

1. MANAGER/STAFF - None
2. ATTORNEY - None

AUDIENCE COMMENT – Jeff Beno, representing the residents of Maybury and Tuscany subdivisions, commented that there was support and letters written to the Walkable Novi committee regarding the road shoulders being proposed on 8 Mile. He felt they weren't sufficient except for experienced bicycle riders. The residents feel isolated in that area as they have no pathways to access parks. They would like a connection to their surroundings.

CONSENT AGENDA REMOVALS AND APPROVALS (See items A-E)

CM-13-03-026 Moved by Casey, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 1. February 25, 2013 – Regular meeting
- B. Approval of a quit claim deed for parcel 22-09-201-007 to dedicate a 60-foot right-of-way along Treatment Plant Access Road (from West Park Drive to the Walled-Lake Novi Wastewater Treatment Plant) and adoption of Act 51 New Street Resolution accepting Treatment Plant Access Road as a public street adding 0.35 miles of roadway to the City's street system.
- C. Approval of quit claim deeds for parcels 22-35-127-014 and 22-36-176-017, respectively, to dedicate a 60-foot right-of-way along Ashbury Drive (two discrete segments between the south boundary of Rotary Park to Roethel Drive) and adoption of Act 51 New Street Resolution accepting Ashbury Drive as a public street adding 0.23 miles of roadway to the City's street system.
- D. Approval of a quit claim deed for parcel 22-24-100-008 to dedicate a 60-foot right-of-way along Jo Drive and adoption of Act 51 New Street Resolution accepting Jo Drive as a public street adding 0.11 miles of roadway to the City's street system.
- E. Approval of Claims and Accounts – Warrant No. 887

Roll call vote on CM-13-03-026

**Yeas: Casey, Fischer, Margolis, Mutch,
Wrobel, Gatt, Staudt**
Nays: None

MATTERS FOR COUNCIL ACTION:

1. Approval to adopt resolution establishing an *ad hoc* Charter Review Committee with the task of reviewing the City's Charter (adopted initially in 1977) and reporting to the City Council any suggested amendments required or advised for updating the Charter and to assist in the drafting of ballot questions for submission to the voters in order to make such amendments.

City Manager Pearson said the item is stemming from early budget inputs. The Charter could use some modernization to add efficiency. The idea is to start with a Committee to be formed that represents City staff, Council members, and citizens to look at the topics that are identified for initial consideration. Council would decide if something would go on the ballot for the November election.

Mayor Gatt said he had sent a memo to Council members and City staff and his intent is to appoint two citizens, himself, Members Wrobel and Casey, City Manager Pearson, and City Clerk Cornelius, if it is approved.

Member Margolis clarified the review of the organizational structure was to modernize the names of the departments in the Charter. City Manager Pearson said there needs to be options for flexibility and to reflect the structure we have now. She also commented that she doesn't want the Council compensation to change and would not support a change in the Charter. She liked the nature of a volunteer board. She felt it brings a quality to the Council because it is not a paid position.

Member Wrobel said the last Charter was generated in 1977. He felt it was a good opportunity to change the Charter so that we can operate effectively and soundly.

CM-13-03-027 Moved by Wrobel, seconded by Staudt; CARRIED UNANIMOUSLY:

To approve a resolution establishing an *ad hoc* Charter Review Committee with the task of reviewing the City's Charter (adopted initially in 1977) and reporting to the City Council any suggested amendments required or advised for updating the Charter and to assist in the drafting of ballot questions for submission to the voters in order to make such amendments.

Member Mutch clarified that five votes are required to place the amendments on the ballot. He thought the storm water millage should include acquisition of natural storm water retention areas. He asked the committee to identify as many items as possible but keep it to a minimum.

Mayor Pro Tem Staudt liked the idea of removing warrants. He was open to all the items listed for review. He believed there is no intent to change any of the millages and are mainly language changes. City Manager Pearson answered that it is at the

discretion of Council and the Committee. Millage changes are a policy issue and they would be changed similar to what was done during the budget process last year.

Roll call vote on CM-13-03-027

**Yeas: Fischer, Margolis, Mutch, Wrobel, Gatt,
Staudt, Casey**

Nays: None

2. Preliminary approval of the request of Toll Brothers, Inc. for The Meadows of Island Lake of Novi JSP12-65, for inclusion of the subject property into the existing Island Lake of Novi Residential Unit Development (RUD), and modifications to the RUD concept plan. The subject property is 40.68 acres of land located near the northeast corner of Ten Mile Road and Wixom Road. The applicant is proposing a 74 unit single family development that would be Phase 7 of the existing Island Lake of Novi development.

Mike Noles, Vice President of Land Development for Toll Brothers, has worked on the project since 1999. He is very familiar with all aspects of the project. He noted Toll Brothers has built a top notch community and has exceeded the original requirements of the RUD. Toll financed the moving and rehabilitation of an existing historic barn that was on the property. They added additional amenities that were not required including tennis courts, volley ball and swimming pool. He said they have fallen short on the total number of units built. He was pleased to ask if they could be allowed to add an additional forty acres of property so that they can build out the original approved number of units of eight hundred eighty-four on nine hundred two acres which was a density of point ninety-seven. When completed, if the Dinser property is approved, it will be eight hundred fifty eight total units on nine hundred fifty-seven acres.

City Manager Pearson reiterated that the RUD has had a number of reviews over the years. The Planning Commission has given a positive recommendation on this matter. The property is zoned residential and it is an addition to the original RUD property. It is important to get this property into use to continue the complex that has added to the tax base, added families, and it is a proud part of the Novi mix of housing options.

