



Rochester Hills

Minutes - Final

Planning Commission

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

Chairperson Deborah Brnabic, Vice Chairperson Greg Hooper
Members: Gerard Dettloff, John Gaber, Nicholas O. Kaltsounis, Stephanie Morita,
David A. Reece, C. Neall Schroeder, Ryan Schultz

Wednesday, June 5, 2019

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Deborah Brnabic called the Regular Meeting to order at 7:00 p.m. in the Auditorium.

ROLL CALL

Present 8 - Deborah Brnabic, Gerard Dettloff, Greg Hooper, Stephanie Morita, David Reece, C. Neall Schroeder, Ryan Schultz and John Gaber

Excused 1 - Nicholas Kaltsounis

Quorum present.

Also present: Sara Roediger, Director, Planning and Economic Dev.
Kristen Kapelanski, Manager of Planning
Paul Davis, Deputy Director, DPS/Engineering

COMMUNICATIONS

A) *Planning & Zoning News dated June 2019*

PUBLIC COMMENT

Chairperson Brnabic opened Public Comment at 7:02. Seeing no one come forward, she closed Public Comment.

UNFINISHED BUSINESS

2018-0173 Request for Final Site Condominium Plan Recommendation - Cumberland Village, a proposed 57-unit site condo development on approximately 23 acres, located on the east side of Livernois, south of Hamlin, zoned R-3 One Family Residential with a MR Mixed Residential Overlay; Various Parcels, Lombardo Homes, Applicant

(Reference: Staff Report prepared by Kristen Kapelanski, dated May 31, 2019 and site condo plans and elevations had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Greg Windingland and Cosimo Lombardo, Lombardo Homes, 13001 23 Mile Rd., Shelby Township, MI 48315.

Ms. Kapelanski stated that the proposal was for a 57-unit site condo development. It had been considered at the May 21, 2019 Planning Commission meeting and postponed. She noted that the Preliminary Site Condo Plan had been approved by City Council on June 4, 2018 after a positive recommendation by the Planning Commission. There had been a change to the Final Plan in that the northern access had been changed to emergency only, and a gated access had been proposed. A right in, right out only and a full access were discussed for that drive in the provided Engineering memo and a letter from the applicant. The gated access was the preferred option both by the applicant and the City's Engineering staff. It would provide the required Fire access and would not increase the potential traffic conflict on Livernois, which had been a concern by staff, especially given the proximity to the roundabout at Hamlin and Livernois. The Fire Department had indicated that a gate with a knock box was the acceptable standard for emergency access, and that bollards and grass pavers were not acceptable options. She noted that Mr. Davis of the Engineering Dept. was present to answer questions.

Mr. Windingland apologized for not being at the last meeting. He had a conflict and had sent another project manager to the meeting who did not know the site as well. They did not know the issue would come up. The history of how it went from what was shown on the Preliminary to what was shown on the Final Plan involved a lot of discussion and meetings with staff, the Road Commission, and their traffic consultant and design engineer. They first looked at full access for the northern drive, but there were issues in being able to construct it within the existing right-of-way (ROW). The west side of Livernois only had a 33-foot ROW, and the Road Commission (RCOC) would not let them offset improvements. There was an issue being able to construct the lanes to the full width, and one would only be 11 feet wide. They talked about right in, right out, but that was not desirable from an enforcement standpoint and controlling movements closest to the roundabout. They talked with Mr. Cooke of the Fire Dept., and he told them they could do an emergency access that would satisfy the requirement of having two means of ingress/egress. Mr. Cooke pointed out a couple of locations on South Boulevard where the gated configuration they were proposing was in use in the City. The City had not had any issues, and they met the Fire Code requirement. He concluded that they were present to answer any additional questions, and they were seeking approval.

Mr. Gaber said that he was trying to understand how traffic was going to flow out of the main boulevard entrance. He wondered how left turns would be accommodated into both the development coming from the north and for across the street going from south to north. He asked if there would be any bypass lanes. He just saw a single lane going in each direction.

