

## Request to be added to the Agenda for June 4, 2024 Meeting

### Village of Empire Planning Commission

Planning Commissioner Chairman, Peter Schous [pjschous@yahoo.com](mailto:pjschous@yahoo.com)

Deputy Clerk Alacia Acton [deputyclerk@villageofempire.com](mailto:deputyclerk@villageofempire.com)

May 29, 2024

Dear Peter Schous, Alacia Acton and Members of the Planning Commission,

Please consider my request to be on the agenda of the June 4 meeting of the Planning Commission.

I attach the following letter proposing a minor adjustment to an existing PUD - a sentence to be added to P-13 which would expand the form of housing one could build in Phase Five, the final phase of the New Neighborhood.

This adjustment does not change the existing limits of 55 total bedrooms in 40 total dwelling units of Phase Five or the Site Plan Review Process described in the PUD of the New Neighborhood.

This adjustment would be a first step in allowing a greater variety of dwelling types - smaller units grouped together in a quadri-plex, for example, with long-term rental units or townhouses for work force housing, and/or accessible units for seniors to age in place.

Quercus Alba LLC, the developer would agree to this change.

2/3 of the lot owners in the New Neighborhood would need to agree to this change; 57 of the existing 62 lots have been sold.

I hope you would recommend this change to the Village Council. The change aligns with concerns brought to the table in forums across the county / region and brought to your Planning Commission.

Without a change of this type, a change in housing type will not even be possible in the New Neighborhood. Please be an active proponent and help carry this through the governing process.

Sincerely,



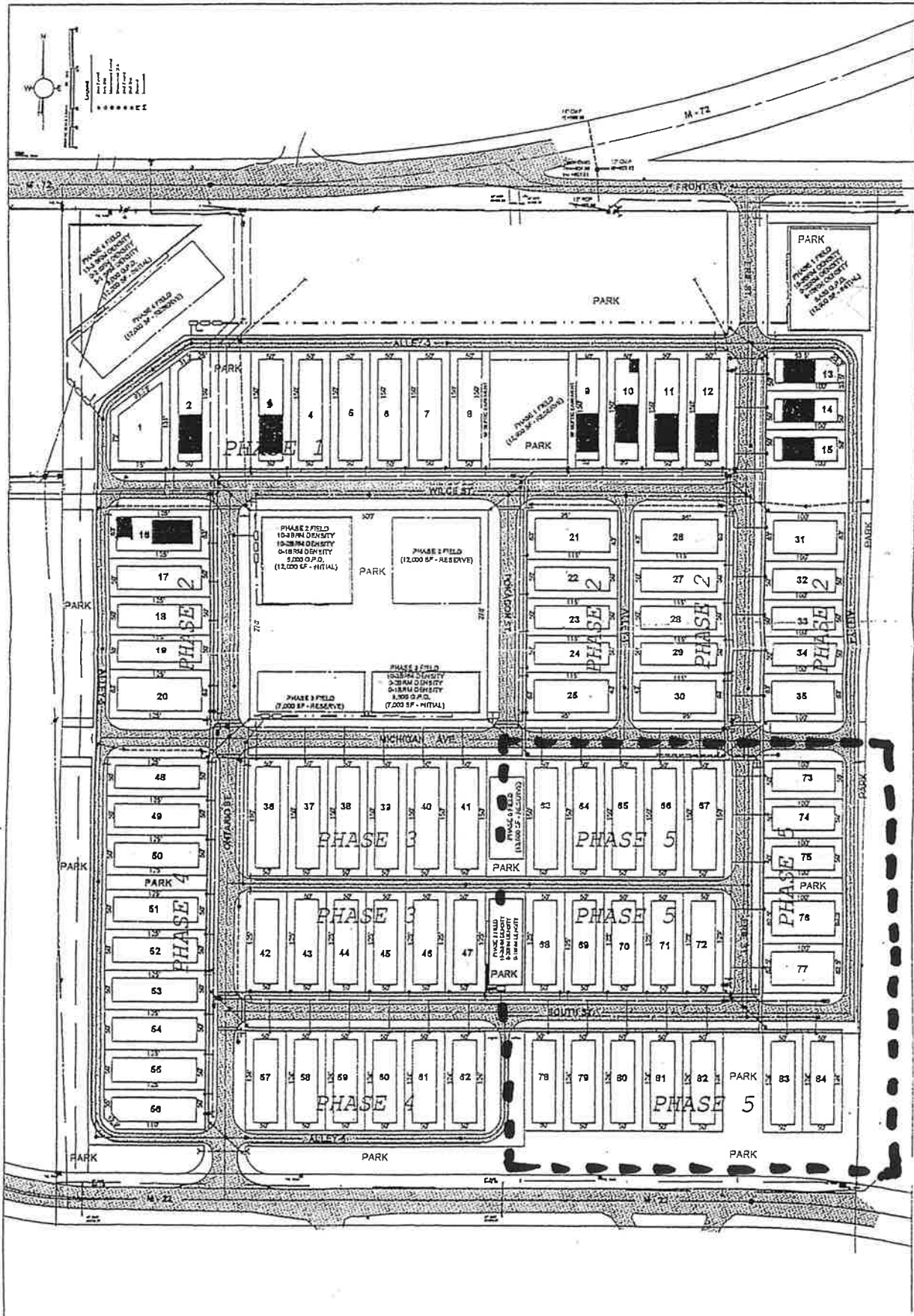
Robin Johnson, General Manager of Quercus<sup>®</sup>Alba, LLC (231) 326 3637

