

5. *The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.*

Conditions:

1. *Addition of greenbelt plantings along Avon Road, outside the public right-of-way, to minimize the view of the rear yards of homes (especially lots 30, 31 and 47), as approved by the City's Landscape Architect.*

2. *That all off site drainage easements and agreements be reviewed and approved by Engineering Services prior to Construction Plan Approval.*

3. *All construction traffic be limited to and from Avon Road.*

4. *Erect a physical barrier along the wetland buffer, as identified on Sheet L2 for lots 12 and 13, as approved by Staff (fence and sign not appropriate).*

5. *Gravel road access to detention pond to include turf block.*

*Mr. Schroeder called the question.*

Roll Call Vote:

*Ayes: Boswell, Brnabic, Dettloff, Hardenburg, Holder, Reece, Schroeder*

*Nays: None*

*Absent: Hooper, Kaltsounis*                      **MOTION CARRIED**

*Mr. Boswell noted for the record that the motion passed*

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

**Aye** 7 - Boswell, Brnabic, Dettloff, Hardenburg, Holder, Reece and Schroeder

**Absent** 2 - Hooper and Kaltsounis

**DISCUSSION**

**2006-0226**      Proposed Residential Development on 25.9 acres located east of Rochester Road, north of Tienken (north of Cross Creek Sub), Parcel No. 15-02-177-001, TJ Realvest, LLC, applicant.

*Mr. Delacourt informed the Commission that Staff recommended the applicant go before them to discuss the 26-acre site, which was located on the east side of Rochester Road, north of Tienken. He noted that the site was encumbered by a high-quality wetland and trees, and that Staff had talked with several applicants in the past about how to do a single-family development there.*

*Mr. Delacourt brought up that the Commission had previously discussed the City's Natural Features Inventory, the Master Plan and recommendations about using flexible types of housing to protect the natural environment. The applicants came up with several concepts, including attached housing. It related to the mixed-residential designation in the Master Land Use Plan update, with a density no greater than what was allowed by the underlying single-family (R-1) zoning.*

*Present for the applicant were Jaroslaw B. Kisil, Member and General Counsel, and Tom Cooney, Member, TJ Realvest, LLC, 35312 Connecticut Drive, Suite 100, Sterling Heights, MI 48310.*

*Mr. Kisil stated that they had a parcel with high quality wetlands and natural features. He showed a proposed single-family development, which would meet the City's Ordinances, with the wetland and buffer outlined. Out of 25 acres, there were about 9 acres of wetlands. The topography of the site was quite severe and there was a 40 to 47-foot drop down to the wetland areas. Staff expressed watershed concerns, tree concerns, and that most of the upland area would be disturbed with a single-family development. As an alternative, and after talking with Staff, they came up with a proposal with similar density that would have the least amount of impact on the overall property. It was an attached multiple, which would require some sort of rezoning - either through a PUD or Conditional Rezoning. Compared with the single-family plan, it retained a great portion of the upland areas. Their engineers believed it would be the best course to follow to prevent future problems that might affect the wetland area. He pointed out the existing, private road, Tree Top Lane, and said an easement had been granted to three owners to the northwest, upon property which was owned by the applicant. They proposed to improve it to public road standards, whether private or dedicated. He suggested they would add a roundabout to stop traffic from accessing the three homes and advised that the development would be accessed from Tree Top Lane, as well as Rochester Road.*

*Mr. Kisil next showed a similar-styled development called the Pine Knob*

*Enclaves in Clarkston. The proposed 30 units would be the same - upscale, luxury condos. Mr. Schroeder asked for the typical square footage, and Mr. Kisil reported that the units would range from 2,800 to 3,500 square feet, and he showed some elevation drawings. They anticipated that most of the units would have walk-outs.*

*Mr. Reece asked how many curb cuts were shown on Rochester Road, and Mr. Kisil replied three additional from what currently existed, but he noted it could be reduced to two. Mr. Reece suggested that the access to the north would only have one curb cut.*

*Mr. Dettloff mentioned that he drove by the site and noticed a lot of activity going on with large bulldozers and other equipment. Mr. Cooney advised that a sewer was being installed, per the City, to the end of Tree Top Lane. It would currently stop at the end of their property. There would also be a water main installed. Mr. Dettloff asked how long they had owned the site, and was told since 2002.*

