



Rochester Hills Minutes Planning Commission

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

Tuesday, July 17, 2007

7:30 PM

1000 Rochester Hills Drive

2006-0764

Discuss possible revisions to the Preliminary Site Condominium Plan - City File No. 06-012 - Lorna on the Green, a 45-unit site condominium development on approximately 20 acres, located on South Boulevard between Crooks and Adams, zoned R-4, One Family Residential, Parcel Nos. 15-32-300-007, -008, -009 and -010, Mondrian Properties Lorna on the Green, LLC, applicant.

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

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

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

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

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

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

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

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

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

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

Chairperson Boswell referred to Mr. Nine's letter, which said that, in order for his client to consider a change to a PUD, he would need

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

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

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

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

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

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

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

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

him for over an hour and a half at the June 5 meeting, and he thought it would be wrong not to come back and without at least asking, and so he could say he gave it his best try.

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

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

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

Mr. Hooper said it was an interesting discussion. The property was zoned and Master Planned R-4, and at the previous meeting, Mr. Maniaci presented R-2 zoning and several members disliked the plan. Mr. Hooper said he did not quite understand that, because he knew Mr. Maniaci was allowed to develop as R-4. Mr. Maniaci came back and presented an R-4 development with more open space and more trees, exactly what members had been looking for, and members did not like it either. He said he personally liked the concept. He thought that the

concept was similar to the Lorna Stone development at South Boulevard and Adams (also done by Mr. Maniaci). Lorna Stone had a historic home, and they were developing a PUD with a park-like setting. He said it would hopefully get under way soon. Mr. Maniaci advised that they were on their third or fourth review with Engineering.

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

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

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

Ms. Hardenburg said she liked the plan at first glance, but she wondered

if the colored rendering swayed her decision. If the previous plan had been colored, she thought it would look good also. Mr. Maniaci said that the black and white rendering was a true representation of a subdivision because the homeowners would have full control over their units. To say it would be green would not be justified. He could have drawn it all in colors, but he did not know who would put a shed in their backyard, or who would add a trailer on the side of their house. Conceptually, he could have made it look prettier, and he suggested that they were not really of equal quality, but the concept drawing was truer of what would be on the site of a condo development. It would be green where it was shown as green. Most of the area was under the control of the association, and would always be maintained. One neighbor might not cut his grass, for example. The only area truly in color in the subdivision would be the wetlands and the retention pond. He said he loved the different look of the concept plan, and would love to do something new and different, but he could make do with what he had to work with, which currently was zoned R-4. He thought the Commission wanted to see something more like the conceptual plan, but he would be happy to go forward with the original plan.

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

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

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

Mr. Anzek said that had to be determined. He suggested that the PUD Ordinance could possibly be amended during the Ordinance rewrite to allow more flexible housing types. He referred to the length of time it took to get through the approval process, and said that the City required a high level of detail before it came to the Planning Commission. He recalled the discussion with the Commission about having their input earlier in the process, and said he thought that would be very valuable. He thought Mr. Maniaci raised good points about a condo development

because standards would get applied to the entire site - it would be mowed the same day and the landscaping would be maintained the same way. There would be empty nesters much more than families. He indicated that both were viable plans, and that Staff liked the concept as well, especially with more open space, but he reminded it was the Commission's judgment call. He liked the PUD; he had to find provisions on which to stand firmly.

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

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

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

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

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

Mr. Maniaci said the homes would be mostly ranch style, single-family

homes or attached units with a first floor master and possibly a bedroom upstairs.

Mr. Nine stated that conceptually, the Ordinance seemed to anticipate exactly what was proposed. He read, "The PUD option permits flexibility in regulation land development by encouraging innovation through an overall development plan, to provide variety in design layout; to encourage the creation of open spaces; to provide appropriate housing. It is used to permit densities or lot sizes that are different from that of the applicable district. It is further intended that the development will be laid out so the various land uses and building bulk will relate to each other." He felt they would end up with more views over the golf course with scenarios like the new plan than were in the old plan. He stated that when someone read those backgrounds and then looked at the specific criteria and applied it, that was what meant when he said other political jurisdictions read those two together, not strictly the criteria without regard to what the purpose of the criteria was. As a lawyer, he would have no problem going into to court to defend something that met the criteria if there was an objection. He explained that was a different issue then asking if the City wanted to have the proposal enough to say it met the general criteria. That was the issue they were afraid of.

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

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

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

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

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

with the Commission was not the site, but was whether it met the warrants for a PUD.

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

Mr. Kaltsounis said that he did not have a problem with the overall concept, but there were details, such as the 50-foot right-of-way, that were a concern. If Staff said they would not allow that, it would affect the development such that they might wish they had not gone down that road. He did not have a problem with the open space, and the density was questionable, but the underlying details could make or break the deal. He suggested they do the due process to try and work everything out.

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

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

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

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

Ms. Brnabic asked if there would be a draft of the Minutes for tomorrow's

Council meeting. She thought the issue of meeting the requirements for a PUD was a big concern. She had talked with people in the City who had been upset that developers could build anything by using a PUD. She wanted to make sure the proposal met the elements of the PUD Ordinance so she could explain how the system worked.

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

Ms. Brnabic thought the plan should meet four out of the five requirements for a PUD, and the Commission indicated it met one or two. She noted the Commission's previous concern about the surrounding area and what was already there, along with the discussion about building to R-1 standards in an R-4 zoning district. She stated she was not totally against the concept of the plan, but had a problem with certain areas, which she had mentioned. She stated her big concern with if it met the requirements of the PUD, and suggested the meeting minutes be included with any documentation provided to Council so Council would be aware of the conversation held by the Commission, along with the concerns, the pluses, and what the Commission liked and did not like.

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

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

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

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

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

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

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

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

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Discussed