3400 Maple Valley Road PO Box 115

Suttons Bay, Michigan 49682

# THE NEW NEIGHBORHOOD

EMPIRE, MICHIGAN



NEW NEIGHBORHOOD SUBDIVISION  
PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_, 2002, by and between the Village of Empire, Michigan, hereinafter called the "VILLAGE", whose mailing address is P.O. Box 253, Empire, Michigan, 49630, and Quercus Alba LLC, whose principal address is P.O. Box 414, Empire, Michigan 49630, hereinafter called the "PROPRIETOR" or "DEVELOPER."

WITNESSETH:

WHEREAS, the PROPRIETOR has caused certain lands within the Village of Empire to be surveyed, divided and mapped as NEW NEIGHBORHOOD SUBDIVISION ("New Neighborhood"), a PUD, and desires approval of the site plan for the PUD, a tentative preliminary plat, and a final preliminary plat; and

WHEREAS, the VILLAGE desires to ensure that certain improvements needed to mitigate environmental impacts resulting from this development be installed properly according to the appropriate standards and that money will be made available by the PROPRIETOR to ensure the installation of all improvements listed in this agreement before any building permits are issued for individual lots.

NOW, THEREFORE, the parties hereto, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, and intending to be legally bound, hereby agree as follows:

Proprietor and Village hereby enter into this PUD Agreement ("Agreement") with respect to the real estate located in the Village, Leelanau County, Michigan, described on Exhibit "A" attached hereto ("Property").

THE PROPRIETOR HEREBY AGREES:

(P-1). To prepare and submit to the Village Council and Planning Commission nine copies of detailed plans and specifications, prepared by a registered professional engineer, depicting construction of streets, grading, and storm water control systems. The Proprietor agrees that it shall not cause to be commenced construction of these improvements until plans and specifications have received final approval from the Village. The roadways within the development shall be 50 feet in width and shall be constructed to meet the construction standards for public streets in the Village of Empire.

(P-2). To install or provide for lot grading, storm water retention, soil erosion, sediment control improvements, drainage easements and impoundments as depicted in the approved plans and specifications as approved in paragraph (P-1) above, and as may be required by the Leelanau County Drain Commissioner or any

other governmental agency having jurisdiction over any particular portion of the Property (See Exhibit "B").

