



Rochester Hills

Agenda Report

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File Number: 2006-0764

File Number: 2006-0764 **File Type:** Project **Status:** Held in Committee
Version: 2 **Reference:** 06-012 **Controlling Body:** City Council Work Session
Requester: Planning/Development **Cost:** **Introduced:** 10/13/2006
File Name: Lorna on the Green **Final Action:**

Title: Request for Approval of Preliminary Site Condominium Plan - Lorna on the Green, a proposed 45-unit site condominium development on approximately 20 acres, located on South Boulevard between Crooks and Adams, zoned R-4, One Family Residential, Mondrian Properties Lorna on the Green, LLC, applicant.

Notes: Mondrian Properties
50215 Schoenherr
Shelby Twp., MI 48315
586 726 7340
586 726 1932 fax
Parcel Nos. 15-32-300-007, -008, -009 and -010

Code Sections:

Agenda Date:

Indexes: Preliminary-Final Plan

Agenda Number:

Sponsors:

Enactment Date:

Attachments: Agenda Summary.pdf, Map.pdf, Site Plans.pdf, Staff Report 060507.pdf, PC Minutes and Resolution.pdf

Enactment Number:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	06/05/2007	Recommended for Approval	City Council Work Session			Pass
<p>Notes: <i>(Reference: Memo prepared by Derek Delacourt, dated June 5, 2007 had been placed on file and by reference became part of the record thereof.)</i></p> <p><i>Present for the applicant were Joe Maniaci, Mondrian Properties Lorna on the Green LLC, 50215 Schoenherr Rd., Shelby Township, MI 48315 and Jeff Rizzo, Fenn & Associates, 13399 West Star Drive, Shelby Township, MI 48315, Civil Engineers and Surveyors.</i></p> <p><i>Mr. Delacourt reviewed that the applicant proposed a 48-unit development, using lot averaging, on South Boulevard in the R-4 district. He advised that no Wetland Use Permit was required, and that the Tree Conservation Ordinance did not apply, but he noted that the applicant was preserving and replacing trees. The project met all the required Ordinances, and was before</i></p>							

the Commission for Natural Features Setback Modifications for temporary and permanent impacts, and for Recommendation of the Preliminary Site Condominium Plan.

Mr. Maniaci thanked the Commission for letting them present, and stated that they had met extensively with Staff and had worked the project over and over until they came up with the submitted plan. They did extensive research to get the rain gardens established and added detention basins, to make it as presentable to the neighborhood as possible. They proposed an aquatic shelf so they could eliminate fencing around the detention ponds and to make a beautiful feature of the development.

Chairperson Boswell commented that he had been on the Commission for 17 years, and that he had approved several sites that looked like the one proposed, but he was disappointed. He did not understand why they were allowed so many homes per acre, because sitting next to a golf course on one side and Walnut Brook on the other, it appeared to be out of place. He acknowledged that they met the letter of the Ordinances, but he was not at all pleased.

Mr. Kaltsounis said he was also bothered by the incompatibility with the surrounding developments. He agreed with Chairperson Boswell, and said it stuck out like a sore thumb. He thought it looked like they were dropping something onto the property which did not fit. He brought up the fact that the City was dealing more and more with platted developments and the fact that if something was platted before 1988 the Tree Conservation Ordinance did not apply. He said it was a shame that so many trees would come down for the development. There were a lot of nice tree stands along South Boulevard, and they would be gone from the proposal. In the future, he would like to see if there was more of an opportunity to save stands of trees.

Mr. Yukon said he agreed with Chairperson Boswell and Mr. Kaltsounis. He drove by the property many times, and he thought the development would be squashed in between two developments. He was also concerned about the trees, and he did not think the area would look very good with all the trees gone.

Ms. Hardenburg agreed with the comments. She asked where the 3.6 acres of private open space was planned. Mr. Maniaci said it would be along the northern part of the property, and would include the wetlands and the detention basins. Ms. Hardenburg stated that it was not usable open space. Mr. Maniaci explained that it qualified as open space per the Ordinance, and he added that the area would be an attribute to the whole site, and that it would be viewable from the development. Ms. Hardenburg asked Mr. Maniaci if he would let his children, if he had any, play in the detention pond. Mr. Maniaci stressed that it would be more than a detention basin - it would be a place people could fish. The forebay would help with water purification. He said he did not want to argue, but he believed that the site was taking

advantage of the golf course views. The streets would be bowed, so the homes would not be stacked in a parallel line. He indicated that the Ordinances were established by the City, and that they abided by them to an extreme extent. He would have loved to change a lot of things. Originally, they wanted to do something more clustered, to leave more open space and natural features, but the Ordinance would not allow that. They could not come up with a plan that would fit what they wanted to do within the regulations. Without getting the Commission's permission to change the regulations, they had to go by what the City established.

Ms. Hardenburg asked the type of clientele they were targeting. Mr. Maniaci advised that they were proposing a ranch product for the senior market, which was in demand. They felt having the golf course close by would be advantageous. He mentioned that they had presented several configurations of the Plan, but they did not meet some of the City's standards. He said he understood that the Commission might not like the Plan because it looked like most subdivisions, but it was within the Ordinances, and they tried to abide by every rule and regulation put forth. Ms. Hardenburg said they also needed to look at the surrounding neighborhoods to see if the proposal would be harmonious for everyone. Mr. Maniaci noted that Walnut Brook backed up to the golf course, and he believed their lots had the same setbacks, and he pointed out that the houses were lined up along the golf course on the north side. Ms. Hardenburg asked how many units there were at Walnut Brook, but that information was not available at the meeting. Mr. Delacourt said the homes were required to have the same setbacks, but Walnut Brook had larger homes.

Chairperson Boswell said that the lots in Walnut Brook were about twice as big as the proposed units. Ms. Hardenburg said she spoke with a neighbor who lived in lot 5, who said he was pretty happy to hear neighbors were coming, but he was a little surprised when he found out how many homes were proposed and about the trees being removed.

