

The exemption applies to buildings, building improvements, machinery, equipment, furniture and fixtures. Real and personal property are eligible whether owned or leased (provided the lessee is liable for payment of taxes on the property).

The exemption covers only the specific project that is the subject of the application. Any buildings and equipment that existed prior to construction of a new facility are not exempt. If the project is for rehabilitation, the value of any pre-existing obsolete property is exempt from ad valorem property taxes, but will be used as the base for the IFE. Similarly, any structures or equipment added after completion of the project are fully taxable.

Land is specifically excluded from the benefits of the act and is fully taxable.

TAX IMPACT

The New Industrial Personal Property Exemption and IFE Treatment

Under the reforms related to the Michigan Business Tax (MBT), industrial personal property situated on industrial parcels will automatically be exempt from the 6-mill State Education Tax (SET) and 18 mills for local schools. The automatic exemption of 24 mills will continue after the IFE expires. The remaining local mills will be abated 50% under P.A. 198.

Real and Non-Industrial Personal Property IFE Treatment

The IFE on a new plant and non-industrial personal property (like high-tech personal property) is computed at half the local property tax millage rate. This amounts to a reduction in property taxes of approximately 50%. In addition, the 6-mill SET may be abated 100%, 50% or not at all. Any SET abatement must be negotiated with the MEDC.

Rehabilitation of Real or Personal Property IFE Treatment

For an obsolete plant or machinery that is being replaced or restored, the IFE is frozen at the assessed value of the plant prior to improvement. This results in a 100% exemption from property tax on the value of the improvements.

Speculative Building IFE Treatment

In order for a speculative building to qualify for abatement, the local unit must approve a resolution declaring it as a speculative building prior to identifying occupants. Initial construction and finishing costs would be eligible for a reduction in property taxes of approximately 50%.

ADDENDUM

Personal Property Tax Relief

In addition to the automatic reduction of 24 mills on industrial personal property, manufacturers are allowed to claim a 35% tax credit on the MBT form for property taxes paid on the same industrial personal property. The estimated overall impact is a 65% reduction in property taxes on industrial personal property.

Commercial personal property will receive an automatic reduction of 12 mills for local schools on their property tax bill.

For more information, contact the MEDC Customer Assistance Center at 517.373.9808.

Memorandum



THE CITY OF
FENTON

DATE: December 3, 2010

TO: Mayor Sue Osborn and City Council

FROM: Lynn Markland, City Manager 

RE: Tax Reverted Property Disposition

Genesee County has sent to us a list of property in the City of Fenton that has not been sold by Genesee County. The city now has the opportunity to receive the property unless we provide a written objection to the county on or before December 30, 2010. Some of the property in question is located in Orchard Hills and has some issues related to arsenic. I have included some maps and information related to the properties. Brad Hissong will be at the Council Work Session to provide the information in greater detail. The property is mostly undeveloped.



**GENESEE COUNTY
OFFICE OF THE TREASURER**

1101 Beach Street, Suite 144
Flint, Michigan 48502-1475
Telephone (810) 257-3059
Fax (810) 257-3885

DATE: November 30, 2010

TO: Local Unit Treasurer / Local Unit Clerk

FROM: Deborah L. Cherry
Genesee County Treasurer

SUBJECT: Tax Reverted Property Disposition

MCL 211.78 m(6) provides that a list of properties in your unit not previously sold by the foreclosing governmental unit (Genesee County) at the mandatory yearly auctions shall be provided to the clerk of the city, village or township in which the property is located. This list is attached. The law also allows that your unit (city, village or township) may object in writing to the transfer of one or more of the properties set forth on this list. On or before December 30, all property on this list shall be transferred (revert back) to your unit (city, village or township) unless written objection is made by your unit (city, village or township).

If your unit wishes to obtain these properties do nothing, since the reversion is automatic. If you wish to object to this property transfer please obtain board authority in the form of 1) a specific resolution rejecting the listed property, or 2) a resolution directing an individual to write the objection with the same authority as the board. The written objection should be received by the Genesee County Treasurer's Office by December 17, 2010. Please send to the attention of Carla Vandefifer. Your cooperation in this matter is appreciated.

Please feel free to contact Carla at cvandefifer@co.genesee.mi.us.