(P-3). The Proprietor shall construct, at its sole expense and to the standards specified by the Village, a water system serving each phase of the development. The Proprietor and Village agree that the water system will be taken over by the Village and connected to the Village water system. The Village shall retain the right to inspect and monitor the water quality during construction and after the system is completed on a routine basis. Each lot owner shall pay all Connection and User fees for Village of Empire water service in effect at the time of hook up. The Village is hereby granted easements across and under the Real Property, at any time for purposes of inspecting, maintaining, repairing and/or replacing the water system. The location of the easements shall be determined by the Village in a reasonable exercise of its discretion. The easements granted herein are for the specific purposes described. The Village specifically acknowledges and agrees that these easements are intended to be utilized only by Village officials and the Village's agents as a means of insuring that the water system is functioning properly and/or is adequately maintained. Other than as set forth in this Agreement, it is not intended that the easements created herein shall be used in any way by the public for any purpose whatsoever.

(P-4). The Developer shall, prior to final site plan approval, obtain a performance guarantee in favor of the Village of Empire in an amount reasonably satisfactory to the Village to guarantee satisfactory completion of infrastructure for each phase of the development in full compliance with the approved final site plan.

(P-5). The Developer shall plant and maintain the landscaping as the Zoning Ordinance requires. The Developer will plant the initial street trees, in each Phase. The Developer will complete and maintain the open spaces as defined in the Landscape Plan hereto attached as Exhibit "E". The Homeowners Associations in the New Neighborhood will engage in replacement tree planting in open spaces to insure continued compliance with the landscaping requirements of the Village of Empire Zoning Ordinance (§3.13) and as they deem necessary and advisable and in the best interest of the New Neighborhood Homeowners Associations, for the purpose of maintaining the unique quality of the natural environment of the New Neighborhood tree lines. The *Declaration of Covenants & Restrictions* shall reflect that obligation.

(P-6). To provide a plan for the installation of signs and install all street signs according to specifications, as may be jointly determined by the VILLAGE and the PROPRIETOR to provide and install such temporary signs during the construction period as are appropriate to protect the health, safety and welfare of the public.

(P-7). To cause to be removed substantially all of the discarded building materials and rubbish to the extent feasible and economically practicable from the New Neighborhood at least once each month during construction of the New Neighborhood and within one month after completion or abandonment of construction.

(P-8). Homeowners Associations shall maintain the road and alley Rights of Way including snow and ice removal, until the Village accepts jurisdiction over the road and alley Rights of Way.

(P-9) To furnish to the Village the construction drawings and as-built drawings provided by PROPRIETOR'S engineers.

(P-10). To record in the Register of Deeds of Leelanau County, a *Declaration of Covenants & Restrictions* attached hereto and incorporated herein by reference as Exhibit "C".

(P-11). To create non-profit corporations composed of all Lot owners of the New Neighborhood Subdivision, which shall be known as New Neighborhood Property Owners Association #1, New Neighborhood Property Owners Association #2, New Neighborhood Property Owners Association #3, New Neighborhood Property Owners Association #4, and New Neighborhood Property Owners Association #5, and which shall be bound by the Articles and Bylaws of each respective Association, the *Maintenance and Indemnification Agreement Regarding Privately Owned Public Sewers*, the *Declaration of Covenants & Restrictions*, and the *New Neighborhood Stormwater Drainage Facilities and Open Space Maintenance Agreement*. These agreements shall meet the approval of the Village lawyer. Said organizations or associations shall be responsible for the perpetual maintenance and ownership of all private septic easements and systems, storm water collection and retention facilities and other private common improvements and areas servicing this subdivision.

