

PLANNING COMMISSION MINTUES
PRELIMINARY SITE PLAN APPROVAL
SEPTEMBER 25, 2002

**REGULAR MEETING OF THE NOVI PLANNING COMMISSION
WEDNESDAY, SEPTEMBER 25, 2002 AT 7:30 P.M.
COUNCIL CHAMBERS - NOVI CIVIC CENTER - 45175 WEST TEN MILE ROAD
(248)-347-0475**

Meeting called to order at 7:30 p.m. by Chairperson Nagy.

PRESENT: Members Avdoulos, Kocan, Nagy, Papp, Paul, Ruyle, Shroyer, Sprague.

ABSENT/EXCUSED: Member Markham (absence excused)

ALSO PRESENT: Planning Director David Evancoe, City Attorney Jerry Fisher, Staff Planner Beth Brock, Planner Barbara McBeth, Planner Timothy Schmitt, City Engineer Nancy McClain, Landscape Architect Lauren McGuire, Traffic/Planning Consultant Rod Arroyo, Senior Environmental Specialist Aimee Kay

1. SCENIC PINES ESTATES, SITE PLAN NUMBER 01-63

Public Hearing on the request of Marvin Daitch of Danovi LLC, for approval of a Preliminary Site Plan, Woodland Permit, and Wetland Permit. The subject property is located in Section 3 and south of Pembine between Buffington and Henning. The developer proposes a 24-unit condominium under the Subdivision Single-Family Cluster Option in the R-4 (One Family Residential) District. The subject property is 8.93 acres.

Barbara McBeth, Planner introduced the request of Marvin Daitch of Danovi LLC for preliminary site plan approval, Woodland and Wetland permits. The site predominantly undeveloped however does contain two single-family homes and associated garages and outbuildings. The properties to the west are developed with single-family homes and there are some vacant parcels of land to the west. To the north are single-family homes that are within in the Lakewoods Subdivision. To the northwest is the Lilley Pond Subdivision. To the east are the South Point Condominiums. To the south is vacant land, which is designated for a community park. The Master Plan designation for the parcel is single-family. To the south and southwest, the land uses are designated as Community Park. The remaining surrounding land uses are designated for Single-Family Residential. The site is zoned R-4, One Family Residential, as are the properties to the north, east and west. To the south, the properties are zoned R-1 and R-A. The proposed site plan shows a 27 unit site condominium development proposed to be reviewed under the One-Family clustering option. Each home is proposed to be detached and clustered into three or four on each side of the proposed While Pine Trail and Pine Cone Court. The site plan shows that slightly more than 50% of the site would consist of Woodlands and Wetlands preserved in their natural state as it is one of the requirements for approval under the One-Family Clustering Option. Currently, 67% of the site consists of regulated woodlands and wetlands. The two homes currently on the site would be removed to allow for the development. The existing garage, located at the south end of Henning Street would be retained to allow for additional storage for the homes on the property. The garage is proposed to be renovated in a material consistent with the style of the homes that will be constructed on the property. The Planning Commission will need to make a finding that the proposed development meets the intent of the One-Family Clustering Option. City Staff and Consultants have worked with the applicant to assure that a minimum of 50 percent of the site will be preserved in existing woodlands and wetlands as this is one of the conditions which must be present to qualify for the One-Family Clustering Option. The Planning review also indicated that a Zoning Board of Appeals variance will be required to retain the existing garage at the northeast portion of the site in its current location. The ordinance states that accessory structures are not permitted to be located in any required front or exterior side yard. This existing garage does not meet the setback requirements of the Ordinance. The Wetland Review indicated that a Planning Commission approval of a non-minor use Wetland Permit is required. The applicant has worked

extensively with the Wetlands consultant to refine the plan to minimize wetland impacts and maintain the contiguity of the wetland system. A short bridge is proposed to span the wetland and the effects of this have been reviewed by the wetlands consultant. The Woodlands review indicated that approval of the Woodland Permit and Plan is recommended with minor items to be addressed at the next submittal of plans. The Landscaping review stated that Planning Commission approval for a brick screen wall in lieu of a landscaped berm abutting the Pembine Road will be required if the plans are approved. Additionally a Zoning Board of Appeals variance will be needed for the proposed planting of street trees within 10-feet of driveways in many locations throughout the site or the plans must be modified to accomplish the separation that is required by the Ordinance. Landscape Architect Lauren McGuire can address this in further detail if the Commission needs additional information. The Traffic review revealed that a Planning Commission waiver of minimum opposite-side driveway spacing is required, with only 117-feet of separation provided between the proposed driveway and existing Henning Street, and 200 feet required. The review indicated that the site lacks adequate frontage to meet the minimum spacing requirement to the east, as well to the west. Engineering and Fire Department reviews indicated only items that may be addressed at the time of Final Site Plan Review. No façade review is required of this proposal as it falls under the One-Family Clustering Option, however the applicant did provide elevations, as required by Ordinance, of the proposed style of homes, which will be reviewed under the Similar/Dissimilar Ordinance. The applicant has also submitted a plan indicating how they propose to renovate the existing garage.

