



City of Ann Arbor

Formal Minutes

Planning Commission, City

301 E. Huron St.
Ann Arbor, MI 48104
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Wednesday, February 17, 2016

7:00 PM

Larcom City Hall, 301 E Huron St, Second
floor, City Council Chambers

10-c 16-0239

South Pond Village Site Condominium Site Plan for City Council Approval - A proposal to develop 77 single-family site condominium lots on this 48.5 acre parcel located at 3850 E. Huron River Drive, zoned R1B (Single-Family Dwelling District). The site will contain public streets and be accessed from Huron River Drive with a new public street connection to Algebe Way. A one-acre public park will be dedicated in the center of the site. Ward 2. Staff Recommendation: Denial

PUBLIC HEARING:

Jennie Allan, 1485 Chalmers Drive, spoke in support of the current site plan, since the previous site plan forced all the traffic through a choke point onto Chalmers. She said Chalmers is a narrow, winding, dirt road, without sidewalks and street lights and when children walk to the school bus they have to walk on the road. She said the new site plan disperses the traffic through two different entrances, utilizing the approximate path of the old farm road exiting north. She said, she felt this site plan represents the best possible compromise from what has been an extremely complicated access issue. She said those that live in the area care, deeply about the environment and they all live along side a creek that parallels Chalmers. She said the petition that has been circulated and many of them signed a long, long time ago, has been trodden out every time they oppose the project and they have been carefully suppressing it every time they have been in support of the project. She encouraged the Commission to consider this site plan given it has been through so many revisions since she feels it is responsive to the safety concerns of all the area residents and represents a reasonable compromise to the issue of access to the site. She asked that the Commission approve the site plan before them.

Larry Argetsinger, 3520 E. Huron River Drive, said he had sent comments to the Commission and they should be in the Commission's packet, and include pictures to the west of the site. He said he noticed remarks made by the Department of Environmental Quality, on the site plan that went before them regarding the 100-year floodplain. He said the railway tracks go through South Pond on the north side and they retain

the water so the water level in South Pond rises quite a bit above what the water level does on the Huron River side, of the railway tracks. He said he has lived across the street from South Pond for more than 15 years and during heavy rain the level of South Pond is considerably higher than the Huron River and this area of Ann Arbor has had numerous rain storms with 3-inches per hour. He said Mallett's Creek has flooded its banks several times in the 15 years he has lived there and the area of the wetlands serves as an important buffer to take that water; therefore, is important that that buffer be respected. He said he has concern that the South Pond Way has adequate methods to not retain the water and also that South Pond Way and the storm sewers are sufficient to keep the water from flowing across the East Huron River Drive.

Michael Homel, 3473 Wooddale Court, member of the Woodcreek Homeowners Association, said they voice their conditional support for the current site plan. He said the natural feature issues are many and the Sierra Club has been ardently, persistently and effectively talking about the natural features which he respects them and their consistent defense of the environment. He said it's regrettable that the staff report doesn't give you the whole story about this and has very little to say about the traffic implications of this. He said if this project is built and if the first site plan that you rejected, last April, which is apparently the alternative to this, is approved it will increase the number of households using Chalmers from about 120 to nearly 200. He said all the traffic models can't replace the daily experience of we who use Chalmers as our main access to Washtenaw Ave, the difficulty, and the danger getting on Washtenaw. He said natural features matter a lot as do the daily lives of the tax payers living in Ann Arbor. He said Algebe Way must not be an open route because if that occurs, then the traffic will flow through Algebe and out to Chalmers, so we might as well not even do the north route. He said the Fire Marshall has said Algebe must remain open to have two access points but it could be configured to have it as an emergency only. He said there is only one access point to Woodcreek, so let's not have a double standard. He said the people that live in the City must come first.

James Murray, 1879 Meadowside Drive, said he lives in a house right at the entrance to Meadowside which has one of the steepest hills. He said when they first moved in there, there weren't a lot of younger kids, but they are seeing a lot more of them now, and they use that hill in front of their house for their bikes and skateboards and it comes right into the entrance way. He said when he is out there doing lawn work he has to go and talk to these kids, while at the same time he sees other younger kids that have grown up and now come speeding through and it is truly just a matter of

time when point A meets point B and someone is going to get hit. He agreed that people will use Algebe since it is the shortest way and they won't use the north entrance and will make the traffic worse. He said it's very difficult to get out onto Washtenaw since there are hardly any times without gaps during business times. He asked the Commission to please consider the safety of the kids since if you increase the traffic through the subdivision you are only increasing the likelihood that someone is going to get hit there.

