



PLANNING COMMISSION MINUTES

CITY OF NOVI

Regular Meeting

May 11, 2022 7:00 PM

Council Chambers | Novi Civic Center
45175 W. Ten Mile (248) 347-0475

CALL TO ORDER

The meeting was called to order at 7:00 PM.

ROLL CALL

Present: Member Avdoulos, Member Becker, Member Dismondy, Member Lynch, Chair Pehrson, Member Roney, Member Verma

Staff: Barbara McBeth, City Planner; Beth Saarela, City Attorney; Christian Carroll, Planner; Rick Meader, Landscape Architect; Humna Anjum, Plan Review Engineer; James Hill, Planner; Ben Peacock, Planning Assistant; Emily Hansen, Environmental Consultant

PLEDGE OF ALLEGIANCE

Member Avdoulos led the meeting attendees in the recitation of the Pledge of Allegiance.

APPROVAL OF AGENDA

Motion made by Member Avdoulos and seconded by Member Verma.

VOICE VOTE TO APPROVE THE MAY 11, 2022 PLANNING COMMISSION AGENDA MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER VERMA.

Motion to approve the May 11, 2022 Planning Commission Agenda. Motion carried 7-0.

AUDIENCE PARTICIPATION

Chair Pehrson invited members of the audience who wished to address the Planning Commission during the first audience participation to come forward. Seeing that nobody wished to participate, Chair Pehrson closed the first public participation.

CORRESPONDENCE

There was not any correspondence.

COMMITTEE REPORTS

There were not any Committee reports.

CITY PLANNER REPORT

City Planner McBeth said I wanted to introduce our new employee working in the department, James Hill. He started with us on Monday, and he is a temporary planner helping fill some gaps that we have right now. He just graduated a few weeks ago from the University of Michigan with his bachelor's degree in Philosophy, Politics, and Economics with a concentration in Community Development. We hope to have him working on several items for the Planning Division.

CONSENT AGENDA - REMOVALS AND APPROVALS

1. GRIFFIN FUNERAL HOME JSP17-13

Approval of the request of Novi Funeral Home, LLC for the third one-year extension of the Final Site Plan approval. The subject property is located south of Eleven Mile Road and west of Beck Road, in the RA, Residential Acreage Zoning District. The applicant is proposing to construct a 13,000 square foot building and associated site improvements for use as a funeral home. A special land use permit was granted in June of 2017.

Motion made by Member Lynch and seconded by Member Roney.

ROLL CALL VOTE TO APPROVE THE THIRD ONE-YEAR FINAL SITE PLAN EXTENSION FOR JSP17-13 GRIFFIN FUNERAL HOME MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER RONEY.

Motion to approve the third one-year Final Site Plan extension for JSP17-13 Griffin Funeral Home. Motion carried 7-0.

PUBLIC HEARINGS

1. JSP21-34 AUDI OF NOVI

Public Hearing at the request of Lithia Motors, Inc. for approval of the Preliminary Site Plan, Special Land Use Permit, and Stormwater Management Plan. The subject property is approximately 3.91 acres and is located at the northwest corner of Ten Mile Road and Haggerty Road in the B-3, General Business Zoning District. The applicant is proposing to demolish a former Jaguar Car Dealership and redevelop the site in order to build an approximately 11,935 square foot two-story car dealership building to be used by Audi of Novi along with associated parking, vehicle inventory, and site improvements.

Planner Carroll said this is a 3.91-acre site located at 24295 Haggerty Road, on the corner of Haggerty and Ten Mile. Farmington Hills is just across the street of the site, and the site is located in section 24 of the city. Around this site, there are several car dealerships, a couple banks, a couple shopping plazas, and a restaurant. It is zoned B-3 General Business, and the surrounding area is zoned OS-1 Office Service, B-1 Local Business, B-3 General Business. The surrounding area to the east in Farmington Hills is zoned B-3 and LI-1, which is Farmington Hills' equivalent of Light Industrial. The Future Land Use map indicates Community Commercial for the subject property and several of the surrounding properties, community office and single family to the west and south, and non-center type business and industrial to the east in Farmington Hills. The subject property does not contain any regulated wetlands or woodlands and is part of the Rouge River Watershed. As indicated on the site plan, the applicant is proposing to demolish a former Jaguar Car Dealership and redevelop the site to build an approximately 11,935 square foot two-story car dealership building to be used by Audi of Novi. There is some parking associated with that, the majority of which is for vehicle inventory, with parts storage on the second story, and site improvements as well. Access to the site will remain the same as it currently stands, except for the addition of an access road to the property to the north, which is also owned by Lithia Motors Inc.

