

2007-0221 Request for Final Preliminary Plat Recommendation - City File No. 04-011 - Grace Parc, a 14-lot subdivision on 5.6 acres located north of South Boulevard between Livernois and Rochester Roads, zoned R-4, One-Family Residential, Parcel Nos. 15-34-402-057 and -066, Gwen and Patrick Bismack, Applicants
(Reference: Staff Report prepared by James Breuckman, dated July 10, 2013 and Final Preliminary Plat had been placed on file and by reference became part of the record thereof).

Present for the applicant was Gwen Bismack, 2742 Powderhorn, Rochester Hills, MI 48309.

Mr. Breuckman advised that the request was for Final Preliminary Plat (FPP) Recommendation for Grace Parc, which received Tentative Preliminary Plat (TPP) Recommendation and a Tree Removal Permit from Planning Commission in March of 2005. The TPP had been extended yearly subsequent to that, and now the applicant was bringing forward the FPP.

Mr. Breuckman further advised that the site was designed using the lot size variation, and that the FPP was consistent with the approved TPP, although there had been some layout changes. The City adopted new stormwater management requirements in 2008, and the proposed detention pond was now larger and, as a result, two lots had to be eliminated. There was a house at 350 Grace that had originally been part of the plat, which was no longer a part. Since the intensity of the development was decreased, the Planning Commission was not required to revisit the TPP for re-approval. The road layout was also consistent. Mr. Breuckman mentioned some review considerations from the Staff Report, which he felt were minor details and could be conditions of approval. He referenced Sheet 1, regarding adding a note about planting street trees (one per lot), and that a cost estimate had to be submitted for those trees. A Type A Buffer with shrubs and a few trees was required around the perimeter of the detention pond. Staff was recommending that deciduous canopy trees be planted along the south side of the detention pond to help soften the appearance of the pond from Grace Ave. Those trees would be planted 35 feet on center on average to provide appropriate screening. Staff was also requesting tree preservation easements within the boundaries of lots, and those easements would be recorded with the County, prior to the issuance of a Land Improvement Permit. That would ensure that potential future homeowners knew about the tree preservation. Mr. Breuckman indicated that the Fire, Building and Engineering, including the Surveyor's, comments would need to be

addressed prior to Final Plat going to Council. He felt that those comments could be conditioned and would not impact the layout. After review of the FPP, Staff found that it met all technical City Ordinance requirements and was suitable for a Recommendation to City Council, subject to the findings and conditions noted in the Staff Report. He said that he would be happy to answer any questions.

Chairperson Boswell asked Mrs. Bismack if she had anything to add. Mrs. Bismack felt that Mr. Breuckman had summed it much better than she could.

Mr. Kaltsounis referred to the comment about adding trees along the south side of the pond, and asked if it would be a separate condition or whether it was addressed in the landscaping and tree removal condition. Mr. Breuckman agreed that it would be rolled in with the latter.

Chairperson Boswell opened the Public Hearing at 7:15 p.m.

Mark Kopson, 3655 McComb, Rochester Hills, MI 48307. Mr. Kopson passed out some drawings and a letter summarizing his remarks. He said that he was present on behalf of the residents of Gunthar's Run Subdivision, which was a nine-lot subdivision on McComb north of the subject property. He wanted to make it clear that they were not opposed to residential development in the City, provided that it was properly planned and executed. They had concerns about the proposed Plat, and for that reason they were requesting that the approval be denied. The first concern was that the plan called for a single egress, and he claimed that it would be accomplished by tacking 14 houses onto the south end of the existing Gunthar's Run Subdivision, taking the number from nine houses up to 23 with only a single ingress and egress. He stated that would basically be an extension of McComb southward to the proposed Verona Dr. In their opinion, that was the reason for a previously failed development planned for the property, and they stated that it raised safety concerns. They understood that prior plans for development of the property were denied due in part to the lack of a second access for ingress and egress. Prior plans to create a second route for ingress and egress to Grace Ave. at the southern end of the property were denied by virtue of the fact that this portion of Grace was a private road, and the owners would not agree to an access. In acknowledgement of that concern, the FPP also reflected a stub of Verona Dr. which dead-ended at the western end of the subject property. It suggested to him that a second means of egress could be forthcoming in the future. They respectfully suggested that this was speculative and extremely premature. Extension

