

Mr. Anzek wanted the Commissioners to know that what they were voting on was the identical match to what was in the Master Land Use Plan. It included the eastern half of the parcel, not the entire parcel. Mr. Kaltsounis asked if that was designated in the motion. Mr. Anzek said that there was one parcel number, but it would have split zoning. He explained that the Master Land Use Plan only supported the eastern half of the parcel, from the woodlands east. He felt that the intent was to put the FB-1 Overlay only over that portion. It would keep the scale down. The motion was amended to add "eastern portion of the parcel, in line with the Master Plan."

A motion was made by Kaltsounis, seconded by Dettloff, 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, Kaltsounis, Reece and Schroeder

Nay 1 - Yukon

Chairperson Boswell stated that there was a Recommendation to City Council. He asked if the City owned Orion Ct. or if it was a County Rd. Mr. Anzek said that it was a City road. When Papa Joe's went in, there were several complications, because the old urban rail used to be there, and it still held an easement. The Road Commission had to vacate that, and the City took ownership. Chairperson Boswell noted that when Papa Joe's went in they added the roundabout, and he asked if that was on Papa Joe's property. Mr. Anzek believed that it was half and half, but the City required the roundabout for snow plow turnaround, and the City had to enter their property to do that. Chairperson Boswell mentioned that Mr. Capa had asked about the sign, and Mr. Anzek said he would look into it.

The Commissioners took a recess from 9:00 p.m. to 9:17 p.m.

2014-0083

Request for Recommendation of a Planned Unit Development (PUD) Agreement - City File No. 14-008 - Sanctuary at Rivers Edge PUD, a proposed 20-unit residential development on 6.19 acres, located north of Avon, east of Livernois and south of Harding, zoned RCD, One-Family Cluster, Parcel No. 15-15-403-010, MJ Ridgepoint, LLC, Applicant

(Reference: Staff Report prepared by Ed Anzek, dated December 12, 2014, PUD Agreement and Final Site Plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Jim Polyzois, MJ Ridgepoint, LLC, 49587

Compass Pte., Chesterfield Township, MI 48047 and Ralph Nunez, Design Team Plus, 975 E. Maple Rd., Birmingham, MI 48009.

Mr. Anzek stated that the request was the third step in the approval process for a Planned Unit Development (PUD). The first was the concept plan review and to determine that a PUD was appropriate for the site, which was approved by City Council. The next step was to complete technical compliance and the last was to submit a PUD Agreement and Final Site Plans for recommendation and approval. He noted a minor detail about the PUD Agreement in the Staff Report. The City Attorney was concerned with how the units would be sold, and it was a condition that would be resolved before going to Council.

Mr. Nunez stated that a couple of items had been modified since the concept plan review. They added a continuous sidewalk along the entire roadway Flora Valley Ct. They removed the gate at the private drive at the north end. He said that the Engineering review did not go as well as they had anticipated. Engineering did not care for the bioswales and water infiltration, and they recommended a solid pipe underneath, which would defeat the functionality of the bioswales. As a result, the ground cover plant material was removed. All vegetated trees would remain, other than some at the southwest corner which were moved for utilities. There would be a Contech Vortechs storm water treatment system used for water quality north of the detention basin. It would gather the storm water from the rear of the homes, filter it before it went into the detention basin and release it to the River. The amount of surface area for the bioswales was twice the amount a normal forebay would have, but it did not meet Engineering's approval. He assured that they would meet all the conditions requested. Regarding the trail being proposed over the utility easement that would connect to the Clinton River Trail, it would meet Parks & Forestry and Engineering's standards to minimize long-term maintenance and match the material of the Trail. They had originally proposed a secondary gate and signage restricting traffic to the private road for Fire access, but Fire did not want that.

Ms. Brnabic referred to page three of the PUD Agreement, last paragraph under Development Sequence, which read, "The parties further agree that the buildings and improvements as shown on the Final PUD Plans may be constructed, if at all, at different dates in the future, and that the Developer may elect to develop such improvements in the order and at such times as it determines necessary and appropriate in its discretion, if at all." She pointed out that as part of the PUD requirements, a timeframe for commencement and completion of improvements associated with the PUD must be stated in the Agreement. There was not

