

3. *Post a landscape and irrigation bond in the amount of \$183,015 plus inspection fees, as adjusted as necessary by the City, prior to issuance of a Land Improvement Permit.*
4. *Payment into the City's Tree Fund in the amount of \$46,648.50 for trees that cannot be replaced on site, prior to issuance of a Land Improvement Permit.*
5. *Submit an irrigation plan with a note specifying that watering will only occur between the hours of 12am and 5am prior to final approval by staff.*
6. *Payment of \$9,600 into the tree fund for street trees prior to issuance of a Land Improvement Permit.*
7. *Compliance with staff's memos with minor comments to be addressed at building permit application and prior to final approval by staff.*

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

**Aye** 7 - Brnabic, Dettloff, Hooper, Morita, Reece, Schroeder and Yukon

**Absent** 1 - Kaltsounis

*After each motion, Chairperson Brnabic stated for the record that the motion had passed unanimously, and she thanked the applicants. Ms. Roediger advised that the matter would be scheduled on the June 6, 2016 City Council meeting.*

**2015-0181**

Public Hearing and request for Planned Unit Development (PUD) and Conceptual Site Plan Recommendation - City File No. 89-114.2 - Sanctuary in the Hills East Condominiums, a proposed 14-unit residential development on 4.57 acres, located east of Sanctuary Blvd., north of South 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 May 13, 2016 and Concept PUD Plans and Elevations had been placed on file and by reference became part of the record thereof.)

*Present for the applicant were Dan MacLeish and his son, Dan MacLeish, Jr., MacLeish Building, Inc., 650 E. Big Beaver, Suite F, Troy, MI 48083*

and Jeff Rizzo, Fenn & Associates, 14933 Commercial Dr., Shelby Township, MI 48315.

*Ms. Roediger summarized that the request was for a Conceptual PUD Recommendation. The applicants were in front of the Planning Commission for a discussion in May 2015. Since that time, staff had been working with them to be able to bring forth a plan they hoped to move forward. Ms. Roediger explained that there was a two-step process involved with a PUD. The first phase defined the plan and the second refined it. She advised that the proposal would be an extension of the existing Sanctuary in the Hills to the west, which was a very successful development that was constructed under a Consent Judgment to allow attached units. Staff and the applicant felt that the PUD route was the only way to be able to extend the same type of units. She reminded that the Planning Commission would be making a recommendation to Council and if approved, it would come back to both bodies for Final PUD review, so there would be three meetings left after this meeting.*

*Ms. Roediger stated that the plan was very conceptual at this stage, however, the wetland environmental consultant, ASTI, had reviewed the plans. There were about .68 acre of high quality and low quality wetlands. The high quality wetlands were along the western portion of the site and the low quality wetlands were to the east, which was proposed to be filled. The majority of the high quality wetlands were proposed to be maintained and upon the recommendation of ASTI, the applicant would install boulder retaining walls along the edges of the wetlands to minimize impacts from the residential uses. There was an access drive off of Sanctuary Blvd. proposed to the detention basin that was required by Engineering for maintenance. In meetings with some of the neighbors, they wished to see it removed. Because of the high quality nature of the wetlands, ASTI recommended removal of the drive. She had spoken with the Engineering Dept. and they had committed to finding an alternative method of getting to the basin in the future. Staff had recommended removal of the access drive and working with Engineering during the next step in the process to determine access as a condition of approval. It could be through an internal drive on the site or by accessing it via an easement and not constructing anything until maintenance was needed 20 years down the road. Engineering was confident that this issue could be worked out.*

*Ms. Roediger noted that the applicant had requested to not install sidewalks in the project. They had installed a crossing at Sanctuary Blvd. and at an entrance into the development. Staff strongly recommended*

*the continuation of the sidewalk along the south side of the internal road. At the end of the cul-de-sac, there would be a nice woodchip path that connected into some open space with landscaping, a fire pit and some seating areas. As part of the open space amenity for the PUD, that was being proposed, and staff always promoted walkability which included sidewalks at least on one side of the street. There were some outstanding comments from the reviewers, but she said that those could be addressed during the next phase. Staff recommended approval with conditions outlined in the staff report, and she said that she would be happy to answer any questions.*

