for the site that would be less

disruptful would be no use. He stated he felt he was entitled to the minimum use of the property.

12. On balance, the Council is not satisfied that the applicant has shown a public or private need for the proposed activity, or that the benefits, if any, that may reasonably be expected to accrue from the proposed activity would outweigh the reasonably foreseeable detriments of the proposed activity.

Mr. Lamb stated this was his private property and he had a right to use his property. He stated if the public needed to use the property and enjoy its benefits, it could be purchased from him.

Mr. Lamb stated he was available to answer any questions Council may have with respect to his plans for the property. He indicated he felt "caught" by not being able to do anything to make the situation more tolerable, and his request was the minimum possible proposal.

**Rev. Dr. Pamela Whateley, 1600 N. Livernois Road**, questioned why a person would purchase a piece of property that could not be built on without damaging it. She suggested if the property purchased was known to be wetlands, the purchaser was taking a chance on whether anything could be done with it.

Mr. Lamb responded he was in the building business, and routinely purchased property and asked the local municipality for permission to develop it or build on it. He explained he purchased the subject parcel as a single-family zoned piece of property. He noted the property was zoned for his intended use.

Member Golden stated the property consisted of seven (7) acres of wetlands regulated by the State of Michigan and the City. She agreed this was an unfortunate situation, but felt the City had been consistent in reviewing and approving Wetlands Use Permits. She indicated she would move the motion to deny contained in the packet with the thirteen (13) reasons stated. Member Hill stated she would second the motion.

Member Robbins requested Mr. Davis address reasons #1 and #2 contained in the motion to deny. With respect to Item #1, Mr. Davis stated one (1) of the conditions of the MDEQ Permit issued to Mr. Lamb required that the conservation easement be provided within sixty (60) days of issuance of the permit. He stated the applicant had indicated he did not feel it was fair to provide a conservation easement prior to having some assurance that the City would issue a wetlands and floodplain use permit. Mr. Davis stated, therefore, that specific condition of the MDEQ Permit had not been met.

Member Robbins questioned whether the MDEQ Permit was valid. Mr. Davis noted the MDEQ Permit had expired, although the MDEQ could grant an extension.

With respect to Item #2 of the motion, Mr. Davis stated the applicant had previously reviewed some of the objections previously listed, such as whether there is a public need for this project, and whether compensatory storage requirements could be satisfied. He explained the City felt

the application was incomplete because the applicant had not demonstrated all of the requirements satisfactorily. He stated the applicant felt he had satisfied some of the requirements with the revised site plan, and the applicant had indicated he felt some of the items were unreasonable, such as providing a hydrologic study on the Clinton River Watershed to determine the magnitude of the adverse impact potential for the project.

Member Robbins noted it was the applicant's position that there was no site available for mitigation. Mr. Davis explained there probably was not a location on the property itself; however, there were other options available. He stated the applicant had stated it was not economically feasible for this site, because the applicant would have to purchase additional property for mitigation.

Member Robbins referred to Item #5, which discussed utilizing a portion of the property along Hamlin Road. Mr. Davis explained that minimal uplands existed along the Hamlin Road portion of the property; however, due to setback requirements and the proximity to the existing wetlands, it would not be possible to build a house on that portion of the site. He noted the uplands portion was a very small percentage of the entire site.

Member Robbins questioned whether it would be more environmentally friendly to provide a setback variance. Mr. Davis explained a setback variance might not do any good because that portion was close to the right-of-way line on Hamlin Road. He noted the limited existing uplands area was not ideal.

Member Robbins questioned the quality of the wetlands on the property. Dr. Steven Niswander, ASTI, utilized an aerial photograph depicting the parcel and the parcel boundaries. He explained the Clinton River ran adjacent to the property, and pointed out the two (2) small uplands locations on the property, noting the remainder of the property was wetlands. He stated there were some invasive species on the site; however, as a whole, it was an extremely important wetlands because of its location and proximity to the Clinton River. He discussed the road runoff, the drainage pattern, and the fact the wetland system provided water quality improvement. He noted the location of the proposed building lot would be within the floodplain and would have an impact on the system. He stated there was wildlife migration up and down the Clinton River Corridor, and it was a critical wetlands.

Member Robbins clarified the amount of fill being requested. Dr. Niswander stated it was approximately one-third (1/3) of an acre. Mr. Lamb indicated the request was for sixteen hundred (1,600) yards of cubic fill.

Mr. Lamb noted Dr. Niswander had mentioned invasive species, and stated he had been informed by the MDEQ that there were invasive species located in a low-quality wetlands, and his proposed site was situated directly on top of the invasive species in the low-quality portion of the wetlands. Dr. Niswander stated he disagreed strongly with that statement. He noted the 1995 determination letter submitted by Dr. Eugene Jaworski, the City's previous wetlands consultant, had rated the site as a very high-quality wetlands.

Member Robbins stated it was indicated there were two (2) outlets located on the property, and questioned if the outlets were not there, whether the quality of the wetlands would be the same. Dr. Niswander stated the property was located within a floodplain, and explained if the outlets were eliminated and not contributing additional hydrology, there would still be wetlands.

Mr. Lamb questioned the impact of one (1) single family residential home on the wetlands. Dr. Niswander explained it would be a significant detriment to the wetlands because of its location, and the fact it would disrupt migration through the corridor; it would contribute additional runoff into the wetlands system, further degrading it, and the fill would displace the floodwater storage.

Member Golden clarified the invasive species was not causing permanent damage and could be removed. Dr. Niswander agreed they could be removed.

Mayor Somerville questioned when the applicant had purchase the property. Mr. Lamb indicated he had purchased the property approximately two (2) years ago.

