

**City of Rochester Hills
Department of Planning and Development**

**STAFF REPORT TO THE PLANNING COMMISSION
January 28, 2005**

Grace Parc Subdivision	
APPLICANT	Grace Street Development, Inc. 47858 Van Dyke, Suite 410 Shelby Twp., MI 48317
AGENT	Franco Mancini
LOCATION	North of South Boulevard between Rochester & Livernois Roads
PARCEL NOS.	15-34-402-035 & -057
FILE NO.	04-011
ZONING	R-4 (One Family Residential) District
STAFF	Deborah Millhouse, AICP, Deputy Director
REQUESTS	Tree Removal Permit Tentative Approval of Preliminary Plat Recommendation

SUMMARY

The above referenced project involves a fifteen-lot single-family subdivision on 5.958 acres. The proposed Grace Parc Subdivision is located north of Grace Avenue and south of McComb. The development includes a connection between these two roadways and a stub street to the west. All of the proposed lots front on the proposed internal street system.

Specific actions requested for consideration by the Planning Commission are a tree removal permit and a tentative approval of the preliminary plat recommendation to City Council.

TREE REMOVAL PERMIT

The development is proposing to preserve 18 (37.5 percent) of the 48 regulated trees on-site. Replacement of the 30 regulated trees to be removed includes the planting of 19 replacement trees (i.e., all of the required tree credits) on-site. Since the proposed removal and replacement of regulated trees on-site is in conformance with the Tree Conservation Ordinance, the following preprinted motion is included for your consideration.

MOTION by _____, seconded by _____, in the matter of City File No. 04-011 (Grace Parc Subdivision), the Planning Commission **grants a Tree Removal Permit**, based on plans dated received by the Planning Department on January 21, 2005, with the following findings and subject to the following conditions.

FINDINGS:

1. The proposed removal and replacement of regulated trees on-site is in conformance with the Tree Conservation Ordinance.
2. The applicant is proposing to preserve 37.5 percent of regulated trees on-site.
3. The applicant is proposing to replace as many as 30 regulated trees with 19 replacement trees (i.e., 31.5 replacement tree credits) on-site.

CONDITIONS:

1. Delete the “Tree Inventory” and “Tree Summary” charts from Sheet 5 of 5.
2. Specify tree #3255 as preserved and protected with tree protective fencing on both Sheets 4 of 5 and 5 of 5.
3. Add a note to the preliminary plat indicating that tree protective fencing must be in place, inspected, and approved by the City’s Landscape Architect prior to issuance of a Land Improvement Permit for this development.
4. Provision of a performance guarantee in the amount of \$8,137.50, as adjusted if necessary by the City, to ensure the proper installation of replacement trees. Such guarantee to be provided by the applicant prior to issuance of a Land Improvement Permit.

PRELIMINARY PLAT

The applicant is utilizing the lot size variations option permitted by Section 138-1112 of the City’s Zoning Ordinance. This option allows lots to have an area and width not greater than 10 percent below that required by the R-4 zoning district. In other words, each lot must be at least 8,640 square feet in area and have a width at the minimum front setback of at least 72 feet for internal lots and 92 feet for corner lots. All proposed lots meet or exceed these minimum requirements. Also, the average lot size of 11, 871.73 square feet far exceeds the minimum requirement of 9,600 square feet. Further, the 2.5 lots per acre density is less than the maximum of 3.4 lots per acre permitted by the lot size variations option.

In addition to the 15 lots, a detention basin and small open space area are being created and will be owned by the homeowners association.

Private Road Maintenance Agreement

This project is unusual in that McComb is a public street, as is Grace Avenue between Hazelton and the eastern property line of the subject site. However the remainder of Grace Avenue is a private road and subject to a Maintenance Agreement recorded in 1983.

When staff questioned the ability to access the proposed subdivision from Grace Avenue, the applicant's attorney provided a copy of the Maintenance Agreement and noted in his June 8, 2004 letter (as attached) that there is nothing in the Private Road Agreement which would prevent the new parcel or subdivided parcels from having access to Grace Street.