Mr. Hooper remarked that a developer could choose to purchase a property zoned R-4 and develop it as R-1; however, he did not think it was appropriate to penalize a developer that purchased property the City zoned and Master Planned R-4 and developed it that way. If a developer purchased property zoned R-4 and developed it according to the R-4 zoning district criteria, he felt it would be difficult for the City to say they wanted an R-1 development rather than an R-4. He asked if a residential PUD could be considered, noting that the applicant would have to request it. He recalled that the applicant had mentioned flexibility, and he suggested that a PUD would allow clustering and various options.

Mr. Maniaci said that the site could not meet enough of the criteria to qualify. Mr. Hooper said he wanted to caution the Commissioners about requesting a development to meet a different zoning district, and he questioned whether that would be achievable.

Mr. Hooper asked for an explanation of the rain garden concept. Mr. Rizzo explained that a rain garden was a five-foot area designated to function with certain plantings. The plantings had to handle water, and the water would be treated by the plants. The rain garden would have infiltration trenches, or a sand layer below, to also treat the storm water. Mr. Hooper envisioned cattails around the property, and Mr. Schroeder advised that it would be natural plantings such as little flowers and grasses that would absorb chemicals in the water. If the ground was clay, it would be excavated and a porous ground would be put underneath it. Mr. Hooper asked if weed killers for the lawn would harm the plants. Mr. Schroeder said that weed killers could not be used. Mr. Hooper said he could see homeowners trying to get a green lawn and ending up with a brown spot in the back. Mr. Schroeder said that was a potential problem, but the areas could be made very nice. Mr. Delacourt said that the City had been slowly trying to incorporate best practices for storm water maintenance into Site Plans, and they were starting on a small scale to see how they worked. The intent was to allow recharge of storm water back into the ground, rather than having it piped off site through retention ponds and into the storm system. Mr. Schroeder mentioned that Lathrup Village and Beverly Hills were using that system to solve their drainage problems.

Mr. Hooper referred to tree clearing, and said he hoped that if there was a way to save a substantial stand of trees, that they would attempt it. He realized it would be a voluntary measure.

Mr. Maniaci said they were more than willing to try and voluntarily save as many trees as possible. If he showed a tree to be saved and it died, he would be handcuffed to a situation he might not have control over. If he committed to it and the trees died, it could cause quite a financial burden. The Tree Ordinance was restrictive regarding the ways trees had to be maintained and saved. He pointed out that there were many pockets where homes would not be built and the trees would be left. They would not clear-cut the property, because he realized trees enhanced developments. He reminded that they were planting trees and said again that they would save any trees they could. Mr. Hooper clarified that they planned to clear the roadways and utility easements and leave the trees on the homesites. Mr. Maniaci said that some of the lots were deep, and they would leave trees to enhance the beauty of the site, especially at the perimeters. Mr. Schroeder explained that with a site such as this, the developer would put in utilities, clear the right-of-ways, land balance the site and dig the basements, and when they were through, not too many trees could be saved. For those that were, with the exception of owners of perimeter lots, the homeowners would be burdened with tree removal because when the water table dropped, trees would die. He did not think it was a practical thing to do.

Mr. Kaltsounis referred to usable open space, and recommended that the applicant consider it. He mentioned that the American House came for an

approval, and they said that the hardest obstacle to filling homes was the fact that there were no amenities for the people who resided there. There were no gardens or parks or places to sit. He understood Mr. Hooper's thoughts about the right to develop as R-4, but he stated that the Commission had to consider whether the development was harmonious with the environment. He understood the applicant was following the Ordinances, but he questioned whether they could provide amenities. He thought it might be to the applicant's benefit, and a selling point, to add amenities.

Mr. Maniaci said he did not mean that he was only trying to target a senior market. He meant they would target empty nesters. Mr. Kaltsounis said that the market for people looking to downsize was not strong currently. Mr. Maniaci indicated that the golf course being so close would be a big enhancement.

Ms. Brnabic recalled Mr. Maniaci talking about the City's restrictions for creating a plan that offered more open space, and she was curious about what happened. Mr. Maniaci said they brought in preliminary drawings for a detached condo project with the homes closer to each other to get the same density but with more open space for parks. The site did not qualify as a PUD, and the approval process would have been extensive. They could have negotiated setbacks and other things, as they did with Lorna Stone. They bought the property when the market was doing very well, so they needed to move on it quickly. For financial reasons, they could not take on the long burden.

Ms. Brnabic said she would like to see more open space included regardless. She realized the City allowed a detention pond to be used as open space, but she objected to that. She did not think that area should be the only open space within a development.

Mr. Maniaci said he appreciated the comments and concerns, and stated that it took a long time to get to the Planning Commission. They worked with the Staff over and over again. Meeting all conditions from every department was an extensive process, and it was difficult to change something at the last minute and it was very costly. They submitted and resubmitted drawings to meet the Ordinances. He said that if the City had a different process, where there was not as much engineering or review time, it would not be as difficult to change something. He stated that they were the City's laws, and he gave Staff what they asked, and now at the Planning Commission meeting it was being changed. Everything met the Ordinances, and regarding whether it was harmonious with the neighborhood, he pointed out that the golf course was zoned R-4, and as people knew, golf courses were disappearing and becoming subdivisions. He was not sure it would not happen with the adjacent golf course. He added that they would protect the natural features of the site because it was a condo project, and that the density was lower than for a regular R-4 project.

Ms. Brnabic acknowledged that it went through quite a process before it came before the Commission and that the applicants met the basics. She reminded that it was the Commission's job to give comments and suggestions, and that when something was ready for Planning Commission review, it did not mean there would be a clear-cut approval because a project followed Ordinances and went through a thorough review.

Mr. Maniaci said they asked him to jump so high and he did. If there were something special he was asking, there could be negotiation, but the City wanted the lots to have a 72-foot minimum width and be 9,600 square feet big, and they exceeded that with averaging. He said he did not want to argue, but he reiterated that the City set the regulations and they met them. All the work they put into the project seemed to be going out the door. He stated that he was just trying to present a nice development.