*Mr. Delacourt said that there was quite a bit of difference between the single-family and attached housing plans, although they would have around the same number of units. The potential for less developed area was much greater with the attached housing - and less curb cuts, impervious surface and retention area. Staff had not decided what process would be most appropriate, whether it should be a PUD or perhaps Conditional Rezoning to RCD to control the site a little more. Staff was interested to see whether the Commission would even want the applicant to pursue a clustered development and then bring it back with a more formal conceptual plan that had been reviewed by Staff and had a recommendation for a process.*

*Mr. Reece felt that the condominium approach would be far less obtrusive on the existing topography and that the layout, aesthetically, was a lot better than the one for single-family residential. He thought it would probably be better for the wetlands in the long run.*

*Mr. Kisil indicated that they proposed a single-loaded road for a great majority of the road. Obviously, there was plenty of room for additional units, and if they were to maximize the density they would be looking at about 44 units. They purposely eliminated anything on the steep slope to create a larger setback buffer between existing residences. Mr. Reece asked if single-family homes would be the same size. Mr. Kisil answered that they would most likely be in the 3-4,000 square foot range. Mr. Reece thought that would be in keeping with the nature of the surrounding*

homes.

Ms. Hardenburg asked if 30 units were proposed on 16 acres. Mr. Kisil said it would be on 25 acres encumbered with wetlands. Ms. Hardenburg indicated that there would be 16 usable acres. She said she liked the concept and acknowledged it was necessary in some places, but she did not know if she could agree to it in an R-1 area. Mr. Kisil said that the single-family layout would allow for 28 homes. Ms. Hardenburg said she would not recommend the single-family. Ms. Kisil said he appreciated that, and wanted to make a more likeable proposal, but with single-family, they would not seek a rezoning; they would look strictly at proposing a development that conformed with existing zoning, which would allow 28 units. Both plans would yield the same amount of units.

Mr. Delacourt pointed out that R-1 allowed 1.7 units per acre density. Ms. Hardenburg asked if the area would be one unit per acre in the new Master Plan, and Mr. Delacourt said that was correct for Estate zoning, but it would require the owner of the property, unless the City initiated the rezoning, to request the down zoning from R-1 to Estate.

Ms. Hardenburg commented that the applicant could not build on wetlands, and Mr. Delacourt agreed they could not without a Permit, which was being talked about for the road crossings and other encroachments. The idea was to protect the existing feature and allow a development that was similar in density to the underlying zoning that provided a natural protection.

Mr. Schroeder stated that he felt it was a good plan that would preserve the wetland. It would be a high-end development and it would be buffered from the surrounding properties. He felt it was the way to go.

Mr. Reece asked the change in elevation from the major portion of the development to Rochester Road. Mr. Kisil said that it was significantly higher. Mr. Cooney said the low point at Rochester Road would have an elevation of 790 feet, and the highest point toward the rear would be 840 feet. The major portion of the development would have about a 20-foot range up from Rochester Road.

Mr. Reece asked about the water and sewer. Mr. Cooney said that it had been installed along Rochester Road during the summer, and the City was finishing the other part of the contract, which would extend the sewer on Tree Top Lane. The impact on the wetland was minimal. Mr. Reece asked if he could assume it had been sized for future development, which

was confirmed.

*Ms. Brnabic said she would be interested in seeing a formal conceptual plan. She thought it looked good, but she would like to see it done as a PUD. She did not think a straight rezoning would be preferable, and she would not consider anything without something more formal. She did not think they could totally discount Master Planning, noting the site would have new construction.*

*Mr. Boswell opened the public comments at 9:16 p.m.*

**Steve Wilde, 155 Tree Top Lane, Rochester Hills, MI 48306** *Mr. Wilde thanked Mr. Kisil for telling them about the meeting. He had talked with Tracy Balint in Engineering and she always told them they would be made aware of any meetings. He and his neighbors were not informed of the meeting. Mr. Delacourt advised him that Ms. Balint worked in the Engineering Department and she would have no idea about the meeting. He was not sure of Mr. Wilde's conversation with Ms. Balint, but he suggested that if Mr. Wilde wanted to be notified of any future meetings, he should give his name to the Secretary. Mr. Boswell added that anyone who turned in a card to speak would be notified of future meetings.*

*Mr. Wilde believed that a neighbor had put together a petition of all the residents who were against the proposed development because of the wetlands. He asked if anyone had heard about the petition, and Mr. Anzek said they had been working with Mr. Kisil for a couple of years and had not seen anything.*

*Mr. Wilde said that the plan was for 30 units on 16 acres. He and his neighbors had three homes on 15 acres or more. Their main dispute was what the developer would be allowed to do as far as accessing Tree Top Lane from the south. They had an easement agreement that stated that the developers only had access from the north four acres. They had a contrary opinion about what would be allowed as far as access.*