Member Mutch thanked Mr. Noles and Toll Brothers for the wonderful development. He was on the Planning Commission when the approval process took place for this project. He remembered the original development. He wanted to talk about some of the elements of the plan. He recognized that a RUD is a compromise between the City and the developer of the property. He noted the trade-off is reducing lot sizes in exchange for open space and park land. This property is zoned for residential acreage and if it was a conventional subdivision it would allow thirty-two, one acre lots. Member Mutch asked what the range of reduction for this proposal was. Mr. Noles said there are many benefits that this property offers in exchange for an inclusion into the RUD. He said this is different than Maybury Park Estates and Tuscany because it is not a stand-alone RUD but it is an amendment to an existing RUD and has additional considerations. On two other properties, they have done similar approvals through City Council. The original RUD did have over 50% open space total. Once this piece is

included, it will still have 50% open space but is comparable on an acreage basis when considering the total upland open space that was included in the original RUD. It was around sixteen percent. This amendment to the RUD is around twelve percent. The upland open space included in this forty acre parcel is comparable to the original. They have taken steps to preserve the natural features that do exist on the property. They are preserving landmark walnut trees and incorporating the vistas of the lake. They met with homeowners to address any concerns. Many wanted clarification on the lot size, parks for children to play, combining water detentions, accessing amenities, and the addition of a sidewalk down to Ten Mile. This property doesn't have the natural features that the original nine hundred acres has but there are benefits to the existing residents and the new residents that live in this community. They will be able to enjoy the well planned amenities at the existing Island Lake of Novi development. Member Mutch asked about the range of lot square footage. Mr. Noles stated twelve thousand is the minimum and the twenty-eight thousand seven hundred is the largest. Member Mutch said he is looking at the trade-off between the reductions in lot size and the amount of open space created. He didn't see that element in the plan. With the reduction in lot sizes, he was looking for additional open space within these forty acres and asked what happened to the open space. Mr. Noles answered that there is about five acres total open space on this forty acre parcel which is about twelve percent. They had increased it over the last six months after working with staff and made the open spaces contiguous to create the additional buffer down Dinser Road. The closest the homes sit to the Dinser Road right of way is sixty-nine feet. The existing homes in Pebble Creek subdivision are only forty-three feet off of the Dinser Road right of way. They placed the open space where it would have the greatest impact to the surrounding community. Member Mutch said, in comparison to other developments in the City, it is a minimum amount of open space. He wanted reasonableness to the compromise between the City and the applicant. Compared to other development options, he didn't see the same proportionality on this phase. He thought there should be additional open space in the sub. He was concerned about the quality of the open space on the property. So much property is being developed that the density on the property is close to two units per acre. He feels it is a fairly dense development for the location. He noted the Ten Mile and Beck Road development had less density. In comparing the proposal to the west side of the road, he thought Island Lake property has many amenities but this development will not have direct access to some of those amenities. He couldn't see why they can't have a larger amount of open space with a trail component and a larger park. He thought a third of an acre is too small. Also, he had an issue with the deviation from the zoning setback requirements that was requested. He didn't see how moving the houses three feet closer to the driveways benefits a future homeowner and why not make the lots three feet wider. Why ask for a variance that small when the solution is to build a smaller house or build on a slightly bigger lot and then the variance is not required which would benefit the future homeowner because their house is set back further from the neighboring driveway. Part of the review process is to approve something that would generate a benefit. He could see where it benefited the applicant. He thought the plan has some good elements but cannot support the three foot deviation. He would like to see additional open space of about twenty-five percent of the total site or ten to twelve acres and natural trail through the open space provided as an amenity. It is a big enough piece

of property to do everything that has been discussed and still allows them to build a quality development. He's asking for a compromise of reduced lot sizes from one acre to one-third acre which would provide additional open space beyond what is proposed. He would not be able to support the plan as submitted. Looking through the applicant's material, he determined that when the Island Lake RUD was initially proposed it included the City's Wildlife Woods Park and the school property at Eleven Mile Road. Even though those properties do not function as part of the RUD, they were used to calculate the density for the RUD. The density calculated home units. They have been continued to be utilized by Toll Brothers as a part of their development process. He would like the City Attorney to address the issue of, at what point did the City agree or divest itself of its right to control the units that are the associated with the City portion of the property, allowing a developer to utilize that density on the property they owned or acquired after the fact. He felt there should be a review of the issue.

Member Wrobel thanked Mr. Noles for the continued development of Island Lake. It is a nice development. He had no issue with the lot sizes. The Planning Commission minutes said the different lot sizes afford residents the ability to move within the development as their housing requirements change through life. He felt it was a nice concept. His concern was that there was no entrance to this phase from Ten Mile Road. Based on the traffic review, putting the additional traffic on to Wixom Road into the Wixom and Ten Mile intersection would be too much.

Deputy Community Development Director McBeth said the idea was that the road connection would align with the existing Drakes Bay Drive on the west side of Wixom Road and connect with Acorn Trail that exists to the north. The City staff and the consultants were comfortable with the concept and that there was sufficient access. The traffic engineer did not express serious concerns about traffic overloading the Wixom and Ten Mile intersection.

Member Margolis interpreted that they were clustering on the new parcel to preserve open space across the street. Ms. McBeth said it was fair to say. There was open space provided previously. This development provides a little bit of open space with the pocket park, around the detention basin area and around the perimeter with quality trees along Dinser Drive that the applicant is going to preserve. This site does not have a lot of natural features as the original plan. Member Margolis asked if there were plans of any additional units on the original site. Ms. McBeth said the original plan had a number of phases; each of the phases proposed had a certain number of units and was approved with that number of units. At this point, the applicant is requesting to add additional land but still keep the same number of overall units that was allowed with the initial approval. Member Margolis asked if the applicant came forward without this parcel to add additional units to the original parcel, they would be allowed to do that. Ms. McBeth said there would be reviews as to the size and location of the lots with preservation of the open space. Member Margolis confirmed that they could put more lots on the original parcel. Ms. McBeth said it could be a possibility but have not seen plans proposing a change. Member Margolis read that it was clear about City Council may modify lot size if it will result in a preservation of open space. She asked if they have an amendment to an RUD that we have done in this way. Ms. McBeth said that

there were a couple of modifications to this development in the overall plan. Member Margolis felt more comfortable about the ability to modify the lot size. Overall, she could support the development.