Thank You

2010 FORECLOSURES
UNSOLD PARCELS

| PARCEL | ADDRESS | CITY | STATE | ZIP |
|---------------|-------------------|--------|-------|-------|
| 53-25-555-004 | 603 MAIN ST | FENTON | MI | 48430 |
| 53-35-652-018 | 709 PLUM TREE LN | FENTON | MI | 48430 |
| 53-35-652-043 | 747 MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-049 | 983 PLUM TREE LN | FENTON | MI | 48430 |
| 53-35-652-051 | 724 PLUM TREE LN | FENTON | MI | 48430 |
| 53-35-652-169 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-170 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-171 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-172 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-173 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-174 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-175 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-176 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-177 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-178 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-179 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-180 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-181 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-182 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-183 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-184 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-185 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-186 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-187 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-188 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-189 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-190 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-191 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-192 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-193 | PLUM TREE DR | FENTON | MI | 48430 |
| 53-35-652-194 | PEACH TREE TRL | FENTON | MI | 48430 |
| 53-35-652-195 | PEACH TREE TRL | FENTON | MI | 48430 |
| 53-35-652-196 | PEACH TREE TRL | FENTON | MI | 48430 |
| 53-35-652-197 | PEACH TREE TRL | FENTON | MI | 48430 |
| 53-35-652-198 | PEACH TREE TRL | FENTON | MI | 48430 |
| 53-35-652-199 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-200 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-201 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-202 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-203 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-204 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-205 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-206 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-207 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-208 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-209 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-210 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-211 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-212 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-213 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-214 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-215 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-216 | CHERRY TREE CT | FENTON | MI | 48430 |

2010 FORECLOSURES
UNSOLD PARCELS

| PARCEL | ADDRESS | CITY | STATE | ZIP |
|---------------|----------------|--------|-------|-------|
| 53-35-652-217 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-218 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-219 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-220 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-221 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-222 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-223 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-224 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-225 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-226 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-227 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-228 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-229 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-230 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-231 | CHERRY TREE CT | FENTON | MI | 48430 |
| 53-35-652-232 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-233 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-234 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-235 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-236 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-237 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-238 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-239 | MAPLE TREE DR | FENTON | MI | 48430 |
| 53-35-652-240 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-241 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-242 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-243 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-244 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-245 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-246 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-247 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-248 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-249 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-250 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-251 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-252 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-253 | APPLE TREE CT | FENTON | MI | 48430 |
| 53-35-652-254 | APPLE TREE CT | FENTON | MI | 48430 |

| Grantor | Grantee | Sale Price | Sale Date | Inst. Type | Terms of Sale | Liber & Page | Verified By | Prct. Trans. |
|---------------------------|---------------------------|------------|------------|------------|---------------|----------------|-------------|--------------|
| OBNEY, LARRY R & JENNIFER | GENESEE COUNTY TREASURER | 0 | 05/18/2010 | CF | FORFEITURE | | DEED | 100.0 |
| DICKS, LEONARD R & CLARE | OBNEY, LARRY R & JENNIFER | 75,000 | 06/21/2007 | PTA | UNKNOWN | | PTA | 100.0 |
| DICKS AND CALABRESE AND H | DICKS, LEONARD R & CLARE | 0 | 07/27/2005 | WD | UNKNOWN | 20050727007436 | DEED | 0.0 |
| BARNES, TIM & CHERI TRUST | DICKS AND CALABRESE AND H | 0 | 04/12/2005 | QC | UNKNOWN | 20050727007458 | DEED | 0.0 |

Property Address: 603 MAIN ST
 Class: 401-RESIDENTIAL I Zoning: (*) Building Permit(s)
 School: FENTON SCHOOLS
 P.R.E. 0%
 MAP #: VALID
 2011 Est TCV 98,536 TCV/TFA: 48.16

X Improved Vacant Land Value Estimates for Land Table THURB.THURBERS NE ADDITION

| Tax Description | Improvements | * Factors * | | | Rate | Adj. | Reason | Value |
|--|--------------------|--|--------|-------------|------|------|--------|--------|
| | | Front | Depth | Total Acres | | | | |
| LOT 4 BLK 1 & E 36 FT OF LOT 5 BLK 1 THURBERS NORTHEASTERN ADDITION (75) | Dirt Road | 96.00 | 133.00 | 0.8483 | 426 | 100 | 35,964 | |
| Comments/Influences | Gravel Road | 96 Actual Front Feet, 0.29 Total Acres | | | | | | 35,964 |
| APPRAISED IN 2008 FOR 64K 603 | Paved Road | | | | | | | |
| | X Storm Sewer | | | | | | | |
| | X Sidewalk | | | | | | | |
| | X Water | | | | | | | |
| | X Sewer | | | | | | | |
| | X Electric | | | | | | | |
| | X Gas | | | | | | | |
| | Curb | | | | | | | |
| | Street Lights | | | | | | | |
| | Standard Utilities | | | | | | | |
| | Underground Utils. | | | | | | | |