Robert Carson appeared on behalf of the applicant. He reiterated the proposed development. He noted the efforts made by the applicant to work with the City Staff to work with the layout of the site. Originally, the proposal was for 27-units; however, after working with the City 24-units were agreed upon. Two variances are required. One variance is related to the accessory building (garage/storage units), which he agreed to remove if the variance is not granted. The second variance is related to the planting of street trees within 10-feet of driveways in various location of the site. He found merit in having the trees along the driveway. He requested approval contingent upon obtaining this variance, however, if the variance is not granted, he agreed to relocate the trees. He felt the Staff and the City would prefer to see the trees between the driveways as it is a better planning technique. He commented on the required Planning Commission waiver of minimum opposite-side driveway spacing. He stated there is not 400-feet of frontage, which leaves the site landlocked without the ability to install the road. The property cannot be developed without the installation of the road. City construction guidelines allow the Commission to make a finding based on the site configuration and not require the 200-feet in either direction.

Mr. Robinson stated there is an easement for the Wetland Detention Regional Basin, which does not impact the design. Another easement is located at the northwest corner of the site; however, the situation was resolved with the purchase of the property which the easement was tied. A drive design has been created into this property for future use. He indicated its design benefits the current neighbors.

Mr. Carson stated the easements that may have been mentioned do not affect the site.

Mr. Robinson stated the building elevations are in the 3500 square feet range. The road has been raised as a result of working with the Planners. In the process, the buildings were raised with an open back for some of the units with the height requirements still being met.

Mr. Carson stated the development is in keeping with the park-like atmosphere located to the south and maintains a large area of undeveloped property. In the event ZBA Variances are not obtained, the site plan will be modified to comply with the Ordinance. He reminded the Commission that the site is undevelopable without the Planning Commission Waiver.

CORRESPONDENCE

Member Kocan announced she received one approval and considerable objections to the site.

Michael Chobak, West Warren Detroit, would like to sell property nearby and therefore approves of the proposed development.

Member Kocan read a portion of the letter from the South Pointe Condominiums Association, "We are quite concerned about the possible effect on South Pointe Condominiums of the proposal. According to the present site plan for scenic pines, they have a planned elevation of 935-feet. South Pointe has a much lower level of 932-feet, per the as-built diagram obtained from the City this week. The water level here is already causing a problem at the southern side of the property with seepage up through "fissures" in our parking lot. Any additional drainage in our direction may very well compound this condition. What steps can be taken to ensure this does not happen and who will be responsible if it does. We know that South Lake is scheduled to be resurfaced late fall this year or early spring. There is currently construction on West Road near Pontiac Trail and Bristol Corners at West Road and South Lake Drive. In short we will be surrounded by construction if this project goes forward. The construction of 27-condominium will mean approximately 50 plus or minus more vehicles using South Lake Drive every day. We are a senior complex of 72-units and have several residents with limited mobility. The increase in traffic will have quite an impact especially when our residents are trying to cross a street. Can scheduling be arranged so if Scenic Pines is approved, construction does not begin until after South Lake Drive has been finished. Already deer are being driven out by other construction in the area, even onto South Lake Drive. We can not do additional building in a wetland area behind our buildings because it is protected. Is not the intended site not also protected. In the Master Plan of Novi, the proposed area was designated to be woodland/wetland. When did that change? Please consider our comments."

Member Kocan announced there are a number of other responses. She indicated the responses reference the previously proposed 27-units; however, the proposal is for 24-units.

Jessie Madina objects due to the value of her property, wetlands and traffic. She is located in a senior condominium complex; wonders about the impact on the usage of Walled Lake; believes the wetlands provide a natural sound barrier and concerned with the possibility of fences being placed around the subdivision. She also mentions that East Bay Condominiums have filled-in with a lot of dirt and the condos are very high and have caused flooding situations with potential lawsuits. There is a large traffic problem.

Thomas Scrobecky objects due to traffic on a dirt road, drainage.

Charlie Azus Lilley Pond Homeowner Association President, wrote "The residents of Lilley Pond Subdivision object to the above request as it will more than double the amount of traffic using Lilley Trail Drive. Since Lilley Trail Drive is the only paved street leading in and out of the area, it is currently frequently traveled by residents living on Buffington and Henning, which are dirt roads. The proposed development would more than double the amount of traffic, however, we would agree with the development if Buffington and Henning were paved as part of the project."

Yasuko Duke objects due to increased traffic and drainage.

Phil Moldowney objects.

Marilyn Hannan objects due to drainage. She felt it was previously stated that it was not permissible to build in the wetlands.

Elizabeth Casemore objects due to the elevation of the site being higher than South Pointe Condominiums, increased traffic and the stress on the lake.

Ira Fisher objects because the ground water levels could flood the condominiums.

Patricial and Allen Kounten object due to additional traffic and the safety of the children in the area.

Marilyn Kouts objects due to traffic and sewers.

Marilyn Hickman objects due to drainage. The access to the site has already been denied once. Residential streets were not designed for additional traffic.

Barbara Tobias objects due to the traffic and elevations.

Dolores Malhout objects due to traffic and drainage.

Mr. & Mrs. Burt Wilmont object because it is bad for the lake.

Elizabeth Casemoor objects because of the runoff on the water. She thought the wetlands were protected.

Catherine Bodone objects due to the runoff of water and traffic on South Lake Drive.

Beverly Specier objects due to concerns of being flooded and excess traffic.