The City Attorney reviewed this document and provided staff with the following comments included in our attached letter dated August 16, 2004. Since the entire proposed development site is within the area covered by the Private Road Maintenance Agreement, the developer probably has the right to access the private portion of Grace Street from the new subdivision he proposes to develop. However, whether the developer can connect Grace Parc Subdivision to the private portion of Grace Street is not a binding determination that the City can make.

Rather, the private street is governed by a private easement, and access rights are to be determined by the easement holders. If there is a dispute among the easement holders, including the proposed developer, over the proposed developer's right to access Grace Street from his proposed development, it will be necessary for those parties to resolve the issue through further agreement, litigation or other means.

Landscape Comments

In her memorandum dated January 26, 2005, the City's Landscape Architect notes that all trees on adjacent properties must be classified as protected trees and be protected with tree protective fencing. Grading or digging is not permitted within the dripline of a tree designated for preservation. To avoid digging within the dripline of trees on adjacent properties, it may be necessary to relocate the storm drain lines further away from the adjacent properties. Two conditions of approval have been included in the first preprinted motion relative to these comments.

Planning Comments

At the request of Engineering Services, the radius of the "eyebrow" connecting Verona and Milano Drives was reduced on the preliminary plat dated received January 21, 2005. Since each internal lot must have a width of at least 72 feet measured at the two points where the minimum

front setback intersects the side lot lines, a condition of approval has been added to the first preprinted motion to require compliance with this minimum requirement, in a manner similar to the attached Apex Engineering Group fax dated January 24, 2005 and as approved by staff.

Two additional conditions have been added relative to the width of lot 10 and consistency between the Proposed Lot Averaging Table and the lot width dimensions for lots 9 and 10.

Since the portion of Grace Avenue contained within the subject site is to remain private, a note is being requested indicating that the applicant and subsequently the Grace Parc Subdivision homeowners association will be responsible for repair of and maintenance to the private portion of Grace Avenue. Further, the City of Rochester Hills will be held harmless for any such repair and/or maintenance costs.

Grace Street was correctly labeled as Grace Ave. in six of the 12 places it appears on the preliminary plat. The final condition in the first preprinted motion is to reference Grace "Ave" wherever it appears on all sheets of the preliminary plat in accordance with the City's Street Naming Standards.

Surveying Comments

In his review dated January 12, 2005, the City's Survey Technician noted the following:

- The radius and taper shown at the west side of the south end of Milano Drive encroaches on the adjacent property. The proposed improvements would block access to almost half the frontage of this lot. A survey of this property would show this as a major encroachment and would likely cause serious problems should the property be sold. The applicant is encouraged to supply the proper easements at the earliest possible date. A condition of approval has been added indicating that the applicant will supply the proper easements to the City for review and approval prior to issuance of a Land Improvement Permit.
- A separate parcel for the road should be created and owned by the homeowners association. This would facilitate transferring title if at a future date Grace Avenue is extended across the existing easements as a public road. This parcel should be designated an outlot for roadway and utility purposes. A note so stating has been included on the preliminary plat.
- The preliminary plat should be submitted to the State for review. Although Section 122-267(b)(6) of the City's Subdivisions Ordinance prohibits half streets, it is staff's opinion that Grace Avenue is an existing private street. As such, the south end of the project is half of a street and would not be considered a half street. However, if considered a half street by the State and the plat is rejected, it would be well to know this before the applicant makes significant expenditures. This recommendation has not been included as a condition of approval but is noted for the benefit of the applicant.

Compliance Criteria

Section 122-155(b) of the City's Subdivisions Ordinance states that tentative approval of the preliminary plat shall be based upon compliance with the following:

1. Applicable sections and regulations of this Code.
2. Availability and adequacy of utilities.
3. An acceptable comprehensive development plan.
4. A reasonable street and lot layout and orientation.
5. An environmental plan showing no substantially harmful effects.

Based on the review comments and information included in this report or contained within the attached, it is staff's opinion that:

- Upon compliance with stated conditions, the preliminary plat meets all applicable requirements of the Zoning Ordinance and Subdivisions Ordinance;
- Adequate utilities are available to properly service the proposed development; and,
- The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.

Relative to the other two criteria, the applicant's professional submitted several drawings (as attached) indicating potential future development to the west. Three of these layouts involve extension of the stub street at its proposed location.