Member Fischer asked Ms. McBeth to clarify what was the total number of units allowed under the RUD and if she would explain it because he wanted to know if there was a point when the applicant was looking to increase the total number of units, and was it revised. Ms. McBeth said there were a lot of numbers provided in the information. There are currently seven hundred seventy-three units that are constructed or approved, the applicant initially proposed seventy-five units in this phase, but one unit was used as a pocket park. It provided a total of eight hundred forty-seven units if it is approved for the entire development. Initial approval was for eight hundred eighty-four units in the entire development. There was an initial request by the applicant to include the underlying density of the parcel and add thirty-two to achieve a higher number of maximum buildable units. They asked the applicant to stay within the original number of units and, if later additional land was acquired, then they would talk about the justification at that point. Member Fischer summarized the information. He asked the applicant to give his background on the discussion and why originally there was contemplation of adding the thirty-two to the number of units. Mr. Noles said originally they looked at adding the forty acres in the same way they added the property on Ten Mile. We had already set a precedent in 2005-06 with amending the RUD in the same way. They came before the Planning Commission and Council with a proposal to add twenty-two units on ten acres and the total allowable was increased by eight which was the underlying zoning by right of the ten acres. When they acquired this parcel they thought they would use the precedent as a template. They asked for the increase in total number of units to nine hundred sixteen. The staff felt in this stage of the development they agreed to forgo the request because it wasn't necessary to support the existing proposal. Member Fischer had questions about the three foot setback. First, they showed how twenty feet would be maintained between houses and, secondly, there was also language about confusing and conflicting pieces of the RUD with the current ordinance. Mr. Noles said the issue is not one that is of critical importance to them. Obviously, they have been able to maintain their operation without the variance for twelve years. If it was an issue with Council, they would be willing to waive it. The issue is that the total combined side yard setbacks approved with this lot size is thirty feet with a minimum of ten feet. The problem, he explained, that there is also an ordinance in Novi that states if it is a side load, there must be twenty-three feet on one of the sides. Instead of doing a twenty and ten, there is a twenty-three and ten for a total combined side yard setback of thirty-three feet. He was saying, if it was thirty-three feet but if the intent was for it to be thirty feet, then allow them to reduce the small side setback from ten to seven, so there is a combined thirty feet. The only place where it would become an issue was if you were to have two sevens next to each other, it would only be fourteen feet of separation between homes. That was not their intent. Toll made an exception to that rule, within the request, that said we will always maintain twenty foot separation between buildings. It is not subject to this variance. They lose three feet because the side yard ordinance conflicts with the prescription in the RUD and they were just trying to gain that back to give more housing options. He didn't want to make it controversial. There were a lot of

things they worked on with staff in the last six months. Toll conceded them all. They want to continue on with the development. They like working in Novi and hope for approval. Member Fischer thanked him for the additional explanation. He said he had hesitation with the side yard setback. Overall, he didn't have much of an issue. They are not approving any more houses to be built because it is still under the original number but they are adding forty acres to the development. If there are some areas of the development that have smaller lot sizes, then it doesn't concern him as much because the overall density and those kinds of things, there isn't much change. He appreciated all the benefits which outweigh the deviation in lot size. The only issue he had was with the side yard setback. In his opinion, any time side setbacks are lessened; it can cause some visual deterioration in his opinion.

Member Mutch asked Deputy Community Director McBeth if they have property left on the west side to be developed. Ms. McBeth had not looked at it in those terms. Anything that would be available they would have to confirm outside a preservation easement or open space area. Her assumption is that they have taken all the pieces that could be developed. Mr. Noles said no. Technically, it is impossible. There are some pockets that are not regulated wetlands or woodlands. What they have tried to do as they progressed was to create site plans that had pocket parks and common open spaces. As they developed this project, they have conveyed road right of ways to the City, open spaces to the homeowner's associations, recorded easements on the properties as they built the phases. The intent from the beginning was to work through the property and not to wait until the end to convey the common areas to insure their perpetual preservation. To undo the things, they have done would be an undertaking. They have the technical right to do it but as a practical matter it is not realistic. Member Mutch asked where they could technically have the ability to build additional units. He referred to an area that was an open space that they could potentially make a modification. It would be limited. That is why we are asking to add more property at this time. Member Mutch said they are concerned that they are saving open space on the main area by allowing them to move the density off into the new parcel. In the motion it says, the modification of the proposed lots sizes would result in the preservation of open spaces for these purposes. Only because we are allowing this density to move off site, we are protecting additional open space elsewhere on the property. He didn't see it happening. His other concern is the problem of overall density. This particular project was allowed to get density credits for the lake. All the units that were given based on the lake are being pushed out. When property is added, the extra density is pushed off onto these additional properties and is not consistent with the residential acreage (RA) of the area when it is almost two units per acre. It is a significant increase from point eight. We will continue to see more density move off the main property as the eight hundred eighty-four units are utilized with no commensurate return of open space. He did not get any clarification from staff. The concern he had is whether we will get any additional open space or a minimal amount in the long term with each new phase as in the Dinser property.

Member Fischer confirmed that Toll could have built eight hundred eighty-four units on the original site. Ms. McBeth said there were more units than originally anticipated but based on the lot and home sizes that were selected the number was reduced. Member

Fischer said that was where the justification was, that the intent was eight hundred eighty-four units but less than that was developed. They are adding forty more acres and they are still under the number of units. If the side yard setback was not approved, what types of changes would be done to the plan or development. Mr. Noles said if it was stricken from the motion, there wouldn't be any change to the site plan but visually there would be a minimum of twenty feet between units. The difference would be that we could potentially have a home that was three feet bigger. It would not change the nature of the development and it would be allowing more options on individual lots. He agreed that it was something they could live with.

CM-13-03-028 Moved by Fischer, seconded by Wrobel; MOTION CARRIED: 6-1

To grant preliminary approval of the Amended Residential Unit Development Plan for the Meadows of Island Lake of Novi to be added to the Island Lake of Novi RUD (Amended RUD Plan), with the total number of units permitted in the Island Lake of Novi RUD including the added 40.68 acre parcel, not to exceed the currently permitted 884 units. This preliminary approval, including the lot size modifications and building setback deviations, is, subject to and conditioned on Council's final approval of the Amended RUD Plan and Amendment to the RUD Agreement required by the Zoning Ordinance at a future meeting. This motion is based on the following findings, lot size modifications, building setback deviations, and conditions excluding item h.:

Determinations (Zoning Ordinance Section 2402.8.A): (excluded h.)