Mr. Reece said he appreciated Mr. Maniaci's frustration, and that he understood the expense a developer went through. He would be interested in seeing some of the other proposals, but if that was not an opportunity, he realized the applicant did not have to save all the trees. He said he was a bit in line with Mr. Hooper in terms of where the development was going. Regarding trying to find a compromise, he asked Mr. Maniaci if he was set on the number of units shown on the plan (48).

Mr. Maniaci said that there were 52 units originally, so there had already been a reduction. Mr. Reece presented that it was a yes or no question, and said he posed it because he felt they could ease people's concerns about green space if they eliminated the turn around at the north end of the site. They could eliminate units 12-16 and turn the street to the west. He wanted to try and work with Mr. Maniaci to come to a compromise.

Mr. Maniaci said that put him in a difficult spot. He said they could eliminate units 15-16, curve the street and move the detention basins closer to the wetlands if he could get conditional approval to go to Council. Mr. Reece asked him what was driving the need to go to Council so quickly. Mr. Maniaci said that it was a financial decision. Mr. Reese noted that he had projects all over the area that had taken from six to 12 months to get before a Planning Commission. He indicated that the City might sometimes seem cumbersome, but the reality was that they were not much different than some of the other communities. Mr. Maniaci said he had a time factor to consider.

Mr. Delacourt reminded that it was the Preliminary stage, and the Planning Commission would see the plan again. The project still had to go through a full construction plan review and Final Plan review before it came back, so there was the possibility of negotiating the number of lots. Council would see the plan after Preliminary also, so the approval could be conditioned upon changing the lots prior to Final Approval. He cautioned that once the Preliminary was approved the applicant was more vested than they were prior to the approval. Chairperson Boswell alerted the Commission to the

fact that when the project came back for Final Approval, their hands would basically be tied. Mr. Delacourt agreed.

Mr. Reece asked the anticipated price point for the units, and was told \$300-350,000.00. Mr. Reece noted the market and the projections for long-term downturn, and asked Mr. Maniaci if he felt it was a viable project. He noted that over the last four months, the Commission had seen three or four extension requests. Mr. Maniaci said they had downsized from the original houses so they could target the empty nesters.

Mr. Dettloff said that given the fact that developers had been asking for extensions, he wondered if there was something Mr. Maniaci knew about current market conditions. He advised that one developer specifically told the commission that the problem was from too much product on the market that was not being absorbed. He asked if the project would be done in phases.

Mr. Maniaci said it would be a one-site development, but they would sell in small sections. It would be an internal phasing, not really a Site Plan phasing. They believed there was a trend for empty nester housing. Mr. Dettloff asked why the site did not meet the requirements to use a PUD.

Mr. Maniaci said they did not meet the five criteria, but he could not list them. Mr. Delacourt said that whether it met the criteria for utilization of the PUD was a Council decision. He and Mr. Maniaci reviewed the criteria and the applicant felt there was not a strong enough argument to go through the long process. The PUD Ordinances stated that a PUD could not be used to avoid the underlying regulations of a zoning district. He noted that there was no actual determination about whether it met the criteria; the applicant decided they could not pursue the process.

Mr. Dettloff asked how the site was different from Oakville Estates near John R and School. Mr. Delacourt said he was not sure it was greatly different. The applicant for Oakville sought a rezoning to RM-1, and also sought a Conditional Rezoning. Oakville proposed an increase in density from the underlying zoning. They did not set out to pursue a PUD, and since Conditional Rezoning was new, it was recommended to the applicant that a PUD would be an option to use. It was clear to the applicant through the long process that he should use a PUD. Mr. Dettloff considered that it was the length of time through the PUD process that potentially bogged down an applicant. He questioned whether the applicant would be receptive to a compromise if the Preliminary Plan were recommended for approval.

Mr. Maniaci said he would be willing to reduce a couple of units in order to go to the next stage. Ms. Brnabic asked Mr. Maniaci if he meant units 12-16, and he corrected that he meant units 15 and 16. Mr. Rizzo said he did not see the benefit in reducing two to four units because they would have the same type of development. The lots were adjacent to wetlands and the golf

course anyway, so it did not make sense to him. Ms. Brnabic pointed out that more trees would be saved. Mr. Reece noted that the Commissioners had asked for more open space, and losing units would be a compromise to get it. Mr. Maniaci asked if the Commission would be happy with units 14-16 and he would turn 13 around, which would make the development 45 units.

Mr. Schroeder referred to the bio-swales, and asked if the units would be individually maintained. Mr. Maniaci said they would be individually owned, but there would be an Association overseeing the maintenance. Mr. Schroeder clarified that the wetlands and ponds would be maintained by the Association, and he asked if the bio-swale could be part of that. Mr. Maniaci advised that the bio-swale was part of the common limited elements, and Mr. Delacourt said they would make sure the Master Deed and By-Laws reflected all restrictions.

Ms. Hardenburg stated that she wanted the applicant to be successful. She asked if each home would be unique or if it would be a cookie-cutter development. Mr. Maniaci said they curbed the streets on purpose so it would help distinguish the houses. There were currently three different floor plans, with each plan having three elevations to choose. Each elevation was as desirable as the first, and there would be nine different elevations. He added that they would not put identical homes next to each other.

Mr. Kaltsounis said that around the City, homes he referred to as "siding monsters" were not selling. He noted the development by Deerfield School, where the homes had considerably more siding than brick and said they were not selling. He could not demand it, but he recommended that the development would be more successful if they used more brick. Mr. Maniaci said that they were targeting people who had been in several homes who knew the differences in homes.

Mr. Kaltsounis asked if the plans would be adjusted before the applicant went to Council (showing a reduction in lots). Mr. Delacourt said that the Commission could request that, or they could request that the plans be revised prior to Final Site Condo review by the Planning Commission. Mr. Kaltsounis thought Council should see a revised plan. Mr. Delacourt reminded that the applicant would go through full construction plan review.