Planner Carroll went on to say relative to the Special Land Use approval required for this project,

I wanted to note a few items:

- The proposed use will not have a detrimental impact on existing thoroughfares because no new access points are proposed on Haggerty Road and Ten Mile Road;
- The proposed use will not cause a detrimental impact on the capability of public services and facilities because the use of the site is not changing substantially from its previous use – it is going from a car dealership to a different car dealership;
- The proposed use is compatible with the surrounding natural features as it does not impact any regulated natural features;
- The proposed use is compatible with adjacent uses of land because the proposed use is similar to the surrounding commercial and industrial uses;
- The proposed use is consistent with the goals and objectives of the Master Plan because the proposed use is a compatible economic development that provides economic value to the community;
- The proposed use promotes the use of land in a socially and economically desirable manner because it will add another dealership option to the surrounding area;
- The proposed use is in harmony with the purposes of a special land use and mostly conforms to the applicable site design regulations of the B-3, General Business, Zoning District.

Planner Carroll Continued to say concerning the Preliminary Site Plan, the first item to note is that the applicant will need to seek a Zoning Board of Appeals variance for two overhead doors on the south elevation facing 10 Mile because these would face a major thoroughfare. Staff is supporting this because the overhead door is properly screened and does not have a detrimental impact on ingress/egress to Ten Mile Road. A Parking Setback Waiver should also be considered along the north side parking spaces that already exist. The applicant would be removing a couple parking spaces at that location. The applicant has provided a parking setback calculation indicating that the minimum area required to request such a modification from the Planning Commission has been met given they have about 34,000 square feet of setback area proposed compared to the approximate 26,000 square feet required. The applicant is also requesting several landscaping waivers. Most of these waivers are similar to the waivers approved for the previous Jaguar dealership at this site due to utility conflicts on Ten Mile Road and Haggerty Road. Four of the waivers are related to street trees and greenbelt trees, either along Haggerty or 10 Mile. A fifth waiver is requested for the lack of a berm or alternate screening for the parking lot along Haggerty Road contingent upon a hedge being provided. This is supported by staff due to conflicts with the underground Buckeye Pipeline Utility Corridor. The final landscape waiver being requested is for a deficiency in building foundation landscaping contingent upon a landscaping area being provided elsewhere on the site, which is supported because the footprint of the building does not provide enough space for the required foundation landscaping, especially with the service bays. The applicant has indicated that they would include this on their next submittal should they move forward tonight. Finally, the applicant is requesting a Section 9 Façade Waiver for the underage of brick along the south elevation. That is supported by the City's façade consultant because the lack of brick on the south elevation is offset by the predominate use of brick on all other elevations, and it does not adversely affect the overall design of the building. Façade materials are shown on the screen, are in the packet, and the sample boards are available to look at.

Planner Carroll concluded by saying all other items identified in the review letters are to be addressed with the next submittal if this plan were to be approved tonight by the Planning Commission. The Planning Commission is asked tonight to hold the public hearing and approve or deny the Special Land Use Permit, Preliminary Site Plan, and Stormwater Management Plan. Representing the project tonight is Jason Longhurst with Nowak & Fraus Engineers. Staff is available to answer any questions.

Chair Pehrson invited the applicant to address the Planning Commission.

Jason Longhurst, Nowak & Fraus, said we've gone through staff's comments, and we are confident that we can address them on our Final Site Plan package, other than the waivers being requested due to Buckeye Pipeline. That is all I have to offer from a site and civil perspective.

Shane Burley, Studio Detroit Architects, said from an architectural standpoint, the variance for the overhead doors is requested because we are on a corner site. There is not an efficient way to have a service drive function properly and be able to maintain it.

Chair Pehrson invited members of the audience who wished to participate in the public hearing to approach the podium. Seeing that nobody wished to speak, Chair Pehrson mentioned that once piece of written correspondence was submitted for this agenda item.

Member Lynch said the resident at 39711 Grand River said that this is a great utilization of the property.

Chair Pehrson closed the public hearing and turned it over the Planning Commission for consideration.

Member Verma asked when the applicant is planning to start the project.

Mr. Burley said as soon as we obtain ZBA approval. We have a demolition permit ready for that structure.

Member Verma asked what the plan was for demolishing the existing building since a good portion of it is made of glass. He was concerned that there would be pieces of shattered glass that could scatter during the demolition process.

Mr. Burley said it will be done with an excavator. There will not be any explosives.

City Planner McBeth confirmed that since the applicant had obtained a demolition permit, the city's inspectors have reviewed and approved their demolition plans and will inspect the property during and after the demolition.

Member Becker said it looks as if the footprint of this building is much smaller than the existing building. Is that correct?

Planner Carroll confirmed that is correct.

Member Becker said I do not see a stormwater detention basin on the plans. Will this site feed into an off-site detention basin?

