

**MINUTES
GRAND RAPIDS PLANNING COMMISSION
FEBRUARY 14, 2002
1:00 P.M., RM. 201, DEVELOPMENT CENTER**

Members Present: Chairperson Robert Zylstra, John Stivers, Peter Carlberg, Marilyn A. Titcher, Kim DeStigter, Patrick A. Miles, Shaula Johnston and student members Christina Carlson and Jeanine Myles

Members Absent: Janet Sanders

City Staff: Planning Director William F. Hoyt, City Attorney Stanley Bakita, Val Lazdins, Marv Lummen, Jim Parr and recording secretary Carol Gornowich

BUSINESS MEETING:

· Approval of Minutes of January 24, 2002 - Mr. Stivers MOVED TO APPROVE THE MINUTES OF January 24, 2002. SUPPORTED by Mr. Carlberg. All in favor. MOTION CARRIED.

· Planning Director's Report - Mr. Hoyt introduced City Attorney Dan Ophoff to discuss the regulated use portion of the code.

Mr. Ophoff informed the Commission that the City is being sued regarding the zoning code provision regulating adult bookstores. There have been two suits filed; one challenging the Zoning Board decision and one challenging the constitutionality of the code. The City has hired a consultant to examine that portion of the code and help rewrite it.

Mr. Ophoff explained that the City's ordinance regarding adult bookstores was written in 1977 and was a product of a Detroit case that regulated adult motion picture theaters. The premise behind such an ordinance is that a concentration of such uses creates a detrimental effect on neighboring properties.

The City operated under that ordinance without incident until Velvet Touch moved from Wyoming to Grand Rapids. Staff looked at Velvet Touch's operation in conjunction with the ordinance which only regulated adult bookstores, not videos or DVD's. Staff determined that the number of books was not "substantial" and allowed them to go in because it did not meet the definition of regulated use. Neighbors appealed that decision to the Zoning Board of Appeals and staff's interpretation was upheld. The neighbors challenged that decision in Kent County Circuit Court. Judge Kolenda re-

interpreted the ordinance. He did not take "substantial" into account but looked to another section of that ordinance which says "section" or "segment". Judge Kolenda determined the operation to be a regulated use and sent the matter back to the Zoning Board for a variance request. The Zoning Board did not grant the variance. In the meantime the ordinance was rewritten to include movies and discs. Velvet Touch appealed to the Court of Appeals after the variance request was denied. Velvet Touch cannot sell movies, videos or periodicals based on Judge Kolenda's decision and the Zoning Board's denial. In addition, they have opaqued out some of the packaging of other materials.

Mr. Ophoff explained that the constitutionality challenge is based on "substantial" and "section or segment". These are vague and incomprehensible to the average person and that solidifies their challenge of the ordinance. The ordinance is an antique and did not thoroughly review potential secondary effects when it was adopted. The way to do that is to reference materials which connect the secondary effects of

adult uses to neighboring residential properties. No legislative record or finding is a defect in the ordinance that needs to be corrected. The other portion of the ordinance that needs to be corrected relates to the "substantial" qualifier. Ann Arbor was also challenged by essentially the same people that Grand Rapids is dealing with in this case. That case went to the Circuit Court of Appeals and it was determined that it was a percent qualifier. If an adult use has, as it's primary activity movies, videos, etc.... that accounts for 20% of its floor space, it is considered substantial activity.

The City has hired Scott Bergholt from Arizona who generates and drafts ordinances all over the country relating to adult uses. Mr. Bergholt will essentially follow the same format used in Ann Arbor and it is believed that 25% will be used rather than 20%. The qualifiers will be floor area and gross sales.

Mr. Ophoff responded to Mr. Lazdins question regarding gross sales and a new business. He stated that in the Velvet Touch case gross sales could have been based on their other stores.

Mr. Hoyt explained to the Commission that normally a public hearing would be held regarding the change to the code. At this time the new wording of the ordinance is not in place but staff is requesting permission to set that public hearing date for 3/14/02.

Mr. Stivers MOVED TO SET A PUBLIC HEARING, date to be determined by staff, to consider revision to the regulated use portion of the ordinance as it relates to adult bookstores. SUPPORTED by Ms. Titche. All in favor. MOTION CARRIED.

PUBLIC HEARINGS:

Permitted with Approval - 2161 Leonard St. NW - 29,000 square foot addition to Saint Ann's Home. (PWA 01-02)

Mr. Lazdins gave a description of the property and the request and indicated that there has been a lot of opposition. The proposed expansion would accommodate 45 relocated nursing beds and 6 semi-private rooms and add 10 additional Alzheimer care beds. The vacated space in the existing structure will convert into adult day care uses. He explained that as a result of the drive expansion to access the relocated parking, a number of trees would be lost. The drawing included in the packet was submitted prior to the development review meeting. The revised plan submitted since then still pushes that drive out toward the west. There are a variety of issues the neighbors are concerned about. Following the public hearing notice, they have expressed concerns about the expansion and the impact on neighboring residences.

Mr. Lazdins continued, stating that St. Ann's proposes relocating the employee parking to the back of the property. He wondered whether the loop road along the west that accesses the rear parking is really necessary. If not, not as many trees would be lost. Also, the plans for the relocated employee parking area have not been shared. If that parking were eliminated it would provide for more green space along the eastern edge of the property. There are older arborvitae planted along this property line that are overgrown and losing branches along the bottom. This does not provide good screening and with the proposed addition more traffic going to the staff parking area is anticipated. Therefore, more landscaping/screening may be needed in that area. Another question is whether the rear of the property is the best location to relocate the employee parking. The grade from Leonard rises up and then falls down again so there is an area that is virtually hidden from Leonard and the majority of the surrounding neighbors. A suggestion would be to relocate the parking to the southwest corner and it would not be as visible to the properties to the north and the west.

Mr. Lazdins also stated that in hearing from neighbors there have been comments that landscaping that was promised along the northern property line was never provided. Therefore, there may be a need for additional landscaping in that area as well.

Mr. Lazdins felt that given the number of questions raised by staff and the communications received from neighbors, it may be appropriate to continue with the public hearing but table any action so that some of these issues can be addressed.

Mr. Lazdins then responded to questions. He responded to Mr. Carlberg regarding the northwest corner of the property stating that there is no anticipated access from that direction. The vacant property is part of the neighboring Church property. There is an existing access on Milford but that access point is gated and not used.

Mr. Lazdins responded to Mr. Zylstra stating that the proposed parking at the northwest corner would be accessed by the loop road going around the building. If the drive is eliminated on the west they would have to come around from the east. If the parking were kept to the front it would eliminate the need to drive around the entire building.

Mr. Carlberg noted that if the Milford access were opened it would provide a more direct access to parking at the northern section of the property.

Mr. DeStigter recalled a previous proposal before the Commission where the Milford access was an issue and the residents do not want the traffic going through their neighborhood.

Dave Sabota from DTS Architects was present to discuss the proposal. Glen Ron from DTS was also present as well as Sr. Gabriela from St. Ann's Home. Mr. Sabota gave a brief project history. He stated that in June 2001 they were asked to design a new state of the art facility that would enhance St. Ann's capacity to provide basic nursing care service for the existing 45 beds they have now and add 10 full-time nursing care Alzheimer beds. They also have on the property a 10-bed ambulatory Alzheimer care area. The overall population increase would be 10 beds for the Alzheimer nursing care. There are no additional beds proposed for basic care.

Mr. Sabota indicated that St. Ann's has approval from the Alliance for Health as well as a Certificate of Need from the Kent County Health Department.

Mr. Sabota described that they have attempted to keep the wing additions as far from the neighboring properties as possible. From the corner of the building they are approximately 167 ft. from the nearest neighbor and the street is 125 ft. He agreed with Mr. Lazdins that it will be necessary to eliminate some of the trees but the majority of them will remain. The loop road will go around the building to the proposed new employee parking area. The retention pond is proposed for

the northwest corner of the property as suggested by Randy Lemoine of Stormwater Management. There are substantial numbers of trees and plants currently around the property. Mr. Sabota described photos that were taken from the interior of the property looking out toward neighboring properties.