Mr. Windingland responded that they would be providing a bypass lane at the southern entrance. There would be two outbound lanes - one for northbound and one for southbound traffic. There would be significant stacking ability if needed. If they had to put in the northern entrance, the concern was having traffic movements that close to the roundabout. The southbound traffic would use the southern entrance, and there was enough room to queue for northbound traffic. Also, the warrants necessary for a second entrance were not met. The second entrance was exclusively to satisfy the Fire Code.

Mr. Gaber said that made sense, but he was still trying to figure out how traffic would flow relative to the entrance. If someone wanted to turn left from either the north or south, he did not see a bypass lane for traffic to go around them, like there was for Cumberland Pointe. He said that he would have a problem if people were in rush hour traffic turning left across the street from the proposed development and not allowing anyone to get around them. That congestion was provided for in all the other subdivisions up and down Livernois. Mr. Schultz asked if there was a lane striping set provided. Mr. Windingland said that it was not in the site plans, but it would be in the engineering plans. He was trying to determine if there was sufficient room to accommodate a bypass. Mr. Gaber reiterated that Cumberland Pointe had them.

Mr. Davis said that if people were going northbound and wanted to turn into the subdivision on the west side of Livernois, they would turn from the through lane, but northbound traffic would have the bypass lane and go around that person. For the south side, it would be the same. It was wide enough to get around.

Mr. Gaber said that with respect to the northerly entrance, he understood the concerns that it might not be needed, or that it would be too close to the roundabout. He respected the Fire Dept.'s position as well. He just had difficulty with putting a gate as the type of mechanism to use for emergency accesses. He pointed out that the City's policy over the years was to have an interconnected community with roads connecting new and old subdivisions and stub streets. He was sure it would be an attractive

gate, but it would be big. It would be like a gated entrance to a neighborhood, which he thought they were trying to get away from. He believed that Walnut Brook Estates used to be gated, but it was removed. He was not sure if there were any other alternatives to satisfy the Fire Dept. other than an imposing gate. He encouraged them to try to come up with a resolution that looked less intrusive. Mr. Windingland stated that they would be willing to work with the Fire Dept. to see if there was something other than a gate that would satisfy.

Mr. Davis indicated that the issue was a classic example of competing requirements amongst departments. The Fire Dept. had something they preferred, Engineering might come up with a different recommendation, and Planning Commission and Planning Dept. might have different ones as well. They were trying to figure out the best situation, which might not be the best alternative for all departments. The noncompliance with right in, right outs had been mentioned, and they knew that would be a problem. They were only as good as the ability to enforce them. They were confusing, and people would violate. Engineering felt that the development was sufficient with one entrance to the south, getting it further away from the roundabout. Part of the objection to the northerly entrance, whether it was full access or limited, had been that people would come out of a dual lane roundabout. Traffic might negotiate that from the roundabout to the entrance in 7 ½ seconds. There would be traffic on Hamlin turning south on Livernois competing with someone coming south on Livernois through the roundabout. That Hamlin Rd. person might want to get into the center turn lane, and they would have a shorter period to make one lane movement and slow down and get into the center turn lane. He realized that the Fire Dept. had a requirement for a second entrance, but from an engineering and access management standpoint, they did not recommend it.

Mr. Gaber asked Mr. Windingland if he could make the gate as inconspicuous as possible and blend it in with landscaping. Mr. Windingland said that they would be happy to work with staff.

