



CITY OF NOVI CITY COUNCIL
JUNE 3, 2024

SUBJECT: Initial review of Planned Rezoning Overlay (PRO) eligibility of the request of Jax Kar Wash, JZ24-02, to rezone property at the southeast corner of Twelve Mile Road and Cabaret Drive from Regional Center to General Business with a Planned Rezoning Overlay.

SUBMITTING DEPARTMENT: Community Development Department - Planning

BACKGROUND INFORMATION:

The petitioner is requesting a Zoning Map Amendment for approximately 1.8 acres of property on the south side of Twelve Mile Road, to the east of Cabaret Drive, utilizing the Planned Rezoning Overlay option. The site is currently vacant and is part of the Fountain Walk at Twelve Mile Crossing commercial center. The vacant site is located south of Twelve Mile Road, to the east of Cabaret Drive. The Liberty Park residential development is to the north, along with a bank. The Vibe Credit Union headquarters is to the west. On the east and south are parking lots for Fountain Walk.

The current zoning of the property is RC Regional Center. Parcels to the west are OST Office Service Technology. The Liberty Park area is zoned Residential Acreage but developed under a consent judgment as townhouses, with OS-1 Office Service zoning to the northeast.

The Future Land Use Map identifies this property as Regional Commercial with the rest of Fountain Walk. To the west is planned Office Research Development and Technology, and the north side of Twelve Mile is Multiple Family Residential, and Community office.

There are no regulated natural features on the site, as it was cleared back when Fountain Walk was developed in the early 2000s.

The applicant is proposing to utilize the Planned Rezoning Overlay to rezone from RC Regional Center to B-3 General Business in order to develop a tunnel car wash, which is not permitted in the current RC district. The initial PRO plan shows a one-story 6,200 square foot building, with outdoor vacuum stations that are typically associated with

this type of car wash. Access to the site would be from the existing driveway off of Cabaret Drive, so no new curb cuts are proposed for either public road frontage.

The applicant describes some of the reasons this site has remained vacant in the 20+ years since Fountain Walk was developed, including being limited by lease agreements to not allow a use that would compete with existing tenants of the center. The RC district also requires 100-foot building setbacks, which limits the developable area for a corner site, especially if it is to be split off from the larger parcel. There are also 55-foot and 60-foot-wide gas line easements that run north-south along both sides of the property. In an image in this packet, the gas easements are shown in yellow, and the green hatched area represents the approximate building area with 100-foot setbacks.

The request to rezone includes the condition to limit the use of the property to a car wash, which would prevent it from being redeveloped into another B-3 use such as a gas station or auto dealership, or any other possible use, unless the agreement is amended. Additional conditions proposed include limitations on building height, exceeding the building setbacks of the B-3 District, and approximately doubling the minimum requirement for brick material on the elevations.

Staff has identified the following tunnel car washes that currently exist in Novi: Squeaky Shine Car Wash (Novi Road, south of Nine Mile), Original \$6 Car Wash (Novi Road, north of Grand River), and Pure Wash (Meadowbrook and Ten Mile Road). El Car Wash was approved by the Planning Commission in April and is now reaching the Final Site Plan stage of approval (north side of Grand River Avenue, east of Wixom Road). Staff is aware of two additional firms looking closely at Novi for new car wash locations.

Staff and consultants have identified some issues with the proposed rezoning and PRO Plan. One of the biggest questions with the proposal is whether this would be considered "spot zoning", since no like or similar B-3 uses are in proximity.

Additionally, there was not an obvious benefit to the public proposed as required with a PRO. The applicant's response letter indicates they are proposing to donate funds to the Novi Library in order to refurbish and rebuild the teen area. Planning staff does not believe that this is an appropriate public benefit for a number of reasons: the proposed payment is unrelated to the project, or the effects of the project, and would not fall within any of the contemplated descriptions of a benefit as stated in the ordinance. The City has previously declined other offers of this kind in connection with Planned Rezoning Overlay approvals. Following the Planning Commission public hearing, the applicant has also offered the following:

In addition, the applicant is also willing to construct a 230 square foot patio area with benches along the Twelve Mile Road side of the parcel. I have attached three renderings of this proposal. The applicant is willing to provide both the rebuild/refurbishment of the teen area of the Library and the construction of the patio along the sidewalk area adjacent to Twelve Mile Road.

Engineering notes there is capacity for the water and sewer demands for the proposed use in the public utilities, and stormwater detention is to be treated on-site before being discharged into the existing storm water system.

The proposed parking lot landscaping is deficient, potentially due to the gas easements. Other deviations include the lack of a loading zone and an overhead door facing a public road. The proposed parcel split will also likely cause variances to be required for the parking and building setbacks on the Fountain Walk parcel.

Façade review notes that the building will require Section 9 façade waivers for an overage of Fiber Cement Horizontal Siding and an overage of asphalt shingles on all facades. These waivers are supported as they are minor in nature and do not adversely affect the overall aesthetic quality. The amount of brick proposed significantly exceeds the required amount.

