

NEW BUFFALO TOWNSHIP BOARD
PUBLIC HEARING/REGULAR MEETING
MAY 17, 2010
17425 RED ARROW HIGHWAY
NEW BUFFALO, MICHIGAN

Supervisor Dudiak called the Public Hearing to order at 7:01 p.m.

Call to Order
Public
Hearing

Board Members Present: Dudiak, Heit, Oselka, Rahm, and Rogers

Dudiak led the Pledge of Allegiance

Public Comments on Rezoning Request for PUD

Public
Comments

Rogers moved, Rahm seconded to adjourn the Public Hearing at 7:05 p.m.

Adjourn
Public
Hearing

Supervisor Dudiak called the regular meeting to order at 7:05 p.m.

Call to Order

All Board members present.

PUBLIC COMMENTS ON AGENDA ITEMS

REPORTS

Monthly departmental reports were received.

Reports

AGENDA ITEMS

Heit moved, Rogers seconded to approve items on the consent agenda:
Minutes of the April 19, 2010 and the April 30, 2010 Board meetings.

Consent
Agenda

Treasurer's Report

Bills

1. General \$175,713.59
2. Building (approval for later in agenda)
3. Sewer \$42,132.26
4. Water \$40,008.29
5. Liquor \$395.62
6. Ambulance \$8,869.67
7. Park Millage \$13,510.67

Motion Carried

OLD BUSINESS:

Heit moved, Rogers seconded to approve upon recommendation of the New Buffalo Township Planning Commission and the Berrien County Planning Commission that parcel numbers 11-13-0015-0001-00-8 and 11-13-0015-0002-00-4, located at 18567 & 18639 Harbor Country Drive, be rezoned from AG-R and C-1 to Planned Unit Development (PUD) by approval of the Preliminary Plan with the Findings and Conditions stated in this motion.

Birchwood
Rezoning
to PUD

Findings of Fact:

1. The Township Clerk has given proper notice as required by Sections 11.6 and 17.6 of the Zoning Ordinance.
2. During 2008-2009, the Planning Commission retained McKenna & Associates to perform a density study which resulted in certain amendments to the Master Plan, among them:
 - a. Density for R-3 (high density residential) to be at 8 units per acre with the Planning Commission able to consider up to 12 units per acre on a PUD application in appropriate circumstances.
 - b. On November 2, 2009, the Planning Commission recommended that Section 13.2 footnote (d) of the Zoning Ordinance be amended to decrease the maximum number of units per acre in an R-3 district to 8 from 12, with projects proposing more than 8 units per acre to be reviewed pursuant to a PUD application.
 - c. The development for which the applicant has submitted a request for PUD zoning has a density of 12 units per acre.
3. The Planning Commission has reviewed the applicant's PUD request and Preliminary Site Plan based on their conformance with the Township Master Plan, compatibility with the surrounding uses and consistency with the intent and qualifying conditions of Chapter 11 of the Zoning Ordinance, specifically:
 - a. The proposed development meets the requirements of the intent of a PUD as set out in Section 11.1 and, subject to the conditions set out below, the qualifying conditions for a PUD set out in Section 11.2.
 - b. With respect to Sections 11.2C and 14.1D.1.f of the Ordinance, though the proposed development is not a mixed use development in the strict sense, e.g., a residential development with pedestrian friendly accessory uses, nor a town centre as contemplated by the recent Master Plan amendment, it is located in a district described as high density on the future land use map which district is adjacent to a town centre district on the future land use map. Therefore, the Planning Commission has concluded and finds that the proposed development is consistent with the intention and spirit of the Master Plan and Ordinance in that it is anticipated that the proposed development will spur and encourage commercial development that results in realization of the town centre concept and provide customary and desirable amenities to residents of the proposed development.
 - c. The applicant has met the requirements of Section 11.5 of the Zoning Ordinance regarding a PUD application and submission of a Preliminary Development Plan.

Conditions:

1. With respect to PUD Qualifying Conditions:
 - a. 11.2D, applicant shall provide the Planning Commission with evidence that it has secured a permanent easement for water and sewer that extends from Harbor Country Drive to Kinst Road and such easements shall be shown on the Final Development Plan submitted pursuant to 11.9D.

