

Features Setback Modifications, and Steep Slope Permit as part of the final site plan review process.

5. *Review the tree preservation with the intent of keeping lot 24 and if necessary, explore the elimination of either lot two, three or four.*

Mr. Schroeder said that as it related to the gentleman across the street (Mr. Bloomingdale), it had been done in the past where a developer had gotten with a resident and put in a berm with trees to block headlight glare. Mr. Cooney advised that his (Mr. Bloomingdale's) property was elevated quite a bit higher. Mr. Nunez said that they would bring photos. If there was going to be a nuisance, with the owner's permission, they would plant some additional trees on his side of the road.

Mr. Reece recommended that the applicants worked with the City's Forestry Department in terms of going in to the lowland areas to see what trees could be cleared. He realized they did not want to make a big disturbance, and there was a fine line involved when walking through that area. If they met with the Forestry Department, they could determine what could be sustained and preserved.

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

Aye 8 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Reece, Schroeder and Yukon

Absent 1 - Kaltsounis

Chairperson Boswell stated for the record that the motion had passed unanimously. He said that he was really impressed with the plan. He knew they had done a lot of work, and he felt that the neighbors would be happy once everything was completed.

2013-0264

Request for Recommendation of a Final Planned Unit Development Agreement - City File No. 13-009 - Villas at Shadow Pines, a proposed 28-unit residential development on 9.8 acres located on the north side of South Boulevard, between Adams and Crooks, zoned R-4, One-Family Residential, Parcel No. 15-31-400-018, Shadow Pines, LLC, Applicant

(Reference: Staff Report prepared by James Breuckman, dated May 12, 2014 and Final PUD Plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Mark Gesuale, Shadow Pines, LLC, 14955 Technology Dr., Shelby Twp., MI 48315; Bill Mosher, Apex Engineering,

P.O. Box 1182, Birmingham, MI 48312 and Ralph Nunez, Design Team Ltd., 975 E. Maple Rd., Suite 210, Birmingham, MI 48009.

Mr. Breuckman commented that it was another PUD, but it was at the detail stage now (Final). He advised that the Preliminary had received approval from City Council on July 29, 2013. Subsequent to that, the applicant had been doing a lot to make the site work. One of the things that had taken some careful consideration was that the proprietor of Pine Trace Golf Course, Mike Bylen, had been watching the proposal with interest. Mr. Bylen had expressed some concerns about the interface between the development and the golf course about errant shots coming off of hole number 11, which was right next to the proposal. Staff requested that the developer engage a golf course design professional to look at the plans and at the relationship between the proposed development and the golf course. Staff also asked the developer to work as best as they could to come up with an agreement with Mr. Bylen on a proposed layout. He noted that the golf architect's report was included in the packet. After receiving a copy, Mr. Bylen submitted a letter, also included in the packet. Mr. Breuckman felt that was the biggest issue going forward. He turned it back to the applicants to walk through the plans.

Mr. Nunez noted that the site was before the Commissioners for duplexes. He pointed out the main entrance from South Boulevard. He said that he was not involved in the original design; they were brought in after the Preliminary Concept approval. They had been working on the landscape plans and with the golf course architect. When he went to the site, he noticed a fence that was constructed by the golf course that was on the applicant's property. The golf cart path was also over the property line. It was being maintained as grass. He said that his client had made several phone calls to Mr. Bylen to try and reconcile differences between the golf course and the development, and those were not returned. He acknowledged that there could be an impact from golf balls to the residents, but he said that complaints usually came when the residents were there first. The fact was that the golf course did exist, and the people who wanted to live there would choose to live by a golf course because they loved the sport.

Mr. Nunez advised that there would be significant plantings. They talked with a neighbor on South Boulevard to ask for a piece of his property to square off their property. The neighbors were very accommodating, and it gave the applicants room to add additional vegetation. There would be vegetation along the perimeter boundaries adjacent to the residential.

Along the golf course side, there would be a mixture of evergreens and deciduous trees. One of the recommendations from the golf course architect was to place some large deciduous trees at key locations along the golf course side in order to direct balls away from the homes. Mr. Nunez pointed out the entryway, where there would be a guard house and mail kiosk. The road pattern would include cul-de-sacs with potential to go to the property to the east. He added that there would be a new decorative fence at the entryway with some brick work and columns that would run the length to the first house. There would be flowering roses in that area. There were utilities, but they would have loved to be able to place more trees there. There would be a buffer of evergreens, ornamentals and deciduous trees along the rear yards on the western side. On the southern property line, they would put in another buffer. He noted that the irrigation and cost estimates would be included prior to final approval by Staff. He said that he had worked with a consultant regarding how many units could be placed on a golf course. Back in the 1980's, there was a \$50,000 premium to have a home on a golf course. Mr. Bylen's letter stated that no residential should be around a golf course, but there were many golf course communities with residential units around them. He believed that if people lived near a golf course, they knew there could be balls hitting a house. He did not want to make light of the fact that someone could be killed, because it had happened before, but they tried to make every attempt to make it a good community for the City. He asked Mr. Chris Wilczynski of C.W. Golf Architecture to come forward.