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

*Chairperson Brnabic opened the Public Hearing at 7:27 p.m. She asked that all questions be directed to her and explained that they would be answered after all speakers were finished.*

**Rod Meyer, 2264 Creek Bend, Rochester Hills, MI 48309.** *Mr. Meyer said that he was a resident in Sanctuary in the Hills and also the President of the Homeowner's Association. He noted that many of the co-owners were present, but in representing them, he stated that they would prefer not to have any of the subject area developed. They moved into the Sanctuary because they were drawn to the natural setting on both the east and west sides of Sanctuary Blvd., and they would like to maintain the natural setting. They realized that there was property zoned R-4, and they recognized that at some point in time there might be some form of development there. When they learned that MacLeish Building was considering doing a small condo community, several co-owners came together and formed a committee to understand what was planned. They met with the Planning Dept. several times to understand what was planned. He commented that their community had gone through construction traffic fatigue, because the build out of Sanctuary in the Hills had taken almost 15 years. The co-owners were faced with a bankruptcy by Newman Homes, which was finishing the community. The co-owners had to be assessed to finish the roads. They were just now getting to the end of the construction cycle and they were now faced with another construction site in the area.*

**Mr. John Bailey, 3612 Winding Brook Circle, Rochester Hills, MI 48309** *Mr. Bailey stated that he also lived in Sanctuary in the Hills. He had been a part of the special committee of six homeowners to learn as much as they could. He thanked Mr. Anzek and Ms. Roediger. The*

committee wanted to communicate to the rest of the homeowners what they had learned so they could understand exactly what was happening. If they had their druthers, there would be nothing there at all, but they knew that someone owned the properties and that something was liable to happen - if not MacLeish Building's project then something else. They liked the homes Mr. MacLeish had built in their community, and they would like the proposed homes to be at least as nice. They wanted to work with the City to ensure that what they understood would happen did, in fact, happen. They did not want to get any surprises, but if there were, they needed to know why. The people he had talked to would all agree that one of the reasons they bought in the Sanctuary in the Hills was because going down Sanctuary Blvd. it was a beautiful drive, with trees on both sides. It made them feel really welcome. That was why they were opposed to the service drive as one more issue with their view. They would continue to insist upon that being removed. They realized that there had to be a road going in for the development, and they would accept that, but they wanted to ensure that when everything was done that what they had agreed to would happen. He agreed that there were still trucks in his community finishing up, and it was driving them nuts. They realized there would be construction traffic for the new development, but they would only like it on Sanctuary, not into their community.

**Carl Pacacha, 3776 Winding Brook Circle, Rochester Hills, MI 48309**

Mr. Pacacha asked if endangered species, such as Trillium, were taken into consideration when the environmental study was done.

**Brad Baerlocher, 3744 Donley, Rochester Hills, MI 48309** Mr.

Baerlocher said that he lived east of the subject property. They had concerns about the environmental impact of the development. He agreed that he would not like to see the area developed. Ms. Roediger had mentioned low quality wetlands, but if someone looked at the area, he claimed that it was beautiful with a nice pond and wildlife. He took photographs of the ducks and birds, and he was concerned about the wildlife being jeopardized. Regarding the high quality wetlands, he also had concerns that they would be jeopardized. He questioned the impact of property values on his neighborhood. His neighborhood was older, and he did not know if it would impact the Sanctuary in the Hills, but he wondered about his neighborhood. He observed that there were no plans for traffic coming into or out of his neighborhood. He believed that there were future plans that would connect Grant or Nearing into the proposed development, and he was concerned about that.

**Kevin McArthur, 3714 Donley, Rochester Hills, MI 48309 Mr.**

McArthur stated that he was present on behalf of the builders (MacLeish). He said that the bottom line was that he had lived in his home since 1983, and if the Sanctuary in the Hills did not get developed, there would have been a lot more open property. He did not see why Mr. MacLeish could not develop that little bit of area with one road off of Sanctuary Blvd., which he did not think should be a problem. As long as they built quality homes, he felt that should be all there was to it. He owned a couple of the properties, but that was how he felt. He reiterated that the Sanctuary in the Hills would not have been built if the road was not approved to get to it. He asked why someone should not build off of it, and he felt that the property should be developed.

