

2023-0059

Public Hearing and Request for Preliminary Site Condominium Plan Approval - Walton Oaks Site Condominiums, a proposed 11-unit, detached single family condominium development on approximately 6.8 acres at 3510 Walton Blvd., located on the north side of Walton Blvd. between Adams Rd. and Firewood Dr., zoned R-2 One Family Residential, Bruce Michael, Walton Oaks, LLC, Applicant

(Staff report dated 3-21-23, Reviewed site plans, floor plans and renderings, Three Oaks Communities LLC letter and response table, Rochester Housing Solutions Overview, Development Application, EIS, WRC Letter dated 4-14-22, Public Comment and Notice of Public Hearing had been placed on file and by reference became a part of the record thereof.)

Present for the Applicant were Bruce Michael, Walton Oaks LLC, and Bill Godfrey, Three Oaks Communities.

Chairperson Brnabic introduced the request for preliminary site condominium plan and tree removal permit approval for Walton Oaks, an 11-unit detached single family condominium development on approximately 6.8 acres located at 3510 Walton Blvd., on the north side of Walton Blvd. Between Adams and Firewood Dr., zoned R-2 One Family Residential, Bruce Michael, Applicant.

Ms. Roediger explained that this is a similar request to the South Oaks proposal, although there are different site conditions and concerns, and there are no wetlands on this property. She said the proposal is for 11 site condos and the applicant is looking for preliminary site condo recommendation to City Council. She said this is a heavily wooded property, and this will be the first of four public meetings for this project. She presented the zoning map and noted the site is on the edge of two different single family residential zoning districts and the proposal meets all of the R-2 district requirements, using the lot averaging provisions which allows for differences in lot sizes but does not increase the density allowed. Ms. Roediger explained that the layout utilizes a modified "T" turn at the end of the road and shows a sidewalk only on the side of the road with the homes, with a modification required for that. She noted that the subject parcel immediately abuts a Consumers Energy gas line to the east side of the property and this land provides additional buffering around the development. She said there is an existing residence along Walton that will remain. She explained that entering from Walton, first there would be a detention basin, then the condominiums and there would be a shared detention basin at the rear on the west side, and it culminates with the modified "T" turnaround. She said the look and floor plans are very similar to the South Oaks development.

Mr. Michael said that for the sake of brevity he would not give a presentation and would just answer questions.

Chairperson Brnabic noted there have been many emails received along with 338 petition signatures dated between June and September 2021 that were in strong opposition to a rezoning, a conditional use or a PUD for this property. She explained that none of those options are being requested tonight, and she noted that the ZBA did deny the subdivision open space request that was before

them for this project last year. She stated that the ZBA determined that no practical difficulty existed and the land could still be developed under the R-2 zoning, the owner would not be prevented from using the property for the permitted use, and that granting the variance would void the intention and purpose of the subdivision open space plan option. She said the applicant is now using the lot averaging provisions and the average cannot be less than the required width for the district which is 100 ft. She reviewed the lot widths from the plans and opened the public hearing at 8:49 p.m.

Noreen Meganck, 172 Stonetree Circle, opposed the development due to the difficulty of developing a property with such issues, water concerns, the location and sufficiency of the proposed detention, and the inappropriateness of a "T" road for emergency vehicles.

Jessie Lee, 190 Stonetree Circle, said she always knew the property would be developed and had questions and concerns regarding construction traffic, noise, hours, and timeline; the need for guarantee that trees are replaced onsite and the timeline; procedures if a new buyer does not want the trees on their property; flooding of her yard and whether the proposed detention system would be sufficient; and safety risks for children playing outside with the detention pond.

Ray Toma, 202 Stonetree Circle, opposed the development and expressed concerns regarding lot widths and increased density; stormwater detention being located partially on the condo lots and whether that was done to increase density; concern about the "T" at the end of the road because it is the least practical option and ugly and is done to increase density; and the lack of conservation of preservation areas. He said that the development has been designed to increase density and the developer then cannot replant all the required trees onsite.