Lois Newgent objects because of fear of being flooded and traffic congestion.

Diane Hamilton objects due to the elevations and the traffic.

David Miller objects because it is a wetland, concerns of runoff and questions if the Department of Natural Resources approved the site plan.

Carol Smith objects due to drainage and additional traffic.

Margaret Carl Lori objects because the area is a designated wetland area to be protected. if it was deemed unacceptable for building 14-homes in 1996 then why is it now okay to build condos there now.

Emmit and Marilyn Hammond objects due to flooding concerns.

Rich Perroka objects due to traffic.

Patricia Allen Counter objects due to traffic. Suggests the lowering of speeds for the safety of the children.

William Baldwin objects due to access, feels the number of units should be reduced to 10 or 12 and the road should be improved with concrete curbs and storm sewers at the developer's expense, water runoff in the area is of great importance. The land will be higher and water problems will result.

Jennifer Tagels object due to traffic, unsafe driving, disruption in the Woodlands and Wetlands, questions where the drainage will go.

Dorothy Ducheno objects due to flooding, traffic and access. Suggests no approval unless the City will guarantee the lots on Henning will not be subject to increased flooding.

Dorothy Dickens objects due to a poor selection of property and increased traffic.

Precise Incorporated wrote, "We are writing to clarify any misunderstandings about the access easement for 210 Buffington located at the northwest corner of the property. The DeNobe L.L.C., currently has a purchase agreement for the acquisition of 210 Buffington. The newest site plan indicates a proposed new drive for 210 Buffington also indicated as room for 208 Buffington to access their property. We will be happy to create revised access easements for both of these pieces of property."

Chairperson Nagy announced it was a Public Hearing and opened the matter to the Public.

Michael Artash 208 Buffington stated, "I am still opposed to the drive because when I bought my house in 1983 the plot map indicated it was 11.5-feet to the gravel. This curve is still using up the 11.5-feet."

Chairperson Nagy interjected and asked for a map to put up for the resident to utilize.

Mr. Artash continued, "There is only 25 to 26-feet to my house. The cars come around the turn pretty fast and occasionally my house is pelted with a stone. There is a telephone pole on the corner. If a car were to hit the telephone pole, the wires would land on my houses. The pole is much higher than 26-feet. There is too much traffic now. The curve will effect my parking and the 18-foot pine tree will need to be removed. Additionally, it will take away the curb appeal of my house, which there is not a lot to start with. The man says that he has a lot of land. Why can't we just move it over another 11-feet and I could keep what is on my plot map. The pond appears to be 600-feet long. What will keep it from becoming a mosquito pit? Is there a fountain that goes in there? Today is the first time I have seen the site plan. Where will the shoveled snow go? On my front yard? After you take away 11-feet, are you going to let him plow his snow on my front yard? I don't think so. This wall is keeping it from going any other direction. I do not understand. There is too much traffic. If you stand in my driveway and you look down that road, they line up. According to this, Pembine, is way over here and my driveway is way over here. It is not really like that. I put this pine tree here to soften the headlights and maybe slow that car down before it hits my house because it will end up in my living room. I can not see how this can happen here. I bought my place like this as it states in the mortgage survey, I have a copy of the deed stating I have an access there. Why does it have to change? It is pretty comfortable the way it is now. The neighbors can get by and my house has a little more curb appeal. This is the way I bought it. The grass is where it was when I bought it in 1983. I was told that I could not park on Buffington. What happens when it is Christmas time? Where will the people park? You will find out that the traffic is too much for the roads and you will end up putting up NO PARKING signs. There will be a lot of upset people. The way it flies now, no one will have a mirror on their car. I just don't see this working. I am opposed to the whole thing. The pond, the elevation, my driveway is at 935 and there are drains going into his pond there. What will keep the water in there? Everything else is higher. My place is the highest point in that area, however soon it will be the lowest point. What safety is that brick wall going to offer me? I do not see my property surviving a 100-year flood. I thank you commissioners for coming out Sunday. I think we should take a hard look at this before it is approved."

Chairperson Nagy asked that comments be kept to a maximum of three-minutes.

