

**A motion was made by Brnabic, seconded by Yukon, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion CARRIED by the following vote:**

**Aye** 7 - Boswell, Brnabic, Hetrick, Hooper, Reece, Schroeder and Yukon

**Absent** 2 - Dettloff and Kaltsounis

2007-0221

Request for Recommendation of an additional Extension of the Tentative Preliminary Plat, for Grace Parc, City File #04-011, a 16-lot subdivision located north of South Boulevard between Livernois and Rochester Roads, zoned R-4, Parcel Nos. 15-34-402-035 & -057, Grace Street Development, applicant.

(Reference: Memo prepared by Ed Anzek, dated February 25, 2010 had been placed on file and by reference became part of the record thereof.)

Mr. Delacourt presented the request for extension. Due to the economy, staff has seen many more requests for extensions. The Planning Commission and City Council requested a policy be written to guide the review of extension requests. That policy has been established. The applicant has met all the requirements for the extension regarding taxes, understands that some of the standards have changed, and has agreed during the next review, that the plat will be evaluated against the updated standards. If the new standards require significant changes to the plat, the applicant also understands that revised tentative preliminary plat approval may be required. Mr. Delacourt confirmed the plat is still in good standing and that staff is proposing the extension be recommended for approval through April 20, 2011. Mr. Delacourt asked if there were any questions.

Present for the applicant was William Mosher, Apex Engineering, 560 Whims Lane, Rochester, MI 48306. Mr. Mosher indicated the owner will continue working with the Engineering and Planning Departments to assure that the new requirements are met once the extension is granted. Mr. Mancini is no longer involved with the project.

Chairperson Boswell asked what changes might be necessary because of the new requirements, to which Mr. Delacourt explained the most significant potential is the retention basin volume and discharge.

**MOTION** by Schroeder, seconded by Reece, in the matter of City File #04-011 (Grace Parc Subdivision), the Planning Commission recommends that City Council approve an Extension of the Tentative Preliminary Plat until April 20, 2011.

**A motion was made by Schroeder, seconded by Reece, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion CARRIED by the following vote:**

**Aye** 7 - Boswell, Brnabic, Hetrick, Hooper, Reece, Schroeder and Yukon

**Absent** 2 - Dettloff and Kaltsounis

## NEW BUSINESS

2010-0109

Request for review and recommendation of the Historic Districts Study Committee Report for Stiles School, 3976 S. Livernois Road, located at the



# Rochester Hills

## Minutes

### Planning Commission

1000 Rochester Hills Dr.  
Rochester Hills, MI  
48309  
(248) 656-4600  
Home Page:  
www.rochesterhills.org

*Chairperson William Boswell, Vice Chairperson Deborah Brnabic*  
*Members: Gerard Dettloff, Greg Hooper, Nicholas O. Kaltsounis, Nathan Klomp, David A. Reece, C. Neall Schroeder, Emmet Yukon*

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Tuesday, April 21, 2009

7:30 PM

1000 Rochester Hills Drive

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#### CALL TO ORDER

Chairperson William Boswell called the Regular Meeting to order at 7:30 p.m. in the Auditorium.

#### ROLL CALL

**Present** 9 - William Boswell, Deborah Brnabic, Gerard Dettloff, Greg Hooper, Nicholas Kaltsounis, Nathan Klomp, David Reece, C. Neall Schroeder and Emmet Yukon

#### APPROVAL OF MINUTES

2009-0147 February 17, 2009 Regular Meeting

A motion was made by Schroeder, seconded by Klomp, that this matter be Approved as Presented.

The motion CARRIED by the following vote:

**Aye** 8 - Boswell, Brnabic, Dettloff, Hooper, Kaltsounis, Klomp, Schroeder and Yukon

**Abstain** 1 - Reece

#### COMMUNICATIONS

- A) Letter from First State Bank, dated April 21, 2009 re: Grace Parc
- B) Planning & Zoning News (2) dated February and March, 2009

#### NEW BUSINESS

2007-0221 Request for Recommendation of an additional Extension of the Tentative Preliminary Plat, until April 20, 2010, for Grace Parc, a 16-lot subdivision located north of South Boulevard between Livernois and Rochester Roads, zoned R-4, Grace Street Development, applicant.

*(Reference: Memo prepared by Ed Anzek, dated April 17, 2009 had been placed on file and by reference became part*

*of the record thereof.)*

*Present for the applicant was Franco Mancini, Grace Street Development, 47858 Van Dyke, Suite 410, Shelby Township, MI 48317.*

*Mr. Mancini introduced himself as the applicant present on behalf of Grace Street Development and First State Bank, 24300 Little Mack, St. Clair Shores, MI 48080.*

*Mr. Anzek advised that the request was for a fourth Extension of the Tentative Preliminary Plat. It was brought to his attention late in the day that the property was foreclosed upon in October 2008. Staff was not aware of that, and he contacted Mr. Mancini immediately, and it was confirmed. Mr. Mancini told him that the bank permitted him to go forward with the approval process, and to keep it active so they would be in a good position when the recession ended. Another issue was the new engineering standards adopted last year, of which Mr. Mancini was aware. The Engineering Department looked at the plans, and it appeared that the standards would affect the development's layout. It was suggested by Mr. Paul Davis, the City Engineer, that if the applicant completed the construction plan documents prior to getting Final Preliminary Plat approval, the Planning Commission would be able to review the (possibly revised) Plat after the engineering standards were applied.*

*Chairperson Boswell asked Mr. Anzek if he had called First State Bank. Mr. Anzek said he only received the fax very late in the day, and he did not have a chance to discuss it with the bank or the City Attorney. He indicated that from his experience, it was not unusual for a bank to want a project to stay active to try to recover its investment.*

*Chairperson Boswell asked Mr. Mancini if he had anything to add, and he responded that Mr. Anzek was correct. They were in a "workout" process with the bank.*

*Mr. Dettloff asked if the request was coming from the bank via Mr. Mancini, which was confirmed. He asked if the Extension would be granted to the bank. Mr. Anzek said he had not been able to confirm that. Mr. Dettloff said that he hoped things would settle down during the course of the year, and that Mr. Mancini would get the property back and be able to move forward. He asked Mr. Mancini if he knew who would be getting the Extension, and he replied that technically, he would be, but that he was also representing the bank. Mr. Dettloff asked what was being seen out there, and if there was a light at the end of the tunnel. Mr. Mancini said it was still pretty gloomy, but they were seeing progress and a stabilization of foreclosures, and he advised that he had numerous projects on hold. The banks had halted a lot of the financing, and that had put developers in a precarious situation. They were looking at new partnerships as well.*

*Mr. Kaltsounis indicated that they were not really clear about the ownership of the property, based upon the foreclosure. He recommended that the matter be postponed until the City Attorney could be contacted. He was concerned that they were not prepared for a different realm.*

*Chairperson Boswell agreed. He would not have a problem granting an Extension, but since it was just made known, he would like to give Staff time to speak with the bank and the City Attorney.*

*Mr. Anzek added that there would be no problem with regards to the timeframe. Mr. Mancini had requested the*

*Extension in time, and in previous situations, Mr. Staran had advised that the clock stopped running at that point. If there were additional inquiries Staff needed to do, there would not be a concern regarding the timeframe. It would not impede Mr. Mancini or the process; it would just delay the approval or denial. He said he would like to have a discussion with Mr. Staran to see if all that was needed was a letter from the bank authorizing Mr. Mancini.*

*Mr. Mancini agreed it was short notice, and said that he did not really relish driving a long way to get a formal letter. He suggested that it could be made a Condition of approval, to give Mr. Anzek time to confer with the bank and to save him a few extra trips, but he said it was not a problem.*

*Mr. Anzek noted that the Ordinance stated that the owner of the property had to submit the request. Mr. Kaltsounis moved the following motion:*

***Motion*** by Kaltsounis, seconded by Yukon, that in the matter of City File No. 04-011 (Grace Parc Subdivision), the Planning Commission postpones the request for an Extension until such time that Staff has had an appropriate discussion with the owner of the property (First State Bank) and the City Attorney.

*Chairperson Boswell had received one card, and he called the speaker forward for public comment.*

**Vickie Bellinger, 430 Grace Ave., Rochester Hills, MI 48309.** *Ms. Bellinger thanked the City for sending a notice of the meeting. She advised that she was a resident that abutted the proposed development. She questioned whether the Extension was being requested by the City or by Mr. Mancini or the bank, which now owned the property. She believed that it was through her husband that the City*

was made aware the property was owned by the bank. She thought it was confusing that Mr. Mancini was speaking for them. She said that the Grace Parc plan was one that the residents and the developer agreed to after multiple meetings. She thought it was a good exercise, and it was a compromise from what the developer had originally planned, to a plan that was more acceptable to the residents, and she appreciated that effort. She was not convinced it was the best plan; there were other plans, but the developer did not want to take the time to make them work. It would have required cooperation between two developers, which was not always easy. She commented that the development was done in a hurry, but it did not result in a ground breaking. Now that the property had reverted to the bank, she said that she would expect they were looking at a new developer or new alliance. She would prefer to see other ideas given consideration. She would vote for a plan that the residents were interested in, and where there would be more winners. She did not see any benefit to the residents to approve a fourth Extension with the change in circumstances. If it had not changed hands, they would not have much to say. It would help the bank with marketing, but she felt the interest of the residents should also be considered, particularly since it had taken years. She said that she came to the meeting to share her thoughts, but said it would be helpful to hear from those who previously worked on the compromise, i.e., a group of the neighbors, and she would appreciate it if the matter could be deferred, which she then agreed had happened. If Grace Parc were going forward, the residents' input would be worthy of consideration. She was endorsing what the Commission had done, and she would be interested in what the other residents thought about a fourth Extension.