Roger Smith, 139 Bellarmine, thanked the Planning Commission and said this request has come a long way since the first presentation a few years ago, the density is down but there are still concerns regarding protecting the character and economic and social stability of the surrounding areas. He said they went to Maple Oaks in Saline and their nearly identical houses do not preserve the character of Rochester Hills and he showed pictures of that development. He referred to a lease they have with Consumers Power for property on Bellarmine for their use and they maintain the property, and behind that is a narrow strip where the developer will plant a small amount of deciduous trees which will not provide sufficient screening.

Susan Mason, 308 Shellbourne Dr., opposed the development and said during a neighborhood meeting when the developer wanted to rezone to R-5 with 36 units, with IDD people there were statements made that they didn't want the people in their backyard but that is not the case. She said at a meeting last year they said it was a hardship to not be granted a variance and they do not even own the property. The code states that the new homes need to be similar to surrounding homes with 50% brick, that if the homes look similar it may cause issues for the intellectually disabled adults, and with four people buying a home it is no longer a single family home it is a multi-owner unit; and questioned

continuity of care if the parents pass on.

Don Courtright, 1130 Whispering Knoll, supports the developments at Walton Oaks and South Oaks because his son has Down's Syndrome and he works and participates in the community. He said Walton Oaks and South Oaks are great locations for them, and there are many other young adults with similar backgrounds in Rochester Hills. He said they all want the same opportunity for a forever home in Rochester Hills and this is a great opportunity that will offer a safe environment to live interdependently with the neighborhood and the community.

Steve Raffin, 460 Gunder Dr., said he is a licensed builder and has worked in similar communities and he has worked on projects in Rochester Hills small and big. He said he worked on a project with Mr. Rewold and went around and around with the building department and were told to up their game to a higher standard. He said what is comical to him now is one of the exact things a building official said to them is they will never be Auburn Hills or Sterling Heights. He said Rochester Hills will let anybody building anything, anywhere. He said if Rochester Hills wants to maintain what we have the City is ruining that by letting every little parcel get developed.

Chairperson Brnabic called Thomas McDonald but he did not come forward to speak.

Ellen Smith, 215 Bellarmine, said she was speaking as an HOA representative and expressed concern that since this is a road and not a driveway it will generate a larger volume of traffic and noise; the inadequacy of the landscape plan to shield them from noise, headlights and exterior lighting; the loss of trees and the leveling of the rolling hills; and stormwater on the west property line. She said that due to the lack of privacy they are requesting a wall along the back of the 4-5 lots that have roadway running along their property line. She asked if the 138 trees that they will be paying into the tree fund for could be better used on this site to purchase larger, better quality trees instead of being used elsewhere in the city.

William Kerr, 438 Bellarmine Dr., said he hopes to have the same opportunity to meet with the developer, since they received an email with 29 pages of plans that was hard to understand and he would just like a clear picture of what is being asked for.

Julie Chinoski, 48 Stonetree Circle, questioned whether the developer owns the property and if not can they be asked for all of this; whether the detention pond is being figured in as part of the green space, and if so whether it has to drain within a certain amount of time; whether the IDD homes should be considered single family homes if they have multiple owners; that if this is a condo development and it would be managed by a management company and not an HOA; concern about the amount of space between the back of the homes and the property lines; not sure it is affordable housing; with the IDD housing the lack of crosswalks to help residents for the main roads; and request a meeting with residents with the revised plans which was not offered.

Chairperson Brnabic asked for any additional speakers to provide speakers cards before she closes the public hearing.

Carolyn Claerhout, 54 Stonetree Circle, expressed concerns about water and having a neighborhood meeting with the developer. She asked why these homes are not considered licensed group homes, since those are permitted in R-2 zoning.

Mark Lula, 196 Stonetree Circle, expressed concerns that Rochester Hills is going the way of Naperville, Illinois where all of the green space was developed and it became second in population to Chicago. He said when they moved here all the homes in the downtown area were one story now they are allowed to do two story. He said to sandwich 11 condos between two mature subdivisions is not appropriate and to level the trees, dust, dirt, noise is inappropriate.