Mayor Somerville questioned whether the MDEQ had been out to inspect the property. Mr. Lamb indicated the MDEQ had been out on several occasions, noting he had originally requested four (4) single-family residential homes. He explained after several meetings with the MDEQ, the MDEQ indicated it would grant a permit for one (1) single-family residential site.

Mayor Somerville questioned whether the applicant was aware Crooks Road was planned to be widened. Mr. Lamb stated he had not been contacted or advised he would lose any property for a proposed widening.

Mayor Somerville questioned MDEQ's granting of a permit for the property, noting it was an extremely valuable piece of wetlands in the City. Mr. Lamb explained he was informed that the MDEQ had visited the site, and noted he had met with MDEQ representatives at the site.

Mayor Somerville stated there had been a previous proposal for the property that had been denied by the MDEQ. Mr. Lamb indicated he was not aware of what type of proposal that had been denied. He noted his request was to use only a small portion of the property.

Member Duistermars proposed a motion to call the question on the motion on the floor. Member Robbins indicated he had one (1) more question and did not feel it was necessary to call the question at this time. The motion died for lack of support.

Member Robbins questioned the legal ramifications of the MDEQ providing a permit that the City denied. Attorney Staran explained there was concurrent jurisdiction on this parcel, noting both the MDEQ and the City had permitting authority, and either agency could nullify the other. He indicated the evaluating criteria and policies of each agency could be different. He noted although the MDEQ had felt it appropriate to issue a permit, the Council discussion had addressed the City's reasons for denial. He stated the City relied on its expert's opinions and the application of the City standards in making its decision. He indicated the MDEQ did not control the City's discretion, and the City did not control the MDEQ's exercise of discretion in making these types of decisions.

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Resolution A0498-2003-R0117

**MOTION** by Golden, seconded by Hill,

**Whereas**, the applicant, Olympus-Orion, LLC, proposes to fill approximately 0.34 acres of wetland and floodplain along the Clinton River for the construction of a single-family home, yard, and driveway on the property which is identified as Parcel No. 15-20-477-024. The property consists of 7.21 acres and includes approximately 7 acres of wetland regulated by the State of Michigan and the City of Rochester Hills; and

**Whereas**, the Department of Public Services has denied the applicant's request for a City Wetland Use Permit, and the applicant has appealed that determination to the City Council,

**Now Therefore Be It Resolved** that the Rochester Hills City Council denies the appeal and affirms the Department of Public Services' decision to deny issuance of the Wetland and Floodplain Use Permits to the applicant, Olympus-Orion LLC, based on the following reasons:

1. The applicant has not provided the City with a copy of the wetland conservation easement that is required as a condition of the MDEQ Permit issued for the proposed work.
2. The applicant has not submitted a complete Wetland Use Permit application that is responsive to or satisfactorily addresses the review criteria set forth in City Code Section 126-565, subsection (b).
3. The proposed activity to fill a portion of this property for the construction of a single-family home, yard, and driveway will cause existing wetlands to be permanently lost.
4. The applicant's property is almost entirely wetland, with minimal upland area.
5. The applicant has not shown there are feasible or prudent alternatives. The proposed development does not utilize any of the available upland on the site that exists along Hamlin Road to reduce the wetland impact; rather, the proposed development is located in the middle of the wetland complex and will decrease its wildlife value due to fragmentation of the habitat.
6. The applicant has not satisfactorily identified the extent and permanence of beneficial and detrimental effects of the proposed activity. There is no allowance for on-site stormwater retention or detention, and runoff from the house, yard, and driveway may adversely impact the quality of the wetland.

7. No mitigation for the wetland impact has been proposed; consequently, the beneficial functions associated with the wetland will be lost.
8. Similarly, the proposed activity will involve filling of the floodplain of the Clinton River as well, and no mitigation of the floodplain loss is proposed.
9. Due to the site's adjacency and close proximity to the Clinton River, a majority watercourse for southeastern Michigan, the proposed activity may adversely impact the ecological and hydrological features of not only the wetlands in the vicinity, but the wildlife and habitat in the surrounding areas as well.
10. City Code Section 126-565(a)(2) expresses the City's legislative intent and concern for protection of natural resources, and directs that decisions on Wetland Use Permits shall take into account the paramount public concern for the protection of natural resources from pollution, impairment, and destruction. The City has been trying to preserve the functions and values of the Clinton River and associated wetlands, and the applicant has not satisfactorily shown that the applicant's proposed activities will not adversely impact the River.
11. The wetland area is an important natural resource to the City because the wetland provides flood storage for the Clinton River, treatment of the runoff from Hamlin and Crooks Roads, important wildlife habitat, and a buffer to the Clinton River. It is important that any activities on the subject property avoid and minimize impacts and mitigate for any unavoidable impacts, and the Council is not satisfied this will be accomplished if the requested Wetland Use Permit is issued.
12. The protection and maintenance of the limited number of wetlands that remain in the City enhances the quality of life and the aesthetic and economic values of the City and its residents. Preventing the adverse impact of the proposed development on the wetlands will further this lawful and worthy public purpose.
13. On balance, the Council is not satisfied that the applicant has shown a public or private need for the proposed activity, or that the benefits, if any, that may reasonably be expected to accrue from the proposed activity would outweigh the reasonably foreseeable detriments of the proposed activity.

Roll Call Vote:

Ayes: Duistermars, Golden, Hill  
Nays: Robbins, Dalton  
Recused: Barnett  
Absent: Holder

**MOTION CARRIED**

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President Dalton stated the motion to deny had carried.



Mr. Lamb stated he had informed Member Barnett that he had ceased doing business with Member Barnett's employer over a year ago; however, Member Barnett had decided to recuse himself from the discussion.