Mr. Kaltsounis brought up the Sanctuary of the Hills east on South Boulevard, and said he fell in love with the entrance and all the trees. Lorna on the Green had that opportunity if they would separate lots from the road. He recalled that the Ordinance required projects to go before a Planning Commission because there were certain intangibles the Ordinance could not address. Mr. Maniaci said he understood that. He asked if the Commission would take a look at the review process to be able to work with developers if they wanted to ask for more flexibility from an applicant. If he had not put so much time and energy into developing the submitted plan, which took very long to get to the Commission, it would not be such a big deal to move the

street two feet. He offered that it would be easier to negotiate if they did not have full engineering plans, and that it would be easier to come to the Commission with a basic layout and tree plan than to give something up after the plan was completely developed. Mr. Kaltsounis agreed with the idea that applicants could come before the Commission earlier in the process, especially with the land left to develop.

Mr. Maniaci suggested that it would be easier to remove the three units across the front of the property. Mr. Kaltsounis liked that idea, stating that he did not care as much about the units in the back. He said he would much rather drive down South Boulevard and see trees. Mr. Rizzo said that with Walnut Brook, many trees were planted by the developer without approvals from the Road Commission, and they were in the roadway setback. Mr. Maniaci said that the bike path would be going through a lot of the trees. Mr. Kaltsounis asked if they had to remove trees now if the bike path and right-of-way were not built for ten years. He suggested that the trees in the first three lots could eventually grow and shield the development.

Mr. Delacourt asked how many trees would be affected. Mr. Kaltsounis said that it looked as if there were a lot of trees in the right-of-way. Mr. Schroeder suggested that the front units could be narrower, noting they were almost 100 feet. Mr. Maniaci said they wanted to show the path meandering through the trees, but City and ADA standards for bike paths would not allow that.

Mr. Kaltsounis said that removing the units in front and having a park would be more usable to everyone. Mr. Delacourt said that with a 30-foot landscape easement, the trees would be protected and there would be supplemental trees planted. It appeared that would provide a lot of trees across the front. Chairperson Boswell noted that units 28 and 48 had a considerable amount of trees on them.

Mr. Kaltsounis thought that the units on South Boulevard would be the last to sell and that units in the back, by the wetland, would fetch a premium and sell first. He did not think unit 28 would be desirable because it would be next to a road. Mr. Maniaci agreed it would be a good park setting. Mr. Reece said he was not in favor of cutting down existing trees to create a park. He believed they were talking about leaving the trees in their natural condition and adding a couple of benches. They would want the mature trees along South Boulevard so some of the character there today was retained. Chairperson Boswell remarked that if unit 48 stayed, the trees would stay, and he would not be as disappointed as he had been. Mr. Maniaci agreed he could eliminate the three units on South Boulevard rather than three in the back. Mr. Reece clarified that it would be units 28, 29 and 48. Mr. Schroeder mentioned that the trees should be reviewed to make sure they were all worthwhile saving. Ms. Hardenburg said they appeared to be nice evergreens. Mr. Kaltsounis moved the motions below. Mr. Delacourt advised that the motion for the Natural Features Setback

Modifications should remain as it was, and that the reference to units would be adjusted per the revised plans.

MOTION by Kaltsounis, seconded by Schroeder, in the matter of City File No. 06-012 (Lorna on the Green Site Condominiums), the Planning Commission **recommends** City Council **approves** the **Preliminary Site Condominium Plan**, based on plans dated received by the Department of Planning and Development on April 12, 2007, with the following five (5) findings and subject to the following nine (9) conditions.

Findings:

1. *Upon compliance with the following conditions, the preliminary plan meets all applicable requirements of the Zoning Ordinance and One-Family Residential Detached Condominiums Ordinance.*
2. *Adequate utilities are available to properly service the proposed development.*
3. *The preliminary plan represents an acceptable comprehensive development plan that connects to South Boulevard.*
4. *The preliminary plan represents a reasonable street layout and lot orientation.*
5. *The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.*

Conditions:

1. *Provide all off-site easements and agreements for approval by the City prior to issuance of a Land Improvement Permit for this project.*
2. *Tree Protection Fencing must be installed, inspected, and approved by the City's Landscape Architect prior to issuance of the Land Improvement Permit for this development.*
3. *Provide a landscape bond for replacement trees and landscaping in the amount of \$147,310.00, which includes \$6,000.00 for irrigation, prior to issuance of a Land Improvement Permit for this development.*
4. *Submit Master Deed and By-Laws for review prior to Final Plan Approval by City Council.*
5. *A soil erosion permit must be obtained by the Oakland County Drain Commissioner, prior to the applicant obtaining a Land Improvement Permit.*

6. *Add a note to the plans that the rain garden/infiltration trench will not drain into the adjacent property in the northeast corner of the site.*
7. *Add silt fencing along the property line within the area of Wetland B, prior to Final Approval by Staff.*
8. *Add silt fencing on the construction side of lots 16, 17 and 18 to protect the Natural Features Setback area from erosion and sedimentation, prior to Final Approval by Staff.*
9. *Remove units 28, 29 and 48 and renumber units on Preliminary Plans prior to going to City Council for review, and make all appropriate modifications (engineering, trees, etc.) related to the reduction of units on the Preliminary Plan prior to Final Site Condominium Plan review by Planning Commission.*

Aye: Boswell, Brnabic, Dettloff, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

3 Planning Commission 07/17/2007 Discussed

Notes: *Memo prepared by Derek Delacourt, dated July 13, 2007 placed on file and by reference becomes part of the record thereof.*

Present for the applicant were Joe Maniaci, Mondrian Properties, 50215 Schooner Shelby Twp., MI 48315 and Paul Nine, Paul L. Nine & Associates, P.C., 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48304-2773.

Mr. Anzek noted that he was sitting in for Mr. Delacourt, who had advised that the applicants wished to present an alternative PUD plan for the 45-unit Lorna on the Green Site Condominium development, which was recommended for approval at the June 5, 2007 Planning Commission meeting. At that meeting, concerns were raised by the Commissioners about the (lack of) open space and trees being saved. Mr. Maniaci listened to those concerns, and decided to use the opportunity to propose a development he believed would better address those concerns.

