

MEMORANDUM



TO: VICTOR CARDENAS, CITY MANAGER
FROM: LINDSAY BELL, AICP, SENIOR PLANNER
THROUGH: BARBARA MCBETH, AICP, CITY PLANNER
SUBJECT: PLANNED REZONING OVERLAY (PRO)
DATE: NOVEMBER 9, 2023

Mayor and Council –

Please see a comprehensive overview of the City's PRO process and current projects currently being evaluated through the lens of a PRO.

- Victor

The Planning Department is in the process of reviewing several Planned Rezoning Overlay (PRO) applications that we anticipate will be reviewed by the Planning Commission and the City Council in the upcoming months. This memo provides an overview of the history of the PRO ordinance provides examples of completed PRO projects, PRO projects currently under construction, and three new applications that were submitted recently.

The Planned Rezoning Overlay (PRO) Option first became available to applicants and developers in January 2004 when the City of Novi adopted a Zoning Ordinance amendment, creating the new option for a rezoning request. This was an alternative to traditional or straight rezoning, which is simply a request by an applicant to the city to rezone a parcel of land from one zoning district to another district.

The PRO Option gave property owners the ability to voluntarily offer, in writing, specific use and site-specific terms as a condition of City Council approving a rezoning of the land. The City recognized that, in certain instances, it would be an advantage to both the City and the property owners seeking a rezoning if a concept plan, along with site-specific conditions and limitations, were approved together as part of a rezoning petition. Three of these advantages are:

1. the assurance of knowing what the uses would be and how the development would be built. With a straight rezoning, the property owner could propose and generally obtain site plan approval for any of the permitted uses listed in the zoning district after approval of the rezoning petition. The PRO agreement includes the concept plan and spells out use and site-specific requirements.
2. the identification of benefits to the public that will accompany the project. The applicant must show that the project will result in an overall enhancement of the area compared to existing zoning.
3. deviations can be granted within the terms of the Agreement, which means the applicant does not need to separately request variances from the Zoning Board of Appeals.

The typical steps involved in the review and consideration of a PRO application included:

- Review of the request and concept plan by the City's staff and consultants
- Public hearing by the Planning Commission
- Consideration of the First Reading of the request by the City Council
- Consideration of the Second Reading of the request by the City Council with the consideration and approval of a PRO Agreement that provides the terms and conditions of the approval that run with the land.
- After approval of the development agreement, the petitioner will submit site plans for review and approval through the standard site plan review process.

The list of Planned Rezoning Overlay projects that have been completed include:

- Basilian Fathers Residence (Eleven Mile Road),
- Valencia Estates (North and South of Ten Mile Road),
- Ridgeview Villas (East of Novi Road on Nick Lidstrom Drive),
- Medilodge of Novi (Convalescent home, Eleven Mile) and
- Beacon Hill (Meadowbrook Road, north of 12 Mile)

Examples of Planned Rezoning Overlay projects that are currently under construction include:

- Terra (Single family residential development on Nine Mile Road),
- Sakura (Mixed-use development at Grand River/Town Center/Eleven Mile) and
- Innova Apartments (272 apartments on Haggerty Road, north of 12 Mile)

In the coming months staff anticipates the following PRO proposals will be scheduled for eligibility review by City Council:

- Elm Creek – Scheduled November 20, 2023. Planning Commission initial review October 11, 2023. The Planning Commission packet can be found [here](#).
- Novi-Ten Mile – anticipated January 2024. Planning Commission's initial review is scheduled for December 13, 2023.
- Sakura East – anticipated January 2024. Planning Commission's initial review is scheduled for December 13, 2023.

AMENDMENTS TO PRO ORDINANCE - 2021

The consideration of a PRO ordinance amendment in 2021 was prompted by comments and discussion at the City Council and Planning Commission levels to clarify the review criteria and, perhaps more importantly, providing an opportunity for City Council to review and comment on PRO applications earlier in the process rather than after the formal Planning Commission hearing and recommendation has been made.

The amendment to the PRO Ordinance was adopted on August 30, 2021. The City Attorney's Office provided the following summary of the changes to the PRO Ordinance adopted:

- Rearranged the ordinance to be more readable.
- Added some concepts to the intent section—including confirmation that this is a fully optional form of development, at the City's discretion.
- Confirmed in a number of places that City Council is the ultimate decision maker with regard to the PRO process.
- Clarified what needs to be in the concept plans.
- Specifically authorized, at the City's discretion, combining the PRO plan approval with a potentially more detailed preliminary site plan approval.
- Clarified/restated standards for securing ordinance deviations.
- Clarified/restated the sorts of things that are required as PRO conditions in order to induce the City to utilize the PRO process.
- Added steps to provide opportunity for City Council to have some input earlier in the process. See the attachment to this memo for a flow chart diagram of the new PRO process steps.
- Clarified that if the City and the applicant agree, the PRO will not simply expire by virtue of non-activity for a period of two years, but will continue to run with the land, in the nature of a deed restriction.

