

*There were no further Communications brought forward.*

*Chairperson Boswell announced that if anyone wished to speak on an agenda item, a card should be filled out and turned in to the Secretary. He added that all questions should be directed to the Chair and would be addressed after the Public Hearing.*

## **NEW BUSINESS**

**2013-0305** Request for a Tree Removal Permit - City File No. 13-001 - for the removal and replacement of as many as 23 regulated trees for Regal Estates, a nine-unit single-family development on 3.5 acres, located east of John R, north of Auburn, zoned R-4, One-Family Residential, Parcel No. 15-25-352-022, Roy Rathka, Applicant

*(Reference: Staff Report prepared by James Breuckman, dated August 15, 2013 and Preliminary Site Condo Plans had been placed on file and by reference became part of the record thereof).*

*Present for the applicant were Roy and Tim Rathka, 11684 Majestic Ct., Shelby Township, MI 48315 and James Klinkenberger, Fenn & Associates, 14933 Commercial Dr., Shelby Township, MI 48315.*

*Mr. Breuckman summarized that the proposal was for a 9-unit, one-family detached site condo development located north of Auburn and east of John R, off of DeMar. The site was 3.5 acres, zoned R-4, One Family Residential. The applicants proposed a dead-end street with the ability to continue the road onto the property to the north and potentially loop back to Gravel Ridge. For that reason, the stub street layout was chosen rather than a cul-de-sac. He added that the stub street met Fire Department standards.*

*Regarding specific review considerations, Mr. Breuckman advised that Engineering had recommended conditional approval, which would not affect the site layout, and the conditions could be handled prior to Final Site Condo submittal. There were 47 trees on site, and the applicant was proposing to remove 23, leaving a preservation percentage of 51%. Most of the trees to be preserved were along the edges of the property of lots 1, 2 and 3, along the rear property line, and some on lot 4. There were also some trees in the wetland area in the back of lot 5 and a few along the property line next to the access road leading to the detention pond. There were some landscaping and tree replacement items to be addressed on the landscaping plan prior to Final Approval, should the*

*Plan be recommended to move forward. ASTI had reviewed the plans, and did not see that there would be any temporary natural features setback impacts. They had a few recommendations that could be handled by adding notes to the plans regarding lot 5, and lot 5 was large enough to accommodate the wetland while remaining buildable. With respect to easements, tree protection, wetlands and natural features setback easements would be required to be recorded at the County Register of Deeds prior to the issuance of a Land Improvement Permit for the project.*

*Mr. Breuckman concluded that the Plan met all technical requirements of the Ordinance, subject to the conditions in the review memos and in the Staff Report, and Staff recommended approval. He said that he would be happy to answer any questions.*

*Chairperson Boswell asked Mr. Rathka if he had anything to add, but he did not. Chairperson Boswell asked the Commissioners if they had any questions or comments.*

*Mr. Yukon said that the narrative mentioned that the homes would be ranch-style. The Site Condo Plan stated that the maximum stories would be two. He thought of ranches as having one story, and he asked for clarification about whether the homes would have two.*

*Mr. Rathka responded that they planned to build colonials - two stories, three to four bedrooms and two-and-a-half baths. He stated that they would not be ranches. He showed some pictures on the overhead. Mr. Yukon said that they did not look like ranches, but he pointed out that the narrative stated that they would be ranch-style.*

*Mr. Breuckman explained that ultimately, it really did not matter. The Planning Commission would be recommending the division of the land, not what type of homes there would be. The applicant had to meet the Ordinance with respect to the homes, and that would be handled at the Building Permit process.*

*Mr. Yukon noted that the Environmental Impact Statement stated that any lighting at the entrance to the development would be for the aid of motorists, and glare from traffic would be shielded for neighboring residences. He asked Mr. Rathka how they planned to do that, especially for lots 1 and 8 when someone came off of DeMar onto Jewell.*

*Mr. Klinkenberger replied that the lighting would be typical of that seen on*

*houses; it would not be street lighting or streetlamps that would give off a lot of light. The EIS was speaking more to car lights. Cars would not give off direct lighting into the houses.*

*Ms. Brnabic noted that there was a 25-foot natural features wetland buffer on lot 5. She realized it was a larger lot, but she wondered if the buffer would affect the building envelope in any way. She asked how many feet it measured as it moved closer into the yard.*

*Mr. Breuckman pointed out a hatched area on the Plan, which indicated the natural features setback. Someone could build to the edge of that. He referred to lots 6, 7 and 8, and said that if the rear setback line was continued north onto lot 5, it was apparent that lot 5 had the same buildable area as lots 6, 7 and 8, which would meet the minimum standards for the R-4 district. He was confident that lot 5 would be buildable. Ms. Brnabic felt it would be a "buyer beware" type of situation. There would be a considerable amount of property that could not be built on because of the buffer. Mr. Breuckman explained that was why an easement would be recorded. It would show up on a title search, and the home buyer would have ample warning of the limitations.*