In closing, Mr. Sabota stated that they have attempted to minimize and keep the building as far away from the property lines as possible. He has briefly discussed the loop road with Mr. Lazdins but has not had an opportunity to discuss it with the Fire Dept.

Mr. Sabota responded to Mr. Zylstra that the parking is for staff. They will be relocating the staff

parking from the southeastern corner to a new rear parking area. There will be a total of 45 spaces in the new parking area. They do not intend to eliminate any parking. The existing parking would be to handle the overflow parking associated with funerals, etc.

Mr. Stivers noted that the central and core functions of the home are close to the east property line. There appears to be a maintenance area and receiving area there as well. The parking may be eliminated but that traffic corridor seems to be essential to the operation.

Mr. Sabota responded indicating that was correct. The existing facility was constructed in 1967 or 1968. The loading dock, parking garage and trash removal are located in this area. Current zoning setbacks are different than what they were at that time. The building did meet code when constructed.

Mr. Zylstra wondered about parking at the southwest corner. If parking were added to both sides of the drive he asked whether that would provide adequate numbers and eliminate the need at the north end of the parcel.

Mr. Sabota responded that the employee entrance is proposed at the north end of the building. He also responded to additional questions indicating that if the parking were at the southwest corner, the hill would in fact hide most of that parking. The entire parcel is surrounded by a fence.

Mr. Zylstra invited public comment.

Ann Teliczan of 1248 Northrup NW stated that she has been an area resident for nine years. She pointed out where her home is located in relation to St. Ann's Home. This is a huge complex in the center of a middle to upper middle class neighborhood that was present before St. Ann's was constructed. She explained that her home is two-story, brick with windows across the back. She

stated that their view is not shielded and the fence around the property is only chain link. Ms. Teliczan also explained that the existing parking is not directly adjacent to her property now and they are continually disturbed by noise from vehicles. She feels that if the Milford access were opened, the residents along that street would be extremely upset. The existing gate was installed because they did not want the traffic going through the neighborhood. Ms. Teliczan summarized stating it is too close to the homes, it is too large, and it is eliminating too much green space. If an addition is necessary to function, she would like a feasibility study done as to building up. She stated her concern for the proposed adult day care and the resulting parking needs. She is concerned about relocating the employee parking to her back yard. Ms. Teliczan stated she is also disappointed that the residents were only given three weeks notice to prepare a response. She is interested in safeguards being provided such as extensive landscaping and penalties being attached where neighbors are compensated if St. Ann's does not follow through.

Dick Johnson of 2214 Lanco NW stated his was one of the last homes built in the area and it was there prior to St. Ann's. He noted that the architect stressed how far away they are keeping the building from the property line. The building is not the problem. The building is a quiet neighbor. It is the parking and the road that creates the problem and this proposal is pitting neighbor against neighbor. No one wants the parking in his or her back yard. It seems they are just moving the problem from one section of the property to another. He stated that St. Ann's has not followed through on the landscape promises. He also stated that he understands the mission of St. Ann's and feels they do a wonderful job, but there has never been a working, cooperative effort on the part of St. Ann's.

Jim Mallehcote of 2251 Leonard stated that his home is at the corner of Leonard and Northrup. He stated that the southwest corner of the property is a low area and regularly floods. He feels that if

parking is provided in that area his yard will suffer from additional flooding. He is also concerned with additional traffic and an increase in accidents. Mr. Mallehcote also recalled that when this additional property was purchased it was intended to be used for green space and walking trails. St. Ann's is now looking to benefit financially from that space and take away from the surrounding resident's quality of life and property values.

Mr. Mallehcote responded to Mr. Carlberg regarding the traffic and parking. He anticipates that if they are relocating parking and not eliminating the existing parking then there will be more activities and a need for more staff as the building will be larger. Therefore, additional traffic. If the parking is moved closer to Leonard then the street appearance suffers.

Kathy Sanders of 1301 Westend NW was present to comment. She stated that there are three shifts providing 24-hour care for the residents of St. Ann's. In addition there are also break periods in which the staff occasionally has visitors. The neighbors are subject to the three shift changes with cars running, radios playing and even conversation. She stated that her home was built in 1964 and has hot water heat making central air impossible for her home. The home also has custom sized windows, which prevents the use of window air conditioners. Therefore, all summer they sleep with their windows shut to avoid being disturbed by the noise. In addition, the ambulance access is in this area of the property and they leave their vehicles running sometimes 30-40 minutes, creating fumes as well as noise. The loading dock, employee parking and the employee entrance are all located in this area. All of these issues limit their enjoyment of a three-season porch on the back of their home. Ms. Sanders stated that she has requested that the night shift employees use the front parking, which is always empty, but they continue to park adjacent to her back yard. She feels it is ridiculous to consider adding to all of these problems. The privacy of the neighbors and the enjoyment of their properties should be taken into consideration.

Steve Cheslick, resident of Lanco Dr. was also present. He indicated that they have taken a survey of the neighborhood regarding the proposal as it has been presented to them. He presented a diagram that depicted that 90% of the residents are opposed. Mr. Cheslick also provided a photograph of the landscaping that was provided in response to the last promise they were made, the trees have all died. He commented on the garage that was mentioned. The existing garage is not a typical two-car garage but rather a pole barn. He stated that his concern is that the residents have not been given a clear picture of St. Ann's plans or their intentions for what is going in. Once the building is expanded he feels there will be more pressure for a second access point and re-opening the Milford access.

Elsa Curr of Northrup NW stated that her property is not adjacent but it is her neighborhood that is being affected. There are no sidewalks in the neighborhood so people walk in the street etc. That is the concern when speaking of additional traffic. She also agreed with the previous comments and stated that maintaining their property values enhances Grand Rapids, St. Ann's and the residents that live there.

Mr. Carlberg noted that the majority of the comments and concerns are related to cars, traffic and noise which is mostly related to staff.

Ms. Curr responded that traffic in general is the issue because they don't know what is proposed for the use of the existing space/units that are being replaced or the existing employee parking area.

Ken Sanders of 1301 Westend NW submitted a petition with signatures of those in the area that are opposed. He asked the Commission to consider four questions: 1) how it alters the character of the neighborhood, 2) what harm does it cause to property owners, 3) is it a detriment to the surrounding neighborhood, and 4) what is the depreciation of property values as a result of what is proposed? It is not only the traffic and noise that are of concern but the buildings as well. The buildings do have a visual

impact and he is not fortunate to have green space between his home and the structure. The existing trees do block some of the view but none of the noise. He is also concerned that if the patients are moved into the new section of the building the old section will be used as an adult day care center. That is a good purpose but what impact will that have on neighbors? There will be additional traffic with families dropping off loved ones morning, afternoon and evening. He stated he has also heard nothing in terms of a traffic study and how this addition would impact the traffic on Leonard. There is a grade on Leonard that creates a visibility problem with the existing entrance to St. Ann's. If this is the only way for people to access the property there will be confusion and congestion. There are two churches, a bus stop and a school within walking distance of the area residences, which creates cause for concern. It seems as though they just keep shoving more and more in and not providing for the additional traffic. He is concerned that the solution to that in the future will be to re-open Milford because of the existing curb cut.

Gary Henken of 2158 Lanco Dr. submitted another page of the petition with 5 signatures in opposition. He agreed with the previous comments and added that there is an existing emergency drive on the north end of the property. The edge of that drive is within 35 ft. of the fence. He is concerned that if the dynamics of the building change and the traffic flow changes, it will put vehicles within 35 ft. of the fence as well.

Mr. Chris Smith of 1324 Northrup NW stated that he shares the concerns of the previous speakers. He is concerned for the future and what will happen if St. Ann's home is not the occupant in 10-15 years. He indicated that he currently has flooding in his yard and his basement gets quite damp. The soil is clay and does not drain well.

Beth Fry of 1322 Westend Dr. anticipates increased traffic and is concerned for the children.

