



Rochester Hills

Minutes - Draft

Planning Commission

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

Tuesday, September 20, 2016

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

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

ROLL CALL

Present 9 - Deborah Brnabic, Gerard Dettloff, Greg Hooper, Nicholas Kaltsounis, Stephanie Morita, David Reece, C. Neall Schroeder, Ryan Schultz and Emmet Yukon

Quorum present.

Also present: Ed Anzek, Director of Planning and Economic Dev.
Sara Roediger, Manager of Planning
Maureen Gentry, Recording Secretary

APPROVAL OF MINUTES

2016-0360 August 16, 2016 Regular Meeting

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

Aye 9 - Brnabic, Dettloff, Hooper, Kaltsounis, Morita, Reece, Schroeder, Schultz and Yukon

COMMUNICATIONS

A). Ordinance Amendment No. 181

NEW BUSINESS

2015-0181 Request for Planned Unit Development (PUD) Agreement Recommendation - City File No. 89-114.2 - Sanctuary in the Hills East Condominiums PUD, a proposed 14-unit residential development on 4.57 acres, located north of South Boulevard, east of Sanctuary Blvd., zoned R-4 One Family Residential, Parcel Nos. 15-32-476-001, -002, -005, -006, -009, 15-32-477-009, and -016, Dan

MacLeish, MacLeish Building, Inc., Applicant

(Reference: Staff Report prepared by Sara Roediger, dated September 16, 2016, PUD Agreement and Site Plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Daniel MacLeish, Sr. and Daniel MacLeish, Jr., MacLeish Building, 650 E. Big Beaver, Suite F, Troy, MI 48083 and Jeff Rizzo, Fenn & Associates, Inc., 14933 Commercial Dr., Shelby Twp., MI 48315.

Ms. Roediger advised that the project had been before the Planning Commission in May 2016 for a Conceptual PUD Plan review. It was recommended for approval and approved by City Council in June. They were back for the second step in the process requesting review and approval of the PUD Agreement, Wetland Use Permit and Final Site Plan Recommendation and a Natural Features Setback Modification. There were seven buildings with two units each for a total of 14 units on 4.5 acres on the east side of Sanctuary Blvd. north of South Boulevard. Ms. Roediger noted that the project was designed as an extension of the existing Sanctuary in the Hills condos to the west. There had been a few outstanding items from the Conceptual Plan review that had been addressed. The access drive to the detention basin coming off of Sanctuary Blvd. was eliminated due to some concerns of the neighbors and also ASTI, because it was near the higher quality wetlands. The applicants had been asked to work with Engineering to find an alternative location for the access drive. Since that time, it was decided that the applicant would set aside funds in an escrow so that if and when in the future maintenance was needed for the basin, something could be temporarily developed with the least impact. There was a small modification for the Natural Features Setback being requested, and a boulder wall would be added along the wetlands per ASTI's recommendation. The addition of a sidewalk along the southern edge of the road to connect to a trail had been requested. When the matter went to Council, there was not support from the majority of Council for the sidewalk because of the lack of connectable area and the project's small nature and isolation. The applicant continued to ask that the sidewalk not be required on that side of the street. Ms. Roediger stated that staff recommended approval, and she noted that since her review memo was drafted, the applicant had submitted the required tree survey, and they were working on a landscape plan to take to Council. She said that she would be happy to answer any questions.

Chairperson Brnabic asked the applicants if they had anything to add, but they did not.

Mr. Kaltsounis indicated that the final review was more of a formality for the Commissioners, to make sure that the items previously agreed upon were addressed, and that what they approved now was very similar to what was approved in May. Hearing no further discussion, he moved the following, seconded by Mr. Schroeder.

MOTION by Kaltsounis, seconded by Schroeder, in the matter of City File No. 89-114.2 (Sanctuary in the Hills East Condominiums PUD), the Planning Commission **recommends** that City Council **approves the PUD Agreement** dated received June 10, 2016 with the following five (5) findings and subject to

the following six (6) conditions.

Findings

1. *The proposed Final PUD is consistent with the proposed intent and criteria of the PUD option.*
2. *The proposed Final PUD is consistent with the approved PUD Concept Plan.*
3. *The PUD will not create an unacceptable impact on public utility and circulation systems, surrounding properties, or the environment.*
4. *The proposed PUD promotes the goals and objectives of the Master Plan as they relate to providing varied housing for the residents of the City.*
5. *The proposed plan provides appropriate transition between the existing land uses surrounding the property.*