In regards to the street layout, staff has discussed alternative designs with the applicant. Also, we asked in our review letter of September 13, 2004 that the applicant submit design concept sketches for the subject site and the reason why this scheme was chosen. The applicant's attorney responded in his October 28, 2004 letter that different design alternatives were discussed. Access to Grace Street and a connection to McComb has always been proposed. The only alternative sketch or design was the placement of the stub street to the west. The proposed layout was chosen, as it works best for his client and the City, and provides good traffic control with connection to abutting properties.

If the Planning Commission determines that the proposed development is in compliance with the above-referenced criteria, the following preprinted motion is included for the your consideration.

MOTION by _____, seconded by _____, in the matter of City File No. 04-011 (Grace Parc Subdivision), the Planning Commission **recommends** City Council **grant tentative approval** of the **preliminary plat**, based on plans dated received by the Planning Department on January 21, 2005, with the following findings and subject to the following condition.

FINDINGS:

1. Upon compliance with the following conditions, the preliminary plat meets all applicable requirements of the Zoning Ordinance and Subdivisions Ordinance.
2. Adequate utilities are available to properly service the proposed development.
3. The preliminary plat represents an acceptable comprehensive plan for future development to the west.
4. The preliminary plat represents a reasonable street and lot layout and orientation.
5. The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.

CONDITIONS:

1. Show trees on adjacent properties and tree protective fencing at the dripline of off-site trees, if applicable and as approved by staff.
2. If necessary, relocate the storm drain lines further away from the adjacent properties to avoid any grading, digging, trenching or boring within the dripline of trees located on adjacent properties, as approved by staff.
3. Modify lots 5 through 8 to provide a width of at least 72 feet measured at the two points where the minimum front setback intersects the side lot lines, in a manner similar to the attached Apex Engineering Group fax dated January 24, 2005 and as approved by staff.
4. Measure the width of lot 10 at the two points where the minimum front setback intersects the side lot lines.
5. Correct Proposed Lot Averaging Table to accurately reflect the lot width dimensions for lots 9 and 10.
6. Add a note indicating that the applicant and subsequently the Grace Parc Subdivision homeowners association will be responsible for repair of and maintenance to the private portion of Grace Avenue. Further, the City of Rochester Hills will be held harmless for any such repair and/or maintenance costs.

7. Add a note indicating that the applicant will supply the proper easements relative to encroachment of the radius and taper at the south end of Milano Drive on the adjacent property to the west. Such easements to be submitted by the applicant to the City for review and approval prior to issuance of a Land Improvement Permit.
8. Refer to Grace "Ave" on all sheets of the preliminary plat.

If the Planning Commission determines that the proposed development is not in compliance with the above-referenced criteria, the following preprinted motion is included for the your consideration. Also, the minutes of the meeting will need to specify the reasons for disapproval.

MOTION by _____, seconded by _____, in the matter of City File No. 04-011 (Grace Parc Subdivision), the Planning Commission **recommends** City Council **disapprove** the **tentative approval** of the **preliminary plat**, based on plans dated received by the Planning Department on January 21, 2005.

Reference: Plans dated received by the Planning Department January 21, 2005 (Sheets 1 of 5 thru 5 of 5 and 1 of 1 prepared by Apex Engineering Group Inc.).

Attachments: Apex Engineering Group fax dated 01/24/05; Tree Removal Permit notice; Kalas Kadian, P.L.C. letter dated 06/08/04; Department of Planning and Development letter dated 08/16/04; Assessing Department memorandum dated 05/25/04; Building Department memorandum dated 05/06/04; Fire Department memorandum dated 11/11/04; Parks and Forestry memorandum dated 11/12/04; Planning Department memoranda dated 01/25/05, 01/26/05; Public Services memoranda dated 01/12/05, 01/25/05, 01/26/05; Oakland County Drain Commissioner letter dated 05/13/04; Applied Science & Technology letter dated 05/28/04; Development Application dated 04/29/04; Environmental Impact Statement dated revised 10/04; Warranty Deeds dated 11/25/03, 06/01/04; and, Apex Engineering Group drawings (6) dated received 08/10/04.