Mr. Hooper noted that the Preliminary passed six to three, so he considered that if two yes votes were lost, the Final would not pass. He went over the two conditions added for the Preliminary approval: provide modified plans showing a center left turn lane at the northern entrance at Final, which had been changed. He felt that was where things went sideways. Two entrances were shown on the Preliminary, so that situation should have been halted back then. The other condition was to add trees and shrubs along the eastern property line to discourage cut-through

traffic to Hamlin. He asked if the Juniper trees were added to satisfy that requirement, which Mr. Windingland confirmed. Mr. Hooper noted that Mr. Shumejko had talked about Foxboro Subdivision in his memo. Mr. Hooper mentioned Hazelton Condos. 22 years ago he was on the Commission, and there was the same argument. It was a long, circular subdivision similar to what was proposed that had a single entrance. At that time, the Fire Dept. wanted two entrances in and out, and they ended up putting in a boulevard. He said that he had been opposed to that right from the start, although it eventually passed. He stated that he did not want to repeat that situation again. He had been a yes vote for the Preliminary, but he could not support the current plan. He would support it if the northern entrance was a right in, right out with no gate. He said that he wanted to see the development happen. It was a great subdivision with a great developer, and he knew Mr. Windingland personally as a great guy. He felt that they needed to do the right thing, however, and provide a second means of entrance, and a compromise for him would be a right in, right out.

Mr. Schroeder suggested that they could put in a pork chop that would force right in, right out. Mr. Windingland advised that the RCOC would not allow any improvements to extend into the row. When they plowed, they did not want to encounter a high curb or obstacle. Mr. Schroeder considered that it could be moved back.

Mr. Reece said that he agreed with Mr. Hooper. When the project came before them for the Preliminary, there was discussion about the density. Getting rid of the second entrance would be a show stopper for him. He could not support it as it was currently depicted.

Mr. Gaber commented that he respectfully disagreed with his colleagues. He lived in that area, and he did not think that right in, right out would alleviate any of the issues. The real difficult turning movement would be going south in the morning. In morning traffic, most people wanted to go south and with a right in, right out, they would not be able to do that. If they wanted to go north, they could go to the southern entrance. In the evening, most of the traffic would be coming from the south, and they could easily turn into the south entrance. It did not think right in, right out would alleviate the traffic they were concerned about.

Chairperson Brnabic asked Mr. Gaber if he had a solution. He said that he could live with what had been presented. The options were to close it, do a right in, right out or have a full access. He understood what Mr. Davis had said about Engineering's concerns about proximity to the

roundabout. He felt that those were valid concerns.

Ms. Morita said that she tended to agree with Mr. Gaber in terms of staff's recommendations and trusting that they had made the right decision. If the Fire and Engineering Depts. were okay with it, then she should be okay with it. The problem was that she did not want a gate there, either. She did not think that it would look good. The project had already faced opposition on Council, because there was no park or open space. Even if it got through Planning Commission, she was not sure whether there would be support on Council with the changes. She did not think that some of her colleagues would find it acceptable. She was not sure how she would vote. She asked the applicants if they wanted the Commission to vote or if they wanted to take the plan back and see if there was another option to make the proposal a little more desirable.

Mr. Windingland said that regarding a full access, he did not think it was in anyone's best interest. The right in, right out would not really address any of the concerns he had been hearing. The concerns were mostly about people leaving the sub to go southbound. A right in, right out would prevent that, unless the curbing was disregarded. They would be happy to work with Fire and Planning to try to make the gate look less inconspicuous. He suggested that they could make it look like a landscape feature. He understood the objection to gates in the community.

Ms. Morita was not sure, because she did not have a gate design in front of her to be able to weigh in. She commented that a picture "speaks a thousand words." She asked if they wanted to look at that and come back, and she considered that it might be more palatable once people could see what the gate looked like. She appreciated their hard work and investment in the community, and she did not want it to be any more difficult than necessary, but she stressed that it would be on a major north/south thoroughfare in the community. She did not know what the traffic count was, but it was not a minor road. She added that people would see the gate every day.

Mr. Windingland understood that the right in, right out was Engineering's second choice. If that would satisfy the Commission, they could do that. He did not want to go against professional staff, but he indicated that he was in the middle.

Mr. Davis pointed out that the secondary entrance would only serve two homes. They required a 22-foot wide roadway, and he suggested that

they could try to minimize the appearance of the gate and work with Fire to come up with something acceptable.

