

May 21, 2020

Attn: Maxine Calloway, Director
City of Tamarac
Community Development Department
7525 NW 88th Avenue
Tamarac, FL 33321

Woodmont Country Club Response to
Woodmont Amended and Restated Development Agreement Third Periodic Review

At the January 24, 2018 City Commission Meeting of the City of Tamarac ("City"), the City conducted an annual review of the Woodmont Amended and Restated Development Agreement ("Development Agreement"). At the conclusion of the meeting, the City Commission required Woodmont Country Club ("WCC") to work with staff and develop a cure plan ("Cure Plan"). The Cure Plan outlined those certain obligations of WCC and Pulte Homes ("Pulte"), who is also party to the Development Agreement, that are ongoing and have yet to be substantially completed. Two years have passed since that Cure Plan was accepted by the City. In the ensuing two year period, there have been substantial works performed with regard to the development project contemplated in the Development Agreement (the "Project"). Despite our progress, there remain some items that WCC has been prevented from completing due to ongoing construction efforts by Pulte, and other intervening factors. In addition, WCC currently finds itself dealing with the same existential crisis that most businesses around the Country are dealing with, the COVID-19 Pandemic.

Although WCC has very recently been permitted to re-open some of our facilities and services to the public, WCC remains constricted by State and Local Emergency Orders, and is only permitted to operate at a very reduced capacity. Our golf, tennis and restaurant facilities remain restricted to no more than 50% capacity, and WCC remains unable to provide banquet services to large parties, which is a significant source of revenue for our business. Even IF such pandemic related emergency orders continue to be eased and WCC is permitted to fully re-open our facilities later this summer or this fall, there will remain substantial headwinds facing WCC and similar businesses as we all try to navigate through an expected severe economic recession, and the uncertain future of this new normal we are facing.

Notwithstanding the current crisis, and despite no mention whatsoever within the City's latest status report, there has been much progress with respect to the Project that is worth mentioning and celebrating. WCC has substantially completed the construction of its new clubhouse. The tennis facility has been renovated and is open and operating under the guidance of the Canas Tennis Academy. The Canas Tennis Academy a very well-respected tennis program operating out of several locations throughout South Florida, including the Turnberry Yacht Club, the Turnberry Isle Resort, and the Fountainbleau Resort. Woodmont Country Club will serve as their primary tennis facility in Broward County. In addition, WCC's golf course is in immaculate condition. Since the completion of our new

clubhouse, WCC has been one of the highest rated golf courses in Broward County on several of the most popular golf platforms, including GolfNow. The feedback we had been receiving prior to the pandemic was overwhelmingly positive, and we were well on our way to restoring the prestigious to the name Woodmont Country Club that it has once enjoyed during its heyday.

In advance of this Council Meeting, WCC was provided with that certain Interoffice Memorandum dated April 22, 2020 prepared by the City's Director of Community Development, Maxine Calloway, regarding WCC's continuing efforts to substantially complete the redevelopment of Woodmont's facilities and the overall project (the "Memo"). WCC shall respond to the Memo in the order that items were mentioned therein. WCC's response to the Memo is as follows:

Paragraph 7: Waterway Conveyance

WCC hereby denies that it has in any way failed to comply with the requirements related to the obligations of Developer as contained within Paragraph 7 of the Development Agreement. This paragraph refers exclusively to those certain waterways identified within the Development Agreement and related to certain bodies of water that were to be modified by Pulte as part of their work developing their residential parcels. As part of WCC's LUPA application, the parties had discussed the possibility of WCC developing an "Aqua Range" within the large body of water located between golf holes number 3 and 18 on WCC's Cypress Golf Course (the "Lake"). Nowhere in this section, or elsewhere throughout the Development Agreement, is any requirement for WCC to take title to the Lake or to construct an Aqua Range. Not only is there any such express language within the Development Agreement stating that WCC must own the lake, maintain the lake, or build an Aqua Range, there is ample evidence already provided with the public record to the contrary. There have been numerous public hearings and correspondence between the City and WCC where the development of an Aqua Range was expressly stated to be contemplated, and not required. During the period where the Development Agreement was negotiated and drafted, there is extensive correspondence between the City and WCC that the Aqua Range was "conceptual" in nature and that WCC could not commit to any plan to develop the aqua range until after Pulte has completed its development of the adjacent residential pods. As you can see in the attached Exhibit "A", WCC made clear to the golf course expert who reviewed the Aqua Range conceptual drawings that the plans were merely one of several concepts being considered by WCC. Also, please note that the very language contained within Section 7 of the Development Agreement provides that:

"Within thirty (30) days from the approval of the Applications by the City Commission, the City shall commence the process necessary to convey the Waterway Areas to Developer or Pulte, as applicable..."