(P-12). If at any time one hundred (100%) percent of the lot owners within the confines of New Neighborhood Subdivision shall file a petition or otherwise apply directly or indirectly to the VILLAGE for the purpose of having the VILLAGE accept and maintain all or any portion of the greenways of the subdivision, the VILLAGE will consider the application and may in its sole discretion accept or reject the greenways. If the VILLAGE accepts the greenways, the lot owners within the confines of the New Neighborhood Subdivision shall be required to pay, on a pro rata basis, the cost of improving the greenways or portions thereof to meet the then current and applicable standards as promulgated by the VILLAGE. The provisions of this paragraph will not obligate the VILLAGE and shall be disclosed to each lot owner prior to the conveyance of title to the lot.

(P-13). Except as modified herein, residential development on individual lots within the New Neighborhood Subdivisions shall conform to all applicable Village of Empire R-1 and PUD-B Zoning Ordinance requirements (both substantive and procedural) in effect at the time that each individual use is proposed. The future placement of structures shall meet the R-1 minimum yard setback requirements with the exception that porches may be built within the next ten feet of the front setback. The *Declaration of Covenants & Restrictions* (Exhibit "C") shall specifically state that any porch that extends into the front setback shall have no screens and/ or windows and shall never be converted into heated, year-round, interior living space. The existing

zoning allows structures, such as fences and sheds under 100-sq. ft., in the 10 foot rear alley setback. The *Declaration of Covenants & Restrictions* will restrict solid fences and small sheds, but not trees or shrubs, to an additional 5 feet back from the alley r-o-w line to facilitate snow removal.

(P-14). The Zoning Ordinance permits commercial uses in the CR District to be established on 10% of the land used in a PUD-B District. Ten percent of the New Neighborhood Development is 3.08 acres. The Developer shall be permitted flexibility to develop lots 2, 3, 8, 9, 12, 13, 15, 16, 20, 21, 25, 26 and 30 as neighborhood commercial sites. The total percentage of these lots is only 2.28 acres of land. Except as modified herein, commercial development on individual lots within the New Neighborhood Subdivisions shall have a separate septic system that is inspected annually (with written reports submitted to the Village) and shall conform to all applicable Village of Empire CR Zoning requirements (both substantive and procedural) in effect at the time that each individual use is proposed. In addition to being reviewed by the Design Review Committee, all commercial use site plans must be submitted to the Village Planning Commission for site plan review and approval.

(P-15). Any two-family development within the New Neighborhood Subdivision shall be limited to corner lots within the plat.

(P-16). The Developer will provide an M-22 entrance during Phase 2 of the development.

(P-17). The Developer shall, at its sole expense, construct the streets depicted on the site plan during each phase of the development to the standards applicable to public streets in the Village.

(P-18). The Developer shall pave the alley behind lots 78 through 84 in Phase 5, only if these lots are developed. If these lots are not developed, or if the MDEQ states that the sanitary easements are not required, the trees within the sanitary easements will be preserved.

(P-19). The Village has the right, but not the obligation, to enforce the *Declaration of Covenants & Restrictions*.

#### THE VILLAGE HEREBY AGREES:

(V-1). To accept the scale of 1" = 50' for the review of the preliminary and final plans of New Neighborhood Subdivision. The VILLAGE reserves the authority and right to provide timely and reasonable VILLAGE and individual inspections during the construction of all roads, streets and water systems and approve the same if they comply with the state and municipal code requirements.

(V-2). To accept the lot and street orientation of the plat and to allow lots with less than 100' in width at their frontage as presented in the Tentative Preliminary

plat. In addition, the plat's common areas as presented in the Tentative Preliminary plat will be accepted with no further requirement of open space.

(V-3). Flexibility shall be given to develop lots 2, 3, 8, 9, 12, 13, 15, 16, 20, 21, 25, 26 and 30 as neighborhood commercial sites as presented on the conceptual plan. The total percentage of these lots is 2.28 acres of land. Before commencement of construction of any commercial use, a detailed site plan of the layout shall be submitted to the Village Planning Commission for approval. The fee to be charged for this site plan review shall be the same as the Special Use permit fee. Only those commercial uses which are permitted in the Commercial-Residential District shall be allowed on lots 2, 3, 8, 9, 12, 13, 15, 16, 20, 21, 25, 26 and 30. The plans will also be reviewed by the architectural review committee.

