



CITY COUNCIL REPORT

October 15, 2009

TO: John Szerlag, City Manager 

FROM: Mark Miller, Acting Assistant City Manager/Economic Development Services 

SUBJECT: Proposed Amendment to Planned Unit Development Agreement – The Pavilions of Troy Planned Unit Development (PUD 9) – Northwest Corner of Big Beaver and Coolidge, Section 19

As you are aware, Grand Sakwa Properties, Inc. entered into a purchase agreement for the K-Mart headquarters building. Grand Sakwa considered amending the approved Concept Development Plan, which would have required public hearings at the Planning Commission and City Council.

Grand Sakwa then submitted a proposed amendment to the approved PUD Agreement. Grand Sakwa requested that City Council consider the amendment of the PUD Agreement at the October 19, 2009 City Council meeting. On October 15, 2009 Grand Sakwa requested that the PUD Amendment be pulled from the agenda.

Attached for your information is Grand Sakwa's correspondence requesting the agenda item be removed, City Administration correspondences to the Planning Commission and the Planning Commission minutes from the October 13th meeting.

Mark F Miller

From: Nick Donofrio [ndonofrio@grandsakwa.com]
Sent: Thursday, October 15, 2009 11:14 AM
To: Mark F Miller
Subject: Troy City Council Meeting

Mark

Would you pull Grand Sakwa/Pavilions of Troy from the 10/19 council meeting agenda. We do not want to reschedule at this time but prefer to wait until after the election.

Thank You

Nick

Nicholas Donofrio | Grand/Sakwa Management LLC | 28470 Thirteen Mile Rd., Suite 220 | Farmington Hills, MI 48334
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DATE: October 13, 2009

TO: Planning Commission

FROM: Lori Grigg Bluhm, City Attorney
Mark F. Miller, Acting Assistant City Manager, Economic Development Services
R. Brent Savidant, Acting Planning Director
Christopher J. Forsyth, Assistant City Attorney

SUBJECT: Proposed Amendment to Development Agreement - The Pavilions of Troy
Planned Unit Development (PUD 9) – Northwest Corner of Big Beaver and
Coolidge, Section 19

After the last Planning Commission meeting, City Administration met with representatives of Grand Sakwa Properties, Inc. Shortly after this meeting, the Applicant's attorney provided us with a proposed amendment to the development agreement, and a request to submit this amendment to City Council at the October 19th regular meeting. Applicant's proposed amendment is attached for your review. City Administration has not made any modifications to this proposal at this time.

The proposed amendment primarily seeks to change paragraph 30 of the development agreement, which reads as follows:

30. In order to insure a mixed use development (both vertically and horizontally), Owner agrees to construct a mix of residential, office, hotel and retail uses in accordance with the Residential Formula, and shall include the required proportion of residential units with each PDP that is submitted for approval. Notwithstanding the foregoing, the City acknowledges that Owner shall be entitled to submit a PDP to develop the retail component of Parcel I on a freestanding basis, independent of any residential component. In this event, this retail component of Parcel I shall be added to the next PDP submitted for purposes of calculating the required amount of residential units pursuant to the Residential Formula. For each PDP, subject to the foregoing sentence, Owner shall develop the number of residential units, on a cumulative basis, pursuant to the Residential Formula. Provided however, nothing herein shall be construed to prohibit Owner from submitting a PDP that consists solely of residential units. Therefore, by way of example only, if Owner constructs 500,000 Square Feet of Retail, plus 300,000 Square Feet of Office, plus a 250 room hotel, then the residential component required for the PUD property shall be 400 units (i.e. $500,000 \text{ retail Square Feet} / 3,600 \text{ Square Feet} = 138 \text{ units} + 300,000 \text{ office Square Feet} / 1,500 \text{ Square Feet} = 200 \text{ units} + 250 \text{ hotel rooms} / 4 \text{ hotel rooms} = 62 \text{ residential units}$; and $138 + 200 + 62 = 400 \text{ residential units}$). As used in this Paragraph, a residential unit shall be deemed "completed" at such time as a Certificate of Occupancy is issued by the City with respect to such residential unit. Except with respect to the retail component on Parcel I, which need not include a residential component, Owner shall be entitled to receive a certificate of occupancy for the retail uses in any PDP only after the proportion of residential units, hotel and/or office

space required for such PDP under this Paragraph is either enclosed and weather-proofed or a Certificate of Occupancy is issued by the City with respect to each such residential unit, hotel or office space.