Member Robbins clarified whether the motion had passed or failed. Attorney Staran stated the motion had received three (3) votes for and two (2) votes against, resulting in a majority vote of the quorum present in favor of the motion to deny. President Dalton stated the motion to deny was considered passed unless the City Attorney advised Council to the contrary.

**14c. Request for Preliminary Site Condominium Plan Approval** for Crestline-Hamlin Site Condominiums, a six-unit site condominium development located on 2.8 acres at the northeast intersection of Crestline and Hamlin Road, Parcel No. 15-22-451-029, zoned R-3, (One Family Residential) District; Crestline-Hamlin, LLC, Applicant (A0612) (Members received a copy of an Agenda Summary Sheet dated March 24, 2003, from Deborah Millhouse, Deputy Director, Planning Department, with attachments)

Ms. Millhouse stated the Planning Commission had recommended approval of the Preliminary Site Condominium Plan for the six (6) unit site condominium development identified as Crestline-Hamlin. She indicated the proposed project was located at the northeast corner of Crestline and Hamlin Roads, with one (1) unit accessing Hamlin Road. She explained as a condition of approval, the Planning Commission instructed that no evergreens be removed for installation of the required sidewalk, resulting in the sidewalk being shifted to the west. She noted Engineering Services recommended approval of the plan conditioned upon enclosing the storm sewer along the west side of the sidewalk. She indicated Sunoco Pipeline had commented on the proposed development, and a letter had been included in the packet information. She stated several of the recommended conditions of the Planning Commission had been met on the most current preliminary plan. She provided an aerial photograph of the project to Council.

**Barry Landau, 1845 Crestline**, stated he was in favor of the proposed project, noting the property was currently an eyesore. He indicated he had reviewed the layout of the project, and felt the speed hump would be beneficial. He stated many of the residents on Crestline were in favor of the project.

**Rev. Dr. Pamela Whateley, 1600 N. Livernois**, noted the area was zoned one (1) family residential, and questioned whether the development consisted of single-family condominiums.

Mr. George Reichert, Applicant, responded the project consisted of single-family condominiums.

**Alex Kiwior, 1860 Crestline Road**, stated he owns the property across the street from the proposed development, and has resided at that location since 1976. He noted there were different zoning districts along Crestline, and the homes constructed in the R-4 District were larger than what was being proposed for the current development. He indicated there was a major gas line that ran through most of the property for the proposed development, close to the street line, and questioned whether water and sewer could be installed for the project. He stated he did not feel the proposed development was consistent with the current area homes. He stated he did not want to see condominiums built in that area.

**Gary Jaracz, 582 W. Hamlin**, stated he resides three (3) parcels away from the proposed development, and assumed the developer of the project had met all zoning and other requirements for the project. He suggested the proposed six (6) sites be reduced to three (3) sites to lessen the impact on the area. He noted the homes in the area were large, and stated the homes in the proposed development should be constructed at the same size. He indicated he would rather see three (3) luxurious homes built than six (6) production-type homes.

Member Barnett questioned the number of units that could be developed under the current zoning. Ms. Millhouse stated the units in the proposed development were at the minimum of ninety (90') feet. She explained the width would determine the maximum number of units that could be constructed on the site, which is six (6) units.

Member Barnett referred to the gas line and questioned whether that had been adequately addressed. Ms. Millhouse stated a detailed letter had been received from Sunoco Pipeline, which had been reviewed by the City Engineer. She indicated Engineering Services had recommended the plan relative to their review of the letter.

Member Hill stated she was concerned about the compatibility of the project, which she felt was too dense for the area. She noted Sunoco Pipeline had included many requirements regarding the pipeline. She felt the homes in the connecting subdivision appeared to be larger and more substantive than what was contained in the proposed development. She noted four hundred twenty (420') feet of road would remain unpaved, which she did not feel was a good transition. She indicated she was not in favor of a speed hump because she believed traffic calming could be achieved through a narrower road or through other alternatives. She referred to the sidewalk included in the development for connectivity to the school. She pointed out there were no other sidewalks in that area, although there was a sidewalk from the adjoining subdivision directly to the school. She felt that would eliminate the need for children to walk down Crestline to Hamlin, which did not have a sidewalk. She indicated she would like to see fewer homes for the proposed development, and would like to see the entire road paved.

Member Duistermars referred to the pipeline through the property, noting it ran from Toledo to Sarnia. He questioned whether the pipeline had been installed prior to other subdivisions in the community being developed. It was indicated the pipeline was constructed in the 1940's.

Member Duistermars noted the right-of-way and easements to the pipeline was forty (40') feet. Ms. Millhouse clarified the easement was a recorded easement. Mr. Bill Mosher, Apex Engineering Group, Engineer for the applicant, noted the pipeline traversed the entire City. Ms. Millhouse indicated no structures could be constructed over the pipeline or its easement.

Member Barnett noted an argument could be made that five (5) units would be very consistent with the neighborhood. He questioned why the developer was proposing six (6) units. Mr. Reichert stated the proposed project met the R-3 Zoning minimum of ninety (90') foot lots. He stated the size of the proposed units would be compatible with R-3 Zoning and the surrounding neighborhood. Mr. Mosher noted the proposed plan was representative of building grades and to

insure drainage and other requirements were met, but was not an indication of the size of the units.

Member Golden stated she felt speed humps would slow down traffic, and clarified speed humps were included in the proposed development. Mr. Reichert indicated a speed hump would be included. Member Golden agreed she would like to see fewer homes in the proposed development.

Member Duistermars stated the Advisory Traffic & Safety Board encouraged the use of speed humps in certain instances to control traffic speeding problems in the neighborhoods.

Member Robbins questioned whether the developer would be interested in paving the additional four hundred twenty (420') feet on the road. Mr. Reichert explained the residents on the east side of the road were pursuing a special assessment to continue the water main and the pavement. He indicated he had no plans at this time to pave past the property line of the development.