Planner Carroll confirmed that the stormwater basin is off-site.

Member Becker said in the applicant's response letter, it said they are seeking nine waivers. Some of them are due to situations beyond their control with Buckeye Pipeline. I also notice that the existing dealership also has a door facing 10 Mile Road. Would it be safe to say that we approved a similar list of variances and waivers for the Jaguar building?

Planner Carroll said that is correct. The use of the site would be treated as a new build since they are demolishing the existing building. This is considered a substantial change to the site, which is why they need to obtain another variance.

Member Roney said I think the special land use is appropriate for the area. I was a little

concerned with the landscape waivers on the Preliminary Site Plan at first, but I now understand with the context of the utility issues.

Member Avdoulos said I have no issue with the special land use because it is the same use for the site as the previous use. Was there any review of utilizing the existing building since it was also an auto dealership and has many of the components that you are adding now?

Mr. Burley said absolutely. We went through many rounds of trying to see how we could fit that program into the existing building. However, the Jaguar building is unique. It has the serpentine wall, the spans inside the structure were not conducive to reuse as a new dealership. At the end of the day, this downsize is a much better fit for the brand, new methods of construction, and the program that is going in the new building.

Member Avdoulos asked are you looking at doing anything related to LEED certification for the building.

Mr. Burley said we are not.

Member Avdoulos asked if the demolition material is going to be taken away off-site?

Mr. Burley said typically, most of the steel gets recycled as part of the demolition. Anything beyond that, we are not looking at.

Motion made by Member Avdoulos and seconded by Member Lynch.

In the matter of Audi of Novi, JSP21-34, motion to approve the Special Land Use Permit based on the following findings:

a) Relative to other feasible uses of the site:

- i. The proposed use will not cause any detrimental impact on existing thoroughfares in terms of overall volumes, capacity, safety, vehicular turning patterns, intersections, view obstructions, line of sight, ingress and egress, acceleration/deceleration lanes, off-street parking, off-street loading/unloading, travel times and thoroughfare level of service because the proposed use is compatible with the surrounding area and no new driveways are proposed on Ten Mile Road or Haggerty Road;**
- ii. The proposed use will not cause any detrimental impact on the capabilities of public services and facilities, including water service, sanitary sewer service, storm water disposal and police and fire protection to service existing and planned uses in the area because the use of the site is not changing substantially from its previous use;**
- iii. The proposed use is compatible with the natural features and characteristics of the land, including existing woodlands, wetlands, watercourses, and wildlife habitats because the proposed use does not impact any regulated natural features;**
- iv. 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 because the proposed use is similar to the surrounding commercial and industrial uses;**
- v. The proposed use is consistent with the goals, objectives, and recommendations of the City's Master Plan for Land Use because the proposed use is a compatible commercial development that provides economic value to the community;**
- vi. The proposed use will promote the use of land in a socially and economically desirable manner because the proposed use is similar to**

the previous use and will add another dealership option to the surrounding area.

ROLL CALL VOTE TO APPROVE THE SPECIAL LAND USE PERMIT FOR JSP21-34 AUDI OF NOVI MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER LYNCH.

Motion to approve the Special Land Use Permit for JSP21-34 Audi of Novi. Motion carried 7-0.

Motion made by Member Avdoulos and seconded by Member Lynch.

In the matter of Audi of Novi, JSP21-34, motion to approve the Preliminary Site Plan based on and subject to the following:

- a. Zoning Board of Appeals Variance from Section 3.10.3.A of the Zoning Ordinance for two overhead doors on the south elevation of the building facing a major thoroughfare (Ten Mile Road) as recommended by staff because the overhead doors are properly screened and do not have a detrimental impact on ingress/egress to Ten Mile Road;
- b. Parking Setback Waiver of 5.72 feet (10 feet required, 4.28 feet required) along the north property line based on the Planning Commission finding that such modification will result in an improved use of the site provided that the proposed parking setback area of 34,279 square feet as calculated by the applicant exceeds the required parking setback area of 26,430 square feet, which is hereby granted;
- c. Landscape waiver for the lack of a greenbelt berm along Ten Mile Road contingent upon the existing hedge along the parking lot being maintained or replaced because the existing hedge provides proper screening, which is hereby granted;
- d. Landscape waiver for the lack of street trees along Ten Mile Road because of utility conflicts, which is hereby granted;
- e. Landscape waiver for the lack of greenbelt trees along Haggerty Road because of the conflict with the underground Buckeye Pipeline utility corridor, which is hereby granted;
- f. Landscape waiver for the lack of street trees along Haggerty Road because of utility conflicts, which is hereby granted;
- g. Landscape waiver for the lack of a berm or alternate screening for the parking lot along Haggerty Road contingent upon a hedge being provided because of the conflict with the underground Buckeye Pipeline utility corridor, which is hereby granted;
- h. Landscape waiver for a deficiency in building foundation landscaping contingent upon landscaping area being provided elsewhere on the site because the footprint of the building does not provide enough space for the required foundation landscaping, which is hereby granted;
- i. Section 9 Façade Waiver for an underage of brick on the south elevation (30% required, 0% provided) as determined by the City's Façade Consultant because the lack of brick on the south elevation is offset by the predominate use of brick on all other elevations and does not adversely affect the overall design of the building, which is hereby granted;
- j. The findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and the items listed in those letters being addressed on the Final Site Plan.

