



CITY COUNCIL REPORT

DATE: May 26, 2009

TO: John Szerlag, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services
Mark F. Miller, Planning Director

SUBJECT: Announcement of Public Hearing – Preliminary Development Plan Approval – BBK Mixed Use Project – Northeast corner of Big Beaver and Kilmer, Section 22, Currently Zoned PUD-10

A public hearing is scheduled for the June 15, 2009 City Council Regular meeting.

The applicant proposes a mixed-use Planned Unit Development (PUD) on the 2.553-acre parcel. The project includes 14 residential units and 19,226 gross square feet of retail. The applicant proposes sustainable elements such as a green roof system on the retail component.

At the December 15, 2008 Regular meeting, City Council granted Concept Development Plan (CDP) Approval of PUD 10. This approval had the effect of rezoning the property to PUD, approving the Concept Development Plan and PUD Agreement, and permitted the applicant to submit a Preliminary Development Plan (PDP).

The applicant submitted a Preliminary Development Plan as per Section 35.50.02. Richard Carlisle of Carlisle/Wortman Associates, Inc., the City's Planning Consultant, prepared the attached memorandum and report which summarize the project and recommends Preliminary Development Plan Approval. The report finds that the proposed PUD meets the Standards for Approval of Section 35.30.00 of the City of Troy Zoning Ordinance.

The Planning Commission recommended Preliminary Development Plan Approval of PUD 10 at the March 10, 2009 Regular meeting, provided six issues are resolved prior to submission to the Troy City Council. These six issues are as follows: (1) the six on-street parking spaces must be replaced on Kilmer Drive; (2) Tree Preservation Plan must be included in the site plan package; (3) landscape calculations must be provided on Sheet L-1; (4) executed landscaping easements must be submitted; (5) the drafting error in the PUD Agreement must be corrected (a mutual mistake incorrectly describing the square footage of the retail buildings); and (6) the applicant must meet with the residents concerning the use of their driveways as turn arounds. Subsequent to these meetings, the concerns of the residents are greatly reduced. The applicant addressed the six items required by the Planning Commission.

As noted, one of the recommendations made by the Planning Commission was for the applicant to submit executed easements for landscaping on the residential properties to the north of the project.

While acquiring these landscape easements, one of the abutting residential neighbors to the north indicated what they preferred instead of the proposed wall along the northern property line of the PUD. The applicant worked with the neighbor and the Planning Commission to design a combination wall and fence with common design elements as the buffer between the residents and the project. The Planning Commission held a public hearing on this item and approved the revision at the May 12, 2009 Regular meeting.

City Management recommends approval of the Preliminary Development Plan for PUD 10 as submitted.

Approved as to Form and Legality:

Lori Grigg Bluhm, City Attorney

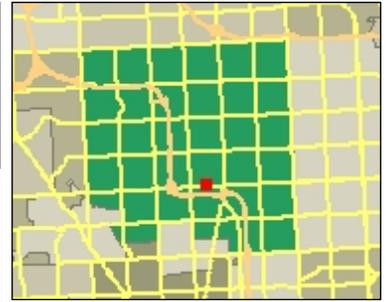
Attachments:

1. Maps.
2. Memorandum prepared by Carlisle/Wortman Associates, Inc., dated May 7, 2009.
3. Report prepared by Carlisle/Wortman Associates, Inc., dated March 5, 2009.
4. City Council minutes from the December 15, 2008 Regular meeting.
5. Planning Commission Minutes from the March 10, 2009 Regular meeting.
6. Planning Commission Minutes (draft) from the May 12, 2009 Regular meeting.
7. Amendment to PUD Development Agreement Correcting Typographical Error
8. Public comment.

