

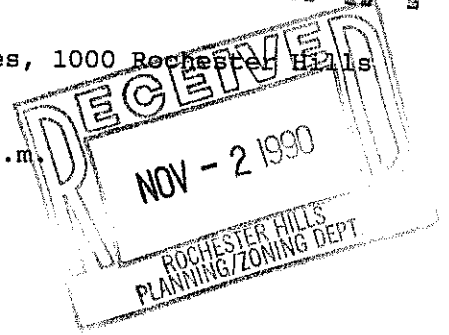
Tuesday, October 16, 1990

ROAD COMMITTEE MEETING held at the City Municipal Offices, 1000 Rochester Hills Drive, Rochester Hills, Oakland County, Michigan.

Chairperson Glass called the meeting to order at 4:15 p.m.

Members Present: Carol Glass, Lauren Shepherd  
Absent: Edmund Baron

Others Present: Billie M. Ireland, Mayor  
Betty Adamo, City Council President  
Lt. Gerard Carlin, Oakland County Sheriff's Department  
Jeffrey W. Cohee, City Operations Coordinator  
Patricia Goodwin, Planning Department Director  
Sgt. Michael McCabe, Oakland County Sheriff's Department  
John Schandavel, Engineering Department Director



Ms. Glass apologized for arriving late.

BUTLER ROAD

Mr. Cohee said that Mr. Weger, Frankel Associates, has met several times with staff, and at their recommendation, made a presentation to the Planning Commission on September 25, 1990. Meetings have been held to discuss Butler Road improvements, but plans have not been submitted for approval.

In response to Ms. Glass' question, Ms. Goodwin said that the drawings provided by Mr. Weger were only a concept of the proposed project, not a preliminary plat. Frankel has agreed to pay for the Butler Road improvements, as well as bridge improvements. The only outstanding issue relates to the road's design. The Planning Commission referred the matter to staff for a recommended design prior to the plat being submitted.

Mr. Schandavel said Frankel is considering a chip and seal road; and if Frankel wishes to place the chip and seal over an asphalt base, staff would support such a recommendation. A chip and seal cover on an asphalt road is very attractive and provides a rustic appearance. The city does not wish the road to remain gravel because of its remote location and associated high maintenance costs.

Ms. Glass said she spoke with Mr. Weger over one year ago, and he had indicated an interest in building a cul-de-sac at the west city border.

Ms. Goodwin said the cul-de-sac was discussed at the Planning Commission meeting; however, the Master Right-of-Way Plan calls for an 86-foot wide, collector road to extend from Adams Road to the municipal boundary, just east of Squirrel Road. The Planning Commission did not take action regarding the cul-de-sac, and staff's position is that from a health and safety standpoint, the road should go through.

Mr. Cohee said that staff has met with Mr. Weger and is trying to design a road that minimizes the impact on the trees and maintains the character of Butler Road; however, there are very difficult constraints related to the vertical curves and existing road conditions. In planning a cross-section of the road, the road would have to be different from what would normally be allowed. If the design is narrow, staff wants to insure that emergency vehicles will have another access to both the multiple-family and single-family subdivisions.

Mr. Cohee said that, from a traffic circulation standpoint, many residents of the development will be travelling to the west for employment, shopping or entertainment purposes and it would not make much sense to direct them to Adams Road. Also, from an emergency vehicle access standpoint, staff feels the road should go through. The road would be designed to minimize environmental intrusion, and made unattractive for cut-through traffic. At Frankel's expense, BRW modeled Butler Road at various design speeds. At a 25 m.p.h. design speed, traffic volumes would be consistent with a collector road as opposed to a major arterial road.

Ms. Goodwin said the Transportation Plan did reduce the roadway's width from 120 feet to 86 feet, and there appears to be an intent to provide a low volume road and not disturb the natural features. Linda Lemke has walked the area and

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believes there are specimen trees along the roadway. Mr. Weger also presented examples of similar roads located in other communities, including Beach Road in Troy.

In response to Ms. Glass' questions, Mr. Cohee said the road is bordered on the north by Oakland University property, from Adams to Squirrel. The city has not contacted Oakland University; however, Frankel did inquire as to whether right-of-way could be acquired for road construction purposes, and they were not interested.

Ms. Shepherd said she spoke to Mr. McGarry, and he said the Oakland University Board of Trustees is adamantly opposed to granting right-of-way on Butler Road.

Mr. Cohee said that the road would need to be improved within its current 66 feet easement.

Ms. Glass said she had a major concern connecting Butler Road. When the study regarding the tech park was received, Butler Road was envisioned as a major thoroughfare from Shelby Township, to Avon Road, to the tech park. The study also suggested that Butler Road be extended straight through to Avon Road. The city would not benefit from connecting Butler Road to Avon Road, and such a connection would adversely affect the residential character of the neighborhood.

Mr. Cohee said the city staff shares many of the same concerns; however, traffic circulation and emergency vehicle access are very important. A very narrow roadway over a mile long, with one access point cannot provide adequate access to the residential development. The city staff is very much opposed to a single-access roadway.

Mr. Schandavel said that the BRW model report stated projected the traffic to be approximately 3,500 vehicles per day on a 25 m.p.h., two-lane road. The projections are based on development in the year 2010.

Mrs. Adamo said that, at the Planning Commission meeting, Mr. Weger said he would consider making the road a natural beauty road and constructing a cul-de-sac. At a Council meeting, it was suggested that the developer be given guidance regarding the cul-de-sac before the plat is submitted. There are lots located west of the boulevard entrance, large enough to allow construction of another sixty-foot road and provide a secondary access to the subdivision from Butler Road.

Mr. Cohee said a second access to the subdivision is necessary. Mrs. Adamo agreed and said that, from an emergency standpoint, two accesses are essential.

Mr. Schandavel said he was not certain a desirable second access could be achieved from Adams Road, and crossing the Clinton River may not be logical. Through a properly balanced design, everyone can be satisfied. Enough natural features exist to limit speed and capacity, and deter cut-through traffic.

Mrs. Adamo said she felt the request for a cul-de-sac was reasonable because Hamlin Road will be significantly improved.

In response to Mayor Ireland's questions, Mrs. Goodwin said Mr. Weger presented the Planning Commission with the physical features, environmental constraints and opportunities, and the challenge regarding road construction contained within his development. The development will be very up-scale and contain very expensive homes. From an image standpoint, the developer would like to make the project as exclusive as possible.

Sgt. McCabe said that the Oakland County Sheriff's Department would like to see more than one access. If the one-mile stretch of Butler Road were to be blocked for any reason, there would be no access to the residents. Consideration should be given to the fact that one large tree could fall and block the entire roadway, or the bridge could be "washed out." The Sheriff's Department and the city have a "mutual aid" pact with Auburn Hills and Oakland University for both police and fire protection.

Lt. Carlin said the Auburn Hills Police Department is actually located closer to the subdivision than the Sheriff's Department; and should assistance be

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necessary from Auburn Hills, Butler Road would provide direct access. In addition, if reinforcements were dispatched from Pontiac, Butler Road would provide easy access to the city. If Butler Road is not improved as a through road, the Sheriff's Department is requesting that another access be provided.

Staff and Committee members reviewed the preliminary drawings for a second access route.

Ms. Glass said Mr. Weger and Mr. Frankel have indicated a resistance to developing an access route that would go over the river. All of the land is zoned residential, and if a road is established through the residential subdivision, it may help to maintain the residential character of the subdivision.

Ms. Goodwin said that a river crossing would be extremely difficult, given the restraints imposed by the city's wetland ordinance as well as the DNR. Mr. Cohee said that the Army Corps of Engineers would also be involved because the river is navigable.

Mr. Cohee said the subdivision should not go forward without a second access. A decision has to be made regarding improvements to Butler Road and the plat has to clearly indicate that a second access will be provided. A stub street to the south of the Clinton River is not a desirable alternative because the subdivision can sit there for years, and it may never be completed. Crossing the Clinton River would be contrary to the city's position regarding preserving and protecting the Clinton River shoreline, wetlands and flood plains.

Ms. Glass said this may be one case where all goals cannot be satisfied with one decision. Quail Ridge has had only one access for almost fourteen years, and they have had no problems. Mr. Cohee said Quail Ridge situation is not desirable and the city staff does not wish to encourage a similar situation.

Mr. Cohee suggested that Frankel design Butler Road to minimize destruction along the roadway to preserve the character of Butler Road; and set aside right-of-way for a cul-de-sac in the event that the city decides at some point in the future a problem exists and the road should be terminated.

Ms. Glass said the design could include a visual barrier or "round-about," similar to the island constructed on Springwood Lane. Mr. Cohee said that the road could be pulled-in somewhat to provide more depth, and there have been no problems associated with the "round-about" on Springwood Lane. Such a design would deter cut-through traffic and maintain low traffic speed.

Lt. Carlin strongly urged the Road Committee to require a second access if, at some time in the future, Butler Road may be closed.

Ms. Glass said she understood Lt. Carlin's concern.

Ms. Shepherd asked if Frankel could be required to deposit funds to pave the road to the west boundary, and leave a portion of the road gravel. Mr. Cohee said such an agreement could be reached; however, as was stated earlier, the city does not want to maintain a gravel road in this area of the city.

Ms. Glass said a pedestrian/bicycle pathway, attached next to the bridge, would be a very positive and necessary addition. Mr. Cohee said any improvements to the bridge will require a pedestrian crossing. Mr. Schandavel said an attached pathway could be supported by the bridge base.

Ms. Goodwin said a walking path along the river was discussed at the Planning Commission. Mayor Ireland said that the city's wetland ordinance may preclude constructing such a pathway. Ms. Glass said boardwalks were constructed along the shoreline at Point Pelee and they are not obtrusive to the wildlife.

Ms. Shepherd asked if the bridge could be covered. Mr. Cohee said Mr. Weger has expressed an interest in a covered bridge. A covered bridge would have to be tall enough to provide access for fire trucks, school buses and delivery vehicles; and may create an attractive nuisance to children living in the area. Lt. Carlin said he would be opposed to an enclosed bridge and suggested that the bridge be covered by a roof-type structure and that the sides be open.

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Ms. Glass said she will discuss today's meeting with Mr. Baron and report back if there are any problems.

Lt. Carlin raised the possibility of requiring a stub street. Mrs. Goodwin said the ordinance requires a stub street to adjacent like-zoned property. Staff will review the preliminary plans for placement of a stub street.

Staff and Committee members agree to the following design concepts:

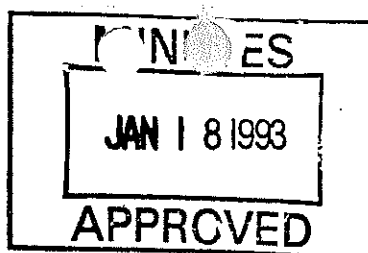
1. The road should be engineered to a maximum speed of 25 m.p.h.
2. The trees and vegetation along the road should not be disturbed any more than necessary.
3. The road grade should be maintained as closely as possible to the existing grade.
4. The road will have an asphalt base, covered with chip and seal.
5. A covered bridge will be discussed, with an attached pedestrian treatment.
6. A "round-about" treatment at the end of Butler Road, to be contained within the city's boundary should be provided with the improvement of Butler Road.
7. Include a stub street in the plat.
8. Construct a bikepath on the south side of Butler Road.
9. Create a second access point for ingress and egress to the subdivision west of the existing entrance on Butler Road.
10. A Wetlands Use Permit Request will be submitted at the time the plat is submitted for approval.

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**ANY OTHER BUSINESS**

Mr. Cohee reported that a S.A.D. paving request had been received from residents in Eysters Avon Gardens; however, the petitions may not contain signatures of the majority of the property owners. After staff has had an opportunity to review the request, a report will be forwarded.

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There being no further business to be brought forward, the meeting was adjourned at 5:10 p.m.

lmb



Tuesday, November 23, 1993

**REGULAR PLANNING COMMISSION MEETING** held at the City of Rochester Hills Municipal Building, 1000 Rochester Hills Drive, Rochester Hills, MI 48309 Oakland County, Michigan.