Mr. Wilczynski stated that he was a golf course architect. He was hired by the applicants to review the relationship between the condos and hole number 11 of the golf course. During his review, he looked at aerial maps and analyzed that hole in relation to the residential. There was a safety cone, which was a standard used in his industry for a number of years. About 25 years ago, it was a 300-foot cone and today, he advised that it was 350 feet. He noted that he recently did two golf courses in Florida, and they used 350-foot corridors at every hole, and every hole had homes down both sides. When a safety cone was laid over hole 11, the eastern side sat right on the property line or right at the back of the proposed units. His analysis stated that it was right on the edge, and he believed that the condos were acceptable with regard to their proposed location. There was a chance for balls to come into those areas. He commented that golf was an inherently unsafe sport. There was no control over how fast someone swung at a golf ball, or if someone stood on a tee and purposely aimed toward the homes. It could absolutely happen, and that was the game of golf. People tried their best to aim to

the right location to avoid hitting homes, however. There were some recommendations in his report that could be done to enhance the golf hole to make less errant shots going over toward the condos. The main tee was currently misaligned quite a bit to the right. It should be realigned back to the left toward the center of the fairway. He also believed that some bunkers could be placed to the right of the hole to direct golfers away from the right side. The report put together by the Pine Trace Golf Course's architect talked about the center point of the golf hole, and he agreed there was a center point. He said that whenever they developed a new course, there would be a center point for where the fairway would go. There was a left and right boundary defined off of that. They could not arbitrarily move that point as far right as someone wanted, which would expand the safety cone further right or left - there had to be a center point. The center point that was being used currently for hole 11 was too far to the right, and it needed to be shifted back to the left. He believed that the width between the pond and the proposed condos was a fair, safe and functional dimensional width. In the report from the other golf course architect, it talked about the safety cone needing to be centered from the edge of the pond over 150 feet, and Mr. Wilczynski disagreed with that. At the two golf courses in Florida, there were plenty of ponds. The only way to create a golf course in Florida was to dig ponds to create the soil to build the course. Almost every hole had a pond, and the average dimension between the edge of the pond and the lot lines was 200-250 feet. That was exactly what the current situation had between hole 11 and the condos. He also talked about the tee elevation and adding a middle tee. The 11th hole was meant to be a short par 4 - it measured 340 feet from the back and 275 from the front. Typically, on shorter par 4s, golfers either tried to go for the green or tried to lay up with a conservative club such as an iron or fairway metal. Because of the white tees and the main tees being where they were placed, a lot of people were hitting a driver. He recommended adding a middle tee, which was being done universally across all golf courses in the United States. It would make the game more fun and playable by adding a forward tee. If the tee was not moved forward, a majority of the golfers would not use a driver and hit up to the ideal landing spot, because they had to swing from so far back. He was also recommending lowering the elevation. When tees were placed higher in elevation, the slice would go higher or further to the right. If the tee was lower, it would help frame and keep everything within the cone they had defined. He mentioned that he had been doing courses for 25 years, and he had been around golf his whole life. He had been an expert witness for other projects where there were similar concerns, and he emphasized that there were a lot tighter relationships in the golf world in residential communities than what the project was proposed at. He

asked if there were any questions.

Mr. Nunez said that his clients had taken it very seriously as far as taking a hard look and making any adjustments they needed. They had been working very closely with Planning to make sure it was as safe as it could be.

Mr. Reece asked if the aerial map in the packet could be put on the overhead. He asked if, in the upper corner of the development, it was the green for number 10. Mr. Nunez said that it was for nine. Mr. Nunez pointed out the tee box for number 11. Mr. Reece said that the average weekend golfer's errant shot was a slice, so it would be to the right along the property line. He asked if the fairway would be the area adjacent to the pond (to the right). He asked if that was a normal layout or pattern for a shot.

Mr. Wilczynski said that he would not say it was a true statement. The fairway was extremely wide, perhaps 180 feet wide. When professional golf tournaments were played, the fairway was only about 90 feet wide. Most fairways were about 100 feet wide. Mr. Reece said that he just wanted to get a feel for where the average landing area was for hole 11, and if it was at the kidney shaped indentation of the pond. He asked if the approach area to the green was over the water, which was confirmed. Mr. Wilczynski said that the closer someone played to the water, the shorter the second shot would be. Mr. Reece mentioned that he had just played golf in Florida over four days, and he did not see the situation here as being much different from the courses he played there. Mr. Wilczynski noted that about five years ago, he did a renovation of a golf course in Naples, and every corridor was 250-300 feet wide.