Prepared by RBS/MFM

cc: Applicant
Richard Carlisle, Carlisle/Wortman Associates
File /PUD 10

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Legend

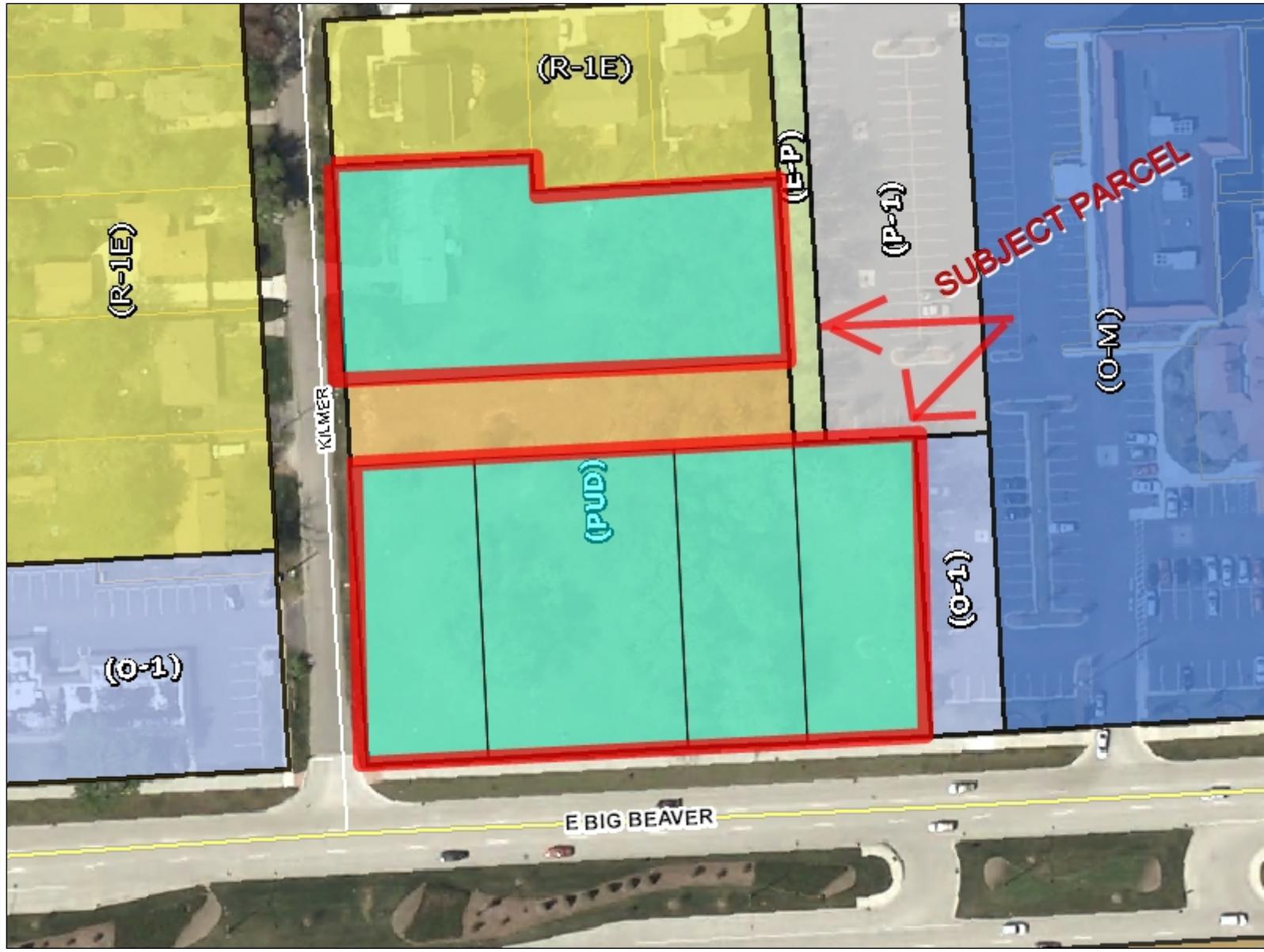
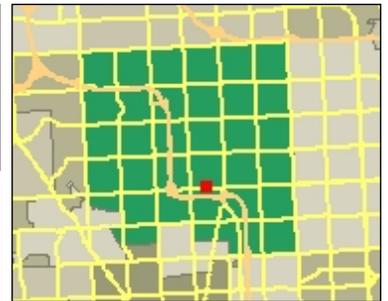
- I-75
- Road Centerline**
 - Major Road
 - Industrial Road
 - Local Road
- Hydrography Poly
- Hydrography Arc
- Parcels
- Aerial Photos - 2008**
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3

1:1,115



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.

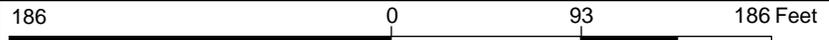
Notes
 PUD 10 BIG BEAVER KILMER PLANNED UNIT DEVELOPMENT, SECTION 22, ZONED PUD 10



Legend

- I-75
- Road Centerline
 - Major Road
 - Industrial Road
 - Local Road
- Zoning
 - (B-1) Local Business District
 - (B-2) Community Business District
 - (B-3) General Business District
 - (R-C) Research Center District
 - (C-F) Community Facilities District
 - (C-J) Consent Judgment
 - (E-P) Environmental Protection Dis
 - (R-EC) Residential Elder Care
 - (P-1) Vehicular Parking District
 - (H-S) Highway Service District
 - (M-1) Light Industrial District
 - (O-1) Office Building District
 - (O-M) Office Mid-Rise District
 - (OSC) Office Service Commercial I
 - (PUD) Planned Unit Development
 - (CR-1) One Family Residential Clu
 - (R-1A) One Family Residential Dist
 - (R-1B) One Family Residential Dist
 - (R-1C) One Family Residential Dist
 - (R-1D) One Family Residential Dist
 - (R-1E) One Family Residential Dist
 - (R-1T) One Family Attached Reside
 - (R-2) Two Family Residential Distri
 - (R-M) Multiple Family Residential I
 - (RM-1) Multiple Family Residential
 - (RM-2) Multiple Family Residential
 - (RM-3) Multiple Family Residential
- Hydrography Poly
- Hydrography Arc

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Notes

PUD 10 BIG BEAVER KILMER PLANNED UNIT DEVELOPMENT, SECTION 22, ZONED PUD 10



CARLISLE/WORTMAN ASSOCIATES, INC.

Community Planners /Landscape Architects

605 S. Main, Suite 1
Ann Arbor, MI 48104
734-662-2200
fax 734-662-1935

6401 Citation Drive, Suite E
Clarkston, MI 48346
248-625-8480
fax 248-625-8455

Date: March 5, 2009

Preliminary Development Plan Review For City of Troy, Michigan

GENERAL INFORMATION

Applicant	Landus Development
Project Name:	BBK Mixed Use Development PUD
Plan Date:	February 10, 2009
Location:	Northeast corner of Kilmer Road and Big Beaver Road
Zoning:	PUD
Action Requested:	<p>Planning Commission review and recommendation to the City Council for approval of the Preliminary Development Plan. The procedure for review and approval of a PUD is a three-step process:</p> <ul style="list-style-type: none">• The first step is an application for and approval of a Concept Development Plan, along with a Development Agreement. The Concept Development Plan and Development Agreement are approved by the City Council following recommendation of the Planning Commission. The applicant was granted approval for the Concept Development Plan on December 15, 2008.• The second step of the review and approval process is application for and approval of a Preliminary Development Plan (PDP) for the entire project, or for any one or more phases of the project. City Council shall have the final authority to approve and grant Preliminary Development Plan approvals, following a recommendation by the Planning Commission. This application represents a request for PDP approval.