Mark DeYoung of 1259 Northrup NW stated that what he has heard is what is convenient for St. Ann's and not necessarily for the community. He feels there should be a way to envelope the facility and eliminate some of the problems, in other words get the traffic inside. The building can be an eye sore as well but rather than have a circle drive it seems it would be possible to eliminate the east end traffic and get it focused to the inside of the site.

Mr. Johnson added to his previous comments. He noted that the new space to house the existing 45 beds will require the same amount of staff. He is concerned that the staff will now double depending on the proposed use of the existing space.

Mr. Zylstra concluded the public comment portion of the hearing and invited Commission discussion.

Sr. Gabriela responded to questions regarding the number of staff persons. She indicated that they will only be adding a few positions. The existing staff of 140-145 will transfer to the new building. Adding the 10-bed facility will add approximately 5 staff. The existing space will be used for offices, a guestroom and a classroom. The adult day care does exist now and is not a new idea.

Mr. Stivers noted that the application is for "permitted with approval" and referred to the first standard, which the Commission must consider. His understanding as to how the facility and the related maintenance will operate is less than clear at this point. A better understanding of maintenance operations would be important. The majority of those that commented had concerns which centered on maintenance and operation; staff, trucks, landscaping, etc. It would be important to address those issues at the next hearing.

Mr. Miles MOVED TO TABLE THE HEARING OPEN. SUPPORTED by Ms. Johnston. All in favor. MOTION CARRIED.

Mr. Zylstra invited comments related to the permitted with approval standards.

Mr. Lazdins stated that one issue is the proximity of the existing parking and maintenance operations to eastern neighbors. That property line has the old arborvitae he described earlier and one suggestion might be the installation of a wall to shield the adjacent properties from the maintenance area. He also feels that if parking is replaced, the existing parking area should be a drive only and not a parking lot. He also suggested some berming along the north property line and a study of the front area in terms of providing parking closer to Leonard and further away from the surrounding neighborhood.

Ms. Johnston stated that her concerns would be that the applicants go back to staff to work on some of the issues but to also go back to the neighbors prior to working with staff to address some of their concerns. In addition to the parking concerns, storm water issues should be looked into. There were comments relating to existing problems with standing water. Staff comments regarding landscaping should be taken into consideration and the maximum number of necessary parking spaces should also be determined. Ms. Johnston stated she has severe reservations as the proposal relates to standard #2.

Ms. Titche agreed with Ms. Johnston's comments and asked what noise buffering remedies are available.

Mr. Hoyt responded that landscaping provides a visual barrier and a wall may provide a noise barrier.

Mr. DeStigter disagreed stating that in order for a wall to be an effective noise barrier it would have to be 20-ft. tall.

Mr. Stivers questioned whether this request could be conditioned on correcting something that is currently in the code that was not in code in 1967, such as the existing problem with noise?

Mr. Bakita responded that if the new construction is not affecting that aspect then imposing conditions would not be appropriate. However, if it is significantly related to the current request, items such as adding additional landscaping, buffering and screening would be reasonable and a valid condition added to any approval. Requiring major modifications to the existing building that do not relate directly to the current request would be an unreasonable condition.

Mr. Stivers mentioned specifically the potential for additional staff and increased traffic. If that aspect were not in compliance today then additional operations would certainly increase the nuisance.

Mr. Hoyt clarified the question another way, noting that if the noise ordinance is currently being violated it would seem that this addition would make that situation worse.

Mr. Bakita recalled from testimony that the buildings themselves are quiet, it is the vehicular traffic and employees that create the nuisance. That noise issue is not really addressed by the noise ordinance.

Mr. Zylstra offered his comments. He too agreed with Ms. Johnston's comments relating to the second point of the Permitted with Approval Standards. At this point he would vote against the request if those issues are not seriously addressed. In addition, point four as it relates to drainage is an issue. He stated he also agrees with the comments made by Mr. Lazdins relating to additional screening along the east and north property lines. Mr. Zylstra stated he would

not consider voting in favor without the additional parking being considered at the southwest area of the property, as close to the existing building as possible.

Mr. Carlberg stated that he is concerned with each of the PWA Standards that must be met and agrees with all of the previous comments. One problem in particular is the orderly development of the parcel and the single access point to the site. He does understand the problems with opening up any other street. The point made by the last citizen speaker was well taken. All of the objections relate to the perimeter of the complex. Expanding the complex expands the perimeter and the problems. A design that begins to internalize these things would be favorable and the buildings could act as a form of noise buffer.

Mr. Miles offered his comments and agreed with Mr. Carlberg as far as internalizing the traffic. All of the Standards must be considered, as there are concerns with each. He stated that his interest is in building healthy neighborhoods and feels it will be interesting to see how these neighbors come together.

Mr. DeStigter also agreed with the last citizen speaker and Mr. Carlberg. A lot of the complaints were with existing conditions that are not being resolved. If a plan can be designed to resolve existing conditions and prevent additional problems, then the points are addressed. That will not occur by expanding the periphery of the parking or by screening the parking with anything. The biggest problem is the noise. The shift changes at 2 a.m. are detrimental to a neighborhood. Some of these problems can be resolved and this expansion is an opportunity to solve them if the owner is willing to embrace that opportunity with a major redesign of what has been presented. Internalizing the parking would be favorable. The parking should be handled by the facility not by the neighbors. In looking at the existing facility, the most objectionable functions are right on the east property line. The loading dock has been an issue each time they have been before the Commission. Eliminating the parking on the east property line would be favorable. There is a minimal amount of parking in that area but it is used at the most objectionable time of the day. Additional landscaping would also be good but will not solve the problem. Mr. DeStigter did not feel additional traffic was as big an issue with the addition of only 5 employees. He also stated he is not sure a meeting between the owner and neighbors would be productive unless a new design/plan is presented to them.

Ms. Titcher wondered about providing parking under the building. Mr. DeStigter stated that too is a possible solution if the building were expanded upward.

Mr. Zylstra informed those present that the hearing has been tabled open, which will provide all another opportunity to comment. A date has not been set.

Mr. Hoyt stated that normally a tabled request is heard again two weeks later. However, in this case, with the number of issues presented it may be more appropriate to revisit the request in four weeks. He informed the citizens present that another mailing will not take place but that they could check the City's web site or contact the Planning Department by phone to learn when the matter will be revisited. As suggested by the Planning Commission, staff may schedule a meeting with the neighbors and the applicant.

Mr. Bakita added that additional comments will be heard if a revised plan is presented. Repeat comments from today's meeting will not be entertained.

Church. (PWA 02-02)

Marv Lummen described the location of the property at the City's northeast corner on the border with Grand Rapids Township. The area consists of scattered single family homes and condominium projects. The Grand Rapids Township planner has informed staff that they have recently approved a condominium development just to the north of this property.

Mr. Lummen continued, stating that the proposal before the Commission today is a 28,000-29,000 sq. ft. addition to the east side of the building. He also gave a description of the site and the surrounding area. The proposed addition will consist of a basketball court, classrooms and multi-purpose rooms. This addition will be accessed from the existing structure by two hallways. Again he stated that the addition is to the east, toward Shadow Lake. There is currently an abundance of brush in that area preventing views of the lake. The proposed addition meets all zoning setbacks and the height of the addition will be less than the existing structure that has a median height of 35 ft.

Mr. Zylstra questioned Mr. Bakita. He stated that in light of RLUIPA, this is an addition that is primarily related to church programs. He asked if there were any limitations placed on the Commission in reviewing this application.

Mr. Bakita stated that the application should be reviewed under the normal standards. The RLUIPA law says that land use ordinances cannot be enforced in such a manner that imposes a substantial burden on religious exercise unless it is in furtherance of a compelling government interest. If such an interest exists, the means used must be the least harmful to religious exercise.

Mr. Lummen indicated one letter of support was submitted today and another is attached to the resolution.

Jim Brody of Jeffrey Parker Architects was present on behalf of the applicant. He distributed an updated site plan and indicated there were minor changes from the original submittal. The updated site plan indicates a "no disturb line" in terms of the brush and he indicated they will be removing as little as possible. Some of the existing brush is 10 ft. in height. Mr. Parker also provided photos showing the site views to the north. That northern property line is a concern of the neighbors.

