

REQUEST

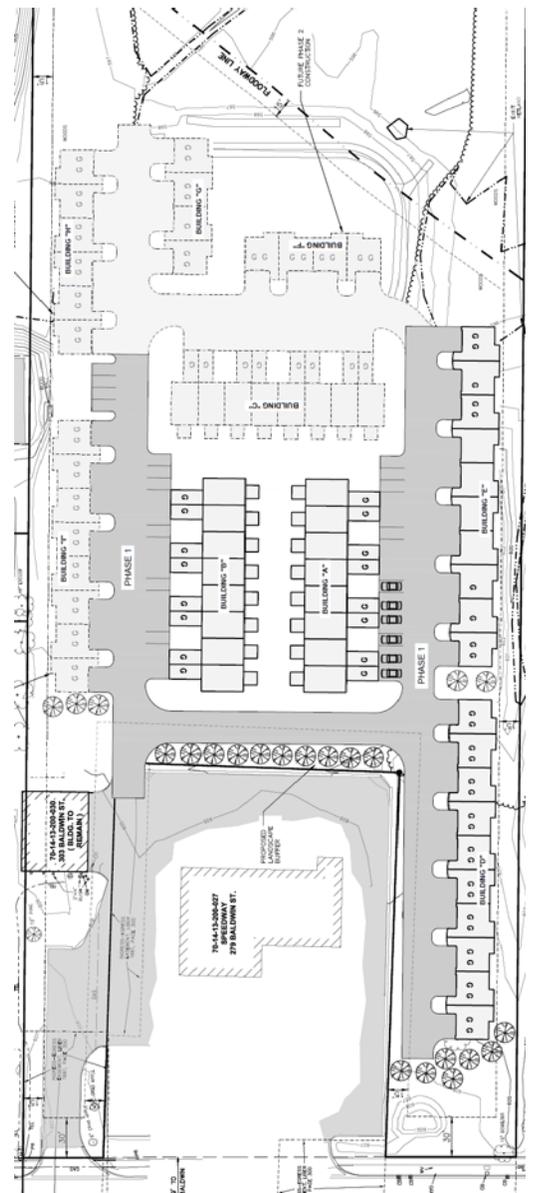
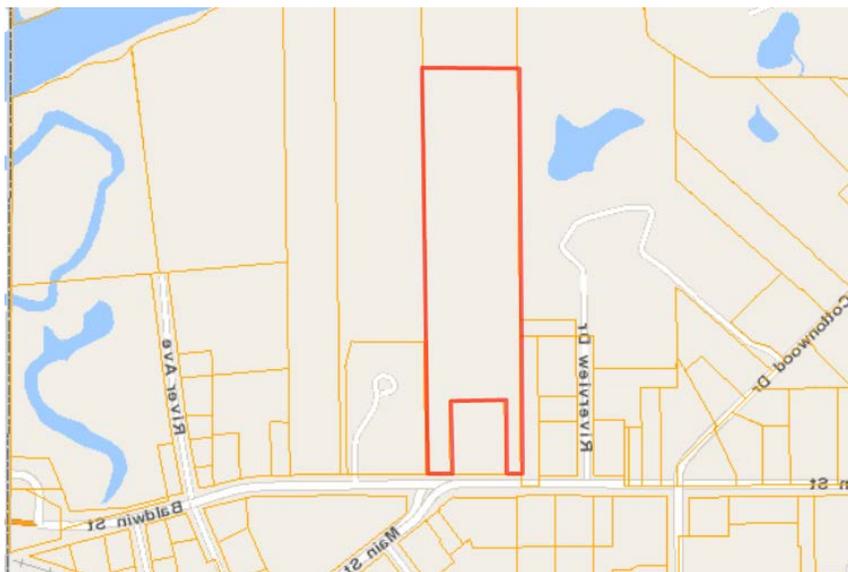
(VAR1603) Heyboer Holdings, LLC, 5001 40th Ave., is requesting to have multiple family dwellings (apartments) with three stories, a variance of a half of a story from the maximum of two and a half stories allowed in Chapter 24, and for the parcel to have a 90 foot width, a variance of 60 feet is needed from the minimum of 150 feet required in Chapter 24 footnote (g), in a (HDR) High Density Residential district, on a parcel of land described as P.P. # 70-14-13-200-030, located at 303 Baldwin St., Georgetown Township, Ottawa County, Michigan.

