



CITY OF NOVI CITY COUNCIL
APRIL 8, 2024

SUBJECT: Initial review of Planned Rezoning Overlay (PRO) eligibility of the request of Novi-Ten Associates, for JZ23-09 Novi Ten PRO for a Zoning Map Amendment from Light Industrial (I-1) and Office Service (OS-1) to Low Density Multiple Family (RM-1) and General Business (B-3) with a Planned Rezoning Overlay. The subject site is approximately 34-acres and is located east of Novi Road, south of Ten Mile Road (Section 26). The applicant is proposing to develop a 71-unit multiple-family townhome development on the RM-1 portion, and approximately 35,900 square feet of commercial space on the B-3 portion. Under the PRO Ordinance, this initial review by City Council is an opportunity to review and comment on the eligibility of the proposal and offer feedback.

SUBMITTING DEPARTMENT: Community Development Department - Planning

BACKGROUND INFORMATION:

The petitioner is requesting a Zoning Map Amendment for approximately 34 acres of property on the south side of Ten Mile Road, to the east of Novi Road, utilizing the Planned Rezoning Overlay option. The site is currently vacant and was historically part of the original Erwin Orchard, which operated in Novi from 1920-1983. The Ridgeview of Novi development is to the south, along with the Novi Athletic Club and Novi Ice Arena & Dog Park further south. The railroad tracks border the eastern property line. North of Ten Mile Road are industrial uses, and commercial uses are to the west.

The current zoning of the property is I-1 Light Industrial on the eastern side, and OS-1 Office Service on the western side. The adjacent parcels on the west are also OS-1. The Ridgeview development to the south is zoned RM-1 with a PRO, while the Athletic Club and Ice arena area is I-1, as is the area east of the railroad tracks. North of 10 Mile is zoned I-2 and I-1.

The Future Land Use Map identifies this property as Community Office on the west and Industrial Research Development Technology on the east. To the south and east is planned for Industrial, north of the site is planned for Industrial and Heavy Industrial, and on the western side is Community Office.

There is floodplain area associated with Chapman Creek along the southern property boundary and the Walled Lake Branch of the Middle Rouge along the eastern side of the site extending down toward the dog park. The natural features map also indicates extensive wetland area within the floodplain, and regulated woodlands are present in most areas of the site.

The applicant is proposing to utilize the Planned Rezoning Overlay options to rezone about 7 acres of the property to B-3 General Business, and about 27 acres to RM-1 Low Density Multiple Family. The initial PRO plan shows a total of 71 attached 2-story townhome units on the site. The RM-1 residential portion is accessed by one entrance off Ten Mile Road, with a secondary emergency access drive to commercial portion of the project. Parking is provided in garages, on the garage aprons, and a few small bays of surface parking.

For the B-3 commercial portion, the current concept plan shows a total of 35,900 square feet in 4 separate buildings. Access to the B-3 site would be from 3 curb cuts on 10 Mile Road – one is the existing shared driveway with Maly Dental office, and the other two are new. The plan notes retail and restaurant uses within the commercial buildings – but generally other uses permitted in the B-3 district could be tenants in those spaces. However, the applicant does offer to prohibit certain uses as a condition of the PRO Agreement, including gas station, auto repair, car wash, marijuana sales, check cashing and pawn shops.

The applicant describes the project as creating a walkable community, with linkages to the existing paved public trail through Ridgeview Villas, which connects to Nick Lindstrom Drive and to the nature trail behind the Novi Athletic Club and dog park area. They also propose a paved path around the proposed townhouses that would be available to the public, and two new overlook areas. A park area with seating is proposed between the commercial and residential area, and two pickleball/tennis courts are proposed in the northeast corner of the site, which are proposed to be donated to the City for public use. Staff notes some concern that the pickleball courts may create a noise disturbance to the closest residential units, and the associated parking area requiring another curb cut on 10 Mile. Grading required for this area may also impact the flood zone. Therefore, the applicant may want to reconsider the pickleball courts, and instead provide a more low-impact nature park that would fit with City Council's goal to develop more accessible pocket parks, and even connect to the dog park to the south.