In essence, the Applicant's proposed amendment calls for the deletion of the last sentence of the above cited paragraph (delineated in underline), and replaces it with language which would allow Grand Sakwa to defer construction of any residential housing units until the residential market improves, as determined by Grand Sakwa in its sole discretion. Furthermore, the proposed amendment provides that when constructed, the required residential units would be "along the northern boundary of the PUD property..."

City Administration is concerned that the Applicant's proposed amendment to the development agreement will preclude the Pavilions of Troy PUD from being a vertical and horizontal mixed use development. The proposed amendment does not guarantee that the residential component, or any other mixed use component, would be constructed after the retail component. As such, the proposed amendment is inconsistent with the Big Beaver Corridor Study and Master Plan, which both call for this area of Big Beaver to be mixed use with a residential component. However, in light of the current economy, the City may wish to allow a plan that calls only for retail uses for the property. If that is the case, then City Administration will work with the Applicant in applying for an amendment to the Concept Development Plan.

In conclusion, City Administration does not recommend approval of the Applicant's attached proposed amendment to the Development Agreement.

Prepared by CJF

cc: Richard Carlisle, Carlisle Wortman Associates
Chris Corden, Grand Sakwa General Counsel
File / PUD No. 9

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DATE: October 8, 2009

TO: Planning Commission

FROM: R. Brent Savidant, Acting Planning Director

SUBJECT: PUBLIC HEARING – CONCEPT DEVELOPMENT PLAN (CDP) AMENDMENT - The Pavilions of Troy Planned Unit Development (PUD 9) – Northwest corner of Big Beaver and Coolidge, Section 19

A Planning Commission Public Hearing is scheduled for this item on October 13, 2009. The Public Hearing was scheduled in an attempt to be responsive to an aggressive review and approval schedule suggested by the applicant, Grand Sakwa Properties, Inc.

The Planning Commission discussed the PUD project at the October 6, 2009 Special/Study meeting. The applicant proposed to increase the retail component by 150,000 square feet, which would require an amendment of the Concept Development Plan (CDP). At an internal meeting on October 7, 2009, the applicant verbally indicated to City Management that they do not desire additional retail square footage and thus, no longer need to amend the Concept Development Plan. The approved CDP permits a maximum build-out of 500,000 square feet of retail, 300,000 square feet of office and 750 residential units. Grand Sakwa indicated verbally that they intend to submit a Preliminary Development Plan (PDP) application that is consistent with the CDP, as per Section 35.50.02 of the City of Troy Zoning Ordinance. The Planning Commission will have an opportunity to review the Preliminary Development Plan, including consideration at a public hearing, when it is submitted.

Grand Sakwa seeks an amendment to the PUD Agreement from City Council. The approved PUD Agreement includes a formula that requires one residential unit for every 3,600 square feet of retail use, 1,500 square feet of office use and every 4 hotel rooms on the site. Grand Sakwa proposes amending the PUD Agreement to add a provision that allows the residential units to be built in the future when market conditions improve.

Public notice was provided for the scheduled Public Hearing. The Planning Commission must hold the Public Hearing; however, no action is necessary.

Prepared by RBS/MFM

cc: Applicant
Richard Carlisle, CWA
File /PUD 9

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PLANNED UNIT DEVELOPMENT

4. PUBLIC HEARING – PLANNED UNIT DEVELOPMENT (P.U.D. 9) – Proposed The Pavilions of Troy Planned Unit Development, Northwest Corner of Big Beaver and Coolidge, Section 19, Currently Zoned PUD 9

Mr. Savidant stated the Public Hearing for this item was scheduled in an attempt to be responsive to the petitioner's request to an aggressive review and approval process for a potential Amendment to the Concept Development Plan (CDP). The PUD project was discussed at the October 6, 2009 Special/Study meeting. At that meeting, the petitioner proposed to increase the retail component by 150,000 square feet. At an internal meeting on October 7, 2009, the petitioner verbally indicated to City Management that they do not desire additional retail square footage and their intent is to submit a Preliminary Development Plan (PDP) that would be consistent with the CDP. Therefore, a Public Hearing is not necessary but there was not sufficient time to publish a notice of cancellation. Mr. Savidant stated no action is necessary on the item.

The petitioner was not present.

PUBLIC HEARING OPENED

Ted Wilson of 5038 Kellen, Bloomfield Hills, was present. Mr. Wilson is on the Troy Chamber of Commerce Board of Directors. He asked members to address the proposed residential development and Cunningham Road.