Chairperson Boswell closed the public comments and

*recapped that in the intervening years, there had been some changes to the City's engineering standards, which would have to be met. That meant that there could be some fairly significant changes to the plat.*

*Mr. Anzek agreed, and said that the Engineer thought there would be significant changes. Chairperson Boswell suggested that would give the neighbors another opportunity to look at things and bring forth suggestions. Mr. Anzek said that the notices went out to people who spoke at the previous meetings or put their name on the mailing list, and each time the matter came up, those people would be notified.*

*Hearing no further discussion, Chairperson Boswell read the motion and called for a vote.*

**A motion was made by Kaltsounis, seconded by Yukon, that this matter be Postponed.**

**The motion CARRIED by the following vote:**

**Aye** 8 - Boswell, Brnabic, Dettloff, Hooper, Kaltsounis, Klomp, Schroeder and Yukon

**Abstain** 1 - Reece

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

2009-0146

#### **2010 - 2015 Capital Improvement Plan Workshop - Presentation of Projects**

*Mr. Anzek recapped that a workshop was conducted each year in April to present the new CIP projects, and that it was the 12th year the City had prepared a CIP. The project sponsors were asked to represent their projects, and he noted that Mr. Rousse of Engineering Services was present. Mr. Anzek stated that the CIP process was very important, and that it had served the City considerably. The Policy team identified all wants, needs, potential wear-outs, and things that needed repairing. There were policies in the*



# Rochester Hills

## Minutes

### Planning Commission

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*Chairperson William Boswell, Vice Chairperson Deborah Brnabic*  
*Members: Gerard Dettloff, Kathleen Hardenburg, Greg Hooper, Nicholas O. Kaltsounis,*  
*David A. Reece, C. Neall Schroeder, Emmet Yukon*

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Tuesday, May 6, 2008

7:30 PM

1000 Rochester Hills Drive

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#### CALL TO ORDER

Chairperson William Boswell called the Regular Planning Commission meeting to order at 7:30 p.m. in the Auditorium.

#### ROLL CALL

**Present** 8 - William Boswell, Deborah Brnabic, Gerard Dettloff, Kathleen Hardenburg, Greg Hooper, Nicholas Kaltsounis, C. Neall Schroeder and Emmet Yukon  
**Absent** 1 - David Reece

#### APPROVAL OF MINUTES

2008-0206 April 15, 2008 Regular Meeting

A motion was made by Schroeder, seconded by Kaltsounis, that this matter be Approved as Presented.

The motion CARRIED by the following vote:

**Aye** 8 - Boswell, Brnabic, Dettloff, Hardenburg, Hooper, Kaltsounis, Schroeder and Yukon  
**Absent** 1 - Reece

#### COMMUNICATIONS

- A) Memo from J. Jenuwine, dated May 5, 2008 re: 2009 Final CIP
- B) Final 2009 Draft CIP
- C) Email and article from J. Staran, dated May 5, 2008 re: Lawsuits against Public Officials

#### NEW BUSINESS

2007-0221 Extension of Tentative Preliminary Plat Recommendation until April 20, 2009 - City File No. 04-011 - Grace Parc, a 16-lot subdivision located north of South Boulevard between Livernois and Rochester Roads, zoned R-4, Parcel Nos. 15-34-402-035 and -057, Grace Street Development, applicant.



*(Reference: Memo prepared by Ed Anzek, dated May 2, 2008 had been placed on file and by reference became part of the record thereof.)*

*No one was present for the applicant. Citing the State's economic conditions, Mr. Schroeder said he could understand the applicant's request, and he moved the motion provided below.*

**A motion was made by Schroeder, seconded by Yukon, 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, Hardenburg, Hooper, Kaltsounis, Schroeder and Yukon

**Absent** 1 - Reece

2008-0124

Tree Removal Permit - City File No. 07-014 - Beaumont Center for Health Improvement, a proposed 98,022 square-foot health and wellness office center on 6.5 net acres on South Boulevard, west of Dequindre, zoned O-1, Parcel No. 15-36-452-011, Rochester Hills Health and Wellness Building, LLC, applicant.

*(Reference: Staff Report prepared by Derek Delacourt, dated May 6, 2008 had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant were Ray Ocasio and Nicholas Checota, Landmark (Rochester Hills Health & Wellness Building, LLC), 839 North Jefferson St., Suite 200, Milwaukee, WI 53202; Justin Wellman and George Ostrowski, Nowak & Fraus, 46777 Woodward Ave., Pontiac, MI 48342; Eric Hunt, Vice President of Operations for Beaumont Ambulatory, 100 E. Big Beaver, Suite 800, Troy, MI 48084; and Michael Berlin, Hobbs & Black Associates, 100 N. State St., Ann Arbor, MI 48104.*

*Mr. Delacourt recalled that the applicant had been before the Commission several times for discussions about the*

regarding any agenda item, that a card with name and address should be turned in to the Secretary.

## NEW BUSINESS

**2007-0221** Recommendation of an Extension of Tentative Preliminary Plat Approval until April 20, 2008 - City File No. 04-011 - Grace Parc, a 16-lot subdivision located north of South Boulevard between Livernois and Rochester Roads, zoned R-4, Parcel Nos. 15-34-402-035 and -057, Grace Street Development, applicant

*Present for the applicant was Matthew King, Grace Street Development, LLC, 47858 Van Dyke, Suite 410, Shelby Township, MI 48317.*

*Chairperson Brnabic referenced that a memo had been prepared by Ed Anzek, dated April 3, 2007, which was placed on file and by reference became part of the record.*

*Mr. Delacourt noted that prior meeting Minutes for the project had been included in the packet. He advised that the applicant was requesting a one-year Extension of the Tentative Preliminary Plat. There had been no changes to the Plat and there were no additional reviews since the first Extension was approved by the Commission a little less than a year ago.*

*Mr. Schroeder asked if the applicant for the property to the east had developed any plans or moved forward. Mr. King related that they had not, to his knowledge.*

*Mr. Schroeder moved the following motion:*

**MOTION** by Schroeder, seconded by Dettloff, in the matter of City File No. 04-011 (Grace Parc Subdivision), the Planning Commission recommends that City Council approve an Extension of the Tentative Preliminary Plat until April 20, 2008.

*Vice Chairperson Brnabic asked the applicant if he wished to comment further and he declined.*

*Mr. Kaltsounis asked the applicant what he saw regarding the market and why he was requesting the Extension.*

*Mr. King responded that the absorption rate in the market was not very high. He and his partners had enough product they would like to see moving at a better rate. Mr. Kaltsounis asked him to define "absorption rate." Mr. King said that the product on the market was not being*

absorbed into the market at a high rate - it was stagnant. Mr. Kaltsounis said that driving around, he noticed some markets were doing well and some were not. The higher end homes, over \$1,000,000.00, were selling well. Mr. King agreed, and said that market was a different market, and that unfortunately, the majority of people were not in that market. He added that there was too much on the market currently.

Mr. Hooper noted that it was the second Extension request, and he said that hopefully, things would turn around by April 2008 so they could get going. He believed that only two Extensions were allowed, and wished the applicants good luck in the next twelve months.

**A motion was made by Schroeder, 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 - Brnabic, Dettloff, Hardenburg, Hooper, Kaltsounis, Reece, Schroeder and Yukon

**Absent** 1 - Boswell

*Vice Chairperson Brnabic stated that the motion had passed 8-0.*

**2007-0222**

Revised Site Plan Approval - City File No. 89-107.2 - Hawthorne Plaza Addition, three additions totaling 5,192 square-feet to the existing 51,000 square-foot center at the southwest corner of Rochester Road and Wabash, zoned B-2, General Business, Parcel No. 15-27-477-060, Rochester Wabash, LLC, applicant.

*Vice Chairperson Brnabic advised that the Staff Report dated April 3, 2007 was prepared Mr. Derek Delacourt, and that it was placed on file and by reference became part of the record.*

*Present for the applicant were Jens Kusk, Architect, 145 Randolph Road, Rochester Hills, MI 48309 and Ralph Faranso (entered after 15 minutes), Rochester Wabash LLC, P.O. Box 1207, Walled Lake, MI 48390, owner of Hawthorne Plaza.*

*Mr. Delacourt stated that Mr. Faranso had been working with the City for quite some time, trying to upgrade the site's façade and to add about 5,000 square feet to the existing facility. The project included adding parking at the rear of the property by changing from aboveground to underground storage, which had been approved by the City Engineer. The full buffer requirement was met in that area. He noted that the parking lot islands were being upgraded and brought into conformance with the City's requirements. There would be three additions to the site - to the south of the existing Blockbuster store, to the existing children's academy in the center, and at the north end of the site next to Hawthorne*

- A) Planning & Zoning News dated June 2006
- B) Michigan Zoning Enabling Act of 2006
- C) Fire Department memo dated July 12, 2006 re: DPS Building
- D) Memo from M. Gentry dated July 14, 2006 re: Mad Park Site Plan Motion
- E) Letter from J. Gould, dated July 18, 2006 re: Mad Park
- F) Michigan Assoc. of Planning Workshops - Various times and places

## NEW BUSINESS

**2006-0405**      Extention of Tentative Preliminary Plat Recommendation - City File No. 04-011 - Grace Parc, a 16-lot subdivision located north of South Boulevard between Livernois and Rochester Roads, zoned R-4, Parcel Nos. 15-34-402-035 and -057, Grace Street Development, applicant.

*(Reference: Memo prepared by Ed Anzek, dated July 14, 2006 had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant was Franco Mancini, Grace Street Development, LLC, 47858 Van Dyke, Suite 410, Shelby Township, MI 48317.*

*Mr. Anzek stated that the request should have noted it was a 16-lot subdivision, not 15. He advised that Mr. Mancini requested an extension, after working with Engineering Services on construction plans, when Staff subsequently realized that the conditions placed by Planning Commission and City Council had not been addressed on the Tentative Preliminary Plat. Mr. Anzek did not expect that the entire extension would be necessary and said they expected the Final Preliminary Plat to be before the Commission in several months. He indicated that Staff had no objections to the request and recommended approval. He added that there had been no change in standards.*

*Mr. Boswell opened the public comments at 7:35 p.m.*

**Mr. Bill Craig, 349 Grace Ave., Rochester Hills, MI 48309** *Mr. Craig said he did not have any problems with the extension. He identified that a parcel number shown was incorrect, and he wanted to make sure there was not a change in parcels or a change in the plan.*

*Mr. Anzek responded that there were no changes and that the parcel number was a typo. Mr. Boswell closed the public comments and asked for comments from the Commissioners.*

*Mr. Schroeder asked the status of the proposed development to the west of Grace Parc. Mr. Mancini said he was told that nothing new had*

*transpired, and he had not been approached by anyone.*

***MOTION*** by Schroeder, seconded by Kaltsounis, in the matter of City File No. 04-011 (Grace Parc Subdivision), the Planning Commission ***recommends approval*** of an Extension of Tentative Approval of Preliminary Plat until April 20, 2007 for Grace Parc Subdivision.