Mr. Nine, attorney for the applicant, thanked the Commission for allowing them on the agenda on short notice, and indicated that it was a relatively important issue for them. He stated that the Commission had approved the Preliminary Plan for Lorna on the Green, and that they were scheduled for City Council the following evening; however, Mr. Maniaci had detected a desire to see an alternative plan, given the surrounding communities, and he had attempted to react to that. If the alternative plan went forward, he would have to abandon the engineering plans, which were within 10% of being completed, for the Lorna on the Green Site Condominiums. In addition, to redo the plan, the project would be delayed a year, and it would increase the project costs substantially.

Mr. Nine continued that before proceeding to abandon the current project, Mr. Maniaci wished to have as complete input from the Commission as they

could, given that they did not have a lot of detail, and it was only a concept. They would ultimately like answers to three questions: 1) Whether the Commission liked and wanted the new project, and if the answer was yes, they would proceed to the next question, but if the answer was no, they could not take the risk; 2) Whether the City would allow the PUD Ordinance to be applied to the new project, because it would not work without it, and 3) Whether the City would be willing to grant the variances from the underlying zoning, which would be required to make the PUD work. He indicated that those issues would be fundamentally what they would like to discuss, and he asked that the Commission be very candid with them. They would rather know the answers before they had a lot of money invested.

Mr. Maniaci showed a picture of the plan he brought forward on June 5 with 48 units on 28 acres, wetlands, a retention pond and minimal open space. One of the biggest concerns of the Commission was open space and tree preservation. Under the current Ordinances, the Tree Conservation Ordinance did not apply, but they were able to save about 170 trees. After discussion at that meeting, they eliminated three lots on South Boulevard, to save trees, and to provide open space. In total, there would be about two acres of open space for the first plan. The Plan met all the Ordinances, but some of the Commissioners' interpretation was that it was not as harmonious as it could be. He wanted to bring a plan that was, hopefully, more along the lines of what the Commission would like to see for the site.

Mr. Maniaci noted that the proposed concept would tremendously increase the amount of open space, providing more than three times as much, and would more than double the amount of trees saved. The plan was more in tune with what he originally wanted to do when he acquired the property. It proposed detached condominiums, some duplexes and some triplexes, which diversified the product. They believed it would be harmonious next to a golf course. The product type would be geared for an empty nester, be smaller than the previous plan, and be lower priced. The project would have more restrictions as a PUD, and would have more common areas maintained by the association. There would be more green space than in a typical subdivision.

Mr. Maniaci continued that if they were allowed to use a PUD, they would like to be able to reduce the side yard setbacks from 10 feet to 7.5 feet, or 15 feet between units. The front and rear yard setbacks would have to be minimized, but it would still allow for two cars on the driveway above the sidewalk, so there could be walking paths around the site. They would also like to reduce the street easement from 60 to 50 feet, but maintain the concrete pavement at City standards to be public roads. He said he would like feedback from the Commissioners.

Chairperson Boswell referred to Mr. Nine's letter, which said that, in order for his client to consider a change to a PUD, he would need assurance that "a change in personnel would not result in aborting the other understandings

reached." Chairperson Boswell advised that if the Planning Commission and City Council agreed to the plan, it would not be a problem because they would have agreed to a PUD. If there were personnel changes, however, he could not speak for someone else.

Mr. Nine said that the intent of that statement was that if the Commission was divided about the proposal, it would be a no to his client. They would not want to be faced with a closely divided board if one or two people on the board, who had been in favor of the PUD, changed. He stressed that it was a very high-risk decision from Mr. Maniaci's point of view.

Chairperson Boswell thought that the first thing they should decide was whether they liked the idea of a PUD as opposed to the original site condominium plan as modified, or whether they did not even want to entertain the idea.

Ms. Brnabic said that personally, she did not care to entertain the idea. She realized they expressed concern about open space and tree preservation, but she thought they had worked it out satisfactorily. She was not quite sure the proposal would hit the elements. It would provide additional open space, but if she had a vision for improving the site, it would not be duplexes or triplexes.

Mr. Yukon said that he had reviewed the June 5 Minutes, and the applicant said that the site did not qualify for use of a PUD. He asked if that statement was based on the original plan.

Mr. Anzek said that in order to use a PUD, there were qualifying factors, and from the current PUD Ordinance those included preserving natural features, open space or other desirable features; guaranteeing the provision of public improvement; promoting the goals and objectives of the Master Land Use Plan; preserving historic sites; establishing land use patterns that are compatible; providing uses to transition to residential areas; and enhancing the aesthetic appearance of the City through quality building design and site development. He said that it was the Planning Commission's judgment call to see whether the site met the PUD criteria. He mentioned that the City Engineer would have to review the roadways and utilities in a 50-foot right-of-way.

Mr. Yukon said he was concerned about making a decision from looking at a conceptual site plan.

Mr. Maniaci said they were not asking for an official decision, but more of an indication of whether a PUD would be a way to proceed. He said he would be perfectly happy developing the existing plan, but he thought that, as someone who liked to do different things, he would come back with something innovative. He reminded that the Commission badgered him for over an hour and a half at the June 5 meeting, and he thought it would be

wrong not to come back and without at least asking, and so he could say he gave it his best try.

Mr. Yukon explained he brought it up because the memo from Mr. Delacourt said that if the Planning Commission preferred the PUD option, the applicant would also present it to City Council the following night. Mr. Yukon was trying to understand where the Commission stood about the issue, but he said he tended to agree with Ms. Brnabic that the site did not meet the PUD criteria.

Mr. Kaltsounis said he shared some of the same sentiments mentioned, and said that if they used a similar PUD with some of the infill developments left in the City, they would have to decide what was a significant amount of open space saved. He did not think that would be in the proposal, and he said he liked what they had worked out for the first plan. He would be concerned with the density of the PUD and what that would add to the area. When updating the Master Land Use Plan, they discussed areas they wanted to see as Mixed-Residential, and most were around Hamlin and Livernois because they needed to have fewer curb cuts and because of other developmental issues. They wanted to spur that type of (mixed-residential) development while keeping the underlying zoning density. That was not specified for the subject area in the Master Land Use Plan, and he cautioned that decisions the Commission made today could affect them in the future. He stated that he liked what they had approved previously.