ROLL CALL VOTE TO APPROVE THE PRELIMINARY SITE PLAN FOR JSP21-34 AUDI OF NOVI MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER LYNCH.

Motion to approve the Preliminary Site Plan for JSP21-34 Audi of Novi. Motion carried 7-0.

Motion made by Member Avdoulos and seconded by Member Lynch.

In the matter of Audi of Novi, JSP21-34, motion to approve the Stormwater Management Plan based on and subject to the findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Final Site Plan.

ROLL CALL VOTE TO APPROVE THE STORMWATER MANAGEMENT PLAN FOR JSP21-34 AUDI OF NOVI MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER LYNCH.

Motion to approve the Stormwater Management Plan for JSP21-34 Audi of Novi. Motion carried 7-0.

2. 29906 BRUSH PARK COURT, PBR22-0008

Public Hearing at the request of Meridian Homes Construction, LLC, for consideration of a Woodland Use Permit at 29906 Brush Park Court. This property is also known as Lot 12 West Park Place Condominiums, which is located north of West Road and West of West Park Drive in Section 4 of the City. The applicant is requesting the removal of four regulated woodland trees in order to build a single-family structure on the lot.

Planner Carroll said before I begin, I just wanted to note that the applicants could not make it to the meeting tonight because one had a family emergency, and another had an important family event. They requested that the matter still go before the Planning Commission tonight.

Planner Carroll went on to say this a proposed woodland use permit as requested by Meridian Homes Construction, LLC, to remove 4 regulated woodland trees from Lot 12 of West Park Place to build a single-family residential structure. The site condos are located north of West Road and West of West Park Drive, is zoned R-2, and has a single-family future land use. The Planning Commission reviewed the plans for West Park Place Condominiums in 2003 and approved Woodland Permit for several of the initial lots. Lot 12 of West Park Place is one of a few vacant lots remaining in the development. The City's Environmental Consultant reviewed the request and prepared a review letter dated 4/20/22. The review letter confirms that the applicant is proposing to remove 6 trees, 4 of which are regulated woodland trees. They range in size from 8 to 14 inches DBH. Seven Woodland Replacement Credits would be required, and the Environmental Consultant's review letter provides a detailed count and explanation of the required replacements. The homeowner and developer plan to replace the trees on-site to the extent possible and pay any remaining credits into the City Tree Fund. The proposed removals are not located within any recorded conservation or preservation easements that abut or encroach onto the property.

Planner Carroll said therefore, Staff suggests that the Planning Commission approve the Woodland Use Permit. A suggested motion is provided in the memo. Staff and the City's Environmental Consultant are available to answer any questions.

Chair Pehrson invited members of the audience who wished to participate in the public hearing to approach the podium.

Justin Scala, 46100 West Park Drive, said I am a neighbor to the lot being discussed. On your website, it says what it means for a tree to be protected. It can still be removed, but it must be replaced with 1 or more trees depending on the size – up to four trees may be required. My question is what type of trees do they plan to plant and where do they plan to plant them? I ask because in 2003, they originally promised to keep a 20-foot buffer, but most of the neighbors have cut them down. Our neighbor had to sue the residents adjacent to him, and he got a

bunch of trees planted. Therefore, I am curious what the plan is going to be for planting these trees.

Seeing that nobody else wished to speak and that there was not any correspondence, Chair Pehrson closed the public hearing and turned it over the Planning Commission for consideration.

Member Lynch said first, these are supposed to be detached condominiums. Should I assume that these trees are not owned by the condominium association, but they are located on actual site of the future home?

Staff confirmed Member Lynch's assumption was correct.

Member Lynch asked if anything had been presented in terms of the type of trees that will be planted and where they will be planted. He also asked if anything had been presented to the city or if there is a record of a planting plan along with a plan for the home.

Planner Carroll said typically, the applicant will come in when the home is close to being completed, and they will provide a tree replacement plan. This will be reviewed by city staff and our woodland consultant to make sure the trees are of an approvable species. Any residents that wish to come into the Community Development office to look at the plan once we receive it are welcome to do so.