Noreen Meganck, 172 Stonetree Circle, said that she forgot to mention that as she studied the plans, 3 ft. diagonally off the corner of her property is the storm drain. She said they have a pool with a fence right on their property line, and when the drain was constructed in the 1990s it collapsed and their pool was damaged and their fence was destroyed, and she has a major concern with them tying in at that corner and said it will dump more water to Stonetree Circle which already floods.

Greg Scott, 44244 Chedworth Dr., Northville, MI said that he is the father of a 26 yr. old who is blind and cognitively impaired, and they have been looking for a long time for a place to him to live, and there are not many solutions out there. He said they are looking this over very carefully and feel this is a fantastic solution and urge the commissioners to approve this as soon as possible.

Chairperson Brnabic closed the public hearing at 9:23 pm. She noted there were quite a few questions posed from the public. She said the comment about this developer choosing questionable properties was answered earlier by Ms. Roediger, who stated that there are not many properties left in the city and those properties usually have issues to deal with. With regard to emergency vehicles, she said that is reviewed as part of the process and asked Ms. Roediger for clarification.

Ms. Roediger responded that as part of the site plan review process there have been many iterations of the road that have all been reviewed by the Fire Department. She said that there are different options for how a road can terminate and this is one of the approved options. She said that the City's hours of construction are 7:00 a.m. - 8:00 p.m. Monday - Saturday.

Chairperson Brnabic asked the developer for his planned timeline.

Mr. Michael responded that it should take two to three years to completely build out the development.

Ms. Roediger responded to a public comment about projects that have stalled through the years. She said Medilodge had an unfortunate situation with COVID and a change of ownership, but the City has performance guarantees and

bonds, and projects have various expiration dates. She said from a planning standpoint, once approved a project has one year to get through construction plan review and the land improvement permit. Basically, they have one year to "move dirt" and start construction with underground utilities. All permits have expiration dates and there are many checks and balances; however there can be unexpected situations arise and that's why the City holds performance bonds in the event that the City can be put in the situation of having to close out a site, as is the situation with Medilodge.

Chairperson Brnabic asked Mr. Boughton about the proposed detention areas and if this development would make flooding in the vicinity worse because the neighboring homeowners have had experience with flooding. She asked if the lot width averaging provision allows for increased density.

Mr. Boughton responded that he understands the concerns with regard to flooding. He said currently on Bellarmine there are about 9 acres of property draining from the northeast to the southwest corner, and it drops about 40 ft. in that distance, and that is why a lot of flooding has occurred in that location. He stated that in the 1960s when that subdivision was constructed there were only ditches provided in the front yards and no drainage provided in the back yards. He said when Stonetree Circle was constructed in the 1970s it was only designed with a few rear yard catch basins adjacent to the property line. He said that the Walton Oaks system has been designed and will provide a buffer with regards to capturing that 9 acres of drainage and discharge it to the Walton Blvd. ditch. He said there is an emergency overflow that may be used and has been designed to meet a 25 year storm event which is the current standard, however back in the 1970s only a 10 year storm event design was required.

Ms. Roediger explained that using the averaging provision, it would not allow for an additional lot. If some lots are larger and some are smaller, it wouldn't allow for additional density. She stated that additional items such as the "T" turnaround and tree removal were also noted to be ways to allow for increased density; however those items meet the City ordinances and the density is allowed per the zoning.

Chairperson Brnabic noted that some residents said that deciduous trees would not provide for adequate buffer for privacy at their homes.

Ms. Roediger responded that from a screening standpoint, the City could work with the developer to use some evergreen trees. In terms of the request for a solid screening wall, she explained that the City has preferred green screening instead of a solid wall. The tree fund would not allow that money to be spend on a solid wall, but more green screening could be planted to beef up the plantings along the property lines.

Chairperson Brnabic asked if it would make a home multi-family residential if four different people are purchasing the home. She said in essence that would be having four different homeowners and asked whether that would pose a problem. She asked if it would mean four different people having a mortgage on the home.