- b. 11.2E, applicant shall ensure that per the advice of the Sheriff's Department, there will be proper signage along Harbor Country Drive to make clear where the development is located, that there is adequate lighting throughout the development, including inside garages, and a safe entrance for the bike trail at Harbor Country Drive.
2. With respect to Site Plan Review Standards:
 - a. 14.1D.1b, safe circulation is provided for the development as presented on the Preliminary Site Plan, but the Planning Commission expects applicant to ensure that there is a second entrance off Harbor Country Drive through the immediately adjacent property to the north that will in the future complete a loop to assure the safety of the entire development.
 - b. 14.1D.1c, based on the applicant's testimony that review and approval of the public road will be undertaken by the Berrien County Road Commission, applicant shall provide the Planning Commission the Road Commission's written acceptance of the road as modified on the Final Development Plan and their assumption of full responsibility for its maintenance when completed.
 - c. 14.1D.1e, applicant shall assure that it will comply with the requirements of all applicable ordinances, rules, regulations, codes and requirements of New Buffalo Township and all other local, county, state and federal ordinances, statutes, laws and constitutions. Such assurances shall be incorporated into the Preliminary and Final Site Development Plans.
 - d. 14.1D.1g, proposed surface drainage plans will be accepted only after the Township Engineer has provided his written approval thereof to the Planning Commission and such approval shall be incorporated into the Final Development Plan.
3. Parking:
 - a. After extensive discussion of the Zoning Ordinance requirement of 2 parking spaces per unit versus the 1.7 per unit applicant proposes for the development based on recent studies supporting this lesser number, the Planning Commission **has agreed** to accept the latter on the condition that parking be permitted on one side of the 30' wide public road up to as close to the Harbor Country Drive entrance as can safely be done.
 - b. The ratio of 1.7 parking spaces per unit shall be applicable to Phase 1 as well as to Phase 2 of the project.
4. Dumpsters: no dumpsters are shown on the Preliminary Site Plan. Because a standard approach to placement of dumpsters is to use a parking space, the location of dumpsters must be included on the Final Site Plan in as aesthetically pleasing a way as possible without losing any parking spaces.
5. Bicycle Trail: The size and structure of the bicycle path is to be detailed on the Site Plan consistent with applicant's description of the Trail being platted 10' wide on the road right of way separated from the paved road.
6. Fire Safety: Fire Safety Plan for Birchwood Apartment Homes will be accepted only after receiving a written approval thereof to the plan commission from the Township Fire Department and such approval shall be incorporated into the final development plan.
7. Bonding: Construction of any part of the project may not proceed until, on behalf of the Township, the Planning Commission and/or the Township Board has/have been provided bonding or other financial guarantee acceptable to the Township through its legal representative.
8. DNRE Approval: applicant shall provide written evidence from the Michigan Department of Natural resources & Environment (MDNRE) that it has issued a permit under Part 301 of the Natural Resources and Environmental Protection Act as described in a letter dated February 26, 2010 from Larry Poynter and has otherwise concluded that MDNRE has no other issues regarding the project.

- 9. Water, sewer, drainage, other infrastructure: the Planning Commission will be provided with written confirmation from the Township Engineer that he approves the water, sewer, drainage and other infrastructure elements (specifically including the Bike Trail) of the project and such approval shall be attached to and become a part of the Final Development Plan.
- 10. Applicant, Birchwood of Michigan II, LLC shall submit a request for final PUD approval within twelve months of the Township Board's approval of the PUD district and the preliminary development plan. Pursuant to Section 11.9D and consistent with comments from the Planning Commission regarding applicant's preliminary site plan, applicant will ensure that the requirements of Section 14.1.C.2 (Site Plan Requirements) are completed on the final development plan, namely:
 - a. Small scale sketch;
 - b. existing curb cuts within 100' of the property;
 - c. all lot lines with Dimensions;
 - e. Size and location of all existing and proposed public and private utilities not noted in plan presented for 3/2/10 hearing;
 - g. dimensions for two signs reflected on plan presented at 3/2/10 hearing;
 - l. proposed sewer and water easement plans provided with application to be attached to plan;
 - m. storm drainage plan presented to Commission subject to condition #9 above;
 - n. subject to condition #3 above;
 - p. plan preparer Land Resource Management Group, Inc. c/o Daniel F. Vicari, P.E., 1336 Main Street, 2nd Floor, Crete, IL 60417, 708.279.7484 Note: letters correspond to items under 14.1.C.2]
- 11. If applicant does not proceed with a final PUD development application pursuant to Section 11.9 of the Zoning Ordinance, the property shall remain zoned as it is currently zoned and any approvals made by the Planning Commission or the Township Board regarding the Preliminary Plan shall be considered void by both the Township and the Applicant.