Mr. Brody indicated that during the plan review meeting, staff was about the possibility of a left lane bypass on Dean Lake. He indicated that after looking into that issue he found there is an existing by-pass that was put in at the time of the original Church construction.

Mr. Brody continued, stating that there will be no increase to the sanctuary or the Church itself. Therefore, the parking and parking lot lighting will remain the same. The only lighting that will be added will be near the exterior courtyard at the rear of the building and those fixtures will shine straight down.

Mr. Stivers asked whether storm drainage is to be handled by the detention area to the west or by Shadow Lake to the east?

Mr. Brody responded that the existing detention area will handle it. They currently have approximately 5,000 cubic feet over what is required.

Mr. Bakita suggested that the Pastor address the Commission as to how this addition is important to the

religious exercise of the Church and how they would be burdened if the request were denied.

Pastor Lew Vander Meer addressed the Commission. He stated that the Church's focus is children and young people. They encourage members to bring their children in for programs as well as the general public who, for example, bring their children to programs on Wednesday evenings. They are unable to provide for those children and young people in the existing structure. The existing facility is a very good, well planned, functional structure but the nursery, office and lobby space leaves them only three or four usable classrooms. Not wanting to put 25 students into classrooms designed for 15, they began using hallways and other areas not really designed for that purpose. This is not a good environment for students or teachers.

Mr. Stivers asked when the proposed facilities would be used.

Pastor Vander Meer indicated that the primary times are Sunday morning, a very busy Sunday evening program that includes worship as well as children activities and seminars, and a busy Wednesday evening program. There are also various other programs and activities offered on other week nights but they generally try to have things finished by 8:30 p.m. so that things are quiet by 9 p.m. The daytime activities include on-site staff and various classes and seminars that meet during the day. The daytime activities are not as intense as those on Sunday's and Wednesday's.

Mr. Carlberg questioned the height of the structure. Mr. Brody responded that the height is just under 32 ft. Mr. DeStigter clarified that only the gym portion of the addition is that high.

Mr. Zylstra invited public comment.

Mr. Don Chandler, 2420 Highlane, stated that his is the closest home to the Church. The area neighbors have no major objection to this expansion, however, they do have concerns. One of the major concerns is that green space be provided between the homes and the Church. Aesthetically, the Church structure is not in keeping with the homes in the area. They also have an environmental concern about the patio and where the run-off will go and whether that has been adequately provided for. He questioned whether an environmental study had been done.

Mr. Brody indicated that an environmental impact study was not conducted. The wetlands have been flagged and there are three wetlands on the property. In addition, they will be leaving as much of the brush on the property as possible. He does not feel that there are any detrimental environmental issues as they are draining this addition to the existing detention area.

Mr. Lazdins added that an environmental impact study is not required. The Environmental Services Department has reviewed the proposal and does not have any significant concerns with stormwater management for this site.

Mr. Brody addressed the green space concern. Pastor Vander Meer is willing to work with the neighbors and provide some evergreen plantings.

Pastor Vander Meer added that one of their members is a professional landscaper and has offered to provide whatever landscaping is necessary to address these types of issues.

Ms. Titcher MOVED, NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission approves the request of New Community Church at 2340 Dean Lake Ave. NE to expand their building with the following conditions:

1. Construction shall substantially conform to plans prepared by Jeffrey Parker Architects, dated and stamped by the Secretary of the Planning Commission on February 14, 2002, and shall constitute the approved plan.
2. A final landscape and lighting plan is to be approved by the Planning Director prior to issuance of a building permit.
3. Stormwater management plan is to be approved by the Environmental Protection Services Department prior to the issuance of a building permit.

SUPPORTED by Ms. Johnston. YEAS: 7. NAYS: 0. MOTION CARRIED.

Mr. Hoyt advised the applicant that the final landscape plan is their opportunity to address the additional landscaping along the north property line.

Permitted with Approval - 300 Prospect Ave. SE - Request of Stephen and Patricia Misner to demolish a house for open space and parking. (PWA 03-02)

Mr. Lazdins described the request to demolish a house at 300 Prospect SE in order to provide off street parking and additional yard area for 266 Prospect. The applicant has gotten approval from both the Historic Preservation Commission and the Heritage Hill Association.

Mr. Lazdins continued, stating that the eight points of the Permitted with Approval process have been included in the prepared resolution and the request does meet those points. The resolution basically states that the plan prepared and submitted by the Misner's will be considered as the approved plan. The conditions limit any future redevelopment of that lot to an expanded yard, landscaping and parking for 266 Prospect SE. The Heritage Hill Association was concerned that if demolition was approved the owners could redevelop the lot. Mr. Lazdins stated he feels the condition stated in the resolution addresses that concern.

Mrs. Misner addressed the Commission. She stated that she and her husband have been in the area for 30 years and they purchased 300 Prospect because it was very close to their home. They then purchased 266 Prospect to save it. Henrietta VanderMeer occupied the house at 266 for 70 years and in her 90's went into a nursing home. Ms. Misner stated she had vowed at that time that this house would not fall. In order to save 266 and make it a viable property and to compliment the Prospect Implementation Plan, it is necessary to remove this house.

Mr. Miles questioned whether they had considered joining the two houses into one. The distance between the two is very little and he wondered if that had been considered.

Ms. Misner responded that the 300 structure has suffered from termite damage and the basement has been deteriorating. Previous attempts to stop flooding left a basement of approximately 5-ft. x 6 ft. and only 4 ft. tall, and those attempts did not stop the flooding. Because of the alterations this is not a desirable piece of property.

Ms. Misner added that they did attempt to give the property to seven different people, including ICCF and other property owners on the block. She has had the property reviewed by architects also. All who have looked at the property have suggested that it would not be a worthwhile reconstruction project as the house is not really a contributing structure.

Roxie McGee of 217 Madison SE, stated that she also owns property on Prospect. This proposal is a

unique solution that they did not come up with in 1994 when the Prospect Avenue Plan was prepared. That plan was eventually adopted as a Master Plan amendment. The plan at that time was to allow parking in the lot to the north of 266, which the residents of 300 Prospect would use. Ms. McGee stated that this is a solution to help make 266 a viable house. The parking situation is unique as people who work and visit the institutions in the area use this street for parking. If a resident leaves their home and attempts to return mid-day, they end up walking a good distance because the on-street spots are taken. Parking is essential in the area and this is the best solution at this time.

Ms. McGee responded to Mr. Stivers that the parcel to the south is now the back yard for a house on Madison and is quite lovely. The parcel to the north is not owned by anyone interested in selling and it is also contiguous to a house on Madison. Another reason this seems reasonable is that by adding this parcel to 266 it almost becomes a legal lot. The parcel to the north is a 50-ft. lot, which would be sufficient for future infill housing.

Judy Jorgenson of 252 Madison was also present to comment. She owns 256 and 240 Prospect and she has worked with the applicant on Prospect for the last eight years. Having off street parking and yard space will give the block a livable character. This change will add life to the south end of the block.

Jim Jordan was present and stated that he owns the property behind the subject parcels and he looks forward to this building being removed.

Mr. Carlberg MOVED, NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission approves the request of Stephen and Patricia Misner to demolish the house located at 300 Prospect Avenue SE and limits any future redevelopment plans for the property to an expanded yard, landscaping and off-street parking for 266 Prospect Avenue SE, and

1. That the plan prepared by Stephen and Patricia Misner, dated and stamped approved by the Secretary of the Planning Commission on February 14, 2002 shall constitute the approved plan.

SUPPORTED by Ms. Titche. YEAS: 6. NAYS: 0. ABSTENTION: 1 (Stivers). MOTION CARRIED.

PUD Amendment - 30 Coldbrook St. NE - 26,197 square foot new building as an addition to the existing Belknap Ice Arena. (ZC 27-01)

Mr. Zylstra removed himself from the hearing due to a possible conflict of interest. Mr. Stivers announced the request.