Mr. Godfrey responded that not every home would be the same, and if individuals want to live together and own the same home that is no different than one family owning the home. He said it will be like having a family cottage when there are multiple owners, and he commented that this is the analogy they see here. He said for some of the homes the whole family may buy the home and then have their kids live there. He said for families in this situation usually their only option is to rent and then they have nothing at the end of their lives. He said one of the biggest challenges for these families is their financial planning. He said the flip side would be condemning such people to a lifetime of renting; this gives people choices, and there has been a lot of interest expressed. He said that the IDD adults would have a lot more control over their services and the life that they lead when they own the home.

Chairperson Brnabic thanked Mr. Godfrey for the explanation and said that offers a better or different understanding.

Ms. Roediger said there is the topic of whether the houses are for sale or rent. She explained that the City doesn't get involved or regulate in whether someone owns or rents their home. She stated that what the City does regulate is multiple family vs. single family, and staff has had that conversation with the developer from the beginning. She said the definition in the ordinance gets into what the definition of family means. Historically, it was a married couple, and obviously that definition has evolved substantially over time since the first zoning ordinances. The definition of family from a zoning standpoint is a group of people living together under a somewhat permanent basis of people that are living as one household unit, meaning that they share a kitchen and common areas, and they are essentially roommates living together. From the City's review and discussion with legal counsel, it really is a single family home because it is like a group of friends living together, they are just owning instead of renting. She said it is not individual apartments, it is a shared house.

Chairperson Brnabic asked about the property's ownership, and asked the applicant to confirm if they bought the property in 2020.

Mr. Michael said they have never made a representation that they own the property, and explained that they have a long term option to purchase the property.

Chairperson Brnabic noted the property would have to be purchased before they move forward with development, and she is thrown off because of what was presented at the ZBA she thought they were told that they purchased it in 2020.

Ms. Roediger responded that for most of the developments brought to the City, the developer has an option to purchase the property. She explained that normally developers don't purchase property unless they know that they can build what they are proposing. The application requires the property owner's permission to pursue approvals with the city, similar to the property on South Blvd.

Chairperson Brnabic said there was someone who thought there might be a need for an added crosswalk.

Ms. Roediger responded that she loves that idea, she spoke with Engineering about that today, because this stretch of road does not have any additional crosswalk between Adams and Squirrel Rd. She said it wouldn't be warranted just for the addition of 11 new homes, but for all of the existing homes to walk to Meadowbrook and Oakland University. She explained the City's Capital Improvement Plan's call for projects is due tomorrow for this year. She said she would take a look at it for 2024 and it would be weighed against other requests for capital improvements in the city.

She noted there were also public comments about the building architecture, individual neighborhoods may have their own deed restrictions and this neighborhood would be different. She pointed out that they did add stone to these buildings; however, they don't have to match other neighborhoods' deed restrictions.

Ms. Roediger said that there was a question about whether the detention pond counted as green space, and she noted that there is not a green space requirement with this type of development. She said that if the new homeowners don't like the trees in their yards they can work with forestry to make changes as part of the approved site plan and their deed restrictions.

Mr. Michael said there would be a variation of the house designs; they showed one floor plan they are offering but there will be four different floor plans and they are not going to be having the same house with the same elevation side by side. He stated that the designs of the elevations would be "anti-monotony". He offered they would be willing to change the trees on the east side of the road from deciduous to evergreens as long as it is acceptable to Engineering since they are in the right-of-way.

Ms. Neubauer asked if four families purchase and get a mortgage, what would the deed look like, if it would be joint tenancy, or rights of survivorship and it will revert back. She stated that she works with developmentally disabled and the elderly, and she understands people are neglected and it can bankrupt someone to take care of them, and everyone should have a home. She asked if they will own a percentage of the home or the home in its totality.

Mr. Godfrey said it would be none of those, each portion, each individual unit purchased would have a separate legal description. He said they haven't worked out the legal details as to what each unit's legal description would include.

Ms. Neubauer asked if an individual can own 1/4 of a property and how the deed would look, if each deed would have its own legal description. She said if one person passes there will be other people on the deed and asked how that would work. She said if the deed situation is not worked out and there are separate units this project can't be represented as single family and this needs to be sorted out. She said this issue gives her pause and noted additional screening would be better than a stone wall. She commented that usually when a developer comes to the Commission, they are presented with what all of the homes would look like and that would be nice to have. She mentioned the City's

Street Committee review that was denied.