Member Robbins stated he agreed that five (5) units would be more compatible with the neighborhood.

**Barry Landau, 1845 Crestline**, stated the residents had contacted the City with respect to a special assessment for the balance of the paving and to install another speed hump. He indicated the street carried a volume of traffic traveling over thirty-five (35) miles per hour creating a need for speed controlling devices.

Member Hill questioned whether water and sewer existed or would have to be constructed. Ms. Millhouse explained there was a gap between the water line that would be constructed on the east side of Crestline to the property line. Member Hill clarified a road gap and a waterline gap would exist. Ms. Millhouse indicated that was correct. Mr. Mosher explained the residents had proposed a special assessment to complete the paving, and the City's Engineering Department had indicated there was a proposal to complete the waterline. Ms. Millhouse stated the completion of the waterline was included in the Capital Improvement Plan (CIP).

Upon hearing no further comments or discussion, President Dalton called for a motion. No motion was made.

Member Golden stated several Council Members had indicated a desire to see fewer units in the proposed development. Mr. Mosher stated the proposed development met the lot size requirements, and indicated he did not feel there was justification for a reduction.

Member Hill noted a single home existed adjacent to the proposed development on a large lot. She questioned the potential for something to occur on that parcel. Ms. Millhouse stated the Master Plan contained a policy for infill that involved the construction of new interior streets. She noted that residential infill policy would not apply to the proposed development.

Member Hill questioned whether there was potential for future development in that area, other than the existing single family home. Ms. Millhouse explained there was one (1) parcel, a

church, another small parcel, and then the school. Mr. Moser noted there was also wetlands on the adjacent parcel. He explained the possibility had been reviewed; however, it was determined it would not be viable without the existing church property.

President Dalton noted no motion had been made, and a motion to deny would require findings. He suggested a motion to table be made.

Attorney Staran noted no formal vote had been made, and it appeared to be a consensus among Council Members that the proposed project was too dense. He stated the applicant could be asked if he would be willing to revise his plan; however, it appeared the applicant would like a decision on the plan as presented. He indicated if Council's inclination was to deny, he suggested a motion to deny be made, which motion would immediately be tabled to allow an appropriate motion to deny with findings to be prepared.

Member Barnett moved a motion to deny, seconded by Member Hill. No vote was taken on this motion.

Member Duistermars moved a motion to table the motion on the floor until an appropriate motion to deny with findings could be prepared and brought to a future City Council Meeting. Member Golden seconded the motion to table.

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Resolution A0612-2003-R0118

**MOTION** by Duistermars, seconded by Golden,

**Resolved** that the Rochester Hills City Council hereby **TABLES** discussion on a proposed motion on the floor to deny the Preliminary Plan for Crestline-Hamlin, City File No. 02-012, a six-unit site condominium development located on 2.8 acres, identified as Parcel No. 15-22-451-029 and zoned R-3, One Family Residential, based on plans dated received by the Planning Department on March 14, 2003, until a motion to deny, complete with findings, can be prepared and scheduled for a future City Council Meeting.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill

Nays: Robbins

Absent: Holder

**MOTION CARRIED**

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*(Recess: 11:02 PM to 11:15 PM)*

Agenda Item **15** was moved after Agenda Item **12** at the beginning of the meeting.

**16. COUNCIL COMMITTEE REPORTS**

Member Barnett stated the Community Development & Viability (CDV) Committee had received the Solid Waste Report from the consultant on Thursday, March 27, 2003. He stated

the issue had been moved from the Committee level, and a Council Work Session would be scheduled to discuss the matter.

Member Hill stated the Administration & Information Services (AIS) Committee had met on Monday, March 31, 2003; however, a quorum was not present. She stated a liquor license matter was discussed but no recommendation could be made.

**17. UNFINISHED BUSINESS**

**17a. Request for Preliminary Site Condominium Plan Approval** for Southwind Estates - a fifteen-unit single-family condominium development on 7.07 acres located on the north side of South Boulevard, east of Adams Road, Parcel No. 15-31-400-016, zoned R-4 (One Family Residential) District; Maple Forest Development, LLC, Applicant (A0493); rescheduled from 02/26/03 Regular Meeting. (Members received an Agenda Summary Sheet dated March 24, 2003, from Deborah Millhouse, Deputy Director, Planning Department, with attachments)

Mark Erickson, Attorney for Michael Bijani, 71 N. Livernois Road, Rochester Hills, and Dennis Engstrom, Professional Engineering Associates, 2900 E. Grand River, Howell, Michigan, Civil Engineers, were present on behalf of the Applicant.

Ms. Millhouse stated this matter had been discussed at the February 19, 2003 City Council Work Session, at which time requests for additional information were made. She stated the packet information included responses to the density issues, and noted the City's Traffic Consultant, Mr. Stephen Dearing, Orchard, Hiltz & McCliment (OHM), Livonia, Michigan, would address access and traffic concerns.

**Mr. Mark Ott, 3300 W. South Boulevard**, stated on several occasions his house had been hit by golf balls traveling a distance of well over three hundred (300) yards. He indicated he continually collected golf balls on his property, and on the proposed development site, all from the Pine Trace Golf Course. He stated the damage caused to his home by golf balls had been repaired by the golf course. He questioned the liability the City would be subjected to as the ultimate owner of the golf course if the proposed development were completed. He indicated he had previously discussed his concerns regarding traffic, the trees, the construction of a pond, and the devaluation of his home. He did not feel the safety of the residents of the City should be compromised.