Mr. Nine related that the concept plan did meet the density requirements and was less than the requirements. Mr. Maniaci explained that the reason for the increase in density was to offset the cost for the year delay it would take to get everything approved. Mr. Kaltsounis said that he understood that, but he cautioned that decisions made about street widths and setbacks was something the Commission would have to live with for a long time. He was leery of changing something viable that they had worked out. Mr. Maniaci recalled that at the beginning of the June 5 meeting the Commission did not like his plan at all. That was why he came back. He believed that the concept was the direction the Commission wanted to go, but it seemed that obviously, it was not. He reiterated that he was perfectly happy with the other plan, and said he would not even bring it up at the Council meeting.

Mr. Hooper said it was an interesting discussion. The property was zoned and Master Planned R-4, and at the previous meeting, Mr. Maniaci presented R-2 zoning and several members disliked the plan. Mr. Hooper said he did not quite understand that, because he knew Mr. Maniaci was allowed to develop as R-4. Mr. Maniaci came back and presented an R-4 development with more open space and more trees, exactly what members had been looking for, and members did not like it either. He said he personally liked the concept. He thought that the concept was similar to the Lorna Stone development at South Boulevard and Adams (also done by Mr. Maniaci). Lorna Stone had a historic home, and they were developing a PUD with a

park-like setting. He said it would hopefully get under way soon. Mr. Maniaci advised that they were on their third or fourth review with Engineering.

Mr. Nine said he felt that illustrated why Mr. Maniaci was there. He intended to do more business in the City, hopefully, and wanted people to know he was accommodating and would try and meet everyone halfway. Mr. Hooper felt he went beyond the call of duty at the last meeting. He would be happy with a regular subdivision, but he personally liked more open space and the park setting. He felt the housing trend would be geared more toward empty nester homes than single-family homes in the next five years. He concluded that he would be happy with either plan.

Chairperson Boswell agreed with Mr. Hooper, and said he really liked the plan. He thanked Mr. Maniaci for bringing it forward and giving the Commission the opportunity to review it. He wondered about meeting the criteria for a PUD, but he was surprised to hear the lack of enthusiasm toward the plan, and that people did want to change the original plan.

Mr. Reece said he thought it was a good plan for the most part. Some areas needed improvement, but the 35-foot setback on the east side met the intent of the Ordinance. He would not want to live next to someone with a 15-foot setback, but he commented that the buyer had to beware in that situation. He said he needed to better understand the ramifications of the road easement. He appreciated the effort Mr. Maniaci made, and he felt the proposal met the areas of concern the Commission talked about - saving trees and increasing green space. He felt it was a little overly dense. He thought the applicant was very frustrated and somewhat bitter. Mr. Maniaci agreed he was frustrated. Mr. Reece said he had done work in the City, but he was struggling with why it was taking Mr. Maniaci a year to get through the approval process. As the Commission said in the past, if an applicant talked with the neighbors, they usually had a better opportunity to get their approval. He wondered if his consultants were doing him an injustice in how they were dealing with the City. He realized that it sometimes took awhile to get approval from certain departments, but he found it hard to believe it took a year. He thought there was a breakdown in the process and something that could be done to improve it. Regarding whether or not the site would qualify for a PUD, he said he would defer to Mr. Anzek's judgment, but he applauded Mr. Maniaci. He thought the plan addressed, to a great extent, the sentiment of the Commission. He liked an opportunity to save trees and add green space that they were not going to get with the previous plan.

Ms. Hardenburg said she liked the plan at first glance, but she wondered if the colored rendering swayed her decision. If the previous plan had been colored, she thought it would look good also. Mr. Maniaci said that the black and white rendering was a true representation of a subdivision because the homeowners would have full control over their units. To say it would be green would not be justified. He could have drawn it all in colors, but he did

not know who would put a shed in their backyard, or who would add a trailer on the side of their house. Conceptually, he could have made it look prettier, and he suggested that they were not really of equal quality, but the concept drawing was truer of what would be on the site of a condo development. It would be green where it was shown as green. Most of the area was under the control of the association, and would always be maintained. One neighbor might not cut his grass, for example. The only area truly in color in the subdivision would be the wetlands and the retention pond. He said he loved the different look of the concept plan, and would love to do something new and different, but he could make do with what he had to work with, which currently was zoned R-4. He thought the Commission wanted to see something more like the conceptual plan, but he would be happy to go forward with the original plan.

Mr. Schroeder stated that the road right-of-way absolutely had to be 60 feet. He suggested that they could have a 50-foot dedicated right-of-way with a five-foot easement on either side of the roadway for all public purposes, which would end up as a 60-foot right-of-way. The setback would be from the 50-foot limit.

Regarding the plans, Mr. Schroeder said that he thought the proposal would better fit the needs of the public. He was concerned it would not meet the PUD requirements, and if that were the case, they would have to go along with the approved plan.

Ms. Hardenburg said that Mr. Maniaci mentioned that the homes would be less expensive. Mr. Maniaci said they would be a little bit less because of the density increase, and because costs for the overall development would be lower. There would be the same amount of pavement in both sites, which would get spread over the density. Ms. Hardenburg asked the price range. Mr. Maniaci said that the homes in the original plan would be about \$300-350,000.00, and for the proposal they would be \$275-325,000.00. Ms. Hardenburg still questioned whether it would qualify as a PUD.

Mr. Anzek said that had to be determined. He suggested that the PUD Ordinance could possibly be amended during the Ordinance rewrite to allow more flexible housing types. He referred to the length of time it took to get through the approval process, and said that the City required a high level of detail before it came to the Planning Commission. He recalled the discussion with the Commission about having their input earlier in the process, and said he thought that would be very valuable. He thought Mr. Maniaci raised good points about a condo development because standards would get applied to the entire site - it would be mowed the same day and the landscaping would be maintained the same way. There would be empty nesters much more than families. He indicated that both were viable plans, and that Staff liked the concept as well, especially with more open space, but he reminded it was the Commission's judgment call. He liked the PUD; he had to find provisions on which to stand firmly.