Ethel Potts, 1014 Elder Blvd., stated that this latest proposal is in some ways worse than the previous proposals that showed very large detention ponds highly impacting the major wetlands. She said to build the ponds there would have to be major earth moving trucks and big diggers along the wetlands and during construction and after construction much silt would pour into South Pond already filling up from Mallett's Creek; this is an unacceptable major impact on natural features, including the important one, the Huron River. She said the Woodcreek neighbors have been mainly concerned about car access to Washtenaw, a problem that has been much increased by their own cars which are added to the country road link, Chalmers. She said they spoke in favor of the previous development but against being assessed for improvements to Chalmers. She said those who chose to buy into Woodcreek object to paying for the problems they have caused, so the latest development proposal proposes a new north-south road which would heavily impact a range of natural features that are listed in the excellent staff report, which include removal of landmark trees, and woodlands, and impact of State regulated wetlands, and steep slopes, and floodplains; all features of the highest concern and value. She said Woodcreek neighbors will no doubt approve of this added access road, regardless of problems caused to the local Huron River Drive, which is a local road and the Hogback intersection, plus the Hogback/Washtenaw Avenue intersection which will be strongly impacted, and the fragile environment. She said both proposals, the previous one and this one, cause new problems and violate natural feature codes. She stated Ann Arbor deserved better and Woodcreek neighbors should begin to be part of Ann Arbor.

Raman Ranganathan, 1635 Meadowside Drive, said he has been living right behind the area they are talking about for the last 15 years and he has come to the City Council meetings 10-12 times, for various proposals. He said if you want to take a left from Chalmers into Washtenaw, where you have Paisanos on one side and a strip mall on the other side, and going down, you have all the places you can turn left from; the Collision Center, McDonalds, Fifth National, Comerica, then Huron

River Drive. He said you got so many turns right now, even with the new malls that have come up there, there is absolutely no way, there is chaos there in the morning, you can go anytime between 6.30 and 8:30 a.m., I've been driving between here and Dearborn everyday and I can tell you I know the way around it because I've done it, but I have my son who is now starting to learn to drive and I'm trying to teach him to learn to drive and he stands there forever and I get to frustrated with it. He said that is a horrible junction we have at this point and we haven't found a solution, we've tried multiple alternates for this and he completely respects all the environmental damage and all the things we are talking about at this point, but for the amount of paving we are doing to the Chalmers Road, every time that it goes into a pothole, when spring comes around, it's probably every 2 weeks we have to do it; what are we paying for all of this and given all of that you want to add another 70 houses, probably another 140 cars to go through that everyday. He said that's going to cause havoc and at least by having another way out of this, there is a compromise we agree, there will be some impact to it, but with this compromise we can split that traffic. He continued that he wouldn't say it's not going to impact Woodcreek or Chalmers Drive in any way but it is high time if you want Woodcreek to become part of Ann Arbor, that the City buy this and turn it into a park, and he would be more than happy to use it.

Jean Tan, 1595 Meadowside Drive, read from her letter sent to the Commission and provided in the packet, saying that the majority of residents of Woodcreek subdivision would welcome the resident development of South Pond Village, however they do have a major concern; they are a development of 87 homes and have but one entrance and exit onto Chalmers Drive. She said South Pond's proposal has 77 houses, and the plan before you has an entrance/egress off Huron River Drive, and she would ask that Algebe Way be used only as an emergency access road available from both sides, from both communities, and if the Woodcreek subdivision were before the Planning Commission today, with 87 houses, she doubts they would consider it safe with only one egress and access. She said to consider piggybacking another 77 houses onto that one access/egress and then onto Chalmers would certainly raise alarm bells, she is sure. She asked that Algebe Way not be opened as a through fare, since Woodcreek subdivision roads were not designed to handle this volume of traffic. She said they know fire and Police vehicles need easy access to a community 24/7, and having Algebe as an emergency access way only would resolve this major safety problem.

Robert Lindsay, 1365 Chalmers Drive, said he wanted to point out what

should be obvious, which is the suggestion that paving Chalmers from Woodcreek to Washtenaw would somehow solve the problem of the additional burden of the traffic from South Pond Village or even alleviate it is simply not true, it would simply mean that all those cars waiting to make a dangerous exit onto Washtenaw Avenue would be parked on concrete instead of gravel; this is not a solution. He said the only way this development can be viable and safe is if we have this northern entrance.

Lois Kamoi, 2070 Chalmers, stated that she would also recommend passing this plan, noting that she lives on the western side of Chalmers, and all of the houses on the western side back up to Mallett's Creek, which is their boundary line, and while there's been a lot of talk about natural features, South Pond is not a natural feature, it was manmade. She said Mallett's Creek is a natural feature, and if Chalmers ends up being paved it's going to mean taking a large chunk out of our front yard and making more or an impervious surface affecting Mallett's Creek which would be down the entire length of Chalmers, not just a small area. She said they already have a problem getting onto Washtenaw and the additional traffic would make it really impossible. She said for some reason Woodcreek was approved with an entrance and exit that are at the same spot, so that's a choke point and should there be a car fire at that point, they have no other way of getting in and out of their subdivision so putting additional traffic to that and more traffic on Chalmers would just be a disaster. She said Huron River Drive doesn't have as much traffic as Chalmers does now, they also have a light that can help them route that traffic onto Hogback and westerly also, so she is hoping that the Commission would reconsider and approve the site plan as she thinks it's the best that can happen, adding that it is a complicated problem.