The meeting was called to order by Chairperson Kaiser at 7:30 p.m. in the auditorium.

**ROLL CALL:**

**Present:** Members William Boswell, Gene Ferrera, Jeff Hauswirth, Eric Kaiser, Eugene Nowicki, James Rosen, George Sadowski

**Absent:** Scot Beaton

**Quorum Present.**

**Also Present:** Patricia A. Goodwin, Planning Director  
Jeff W. Cohee, Assistant to Mayor  
Lawrence A. Ternan, City Attorney  
John Staran, Assistant City Attorney

**COMMUNICATIONS:**

Letter to Ms. Goodwin dated November 19, 1993 from the Quail Ridge Homeowner's Association (will be read into the record under Item A on the agenda).

October, 1993 edition of *Planning & Zoning News*

The Chair announced that a public hearing notice was advertised this evening for the Pine Creek Development, however, the applicant's plans were not received in sufficient time to be reviewed by staff prior to tonight's meeting. Anyone interested in this item can request to be noticed when it is ready to be place on an agenda.

**NEW BUSINESS:**

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pleasanta  
0194  
aj

**Tentative Preliminary Plat Approval - File No. 90-253**

**Project:** Butler Ridge Subdivision  
**Requests:** 1) Tree Removal Permit  
2) Wetland Use Permit  
3) Tentative Preliminary Plat Approval  
**Parcel No.:** 15-19-300-002, zoned R-2  
**Location:** South side of Butler Road, west of Adams Road  
**Applicant:** Frankel Associates  
2301 W. Big Beaver, Suite 900  
Troy, MI 48084

Ms. Goodwin presented her staff report dated November 16, 1993 (staff report has been placed on file and by reference becomes part of the record hereof).

Giving a brief description of the project, Ms. Goodwin noted that the proposed 159-lot single family subdivision will occupy 116.83 acres of the 138.047-acre site owned by the applicant. The site consists of land located north of the Clinton River. Another subdivision, Rookery Woods, is currently under construction on the south side of the river and is also owned by the applicant. The applicant is not proposing to use either the Open Space Option or lot averaging, therefore, all lots will meet or exceed the minimum 15,000 square foot lot area and 100 foot lot width requirements of the R-2 zoning district. The plan does indicate the preservation of approximately 10 acres of wetland areas. Approximately 23 acres along the Clinton River will be deeded to the Oakland Land Conservancy by the applicant for public open space. A total of 5.62 acres are preserved for private parks within the subdivision. In addition, the plan indicates more than 30 acres to be set aside for wetland buffer and tree preservation area. A total of 89.79 acres will be developed for homesites and infrastructure to support this project.

Mr. Jeff Cohee, Assistant to the Mayor gave a presentation regarding the city's position on the improvement of Butler Road. Mr. Cohee began by stating that the Butler Ridge property is located in such a way that the Clinton River is on the south, leaving no practical way to access it from the south, even though Frankel owns the property adjacent to it. He pointed out that Butler Rd. is a very old, one-lane road which was closed in 1983 at the bridge which crosses the Galloway Creek, because it was structurally deficient. Knowing that it has been closed for some period of time and has deteriorated, Frankel approached the city in 1989 (well in advance of planning the subdivision) and sought, with the city, to find ways to provide for the improvement of Butler Rd. so they could have access to their property.

The character of Butler Rd. is such that it has a lot of large old oak trees along both sides of the road in proximity to the travelled portion of the roadway. The city has a great sensitivity in how the road might be improved and is trying to preserve the character of the area along the roadway in doing that. He said that they've met with the City Council Road Committee, the City Engineering Department and other staff and attempted to put together some criteria that they could follow for the improvement of Butler Rd. Mr. Frankel was also provided with that information. Since that time, some preliminary engineering work has been done to the point that they have a pretty good idea of how Butler Rd. could be improved to meet those design criteria and preserve the environment along it.

Continuing, he noted that a 25' wide improved roadway is planned with two 11' traffic lanes with a foot and a half of curb and gutter on each side and an extensive amount of retaining wall to minimize the grade and disruption to the trees along the roadway. There are some trees that must be removed, as it's almost unavoidable to improve the roadway without removing any of the trees.

Regarding cost, Mr. Frankel has agreed to pay the cost of improving Butler Rd. from the point where the pavement ends now, just west of Adams at the River Oaks entrance, provide the bridge at the Galloway Creek Crossing and improve the roadway as a two-lane paved road all the way to the municipal boundary where it would terminate in a traffic circle. This was one of the things the City Council Road Committee wanted included in the design to minimize the attractiveness of the road as a cut-through back and forth between Squirrel and Adams, and also to maintain a low speed. The idea is that Butler would be a minor collector road, probably with a speed limit of about 25 miles per hour and it would provide an adequate and safe access for the subdivision and also allow the passage of school buses and fire apparatus on the roadway.

Mr. Cohee continued by stating that, in planning for the project, they ran into a dispute with Oakland University over the amount of existing right-of-way that is available to improve Butler Rd. This has resulted in litigation that involves the city, the university and Frankel Associates. The litigation is a lawsuit for a declaratory judgement to define the law as it relates to how much right-of-way is available for the improvement of Butler Rd. This has delayed the ability of Frankel to move forward, finish the design and prepare for the improvement of the roadway in conjunction with the subdivision. Frankel has indicated that they wish to move forward with the planning of the subdivision while the details of the right-of-way and how the road will be improved are being worked out. He indicated to Mr. Frankel that staff would have no objection to that as long as they would not go beyond the point of Final Preliminary Plat approval and there would be no construction of the subdivision unless and until there is a final resolution of how Butler Rd. can be improved and that they would be in a position to go forward and approve it. Mr. Cohee noted that Mr. Mark Erickson from Frankel Associates has indicated that they find that condition acceptable. Mr. Cohee asked that the Planning Commission include that condition in their recommendation to the City Council, allowing them to go forward for Tentative Approval and Final Approval of Preliminary Plat, but would preclude construction until there's a clear resolution. He pointed out that Mr. Ternan, City Attorney, is present this evening if there are any questions related to any legal aspects of litigation or the city's position in approving a plat with a condition such as this attached to it.

Member Ferrera asked who initiated the lawsuit and for what reason.

Mr. Cohee replied that Jensam Properties (the company that's developing the land) initiated the lawsuit to define the extent of right-of-way that exists along Butler Rd.

Member Ferrera asked if the university was not willing to provide the amount of land necessary to improve Butler Rd.

Mr. Cohee said that the city's understanding was that there's a 66' wide roadway existing. The university takes the position that because of the location of their fence along the roadway, which is somewhere within 33' of that so that location rebuts the presumption that there are 33 feet existing north of the center line and that the city is only entitled to the traveled portion of the roadway. The litigation basically asks the court to review the facts and the law involved and provide a judgement that would clarify what the law is and how much right-of-way exists.

Member Ferrera asked if the circuit court rules against Oakland University, then would O.U. have the right to take it to a higher court and is it possible that this issue could be dragged out for a number of years.

Mr. Cohee replied that it's possible that O.U. could take this to a higher court, however, he felt that there is a good prospect that it will be resolved without going that far.

Member Ferrera recalled Mr. Cohee's statement earlier which said that the road would be taken all the way to the city's western boundary. He asked what properties this would serve past the entrance to Butler Ridge Subdivision.

Mr. Cohee replied that the only other property being served would be the university property. He noted that the property in Auburn Hills to the west and the south side of Butler Rd. has access from the local road system in Auburn Hills.

Member Ferrera asked if there had been any discussion to terminate the road past the Butler Ridge Subdivision entrance.

Mr. Cohee replied, "no," that the discussion has always been to take it to the boundary and terminate it there, as far as the improvements. It would still be open to Squirrel Rd. for access from Squirrel, but the paved portion would be terminated at the boundary.

Member Ferrera asked Mr. Cohee if Oakland University played a role in the discussion of the Butler Road improvements.

Mr. Cohee said "yes," and said that Oakland University was invited to walk the property with the city, Frankel Associates and their engineers, when they were looking at the design of the roadway. Oakland University's architect/engineer participated in that walk.

Member Ferrera asked how many curb cuts Oakland University has on Butler Road at this time.

Mr. Cohee said that he believes there are two curb cuts at the Child Development Center at Adams Road. These are the only two that he's aware of. The indication they received was that Oakland University has no intention of using Butler Rd. for any access to the university. He said that Squirrel Rd. is adjacent to all their property on the west and probably provides much better access to the property.

Member Ferrera asked if Butler Road would connect from Adams Rd. to Squirrel Rd.

Mr. Cohee said that, at this point and time, it will simply be a one-lane gravel roadway, west of the city boundary. He said that if Auburn Hills decides to improve it, they could match Rochester Hills' design. He said that the purpose of the traffic circle at the end of the city's boundary, at least in the minds of the City Council Road Committee members at that time, was to make it less attractive for cut-through traffic and also to slow down the traffic to maneuver the traffic circle.

Member Ferrera expressed some concern about the potential damage to the existing natural

environment as a result of the improvements to Butler Road. He remembered a lot of beautiful, old trees on Butler Rd. He commented that, given the city's standards for road construction and safety, that those will have a very negative impact on that natural environment. He asked Mr. Cohee if there had been any discussion relative to how the distance between the curb and the edge of the right-of-way would be treated.

Mr. Cohee said there's about 6 feet beyond the edge of road that would be required to be a clear zone, from the back of curb either north or south of the roadway.

Member Ferrera then asked Mr. Cohee if he knew what the width of the roadway is right now.

Mr. Cohee said that it varies up and down the length of the road. It's probably somewhere around 18' - 20' depending upon the location.

Member Ferrera then calculated, with the clear zone, that the width should be somewhere around 38 feet (adding 10' on each side). Mr. Cohee said that it would be about 37 feet total.

Member Ferrera asked if an exact survey had been done as to how many trees would have to be removed or how much mass grading would occur.

Mark Erickson, Jensam Properties, said that they believe that between 40-50 trees would be affected, of which a percentage are considered on the downward slope of their life span (known as "past climax"). Also a number of trees to be removed have been undercut over a period of time either through erosion or through actual grading. The number of trees to be removed is fairly minimal. He agreed with Mr. Cohee that they are planning to build a retaining wall system to protect those trees along the roadway from any danger because of undercutting that has already taken place.

The Chair asked for a clearer understanding of the term "past climax" for trees that are on the downward slope of their life span. The way he heard it, he could see a 200 yr. old oak that has 400 years to its life span being grouped in that category. He said he was just searching for an explanation of what that meant.

Mr. Don Westphal, Landscape Architect, said that he did not do the layout for the road. However, he said he has seen what has been done to adjust its alignment so that it goes side to side where necessary to save significant trees on one side where insignificant trees might be easier taken on another side. With regard to the issue of trees that are 200 years old, he said that there are a number of large trees where just by looking at the caliper of tree it is, you could see its significance and you wouldn't want to lose that tree. If you look at the upper portion of some of those trees and see the amount of dead material that's in there and the state of its decline, certainly the tree might hang on for another 30 or 40 years. However, its aesthetic value is severely diminished. He said, in making a determination as to whether you would save a 32" caliper tree that is in a state of decline versus an 18"-20" tree on the other side that is vigorous and would better withstand a change to its environment, then he would opt for saving the younger more vigorous tree and not try to preserve some of the older trees that are in decline. In many cases, the change to the environment will hasten that eventuality.

He said that he likes the character of Butler Rd. and feels it's an important asset to the approach to the subdivision. He feels very confident that the efforts made to preserve its ambiance will result in a very unique kind of road. There are other issues of grade and so forth that had to be considered. He believes that Frankel has done a very good job.

Member Ferrera asked if this specific plan would become part of the plat approval that would go before City Council.

Mr. Cohee said "no," that the roadway would be approved under a permit issued by the city. City Council has asked, in the past, that all improvements to streets in the city be reviewed by the Road Committee. This is the process they've been going through up to this point and time.