**Peter Duz, 130 Tree Top Lane, Rochester Hills, MI 48306** *Mr. Duz stated that he was a landowner on Tree Top Lane. He advised that access to Tree Top Lane was a written right-of-way agreement through Oakland County that granted access to four properties - no others. Those four did not include, in their opinion, the subject site. Also, the agreement had a stipulation that it could not be terminated unless agreed and signed upon by the titleholders of the four parcels. They did not want a road coming off their road. He said that no one had ever asked them about it.*

*They happened to find out about the meeting and wanted to come and voice their dissatisfaction about not being told, and he said they would not allow a road off their road, and the developer would have to find a new access. He referred to the size of the homes proposed, at 3-4,000 square feet. His would be the closest to that and his was only 1,500 square feet. That was a little different than what they said was in the area. He stressed that the neighbors did not want the water and sewer coming up the road because they had great wells and septic fields. It was only half way up the road because the owner of the parcel on the northeast corner of Rochester Road and Tree Top Lane wanted it. The developers thought the land would be more saleable with water and sewer. The neighbors have had no road for two weeks and walk hundreds of yards with groceries to allow that access for one home. It looked like it was not being put in for one home, but for the proposed development, about which they were not told. It seemed to him like there were a lot of underhanded things going on, and they would like to be told whenever something happened. He handed in copies of the Oakland County Road Agreement, which was placed on file.*

**Peter Stokes, 171 Tree Top Lane, Rochester Hills, MI 48306** Mr.

*Stokes pointed out that when they purchased their properties, they did so because it was a private, secluded area. The proposal would bring a roundabout and a constant flow of traffic right into the heart of their homes. That would affect the quality of their lifestyles. They wanted to remain shielded from traffic.*

**Melinda Hill, 1481 Mill Race, Rochester Hills, MI 48306** Ms. Hill said she just wanted to caution the Commission about the density because the area was zoned R-1. The applicant would have a great deal of problems developing with the wetland. She was not sure that mitigation would be allowed. She realized that the plan had not been engineered. She recalled that Ms. Brnabic mentioned that she would not want to consider Conditional Rezoning, but Ms. Hill felt the proposal might have potential for that. If the number of units to be placed on the property were reduced by the applicant and if there was a reduction in the amount of land being used, it could be a very unique situation. It would almost be like a Use Variance, which the City did not see very often. It might be a situation where the City should entertain Conditional Rezoning. There would a contract in place and the applicant would have to offer the right things to make it work.

*Seeing no further speakers, Mr. Boswell closed the public comments.*

*Mr. Delacourt advised that there had been no formal plans submitted to the City for review. He stated that issues that were brought up about Tree Top Lane always came up with private access drives. If the plan were to move forward as single or attached-family, any connections would have to be verified by the City Attorney and deemed legal. Regarding notice to neighbors, the City had no protocol for a discussion item. If this were formally submitted as a PUD, or rezoning, there would be notice to all parcels within 300 feet. He reminded that a lot of the issues involved development of the Site Plan. He did not want to get too far down the road with those issues before a process was established to bring it back.*

*Mr. Boswell summarized that the Commission was pretty much in favor of the condo plan as opposed to single-family. He commented that the applicant might have to find a different way in.*

*Mr. Kisil advised that the right-of-way was an easement grant from the parcel immediately to the north, over which his company had a controlling interest. It was not an exclusive use of easement. Title to the property remained with them, as owners of the parcel. It was an easement grant given to the three parcels to the north. There was merely a joint maintenance agreement that governed the use of the easement. It could not be terminated and they were not proposing termination; they were simply going to improve the access to public road standards. As far as the roundabout, they included it as something they thought would be more desirable to the three residents, affording more control of traffic into their private drives. They would be more than willing to delete that feature. Regarding Ms. Hill's comments about delineation of wetlands, he noted that all the wetland demarcation and flagging was done by the City's Wetland's Consultant, ASTI, and were accurate survey flaggings.*

*Mr. Anzek asked if the Commission would like the attached housing approach used to maximize the preservation of trees and hillsides. The legal question of access was something for which Staff would demand clarification. They would not want to spend a lot of time on it if a plan could not come to fruition. Regarding the vehicle to use, whether a PUD or Conditional Rezoning, that would be something Staff would explore with the City Attorney as well.*

*Mr. Reece cautioned that because the Commission approved of the condo layout, it did not mean they would approve the density necessarily; the density was not rubber-stamped.*

*Recess: 9:28 to 9:42 p.m.*