Mr. Hetrick said that one of the things mentioned earlier was about putting trees along the edge to provide a buffer as a way for the trees to stop errant shots and drop them onto the fairway. He asked if the trees would help protect the residents, based on the work Mr. Wilczynski had done. Mr. Wilczynski said it would protect them when they were at a full, mature size. That was the downside of planting new trees - it would take them a long time to mature. He found that when trees were planted closer to the tees, it actually helped knock balls down sooner. There was one big tree near the tee they planned to keep, but if they could plant some in that area, it would also redirect people to the left. Mr. Hetrick asked if the trees they could plant close to the tee box would be on the property line, or if they would be part of the golf course property. Mr. Wilczynski advised that there was space between the tees and the property line to plant additional

trees.

Mr. Schroeder asked what Staff's position was regarding the golf course issue. Mr. Breuckman responded that Staff had asked the applicant to retain the golf course architect to guide them through it. He was not sure Staff had a position necessarily on the report from the golf course architect. They did review the City's exposure with the City Attorney (Mr. Staran), and the City Attorney was confident that the City would not be taking on any liability. He used the term "coming to the nuisance." The golf course was there, and then the houses would be built. Mr. Breuckman felt that the recommendations were reasonable, such as narrowing the fairway. There was a stand of trees off the right side of the fairway and on the property line, and if he was golfing there, that would be his aiming point, because there was no consequence now. If the fairway was narrowed with bunkers, it would cause him to shift his aim point more towards the hole. The applicants were offering to put \$40,000.00 in an escrow account that the proprietor of the golf course could use to implement those recommendations from the golf course architect. He thought that showed a good faith effort on their part.

Mr. Hetrick brought up the PUD language. He had reviewed Mr. Staran's commentary about the increase in size of the footprint, and he would tend to agree. He stated that a 20% increase in footprint would be unacceptable and that ideally, 10% would work. The elements around the golf course design seemed to be down a path. Another recommendation was about adding a timeline for completion. He asked the applicants if they had seen those comments and if they were objectionable or not. He wondered if the applicants had any comments.

Mr. Jim Polyzois, a partner in the project, advised that they would incorporate Mr. Staran's recommendations into the PUD Agreement. They revised the draft, and it would be submitted very soon.

Ms. Brnabic said with regard to those comments, as far as the timeframe, she was curious whether they had a date for commencement and completion. Mr. Polyzois said that they would like to commence this summer. Ms. Brnabic said that a timeline had to be spelled out in the PUD Agreement. Mr. Polyzois said they had not finalized it, but it would be their intention to accelerate the process so they could capture the momentum of the real estate market. It was not a very big project, and they were confident it could move right along. Ms. Brnabic referred to page four, where it said that the project would be developed in multiple phases. She asked how many phases they contemplated. Mr. Polyzois

said that it would be done at one time. Ms. Brnabic read from the Agreement, "The project may be developed in multiple phases as shown on the Final PUD Plan." She clarified that it would be done at one time and not in phases.

Chairperson Boswell stated that there were two items that called for a Public Hearing, and he combined both of those and opened the Public Hearing at 9:03 p.m.

Dan Heemsoth, 3084 South Blvd. W., Rochester Hills, MI 48309 Mr. Heemsoth noted that his property bordered units 1B, 2A and 3B He had addressed the Planning Commission previously, because he had some concerns, and he did not know the scope of the project. The Commissioners asked the applicants to work with Mr. Heemsoth, and he wanted to let them know that they had been doing that since that night. He said that it had been a pleasure working with the applicants. They had addressed a lot of his concerns. He appreciated the help from the Commissioners, and he appreciated the help from the applicants.

Michael Bylen, 184 Tartan, Rochester Hills, MI 48309 Mr. Bylen stated that he was the leasee of Pine Trace Golf Club. He was also present when Pine Trace was built, so he was intimately involved in its original design and construction, and he had operated it since that time. He wanted to clear up some misstatements. He advised that the fence was installed by the City long before he became the leasee. He said that he met with Mr. Gesuale last fall to express his concerns, which he had re-expressed in his letter. He told Mr. Gesuale that the first three buildings were in a danger zone. He said that he got one phone call from the applicants, and he returned the call. That was the extent of trying to get ahold of him. He said that he worked seven days a week in season and five days a week out of season. He maintained that it was really easy to get ahold of him. He lived in Rochester Hills, and he worked all the time. In his letter, he said that he had no issue with development. He grew up near the Hillcrest development, and he thought it was a very thoughtful development. He worked closely with the people that did Pine Trace Village, worked with the people who developed the condos north of hole one, and was there when Walnut Brook Estates was built. There was also a new development to the east of the Villas, and he had no issue at all with that. Many residents of Pine Trace Village were his customers, as were people from Walnut Brook Estates. He employed people that lived in the condos to the north, and he looked forward to new residents who would hopefully become customers. He said that he was a businessman, and he had no issue with someone developing the subject property. He