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Yes

Motion Carried

Discussion was held on the Dogwood Drive drain.

NEW BUSINESS:

Rogers moved, Dudiak seconded to approve \$5,000.00 be transferred from the General Fund to the Building Fund as a loan for expenses and to pay the monthly bills of \$21,342.15.

Transfer to Building Fund

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Yes

Motion Carried

Rogers moved, Heit seconded to approve payment to Wightman and Associates for \$13,572.50 for the water portion of the Hoder/Maudlin project and \$11,483.76 for the sewer portion of the project.

Wightman
Payment

Motion Carried

Rogers moved, Rahm seconded to approve payment to Kalin Construction Company for \$88,942.22 for the Hoder/Maudlin sewer project.

Kalin
Payment

Motion Carried

Public Disclosure by Paul Oselka for Memorial Park work.:

Public
Disclosure
Paul Oselka

1. My name is Paul Oselka and I am a duly elected and serving Board Member of New Buffalo Township.
2. I am a (principal or sole) owner of Pajay Construction and I have performed construction services for New Buffalo Township.
3. My invoice for services is \$5,390.00 and I propose to perform additional Work for \$1,010 per the attached quotes.
4. The above disclosure is made pursuant to MCL 15.323, et seq.
5. The above was disclosed at a public meeting of the New Buffalo Township Board on May 17, 2010.

Heit moved, Dudiak seconded to approve payment to Pajay, Inc. for \$5,390.00 for construction services at Memorial Park.

Payment to
Pajay

Dudiak Yes
Heit Yes
Oselka ABSTAIN
Rahm Yes
Rogers Yes

Motion Carried

Rahm moved, Dudiak seconded to authorize Township Enforcement Officer, Dan Podjan, to pursue the cleanup of New Buffalo Township properties.

Authorize
Cleanup of
Properties

Motion Carried

Rahm moved, Dudiak seconded to, upon recommendation of the New Buffalo Township Planning Commission and the Berrien County Planning Commission, approve the attached Zoning Text Amendments as needed to bring the Zoning Ordinance into compliance with the Michigan Zoning Enabling Act.

Zoning
Text
Amendments

Dudiak Yes
Heit Yes
Oselka Yes
Rahm Yes
Rogers Yes

Motion Carried

Dudiak moved, Rahm seconded to approve Fire Department purchases in the amount of \$7,564.85, as per the attached list.

Fire Dept.
Purchases

Motion Carried

Heit resolved, Dudiak seconded to approve the attached resolution regarding support of the Galien River County Park.

Galien River
County Park

Dudiak Yes
Heit Yes
Oselka Yes
Rahm Yes
Rogers Yes

Motion Carried

Rogers moved, Dudiak seconded to approve adding the following items to the Agenda:

Agenda
Additions

Payment to First American Title for \$810.00

Payment to R.J. Hydroseeding for hydroseeding the park area.

Motion Carried

Rogers moved moved, Heit seconded to approve payment to First American Title Insurance Company for \$810.00 for title searches related to the application for U.S.D.A. funding.

First
American
Payment

Motion Carried

Dudiak moved, Rogers seconded to approve payment to R.J. Hydroseeding for \$3,880.00 for hydroseeding of the Memorial Park area, to be paid from Park Fund, Memorial Park Phase 2.

R.J.
Hydroseeding
Payment

Motion Carried

Heit moved, Dudiak seconded to approve a deposit of \$1,000.00 be paid to Linda Hoffhines for the mosaic artwork for the pavilion.

Linda
Hoffhines
Deposit

Motion Carried

Discussion was held on the Hoder/Maudlin Road sewer and water connections and fees.

Discussion was held on The Pokagon Fund formula.

Rogers moved, Rahm seconded to go into Closed Session to discuss pending litigation.

Closed
Session

Dudiak Yes
Heit Yes
Oselka Yes
Rahm Yes
Rogers Yes

Motion Carried

The Board meeting reconvened in Open Session at 8:52 p.m.

Reconvened

Public Comments were heard.

Dudiak moved, Rogers seconded to adjourn at 8:53 p.m.

Adjournment

Motion Carried

Submitted,

Paul Oselka
Clerk