- The third step of the review and approval process is the review and approval of a Final Development Plan (final site plan) for the entire project, or for any one or more phases of the project, and the issuance of building permits. Final Development Plans for Planned Unit Developments are submitted to the Planning Department for administrative review, and the Planning Department, with the recommendation of other appropriate City Departments, has final authority for approval of such Final Development Plans.

Required Information: Provided.

PROJECT AND SITE DESCRIPTION

We are in receipt of an application for preliminary development plan approval for the BBK Mixed Use Planned Unit Development. The project includes a mix of retail space in 3 buildings and 14 residential units. The project received Concept Development Plan approval on December 15, 2008 and is subject to a development agreement adopted by the City Council. The PUD option allows for a mix of uses and a higher density residential component than would otherwise be permissible at this location. Highlights of the project include walkable design, convenient access for pedestrians and cars, and integrated public common areas.

The 2.553 acre site is currently occupied by a vacant duplex, which will be removed. The project is proposed in two “phases,” although all underground and utilities work will be constructed in the first phase with the three commercial buildings. The residential buildings will be built as units are sold, through 2011.

In accordance with the development agreement, the retail component must include the following three structures: a 9,607 gross square feet retail building identified on the CDP plans as Building A, a 7,202 gross square feet building identified on the CDP plans as Building B, and a 1800 gross square feet stand alone drive thru fast food style restaurant, identified as Building C. The residential component shall consist of four 3-story buildings, comprised of up to fourteen total residential units on the north portion of the property. The PDP submittal is largely compliant with these requirements, although Building B is now 7,232 square feet, 20 square feet larger than what was approved, and Building C is 1860 square feet, 60 square feet larger than what was approved. The applicant does not have the option of increasing the size of these buildings beyond what was approved in the development agreement.

In addition to the enlarging of Buildings B and C, the applicant has also removed six of the approved on-street parking spaces on Kilmer Drive. These spaces are required by the development agreement and were shown on the approved CDP. The applicant does not have the option of removing these spaces without amending the CDP and development agreement.

The PDP includes additional sidewalks off-site, along the east side of Kilmer Drive, extending the existing sidewalks north to Hartland.

The narrative provided with the site plan mistakenly states that the current zoning of the property is O-1 and R1-E. This is incorrect. Given that the CDP has been approved, the current zoning is now PUD, and the development is now subject to all requirements of the development agreement approved as a part of the CDP approval granted in December of 2008. The narrative also continues to include language referring to the justification for the PUD request and the development concept. These elements are no longer necessary as the CDP request and PUD zoning has already been granted. The remaining elements of the review process deal with the site plan and its compliance with the approved development agreement and the zoning ordinance.

Items to be Addressed: *Reduce the square footage of Buildings B and C to comply with the development agreement and CDP, and replace the six on-street spaces Kilmer Drive.*

AREA, WIDTH, HEIGHT, SETBACKS

The site plan includes a small table titled “Zoning Information” on Sheet A-101. This table provides dimensional requirements for the original underlying zoning and the dimensions approved as part of the CDP. The dimensions shown on the PDP comply with those approved as part of the CDP. The table, however, does not identify the 0 foot setback along the east boundary for the residential component. This dimension was approved during the CDP process and should be reflected in the table.

	<u>Required:</u>	<u>Provided:</u>
<i>Lot Area</i>	N/A	2.553 acres
Setbacks		
<i>Big Beaver Frontage</i>	30 feet (O-1 District)	75 feet (retail building C), 76 feet (A and B)
<i>Kilmer Frontage</i>	20 feet (O-1 portion), 25 feet (R-1E portion)	Approximately 6 feet from residential porches in R-1E portion and 10 feet from retail building A in the O-1 portion
<i>East Boundary</i>	20 feet (O-1 portion), 25 feet (R-1E portion)	Approximately 10 feet for retail building C, 0 feet for residential unit 4
<i>North Boundary</i>	25 feet (side yard setback) for the R-1E district	10 feet for residential unit 1
Building Height	Minimum of 3 stories for 80 percent of the project; setback requirements are tiered for building higher than 30 feet.	36 feet for the residential portion and 31.0 feet for the retail portion

Items to be Addressed: *Identify the 0 foot setback along the east boundary for the residential component in the table on Sheet A-101.*

NATURAL RESOURCES

Topography: Existing topography is indicated on Sheet C-1. The site is nearly level, and slopes slightly toward the east.

Woodlands: There are no woodlands present on the site, although several large trees and several collections of smaller trees will be removed as part of the development. Please refer to the landscaping section of this report for more information about tree removal and preservation.

Wetlands: There are no wetlands on the site.

Items to be Addressed: None.

BUILDING LOCATION AND SITE ARRANGEMENT

The building location and overall site layout are consistent with the approved CDP plan.

Items to be Addressed: None.