Jerry Cooper 155 Buffington stated, "They are looking to slope Pembine. The current slope, everything runs to the south. They are proposing to slope the road toward Pembine. The water comes down on the other side of the road that is higher than that. I am being told that they are putting in a type of pump or some type of means to flow the water over to the detention pond. I am concerned because Lilley Pond attempted to do the same thing. The road started out really high sloping toward my house and JCK came to the rescue. The developer eventually sloped it back and dropped the last 10-feet down to the grade of Buffington. I am wondering why this can not be done in the same fashion. Their houses are elevated also, so I think there could still be walkouts and the road would be sloped away from Pembine where the water has no place to go. Secondly, the detention pond is at 931.5 and steps up to 936. Pembine is at 936, the other side of the road is 939 and the pond in my backyard is located within 50-yards. The water level, per their documentation, is at 931. The pond they are putting in is at this level and will be filled higher. My pond is downhill from that location. My sub pump runs all year long and in the winter it runs every eight minutes. I am not sure that it would keep up if it runs beyond that. If something is placed in there and I can not keep up, then we are going to have to talk. The water currently runs from Pembine, onto their land heading south. They have built that level up where they are putting in the wall. The water that actually ends up on Pembine will no longer run onto their lot, which means Pembine will become an ice-skating rink in the winter and be flooded out in the spring and fall. This is per their information. Obviously, the gentleman from Lilley Pond pointed out that the driver come around the corner and travel down Lilley Pond. We are on dirt. Basically, I will be looking at 42 more cars. I will be dusted-out. I am looking for who I talk to about that because basically it will put me into a role where I am going to have to power wash. The City does a good job. They actually oil the roads, however there are durations where they are not out there and the dust comes off the road. You can live with it with what we have now, but if you are basically going to triple the dust. My house is going to be a disaster. I talked to some people in the City and they said that there is nothing that we could do. The City claimed that they could not make them pave the road. Well, then it does not leave me any recourse of action other than to come to talk to the city about how I get my money or who I have to talk to legally about the matter. I own that major portion there. If there is some arrangement that could be make where we could pave from his road around to Lilley Pond, which you are going to use. If you already have someone in there putting in the road, then the burden for the cost to get them out there already is going to be in the cost. Maybe we could work out something where we could pave it around to Lilley Pond and I will not incur all the dust. I have these documents and I am confused with this one. It states the majority of the net site area is composed of regulated woodland and/or wetland. So, 50% of the net site should be this. Then it states that the land will not be disrupted. Then when determining the number of houses that they will place on the site, they refer to Section 2403.3 which states, the maximum permitted density is 3.3 dwelling units per acre of net site area. I am really confused with the term net site area. The documents seem to stated the net site area is outside of the wetland and obviously the woodland was included in it when it made the cluster homes. Why is the woodland not included here? That would only allow 14 houses on the site. I do not understand how they can use the net site in one area, then again and calculate 24-homes."

Chairperson Nagy informed Mr. Cooper that he had exceeded the three minute time limit. She ensured that the question, regarding net site area and various ordinances, would be addressed during the Commission's Discussion.

Dave Slaven 202 Buffington stated, "My property is located at the northwest corner of Buffington and Pembine. I am opposed to 24 of anything being built there on that small piece of property. The traffic will be herendous at that corner. They keep saying that the road is 30-feet wide; however, if you measure in front of my house from the driveway to the other side of the street, it is 22-feet. The corner of Pembine and Buffington appears a curve as it is now, it is actually a corner. The streets over there are not what they are supposed to be. I have an older house that is built approximately 25-feet from a gravel road and approximately 15-feet from the ten-foot easement. I am not sure, but I do not think there are 24-houses on Henning and Buffington combined. If it is, then it is pretty close. I am going to end up with at least twice the traffic 25-feet from my front

door. Come around that corner, headlights and everything else. The huge detention pond. I read in one packet how they think it would enhance my property value. I think it would devalue my property. Lilley Pond has a wetland on the side of my house. I have a wetland behind my garage behind my house and there is the original wetlands behind the Lilley Pond wetlands that has been there forever. There is a pond on Mr. Cooper's property that is a detention pond. I am looking at a house that is there. Right now I am looking at a house that is there and I would like to look at another house there instead of a big pond. Lilley Pond subdivision is located on approximately 15-acres with fourteen homes. It is a beautiful subdivision. Why can't he build seven homes on these eight acres instead of 24. it is ridiculous that he is considering 24 condos or houses on 8-acres. I think over half of it is wetlands. It is very wet property back there. When the construction starts, we will have the same problem that we had at Lilley Pond. What are they going to do with the gravel trains? I see some of the elevations there are up four or five feet with a the road in the back. It is a 22-foot gravel road. If I park in the front of my house, they will not have any 18-wheelers coming down our street. The school buses will not be able to get around the gravel trains parked on the side of the road. The road are inadequate for what they are planning on doing. I would like you to consider the impact it will have on the residents."

Jerry Newman 135 Henning stated, "I am concerned with traffic. After the homes are built out and occupied, there will be at least 48 cars twice a day. There will be a lot of traffic on Henning and Buffington. When Lilley Pond was constructed, Henning was destroyed by the double bottom gravel trains that came looping through. Our windows rattled and the whole house shook. Every time I called the City to complain about it, I was just laughed at and ignored. The same thing will happen now if you let this project go through. The streets will be worse than they area now. The streets are too narrow for the gravel trains to come down. The plans indicated construction traffic will ingress and egress down Buffington, however I do not think there will be anyone out there policing that. If you look at the U-shaped of Pembine and Buffington, the trucks will go down one direction, dump and go out the other direction. There is no way that two trucks could pass each other. It is difficult enough for two cars to pass each other on either of those two streets. There is a safety regarding the bus stop. I was just informed by the Walled Lake Schools that my six year old has to walk to the corner of Lilley Pond and Buffington. I think it is rather unsafe for her and any other children on the streets that to have to walk around during construction. I followed the bus from Buffington around Pembine onto Henning and the eastern glare of the morning sun makes it difficult to see. There is no way a gravel train will be able to stop in time to not strike my child or any other child on the street. It is unsafe. These streets need to be paved and need to have sewers because there will be flooding conditions regardless."

Margo Bosca 203 Henning stated "I live on Henning. My backyard backs up to South Pointe Condominiums. I lived there while they were building the second portion of it. I had small problem with water retention once in a while in my backyard. After they added on, it increased. I am very concerned as they build more buildings and take away where the water would naturally go to and soak in. Obviously, my yard is lower and the water would be reaching my house. I am concerned that the chemicals from the grass they will be growing will be washing into the wetland. What effect will this have?"