Conditions

1. *City Council approval of the PUD Agreement.*
2. *The appropriate sheets from the approved final plan set shall be attached to the PUD agreement as exhibits, including the building elevations.*
3. *All other conditions specifically listed in the agreement shall be met prior to final approval by City staff.*
4. *Add a timeframe of five years for commencement and completion of improvements associated with the development to the PUD Agreement, prior to City Council approval.*
5. *The applicant shall enter into a Hold Harmless Agreement with the City regarding the road vacation, prior to City Council approval.*
6. *In conjunction with the final approvals from City Council, the property owner shall obtain the vacation of the City's interest in the paper streets. (4,5 and 6 added after following discussion):*

Chairperson Brnabic asked the projected timeframe for the project. Mr. MacLeish indicated that they would move ahead as soon as they had all approvals. Chairperson Brnabic pointed out that the PUD Ordinance required that a timeframe be listed in the PUD Agreement. She read Section 138-7.108 F.: "A timeframe for commencement and completion of improvements associated with the PUD, including both public infrastructure improvements and internal site improvements, along with the means of insuring that all public improvements are constructed and maintained." She did not see a timeframe included in the PUD Agreement.

Mr. MacLeish said that he thought he had put in three years, but he would have to research it. Unless something unforeseen happened, he expected to move ahead. Chairperson Brnabic asked if the timeframe would be three years. Mr. MacLeish said that he only put that long, because things could happen. For instance, trees were prohibited from being cut down until September 30th. If they ran into some type of difficulties and they could not get into the project until next June, they would also be prohibited from cutting the trees because it was after May 30th. Those were the only things that would hold them up. He remarked that his men were also somewhat out of work.

Chairperson Brnabic stated that she did not see it in the actual Agreement, and she wondered what time frame they would like to include, which should then be included in the Agreement. Mr. MacLeish, Jr. asked if it would be from a start to finish date, to which Chairperson Brnabic agreed. Mr. MacLeish said that it would depend on the market. If there were no sales, it could not continue. He mentioned that it was also an election year, and that things did happen. He recalled the recession in the Building industry where they went from 50,000 homes a year in Michigan to 1,000. He was President of the State of Michigan Builder's Association, and they kept track of that. The market just disappeared, and development stopped. They were back to about 40% of where they were in 2005. They gave the timeframe of three years, because they did not know what would happen in the market. If every one of the units sold immediately, he would give a year's timeframe, but he put in three years because of the marketplace.

Chairperson Brnabic believed that under those types of circumstances, the City had been very understanding in working with developers and giving extensions. She stated that the timeframe was a requirement in the Ordinance. She suggested that if he wanted to put five years, and there was a situation like 2007, it would be considered. Mr. MacLeish agreed with five years.

Ms. Morita thanked the applicants for bringing the project before the Planning Commission. She mentioned that at the last meeting, she had asked how the applicants would deal with the paper streets they would be building over. She saw the letter from Phil Seaver (Seaver Title Agency) that said that it would not be a problem from the title company's perspective; however, she was concerned about it from the City's perspective. She asked how discussions were going with City Attorney John Staran about drafting the Hold Harmless Agreement she had requested.

Mr. MacLeish said that he had not heard anything from Mr. Staran regarding that. Ms. Morita reminded that one of the conditions of approval was that either the roads had to be vacated by the applicant, which according to Mr. Seaver's letter, that did not look necessary or that Mr. MacLeish and the City would reach a Hold Harmless Agreement in case there was ever an issue.

Mr. MacLeish explained that Mr. Seaver did not think that was necessary, because the City dedicated the streets to the public as a whole and not to the individual lot owners. Therefore, it was not something for which they would be endangered. There was also a six-foot easement for public utilities, but that was

granted by the City. He stated that it was the City's responsibility to vacate both the street and the easement.

Ms. Morita said that she understood that. She maintained that the City could only vacate the public's interest in those roadways; it could not vacate any interest the lot holders in the plat might have in those streets. She indicated that if it was really not an issue, as Mr. Seaver suggested, then she felt that there should not be a problem entering into a Hold Harmless Agreement with the City. She would just like to see that little added protection for the City. She pointed out that if it was not really an issue, then it was just another piece of paper.

Mr. MacLeish said that he would be concerned that someone could get an attorney and stop everything if the City did not take the responsibility to vacate the street and stand behind it, and he would be at risk because of that. He would worry that someone could shut the project down.

Ms. Morita explained that she was asking for a Hold Harmless Agreement to be entered into with the City that provided that when everything was said and done, if one of the other homeowners in the plat came back and said that the road was improperly vacated, Mr. MacLeish would be agreeing to defend the City. She emphasized that she was not saying that the City would not vacate its interest, but that the City could only vacate the interest that was conveyed to them by the plat.

Mr. MacLeish said that he was not an attorney, so he could not answer that. He commented that he had to rely upon those "in the know." He was told that there was no responsibility in regards to the individual lot owners, because it was dedicated to the public.