Jim Parr gave a brief history of the Belknap Ice Arena. DP Fox began managing the facility when the Griffins hockey team was getting started. Last year they had a major fund raising that resulted in the proposal before the Commission today. The addition will accommodate practice sessions for high school and amateur leagues but there will also be public skating. There will be very limited, if any, bleacher seating. It is not envisioned for organized competition other than the adult recreation league.

Mr. Parr continued, stating that staff considered parking issues. These may arise during the transitional times between games or during practice times when there could potentially be a parking shortage as one group arrives and another one prepares to leave. That condition could be compounded with baseball or tennis events, however, after discussing the issue with Parks Department staff and after visiting the site it was determined that parking is adequate.

Staff also reviewed the building location. A baseball field is located at the southern property boundary close to the proposed addition. However, there is adequate pedestrian access around it so the building should not interfere in any way.

Mr. Parr stated he has heard little if any opposition. The local neighborhood association supports the request. There is a local need for ice time, which lead to the proposal. There is a lot of City support for the additional ice, which will address a deficit situation for league play. DP Fox has been a very good facility manager and that arrangement should continue.

Greg Sundstrom, Assistant City Manager for Management Services indicated that one of his charges is deal with City facilities. Since 1996 DP Fox has managed the ice rink and has done it with great success. They have maintained open access to neighbors, the fiscal management has been outstanding and their general stewardship has served the City well. In 1998 DP Fox was before the Planning Commission and received approval for the initial PUD. They donated the approved addition, valued at nearly \$300,000, to the City. DP Fox has also done some great things with the Grand Rapids Griffins Youth Foundation as well as providing free service to neighbors, with a focus on the Creston Plaza neighborhood. They have also been instrumental in providing skates for the rink at Rosa Parks Circle. The proposal they have put forward is creative in terms of design and financing. This proposal will not tap the City's general fund. There are retained earnings that are kept with the profits of the operation. Over the last five years of their management they have accrued earnings that will provide some funds for this project. Additionally, the operation of this facility will fund approximately 1.2 million dollars in bonds that they would have the City seek. Much like the addition that was proposed before, DP Fox will manage the construction. The proposal was taken to the City Commission and although there was no vote taken, there was very strong support for this addition.

Jean Wodarek of Driesenga and Associates Inc. was present on behalf of the applicant. She stated that Driesenga and Associates prepared the site design and worked within the site constraints that included the railroad right of way, the existing ball fields and bleachers, connections to the existing building, slope conditions and a 30 inch sanitary sewer that crosses the site. Those are the reasons the building is oriented the way it is. The 26,000-sq. ft. addition will be at the same elevation as the existing structure and there will be cross access between the two buildings. They intend to have a new entrance at the front of the building in order to utilize the secondary parking that is not currently utilized. They have discussed the proposal with Mr. Parr and have provided a letter in response to some of the concerns that staff noted. They have discussed fire access around the back of the building and have provided vehicle access. The ball field mentioned is actually further away from the proposed addition than the existing facility. They would prefer to leave the area around the building as green space unless they are required to hard surface it for fire access. Ms. Wodarek indicated that they are also providing storm water management for the addition and they are working with Randy Lemoine on those issues. They are also working with the Engineering Department in terms of relocating the sanitary sewer.

There were no citizens present to comment.

Mr. Carlberg MOVED TO CLOSE THE PUBLIC PORTION OF THE HEARING. SUPPORTED by Ms. Johnston. All in favor. MOTION CARRIED.

Mr. DeStigter MOVED, NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission approves and recommends adoption of the PUD amendment with the following conditions:

1. Development shall substantially conform to the plans prepared by Driesenga and Associates, Inc. dated and stamped approved by the Secretary of the Planning Commission on February 14, 2002 and shall constitute the approved plan.
2. Final landscape, site lighting and signage plans are to be approved by the Planning Director prior to

the issuance of a building permit.

3. That all other conditions of Ordinance 88-41 shall remain in effect.

SUPPORTED by Ms. Titcher. YEAS: 6. NAYS: 0. ABSTENTION: 1 (Zylstra). MOTION CARRIED.

PRELIMINARY PLAT - West of Centennial Ave., and South of Monticello Dr., NW - Valley Forge Plat. (P.U. 58)

Mr. Lummen indicated that Valley Forge plat is back before the Planning Commission by request of the City Commission. The property is located south of Lake Michigan Dr. and west of Covell, and adjacent to the Walker City line. Subsequent to the City Commission returning this to the Planning Commission for a public hearing the applicant has prepared a new design. There have been changes to the street layout and the storm water area became substantially larger.

Ms. Johnston noted that there are also three less lots.

Mr. Carlberg indicated that he liked the reconfiguration but would have preferred a larger map showing some of the connections to the streets to the west.

Dan Burnes was present to represent the applicant. He indicated he had no additional comments unless there are specific questions. This proposal has been before the Planning Commission previously and is now back. They believe they have everything in order and have taken steps to address some of the concerns such as the storm water and the road alignment. They have lessened the number of lots in order to make them a bit larger and the street configurations were changed slightly as a result.

Mr. Stivers noted that in driving the area there is a mix of streets with sidewalks and some without. He wondered if there is a general policy that addresses that issue.

Mr. Hoyt responded that subdivision regulations require sidewalks.

Mary Darrow, 22 Canyon Dr., was present to comment and thanked the Commission for the opportunity. She quoted from the "City Limits" that the focus on community oriented government at the City has as one of its stated challenges, developing a set of neighborhood indicators that measure key quality of life factors. Those key quality of life factors are the things the neighbors have been concerned with from day one. If it hadn't been for the need to rezone a little sliver of land the residents wouldn't have known about the development until the bulldozers began working. They do not dispute the developers right to develop the property but they do dispute the idea that the neighbors don't have an interest. They feel they have an interest when it comes to the fact that roads are going to be put through and because it affects their lifestyles. The neighbors have a number of different issues, including the density and water issues mentioned.

Ms. Darrow continued, questioning who had actually received notice regarding the hearing today. She indicated she spoke with a couple of adjacent property owners that did not receive notice.

Ms. Darrow submitted plans and stated that one of the concerns they have had as neighbors is they cannot understand the design philosophy behind the plat. The developer initially told them that he had submitted a plan that included cul-de-sac roads rather than a cut through. The City does not have any such plan and apparently he does not either. From the neighbor's standpoint they wanted to illustrate that

there are other options. They also believe there are a lot of low to mid range housing opportunities in this quadrant of the City but nothing a step above. If someone wanted to build something that was perhaps a higher level than what exists in that area, one would have to go outside the City to have a lot in excess of 70 ft. Ms. Darrow indicated she would be commenting on the plan submitted labeled "M. Darrow's preferred plan". From the very start there was opposition in relation to the cut through between Covell and Lake Michigan Dr. She indicated that she attempted to distribute the traffic as evenly as possible out of the new area to have as little impact as possible. Basically her plan splits it up so that each area is getting approximately 25 households per way out. She concluded by saying that they are not opposing the developers right to do this and they are not interested in seeing one street take on all of the traffic. They would like to come to some compromise so that there is not a major impact on their quality of life.

Gary Hoelsema of 2241 Skyline Dr. stated that his property is located at the intersection of Skyline and Canyon Dr. He noted that the new plat design was not presented to the neighbors. His concern is with the size of the lots in the original plan as they were very small in comparison to the lots surrounding it. He feels if a subdivision is approved there, the lots should compare in size to those existing. Mr. Hoelsema stated he is also concerned with the style of houses proposed and would like some assurance that these will not be "cookie cutter" homes. His property values have increased by 1/3 over the last six years and he would hate to see the value decrease. Another concern is to be sure streetlights are installed, as there are some areas of the original development that have no streetlights. With the anticipated increase in traffic he hopes that these older streets would also get streetlights to provide for more safety. Mr. Hoelsema also suggested that a traffic light be considered for the intersection of Lake Michigan Dr. and Bona Vista.

Mr. Hoyt responded that just like sidewalks, streetlights are part of the subdivision regulations and this subdivision will have streetlights.