Phil O'Downey 130 Henning stated, "I have only heard comments regarding selling the property to the City or approving easement. The artist rendering should indicate that the water is green an not blue. I have lived here for a year now. Upon the purchase of my home I received a seller's disclosure form noting that I have deeded access to the lake. My deed specifies lots 30 and 31 as recorded in Liever 49 page 20, the Lakewoods Subdivision extends to the southerly shore of Walled Lake. The streets as shown on the said plat are hereby dedicated to the use of the public and the lake to the use of the lot owners said plat. I have sent mailing as to whether I approve or object. I have not been filled in on any plans for Lot 64, which I have heard is owned by the developer. Until I am made aware of the effect of this plan onto my lake access and can consider it satisfactory, I object. Until I have any further information, I can do nothing, but object. I am

willing to participate in whatever means necessary to ensure that things turn out the best for the residents of Henning."

Asa Smith 1294 East Lake Drive stated, "I am here again to speak about the Scenic Pines project. I am also here to represent the homeowners association as the president. Most of the things that have been talked about or discussed, you already have knowledge of or are in your packets. A couple of items that I would like to reiterate on and bring them forward. The issue related to the lake front property has been raised before. I hope that you would take into consideration and possibly get the intent of the developers as to what will be done with the lake front area. As we are looking at no marina operation or boat docking, should be placed in some type of conservation or preservation easement or something that would prohibit the use of turning that into more than just a park or recreation beach areas. I believe some of the ordinances in place could pertain to this property and should be looked into. It is just now that people should be aware that this is a part of this project at some point and will need to be addressed accordingly. I hope that you would remember the first public hearing when this group was to come before you and postponed. There were quite a number of people that spoke their thoughts regarding this project. I hope that these comments are in the minutes and some of you could recall and remember some of the statements and concepts made at that time. I hope that you will honor the requests of the residents who expressed their thoughts at that time. I do believe that most of the residents through the mailing and the letters that you have received from those that could not be here tonight, have expressed their concerns and desires. All of our concerns are that you would look closely at this project and make sure that it is constructed to the standards that this area requires. The residents would be more than happy to have a project like this if it is done properly. I leave it in your hands to make the best decision with the information and the feedback from the residents to make the best decision regarding the residents, their concerns and the benefits of the City."

Anna Provellas 1201 South Lake Drive stated "I have live here since 1969. My husband tried to buy the easement on Henning. He was told that it could never be sold to anyone because it was for the people on the block. I was told they found a deed. What does that mean?"

Chairperson Nagy indicated that her questions would be addressed during the Commission's discussion.

Ms. Provellas continued, "When I open my side door to go outside, I will probably slap someone in the face opening my door if they put the cement road and sidewalks in. Another thing, the contractors that bought it is I wish they would clean it up once in awhile."

Chairperson Nagy asked if there were any further audience participants to speak to the matter. Seeing no one she closed the Public Hearing.

Chairperson Nagy referenced the Lakefront Protection Ordinance and asked the Applicant if he planned to do anything with the lakefront area.

Mr. Robinson stated he was not sure. He desired to have the lakefront available to the association and was aware of how it could be used. Any issues would be approached after Preliminary Site Plan approval. The minimum use would be a beach and park area.

Chairperson Nagy asked if he was privy to the Lakefront Protection Ordinance Article IV.

Mr. Robinson was not sure.

Mr. Carson stated the lot located on the lake is not part of the site plan. He noted his understanding that prior to any incorporation of any attempt to utilize the property in any manner

in connection with the proposed development, the appropriate steps would need to be taken and it would need to comply with all applicable valid ordinances. Currently, no use is being requested for the site. He assured the Commission that no plan or theory would be taken without the appropriate steps.

Chairperson Nagy informed Mr. Carson that the concern was raised at the last public hearing and again at tonight's meeting. Thereby being the reason for the request for clarification.

Mr. Carson made known his knowledge of the ordinances. There is no plan before the Planning Commission for the use of that space.

Mr. Newman noted the title on the lake lot and indicated it could be the reason the lake lot is not part of the site plan. The lot is 350 or 400 feet away from the lake lot. There seems to be a problem with title to the property. He stated that matter needs to be addressed by the City Attorney.

Chairperson Nagy stated she visited the lake access area. Article IV Lakefront Protection Section 3262, section 4 states, "a lakefront recreational park shall include at least 25 lineal feet of lake frontage and 150-square-feet of area for each lot or dwelling unit served by the park. Irrespective of the number of lots or dwelling units served, no lake front recreational park shall have less than 200-lineal-feet of lake frontage or less than 20,000-square-feet of area for purposes of this subsection the natural lake frontage existing prior to any proposed development alteration shall be considered." She stated it has been measured at 50-feet wide. She asked if the applicant has the ability to return with a request to make a beach out of the 50-foot width lot and how the Ordinance applies with regard to the dwelling units.