Dana Popa, 2085 Chalmers Drive, said her concerns are for routing traffic on Chalmers Drive to Washtenaw, and she sincerely believes that the safety of the residents and the pedestrians are put at risk. She said as a driver, she does her best to slow down and pay attention but the road is pretty dark and a lot of turns and she tries to be careful with all the children in the neighborhood. She said the amount of potholes is still not deterring some drivers, who are speeding on that road, and they walk on that street, so it is really a risk to increase the traffic on that road. She said another one of her concerns with doubling the amount of houses in her neighborhood would be the amount of increased strangers wandering around. She also has concerns with her personal foundation if heavy machinery will be moving on that road and helping in the construction. She said she had concerned with costs and the neighbors and people living on the Washtenaw Avenue side should not be obliged to pay for

this and it's mainly like one of the neighbors buying bullets to shoot ourselves and she honestly thinks its unfair for everyone living on that side of the street and she is in support of the current proposal of routing to Huron River Drive.

Nancy Kaplan, 3065 Hunting Valley Drive, thanked the Planning staff for a very clear report. She said last time there was a safety issue with the traffic and it's still being brought up and that was sufficient and good reason to reject the project. She said, now, it's the impact on the wetlands, natural features, steep slopes, woodlands, and now we are going to go through the floodplain and the Michigan Department of Environmental Quality has not approved that yet. She said, whether they approve that or not, she thinks it would be a terrible precedent for the State to approve it. She said we really do have more than 2 choices; where we don't have to take worst to worst, we can take a better choice. She said, we can reject this project, it can remain an undisturbed piece of land and we can have an art park, but even if that's not done, she thinks the concerns about the natural features combined with the traffic safety, she thinks is sufficient to put this project to rest and to show that both issues; the natural features and the traffic are sufficient concerns to say No and she hopes that the Commission will Say No, and we will have a better outcome.

Frank Whitehouse, 3411 Woodland Road, said he's grown up in this area since 1962 and it's changed dramatically since then with a substantial amount of development in Ann Arbor. He said when he was a kid Huron Parkway was put in and it was one of the best sandboxes a kid could ever ask for, with the big machines to climb, and dirt to play in but as time went by he realized there was continual development and Ann Arbor began to lose its appeal as a laid back college town and has become more of a commercially prized enterprise, which he is sorry to have witnessed. He said he thinks that any further development in Ann Arbor is a mistake and perhaps following the model of the once admired Boulder, Colorado, who once, in the 1970s, elected to cap the number of residential units that were allowed, which varied between 1-3 percent, and the cap still remains. He said it was challenged legally numerous times, but each time the City prevailed. He said he doesn't understand how so many people are in support of this project whom will be severely impacted in one way or another, if it is developed. He said he is in wholly opposition to it and he doesn't feel it is good for anyone in Ann Arbor and for the new residents he feels sorry, if they ever have their development because the City will be inundated with traffic, and other environmental problems, like deer that will need to be culled. He reiterated that he is in whole opposition to this and he hopes the Commission's views are the same.

Rita Mitchell, 621 Fifth Street, said she believed that as Commissioner, you have two good reasons to reject this project; safety, which she said has been outlined by many people, and she doesn't feel what has been outlined by this modified project improved safety all that much, and clearly the impact to the natural environment that's coming in with the design through a wetland. She said it's hard to imagine that that kind of a design would be approved, that it splits a wetland and she thinks it's a recipe for failure of both sides; the east and west of that road, to have that wetland fail, and she doesn't think we should do that. She said she was impressed by one statement in the staff report that called out the issues of removal of natural features to accommodate problems that related to other natural features. She said we are creating circular problems and this is a time as staff has outlined, where this new roadway will not serve well, for our sustainability as a community for our natural features and in terms of the community and its safety. She urged the Commission to reject the project.

Shirley White-Black, 3595 E. Huron River Drive, said she knows we are all tired of this back and forth on this project, as she knows she is. She said she needs to dispute a few things she heard tonight regarding East Huron River Drive; it is a parking lot from 8 to 9 a.m. and from 3 to 5 p.m. She said she knows this because her driveway is on East Huron River Drive. She said she had sent a package with photos to the Commission which shows what happens when a rain event occurs – the road floods on the side of South Pond, and goes through her property, which means it goes directly into the river. She said she is with a group of people who doesn't think we should choose bad option and another bad option. She said the condition of that road is horrendous and needs to be taken care of and it's that way because of the environment that it's in.

Amir Morfazawi, 1710 Woodcreek Blvd, said nobody in the Woodcreek subdivision is for this plan; however, you are fatigued after coming here every six months, since 2002, and repeating these arguments, again and again and again, and we have now reached to a point that we have to choose maybe a bad choice among worst choices that are available, otherwise no body is happy with the situation. He said he is very surprised to see that our people are still coming here and they haven't reached the 1-man march and he thanked all the neighbors. He said he believes if they don't totally table the idea of having a community in various plans then we can be idealistic, and if the City Planning wanted to be idealistic they should have stopped Woodcreek subdivision some 17 or 15 years ago, with one entrance and one exit, but they didn't do that, so how can it

be now that we can become idealistic. He said so we have these bad choices and he thinks the plan currently proposed is better because it impacts the least number of human beings living around that area. He said if you are not going to plan completely this and make this subdivision; and buy this and make it parkland, then this what's in front of you is probably the better one.