The Applications (as such term is defined within the Development Agreement) were approved in 2017. Woodmont did not receive any draft conveyance documents from the City regarding the Lake until 2019. If the conveyance of the Lake was as essential to the terms of the Development Agreement as the Memo suggests, one would assume that the City staff would not wait several years to perform what they would have been obligated to do years earlier.

Paragraph 8: Golf Course

WCC hereby denies that it has in any way failed to comply with the requirements related to the obligations of Developer as contained within Paragraph 8 of the Development Agreement. Again, this Section does not in any way obligate WCC to construct an Aqua Range or accept title to the Lake. Paragraph 8 states in clear and unambiguous terms that:

“The related amenities and operations to be located on the Golf Course Parcel **MAY** (*emphasis added*) include, but shall not be limited to, a clubhouse, pro shop, locker room, fitness facility, swimming pools, cabanas, liquor, beer and wine bar facilities, banquet and dining room facilities, practice facilities, tennis courts, driving/aqua range, putting greens, cart barn, maintenance shed and other areas necessary to sustain the Golf Course Parcel for use as a golf course with Golf Course Amenities or for other open space recreational purposes.”

The items contained within the definition of Golf Course Amenities are merely for identification purposes and there is not express obligation for WCC to operate any such amenity. In addition, the language stating “or for other open space recreational purposes” makes clear beyond any reasonable doubt that these amenities are not obligatory, but a mere description of those amenities that one MAY find at a golf club. By way of further example, “cabanas” are also listed among the potential amenities one might find at a golf club. At no point in time has the City ever demanded WCC construct any cabanas around WCC’s pool area.

Paragraph 9: Improvements and Maintenance:

WCC hereby denies that it has in any way failed to comply with the requirements related to the obligations of Developer as contained within Paragraph 9 of the Development Agreement. Again, this Section does not in any way obligate WCC to construct an Aqua Range or accept title to the Lake.

Reference of the Aqua Range contained in this Section is solely for the purpose of making clear that the cost to develop a driving range or aqua range shall be included with regard to WCC’s obligation to spend no less than \$750,000.00 on constructing improvements within the golf course and the new maintenance facility that has yet to be completed. WCC shall have easily surpassed that sum during the construction of the new Pines Golf Course and other related improvements at the time such improvements have been completed. As the City is aware, Pulte’s construction activities are still ongoing around many areas around WCC’s golf course. Several items contemplated by WCC to be built that remain unfinished are various portions of cart paths around or through the residential pods and the commercial pod, the new maintenance area, and the Buffer Wall” as defined within the Development Agreement. These items remain under construction and Woodmont has been pursuing the diligent completion of these items as Pulte has completed certain phases of their residential development. Woodmont and Pulte shall continue to diligently pursue the completion of those items as development of the residential and commercial pods allow.

In addition, and as previously mentioned, there is considerable parole evidence supporting that the Aqua Range was never a requirement of this or any section within the Development Agreement. I will note that

the Cure Plan provided to the City in 2018 following the first annual review of the progress of activity as provided in the Development Agreement as follows:

“Completion of the new golf academy and aqua range is not a requirement for substantial completion of the Golf Course Upgrades. The golf academy and aqua range improvements cannot be completed until Pulte closes on the purchase of Pods B and G, the existing clubhouse is demolished, and the current driving range is no longer in use.”

Although additional language suggest that WCC shall continue to finalize the transfers related to the aqua range lake, the above language is clear that this exchange at no time was considered to be an obligation under Development Agreement, but was simply the working conceptual plan at this time, and that such conceptual plan was not intended to be finalized until and after Pulte’s work on the adjacent residential pod was completed and the old clubhouse was demolished.