- a. The site is zoned for and appropriate for the proposed single-family residential use;**
- b. Council is satisfied that with the proposed road connections, sidewalk and crosswalk improvements, added parkland, and contributions to the existing Island Lake of Novi amenities, the development will not have detrimental effects on adjacent properties and the community;**
- c. Council is satisfied with the applicant's commitment and desire to proceed with construction of 74 new homes as demonstrating a need for the proposed use;**
- d. Care has been taken to maintain the naturalness of the site and to blend the use within the site and its surroundings through the preservation of large Walnut trees along Dinser Drive and the preservation of approximately 13.7% of the site as open space that include a new park;**
- e. Council is satisfied that there will be clear, explicit, substantial and ascertainable benefits to the City as a result of the Amended RUD, including but not limited to**

improvement of traffic circulation, inclusion in the existing storm water treatment system, orderly and efficient layout and construction of water and sanitary sewer utilities, and pedestrian safety improvements.

f. Factors evaluated (Zoning Ordinance Section 2402.8.B):

1. Subject to the lot size and lot width modifications also being approved by this motion, all applicable provisions of the Zoning Ordinance, including those in Section 2402 and for special land uses, and other ordinances, codes, regulations and laws have been or will be met;
2. Council is satisfied with the adequacy of the areas that have been set aside in the existing and proposed addition to the Island Lake RUD development area for walkways, playgrounds, parks, recreation areas, parking areas and other open spaces and areas for use by residents of the development;
3. Based on and subject to the recommendations in the January 28, 2013 City traffic consultant's review letter, Council is satisfied that the traffic circulation, sidewalk and crosswalk features and improvements for within the site have been designed to assure the safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets;
4. Based on and subject to the recommendations in the January 28, 2013 City traffic consultant's review letter, Council is satisfied that the proposed use will not cause any detrimental impact in existing thoroughfares in terms of overall volumes, capacity, safety, travel times and thoroughfare level of service;
5. The plan provides adequate means of disposing of sanitary sewage by an extension to and connection of the sewer in Dinser Drive that will allow for future connections and service for properties currently without sewer service, disposing of stormwater drainage into the existing Island Lake storm water treatment system, and supplying the development with water by extensions that will allow for future connections and service for properties currently without water service;
6. The Amended RUD will provide for the preservation and creation of approximately 12% of the site as open space and result in minimal impacts to provided open space and the most significant natural features, including the mature Walnut trees along Dinser Drive;

7. The Amended RUD will be compatible with adjacent and neighboring land uses for the reasons already stated;
 8. The desirability of conventional residential development on this site in strict conformity with the otherwise applicable minimum lot sizes and widths being modified by this motion is outweighed by benefits occurring from the preservation and creation of the open space and establishment of the park facility that will result from the Amended RUD;
 9. Any detrimental impact from the Amended RUD resulting from an increase in total dwelling units over that which would occur with conventional residential development is outweighed by benefits occurring from the preservation and creation of open space and the establishment of the park facility that will result from the Amended RUD;
 10. Council is satisfied that the proposed reductions in lot sizes and setback areas are the minimum necessary to preserve and create open space, to provide for the park site, and to ensure compatibility with adjacent and neighboring land uses, primarily the existing Island Lake of Novi RUD development of which this site will become a part;
 11. The Amended RUD will not have a detrimental impact on the City's ability to deliver and provide public infrastructure and public services at a reasonable cost as evidenced by the proposed connections and benefits to the storm water, sanitary sewer and water systems already stated;
 12. Council is satisfied that the applicant has made or will make satisfactory provisions for the financing of the installation of all streets, necessary utilities and other proposed improvements;
 13. Council is satisfied that the applicant has made or will make satisfactory provisions for future ownership and maintenance of all common areas within the proposed development; and
 14. Proposed deviations from the area, bulk, yard, and other dimensional requirements of the Zoning Ordinance applicable to the property enhance the development are in the public interest, are consistent with the surrounding area, and are not injurious to the natural features and resources of the property and surrounding area.
- g. Modification of proposed lot sizes to a minimum of 12,000 square feet and modification of proposed lot widths to a

minimum of 90 feet is hereby approved, with this approval based on and limited to the lot configuration shown on the preliminary plan as last revised, as the requested modification will result in the preservation of open space for those purposes noted in Section 2402.3.B of the Zoning Ordinance and the Amended RUD will provide a genuine variety of lot sizes;

- i. This preliminary approval is subject to the Amended RUD Plan and all plans and activities related to it being in compliance with all applicable provisions of the Zoning Ordinance, including Articles 3, 24 and 25, and all applicable City Zoning Ordinance approvals, decisions, conditions and permits.**

Mayor Pro Tem Staudt commented that we should be pushing harder to have a much more accessible development. He wants to see twenty to twenty-five percent green spaces. Moving forward he will insist on it. It is a decent development and good for the City but he would like to see more green space. If it is developed further he expects more in the future.

Member Margolis clarified that the RUD agreement runs with the land as with the other agreements. In the future, it would restrict the number of properties going forward unless it was amended or changed. City Attorney Schultz confirmed that it is a preliminary approval and the actual amended agreement will come again for Council approval.

Member Casey supports this but prefers to see more green space and felt a lot more could have been done to the parcel to enable that. Tying it to the development on the west side of Wixom provides a lot of amenities to these residents. She appreciated they took into account of allowing a view from some of the houses into the lake across the street. She would be looking for more green space with any future development.

Roll call vote on CM-13-03-028

**Yeas: Margolis, Wrobel, Gatt, Staudt, Casey,
Fischer
Nays: Mutch**

3. Approval of the request of Sun Vally, Ltd. for GFS Marketplace JSP12-71, for the Preliminary Site Plan, Special Land Use and Stormwater Management Plan. The subject property is located south of Twelve Mile Road and west of Donelson Drive in the RC, Regional Center District. The subject property is 2.15 acres and the applicant is proposing an approximately 16,000 square foot GFS Marketplace retail store at the Twelve Mile Crossing at Fountain Walk Shopping Center.

Ryan Stysma, Gordon Foods Service, has worked closely with everyone in the process of the site for their market place store concept. They are looking forward to joining a store in the City of Novi.

City Manager Pearson noted the out lot at Fountain Walk has been at the ready for years. There was a positive recommendation from Planning Commission and City staff because of the zoning district it is before Council for final approval.