**Barbara Ott, 3300 W. South Boulevard**, thanked the Council Members who visited her home to review the situation. She stated she had expressed her concerns at the prior meeting regarding the proposed road next to her property, and the acceleration lane over part of her driveway. She did not feel the proposed emergency entrance to the development over the golf course would be accessible by emergency vehicles. She indicated the nursing home adjacent to the golf course generated many emergency vehicle runs traveling down South Boulevard, which she felt was a safety issue. She stated there were already too many streets and driveways accessing South Boulevard in that area. She felt the installation of a retaining wall along the west side of her property would depreciate her property, and cause drainage issues on her property. She noted

the City did not approve a prior proposed development of eight (8) homes on the subject site. She stated there was a purchase agreement for the proposed site, but it had not been finalized.

**Patricia Willard, 6307 Beach Road, Troy**, stated although she did not reside in the City, she traveled the City frequently. She stated she had resided on Beach Road for sixteen (16) years, and indicated she wanted to express concern about the traffic issues. She discussed the time it took to drive the distance between Beach Road and the entrance to the proposed development at various rates of speed. She did not feel the traffic studies conducted in the area adequately addressed all the issues, such as sunrise and sunset complications. She noted Troy Farms located at the corner of South Boulevard and Beach Road, which housed a summer camp for children. She stated when traffic becomes congested on I-75, Beach becomes a shortcut to head north. She felt an alternate entrance should be considered for the proposed development.

**James Carson, 3459 Warwick Drive**, stated he was the President of the Pine Trace Village Homeowners Association. He felt the proposed development would have a negative impact on traffic safety, and would not improve the quality of life for the existing residents of Pine Trace Village and the surrounding area. He indicated the density of the project required a boulevard entrance. He stated the inclusion of an emergency entrance from the golf course indicated too many compromises had been made for the project. He noted traffic concerns already existed on Greenwood. He questioned how this project fit with the City's Master Plan.

**Tony Baer, 3436 Mayacoo Court**, stated he resides in the Pine Trace Village and was concerned about the heavy traffic congestion along South Boulevard. He noted the traffic problems on Greenwood, because it was a through street between South Boulevard and Auburn Road. He felt the traffic and safety issues were important considerations.

**Mark VanAllen, 3863 Greenwood**, stated he was a ten (10) year resident of the Pine Trace Village. He noted the trees were an asset to the City, and he felt the proposed development would destroy many trees and natural setting of the area. He did not agree an emergency entrance through the golf course was a viable option.

**Terry Zangkos, 3558 Warwick Drive**, stated he was a resident of the Pine Trace Village, and felt he spoke for the majority of the residents of the Pine Trace Village in opposing the proposed development. He suggested Council deny the proposed project because would alter the aesthetic value of the area.

**John Dziuba, 3370 Seminole Court**, stated he opposed the proposed development for reasons he had e-mailed to Council Members.

President Dalton stated there appeared to be four (4) areas of concern regarding the proposed project, including drainage issues. Ms. Millhouse stated Engineering Services had approved the proposed plan. Mr. Engstrom stated the drainage issue concerns with the Ott property were addressed in the utility plan for the project. He utilized a display on the easel and discussed the flow from the retaining wall. He indicated an isolated pocket of standing water would not be created.

President Dalton noted another concern was the issue of the density of the project. Ms. Millhouse stated the size and width of the units were technically compliant within the Ordinance. She noted the density issue was reviewed which indicated the project consisted of 2.18 units per acre. She stated as a comparison, the Pine Trace Village computes to 2.5 units per acre.

President Dalton questioned whether the maximum number of homes was being proposed for the development. Ms. Millhouse stated the project was at the minimum, although no lot averaging was used. She explained the minimum eighty (80') foot lot widths were used. She noted two (2) variables were involved in a minimum, the width and the square footage.

President Dalton questioned whether the proposed project was in compliance with the Tree Ordinance requirements. Ms. Millhouse responded it was in compliance.

President Dalton stated many traffic concerns had been expressed and requested the City's Traffic Consultant to address those issues.

Mr. Dearing stated he was the Manager of Traffic Engineering Services for OHM, as well as the Traffic Consultant to the City.

Mr. Dearing referred to a comment that the proposed project would add to congestion in the area. He stated given the size of the development, a traffic impact study was not deemed necessary. He stated the national average for a development of this size generated less than one (1) trip per dwelling unit during peaks, with an average of nine (9) trips per day per dwelling unit. He explained that would include garbage pickup, mail delivery and other traffic of that sort. He noted the City normally ran above average, which would average to approximately eleven (11) trips per day.

Mr. Dearing stated it was known that traffic volume was increasing on South Boulevard, noting the past improvements made by the Road Commission for Oakland County (RCOC) in the immediate area. He indicated the road was widened from a two (2) lane to a three (3) lane road by adding a center left turn lane, and extensive grading changes were made to lower the hill and fill the valley to improve the sight distances along the road and at the driveway and side street intersections.

Mr. Dearing stated the long range plans for both the RCOC and SEMCOG indicated South Boulevard would be a five (5) lane road. He indicated the developer was not requested to conduct a traffic impact study, because it was the professional judgment that the traffic impact would be minimal.

Mr. Dearing stated the primary safety issue identified was the proximity of the proposed intersection to Beach. He indicated it was at staff's insistence that the side street entrance be shifted as far as practical. He noted it was anticipated that Beach Road would be signalized at some point in time. He stated he and the RCOC Engineer had agreed the proposed entrance to the project was in a reasonable location. He indicated he felt the development plan posed a reasonably safe traffic pattern.

Mr. Dearing noted there had been many comments regarding speeding issues. He stated when the South Boulevard improvements were conducted, although a speed limit was posted, the road was actually designed for a speed in excess of what was posted.