PARKING, LOADING

The project is dependent upon a shared parking arrangement with the neighboring project and a series of on-street spaces on Kilmer Drive. For the retail portion of the project, 42 of the provided spaces are created through shared parking. Since the CDP approval, the applicant has reduced the number of provided spaces by removing six of the spaces on Kilmer Drive.

Although the applicant has now shown 18,699 square feet of retail, only 18,609 are permitted by the development agreement which limits the size of the three retail buildings to 9,607, 7,202, and 1,800 square feet respectively. The CDP and development agreement include the following parking requirements for the proposed project:

Required by Development Agreement:

- Retail: 74 spaces provided on-site and 42 spaces provided in shared parking
- Residential: 25 garage and 16 visitor spaces, provided on-site and on-street along Kilmer Road.

However, the applicant is now providing only 35 residential spaces by removing six on-street spaces along Kilmer. These spaces are required by the development agreement and also serve to create a more pedestrian-friendly, urban feel to the project's Kilmer frontage. In all other respects the proposed PDP complies with the approved parking shown on the CDP.

Items to be Addressed: Restore the six spaces on Kilmer Drive.

SITE ACCESS AND CIRCULATION

The proposed circulation plan remains the same as was approved during the CDP review process.

In order to reduce any potential conflicts associated with the southern-most driveway on Kilmer Road, an exit only driveway was selected. This approach will permit vehicles to exit the west portion of the lot if they are unable to find a parking space or leave the development when finished with their stay. The exit only design will restrict the ability of vehicles to enter the site from Kilmer while reducing concerns over safety and circulation on site. Emergency vehicles will be able to access to site via this driveway as well. The PDP includes an emergency vehicle circulation plan on Sheet C-5, demonstrating that a 43-foot ladder truck can be safely accommodated.

The north driveway on Kilmer is of a two-way design, to ensure that visitors to the site that live north of the project can access their neighborhood without travelling back to Big Beaver Road.

It is our understanding that the applicant will create restrictions on large vehicles to reduce the potential conflicts in this area of the site. We suggest that large delivery vehicles be restricted to the main east-west access drive on the north side of the retail buildings.

The applicant must also produce cross-access easements to allow for the use of the adjoining parking and circulation lanes to the east.

Items to be Addressed: Provide documentation of cross access easements.

LANDSCAPING

A detailed landscape plan has been submitted. We have noted the following with regard to landscaping, as reviewed against the City of Troy Landscape Design and Tree Preservation Standards.

- Composition:** A variety of materials have been provided including deciduous, evergreen, and ornamental trees, and a wide variety of shrubs and varietals. Minimum dimensional (DBH and height) requirements for all proposed materials have been met.
- Greenbelt:** Landscaping and street trees are provided along the frontage of both roadways. The minimum requirement of one tree per 30 lineal feet of frontage has been met in both instances.
- Buffer/Screen:** The applicant is required to provide a screen wall and landscaping along the north boundary of the site. The required wall has been provided and is further enhanced by landscaping on both sides.
- Site Landscaping:** The applicant indicates in Sheet L-1 that site landscaping requirements are met in that more than 10 percent of the site is landscaped area. Sheet L-1

indicates that pedestrian amenities, walks, plazas, planters, and decorative elements may be included in such landscaped area. However, no more than 20 percent of the required landscaped area can be made up of non-living material. The applicant must provide calculations indicating that no more than 20 percent of the required landscape area is made up of the landscape elements described on Sheet L-1.

Tree Preservation: It is unclear if any of the existing trees on site fall within the 4 to 10 inch DBH range. Trees within this range are to be preserved. A tree preservation plan has not been included within the PDP submittal (although the landscape plans do show several trees that will be saved, no calculations are provided).

It is also important to note that the development agreement requires that prior to PDP approval; the applicant shall deliver to the City perpetual easement agreements by and between themselves and the three adjoining residential property owners, which easements shall allow them to install and maintain the landscape amenities depicted in sheet L-2 on the adjoining residential properties. Documentation of these easements must be provided.

Items to be Addressed: 1.) Provide landscaped area calculations confirming that minimum landscaping area has been provided and that no more than 20 percent of the required area is made up of non-living elements. 2.) Provide detailed tree preservation information. 3.) Provide documentation of landscaping easements.

GREEN BUILDING

The development agreement requires that the project include, at a minimum, that the developer designs the retail component incorporating sustainable design techniques, acceptable to the City. The development agreement also requires that a LEED Accredited Professional, on behalf of the City, reviews the project to determine if the proposed measures achieve the intent of those originally referred to in the CDP. This letter constitutes the required LEED AP review, conducted by Zachary Branigan, LEED AP, of Carlisle/Wortman Associates. Green building measures identified in the CDP and referenced in the development agreement include:

- 1) Energy star roofing membrane (or other technique to reduce heat island effect, such as, but not limited to, a vegetated roof or other roofing product with a Solar Reflectance Index [SRI] rating of 78 or higher if designed at less than a 2:12 grade);
- 2) Operable clerestory windows (designed as part of a natural ventilation and daylighting strategy, or other elements designed to use natural light and ventilation);
- 3) Sun shading overhangs (used to effectively reduce cooling load in summer months while allowing for an increase in solar gain to naturally partially heat indoor spaces when the sun's angle is lower. The use of light shelves is also permissible if they achieve the same effect);
- 4) "Green" paving in certain parking areas (to reduce stormwater runoff and reduce heat island effect, or other similar measures accomplishing the same effect)

These elements have been included in the PDP submittal. The narrative also indicates that the project may include a variety of other green features including geothermal energy, advanced insulation techniques, LED lighting, natural materials, and high efficiency climate controls. Further, the site plan shows that the project will include rain water collection, a rain garden, bioswales, and vegetated roof garden areas composed of a 2 foot by 4 foot by 8 inch deep grid assembly.