Member Lynch asked if I were just a general resident of the city, how do I go about getting in touch with you all about this topic?

Planner Carroll said the best way to go about that would be reaching out to the front desk in the Community Development office. They handle all inputs of the woodland permits and they distribute them to our woodland consultant. Usually calling the main line will get you to the right place.

Member Becker asked just to clarify, four trees are requested to be removed, but that would require seven replacement credits, correct?

Planner Carroll confirmed that is correct. He also clarified that six trees overall are requested to be removed, but only four of them are regulated.

Member Becker said you mentioned that the applicant will try their best to replace as many trees on site as possible. Have they discussed any options with you regarding on-site replacements, or are they waiting until later in the process to do so?

Planner Carroll said they have not communicated what they plan to plant at this point.

Member Becker emphasized his hope that the developer will make a concerted effort to replace most if not all trees on site.

Member Dismondy asked what one of the maps in the packet displayed.

Planner Carroll said it is a landscape plan from when West Park Place originally came in. Basically, it notes that two red maple replacement trees are required. That is just part of the landscape plan – it is not a part of this woodland permit.

Member Dismondy asked so this body cannot dictate where trees are planted, but we can approve clearing a site so a home can be built as zoned, correct?

City Planner McBeth said I would say that is correct. The trees that are planted are reviewed for the species, location, and likelihood of survival in those locations. It is a bit of a separate consideration.

Member Verma asked will the trees be planted before occupancy is granted by the city?

City Planner McBeth said they typically will plant the trees before receiving the certificate of occupancy if it is the right season. If it is the dead of winter, and they cannot plant the trees at that point, they will be allowed a temporary certificate of occupancy with the condition that the trees will be planted within a specific timeframe.

Motion made by Member Avdoulos and seconded by Member Lynch.

Motion to approve Woodland Use Permit, PBR22-0008, for the removal of four regulated woodland trees within an area mapped as City Regulated Woodland on Lot 12 of the West Park Place Condominiums for the construction of a single-family residence. The approval is subject to on-site tree replacements to the extent possible and payment into the City's Tree Fund for any outstanding Woodland Replacement Credits, along with any other conditions as listed in the Environmental Consultant's review letter.

Landscape Architect Meader said I also wanted to mention that we always hold a financial guarantee until the tree plantings are decided on. Even though we don't know where the applicant wants to plant them at the moment, eventually we will either receive a tree plan or their money will go into the tree fund. This is to make sure that applicants go about this process correctly.

ROLL CALL VOTE TO APPROVE THE WOODLAND USE PERMIT PBR22-0008 MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER LYNCH.

Motion to approve the Woodland Use Permit PBR22-0008. Motion carried 7-0.

3. 24190 TRAFALGAR COURT, PBR22-0054

Public Hearing at the request of Kensington Family Homes, LLC, for consideration of a Woodland Use Permit at 24190 Trafalgar Court. The site is located east of Beck Road and south of Ten Mile Road in Section 28 of the City. The applicant is requesting the removal of forty-two regulated woodland trees in order to build a single-family structure on the lot.

Planner Carroll said this is a proposed woodland use permit as requested by the applicant, Kensington Family Homes, LLC, to remove 42 regulated woodland trees from 24190 Trafalgar Ct to build a single-family residential structure. The site is located east of Beck Road and South of 10 Mile Road, is zoned R-1, and has a single-family future land use. The site is adjacent to Trafalgar Park subdivision, which was constructed in the late 1990s and is adjacent to another site, 24191 Trafalgar Ct, that is also being considered for woodland permit approval. The City's Environmental Consultant reviewed the request and provided a review letter dated 3/23/22. The review letter confirms that the applicant is proposing to remove 42 trees, all of which are regulated woodland trees, from a section of City Regulated Woodland ranging in size from 8 to 20 inches DBH. 58 Woodland Replacement Credits would be required, and the Environmental Consultant's review letter provides a detailed count and explanation of the required replacements. The developer plans to replace the trees on-site to the extent possible and pay any remaining credits into the City Tree Fund. The proposed removals are not located within any recorded conservation or preservation easements that abut or encroach onto the property. There are two houses on this corner of Beck and 10 Mile, but the woodland permits are considered as separate requests because the homes will be on two different properties.

Planner Carroll concluded by saying staff suggests that the Planning Commission approve the Woodland Use Permit. A suggested motion is provided in the memo. A representative from Kensington Family Homes is here to tonight and is available to answer any questions. They also have a brief presentation they'd like to give. Staff and the City's Environmental Consultant are available to answer any questions.

Chair Pehrson invited the applicant to address the Planning Commission.