Member Golden noted there had originally been concerns about the location of the access road on South Boulevard because of the proximity to Beach Road, with the initial recommendation being the use of the Pine Trace Golf Course driveway. Mr. Dearing clarified the initial comments regarding site setup and circulation patterns predated the knowledge of the improvements made by the RCOG, and were based on the old South Boulevard configuration.

Member Golden questioned when the site distance improvements would be made to South Boulevard. Mr. Dearing explained they had occurred with the widening of the road from two (2) to three (3) lanes, cutting the hill down and filling the valley. He stated the improvement of South Boulevard from three (3) to five (5) lanes was in the SEMCOG twenty (20) year plan, although it was not currently funded in the three (3) year spending plan. He noted based on the needs in the region and the money available to the region, it could be fifteen (15) to twenty (20) years before it was widened.

Member Golden stated she had visited the site and felt the hill was still significant, making it hard to make a left turn. Mr. Dearing explained that area was designed for the sight distances appropriate for travel at fifty (50) miles per hour (MPH).

Member Golden stated Beach could be described as a collector road. Mr. Dearing confirmed Beach was a collector road, which was a reason it was a candidate for signalization.

Member Golden stated she felt there were still some significant issues with the proposed development, noting it would not be easy to pull in and out of the site.

Member Duistermars noted it had been stated the hill had been reduced to accommodate speeds of fifty (50) MPH, and questioned whether a vehicle heading down the hill would have enough stopping distance if a problem were seen. Mr. Dearing explained stopping sight distances presumed an obstruction or trouble and included perception reaction time and the time to bring the vehicle to a complete stop.

Member Duistermars clarified South Boulevard now contained a left turn lane. Mr. Dearing indicated that was correct. Member Duistermars questioned whether Michigan Traffic Law permitted the use of the left turn lane to complete a left turn onto one road from another road, such as out of the subdivision onto South Boulevard. Attorney Staran stated that appeared to be a common practice throughout the state, but was not aware whether that was violation of the code. Mr. Dearing noted it would be a violation to use the left turn lane as an acceleration lane, as driving was not allowed for distances in the left turn lane.

Member Duistermars questioned how the term "reasonable" was defined. Mr. Dearing stated there was no such thing as perfect safety. He explained based on a set of assumptions regarding driver behavior, vehicle dynamics, and roadway design, a safe process was attempted to be achieved. He stated risks in both absolute and relative terms would be considered in an attempt



to drive the risks down to the lowest possible level. He stated he believed the site was a reasonably safe site, which was shared by the RCOC based on their willingness to permit the approach.

Member Hill stated the City had been a proponent of boulevard entrances, and noted she felt this project was almost identical to the development on Somerville Road. She referred to the comment that Beach might be signalized, and questioned why the proposed entrance was not being aligned with Beach to share the signal. Mr. Dearing explained the property lines did not permit an alignment. He stated it was the rule of thumb that if alignment could not be achieved, then separate as much as possible. He explained a true boulevard would extend into the property a significant distance with regular median openings allowing for crossover. He noted a short twenty (20') or fifty (50') foot island was more of a landscape feature.

Member Hill questioned whether the RCOC knew about the proposed development at the time the grading was completed on South Boulevard. Mr. Dearing stated the RCOC had received a version of the proposed site plan at the time the plan for the South Boulevard improvements was developed.

Member Hill stated she did not like the accel/decel lane running across the front of the Ott's property. She felt the local municipalities should be allowed to make some of the road decisions, rather than the RCOC. Mr. Dearing stated the RCOC was limited by law in terms of how much they could request from a developer. He noted the City had more leverage in obtaining concessions from developers in terms of road improvements such as accel/decel lanes or left turn lanes. He explained the City worked very closely with the RCOC, and the RCOC, by policy and practice, put a tremendous emphasis on safety.

Member Hill stated the City had to be concerned with areas such as speed limits and excessive curb cuts. Mr. Dearing noted the City did not have an Access Management Policy, which would define how many access points the City was willing to accept.

**Patricia Willard, 6307 Beach Road**, stated she had a comment about using the left turn lane to access a road. She stated she had been cited for that, and explained she had been told drivers are supposed to turn directly into traffic when an opening allows. She noted that if vehicles utilized the left turn lane to exit from a development or driveway, the left turn lane is then blocked for use by other vehicles on the road.

**James Carson, 3459 Warwick Drive**, referred to the discussion regarding the grading on the hill on South Boulevard, which runs east to west, and the fact the road was designed to accommodate a fifty (50) MPH speed limit. He noted the evening rush hour traffic heading west had to deal with the sun as they came over the hill, which limited the sight distances for those vehicles.

Mr. Dearing noted that circumstance was true for any east/west road in the State. He explained there were times during the day, during different seasons, when the sun was in direct alignment with the road, either during sunrise or sunset. He stated all drivers, based on the Vehicle Code,

are required to drive in a reasonable and prudent manner given the current conditions, including sun glare. He noted sun glare exists, even on a flat road.

**Mark Ott, 3300 W. South Boulevard**, questioned how the density was computed for the proposed project. Ms. Millhouse stated the calculations were based on the same parameters for both developments. Mr. Ott noted the first acre at the front of the project was not being developed. He questioned whether the City would be liable if an individual was hit by a golf ball. Attorney Staran stated Pine Trace has exclusive control of the site at this time. He noted if the City takes over the golf course in the future, the City would be insured and indemnified.

Member Barnett stated it was difficult to balance the right of a property owner to develop according to the City's Ordinance against the numerous safety concerns and other issues regarding the project that had been discussed. He noted the potential alternative regarding the traffic signal. He referenced the comments regarding the cutting down of trees and the quality of life in the City, which had been common issues with all the developments in the City over the years. He stated he felt density was an issue with this project, and noted he hoped the traffic signal and size of the development could be readdressed.