of the Verona Dr. western stub into a second ingress/egress route would require the developer to acquire at least two parcels and possibly as many as four, depending on whether they wanted the second route to exit onto Shortridge Ave. to the north of Gunthar's Run or whether they sought to exit to the public road portion of Grace Ave., which was closer to Donaldson, west of the property. In addition, it appeared to them that the parcels west of the development incorporated a lot of wetlands. It was his understanding that any approval for wetlands would require State and City approval, which would be expensive and difficult to obtain. He stated that it would add very little, if any, additional land for other houses beyond the access route. Based on those issues, it appeared to them to be extremely unlikely that any second ingress/egress route would ever be developed. The third major objection was with the detention basin by Grace. It called for the basin to outlet across to the private Grace Ave. Given that those owners had previously refused to grant ingress and egress onto Grace, he questioned whether the developer had obtained approval to allow that ground water to exit onto Grace. He suspected that the City might have some type of public utility easement with the private road, and they understood that would not permit private developers to use Grace for their drainage system. He and the other residents were requesting that if the Commission was of the opinion that such an easement or agreement existed, that the City Attorney should review the easement to determine whether it was suitable or enforceable. The fourth objection was that the FPP drawing showed a note indicating that "fire lanes shall be designated by the Fire Department and signs posted on both sides of the road." He stated that if some version of the FPP was approved, the residents of Gunthar's Run would not object to that type of signage control within the two streets of the proposed Plat, but if the intent was to also convert all of McComb into a fire lane with no parking on either side, it would change the character of the existing subdivision and be a hardship for the current owners of Gunthar's Run. Their driveways were not 100 feet long and on-street parking was required for small family gatherings and such. They were requesting that no parking zones not be extended onto their existing portion of McComb. Mr. Kopson concluded that for those reasons, they believed that the FPP did not reflect a safe or viable residential development, and they were therefore requesting that the Recommendation of Approval be denied, and that any future consideration be postponed until such time as the developer had actually acquired the initial property. Also, they felt that it should be postponed until any regulatory approvals providing a second, safe ingress/egress route were obtained and until all questions regarding the legality of the detention basin location and its outletting onto the private road was adequately addressed by the City Attorney. He asked that they be

notified of any future reviews. He pointed out that the letters he submitted had been signed by eight of the nine property owners in Gunthar's Run, and the ninth was expected shortly. He thanked the Commissioners, and said that he hoped they would take their comments into consideration.

Daniel Driscoll, 443 Grace Ave., Rochester hills, MI 48307 *Mr Driscoll remarked that he could not follow that. He said that he had just gotten the notice, and he was not as prepared. He thanked Mr. Kopson for his remarks.*

Chairperson Boswell closed the Public Hearing at 7:24 p.m.

Chairperson Boswell asked about the Verona extension, and clarified that it was added with the possibility that the road could be extended in the future. Mr. Breuckman agreed, and explained that the Subdivisions Control Ordinance had a requirement that the street layout "shall provide for continuation of streets in the adjoining subdivisions and the proper projections of streets when adjoining property is not subdivided." He noted that the properties to the west were quite large at two or three acres, and development potential definitely existed. The City had seen assembly of property in a lot of cases. It was feasible to even buy half the properties to facilitate development, so it was not something the City had not seen happen before. He agreed that it might be speculative to say it was possible, and it might be a while before development on those properties was feasible. It would depend on the willingness of those landowners to sell.

Chairperson Boswell questioned where the water would go once it entered the detention basin.

Mr. Schroeder answered that it all started with an old English law called Riparian Rights. The property owner had the obligation to pass water on to people below (on Grace), and those property owners had the obligation to receive that water. It was not a public utility; it was private drainage. The developer had to put in a retention pond because they could not increase the drainage. They had to maintain an agricultural flow of drainage, that is, the pond was there to delay the water and to release it at an agricultural rate. That had nothing to do with public easements; it was all private. The water would go to the pond and be released, and the other property owner had the obligation to receive it. In times past, it was used for farming, which was not so much the case today. The City was not the owner, it was the general public. Although Mr. Schroeder said that he had simplified it for discussion purposes, he assured that it was how drainage

was handled.