In response to the comments, Mr. MacLeish said that in 2000, he was approached by the landowner of the Sanctuary in the Hills and by the City and asked to see if they could come to a meeting of the minds in order to develop the property. The City and the landowner were at odds for ten years, but they came to an agreement that satisfied everyone. The subdivision west of that was Walnut Brook Estates. The residents came to a City Council meeting and had put signs up all along the entrance of City Hall and up and down South Boulevard that said "Save the Sanctuary." The owner had promised that it would always be open space. The developer had the opportunity to buy it for Walnut Brook Estates and preserve it, but he did not approach them. Mr. MacLeish offered it, but he did not want it. They went ahead, with the blessing of the City and developed it and sold it to Tadian Homes, who then sold what was left to Newman Homes. About eight years ago, he received the property back, because Newman had not paid everything and they went into foreclosure. They waited for almost four years for the market to improve to build the rest of the homes. They had tried to be good neighbors. They loved green, and they started a landscape company. He commented that they were hunters and conservationists, too. They tried to produce the best possible environment for people to live. They surveyed all the trees, and some were diseased and needed to be taken down. They would be saving a number of them, but they had to take some down for the houses. They would also put in a tremendous amount of trees. They wanted to keep and improve the neighborhood to the extent that it would benefit the neighbors in the Sanctuary in the Hills to the west. If he built single-family homes under R-4, there would be six driveways and crossings of the wetlands in order to access the homes. He would be putting in one driveway, so they would impact the wetlands less than ¼ of what an R-4 development would. He claimed that some of the people in the Sanctuary had told him about the subject site, and that was why they

*investigated it in 2015. Prior to that, he did not even know it was there.*

*Chairperson Brnabic said that there was also a concern expressed about Mr. MacLeish's willingness to continue communicating with the neighbors. She asked if he would be willing to do that.*

*Mr. MacLeish said that he was in Sanctuary in the Hills every day. If people had an issue they could always come to him. His workers were not the only people in there. There were people replacing cement sidewalks for the older units and a number of craftsmen working on repairs such as siding and windows. They tried to keep all of their trucks and men where their new construction was. They knew what it was like to have construction going on, and they tried to minimize it as much as they could.*

*Chairperson Brnabic asked the projected timeframe for the proposal. Mr. MacLeish said that they could start tomorrow if they had the approvals. Dan MacLeish, Jr. said that it would be about two years.*

*Chairperson Brnabic closed the Public Hearing at 7:45 p.m.*

*Mr. MacLeish, Jr. put up a picture for the overhead camera which showed a rear portion of two units they finished last fall. They replanted Native Birch, Norway Spruce and White Pine around the perimeter, even though there was already about 150-foot natural buffer between the units behind. He stated that they put in a lot of landscaping for the units compared with other condo projects in other cities, and he listed some of the other plantings they used.*

*Mr. Schroeder asked if one of the photos showed trees proposed to be planted on Sanctuary Blvd. north and south of the entrance road. Mr. MacLeish, Jr. agreed, and said that they originally landscaped Sanctuary Blvd., and he believed the landscape plan showed 25-30% more trees than what was required. They liked to have privacy for the new residents and the existing people in Sanctuary, so they would maintain the streetscape or plant even more along the east side of the boulevard. It was their intent to landscape it heavily similar to how they did the rest of the boulevard. Mr. Schroeder felt that was very good.*

*Mr. Anzek said that regarding construction traffic, he felt that adding a simple condition restricting it to South Blvd. and Sanctuary Blvd. would be appropriate. He thought that Mr. MacLeish would prefer that his construction teams stayed on those roads. Mr. MacLeish agreed.*

*Mr. Anzek summarized that the access road to the detention basin would be eliminated and an alternative access would be determined between now and the final. Ms. Roediger had pointed out that it might come in from the internal road of the development or there might be an easement. Mr. Anzek stated that the access was only required if needed and was only used every 20-25 years. There was no reason to go in now, but the City could ask for an easement if they had to enter it at some future point.*