Madeline Gonzales, 2091 Chalmers Drive, said she is the house closest to the Chalmers/Washtenaw intersection and she thanked the Commission for taking up this matter again. She asked the Commission to please support the developer's current site plan with the exit road using the old farm road entrance as an entrance and exit into that subdivision. She said her reasons for asking that are the same as everyone has stated; pointing out there are semi-trailers delivering foods 3 times a week to the nearby restaurants, and the delivery cars from Hungry Howey's and Jimmy Johns barreling down the street, which is the real issue closest to her. She said last Thursday she was trying to put her 10-year old son onto the bus, and since the bus driver overshot the stop, and was almost at the corner of Washtenaw and Chalmers, she was trying to get there and there was another driver coming from the Verizon store, that was trying to go round the bus, and not letting her cross, and there were many cars lined up behind the bus. She continued, that the bus driver yelled at him telling him that he had to obey the stop sign that is there, which really put her in an awkward and dangerous position because she needed to wait until it was safe enough for her to cross her son across the road, then run to the corner to try to get him on the bus. She said these are just some of the things that happen there, so she really hopes they consider the quality of life of the residents of Chalmers and Woodcreek and really think about that when making your recommendation. She said please support the recommendation of the developer as it is.

Tom Covert, 3815 Plaza Drive, Midwestern Consulting, representing the developer, presented his team as well as the owner's and their representative. He said staff had been helpful in working with them through numerous iterations of the site plan and in going before City Council numerous times. He noted a memo that he had provided to the Commission as a response to staff comments, pointing out while it is their goal to infiltrate 100 percent of the full 100-year storm event at their site, with the heavy clay soils of the site, this connection to Huron River Drive makes available the upland area that's to the east of the access road, which was the only spot on the site that infiltrated stormwater, and with that they are able to divert 5% of their stormwater to that basin and provide for infiltration in that basin. He said they agree that this connection point

impacts natural features, approximately 3/10th of an acre of wetland and a bit of floodplain area. He said for the floodplain area there would be a compensating cut adjacent to their detention basin on the north side between the detention basin and the existing butlands, which would also be planted with wetland seeds and plants that in the future would become a part of the wetlands as well, in addition to the 8.35 acres for a conservation easement or dedication. He said King - MacGregor had the opportunity to employ the Michigan Natural Features Inventory and their staff and they've been to the site looking at potential Duke's Skipper Butterfly habitat, with the results provided in a report and excerpts included in his memo, showing that habitat was extremely limited on the site to about two areas of wet meadows each half an acre. He said the road alignment is far to the west of those Duke Skipper habitat areas. He said they are impacting trees, but plan on impacting them to the City's standards. He said they have been working with the Washtenaw County Road Commission regarding access to Huron River Drive and have received review feedback that their design meets geometric standards and is acceptable. He said there are some mitigation standards that have to happen to the intersection at Hogback and Huron River Drive but those mitigation measures would be coordinated and facilitated during detailed engineering design of the project. Covert said their design team's goal tonight would be to answer questions from the Commission and work towards action of contingent approval of the site plan before you.

James D'Amour, 2771 Maplewoods Avenue, read from a prepared statement presenting The Sierra Club, The Sierra Club, Huron Valley Group is a 2,300 member organization representing individuals throughout Washtenaw, Monroe, and Lenawee Counties dedicated to the protection and enjoyment of the wonders of the natural environment of the land for future generations. We write to urge the Planning Commission to concur with the current staff recommendation regarding the Ann Arbor Manchester LLC South Pond Village Proposal as it will damage an existing wetland that is the site of an important nature area designated by the City of Ann Arbor that is in close proximity to the Huron River. The developer wishes to build 77 homes on steep slopes abutting the wetland. In all iterations of the project, the developer wishes to construct a retention basin towards the northwest area of homes built by Mr. Furnari and his contractors. This will require moving and rebuilding slopes that will, during construction, damage the wetland, despite existing city ordinances and minimal oversight. We are concerned that this mitigation will not improve stormwater run-off, and that it would have a detrimental effect upon the wetland. In all iterations of the project, we cannot emphasize enough that the number of units built and the proposed retention basin would have a