The Chair asked Mr. Cohee what would happen with the agreement with Frankel Assoc. and the eventual improvement of Butler Rd. if litigation were unsuccessful either now or at some other future date.

Mr. Cohee said that the situation now is that the litigation has occurred because of the university's position and what it believes it should be compensated for the right-of-way. That's the primary reason for litigation. He said it's difficult to say where they'll be if the litigation is unsuccessful. Up to this point, they've all tried to work out problems that are associated with it to make sure that it is successful. If by attaching a condition to the plat, then it would be obvious that Frankel knows that they've agreed to that and the city knows that there has to be some resolution of Butler Rd. and to provide adequate access to the subdivision. He felt that would be a significant enough impetus to cause the resolution of the Butler Rd. problem. He said that property is too valuable to sit there indefinitely and not be used.

Responding to Mr. Cohee's comments, the Chair said, "Other than the condition that you're asking the Planning Commission to impose on a recommendation for approval, is there any other aspect of the agreement that the city has with Frankel that is enforceable."

Mr. Cohee clarified that the agreement with Frankel is not a written agreement. He said that he has negotiated with them; they've made commitments to improve the roadway and do other things associated to make that access available to the subdivision. He said that he's not sure that the city felt it necessary to reduce everything to writing, because Frankel has a lot to gain by having adequate and improved access to the subdivision and he feels they will follow through on that commitment.

Mr. Larry Ternan, City Attorney, said his understanding is that there is no agreement other than the fact that Frankel has said they want to develop this subdivision and the city staff has said it will not allow it to be developed until the road is improved and the city doesn't have the funds to do it. Frankel agreed to make the improvements, but added that they have a problem with Oakland University. He said that the only agreement is that he and Mr. Cohee said that they would come to the Planning Commission and City Council and recommend that Frankel be allowed to proceed toward a final approval of the preliminary plat, and therefore move the plat along while it works out the problems on the roadway but may not start construction of the subdivision utilities or street system until the right to install the roadway has been arrived at.

Member Nowicki had some concern as to whether or not the city could require Frankel to put the improvement in.

Mr. Ternan said that Frankel voluntarily agreed to do it, plus he believes that the city can require that there be access to the road system within the city so that there can be fire and police access. He felt that it would be a reasonable condition on the plat approval, which maybe puts it a bit beyond being voluntary.

Mr. Ternan suggested that the condition might be worded as such: "That no on-site construction of utilities or road systems be commenced until the right to improve Butler Rd. is obtained and the plans for improving it are approved."

**EXIT MR. TERNAN - 8:24 P.M.**

Mr. Erickson said that they feel that the road right-of-way is there and that it does belong to the city. He said they began negotiations with Oakland University approximately two years ago and they are further apart today than when they first started. They want to go ahead and make the road improvements as they've always indicated to the city that they are willing to do. Their desire has always been to develop the safest road they can, balancing out the aesthetics and environmental features of the area.

Member Nowicki recalled how the original grade of Butler Road used to be, commenting that every time the county sculptured the road, it went below where the root systems of the trees were, exposing those roots and causing much damage. He asked if there had been

any consideration to rebuild the road to the original level of the trees without putting in an expensive retaining wall.

Mr. Erickson replied, "no." He felt that building the grade up to its original level would be more costly than putting in a retaining wall.

Mr. Westphal showed an aerial view of the site, noting that this is the 3rd or 4th plan they've submitted in an attempt to try and satisfy all of the environmental issues. He pointed out that the lots all exceed the ordinance requirements with regard to the width of the lots and front yard setbacks.

Mr. Westphal continued by saying that they've been very adamant about doing the subdivision with a central entrance focus. This is accomplished with an approximate 200' wide boulevard entrance. Proposed within that 200' area are two roads, each of which could function independently with traffic in both directions in the case of an emergency, but with a very wide median that will give them the opportunity to create a very marketable image for the project. Additionally, none of the lots in the entrance portion will have access to Berkshire Blvd. This was done so they would have a very clean entrance and wouldn't have driveways.

Mr. Westphal pointed out that they've preserved the bulk of the wooded areas that are in the corridor along the Clinton River. The plan highlights a portion of the property which has been deeded to the Oakland Nature Conservancy. Also noted on the plan is a wooded area where the heron rookery is located. He said that this plan recognizes and keeps the construction away from those sensitive areas.

Mr. Westphal noted that there are four retention areas proposed in the upland portions of the site in order to handle the storm water needs on the site as required by the city Engineering Department.

Mr. Westphal noted each instance where they are requesting a reduction in the 40' setback as it relates to the wetland buffer. In one instance, the wetland buffer is in the side yard.

Mr. Westphal pointed out another side yard where they are requesting a 30' wetland buffer instead of 40'. Dr. Jaworski believes that a 30' wetland buffer would be sufficient if delineated with a fence and identified with signage. Mr. Westphal then stated that in these areas where they are requesting a reduction in the buffer, they are doing so to allow a useable rear yard setback of 35' as required, and a reduction of 10' in the buffer that would allow, in the nearest condition, 60' of separation between the house and the actual edge of the wetland. In these cases, the wetland is situated quite a distance away from the Clinton River, so there is a considerable amount of wetlands area that is not of the highest quality. Dr. Jaworski's recommendation finds this proposal acceptable. The nature of the wooded wetland is such that the flat slope would not cause undue damage to the Clinton River in that location.

With regard to tree preservation, Mr. Westphal presented another display which shows areas of actual inventoried trees. Also depicted were the areas of tree removal, as well as the portion of the site that is being given to the nature conservancy. Taking into account that all of those trees on the property are to be preserved within that area, then their preservation totals would be even higher. He felt that they had done a very good job in terms of tree preservation.

The Chair read a letter into the record from Mr. J. P. Trembowicz, President of the Quail Ridge Homeowners Association (letter has been placed on file and by reference becomes part of the record hereof). The letter expresses the homeowner's concerns that the 40' wetland buffer not be compromised on the 7 lots because it would be environmentally unacceptable.

Ms. Goodwin clarified that even though the Wetland Use Permit application does request a variance on 7 lots, Dr. Jaworski's recommendation is that the reduction be permitted on 4 lots (Lots 135, 137, 141, and 142).

Mr. Westphal said that they have extended the fencing in those areas where the reductions in the wetland buffer are being requested.

There was some discussion as to whether or not Lot 129 was among the lots requesting a reduction in the wetland buffer. The Chair pointed out in the staff report that Dr. Jaworski cites two reasons for strictly preserving the 40' wetland buffer on Lot 129, those being to protect the stream from impacts and to avoid child hazards due to the extreme bank. Mr. Westphal said that he felt that this lot could be modified in such a way that they could preserve the 40' buffer. He felt that there would be enough room in that building envelope to make those modifications.

Ms. Deanna Hilbert, 3234 Quail Ridge Circle, asked if a reduction in the wetland buffers would increase the value of their lots.

Mr. Westphal said that what this does is makes the building area larger and as such, would probably increase the value of the lots. He firmly stated that he is not negating their concerns over the sensitive nature of the Clinton River.

Ms. Goodwin said that there are situations where not everyone wants to live adjacent to wetlands. A homeowner recently went before the Zoning Board of Appeals because they are now getting mosquitos because they are at the lot coverage limit and they cannot have a covered screen porch. There are many instances where homeowners think they may want to live adjacent to the limits of the wetlands, but a useable backyard becomes an issue when the Zoning Board of Appeals is requested to modify the availability of other provisions. This is why staff works so hard with the developer to try and preserve a useable 35' rear yard setback.

Ms. Hilbert said that all of the residents of Quail Ridge had to comply with the buffer when putting up pools or additions to their home. She said that the consensus of the residents living on the Clinton River was that the reduction in the wetland buffer should not be allowed.

Member Ferrera said that he was under the impression that the buffer requirement did not apply to existing subdivisions.

Ms. Goodwin agreed with Mr. Ferrera and said that there may have been other setback requirements pertinent to the swimming pool from the property line or the flood plain area. She said there was no 40' setback requirement relative to wetlands in Quail Ridge because the wetlands ordinance wasn't adopted until 1990 and didn't include existing subdivisions.

Member Nowicki recalled that Quail Ridge was developed as an Open Space Subdivision and suggested that this may be what Ms. Hilbert was referring to.

Ms. Denise Horn, 3290 Quail Ridge, said that she is concerned about her property values, particularly as it relates to the removal of trees.

Mr. Westphal said it's important to remember that a lot of this area on the tip of the property is within the dedication to the nature conservancy. He said there will be some clearing of trees as a requirement to install an infiltration basin as a part of the storm water retention which has to occur in the uplands. He said there's a good distance from those houses and from the trees that would be cleared for those houses from the adjacent property.

Member Rosen asked when the land would be deeded to the Oakland Land Conservancy and who would maintain it and who has legal access to it once that happens.

Mr. Erickson replied that the land for the Oakland Land Conservancy on both sides of the river will be deeded shortly after final plat approval of Rookery Woods Subdivision (the subdivision to the south). He felt that this might happen within the next 90 days. The Land Conservancy will be granted a temporary access easement across the Butler Ridge property to access what would be the north side of the river. Access to the south side would be provided with blanket easements over the common areas of the subdivision as

platted. As far as maintaining the land in the conservancy, it will remain pristine. Nothing will go on there except for occasional nature studies. Access to it will be limited to those affiliated with the nature conservancy and the adjoining subdivision. There will not be public access to it, but it will not be fenced off either. It will be posted as non-public property.

Member Rosen asked if the nature conservancy could fence it in once it is deeded over.

Mr. Erickson replied that they could do that.

**MOTION** by Ferrera, support by Nowicki, in the matter of File No. 90-253 (Butler Ridge Subdivision), that the Planning Commission recommend approval of the Wetland Use Permit with the six conditions noted in Dr. Jaworski's letter of October 22, 1993, noting that the applicant has already consented to the modification in condition #3. (Ref: Preliminary plat dated 6-21-93 as prepared by Zeimet/Wozniak and Donald C. Westphal, Received by the Planning Department 10-1-93, Tree Preservation Plan, Sheet 8, 9, 10 dated 10/25/93, Preliminary Entrance Landscape Plan dated Received 7-21-93, prepared by Great Oaks Landscape Consultants).

**CONDITIONS:**

1. The developer proposes to place wooden rail fences along the 40-foot wide wetland buffer in 15 lots so as to physically delimit the extent of rear and side yard use. This fence will serve as a notification that grading, lawn sodding and vegetation clearing is not to occur beyond the rail fences. The developer is being requested to install these fences so that lot owners with wetlands and wetland buffer on their property will not cause future wetland violations.
2. In Lots 135, 137, 141 and 142, the developer is requesting that the wetland buffer be reduced in width from 40 feet to 30 feet. This buffer width reduction appears acceptable in regard to these 4 lots because the adjacent wetlands are not of high quality and the river is not in immediate proximity to the proposed rear yards.
3. In Lot 129 there is not quite the minimum 35 feet of rear space between the back of the proposed house and the 40' wetland buffer. Field measurements, however, indicate that this distance ranges between 28 and 45 feet and that the average distance exceeds 35 feet. Therefore, this lot should be acceptable. However, the Clinton River lies 85 to 100 feet from the rear of the house, and there is an 8-foot bank along the stream. In order to protect the stream from impacts and to avoid child hazards, the 40-foot wetland buffer should be strictly preserved.
4. Four water quality detention basins are proposed in this project. All four are located out of the wetlands and generally out of the 40' wetland buffer. Conversely, all four discharge their outfall into the wetland buffer. To protect the adjacent Clinton River from siltation during the construction phase, it would be more acceptable if these four storm water basins were of the wet basin type. Extended dry basins are also better for trapping sediments than traditional dry basins.
5. With regard to the Great Blue Heron Rookery (two nests), the developer is proposing a 250-foot non-development zone about the rookery. The closest house is proposed to be 365 feet from the nearest nest. The current lot layout is acceptable provided that there is no construction or human traffic within the 250-foot zone during the critical nesting period which is from March 15 to June 1. When the leaves are not yet on the trees the nesting herons are most susceptible to human disturbance.
6. With the stipulations mentioned above, J & L Consulting recommends approval of the Butler Ridge site plan as revised. Wetland buffer reductions to 30' are being requested with regard to 4 lots, and the construction season near the rookery must be limited. Also, a wetlands conservation easement is required, which includes the preserved wetland buffers.