*Chairperson Boswell opened the first Public Hearing at 7:16 p.m.*

**Jeff Springer, 2731 Gravel Ridge, Rochester Hills, MI 48307** *Mr. Springer noted that he lived behind lots 2 and 3. He said that he had planted some pine trees in 1985, and he asked if they would be retained. He had tried to plant them on his lot, but he was not sure if they were.*

*Chairperson Boswell clarified that the Plans showed that the trees would remain on Mr. Springer's lot. Mr. Breuckman agreed that was correct.*

**Margaret Goethe, 2743 Gravel Ridge, Rochester Hills, MI 48307** *Ms. Goethe stated that she lived on the corner of Gravel Ridge and DeMar. She wondered if there was a plan to add a wall or fence or some shrubs between the proposed development and her lot. She admitted that having lived there 35 years, she was used to the open land behind her, although she knew the day would come. She said that they had a lot of birds that they were very concerned about, but it appeared to her that like the trees with circles beyond her fence line would be saved. Chairperson Boswell agreed. Ms. Goethe asked again if there would be a fence or some type of barrier between properties.*

*Chairperson Boswell asked Mr. Breuckman what the Ordinance required*

for screening residences to residences. Mr. Breuckman advised that there were no requirements for single-family buffering. The applicant did have a tree replacement requirement, and there were trees proposed at the southwest corner of the detention pond and the northwest corner of lot 4. He believed that those trees could easily be redistributed amongst the site to provide screening in other locations. Staff recommended some screening on the east side of the detention pond, but some of those could be planted, if space existed, between the existing trees and the utility lines along the western property line.

Chairperson Boswell closed the Public Hearing at 7:20 p.m. and opened the Public Hearing for the Preliminary Site Condominium Plan.

**Angela Bucciarelli, 2707 Gravel Ridge Dr., Rochester Hills, MI 48307**

Ms. Bucciarelli said that she and her brother owned the five-acre property to the north. She wanted to thank Mr. Rathka for stubbing the street in the development. They had their property up for sale, and she recalled that a builder who had wanted their property previously was doing a cul-de-sac. She thought it would help in selling her property. She asked the definition of a wetland, noting that part of the wetland was on their property. She went to City Hall and saw a wetland outline on GIS (County computer program), but there was not anything written down about it. She asked if a builder could fill a wetland. She mentioned that they had hoped to sell the property to the church next door, but the church had no money. She had mentioned to Mr. Rathka that the property in front of her had less acreage, and it sold for \$490k during the high times.

**Elio Buciarelli, 2707 Gravel Ridge Dr., Rochester Hills, MI 48307.** Mr. Buciarelli noted that he was the brother of Angela, above. He questioned putting in two-story homes, when the EIS said ranch-style, and said that he was under the impression that there would be a single level, not two stories. He asked about the intention for the easement for the northwest corner (the thin strip of land).

Chairperson Boswell closed the Public Hearing at 7:24 p.m. He asked Mr. Breuckman for a brief explanation of wetlands, how they were determined and who did the determining.

Mr. Breuckman said that regarding what constituted a wetland, there were State standards that determined that. It had to do with vegetation, the presence of water and soil types. An environmental professional had to go out and survey the site to determine the boundaries of the wetland. The City had a wetland GIS file, which was very general in nature and not

sufficient to base any type of planning decisions, but it was a guide. The applicant (Mr. Rathka) had paid for a wetland determination, and an environmental scientist went to the site and measured the boundaries. On Mr. Buciarelli's site, someone would have to do the same thing. There were City and State protections for wetlands. A wetland could be filled, if the MDEQ approved it, and it would have to be mitigated by creating more wetlands somewhere else. He believed it was a 2-1 ratio, so for every square-foot that was filled, two square feet of wetlands would have to be created somewhere else. He indicated that it was harder to do that now than in the past. The MDEQ wanted the new wetland to be in the same watershed, which was more difficult because there was a decrease in the amount of potential land that could be filled.

Regarding the homes, Mr. Breuckman said that it actually did not matter at this point. The Planning Commission was approving only the division of land or the creation of the lots along with other site improvements, such as the roads, the landscaping, etc. When it came time to build the houses, it would be handled through the Building Permit process, whether the developer wanted to build single-family or two-story houses. If a buyer wanted a ranch house, that was what they would get.

Chairperson Boswell mentioned the additional question about the thin strip at the northwest corner of the site. He did not believe that anything could be done there, and there were trees planned for that area. Mr. Breuckman said that the trees could be moved to serve a better purpose, but that strip of land could be set aside as saleable land. It would not do the property owner of lot 4 much good. The Engineering Dept. required that access be prohibited to Gravel Ridge from lot 4. He added that this piece of land could potentially be split off and sold.

Chairperson Boswell said that if they were to sell that property to the north, it could become a viable piece of land. Mr. Breuckman agreed it could become useful at that point.