Member Mutch asked Mr. Necci, City of Novi consultant, about the setback requirements and whether they have been met. It is strictly driven by the splitting of the parcel from the main parcel and wasn't concerned about it. His main concern was the east elevation. The last correspondence indicated that he was comfortable with it. It is on the main entrance into the Center. The initial iterations of it were plain and it was requested to add some architectural elements and some changes to get approval. He asked if he could explain the request and changes that he was concerned about.

Mr. Necci felt that even though it was the rear of the building, it had a front exposure. The original proposal was a basic brick wall, so he made some comments that it needed to be treated more consistently as with other façades because it has major exposure on Donaldson Drive. The applicant responded by adding brick pilasters which are a four inch projection every fifteen or twenty feet along the façade and raised the center two or three bays up as a raised pediment. It was a good addition but they were looking for a little more than that. They suggested something with more relief than just four inches. It hasn't been done but it is still going in the right direction. Member Mutch asked him what they are looking for to get his approval in terms of a façade that is attractive. Mr. Necci suggested false windows and metal awning features or other ideas that would add relief and interest to the wall. Member Mutch asked Mr. Stysma to address the issue. Mr. Stysma said, on the east elevation, they have also added what is called a soldier course which is a change in the brick direction and they have added it on the north and west side to make it consistent. Also, they have raised a panel on the west elevation. They are not a big fan of glass because it gives the appearance of being closed. When the landscaping plan is considered, the east side will be a heavy fill in the area along Donaldson with the present landscaping already there. The walls are already raised above the roof line, so the windows would be looking into the freezer space. If they did the clear vision windows, he didn't think anyone would want to see that. They do not consider the spandrel windows very attractive. The other buildings on the opposite side of Donaldson Drive are 200 plus linear foot buildings that are flat face brick but theirs is only about 150 feet long. Member Mutch asked about Mr. Necci's suggestion of an awning element. Mr. Stysma said they could look into it. Mr. Necci said it would go a long way to improving the façade. He thought it would be a better solution than the windows. Member Mutch suggested adding language to the motion. Mr. Necci said there was flexibility left in a similar way when it went through the Planning Commission. Some of the conversations have evolved after the meeting. Member Mutch agreed they didn't want to add something that was too vague that doesn't get it accomplished.

Member Wrobel agreed that the south side and east side of the building is very bland. He would like to see something there. He noted the other side of Donaldson has loading docks. He would rather see more landscaping that would potentially hide the building than worrying about spending more money on that side elevation. The rear elevation is

different because it is overlooking the bulk of the Fountain Walk development. Most people would be looking at it from that way. He asked if they would be closing any of the other locations once this is built. Mr. Stysma said they are looking at different strategies. They haven't come to a final decision on what they want to do with the existing stores they have. He showed the landscape plan that is currently in the plan. If recommended, they would be fine with additional landscaping to screen the building.

Member Fischer said it is a very difficult corner to plan and felt there could be a lot done with the landscape. He urged him to investigate that possibility.

CM-13-03-029 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY:

Part 1

Approval of the Special Land Use permit, based on and subject to the following:

- a. **Based on this City Council finding under Section 2516.2.c for the Special Land Use permit that, relative to other feasible uses of the site:**
 - The proposed use will not cause any detrimental impact on existing thoroughfares as noted in the traffic review letter.
 - The proposed use is compatible with adjacent uses of land in terms of location, size, character, and impact on adjacent property or the surrounding neighborhood due to the fact that the proposed retail store will not generate a substantial amount of noise or adverse impacts.
 - The proposed use is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use.
 - The proposed use will promote the use of land in a socially and economically desirable manner.
 - The proposed use is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located as noted in the staff review letters; and
- b. **Subject to compliance with all conditions and requirements listed in the staff and consultant review letters.**
- c. **Based on and subject to the special land use and related site plan being in compliance with all applicable provisions of the Zoning Ordinance, including Articles 17, 24 and 25, and all applicable City Zoning Ordinance approvals, decisions, conditions and permits.**

Roll call vote on CM-13-03-029

Yeas: Mutch, Wrobel, Gatt, Staudt, Casey,
Fischer, Margolis

Nays: None

CM-13-03-030 Moved by Fischer, seconded by Staudt; CARRIED UNANIMOUSLY:

Part 2

Approval of the Preliminary Site Plan based on, with, and subject to the following:

- a. Subject to Applicant receiving variances from the Zoning Board of Appeals for the deficient building setbacks (100' required, 65' provided in eastern yard and 28' provided in southern yard);
- b. Subject to Applicant receiving variances from the Zoning Board of Appeals for the deficient parking setbacks (10' required, 4' provided in western yard and 3' provided in southern yard);
- c. With this City Council waiver of the required Traffic Study as the existing LOS along roadways will not be significantly impacted by the proposed development;
- d. Subject to Applicant providing an additional landscape island so that no more than 15 contiguous parking spaces are provided;
- e. With this City Council waiver to allow relocated foundation landscaping provided additional plantings are shown along the north and east sides of the building as indicated in the supplementary landscape plan provided;
- f. With this Section 9 facade waiver for the overage of C-brick and split-faced C.M.U. and underage of brick given that the fact that additional articulation has been added to the east, west and north facades as indicated in the supplementary building elevations provided; and applicant is to continue to work with the consultant and staff on the east side elevation; and
- g. Subject to the conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan.
- h. Based on and subject to the site plan and site being in compliance with all applicable provisions of the Zoning Ordinance, including Articles 17, 24 and 25, and all applicable City Zoning Ordinance approvals, decisions, conditions and permits.

Subject to investigation of work with façade consultant for drawings on landscaping regarding east elevation and all options that have been explored and approved by staff.

Member Margolis said she would not be looking for façade changes and thought the expense does not make sense to her. She would like to see it addressed through landscaping.

Mayor Gatt echoed Member Margolis' comments.

Roll call vote on CM-13-03-030 **Yeas: Wrobel, Gatt, Staudt, Casey, Fischer, Margolis, Mutch**
Nays: None

CM-13-03-031 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY:

Part 3

Approval of the Storm water Management Plan, subject to the conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan. This motion is made because, with those items addressed, the Plan will be in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance.

