

NEW BUFFALO TOWNSHIP BOARD
PUBLIC HEARING/REGULAR MEETING
APRIL 18, 2011
17425 RED ARROW HIGHWAY
NEW BUFFALO, MICHIGAN

Supervisor Dudiak called the meeting to order at 7:00 p.m.

Call to Order

Board Members Present: Dudiak, Heit, Oselka, and Rahm.
Rogers was absent.

Dudiak led the Pledge of Allegiance

Mark Westerburg, Superintendent of New Buffalo Area Schools, gave a presentation about the use of the Local Revenue Sharing Board funds, the school millage renewal, and other school business.

PUBLIC COMMENTS ON AGENDA ITEMS

REPORTS

Monthly departmental reports were received.

Reports

AGENDA ITEMS

Heit moved, Dudiak seconded to approve items on the consent agenda:

Consent
Agenda

Minutes of the April 4, 2011 Election Commission

Bills

1. General \$55,549.89
2. Building \$15,735.06
3. Sewer \$74,289.74
4. Water \$193,518.74
5. Liquor \$395.61
6. Ambulance \$8,869.67
7. Park Millage \$17,802.13

Berrien County Payment for March, 2011 Police Protection.

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Absent

Motion Carried

NEW BUSINESS:

Oselka moved, Dudiak seconded to amend the March 21, 2011 minutes to read under the discussion on the police contract: “It was agreed that no action be taken on police contracts until the LRSB has made a decision on funding” and to approve the minutes with this change.

March 21,
Minutes
Correction
& Approval

Motion Carried

Heit moved, Dudiak seconded to approve, upon recommendation of The Planning Commission, a Special Land Use for a commercial storage warehouse (additional capacity for existing self-storage facility) for the property described as:

SLU for
19601 U.S. 12
Commercial
Storage

19601 U.S. 12, parcel #11-13-0019-0014-01-3

With Conditions noted below.

Findings

General Standards for the Special Land Use. Section 15.4

1. Project is harmonious and appropriate in appearance and compatible with the adjacent uses.
2. Project is served by adequate utilities and street access, police and fire protection, drainage, refuse placement and removal, and has water and sewer.
3. The activities will not be detrimental to surrounding properties and the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
4. The activity represents an improvement of the property. Expands an already successful use of the property.
5. Requirements of Section 15.7
Minimum of one acre.
No residence requested.
Two parking spaces shall be shown on the plan for every cubicle up to a maximum of ten spaces.
6. Consistent with Master Plan that anticipates Commercial uses and activity along Rte 12 and this is a specified SLU for the commercial district.

Site Plan review standards from 14.2.D.

- a. Use relates to other activities and structures already existing
- b. Vehicular access and exit already exists and the additional use will have to use what is already existing. Entrance and exit is narrow, but not anticipating heavy traffic.
- c. No walking access anticipated. Vehicular access is crowded but acceptable.
- d. No removal of significant natural features and no indication of any wetlands on the property.
- e. The Owners commit to adhering to all local, state, and federal ordinances, statutes or laws that apply to the Commercial Storage Warehouse.

- f. As noted above, the activity is anticipated in the Master Plan as commercial activity along Rte. 12.
- g. All storm drainage will conform with the Berrien Country Drain Commission.

Conditions

- 1. The Special Land Use shall not become effective until the Special Use Permit has been recorded with the Berrien County Register of Deeds as required by 15.6 of the Ordinance. Proof of such recording must be delivered to the Zoning Administrator when it has been received back from the Register of Deeds.
- 2. The Permit is subject to the Owner complying with all requirements of local, state, and federal ordinances, statutes, and laws that apply to the activity of a Commercial Storage Facility.
- 3. The Permit is subject to the Drainage conforming with all the requirements of the Berrien Country Drain Commission.
- 4. The correct number of parking spaces shall be noted on the Site Plan. Anticipated 10 spaces.

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Absent

Motion Carried

Heit moved, Dudiak seconded to approve, upon recommendation of The Planning Commission, a Special Land Use for an open air business (to be operated in conjunction with a retail garden center) for the property described as:

17624 Red Arrow Hwy., parcel #11-13-0002-0009-09-1

SLU for
17624 Red
Red Arrow
Open Air
Business

With Conditions noted below.

Findings:

General Standards for the Special Land Use. 15.4

- 1. Project is harmonious and appropriate in appearance and compatible with the adjacent uses.
- 2. Project is served by adequate utilities and street access, police and fire protection, drainage, refuse placement and removal, and has water and sewer. Street access and exit is minimal but deemed acceptable because there is a traffic light controlling activity and special conditions have been placed on the use.
- 3. The activities will not be detrimental to surrounding properties and the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
- 4. The activity represents an improvement of the property. Property is now vacant and looking very forlorn. This will be an activity attractive to both first and second home owners.
- 5. Existing access is there. Does not meet standards, but is grandfathered.
- 6. Lighting shall not trespass on any adjoining properties .

7. Site plan indicates that all open air displays will not encroach into the front or side yards as required by the Ordinance in 15.7 Open Air Business special standards. and shall not extend into any of the required parking and vehicle maneuvering space required for vehicles.
8. Use is consistent with the Master Plan that anticipates commercial activity in this area and Open Air Business is an SLU for the Commercial District.

Site Plan review standards from 14.2.D.