**This matter was Recommended for Approval to the City Council Regular Meeting. The motion carried.**

Resolved, that the Rochester Hills City Council hereby approves an extension of the Tentative Preliminary Plat until April 20, 2007 for Grace Parc, City File No. 04-011, a 16-lot subdivision to be located north of South Boulevard, between Livernois and Rochester Roads, zoned R-4, One Family Residential, Parcel Nos. 15-34-402-035 and -057.

**2005-0609**

Site Plan Approval Request - Madison Park - City File No. 03-023 - A proposed mixed-use development to be located at the former Suburban Softball site on the south side of Hamlin Road, east of Adams, zoned by Consent Judgment, Parcel Nos. 15-29-151-008, 15-29-151-011, 15-29-151-012, 15-29-151-015, 15-29-151-017, 15-29-176-004, and -006; REI Brownstown, LLC, applicant.

*(Reference: Staff Report prepared by Derek Delacourt, dated July 18, 2006, had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant were Todd Fink, Jon Weaver, and Richard Zanotti, and Bob Carson, REI Brownstown, LLC, 40900 Woodward Ave., Suite 130, Bloomfield Hills, MI 48304; Jim Valenta, Midwestern Consulting, 7478 Gateway Park Drive, Clarkston, MI 48346; John Freel, Wah Yee Associates, 37911 West Twelve Mile Road, Farmington Hills, MI 48331; Jane Tesner Kleiner, Michelle Post and Dr. Donald Tilton, ETC, Environmental Consulting & Technology, Inc., 501 Avis Dr., Ste. 5C, Ann Arbor, MI 48108.*

*Chairperson Boswell stated that it was 7:40 p.m. and his intention was to finish the matter by 10:30 p.m. It was his understanding that the applicant would give an overview of the project, which would be followed by more specific discussion.*

*Mr. Delacourt noted that the Planning Commission had discussed the project, proposed on Hamlin Road, just east of the new Adams Road interchange, once previously. The project had been approved for use with Development Zones through a Consent Judgment entered into with the City several years ago. He advised that the Site Plan had been through several technical reviews and the components included above ground development, improvements to Riverbend Park as defined in the*

that Mr. Kaiser had submitted a letter of resignation to the Mayor with regrets. Mr. Kaiser thanked Mr. Rosen for handling the meetings in his absence and thanked the Commissioners for their outstanding work over the years.

## UNFINISHED BUSINESS

**2005-0065** Request for Tentative Preliminary Plat Approval - City File No. 04-011: Grace Parc, a proposed 16-lot subdivision on approximately six acres, located north of South Boulevard between Livernois and Rochester Road, zoned R-4, One Family Residential, known as Parcel Nos. 15-34-402-057 and 15-34-402-035, Grace Street Development, Inc., applicant

*(Reference: Staff Report prepared by Deborah Millhouse, dated March 11, 2005 had been placed on file and by reference became part of the record thereof.)*

*Present for the applicant were Frank Mancini, Grace Street Development, 47858 Van Dyke, Shelby Township, MI; Tom Kalas, Kalas Kadian, P.L.C., 40900 Woodward Ave., Suite 315, Bloomfield Hills, MI 48304; and Bill Mosher, Apex Engineering, 47745 Van Dyke Ave., Shelby Township, MI 48317.*

*Ms. Millhouse noted that this was the third time the Commission had seen the submittal. The first plan showed a continuation from McComb St. south to Grace Ave. At the Commission's request, the applicant came back with several alternative layouts. One alternative was recommended for further consideration, which the applicant provided for technical review. She advised that Staff recommended approval of the Tentative Preliminary Plat and Tree Removal Permit, and that any conditions of approval were included in the Staff Report. She added that the number of trees onsite and any proposed for removal remained the same from that originally advertised.*

*Mr. Rosen asked Mr. Mancini if he had received a copy of the Staff Report, which was confirmed, and Mr. Mancini also stated that he had no concerns. Mr. Rosen opened the public comments at 7:37 p.m.*

**Cliff Durand, 470 Grace Ave., Rochester Hills, MI** *Mr. Durand thanked the Commission for allowing him to speak, and thanked Mr. Mancini for working with the homeowners. He stated that Mr. Mancini came to a conclusion that placed two homes and a detention pond on private Grace Ave. The outcome was beneficial to Mr. Mancini also, because he got an additional lot. Mr. Durand questioned if there would be shielding along the west side of the development to delineate the property boundaries during the home construction, or whether the cost would fall on the current*

property owners. He believed that without fencing, properties could become dumping grounds for trash. He wondered if Mr. Mancini would be obligated to form a tree line or something similar to keep trash out. He mentioned the western stub for the proposed development, stating that Mr. Mancini assumed that placement would be acceptable by the affected property owners. Mr. Durand's property bordered the western edge of proposed Grace Parc. If the stub were put in where proposed and he wanted to sell his property, he would have to break it into four smaller parcels. He mentioned a proposed development to the west of Grace Parc, noting that the applicant (Mr. Vitale) would like to put a road farther to the north and connect with Mr. Mancini's road. That would allow Mr. Durand and his neighbor to be able to divide their property into two larger lots, which would be more conducive to the area. He would prefer not to be forced into making four small lots at the back of his house. Mr. Durand indicated that Mr. Vitale's property could be developed if the road in Grace Parc were put a little further to the north. McComb and Grace Ave. on the west could be connected, which would eliminate the need for a variance for a long road. The residents on McComb and in Grace Parc would also have the option of two accesses, which would be better for the Fire Department. Mr. Vitale had indicated that he and Mr. Mancini were on the same chapter, but not on the right page yet. Mr. Durand felt it would behoove the City to direct both developers to work out their problems and find an acceptable compromise. He quoted one of the Commissioners he felt said it best: "If we are going to do this, then we should require it to be done correctly by all concerned." Mr. Durand stated that he was not trying to stop development because it would come with the passage of time regardless, but he was interested in seeing it done right the first time.

Mr. Rosen closed the public comments at 8:43 p.m.

Mr. Rosen referred to the comment about putting a barrier between the properties and advised that Rochester Hills did not require or encourage a formal barrier between residential properties. He understood the concern about trash, but indicated that it was something the neighbors had to work out privately. He also understood the concern about Mr. Vitale's proposal, realizing it would make sense to work with Mr. Mancini; however, he advised that the City had no authority to force both developers to do anything together because they were at such a disparity in the progress - one was well behind the other. If Mr. Mancini completed his development, Mr. Vitale would have to accept that he was first. Mr. Rosen indicated that it was not something the Commission could control, even though they would rather see both plans, and he noted that the City

would ask them to work together. He suggested that if the developers were able to work something out, Mr. Mancini might wish to submit a revision.

Mr. Hooper referred to Condition five, which talked about eliminating the sidewalk ramp on the east side of McComb proposed to go south, and asked why they would eliminate it.

Mr. Mosher said he had talked about that with the City's Traffic Engineer, and since there would not be a ramp on the south side and it would be a cul-de-sac, he felt the crossing should be prohibited at Verona Drive. It would still go east and west to be able to cross McComb safely.

Mr. Hooper questioned why there should not be a safe way to cross the street, even with a cul-de-sac. Mr. Mosher replied that the Traffic Engineer advised that it should not be eliminated and that he had erred. Mr. Hooper asked if the same held true for Condition six - that it should show a sidewalk ramp on the south side of Verona for the sidewalk crossing west of McComb. Mr. Mosher believed it was shown, and said it was either/or, and that the City's Traffic Engineer made the decision to eliminate any connection.

Ms. Millhouse explained that Engineering Services felt there was no need for a north/south crossing on both the east and west side of McComb. Condition five spoke to that - to eliminate the ramp on the east side heading south because there would be one on the west side heading south. Condition six asked the applicant to show a ramp on the south side to make the connection to the west side. Engineering did not believe two cross accesses were needed for both the east and west side of McComb for the sidewalk. One would suffice, and they suggested it be on the west side. For anyone coming down the west side of McComb and going straight across, they would pick up the sidewalk on the south side of Verona. Following that explanation, Mr. Kaltsounis moved the following motion.

**A motion was made by Committee Member Hooper, seconded by Schroeder, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion carried by the following vote:**

**Aye** 8 - Boswell, Brnabic, Hardenburg, Hill, Kaltsounis, Schroeder, Rosen and Hooper

**Absent** 1 - Kaiser

Motion that the Planning Commission **recommends** City Council **grant Tentative**



**Approval of the Preliminary Plat**, based on plans dated received by the Department of Planning and Development on March 9, 2005, with the following six (6) findings and subject to the following seventeen (17) conditions.

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.
6. The City acknowledges that Shortridge is the only access point for lots 3 thru 16 until such time as the stub street is extended westerly to a second access point.