PRO ORDINANCE

The PRO option creates a “floating district” with a conceptual plan attached to the rezoning of a parcel. As part of the PRO, the underlying zoning is proposed to be changed and the applicant enters into a PRO agreement with the City, whereby the City and the applicant agree to a conceptual plan for development of the site. Following final approval of the PRO concept plan, conditions for the development, and a PRO agreement, the applicant will submit for Preliminary and Final Site Plan approval under standard site plan review procedures. The PRO runs with the land, so future owners, successors, or assignees are bound by the terms of the agreement, absent modification by the City of Novi. If the development has not begun within two (2) years, the rezoning and PRO concept plan expires and the agreement becomes void.

City Council adopted revisions to the Planned Rezoning Overlay ordinance. Under the terms of the new ordinance, the Planning Commission does not make a formal recommendation to City Council after the first public hearing. Instead, the initial review is an opportunity for the members of the Planning Commission, and then City Council, to hear public comment, and to review and comment on whether the project meets the requirements of eligibility for Planned Rezoning Overlay proposal. Section 7.13.2.B.ii states:

In order to be eligible for the proposal and review of a rezoning with PRO, an applicant must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, propose clearly-identified site-specific conditions relating to the proposed improvements that,

- 1) are in material respects, more strict or limiting than the regulations that would apply to the land under the proposed new zoning district, including such regulations or conditions as set forth in Subsection C below; and*
- 2) constitute an overall benefit to the public that outweighs any material detriments or that could not otherwise be accomplished without the proposed rezoning.*

[\(See Full text, including Subsection C\)](#)

After this initial round of comments by the public bodies, the applicant may choose to make any changes, additions or deletions to the proposal based on the feedback received. The applicant will then submit their formalized PRO Plan, which will be reviewed by City staff and consultants. The project would then be scheduled for a 2nd public hearing before Planning Commission. Following the 2nd public hearing the Planning Commission will make a recommendation on the project to the City Council. The City Council would then consider the rezoning with PRO, and if it determines it may approve it, would direct the City Attorney to work with the applicant on a PRO Agreement. Once completed, that final PRO Agreement would go back to Council for final determination.

PLANNING COMMISSION

The Planning Commission held an initial Public Hearing on April 10, 2024, to review and make comments on the proposal's eligibility for using the Planned Rezoning Overlay option. Comments made at that time are reflected in the meeting minutes included in this packet, and the Commission's comments are summarized here:

- Commissioners stated the use could be a good fit for the parcel and may help support the existing businesses in Fountain Walk.
- Commissioners mentioned the 1-story building may not be harmonious with the rest of the taller buildings at Fountain Walk.
- Commissioners were concerned that the City is asked to solve a problem that is in part created by the Fountain Walk owners by allowing tenants to restrict the type of uses allowed in the center.
- Commissioners mentioned it does seem that the property has unique constraints and given it hasn't developed in the last 22 years it must be difficult to develop.
- Commissioners stated it was nice that the vacuum equipment is interior to the building to reduce noise.
- Commissioners said although it's not a Regional Center use, it is a commercial use so not completely unlike the rest of the development.
- Commissioners stated that the positive aspects of the plan seem to outweigh the disadvantages.
- Commissioners encouraged the applicant to consider other public benefits that have a more direct connection to the project.

SUMMARY OF CONDITIONS AND BENEFITS OFFERED

PART 1: Summary of possible conditions from applicant, or staff and consultant's review letters *that may be considered to meet the standard of clearly identified site-specific conditions that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district:*

1. The use shall be limited to a car wash. No other uses permitted in the B-3 District would be allowed on this site.
2. The building height will be 24.5 feet, which is more limiting than the 30 feet allowed in the B-3 District.
3. The building setbacks will exceed the B-3 requirements on all sides. Front and exterior side yards are 68-88 ft (30 ft required) and interior side yards are 54- to 138-feet (15 ft required).
4. The façade ordinance requires a minimum of 30% brick on all elevations. The proposed building exceeds this requirement with 49.6 to 59.9%.

PART 2: Summary of conditions that may be considered to meet the standard of constituting an overall benefit to the public that outweighs any material detriments or that could not otherwise be accomplished without the proposed rezoning:

1. The applicant's response letter indicates they are proposing to fund the cost of rebuilding and refurbishing the teen center area of the Novi Public Library. The library's director indicates the total project cost is \$54,040. **Planning staff does not believe that this is an appropriate public benefit. The proposed payment is unrelated to the project, or the effects of the project, and would not fall within any of the contemplated descriptions of a benefit. The City has previously declined other offers of this kind in connection with zoning approvals.**
2. The applicant makes the case that developing a vacant parcel is the benefit of this proposal. The parcel has remained undeveloped since Fountain Walk was developed 22 years ago. The applicant states that the continued success of Fountain Walk is a public benefit to the city.
3. The applicant has offered to construct a 230-square foot patio area with benches along the Twelve Mile Road side of the parcel, as illustrated in the attached rendering.