Member Rosen asked for clarification on the rookery nesting period since it was noted differently on the 10-22-93 memo and the earlier memo dated 7-19-93.

Mr. Westphal suggested that the critical period is that time when the herons are on the nest and particularly critical before the leaves come out on the trees. He felt that the March 15 through June 1 period was the appropriate time since the herons have long since left the nest once the summer has begun.

Mr. Erickson agreed that this was the correct dates for the herons nesting period.

Ms. Kitty Hurst, 3362 Green Spring, asked if the reason for the reduction in wetland buffer was to strictly allow the homes closer to the wooded area.

Mr. Westphal stated that on the four remaining lots, in order to provide the 40' wetland buffer and the 35' rear yard setback with a sufficient amount of buffer between the back of the house and the edge of the wetlands, to be able to have some significant yard and maintain a reasonable buffer. In each of these instances, they have to identify the edge with a fence and signage in accordance with Dr. Jaworski's recommendation.

Ms. Hurst asked if the fence would stay there permanently.

Mr. Erickson replied that this is a permanent split-rail fence that they will install when they develop the site. It will go up before the homes are built. They will file the notice of wetland buffer (as required by the city) that is in the Change of Title for each lot that has the variance on it. They also spell it out in the Deed Restrictions for each and every lot that has one of these fences on it as to what you can and cannot do.

Ms. Horn said she didn't understand why Member Ferrera was recommending that the buffers be reduced from 40' to 30'.

Mr. Westphal felt that perhaps some clarification needs to be made between the woodland permit and the wetland permit. Outlined on the drawing are those areas where they would need permission to remove trees; those are within the building envelope areas, road areas, and utility areas. The wetland buffer does not always correspond with the location of the trees. There are trees in the uplands that are being preserved and there are many trees in the wetlands that are being preserved. If a homeowner has trees within that buffer area, and doesn't have permission from the city to remove them, then they would be violating the ordinance.

Member Ferrera explained that by moving the fence 10' closer to the river, nothing changes physically within that 10' space. What does happen is that it gives the right to that future property owner within that 10' space to maybe plant grass or put up a swing set, but nothing physical is going to be done by the developer within that space that wouldn't otherwise be done in that space, even if the fence was at the 40' line.

Member Ferrera said that just about every subdivision that comes before the Planning Commission has to have some kind of buffer modification because of terrain or site utility work that has to occur, etc. In this particular case and given the number of lots, the buffer requirement is one of the least intrusive modifications that they've seen in a subdivision that's come before the Planning Commission since this ordinance has been developed.

The vote on the motion is recorded as follows:

Ayes: Boswell, Ferrera, Hauswirth, Nowicki, Rosen, Sadowski, Kaiser  
Nays: None  
Absent: Beaton

**MOTION CARRIED**

**Tree Removal Permit**

Member Ferrera asked for clarification of the third finding in Ms. Lemke's letter dated November 11, 1993 where she recommends an alternative design for saving a contiguous

area of woodlands at the corner of Atwood and Merwood Drive.

Ms. Goodwin said this has been a very difficult plat because of the environmental features of the property. There have been constant trade offs between protection of the wetlands and trees, storm water retention issues, etc. The spirit of what Ms. Lemke is saying is that she's not satisfied that the woodland protection at Atwood and Merwood is the best from her point of view. Ms. Goodwin said that she's sure that Ms. Lemke recognizes that she has to give something in order to have adequate back yards for the wetland protection. Basically, she's recommending approval and at the same time, is hopeful that there would be some alternative.

Ms. Goodwin noted in Ms. Lemke's recommendation (number 6) that she is requesting a bond for an additional 100 trees because it's her belief that there will be more tree removal than what is indicated here. In addition, Ms. Lemke is recommending a conditional tree removal permit which means that there will not be a final tree removal permit issued until the point where final grading plans have been submitted and she has a better idea of what the tree removal will be.

Mr. Westphal said that he had a discussion with Ms. Lemke on this particular issue and what she is saying is that this woodlands would be best if they didn't cut through it at that location. The integrity of the woodlands is still preserved as there remains a strong band of existing trees.

Member Ferrera expressed concern that in the lower right hand corner of the subdivision there appears to be a greater disruption to the trees because of the cul-de-sac, the necessity to build a sanitary sewer connection and the siltation basin that's going to be installed there.

Mr. Westphal reiterated the fact that they are preserving an enormous amount of trees which is way over what the ordinance calls for. He said that retention ponds need to be built in upland areas, not in wetland areas. He said you've got to connect the proposed sewer in that location because that's where the existing sewer is. He said that one of the things they might look at in the design of the siltation water quality pond is that perhaps the flow of that pond could be the woodland floor and maybe all of these trees wouldn't have to be removed. Also, they could perhaps construct the berm and make some modifications.

Member Ferrera asked Mr. Erickson what percentage of trees was he referring to when he stated that they are saving a great deal more trees than what the ordinance requires.

Mr. Erickson replied that 75% of the trees on site are being saved as opposed to the ordinance requirement of 37%. This does not exclude the nature conservancy, which is heavily wooded.

Member Rosen asked Mr. Westphal if he could take Atwood St. and move it over between Lots 99 and 100 due east. He asked if this would work out on this plan.

Mr. Westphal said that part of the problem is geometrics in terms of engineering. Like a jigsaw puzzle, every move has a counter move. If the road (Atwood Dr.) is moved to the east, then they have to change the alignment of Merwood Dr. because this road has to come into Merwood Dr. on a straight tangent and not on the inside of a curve, which would not be acceptable to the traffic engineer. In doing so, they would reduce the size of one of the lots.

Mr. Erickson said that it would not save many trees by doing it this way because it would involve cutting through a hedge row and moving the building envelopes into where the road is now.

Member Rosen asked if they had considered his suggestion as an alternative.

Mr. Westphal replied that this is the fourth revision. He said that they are trying to do a decent balance between the owner's right to use his land and the need to preserve. He said they think they've done a good job of doing both. He said they could keep the same lot

count and take 10' off of each of the lots because they're already oversized. He said that this is not what they're after and he added that they have a quality environment and they would like to go with it.

**MOTION** by Hauswirth, support by Sadowski, in the matter of File No. 90-253 (Butler Ridge Subdivision), that the Planning Commission approve the Tree Removal Permit with the conditions outlined in the staff report of November 16, 1993, adding Mr. Lee's request for tree protection fencing prior to soil moving activities, deleting condition number 3 in the staff report.

**CONDITIONS:**

1. Re-submittal of the Tree Survey at a more legible scale with corrections made.
2. Change on the plans to Lots 112-136, 155-157 and that a more in-depth review occur as the homes are designed to determine which trees are to be removed.
3. Additional smaller trees and shrubs be planted adjacent to the detention basins and in the construction areas to these basins. That a plan and cost estimate be submitted.
4. That 233 replacement trees 3" caliper be required.
5. That a bond or letter of credit be posted for \$74,925.00 to cover the cost for 333 replacement trees.
6. Review of the replacement tree locations and engineering plans by the staff at the time of final preliminary plat approval.
7. That appropriate tree protection fencing be installed prior to any soil moving activities.

Ayes: Hauswirth, Nowicki, Rosen, Sadowski, Boswell, Kaiser  
Nays: Ferrera  
Absent: Beaton

**MOTION CARRIED**

**Tentative Preliminary Plat**

Member Ferrera asked if there would be a passing lane on the opposite side of Butler Road from the entrance.

Mr. Erickson replied, "no."

Member Ferrera said that the turnaround at the end of Butler Road is shown encroaching on Lot #10. He asked if that's how it will be built.

Mr. Westphal said that they don't know exactly what the geometrics of Butler Rd. will be, however, there is ample space within the rear of Lot #10 to accommodate whatever they need to do there.

Member Ferrera said that subdivision aesthetics are of some concern. He didn't feel that this had been addressed in detail in this subdivision, with the exception of the entryway, which is a valid approach to this concern. He said that he would like to have seen this type of image drawn through the subdivision, such as street lighting, signage programs, etc. He said that he raises this issue only as a concern of his, realizing that there isn't any way to enforce this.

Mr. Erickson said that one of things they've made preliminary arrangements for is that each street will have gas lighting and landscaping treatment with wood street signs rather than the metal street signs. He said that they will be addressing some of these concerns further

down the road when they get into final plat and start developing more of the construction plans for this subdivision.

Member Rosen asked if there were any plans for a sidewalk or bikepath on Butler Rd. in addition to the sidewalks in the subdivision.

Mr. Erickson said that the plan they've developed for the road calls for a bikepath all the way down the length of Butler Rd. on the south side of the road, including a special bike lane across the bridge separated by a fence. It would tie in with the existing bikepath that is just the other side of Galloway Creek by the apartments.

**MOTION** by Boswell, support by Sadowski, in the matter of File No. 90-253 (Butler Ridge Subdivision), that the Planning Commission recommends approval of the Tentative Preliminary Plat, noting the findings and condition in the staff report dated November 16, 1993, also noting that the applicant has indicated that sidewalks will be included in the plan, and to include an additional condition that no improvements to the site shall commence until the right-of-way dispute over Butler Rd. is resolved.

The Chair commented that he would be more comfortable with more refinement in the motion than just stating that the right-of-way dispute is resolved. Right now, that's the only condition placed on it.

Mr. Cohee said that the city has established criteria for how the road will be improved to minimize disruption of the roadside environment. He said that he feels they can accomplish that. He said that today, with the right plans submitted to the city for approval, the city could issue a permit for a road to be built on Butler Rd. There is sufficient right-of-way along the south side of Butler Rd. to build the road that's on those plans. The reason that it's not being done is because that area is heavily treed. Both the city staff and the developer have agreed to go through this pain to acquire the right-of-way from the university to minimize the disruption to the roadside environment.

The Chair asked Mr. Cohee if the condition to preface final approval on that the right-of-way dispute is resolved, is sufficient for what they want.

Mr. Cohee said that this is probably the bottom line but what they want the Commission to do is to attach a condition to their recommendation that would say that there will be no construction of the subdivision improvements until such time that all of the issues related to the ability to improve Butler Rd. in a manner that's been proposed at this point and time are resolved, which would be, for the most part, the right-of-way issue.

Mr. Erickson said that he has no problem whatsoever with the condition being framed in the way that the dispute over the roadway has to be solved and that the plans for the construction of the road have to be improved before they can do any construction in the subdivision. He feels that this has been the intent all along. He said he would strongly oppose a requirement that said the road had to be built before they could start. He said it would make more sense to have road construction both in the subdivision and Butler Rd. going simultaneously.

The Chair asked why they wish to move forward with the Tentative Preliminary Plat now if nothing is intended to happen until the issue with Butler Rd. is resolved.

Mr. Erickson replied that they've reached the point where they are at an impasse with the Butler Rd. issue and now they just want to find out if the plat is good.

Mr. Westphal commented that there's a long time involved in terms of the final engineering details and that could be moving forward at the time this issue of Butler Rd. is being resolved. If they wait until the road issue is resolved then they've lost approximately 18 months of opportunity to be moving ahead with the plat process.

Member Ferrera suggested that the condition state that all the issues related to vehicular access to the subdivision from Adams Rd. be resolved to the satisfaction of the city.



The Chair recalled Mr. Cohee's suggestion earlier that the condition should state that all the issues to improve Butler Road in a manner that's been planned to date, are resolved and the plan approved prior to construction commencement.