Items to be Addressed: None.

LIGHTING

A photometric plan has been provided. In no case does the light level exceed 0.1 footcandles at grade along the north boundary, adjacent the residential properties. Internally and at major access drives, light levels reach as high as 6.9 footcandles, but do not result in any nuisance light spill out of the parking areas or onto adjacent properties. Walkways and open spaces are adequately illuminated without excess light. Overall, light levels are relatively low for a project of this type, which should have a positive contribution in the form of energy savings and a reduction in potential nuisance light and glare.

Items to be Addressed: None.

FLOOR PLAN AND ELEVATIONS

Floor plans and building elevations have been provided. The development agreement states that the elevations for the retail buildings shall be consistent with the elevations approved in the CDP, and that the elevations shall be brought back to the Planning Commission and City Council for review prior to granting of building permits.

Items to be Addressed: None.

RECOMMENDATIONS

The Preliminary Development Plan is largely compliant with the approved Concept Development Plan and the development agreement, with several exceptions. We believe the compact, integrated design and complementary mix of uses included in this project will benefit the Big Beaver Corridor and the City of Troy. We also believe that after several minor changes addressing the concerns noted herein, and correcting the deviations from the development agreement, the project will be eligible for Preliminary Development Plan approval. However, given that the project as presented does not yet meet with terms of the development agreement and approved CDP, we recommend that the Planning Commission take no action on the request until such time as the applicant can revise the plans to restore the on-street parking spaces on Kilmer Drive, reduce the proposed square footage of Buildings B and C to comply with the development agreement, and address the minor additional comments noted herein

CARLISLE/WORTMAN ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "R K Carlisle". The signature is fluid and cursive, with the first letter of each name being capitalized and prominent.

Richard K. Carlisle, PCP

225-02-2902

RKC: zb



CARLISLE/WORTMAN ASSOCIATES, INC.
Community Planners /Landscape Architects

605 S. Main, Suite 1
Ann Arbor, MI 48104
734-662-2200
fax 734-662-1935

6401 Citation Drive, Suite E
Clarkston, MI 48346
248-625-8480
fax 248-625-8455

MEMORANDUM

TO: Mark Miller
FROM: Zachary Branigan
DATE: May 7, 2009
RE: BBK PUD PDP Amendment

We are in receipt of a revised set of plans for a proposed amendment to the approved BBK Mixed-Use Development Planned Unit Development (PUD) Preliminary Development Plan (PDP). During the course of securing requires easements for off-site screening landscaping to the north, as required by a condition of the Planning Commission's recommendation of approval for the PDP, the applicant received a request from an adjacent homeowner that the proposed wall be replaced by a decorative fence.

As a result of this request, the applicant submitted a request for a modification to the original PDP to change the screen wall to a combination wall and fence. The applicant appeared before the Planning Commission at a workshop on April 28, 2009 to discuss the option before being placed on a formal Planning Commission meeting agenda.

At the April 28 workshop, the Planning Commission made a series of recommendations about the screening treatment to the applicant, and the adjacent homeowner appeared before the Planning Commission to express their concerns. As a compromise, the Planning Commission suggested the applicant carry the fence treatment west to the end of the second adjacent lot to the north, where a return in the originally proposed screen wall occurs. This was done to allow for a full screen wall treatment adjacent the approved parking area at the northeast corner of the project and the westernmost adjacent home to the north, where that homeowner has young children and desires a full wall treatment.

The Planning Commission discussed the quality of materials, landscape treatment, and design of the potential fence and wall. The applicant agreed with the Planning Commission's recommendations that the wall and fence piers would be identical in materials and design, and that the piers would be located at a frequency of about 12 feet apart. The applicant also discussed landscaping treatment along the fence and agreed that a suitable treatment would be installed which would allow the fence to be seen while complementing the masonry piers. This treatment would be similar and complementary to the more comprehensive landscaping treatment to be found adjacent the proposed wall.

We believe the application demonstrates compliance with the full recommendations of the Planning Commission. The applicant has taken measures to illustrate that the high-quality materials of the fence piers and wall will be identical, and that no piers will be greater than 12 feet apart in the fence section. Landscaping is appropriate and well designed. We believe this proposal meets the intent of the original screening requirement and will serve as a suitable transition from the high-density residential area to the adjacent homes. Therefore, we recommend that Planning Commission approve the applicant's request and forward its recommendation to the City Council that the Preliminary Development Plan be approved.