Mike Noles, with the Umlor Group and on behalf of Kensington Homes, said we come to you tonight with four approvals already secured: ZBA approval, parcel-splitting approval, the right-of-way permit is approved, and the shared drive agreement is in processing. We respectfully request consideration on the woodland permit without the condition that is set on the permit. Our plot plan is ready for approval, except for the one condition to pay \$70,000 dollars into the city's tree fund for two lots. That fee is pretty steep for two lots. Normally, a development has enough units to absorb a couple thousand dollars per unit into the tree fund. \$35,000 per house presents an unreasonable burden.

Mr. Noles went on to say I will address both lots now even though they are separate considerations tonight. There are 170 regulated trees on both sites overall. 134 of those are invasive black locust. Most of the other trees are nuisance trees, such as boxelder, cottonwood, and disease-prone elms. We only have 10 "good" trees on both sites. We are saving 49 trees; these trees will provide a healthy environment, clean air, and help screen 10 Mile and Beck Roads. We saved 30 percent of trees on the sites. The rest of the area is needed to build a house similar to the surrounding homes. The \$70,000 fee would impose an undue burden on the property. Open lots have a competitive advantage over heavily wooded property in Novi, as just seen in the action made before this. This uneven financial burden continues to grow as the trees grow, eventually approaching an insurmountable level for some lots. An overly burdensome fee could possibly constitute a property taking. When a couple thousand dollars per unit is required to go into the tree fund, it makes sense. When it becomes \$35,000 per lot, it does approach a property taking.

Mr. Noles continued to say we propose to develop the property in a reasonable manner consistent with the zoning and master plan. Other municipalities have taken different approaches to tree regulation; Canton Township has a strict ordinance, but they allow a developer to cut 25 percent of the trees on a property without penalty. Even so, their ordinance was recently stricken down by the Michigan Supreme Court as being overly burdensome – Novi's ordinance is even more strict. The Novi replacement ordinance is clear, and the consultant letter is completely correct based on the ordinance. There are no tree exceptions in the Novi ordinance. All trees, whether misshapen, hazardous, invasive, etcetera are considered equal under the ordinance despite not providing the same community value. However, not all trees are created equal – many jurisdictions exempt certain trees from the calculation altogether. Undesirable and invasive species are not considered in many jurisdictions. 134 of the 170 trees on this site are black locust, which are highly invasive. The Morton Arboretum does not recommend black locusts because they can be fatal to animals and pets, particularly horses, and the seeds are poisonous to humans. Their prolific seeds and extensive thorn-covered root sprouts outcompete the native species. Matthaei Botanical Gardens at the University of Michigan says they are one of the most difficult trees to eradicate. Black locusts are also noticeably absent from Novi's approved tree planting list.

Mr. Noles concluded by saying we know that our request tonight is a little unusual. Generally, I come before you with full approval from the staff of the waivers we present. This one is different because the ordinance isn't set up for two lots to be heavily loaded with invasive tree species. I understand that it is difficult for communities to utilize the money in the tree fund for anything

else other than trees. We have crossed all the thresholds necessary to get our permits. The final one is not about whether the trees can be cut. Novi's ordinance is set up so that trees can be cut because it would be illegal to prevent the cutting, but there are two mechanisms to choose from that will satisfy the effects of the removals. Money can be paid into the tree fund or trees can be replanted on site. We are cutting down 121 trees, and we are supposed to replant 170 new trees. That makes the lot unbuildable. We are only cutting down 121 trees and the lots are completely wooded. This means our only option is to pay into the tree fund. The question for the Commission is whether \$35,000 per lot a reasonable fee for clearing a single lot.

Chair Pehrson invited members of the audience who wished to participate in the public hearing to approach the podium.

Daniel Hike, Trafalgar Court, said I live in the house directly beside this lot. I am also the HOA President for Broadmoor Park. Tonight, I speak not only on my behalf, but also the other 147 homeowners that are part of the Broadmoor subdivision. We understand there is a need to develop land in Novi. However, some of the exemptions that have been given in Novi have started to give rise for concern, and this is one of them. These two lots have been flouting that they are not part of the subdivision. They will say that they are affiliated with the association on one website and not affiliated on another site, so they are getting the best of both worlds. In the last two years, as a HOA, we have spent \$11,000 on upkeep on the trees and entryway to our subdivision. These two lots get a free ride by using that entrance without being part of the HOA. I have a real issue with the city holding us accountable for maintaining our trees and entryways but then giving exemptions to developers absolving them from replanting trees or paying into the tree fund. That is kind of a slap in the face to the 147 homeowners that are already maintain the beautification that exists in the subdivision.