had a big issue with the way it was designed, however. He was not trying to stop the development; he was trying to bring attention to the very real concerns he had about the safety of the units being located in an area that got hammered by golf balls. At the end of his letter, he stated that he did not believe that it could not go forward. He just believed that the City would be unwise to approve it as it was. He thought that it was interesting that Staff had not taken a position about what they thought about the safety of the development. Had he known that they were seeking the counsel of a golf course architect, he would have had his architects meet with them. He did get a copy of Mr. Wilczynski's letter, which he sent to his architect to review. Mr. Bylen said that there were many inconsistencies in the way that Mr. Wilczynski applied the standards that golf course architects used today. They were pointed out by Mr. Forrest, and concurred by Mr. Hills, of Hills & Forrest International Golf Course Architects, whom he stated combined, had 25 times the experience of Mr. Wilczynski. He commented that there was no doubt that the units adjacent to hole 11 would get hit. It was not just the units; it was the property line. People used their backyards. He said that although there was a dogleg point that was used under construction, there was nothing in the fairway that showed people when they were teeing off where the center line was. He said that the cone of playability would start at the right side of the water and the left side of the hole. That meant that the 350 feet went well beyond the property line and even well beyond the units themselves, especially the first three or four units. When he expressed his concern, it was his understanding that the applicants would try to redesign and come back. The plan nine months later had not substantially changed in any way. Instead of trying to redesign it and take safety concerns into account, the applicants sought an architect they felt could allay the Commission's concerns about safety. He thought that Mr. Wilczynski's letter was aptly refuted, and he believed that if Mr. Staran had seen the second letter, he might not feel quite as cavalier about the City not having any liability. Mr. Bylen felt that the entire development needed to be replanned, and it needed to be redesigned taking into consideration the very real safety concerns that existed. He claimed that it was not a matter of if - it was when. When he and Mr. Gesuale stood out there, not even for five minutes, someone teed off at number 11 and hit it right into the area where the units would be. Mr. Bylen's superintendent, who was one of the quietest people he knew, said that it just hit unit two. On a busy day, there might be 30-40 balls that went over there. He said that he tried to buy that land when they developed the golf course. When they leased the land, they had 193 acres, and they were told by the City that there was 30 acres of wetlands. The DNR said there were 63. They did 11 routings to do the course, and his architects remembered very well how difficult the project

was to design. They needed extra land, and they sought the land to the west of the driveway, and the owners did not want to sell. They sought the land from Mr. Eldon, and they were told the majority of the land was wetland, and they did not need any more wetlands. If the project went through as designed, he was very certain that there would be injury. He was very certain that the City was accepting a risk that went beyond settled case law. There was some positive case law in Michigan for golf courses and against people in those areas. He thought that in this particular case, the safety zone was so clearly beyond the property line that the City would be accepting a risk. He indicated that the applicants would develop the property and say "buyer beware." He said that was fine for them, but the City, its residents and its attorney would be dealing with it for a long time. He stated that without a doubt, it was a dangerous situation. He was asking that it not be approved as designed. Staff should get the counsel of the original architect and architects who were world renown with a great deal of experience. They would be happy to talk with Staff and Mr. Gesuale and his architect, so the project could be designed that still met their needs but also incorporated safety. He reiterated that he was not asking for the project to go away, and he was happy it was being developed. He was just opposed to the way it was currently laid out.

Chairperson Boswell closed the Public Hearing at 9:16 p.m.

Mr. Bylen asked if he could comment again. He said that \$40,000.00 in an escrow account was one thing, but not bringing it to the attention of the people who leased the property or owned the property was quite another thing. He asked Mr. Wilczynski if he was stating affirmatively that he believed there was a safe situation with the proposed development as currently designed.

Mr. Wilczynski felt that through his report that he did state that. He also stated that things should be done to modify the 11th hold to limit the potential for ball trespass along that side. It was clearly right on the edge of the safety cone. He said that he worked with Mr. Hills and Mr. Forrest for almost 25 years. They did at least 200 golf course communities, and every one had ponds that laid within the safety cone. They could not apply the rule where the safety cone started at the edge of the pond and went over. There was not a developer around that would give up 550 feet of width with a pond and a safety cone for golf course development. He could show the plans for the course he did in Florida. Every hole had ponds where the safety cone overlapped the pond, which effectively narrowed the width. He stated that 200 feet was a lot of width to play the game of golf.