CARLISLE/WORTMAN ASSOCIATES, INC.
Zachary G. Branigan, LEED AP, AICP
Associate

225-02-2704

C-3 Concept Development Plan Approval – BBK Mixed Use Project – Northeast Corner of Big Beaver and Kilmer, Section 22, Currently Zoned O-1 (Low Rise Office) and R-1E (One Family Residential) District

The Mayor closed the Public Hearing after receiving comment from the petitioner and the public:

Gerald Savel-Opposed Kristen Sonnevile-Opposed Kevin Douglass-Opposed

Resolution #2008-12-366

Moved by Eisenbacher

Seconded by Kerwin

WHEREAS, The petitioner Landus Development has requested Concept Development Plan approval, pursuant to article 35.50.01, for BBK Mixed-Use Planned Unit Development (PUD 10), located on the northeast corner of Big Beaver and Kilmer, in Section 22, within the O-1 and R-1E zoning districts, being approximately 2.546 acres in size;

WHEREAS, The Planning Commission recommended approval of the Concept Development Plan on November 11, 2008;

WHEREAS, The City's Planning Consultant Richard Carlisle of Carlisle/Wortman Associates, Inc. prepared a memorandum dated November 6, 2008 that recommends Concept Development Plan approval of BBK Mixed-Use Planned Unit Development;

WHEREAS, The proposed PUD meets the Standards for Approval set forth in Article 35.30.00; and

WHEREAS, The proposed Planned Unit Development, parcels 88-20-22-383-001, -002, -003 & -006 and 88-20-22-382-012, is described in the following legal description and illustrated on the attached boundary survey drawing:

T2N, R11E, SW 1/4 of Section 22

Commencing at the South ¼ corner of said Section 22; thence along the South line of said Section 22, N 88°40'00" W 165.42 ft.; thence N 01° 32' 14" E, 102.00 ft. to the North line of Big Beaver Rd. (102 ft. half width) and the point of beginning; thence along said North line, N 88°40'00" W, 272.73 ft. to the West line of "Replat of Out Lot A of Big Beaver Subdivision" (Liber 26, pg. 17, of Oakland County Records); thence along said West line and the West line of "Burgess Bungalow Subdivision" (Liber 46, pg. 34, of Oakland County Records), said line also being the East line of Kilmer Rd. (50 ft. width), N 01° 32' 14" E, 368.37 ft. to the North line of Lot 17 of Burgess Bungalow Subdivision; thence along said North line S 88°40'00" E, 122.88 ft. to the East line of said Lot 17; thence

along said East line S 01°32'14" W, 22.50 ft. to the North line of Lot 20 of Burgess Bungalow Subdivision; thence along said North lines of Lots 20, 21 and 22 of Burgess Bungalow Subdivision, S 88°40'00" E, 149.85 ft. to the East line of the aforementioned subdivision, said line also being the West line of "Willow Centre" O. C. C. P. No. 1272, as recorded in Liber 21524, pg. 591 of Oakland County Records; thence along said lines S 01°32'14" W, 162.50 ft. to the South line of said condominium; thence along said South line S 88°40'00" E, 75.20 ft. to the West line of said condominium; thence along said West line, S 01°32'14" W, 183.37 ft. to the aforementioned North line of Big Beaver Rd.; thence along said North line, N 88°40'00" W, 75.20 ft. to the Point of Beginning. Containing 2.546 acres more or less, subject to all easements and restrictions of record;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Planning Director and City Clerk to take whatever actions are necessary pursuant to the City Ordinance to effect the rezoning of the subject parcel to PUD; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AMENDS** the Zoning District Map of the City of Troy Zoning Ordinance to delineate the subject parcel as PUD-010; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **APPROVES** the attached Planned Unit Development Agreement and hereby **AUTHORIZES** the Mayor and City Clerk to execute the Planned Unit Development Agreement for BBK Mixed-Use Planned Unit Development on behalf of the City, a copy shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** the City Clerk to record the executed BBK Mixed-Use Planned Unit Development Agreement with the Oakland County Register of Deeds; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **APPROVES** the Concept Development Plan for BBK Mixed-Use Planned Unit Development and the petitioner is hereby permitted to submit Preliminary Development Plans pursuant to Article 35.50.02 of Chapter 39.

Yes: Fleming, Kerwin, Schilling, Beltramini, Broomfield, Eisenbacher
No: Howrylak

MOTION CARRIED

PLANNED UNIT DEVELOPMENT

5. PUBLIC HEARING – PLANNED UNIT DEVELOPMENT (PUD 10) – Proposed Big Beaver and Kilmer Planned Unit Development Preliminary Development Plan Approval, Northeast Corner of Big Beaver and Kilmer, Section 22

Mr. Savidant gave a brief introduction.

Zak Branigan of Carlisle/Wortman Associates, Inc. briefly identified some issues addressed in the report prepared by Carlisle/Wortman. He addressed an administrative error in the PUD Development Agreement relating to the gross square footage of the three retail buildings. It is the recommendation of the Planning Consultant to recommend to City Council approval of the Preliminary Development Plan, with conditions that address the identified issues.

General discussion followed on:

- On-street parking.
- PUD Development Agreement.
- Executed easement for the three (3) residential parcels to the north.

The petitioner, Ryan Marsh of Landus Development, 32121 Woodward Avenue, Royal Oak, was present. Mr. Marsh addressed the on-street parking spaces and related discussion that took place at the City Council meeting. He also addressed the cross access agreement and the easement for the three residential properties to the north for landscaping and maintenance purposes. Mr. Marsh said they have met with all the neighbors, inclusive of the three residential properties to the north.

David Hunter, Project Landscape/Civil Engineer, Professional Engineering Associates (PEA), 2430 Rochester Road, Troy, addressed rain gardens and sprinkling.

Andrew Donaher, Project Architect, Niagara Murano LLC, 470 N. Old Woodward, Birmingham, addressed roof gardens.

PUBLIC HEARING OPENED

Jerome Ivan of 3101 Kilmer, Troy, was present. Mr. Ivan addressed concerns with the proposed on-street parking in relation to the turning radius for vehicles pulling from the residential driveways opposite the on-street parking.

PUBLIC HEARING CLOSED

Discussion about the proposed on-street parking continued.