disastrous impact on South Pond, South Pond Nature Area, and Mallett's Creek. Furthermore in the project's current iteration, the construction of the proposed South Pond Way would carry additional impacts as well as the ones mentioned above. Although only 0.2 acres of the wetland are directly suggested to be disturbed under the proposal, we have every reason to believe that during construction considerably more destruction of the wetland will be required to construct the road to meet fire and other safety standards. In addition, as this is indeed a wetland, this road will need to be improved over time. Where is the wisdom in building directly into a wetland where the road may sink over time, requiring reconstruction? South Pond Nature Area is a special place, and bears considerable protection. As the petitioner requested a wetland permit use by the MDEQ, the petitioner commissioned a study by King and McGregor regarding potential impacts on flora and fauna species of concern. It should be noted that this is habitat for the Dukes's Skipper, a species of interest, and special consideration should be made. While the King and MacGregor report did not come up with active observation of the skipper, they did note that better control of invasives would improve the small patches of suitable habitat. They also noted, "This site may provide important habitat to other important species associated with southern wet meadow such as state special concern reptiles like Blanding's turtle and Eastern box turtle. Furthermore, the Sierra Club strongly concurs with both the Floodplain Coordinator and the Urban Forestry and Natural Features Coordinator recommendations that this project should not be recommended for approval under its current configuration. As noted in the staff comments, the floodplain disturbance "is in direct conflict with the NF Guidelines." The staff comments also note that this site "contains all of the natural features regulated by the City of Ann Arbor," and "This wetland complex is of highest concern for protection per the City's Land Development Regulations." If we as a city ignore our guidelines in an area such as this, when would we apply them? In conclusion, we believe better options exist instead of pursuing 77 units on this site which will destroy an important natural area park and wetland, and further damage the Huron River. We concur with parcel's neighbors that dedicating it as an important piece of parkland that could be a gateway to the city would be a more suitable use for this land. As we have iterated before, the land use recommendations under the Northeast Area Plan require review, as many of the proposals of the remaining larger parcels just have overwhelming impacts on the natural features as well as creating a detriment to the public safety and welfare to existing nearby neighborhoods and homes. The difficulties that the petitioner as well as all neighborhoods surrounding the property have here, despite their conflicting opinions and missions on the issue, reflect the errors of this

Master Plan. We strongly recommend a revision of this portion of the City's Master Plan. We thank you for considering our comments.

Myra Larson, 3575 E Huron River Drive, said she lives right on the edge of South Pond and she is opposed to this development. She said there are certain parcels in Ann Arbor that should not be developed and this happens to be one of them because of the proximity to the Huron River. She said Mallett's Creek is already 40% impervious surface; think about the roads, sidewalks, and roofs adding to that number. She noted data from the Watershed, that anything over 25% impervious surface is harmful to the Huron River. She applauded the Commission for their service to the Community and the good work they do, but asked them to keep in mind that this is a very special parcel that Ann Arbor deserves something better than 77 houses that are going to pollute the river. She said she watches it 24/7 and would be happy to share any photos, and information, including funds she has spent on that pond; she asked the Commission to consider another alternative for this parcel that would be in compatible with this area. She said the Natural Area Preservation could purchase the area and there would be compatibility with what you could do.

Carolyn Schultz, 3570 Woodland Road, said she lives off Huron River Drive, and she's been listening to the conversations and coming to the meetings, but hasn't said anything. She said we've had all the problems presented, how about just one solution; developer sell the land and bite the bullet, no more problems then – City Council buy the land, make it what it is, just natural area. It makes a buffer with US 23, it puts a line for City Council to not go beyond and keep developing. She said then everyone could be happy and a lot of unhappy people could then be happy with City Council, and she felt the Commission has tended to sympathize with the stated problems and this solution would then help you be done with your problem- SOLD. She said, let's just have natural land.

Noting no further speakers, the Chair closed that public hearing unless the item is postponed.

A motion was made by Clein, seconded by Milshteyn, that the The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the South Pond Village Site Plan and Development Agreement, and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the South Pond Village Wetland

Use Permit, to remove up to 14,147 square feet (.33 acre) of wetland area, and mitigation plan, including preservation of 8.35 acres of existing wetland, restoration and monitoring of the remaining wetland area.

COMMISSION DISCUSSION:

Briere asked how water flow under the causeway, when the creek overflows.

Tom Covert, the petitioner's representative explained that they utilize swim software to study the flow of the water in Mallett's Creek and Huron River and South Pond; the base data for which was provided from the City in studies they have done in the area for previous improvements upstream. He said through that data and analysis they have been able to determine that, as proposed on the plan, there is a 48 inch pipe that goes from one side of the embankment for the roadway, down to the other side, and connects the floodplain or any water that would be flowing between the east and west side of the roadway. He said it was found that a pipe of that size would be sufficient to provide for that equalization of the flood situation.

Briere said Huron River Drive in this area is owned by the Township, but it's also sliding down into the river. She said it's tilted, the retaining fence in some places is badly damaged, there is no shoulder, and it's a scary area to drive at night. She said she can say that having done it at night in snow storms. She asked how this project is going to contribute to fixing that problem.

Covert replied that one of the things this project does is on the entry way they are providing for acceleration and deceleration lanes that are beyond the actual travel lanes to the east and to the west. He said to the edge of the bridge to the west through the deceleration lane and through the entry and through the acceleration taper there will be improvements to the shoulder and a curbed return for their entry.

Briere asked if their improvements would be done on the south side.

Covert said yes.

Briere said, but it's the north side that is dangerous today.

Covert said, with this project they are not proposing anything on that side

of the road.

Briere asked what the hold-up was on the wetland use permit.

Covert said they had recently had a meeting with MDEQ staff to review a number of alternatives that they had explored in the past and are working to prepare an additional submittal to them with the information regarding those various 8 or 9 different alternatives they had studied in the past that they had wanted to see.