Ms. Roediger said that the definition of single family would require one integrated housing unit.

Mr. Godfrey responded that they have consulted with their attorney and the City's attorney about the deed as they want to ensure people can own the units as a suite within the structure, and that was resolved months ago. He said there would be separate legal descriptions.

Mr. Michael said that the home would be deeded to all the people buying it, and suggested that they could form an LLC.

Ms. Neubauer said that what is told and presented does not correlate, and there is a disconnect in how it will actually be done. She said she thinks it would be better if their attorney was here, it's either one family units or not. She said that it would be a big assumption to say that all of the people would be buying the home at the same time.

Mr. Michael said that discussing how the homes would be purchased is outside of the purview of land use. He said they will have to have a legal mechanism to allow each person to have their own suite and lock the door, so the people can own a home together, but they have the ability to be private within their own area. He would like to let the buyer make a decision about how they buy it, the group of families will decide how they do it. It might be an LLC, it might be as tenants in common, but they will get to make that decision.

Ms. Neubauer said that she understands that but what was presented does not correlate with her understanding of single family residential.

Mr. Godfrey said there are times when single family homes are owned by people who are unrelated or receive a home through an inheritance.

Ms. Neubauer said those types of situations often end up in litigation.

Mr. Struzik said that he sees an opportunity here in that there is a City owned parcel which seems like an awesome place to put a road to connect to Bellarmine Dr. He said he would want a pathway connection to connect these two neighborhoods, and he sees no reason why they wouldn't be able to walk through at least by foot walk to Adams High School without going out to Walton. He said that he understands the objections but that not providing the connection would be a huge missed opportunity. He said this is a community and it's disjointed, and stressed that he likes connected communities. He said if they wanted to build a walking pathway there would they need an easement, to have a walkway to the road and then have a crosswalk to the west side.

Ms. Roediger said that originally there was a street connection, and many residents did not want that option. She said that connection would have to cross Consumers Energy property as well. She said that based on meeting with the neighbors that was removed.

Mr. Struzik said he doesn't want to see another neighborhood where there is only one entrance and exit. He commented that not every neighborhood should just be connected to a main road, when there are opportunities to provide connection. With regard to density, he said the proposed density is similar to the R-2 zoned neighborhood to the west, this is not being crammed in compared to the neighborhood to the west. He said he likes having owners live in the neighborhood, if the owners live there they care about the property since it's their investment. He said the City attorney should provide his opinion about the ownership questions in writing. He said he doesn't want a problematic ownership model but that issue might be outside of the purview of the Planning Commission. He noted that a green wall is much better than a masonry wall for screening purposes.

Mr. Weaver said that he has questions about the lot widths, and commented that it looks like the 9 lots running perpendicular to the road seem to be shorter, and the larger lots that increase the average are at the end. He asked if caretakers would be living inside the IDD homes at the rear of the development. He asked why the bottom of the detention basin is shown as concrete.

Ms. Roediger explained that the intent of the lot averaging provisions is to allow for smaller and larger lots but they have to meet the required average of the district.

Mr. Godfrey responded that it would be an option to have caregivers live there, or they can just staff the position and they would not be living onsite but just working onsite.

Mr. Michael noted that each IDD home has an office for caregivers.

Mr. Boughton explained that it is designed to be a dry basin, if it was just grass it would be difficult to drain.

Mr. Weaver asked about the type of fencing that would be used on top of the wall, and noted he doesn't see images of it in the plans. He said that he agrees with showing the green screening along the road with some larger trees. Regarding the overflow structures, he questioned if there was still water sitting in the detention basin would the depth require a fence. He asked the applicants to show existing trees on the plans as more representative of what is out there, to draw a crown and show the canopy size. He said there is a lot of grading proposed which could be within the drip line of the existing trees and he wants to ensure their survival. He asked staff whether the detention basin grading is allowed on the homeowners properties.