Mr. Forsyth called for a Point of Order and asked Mr. Ullmann to read the complete Resolution, which follows.

Resolution # PC-2009-03----

Moved by: Ullmann
Seconded by: Sanzica

WHEREAS, The Planning Commission reviewed a Preliminary Development Plan for a Planned Unit Development, pursuant to Article 35.50.02, as requested by Landus Development for the BBK Mixed-Use Development Planned Unit Development (PUD 10), located on the northeast corner of Big Beaver and Kilmer, located in Section 22, within the O-1 and R-1E zoning districts, being approximately 2.546 acres in size; and

WHEREAS, City Council granted Concept Development Plan Approval for BBK Mixed-Use Development Planned Unit Development on December 15, 2008; and

WHEREAS, The City's Planning Consultant Richard Carlisle of Carlisle/Wortman Associates, Inc. prepared a memorandum dated March 5, 2009 that recommends Preliminary Development Plan Approval of BBK Mixed-Use Development Planned Unit Development, with some conditions; and

WHEREAS, The proposed PUD meets the Standards for Approval set forth in Article 35.50.02.C; and

BE IT FINALLY RESOLVED, That the Planning Commission recommends to City Council that Preliminary Development Plan Approval for BBK Mixed-Use Development Planned Unit Development be granted, subject to the applicant completing the following prior to the application going before City Council for consideration:

1. Replace the six on-street parking spaces on Kilmer Drive.
2. Provide tree preservation information.
3. Verify landscape area calculations.
4. Submit executed easement.
5. Prepare a proposed amendment to the PUD Development Agreement correcting the error related to the description of the gross square footage of Buildings B and C.
6. Address residents' concerns about their driveways being used for turnarounds.

Discussion on the motion on the floor.

It was determined to revise Condition #4 to specify that the easement is for the three residential properties to the north. Both the maker and supporter of the motion were in favor of the revision.

Discussion continued on the proposed on-street parking spaces.

Members Hutson, Strat and Schultz expressed opposition to the Resolution as proposed.

(Resolution as amended on the floor.)

Resolution # PC-2009-03-027

Moved by: Ullmann

Seconded by: Sanzica

WHEREAS, The Planning Commission reviewed a Preliminary Development Plan for a Planned Unit Development, pursuant to Article 35.50.02, as requested by Landus Development for the BBK Mixed-Use Development Planned Unit Development (PUD 10), located on the northeast corner of Big Beaver and Kilmer, located in Section 22, within the O-1 and R-1E zoning districts, being approximately 2.546 acres in size; and

WHEREAS, City Council granted Concept Development Plan Approval for BBK Mixed-Use Development Planned Unit Development on December 15, 2008; and

WHEREAS, The City's Planning Consultant Richard Carlisle of Carlisle/Wortman Associates, Inc. prepared a memorandum dated March 5, 2009 that recommends Preliminary Development Plan Approval of BBK Mixed-Use Development Planned Unit Development, with some conditions; and

WHEREAS, The proposed PUD meets the Standards for Approval set forth in Article 35.50.02.C; and

BE IT FINALLY RESOLVED, That the Planning Commission recommends to City Council that Preliminary Development Plan Approval for BBK Mixed-Use Development Planned Unit Development be granted, subject to the applicant completing the following prior to the application going before City Council for consideration:

1. Replace the six on-street parking spaces on Kilmer Drive.
2. Provide tree preservation information.
3. Verify landscape area calculations.
4. Submit executed easements for the three (3) residential properties to the north.

5. Prepare a proposed amendment to the PUD Development Agreement correcting the error related to the description of the gross square footage of Buildings B and C.
6. Address residents' concerns about their driveways being used for turnarounds.

Yes: Sanzica, Ullmann
No: Edmunds, Hutson, Maxwell, Schultz, Strat, Tagle
Absent: Vleck

MOTION FAILED

There was general discussion about driveways being used as turnarounds. Mr. Branigan stated that every driveway in the City has the potential to be used for a turnaround.

Resolution # PC-2009-03-028

Moved by: Hutson
Seconded by: Strat

WHEREAS, The Planning Commission reviewed a Preliminary Development Plan for a Planned Unit Development, pursuant to Article 35.50.02, as requested by Landus Development for the BBK Mixed-Use Development Planned Unit Development (PUD 10), located on the northeast corner of Big Beaver and Kilmer, located in Section 22, within the O-1 and R-1E zoning districts, being approximately 2.546 acres in size; and

WHEREAS, City Council granted Concept Development Plan Approval for BBK Mixed-Use Development Planned Unit Development on December 15, 2008; and

WHEREAS, The City's Planning Consultant Richard Carlisle of Carlisle/Wortman Associates, Inc. prepared a memorandum dated March 5, 2009 that recommends Preliminary Development Plan Approval of BBK Mixed-Use Development Planned Unit Development, with some conditions; and

WHEREAS, The proposed PUD meets the Standards for Approval set forth in Article 35.50.02.C; and

BE IT FINALLY RESOLVED, That the Planning Commission recommends to City Council that Preliminary Development Plan Approval for BBK Mixed-Use Development Planned Unit Development be granted, subject to the applicant completing the following prior to the application going before City Council for consideration:

1. Replace the six on-street parking spaces on Kilmer Drive.
2. Provide tree preservation information.
3. Verify landscape area calculations.

4. Submit executed easement for landscaping on residential properties to the north of the project.
5. Prepare a proposed amendment to the PUD Development Agreement correcting the error related to the description of the gross square footage of Buildings B and C.