Ms. Morita asked Mr. MacLeish to assume that was all true. She stated that if they could assume there was no responsibility at all, then there should be no problem entering into a Hold Harmless Agreement. Mr. MacLeish said that he would have to talk to an attorney first. Ms. Morita pointed out again that it was a condition of approval that was passed the last time Mr. MacLeish was before the Planning Commission, so she needed to know if it was something he was still willing to do.

Mr. MacLeish reiterated that he had not heard from Mr. Staran regarding the road issue. He had sent Mr. Staran emails but had not heard anything, so he could not answer. Ms. Morita asked if staff could do something to assist Mr. Staran in getting back with Mr. MacLeish.

Mr. Anzek said that it was his understanding that Mr. Staran and Mr. MacLeish met early on after the condition was established. He did not think they had met recently, and he was not sure if the ball was in Mr. Staran's court or in Mr. MacLeish's, but staff would find out.

Mr. Schroeder thanked the applicants for adding trees on the boulevard. He asked if the maintenance easement would be where the storm water crossing was, which Mr. MacLeish confirmed.

Chairperson Brnabic opened the Public Hearing at 7:23 p.m.

John Bailey, 3612 Winding Brook Circle, Rochester Hills, MI 48309 Mr. Bailey noted that they had a community meeting last Thursday, and the homeowners asked him to mention several things. They would prefer that the service drive not be on Sanctuary Blvd. They would like to see no more adjustment in the future to the floodplain on the east or west side of Sanctuary Blvd. so that nothing else would be built there. They hoped that there would be no construction traffic in the original Sanctuary in the Hills and that perhaps a "No Construction Traffic" sign could be considered in a couple of places. There were still some construction vehicles in their community, but they were trying to get away from that, and after ten or eleven years, they felt it was time.

Chris Kittides, 3812 Winding Brook Circle, Rochester Hills, MI 48309 Mr. Kittides commended the Planning Commission and said that years ago, he was the Chairman of the Detroit Planning Commission. He mentioned the access drive shown the last time from Sanctuary Blvd, and he reiterated that they really did not want that. He did not see another access to service the detention. He was also a member of Mr. Bailey's committee, and he said that they were fearful that once a PUD was established, it could be extended. They wanted to make sure that 14 units would be it, and that there would be no southward extension. He knew there were wetlands, but he claimed that there were ways to get around wetlands.

Mr. Anzek felt that the access road had been well discussed, and it was not going in at this point in time. The applicant had made provisions to make that accommodation should it ever be necessary. He felt that matter had been resolved. The comment about binding other areas of land for non-development that someone did not control was not an action of the PUD. Both gentlemen had asked that no other developments took place elsewhere. Mr. Anzek thought that would be highly unlikely because of the wetland to the south, but the PUD could not be used as a means to block development on property not owned or controlled.

Chairperson Brnabic closed the Public Hearing at 7:28 p.m.

Ms. Morita suggested another condition to the motion, and number six was added above with Mr. Kaltsounis' and Mr. Schroeder's concurrence.

With regards to the Hold Harmless Agreement, Chairperson Brnabic considered that there would be another discussion with Mr. Staran. If Mr. Staran determined that one was not necessary, she questioned if that would fulfill the condition. She asked Ms. Morita if that was satisfactory.

Ms. Morita said that she would like Mr. Staran to draft a Hold Harmless Agreement that was acceptable to him in relation to building over the paper streets. In addition, the property owner would need to go forward with having the City's interest in the paper streets vacated, which would be done at a City Council meeting - it would need to be done contemporaneously.

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

Aye 9 - Brnabic, Dettloff, Hooper, Kaltsounis, Morita, Reece, Schroeder, Schultz and Yukon

2016-0362 Public Hearing and request for a Wetland Use Permit Recommendation - City File No. 89-114.2 - Sanctuary in the Hills East Condominiums PUD, for permanent and temporary impacts to approximately 2,400 square feet associated with a proposed 14-unit residential development on 4.57 acres, located north of South Boulevard, East of Sanctuary Blvd., zoned R-4 One Family Residential, Parcel Nos. 15-32-476-001, -002, -005, -006, -009, 15-32-477-009, and -016, Dan MacLeish, MacLeish Building, Inc., Applicant ***MOTION*** by Kaltsounis, seconded by Schroeder, in the matter of City File No. 89-114.2 (Sanctuary in the Hills East Condominiums PUD), the Planning Commission **recommends** City Council **approves** a **Wetland Use Permit** to temporarily and permanently impact approximately 2,400 square feet for the construction of the road, culverts and retaining wall, based on plans dated received by the Planning and Economic Department on July 25, 2016, with the following two (2) findings and subject to the following three (3) conditions.

Findings

1. Of the approximately 1.7 acre of City-regulated wetlands on site, the applicant is proposing to impact approximately .05 acre.
2. The wetland area will be protected by the retaining wall and by minimizing the road crossing.

