

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, OCTOBER 14, 2024, AT 7:00 P.M.**

Mayor Fischer called the meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Fischer, Mayor Pro Tem Casey, Council Members Gurumurthy, Heintz, Smith, Staudt, Thomas

ALSO PRESENT: Victor Cardenas, City Manager
Danielle Mahoney, Assistant City Manager
Tom Schultz, City Attorney

APPROVAL OF AGENDA:

CM 24-10-130 Moved by Smith, seconded by Thomas; MOTION CARRIED: 7-0

To approve the agenda as presented.

Roll call vote on CM 24-10-130 Yeas: Casey, Gurumurthy, Heintz, Smith, Staudt, Thomas, Fischer
Nays: None

PUBLIC HEARINGS: None

PRESENTATIONS: None

CITY MANAGER REPORT: None

ATTORNEY REPORT: None

AUDIENCE COMMENTS: None

CONSENT AGENDA REMOVALS AND APPROVALS:

CM 24-10-131 Moved by Thomas, seconded by Smith; MOTION CARRIED: 7-0

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
September 30, 2024 - Regular Meeting
- B. Approval of resolution recognizing the Novi High School Orchestra Boosters as a nonprofit organization operating in the City of Novi for the purpose of obtaining a charitable gaming license from the State of Michigan.
- C. Approval of the 2024-2025 Winter Maintenance Agreement between the City of Novi and the Road Commission for Oakland County for snow and ice control on selected county roads in Novi; and adoption of resolution authorizing Novi to provide winter maintenance of selected county roads.

D. Approval of claims and warrants – Warrant 1165

Roll call vote on CM 24-10-131

**Yeas: Gurumurthy, Heintz, Smith, Staudt,
Thomas, Fischer, Casey
Nays: None**

MATTERS FOR COUNCIL ACTION:

1. Approval of Resolution to authorize Budget Amendment #2025-1

City Manager Cardenas stated that these are rollover capital items that are from all the funds except for the general funds and Parks & Rec fund. These are projects that are not able to be completed in the 2023-2024 fiscal year and will be rolled over into this current fiscal year 2024-2025.

CM 24-10-132 Moved by Casey, seconded by Smith: MOTION CARRIED: 7-0

Approval of Resolution to authorize Budget Amendment #2025-1

Roll call vote on CM 24-10-132

**Yeas: Heintz, Smith, Staudt, Thomas, Fischer,
Casey, Gurumurthy
Nays: None**

2. Approval to award a unit price contract for major pathways snow removal services to HL Landscaping, the low bidder, for an estimated annual amount of \$108,998. The contract term is one year with three one-year renewal options.

Member Smith stated that he saw the mention of drift removal and inquired if this would include checking to see if drifts have formed even if there's not been a two-inch snow event. The City Manager responded yes, any pathways that the City has responsibility over will get notice if there's drifts that occur after windy conditions.

CM 24-10-133 Moved by Smith, seconded by Thomas: MOTION CARRIED: 7-0

Approval to award a unit price contract for major pathways snow removal services to HL Landscaping, the low bidder, for an estimated annual amount of \$108,998. The contract term is one year with three one-year renewal options.

Roll call vote on CM 24-10-133

**Yeas: Smith, Staudt, Thomas, Fischer, Casey,
Gurumurthy, Heintz
Nays: None**

3. Consideration of tentative approval of the request by Jax Kar Wash, to rezone property at the southeast corner of Twelve Mile Road and Cabaret Drive to General Business with a Planned Rezoning Overlay.

City Manager Cardenas stated the applicant is requesting the rezoning of 1.8 acres in Fountain Walk to allow for a car wash development. The Planning Commission recommended approval for the PRO plan back on August 28 of this year. The applicant is attempting to activate a long vacant parcel and in doing so, they would separate the 1.8 acres from the rest of the Fountain Walk parcel that requires a restrictive 100' setbacks on all sides of the parcel. One issue with the proposed PRO is the overall public benefit of the project. Among the benefits suggested by the applicant is the design and construction of two pedestrian seating areas and two decorative walls. Since the last time this came before City Council, staff has determined, via discussions with Consumer's Energy, that at least one of the easements on the property is not required and the applicant could apply for the easement to be vacated. If the City Council approves this item, the applicant and the City Attorney will draft a PRO agreement and then come back to the Council for final approval.