Roll call vote on CM-13-03-031 **Yeas: Gatt, Staudt, Casey, Fischer, Margolis, Mutch, Wrobel**
Nays: None

4. Approval of Resolution adopting a formal Debt Management Policy to set parameters for future issuance of debt to ensure responsible use of debt issuance.

John McCarter, City Intern, thanked Council for the opportunity to present the information of a formal Debt Management Policy. It is considered a guideline to give some consistency in considering future debt. They started with Standard and Poor's, (S & P) recommendations and looked at model communities. The City Charter has a basic ten percent of the State Equalized Value of all real property as a debt limit. The City is at one point three percent. They put together two additional debt limits in the Policy. The first one is the City's net bonded indebtedness incurred for all public purposes per capita should not exceed twenty-five hundred dollars and because our ability to repay our bonds fluctuates with the number of residents. We are at seven hundred and forty-two dollars and ten cents per capita. The second limit is to limit debt service payments to twenty percent of the combined operating and debt service for expenditures. It forces us to look at the structure of how we are repaying our debts and how it impacts the annual operating cycle. We are at thirteen point four percent. Those are the most applicable aspects of the policy. It covers Charter authorizations and the processes that we have.

Mayor Pro Tem Staudt said it was well done and asked if the policy was in anticipation of getting a higher bond rating or if it's to prevent us from sliding.

Nevrus Nazarko, Finance Director/Treasurer, answered that it was in anticipation of getting a better bond rating.

Member Fischer said it was well crafted and a thorough document. Having a Debt Management Policy is a key to accomplishing a goal of AAA bond rating. Under section G. states the use of derivatives, he would like to see the policy amended when approved to eliminate the words financing debt from both sections of title G; 2. and G; 2. (i). It would make it more generic to let the investment community know that the City will refrain from using derivatives.

CM-13-03-032 Moved by Fischer, seconded by Margolis; CARRIED UNANIMOUSLY:

To approve a Resolution adopting a formal Debt Management Policy to set parameters for future issuance of debt to ensure responsible use of debt issuance with changes to section G, 2. by eliminating "financing debt" and to section G, 2. (i) eliminating "finance its future debt issuances."

Member Mutch asked about language in the policy, section H, 3. He wanted to know what the intent of this section and what it is covering. Finance Director Nazarko explained it is to make sure we are in compliance with the MCL 141.2517 because we have to be more restrictive and cannot exceed that threshold. City Attorney Schultz provided the feedback, as well as, Oakland County Office of Management and Budget. It doesn't hurt to have it there as a restriction. Member Mutch asked how we differentiate this in terms of capital improvement purposes versus general public purposes. City Attorney Schultz said he was pretty sure this came from the County and that language is just a limitation. Each time a security is issued for a capital improvement project there is a calculation that is done to make sure it is within the limit of borrowing. Member Mutch asked if it was for an individual bond issue or for an overall cap. Mr. Schultz said it was an overall cap. The retiring of bonds is counted in determining whether the limit has been met for capital improvements. Member Mutch asked how the language of a ten percent limit and this language operate together. Mr. Nazarko answered the ten percent limitation is the overall for all purposes and is set by the State. We have three other restrictions in our policy that we will follow. He said the intention of the ten percent limitation is to follow the Charter language but this policy is more restrictive. Basically, it is for reference purposes. Member Mutch asked if the five percent was the practical limitation. Mr. Nazarko said the other three are even below the five percent and more restrictive than the ten percent limit.

Member Fischer asked if there was a type of security that could be issued by Novi that would not go against the five percent cap. Mr. Nazarko said there could be. Member Fischer clarified there could be securities issued that would go against the ten percent cap but not the five percent cap.

Member Margolis wanted to commend our intern and staff for having an intern work on a project that is meaningful.

City Manager Pearson said our objective, in the section on revenues, was to make clear that we are not interested in using them and appreciated the editorial comments.

Mayor Gatt echoed his colleagues comments of a great job.

Roll call vote on CM-13-03-032 **Yeas: Staudt, Casey, Fischer, Margolis, Mutch, Wrobel, Gatt**
Nays: None

5. Creation of Parks, Recreation and Cultural Services Grant Citizen Advisory Committee.

City Manager Pearson said they are looking for a specific group that can provide feedback and objectives toward our grants. We have been working on a lot of grant programs and it would be helpful to integrate it into feedback in the process earlier with a Committee to look at that specifically.

Mayor Gatt said he would like to appoint Mayor Pro Tem Staudt and Member Mutch to the Committee.

CM-13-03-033 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY:

To approve the creation of a Parks, Recreation and Cultural Services Grant Citizen Advisory Committee.

Roll call vote on CM-13-03-033 **Yeas: Casey, Fischer, Margolis, Mutch, Wrobel, Gatt, Staudt**
Nays: None

6. Approval of Resolution authorizing participation in the Road Commission for Oakland County's 2013 Tri-Party Program for Road Improvements dedicating Novi's 2013 allotment of \$161,697 to the construction of Eight Mile Road (Beck Road to Napier Road) Rehabilitation Project.

City Manager Pearson said this is for the City's designation for the allocation of the Tri-Party funds. It is a project under the Road Commission's jurisdiction with multiple parties but the City has a funding requirement. This item is for dedicating our Tri-Party. He thanked the Engineering staff. Elements of this project were not eligible for Tri-Party funds but they worked with the Road Commission to integrate elements. There is an integrated paved shoulder along the road that will be designated for pathways. It will be a lot better than what is there. The project is set for bidding in May.

CM-13-03-034 Moved by Wrobel, seconded by Casey; CARRIED UNANIMOUSLY:

To approve a Resolution authorizing participation in the Road Commission for Oakland County's 2013 Tri-Party Program for Road Improvements dedicating Novi's 2013 allotment of \$161,697 to the construction of Eight Mile Road (Beck Road to Napier Road) Rehabilitation Project.

Mayor Pro Tem Staudt felt it was not good enough. He was looking for further direction from staff with numbers because it is a critical part of our long term plan to have the necessary pathways. He said this issue is great but he would like to see what the cost of the additional pathway will be.