Mr. Schultz asked if Fire was not on board with a grass paver solution, and if it had to be paved. He questioned how often the emergency access would ever be used. In that one instance where it was, he believed that they would put the fire truck where they wanted. Ms. Kapelanski stated that the policy of the Fire Department was to not accept grass pavers, because it would not be plowed, and it was against the fire code. Ms. Morita wondered who would plow the gate. Mr. Schultz said that he knew enough about civil engineering to be dangerous, but he struggled when the professionals on staff rendered decisions, and the Planning Commission sometimes undermined staff's decision. He said that he could be on board with the proposed plan as presented.

Mr. Windingland said that as far as plowing the gate, they would have a Master Deed, and the Association would be responsible to do the private streets. There would be a snowplowing contractor. One of the obligations would be to make sure that the access was maintained in the winter. Ms. Morita thought that the grass pavers could be plowed as well. Mr. Windingland agreed. He suggested that they could also add colored, stamped concrete to look more decorative. He understood the gate issue, but it was kind of a corner they were boxed into.

Chairperson Brnabic pointed out that the Fire Dept. would not budge on grass pavers. Ms. Kapelanski agreed, and said that stamped concrete might be something that would work. Mr. Davis agreed. He said that it was not often that Mr. Cooke dug his heels, but for this project, grass pavers were totally unacceptable.

Mr. Reece stated that one of his issues was that they had talked about pocket parks, and it was turned down by the applicant. A bigger issue was 57 homes with one entrance across the street from another subdivision. He respected the City's Engineering Dept. and their professional opinion. However, with that many homes and one entrance directly across from another major subdivision on an already congested road, he maintained that it was a recipe for disaster. He did not care what the warrants said, and it came down to common sense. There would be 57 homes with one entrance on a major thoroughfare that was already congested, which made no sense to him.

Mr. Davis agreed that Mr. Reece made a fair point. They had to determine at what point the second entrance would be required from an

Engineering standpoint. They showed an example of Foxboro on Walton with 54 homes with a single entrance that had been effective. For many years, Kings Cove and the Summit did not have a traffic signal, and there were far more homes onto a busy road. At some point, professional judgment came into play, whether it was a Planning Commission member or an Engineer or the developer. From Engineering's standpoint, one should be sufficient, but he said that he could respect contrary opinions.

Mr. Gaber asked if the development met all the Ordinance requirements, which Ms. Kapelanski confirmed. Mr. Gaber said that it would be hard to say no to the development when the Ordinance allowed the applicants to do what they proposed. If the Commissioners did not like it, they needed to revise the Ordinance. He pointed out at the last meeting a problem with the Ordinance for average lot width. For the proposed development, it allowed the widths to go down to 81 feet, and it did not require an average of 90. He felt that the proposed layout took full advantage of that, although the lot area did require the right threshold. He would have liked to see something less dense, but the question was whether they had a right under the Ordinance. In terms of landscaping and tree preservation, he asked if they were replacing as many as they could on site as opposed to paying into the Tree Fund. Mr. Lombardo explained that they were not subject to the Tree Conservation Ordinance.

Mr. Windingland said that they were trying to work with the competing interests of the City, but they were caught in the middle. They would do what they needed to move forward, whether that was working with Planning staff and trying to minimize the width of the entrance and masking the look or coming up with something that was not a gate. If it meant having right in, right out, they were willing to do that. They understood that it was not the first choice of Engineering.

Mr. Dettloff said that Mr. Davis raised an interesting point. He lived in King's Cove, and he lived with the issue before having a traffic signal for many years. There were times he wondered if he could ever get out of the sub. He asked if the development could possibly merit a traffic signal. Mr. Davis said that it would not at this point, and with the roundabout proximity, he was not sure it ever would. He thought that Livernois would come up in the Master Thoroughfare Plan update. The last one said to not touch Livernois, and they did not want to expand it to a five-lane road no matter what the traffic. The traffic on Livernois was 15,140 vehicles (from 2016). That was less than what Tienken had. It was approaching capacity, and at some point, the City would have to decide about widening

Livernois or not. If it was kept at a two-lane roadway, there would be congestion regardless of the proposed development.