CONDITIONS:

1. Eliminate the sanitary sewer through Lot 1, eliminate the connection to Grace Avenue, and connect to the existing stub off McComb, as approved by Engineering Services.
2. Show the weighted runoff coefficient calculations, as approved by Engineering Services.
3. Since it varies from 50 feet to 55 feet, correct the call out of the Grace Avenue road easement as "easement varies" rather than 50-foot-wide easement.
4. Show a tee turnaround at the Verona stub street, as approved by Engineering Services.
5. Eliminate the sidewalk ramp that is proposed east of McComb heading south.
6. Show a sidewalk ramp on the south side of Verona Drive for the sidewalk crossing west of McComb.
7. Add a note to Sheet 1 of 4 stating the following: Alignment of the proposed McComb to the existing McComb will require reconstructing the existing McComb and driveways as necessary. Additionally, necessary drainage improvements along the existing McComb are required to facilitate the drainage from the existing ditch line to the proposed curb and gutter section. Reconstruction of the existing McComb roadway, existing driveways, and necessary drainage improvements

along the existing McComb shall be the responsibility of the applicant and approved by Engineering Services.

8. Show trees on adjacent properties and tree protective fencing at the dripline of off-site trees on Sheet 5 of 5, if applicable and as approved by staff.
9. 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.
10. Add a note to Sheet 1 of 4 indicating that the proposed 30-foot-wide parcel located adjacent to the south property line is a proposed outlet for roadway ingress/egress and public utilities to be owned by the Homeowner's Association and to be structured to be able to be dedicated to the City in the future.
11. Address the applicable geometric concerns referenced by the City's Survey Technician in his memorandum dated February 25, 2005.
12. Correct the proposed net density under Site Criteria on Sheet 1 of 4 to read 2.7 units per acre.
13. Determine and correct the proposed lot averaging table (Sheet 1 of 5) to accurately reflect the "lot width" at the setback line of all lots, as defined by Section 138-3 (page CD138:15) of the City's Zoning Ordinance.
14. Correct the width of lot 11 at the right-of-way line on the lot averaging table (Sheet 1 of 5).
15. Provide the existing building setbacks along the north side of Grace Avenue and correct the front building envelope of lot 1 and lot 2, as needed, in accordance with Section 138-1111(b) of the City's Zoning Ordinance.
16. Correct the name of the cul-de-sac (i.e., Milano Court) on Sheet 1 of 1.
17. Refer to Grace "Avenue" on all sheets of the preliminary plat.

2005-0066

Tree Removal Permit (City File No. 04-011) - Grace Parc

**A motion was made by Kaltsounis, seconded by Committee Member Hooper, that this matter be Granted. The motion carried by the following vote:**

**Aye** 8 - Boswell, Brnabic, Hardenburg, Hill, Kaltsounis, Schroeder, Rosen and Hooper

**Excused** 1 - Kaiser

**MOTION** by Kaltsounis, seconded by Hooper, 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 Department of Planning and Development on



# Rochester Hills

## Minutes

### Planning Commission

1000 Rochester Hills Dr.  
Rochester Hills, MI  
48309  
(248) 656-4600  
Home Page:  
www.rochesterhills.org

*William Boswell, Deborah Brnabic, Kathleen Hardenburg, Greg Hooper, Nicholas Kaltsounis,  
David Reece, James Rosen, C. Neall Schroeder*

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Tuesday, February 15, 2005

7:30 PM

1000 Rochester Hills Drive

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#### CALL TO ORDER

#### ROLL CALL

**Present** 7 - William Boswell, Deborah Brnabic, Kathleen Hardenburg, Greg Hooper,  
Nicholas Kaltsounis, James Rosen and C. Neall Schroeder

**Excused** 1 - Eric Kaiser

#### APPROVAL OF MINUTES

**2005-0144** February 1, 2005 Regular Meeting

*Correction to Minutes:*

*Page 14, paragraph two, third sentence: change roads to houses (facing Grace).*

**A motion was made by Kaltsounis, seconded by Hardenburg, that this matter be Approved as Amended. The motion carried by the following vote:**

**Aye** 8 - Boswell, Brnabic, Hardenburg, Hill, Hooper, Kaltsounis, Rosen and Schroeder

**Excused** 1 - Kaiser

#### COMMUNICATIONS

- A) Workshops Announcement for February 28, 2005
- B) Letter to Gerald Kowalski dated February 4, 2005 re: Proposed PUD Avon/John R
- C) McKenna Associates document regarding Contract Zoning
- D) Letter from Paul Nine dated January 31, 2005 regarding Lorna Stone.

#### UNFINISHED BUSINESS

**2005-0065** Request for Tentative Preliminary Plat Approval - City File No. 04-011: Grace Parc, a proposed 16-lot subdivision on approximately six acres, located north of South Boulevard between Livernois and Rochester Road, zoned R-4, One Family Residential, known as Parcel Nos. 15-34-402-057 and 15-34-402-035, Grace Street Development, Inc., applicant

*(Memo prepared by Deborah Millhouse, dated February 11, 2005 had been placed on file and by record became part of the record thereof).*

*Present for the applicant were Frank Mancini, Grace Street Development, Inc. 47858 Van Dyke, Shelby Township, MI; Bill Mosher, Apex Engineering Group, 47745 Van Dyke, Shelby Township, MI; and Mr. Mark Kadian, Kalas Kadian, P.L.C., 40900 Woodward Ave., Suite 315, Bloomfield Hills, MI 48304.*

*Mr. Rosen reminded that there was a motion on the floor to deny the Tentative Preliminary Plat, consideration for which was postponed at the February 1, 2005 meeting. He asked Ms. Millhouse for an update.*

*Ms. Millhouse explained that after the motion to deny was put on the floor, the matter was postponed and the applicant was asked to bring back potential alternatives for development of the site. The applicant submitted three options which were sent to the Fire and Engineering Departments to determine acceptability. Staff acknowledged that if any were not technically compliant, they could not get approval from the City. She referred to the alternative which showed the road ending in a T turn-around, and said it was deemed unacceptable by both departments. The Fire Department discussed that there would be a lack of maneuverability for the fire trucks and Engineering Services stated that permanent, dead-end T roads were not permissible. Relative to the remaining two options, the first showed a cul-de-sac with two residential lots fronting on Grace Ave. The Fire Department had no objections and Engineering did not recommend it because it would require a Cul-de-sac Waiver (it would be longer than 600 feet). The last alternative was almost the same as submitted for the Preliminary Plat, with one lot and the pond moved. This plan was highly recommended by the Fire Department, and they noted that providing two entrances via McComb and Grace would give the development very good accessibility. Engineering Services also did not object to that plan, and mentioned that it would eliminate a long dead end for the existing Grace Ave. She advised that there was a very basic technical review of the plans.*

*Ms. Millhouse also advised that a concept plan was received by Staff on February 14, for a property to the northwest of the subject site. She said that the applicant wished to speak about it during public comments. She noted that at the last meeting she mentioned there were wetlands on that property, but found out since that a wetland determination had been done in September 2004 and that the wetlands did not exist.*

Mr. Mancini advised that he had met with the neighbors over coffee to discuss the alternative plans. He appreciated their position about the proposal. They discussed the pros and cons of the alternatives and they determined it would be advantageous to the neighborhood if option one were submitted (with cul-de-sac). The problem with headlights would be eliminated; the possible legal issue with the private road would be avoided; and Grace Ave. would be maintained in the same manner. The cons mentioned included that the Fire Department would not have direct access to Grace and that they would need a Cul-de-sac Waiver. The residents who lived on the cul-de-sac would have premium lots. They discussed construction debris and traffic, and he noted that would be explored further into the process, but they wanted to work something out so that McComb Street residents did not have all of the construction traffic.

Mr. Rosen asked Mr. Mancini if he favored one plan over the other. Mr. Mancini replied that he would be in favor of either plan. Mr. Rosen opened the public comments at 7:46 p.m.

**Floyd Vitale, Vitale Development, LLC, 604 Grace, Rochester Hills, MI**

Mr. Vitale stated that the main issue of private Grace had been addressed. He advised that they were the developers who proposed a development to connect with the stub on the northwest corner of Grace Parc. The proposed road would be public and continue through to the west side of Grace, also a public road. They felt the plan would be the best possible layout for a public road and would benefit the majority of property owners in the area. They had met many times with Mr. Brown and Mr. Durand and been through many engineering reviews. The road layout they proposed would provide several benefits - it would avoid multiple stubs and cul-de-sacs and would facilitate better traffic flow access for emergency vehicles. He advised that Mr. Brown and Mr. Durand lived on private Grace and they would sign agreements that would place the road far enough north to allow them to maintain their existing lot sizes. The road would allow access to Vitale's property to the north. It would also allow proposed rear lots to face existing rear lots for better privacy. He wanted the Planning Commission to consider those points when they reviewed the location of the western stub from Grace Parc.

**Tony Vitale, Vitale Development, LLC.** Mr. Vitale stated that he and his brother had been working very closely with the community to make sure that what they proposed was agreed upon throughout, and would be a win-win solution. There was always a concern about Grace being dead ended on the east and west side, and their proposal would resolve the

issue of allowing Grace to continue on to Shortridge.

**Bill Craig, 349 Grace Ave., Rochester Hills, MI** Mr. Craig confirmed that the neighbors met with Mr. Mancini and reviewed the alternative plans. They preferred the plan with the cul-de-sac. His major concerns at the last meeting had been the headlights, the privacy of Grace and the road Agreement's intent. He stated that he supported the plan with the cul-de-sac and that it would maintain the privacy of the residents on Grace and keep the value for Mr. Mancini.

**Arlis Hall, 341 Grace Ave., Rochester Hills, MI** Mr. Hall thanked the Commission for allowing the Grace Homeowner's Association to express concerns about the proposed development. On February 1, 2005 during the Planning Commission meeting, the homeowners voiced concerns about headlights that would sweep the first three houses as cars from the proposed development came out onto Grace. Alternate plan two was very similar to the original plan and was not acceptable to the Homeowner's Association. They would be concerned because the legal issue of a private street with public traffic on it would not be solved. It would also hold the homeowners captive to an agreement to provide maintenance on a private street with public traffic with no limits, and no way to judge how to compensate for that. He noted that planting trees to shield the headlights would become a sticky situation because the area was very damp and stayed that way for half the year. Evergreen trees planted in that area would not survive and that would create a burden for the homeowners on the south side to provide maintenance or replace them if they died. If plan two were approved, the Homeowner's Association would have no choice but to take legal action to defend their property rights and the rights of the private street. They would be prepared to take that action as a last recourse. He stated that was not a threat, just something they would have to do. He believed that the Commission and Council had the foresight to bring plan one to a successful conclusion without any animosity. He indicated that he had no objection to plan one at all.