Staff and consultants have identified some issues with the proposed rezoning and PRO Plan. First, the zoning districts indicated do not match the Future Land Use map guidance. Staff has concerns with the proposed residential use's compatibility with the adjacent I-2 Heavy Industrial to the north. However, it is adjacent to similar multiple family communities on the south side, and there are similar commercial uses to the west, so in some respects the proposed zoning is more compatible with those developments.

One of the biggest issues with the proposal is the traffic impacts. The applicant's traffic study notes that a significant increase in the number of vehicle trips are

expected. A number of road improvements to 10 Mile could help mitigate this increase, including extending the 5-lane cross-section further east. The traffic study assumed the commercial development size was 60,000 square feet, while the current proposal for 35,900 square feet would result in lesser impacts. Driveway spacing and major drive deviations are likely to be required.

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 provided in a single storm sewer detention system on the east side of the site, with controlled outlet into the floodplain to the east.

The proposed landscaping is generally in conformance with the ordinance. The applicant has added screening between the residential and commercial portions of the property and have indicated that the deficiencies in foundation landscaping and greenbelt berm in the commercial portion will be corrected in the site plan submittal. Landscaping waivers for street trees and greenbelt canopy trees along 10 Mile Road are supported by staff due to conflicts with existing underground utilities.

Façade review notes that the commercial buildings are in full compliance with the ordinance. For the residential buildings, Section 9 façade waivers would be required for an underage of brick on the rear and some front facades, and an overage of asphalt shingles on some front facades. These waivers are supported as they are minor in nature and do not adversely affect the overall aesthetic quality.

Wetland impacts have been minimized, with approximately 0.1 acre (less than 0.9% of the total wetland area on site) of permanent impact to a few small pockets of wetlands in the upland area. A large portion of the site, 15.87 acres of wetland, woodlands, and floodplain area, is proposed to be protected in a conservation easement to ensure permanent preservation. This could be considered a benefit to the public as it is beyond what is required.

PROPERTY HISTORY

Two previous Planned Rezoning Overlay applications have been proposed for the subject property in 2004 and 2009. The first proposed 150,000 square feet of retail and about 18,000 square feet of office. The project was canceled before going to City Council. In 2009, a proposal for a 64,000 square foot Kroger and 41,000 square feet of other retail was proposed. That project was denied by City Council on October 11, 2010.

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 City Council. 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 February 21, 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 concerns with the traffic impacts on Ten Mile Road given the proximity to the railroad, which can often block traffic flow.
- Commissioners thought it could be a nice benefit to have more pickleball courts in the City since the sport is so popular, but there are concerns about the noise next to residential units and the parking area may cause issues on 10 Mile.

- Commissioners thought the residential use could be an aesthetic enhancement for the area with the preservation of woodland and wetland areas compared to a Light Industrial use.
- Commissioners appreciated the development would have a very small impact on existing wetlands, and that much of the area would be protected in a conservation easement.
- Commissioners thought the retail should not be designed like a strip mall, and that it could be attractive.
- Commissioners asked staff to provide data about the increase or decrease in crime with neighborhoods adjacent to trails. According to the Police Department, there have been no reports of crime related to the ITC Trail, either along the trail or at properties adjacent to the trail.
- Commissioners thought resident concerns regarding flooding should be more clearly explained or other measures implemented to ensure no increased risk of flooding would result.