Yes: All present (8)

Absent: Vleck

MOTION CARRIED

7. PUBLIC HEARING – PLANNED UNIT DEVELOPMENT (P.U.D. 10) – Amendment to the Preliminary Development Plan for the Big Beaver Planned Unit Development (P.U.D. 10), Northeast Corner of Big Beaver and Kilmer, Section 22, Big Beaver Kilmer Planned Unit Development Zoning District

Mr. Miller reviewed the status of the proposed Amendment to the Preliminary Development Plan (PDP) as relates to the screening and buffering treatment for the residential properties to the north. Mr. Miller reported City Management recommends approval of the proposed Amendment to the PDP.

Ryan Marsh of Landus Development, 32121 Woodward Avenue, Royal Oak, was present. Mr. Marsh stated that appropriate landscape easements have been executed and the neighbors are supportive of the new layout and design. He shared samples of the colored masonry proposed for the screening and buffering treatment.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Mr. Hutson commended the petitioner for being agreeable and malleable on this project.

Mr. Marsh said he appreciated the opportunity.

Resolution # PC-2009-05-046

Moved by: Edmunds
Seconded by: Vleck

RESOLVED, On March 10, 2009, the Planning Commission recommended to City Council that Preliminary Development Plan Approval for BBK Mixed-Use Development Planned Unit Development be granted, subject to the applicant completing the following prior to the application going before City Council for consideration:

1. Replace the six on-street parking spaces on Kilmer Drive.
2. Provide tree preservation information.
3. Verify landscape area calculations.
4. Submit executed easement.
5. Prepare a proposed amendment to the PUD Development Agreement correcting the error related to the description of the gross square footage of Buildings B and C.
6. Address residents' concerns about their driveways being used for turnarounds; and,

WHEREAS, The abutting residents to the north of the subject property reviewed the Preliminary Development Plan and requested that the screening treatment along the northern property line be revised; and

WHEREAS, The applicant revised the Preliminary Development Plan, as requested by the abutting neighbors to the north of the subject property and based on input from the Planning Commission; and,

WHEREAS, The revised Preliminary Development Plan drawings include only the following:

Sheet A-101 Architectural Composite Plan – Proposed New Work
Sheet C-2 Preliminary Site Plan
Sheet L-2 Preliminary Landscape Plan
Sheet L-3 Landscape Details

BE IT FINALLY RESOLVED, That the Planning Commission recommends to City Council that the screening treatment along the northern property line be revised as submitted.

Yes: All present (8)
Absent: Strat

MOTION CARRIED

**AMENDMENT NO. 1 TO
DEVELOPMENT AGREEMENT**

THIS AMENDMENT NO. 1 TO DEVELOPMENT AGREEMENT (“Amendment”) is made as of June ___, 2009, by and among Marsh BBK-Troy, LLC, a Michigan limited liability company (“Marsh”), Bostick Development L.C., a Michigan limited liability company (“Bostick”) (Marsh and Bostick shall individually and collectively be referred to herein as, the “Developer”), and City of Troy, a municipal corporation (the “City”).

RECITALS:

~~A.~~ WHEREAS, Marsh and Bostick, as successor to Dennis Bostick pursuant to a Quit Claim Deed dated January 28, 2009, and recorded on April 20, 2009 in Liber 41088, page 145, Oakland County Records, are the owners of certain real property situated in the City of Troy, County of Oakland and State of Michigan as more particularly described on the attached Exhibit A.

WHEREAS, Developer and the City entered into a Development Agreement dated December 15, 2008, and recorded on January 14, 2008, in Liber 40821, page 46, Oakland County Records (“Development Agreement”) regarding the planned unit development commonly referred to as the Kilmer Project.

~~B.~~ WHEREAS, Developer and City have agreed to amend the Development Agreement in accordance with the terms and conditions contained herein.

AGREEMENT:

NOW THEREFORE for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Capitalized terms not defined herein shall have the meaning ascribed to them in the Development Agreement.

2. The first full sentence on page 5 of the Development Agreement which begins “The retail component shall include” is hereby amended and restated in its entirety to read “The retail component shall include the following three (3) structures: a 9,607 gross square feet retail building identified on the submitted plans as Building A, a 7,232 gross square feet building identified on the

Bostick Development L.C., a Michigan limited liability company

By: _____

Its: _____

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by _____ the _____ of Bostick Development L.C., a Michigan limited liability company, on behalf of the company.

Print Name:
Notary Public, _____ County, Michigan
My Commission Expires:
Acting in the County of _____

POD #10
BBK

Kathy Czarnecki

From: Denise Moilanen [denise@moilanenhome.com]
Sent: Friday, April 24, 2009 9:59 PM
To: Kathy Czarnecki
Subject: Big Beaver Rd. & Kilmer site

City Council members:

As a homeowner in the subdivision of this planned development, I wish to voice my concern if the plaza is to be retail stores.

Not only would the construction create issues with traffic on Kilmer, afterwards the constituents would use our side streets as a means to avoid the traffic on Big Beaver.

We have many young families living very near to this property. Additional traffic through our sub would create a hazard to our children who need to ride their bicycles in the street due to no sidewalks.

In addition, if this plaza would house retail space, there are already numerous vacancies of strip malls in the very near vicinity and how many of these would remain vacant?

Please reconsider the re-zoning of the Big Beaver/Kilmer property for the well being of our families.

Thank you.

Respectfully,
Denise Moilanen