Mr. Hike continued to say in addition, in 2018, the city approached us asking for 15,000 to clear a spillway that crosses through our neighborhood. This occurred due to the removal of trees on the southwest corner of the development that was built on Beck and 10 Mile. These are things that we have taken on as a subdivision over the years without asking for assistance from the city. When a developer comes in to develop a couple lots and asks for these exemptions, it is apparent why some of the residents in the community find it irksome. I understand that development happens – I am excited to have the new homes nearby and I welcome the new neighbors. However, there are things they could do. They say they don't have area to plant the trees – they could install arborvitae around the lots to maintain the appearance of not being part of the subdivision. They could also choose to join the subdivision, and we could work together to find where else to plant trees throughout the subdivision. After the Zoning Board approval, which we objected to as well, Kensington said that they would talk to us, but nobody on the HOA Board has heard anything from them. Overall, the Broadmoor Park HOA is objecting essentially on the basis of equity, and we are willing to help them find places to replant trees nearby in our subdivision.

Ibad Sayed, 23629 Argyle Street, said I just moved into the Broadmoor Park neighborhood a couple of weeks ago. I closed on my house for just under 1 million dollars, and my wife and I are working from home. For the past year, we have looked extensively in the Metro Detroit area. I believe the applicant referred to Canton, but comparing the standards of Novi to Canton is ridiculous. Canton wasn't on our radar at all, and we come from very different social circles. Novi has this sense of prestige, and for somebody looking for somewhere to move that prestige definitely brought me here. Don't make a decision that takes that away. The trees at the Beck and 10 Mile intersection have importance to people other than those residing in the subdivision. It is an intersection with a lot of traffic where hundreds will pass by. One of the things we liked about Novi was being close to rural areas while still being close to the city. If they are upset about the regulations for trees in the area, then they should choose a different site for the houses. The arborist research is also very one-sided, particularly on the use of the term invasive

and on the black locusts. My wife and I moved here because of the beatification that goes on in this city. Please don't begin to take that away by granting waivers like this.

Carlos Swenson, 24154 Trafalgar Court, said I am more interested in the financial aspect of this. I understand that it will be a lot of money to pay the city for the trees, but I also pay my taxes every year. My main point is that the applicant should follow the regulations just as everyone else who has ties to the city must. Therefore, they should either replant the trees or pay into the fund.

Seeing that nobody else wished to speak and that there was not any correspondence, Chair Pehrson closed the public hearing and turned it over the Planning Commission for consideration.

Member Avdoulos said before us is a woodland permit, so from my point of view, we are not here to look at what trees are on the lot. There are 42 regulated woodland trees that must be removed in order to build a single-family structure on the lot. The city does not have an issue with that, but the applicant is required to provide 58 woodland replacement credits.

Motion made by Member Avdoulos and seconded by Member Lynch.

Motion to approve Woodland Use Permit, PBR22-0054, for the removal of forty-two regulated woodland trees within an area mapped as City Regulated Woodland at 24190 Trafalgar Court for the construction of a single-family residence. The approval is subject to on-site tree replacements to the extent possible and payment into the City's Tree Fund for any outstanding Woodland Replacement Credits, along with any other conditions as listed in the Environmental Consultant's review letter. Motion carried 7-0.

Member Becker asked does Novi have a process for removing what we consider invasive species?

Landscape Architect Meader said we have been doing that. We've been doing it a lot in Rotary Park for the last 4 or 5 years. It has primarily been buckthorn, but we do some basic removals with money from the tree fund.

Member Becker said is it your determination as well that the black locust is as invasive and noxious as it was presented earlier?

Mr. Meader said it is an invasive tree and not one of my favorites, but it is a very dense area with some of the qualities of a forest. However, there are some ecological benefits to the forested area as it is now.

Member Roney asked if replacement trees had to be replaced on-site.

Mr. Meader said typically we want it to be on the same lot. Sometimes a larger development will have a conservation area where they can put them. They wouldn't be able to go on a landscape island as the one gentleman suggested – it would have to be in a protected area. If they were to pay into the fund, we would plant them on city property; we do that for other projects anyway.

Member Lynch said when you review these woodland permits, do you have a list of trees that are considered invasive that developers do not have to replace?

Mr. Meader said no, we do not have that. The ordinance doesn't even use the term 'invasive' at all.

Member Lynch said maybe in the future we should look at that, but I am not willing to set precedent this time. If we do, I can see a larger development coming in asking for the same waiver. However, we may want to look at the woodland ordinance if all the experts agree that certain trees are not worth replacing. I am not willing to violate the ordinance – the current ordinance was in place when the property was purchased. City Council maybe could say that it is an undue financial burden, but as a Commission our job is to enforce these ordinances as they are written.

Chair Pehrson agreed with the other Commissioners that the financial hardship that may come with the requirements of this permit is not part of the Planning Commission's undertaking at this time.