Mr. Schroeder asked the applicants if they would consider adding a berm for the neighbors on Gravel Ridge. Mr. Klinkenberger said that there were trees in other areas that they could distribute a little more effectively along that property line. Mr. Schroeder also recommended that the applicants talk with the neighbors during the development and construction phases.

Mr. Hooper thought that the 14 trees shown for the southwest corner of the detention pond and the trees from the northwest corner of the site could

*be redistributed. If the lot owners along Gravel Ridge wanted some additional screening in the back, he would recommend redistributing the trees along the western property line of lots 1, 2 and 3. They could also add trees on the east side of the detention pond. He recalled that Mr. Rathka had developed Rochester Meadows (now the Vistas) and there were issues with the view of the detention pond, so they planned additional screening.*

*Hearing no further discussion, Mr. Schroeder moved the following motion, seconded by Mr. Yukon.*

**MOTION** *by Schroeder, seconded by Yukon, in the matter of City File No. 13-001 (Regal Estates), the Planning Commission grants a Tree Removal Permit, based on plans dated received by the Planning Department on August 12, 2013, with the following two (2) findings and subject to the following one (1) condition.*

**Findings**

- 1. The proposed removal and replacement of regulated trees is in conformance with the Tree Conservation Ordinance.*
- 2. The applicant is proposing to replace 23 regulated trees with 24 tree replacement credits, as required by the Tree Conservation Ordinance.*

**Condition**

- 1. Tree protective fencing, as reviewed and approved by the City’s Landscape Architect, shall be installed prior to issuance of the Land Improvement Permit.*

**Granted**

**Aye** 7 - Boswell, Brnabic, Dettloff, Hooper, Reece, Schroeder and Yukon

**Absent** 2 - Hetrick and Kaltsounis

**2013-0302**

Public Hearing and request for Preliminary Site Condominium Plan Recommendation - City File No. 13-001 - Regal Estates, a proposed 9-unit single-family development on 3.5 acres, located east of John R, north of Auburn, zoned R-4, One-Family Residential, Parcel No. 15-25-352-022, Roy E. Rathka, Applicant

**MOTION** *by Schroeder, seconded by Reece, in the matter of City File*

No. 13-001 (Regal Estates Site Condominium), the Planning Commission recommends that City Council approve the preliminary one-family residential detached condominium plan based on plans dated received by the Planning Department on August 12, 2013, with the following five (5) findings and subject to the following twelve (12) conditions.

Findings

1. Upon compliance with the following conditions, the proposed condominium plan meets all applicable requirements of the zoning ordinance and one-family residential detached condominium.
2. Adequate utilities are available to properly serve the proposed development.
3. The preliminary plan represents a reasonable street layout.
4. The Environmental Impact Statement indicates that the development will have no substantially harmful effects on the environment.
5. Remaining items to be addressed on the plans may be incorporated on the final condominium plan without altering the layout of the development.

Conditions

1. Provide all off-site easements and agreements for approval by the City prior to issuance of a Land Improvement Permit (LIP).
2. Inspection and approval of tree protection and silt fencing by the City prior to issuance of a Land Improvement Permit.
3. Submittal of detailed landscape plans addressing staff comments in item 3 of review considerations, above.
4. Provide landscape cost estimates for landscaping, replacement trees, and irrigation on the landscape plans, prior to issuance of an LIP.
5. Payment of \$1,800 into the tree fund for street trees prior to issuance of a Land Improvement Permit.

6. *Submit of a landscape bond in an amount equal to the cost estimate for landscaping, replacement trees, and irrigation prior to issuance of a Land Improvement Permit.*
7. *Filing of conservation easements for all wetland, infiltration trench, and natural features setback areas prior to the issuance of a Land Improvement Permit.*
8. *Approval of all required permits and approvals from outside agencies.*
9. *Compliance with the Engineering Department memos dated June 11, 2013 (Taunt); July 3, 2013 (Boughton).*
10. *Temporary Natural Features Setback impacts from construction activities associated with Lot No. 5 or the proposed drainage Level Spreader structure must be restored to original grade with original soils and seeded with a City approved seed mix, prior to issuance of a Land Improvement Permit.*
11. *The By-Laws and recorded easement for the natural feature setback area should stipulate a prohibition of buildings, decks, patios or other physical structures.*
12. *Relocate the replacement trees along the east side of the detention pond and along the west side of lots one, two and three, prior to Final approval by Staff.*

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

**Aye** 7 - Boswell, Brnabic, Dettloff, Hooper, Reece, Schroeder and Yukon

**Absent** 2 - Hetrick and Kaltsounis

*Chairperson Boswell stated for the record that the motions had passed unanimously. He asked the applicants to please speak to the neighbors, advising that they might want trees or they might not want them.*

**2008-0244**

Request for a Revised Tree Removal Permit - City File No. 99-007.4 - for the removal and replacement of as many as 54 regulated trees for American House of Rochester Hills, a proposed 32,525 square-foot adult foster care facility on 3.48 acres located on the east side of S. Adams Rd.,