The use of apartments in the (HDR) High Density Residential district is allowed by right under Sec. 11.2(C). This is a nonconforming parcel because it does not meet the width to depth ratio; however, it was created many years ago (prior to 1981) and prior to the date that required municipal approval for lot splits.

PROPOSAL

The proposal is for the following:

- Three two-story buildings (buildings A, B and C), each with a mean height of about 22' 11"
 - consisting of a total of 24 dwelling units
 - each with 1280 square feet of living area plus 264 square feet of garage
- Six three-story (variance needed) buildings (buildings D, E, F, G, H and I), each with a mean height of about 30' 6" (below the maximum mean height of 35 feet allowed in Chapter 24 in the HDR district)
 - Consisting of a total of 42 dwelling units
 - Each with 1392 square feet of living area plus 696 square feet of garage
- For a total of 66 dwelling units each with a minimum of 200 square foot garage



SITUATION

For the lot width, Chapter 24 does not require a minimum lot width for a lot in the HDR district. But Chapter 24 footnote (g) requires a minimum lot size of one acre and a minimum lot width of 150 feet for a parcel in the HDR district with the use of townhouses. The parcel is over 12 acres. However, the widest spot that meets the ordinance definition of width (the shortest distance separating the closest side lot line at the setback line and again at 40 feet past the setback line) is about 90 feet, though the parcel widens out to over 300 feet after about 340 feet. The parcel was created prior to 1981 and is nonconforming due to the width to depth ratio.

For the number of stories, the proposal appears to be consistent with Zoning Ordinance requirements, including mean height (maximum of 30.5 feet mean height, less than the 35 feet allowed), except that the developer is requesting to have three stories, the addition of a half story from the maximum of 2 and a half stories allowed in Chapter 24 in the HDR district.

The proposal appears to be consistent with the Master Plan in regard to the uses and the density. The Future Land Use Map (adopted November 23, 2015) shows the area as HDR. The proposed density is noted to be 66 dwelling units, which is less than the total allowable density of 80 units. As certified by a land surveyor at Moore & Bruggink, Inc., 5.36 acres out of the 12.33 acres will be buildable with a DEQ permit. Therefore, $5.36 \times 15 = 80$ units.

Chapter 24

- (i) The maximum density per acre permitted in MHR, HDR, and MHP Districts is as follows:
- MHR Eight (8) units per acre
 - HDR Fifteen (15) units per acre**

Sec. 3.20 DENSITY COMPUTATION.

Should density computation be required for a land development project, for the purpose of determining the total number of dwelling units that may be constructed, the net residential site shall be used.

- (1) **Lands within floodplains shall not be included.**

SURVEYOR NOTES:

This survey has been performed utilizing information provided by Fidelity National Title Insurance Company, Title Commitment No. CCU15-06215547 REV. 1 , Dated: June 12, 2015 at 12:00 AM.

With a DEQ permit the buildable land outside of the floodplain is 5.36 acres.

DISCUSSION

The Zoning Ordinances regulates height and size of buildings, as well as the minimum lot size and width for certain uses to lessen negative impacts on surrounding property and to promote and protect the health, safety and welfare of the community. The regulations strive to balance the rights of the individual with the rights of the community.

Although the parcel is nonconforming due to the width to depth ratio, this existing parcel is consistent with the width requirement in Chapter 24 District Regulations in the HDR district since no minimum stipulated. However, the footnote (g) lists a minimum lot width of 150 feet for the use of townhouses. This makes sense for a straight parcel in order to not have a narrow parcel with the intense use that could negatively impact the neighboring property. However, this parcel is unique because although the property adjacent to Baldwin (which is used to determine lot width as per the definition in the ordinance) is narrow, after about 300 feet it

widens out. Further, the narrow property adjacent to Baldwin is between the Speedway Gas Station to the west and more apartments to the east.