Topography of Site
 X Level Rolling Low High Landscaped Swamp Wooded Pond Waterfront Ravine Wetland Flood Plain
 Who When What
 RS 09/02/1991 INSPECTED

| Year | Land Value | Building Value | Assessed Value | Board of Review | Tribunal/Other | Taxable Value |
|------|------------|----------------|----------------|-----------------|----------------|---------------|
| 2011 | 18,000 | 31,300 | 49,300 | | | 49,300S |
| 2010 | 18,000 | 31,200 | 49,200 | | | 39,880C |
| 2009 | 20,100 | 44,700 | 64,800 | 40,000M | | 40,000S |
| 2008 | 20,100 | 47,600 | 67,700 | | | 67,700S |

*** Information herein deemed reliable but not guaranteed***

| Building Type | (3) Roof (cont.) | (11) Heating/Cooling | (15) Built-ins | (15) Fireplaces | (16) Porches/Decks | (17) Garage |
|---|---|---|--|---|--|---|
| X Single Family Mobile Home Town Home Duplex A-Frame | X Eavestrough Insulation 0 Front Overhang 0 Other Overhang (4) Interior Drywall X Plaster Paneled Wood T&G Trim & Decoration Ex X Ord Min Size of Closets Lg X Ord Small Doors Solid X H.C. | X Gas Wood Forced Air w/o Ducts Forced Air w/ Ducts Forced Hot Water Electric Baseboard Elec. Ceil. Radiant Radiant (in-floor) Electric Wall Heat Space Heater Wall/Floor Furnace Forced Heat & Cool Heat Pump No Heating/Cooling Central Air Wood Furnace (12) Electric 0 Amps Service | Appliance Allow. Cook Top Dishwasher Garbage Disposal Bath Heater Vent Fan Hot Tub Unvented Hood Vented Hood Intercom Jacuzzi Tub Jacuzzi repl.Tub Oven Microwave Standard Range Self Clean Range Sauna Trash Compactor Central Vacuum Security System | Interior 1 Story Interior 2 Story 2nd/Same Stack Two Sided Exterior 1 Story Exterior 2 Story Prefab 1 Story Heat Circulator Raised Hearth Wood Stove Direct-Vented Ga Class: C -10 Effec. Age: 51 Floor Area: 2046 Total Base Cost: 114,973 Total Base New : 148,315 Total Depr Cost: 72,674 Estimated T.C.V: 62,572 | Area Type 245 WCP (1 Story) 245 Treated Wood | Year Built: Car Capacity: Class: Exterior: Brick Ven.: Stone Ven.: Common Wall: Foundation: Finished ? Auto. Doors: Mech. Doors: Area: % Good: Storage Area: No Conc. Floor: Bsmnt Garage: Carport Area: Roof: |
| X Wood Frame | (5) Floors Kitchen: Other: Other: | No./Qual. of Fixtures X Ex. Ord. Min No. of Elec. Outlets Many X Ave. Few (13) Plumbing Average Fixture(s) 3 3 Fixture Bath 2 Fixture Bath Softener, Auto Solar Water Heat No Plumbing Extra Toilet Extra Sink Separate Shower Ceramic Tile Floor Ceramic Tile Wains Ceramic Tub Alcove Vent Fan (14) Water/Sewer | Stories Exterior 1.75 Story Siding 1 Story Siding 1.75 Story Siding 1 Story Siding 1 Story Siding 1 Story Siding Other Additions/Adjustments (13) Plumbing 3 Fixture Bath (14) Water/Sewer Public Water Public Sewer (16) Porches WCP (1 Story), Standard (16) Deck/Balcony Treated Wood, Standard Unit-in-Place Cost Items: EXTRA KITCHEN Phy/Ab.Phy/Func/Econ/Comb.\$Good= 49/100/100/100/49.0, ECF (THURBERS NE ADDITION) | Foundation Crawl Space Slab Mich Bsmnt. Crawl Space Crawl Space Overhang Rate Bsmnt-Adj Heat-Adj | 245 WCP (1 Story) 245 Treated Wood | Size 600 384 320 24 12 16 Size 2 1 1 245 245 2 = |
| X Wood/Shingle Aluminum/Vinyl Brick | (6) Ceilings X Plaster (7) Excavation Basement: 320 S.F. Crawl: 636 S.F. Slab: 384 S.F. Height to Joists: 0.0 (8) Basement Conc. Block Poured Conc. Stone Treated Wood Concrete Floor (9) Basement Finish Recreation SF Living SF Walkout Doors No Floor | 1 Public Water 1 Public Sewer Water Well 1000 Gal Septic 2000 Gal Septic Lump Sum Items: | Other Additions/Adjustments (13) Plumbing 3 Fixture Bath (14) Water/Sewer Public Water Public Sewer (16) Porches WCP (1 Story), Standard (16) Deck/Balcony Treated Wood, Standard Unit-in-Place Cost Items: EXTRA KITCHEN Phy/Ab.Phy/Func/Econ/Comb.\$Good= 49/100/100/100/49.0, ECF (THURBERS NE ADDITION) | Rate 83.47 57.51 83.47 57.51 57.51 37.12 Rate 2400.00 1162.00 1162.00 20.20 6.83 5000.00 0.861 => TCV of Bldg: 1 = | 245 WCP (1 Story) 245 Treated Wood | Cost 45,192 18,255 25,408 1,185 594 Cost 4,800 1,162 1,162 4,949 1,673 10,000 72,674 62,572 |
| X Insulation | (10) Floor Support Joists: Unsupported Len: Cntr.Sup: | | | | | |
| (2) Windows Many Large Ave. X Avg. Few Small | | | | | | |
| X Wood Sash Metal Sash Vinyl Sash Double Hung Horiz. Slide Casement Double Glass Patio Doors Storms & Screens | | | | | | |
| (3) Roof X Gable Hip Flat X Asphalt Shingle Chimney: | | | | | | |