(V-4) To accept the PUD-B density formula for this property as follows:

Total area of the property	30.85 acres
Less r-o-w land	-9.39 acres
Less wetlands area	-0 acres
Less 18% slope areas	-0 acres
Less non-residential	<u>-2.28 acres</u>
Total net project area	19.18 acres

Maximum residential density equals Net Project Area (19.18 acres) times seven dwelling units per acre = 134 maximum residential density allowed. Although the maximum density under the Zoning Ordinance is 134 dwellings, the Developer expressly agrees to limit the overall density in the New Neighborhood Subdivision to 126 residential dwelling units. Each lot that has both commercial and residential use (a storefront with apartment above, for example) will count as an additional dwelling unit for the purposes of the overall density. Each lot that is used for two-family development shall be considered a density of two units (one per family). Each carriage house as well as each granny flat will count as an additional dwelling unit for the purposes of the overall density.

(V-5). To accept the New Neighborhood Subdivision water system into the Village system.

(V-6). That this agreement will be recorded in the Leelanau County Register of Deeds.

(V-7) To allow the New Neighborhood to be built in five phases, beginning at the North property line and progressing (by phase, as indicated on the site plan) to the South property line. Each phase will be fully functional with roads, utilities, sidewalks, tree-planted buffer areas, storm-water facilities and septic systems. Also, 75% of the lots in that phase will be sold before the next phase is started. Construction

of subsequent phases will begin within 12 months after 75% of the lots in the prior phase have been sold.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day first written above. This agreement is not intended to create contractual rights for third parties. It may be enforced, amended or rescinded only by the parties or their successors in interest. The obligation of the Proprietor contained herein shall be binding on successors and assigns in ownership of the following described (New Neighborhood Subdivision) parcel:

SEE EXHIBIT "A"

In the Presence of:



VILLAGE OF EMPIRE  
P.O. Box 253  
Empire, MI 49630

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Village President

\_\_\_\_\_  
Village Clerk

QUERCUS ALBA L.L.C.

  
\_\_\_\_\_  
Douglas S. Bishop  
  
\_\_\_\_\_  
Lori Fasi

  
\_\_\_\_\_  
By: Robert Foulkes  
Its: Manager



May 1, 2024

## Proposed change to New Neighborhood Phase 5

Empire has the layout of an old American Village - 50 foot wide lots, small streets (20') and even smaller alleys (10'). This physical pattern predates the automobile and works well. It is compact enough to be "walkable."

The New Neighborhood was built to that same pattern as directed by the Village's Master Plan. The designers of the neighborhood dealt with the lack of public sewer by creating "Community Septic Systems" which allow the old pattern with a better way to deal with waste water.

The last of section of the neighborhood (Phase 5) will begin soon. Phase 5 is in the Southeast corner of the village and has M-22 as it's south border. It has the only area with significant trees when we began the New Neighborhood in 2000.

If the residents of the New Neighborhood and the Village Trustees are willing, most of the existing trees can be saved and the south space remain unbuilt. This can be done by making all housing fronting on Michigan St. These buildings would not be single single family dwelling units.

There is a need for housing for older people, housing for single people, housing for people who do not want to have a yard and building to maintain.

Empire can set an example for housing by embracing the following -

“community solar” - well designed and located solar panels that serve more than a single dwelling unit.

smaller dwelling units designed for seniors and young people.

Build with local materials and local labor.

Robert Foulkes  
Quercus Alba LLC

The word change is minor- it only addresses building form, and does not change total number of dwellings. If acceptable to all parties as per the PUD requirements, this would be added to the end of (P-13):

**For the purpose of saving natural areas in the south east corner of the village and for the purpose of allowing housing units other than single family dwellings, Phase 5 shall be allowed to build multi-unit housing by occupying multiple lots.**