David Landry, representative for the applicant, is before the Council requesting approval of a PRO. The applicant was previously before the Council. The Planning Commission recommended conditional approval of the PRO subject to the City Council and Planning Commission also gave conditional approval to the preliminary site plan and storm water management plan. The applicant is requesting a rezoning from B-3 to PRO to limit it to a single use, a car wash. The parcel is at the southeast corner of 12 Mile and Cabaret Drive. The parcel is unique. It's been vacant for 22 years due to the physical restrictions that accompany the zoning of the property. Because of the easements, the current RC Regional Center, the zoning for this property has 100' setbacks. The only developable piece is in the middle. A car wash is a perfect fit. A better question in his mind is what could fit that would be compatible with the surrounding uses. The PRO ordinance intent section says it is to accomplish development, achieve integration of the proposed development with the characteristics of the project area. There are letters from the owner of Fountain Walk, Imagine Theater, Buddy's Pizza, Full Throttle and Putting Edge, all asking this to be approved. They think it would be integrated within Fountain Walk and that it would be a great addition to the area. The PRO eligibility part of the ordinance requires that as part of the proposal there must be site specific conditions that are stricter than the regulations in the proposed zoning district, B-3. This proposal would limit to a single use which is more restrictive than a general B-3 rezoning. The building height is not as tall as allowed in B-3. The setbacks are double what's allowed in B-3. The applicant is planning 49% to 59% brick facade instead of 30%. There are more restrictions to the building. The ordinance says the development should constitute an overall public benefit that outweighs the material detriment. Ordinance doesn't define what a public benefit is, rather it defines it in relative terms. It says the public benefit must simply outweigh the detriment. Before we can measure the public benefit, we have to see if we can identify detriments. The PRO public benefit is a sliding scale. If there's a lot of detriment, you have to show a lot of benefit. If there's not much detriment, you don't have to show a lot of benefit because it only has to outweigh the detriment. When examining detriment from a planning standpoint, first you must consider adjacency. There are no lighting issues, no noise issues, the hours of operation are even less than what could be, and no traffic problems because there is no ingress or egress off of 12 Mile. Engineering recommends approval. There's no woodland or wetland issues. Originally, we proposed funding the

teen center at the library. The City Council wasn't keen on the idea and suggested they do something along 12 Mile Road. What the applicant is suggesting is that there is a paved area with benches and a pergola next to the car wash and further down 12 Mile Road towards the other end of Fountain Walk. In addition, they are proposing signage at the corner of Cabaret Drive and 12 Mile and at the entrance of Fountain Walk. If desired, the sign could be a Fountain Walk sign. Also added are some stairs so if you're walking along 12 Mile, you don't have to walk all the way around to enter Fountain Walk. They believe the public benefit outweighs any detriment. The Planning Commission recognized it and has recommended approval and recommended conditional approval to the site plan as well.

Member Gurumurthy understands the difficulties in developing this piece of property. She likes that there are no curb cuts on the main streets and appreciates the noise mitigation. She had questions about landscaping but is clear about that. She appreciates the reevaluation in terms of the signage and covered seating. There are a couple of bus stops between Novi Road and Declaration which don't have covered seating. For her she thinks that having seating covered with the bus stop would be a direct public benefit for residents versus signages. She would recommend looking for more covered seating for those bus stops because they are right in that vicinity as well. She knows there's a lot of coordination that has to happen but that's something she wanted to bring up and see if that would be a viable option. Mr. Landry asked if Member Gurumurthy meant adding additional bus stops and she responded no, she meant coverage for two existing bus stops. Mr. Landry confirmed that what Member Gurumurthy meant was merely a cover for the existing coverless bus stops. Member Gurumurthy said exactly, and Mr. Landry said that they could do the two stops. Mayor Fischer suggested to Mr. Landry that they work with City staff and attorney as far as those go and didn't want to go down the path of discussing individual public benefits per Council members. He thinks it's more appropriate to work with the City attorney in that respect and Mr. Landry said they'd be happy to discuss the matter with the City attorney and agreed with that process.

Member Heintz said he is struggling to see how this is compatible with the adjacent area. He sees Fountain Walk as kind of an "entertainment district" because there are lots of family oriented and socially oriented activities including a movie theater, escape room, go-karts, multi-sport facility and so on. There are a lot of different things that draw people in to engage in a lot of different activities. He doesn't see this car wash as being related to that. It's his opinion that resorting this area would not be in the character of the Town Center.