Conditions

1. City Council approval of the Wetland Use Permit.
2. That the applicant receives all applicable DEQ permits prior to issuance of a Land Improvement Permit.
3. That the applicant provides a detailed soil erosion plan with measures sufficient to ensure ample protection of wetlands areas, prior to issuance of a Land Improvement Permit.

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

Aye 9 - Brnabic, Dettloff, Hooper, Kaltsounis, Morita, Reece, Schroeder, Schultz and Yukon

2016-0363 Request for Natural Features Setback Modification - City File No. 89-114.2 - Sanctuary in the Hills East Condominiums PUD, for impacts to approximately 775 linear feet associated with a proposed 14-unit residential development on 4.57 acres, located north of South Boulevard, east of Sanctuary Blvd., zoned R-4 One Family Residential, Parcel Nos. 15-32-476-001, -002, -005, -006, -009,

15-32-477-009, and -016, Dan MacLeish, MacLeish Building, Inc., Applicant
MOTION by Kaltsounis, seconded by Yukon, in the matter of City File No. 89-114.2 (Sanctuary in the Hills East Condominiums PUD), the Planning Commission **grants Natural Features Setback Modifications** for the permanent impacts to as much as 775 linear feet of natural features setbacks associated with the construction and grading of units and the cul-de-sac, based on plans dated received by the Planning and Economic Development Department on July 25, 2016, with the following two (2) findings and subject to the following one (1) condition.

Findings

1. Natural Features Setback Modifications are needed to construct several units and a portion of the cul-de-sac.
2. The Natural Features Setbacks are of low ecological quality and the City's Wetland Consultant, ASTI, recommends approval.

Condition

1. Best Management Practices shall be strictly followed during construction to ensure flow and circulation patterns and chemical and biological characteristics of the wetlands and any temporary impact areas shall be restored to original grade with original soils or equivalent soils and seeded with a City-approved wetland seed mix.

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

Aye 9 - Brnabic, Dettloff, Hooper, Kaltsounis, Morita, Reece, Schroeder, Schultz and Yukon

2016-0361 Request for Final Planned Unit Development (PUD) Site Plan Recommendation - City File No. 89-114.2 - Sanctuary in the Hills East Condominiums PUD, a proposed 14-unit residential development on 4.57 acres, located north of South Boulevard, east of Sanctuary Blvd., zoned R-4 One Family Residential, Parcel Nos. 15-32-476-001, -002, -005, -006, -009, 15-32-477-009, and -016, Dan MacLeish, MacLeish Building, Inc., Applicant

MOTION by Kaltsounis, seconded by Reece, in the matter of City File No. 89-114.2 (Sanctuary in the Hills East Condominiums PUD), the Planning Commission **recommends** that City Council **approves the Site Plan**, dated received July 25, 2016 by the Planning and Economic Development Department, with the following five (5) findings and five (5) conditions.

Findings

1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards and requirements can be met subject to the conditions noted below.
2. The location and design of driveways providing vehicular ingress to and

egress from the site will promote safety and convenience of both vehicular and pedestrian traffic both within the site and on the adjoining street.

3. *There will be a satisfactory and harmonious relationship between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.*
4. *The proposed development does not have an unreasonably detrimental, nor an injurious, effect upon the natural characteristics and features of the parcels being developed and the larger area of which the parcels are a part.*
5. *The proposed Final Plan promotes the goals and objectives of the Master Plan by providing alternative housing.*

Conditions

1. *City Council approval of the Final PUD Plans.*
2. *Provide landscape and irrigation cost estimates plus inspection fees, as adjusted if necessary by the City to ensure the proper installation of trees and landscaping. Such guarantee to be provided by the applicant prior to commencement of infrastructure construction as approved by Engineering.*
3. *Payment of \$10,000 in an escrow account in the home owners association for the purpose of providing access to the detention pond when maintenance is needed.*
4. *Provide Master Deed with Exhibit B to the Department of Public Services/Engineering for review and approval prior to the Engineering Department issuing Preliminary Acceptance of any site improvements.*
5. *Address all applicable comments from City departments and outside agency review letters, prior to final approval by staff.*

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

Aye 9 - Brnabic, Dettloff, Hooper, Kaltsounis, Morita, Reece, Schroeder, Schultz and Yukon

After each motion, Chairperson Brnabic stated for the record that the motion had passed unanimously, and she thanked the applicants.

2016-0032

Request for Final Site Condominium Plan Recommendation- City File No. 15-006 - Bloomer Woods, a proposed 30-unit development on 12.8 acres, located on the east side of John R, north of Avon, zoned R-3, One Family Residential with an MR Mixed Residential Overlay, Parcel No. 15-13-301-058,