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David Coates / The Detroit News

Jerry Miller's Chesterfield Township home abuts woodlots to be leveled for subdivisions. Advocates of protecting wetlands say communities can pass an ordinance giving them more control over potential developments.

Advocates demand rules to preserve local wetlands

Communities gain more by protecting land, they say

By Maureen Feighan / *The Detroit News*

CHESTERFIELD TOWNSHIP -- Fifty feet from the end of a quiet residential street near 23 Mile and Jefferson in Chesterfield Township, Jerry Miller steps through the thick foliage near his house and acknowledges that soon deer and raccoons won't be some of his closest neighbors anymore: people will.

"There really isn't a whole hell of a lot anyone can do," said Miller, 67, a retired Detroit police officer whose home on Jerome Street abuts wooded property slated to accommodate two subdivisions. "You're fighting major bucks (from developers)."

But environmentalists say more communities could protect local wetlands from becoming the next big housing development by passing a simple measure: a local wetland ordinance.

Passed at the local level, advocates say the ordinances give communities more control in preserving wetlands and wildlife habitat by

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requiring builders to get permits before they build on them. State law only regulates wetlands five acres or larger and those connected to a lake, stream or other body of water.

No community in Macomb County has a local wetland ordinance. Harrison, Clinton and Ray townships have contemplated adopting one, but are still in the research process. Seventeen Oakland County communities have wetland ordinances.

Meanwhile, the Macomb Land Conservancy, an advocacy group that promotes conservation, plans to approach every community in Macomb's northern tier to encourage them to pass local wetlands laws. Development has left few wetlands in the southern portion of Macomb County.

"With not having any local (wetland ordinances) in place, when someone comes in to build they just pull a building permit and no one even knows," said Kathleen Bolton, founder of the Macomb Land Conservancy. "It would be a second set of guidelines."

But Rich Hodsdon, a civil engineer with the engineering and surveying firm MCS Associates, Inc. in Sterling Heights, said dealing with wetlands is no easy process. The firm works with developers, helping them tailor their projects.

Special attention is given to wetlands in the design process, Hodsdon said.

"It is very politically charged," he said. "The best thing to do is hire experts ... and they are not cheap."

Hiring consultants helps avoid running afoul of the state Department of Environmental Quality, which regulates wetlands, Hodsdon said. Builders also should check with local municipalities that might have tougher laws on the books, he said.

"It is a really gray area of expertise," Hodsdon said. "It really depends on the site."

Case for protection

Bob Bideau wonders if a local wetland ordinance might have prevented the decimation in front of his house in Harrison Township.

Once a lush, dense wooded area that was a resting spot for migrating songbirds and waterfowl, a developer clear-cut eight acres of land across the street from Bideau's home to make way for a subdivision.

Bideau said his wife, Candie, and other neighbors cried as saws sliced through the trees last fall. Mangled tree stumps, mud puddles and a huge wood chip pile now stand in their place.



David Coates / The Detroit News

A wetlands ordinance may have averted clear-cutting in Harrison Township.

More than soggy ground

Wetlands in Michigan generally fall into three categories: marshes, swamps and northern peat lands. More Metro Detroit communities are seeking ordinances to protect wetlands, which include areas of land:

- * Saturated or flooded with water.
- * Which fosters the growth of plants and development on soil that is saturated, flooded or ponded.
- * Where the plants and soil help fight pollution.

Source: Clinton River Watershed Council.

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"There were a lot of people upset," said Bideau, 34, a window tinter who has lived on Emerick street for five years. "They did this in about three days. The whole block was out here."

Todd Losee, an environmental quality analyst for the Michigan Department of Environmental Quality, said the developer who clear-cut the property did not have a permit to do so, especially since there were wetlands on the property.

Once officials with the state and the U.S. Army Corps of Engineers found out about the project, construction on the subdivision was halted. The matter since has been handed over to the environmental department's office of criminal investigations and will likely head to court, Losee said.

"We know there's a wetland violation," Losee said. "We're not sure how much. We currently think there's somewhere between four and 10 acres of wetlands on the property."

Losee said the land may have been the last coastal forested wetland on Lake St. Clair. As such, he said the environmental consequences of destroying it is huge.

"It's not forested anymore," Losee said. "It'll take a long time to replace that. We have photos showing this as a mature forest so the trees probably were quite large."

A local wetland ordinance might have alerted state officials quicker about the clear-cutting, Losee said.

"At a local level, you have a lot more oversight," Losee said. "They can watch the area a lot better than our staff covering at least a county or two."

Ramifications possible

But experts say drafting and approving a local wetland ordinance is more complicated than printing directives on a piece of paper and getting a local board to approve it.

Mark Richardson, an environmental prosecutor with the Macomb County Prosecutor's Office, said wetland ordinances involve many tricky legal issues that could make communities vulnerable to lawsuits from developers.

"Understandably, these local governments are very concerned that any ordinance they pass is constitutional and does not result in (lawsuits)," Richardson said. "There's a whole set of tricky legal issues that have to be addressed."

Losee said it's also important that communities hire qualified consultants to work with developers. The state is dealing with one case now in which a local official told a developer he had no wetlands. The builder proceeded with his project and then ended up violating state law when wetlands were found on the property.

"The local ordinance is good, but it's got to be in conjunction with the state law," Losee said.

Kim Yonkoski, 40, lives on Jerome street in Chesterfield Township. She would just like to see Macomb County's remaining woodlots preserved.

"We don't have much of it left," Yonkoski said. "They're cutting down all the trees everywhere. (The community is) building so rapidly and they're not taking into consideration what's left."

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