Mr. Hooper saw competing interests, but they were trying to find the best development they could. Going back to the original course, Mr. Hooper wondered about Mr. Hills and Mr. Forrest knowingly designing a course that would have golf balls exiting the City property into vacant land. Their argument was that the cone knowingly went off the property.

Mr. Bylen responded that it was their understanding from the City and the original property owner that it was wetlands, and it would not be developed. That was why they did it. Mr. Hooper thought that there was a case where a golf course was originally designed where balls were knowingly leaving the property and going onto private property. The new owners had a right to develop their property, but Mr. Bylen's perspective was that the City should not allow that development because he was there first. The applicants were offering money, and he did not know if \$40,000 was the right number or not, so some adjustments might be made to the course to bring it to the point where golf balls would not leave the City property.

Mr. Bylen said that he was not making a statement that the property owner should not develop the property. He also doubted that there was a full appreciation for the amount of balls that would go there. When it was first designed, it was a different time. It was the advent of metal woods, and the technology of the game today had changed, so balls did fly farther, including farther in the wrong direction. Mr. Hooper agreed with that. Mr. Bylen said that no one knowingly designed a hole with the idea that they would be there first and no one would ever develop. He was again not suggesting that a development could not go there; he was suggesting that, in particular, the first three units were in a poor, unsafe area. Mr. Hooper said that might happen unless some adjustments were made. Mr. Bylen did not know if adjustments would rectify anything or not. He believed that there was a wetland issue with one of the first three units, and the applicants were asking to place a unit in a wetland area. Mr. Breuckman advised that there were very two long fingers of wetlands there. Mr. Bylen indicated that the applicants were asking for an exemption from the existing ordinance to place a unit in an unsafe area.

Mr. Hooper said that he was just trying to find a happy medium. As golf club and golf ball technology advanced, so did golf courses. Golf courses were modified over time to take into account the advances. Mr. Bylen agreed that the design of golf courses had definitely changed in the last 25 years. That was primarily due to the advent of the technology that had been applied to golf clubs and golf balls. Mr. Hooper said that it went

to his original question. He wondered if Mr. Forrest designed the original course with the current technology in mind that would not purposely put a ball into someone's private property. Mr. Bylen said that it was designed in 1985. He believed that the first metal wood came out in 1983. It was a different game. Many of the great courses that were played on tour for years no longer played because the ball flew so far. He had no issues with all the developments around the course, and he never spoke against one of them. As a businessman, he really did not like having to come and talk like he was. However, he felt that there would be a long term issue, and people would be injured, and that the City needed to take that into consideration. He emphasized again that the project needed to be redesigned. If the applicant had to lose a few units, that might have to happen.

Mr. Hooper asked about altering the golf hole. Mr. Bylen said that he was not sure, short of making it a par 3, if it would stop golf balls from flying over there. The changes that had been suggested, which were to try to avert a person's eye to the left and to try to acclimate them from the tee further left did not hold a lot of merit. He pointed out a tree inside the property line in between the back tee on 11 and the homes, and said that the canopy of that tree was 50 feet in the air. It stopped nothing. He indicated that there was no effective way to screen the units short of a very large black pole with nylon netting.

Mr. Schroeder stressed that it should have been considered in the original design. He stated that the property owner had a right to use his property. He felt that there should be a recognition and cooperation by Mr. Bylen to deal with the neighbor. Mr. Bylen said that there had been, but he had not been contacted since last October. Mr. Schroeder said that he should make contact then. Mr. Bylen said that he would be happy to sit down and talk with the applicants. He had tried to get together with Staff as well. He did not want the development to stop. Mr. Schroeder said that it was Mr. Bylen's problem as well as their consideration, and Mr. Bylen should get involved and get it resolved. Mr. Bylen reiterated that he would be happy to meet with the gentlemen.

Mr. Polyzois said that since Mr. Breuckman advised them of Mr. Bylen's concerns about what they were trying to do with the property, they had a meeting, and Mr. Bylen expressed his concerns. They tried to figure out how they could possibly deviate from what they were proposing. They met again, and the common theme during the two meetings was that even though Mr. Bylen gave the appearance that he wanted to work with them, at the end of the day, he did not really want anything to happen, because

it would be an inconvenience to him. Mr. Polyzois reflected what would happen if the development was in place first and Mr. Bylen came before the Commissioners to construct a golf course. Mr. Polyzois was pretty certain that the position of the tee box and the hole layout would be totally different. Now that they were trying to develop their property and comply with everything that was being asked, they were the ones being asked to make concessions for things that were defective with the hole. Mr. Bylen had even admitted and implied that he never thought the property would ever be used, and that was why it was geared in a manner to have balls travel into the subject property. He was being asked to make changes when he felt it was Mr. Bylen that should make changes. Mr. Polyzois was willing to put up money to make those changes. They were ready to go with it last fall, and they called Mr. Bylen twice with no response back. They advised Planning that they were going to proceed. They would first get a golf course architect to assure them that what they were doing was within their right and within the safety of their residents. They would proceed like every other golf course development. Now that they were at the end of the road, Mr. Bylen was coming across as being sincere and wanting to sit down with them and bring his architects to help them develop a plan. Mr. Polyzois said that Mr. Bylen needed to look at his own course.

