

CALL TO ORDER

The regular meeting was held on Monday, October 28, 2024 of the Benton Charter Township Planning Commission was called to order at 6:00 p.m.

Members Present: Chairperson Trina Rodez, Marletta Seats, Joe Taylor and Carolyn Phillips, Matt Davis
Members Absent:
Staff Present: Loyall Bennett and Deeann Scalf
Also present: Applicants, Harbor Shores, Chris Cook
Brooks Architectural, Ade Adewoye,
Mr. & Mrs. Cathy Yates, Bonita Maclin, Becky Doan, Eric Rankin,

SILENT INVOCATION: None.

APPROVAL OF MINUTES: No changes or corrections on the Meeting Minutes from September 9, 2024 Meeting, Mr. Davis motioned and support of approval by Mr. Taylor. Motion passed.

AGENDA AMENDMENTS: Mr. Bennett from the Building Department would like to recommend removing Charis Daycare off of the Agenda, as Ms. Charis had a Family Emergency out of town, and could not attend the Meeting tonight. Ms. Phillips motioned and support of approval by Mr. Taylor. Motion passed.

PUBLIC HEARING COMMENTS, CONCERNS, QUESTIONS OR REQUESTS: None.

NEW BUSINESS:

- 1. Charis Daycare, currently located at 534 East Main Street is seeking a Special Use Permit for 250 Walnut Street (Property ID#: 11-03-4540-0016-01-4) to open a Daycare Center. The Site Plan has been submitted for the property Zoned (B) Two Family Residential. (Public Hearing).**
- 2. Dildeepak, Inc. requests a Special Use Permit approval to install and operate an Automobile Fuel Filling Station located at 806 E. Napier Avenue (Property ID# 11-03-0031-0039-05-4 and 11-03-0031-0039-17-8) in a D-1 Zoning District. (Public Hearing).**
- 3. Jose Pedroza, Homeowner is requesting a Special Use Permit for the continued use of a Residential Home located at 1363 Pipestone Road (Property ID# 11-03-4860-0015-00-3) which is currently listed in a D-1 Commercial Zoned District. (Public Hearing).**
- 4. Harbor Shores BHBT Land, is seeking a Site Plan approval for the Existing PUD, and add Residential Units to (2) Lots at North Shore Drive (Property ID# 11-03-0790-0075-02-6), as well as 764 North Shore Drive (Property ID# 11-03-0790-0048-00-2).**

BUILDING DEPARTMENT REPORT: Mr. Bennett advised of the Special Use Permit for Dildeepak, Inc. for the Slosson's Gas Station and Convenient Store located at 806 E. Napier Avenue. This was originally approved back in 2018, but was never acted upon, and now some of the Scope of Work has changed/modified, and is recommending new approvals for the Special Use Permit.

Mr. Bennett advised that Carolyn Greer called regarding her property located at 777 E. Napier Avenue (Baric Village) has expressed concerns that their Residents will be crossing Napier to visit this Convenient Store and the Owner would like to see this Application disapproved. She is worried about Pedestrian and car accidents in front of this location, since it is extremely congested there already. Since (2) two accidents already in that location this year that have resulted in deaths.

Possible Conditions:

- 1) Combine the (2) Parcel Lots that are next to each other on Napier Avenue.
 - a. Front Parcel for the Convenient Store Build Out
 - b. Back Parcel for the Retention Pond
- 2) Provide all State, County and Drain Commission Permits and Approvals.
- 3) Provide current Easements' to all adjacent properties.
- 4) Any sale of the Property, would require the New Owner to apply for the transfer of the Special Use into their Name.

PUBLIC COMMENTS, CONCERNS, QUESTIONS OR REQUESTS: None.

Ade Adewoye is representing for the Applicant, Dildeepak, Inc. on behalf of Brooks Architectural. The previous Special Use Permit request was for an adjoining building attached to Slosson's Liquor Store, this is no longer the case. They have since changed the design, and made more room on the Parcel's with the layout since removing the old Tire Building completely off the property. Some of the changes from the 2018 Special Use Permit Approval includes the following:

1. Gas Station only, now requesting a Gas Station & Convenient Store.
2. Slosson's Liquor Store & Gas Station/Convenient Store will no longer be attached to each other.
3. No longer renovating the old Tire Building.
4. Removal of the old Tire Building, to accommodate for more room on the Parcels.
5. Slosson's Liquor Store will remain in same location.
6. Slosson's Liquor Store will be renovated inside and out a period of time.
7. Hours of Operation will stay the same as Slosson's Liquor Store.
 - a. M, T, W, Th, F, Sat
 - i. 10:30 a.m. til Midnight
 - b. Sun
 - i. Currently closed
8. 10 to 12 feet between both Buildings.
9. No Easements' for adjacent properties needed.
10. (3) Fuel Pumps.
 - a. (6) Dispensing Stations.
 - i. (2) Stations per Pump.