*** Information herein deemed reliable but not guaranteed***

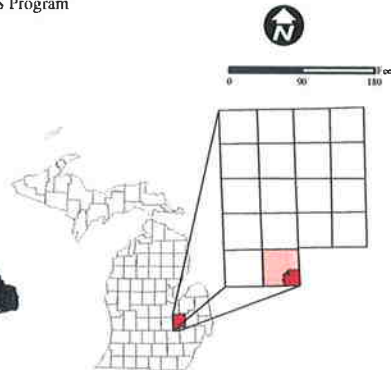
Orchard Hills Tax Reversion Parcels 2010



Data Source: City of Fenton GIS Program



**THE CITY OF
FENTON**



NORTH ARROW TECHNOLOGIES, INC.
Geographic Information Systems - Global Positioning Systems
Environmental Analysis - Digital Mapping - Infrastructure Surveys
(810) 714-3326

Disclaimer: This map is for visual purposes only. City of Fenton, its administrators, employees, or contractors are not responsible for any decisions made based upon the information in the map.



Environmental Consulting & Technology, Inc.

FIRST LOOK

October 19, 2006

Attorney – Client Privileged

Mr. Charles Barbieri
Foster, Swift, Collins & Smith, P.C.
313 South Washington Square
Lansing, MI 48933-2193

**Re: City of Fenton
Orchard Hills Phase 2
Berming and Capping of Contaminated Soils**

Dear Mr. Barbieri:

We have completed a review of the following information:

- Letter from McDowell & Associates dated September 7, 2006 regarding berming and capping of the impacted soils;
- Sketches of soil sampling locations and tabulated analytical results from the McDowell & Associates report dated April 20, 2006;
- Elevated arsenic grid plan prepared by Reichert Surveying, Inc dated December 19, 2005; and
- Berm & Excavation plan prepared by Lawrence Engineering dated August 30, 2006.

We offer the following comments for your consideration.

1. We have no objections to the calculations and methodology used by McDowell & Associates in determining the quantity of soil that would need to be removed. Their calculations appropriately estimate the quantity of soil to be removed (27,000 cubic yards) and that the proposed berm has adequate capacity (>30,000 cubic yards) to contain the contaminated soils. However, it appears that significant grading is required outside of the berm in order to construct the berm per the proposed cross section.
2. The method of berming and capping the contaminated soil on site is an acceptable alternative to removal of the contaminated soil to an off-site landfill. Additionally, relocating the contaminated soil to a capped berm is an improvement to the earlier proposal in that it relieves the City of Fenton of any due care responsibilities for contaminated soil in the roadways or utility corridors.