Member Mutch noted Mr. Beno, who spoke earlier, has gone above and beyond for the pathway project. He has been reaching out to residents and even Northville City and Township. Northville City and Northville Township have stepped up to work on the gaps that exist on their side of Beck Road. They will get their gaps completed as part of the Eight Mile Road repaving. He appreciates the work staff has done on this. Funding is going to be an issue. This pathway segment isn't going to be addressed through our prioritization process because it is in a part of the City that doesn't have the development there. We will have to address this separately but recognizing that getting a connection to Maybury State Park is important. He will support the resolution because it is moving the project forward but there is more work to be done in this area.

Roll call vote on CM-13-03-034

**Yeas: Fischer, Margolis, Mutch, Wrobel,
Gatt, Staudt, Casey**
Nays: None

7. Direction to City Administration to prepare amendments to Chapter 3, Alcoholic Liquor, of the City of Novi Code of ordinances and to Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, Article 25, "General Provisions," to revise regulations relating to the transfer of liquor licenses creating a requirement for applicants for all liquor licenses to secure approval by the City of a "plan of operation" and/or to create standards for issuance of special land use approvals for new/altered licensed establishments.

City Manager Pearson said this item results from actions by the State Liquor Control Commission (LLC) with a new interpretation they did by overturning local pre-approval before the LLC issues their licenses. We looked at options for changes for license requirements because we would like to protect our prerogatives and rights. Staff originally brought an idea that was used in Birmingham, Michigan with requiring a Special Land Use permit. After more research, we have another option for consideration of a license requirement that we believe upholds what has worked for getting information from liquor license holders to the City. We can then conduct reviews to do our due diligence and make recommendations. There is a plan of

operation without it being burdensome. We don't have a specific action other than to get some Council feedback.

Member Margolis likes the Special Land Use and Version Two is the less onerous operation plan. She was looking for something that models our transfer process and thought the Community Development Director making a recommendation to Council was the least onerous.

Mayor Gatt thinks the City should have the function of licensing and would support a motion.

Mayor Pro Tem Staudt thought less onerous is still onerous. He didn't see why we'd get this process involved in any zoning process and thought Lansing is well aware of our issues. It is being considered through the Attorney General's Office whether the interpretation is correct. He believed we should wait the process out and not make additional ordinances for something that is undefined. We have not had any circumstances within the last five years that would make us think that the State is not doing a good review. We could make a recommendation to the State, even though it is probably non-binding.

Member Mutch wanted clarification on how these pieces were going to work. He thought this would be an either-or kind of process. We could follow this plan of operation approach for existing and future liquor license applicants and transfers or we would go the zoning approach and accomplish the same thing. It would grandfather existing licenses but any change in applications or those licenses transferred in would be done through this process.

City Attorney Schultz explained Council has the ability to do the full range of the regulatory ordinance amendment with the plan of operation which would require an applicant to get a transfer approval from Council. The Special Land Use could be added or do neither of the above. It is not an either-or and is a policy question for Council. Member Mutch asked why have these two working in conjunction versus having one or the other. Mr. Schultz said the reason for the Special Land Use consideration is an additional review process in the event the regulatory process through Chapter 3, the normal licensing processing, is refused by the licensee. We can still take that position with an applicant. Presently, applicants will go through the local regulatory process. The Special Land Use is in the event they refuse to go through the local regulatory process. The Land Use aspect is in addition to the regulatory question where someone could argue that the City is preempted by the State Liquor Code. The argument would not work on the Zoning Ordinance with the Special Land Use process. It is a different process with less chance of someone saying the City does not have the ability to review their license. Birmingham already has the full transfer process and made everything go through a Special Land Use. Many communities already have both in place. Novi only has the licensing process and this would be a failsafe. Member Mutch asked if there was overlap in what the two cover and how they could be challenged. Mr. Schultz said the licensing process looks at the communities need, the site, and the applicant. The Land Use process really looks at the land use and fits

the proposed use in more of a planning review than the regulatory process. The regulatory process did have it as a discussion. There is a different body looking at a different set of standards that would be outlined in the Special Land Use section that focuses less on the applicant and on how the use relates to the area. Member Mutch confirmed that the approval process would require Council approval. Member Mutch said he was not in favor of a Special Land Use process because he felt it's appropriate for City to have oversight of this process, but he doesn't want an overly burdensome process. Mr. Schultz said that it is not necessary to have the Special Land Use in place but he felt it was the alternate process. The regulatory ordinance with a clarified transfer provision and the extra opportunity to review the plan of operation is a significant change and improvement. If Council didn't do the Special Land Use, he felt they wouldn't benefit the process in the way they want it to.

Member Fischer asked if it was possible to do a Special Land Use option without the licensing requirement. Mr. Schultz said it was possible. It would be a significant concession to the State process that he didn't think is what the statute actually states. That would be a concession and would be part of the Council's policy consideration. As the ordinance stands, we require the applicant to go through the City's regulatory process. To remove that would be a significant change. Member Fischer asked if they could ignore the plan of operation portion and add a Special Land Use. Mr. Schultz said that was an option. Member Fischer determined the licensing ordinance sounds like it could easily end up as a court discussion with an applicant saying that the license and the approval by the State pre-empts anything the City is trying to do. Mr. Schultz said it is more likely that someone would make the pre-emption argument on the regulatory ordinance than on the zoning ordinance. Member Fischer said even presently and with any changes that we make. Mr. Schultz said that we win both arguments but the challenge to the licensing is more likely. Member Fischer said in general he was fine with the licensing requirement as it is now. He didn't see the benefit of any tweaks, plan of operations, and doing what some other cities have done given that we don't know what might come of this discussion in Lansing. He would be willing to consider the Special Land Use version two as a secondary option. It is quite an addition to the process. He considered it a knee jerk reaction to what has taken place in Lansing. He thought they were acting too swiftly and with too much might. Mr. Schultz clarified to Council that the plan of operation is one concept and if they weren't going to do that, they still suggested a few minor changes to the existing transfer section and would still benefit from. It just makes it clearer that we will make the transfer come through the City. Member Fischer said his omission from discussion was his approval of that section.

Member Margolis wanted to clarify because they say they are moving too swiftly but if someone gets a liquor license transfer and comes to the City, it will be more difficult to go back and say we want to put them in place now. The character of the community is our responsibility and we have the ability to review the liquor license transfers that come in. She is not willing to give that up just because someone decided that we shouldn't. She thought it is a part of their job as Council and should take action sooner rather than later.