Member Golden clarified the property was under an option to purchase. Mr. Erickson stated the property was under a purchase agreement contingent upon approval of the project.

Member Hill clarified the project could not have access from the entrance to Pine Trace Golf Course. Attorney Staran explained Golf Concepts would have to give permission and consent to use their entrance because the golf course entrance was not a City road. He stated a major consideration for the golf course was the liability for golf balls hitting vehicles using the road.

Member Hill stated the golf course would be owned by the City in the future, and questioned the current location of the driving range on the golf course. She felt the project could have been better developed utilizing the golf course entranceway, rather than another entrance off South Boulevard. She noted Pine Trace Village had been developed without stub streets, despite the City's policy with respect to providing access to adjoining properties.

Member Robbins questioned the maximum density for the proposed project. Ms. Millhouse explained there was no maximum density, rather it was a matter of meeting the minimum of an eighty (80') foot frontage, and ninety-six hundred (9,600) square feet of unit.

Member Robbins questioned whether those requirements would be different if the project was developed under the Subdivision Control Act. Ms. Millhouse stated the project would have to meet the same requirements as the City's Ordinance did not distinguish between site condominiums or platted subdivisions.

Member Robbins questioned the reason for the development of the project as site condominiums. Ms. Millhouse explained that was done at the option of the developer. She stated the property was not platted land; therefore, either option could be used under State Law. Attorney Staran stated site condominium projects appeared to be the preferred method of development.

Member Robbins questioned whether a written agreement existed with respect to the emergency entrance. Mr. Erickson explained the details had not been worked out at this time. He indicated a final agreement would be negotiated, including winter maintenance.

Member Robbins questioned the process for the project if Preliminary Site Condominium Plan Approval were granted. Ms. Millhouse stated prior to Final Plan Approval, detailed engineering and construction drawings would be approved; all permits would be pulled; the Planning Commission would make a recommendation, and the plan would go back to City Council for final approval.

Member Duistermars questioned whether the landowner would still have access right to South Boulevard, even if a stub street had existed. Mr. Dearing explained the property fronted a public road (South Boulevard), and the RCOC could not deny access because there was no other public road adjacent to the property. He stated the RCOC would require placement of the access in a position that maximized safety. He indicated if the entrance to the golf course was a public road, the property would have access to two (2) public roads, giving the RCOC more latitude to deny access to South Boulevard.

Member Robbins suggested the motion included with the packet have more detailed information regarding the arrangements that will be made with the golf course with respect to the emergency access. He stated he was concerned about vehicles being parked at the entrance to the emergency access prohibiting emergency vehicles from getting through. He suggested additional signage be posted at the emergency access entranceway, as well as at the cul-de-sac. Mr. Erickson agreed that request could be accommodated.

Member Robbins stated the project met all the criteria according to the City's Ordinance, and noted he did not feel there was sufficient criteria for Council to deny the request for approval. He questioned whether the County would consider installing an offset traffic signal, if the project's entrance road was closer to Beach Road. Mr. Dearing explained the criteria for a traffic signal is driven by the traffic count. He noted the project was a small development and would probably not add significantly to the traffic count. He stated most offset traffic signals were installed because both roads met the traffic criteria.

Member Hill questioned whether the proposed retaining wall along the road to the east would have a rail. Mr. Engstrom stated the City Ordinance required a pedestrian safety rail across the top of the wall, which could be provided in a manner that is both aesthetic and functional.

Member Hill questioned whether a rail was required for traffic safety issues, noting the proposal contained railing on the retaining wall along the emergency access. Mr. Dearing indicated the need for a guardrail would be addressed. He explained the criteria for guardrails included a safe recovery area (or a clear zone), ensuring sufficient area to recover before arriving at the wall. He stated if sufficient clear zone did not exist, a guardrail would be required. He indicated the retaining wall itself could include treatment turning the wall into a barrier, which would be more aesthetic.

**Barbara Ott, 3300 W. South Boulevard**, stated there were many times during the summer months when the entrance to the Pine Trace Golf Course had cars parked on both side from South Boulevard. She indicated many patrons of the golf course parked in no parking areas for short trips to the pro shop.

There being no further discussion, President Dalton called for a roll call vote on the motion on the floor.

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Resolution A0493-2003-R0119

**MOTION** by Duistermars, seconded by Robbins,

**Resolved** that the Rochester Hills City Council approves the Preliminary Plan based on plans dated received February 7, 2003 for Southwind Estates Site Condominiums, Parcel Number 15-31-400-016, zoned R-4 (One Family Residential), (City File No. 00-031) with the following findings and subject to the following conditions.

Findings:

1. Upon compliance with the following conditions, the preliminary plan meets all applicable requirements of the Zoning Ordinance and the One-Family Residential Detached Condominiums Ordinance.
2. Adequate utilities are currently available to properly service the proposed development.
3. The preliminary plan represents a reasonable and acceptable plan for developing the property.
4. The preliminary plan represents a reasonable street layout, as well as a reasonable lot layout and orientation. In addition, all lots have access to the interior local street.
5. The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.

Conditions:

1. The turning radius of the proposed access from Pine Trace Boulevard be approved by the City of Rochester Hills Fire Department.
2. Provide documentation prior to occupancy of homes that the emergency access porous paving system has been successfully tested by the City of Rochester Hills Engineering Department.
3. An access easement and maintenance agreement for the emergency access be

provided by the applicant and approved by the City prior to issuance of a Land Improvement Permit.