Mr. Carlberg indicated he would like to hear more testimony as to the traffic issues and what is causing the concern. The objection seems to be having the streets opened and connected. He wondered if it is an internal problem relating to the residents using the streets to get from this area to the main roads or is the argument that this will draw people off of the main roads as a safer, more convenient way to reach another point?

Mr. Lazdins offered a response to Ms. Darrow's question relating to notification. Mr. Hoyt repeated the information stating that the intent was to notify everyone within 350 ft. of the proposed plat, however, four properties on Valley Forge were missed in that process.

Gordon Jeltema of 53 Canyon was also present to comment. He felt he could answer the questions about traffic. He explained that Skyline ties into Bona Vista and the concern is that they will get a lot of cut through traffic. They are not concerned about people that live in the neighborhood getting out. There are currently no streets that go directly through to Covell without making several turns. Mr. Jeltema continued, stating that one of the plans submitted by Ms. Darrow was a plan that he and his wife arrived at.

Mr. Carlberg wondered what would be the reason for people to cut through.

Mr. Jeltema responded that people who live in the other plat across Covell could use that as a cut through. In addition, when the park is built along the river, it may also generate additional traffic. Mr. Jeltema stated that Canyon has no curbs and the street is 6 ft. narrower than a standard street. An increase in the amount of traffic would be dangerous. They also feel it may be more dangerous to run additional traffic through the retirement condominiums on Bona Vista.

Pam Andre of 2236 Skyline stated that her home is on the corner of Skyline and Canyon Dr. She is concerned about opening up Skyline and Canyon Dr. Because she is located on the corner, both streets would be impacted and having those streets open would bring in a lot more traffic. People will cut through from Covell to go to Holy Spirit Church. There are many residents of the area that are parishioners at that Church. Ms. Andre also stated that there are currently no traffic signs in the development, which creates a dangerous situation.

Mr. Hoyt responded that Traffic Safety erects yield and stop signs based on the amount of traffic and if there isn't a sufficient amount of traffic, in their opinion, they do not put them up.

Ms. Andre noted the previous testimony as to no streetlights in the older portion of the development and the safety concern in relation to children and general visibility.

Mr. Hoyt added that it is possible for the neighbors to get together and agree that there is a desire for street lights or sidewalks and they can assess themselves for that. Most of the people in the new subdivision are paying those costs when they buy their lots and new houses.

Don Passenger of 2135 Shenandoah addressed the Commission. He felt the hearing should be re-noticed to allow everyone the same opportunity to comment. Secondly, there has been a substantial re-design of the plan that affects people in his area. They were given notice that had a proposed plan attached and now that plan has changed. He feels they have a right to review the new plan and comment. He feels the new plan has substantial defects. He indicated that what the map does not show is what occurs at the farthest north portion. There is a downhill slope leading into a sharp 90 degree turn where everyone using that new street would be driving directly at his front door, have to negotiate a hard left turn and miss his children and not end up in his front yard. He felt that within a year he would have someone land in his front yard. Mr. Passenger stated that the old plan had a different configuration that created some natural barriers. In regard to the neighbor's plans, he feels Ms. Darrow's plan has some merit. Each resident of the area would favor one of those streets being closed to benefit themselves. The new plan is much less attractive to the residents of the area and makes less sense from a traffic flow point of view.

Mr. Passenger continued, giving some history of the area and how the Holy Spirit property was accessed prior to MDOT closing off the cut through. It is not uncommon for residents to cut through the neighborhood to access Holy Spirit because at certain times of the day it is impossible to negotiate Lake Michigan Dr. He feels it will only get worse if a through street is put in. He also feels that the development of Millenium Park will create additional traffic and increase the desire to cut through that area.

Mr. Passenger commented regarding sidewalks. He would like any development here to be conditioned upon no deferred sidewalks. There are many developments in the area with deferred sidewalk plans that now have one home with sidewalks and their neighbor may not have one. It becomes an enforcement issue that no one really enforces.

Mr. Passenger also stated that this plat, as proposed, has lots 10-15 ft. narrower than the surrounding neighbors. Even with the new configuration they will be, on average, substantially less in width than their back yard neighbors. Therefore, the existing homes will have on average 1 1/2 back yard neighbors as opposed to one.

Mr. Passenger concluded his comments stating that the four households that were not noticed should be given an opportunity to comment. He suggested the matter be tabled and re-noticed to allow everyone an opportunity to comment.

Bob Darrow of 22 Canyon Dr. stated that his concern is that the residents have an advocate. They did

work with the City Commissioners to have this opportunity to speak. The developer does not represent their concerns and the City does not seem to be taking into account their concerns about traffic flow and the economic impact on their neighborhood. This is their one opportunity to comment. It seems as though some of the neighbors are competing or against each other at times which is reasonable to expect as they all have quality of life concerns they want heard. He feels that a shared concern is that large enough lots are provided so that quality homes are constructed. That would also address the density issue and reduce the traffic flow and congestion. There have been many comments regarding the cut through traffic. In trying to accommodate 34 new homes and by creating street connections this issue affects many more homeowners, reducing their quality of life. He feels there must be a way to compromise in developing the streets so that they don't invite additional traffic but still accommodate an equal distribution of the new development through different outlets.

Tony Buczek of 29 Canyon Dr. stated that the City Commission sent this issue back in order to also address the issue of water. They do not want the same problem that they had at the intersection of Leonard and Plymouth NE. A bigger retention basin has been testified to. He questioned how big is bigger and whether anyone has checked the numbers. Mr. Buczek also noted that there are many 55-gallon drums and old cars on this property from a previous car repair garage. He is concerned for those that purchase the property, as they will become responsible for any environmental issues that exist. Mr. Buczek concluded his comments stating that he also agrees with the comments relating to the traffic and he feels Ms. Darrow's proposal is very good.

Randy Feenstra, project engineer, responded to several issues. He stated that the type of house planned for the area will be custom-built homes, not cracker boxes. The lots will not be sold for individual development. The lot sizes of the new proposal are larger and the testimony that the existing homes would have 1 1/2 neighbors backing up is incorrect. He referred to the proposal and indicated that where 10 houses exist he has 6 houses backing up to them. The front portions of the lots are narrower but the majority of them are pie shaped and widen at the back. He stated that he could not respond to the cut through traffic concerns, as they did not poll area residents as to which school or church they attend. Personally, he does not see people using Bona Vista to cut through Valley Forge to go south on Covell as it is just as easy to go up to Covell and use the light to go south from Lake Michigan Dr. There is a possibility to access Holy Spirit going to the west from Covell but he does not see any benefit to going to Bona Vista to access Lake Michigan Dr. heading west. He does not feel that the development itself will contribute greatly to the traffic problem.

Mr. Feenstra disagreed with Mr. Passenger's statement regarding a defect in the plan as it relates to the slope on Shenandoah. They are flattening the slope somewhat but whatever street connection goes in, that so called defect was there prior to considering development. That slope exists and they have to deal with it. That slope will be flattened down and will be at approximately the same elevation as Canyon Dr. There were also comments that the new plan is not as attractive. Again Mr. Feenstra feels this is an opinion. Streetlights will be provided in the development. He disagreed with the deferred sidewalk problems stated and indicated that of all the developments he has been involved with he has never witnessed that problem.

Mr. Feenstra responded to the questions regarding water detention. That issue has been addressed and the requirements of the City of Grand Rapids have been met in terms of area and volume. The plat itself does meet all of the Zoning criteria.

Mr. Boyd clarified that there is an exclusive contract for this development with Bobco Custom Home Builders LLC. They build custom, quality homes. With regard to the lot widths, these particular houses tend to build up more than out. Lastly, with regard to the traffic issues, they may be concerns of the neighbors but they are issues that can be resolved. Many accommodations have been made. A meeting

was held with the neighbors, engineers and developers months ago in an attempt to take these concerns into account. They feel they have addressed the concerns to the best of their ability and feel they are in a position to proceed.

Mr. Carlberg questioned what the standards are for approval.