Mayor Gatt agrees with Member Margolis. Talking with colleagues at the County, the regulation has been reduced to the point where an undesirable establishment could come into Novi.

Member Casey agrees we don't need the plan of operation but take the other changes that have been suggested and move forward with a Special Land Use ordinance. Make it less onerous by having the Director of Community Development the one to make the recommendation versus having it come through Planning Commission or a larger body. She thought that the City should do its due diligence to make sure we are putting, in effect, the ability and conditions we have in front of us to continue to maintain control of liquor licenses coming into the City.

City Manager Pearson said he thought we have not had big problems because of the diligence of the reviews in the past. There is a real concern that it will not be there in the future. He thought these steps are necessary. The Liquor Control Commission issued this last spring and went into effect in July, 2012. Council has been presented with a couple different choices. The Special Land Use requirement would require a Public Hearing and deliberations by the Planning Commission with recommendations back to Council. He suggested Council could make referral to Planning Commission. He thought there was an interest in the Special Land Use with one of the options to the Planning Commission to start the process. Also, there was interest in updating the existing liquor license without adding the extra step for the plan of operation. It could come back to Council for a First Reading or refer that to the Ordinance Review Committee if they chose. He wanted it to start through the process to move forward instead of waiting.

CM-13-03-035 Moved by Staudt, seconded by Mutch; MOTION CARRIED: 6-1

To approve bringing back the Liquor Licensing Ordinance amendment to City Council for a First Reading.

Mayor Gatt won't support because it's not strong enough and thought we needed more because Lansing would override our decision.

Member Fischer didn't want anyone to think Council was taking this lightly. His concern was in his opinion, from what they have been told, if an adult entertainment establishment were to go to Lansing and get approval, that operation could take to court our ability to do anything whether we have a plan of operation and ordinance that needs our approval or not. That is why he wants to focus more on the Special Land Use. In his opinion, that is where we would have the authority in that type of establishment. He asked the City Attorney in regards to this. City Attorney Schultz said a Special Land Use would give the City the ability to deny an applicant. We already have regulations in the zoning ordinance on adult entertainment. It wouldn't be able to go just anywhere. It is a complicated question from a Land Use perspective, but making it a Special Land Use to have a license with it would be beneficial if anyone's intention was to not allow it. Member Fischer said that is why he could support the

motion without the plan of operation. He didn't have the faith in the license ordinance changes with a plan of operation. It wouldn't do anything and would be a complete exercise in futility to do it.

Mayor Pro Tem Staudt saw this as one step in what he thought would be additional steps. He wanted to show support for that particular part of it. He thought there may be another motion on other parts of the motion. He has greater faith in the Liquor Control Commission and the State of Michigan to protect our interests. He knew we were elected as was State Representative Crawford to protect this Community. He thought it would be more palatable if this were revenue neutral for the applicant. He would be concerned that a business and applicants would have additional costs and we haven't defined them. Mr. Schultz didn't see additional costs for the City. It would be an administrative process and might be reviewed. The applicants all have attorneys, especially, if it is a transfer. They would use an attorney to negotiate the transfer. There is a significant amount of consideration to acquire the license. There usually is an attorney involved representing the applicant at the City during the licensing process. There would most likely be attorney involvement in the Land Use process under a Zoning ordinance. Mayor Pro Tem Staudt said the concept is that this is a streamlining of a process that has been extremely difficult. He thought our reaction is that Council's rights have been taken away. In other communities, this is has been a situation where the rights of the applicant have been taken away. He would encourage his colleagues to consider the costs for the applicant and weigh it against the potential benefit to the community.

Member Margolis clarified the motion is to change the licensing ordinance and not to refer it to Ordinance Review but to instruct staff to change the Licensing ordinance and bring it back to Council.

Mayor Gatt said the cost was not an issue for him because Council's job is to protect the safety of the citizens. The trust we have in Lansing will not come from the Legislature but will come from the Liquor Control Commission. He said they do not live in Novi and have the same interest in Novi as this Council does. One more process for the applicant will not prevent them from transferring a license to Novi.

Roll call vote on CM-13-03-035

**Yeas: Margolis, Mutch, Wrobel, Staudt,
Casey, Fischer**
Nays: Gatt

CM-13-03-036 Moved by Margolis, seconded by Gatt; MOTION CARRIED: 6-1

To refer to the Planning Commission for amendments to the Special Land Use Ordinance consistent with "Version Two" with recommendation that there is an Administrative review process with recommendation to Council.

Member Margolis cannot trust the Legislature and the State of Michigan will protect our interests. The City went through the fireworks changes and she didn't think that protected our interests. Our zero revenue sharing doesn't protect our interests. She felt it was Council's job and strongly agreed with comments made earlier.

Member Casey commented we wouldn't have had this issue if the Liquor Control Commission didn't change the procedures that they have been operating under. She thought the way we had been operating had been working in the past and this is a position that we are being forced to look at because we are concerned that we will not have the ability to control what happens in our City.

Member Mutch said based on the conversation, he supports sending it to Planning Commission and echoed Member Casey's comments.

Member Margolis said it was pointed out to her there is some language that had to be changed because of the Brew Pubs being in the Town Center district but it is in the version two she referred to.

Roll call vote on CM-13-03-036 **Yeas: Mutch, Wrobel, Gatt, Casey, Fischer, Margolis**
Nays: Staudt

8. Approval to award a one-year contract extension (the final of three extensions) to Brien's Services, Inc. to perform 2013 Lawn and Landscape Maintenance Services for an estimated annual amount of \$164,000. **REMOVED**

9. Approval of resolution to authorize Budget Amendment #2013-4.

CM-13-03-037 Moved by Margolis, seconded by Fischer; CARRIED UNANIMOUSLY:

To approve the resolution to authorize Budget Amendment #2013-4.

Roll call vote on CM-13-03-037 **Yeas: Wrobel, Gatt, Staudt, Casey, Fischer, Margolis, Mutch**
Nays: Staudt

AUDIENCE COMMENT – None

COMMITTEE REPORTS – None

MAYOR AND COUNCIL ISSUES – None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION – None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 9:46 P.M.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: March 25, 2013