DEVIATIONS

The proposed PRO Concept Plan includes the following ordinance deviation requests:

1. Overhead Door (Sec. 3.10.1.A): In the B-3 District, no overhead door or other type of service bay door is permitted to face a major thoroughfare. A deviation would be required for the car wash tunnel door facing Twelve Mile Road. **The corner lot location makes it necessary for an overhead door to face one of the frontages.**
2. Parking Setback (Sec. 3.1.24.D): The existing parking spaces east of the proposed lot line would require a deviation from 10-foot setback (0 feet proposed). **Zoning Board of Appeals may need to approve the variance request before the lot split can be approved since it is for the Fountain Walk parcel.**
3. Existing Building Setback (Sec. 3.1.24.D): The existing building (Buddy's Restaurant space) southeast of the proposed lot line may require a deviation from 100-foot setback from the proposed lot line. **Zoning Board of Appeals may need to approve the variance request before the lot split can be approved since it is for the Fountain Walk parcel. Applicant shall provide a dimension to verify proposed setback.**
4. Dumpster (Sec. 4.19.2.F): The current location of the dumpster in front of the building would require a deviation. **As stated in the applicant's response letter, the dumpster will be moved to be behind the building, which will meet the ordinance requirement and remove the need for a deviation.**
5. Loading-Unloading Zone (Sec. 5.4.2): Deviation would be required for the lack of a loading zone. **The applicant states the car wash use does not have a specific need for a loading/unloading area.**
6. Parking Lot Landscaping (Section 5.5.3.C): Deviation would be required for not providing the required number of accessway perimeter trees. **The deviation is not supported by staff, unless the applicant can provide sufficient justification for the deficiency. The applicant's response letter states the two existing utility easements do not permit the planting of landscaping in those easement areas.**
7. Correlated Color Temperature (Section 5.7.3.F): Deviation may be required for exceeding 3000K Correlated Color Temperature (4000K proposed) for permanent lighting installations. **The applicant's response letter states this standard will be revised on future submittals, and no deviation is requested.**
8. Section 9 Waiver (Section 5.15): Proposed elevations of the building have an overage of Horizontal lap siding (8-10% proposed, 0% minimum required) and an overage of Asphalt Shingles (31-36% proposed, 25% maximum allowed). **In this case the deviations are not detrimental to the overall design of the building, and consistent with the intent and purpose of the Ordinance.**

CITY COUNCIL ACTION: This is the City Council's opportunity to comment on the eligibility of the proposal according to the standards of the PRO Ordinance and offer feedback to the applicant. No motion is necessary at this time, but the table below contains the examples of conditions that may be more strict or limiting, and/or provide an overall benefit to the public, as listed in the Ordinance that could be discussed at the City Council meeting.

Types of PRO Conditions (Section 7.13.2.C.ii.b)	Included	Notes
(1) Establishment of development features such as the location, size, height, area, or mass of buildings, structures, or other improvements in a manner that cannot be required under the Ordinance or the City's Code of Ordinances, to be shown in the PRO Plan.	Yes	Buildings and layout to be as shown in the PRO Plan, height of building less than allowable .
(2) Specification of the maximum density or intensity of development and/or use, as shown on the PRO Plan and expressed in terms fashioned for the particular development and/or use (for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation, and the like).	Yes	Use and building as shown in PRO Plan could be stated as the maximum intensity allowed.
(3) Provision for setbacks, landscaping, and other buffers in a manner that exceeds what the Ordinance of the Code of Ordinances can require.	Yes	Building setbacks are shown to be greater setback than minimum required in B-3 District
(4) Exceptional site and building design, architecture, and other features beyond the minimum requirements of the Ordinance or the Code of Ordinances.	Yes	The building exceeds the requirement for brick material.
(5) Preservation of natural resources and/or features, such as woodlands and wetlands, in a manner that cannot be accomplished through the Ordinance or the Code of Ordinances and that exceeds what is otherwise required. If such areas are to be affected by the proposed development, provisions designed to minimize or mitigate such impact.	NA	No natural features present
(6) Limitations on the land uses otherwise allowed under the proposed zoning district, including, but not limited to, specification of uses that are permitted and those that are not permitted.	Yes	Use to be limited to a Car Wash

(7) Provision of a public improvement or improvements that would not otherwise be required under the ordinance or Code of Ordinances to further the public health, safety, and welfare, protect existing or planned uses, or alleviate or lessen an existing or potential problem related to public facilities. These can include, but are not limited to, road and infrastructure improvements; relocation of overhead utilities; or other public facilities or improvements.	Yes?	Donation to library for teen space project does not directly apply to the project or the effects of the project, and does not fall within the ordinance standards as a benefit.
(8) Improvements or other measures to improve traffic congestion or vehicular movement with regard to existing conditions or conditions anticipated to result from the development.	No	Not proposed
(9) Improvements to site drainage (storm water) or drainage in the area of the development not otherwise required by the Code of Ordinances.		No Stormwater Management beyond what is required
(10) Limitations on signage.		Not proposed
(11) Creation or preservation of public or private parkland or open space.	Yes	A 230 sf pedestrian plaza area with benches along 12 Mile sidewalk is proposed
(12) Other representation, limitations, improvements, or provisions approved by the City Council.		