4. Provision of a performance guarantee in the amount of \$2,790.00, as adjusted if necessary by the City, to ensure the correct installation of the proposed landscaping. Upon approval of the installation by the City's Landscape Architect, a maintenance guarantee shall be retained for a minimum of two growing seasons. The performance guarantee to be provided by the applicant prior to issuance of a Land Improvement Permit.
5. A detail of the emergency access decorative retaining wall and fence be added to the preliminary plan and approved by the City.
6. The portion of the emergency access retaining wall within the storm sewer easement be deleted.
7. Greater detail regarding ownership, location, and future maintenance responsibility of the emergency access retaining walls be submitted and approved by the City Engineer.
8. The first course of the legal description on the cover sheet be changed from NW to NE.
9. The retention wall west of the existing home be of a decorative block construction, as discussed this evening and as approved by Staff.
10. Master Deed and By-laws stipulate that the City may step in to maintain the emergency access as necessary and/or if not maintained by the Association.
11. Approval by Engineering Services of the revised detention basin grading proposal to preserve tree #3667 and #3668.

Roll Call Vote:

Ayes: Robbins, Dalton, Duistermars  
Nays: Golden, Hill, Barnett  
Absent: Holder

**MOTION FAILED**

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President Dalton noted the vote on the motion resulted in a three/three tie, which meant the motion had failed.

Attorney Staran suggested unless Council Members believed they could reach a majority decision on this matter, a motion be made to postpone the matter to a future Council Meeting when all Council Members are present.

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Resolution A0493-2003-R0120

**MOTION** by Barnett, seconded by Duistermars,

**Resolved** that the Rochester Hills City Council hereby **POSTPONES** discussion on the Preliminary Plan for Southwind Estates Site Condominiums, based on plans dated received February 7, 2003, Parcel Number 15-31-400-016, zoned R-4 (One Family Residential), (City File No. 00-031), to a Regular Rochester Hills City Council Meeting with a full Council Board present.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill  
Nays: Robbins  
Absent: Holder

**MOTION CARRIED**

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**18. NEW BUSINESS**

**18a. Adoption of Policy** regarding Ordinance Publication (A0615) (Members received a copy of an Agenda Summary Sheet dated March 27, 2003 from Beverly Jasinski, City Clerk, with attachments)

President Dalton stated the proposed policy would allow a summary of adopted Ordinance Amendments to be published in the City's Official Newspaper. He noted the Ordinance Amendments would be posted on the City's website and would be available for review in the City Clerk's Office.

Member Robbins noted the City Charter required publication in full of all Ordinance Amendments. Attorney Staran explained the Home Rule Cities Act contained a provision that allowed summaries to be published, regardless of the City Charter provisions to the contrary. He stated the Home Rule Cities Act would override the City Charter.

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Resolution A0615-2003-R0121

**MOTION** by Robbins, seconded by Hill,

**Resolved** that the Rochester Hills City Council adopts the Ordinance Publication Policy establishing the criteria for publishing new and amended ordinances after their adoption as follows:

Each ordinance passed by Council shall be published at least once within fifteen (15) days after its adoption by Council, as follows:

- The ordinance, after its final passage, shall be published in full on the City's Web page.

- A summary of the ordinance shall be published in the newspaper including the Chapter, Title and Sections amended, and shall include the verbiage that a copy of the entire ordinance is available for review in the City Clerks Office during regular business hours, and on the City's Web Page.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Robbins  
Nays: None  
Absent: Holder

**MOTION CARRIED**

- 18b. Discussion** regarding City Manager (A0622) (Members received a copy of an Agenda Summary Sheet dated March 25, 2003, from John L. Dalton, City Council President, with attachments)

President Dalton stated due to the lateness of the hour, he would allow those residents in the audience who wished to speak on this issue an opportunity to speak, and would then suggest the matter be postponed to a future City Council Meeting.

**Josephine Geraci, 1566 Colony** and **Ron Edwards, 1604 Kingsmere** were not present in the audience at this time, although they had submitted speaker cards for this Agenda Item.

**Lee Zendel, 1575 Dutton Road; Rev. Dr. Pamela Whateley, 1600 N. Livernois Road** and **Carl Wellenkotter, 184 Shagbark Drive**, stated they would speak on this issue when it is rescheduled. President Dalton stated they would be notified when the matter was rescheduled.

- 18c. Adoption of Resolution to Set Closed Session** on Wednesday, April 9, 2003 at 7:30 PM, to discuss a confidential attorney/client privileged communication and to consider the purchase or lease of real property. (A0008) (Members received supplemental information prior to the beginning of the meeting).

President Dalton stated he was requesting this closed session because Council Members had significant items to review and discuss.

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Resolution A0008-2003-R0122

**MOTION** by Barnett, seconded by Robbins,

**Resolved** that the Rochester Hills City Council hereby agrees to meet in Closed Session, as permitted by State Statute MCLA 15.268, on Wednesday, April 9, 2003 at 7:30 pm at 1700 W. Hamlin Road, Rochester Hills, Michigan for the purpose of discussing a confidential attorney/client privileged communication and to consider the purchase or lease of real property.

**ROLL CALL VOTE:**

Ayes: Hill, Robbins, Dalton, Barnett, Duistermars, Golden  
Nays: None

Absent:           Holder

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**MOTION CARRIED**

**19.   ANY OTHER BUSINESS**

Member Hill suggested Council Members hold a general discussion regarding how mandates being imposed on the City will be handled. She noted many of the mandates were not included in the Budget, and stated she felt Council should be aware of the consequences.

**20.   NEXT MEETING DATE**

**20a.   Wednesday, April 16, 2003- 7:30 PM - Regular Meeting**

**21.   ADJOURNMENT**

There being no further business to discuss before Council, President Dalton adjourned the meeting at 1:08 AM, Thursday, April 3, 2003.

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**JOHN L. DALTON, President**  
Rochester Hills City Council

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**JUDY A. BIALK,**  
Administrative Assistant to the City Clerk

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**BEVERLY A. JASINSKI, Clerk**  
City of Rochester Hills