- a. Use relates to other activities and structures already existing
- b. Vehicular access and exit already exists and the additional use will have to use what is already existing. Restrictions added to better access and exit.
- c. No walking access anticipated. Vehicular access is very crowded but acceptable because of traffic light and restrictions on access and exit to the right only.
- d. No removal of significant natural features and no indication of any wetlands on the property.
- e. The Owners commit to adhering to all local, state, and federal ordinances, statutes or laws that apply to the Commercial Storage Warehouse.
- f. As noted above, the activity is anticipated in the Master Plan as commercial activity along Rte. 12.
- g. All storm drainage will conform with the Berrien County Drain Commission.
- h. Parking for both Open Air Business and Existing Building meet Ordinance Requirements with room for 2 cars to accommodate upstairs usage.

Conditions

1. The Special Land Use shall not become effective until the Special Land Use Permit has been recorded with the Berrien County Register of Deeds as required by Section 15.6 of the Ordinance. The recorded document must be returned to the Zoning Administrator.
2. The one way traffic pattern (entering from the northerly end and exiting from the southerly end) shall be clearly marked and strictly enforced to reduce hazards of entry and exit.
3. Exit shall be for right turn only.
4. Drainage shall comply with the Berrien County Drain Commission requirements.
5. No light trespass shall be permitted onto any neighbor's property.
6. Applicant and owner must close off center drive entry with a natural barrier not more than two feet high. This barrier must also meet any relevant state or county road commission requirements.
7. A condition of the permit is that the applicant and/or owner shall use a licensed surveyor to survey and stake the front corners and then prepare a new drawing that: shows the property boundaries where they actually exist, locates the building in relation to the front property line; and shows where the Open Air Business will be placed and that this use meets all setback requirements.
8. The permit is subject to the Owners complying with all local, state, and federal ordinances, statutes that apply to this activity and this property.

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Absent

Motion	Carried
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Heit moved, Oselka seconded to approve, upon recommendation of The Planning Commission, an amendment to the Special Land Use for Omega, Inc., dba Skip's Other Place, 16710 Lakeshore Road, parcel #11-13-0336-0044-02-7 as follows:

SLU
Amendment
16710
Lakeshore

1. Condition G. of the SLU provided as follows:

The SLU is being granted for two years. The applicants must appear before the Planning Commission on or before the March 2011 meeting to extend the SLU beyond Oct 10th 2010. The extension will not require a new site plan or application fee. The Planning Commission will recommend how long the SLU shall be extended on or before its March 2011 meeting. If the Planning Commission does not extend the SLU by its regular meeting in March 2011, the SLU shall have terminated on October 10, 2010.

2. On March 1, 2011, applicants appeared before the Planning Commission to extend the SLU. Interested parties also attended that meeting and the Planning Commission heard comments from one objector to and several supporters of extension of the SLU as granted. In view of issues raised by the objector, Planning Commission consideration of the matter was continued to its April meeting.
3. After reviewing issues raised by the objector, applicant's responses thereto and consultation with the Township attorney, at its April 5, 2011 meeting, the Planning Commission took the following actions:
 - a. Approved the recommendations of the Zoning Administrator that the Planning Commission approve extension of the SLU conditioned on the prohibition of *any* parking, visitor or vendor, along Lakeshore Road and inclusion of outdoor cooking in compliance with Berrien County Health Department requirements as an activity of the event (Note that this action revises Condition A of the SLU to include a parking prohibition in addition to requiring the placement of no parking signs along Lakeshore Road);
 - b. Removed any time limitation thereby making the SLU permanent and eliminating Condition G thereof.
 - c. Revised Condition B of the SLU to provide that removal of all booths shall completed no later than 4:30 p.m. rather than 3:30 p.m. (Eastern Daylight Time).
4. Except as provided in this Amendment, all other terms and conditions of the SLU shall remain in full force and effect.
5. This Amendment and the SLU (attached hereto) shall be recorded with the Berrien County Register of Deeds.

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Absent
Motion	Carried

Dudiak resolved, Heit seconded to approve the Performance Resolution for Governmental Agencies for MDOT.

Performance Resolution MDOT

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Absent

Resolution Adopted

Oselka moved, Dudiak seconded to approve the Draw Request for \$41,417.76 for the USDA water and sewer improvements which includes the following:

Draw Request USDA Water/Sewer

Concord Excavating & Grading Inc. – Contract A, Water Bond	\$12,527.40
Contract B, Sewer Bond	\$16,644.11
Wightman & Associates, Inc. - Water	\$ 3,066.30
- Sewer	<u>\$ 9,179.95</u>
	\$41,417.76

Subject to receiving the funds from the USDA.

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Absent

Motion Carried

Dudiak resolved, Rahm seconded to support the Berrien County Road Millage Resolution.

Berrien County Road Millage Resolution

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Absent

Motion Carried

Heit moved, Oselka seconded to approve Deputy Clerk, Kathie Butler, attend the Berrien County Clerk’s Association Lansing Trip on April 27, 2011. Possible mileage expense to the bus pick up point (Niles or Benton Harbor).

Deputy Clerk BCCA Lansing Trip

Motion Carried

Dudiak moved, Oselka seconded approve the quote from Underground Pipe & Valve, Inc. for \$6,600 for an electric valve opener for the water department.

Valve
Opener
Purchase

Motion Carried

A discussion was held on landfill passes for Township residents.

Public comments were called for.

Heit moved, Oselka seconded to go into closed session to discuss settlement strategy in connection with pending litigation because an open meeting would have a detrimental financial effect on the Township's position.

Closed
Session

Motion Carried

The Board reconvened in open session at 8:20 p.m.

Reconvened
Open Session

Dudiak moved, Rahm seconded to adjourn at 8:21 p.m.

Adjournment

Motion Carried

Submitted,

Paul Oselka
Clerk