Mr. Adewoye states everything from the Drain Commission, State and County all requested new approvals, nothing transferred over from the last request.

BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS: Ms. Phillips there is another one going up on M139 in front of Ollie's as well. Which is almost complete and ready to open. Mr. Taylor advised Dildeepak is requesting approval of the Gas Station / Convenient Store separate from Slosson's Liquor Store. Mr. Adewoye that is correct. Mr. Davis motioned to close the Public Hearing. Mr. Taylor supported. Motion carried.

ANY OTHER BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS: Mr. Davis is there adequate room for deliveries and Fuel Trucks to access and turn around on the Site. Mr. Adewoye believes there should be no issues with removing of the Tire Building and having the New Layout. The State and Berrien County Drain Commission request that all the water generated on-site these days have to be contained. Therefore, they allow to have a Retention Pond for it to go in, this Pond will be 3 feet deep depression and the water will collect there after it has been filtered with oil and water separation. The Berrien County Drain Commission has already approved their request.

Mr. Taylor advised, Slosson's has been around for quite some time now, and he does not see any problem with adding a Gas Station / Convenient Store to this location. Mr. Davis moves to approve the Special Land Use Permit and Site Plan Approval for the Gas Station / Convenient Store at 806 E. Napier Avenue subject to the following:

Conditions:

- 1) Combination of the (2) Parcels be combined.
- 2) Special Land Use Permit is only beneficial for the current Owner's of the Property, or subsequent to the New Properties Owners getting new approvals.
- 3) Signage be submitted and approved by the Building Department and Zoning and Administration Board.
- 4) Receive all proper Approvals for Permits from the Building Department, Berrien County Drain Commission, State and Township regarding Storm Water, Sewer, etc..
- 5) Completion within (1) one year from Board Approval.

Ms. Seats seconds the Motion. Motion passed.

Jose Pedroza, Homeowner is requesting a Special Use Permit for the continued use of a Residential Home located at 1363 Pipestone Road (Property ID# 11-03-4860-0015-00-3) which is currently listed in a D-1 Commercial Zoned District. (Public Hearing).

BUILDING DEPARTMENT REPORT: Mr. Bennett the entire stretch of Pipestone Road is Zoned D-1 Commercial. The earliest records for this house at 1363 Pipestone Road is a Sewer Permit from 1960 which pre-dates our 1966 Ordinance. So, this house was within existence before our Ordinance and current Zoning was in place. Now that the Homeowner wants to sell this house, the new Potential Buyers can not get a loan on it, due to the Bank because it is not rebuildable in it's current state being in a D-1 Commercial Zone. A Special Use Permit is requested, so the current Homeowner, Jose Pedroza can sell his property to a Potential Buyer to secure a VA Loan and continue to use the property as Residential. Then in the future if they want to sell it, it can also be used as a D-1 Commercial as well.

PUBLIC COMMENTS, CONCERNS, QUESTIONS OR REQUESTS: Ms. Phillips to move into a Public Hearing. Supported by Mr. Taylor. Motion passed.

Neighbor, Becky Doan located at 1359 Pipestone Road. She has no issues with this request, she is excited for a New Homeowner.

Ms. Rodez a motion to adjourn the Public Hearing and reconvene the Planning Commission Meeting. Ms. Phillips made the motion, Ms. Rodez supported. Motion passed.

BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS: None.

Ms. Rodez made a motion to approve the request from Homeowner, Jose Pedroza for a Special Use Permit for the continued use of their Residential home located at 1363 Pipestone Road, which is currently Zoned D-1 Commercial for Financial Purposes. Mr. Taylor motioned, Ms. Seats support. Motion passed.