Mr. Cohee explained that what he meant by that is there is a right-of-way issue, an issue of Jensem Properties submitting plans to the city for review, and getting a permit. As far as the design of the roadway, the parameters have been established by the Road Commission and City Council. He doesn't believe there are any issues there and that it's been settled. The only outstanding items are what has to be submitted for the city to issue a permit for construction--detail plans, evidence of right-of-way, etc. They are suggesting that these things be taken care of and resolved before the construction of the subdivision proceeds. The improvements of the road and the subdivision improvements will probably go together, but they really haven't talked a great length about the timing for those things.

Member Boswell amended his motion to recommend approval of the Tentative Preliminary Plat with a condition that no improvements to the site occur until both the issues related to the access from Adams Road to the subdivision are resolved to the city's satisfaction. Member Sadowski supported the amendment to the motion.

The motion is recorded as follows:

**MOTION** by Boswell, support by Sadowski, that the Planning Commission recommend that City Council approve the Tentative Preliminary Plat for the Butler Ridge Subdivision (File No. 90-253) to include the findings in the staff report dated 11/16/93 with two conditions.

**FINDINGS:**

1. The preliminary plat drawing meets or can meet all applicable requirements of the Zoning Ordinance and the Subdivision Control Ordinance.
2. Adequate utilities are currently available to properly service the proposed development.
3. The preliminary plat represents a reasonable and acceptable comprehensive plan for developing the property.
4. The subdivision has been designed such that traffic movement is safe and efficient. Also, all lots will have access to interior local streets. Direct (driveway) access to major thoroughfares will be prohibited.
5. The development has been designed to be harmonious with the natural environment. Natural amenities have been preserved in as much as possible and will be utilized as assets.
6. The development will help the city realize the city's adopted Master Land Use Plan, which indicates that this area is planned for single family residential land use.

**CONDITIONS:**

1. The applicant has indicated that sidewalks will be included in the plan.
2. That no improvements to the site occur until both the issues related to the access from Adams Road to the subdivision are resolved to the city's satisfaction.

Ayes: Hauswirth, Nowicki, Rosen, Sadowski, Boswell, Ferrera, Kaiser  
 Nays: None  
 Absent: Beaton

**MOTION CARRIED**

(Ref: Preliminary plat dated received by the Planning Department 10/1/93, Sheets 1-7 as prepared by Zeimet/Wozniak and Donald C. Westphal (Tree Preservation Plan, Sheet 8, 9, 10 dated 10/25/93). Also see Preliminary Entrance Landscape Plan dated received

7/21/93, prepared by Great Oaks Landscape Consultants).

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RECESS 10:35 - 10:45

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ENTER JOHN STARAN

b) Discussion of proposed ordinance amendment pertaining to cellular communication towers.

Ms. Goodwin presented her staff report dated 11/18/93 where she summarized the recommendations of the Planning Commission at their meeting of April 6, 1993. (Staff report has been placed on file and by reference becomes part of the record hereof.) Ms. Goodwin and Mr. John Staran offered to answer any questions the Planning Commission had on the amendments to the Zoning Ordinance.

Mr. Staran commented that he had difficulty in reconciling having increased limitations in residential districts with the concept of allowing these cellular telephone system towers as principal permitted uses. He suggests in his letter dated 11-15-93 (included in tonight's packet) that if the Planning Commission believes that monopoles/towers that are placed in residential districts should be looked at on a case by case basis or if there should be discretionary standards that must be met, that some consideration be given to making these cellular facilities conditional uses in residential districts and principal permitted uses in any other district. Aside from that, he didn't have any further comments and said he would be available to address questions from the Planning Commission.

Member Nowicki said, in reading Mr. Staran's letter, that he doesn't see any other alternative than to consider these towers as a conditional use in residential districts. He said he couldn't visualize having two types of standards without it being a conditional use. He felt that they should be aiming toward a conditional use in residential districts and have some control or some standards that they could more or less require as compared to the permitted uses. He said he has no problem allowing these towers as permitted uses in the B-zoned districts or the industrial districts and other non-residential districts.

Mr. Staran said he feels it is better suited for a conditional land use type of approval than just putting it in as a standard. It's really not an objective standard that the staff could comfortably apply.

Member Rosen suggested that they change it to be allowed as a conditional use in R-1, R-2, R-3, R-4, RCD, RM-1, MH and possibly SP, depending on what is in that district. He stated that there are no B-1, B-2, B-3, B-4, B-5, up through I-1, I-2, and ORT sites within a three mile radius that are large enough to provide the required setback OR there are no suitable B-zoned, I-zoned and ORT sites within a five mile radius, because of topography (height or altitude), geography, site configuration or other physical characteristics of the site and the site plan and configuration which can meet the requirements of Section 2717.4 (a-e) for a special land use approval as to compatibility, etc. Perhaps as a last resort, if there is nothing within a larger radius that's good enough or there's nothing at all within a small enough radius, then it might be considered for conditional land use.

Member Nowicki asked Member Rosen if he was precluding the fact that these other sites may be in Auburn Hills, Oakland Township or Troy or was he just addressing the sites in Rochester Hills. He said there's the possibility that it doesn't necessarily have to be within the boundaries of Rochester Hills.

Member Rosen said that this is a very good point that he hadn't thought about. He said he wasn't sure how to handle that. He said he would interested in hearing from the representatives of the cellular industry to see what kind of a distance factor they're talking about. He said that he's been hearing the representatives say in the past that these towers

9. The word gazebo will be eliminated from an allowance under paragraph 7, under the General PUD Provisions.
10. That the Master Deed and PUD Agreement bar the use of any non-organic fertilizer and/or pesticide anywhere in the development.
11. The gravel road may not be treated with chemicals for the purposes of dust control.
12. Up to 40 trees, 10 feet in height, be installed along the south property line and planted in a straight, though staggered line, as approved by Staff.

**Roll call vote:**

Ayes: Myers, Boswell, Hooper, Brnabic, Ruggiero, Kaltsounis, Rosen, Holder,  
Kaiser  
Nays: None  
Absent: None

**MOTION CARRIED**

Mr. Kaiser thanked the neighbors and the applicants for all the time and effort they put into this project.

Recess at 9:21 for 10 minutes.

**3. Request for Final Preliminary Plat Recommendation – File No. 90-253.2**

Project: Butler Ridge Subdivision Phase II, a 92-lot subdivision on approximately 60 acres.  
Requests: Tree Removal Permit  
Recommendation of Final Preliminary Plat Approval  
Location: South of Butler Road, West of Adams Road  
Parcel: 15-19-300-005  
Applicant: Roscommon Company  
2301 West Big Beaver Road, Suite 900  
Troy, MI 48084

(Reference: Staff Report prepared by Ed Anzek, dated August 29, 2002 has been placed on file and by reference becomes part of the record hereof.)

Present for the applicant were Stanley Frankel, Roscommon Group, and Lloyd Dubiski, Donald C. Westphal Associates, Inc.

Mr. Anzek stated that since the first phase of this project was approved in December 2000, Staff has been working consistently to get the second phase on line. There has been a lot of work on final grading and tree preservation issues, and Phase II has recently come into compliance and is supported by Staff for approval.

Mr. Frankel advised that there is not much new. They have spent years getting Phase I completed and the Final Preliminary Plat for Phase II to approval. Phase I is under construction now. As Mr. Anzek stated, the issues they have been working on with the City are the trees and some minor grading issues.

Mr. Kaiser asked if the applicant had a concern with anything in the Staff report. He replied there was nothing.

Mr. Rosen asked if a Tree Removal Permit was approved the first time they met for Phase II. Mr. Anzek answered that they approved one for Phase I. Mr. Anzek added that all adjacent property owners were notified about the Tree Removal Permit request.

Mr. Rosen clarified that the Tentative Preliminary Plat was approved for Phases I and II. He asked if a Tree Removal Permit was granted then. Mr. Anzek said it was deferred to the phases. Mr. Frankel said the first time around they did everything else – the roads,

lot sizes and locations, and so on. When they came in for plat approval for Phase I they requested a Tree Removal Permit, necessary to construct Phase I. Mr. Rosen asked if there would be any significant difference in the tree counts if they had done a Tree Removal all at once rather than separately. He asked what the percentage of trees saved was for Phase I. Mr. Frankel answered 43%. Mr. Rosen asked what it would be for Phase II. He was told 60%. Mr. Frankel said that most of the major trees taken were in the first phase.

Mr. Hooper referenced the two growing seasons and asked if City Staff would go to the site next year and look over the landscaping. If not, he wondered when Staff reviews the landscaping.

Mr. Anzek replied that the trigger would be when Mr. Frankel requests the bonds released because the work has been completed. Once the performance work has been done and he calls the City for an inspection, the project moves to the maintenance phase. That is when the growing season of two years starts. Mr. Hooper assumed Phase I was not inspected because he noticed about six trees that are dead by the detention pond, behind lots 25, 26 and 27. Mr. Frankel admitted they are very stressed out, but he was not sure they were dead and if they were, they would be replaced. Mr. Anzek added that Mr. Frankel has not completed the Phase I landscaping, and has not called for the performance inspection yet. Mr. Hooper said that other than that, the silt fence is in good shape, the vegetation is established, and the snow fence is about half up and needs to be re-established. He did not see any soil erosion issues in Phase I.

Mr. Anzek informed the Planning Commission of what Staff had recently adopted. They had noticed a few developers being haphazard with soil erosion fencing. The Building Department and Engineering inspectors have adopted the policy that upon entering a site for a requested inspection, the first thing they look at is the soil erosion fencing. If any of it is down, the applicant fails the inspection and Staff leaves the site. They notify the applicant they will not come back until the fencing is in place. The City has taken a little stronger line with this issue because soil erosion and sedimentation is a big problem. It is working well, he added.

Mr. Frankel commented that as the Commissioners might recall, for part of the approval process for Phase I, he was requested to submit monthly to the City a soil erosion inspection by an independent source. That has been done for a year and a half. To his knowledge, they are the only developer in town that was required to do this. Mr. Hooper recalled one other.

**MOTION** by Hooper, seconded by Brnabic, in the matter of City File No. 90-253.2 (Butler Ridge Subdivision Phase II), the Planning Commission **grants a Tree Removal Permit**, based on plans dated received by the Planning Department on August 28, 2002, with the following 4 findings and subject to the following 4 conditions.

**Findings:**

1. The proposed removal and replacement of regulated trees on-site is in conformance with the Tree Conservation Ordinance.
2. The applicant is proposing to preserve 60 percent of the regulated trees on-site.
3. The applicant is proposing to replace 185 of the 391 regulated trees to be removed with three-inch caliper hardwoods and 10-foot evergreen trees.
4. The applicant will compensate for the remaining 206 regulated trees to be removed by payment into the City Tree Fund.

**Conditions:**

1. Additional silt fencing be shown in front of the tree protection fencing on sheets 8 and 10 of 20.

2. Indication that tree #4205 and tree #2113 are to be saved rather than removed, as well as adjustment of the total number of on-site trees to be removed, total number of on-site trees to be saved, replacement tree credits required, and amount of contribution to the Tree Fund to reflect this change.
3. Provision of a performance and maintenance guarantee in the amount of \$37,080.00, as adjusted if necessary by the City, to ensure the proper installation of replacement trees. Such guarantee to be provided by the applicant prior to issuance of a Land Improvement Permit.
4. Payment of \$38,522.00 into the Tree Fund prior to issuance of the Land Improvement Permit with the understanding that the amount will be adjusted as necessary based upon the final tree preservation inspection. This inspection will occur when infrastructure construction is complete and prior to construction of new houses. The applicant will request this inspection in writing in conjunction with the request to release lots for building houses.

**Roll call vote:**

Ayes: Boswell, Brnabic, Holder, Hooper, Kaiser, Kaltsounis, Myers, Rosen,  
Ruggiero  
Nays: None  
Absent: None

**MOTION CARRIED**

**MOTION** by Brnabic, seconded by Hooper, in the matter of City File No. 90-253.2 (Butler Ridge Subdivision Phase II), the Planning Commission **recommends** City Council **grant Final Approval** of the **Preliminary Plat**, based on plans dated received by the Planning Department on August 28, 2002, with the following 2 findings and subject to the following 2 conditions.