**Cliff Durand, 470 Grace Ave., Rochester Hills, MI** Mr. Durand stated that they met on February 13, 2005 with Mr. Mancini, who was very cordial. They discussed items of concern, and they felt plan one would be viable for them. He wanted the Commission to also consider the Vitale proposal. It would add some continuity to the area. They had worked very hard to make sure that the integrity of the area would be upheld.

**John Brown, 480 Grace, Rochester Hills, MI** Mr. Brown advised that Mr.

*Vitale had been working very hard for the last year, trying to get together with the neighbors to see how they would feel about a road in the back of their properties. He felt that tying in with the Grace Parc development would work out. As stewards of the land, he hoped the Planning Commission would look at the Vitale proposal very closely.*

*Mr. Rosen closed the public comments at 7:55 p.m. He said that based on the discussion so far, it appeared there was a significantly different situation than that of two weeks ago. He asked Ms. Hardenburg if she would consider withdrawing the motion to deny, in light of the new information. She replied that she would withdraw the motion.*

*Mr. Rosen asked about the proposed connection for the Vitale concept plan. Ms. Millhouse said that connection indicated a different stub than shown for Grace Parc. She explained that it was roughly one lot to the north from where the access point was provided by the stub street from Grace Parc. Mr. Rosen asked how long it would be before the Vitale development would be parallel with the Mancini development. Ms. Millhouse said it would probably be months, but she noted the City had not received written verification from Mr. Durand or Mr. Brown that they would be willing to provide property for the Vitale proposal. Without that involvement, there would be no connection. A concept meeting would probably be scheduled in the next few weeks - the application had been received - but the timing would depend upon whether the applicant wanted to continue. They would have to prepare a Preliminary Plat or Site Condo development in a formal submittal. Mr. Rosen said that at the last meeting, Mr. Durand mentioned a potential Vitale development and suggested that the Planning Commission might want to require the two developers to work together. If they were at the same stage of development, the Commission would ordinarily require some type of comprehensive development plan, but given the difference in the timing, he did not think they could delay Mr. Mancini's proposal.*

*Mr. Anzek said that given the fact that Staff did not have much time to review Mr. Vitale's plan, at first glance it did not appear the alignment would preclude any solution being prohibited. It simply shifted the road to make it work. He commented that to require Mr. Mancini to shift the road to make a concept work would be like putting the cart before the horse.*

*Mr. Schroeder asked if it would be possible that the construction for both developments could be going on at the same time. He stated that he would not like to see a repeat of the Quill Creek situation (City of Troy). He explained that Mr. Mancini had done infill developments in Troy and*

there were two developers working in the same area who had several conflicts. Mr. Mancini was very cooperative but it was not easy having "two cooks in the same kitchen." Mr. Mancini said it was possible both developments could happen together, but one would probably be a few months behind. Because Engineering would be involved more timely, he did not think there would be a problem with a road connection deviation, as happened in Troy.

Ms. Millhouse commented that the applicant was requesting Tentative Preliminary Plat Recommendation, which was, in this case, for a street layout because there had not been a technical review. They were not at the nth degree, and Mr. Mancini could show Mr. Vitale's proposed road. She clarified that if things developed, Mr. Vitale would not discredit anything at this point.

Mr. Hooper thought the applicant should move ahead with alternative one, noting the conditions would have to be modified and that some would no longer apply. Mr. Rosen said he spoke with Ms. Millhouse before the meeting and she advised him that Staff had not done a detailed review. Mr. Hooper indicated that this was the Preliminary review and he felt the issues could be resolved at Final review. Ms. Millhouse reminded that there was a Tree Removal Permit requested and the probability of a Cul-de-sac Waiver. Those motions would be separate actions that Staff did not have time to review and provide necessary information to the Commission. Staff asked Mr. Mancini if he would be willing to allow the Planning Commission to provide direction at the meeting and then Staff would be able to do a technical review and submit the necessary motions at the next available meeting. Mr. Hooper asked Mr. Mancini if he was in agreement.

Mr. Mancini said that he had a plan prepared by his engineers, which showed tree preservation for the alternate plan and he said it would not change. He noted that the City's Landscape Architect would have to review it. It was their position that the situation was rather unique and the street layout and technical aspects of connection might vary.

Mr. Rosen clarified that the Planning Commission could ask the applicant to re-submit plans very quickly. If there were minor deviations, the review would not take long. The applicant could be back before the Commission in a two to four weeks. Ms. Millhouse suggested four weeks, noting that the next meeting was earmarked for a specific agenda item. If the applicant's engineer turned everything around, Staff would promise a quick review, or a minimum of four weeks, subject to conditions if



necessary. Ms. Millhouse said there were fire hydrant locations and other items that she could not comment upon at the present time. They also were not able to provide information relative to the Tree Removal Permit, and if the Commission proceeded with the Preliminary Plat, they would have to consider the other motions. It was Staff's recommendation that it all be brought back in one packet.

Mr. Kaltsounis referred to alternative one and asked if lots one and two would have driveways onto Grace, which was confirmed. He questioned if Mr. Mancini moved the road to the north, to line up with Mr. Vitale's development, if lot eleven could be moved and an eyebrow added. He realized that Mr. Vitale's proposal was still very conceptual, but he felt they would be going in a good direction with alternative one.

Mr. Hooper asked if the Tree Removal Permit would have to be re-noticed. Ms. Millhouse replied that it would depend upon the numbers.

Mr. Hooper said the Commission would postpone the matter so the applicant could come back with alternative one details. Mr. Rosen said they could do that, or they could approve a motion that the applicant revise the Tentative Preliminary Plat and Tree Removal Permit submissions, using alternative one, submit it to Staff for review and bring it back to the Commission with a request for a Cul-de-sac Waiver at the earliest opportunity. Mr. Hooper believed they could postpone it to do the same thing.

Ms. Hill asked if Mr. Mancini was willing to go along with the postponement and prepare things as discussed. Mr. Kadian answered that his client was attempting to get a fixed protocol to follow, with a fixed time that the matter would be addressed and a fixed time of approval. Mr. Mancini would like to know specifics to know when final items needed to be done. He felt that postponements, given the amount of time the applicant had gone through the process, did not seem to be appealing. He indicated that they would like a time they could come back with the specific requirements that needed to be met, with the understanding that it would be approved, assuming the requirements were met. That would give his client a more orderly way to proceed. Ms. Millhouse said that was why Staff was in favor of providing a motion that would give the applicant direction. That direction would be based upon technical compliance, because there were certain things that Staff could not provide. The Planning Commission could request, in a motion, that the applicant submit a Preliminary Plat consistent with alternative one and that it should be reviewed by Staff for technical compliance. She advised

that Staff had no problem bringing the proposal back with conditions, as long as they were minor.

Mr. Hooper said he did not mind making the motion, but he felt they would get the same end result - with the motion or the discussion. They still would request alternate one for the applicant to bring back when they were ready.

**MOTION** by Hooper, seconded by Hardenburg, in the matter of City File No. 04-011 (Grace Parc), the Planning Commission requests that the applicant submit a Tentative Preliminary Plat consistent with alternative one presented at the February 15, 2005 meeting.

Mr. Rosen said he was pleased that if the proposal went through and there was a development to the west, that it would eliminate any concern about an excessively long cul-de-sac and provide the second access. He commented that nothing would preclude Mr. Vitale from coordinating with Mr. Mancini in the interim. They might not get started at the same time, but they might end up closer than they were today.

Ms. Brnabic commented that she was pleased that the applicant took the time to present alternatives. She said she was much happier seeing alternate plan one, which seemed to address the Commissioners' and residents' concerns. She was also pleased that they also took the time to speak with the neighboring community.

Recess 8:17 to 8:29 p.m.

Motion that the Planning Commission **recommends** City Council **grant Tentative Approval** of the **Preliminary Plat**, based on plans dated received by the Department of Planning and Development on March 9, 2005, with the following six (6) findings and subject to the following seventeen (17) conditions.

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.

6. The City acknowledges that Shortridge is the only access point for lots 3 thru 16 until such time as the stub street is extended westerly to a second access point.

CONDITIONS:

1. Eliminate the sanitary sewer through Lot 1, eliminate the connection to Grace Avenue, and connect to the existing stub off McComb, as approved by Engineering Services.
2. Show the weighted runoff coefficient calculations, as approved by Engineering Services.
3. Since it varies from 50 feet to 55 feet, correct the call out of the Grace Avenue road easement as "easement varies" rather than 50-foot-wide easement.
4. Show a tee turnaround at the Verona stub street, as approved by Engineering Services.
5. Eliminate the sidewalk ramp that is proposed east of McComb heading south.
6. Show a sidewalk ramp on the south side of Verona Drive for the sidewalk crossing west of McComb.
7. Add a note to Sheet 1 of 4 stating the following: Alignment of the proposed McComb to the existing McComb will require reconstructing the existing McComb and driveways as necessary. Additionally, necessary drainage improvements along the existing McComb are required to facilitate the drainage from the existing ditch line to the proposed curb and gutter section. Reconstruction of the existing McComb roadway, existing driveways, and necessary drainage improvements along the existing McComb shall be the responsibility of the applicant and approved by Engineering Services.
8. Show trees on adjacent properties and tree protective fencing at the dripline of off-site trees on Sheet 5 of 5, if applicable and as approved by staff.
9. 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.
10. Add a note to Sheet 1 of 4 indicating that the proposed 30-foot-wide parcel-located adjacent to the south property line is a proposed outlot for roadway ingress/egress and public utilities to be owned by the Homeowner's Association and to be structured to be able to be dedicated to the City in the future.
11. Address the applicable geometric concerns referenced by the City's Survey Technician in his memorandum dated February 25, 2005.