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 eastern portion of the site adjacent to the railroad tracks and the south 50-foot-wide strip along the wetland of the proposed PRO, totaling approximately 15.87 acres, are to be maintained as a natural area with a conservation easement to preserve the existing marshland and wildlife habitat. This natural area wraps around the PRO.
2. On the west end of the residential portion between the retail area, the applicant proposes a new 0.4-acre park with seating and a playground.
3. To achieve walkability and connectivity of the area, a trail system is proposed which consists of new paths and existing sidewalks. This walkway system provides connectivity between the existing and proposed residential areas, the preserved marshland nature areas, the proposed tennis courts/pickleball courts, the Novi Athletic Club, Ice Arena, and Dog Park, and with the local retail along Ten Mile Road. The retail consists of the new proposed retail and restaurant areas, and the existing Walgreen's and dental office, and other businesses on Novi Road. The proposed trail system, including new overlook areas east of the Novi Athletic Club, could become a usable and accessible community resource.
4. Two new tennis courts/pickleball courts are to be provided at the north end of the new conservation area along 10 Mile Road, as well as parking spaces for the courts. The applicant has stated these will be available for general public use.

5. Proposed use restrictions not permitting certain automotive and other business uses in the proposed B-3 commercial zoning (Sec. 3.1.12.B & C) are to be part of the PRO. Prohibited uses are:
 - a. *Vehicle Oriented Uses: gas/fueling station, auto repair, and car wash*
 - b. *Check cashing, Pawn shop, Marijuana sales (already not permitted in the City of Novi will also be excluded by the PRO documents in case the city's law is changed to allow it in the future.)*
6. Open Space (Section 3.1.7.D) the amount of open space provided for the RM-1 townhouses exceeds ordinance requirements.
7. Commercial Building Setbacks: Setbacks proposed exceed ordinance requirements:
 - a. Front: 30 feet required....92 feet provided
 - b. Rear: 20 feet required....83 feet provided
 - c. Side: 15 feet required.....93 feet provided
8. Residential Building height (Sec. 3.1.7.D): 29 feet maximum proposed is more limiting than the 35 feet permitted.
9. Commercial Building Height (Sec. 3.1.12.D): Twenty-three feet maximum proposed is more limiting than the 30 feet permitted.
10. Residential Lot Coverage (Sec. 3.1.7.D): 25% maximum is permitted, 14% is proposed.
11. Environmental Stewardship in Residential Buildings:
 - a. EV charging infrastructure will be prewired in every garage.
 - b. Energy Star rated appliances.
 - c. Low maintenance exterior materials (brick, cement board siding, 30-year shingles)
 - d. Low-E, EnergyStar rated windows
 - e. High-Efficiency Insulation
12. Road improvements along 10 Mile Road: As noted in the applicant's Traffic Study, the additional traffic on 10 Mile Road indicates certain improvements are warranted. The applicant's response letter indicates that they will assume responsibility for some of these improvements, however additional clarifications, and coordination with RCOC will be required to fully document the expectations in the PRO Agreement as this project progresses.

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 eastern portion of the site adjacent to the railroad tracks and the south 50-foot-wide strip along the wetland of the proposed PRO, totaling approximately 15.87 acres, are to be maintained as a natural area with a conservation easement to preserve the existing marshland and wildlife habitat. This natural area wraps around the PRO.
2. To achieve walkability and connectivity of the area, a trail system is proposed which consists of new paths and existing sidewalks. This walkway system provides connectivity between the existing and proposed residential areas, the preserved marshland nature areas, the proposed tennis courts/pickleball courts, the Novi Athletic Club, Ice Arena, and Dog Park, and with the local

retail along Ten Mile Road. The retail consists of the new proposed retail and restaurant areas, and the existing Walgreen's and dental office, and other businesses on Novi Road. The proposed trail system, including new overlook areas east of the Novi Athletic Club, could become a usable and accessible community resource.

3. On the west end of the residential portion between the retail area, the applicant proposes a new 0.4-acre park with seating and a playground.
4. Two new tennis courts/pickleball courts are being added at the north end of the new conservation area along 10 Mile Road, as well as parking spaces for the courts. **The applicant indicates they will construct the courts, and then donate them to the City to assume control and maintenance.**
5. The applicant's narrative includes an appeal to consider as a public benefit his previous land donation of 18 acres (valued at \$3.2 million) which the city used to construct the Novi Ice Arena and the Dog Park behind it. This donation was acknowledged in a letter of Commendation from former Mayor Richard Clark on January 28, 2000.