*Mr. Anzek offered that one benefit of doing a PUD was that it was a contract with the City. Mr. Bailey had raised the point that they wanted to make sure that what was approved was built. Mr. Anzek stressed that as a PUD, what was approved would exactly be what was built. If there was a variation, the applicant would have to go through the process again, and people would be notified.*

*Mr. Anzek mentioned that another question was raised about endangered plant material, specifically Trillium. He advised that Trillium was not endangered, it was protected, and as such, no one could go on another person's property and damage that flower. It bloomed in May for about two weeks, and it was protected in Michigan, but he advised that it was not endangered. He assured that the City would work with the owner to try and preserve any found.*

*Regarding Mr. Baerlocher's question, Mr. Anzek said that there were no plans to connect the proposed road to any roads in the area (other than Sanctuary Blvd.). Mr. Baerlocher had asked about environmental impacts. Mr. Anzek agreed that the development would impact some deer and other critters, but he felt that there were plenty of woods to the south for them to survive. Regarding property values, Mr. Anzek said that historically, anytime something was built that sold higher than adjacent homes, it would raise those homes' property values. He felt that there would be a positive impact for the Donley residents.*

*Ms. Morita thanked the applicants for bringing the project before the Planning Commission. She had a few questions regarding the plan. It was her understanding that Mr. MacLeish did not own the entire property, and she asked if he would be willing to agree to a condition that he had to purchase the remaining property before doing any work on the portion he did own.*

*Mr. MacLeish said that when they developed any property, they gave the owner a down payment and had a contract. When the project was*

*approved by the City, they completed the sale. Ms. Morita asked Mr. MacLeish if he would agree that he would own the entire property before he did any work on it. Mr. MacLeish maintained that they would not go in and do anything until the approval was given by City Council.*

*Ms. Morita mentioned the paper roads that ran through the property, and said it was her understanding that they were platted subdivision streets. She understood that the City could vacate its interest in the platted rights, but it did not give Mr. MacLeish title when the other lot holders in the plat still had an interest in the paper streets. She suggested that there were a couple of ways to handle it. Mr. MacLeish could either go to circuit court and get an order vacating the roadways or, at the very least, enter into an agreement with the City which would hold the City harmless and file an irrevocable bank letter of credit with the City to cover any litigation costs that might occur because of the roadway. She asked Mr. MacLeish if he had a preference in how he would like to see that handled, or if he could state how he planned to handle it.*

*Mr. MacLeish said that his understanding that the City had a right to vacate the road. He also thought, after talking with one of the neighbors, that when they originally tried to pave Grant Rd. that it disappeared. That was when either the County or whoever was developing the property decided to give up on it. Apparently, no borings were done. He added that Grant Rd. could never be continued to the north.*

*Ms. Morita asked what he meant by "disappeared." Mr. MacLeish said that it sunk out of sight. The ground would not support the additional weight of the pavement. Ms. Morita thought that they had a difference in understanding about what the City could do in relation to the roadway. She believed that the City could only vacate its interest in the roadway. Mr. MacLeish said that was correct for the portion along City property. Ms. Morita explained that the City could not vacate the public's interest in the roadway, and she asked how Mr. MacLeish wanted to handle the remaining public's interest in the roadway. Mr. MacLeish said it was the first time he had heard that. Ms. Morita said that she apologized for the surprise, and she had asked someone to address it with Mr. MacLeish before the meeting (not staff). It was a technical issue that still needed to be addressed. She said that she was supportive of the plan, and she would love to see it built, but there were a couple of technical issues with the platted rights-of way that needed to be addressed before the project went forward. They should at least reach an agreement that was approved by the City Attorney that held the City harmless from any claims. She recognized that the probability of a claim might be small, but in terms of*



*looking out for the City's interest, she would not want the City to get into a situation where there was a potential problem because they did not have an agreement.*

*Mr. MacLeish said that a year-and-a-half ago, he asked about the vacation, and he was under the impression that the City was handling it. He had talked with the City Attorney, but he would have to talk with him again. Ms. Morita suggested that when he did talk with Mr. Staran, he should tell him that Councilwoman Morita brought the issue up, and he would know what she was talking about. If there was a question, Mr. MacLeish could feel free to bring her into the conversation. She wanted to see the project go forward, but she wanted that issue to be fixed. Mr. MacLeish agreed.*

*Ms. Morita added language for conditions 10 and 11 prior to moving the motion, seconded by Mr. Schroeder (condition 12 added after discussion on the motion):*

**MOTION** by Morita, seconded by Schroeder, in the matter of 89-114.2 (Sanctuary in the Hills East Condominiums PUD), the Planning Commission recommends that City Council approve the PUD Concept plans dated received April 13, 2016, with the following five (5) findings and subject to the following twelve (12) conditions.