Chairperson Brnabic stated that the whole situation was difficult. She realized that the applicants were trying to cooperate. The Planning Commission had concerns, and there was advice from staff. She had a concern because of the density and having one entrance, but the Ordinance was being followed and lot averaging was allowed. The Ordinance did not require open space for the development, and that was more of a discretionary item.

Mr. Gaber mentioned that as Mr. Windingland said, there were ways to provide a Master Deed mandating the plowing in the sub and to provide self-help remedies with penalties the City could exercise if, for whatever reason, that was not done. He had seen that in a lot of condo documents. He understood the competing concerns, and he saw different opinions on the board, so in order to give the project its best chance for success, he moved to table the request so the applicant could look at the northerly drive issue. They could look at the options, such as right in, right out, colored pavers, more landscaping and trying to obscure the gate, reducing the width of pavement and working with Fire and Engineering to try to come up with a solution. Mr. Dettloff seconded the motion.

Mr. Windingland said that he appreciated everyone trying to help move the project along. If they came back with a decorative gate, he was still not sure that would be compatible to some of the Commissioners. He was willing to do a stamped, decorative concrete to a narrower width, but he was not sure that would get enough votes. He asked if they should just agree to the right in, right out in an attempt to satisfy everyone.

Mr. Gaber said that it was hard to say. There had been a variety of opinions, and there was not a consensus. Ms. Morita made a great point about pictures being worth a thousand words. If some kind of rendering could be provided and what right in, right out might look like, it would be up to the Commission to make a decision.

Mr. Schroeder asked if it would be possible to put in a decorative, wooden fence that could break away. Mr. Windingland said that they could do that, but he was pretty sure that the Fire Dept. did not want a break away. That was why they wanted a knox box. Mr. Schroeder noted that there were break away wooden signs, and when trucks hit them, they broke at the bottom. He acknowledged that it would be the Fire Dept.'s decision. He asked if they had a traffic engineer look at it, and Mr. Windingland

said that they used Mike Labadie. Mr. Schroeder suggested that someone else should look at it.

Mr. Hooper asked what ROW improvements were proposed. Mr. Windingland advised that there were some storm sewer and improvements at the south end. There was a taper that would go to the emergency entrance. It would be minimal based on the need to install the two connections. Mr. Hooper noted that the southern entrance was existing. Mr. Windingland said that there was not much. Mr. Hooper said that the Preliminary approval was conditioned upon providing a center left turn lane at the northern entrance, but they would now not do anything. He felt that there were other things they could do. He asked why they could not eliminate the piece on the west side of Livernois at the southern entrance and extend the center turn lane. Mr. Windingland was not sure that would alleviate anything. Mr. Hooper said that it would provide more stacking for someone going southbound in the center turn lane. It sounded like due diligence was missed all over, and he asked what ROW improvements they could do to mitigate the problem. Mr. Windingland said that the center through lane would still have the existing bypass lane, but he saw the point. Mr. Hooper suggested that there might be other options.

Chairperson Brnabic asked the applicants if they agreed to table the matter. Mr. Windingland said that they did.

MOTION by Gaber, seconded by Dettloff, in the matter of City File No. 17-019 (Cumberland Village Site Condominiums), the Planning Commission hereby **tables** the request for **Recommendation of Approval** of the **Final Site Condominium Plan** so the applicant can further investigate options regarding the northern entrance as discussed.

A motion was made by Gaber, seconded by Dettloff, that this matter be Tabled. The motion PASSED by an unanimous vote.

DISCUSSION

2019-0027 Tree Preservation Ordinance Update

(Reference: Memo prepared by Ken Elwert, dated June 5, 2019 and Draft Ordinance had been placed on file and by reference became part of the record thereof.)

Present for the discussion were Ken Elwert and Matt Einheuser, Parks and Natural Resources for the City.