12. Correct the proposed net density under Site Criteria on Sheet 1 of 4 to read 2.7 units per acre.
13. Determine and correct the proposed lot averaging table (Sheet 1 of 5) to accurately reflect the "lot width" at the setback line of all lots, as defined by Section 138-3 (page CD138:15) of the City's Zoning Ordinance.
14. Correct the width of lot 11 at the right-of-way line on the lot averaging table (Sheet 1 of 5).
15. Provide the existing building setbacks along the north side of Grace Avenue and correct the front building envelope of lot 1 and lot 2, as needed, in accordance with Section 138-1111(b) of the City's Zoning Ordinance.
16. Correct the name of the cul-de-sac (i.e., Milano Court) on Sheet 1 of 1.
17. Refer to Grace "Avenue" on all sheets of the preliminary plat.

## DISCUSSION

**2004-0098** Lorna Stone - City File No. 03-010 - a proposed development on approximately 11 parcels located near the northeast corner of Adams and South Boulevard, Lorna Stone L.L.C., applicant. (Revisions to previously approved concept presented for consideration as a PUD).

*(Memo prepared by Derek Delacourt, dated February 11, 2005 had been placed on file and by reference became part of the record thereof).*

*Present for the applicant were Joe Maniaci, Lorna Stone LLC, 1111 West Long Lake Rd., Troy, MI 48098; Alexander V. Bogaerts and Mark Abanatha, Alexander V. Bogaerts & Associates, P.C. 2445 Franklin Road, Bloomfield Hills, MI 48302 and Paul Nine, Paul L. Nine & Associates, P.C., 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48304, Attorney.*

*Mr. Delacourt explained that this would be a discussion and continued negotiation regarding the Lorna Stone Planned Unit Development (PUD). Previously, Planning Commission recommended, and City Council approved, use of the PUD process for the subject site. That concept was approved for a very dense, mixed-used development, with almost 300 residential units and 40,000 square feet of retail. The applicant did some preliminary studies and appeared before the Planning Commission and City Council in a joint meeting in November 2004 to discuss proposed changes to the project. They brought forth a proposal with 85 single-family residential homes, without retail. The feedback from the*

Commission **grants** the following **Buffer Modifications** to allow existing vegetation supplemented by additional plantings to meet the six foot opaque screen requirements on both the east and west property lines, based on plans dated received by the Planning Department on January 26, 2005 with the following 2 (two) findings.

FINDINGS:

1. That the use of existing vegetation supplemented by additional plantings is consistent with the intent of the "Type B" buffer requirement for the subject site.
2. That the proposed plan meets the criteria of Section 138-1218 to allow the Planning Commission to modify or waive the buffer requirements for the proposed development.

A motion was made by Kaltsounis, seconded by Hardenburg, that this matter be Granted. The motion carried by the following vote:

**Aye** 8 - Boswell, Brnabic, Hardenburg, Hill, Hooper, Kaltsounis, Rosen and Schroeder

**Excused** 1 - Kaiser

## NEW BUSINESS

**2005-0065** Request for Tentative Preliminary Plat Approval - City File No. 04-011: Grace Parc, a proposed 16-lot subdivision on approximately six acres, located north of South Boulevard between Livernois and Rochester Road, zoned R-4, One Family Residential, known as Parcel Nos. 15-34-402-057 and 15-34-402-035, Grace Street Development, Inc., applicant

(Reference: Memo prepared by Deborah Millhouse, dated January 28, 2005 had been placed on file and by reference became part of the record thereof.)

Mr. Rosen explained the order for the item. He stated that each speaker who had turned in a card would be given three to four minutes, but that there would be no dialogue between them, the applicants or the Planning Commission during that time. Any questions asked or issues raised would be discussed after the public comments.

Present for the applicant were Frank Mancini, Grace Street Development, Inc. 47858 Van Dyke, Shelby Township, MI; Bill Mosher, Apex Engineering Group, 47745 Van Dyke, Shelby Township, MI; Thomas Kalas, Kalas Kadian, P.L.C., 40900 Woodward Ave., Suite 315, Bloomfield Hills, MI 48304.

Mr. Mosher stated that the applicants were seeking Tentative Preliminary Plat (TPP) recommendation for a 15-lot subdivision in Section 34, located on the north side of Grace Ave., west of Hazelton. He noted that the site was zoned R-4, with a minimum lot width of 80 feet, and minimum area of 9,600 square feet. They were proposing to connect to the existing McComb Street to the north and access Grace Ave., a private road to the south, and add a stub street

to the west. They believed they had met the Ordinance provisions and were available for questions at that point.

Ms. Millhouse pointed out that there were two actions being requested, including a Tree Removal Permit. She stated that this was an unusual scenario. McComb St. to the north and Grace Ave. from the eastern-most property line of the proposed site were public roads; however, between the western and eastern-most property line there was a private road easement. That private easement extended further to the west on Grace Ave. She stated that when the project first came forward, Staff questioned whether it was permissible for a public street to tie into a private street. Mr. Kalas had answered the question and provided an opinion letter for the Road Maintenance Agreement (Agreement) that was recorded in 1983 for Grace Ave. The City Attorney, Mr. Staran, was asked to review that and he determined that the City was not the party to determine whether this Agreement was binding relative to whether the proposal could go forward. She felt that was one of the key issues for the surrounding residents. She continued that the project had been reviewed by Staff, and they believed it to be in technical compliance based upon the conditions in the pre-printed motion. She noted that Mr. Paul Shumejko, the City's Transportation Engineer, was also in attendance to answer questions.

Mr. Rosen opened the public comments at 8:12, p.m..

**John Mallet, 3697 McComb, Rochester Hills, MI 48307** Mr. Mallet stated that no notification was sent to the residents adjacent to the property, and he asked if that was required. He asked why the tree removal was started in 2004 without the Permit and whether the wildlife in that area was being considered.

**Tammy Tolon, 3684 McComb, Rochester Hills, MI 48307** Ms. Tolon said she agreed with what Mr. Mallet said, and added that the applicant was being allowed to removed more than 50% of the existing trees that remained. There were approximately 30 trees left on the property because the applicant came in, with no organization, and tore things down. There was an existing fence on the property line that was taken down, as well as vegetation that belonged to Mr. Mallet. No consideration was given to the wildlife that lived in the trees removed, and there was not enough existing vegetation for the animals that currently lived there to consider removal of more trees. She said they were never notified that their street would be a through street. McComb was a dead end street and that was one of the motivations for purchasing her home. She questioned why no notification was sent to her about the tree removal.

**Greg Farrand, 475 Grace Ave., Rochester Hills, MI 48307** Mr. Farrand said he took the opportunity to let the Commission know the personal feelings about what was happening to their private road. When they purchased the property in 1983, they knew about the restrictions to the road. The reason it stayed private was for the safety of the children and so they would not have any through streets. He felt this development would be the beginning of bad things for the property owners. They felt their rights were being infringed upon. He felt very strongly that they did not want this proposal at either end of a private road they had been maintaining, keeping safe, and which was a place of their own. They paid for the upkeep to keep the road to City standards. They understood that if

the road in the development started before Grace there would not be much they could do about it, but as far as tying into a private road, they strongly felt they would need to stand up against that.

**Mr. Bill Craig, 349 Grace Ave., Rochester Hills, MI 48307** Mr. Craig said he lived on the private portion of Grace, and he agreed with everything that had been said. He wondered what precedent currently existed in the City that would allow a public road to connect to a private road, allowing people to utilize the private road as a public thoroughfare. He stated that the Agreement was intended to permit the completion of lots which directly fronted Grace. He believed that establishing the precedent now to allow a public portion to come into the private road would set a precedent in the City to allow the west end of the private portion of Grace to connect to the public portion of Grace to the west, thereby creating a thoroughfare for those people on South Boulevard that did not want to wait as they came east during rush hour. People would not come onto Grace for the purpose of going to a home or for delivering mail, but just to cut through. Additionally, proposed Milano, coming directly south into Grace, drastically would affect three homeowners on the south side of Grace. Headlights would go directly into the living rooms of those homes, reducing the value of the homes. He questioned if the City would require something to mitigate that negative value, such as special landscaping. The Agreement would be rendered ineffective and inequitable. The Agreement read that "the cost of maintenance and repair shall be the responsibility of only those parcels which have homes on and for which the private road is the primary access to the homes." Grace would not be the primary access for the new homeowners, therefore, they would not have to pay for road maintenance for it. He wondered how the City would address this inequity. There were other things within the Agreement that clearly identified that the intent of the road was not for spider streets but for the purpose of maintaining and keeping private that portion of Grace. He brought up that there were also some drainage issues. He said he had no problems that homes might need to get into the area, stating it was a free country and everyone had to make a buck. He felt there could be some things to mitigate the extent of the negativity that would be created by the proposal. The contractor had not been contacting those most negatively involved in the process. He suggested that the developer consider fronting two homes on Grace, putting the detention pond immediately behind them, and the rest of the homes behind that. That would satisfy the Grace homeowners and it would still give the developer 14 or 15 lots.

**Mr. Cliff Durand, 470 Grace, Rochester Hills, MI 48307** Mr. Durand noted that the back part of his property was adjacent to the proposal. He was also President of the Homeowners Association for Grace Ave. and was present to express some concerns on behalf of all the people that lived on Grace. He questioned the notification requirements because he did not receive a notification until Friday, January 29. He believed there should be seven days' notice. The notice did not speak to plat development, only tree removal and he believed that both should have been represented in the notice. The hearing was the beginning of a public review for Grace Parc and to have a discussion about tree removal and replacement was premature, in his opinion. They believed there were alternatives to be considered and or developed before this was approved. To approve the tree issue would

suggest that the City was in support of the development before anyone got to say his or her piece. The Homeowner's Association suggested there were pitfalls with the development as proposed, which warrant further discussion and resolution. He noted, for instance, the presumed access to a private road, Grace; the location of the detention pond; and the ability to handle additional watershed runoff, which was directly to an area that was already under stress. The water table was high and he also mentioned the sanitary load on the sewer, the traffic, the impact on the Association for maintenance and legal advice and the impact to the adjoining properties, i.e., the roadway stub. They were personally familiar with an alternative and did not feel they could accept Mr. Mancini's plan as ideal and the sole solution. He said that Mr. Vitale, a property owner to the west end of Grace, tried to get together with Mr. Mancini. There were some personality problems, but he felt they could work out a development for the east and west side of Grace that would solve a lot of problems and give them more than 15 homes. To date, they had been unwilling to do so, but if the City had the power, they should direct the two property owners to get together and try to work something out that would be satisfactory to everyone on Grace. He stated that the citizens trusted, as stewards of the land, that the Planning Commissioners had the power to make this happen and they would all benefit from having the bigger resolved before moving forward prematurely.