Findings

1. *The proposed PUD Concept plan meets the criteria for use of the Planned Unit Development option.*
2. *The proposed PUD Concept plan meets the submittal requirements for a PUD concept plan.*
3. *The proposed development should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.*
4. *The proposed development is not expected to have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.*
5. *The proposed development provides adequate benefit that would not otherwise be realized including the development of a desired land use to provide diversity in housing options in the City.*

Conditions

1. *Approval shall only confer the right of the applicant to submit detailed site plans consistent with the layout and at a density not exceeding that shown on the PUD Concept plan.*
2. *The site plans, including but not limited to landscaping, engineering, tree removal and wetland use/buffer modification plans will meet all applicable City ordinances and requirements while remaining consistent with the PUD Concept layout plan.*
3. *The architectural quality of building plans submitted with the site plans and PUD Agreement in step 2 of the PUD process will be equal to or better than that approved with the PUD Concept plan.*
4. *Recommendation by the Planning Commission and approval by City Council of a Wetland Use Permit and submittal of an MDEQ Wetland Permit at Final PUD review, with the plans to address comments from ASTI's letter dated April 27, 2016.*
5. *Approval of a Tree Removal Permit by Planning Commission at Final PUD review.*
6. *Recommendation by the Planning Commission and approval by City Council of a PUD Agreement, as approved by the City Attorney, at Final PUD review.*
7. *Address comments from the Engineering memo dated April 28, 2016 applicable to Final PUD submittal and any minor outstanding staff comments prior to Final Site Condo Plan submittal.*
8. *The addition of a sidewalk along the south side of the proposed road to connect to the wood chip path.*
9. *Work with the Engineering Department to find an alternative access to the  
detention pond that removes the access drive off of Sanctuary Blvd.*
10. *Approval of the vacation of Grant Rd. by a circuit court order or an agreement to hold the City harmless against any claims which include, but are not limited to an irrevocable letter of credit or bond as determined appropriate by the City, prior to issuance of a Land*

*Improvement Permit.*

11. *That the purchase of the property shall be consummated prior to commencing any development, including the clearing of trees.*
12. *Construction traffic shall be restricted to Sanctuary Blvd. and South Boulevard.*

*Mr. Hooper agreed that Mr. Staran should weigh in on the matter of the roadway. He also agreed that there should be a sidewalk on the south side of the internal road, and he hoped that the applicant would agree, because he felt that it would be an excellent addition to the development.*

*In response, Mr. MacLeish noted that there were no sidewalks in the Sanctuary to the west, and they were just keeping it the same, and that was their reasoning. He indicated that they would have to widen the impact on the wetlands. Mr. Hooper asked how, noting that there was a retaining wall.*

*Mr. Rizzo said that if the developer agreed, they might be able to run it right along the retaining wall. Mr. MacLeish agreed that there might be enough room. Mr. MacLeish said that he would have to talk with Engineering.*

*Mr. Hooper said that a question was raised about the Homeowner's Association. He asked if the proposed development would be a part of the Sanctuary in the Hills' Association. He believed that it would take a vote, but he wondered if it had even been decided or even discussed. Mr. MacLeish said that they had not really gotten into that in depth. He agreed that the first Sanctuary Association would have to vote. Mr. Hooper asked if the proposed development would have its own Association if the original Sanctuary decided against them joining. Mr. MacLeish said that would not be a problem.*