Paragraph 13: Reservation and Dedication of Land:

WCC hereby denies that it has in any way failed to comply with the requirements related to the obligations of Developer as contained within Paragraph 13 of the Development Agreement. Again, this Section does not in any way obligate WCC to construct an Aqua Range or accept title to the Lake. This section does not in any way pertain the Lake, which the City has owned and maintained since Woodmont was developed almost 40 years ago. All requisite easements for storm water to flow through the Lake have been of record for almost 40 years. As the City’s ownership of this Lake is not in dispute, the suggestion that any additional easements are necessary is frivolous and wholly without merit.

Paragraph 16: Development of Commercial Parcel:

WCC hereby denies that it has in any way failed to comply with the requirements related to the obligations of Developer as contained within Paragraph 16 of the Development Agreement. The period with which WCC has to complete those certain temporary improvements to the Commercial Parcel remain tolled while any permits or applications related to such improvements remain under review by the City. Several different plans have been offered by WCC or other potential buyers for the Commercial Parcel. WCC believes that other than a fencing permit, no other approvals are necessary for WCC to install the temporary improvements, which also shall contain a berm and landscaping. While operating its golf course over the past almost 40 years, the City has never demanded that WCC obtain prior approval for moving small amounts of dirt or for general landscaping. That is until now. Some time ago WCC requested permission from the building department to utilize its maintenance staff to install the contemplated berm and related landscaping. The building department rejected WCC’s request and demanded extensive engineering calculations to be performed at a great and unnecessary cost to WCC. As such, WCC had taken the position that the City’s unlawful rejection of WCC request to perform the contemplated work has prevented WCC from moving forward with the Commercial Parcel temporary improvements.

Notwithstanding, WCC wishes to find an amicable solution to this dispute so as to permit WCC to move forward as contemplated within the Development Agreement. WCC fully intends to perform this work in a diligent and timely manner, and as such, there is little benefit to either party to continue this dispute.

Provided that there are no further emergency orders restricting WCC's ability to conduct business related to the pandemic (or other event of force majeure), and provided that the current restrictions are soon lifted and business operations are soon able to return to normal, WCC shall agree to install the temporary improvements within one (1) year from the date of this review. It is WCC's sincere hope that the City recognizes the difficulty that WCC is experiencing as a result of the pandemic and will allow for additional time for WCC to complete this work. Until and after business operations are able to return to normal, WCC, like many small businesses around the Country, cannot afford the luxury of making large capital investments that are not essential to their core business operations. WCC's primary focus is and shall remain surviving these difficult times, and WCC cannot afford to allocate its limited resources for purely cosmetic and unnecessary improvements as these are.

In summary, WCC hopes the City understands the dire nature that most small businesses in our community find ourselves in through no fault of our own. Prior to the pandemic, WCC had felt like it finally had turned the corner, and was well on our way to recognizing the vision that we have worked so hard to achieve over the past 17 years when this long journey began. This vision is once again in jeopardy. Not because of anything ownership had any control over, but because of a crisis that few if any could foresee. Woodmont Country Club needs your help if we are going to survive this crisis. Thank you in advance for your consideration.



Justin B Schmidt <justinbschmidt@gmail.com>

Woodmont Aqua Range

5 messages

Justin B. Schmidt <justinbschmidt@gmail.com>

Wed, Mar 19, 2014 at 11:51 AM

To: Kipp Schulties <kschulties@gmail.com>, Michael Cernech <Michael.Cernech@tamarac.org>, Maxine.Calloway@tamarac.org, Frank Zickar <Frank.Zickar@tamarac.org>, Scott Backman <sbackman@dmbblaw.com>, Mark L Schmidt <bizops4mls@bellsouth.net>

Kipp,

Attached please find proposed rendering of potential aqua range for your review. Please note that this is currently the leading candidate of several potential configurations that are being reviewed by John Sanford, the golf course architect we are hiring to design the aqua range. We cannot commit to a design until after the adjacent Pod B is full site planned, but John is confident that this current plan will work, as long as the site plan of Pod B is as expected. He is also confident that if not this plan, there are several other design configurations available that should work.