Mr. Bakita indicated that the standards for approving according to State law - Subdivision Control Act, are that if a proposed plat meets the requirements of the act with regard to drainage, access and other things as well as the subdivision regulations of the City then it shall be approved. With regard to lot sizes, that issue was raised in the past and the same argument was made as to smaller sized lots. However, unless the City adopts some form of subdivision regulations or zoning regulations that specify that there shall not be more than a certain percent deviation, then, absent that, they must only meet the minimum lot size requirements.

Mr. Hoyt suggested that the basic layout is acceptable and made the suggestion of opening Antebellum Dr. to Valley Forge and Canyon Dr. His suggestion would require several turns throughout the neighborhood to get through it. That may alleviate some of the concerns the residents have as to people using it as a quick way through.

Mr. DeStigter also provided another suggestions as to the street configuration.

Mr. Carlberg responded indicating he is someone who cuts through this area regularly and cannot see an increased desire to go through there unless someone is lost. The existing situation is a large maze and he did agree that if only one street is opened up it may create a problem with everyone trying to get out one way.

Ms. Johnston MOVED, NOW, THEREFORE, BE IT RESOLVED, that this resolution shall constitute TENTATIVE AND FINAL APPROVAL of the Preliminary Plat with the following conditions:

1. The zoning for all of the area of lots 1, 2 and 3 shall be changed to the R-1 zone prior to final plat approval
2. That lot 34 or lots 33 and 34 have ownership of the stormwater management area.

Mr. Zylstra suggested a third condition that was accepted by Ms. Johnston.

3. An additional review by the Traffic Safety Department with an emphasis on signage and traffic calming.

SUPPORTED by Mr. Carlberg.

Mr. DeStigter questioned what type of analysis is being requested of Traffic Safety.

Mr. Lazdins responded that the Traffic Safety Department has reviewed the proposal and indicated that there would be no appreciable impact on the surrounding neighborhood as a result of this. They have signed off on the plan.

Mr. Hoyt questioned the Commission as to which layout they are approving.

Mr. Bakita clarified that the proposal carries the date January 29, 2002, at the top.

Ms. Johnston stated that her motion was to include/approve the suggestion as to the street configuration made by Mr. Hoyt.

Mr. Zylstra clarified Ms. Johnston's motion.

Mr. Stivers questioned what impact that would have on lot 27. It seems to give that lot a curious double frontage.

Mr. DeStigter thought that suggestion would eliminate one more lot. He also felt the residents of Canyon would be satisfied but those on Skyline will likely be upset.

Ms. Johnston suggested tabling the request to allow for discussion with staff as to reconfiguring the intersection.

Mr. Miles MOVED TO TABLE to allow an opportunity to reconsider the traffic issue and provide staff an opportunity to issue proper notice to the four properties that were missed.

Ms. Johnston indicated that in making the motion she was not attempting to lock in the street plan. She too would like to see the traffic issue reviewed again.

Mr. Zylstra stated that if the request is tabled he would like an explanation as to why they are tabling and what needs to be addressed prior to it coming back for public hearing.

Mr. Lazdins asked for clarification on what the Commission would like Traffic Safety to review.

Mr. Zylstra responded indicating that a review of the possibility of cut through traffic would be one issue. In addition, opening up streets would seem to open up the possibility for installing traffic signs at some of the intersections.

Mr. DeStigter questioned whether the four lots would also be given notice.

Mr. Miles wondered how they were missed.

Mr. Bakita responded indicating there is no problem as a public hearing is not a requirement under law or the ordinance. It is simply something the City Commission requested as a courtesy to the neighbors. Whether the Commissioners would be upset that the four lots were missed is unknown. If there is a desire to re-notice he would suggest that only those four lots get the notice and that the hearing be tabled except for those four parcels. Mr. Bakita added that providing a week to two weeks notice would be sufficient.

Mr. Stivers SUPPORTED the motion to table. All in favor. MOTION CARRIED.

Mr. Zylstra asked for an explanation regarding the reason for tabling and what the Commission would like addressed in the meantime.

Mr. DeStigter stated that if he were a resident here he would not be pleased. He agreed that each resident would choose to keep his or her street closed to through traffic. He felt that the proposal before them today was reasonable. There will likely be some cut through traffic but normally the Commission has very little say once Zoning requirements are met. The basic question remaining is whether the streets should be reconfigured. Mr. Hoyt's suggestion would seem to take more traffic off of Canyon and add to

Skyline.

Mr. Miles indicated he would like to see the cut through traffic issue revisited to determine if the streets can be reconfigured and whether traffic signs are warranted at intersections.

Mr. Carlberg indicated he voted for tabling to provide one more opportunity for someone to convince him there will be a substantial amount of cut through traffic. He is not convinced that Traffic Safety can make that kind of determination but would like to see it reviewed one more time.

Mr. DeStigter added that if he were living in this plat he would appreciate the option of going either east or west rather than being restricted to going out one way.

Mr. Zylstra indicated that the lack of traffic signs is an issue for him. With the additional housing and the possibility of some additional traffic going through the area, he feels that opens up strong possibilities for signage at the intersections. He feels the way the developer has laid it out is acceptable but agrees that one last review by Traffic Safety is appropriate.

Mr. Stivers agreed with Mr. Zylstra. The idea of possibly having a "T" intersection where Canyon extends to the east would be good. A similar situation where Antebellum intersects with Skyline may also reduce the tension at the corner off of the site. The different perspectives of people in the adjacent properties makes the case that having multiple ways to get through and circulate in residential areas is actually beneficial. From an individual point of view it may not seem that way, but having the option of circulating throughout the neighborhood without going out onto Lake Michigan Dr. is also a quality of life issue when it comes to children riding bikes.

Ms. Johnston stated her reason for tabling would be to provide those that were not noticed an opportunity to comment. She indicated she is also interested to see the traffic review in changing the intersection to a "T" intersection. She agreed that she prefers more options to access the area but does not want to encourage easy cut through.

Mr. Zylstra clarified for those present that the matter has been tabled and there will be one more opportunity to comment. When the issue is addressed again, the Commission would like to hear comments relating only to changes in the existing plan and whatever may or may not come up at the next public hearing. The date of the next hearing will be February 28, 2002.

PETITIONS AND COMMUNICATIONS:

PUD Amendment - 2261/2289 East Beltline - Revision to the approved Stormwater Management Facilities (ZC 26-00)

Mr. Lazdins indicated that this is a courtesy visit. The Commission approved a PUD last fall for office buildings on the East Beltline. The approval consisted of five office buildings and a storm water management facility at the back of the site. There have been no changes to the buildings.

Mr. Lazdins indicated that when the resolution was written there was concern about the design of the storm water management facility. Based on that concern, the resolution included a condition that if there was a change in the design of the storm water management facility it would come back to the Commission.

Mr. Lazdins continued stating that the packet includes a memo from Randy Lemoine that identifies the

analysis that was done. The basic concern is the depth of this storm water management facility. Mr. Lemoine's memo indicates that even though this is a change from that which was approved he does not see an issue with it and recommends approval.

Mr. Stivers had questions for Mr. Lemoine. He clarified that this is a retention pond as opposed to a detention pond. Mr. Lemoine indicated that is correct.

Mr. Lemoine responded to Mr. Stivers' question of water quality and how that is addressed in relation to the run off from the parking lots. He stated that the pollution from parking lot run off consists principally of metals that are attached to the sediment. Therefore, when it goes into the pond and soaks through the sandy soil, which has been confirmed, those pollutants will be filtered out by the sand and remain on the surface. The pond is intended to be covered with a grass/meadow type vegetation. Because of the sandy soil they do not anticipate it being a wetland type of setting. However, if sediment builds up enough it may hold some water and that would then require some maintenance on the part of the owner. There is a special drainage facilities agreement that the developer enters into with the City that covers the maintenance and liability issues.

Ms. Johnston recalled that one of the citizens that attended the public hearing was very concerned with that issue.

Mr. Lazdins recalled that the issue was whether the storm water would be directed off of the property onto adjacent properties.