**Artis Hall, 341 Grace Ave., Rochester Hills, MI 48307** Mr. Hall stated that he lived on the first parcel of land on the south side of Grace, east of the proposed development. His concern was public traffic coming across a private piece of land. He still owned the easement to the centerline of the road - the City had not taken control of it in any way. He agreed with what had been stated, but it really concerned him that it would be possible to run a public road over a private road or private property without some sort of legal solution. Based on that, he would like this matter tabled until the legal portion was resolved. They could talk all they wanted about the plan, but eventually, if this proceeded, it would go to a judge to decide. It was also his understanding that Mr. Kalas had looked at the Agreement and had rendered his opinion that the developer had the right to come out onto Grace. Mr. Hall did not know where it said that in the Agreement because it was not there. He was one of the first people to sign the Agreement and the intent was that Grace would stay a private road with homes on it. They were not trying to deprive Mr. Mancini of ingress and egress to the property. He was entitled to build three homes on Grace, but he was not entitled to open the property up to McComb St. and the whole neighborhood. They needed a reasonable solution or, he reiterated, it would go to court.

Mr. Rosen closed the public comments at 8:31 p.m.

Mr. Rosen asked Ms. Millhouse the requirements for notification. Ms. Millhouse said the requirements were only applicable to the request for a Tree Removal Permit. The Tree Conservation Ordinance required that all adjacent property owners be notified within seven days. The notification was sent out eight days prior to the meeting. Mr. Rosen asked about requirements for plat notification.



Mr. Staran replied that although the residents were given an opportunity to speak, the meeting officially was not a public hearing. There was nothing in the State law or the City's Ordinance that required notification or a public hearing in regard to the review and approval of plats. Those requests were held at public meetings and the Planning Commission and City Council routinely allowed anyone who wanted to speak to do so. That had been applied to every subdivision in the City. There were some items that required public notices, such as a Tree Removal Permit or Wetland Use Permit. She noted that it had been the City's policy to notify residents of further meetings, if they wished.

Mr. Rosen asked if the City was aware of the trees removed in 2004. Ms. Millhouse deferred to Mr. Mosher.

Mr. Mosher explained that the site was brushed and that there was one diseased ash tree removed. They met with the City and talked to the Landscape Architect. He did not feel anything was done unknowingly or against regulations. They removed the underlying vegetation to be able to study the topography.

Ms. Millhouse said the City got a notification from residents and sent the City's Landscape Architect to the site, and she confirmed that none of the regulated trees, except for the ash, were removed. There had already been a tree survey submitted for the project and there was a record of what regulated trees existed and they remained as existed. Mr. Staran added that the City regulated the removal of trees; however, there was a minimum requirement for which trees were regulated. The City regulated trees that measured six inches or greater in diameter at four feet above ground. Usually when the City heard about someone removing trees without a Permit, they would check it out, but it was usually vegetation being removed.

Mr. Rosen stated that after listening to the residents, he felt the predominant questions were about how a public road could join and cross over a private road. There was another question about what would be done for the homes facing the headlights and he suggested that the Commission had in the past required an applicant to plant something to stop the glare. He asked Mr. Staran to address the road issue.

Mr. Staran responded that there were numerous private streets in the City that intersected with a public street, and that virtually every private street intersected with a public street at some point. Whether Milano (proposed in Grace Parc) was public or private, there would be the same issues about who would use it. The City's Ordinances would strongly encourage Milano to be a public street. He acknowledged that it was an unusual situation. At first glance he thought the applicant could probably not connect to a private road, and he referred to a common law: "One who is a user of private road or easement could not do something to increase the burden on it." He stated that common law did not come into play in this instance, however, because the creation and use of the street was governed by an Agreement among the homeowners. That Agreement would take the form of the maintenance Agreement and was entered into in 1983 and recorded at the County. He pointed out that because this was a private Agreement and road, from a legal standpoint it had somewhat the same

standing as private deed restrictions or declarations and restrictions. The City could look at those, but could not, by law, enforce or administer them. The people who were subject to the Agreement had to work these things out and if they had a problem, they had private legal recourse. Because the City was being asked to consider the plat, he looked at the Agreement and found that it actually appeared to contemplate that some lots along Grace would be divided and subdivided. He read, "The cost of maintenance and repair shall be the responsibility of only those parcels which have homes and for which the private road is the primary access to the home. The term "users of the road" hereinafter employed in this Agreement shall refer only to these parcels. In the event one or more of the parcels is split or subdivided in the future into one or more additional parcels and sold, the cost, the maintenance and repair shall be the responsibility of only those parcels which are the users of the road...furthermore, any subdivided or split parcel which is vacant and does not cause substantial use of the road shall not be responsible for the cost and maintenance and repair." He stated that the document seemed to expressly contemplate that some of the parcels on Grace would be subdivided and would have the right to use the road. Based on that, the City believed that they had no basis to determine that there was nothing in the City's Ordinances that would prohibit the subdivision of the parcel and the use of Grace by the resulting lots. In terms of the connection to McComb, there was nothing in the Ordinances that would prohibit that, but he felt it would be very difficult for the City to prevent any parcel from accessing an adjoining public road. That would be legally difficult, and given the subdivision design standards, accessibility for the fire department, etc., the City would encourage a development to have a second access and the connection to McComb would be the principal access to the subdivision. The City made the determination that the developer probably had the ability to connect to Grace. He did not see anything in the document that led him to conclude that the layout proposed would not be allowed by the private road agreement.

Mr. Rosen said that what Mr. Staran read clearly applied to a parcel that fronted Grace. Mr. Staran said the Agreement included a property description and all the lots within that description were parties to the Agreement and the users of the road. It was his understanding that the description did include the applicant's entire parcel.

Mr. Rosen asked if Milano were to become City property, if that would make the City party to the Agreement. Mr. Staran replied that no, the City was not a party to the Agreement. Mr. Rosen said that if the road was included in the property described, and the road were owned by the City, he questioned if that would make the City a party as well. Mr. Staran said the City would not be a party to the Agreement, only those who signed the Agreement and their successors and interest would. If the plat was ultimately approved and the road dedicated, the City would maintain the road, but the City would not have maintenance responsibilities for the private portion of Grace unless Grace became a public road.

Mr. Rosen asked if the proposed detention pond would participate. Mr. Staran said the entire parcel and future owners of the resulting lots would be subject to the Agreement.

Ms. Brnabic clarified that when the applicant purchased the property, the Agreement was a part of the property. Mr. Staran said it ran with the land. Ms. Brnabic questioned whether the intent of the Agreement was to cover the houses Grace and whether Grace was to be considered the primary access and if, therefore, people signed the Agreement for those reasons. She wondered if having a parcel split with a road down the middle would be in conflict with what the Agreement intended.

Mr. Staran said that the City was not a party to the Agreement and noted that he just read it. One of the cardinal rules of construing an Agreement or document was applying plain meaning to unambiguous words. He was simply stating that there was black and white language that expressly contemplated that the lots would be divided and subdivided. There might or might not have been an intent that only folks whose lots fronted directly on Grace and required it for their primary access could use it, but he did not see anything in the Agreement that said that. He thought that some comments by the residents reflected what people understood was the case and what was the past practice, but he was giving his opinion about the actual text of the Agreement.

Ms. Brnabic noted that one condition of approval specified that the Grace Parc Homeowners Association would be responsible for the repair and maintenance to the private portion of Grace. She wondered whether they would take full responsibility for the private portion of Grace.

Ms. Millhouse said the intent of that condition dealt only with the portion of Grace that was adjacent to the development - about 220 feet. The reason for that was that the City required the road to be upgraded from gravel to a paved road, consistent with a public street. The City should not be required to maintain a private road; but in reality, if a snowplow came down McComb, the driver would probably continue along the private portion of Grace and not turn around and go back up McComb. The condition was intended to hold the City harmless. It would be the new Association's responsibility because of the upgrades; the City would also be held harmless because in 10-20 years down the road, individuals might say that the City's snowplows damaged the asphalt.

Ms. Brnabic did not feel that the portion they were responsible for was clearly stated in condition six and that it might need clarification.

Ms. Hill said she derived from the Agreement that if there were a potential for lot splits, that the properties abutting Grace would be responsible for maintenance. Mr. Staran said the portion he read referred to parcels that were split off and vacant and did not cause substantial use of the road, and that the owners of those would not be responsible for costs of maintenance and repair. Ms. Hill said that it appeared to her that, even though there might be a large lot owned by someone, which was part of the original Agreement and had the potential to be split and divided off, that the Agreement only referred to lots fronting Grace. Mr. Staran replied that a fairly standard provision in a maintenance agreement was that those with improved lots would pay the maintenance and if not, they would not pay because they were not using it. As more and more lots were improved, the cost would be apportioned over more users.

Ms. Hill recalled a couple of examples with private/public road situations in the City. One was in Knorrwood Hills, and between Apple Lane and Peach Tree there was a private segment, which caused quite a bit of contention regarding snowplowing. The City eventually claimed the road and it became public. Mr. Staran said that the City would much prefer that section of Grace to be public, but the applicant only had ownership rights to half of the street. The plat showed a 30-foot right-of-way, which was being reserved in the event the street ever became public. The applicant did not have control over the south side of Grace and moreover, the entire stretch of Grace was subject to the private Agreement, so it was not necessarily up to any one party to determine it should be public.