an obligation for a start date, but once the development was started, a timeframe had to be stated. If the projection was two to three years for completion, it would have to be stated in the contract. The way it was written, it could be 20 years or never completed at all. She also referred to the last sentence under 2b., which read, "Notwithstanding anything to the contrary herein, the Developer shall have no obligation to further develop all or any portion of the Property." She stated that she would not want to see a project that only had five units completed. It would not be very appealing. She noted that there were 275 surveyed, regulated trees and all of them were proposed to be removed. In light of the concern that market conditions might change over time, she felt that what was included on page 4 covered the possible need to extend the timeframe, if it was reasonably necessary. It stated, "Provided that the Developer is proceeding in good faith to develop the Project in light of existing economic conditions, and is otherwise in compliance with this Agreement and City Ordinances, the City will not unreasonably refuse to extend any time periods for Project completion for a reasonable time to enable the Developer to complete the Project." She reiterated that a timeframe was required to be included in the PUD Agreement, which was spelled out in the PUD Ordinance under page 111f.

Mr. Polyzois assured that they would clean that up and speak with Mr. Staran, and modify those provisions to reflect Ms. Brnabic's comments and provide a more definitive timeline for development.

Mr. Hetrick said that the applicants talked about some sort of traffic device on Helmand, and he asked if they were proposing or not proposing something. Mr. Nunez responded that they did propose a gate, but the Fire Dept. did not permit it. They were proposing a break away gate at the end of Castell. Mr. Hetrick mentioned page five of the PUD Agreement, number seven, which talked about Private Roads. The applicants talked about paving two public roads, Peach and Helmand, and page four talked about private roads, but he believed that item seven needed to be separated such that they would be paving public streets. It read that the roads would become private streets once the project was finished. Mr. Nunez agreed they could address that. Mr. Hetrick did not want confusion that the roads were going to switch to private roads. He brought up number 14 on page seven, which talked about lot sizes and density. He felt that the 20% increase in footprint seemed a little excessive. His suggestion would be 10%, unless there was a definite need for 20%. He did not think that the lot sizes could support 20% based on what the Commissioners had discussed previously about lot sizes and density.

Mr. Reece asked what traffic calming was proposed for Helmand and what the logic was for it not getting approved. Mr. Nunez said that they talked with Planning about adding a berm so the three residents had a private drive (Castell), but the Fire Dept. would not support it. They looked at a break away gate so only the Fire trucks could come down Castell. The City Engineer wanted all of Helmand paved, from the residents' homes to the west to Peach. The residents did not wish for it to be paved, because they did not want traffic. The City Engineer also wanted Helmand to go from an existing 50-foot right-of-way to a 60-foot. They could accomplish that for their frontage on Helmand, but if it extended to the west, it would go through a neighbor's front yard. He noted the easement to the west of the neighbor in the northwest corner, which ran to the applicants' property, and they were going to give it to the homeowner if it could be vacated. He believed that the City could service four residents from a single drive, and the question was whether it would serve the residents or the City better having a nonconforming road versus it being vacated. They were in support of what the neighbors would like to do. Mr. Reece asked if he had gotten any feedback from them. Mr. Nunez believed that they would talk about it during public comments. He believed that if it could be vacated, the neighbors would be thrilled.

Mr. Anzek asked Mr. Nunez to show the Site Plan. In regards to item 14, for which Mr. Hetrick raised a concern about the square footage, there were four different footprints shown, and Mr. Anzek suggested that the applicants find a standard size to work with and allow an adjustment of 10%. If there was a potential buyer who wanted a larger home and a smaller footprint was shown in the Agreement, it would be a binding contract, and it would be incorrect. He thought that it was fine to show it, but for the Agreement, he suggested that they use a solid footprint. If someone wanted a deck or something or a bigger home where the smaller footprint was shown, they would have flexibility if it was consistent.

Mr. Kaltsounis went over some potential conditions in the event of a motion. Mr. Anzek added that in the PUD Agreement, Item 13a. should be changed to 627 feet from 620 for the cul-de-sac, since the applicants were requesting a 27-foot Waiver.

Mr. Schroeder asked if Helmand would remain open where the pavement ended on the west. Mr. Nunez replied that it would be unpaved, but someone could still get through. Mr. Nunez said that he would like to have some type of signage that said it would be a right turn only out of the development.

Chairperson Boswell opened the Public Hearing at 9:41 p.m., combining the Wetland Use Permit and Tree Removal Permit considerations.