Mr. Hetrick asked Mr. Polyzois if he were to eliminate one unit what would happen. Mr. Nunez said that if they lost one unit, that would not be good enough. They would lose another and another and another. Mr. Hetrick said that he was just asking about one. Mr. Nunez did not think that would change the situation. They planned the buffer as best as they could, and they made recommendations about planting on the City's property. They asked about redesigning the tee and the hole. There was currently no penalty other than that someone would lose a ball. He pointed out the area where the golf course was coming way into the property, and said that it was being mowed. There was debris pushed into the wetlands. They were using the property, but it was not their property. Mr. Hetrick asked what limitations they would have for working with the lessee to change the hole. Mr. Polyzois said that they would love to plant many trees on the hole and incorporate a lot of the recommendations that Mr. Wilczynski made. Mr. Polyzois said that he would sit down with Mr. Bylen and his architects to figure out how they could modify the hole. Mr. Hetrick asked Mr. Bylen if it would be acceptable if the applicants were willing to work with him to adjust the hole.

Mr. Bylen thought it was acceptable. He said again that he would be happy to sit down and talk with them. At the same time, he felt that the applicants needed to be willing to forgo one-three units or find another

way to design the project so the first three units were in another location. Perhaps they could move the road or mitigate the wetlands differently. Mr. Hetrick said that it was not clear that three units was acceptable to the applicants. Mr. Bylen said that he should have left it at "yes, he was willing to work with them." He thought they had to likewise, and be willing to give as well. Mr. Hetrick said that he thought the applicants said that if they had to eliminate a unit to make it work, it appeared to be within their purview to do that. Mr. Polyzois said that they had not said that. Mr. Hetrick said that he was trying to find the common ground. If the course was willing to adjust the hole, and the applicant was willing to put money into making a change to the hole and that eliminated the problem and the units could be built, it seemed as if that would be a good thing and everyone would be acceptable. Mr. Bylen said that it did not matter to him how many units they had. It merely mattered where some of the units were located. He was not present to say lower the number of units. If they could design it differently, there would be no demand to give up any units. He was not saying he would change the hole if they eliminated units. He was trying to be very positive and say that it could be worked out, but the location of the first three units would put homeowners in jeopardy.

Mr. Breuckman pointed out that Staff did meet with the applicants and Mr. Bylen in the office at least once. They met with the applicants many more times. They went through six or seven design concepts for the site to try to figure out how the design could be changed. Unfortunately, the way the wetlands laid out precluded any real design solution. The two fingers of wetland were proposed to be mitigated. In order to meaningfully change the layout of the site, they would have to go into the main body of the wetland. Then they would have to increase the amount of mitigation and fill, and DEQ required mitigation in a multiple. It was extremely difficult to get any other layout other than the one that was before them. They spent hours with the applicants. He did not want to go down the path of "there could be design changes." The only solution would be to eliminate buildings or alter the golf course. He observed that they were a bit between a rock and a hard place.

Mr. Bylen asked if mitigation could be done on the golf course. Mr. Breuckman was not sure the DEQ would be amenable to that. Mr. Bylen noted that it was contiguous wetland.

Mr. Hetrick said that it seemed to him, since there was support to help Mr. Bylen adjust the hole so it was safer in lieu of not changing the design, that they needed to be able to put that into the Agreement. Wetland mitigation would throw another dimension into it that they had not

considered. At the end of the day, it seemed like if there was agreement to support adjusting the hole so that it was safer, at a minimum, it had to be in the Agreement. Mr. Polyzois said it was in the Agreement.

Mr. Bylen asked what would happen if the changes happened to be \$80,000. Mr. Hetrick also wondered what the limitation would be for the escrow from the developer's perspective. Mr. Polyzois said that he had his architect itemize what he felt it would cost, and that was where he got the \$40,000.

Mr. Bylen said that the question still stood - what would happen if it was \$80,000. Mr. Polyzois replied that what Mr. Wilczynski was proposing was a few sand traps, tearing down the tee box and aligning it towards the actual green and shrinking the fairway and planting trees. They were not looking at constructing an entire new hole.

Mr. Wilczynski agreed that he did a detailed cost estimate based upon those items, and it would not be significant. It was rebuilding one tee, adding a new tee, adding two bunkers and removing grass in the fairway and putting in a new grass specie. He stated that he did it for a living, and he worked with contractors all the time. Mr. Hetrick wondered about splitting it down the middle and if it was \$60,000, he asked if the applicants would be good with that. Mr. Polyzois said that would be fine.