*Mr. Hooper brought up guest parking, and said that other developments the Commissioners had seen had provisions for it. He did not see any in the proposed development. Mr. MacLeish said that as with the Sanctuary in the Hills, there would be two spaces in the driveway and two in the garages. If there were guests, they could park on one side of the street. Mr. MacLeish, Jr. noted that the end of the road had been changed to a cul-de-sac, and they lost two units to have that, and he thought that it could handle some overflow parking. Mr. Hooper noted that other PUDs they had seen had striped or angled parking dedicated on the plan, but*

there was nothing specifically set aside for the proposed plan. Mr. MacLeish indicated that there was not very much room to do that. He suggested that there might be some room at the end. Mr. Hooper said that might be the only solution. Mr. MacLeish asked Mr. Hooper where he would like to see it. Mr. Hooper said that he was just trying to gather what the thought process was. Mr. MacLeish said that if they took the cul-de-sac out, which they would be allowed, they could put in a T and add extra parking. He believed that everyone seemed to like the cul-de-sac better. It was much more convenient for the Fire Department, although they suggested the T. Mr. MacLeish thought that they would add an island in the cul-de-sac, but if they took it out, there would be some extra room. They were going to landscape the island, because it would look much nicer. They were just trying to provide a quality project, which was what they had tried to do for 50 years. They built places they would like to live in themselves.

Mr. Rizzo added that between driveways, there was quite a bit of room. He pointed out where a couple of cars could fit, and said that cars could fit along the curbing. He felt that there would be sufficient parking for visitors. They had to be careful because if they started striping things, people would not have the flexibility to choose different locations. Mr. Schroeder reminded that they would not want to park on the fire hydrant side.

Mr. Hooper said that there seemed to be a universal axiom from neighbors about new development. People said things like, "I moved there because of the woods, and no one told me it would ever be developed." The Commissioners heard it all the time, and he understood it. He suggested that the best way to avoid development of a property would be to buy it. That could ensure that no one would ever develop it. When someone else owned property, there was the right to develop it according to the rules and regulations of the City. He was sure there were comments when his subdivision was built.

Mr. Schroeder recalled that about 30-40 years ago, the City put the water main down Grant. When they got to the end of the street, there were complaints from the property owners. It turned out that the City had put the water main on private property at the end. The former City Attorney got the details worked out, but Mr. Schroeder related that Grant ended where it was shown. He believed the City got an easement, and he could not remember all the details, but he knew it had been addressed.

Ms. Morita asked Mr. Schroeder in what terms he was referring. Mr.

*Schroeder said it was in terms of who owned the property and what the City could do. He recalled that it was fairly extensive at the time. Ms. Morita wanted to make sure that there was not a problem with the paper road in the project. She reiterated that the City did not have the right to vacate the rights of the other lot holders in the plat. She felt that it was workable; it just needed to be tied up before anything was done, and Mr. Staran could advise.*

*Mr. Schroeder observed that the plans were not sealed. He asked if Preliminary plans were required to be sealed. Ms. Roediger said that they were not at the conceptual level. Mr. Schroeder commented that he was glad the applicant was adding trees.*

*Chairperson Brnabic asked if the motion makers would agree to a 12th condition to restrict construction traffic to Sanctuary Blvd. and South Blvd., which they did.*

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

**Aye** 7 - Brnabic, Dettloff, Hooper, Morita, Reece, Schroeder and Yukon

**Absent** 1 - Kaltsounis

*Chairperson Brnabic stated for the record that the motion had passed unanimously. Ms. Roediger added that the matter would be sent for the June 6 Council meeting.*

## **ANY OTHER BUSINESS**

*Ms. Morita remarked that City Council took a bit of heat at the previous night's meeting. There were at least 20 people there to discuss Goddard School. What Council heard was that the neighbors were frustrated by the traffic on Auburn and the cut-through traffic in their subdivision (Country Club Village). The Mayor encouraged them to work with staff on solutions for traffic calming within the subdivision and to attend the Auburn Road Corridor Study meeting. She wanted to give the Commissioners a heads up that if someone contacted them about it to feel free to refer them to the Mayor's office for help. She suggested that they also promoted the Auburn Road planning meetings, which she hoped would end up addressing some of the traffic issues and backups in that location.*

*Chairperson Brnabic asked Ms. Morita if she knew why there were no Council meetings after February in the video library. Ms. Morita asked*