Mr. Kaltsounis recalled that when Mr. Maniaci brought Lorna Stone forward, it showed the houses closer together, but it ended up with setbacks similar to an R-4, and they found a happy medium. With the proposed concept, he thought the homes looked like those in other developments that were not selling. He wondered if they considered that, noting that the Forester Square setbacks were five feet, and that it had turned into a nightmare because they were allowed too much density.

Mr. Maniaci responded that the setbacks were the same as those in Lorna Stone, and that a lot of the concept was modeled after that development. Also, some units were farther away from each other than 15 feet and would not appear to be on top of each other. He added that they kept reducing the density in Lorna Stone. Originally, the plans showed over 300 units, and the PUD allowed 175, and they were well below that.

Mr. Kaltsounis said they changed that development based on the market. The City's Ordinances were very black and white, it seemed, but the Commission tried to work out the gray areas.

Mr. Nine indicated that a typical PUD Ordinance had a lot of flexibility. The discussion seemed to be interpreting it far more strictly than he was used to hearing from many other cities. Governing bodies interpreted their own PUD Ordinances to be significantly more flexible, and they were concerned about that. He related that Mr. Maniaci had been selling as many units in other cities as when the economy was good, which said something about his ability to judge what the market needed and what looked good. He felt the City would be proud to be his neighbor. He added that Mr. Maniaci really liked the new plan much better, but said he could not take the risk because of how the Commission viewed it.

Mr. Hooper stated that the only thing that would apply under the PUD would be the increased open space. Lorna Stone had a historic home, and Oakville Estates at School and John R had differing housing types and open space. Mr. Anzek thought they could discuss with Council whether the housing for empty nesters would qualify for the concept PUD.

Mr. Maniaci said the homes would be mostly ranch style, single-family homes or attached units with a first floor master and possibly a bedroom upstairs.

Mr. Nine stated that conceptually, the Ordinance seemed to anticipate exactly what was proposed. He read, "The PUD option permits flexibility in regulation land development by encouraging innovation through an overall development plan, to provide variety in design layout; to encourage the creation of open spaces; to provide appropriate housing. It is used to permit densities or lot sizes that are different from that of the applicable district. It is further intended that the development will be laid out so the various land uses and building bulk will relate to each other." He felt they would end up

with more views over the golf course with scenarios like the new plan than were in the old plan. He stated that when someone read those backgrounds and then looked at the specific criteria and applied it, that was what meant when he said other political jurisdictions read those two together, not strictly the criteria without regard to what the purpose of the criteria was. As a lawyer, he would have no problem going into to court to defend something that met the criteria if there was an objection. He explained that was a different issue then asking if the City wanted to have the proposal enough to say it met the general criteria. That was the issue they were afraid of.

Mr. Anzek said that several Commissioners mentioned concern about the plan meeting the qualifying conditions. He wanted to know their thoughts about the proposal. Chairperson Boswell said at that point, he showed that five people liked the plan better than the old plan.

Ms. Brnabic said that she liked the fact that the plan provided additional open space, but it also created more density in the development. Mr. Anzek reminded that empty nester housing would generate about half as many trips as single-family homes would. The Commission had to decide whether they would support the homes at 15-feet apart and if the Commission supported the lifestyle and housing style.

Mr. Nine said that from a tax service point of view, the proposal was a better plan than the original with regards to burdens on the schools and would cost the government less.

Mr. Hooper commented that he lived 14 feet from his neighbors and that his neighborhood was zoned R-4. He did not have an issue with it, and he had lived there for 20 years. He said that matter should not be an overriding concern.

Chairperson Boswell stated that Mr. Maniaci was looking for direction. Mr. Maniaci said they would take it to Council the next night to see where their indications were. As long as he was not stepping on anyone's toes, he would give it his wholehearted try. Chairperson Boswell said he would personally love to see what Council had to say about the plan. He thought Mr. Maniaci could say that the major concern with the Commission was not the site, but was whether it met the warrants for a PUD.

Mr. Dettloff thanked the applicant for bringing the plan forward. He thought it was the direction he would like the City to go. From a market standpoint and product not being absorbed, he thought the price point and the amenities of the second plan was pretty cool.

Mr. Kaltsounis said that he did not have a problem with the overall concept, but there were details, such as the 50-foot right-of-way, that were a concern. If Staff said they would not allow that, it would affect the development such that they might wish they had not gone down that road. He did not have a

problem with the open space, and the density was questionable, but the underlying details could make or break the deal. He suggested they do the due process to try and work everything out.

Mr. Nine advised that the problems with the road width was being solved for Lorna Stone, and Engineering was allowing a 50-foot wide road with easements. Mr. Kaltsounis said they had to find out whether it would work, because it was just on paper.

Mr. Reece asked if they would consider eliminating the two triplexes and converting them to duplexes and reducing the density by two. Mr. Maniaci said that he could not at that point, and that he was just trying to see if the Commission liked the conceptual plan. Mr. Reece said he liked it, but he would like to see the triplexes go to two, which could be sold for more money and still come out equal. Mr. Maniaci agreed there would be negotiations with a PUD.

Chairperson Boswell indicated that the consensus of the Commission was that they liked the PUD plan better, but they were not sure if a PUD could be justified. If Mr. Maniaci was willing to make the argument in front of Council and they loved it that would be good. There was some worry about the 50-foot right-of-way with five-foot easements. Mr. Schroeder said that if the utility company needed more room in the development, another private easement could be given. Mr. Maniaci added that the easement issue would not be affected as much with a condo as with a single-family home.

Mr. Reece asked if the units would be all brick. Mr. Maniaci said they would be decorated brick on four sides. There would be architectural accents and some siding, to break up the elevation. Mr. Kaltsounis mentioned another subdivision with four-foot brick in the front only that had not built out yet. Mr. Maniaci suggested that the Commissioners were more than welcome to view his other developments, and he mentioned a couple, including one at 17 Mile and Crooks.