2250 Genoa Business
Park Drive, Suite 130
Brighton, MI
48114

(810)
494-5051

FAX (810)
494-5059

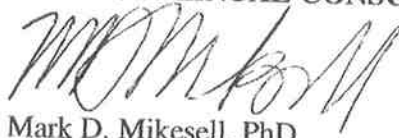
Mr. Charles Barbieri
October 17, 2006
Page 2 of 2


3. The long-term maintenance of the berm and all responsibility for due care should be accepted by the developer and future property owners. A detailed maintenance plan for the berm should be provided by the developer and be included in the Condominium documents. Provisions for preventing damage to the geotextile fabric and prohibiting contact with the contaminated soil should be included in the maintenance plan.

We trust this meets your needs at this time. Please call if you have any questions or comments.

Sincerely,

ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.


Mark D. Mikesell, PhD
Principal Scientist


Lisa M. Lenfestey, P.E.
Senior Associate Engineer



LSL Planning, Inc.

Community Planning Consultants

August 27, 2007

Brad Hisson, Building Official/ Zoning Administrator
City of Fenton
301 South Leroy Street
Fenton, Michigan 48430-2196

Subject: **Orchard Hills Phase II.** PUD Amendment and Private Road Request. Located south of Shiawassee. 47.7 acres. Plans dated 6/18/07

Dear Brad:

At your request, we have completed our review of the above proposal to amend the approved plans for Phase II of the Orchard Hills single-family residential Planned Unit Development (PUD). The applicants are requesting an amendment to the final PUD plan due to the discovery of significant amounts of arsenic in the soils. These soils must be extracted and located where the arsenic will not leach into the groundwater or contaminate other soils in the area. The applicants are also requesting that the approved public road network be made private so the contaminated soils can be placed underneath the road surface.

BACKGROUND

This site was once home to apple orchards and arsenic was sprayed on the trees as an insecticide. As a result, concentrated amounts of arsenic have been found in soils at the northeast and southeast corners of the site. The arsenic must be removed from these locations due to the close proximity to existing and future residential structures. The cost of completely removing the soils renders the project financially unfeasible so the applicants would like to bury the soils underneath the roads. After numerous discussions with the city attorney and environmental consultant, it was determined that this is the best option for on-site storage of the soils. The original proposal submitted by the developer would have stored the soils in the 50 foot undisturbed open space area along the north property line. We strongly discouraged this proposal and asked the developers to find an option that would have less impact on the open space that is being preserved under the PUD.

Under the originally approved final site plan, the roads in the development were to be public, matching those in Orchard Hills Phase I. The City has indicated that they do not want the contaminated soils underneath public streets, citing potential liability in the future. The applicants are therefore requesting that the roads be private so they can use the arsenic soils as a base under the road surface. The soils would not be located in the utility easement areas, so the potential to disturb the soils in the future would be limited. According to the City's environmental consultant, the soils would be encapsulated under the road surface and pose no health risk to those living in the development.

REQUEST

The applicants are requesting approval to (1) excavate contaminated soils from locations within the site, including approved open space areas, and relocate them underneath the roads; and (2) change the road network from public to private streets. According to Section 13.12, Deviations from Approved Final PUD Site Plan, of the Zoning Ordinance, the Planning Commission must determine whether or not the changes to the plan "significantly alter the intent of the preliminary site plan," which basically fixes the layout of the lots, road network, and open spaces areas. Should the Planning Commission determine that the changes do not alter the intent of the preliminary PUD plan, they may approve them. If it is determined that the changes do alter the plan, the proposed changes must be approved by the City Council.

As for the private road review, Section 2.23, Private Road Standards, "Private roads are reviewed and approved by the City Council after a recommendation from the Planning Commission." The Council must determine that "the property possesses unusual configuration and/or topography which would render construction of public streets under City standards for grades, radii, width and/or materials impractical."