Mr. Bylen said that in all likelihood, they would have to move the cart path, and if they were going to do any planting of any meaning, they would have to reshape the berms. They would have to acclimate the entire golf hole. If there was going to be any agreement to that, there would be some substantial berming to the south, especially from the first unit. It would probably extend on a northwest corridor, which meant that the cart path would have to be moved. He stressed that there was a little more than just putting bunkers in and changing the tees. When they changed tees, they would have to change irrigation. He had not designed a lot of golf courses, but he had built three. He was well aware of cost overruns. He thought that it should bear whatever was agreed. He was happy to use a contractor that the applicants knew and respected and get it done. They (the applicants) could see all the bills and, he remarked, pay all the bills.

Ms. Brnabic asked Mr. Bylen if he had seen a copy of the proposed design modifications for hole 11. Mr. Bylen said that he had seen Mr. Wilczynski's letter with the proposal. Ms. Brnabic asked if the golf course ever had its layout changed or redesigned in the last 30 years. Mr. Bylen said that they had not made any substantial changes to anything. They

might have added onto the back of the fifth tee, and they added a second tee on number seven. Ms. Brnabic stated that as had been suggested, everyone needed to talk with each other and try to remedy the situation - to see if there was a remedy that was agreeable. She said that she would imagine that the change in technology did play a role in what was going on. However, at the same time, the applicants had a right to develop their property. Mr. Bylen had a right to his safety concerns, because it had been 30 years, and things had changed. She was hoping that the redesign of hole 11 would remedy the major safety concerns. She was not suggesting that something could not happen. Sitting on the Planning Commission, she was always concerned about safety. Before they moved forward, she would like to see that there had been some discussion between the applicants and Mr. Bylen and maybe a possible remedy. It might not get worked out, but it had been seven months since they had talked. They had a proposal for some changes, but no one had sat down together, and that was part of the problem. She indicated that she would like to see things worked out with consideration for safety and the applicants' rights.

Mr. Reece thought that Mr. Breuckman was right in terms of the layout. Short of reconfiguring a major portion of the wetlands, and even if they would be allowed to mitigate them on the golf course, he thought it would be a fairly cost prohibitive option. He thought the solution was that the two parties needed to sit down, come up with a consensus agreement on the redesign of the hole, get a cost estimate that everyone was in agreement with, and come back to the Commission with a plan. He asked if Mr. Staran had seen Mr. Bylen's letter, noting that it was dated only a few days ago. Mr. Breuckman stated that he had not. Mr. Reece would like to know that Mr. Staran reviewed the letter from Mr. Bylen and commented on it, and the applicants could come back next month with a plan everyone agreed with. In terms of the redesign of the hole, he wanted to make sure they understood what the cost implications would be. If it was \$40,000, that would be great. If it was \$60,000 or even \$120,000, he felt that the developers would want to know what it was, and Mr. Bylen would want to know as well. Mr. Bylen agreed. Mr. Reece felt that nothing would get accomplished at the meeting.

Mr. Polyzois stated that it was unfortunate that it took seven months to get to this point. Mr. Reece agreed that it was unfortunate that a developer and the neighbor could not get together and get it resolved so that when they came before the Commission, there was some consensus agreement. He offered that they could go forward, but he would guess that the Planning Commission was not going to approve it as it was. They

could come back in one month with an approved agreement that the Commission could wrap its arms around and say that they agreed with it.

Mr. Polyzois asked what would happen if they could not agree on something. Mr. Reece indicated that they would have to roll the dice and bring the plan forward and take their chances on what the Commission would say. Mr. Polyzois said that it was what it was. He said that they would have to sit down with Mr. Bylen, but for Mr. Polyzois to absorb all costs and responsibility for modifying a hole that, in all likelihood, was designed defectively, and probably would not have been designed as it was had the condo complex been in place first, was putting an unnecessary burden on him. He could not be held hostage because he was not going to concede to what Mr. Bylen and his architects dictated that Mr. Polyzois needed to do to get the project through. It was almost like a conditional approval, and if he could not work things out with his neighbor, what he had been working on might not come to fruition.

Mr. Reece did not see it as a "who was there first" scenario. They could argue all night that the hole was designed wrong, and that technology was different when it was designed. Mr. Polyzois' architect admitted that they were right on the edge of safety. He asked Mr. Polyzois if he was comfortable with that.

Mr. Polyzois said that he was. The safety cones were not on top of a structure; that was why they hired someone independent. They got the results, and he met with Mr. Breuckman. They felt good about what they had, and they proceeded forward. Mr. Reece again offered that they could proceed. If Mr. Polyzois was confident that the development as proposed was safe, Mr. Reece indicated that they could go forward.