Member Smith agreed with Member Gurumurthy on the bus stops. He said that something that is always going to sway him on PRO and public benefits is the environmental concerns. It seems to him that a natural fit for a car is to incorporate solar panels on the roof as most of the business is on sunny days and that's when most of the energy is used. He doesn't know if there's a way to look at incorporating that or the costs but it's something he would look at. He also noted that there are deviations from ordinance with no justification and he's assuming those will be cleared up during the process when the applicant is working with the City attorney. It doesn't seem that any of it is a showstopper

but it would be good to get some justification. Lastly, Member Smith asked if there's something that could be done to enhance that social district. Todd Gesund, Vice President of Jax Kar Wash, responded that they did talk to the owner of Fountain Walk and was told there was nothing they could do to benefit Fountain Walk in that respect although there is an agreement with the owner to maintain two patios.

Todd Gesund mentioned that he previously talked about the synergy that he thought the Jax Kar Wash would bring to the center. A car wash is a complementary business. It's not a restaurant, a go-karting place, or putt-putt golf but it's a complementary business. A car wash is not necessarily a destination, but people can have their car washed while they go to Dick's, Ford's Garage or Goldfish swim school because it's convenient. Member Staudt said that when Fountain Walk started, it was a failure. The new owner has turned it into a vibrant part of the community and the fact that the new owner supports this has heavy weight with him. It's not easy to fill a piece of property like that. It's been sitting there forever and has limited uses. He is pleased with the new car wash near him and uses it on a regular basis. With the number of homes in the general area, he thinks the residents would be happy. Regarding the public benefit, he hopes that the applicant could do something with more coverage for the winter than what's being proposed. He thinks it's a perfect use of this property. The support of the businesses there tells Council it's a good use.

CM 24-10-134

Moved by Staudt, seconded by Smith: MOTION FAILED: 3-4

Approval of tentative indication that Council may approve the request of Jax Kar Wash, JZ24-02 with Zoning Map Amendment 18.744, to rezone from RC to B-3, subject to a Planned Rezoning Overlay (PRO) Agreement, and corresponding PRO Concept Plan, and direction to the City Attorney to prepare the PRO Agreement including:

A. All deviations from the ordinance requirements shall be identified and included in PRO Agreement, including:

- 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, and the existing easements limit options for building orientation.**
- 2. Dumpster (Sec. 4.19.2.F): The location of the dumpster within 10 feet of the building would require a deviation. This deviation is supported since there are no office or living spaces adjacent inside the main building, only the car wash tunnel.**

3. 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 as there are no large deliveries to the site.

4. Parking Lot Landscaping (Section 5.5.3.C): Deviation would be required for not providing the required number of accessway perimeter trees. The applicant has provided the easement for the existing utility easement which does not permit the planting of landscaping in the easement area.

5. 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 the design consistent with the intent and purpose of the Ordinance.

B. The following conditions shall be requirements of the PRO Agreement:

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%.

5. A shared parking agreement with the Fountain Walk retail center will be required for employee parking spaces on the adjacent parcel.

C. This motion is made because the proposed General Business (B-3) zoning district is a reasonable alternative to the RC District and fulfills the intent of the Master Plan for Land Use, and because:

1. The applicant offers to construct two covered seating areas along 12 Mile Road. The plan shows a concrete pedestrian node with benches and a metal pergola along the sidewalk fronting on 12 Mile Road, with the other stated location further to the east near Donelson Drive.

- 2. The applicant offers to provide two decorative curved walls on the property: one at the corner of 12 Mile Road and Cabaret Drive, and the other at the corner of Cabaret Drive and the entrance of Fountain Walk. The walls could include signage identifying the center. No signage for Jax Kar Wash or other businesses would be placed on the walls. The stone would match the existing wall located at the West Oaks and Donelson Drive entrance.**
- 3. Public utilities are available to connect to, and adequate service capacity is available for the car wash demand proposed.**
- 4. The car wash use is not expected to generate more traffic demand than other uses that could be built under the existing RC zoning.**
- 5. The project does not impact existing woodland or wetland areas since the area was prepared for development when the Fountain Walk center was originally developed.**
- 6. The proposed Jax Kar Wash would support the Master Plan goal of attracting new businesses to the City and may provide a customer draw that would support the growth of other businesses within Fountain Walk.**
- 7. The detriments to the City from a car wash development as proposed are not substantial overall, so while the benefits to the public of this proposed use resulting from the conditions above are somewhat speculative, they do tend to outweigh the detriments.**

Member Thomas remembered when the applicant was here last, she had the same idea of covered seating. She doesn't know why the applicant presented slatted covered seating, but she meant covered seating that would protect from the elements. She thinks it's a good use of the property but when it comes to the public benefit, she wanted to make that comment.