Chairperson Boswell referred to the comment about only one road going in for a 14-home subdivision. Mr. Breuckman explained that the Fire Code required a second means of access when there were 30 units. Even if they took the 14 lots plus the nine from Gunthar's Run, it came to only 23 units. That did not trigger a second means of access for the proposed development.

Mr. Kopson came back to the mike to clarify his comment about the fire lane signs, but first he mentioned 23 lots, and said that a minute ago they heard that it was reasonable to expect that the wetlands would be developed with additional houses. He was a little concerned, whether they would hit 29 or 30. Regarding his final concern, he pointed out that page one of the plans included a comment that the Fire official would mark the streets in the Plat with fire lanes and post signs on both sides of the street. They did not know if the intent was to convert the existing McComb, which was being extended into Grace Parc, also into a no parking zone on both sides. He reiterated that it would be a hardship on the current owners.

Mr. Schroeder advised that the fire lane requirement was only for one side, and it usually was for the side where the hydrants were. He indicated that there should always be access for a fire truck and a hydrant. He stressed that it would not be on both sides. He could not recall how many homes would cause the creation of a fire lane.

Mr. Breuckman added that the City's public street standards also met the requirements for fire lane access. Regarding the comment about wetlands, he had checked the City's wetland inventory, and it did not show anything on those properties to the west. He noted that there could be some, but the City did not have an indication that there was, and verification would have to be done to address that comment. Mr. Schroeder reminded that wetland mitigation was a possibility, and a developer could relocate wetlands to allow a street to go through.

Mr. Kaltsounis asked Ms. Bismack if she currently owned both properties, which she confirmed. Mr. Kaltsounis stated that the FPP was very consistent with the TPP, and whether the Commissioners liked the way the development looked or not was not the subject matter at hand. The Commissioner's task was to determine how close the proposed FPP was to the approved TPP from 2005 and to determine whether it had changed towards the negative for the City. The idea of the development was not on

the table, and since the Plat had remained the same, he followed the process to move the motion in the packet:

MOTION by Kaltsounis, seconded by Dettloff, in the matter of City File No. 04-011 (Grace Parc Subdivision), the Planning Commission **recommends approval of the Final Preliminary Plat**, based on plans dated received by the Planning Department on May 16, 2013 with the following two (2) findings and subject to the following five (5) conditions.

Findings

1. *The final preliminary plat is consistent with the street and lot layout of the previously approved tentative preliminary plat.*
2. *The final preliminary plat conforms or can reasonably be made to conform to all applicable City ordinances, standards, regulations, and requirements once all review comments in or referenced by this letter are addressed.*

Conditions

1. *Address landscaping and tree removal comments from this letter.*
2. *Submit tree preservation easements for City Attorney review and approval, and record such easements with the County Register of Deeds prior to issuance of a land improvement permit.*
3. *Address Fire review comments dated May 20, 2013; Building comments dated May 29, 2013; Survey comments dated June 7, 2013, and Engineering comments dated June 4, 2013.*
4. *Provide cash bond in an amount to be determined once the cost estimate for all proposed landscaping is provided on the plans.*
5. *Payment by the applicant of \$2,800, as adjusted if necessary by Staff, for one street tree per lot. Such payment to be provided prior to issuance of a land improvement permit.*

A motion was made by Kaltsounis, seconded by Dettloff, that this matter be Recommended for Approval to the City Council Regular Meeting,. The motion carried by the following vote:

Aye 8 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece and Schroeder

Absent 1 - Yukon

Chairperson Boswell stated for the record that the motion had passed unanimously.

Mr. Schroeder thanked the residents for their conduct and their organization. The Planning Commission was not used to that, and he said that it really was appreciated.

2013-0264 Request for Preliminary Planned Unit Development (PUD) and Conceptual Site Plan Recommendation - City File No. 13-009 - Villas of Shadow Pines, a proposed 28-unit residential development on 9.8 acres located on the north side of South Boulevard, between Adams and Crooks, zoned R-4, One-Family Residential, Parcel No. 15-31-400-018, Shadow Pines, LLC, Applicant