Gerald Fisher, City Attorney stated the issue of utilizing nearby property for the purpose of lake access is not unique to this evening's discussion. It is something that is an issue throughout the state of Michigan. This type of provision that is contained in the Ordinance that establishes minimum perimeters for this type of lot is designed to ensure that any type of area utilized for these purposes is adequate and does not result in an overuse of the lake either from a practical standpoint or from a natural resource standpoint. By all appearances, at this point, it would be very difficult for the property owner to meet these criteria. The property owner has indicated that they are not asking for an approval to utilize this parcel at the present time, they will comply with all ordinances that require compliance before using it and they recognize that they might not be able to utilize it. Since the approval of this development will not carry with the approval to utilize this lot, he recommended a footnote or a provision in the approval that merely indicates that approving the subdivision or site plan does not carry with it an approval for the utilization of this lake lot and that the property owner has acknowledged that they must comply with all applicable ordinances in order to use that parcel for lake access purposes.

Chairperson Nagy turned the matter over to the Commission for discussion.

DISCUSSION

Member Paul asked if the building standard is 200-feet on each side of a road.

Ms. McClain indicated the Design and Construction Standards require the distances between roads to be 200-feet. Although there is not 400-feet of access, there is still access to the site. The Planning Commission has the ability to waive this Design and Construction Standard as they have in past cases for drives that have less than the required amount. Based on the geometry of the site, it is the only way a drive could be placed on the property.

Member Paul supported the removal of the accessory building. She asked Mr. Arroyo to share his perspective on the removal of the accessory building.

Traffic/Planning Consultant Rod Arroyo stated the accessory building is not permitted. As indicated by the applicant, a ZBA Variance is required for the accessory building. The applicant has also indicated if the variance is not obtained, the accessory building will be removed. This non-compliance has been noted in the review letter.

Member Paul asked how much of the site is wetlands, the amount required to be saved and the remaining net space to work with.

Chairperson Nagy asked Mr. Arroyo to define the term *net site area* and address Member Paul's questions.

Mr. Arroyo indicated the Ordinance gives two different definitions for *net site area*, which apply in different situations. *Net site area* (related to density) – takes the area of the land and subtracts regulated wetlands that are in excess of 2-acres. In this case, there is a large wetland over 300-acres, however only 1.61-acres appear to reside on this piece of property. Since it is part of a larger wetland (that is over 2-acres), the 1.61-acres is subtracted from the site area to obtain the net site area for the purposes of determining the density of units allowed on the property. *Net site area* (related to preservation) – Under the Cluster Option, it is for the purposes of determining how much wetlands and woodlands have to be preserved on the site. The wetlands are not subtracted and instead, the right-of-way is subtracted from the site. It states there needs to be a majority (over 50%) of the net site area that has to remain regulated wetlands or woodlands when the plan is built and the project is in ground.

Member Paul asked for the net site area.

Mr. Arroyo stated for the purposes of the cluster option, over 4.4-acres of woodlands and wetlands must be preserved, which has been met.

Member Paul noted the resident's concern of traffic patterns. She asked how the safety of the children can be ensured and if construction traffic could be limited around the bus schedules.

Mr. Arroyo stated in his experience, bus routes change from year to year and require ongoing monitoring. As the project approaches construction, the current information could be obtained in hope to coordinate with the developer and possibly limit construction traffic in that short window. Typically, this can be done without imposing a significant restriction. Additionally, it might be possible to ensure designated construction routes are properly enforced and coordinated with the bus routes in attempt to conflict at the least practical extent.

Member Paul asked the Developer if he was amenable to eliminate construction traffic during bus route times of younger children.

Mr. Carson agreed with Mr. Arroyo's suggestion to determine the routing and work with the City as the time of construction approaches. He did not have any objection to working with the City in the attempt to coordinate.

Member Paul asked if City water/sewer will be offered to the residents on the site as well as residents on Pembine and Buffington.

Ms. McClain stated City sewer will serve the site. Currently, City water does not exist; however, a SAD in process. If the SAD is completed, then the Developer will be required to bring water to the

site. A payback agreement will be determined upon the completion of the SAD. At that point, the residents will be able to "hook-in" with a payback-type of agreement.

Member Paul recalled the reference that 210 Buffington was been sold, however there is no record indicating the completion of this transaction. She asked the impact of the easement of 210 Buffington and 208 Buffington on the proposed site and the detention basin.

Mr. Arroyo noted that to his understanding, the Applicant proposes to address the access easement to 210 Buffington. Buffington comes down and terminates. There is a drive in this location and another drive that extends to serve 208 Buffington. He pointed out the shift that would occur with the proposed realignment. He noted the modification to the previously proposed detention basin. One issue that has been raised, through coordination with Nancy McClain, is that the treatment is appropriate to ensure that can vehicles can safely pass through. He suggested requiring the Applicant to provide enlarged detail of the area at the time of Final.

Member Paul asked if there is a separate owner for the southern portion of the easement.

Mr. Carson indicated it is the same owner.

Mr. Arroyo noted that to his understanding, the entire easement is attached to the home.

Member Paul was concerned that the property was unusable.

Mr. Arroyo indicated that to his understanding 208 Buffington might have rights to the easement.

Member Paul stated the detention basin appears to be encroaching on the easement. She asked if it is feasible to move the detention basin 11-feet.

Mr. Arroyo stated these options could be explored after a detailed drawing and detailed plan are submitted. He noted that there are opportunities to address the concerns; however, it is difficult to do at this time at the table.