I should note that the attached design would require us to slightly relocate the 18th green on the Cypress Course. Even though this will have additional expense that was never budgeted for this project, we remain committed to doing whatever has to be done in order to provide a first class golf facility for our members and guests.

I'd ask you to review the attached and advise if you agree with Sanford that the proposed aqua range design would be suitable for its intended purpose.

Sincerely,

Justin B. Schmidt, Esq.

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**Preliminary Aqua Range Sketch.pdf**

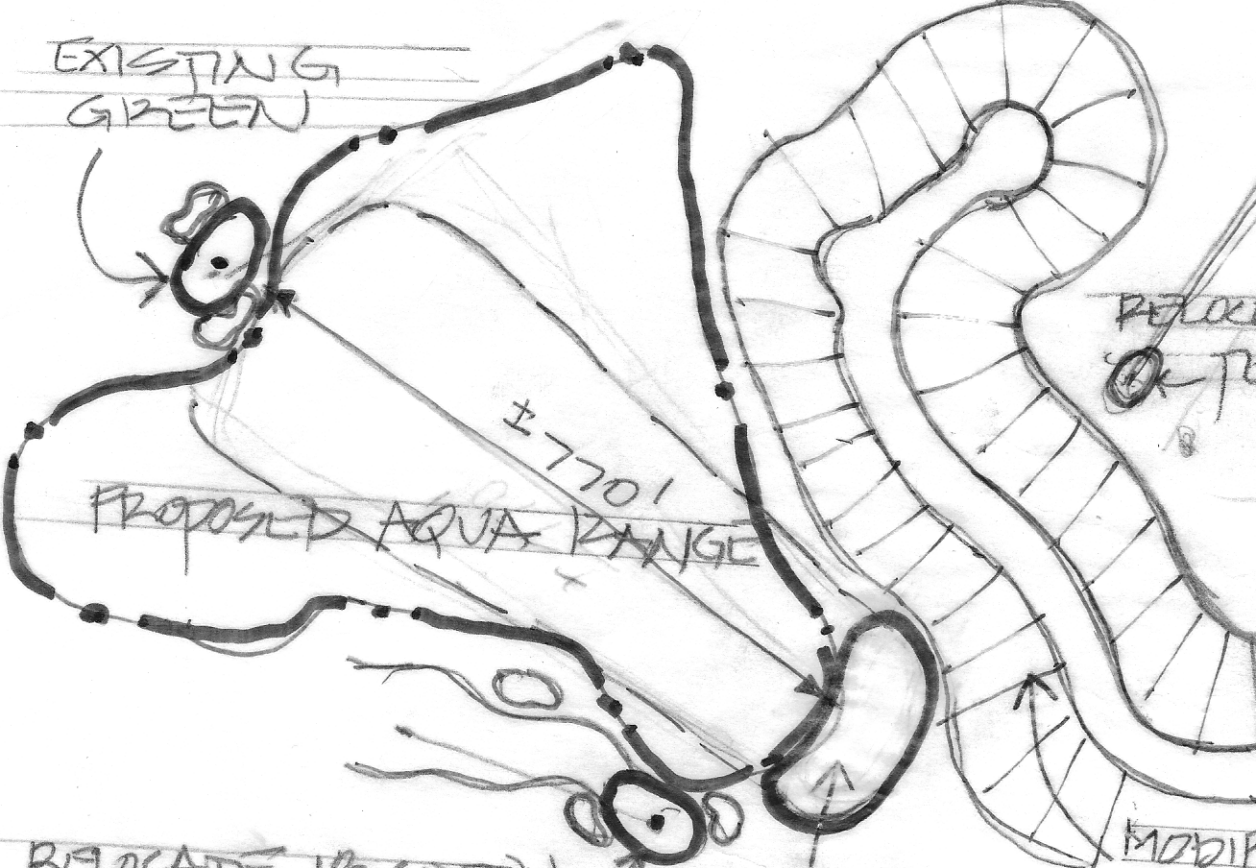
565K

Scott Backman <sbackman@dmbblaw.com>

Wed, Mar 19, 2014 at 4:03 PM

To: "Justin B. Schmidt" <justinbschmidt@gmail.com>

EXISTING
GREEN



± 7701

PROPOSED AQUA RANGE

RELOC

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BIG RAMP