Mayor Pro Tem Casey said the last time the applicant was before Council she gave some feedback that indicated there were things about the development she liked. She also raised some concerns about the use of a PRO in that area. The more she has looked at the issue, the intent and purpose behind the RC zoning and the B-3 zoning, she is of the opinion that zoning to a B-3 is not a reasonable alternative to leaving the zoning as RC and it's not consistent with the master plan. It could be considered spot zoning. She won't be able to support the motion and thinks there are other locations that would be more appropriate.

Mayor Fischer stated that it was his understanding that part of the difficulty with this parcel is the fact that it's being separated from Fountain Walk and inquired if the two easements and the little postage stamp is driven by it being separated from the remainder of this project. Mr. Landry replied that the postage stamp is created by the RC zoning and setbacks and in addition to that it's utility easements that prevent anything from being built on top. Mayor Fischer said that it was his understanding that as the parcel is connected currently to the remainder of the Fountain Walk project, there would be different setback requirements. Lindsey Bell stated that the Mayor was not incorrect. She continued to say that creating these parcel lines and splitting it off from the larger parcel is where you'd need 100' setback from two interior lot lines. Otherwise, those 100' setbacks are only from the exterior lot lines. The Mayor said that absent creating the eastern and southern lines, there would be more area to actually develop closer to those lot lines that aren't there yet, and Ms. Bell responded yes, if it remained under the same ownership. The Mayor said that Council heard a lot about the easements. His understanding is, when this first came before the Council, a lot of the justification had to do with those easements but now he's understanding that those facts may not actually be applicable and asked for more clarification. Ms. Bell said that the easement on the west side of the property has utilities in it. It's been discovered that the one that runs sort of through the middle of the property may not actually have utilities in it and may be able to be terminated. Going through the process with Consumer's, they indicated that they would be willing to consider it. Humna Anjum reached out to Consumers Energy about the two easements and what they indicated is that one easement is where the actual main is located. The other easement is where it was at one point but then it was relocated to the other easement. Consumers said that if the applicant goes to them and applies for a vacation, they would be open to it and as far as they know, there's nothing in this location and no main that needs to be relocated. It's just a vacant easement. The Mayor then said that to his understanding there was a landscaping issue with the easements. Lindsey Bell commented that in the applicant's response letter they had a statement from the easement that says you can plant within so many feet of the easement. The Mayor then asked if the landscaping deviation that's requested is just on the west side and Ms. Bell's response was yes. Mayor Fischer echoed comments from Mayor Pro Tem Casey and says he is starting to grow more concerned that this appears to be spot zoning. He understands that this would be one use under the PRO and if it's no longer a car wash it reverts back to the RC. The Mayor thinks that it is a setup for failure if that business does not exist and then the City will have a car wash that no one wants to take over. He doesn't think it's been established that a car wash is necessary in that area as there are others within a couple of miles. He also doesn't think the proliferation of car washes in that area is being requested by residents or is a benefit to the overall City as a whole. He's continuing to grow concerned that the limitations on this parcel have to do with the historically how the site has been constructed and the use that's being proposed as opposed to the ordinance. He doesn't believe the ordinance is driving the limitations here. He still fails to see a large benefit that outweighs the detriment.

Roll call vote on CM 24-10-134

Yeas: Staudt, Thomas, Gurmurthy
Nays: Fischer, Casey, Heintz, Smith

City Attorney Schultz said that Council should decide if they want to deny or postpone this decision. Mayor Fischer said that since there were a lot of different comments made, he recommends that the Council postpone the motion at this time and then it can be addressed at a later date.

CM 24-10-135 Moved by Casey, seconded by Heintz: MOTION CARRIED: 6-1

Postponement of consideration of tentative approval of the request by Jax Kar Wash, to rezone property at the southeast corner of Twelve Mile Road and Cabaret Drive to General Business with a Planned Rezoning Overlay.

Roll call vote on CM 24-10-135

**Yeas: Casey, Gurumurthy, Heintz, Smith,
Thomas, Fischer
Nays: Staudt**

COMMITTEE REPORTS:

1. Long-Range Strategic Planning Committee – Mayor Pro Tem Casey said the Committee met on October 2nd and had a conversation about how they want to move forward with building out a plan and start to develop the long-range strategic plan they've been talking about.

MAYOR AND COUNCIL ISSUES: None

COMMUNICATIONS: None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 7:37 P.M.

Cortney Hanson, City Clerk

Justin Fischer, Mayor

Transcribed by Becky Dockery,
Account Clerk

Date approved: October 28, 2024