Member Paul stated the detention basin is long and no screening materials are provided. She asked the feasibility of having two smaller detention basins; one further south and the other at the northeast corner. She suggested adjusting Lot 20 to 24 forward.

Ms. McClain pointed out the proposed screening of additional plantings. The storm water detention basins are required to maintain a certain volume as set by the Ordinance. If the detention basin is split, then the volume level will be reduced. The impact to obtain the remainder of the volume will come from the woodland and wetland areas. The option would require the removing of trees from the woodland to gain the additional space from making the basin smaller. The removal of trees to provide additional detention was not found an acceptable solution by JCK, Lauren McGuire or herself.

Ms. McGuire encouraged the applicant to not split the basin. The goal is to preserve the woodlands located behind the units.

Member Paul asked if it could be deeper than the site and smaller to retain more water.

Ms. McClain stated soil borings indicate the ground water is at 131 elevation, which is the location of the base of the detention basin. Once the basin is deeper, additional storage is no longer provided because water will be there. Additionally, the basin would need to be widened in this area, which would create more of an impact to the side.

Member Paul felt more screening should be provided at the northwest corner.

Ms. McGuire indicated the item was addressed in her review letter. She recommended additional screening be provided for the residents. The detention pond will need to be reconfigured to allow for the additional screening.

Member Paul asked how two detention basins would be feasible, without removing any trees and placing the basins away from 210 and 208.

Ms. McGuire recommended removing the garage and for the wall reflected on the west side to be reflected on the east side, as opposed to the half wall and half berm, with the appropriate landscape plantings. If it were feasible from an engineering viewpoint, she felt it would create a nice entry to have the ponds on either side. She explained that it is only an option if it functions from a detention point. Therefore, she suggested working out the details at Final.

Member Paul asked if the fill will cause the water to reach the rear yards behind Lot 1 and Lot 3.

Ms. McClain asked her to clarify from which direction.

Member Paul indicated from the South Pointe Condo site located to the northeast.

Ms. McClain stated currently the low area comes down along Henning. She assumed it was filled for use as a yard at the time that the other house was constructed.

Member Paul asked a berm is necessary to keep the water flow heading in the southern direction.

Ms. McClain stated the water will flow in approximately the same direction that it currently flows. The water off the non-paved area is not as large of an impact as it would be off the same area if it were paved. She did not recommend a berm because it could impact the normal flow of the water coming down.

Member Paul wanted to ensure the water flow would not flood the property on the northern site on Henning or Buffington. Additionally she wanted to ensure that the woodlands and uplands were not made so wet that they would die.

Ms. McClain designated the area where current elevation is approximately 932 and the existing South Pointe Condo storm sewer has an outlet of 930. Due to the lay of the land, the flow travels north to come south in this area. The water then turns and comes back down and enters the large area that has the easement for a regional detention basin and into the large 300-acre wetlands.

Member Paul clarified if she was confident with the stormwater management and water flow issues.

Ms. McClain answered, at this time. She indicated that due to the fact this is a preliminary site plan further investigation is necessary. If there are believed to be further problems, then there will be further remedies asked of the applicant to move the water toward the south.

Member Paul asked if a MDEQ Permit is required.

Ms. Kay indicated a permit is required for the road crossing, utility construction and the storm water impacts.

Member Paul stated she did not receive a copy of the MDEQ Permit letter.

Ms. Kay stated typically it is the applicant's decision as to whether or not they will file State and Local jointly. She did not have any discussion with State Personal in this regard to the site; however, she suggested asking the Applicant.

Member Paul asked the Applicant if he planned to file for a MDEQ Permit.

Mr. Carson indicated he would secure every permit and approval required. He indicated that in working with the City for the last 2-years, the detention basin has been moved back and forth. In order to know where the permits will be required, the layout needs to be established through this preliminary site plan approval. A great deal of effort has been put into this project over the past two years.

Chairperson Nagy indicated his request for approval of the Preliminary Site Plan, Woodland Permit and Wetland Permit.

Ms. Kay indicated that the Applicant is not required under the Local Ordinance to have a letter from the State prior to local proceedings. Therefore, it is a condition of the letter and would need to be provided prior to the issuance of a Wetland Permit.

Member Paul commended the applicant for his efforts and work over the past two years. She was not certain if she would be able to approve a preliminary site plan without this information. She asked the Developer if he planned to remove the garage if the ZBA Variance is not granted.

Mr. Carson understood that the approval would be conditioned upon either obtaining the required ZBA Variance or the removal of the structure.

Member Paul asked him to answer directly yes or no.

Mr. Carson answered, yes.

Member Paul did not feel a lot of creativity went into the artist rendering drawing. She requested more enhancements be given to the front.

Ms. McBeth presented the Commission with the façade board.

Member Paul stated that although it helps depict the façade, she still wanted more variation.

Member Avdoulos stated the site meets the intent of the One-Family Clustering Option. He preferred the removal of the existing garage as the garage would not be in character with the homes and instead would appear as a garage at the end of the road. He agreed that the brick wall should continue across the entire face of the road. It appears that the site itself with the detention pond is stressing itself out in the upper hand corner. He was concerned that the stress would stress the adjacent properties. He suggested the elimination of one or two units to make the detention pond more comfortable appears to be the only solution. The slope of the road is from the back of the property toward Pembine. Although there are sewers along the way, he was concerned area at the approach from Pembine onto the private drive. A heavy rainfall could cause a washboard condition and stress on Buffington, Pembine and Henning. He questioned if these roads were included in the CIP paving program.