REVIEW COMMENTS

Based upon our review of the submitted plans, on-site meetings and conversations with the applicant and City attorney, and a review of the Zoning Ordinance, we offer the following comments for your consideration:

- 1. PUD Deviation.** In determining whether or not this request is a minor modification or a major one requiring City Council approval, the Planning Commission must decide if the original layout of the preliminary PUD plan has been changed significantly. This also includes the provision for open space and natural areas throughout the development. We are of the opinion that this is not a major deviation from the approved plan if the open space areas are restored properly.

By removing the contaminated soils and relocating them under paved areas, the overall configuration of the lots, roads, and open space will not be changed. The only possible issue would be potential impact on natural features in the open space areas. Since the soils are being removed from areas that will be used primarily as residential lots, the amount of open space area to be impacted is minimal. The removal area at the northeast corner of the site will require removal of existing landscaping that was planted by the adjacent homeowners. The plans must provide for adequate restoration or replacement of this material to ensure continued buffering between the properties.

- 2. Site Grading.** The grading plan shows existing grade contours even though the removal of contaminated soils may change the topography. Proposed grades must be shown after completion of the soil removal.

3. **Buffering and Site Restoration.** Soil removal at the northeast corner of the site appears to necessitate the removal of a portion of the berm and trees. The plans must indicate what the restored site will look like and if the berm will be replaced. We are of the opinion that a minimum of four (4) additional evergreen trees should be planted at the top of the berm to replace those being removed. These additional trees should be staggered from the trees planted along the edge of the utility easement. The site restoration description must also include the type of grass seed to be used in the disturbed areas.
4. **Overall Layout and Road Configuration.** It is important to note that the overall lot layout, road configuration, and plans in general have not changed. All of the originally approved conditions still apply. The only changes being requested are the PUD amendment for soil removal and the change from public to private roads.
5. **Tree Removal in Open Space Areas.** A number of trees are being removed behind lots 98-101 and lot 116. The proposed landscaping plan must indicate replacement trees for these areas.


RECOMMENDATION


Based on the comments above, we recommend that a revised plan be submitted that satisfactorily addresses each of the items in this letter. We are generally supportive of this proposal, assuming that acceptable restoration steps are taken in the revised set of plans.

If you have any further questions, please contact us at 248-586-0505.

Sincerely,

LSL PLANNING, INC.


Carmine P. Avantini, AICP
Partner


Sherrin S. Hood, AICP
Senior Planner



LSL Planning, Inc.

Community Planning Consultants

January 2, 2007

Planning Commission
City of Fenton
301 South Leroy Street
Fenton, Michigan 48430-2196

Attention: Brad Hissong, Building Official/ Zoning Administrator

Subject: **Orchard Hills Planned Unit Development, Phase 2
Arsenic Response Plan Review 1**
Located off of Shiawassee Ave., just west of Rounds Drive
Zoned LDR, General Business District and PUD, Planned Unit Development
Site plan dated 8/30/06

Dear Mr. Hissong:

Per your request, we have completed our review of the site plan for Phase 2 of the Orchard Hills Residential Planned Unit Development. The site is zoned LDR, and was approved as a PUD to allow for the protection of open space and natural features on the site. The overall site plan for this development as a Planned Unit Development was approved by the City Council in early 2004. Since then, the applicant has discovered two areas on the site with arsenic contamination in the soil. This discovery has required the applicant to prepare an arsenic response plan to address the contamination. This review is of the proposed Arsenic Response Plan, the Berm Operations and Maintenance Plan, as well as of the site plan. It does not, however, include analysis or response to any of the construction plans or environmental assessment issues. We defer comment on those items to the city's engineering and environmental consultants.

DISCUSSION

Two areas of the Orchard Hills PUD contain contaminated soils. They include "parcel 1," which generally encompasses proposed units 109 through 118 and lot 123, and "parcel 2," which encompasses proposed lots 97 through 101 including the open land located behind them. The applicant has submitted a plan to address the contamination by re-distributing the contaminated soils into a berm to be located along the northern property line that separates this development from the Whisperwood residential development to the north.