**Findings:**

1. The preliminary plat is in substantial compliance with the approved tentative preliminary plat.
2. The proposed final preliminary plat conforms to all applicable City ordinances, standards, regulations, and requirements.

**Conditions:**

1. Provision of a performance guarantee in the amount of \$2,400.00, 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.
2. Payment by the applicant of \$18,400, as adjusted if necessary by the City's Forestry Division, for one street tree per lot. Such payment to be provided prior to issuance of a Land Improvement Permit.

**Roll call vote:**

Ayes: Boswell, Brnabic, Holder, Hooper, Kaiser, Kaltsounis, Myers, Rosen,  
Ruggiero  
Nays: None  
Absent: None

**MOTION CARRIED**

Mr. Rosen asked if the applicant was aware of trees on the Rookery Woods development and the problems there. Mr. Anzek answered that he and Mr. Dubiski discussed this when going through the grading issues, and he informed him of the erosion issues the Rookery homes that front the Clinton River face. Mr. Frankel said this was discussed with members of the Land Conservancy over a year ago. A person bought a lot in Rookery and started to re-grade, without permission, the back of the property. They removed some material, which caused severe erosion. That was the only one he knew about. Mr. Rosen said he was not trying to be negative, he was only giving a word to the wise. If there is anything that can be done to Butler Ridge's side to make sure erosion does not happen, it would be to their advantage to do it. Mr. Frankel advised that there is a tremendous setback between the conservation easement and the Conservancy land from where a building envelope could be, but he understood Mr. Rosen's concern.

**ANY OTHER BUSINESS:**

Mr. Kaiser indicated that Mr. Anzek is looking for two people to serve on the Technical Review Committee that deals with the Zoning Ordinance re-write. Mr. Anzek said the meetings would be during the day, which would preclude some people. He said the primary consultant was coming from Grand Rapids. The meetings will last three or four hours because they have to scrutinize the work products before they are presented to Planning Commission and Council. Mr. Rosen and Ms. Ruggiero volunteered.

Mr. Anzek emphasized that if anyone sees an area in the Code that should be focused on or revisited, they should not wait until after the fact. They should start building the language now. He informed them there will be a kickoff for the public forum. Builders and developers will be invited in the morning and afternoon. There will be public forums in the evening for citizens. All the Homeowners' Associations and anyone who has expressed an interest in zoning definitions and interpretation are invited.

Mr. Rosen asked if they should plan to give a five-minute update at every other Planning Commission meeting. Mr. Anzek answered that he thought an update should be added to the end of each meeting after the Review Committee has met.

Mr. Anzek brought up the September 24 joint workshop. After Mr. Gilbert's conceptual meeting with the Planning Commission in July, his next step would be to prepare the architectural and engineering drawings for the development. It has been estimated it will cost around \$300,000.00. He asked for the opportunity to get in front of City Council to get their input before spending so much money. The other item scheduled for that meeting regards forming a brownfield redevelopment authority. In 1990, the Planning Commission asked for this to be looked into for the City's landfills. City Council did want to hear from an MDEQ official as to how successful this has been around the State and Staff lined up a retired MDEQ official, Mr. Bob Terry. He set up the program and ran it for four years and is probably the best authority to hold the discussion with Council. Mr. Anzek was not sure how much time they would have for items left hanging from the last joint meeting, but if other matters were brought up, he would like Mr. Kaiser there. Since he cannot be there, they will probably just discuss these two items and schedule another meeting. Mr. Rosen will chair the meeting in Mr. Kaiser's absence.

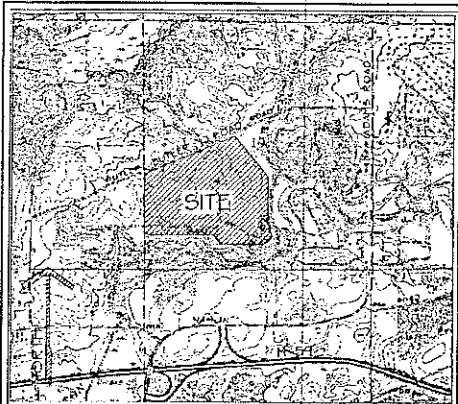
**NEXT MEETING DATE:**

The Chair reminded Commissioners that the next regular meeting is scheduled for September 17, 2002.

**ADJOURNMENT:**

Hearing no further business to come before the Planning Commission, the Chair adjourned the regular meeting at 9:55 p.m. Michigan time.

I:\Pla\MINUTES\PC\2002\090302minutes.doc



**LOCATION MAP**  
SCALE: 1" = 2000'

PHASE I  
FINAL PRELIMINARY PLAT  
FOR

# Butler Ridge

IN SECTION 19 ROCHESTER HILLS, OAKLAND CO. MICHIGAN

DEVELOPER:  
ROSCOMMON CO. A MICHIGAN CORP.-(248) 649-2600  
2301 W. Big Beaver Rd. Troy, MI 48064

LANDSCAPE ARCHITECTS & SITE PLANNERS-(248) 651-5518  
DONALD C. WESTPHAL, LANDSCAPE ARCHITECTS & SITE PLANNERS  
512 Madison Ave. Rochester, MI 48307

ENGINEERS:  
ZEIMET \ WOZNAK & ASSOCIATES -(248) 352-8950  
28450 Franklin Rd. Southfield MI 48034

**DRAINAGE EASEMENT "A"**

PART OF THE S.E. 1/4 OF SECTION 19, T. 3 N., R. 11 E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT A POINT DISTANT S. 09°23'46" E., 196.71 FEET ALONG THE WEST LINE OF SAID SECTION 19 AND N. 89°49'49" E., 151.43 FEET AND S. 72°42'27" E., 213.84 FEET; AND S. 34°00'27" E., 398.81 FEET; AND S. 09°23'46" E., 70.90 FEET FROM THE WEST 1/4 CORNER OF SAID SECTION 19, THENCE FROM SAID POINT OF BEGINNING S. 66°48'00" E., 100.00 FEET; THENCE S. 07°07'16" W., 25.64 FEET; THENCE N. 89°49'49" E., 109.90 FEET; THENCE N. 09°43'16" E., 25.84 FEET TO THE POINT OF BEGINNING CONTAINING 0.06 ACRES MORE OR LESS.

**DRAINAGE EASEMENT "B"**

PART OF THE S.E. 1/4 OF SECTION 19, T. 3 N., R. 11 E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT A POINT OF DISTANT S. 09°23'46" E., 196.71 FEET ALONG THE WEST LINE OF SAID SECTION 19 AND N. 89°49'49" E., 151.43 FEET AND S. 72°42'27" E., 213.84 FEET; AND S. 34°00'27" E., 398.81 FEET; AND S. 09°23'46" E., 70.90 FEET; AND S. 10°02'20" W., 104.56 FEET; AND S. 01°48'11" E., 371.43 FEET FROM THE WEST 1/4 CORNER OF SAID SECTION 19, THENCE FROM SAID POINT OF BEGINNING S. 36°23'31" E., 129.33 FEET; THENCE S. 37°42'27" W., 28.00 FEET; THENCE N. 89°49'49" E., 99.90 FEET; THENCE N. 09°43'16" E., 41.12 FEET TO THE POINT OF BEGINNING CONTAINING 0.06 ACRES MORE OR LESS.

**TEMPORARY ACCESS ROAD EASEMENT**

PART OF THE S.W. 1/4 AND PART OF THE S.E. 1/4 AND PART OF THE N.W. 1/4 OF SECTION 19, T. 3 N., R. 11 E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT A POINT, SAID POINT BEING DISTANT S. 09°23'46" E., 540.00 FEET ALONG THE WEST LINE OF SAID SECTION 19 AND N. 66°28'42" E., 561.00 FEET ALONG THE CENTERLINE OF BUTLER ROAD AND S. 23°31'19" E., 251.00 FEET AND S. 18°17'17" E., 60.25 FEET AND S. 23°31'19" E., 126.14 FEET AND S. 18°50'03" E., 152.04 FEET AND S. 25°37'47" E., 60.00 FEET FROM THE WEST 1/4 CORNER OF SAID SECTION 19 TO THE POINT OF BEGINNING OF SAID TEMPORARY ACCESS ROAD EASEMENT; THENCE FROM SAID POINT OF BEGINNING S. 25°37'47" E., 279.00 FEET; THENCE S. 87.56 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 125.00 FEET, A CENTRAL ANGLE OF 40°08'00" WITH A CHORD OF 85.78 FEET THAT BEARS S. 05°33'47" E., THENCE S. 14°30'13" W., 87.96 FEET; THENCE 133.01 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 180.00 FEET, A CENTRAL ANGLE OF 42°20'13" WITH A CHORD OF 110.00 FEET THAT BEARS S. 06°39'54" E., 215.00 FEET; THENCE S. 42°10'00" W., 60.00 FEET; THENCE S. 71°50'00" W., 215.00 FEET; THENCE S. 171.34 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 240.00 FEET WITH A CENTRAL ANGLE OF 42°20'13", A CHORD OF 171.33 FEET THAT BEARS N. 06°39'54" W., THENCE N. 14°30'13" E., 87.96 FEET; THENCE 45.33 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 65.00 FEET, WITH A CENTRAL ANGLE OF 40°08'00", A CHORD OF 44.60 FEET THAT BEARS N. 05°33'47" W.; THENCE N. 28°37'47" W., 276.74 FEET; THENCE N. 62°10'00" E., 69.04 FEET TO THE POINT OF BEGINNING OF SAID TEMPORARY ACCESS ROAD EASEMENT.

**WETLAND CONSERVATION**

PART OF THE SOUTH HALF OF ROCHESTER HILLS, OAKLAND CO. MICHIGAN DESCRIBED AS BEGINNING AT A POINT, SAID POINT BEING DISTANT S. 37°02' E., 1389.63 FEET ALONG THE WEST LINE OF SAID SECTION 19 AND S. 85°37'02" E., 1389.63 FEET; THENCE SOUTHWEST ALONG THE WEST PROPERTY LINE OF SITE 2 TO THE POINT OF BEGINNING OF FROM SAID POINT OF BEGINNING OF 80°37'44" E., 159.74 FEET; N. 80°37'44" E., 397.14 FEET; S. 08°13'28" E., 158.00 FEET; S. 81°46'32" W., 101.12 FEET TO THE POINT OF BEGINNING OF SAID WETLAND CONSERVATION EASEMENT "A".

**WETLAND CONSERVATION**

PART OF THE NORTHWEST 1/4 OF ROCHESTER HILLS, OAKLAND CO. MICHIGAN DESCRIBED AS BEGINNING AT A POINT, SAID POINT BEING DISTANT S. 37°02' E., 1389.63 FEET ALONG THE WEST LINE OF SAID SECTION 19 AND WEST 1/4 CORNER OF SAID SECTION CONSERVATION EASEMENT "A", 10°25'30" W., 286.72 FEET; THENCE S. 45°09'28" E., 122.83 FEET; THENCE A POINT ON THE SOUTH PROPERTY COURSE ALONG SAID SOUTH FROM FEET AND S. 85°37'02" W., 20.00 FEET TO THE POINT OF BEGINNING OF SAID WETLAND CONSERVATION EASEMENT "B".

**WETLAND CONSERVATION**

PART OF THE NORTHWEST 1/4 AND PART OF THE SOUTHWEST 1/4 OF SECTION 19, T. 3 N., R. 11 E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT A POINT, SAID POINT BEING DISTANT S. 09°23'46" E., 1,457.60 FEET ALONG THE WEST LINE OF SAID SECTION 19 TO THE SOUTHWEST CORNER OF SAID SECTION 19 AND S. 39°34'35" E., 328.43 FEET; THENCE FROM THE WEST 1/4 CORNER OF SAID SECTION 19 TO THE POINT OF BEGINNING OF SAID WETLAND CONSERVATION EASEMENT "A"; THENCE THE NORTH AND EAST PROPERTY LINES OF SITE 5; S. 34°00'22" E., 358.65 FEET AND S. 09°23'46" E., 1,457.60 FEET TO THE POINT OF BEGINNING OF SAID WETLAND CONSERVATION EASEMENT "B".