Ms. McClain stated paving the unpaved roads in the City is a Council goal; however, it has not been determined how it would be done. In this case, the developer could volunteer to pave the offsite road or the residents could pave the roads under a SAD.

Member Avdoulos asked if there is a concern with drainage onto Pembine from the developed property.

Ms. McClain stated the area to the west of White Pine Trail (along where the sidewalk is located), will need to be evaluated to determine if water in the ditch would cause a problem. The drainage along the frontage of the wall will be determined and how it would come back into the detention basin. This issue has been identified and will be reviewed further at Final.

Member Avdoulos asked the maximum extension if future property owners were to place decks on the back of their home.

Ms. McGuire noted there are several areas, particularly in the southeast corner and the woodland is very close to the edge of the units. She suggested consideration be given to the possibility of making some of the outdoor space under the building. Alternatively, they would need to go through the Woodland Review Board for the placement of a deck.

Member Avdoulos understood the resident concerns with regard to traffic. He requested the enlarged detail plan of the area at Final as suggested by Mr. Arroyo.

Member Shroyer apologized to the citizens for the commissioner's foot traffic on the property. He indicated that the owner has the right to develop the property according to the Ordinance. He asked why the 30-inch berm is not being provided along Pembine.

Ms. McGuire indicated that there is not enough room with the detention pond to accommodate the berm. It could be pulled back with the elimination of a unit, allowing room for the berm. She noted the many attractive developments in the City, such as Bellagio, where walls are used.

Member Shroyer agreed. He also agreed with Ms. McGuire's comments regarding the wall on the east side. He did not agree with the combination of a wall/berm. He encouraged the exploration of the possibility of splitting the detention basin. He did not find the entrance attractive. He preferred the removal of the garage. He stated the road is not 30-feet wide in some areas. He recalled other situations where a schedule has been worked out with the developer, City and School. He recalled the resident's comment and asked if records reflect that the area was ever designated 100% woodlands/wetlands.

Ms. McGuire indicated that she was not able to give information past the maps available. The Woodland Map and Wetland Map distinctly indicate the lines, which have been verified on the site plan per the city maps.

Member Shroyer indicated the plan will be reviewed with the information that is on record at the current time. He noted the proposed woodland path dead-ends at Pembine at the north end. He asked if the homeowner association will open the picnic area to other residents in the area. If not, he questioned why the path dead ends into Pembine.

Mr. Carson stated it is an amenity shown on the preliminary site plan. The internal condominium association will be governed by the members who will be residents.

Member Shroyer stated due to insurance reasons, he did not feel the area should be open to other people's use. He questioned why it dead-ends on a public street.

Mr. Carson stated at the preliminary stage, he suggested that it could be an area for the children to be picked up by the bus or just part of the amenity package. He stated either way it is considered a private amenity of the condominium association.

Member Shroyer requested that the site plan return to the Commission for Final Site Plan Review. He noted the numerous unresolved issues such as façade concerns, the retention pond area, ZBA Variance for garage etc.

Member Ruyle agreed that the garage should be removed. He asked if the Commission chooses to move forward with an approval, could D be removed upfront or does the Commission give the applicant permission to go to the Zoning Board of Appeals.

Mr. Fisher stated the property owner has the right to go to the Zoning Board of Appeals. He stated the Commission is determining that the building would have to be removed in order to be lawful. On the other hand, the determination of what is lawful can be modified by the ZBA. He had every assumption that the ZBA would consider the Commission's recommendation.

Member Ruyle asked the projected cost of the condominiums.

Mr. Newman estimated \$350,000 to \$400,000.

Mr. Carson clarified if Member Ruyle was referring to the selling cost.

Member Ruyle answered, yes. In response to a resident's written request, Member Ruyle asked the Developer if he were willing to pave Henning and Buffington. He realized that the Commission could not place this request on the Applicant; however, he asked if he was amenable to such as request.

Mr. Carson was not willing to commit to pave the streets on his own cost; however, he was willing to cooperate with the City in reviewing a SAD based on lineal footage. He indicated that he was willing to at least discuss it with the City based upon use. He did not find it appropriate to ask the Developer to pave two public dedicated roads within the City, which are the City's obligation to maintain. Additionally, it is not appropriate for the City to condition approval of a site plan for what otherwise would have been a landlocked parcel, on the paving of roads that are within the City's jurisdiction.

Member Ruyle asked if he was aware of the precedence set in the City by other developers who have taken on the cost on their own because the City could not afford to or would not widen a major thoroughfare.

Mr. Carson indicated if the development was for a regional shopping center, it might be affordable.

Member Ruyle wanted to see the City pursue this option.

Mr. Carson stated in all fairness to his client, he could not commit on behalf of his client to comply with the request or accept the conditioning of the site plan approval. He stated it is not an appropriate condition. He stated the Applicant would make every effort to discuss with City Administration how to best allocate in a fair manner any burden in the future, however he would not accept the condition of a site plan approval on such as request.

Member Ruyle agreed that the Commission could not place this request on the Applicant.