Chair Schultz replied the petitioner has submitted no plans.

Mr. Savidant said it is understood the intent of the petitioner is to submit a Preliminary Development Plan that is consistent with the Concept Development Plan, which controls the site.

PUBLIC HEARING CLOSED

Chair Schultz duly noted and acknowledged receipt of written correspondence from representatives of the Somerset Collection and a Troy resident.

5. THE PAVILIONS OF TROY PLANNED UNIT DEVELOPMENT (P.U.D. 9) – Proposed Amendment to Development Agreement – Northwest Corner of Big Beaver and Coolidge, Section 19, Currently Zoned PUD 9

Mr. Savidant introduced a memorandum prepared by the City Attorney's office with respect to a proposed Amendment to the PUD Development Agreement.

Mr. Forsyth gave a brief history of discussions with the petitioner and representatives. He addressed the proposed Amendment of the PUD Development Agreement as submitted by the petitioner's attorney as well as a request to submit the proposed Amendment to City Council at their October 19, 2009 Regular meeting.

Mr. Forsyth detailed the proposed Amendment which primarily seeks to change Paragraph 30 of the PUD Development Agreement. He indicated the City Administration is concerned that the proposed Amendment would preclude The Pavilions of Troy PUD from being a vertical and horizontal mixed use development. He indicated the proposed Amendment does not guarantee that the residential component, or any other mixed use component, would be constructed after the retail component, and therefore, is inconsistent with the Big Beaver Corridor Study and Master Plan. Mr. Forsyth indicated the City may wish to allow a plan that calls only for retail uses for the property in light of the current economy. He said should that be the case, the City Administration would work with the petitioner in applying for an Amendment to the Concept Development Plan.

Mr. Forsyth said he wanted to inform the Commission of the proposed Amendment and concerns of the City Administration prior to consideration and action on the item at the October 19th City Council meeting. Mr. Forsyth noted there is no action necessary on the part of the Planning Commission.

Discussion followed on the PUD approval process. The following concerns were expressed with respect to the proposed Amendment to the PUD Development Agreement:

- Planning Commission would be forced to make a positive recommendation on a Preliminary Development Plan, should the proposed Amendment be approved by City Council.
- Fundamental and character changes to PUD as originally submitted by previous petitioner.
- Intent of petitioner and position of petitioner that original PUD is a "cartoon" that cannot feasibly be developed.
- Timing of project and mixed use development, as relates to proposed residential units along the northern boundary of the property.
- Disguise for what might be considered a rezoning request to retail.
- Lack of support in the elimination of the last sentence of Paragraph 30.
- Suspect misrepresentation on the part of the petitioner that there was discussion with Somerset Collection, in light of correspondence received from Somerset Collection representatives.

There was discussion on drafting a Resolution to City Council.

Mr. Branigan explained that an Amendment to the PUD Agreement does not require a formal recommendation from Planning Commission.

It was the general consensus to table the item so that the Planning Commission could draft a Resolution during a recess.

Resolution # PC-2009-10-084

Moved by: Vleck
Seconded by: Maxwell

RESOLVED, To table the item until after Agenda item #6.

Yes: All present (9)

MOTION CARRIED

Chair Schultz requested a recess at 8:10 p.m.

The meeting reconvened at 8:20 p.m.

Continued after item was tabled.

- 5. THE PAVILIONS OF TROY PLANNED UNIT DEVELOPMENT (P.U.D. 9) – Proposed Amendment to Development Agreement – Northwest Corner of Big Beaver and Coolidge, Section 19, Currently Zoned PUD 9

Resolution # PC-2009-10-086

Moved by: Hutson
Seconded by: Strat

WHEREAS, The Planning Commission has reviewed and considered the proposed Amendment to the PUD 9 Development Agreement; and

WHEREAS, The Planning Commission believes the proposed Amendment completely eviscerates and destroys the Concept Development Plan of a mixed use; and

WHEREAS, the proposed Amendment is contrary to the Master Plan and the Big Beaver Corridor Study; and

WHEREAS, We believe that if the PUD is to be amended, it should begin with a new Concept Development Plan, and any action at this point is premature.

THEREFORE BE IT RESOLVED, The Planning Commission vigorously recommends to the Troy City Council that it decline to amend the Development Agreement as proposed by Grand Sakwa.

Yes: All present (9)

MOTION CARRIED