**WETLAND CONSERVATION**

PART OF THE SOUTH HALF AND PART OF THE N.W. 1/4 OF SECTION 19, T. 3 N., R. 11 E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT A POINT, SAID POINT BEING DISTANT S. 37°02' E., 1389.63 FEET ALONG THE WEST LINE OF SAID SECTION 19 AND S. 85°37'02" E., 1389.63 FEET; THENCE SOUTHWEST ALONG THE WEST PROPERTY LINE OF SITE 2 TO THE POINT OF BEGINNING OF SAID WETLAND CONSERVATION EASEMENT "A"; THENCE THE NORTH AND EAST PROPERTY LINES OF SITE 5; S. 34°00'22" E., 358.65 FEET AND S. 09°23'46" E., 1,457.60 FEET TO THE POINT OF BEGINNING OF SAID WETLAND CONSERVATION EASEMENT "B".



JENSAM, LLC  
2301 West Big Beaver Road, Suite 900  
Troy, Michigan 48084

October 5, 2004

Mayor Pat Somerville  
City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, Michigan 48309

Re: Lot 150 Butler Ridge No. 2 Subdivision, Rochester Hills, Michigan

Dear Mayor Somerville:

Enclosed please find a Right-of-Way Deed and a Claim of Interest with respect to Lot 150 of Butler Ridge No. 2 Subdivision, Rochester Hills, Michigan ("Lot 150"). It is our understanding that the City of Rochester Hills has been engaged in discussions with the City of Auburn Hills as to whether Auburn Hills will improve that portion of Butler Road within its city limits to connect Butler Road as a thoroughfare between the two cities. It is our understanding that in the event that the cities reach agreement on the improvement of Butler Road as a through road, and both cities pave Butler Road, then there will be no need for a cul-de-sac on Butler Road at the western edge of Butler Ridge No. 2 Subdivision. However, regardless of whether Auburn Hills improves Butler Road, in the event Rochester Hills does not improve Butler Road, then Rochester Hills will retain the existing cul-de-sac on Butler Road at the western edge of Butler Ridge No. 2 Subdivision. In such event, Rochester Hills has advised that right-of-way is required for the cul-de-sac, which right-of-way must be taken from Lot 150 ("Property"). In order for the City to approve the plat of Butler Ridge No. 2 Subdivision, you have requested that we execute and deliver the enclosed Right-of-Way Deed for the Property ("Deed") to you to hold in escrow pending the decisions by Auburn Hills and Rochester Hills on Butler Road. The enclosed Deed grants this additional right-of-way to Rochester Hills.

The enclosed Deed is delivered to you to hold in escrow as follows: If Auburn Hills and Rochester Hills improve their respective portions of Butler Road as a through road between Auburn Hills and Rochester Hills within three (3) years from the date of this letter, then the enclosed Deed will not be required by Rochester Hills, and will be returned unrecorded to Jensam, LLC. In the event Rochester Hills does not improve Butler Road as a through road between Auburn Hills and Rochester Hills within such three (3) year period, and Rochester Hills retains the cul-de-sac adjacent to Lot 150, then Rochester Hills may accept the Deed and record it with the Oakland County Register of Deeds, otherwise Rochester Hills shall return the Deed to Jensam, LLC unrecorded within such three (3) year period, and the undersigned shall have no further obligations to Rochester Hills with respect to the cul-de-sac. In the event that Rochester



Hills has recorded the Deed and Rochester Hills subsequently improves Butler Road so that it is no longer using that portion of the cul-de-sac on the Property, then Rochester Hills will abandon and vacate the Property. In the event Rochester Hills returns the Deed to Jensam, LLC, or records the Deed but later abandons and vacates the Property, then Jensam, LLC or the owner of the Property shall have the right to remove the cul-de-sac and restore the Property if Rochester Hills does not do so, and the parties acknowledge that Rochester Hills shall have no obligation to do so.

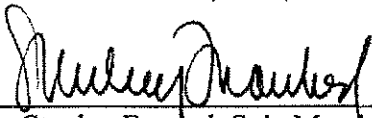
The parties further agree that Rochester Hills will execute and record the enclosed Claim of Interest against Lot 150 to evidence of record the City's interest in Lot 150 resulting from the terms of this letter agreement. In the event Rochester Hills records the Deed as provided herein, then Rochester Hills shall simultaneously execute and records a release of the Claim of Interest.

If the City of Rochester Hills is in agreement with the terms and conditions as set forth in this letter agreement, please countersign this letter where indicated below and hold the enclosed Deed in escrow pursuant to the terms and conditions of this letter agreement.

Very truly yours,

JENSAM, LLC,

By: BUTLER RIDGE, LLC, Sole Member

By:   
Stanley Frankel, Sole Member

The undersigned agrees with and accepts the terms and conditions of the foregoing letter agreement.

CITY OF ROCHESTER HILLS

By:   
Pat Somerville, Mayor

By:   
Beverly Jasinski, City Clerk

## **City Council Agenda Summary Sheet (Non Purchases)**

**Agenda Nos:** 2004-0796, Butler Ridge Subdivision No. 2 Final Plat  
**Date:** September 20, 2004  
**Prepared By:** Ed Anzek, Planning and Development Department, ext. 2572  
**City File No:** 90-253.2

**Meeting Date:** October 6, 2004

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**PURPOSE:**

Request for Final Plat approval for Butler Ridge Subdivision No. 2, including acceptance of an Amended Declaration of Restrictions and Easements.

**DISCUSSION:**

The proposal is for an 89-lot development, the final phase of a 157-lot subdivision on approximately 116 acres, located west of Adams and south of Butler Road, zoned R-2, One-Family Residential.

The Planning Commission recommended City Council grant Final Approval of the Preliminary Plat for No. 2 on September 3, 2002 and City Council granted Final Approval of the Preliminary Plat on October 9, 2002 (please refer to attached minutes for more details). On June 16, 2004, City Council accepted Agreements for a Tree Preservation Easement, Conservation Easement and Permanent Water Quality Basin. The Final Plat has been reviewed and recommended by Staff and is ready for action by City Council.

**FISCAL INFORMATION:**

None

**RECOMMENDATION:**

Staff recommends City Council **approve the Final Plat** for Butler Ridge Subdivision No. 2.

**ATTACHMENTS:**

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Department Authorization: Ed Anzek, Director of Planning and Development  
Reviewed by:  
    Fiscal: *Jean Farris*  
    Clerks: *Susan Koliba-Galeczka*  
Approved by: *Pat Somerville*

# BUTLER RIDGE NO. 2

PART OF THE S.W. 1/4 OF SECTION 19, T. 3 N., R. 11 E.,  
CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN

### CURVE DATA

CURVE	RADIUS	ARC	CENTRAL ANGLE	CHORD LENGTH	CHORD BEARING
1	970.00	64.66	03°49'10"	64.65	S 68°23'16" W
2	1030.00	68.66	03°49'10"	68.65	N 68°23'16" E
3	280.00	700.18	143°16'37"	531.49	S 01°20'27" E
4	220.00	550.14	143°16'37"	417.60	N 01°20'27" W

### LEGEND

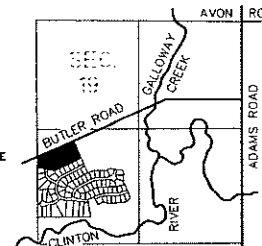
ALL DIMENSIONS ARE IN FEET. ALL DIMENSIONS ON THE CURVE ARE MEASURED ALONG THE ARC.

- (R) DENOTES RADIAL LOT LINE
- (NR) DENOTES NON RADIAL LOT LINE
- DENOTES POINT NOT SET
- L DENOTES 90°

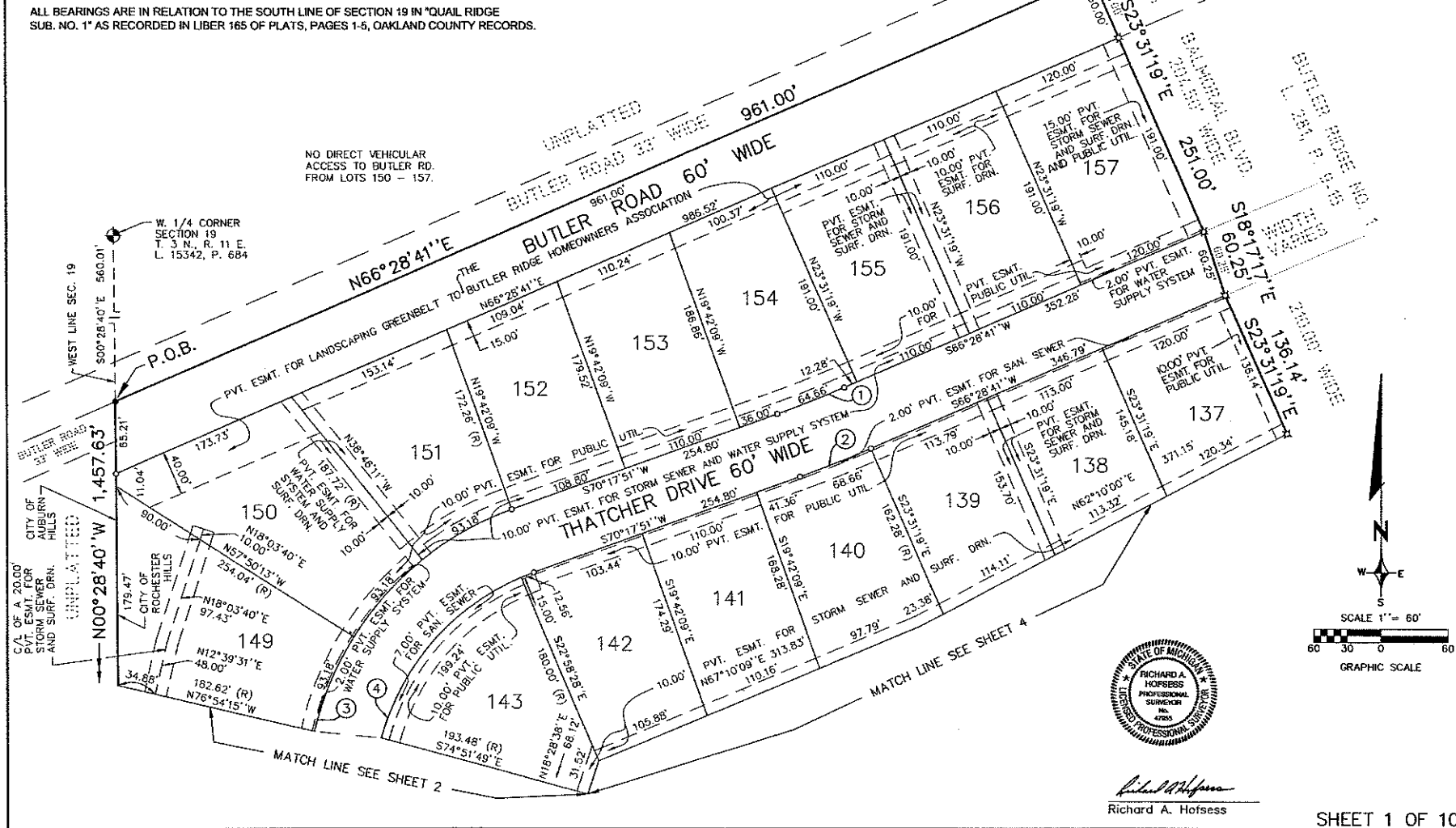
ALL LOT MARKERS ARE 1/2" IN DIAMETER STEEL RODS AND ARE 18" LONG. THE SYMBOL (o) INDICATES A SET CONCRETE MONUMENT. THE SYMBOL (⊞) INDICATES FOUND AND USED EXISTING CONCRETE MONUMENT. ALL MONUMENTS SET AND FOUND ARE MADE OF SOLID STEEL BARS 1/2" IN DIAMETER AND 36" LONG AND COMPLETELY ENCASED IN CONCRETE 4" IN DIAMETER. NO I.D. CAPS ARE USED.