DEVIATIONS

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

1. Building Orientation (Sec. 3.8.2.D): *deviation is requested for proposed residential building to not be configured 45 degrees to the property lines normally for aesthetic reasons. Most of the buildings are not on any main road and they front to a substantial irregular shaped 20-acre wetland nature area of a minimum 200 feet wide separation across from Toll's existing multifamily Ridgeview project.*
2. Side and Rear Setbacks (Sec 3.1.7.D and Sec 3.6.2.B): *A Zoning Ordinance deviation is requested to reduce the side setback from 75 feet to 25 feet along the north property line for two residential buildings abutting the proposed commercial area (B-3). This has been granted elsewhere in the city and still includes screening between the residential and commercial. That screening is located on the residential edge of the zoning line that separates the residential from the commercial and functions with the same screening effect. (Only a small portion, at northwest corner being wall plus landscape, instead of berm.) Deviates from Section 5.5.3.A.ii but provides same screening, as it is located between the uses.*
3. Parking along Major Drives (Sec. 5.10): *A Zoning Ordinance deviation is requested to allow for perpendicular parking on a major drive.*
4. Major Drive Radius (Sec. 5.10): *Deviation from the ordinance requirement for a minimum centerline radius of 100 feet, to allow the 85-foot radius shown at the western curve.*

5. Landscape Berms (Section 5.5.3.A.ii): A Zoning Ordinance deviation is requested to not provide a 10 to 15-foot-high landscape berm on a proposed RM-1 district adjacent to an I-1 district. This deviation is requested to waive this requirement to preserve open viewing to the beautiful natural features instead of the usual berm screening that blocks the views from industrial.
6. Right-of-Way Landscaping (Section 5.5.3.B.ii): A deviation for the lack the required street trees and berm along 10 Mile Road due to underground utilities. The required trees are to be provided elsewhere.
7. Distance between Buildings (Sec 3.8.2.H): A Zoning Ordinance deviation is requested to reduce the building separation distance from the calculated formula (resulting in 31-32.72 feet required) to a distance of 30 feet between all buildings.
8. Section 9 Waiver (Section 5.15): Proposed elevations for residential buildings have an underage of minimum required brick on all rear and some front facades (26-27% proposed, 30% minimum required) and an overage of Asphalt shingles (56% front side, 50% maximum allowed). **Commercial buildings are fully compliant with ordinance.**
9. Same Side and Opposite Side Driveway Spacing (City Code 11.216.d.1): Deviations appear to be needed – further details are needed to determine.

CITY COUNCIL ACTION: This is 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 residential buildings 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	The number of units and commercial area 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	Residential buildings are shown to be greater setback than minimum required where adjacent to Ridgeview Villas.
(4) Exceptional site and building design, architecture, and other features beyond the minimum requirements of the Ordinance or the Code of Ordinances.		Not proposed
(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.	Yes	Applicant proposes preservation of over 15.87 acres of woodlands/ wetlands/floodplain.
(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	Residential uses would be limited to attached townhome units only. The applicant states they will be for-sale units. Commercial area would prohibit certain B-3 uses from the property: <i>gas/fueling station, auto repair, and car wash; check cashing and pawn shops</i>

(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	Off-road trail system to connect to existing sidewalks to the south, including Novi Ice Arena and Dog Park; Construction of two overlook amenities areas east of Novi Athletic Club. Ridgeview Villas had soil remediation (arsenic) – unclear whether that is present here
(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.	Yes	Applicant proposes to construct improvements on 10 Mile to alleviate traffic impacts – Add a passing lane
(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	Private parkland created with preservation of woodlands and wetlands. Publicly accessible paved pathway, small park area with 2 tennis/pickleball courts proposed to be donated to City. Another pocket park proposed between the commercial and residential with seating, possible play structure
(12) Other representation, limitations, improvements, or provisions approved by the City Council.		