Harbor Shores BHBT Land, is seeking a Site Plan approval for the Existing PUD, and add Residential Units to (2) Lots at North Shore Drive (Property ID# 11-03-0790-0075-02-6), as well as 764 North Shore Drive (Property ID# 11-03-0790-0048-00-2).

BUILDING DEPARTMENT REPORT: Mr. Bennett advised Harbor Shores PUD was not clear on what was originally requested sometime ago. We have no record of it, the only thing we can find is that they requested and applied for (3) three to (5) five Units originally to be developed in this Area. Which was approved, but we can not seem to find any Documentation anywhere on it. What Harbor Shores would like to do is request from (3) three to (5) five Units to (7) seven to (9) nine Units to include the Parcel across the Street with it. After discussing with Prien & Newhof, Steve Osting he advised us that our current Sewer is at capacity and over capacity at peak times. And advised us not to move forward at this time, until this has been mitigated in that Area. Chris Cook is here on behalf of Harbor Shores to speak on this further on this Development. A Letter from Steve Osting from Prien & Newhof is also attached in your Packet.

Harbor Shores, Chris Cook addressed the original Parcel is part of the PUD, and Notes from Mark in that Meeting roughly (15) fifteen years ago, Records on this are hard to find. His Meeting Report stated they requested (3) three

Units on the original Parcel of Property as noted. There was also a PUD Master Plan from the Township that was also given in the Package that showed this as undefined. Some of the changes to the PUD Request since originally being approved is as follows:

- 1) Originally requested (3) three to (5) five Units, now requesting (7) seven to (9) nine Units.
- 2) Originally asked for North Shore Drive (Property ID# 11-03-0790-0075-02-6)
 - a. Now requesting to add (2) Units on this Parcel of property across the Street (that recently came up for sale at 764 North Shore Drive (Property ID# 11-03-0790-0048-00-2)
- 3) Potential to add more Units over the years, depending on what Properties become available in the surrounding Area.
- 4) Help improve the surrounding Neighborhood.
- 5) It was under Private Ownership, now it is not.
- 6) Permitting requirements – since pulling off of existing Sewer.
- 7) Engineer noted (11) eleven Lots, but it is actually only (9) nine being requested.
- 8) 1,500 to 1,800 sf Units.
- 9) Golf Cottages.
- 10) Start Construction in Spring of 2025, if not break ground sooner this year yet.
- 11) Build by demand (possibly ½ the (9) nine Units this year, and the remaining Units next year).
 - a. Roughly a (2) two to (3) three year Build Out.
- 12) Will **NOT** Rent them out, that is not their Targeted Market.
- 13) Harbor Shores will be selling them.
- 14) Will **NOT** be used as an AirBnB, that is not their Targeted Market.
- 15) They are hoping for Full Time Homeowners, but they do not always know a Homeowner's intention.
- 16) Potential Buyers would be limited to whatever the Township Ordinances & Zoning.
- 17) Would be part of the Harbor Shores Master Association (which contributes to and responsible for).
 - a. Upkeep of all Trails.
 - b. Four corners at M 63 & Klock.
 - c. Four corners at Graham Avenue & North Shore Drive.

Harbor Shores was advised that there were Sewer issues, and that these issues were being mitigated, but was unaware that they were not still, but Mr. Cook advised they would like to be part of that solution. He is requesting a Conditional Approval until the Sewer mitigation is worked out. Development Plan is to add (9) nine Residential Units, but is not limited to potentially adding more Units over the years, depending on what Property becomes available over that time.

PUBLIC COMMENTS, CONCERNS, QUESTIONS OR REQUESTS: None.

BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS: Ms. Phillips advised this is just a Recommending Body, and ultimately the decision rests with the Township Board. Mr. Davis motioned to close the Public Hearing. Mr. Taylor supported.

Mr. Davis we are being asked to Amend an Existing PUD and we are not being asked to approve a Site Plan? Would this be done on a Site Condominium Plat basis or? Mr. Cook yes it would. If the Board approves the Amended Plan to the Existing PUD, a Site Plan Approval will then be needed, as well as the Condominium Approval Documents. If this is the case, Mr. Davis is comfortable with approving upon Conditions of the Sewer Capacity and a time frame that the Township can work on getting the Sewers fixed.