Ms. Brnabic asked if there would be a draft of the Minutes for tomorrow's Council meeting. She thought the issue of meeting the requirements for a PUD was a big concern. She had talked with people in the City who had been upset that developers could build anything by using a PUD. She wanted to make sure the proposal met the elements of the PUD Ordinance so she could explain how the system worked.

Mr. Boswell pointed out the plan before the Commission had more greenspace and was saving more trees. He commented the density at 60 was less than it could be.

Ms. Brnabic thought the plan should meet four out of the five requirements for a PUD, and the Commission indicated it met one or two. She noted the Commission's previous concern about the surrounding area and what was

already there, along with the discussion about building to R-1 standards in an R-4 zoning district. She stated she was not totally against the concept of the plan, but had a problem with certain areas, which she had mentioned. She stated her big concern with if it met the requirements of the PUD, and suggested the meeting minutes be included with any documentation provided to Council so Council would be aware of the conversation held by the Commission, along with the concerns, the pluses, and what the Commission liked and did not like.

Mr. Hooper said he would be at the Council meeting, and he would present that it was a split Commission. He would present both sides of the arguments and see where it went. Ms. Brnabic said she knew he would present it well, but noted she had been asked about this process, and she would not be as concerned about not having a draft of the Minutes included in the Council documentation.

Mr. Anzek advised the Commission that it was Mr. Hooper's role as the Council appointed representative. He said that PUDs were intended to be to the City's benefit. It was the City's way of getting something more and something better than what it would under the general zoning practices. He also expressed concern in hearing people say the City gave something away with a PUD, which not accurate. Rather, the City was getting something different, or something better, so something that served the Community. He noted every PUD the Commission had reviewed, they had worked very hard with the applicant on the specifics.

Ms. Brnabic said that was what she explained to citizens about the benefits to the Community and what was involved. Mr. Anzek said that through three Master Plans, there had been very strong policies about creating affordable and different lifestyles to meet the evolving markets. There had been nothing done so far in the Zoning Ordinance to reflect that, and the only tool the City had was the PUD. Ms. Brnabic agreed and noted she always had supported affordable, well-designed developments that met the needs of the Community.

Mr. Anzek agreed the use of the PUD tool was not understood. He thought when the final products were done, the City was doing a good job with the PUDs. He pointed out there was great opportunity in these types of developments and it was a lifestyle many were moving toward.

Mr. Nine said in listening to the counteractionn, he was not sure about the outcome, and asked, if criteria were not an issue, if they could see who would be in favor of the new plan. He thought it would not be a difficult task to defend meeting the criteria. He noted the real issue was the Commission's choice of the plans, without being encumbered by the criteria issue. He felt it would really help Mr. Maniaci immensely if they knew for sure. If it was five to four, they would not risk it, but if the Commission preferred the PUD plan, it would be a different issue.

Chairperson Boswell called for an informal straw vote, stating that he strongly favored the PUD Plan. Each Commissioner voted for the PUD plan. Ms. Brnabic said that if it could meet the requirements - and she mentioned there were concerns that had to be worked out, including density - she would be willing to look at it. Mr. Yukon said he would be in favor if it met the criteria. Mr. Hooper stated that it was 9-0 in favor.

Chairperson Boswell said it was 9-0 for the proposed plan before them tonight, and he thanked the applicants for bringing in the plan. He did not like the layout of the original plan, which he thought looked like every other subdivision in town. He did think the original plan was greatly improved by removing the three front lots and saving trees, but he liked the concept plan even better.

Mr. Nine thanked the Commission for being candid and talking it through and said it helped a lot. Mr. Maniaci said they would do their best at the Council meeting.

Text of Legislative File 2006-0764

..Title

Request for Approval of Preliminary Site Condominium Plan - Lorna on the Green, a proposed 45-unit site condominium development on approximately 20 acres, located on South Boulevard between Crooks and Adams, zoned R-4, One Family Residential, Mondrian Properties Lorna on the Green, LLC, applicant.

..Body

Proposed Resolution to be considered at the 08/08/07 Regular City Council Meeting

Resolved, that the Rochester Hills City Council hereby approves the Preliminary Site Condominium Plan for Lorna on the Green, City File No. 06-012, a 45-unit site condominium development on 20 acres located on South Boulevard between Crooks and Adams, Parcel Nos. 15-32-300-007, -008, -009 and -010, based on plans dated received by the Department of Planning and Development on April 12, 2007, with the following findings and subject to the following conditions.

Findings:

1. Upon compliance with the following conditions, the preliminary plan meets all applicable requirements of the Zoning Ordinance and One-Family Residential Detached Condominiums Ordinance.
2. Adequate utilities are available to properly service the proposed development.
3. The preliminary plan represents an acceptable comprehensive development plan that connects to South Boulevard.

4. The preliminary plan represents a reasonable street layout and lot orientation.
5. The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.

Conditions:

1. Provide all off-site easements and agreements for approval by the City prior to issuance of a Land Improvement Permit for this project.
2. Tree Protection Fencing must be installed, inspected, and approved by the City's Landscape Architect prior to issuance of the Land Improvement Permit for this development.
3. Provide a landscape bond for replacement trees and landscaping in the amount of \$147,310.00, which includes \$6,000.00 for irrigation, prior to issuance of a Land Improvement Permit for this development.
4. Submit Master Deed and By-Laws for review prior to Final Plan Approval by City Council.
5. A soil erosion permit must be obtained by the Oakland County Drain Commissioner, prior to the applicant obtaining a Land Improvement Permit.
6. Add a note to the plans that the rain garden/infiltration trench will not drain into the adjacent property in the northeast corner of the site.
7. Add silt fencing along the property line within the area of Wetland B, prior to Final Approval by Staff.
8. Add silt fencing on the construction side of lots 16, 17 and 18 to protect the Natural Features Setback area from erosion and sedimentation, prior to Final Approval by Staff.