Jeff King, King - MacGregor Environmental, explained that MDEQ is going through their review process now, and he believes their public hearing part of the process is about to be closed, if not closed already, so now they are gathering the information they obtained from the public, which was substantial. King said they had a meeting with MDEQ where they asked for additional information, relative to these alternatives. He said in the permit application they had addressed alternatives and it is quite typical for the MDEQ to ask questions because they are trying to deliberate on the probability or the possibility of issuing a permit for this particular project. He said it is on-going and he would expect it to continue for several more weeks before they render a decision.

Briere asked what happens if they don't get that wetland use permit.

King said if they deny the permit application, there would be an opportunity to appeal their decision, in an administrative law proceeding.

Briere asked if the City Planning Commission's approval during such a proceeding would have any weight in such an outcome.

King said, to some extent, yes, adding that the DEQ has the responsibility under the States Wetland Protection part of the Environmental Protection Act of the State of Michigan, Part 303 of the Act. He said they have to take into account the public interest associated with any given project, and they try to weigh the resource impacts and public interests. He said that's why they hear the mention of alternatives if they are feasible or prudent.

King explained that the MDEQ is not in a position to rely solely on a community's recommendation one way or the other and there has been court precedent regarding the matter. He said they take into account many other criteria.

Clein asked about the proposed road through the wetland, and if it would be 50 feet wide.

Covert, said correct, adding that the road hasn't changed since the previous project, in that they have a 50-foot right-of-way, with a paved road, curb and gutter on each side, with the opportunity to narrow their cross-section, providing sidewalk on one side, at the curb, but a wider width for pedestrians.

Clein asked if the intent was that this road would be deeded to the City or remain private.

Covert said the all the roads throughout the project would be public roads.

Clein asked about the elevation where they houses would be built and grading as it goes down to Huron River Drive.

Covert said one of their goals was to keep all the roads at 5 percent grade change which helps keep the walkways barrier free and ADA compliant. He said the road itself has a 5 percent drop with vertical curbs and the grade change from top plateau down to Huron River Drive is about 45 feet.

Clein asked about the roadway grade.

Covert explained that the roadway starts to drop to the south to get the roadway change, showing on the site plan where the road makes up the grade changes.

Clein asked if there is a cut being done in the road to meet the sensitive areas.

Covert said from their property line on the west from the Woodcreek property line they have swales and manholes to catch the water from the rear of the houses, then the building envelope and front yards which would slightly slope to the roadway, and then the roadway cuts down. He said to say it's going to look cut-in, no, because they will keep their driveways at reasonable slopes, less than 7 percent.

Clein asked about the impact zone of the roadway as it goes through the sensitive areas.

Covert reviewed the grading plan on the site plan with the Commission.

Clein noted correction from the staff report, as noted by Mr. Covert, that there was 5 percent infiltration on the stormwater basin versus the 100 percent. He asked how that meshes with the Washtenaw County Water Resources Commission standards for infiltration.

Kowalski noted the correction that the top basin was not an infiltration basin, because of the clay soils. He showed the smaller basin closer to Huron River Drive, adding that Covert has been working with the WCWRC.

Covert said their system is designed to meet quality and quantity, and the WCWRC would like for them to work towards 100 percent infiltration of the 100-year storm event. He said they couldn't do that in the previous plan, because they weren't going to the north side of the site, so they had a storm water system that had a collection basin which held the 100-year storm plus a 20 percent penalty, and were working towards additional infiltration that included a sand infiltration bed, and excavation of the clay soils. He explained that the water would sit there longer than the 48 hours required by the County but it would have an opportunity to infiltrate.

Covert explained with them moving to have the opportunity to connect to Huron River Drive, it meant maximizing the use of the area, west of the connection, south of Huron River Drive, which is the only area of the site that infiltrated they were able to bring their stormwater to that basin. He said the volume that is able to infiltrate in that basin equates to 5 percent of the total volume that they have to address on the site.

Clein asked for Covert to point out the 2 areas on the site that might be habitat for the Duke Skipper butterfly.

Covert showed the Commission a map.

King explained that there is high quality habitat within the preservation area that doesn't necessarily lend itself to the preferred Duke's Skipper habitat. He said the Michigan Natural Features that did the work for them, identified 2 small one-half acre areas within the entire wetland. He said the meadow habitat that is the higher quality is a minimum of 120 feet east of the road and the report didn't point out specifically the Duke Skipper habitat.

Clein said the butterfly would not be affected directly by the development.

Gibb-Randall asked if they would be adjacent to where they are scooping out for flood control or the compensatory cut.

Covert said it would be to the north of that area.

Woods asked how many feet away the Duke Skipper habitat would be from where they would be working.

Covert said it would be 30 to 50 feet away from their compensating cut.

Clein said he believes he was the only Commissioner voting for the project last time and it was because of what public speakers mentioned that it seemed like the best of the worst solutions. He said he understands that this depends on where you live and what your priorities are.