Mr. Cook advised Design & Use Restrictions would have Architectural Standards that would take place that would follow each of their other surrounding properties, these would be no different. As well as an Architectural Review Committee which includes Chris Cook, Carrie Wright (Broker) and Jaycee Cheete (the Original Designer at Harbor Shores) are the Architectural Review Committee. All of them, as well as the Township would make sure what gets

built is what was intended. The Submittal Drawings were included with what the Homes will look like, but is not final yet, but an idea of the Architectural Design. Harbor Shores Plan is endless, depending on what becomes available to them to keep expanding. They could keep Amending the current PUD. Their future vision, is to keep purchasing and adding more Units. Definitely a possibility for future growth. Ms. Phillips Final Plan was already approved in 2008, which is being requested to Amend it, and could be ongoing Amendments to it. So, when does the Board stop Amending the original PUD Plan. Mr. Cook maybe never.

Mr. Cook Harbor Shores also owns property at Parcel 6, which is Holes ____ and ____ on the Harbor Shores Golf Course which they currently own and have a similar approval on that Parcel for a PUD there that shows little detail. And someday Mr. Cook will come before the Board again and request a PUD Amendment for that Parcel of property also to show in more detail what Harbor Shores plans to do there as well. So, Harbor Shores PUD Amendments could keep continuing for many, many years to come.

Ms. Phillips advised this is where Cathy Yates was looking at trying to get some Senior Housing. Ms. Yates was requesting it be included in their Drawings. Mr. Cook, it is not at this time. As they are not prepared to do anything there as of yet, but is still on Harbor Shores' radar.

Mr. Bennett the only downside to this is the density of more housing in that Area, but thinks it fits within the Master Plan. But capacity wise, what can the Township handle. Sewer and Water capacities would need to be looked into further would be the only issue, if they were to keep adding properties. It is a costly endeavor to upgrade the Sewer Systems to handle the capacity to accommodate. It would come from Taxpayers, the Township, Developer, Applicant that could help with this cost.

Mr. Davis made a motion to move that the Township Recommend the approval of the Amendment to the PUD Master Plan to modify which is defined as Parcel 20 which is being changed, and add Parcel that has recently been acquired across the street. The Plan that has been presented has been consistent with the Township Master Plan and with Harbor Shores Over All Plan. And would recommend approval to several things:

- a. No Construction can take place or Permits be issued until the Township is advised that the Sewer has adequate capacity for the entire Development being Amended here.
- b. Developer come back and receive Site Plan Approvals.
- c. Developer come back to get Site Condominium Approvals from the Planning Commission.
- d. These Parcels become subject to the Harbor Shores Master Condominium Association By Laws.

Motion moved and supported by Mr. Taylor. Mr. Taylor advised it does not let them move forward until the Sewer capacity issue has been addressed. And it hence the new lot to the Old Condition, and that it is approving (9) nine Lots instead of the (11) eleven Lots stated in the Letter tonight.

Motion approved. Public Hearing started at 6:26 p.m.

PUBLIC HEARING COMMENTS, CONCERNS, QUESTIONS OR REQUESTS ON THE ORDINANCE:
None.

BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS:

Ms. Yates, as the Supervisor would like to see Senior Housing be part of that Development. Mr. Davis advised he is just referring to Parcel 20 and the adjacent property, not Parcel 6. Mr. Taylor supported the Motion by Mr. Davis. Ms. Phillips supports moving to the Board, she does have some questions and concerns, but will bring things up at the Board Level. Motion passed.

TOWNSHIP BOARD REPRESENTATIVE REPORT: Ms. Phillips to introduce the newly appointed Planning Commission Member, Eric Rankin at 2381 Paw Paw Avenue.

Ms. Phillips also advised of the Millburg Equipment Co. Special Land Use Permit was approved by the Township Board for the Sandblox Resort. As well as the Site Plan for the Development to allow temporary Park Model Homes for the Build Out.

Ms. Phillips mentioned the approval of the Ordinance to Amend Chapter 82 and it's entirety from the Township Zoning & Ordinance, changing it from a Violation of a Misdemeanor to a Civil Infraction.

ZONING BOARD OF APPEALS REPRESENTATIVE REPORT: None.

ADJOURNMENT: Ms. Phillips motioned to adjourned at 6:49 p.m.

ADJOURNMENT: There being no further business before the PC, the Meeting was adjourned:

Minutes: Deeann Scalf the Secretary of the Planning Commission.

Loyall Bennett, Building Inspector