George Snow, 505 Harding, Rochester Hills, MI 48307 Mr. Snow noted that he lived in the house to the west on Harding. He indicated that there had been a lot of talk about developers not talking to neighbors, but he stated that the applicants had been great. They had been in contact multiple times and made some adjustments, and the neighbors were very pleased about that. The major issue was the nonconforming road. There were a lot of people present for the first hearing, but only three were interested in this meeting because they were impacted. One had a sick child, so he did not make it, but he was very concerned because he had a six year-old son that played in the driveway. The section they were talking about ran from Harding to Helmand. Since the 1940s, that had serviced three homes, and those homes were still there, although two were new. Before that, it serviced one home. Since Helmand was certified as a gravel road, one home had been added. There would obviously be more traffic with the addition of 20-23 homes. At the first Council meeting, Mr. Breuckman (former Manager of Planning) mentioned that it was a problem, and that something should be done. They had talked about a gate, and the developers had offered to pay for it, so from the neighbors' perspective, it would be a very good situation. Vacating the road would be even better. He had lived there for 10 years, and every car came down that right-of-way because it was easier. He did not think signs would help, because there would not be police monitoring the area. Every car from the new development would come down Castell. It was only a 25-foot right-of-way, and it was used by cars, bicyclists and pedestrians. In coming through that section, someone had to make two severe right turns. The first one was more than a 90 degree turn off of Harding, and the second was also a tight turn. Both corners were starting to impinge on his property and Mr. Lindsey's property. The road was actually on their properties; it was not an easement. There was not enough room for two cars to pass, and people parked there occasionally, too. It would be amplified by the addition of 23 new homes. They would all appreciate it if the gate could be revisited, and if vacating the road was a possibility, it would be very positive. In the end, it was a dangerous intersection. He had seen three people lose control of their cars and come onto his lawn. One came 70 feet across his lawn and completely ran over a three-inch oak tree and took it out. He had seen a bicyclist almost get killed there. Harding was already dangerous by the turn, and people drove like maniacs. He strongly asked if the gate or the vacation could be looked at again to make it a safer situation.

B. T. Irwin, 760 Langley Blvd., Clawson, MI 48017 Mr. Irwin stated that he aspired to live in Rochester Hills someday. He moved away in 2004, and he had been trying to get back ever since. He said that it was a great community, and the Sanctuary at River's Edge would be giving people what they wanted. He shared that they would be great neighbors. He was on contract with Rochester College, managing a project since May to devote about 30 acres of its campus along the Clinton River Trail for public use. It would create a community education and service learning park. He first came into contact with the developers back in May through Mr. Nunez. Mr. Nunez was the architect working on the design phase of the project. He knew their reputation and how much they cared about nature and land preservation. Ever since they met, the conversations had been about one thing only - how to improve access and enjoyment of the Trail and the River for residents in the community. He felt that it was a great project, because people wanted to live there, and it would give people what they wanted. It was also a great project because the developers were very good neighbors and cared about the community. That was why he felt it was worth considerable merit.

Jeffrey Miller, 501 Castell, Rochester Hills, MI 48307 Mr. Miller said that he lived at the home right north of the northwest corner of the development. He agreed that the developers had been in contact with the neighbors since the project started. They tried to keep the neighbors up to date on what they were planning. His concern was the road Castell. Mr. Lindsey and he showed pictures at the last meeting of one of them going out and one coming in, and Mr. Miller emphasized that it was very tight. If they added 23 homes, and he said that he did not have a problem with the homes, and they used Castell, it would be a dangerous situation. He also would like the gate or vacating the property looked at again.

Greg Kiesgen, 475 Helmand, Rochester Hills, MI 48307 Mr. Kiesgen noted that he lived in the home to the east of the proposed development. He got a notice about the tree removal, and he stated that he would like to see the trees remain. He thought that was the reason why everyone lived on Helmand. He said that Mr. Polyzois had been very nice. If someone come down Peach and made a right turn, they would see a lot of nice trees, and he hoped that they could keep the serenity that existed.

Chairperson Boswell closed the Public Hearing at 9:52 p.m. He stated that the Planning Commission would not normally get involved with a decision about the gate or vacating the road. He suggested that everyone got together with the City Engineer and Fire Department and tried to work something out. Mr. Reece had asked, but Chairperson

Boswell did not think there was an answer as to why the Fire Dept. said no to the gate. Mr. Nunez agreed; they only got the report with the denial. He thought it would be a good idea to have a face to face with Engineering and Fire to see if they could come to a mutual agreement that benefited the neighbors and met the standards for safety.