ALL BEARINGS ARE IN RELATION TO THE SOUTH LINE OF SECTION 19 IN "QUAIL RIDGE SUB. NO. 1" AS RECORDED IN LIBER 165 OF PLATS, PAGES 1-5, OAKLAND COUNTY RECORDS.

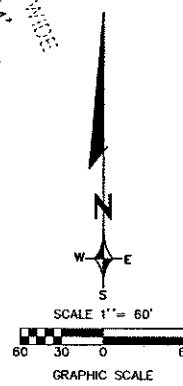
THIS PLAT IS SUBJECT TO RESTRICTIONS AS REQUIRED BY ACT 288 OF P.A. 1967 AS AMENDED ON CERTAIN LOTS WITH RESPECT TO THE REQUIREMENTS OF THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY, WHICH ARE RECORDED IN LIBER \_\_\_\_\_ PAGES \_\_\_\_\_ OF RECORDS OF THIS COUNTY.



VICINITY MAP  
SCALE 1" = 2000'



Richard A. Hofsess



2004-0796

Approval of Final Plat for Butler Ridge Subdivision No. 2

**Attachments:** Agenda Summary.pdf; Map aerial.pdf; Mylar ButlerRidge.pdf; Minutes CC 20021009.pdf; Minutes PC 20020903.pdf; 100604 Resolution.pdf; Resolution.pdf

*Ms. Hill questioned whether anything had changed since the preliminary plat approval.*

*Mr. Stanley Frankel, Roscommon Company, 2301 West Big Beaver Road, Troy, applicant, confirmed that nothing had changed.*

**A motion was made by Hill, seconded by Duistermars, that this matter be Adopted by Resolution.**

**Resolved, that the Rochester Hills City Council hereby approves the Final Plat for Butler Ridge Subdivision No. 2, City File No. 90-253.2, an 89-lot subdivision on part of 116 acres, located west of Adams Road and south of Butler, identified as Parcel No. 15-19-300-007, zoned R-2, One Family Residential, subject to submittal of all required performance guarantees, fees, and other requirements, which must be met prior to release of the Mylar; Jensam LLC, applicant.**

**The motion carried by the following vote:**

**Aye:** Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

**Enactment No:** RES0345-2004

2004-0801

Confirm the Mayor's appointment of Jonathan T. Rea to the position on the Economic Development Corporation vacated by the resignation of Philip Sanzica for a term to expire on March 31, 2006.

**Attachments:** Agenda Summary 102004.pdf; Rea Questionnaire.pdf; Agenda Summary 100604.pdf; White questionnaire.pdf; Sanzica resignation letter.pdf; 100604 Resolution.pdf; 0801 Resolution.pdf

*Mr. Jonathan Rea, 665 Apple Hill Lane, stated that he has been a resident of Rochester Hills since 1998, has been a Financial Advisor for approximately fifteen (15) years, and holds a business degree from Michigan State University.*

*President Dalton commended Mr. Rea for volunteering his time to serve on the Economic Development Corporation (EDC).*

*Mr. Barnett noted that Mr. Rea seemed "extremely qualified" for the position and expressed his belief that he would be a welcome addition to the EDC.*

**A motion was made by Duistermars, seconded by Barnett, that this matter be Adopted by Resolution.**

**Resolved that the Rochester Hills City Council hereby confirms the Mayor's appointment of Jonathan T. Rea to fill the vacancy of Philip Sanzica on the Economic Development Corporation for a term to expire on March 31, 2006.**

**The motion carried by the following vote:**

**Aye:** Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

**Enactment No:** RES0346-2004

**BUDGET HIGHLIGHTS**

*FINANCIAL TRENDS*

*GENERAL FUND*

*SPECIAL REVENUE FUNDS*

*DEBT SERVICE FUNDS*

*CAPITAL IMPROVEMENT FUNDS*

*ENTERPRISE FUNDS*

*INTERNAL SERVICE FUNDS*

*SUPPLEMENTAL INFORMATION*

MAYOR'S TRANSMITTAL LETTER

FUNCTIONAL CITY-WIDE ORGANIZATIONAL CHART

BUDGET POSITION HISTORY

COMMUNITY PROFILE

CITY OF ROCHESTER HILLS ADMINISTRATION

READER'S GUIDE

QUICK REFERENCE GUIDE

THE BUDGET PROCESS

FINANCIAL POLICIES

2006 CITYWIDE EXPENDITURES BY FUND TYPE

2006 CITYWIDE SOURCES OF REVENUE

2006 CITYWIDE SOURCES OF EXPENDITURES

2006 FUND LEVEL OVERVIEWS

2006 CONSOLIDATED CAPITAL IMPROVEMENT SUMMARY

City Hall  
General Information  
248.656.4600

### BUDGET TRANSMITTAL LETTER

October 5, 2005

Assessing  
248.656.4605

Dear President Hill, Council Members and Residents of Rochester Hills:

Building  
Ordinance Enforcement  
248.656.4615

In the spirit of balance and compromise and also recognizing the importance of sustainability, the administration and I have collectively prepared what I believe to be a sound financial plan for the upcoming year with City Council modifications stemming from Budget Workshop discussions. It is also important to mention that this conservative budget acknowledges the State's underperforming economy and the volatile world environment.

City Council  
248.656.4671

Clerk  
248.656.4630

As in previous years, the goal setting sessions of the City Council have helped to lay the foundation for this budget. Once again, city administration appreciates the efforts of Council this Spring to establish or reinforce goals and identify other issues of importance for guiding the budget development. Goals of high importance for 2006 are as follows: improve economic development, preserve infrastructure, enhance communication with residents, enhance public safety levels, continue high quality of life, sustain financial stability and improve the organizations efficiencies.

Fire  
248.656.4720

Human Resources  
248.656.4708

Pat Somerville  
Mayor  
248.656.4664

I would also like to thank the Planning Commission for their effort and approval of the 2006 Capital Improvement Plan, which was also considered while compiling this budget.

Oakland County  
Sheriff's Department  
Rochester Hills  
Contingent  
248.656.4728

### 2005 ACCOMPLISHMENTS

Parks, Forestry  
& Facilities  
248.656.4673

We have embarked upon an ambitious path by not only continuing to provide a high level of service to the residents and businesses in the City but also to implement and carryout new objectives with limited funding available. Some of our 2005 accomplishments thus far include the following:

Planning / Zoning  
248.656.4660

#### Working toward the FY2005 goal of preserving the City's infrastructure:

Public Services /  
Engineering  
Water & Sewer  
248.656.4685

- The Tienken Road bridge replacement and traffic signal design at King's Cove is moving forward with the planning and design stage with a construction start in the summer of 2006.
- The Avon Road intersection improvements at Livernois Road and Rochester Road design is moving forward with bid letting September 2005.

Treasury  
248.656.4675

- The John R Road widening from South Boulevard to Auburn Road survey work has begun with construction expected to begin in 2006. The work is being coordinated along with the East Ferry Drain.
- The Butler Road island removal design work has begun with bid letting date of September 2005.
- The Harding Road water and sewer main construction work performed this summer.
- The Rochester Road (Cross Creek Dr. to Mead) and Mead Road (Rochester Road to Wimberly), water & sewer extensions are currently in progress and expected to be completed this Fall.
- The Mead Road, Little Creek, Sheldon Road, Perrydale, Wimberly and Blue Beech water and sewer extension preparation is underway and construction is anticipated to begin this Fall.
- The Vardon Road and Lomond Lane water main extensions are currently being designed and with constructed anticipated in early 2006.
- The Rewold Storm Drain Phase II, construction commenced in early August. This work is being coordinated with Oakland County's resurfacing of Avon Road from Rochester Road to John R Road.
- The East Ferry Storm Drain survey work has commenced. Construction is expected to begin in 2006 to coordinate with the widening of John R Road from South Boulevard to Auburn Road.
- Approximately three (3) miles of City pathway resurfacing was completed this season.

**Working toward the FY 2005 goal of strengthening the City's tax and employment base:**

- The City amended its LDFA Development Plan and adopted a SmartZone Plan. The SmartZone established a business incubator at Oakland University. The SmartZone also has attracted eight companies, resulting in over \$6 Million in investment while creating 250 jobs.

**Working toward the FY2005 goal of improving processes & efficiencies:**

- The City is the recipient of “The Distinguished Budget Presentation Award”, which is recognition for governmental budgeting in the areas of policy, operations, financial planning and communication. The City received this honor for its efforts on the 2005 Budget Plan.
- The City is the recipient of “The Certificate for Excellence in Financial Reporting”, which is recognition in financial reporting by state and local governments. The City received this honor for its efforts on the 2004 Comprehensive Annual Financial Report (CAFR).
- The City is also the recipient of the “Achievement of Excellence in Procurement Award”, for demonstrating innovation, professionalism, productivity, e-procurement and leadership attributes in the purchasing process.
- A new preliminary review process was implemented within the Building Department that will provide preliminary review of all commercial permit applications within 72 hours of application submittal.

**Working toward the FY2005 goal of maintaining or increasing level of services:**

- A Clinton River Trail bridge and intersection improvements were unveiled in July, linking the many miles of trails in Oakland County to the Southeast Michigan trail system.
- Spencer Park Beach House reconstruction was completed this Spring and has opened to rave reviews. The concession area was expanded and the building is fully accessible, along with solving serious maintenance and structural issues for years to come.
- The Community Development Block Grant has assisted over 110 seniors with home chores and utilized over \$37,000 of Federal grant monies to assist low-to-moderate Rochester Hills residents with replacement furnaces, roof repairs and water and sewer hook-ups.
- The City took delivery of a new Pumper Vehicle and Tanker Vehicle. The Tanker will allow for the necessary water needed to provide fire protection for the areas of the City that has few fire hydrants.
- To assist in emergency preparedness, the City has entered into an agreement to be a partner in the Oakland County Radio System, giving our public safety personnel the ability to communicate with all participating fire and police departments in the County.



- The contracted Oakland County Sheriff's department has provided over 200 hours of selective neighborhood enforcement in just the first half of the year.
- The City has received and conducted training on new election equipment.
- The City successfully conducted the schools' May elections, as prescribed by new consolidated Michigan election law.
- The City's revised website has gone online in an attempt to facilitate the dissemination of beneficial City related information to residents, businesses and any other interested parties.
- A Youth Council is currently being established in order to involve our local youth in the civic process, in hopes of encouraging citizen involvement in municipal government.
- We successfully presented the Festival of Hills/Fireworks event, with an estimated 50,000 in attendance. This event was funded with contributions from local businesses.
- As part of the effort to stop the spread of Culex mosquitoes, our West Nile Virus/Mosquito Abatement Program consisted of cleaning 3,500 storm sewer catch basins along City streets and treating them with larvacide.
- To reduce damage and liability associated with the falling trees and limbs as a result of the Emerald Ash Borer, the City continues to work diligently to remove these dead ash trees out of right-of-ways and public property. Nearly 2,000 ash trees have been removed over the past two years and 400 replacement trees have been planted this spring.

## **2006 BUDGET HIGHLIGHTS**

The 2006 Adopted Budget continues to efficiently deliver high levels of services to the residents and businesses of the community. The budget document serves not only as a financial plan, but also as a policy document, an operations guide, and a communications device for the City of Rochester Hills. Although the City of Rochester Hills' millage rate continues to be the 3<sup>rd</sup> lowest millage rate of the 31 cities within Oakland County, this budget plans to increase the overall city millage rate from 9.3681 to 9.6681 (below the authorized Headlee maximum). The increase in the overall levy stems from two new voter approved millages, a 0.0900 mill levy O.P.C. transportation renewal/increase and a 0.3000 mill levy dedicated towards the