PRO OPTION

The PRO option creates a “floating district” with a conceptual PRO plan attached to the rezoning of a parcel. As part of the PRO, the underlying zoning is proposed to be changed, and the applicant submits a conceptual plan for development of the site. After staff and consultant review, the proposed request goes through initial review by the Planning Commission and City Council. Each of those bodies provide feedback and comments on whether the project meets the eligibility criteria for the PRO process.

The applicant can then make any changes to the Concept Plan based on the feedback received and resubmit for formal review. The Planning Commission holds a public hearing and makes a recommendation to City Council. The City Council reviews the Concept Plan, and if the plan receives tentative approval, it directs the preparation of an agreement between the City and the applicant, which also requires City Council approval. Following final approval of the PRO concept plan and 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.

APPLICANT'S BURDEN UNDER PRO ORDINANCE

The Planned Rezoning Overlay ordinance (PRO) requires the applicant to demonstrate that certain requirements and standards are met. The applicant should be prepared to discuss these items, especially in number 1 below, where the ordinance suggests that the enhancement under the PRO request would be unlikely to be achieved or would not be assured without utilizing the Planned Rezoning Overlay. Section 7.13.2.C.ii states the following:

1. *(Sec. 7.13.2.C.ii.a) The PRO accomplishes the integration of the proposed land development project with the characteristics of the project area in such a manner that results in an enhancement of the project area as compared to the existing zoning that would be unlikely to be achieved or would not be assured in the absence of the use of a Planned Rezoning Overlay.*
2. *(Sec. 7.13.2.C.ii.b) Sufficient conditions shall be included on and in the PRO Plan and PRO Agreement such that the City Council concludes, in its discretion, that, as compared to the existing zoning and considering the site-specific land use proposed by the applicant, it would be in the public interest to grant the Rezoning with Planned Rezoning Overlay. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles, as presented to the City Council, following recommendation by the Planning Commission, and also taking into consideration the special knowledge and understanding of the City by the City Council and Planning Commission.*

Within the process, which is initiated by the applicant, the applicant and City Council can agree on a series of conditions to be included as part of the approval which must be reflected in the Concept Plan and or the PRO agreement.

As stated in the amended PRO Ordinance,

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 of Ordinance 18.97: Zoning Ordinance, Chapter 7, Section 13, Subsection 2: Planned Rezoning Overlay](#).)

ORDINANCE DEVIATIONS

City Council may authorize deviations from the strict interpretation of the Zoning Ordinance within a PRO agreement. Height, area, and bulk standard deviations may be authorized, however use and density standards are not eligible for modification. City Council may also authorize deviations from other City Codes (e.g., design and construction standards, sign regulations, etc.).

The City may, at its discretion, consider the following in determining whether to grant each such deviation:

- a. The PRO Plan, with the deviation, demonstrates an innovative, unified, planning approach to developing the site that has resulted in a proposal for a higher quality development than the City could otherwise require, and that the Ordinance standard, if the deviation were not granted, would likely prohibit an enhancement of the development that would be in the public interest or would significantly impair the use or operation of the development.*
- b. The applicant has proposed measures that will eliminate, minimize, or mitigate any negative impacts of the deviation, and that the deviation will not be detrimental to the public health, safety, or welfare of the occupants of the development, the surrounding neighborhood, or the City as a whole.*
- c. The PRO Plan, with the deviation, meets the standards for approval under this Section, including the provision of restrictions or limitations on the use or development not otherwise required by the Ordinance.*

All deviations from the ordinance requirements shall be identified and included in the PRO Agreement. Any additional deviations identified during Site Plan Review (after the Concept Plan and PRO Agreement is approved), will require amendment of the PRO Agreement.

IDENTIFYING BENEFITS TO PUBLIC

Section 7.13.2.C.ii states that the City Council must determine that the proposed PRO rezoning would be in the public interest and that the benefits to the public of the proposed PRO rezoning would clearly outweigh the detriments.

Examples of previous PRO benefits proposed by applicants have included:

- Providing publicly available parkland,

- Dedication of land for public parks,
- Construction of missing sidewalk segments and trails beyond the limits of the subject property,
- Preservation of natural features in conservation easements,
- Providing historical markers in locations of local significance,
- Exceeding façade or landscape requirements,
- Enhanced amenities,
- “Welcome to Novi” signage,
- Contributions to construction costs of City trail network or sidewalks,
- Trailhead or comfort station amenities near City trail network,
- Road construction,
- Cleanup of environmentally compromised sites.

CONSIDERATION OF ELIGIBILITY

After the initial PRO Plan submittal and review by the Plan Review Center, the Planning Commission and City Council will have an opportunity to review the proposals, discuss the initial submittal and eligibility of the rezoning requests. Members of the Planning Commission and City Council will have reviews from city staff and consultants, which offer comments on whether the project meets Ordinance standards, evaluate potential impacts, and give the applicant feedback on their proposal.

Additional Information can be found in the following resources:

- [City of Novi Site Plan and Development Manual](#), Chapter 3 – Rezoning and Planned Rezoning Overlay Review Process
- [Full text of Ordinance 18.97: Zoning Ordinance, Chapter 7, Section 13, Subsection 2: Planned Rezoning Overlay](#)