Mr. Reece clarified that the Planning Commission could not add a condition to have the road vacated or the gate installed, but they could add one asking the developer and residents to meet with the Fire and Engineering Departments. Mr. Anzek said that his recommendation would be to not make it a condition of approval because a lot of research had to go into vacating a road. He would like to do the research to find out how it was platted to determine who should get ownership if it were vacated. He also thought they should have a discussion with the Traffic Engineer and Fire Department to see how they could make it work for the neighbors that lived there.

Mr. Nunez stressed that they would do that regardless if it were a condition or not (meet with the parties), because it was the right thing to do.

Chairperson Boswell brought up trees in the wetland and confirmed that every tree would be taken out. He said that he had walked the property, and he felt that a lot of the trees should be taken out. Mr. Nunez agreed that a lot were of low quality. Of the surveyed trees, there were 44 that were o.k., and eight were on Mr. Kiesgen's property. The applicants would plant a lot more diverse, higher quality trees. They were keeping the trees that were in the bioswale areas. Regarding the wetlands, the one to remain was partly on Mr. Kiesgen's property. They were planning proposed enhancements to the natural features setback there.

Mr. Anzek noted that the applicants would clear 275 trees and plant 275. He asked Mr. Nunez if they would all be the same size and diameter or if they could be mixed. He realized that it would be expensive to install 6" diameter trees, but to give them a jump start, he was sure the City would be agreeable that a 6' tree was equal to four or five one-inch whips. Mr. Nunez said that they could certainly look at it. The deciduous trees they were planning were 3-inch calipers. The evergreens would all be ten feet in height. He said that it would be appropriate adjacent to the neighbor to the east. They could look at the grading to see if more existing trees could be preserved. There were some spruces right at the property line that were not in great shape, and they would be replaced with ten-foot arbor vitae to provide that neighbor with some privacy. They could look at the west property line and they could mix up the sizes. It was

determined that a condition to that affect could be added to the Tree Removal Permit.

Chairperson Boswell remarked that he found a little bit of irony in the fact that they would be cutting all the trees and naming the road Flora Valley.

Mr. Kaltsounis observed that with all the new developments coming into the City in the tougher spots, it was someone challenging. They had seen PUDs before that were "siding monsters," and they were not of good quality. He really liked the proposed development, though, and the direction it was going. He then moved the first motion:

MOTION by Kaltsounis, seconded by Hetrick, in the matter of City File No. 14-008 (Sanctuary at River's Edge PUD), the Planning Commission **recommends** that City Council **approves** the PUD Agreement dated received November 26, 2014 with the following five (5) findings and seven (7) 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. The appropriate sheets from the approved final plan set shall be attached to the PUD agreement as exhibits, including the building elevations.
2. All other conditions specifically listed in the agreement shall be met

prior to final approval by city staff.

3. *Under Section 4, Development Sequence, add a timeframe for commencement and completion, prior to City Council review.*
4. *On the Site Plan, change the footprint of the homes to a common footprint and Under Section 14 b., Minor Modifications, change the allowable increase in the footprint to a maximum of 10%, prior to City Council review.*
5. *Under Section 7, Private Roads, add a statement regarding public roads for the roads to be improved, prior to City Council review.*
6. *Under Section 5, Inapplicability of Land Division Requirements, add language, approved by the City Attorney, regarding ownership of the individual lots, prior to City Council review.*
7. *Under Section 13 a, Zoning Ordinance Requirements, change the length of the cul-de-sac from 620 feet to 627 feet, prior to City Council review.*

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

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

2014-0499

Public Hearing and request for a Wetland Use Permit Recommendation - City File No. 14-008 - Sanctuary at River's Edge PUD, for impacts to approximately 11,000 square-feet of wetlands associated with construction of several units and the cul-de-sac Flora Valley Ct., MJ Ridgepoint, Applicant

MOTION by Kaltsounis, seconded by Dettloff, in the matter of City File No. 14-008 (Sanctuary at River's Edge PUD), the Planning Commission **recommends** City Council **approves** a **Wetland Use Permit** to impact approximately 8,713 square feet for the construction of several units and a portion of Flora Valley Ct., based on plans dated received by the Planning Department on November 24, 2014, with the following two (2) findings and subject to the following four (4) conditions.