Clein said he felt this plan was a worse over-all solution than the last plan, despite the fact that the petitioner is attempting to show alternatives. He said as he looks at this and tries to understand the impact on the natural feature areas it appears that it would be enormous from his experience and would dramatically alter many of those areas. He said building a roadway through this area with a high clay soil content sloping down, which is potentially hazardous, in terms of driving in the wintertime, as well as emptying out onto Huron River Drive which is very narrow, along with probably being subject to more rapid deterioration than a typical roadway. He said the fact that the roads will be deeded to the City means that the developer doesn't have any incentive to make them last longer than they need to last in their minds, which to him, he thinks it's a bad deal for the City to purchase these roads in a sense and have to maintain them. He said typically the taxes on this don't pay to maintain the roadway when they need to be rebuilt in 15 years or so. He said there are a lot of reasons he doesn't think this proposal should get his support or perhaps others.

Gibb-Randall asked about the sensitive areas, noting that the Commission received a report from the Natural Area Preservation group who were pretty enthusiastic about how diverse and interesting this area was. She said she's worked with several wetlands in the area and when you find something that is high quality one gets excited. She said she was concerned with the over all quality of things, noting the proximity to the river and the potential of high quality things being in there that don't make the list, but are worthy of saving, so it is not just the one thing that triggers the regulation that she is concerned about. She asked about King's role and impression and how those impressions line up with what our own staff

people at NAP [Natural Area Preservation] saw there.

King said there is no doubt that the wet meadow habitat is the high quality one. He said part of their delineation of the wetlands is identification of the sensitive areas and then beyond that, since the wetlands tended to get more of a lower quality and be dominated by an invasive species like buckthorn as you move closer to Mallett's Creek, they were trying to find a happy medium between finding a distance between Mallett's Creek to protect the water and habitat immediately adjacent to Mallett's Creek, but yet not be any closer to the meadow area if the Duke's Skipper were to be seen there or come back. He said he thinks the last time they were seen there was 2005. He reiterated that they are trying to find the best place to put the crossing and the MDEQ is also trying to figure that out, and if they determine the road can be built and there isn't a feasible or prudent alternative to go north then they are trying to make that determination too. He said King's role is to identify those habitat types and try to find the area where they were having the least amount of impact, not specifically to the wetland. He stated they found a couple alternatives with a little less wetland impact but a little more of a habitat impact to that wetland so they settled on the one that was about three-tenths of an acre because that seemed a 'sweet spot' to cross because it seemed to have the least amount of impact to the wetlands. King added that they had spoken with NAP [Natural Area Preservation] about the petitioner's enhancement plan for the future that includes a commitment to manage the invasive species.

Gibb-Randall asked if the three-tenths of an acre included the 'winged' area they were looking at.

King said, absolutely, yes.

Gibb-Randall said she had not had an opportunity to review the previous site plan iterations when they came through the Commission but it struck her that there didn't seem like any attempt to work around the existing landmark trees that were there, and it was more a matter of the geometry of the site shape, rather than really trying to work with grades and existing trees, which was disappointing to her, since she likes to see an effort, even if they aren't all in the sensitive areas. She said she was also dismayed to see the photograph of the entry and the beautiful Oak tree that looks like it will be right in the middle of the infiltration area.

Peters excused himself for missing previous meetings when this project came to the Commission. He asked staff about the pre-existing old farm

road and if it meets Huron River Drive.

Kowalski said it is and always has been just a two-track farm access and was never an actual improved road. He said it twists and turns throughout the site and is pretty overgrown at this point.

Peters said there is a stub-road to the east of Huron River Drive, which he believes is East Huron River Service Drive; he asked if that road ever connected anywhere to this site.

Kowalski said not to his knowledge, noting there is private property in between, along with steep slopes and natural feature issues. He explained that too is an unimproved dirt road and did not filter into any of the alternative analysis.

Peters asked what the process would be for a member of the public to get traffic calming measures added in their neighborhood.

Kowalski said the first step would be for them to reach out to one of the City's Traffic Engineers and from there it would move through the City's process and ultimately it would need City Council approval before any road improvements are done as a result of the traffic calming measures.

Peters said he had brought up the issue because it might be an interesting partnership for those in the neighborhood to work on, if this project moves ahead, because it could help slow traffic in various areas.

Peters said he is troubled that the previously mentioned City right-of-way that is connected to Pittsfield Avenue where it meets Washtenaw Avenue at the traffic lighted intersection hadn't been further investigated as another egress solution. He said while it had been brought up briefly, he felt it could possibly serve as another way of getting out of this possible subdivision without impacting the natural features and it is already a signaled intersection that could help with traffic control. He said it would be hard for him to support this project without knowing the history and why it's necessary to move in this direction when that other right-of-way could potentially be used.

Kowalski said that option had been reviewed by both the City and the petitioner's Traffic Engineers, adding that there are many issues involved with that right-of-way as it is in place. He said one such issue is that Michigan Department of Transportation [MDOT] has jurisdiction over that intersection at Pittsfield and Washtenaw Avenue, along with other

logistical issues that come into play when funneling traffic down through there given the existing mall. He said previous reviews showed it was inconclusive if use of that option would provide any significant relief and was not a viable alternative to relieve traffic.

Peters asked the petitioner's Traffic Engineer if they had discussed this option with MDOT.