Mr. Michael said that the safety fencing is only for the retaining wall; it will be a metal fence with a handrail and not a split rail. He said it is shown for the South Blvd. project also, it was requested by Planning and they complied.

Mr. Boughton responded that the slopes on the detention basin are 1:6 so a fence is not required.

Mr. Roediger responded that the grading for the detention basin is allowed on

homeowners properties. She said that a maintenance plan would be required.

Mr. Weaver said there is a note on the plans about the irrigation requirements that they can be waived.

Ms. Roediger said there has not been a formal request for that.

Mr. Michael said it was not their intention to ask for such a waiver, they would not be irrigating the detention basins but they would everywhere else.

Chairperson Brnabic asked wither the EIS for this project has been updated to reflect accurate prices.

Mr. Michael said that it is accurate.

Chairperson Brnabic referred to plans where it said single family residential homes and then condos, and suggested the applicant clarify that on the plans for consistency.

Ms. Neubauer said that the applicant needs to provide a true and accurate representation of their request so that there is not confusion. She asked if they would like the Commissioners to vote on their request or to postpone it tonight. She suggested that it might be in their best interest to come back with their attorney.

Mr. Michael said that technically their request is for a site condominium. He said they would like a vote today; it takes forever to come back.

Chairperson Brnabic said that if the request is not approved it will be a year until they can come back unless the plan is totally different.

Mr. Godfrey said they would like the request to be postponed.

Ms. Neubauer made motions for postponement of the request for Preliminary Site Plan Approval Recommendation and the Tree Removal Permit until the developer comes back with an updated EIS with consistent terminology, includes in their the presentation the variations of home design, updates the screening and fencing, and addresses comments about the trees, and any other items on the record, and holds a meeting with the neighbors. She stated that she understands property rights and is an attorney and wants to encourage and help the developmentally disabled, but the developer needs to present a clean application.

Mr. Dettloff seconded the motions.

Mr. Godfrey asked if they could have a worksession or a preliminary conference to make sure they are checking all the boxes to ensure they will not be postponed again.

Ms. Neubauer suggested they work with staff and review the minutes of the meeting to ensure they resolve all of the issues.

Chairperson Brnabic asked for any discussion of the motions and there was none. After the voice vote on both motions to postpone, she noted the motions passed unanimously.

A motion was made by Neubauer, seconded by Dettloff, that this matter be Postponed. The motion carried by the following vote:

Aye 7 - Brnabic, Denstaedt, Dettloff, Gallina, Neubauer, Struzik and Weaver

Excused 2 - Bowyer and Hooper

Resolved, in the matter of City File No. PSP20220005 Walton Oaks Condominium, the Planning Commission Postpones Recommendation of Approval of the Preliminary Site Condominium Plan, until the developer submits an updated EIS with consistent terminology, provides the variations of home design, updates the screening, fencing and landscape proposed, and holds an meeting with the neighboring residents.

2023-0086

Request for Tree Removal Permit Approval - to remove one hundred sixty-seven (167) regulated trees and thirty-nine (39) specimen trees and provide two hundred sixty-two (262) replacement trees for Walton Oaks Site Condominiums, a proposed 11-unit, detached single family condominium development on approximately 6.8 acres at 3510 Walton Blvd., located on the north side of Walton Blvd. between Adams Rd. and Firewood Dr., zoned R-2 One Family Residential, Bruce Michael, Walton Oaks, LLC, Applicant

See Legislative File 2023-0059 for discussion.

A motion was made by Neubauer, seconded by Dettloff, that this matter be Postponed. The motion carried by the following vote:

Aye 7 - Brnabic, Denstaedt, Dettloff, Gallina, Neubauer, Struzik and Weaver

Excused 2 - Bowyer and Hooper

Resolved, in the matter of City File No. PSP20220005 Walton Oaks Condominium, the Planning Commission Postpones the Request for Tree Removal Permit Approval, until the developer submits an updated EIS with consistent terminology, provides the variations of home design, updates the screening, fencing and landscape proposed, and holds an meeting with the neighboring residents.