Findings:

1. *Of the approximately .21 acres of City-regulated wetlands on site, the applicant is proposing to impact approximately the same amount of wetlands.*

2. *The wetland areas are of medium to low ecological quality and should not be considered a vital natural resource to the City.*

Conditions:

1. *City Council approval of the Wetland Use Permit.*
2. *If required, 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.*
4. *That ASTI verifies that condition 3.a from its December 3, 2014 letter is addressed, prior to final approval by city staff.*

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

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

2014-0500

Request for a Tree Removal Permit - City File No. 14-008 - for the removal and replacement of as many as 275 trees for the Sanctuary at River's Edge PUD, MJ Ridgepoint, Applicant

MOTION by Kaltsounis, seconded by Yukon, in the matter of City File No. 14-008 (Sanctuary at River's Edge PUD), the Planning Commission **grants a Tree Removal Permit**, based on plans dated received by the Planning Department on November 24, 2014, with the following three (3) findings and subject to the following two (2) conditions.

Findings:

1. *The proposed removal and replacement of regulated trees on-site is in conformance with the Tree Conservation Ordinance.*
2. *The applicant is removing up to 275 regulated trees from the site.*
3. *The applicant is proposing to provide at least 275 replacement credits.*

Conditions:

1. *All tree protective fencing must be installed, inspected and approved by city staff, prior to issuance of a Land Improvement Permit.*
2. *Staff shall work with applicant to revise tree plan and credits to add larger diameter trees in place of smaller trees, per Final Approval by Staff.*

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

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

2014-0501

Request for Natural Features Setback Modifications - City File No. 14-008 - for impacts to as much as 870 linear feet associated with the construction of several units and the cul-de-sac Flora Valley Ct. for Sanctuary at River's Edge PUD, MJ Ridgepoint, Applicant

MOTION by Kaltsounis, seconded by Hetrick, in the matter of City File No. 14-008 (Sanctuary at River's Edge PUD), the Planning Commission **grants Natural Features Setback Modifications** for the permanent impacts to as much as 870 linear feet of natural features setbacks associated with the construction and grading of units and the cul-de-sac Flora Valley Court, based on plans dated received by the Planning Department on November 24, 2014, 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 Flora Valley Court.*
2. *The Natural Features Setbacks are of low ecological quality and the City's Wetland Consultant, ASTI, recommends approval.*

Condition:

1. *Add a note indicating that Best Management Practices will be strictly followed during construction to minimize the impacts on the Natural Features Setbacks.*

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

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

2014-0583 Request for a Cul-de-Sac Waiver - City File No. 14-008 - for approximately 27 feet in additional length from the 600-foot minimum for Flora Valley Ct. in the proposed Sanctuary at River's Edge PUD, MJ Ridgepoint, Applicant

MOTION by Kaltsounis, seconded by Brnabic, in the matter of City File No. 14-008 (Sanctuary at River's Edge PUD), the Planning Commission **approves a Cul-de-Sac Waiver** of 27 feet for Flora Valley Ct., based on plans dated received November 24, 2014 by the Planning and Development Department, with the following three (3) findings.

Findings:

1. A Cul-de-Sac Waiver is requested for the length and layout of the street Flora Valley Ct. to eliminate having extra long driveways on the south side.
2. The proposed cul-de-sac length and lot layout have been reviewed and recommended for approval by both the City's Public Services and Fire Departments.
3. The proposed street design incorporates a cul-de-sac bulb that meets City's Standards allowing for easier movement of fire vehicles.

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

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon

2014-0498 Request for Recommendation of the Final Site Plans - City File No. 14-008 - Sanctuary at River's Edge PUD, a proposed 20-unit residential development on 6.19 acres, located south of Harding, east of Livernois, zoned RCD, One Family Cluster, Parcel No. 15-15-403-010, MJ Ridgepoint, Applicant

MOTION by Kaltsounis, seconded by Hetrick, in the matter of City File No. 14-008 (Sanctuary at River's Edge PUD), the Planning Commission **recommends that City Council approves the Site Plan**, dated received November 24, 2014 by the Planning and Development Department, with the following five (5) findings and subject to the following four (4) 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 adjoining streets.*
- 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.*

Conditions:

- 1. Work with the Engineering Department to design and locate the sidewalk within the right-of-way along the south side of Helmand to connect to the proposed off-site trail connection east of the site.*
- 2. Provision of a performance guarantee based on the landscaping cost estimate, 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 issuance of a Land Improvement Permit.*
- 3. Payment of \$200 per lot into the City's Tree Fund (\$4,000.00).*
- 4. Addressing 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 Hetrick, that this matter be Recommended for Approval to the City Council Regular Meeting,. The motion carried by the following vote:

Aye 9 - Boswell, Brnabic, Dettloff, Hetrick, Hooper, Kaltsounis, Reece, Schroeder and Yukon