Jim Valenta, the petitioner's Traffic Engineer, said it was actually the City's Traffic Engineer who had the conversation with the Brighton office. He pointed out supplement Number 2 of 3 that was the study in the report that addressed that very subject. He said the issue there had to do with placing more traffic onto the Arborland Mall private driveway and property and MDOT was not too excited about placing traffic from public roads onto or adjacent to the private property. He said MDOT decided they did not want to open up that can, and it did not change the delays or the service ability at Chalmers, it just transferred the delays to another place, and the traffic lights could not be altered sufficiently to service levels at Pittsfield. He said the Pittsfield intersection is southbound and is split-phase and the difficulty and the delay, particularly to Washtenaw Avenue traffic was insurmountable in that connection.

Milshteyn said the Commission has seen option 1 which they voted on, and now this proposal, which he is feeling is likely not going to be approved by the Commission. He said what is option 3 or 4?

Covert said throughout this process they have looked at a number of different options and layouts for this site, some of which have been presented as alternates in the site plan package. He said he can't speak for Michael what the next option will be, with regard to this, but he believes that both options he has brought before the Commission were viable options for development in his realm for the site. He said it would seem that they have looked at all the options in regards to traffic and they are finishing up looking at this northern option. He said the 2 options the Commission has seen are from a single-family perspective, two pretty viable options, working with the codes while trying to balance a number of different issues.

Carlisle reminded the Commission that while there could be other options coming in the future, City Council directed the Planning Commission to look at, and deal only directly, with this site plan that is before the Commission this evening.

Milshteyn stated that this site plan was not a feasible site plan, in his mind, and if South Pond wasn't there, and if that area wasn't what it is, with close proximity to the Huron River, it might be a great plan, but at the end of the day, he agreed with Commissioner Clein, that they are putting their tax dollars down the road on improving and working with this road, so he would be opposing the plan based on that.

Briere said it is always difficult when dealing with private property rights and public good. She said when the Commission last saw this they were not satisfied with the traffic pattern, and she suspected that many of them are still not satisfied with the revised traffic pattern, because of the impact on the wetlands. She said for her, the biggest caution is that they could find themselves in one of those circular discussions, where the State approves something because the Commission has recommended it, rather than it being a good idea, and ultimately not be a decision in the best interest of the community. She agreed with Clein on his comments about the slope and its' impact on pedestrians in wet and cold weather. She said if the Commission was not interested in waiting to see if the State approves the Wetland Use permit before voting the project up or down, she felt the Commission's only decisions tonight would be to vote to postpone taking action or deny the project. She appreciated all the public input into trying to be reasonable as well as all the efforts of the developer into trying to be reasonable, but the impacts on the wetlands in just significant enough and the staff recommendation is significant enough that if she doesn't see a better way out, she can't support this.

Peters asked if the petitioner had an idea when they would hear back from MDEQ.

King said they could expect something within a few weeks or MDEQ has 60 days after the public hearing is held to make a decision or 120 days from the date of the petitioner's submittal. He said MDEQ could ask for extensions which could delay the process for a year, but the applicant technically controls the timing after the 120 days.

A motion was made by Peters, seconded by Councilmember Briere, that the Resolution/Public Hearing be Postponed until after the State made a decision on the Wetland Use permit application.

COMMISSION DISCUSSION ON POSTPONEMENT:

Gibb-Randall said MDEQ is part of the process but our own naturalists also know what they are doing, and she doesn't hear them often say what they have said about this wetland. She felt there was enough information

provided to the Commission that shows this area is special and the Commission can make a decision without waiting to see what MDEQ says.

Woods agreed with Gibb-Randall, that she was confident enough in City staff to make this decision at this point.

On a roll call, the vote was as follows with the Chair declaring the motion defeated. Postponement failed.

Yeas: 1 - Jeremy Peters

Nays: 5 - Wendy Woods, Kenneth Clein, Sabra Briere, Alex Milshteyn, and Shannan Gibb-Randall

Absent: 3 - Sofia Franciscus, Sarah Mills, and Bonnie Bona

COMMISSION DISCUSSION ON MAIN MOTION:

Gibb-Randall stated that she felt there are too many homes being proposed on this site, and she felt it could be developed better, even doing the road narrower with walls on the sides could be done, it would just cost more. She said she felt there could be ways to develop the land in a more sensitive way.

Clein agreed with Gibb-Randall in the layout of the structures and the landscaping, noting that if there were less homes that would mean less traffic and neighbors could be more supportive given less traffic and there might not be a need to connect to Huron River Drive with less homes being proposed, in the spirit of the land and what it has to offer.

Carlisle noted that this item would go back to City Council for their final determination and a date for that meeting has not been set yet.

Vote on Main Motions:

On a roll call, the vote was as follows with the Chair declaring the motion defeated. Denied: Vote: 6-0

Yeas: 0

Nays: 6 - Wendy Woods, Kenneth Clein, Sabra Briere, Jeremy Peters, Alex Milshteyn, and Shannan Gibb-Randall

Absent: 3 - Sofia Franciscus, Sarah Mills, and Bonnie Bona