Ms. Hill referenced Walnut Brooks Estates, which tied in at the north end into Rockhaven. The subdivision road came off South Boulevard into a private road and then went out to a public road. The homeowners there did not want the public coming onto the private road so they put up a gate that only the Fire Department could access. She thought the proposal would be problematic, and it was difficult for her because she understood how the private road owners were upset about their road becoming a public accessway.

Mr. Staran said it was a concern, but he did not see anything that would prohibit the road access from happening, whether it would be a good idea or not. Ms. Hill questioned whether the property owners who were part of the Agreement could oppose this as a private matter.

Mr. Rosen recalled that Mr. Staran said the Agreement was similar to deed restrictions, in the sense that the City could not do anything with the Agreement. Mr. Staran agreed it was a private contract and said that if the people subjected to the contract had a disagreement, it would be up to them, and it would be their right, to do what was necessary to resolve it. It would not be the City's place to resolve it, but in the proposed case, they had to find out by what right the applicant proposed to connect to the private portion of Grace and the applicant showed it through the Agreement. Mr. Rosen clarified that the City could not require that the connection to Grace be made. Mr. Staran advised that if they had no right to do it the City could not require it, but if the applicant had a right, he did not know what basis the City would have to tell them they could not, and that was the dilemma.

Mr. Rosen said the applicant was showing it on the plat and if it appeared to the Commission they had a right to do it, the City might approve the plat and the applicant could proceed. However, if other parties to the Agreement successfully challenged it, the applicant would no longer have a plat. Mr. Staran advised that was correct. He said it would really not be that much different than when the City approved a development and it was stopped at another governmental agency. The applicant would be back at the beginning. The answer to whether something the City could do would override the residents' rights under the private Agreement, would be that he did not think so. Mr. Rosen noted that if the City approved the TPP, the applicant would be able to submit engineering drawings. If there was some type of court action that prevented that entrance from Grace, the plat would not occur and the applicant

would have to re-submit. Mr. Staran said that would be correct. Mr. Rosen asked if the Commission was obligated to consider the plat, noting there was a time limit for plats. Mr. Staran agreed there were requirements under the City Ordinance and State law that required the City to review and make decisions on plats within a certain time period. Mr. Rosen said the Commission could not request the applicant to postpone the matter until the issue of the road was resolved. Mr. Staran said that even if the Commission recommended approval, it would not create any vested rights to development. The recommendation would continue on to City Council and there would be three additional steps after that, so he said there was a fairly extensive process before an applicant could even put a shovel in the ground.

Mr. Hooper asked if the developer could unilaterally make improvements to the portion he owned without Homeowner Association approval. Mr. Staran said that what he owned was subject to the Agreement. Mr. Hooper asked if majority rule would determine if improvements could be made. Mr. Staran replied presumably so, but it would require interpretation of what the Agreement did or did not say. Mr. Hooper thought there would be showstoppers - either the State would turn it down because of the half-road width; the Homeowner's Association would turn it down, or the applicant would be unable to obtain the easement. Mr. Rosen said there was nothing the City could do about that and Mr. Hooper agreed.

Mr. Kaltsounis asked if it was customary for the City to establish a 50-foot wide road. He questioned what type of precedent that would set.

Mr. Shumejko replied that the City had existing 50-foot roads in some of the older subdivisions. The proposal showed a 30-foot wide right-of-way, which would actually be a private easement. In the future, if the whole width were obtained, it would be turned into a public road. He did not believe the State allowed half-width right-of-ways in plats. He added that the road would be dedicated as a private road easement.

Mr. Kaltsounis said that if the developer only owned the north part of Grace, it would allow a half-width right-of-way. The south portion was owned by the person across the street and he wondered if the City would have to pay the person on the south side of Grace for his property.

Ms. Millhouse explained that the private Agreement was for roughly a 50-foot width. That meant 25 feet of the southern portion of the subject site, and 25 feet of the northern portion of the two adjacent properties to the south. That was the existing recorded easement, regardless of who owned it, for the 50-foot width. The applicant was proposing to add an additional five feet as an outlot so that the southern 30 feet of the subject site would be an outlot for the purposes of ingress, egress and utilities. At the City's request, by doing that, if and when the southern 25-30 feet of the property would become available for a public street, the Homeowner's Association that owned the outlot would be able to transfer it via quick claim deed to the City as a public right-of-way.

Mr. Rosen said they had established it was shown that Milano would provide access to or from Grace and that the City could not require it or prevent it

because of the private road. The people who could allow or prevent it would have to do it on their own. The Commission would try to determine if there was anything else with the plat that would be a showstopper.

Ms. Brnabic referred to the concern about headlights coming from Milano and she wondered if some type of barrier or landscaping would be proposed to help with that.

Mr. Mosher said that Milano was purposely moved westward to line up with a driveway. They did not want to direct it into the living room on the south side of Grace. There had been no proposed landscaping, however, he felt it could be discussed. Ms. Brnabic agreed they should have some discussion with the homeowners.

Mr. Rosen said the parallel concern was the shifting of the road to the west, which would bring it very close to the first house to the west. He did not feel it was a very smart idea and would create a problematic situation for that homeowner. Having a subdivision street on the side of a house might create a corner lot without the normal setbacks. He asked how wide the green strip on the north end was.

Mr. Mosher replied that it was 28.9 feet. That would meet the setback requirements. In addition there would be an open space buffer where the proposed replacement trees would be added. An engineering concern was that a taper and the apron for the approach would encroach in the easement, so they obtained an easement from the property owner to extend the curb return in front of the property line. Mr. Rosen said he was not so sure that having the drive jog to the west was as good an idea as having it go straight with a buffer on the opposite side of the road. That might mean the detention pond would have to be moved and one lot lost.

Mr. Kaltsounis said it was customary in the planning process to involve neighboring citizens, and he asked what type of meetings or correspondence the applicant had with the neighbors.

Mr. Mosher said they sat down with Mr. Vitale in 2002 to try to create a loop street. They had been working on this project in conjunction with Mr. Vitale for three years. They have had numerous conversations with the neighbors and have provided numerous plans. Mr. Durand and he had spoken on the phone numerous times and met. He had concerns about the stub street. They had not spoken with anyone in particular on the south side of Grace, but they made sure there was a 30-foot easement. During the conceptual plan meetings it was discussed that they should connect to McComb and they tried to address the concerns of the neighbors on that street.

Mr. Kaltsounis said that unfortunately, by the presence of the neighbors, the job was not done. He felt there were a lot of what ifs with the development in regards to the State and the easement and that the development might end up in court for a long time. Mr. Mosher said that the parameters for the TPP, the roadway, layout, lot sizes, configuration and drainage were the basis for the plat. They did the engineering to ensure that the layout stayed true. If something at that level

changed the layout, it would be noted at Final Preliminary Plat. The MDEQ and the State Highway Department would not even address it until the City granted approval of the TPP, so they were a little stuck.

Mr. Kaltsounis said the Planning Commission had to look at all the details and what surrounded the development. He referred to the headlight problem and said he did not note any buffering for the neighbors to the south. He asked how they would protect Mr. Craig, and said those were the things he would like addressed. He questioned whether they could add a cul-de-sac before Grace, acknowledging that might put pressure on McComb, but if the applicant did not get the State approvals or approval from the people on Grace, that might be an option.

**A motion was made that this matter be Discussed. The motion carried unanimously.**

Motion that the Planning Commission **recommends** City Council **grant Tentative Approval** of the **Preliminary Plat**, based on plans dated received by the Department of Planning and Development on March 9, 2005, with the following six (6) findings and subject to the following seventeen (17) conditions.

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.
6. The City acknowledges that Shortridge is the only access point for lots 3 thru 16 until such time as the stub street is extended westerly to a second access point.

CONDITIONS:

1. Eliminate the sanitary sewer through Lot 1, eliminate the connection to Grace Avenue, and connect to the existing stub off McComb, as approved by Engineering Services.
2. Show the weighted runoff coefficient calculations, as approved by Engineering Services.
3. Since it varies from 50 feet to 55 feet, correct the call out of the Grace Avenue road easement as "easement varies" rather than 50-foot-wide easement.

4. Show a tee turnaround at the Verona stub street, as approved by Engineering Services.
5. Eliminate the sidewalk ramp that is proposed east of McComb heading south.
6. Show a sidewalk ramp on the south side of Verona Drive for the sidewalk crossing west of McComb.
7. Add a note to Sheet 1 of 4 stating the following: Alignment of the proposed McComb to the existing McComb will require reconstructing the existing McComb and driveways as necessary. Additionally, necessary drainage improvements along the existing McComb are required to facilitate the drainage from the existing ditch line to the proposed curb and gutter section. Reconstruction of the existing McComb roadway, existing driveways, and necessary drainage improvements along the existing McComb shall be the responsibility of the applicant and approved by Engineering Services.
8. Show trees on adjacent properties and tree protective fencing at the dripline of off-site trees on Sheet 5 of 5, if applicable and as approved by staff.
9. 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.
10. Add a note to Sheet 1 of 4 indicating that the proposed 30-foot-wide parcel located adjacent to the south property line is a proposed outlot for roadway ingress/egress and public utilities to be owned by the Homeowner's Association and to be structured to be able to be dedicated to the City in the future.
11. Address the applicable geometric concerns referenced by the City's Survey Technician in his memorandum dated February 25, 2005.
12. Correct the proposed net density under Site Criteria on Sheet 1 of 4 to read 2.7 units per acre.
13. Determine and correct the proposed lot averaging table (Sheet 1 of 5) to accurately reflect the "lot width" at the setback line of all lots, as defined by Section 138-3 (page CD138:15) of the City's Zoning Ordinance.
14. Correct the width of lot 11 at the right-of-way line on the lot averaging table (Sheet 1 of 5).
15. Provide the existing building setbacks along the north side of Grace Avenue and correct the front building envelope of lot 1 and lot 2, as needed, in accordance with Section 138-1111(b) of the City's Zoning Ordinance.
16. Correct the name of the cul-de-sac (i.e., Milano Court) on Sheet 1 of 1.