Mr. Polyzois advised that they would give it a sincere approach and talk with Mr. Bylen face to face. Hopefully, that would produce results that satisfied his concerns and allowed Mr. Polyzois to move forward in the manner he would like. That was the goal, and Mr. Polyzois said that he was available tomorrow. He stated that time was of the essence, and he was responsive and respectful as to what he had to do to make things work.

Mr. Reece reminded Mr. Bylen that it needed to be a two-way discussion, not one.

Mr. Bylen said that he was really concerned that, after being a lifetime resident of the community and running a business that paid the City more

money than any other entity in the City, that he was somehow being labeled in a bad light. He stressed that he had not been contacted by the applicants in months. For Mr. Polyzois to characterize Mr. Bylen as someone holding him hostage was objectionable to Mr. Bylen. For the City to infer that it would be a one-way conversation was not true. He had stated in his letter and he stated publicly, that he was not opposed to the development. He would like to be able to work it out.

Chairperson Boswell did not want things to go too far regarding the "he said, he said" and with the going back and forth. Chairperson Boswell said that Mr. Polyzois said he was willing to meet with Mr. Bylen as early as tomorrow. As far as the Commission was concerned, it should have already been done. If tomorrow was the day, they should get it done and come back, and the Commission would take a look at things. Chairperson Boswell said that he also found it interesting that 30 years ago, the City said something to the effect that there were wetlands, and the subject property would never get developed. They heard a lot of heresay about certain lands that would never get developed, but those things did happen.

Mr. Bylen said that he did not want to be criticized in a month if he did not meet with the applicants tomorrow. He would be happy to meet, but his architects were not available to meet tomorrow. Mr. Polyzois said that it was a figure of speech. Mr. Bylen advised that Mr. Forrest (his architect) would have come to the meeting, but he was out of town. His firm was in Toledo, and he was very accessible.

Hearing no further discussion, Mr. Hetrick moved to postpone the four items related to Villas of Shadow Pines, seconded by Mr. Schroeder. Ms. Brnabic wanted to make sure the developers agreed to the postponement, which they did. Ms. Brnabic summarized that the Commission was asking, within a reasonable amount of time, that the two parties meet. If it took more than one meeting, so be it. The Commissioners were just saying that by the time the applicants came back, hopefully things would be reasonably worked out. She was not sure if the costs would exceed the estimate. She suggested that perhaps there could be shared responsibility. She was very hopeful that the next time, they would have a better idea of the situation.

Chairperson Boswell said that he would very much like either Mr. Breuckman or Mr. Anzek in the meeting. Mr. Nunez agreed.

Chairperson Boswell called for a voice vote, which was unanimously in favor of postponing the matter of City File No. 13-009.

Chairperson Boswell stated for the record that the motion had carried.

- 2014-0180** Request for a Tree Removal Permit - City File No. 13-009 - Villas at Shadow Pines, to remove and replace as many as 138 regulated trees associated with the construction of a 28-unit residential development on 9.8 acres located on the north side of South Boulevard between Adams and Crooks, zoned R-4, One Family Residential, Parcel No. 15-31-400-018, Shadow Pines, LLC, Applicant

Postponed

- 2014-0179** Request for Recommendation of a Wetland Use Permit - City File No. 13-009 - Villas at Shadow Pines, for impacts to approximately .47 acres for a proposed 28-unit residential development on 9.8 acres located on the north side of South Boulevard between Adams and Crooks, zoned R-4, One Family Residential, Parcel No. 15-31-400-018, Shadow Pines, LLC, Applicant

Postponed

- 2014-0210** Request for Final Site Plan Approval Recommendation - City File No. 13-009 - Villas at Shadow Pines

Postponed

- 2014-0098** Public Hearing and request for a Recommendation regarding Ordinance Amendments - Amendments to Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills to the C-1, Commercial Improvement district, including Sections 138-6.300, Principal Uses Permitted; 138-6301, Conditional Uses; 138-6.302, Required Conditions; and Section 138-6.303, Area Bulk and Development Regulations, James Breuckman, Manager of Planning
(Reference: Memo prepared by James Breuckman, dated May 13, 2014 and C-1 zoning amendments had been placed on file and by reference became part of the record thereof.)

Mr. Anzek indicated that before they got started, he wanted to make everyone aware that it would be Mr. Breuckman's last meeting. For those who had not heard, Mr. Breuckman had accepted the position of City Manager with Pleasant Ridge. Mr. Anzek maintained that Mr. Breuckman's wisdom and unique skill set would be sorely missed by the Planning Department, and it would be a tough position to fill. Chairperson Boswell asked if the position had been filled, and Mr. Anzek