Based on our review of the proposal, discussions with the city attorney, and a visit to the site, we offer the following comments for your consideration:

1. The applicant proposes to transform the northern greenbelt area of the site into a constructed berm that would contain the contaminated soils. We do not endorse use of the berm as

proposed, and suggest the applicant consider alternative locations for depositing of the contaminated soils for the following reasons

- This area of the site was to be protected from development, as part of the overall PUD plan. Protection of this approved open space is important to maintain the integrity of the PUD approval, which granted additional density in return for protection of this and other open space areas. Specifically, the proposed activity is not in keeping with the original PUD agreement, which implemented the following restrictions to development within the open space areas:

- “(a) The Open Space Areas shall only be used for storm water retention, recreation and open space purposes;
- “(b) Except as shown in the Landscaping Plan, no improvements shall be installed or constructed within the Open Space Areas without the prior approval of the City Building Department;
- “(c) The Open Space Areas shall not be reduced from the size shown on the Final PUD Site Plan;
- “(d) Dumping or storing of any material or refuse within the Open Space Areas shall be prohibited;
- “(e) No activity that may cause risk of soil erosion or threaten any living plant material shall be conducted within the Open Space Areas;
- “(f) Except for typical landscaping and maintenance activities, such as mowing of the grass, there shall be no cutting or removal of live plant material without prior City approval. Dead, dying or diseased vegetation and trees may be removed;
- “(g) The use of motorized off-road vehicles shall be prohibited.”

- The proposed berm location would require removal of existing vegetation along the northern property line. As mentioned above, this area of the site including the existing vegetation was proposed for protection as part of the PUD, and the existing trees and vegetation act as a natural buffer between this and the adjacent development to the north. In consideration of the financial implications of removing the contamination to an off-site location, it is understood that some impact to the open space areas may be needed to address the issue. It is our suggestion that the applicant identify alternative areas where the soil can be spread that will not require the removal of existing vegetation, nor negatively impact the purpose and use of an open space area. We suggest the applicant consider areas that are already likely to be disturbed during the development process and where they will not contribute to stormwater runoff contamination.

2. The applicant suggests regular monitoring of the proposed berm to ensure the method used to “cap” the contaminated material remains sound in the future. However, there are no means by which the applicant proposes this be completed in the future. A revised Berm Operations and Maintenance Plan should be submitted that establishes a time schedule for regular maintenance, identifies an individual or association that will bear the maintenance responsibility, addresses the financial implications of such inspections and maintenance, and

that does not unnecessarily burden the city now or in the future. We are concerned that regular maintenance will not be completed as needed without a specific plan in place now. We suggest the applicant establish an escrow account to cover the initial costs of construction and inspection, inspection and maintenance costs for the next several years as well as monetary provisions in the case the proposed capping method fails. If such failure occurs, repair will likely be costly, and it would not be fair to defer these potential costs on to future residents or to the city.

RECOMMENDATION

We cannot recommend approval of the proposed Arsenic Response Plan, Berm Operations and Maintenance Plan or revised site plan until such time as the above noted concerns are adequately addressed.

If you have any further questions, please contact us at 248-586-0505.

Sincerely,

LSL PLANNING, INC.



Carmine P. Avantini, AICP
Partner



Sherrin S. Hood, AICP
Senior Planner



Environmental Consulting & Technology, Inc.

January 2, 2007

Mr. Brad Hissong
City of Fenton
301 S. Leroy Street
Fenton, MI 48430

Re: City of Fenton - Orchard Hills Phase 2
Berming and Capping of Contaminated Soils

Dear Mr. Hissong:

We have completed a review of the following information:

- Letter from McDowell & Associates dated September 7, 2006 regarding berming and capping of the impacted soils;
- Sketches of soil sampling locations and tabulated analytical results from the McDowell & Associates report dated April 20, 2006;
- Elevated arsenic grid plan prepared by Reichert Surveying, Inc dated December 19, 2005;
- Berm & Excavation plan prepared by Lawrence Engineering dated August 30, 2006;
- Orchard Hills II Arsenic Response Plan; and
- Orchard Hills II Berm Operations and Maintenance Plan.

We offer the following comments for your consideration.

1. We have no objections to the calculations and methodology used by McDowell & Associates in determining the quantity of soil that would need to be removed. Their calculations appropriately estimate the quantity of soil to be removed (27,000 cubic yards) and that the proposed berm has adequate capacity (>30,000 cubic yards) to contain the contaminated soils. However, it appears that significant grading is required outside of the berm in order to construct the berm per the proposed cross section.
2. The method of berming and capping the contaminated soil on site is an acceptable alternative to removal of the contaminated soil to an off-site landfill. Additionally, relocating the contaminated soil to a capped berm is an improvement to the earlier proposal in that it relieves the City of Fenton of any due care responsibilities for contaminated soil in the roadways or utility corridors.

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