Mr. Lemoine stated that this retention area is designed to capture up to a 100-year rainfall. After the 100-year rain fall if there is still additional rain it would exit onto the East Beltline which would handle the extra flow. The big issue is the depth. They prefer not to see a pond exceed four ft. in depth with one on six side slopes. Usually they try to keep the depths even shallower. In this case the topography does not allow anything other than the 10-ft. depth.

Mr. Bakita noted that a four-ft. fence is proposed to surround the area. He understands it is a remote location but the steep slopes and the 10-ft. depth would seem to be a concern.

Mr. Lemoine felt a four-ft. fence would be adequate to keep young children back. An adult would be able to walk out of it. The slopes are not steep.

Mr. Lazdins added that the 10-ft. depth is only at the very center. The one on six slope is a gentle slope.

Mr. Carlberg clarified that it is not expected that water will be present very often.

Mr. Lemoine indicated that this area will have water with every rain event that will leach into the ground and will generally be gone within a couple of days. If sediment builds up it may take longer. If it becomes a nuisance it would be necessary to dredge.

The Planning Commission was satisfied with the proposed changes and Mr. Lazdins indicated that a motion is not necessary in this case.

Marv Lummen described the request of Mike Burkhardt to construct a Checkers restaurant on the north side of 28th St. just east of Madison. Mr. Lummen described the surrounding area. He stated that the existing site was apparently a drive in operation at some point. The site is adjacent to the old Ford property with residential behind and commercial across the street, including another car dealership. Mr. Lummen described the layout that includes a two-drive approach and exit that is typical of Checkers. The proposal also includes an outside dining area. There is an existing fence along the back of the property and the applicant proposes to install visual blocking slats in the fence to provide more privacy for the residences at the back. The residential structures sit a few feet lower than the 28th St. property.

Mr. Lummen engaged in conversation with the applicant's representative regarding the menu board location and the speaker. The representative indicated that she did not have the plan with her that indicates the location of the speaker but the applicant would be open to moving the speaker location if it is not acceptable.

Mr. Stivers asked for clarification. If both windows are open how many speakers are in operation? The representative responded that it is her understanding that only one speaker is used.

Mr. Stivers stated that the Checkers on Michigan NE does not operate that way. They generally don't have a very long que between taking the order and serving the customer.

Mr. Lummen presented photos of each elevation. He indicated that there is extensive signage involved in this operation and the sign package was reviewed by Zoning.

Debra Goslin of JCK and Associates was present representing the applicant. She stated that this is a very similar operation to the one located on Michigan. She indicated that the existing will be demolished and there will be a great improvement to the greenery and landscaping. Ms. Goslin indicated that she has met with John Stronk of the Road Commission who is satisfied with the drive location. They will be widening the drive by 40 inches to meet current MDOT standards.

Mr. Hoyt suggested a 3-4 ft. berm and planting trees to provide additional screening for the residential properties to the north.

Ms. Goslin responded that the existing fence is 6 ft. high and she is not sure how much additional screening this would provide. In any case, she did not feel Mr. Burkhardt would object.

Mr. Lummen indicated that he would be in favor of the suggestion provided it is workable with Storm Water Management. He added that in discussion with Mr. Lemoine he was informed that the Storm Water Management Dept. would like to start working on ways to create non-permeable surfaces. Mr. Lemoine has suggested that the parking bay could contain grass pavers, which can be driven upon. The grass grows through the paver and the water soaks in. Therefore, they would request that this be included as part of the resolution.

Mr. DeStigter indicated that those do not work unless they are irrigated.

Mr. Zylstra responded that that could be accomplished with pea gravel.

Mr. Lemoine addressed the Commission on this issue. He indicated that staff is working on developing innovative ways of dealing with storm water and treating it more as an asset than a waste to be discarded. He indicated that with the grass pavers one must be careful about the plantings selected.

There are native Michigan grasses with longer, deeper roots. Mr. Lemoine indicated that another issue he would like to work on with the consultant would be the berm suggested at the north end of the site. He suggested possibly using a mulch berm with some storage under that and using a prairie grass that would provide screening and take up the water very rapidly and put it into the air. He suggested that the specifics not be included in the resolution as all of these suggestions are quite innovative and the final designs have to be worked out with the consultant. He does not want to box them in.

Mr. Miles MOVED, NOW, THEREFORE, BE IT RESOLVED that the Planning Commission approves the site plan submitted by the applicant for 461 28th St. SE with the following conditions:

1. Development shall substantially conform to the site plan prepared by JCK and Associates, dated January 20, 2002 and building elevation plans prepared by Champion Modular Restaurant Company dated September 21, 1994.
2. A final landscape and lighting plan is to be approved by the Planning Director prior to the issuance of a building permit.
3. A stormwater management plan is to be approved by the Environmental Protection Services Department prior to the issuance of a building permit.

SUPPORTED by Ms. Johnston.

Mr. Lummen suggested including wording relating to the innovative storm water management issues.

Mr. Hoyt disagreed stating that based on the minutes and conditions of the resolution he did not feel it was necessary.

Mr. Zylstra suggested a fourth condition to include the possibility of a future connector drive to the old Ford property so that when it is developed in the future there may be an opportunity to enter this property without going back onto 28th St.

Mr. Lummen responded that there are access points at this time. The site connects to the old Ford property as well as to the car wash and muffler shop. He felt that too should be discussed with the property owner.

Mr. Zylstra clarified that they would not have to put the drive in now but there should be an agreement for future access.

Mr. Stivers suggested the wording that a condition of approval is "an irrevocable offer to extend an easement to the property to allow circulation between the two parcels".

Mr. Lazdins suggested adding "to adjacent parcels". In considering future development that could be included now and that way it is accommodated.

Mr. Stivers responded that he did not see how that would be possible

Mr. Stivers MOVED TO AMEND THE MOTION TO INCLUDE THE CONDITION

4. An irrevocable offer to extend an easement to the property to allow circulation between the two parcels.

SUPPORTED by Mr. Zylstra.

There was additional discussion regarding the placement of the speaker and the light fixtures.

Mr. Stivers MOVED TO AMEND CONDITION 2. A final landscape plan, lighting plan, that shall include full sharp cut off light fixtures, and speaker plan to be approved by the Planning Director prior to issuance of a building permit. SUPPORTED by Mr. Zylstra.

There was additional discussion regarding the storm water suggestions. Mr. Hoyt indicated that he is comfortable with the resolution based on the discussion. What Mr. Lemoine has suggested would provide an alternative way of screening and if it is not possible they can go back to what was originally suggested.

Mr. DeStigter reiterated the importance of quality landscaping on 28th St.

Mr. Lummen responded to Mr. Lazdins indicating there are no sidewalks along this section of 28th St.

The question was called. YEAS: 6. NAYS: 0. MOTION CARRIED.

NOTE: Mr. Carlberg left the hearing prior to the vote.

DISCUSSION:

- Mr. Hoyt reminded the Commissioners of the workshop being held on Saturday from 8 a.m. to 3 p.m. at Davenport College. There will be three a.m. sessions and three p.m. sessions. Development guidelines will be discussed with the community.
- Mr. Hoyt indicated that there is a resolution before the Commission for consideration. He recalled the previous discussion regarding the State law that provides the State Superintendent of Schools sole and total control over the design of school facilities. The resolution would suggest encouraging them to change that law.

Ms. Johnston MOVED, NOW, THEREFORE, BE IT RESOLVED that the Planning Commission:

1. Urges the Michigan Legislature to enact appropriate statutory amendments, without delay, making public schools fully subject to local land use controls.
2. Asks the Mayor and City Commission to make appropriate contact with local legislators to request they draft and introduce such legislation.
3. Offers to have its members meet with the Mayor and City Commission to discuss this matter in greater detail, and if they deem it appropriate, with area legislators as well.
4. Directs the Planning Director to provide copies of this resolution to the Mayor, City Commission, and the City Manager.

SUPPORTED by Mr. Stivers. All in favor. MOTION CARRIED.

MEETING ADJOURNED: 5:30 p.m.

Date

John Stivers, Secretary