With this plan, the developer proposes to have a use that is allowed in the zoning district and is consistent with the Master Plan. The tallest buildings will have a mean height of about 30.5 feet, well under the maximum of 35 feet allowed in Chapter 24 for a HDR district. Garages will be attached as required in the ordinance.

The site is impacted by a floodplain due to its proximity to the Grand River, which restricts the amount and location of construction on the site. A DEQ Permit will be required and construction must be at least one foot above the floodplain elevation. A smaller footprint will allow less fill to be added.

Variance ID	VAR1603
Applicant	Hyboer Holdings LLD
Address	5001 40 th Ave.
Request	Three story apartment building
Date	Applied for February 24, 2016 meeting

#	YES	NO	CONDITIONS (Chapter 28.11-C)
1	X		Granting the variance(s) will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.
2	X		Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted.
3	X		That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.
4	X		That the granting of such variance will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.
5			That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.
6	X		That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance with Section 27.12.
7	X		That the variance is not necessitated as a result of any action or inaction of the applicant.

Findings. The determination can be made that standards 1 through 4 and 6 and 7 are met. The ZBA should discuss those findings and determine if they agree with the determinations. The ZBA should determine if standard 5 is met. The following was provided for information and discussion.

Standard #1 - Granting the variance will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.

MET. The public interest will be met because the use is allowed by right in the district, the proposal is consistent with the Master Plan and the maximum height of the buildings is significantly less than the maximum of 35 feet allowed. Required setbacks will be met. Plus, the nonconforming parcel is much wider to the north and the narrow portion is between a gas station and more apartments.

Standard #2 – Granting the variance shall not permit the establishment within a district of any use, which is prohibited, nor shall any use variances be granted.

MET.

Standard #3 – That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.

MET. The practical difficulties or reasons that result from the conditions of the property that warrant a right to waive the ordinance requirement are related to the following:

1. Relative to the lot width, the 12.33 acre parcel is nonconforming due to width to depth ratio; however, the property widens considerably to the north where a majority of the apartments will be located.
2. Relative to the addition half story, the existing site is impacted by a floodplain and having 3 stories on a smaller footprint is better than having to fill a larger footprint. Further, the tallest buildings, even with the three stories, will be well below the maximum mean height of 35 feet.

Standard #4 – That the granting of such variances will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.

MET. The adjacent parcel to the west contain a gas station and the parcel to the east contains other apartments. Further, the mean height of the tallest buildings will be 30.5 feet, much less than the mean height of 35 feet allowed in the ordinance.

Standard #5 – That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.

The ZBA will have to determine if this standard is met. A point to consider is that the adjacent properties have the right to have buildings with a mean height of 35 feet and the proposal is for a mean height of 30.5 feet, significantly less than allowed.

Standard #6 – That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance in Section 27.12.

Appears to be met.

Standard #7 - That the variance is not necessitated as a result of any action or inaction of the applicant.

Appears to be met. The nonconforming parcel was created years ago (prior to 1981) and is impacted by a floodplain.

OPTION FOR MOTION

(The ZBA should determine if the standards of the ordinance have been met.)

Motion: To adopt the staff report as findings of fact and to _____ (approve or deny) variance (VAR1603) Heyboer Holdings, LLC, 5001 40th Ave., to have multiple family dwellings (apartments) with three stories, a variance of a half of a story from the maximum of two and a half stories allowed in Chapter 24, and for the parcel to have a 90 foot width, a variance of 60 feet from the minimum of 150 feet required in Chapter 24 footnote (g), in a (HDR) High Density Residential district, on a parcel of land described as P.P. # 70-14-13-200-030, located at 303 Baldwin St., Georgetown Township, Ottawa County, Michigan, based on the finding that the request _____ (meets or does not meet) the seven standards of the ordinance. (If applicable) Specifically, standards (_____) have been _____ (met or not met) and the reasons are _____.

Optional:
With the following conditions _____.