ROLL CALL VOTE TO APPROVE THE WOODLAND USE PERMIT PBR22-0054 MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER LYNCH.

Motion to approve the Woodland Use Permit PBR22-0054. Motion carried 7-0.

4. 24191 TRAFALGAR COURT, PBR22-0055

Public Hearing at the request of Kensington Family Homes, LLC, for consideration of a Woodland Use Permit at 24191 Trafalgar Court. The site is located east of Beck Road and south of Ten Mile Road in Section 28 of the City. The applicant is requesting the removal of seventy-nine regulated woodland trees in order to build a single-family structure on the lot.

Planner Carroll said this lot, 24191 Trafalgar Court, is the lot directly adjacent to the previous lot considered. The applicant again is Kensington Family Homes, and they propose to remove 76 regulated woodland trees from the lot to build a single-family residential structure. The site has the same zoning, R-1, and has a single-family future land use. The City's Environmental Consultant reviewed the request and prepared a review letter dated 3/23/22. The review letter confirms that the applicant is proposing to remove 79 trees, 76 of which are regulated woodland trees, from a section of City Regulated Woodland ranging in size from 8 to 20 inches DBH. 116 Woodland Replacement Credits would be required. The detailed information can be found in the consultant's review letter. The proposed removals are not located within any recorded conservation or preservation easements that abut or encroach onto the property. Staff suggests that the Planning Commission approve the Woodland Use Permit. A suggested motion is provided in the memo. Staff and the City's Environmental Consultant are available to answer any questions.

Chair Pehrson invited the applicant to address the Planning Commission.

Mike Noles, Umlor Group, said we understand the Commission's position on not wanting to set precedent. We will not belabor our arguments, but we will submit our comments again for the record.

Chair Pehrson invited members of the audience who wished to participate in the public hearing to approach the podium.

Daniel Hike, 24178 Trafalgar Court and Broadmoor Park HOA President, wanted to reiterate his previous comments regarding 24190 Trafalgar Court in relation to this lot as well.

Member Lynch read the one piece of correspondence received on this item; he said one resident on Baker Street supports this permit because the woodland trees are unsightly in the backyard during the winter.

Seeing that nobody else wished to speak and that there was not any other correspondence, Chair Pehrson closed the public hearing and turned it over the Planning Commission for consideration.

Motion made by Member Avdoulos and seconded by Member Lynch.

Motion to approve Woodland Use Permit, PBR22-0055, for the removal of seventy-nine regulated woodland trees within an area mapped as City Regulated Woodland at 24191 Trafalgar Court for the construction of a single-family residence. The approval is subject to on-site tree replacements to the extent possible and payment into the City's Tree Fund for any outstanding Woodland Replacement Credits, along with any other conditions as listed in the Environmental Consultant's review letter. Motion carried 7-0.

ROLL CALL VOTE TO APPROVE THE WOODLAND USE PERMIT PBR22-0055 MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER LYNCH.

Motion to approve the Woodland Use Permit PBR22-0055. Motion carried 7-0.

MATTERS FOR CONSIDERATION

1. APPROVAL OF THE APRIL 27, 2022 PLANNING COMMISSION MINUTES

Motion made by Member Lynch and seconded by Member Avdoulos.

ROLL CALL VOTE TO APPROVE THE APRIL 27, 2022 PLANNING COMMISSION MINUTES MADE BY MEMBER LYNCH AND SECONDED BY MEMBER AVDOULOS.

Motion to approve the April 27, 2022 Planning Commission Meeting Minutes. Motion carried 7-0.

CONSENT AGENDA REMOVALS FOR COMMISSION ACTION

There were not any other consent agenda items.

SUPPLEMENTAL ISSUES/TRAINING UPDATES

There were not any supplemental issues or training updates to report.

AUDIENCE PARTICIPATION

Chair Pehrson invited members of the audience who wished to address the Planning Commission during the final audience participation to come forward.

Anand Pappuri, 42210 Park Place, said I own an energy efficiency and solar energy business. I have been before the City Council several times to present my case. I have seen that other Michigan jurisdictions, like Ann Arbor, Grand Rapids, and Livonia, have introduced a sustainability office. These offices look at the Master Plan to consider how renewable energy sources can be incorporated into city planning. I know that we are in the middle of a Master Plan update which will have several breakout groups. I would like to be involved with any focus groups or discussions being had centered on renewable energy infrastructure. I also have connections with many renewable resource organizations, which could be beneficial to the city. I am interested to see if on-site renewables for residential sites can be worked into the Master Plan update because that is coming to the area.

ADJOURNMENT

Motion to adjourn made by Member Lynch.

VOICE VOTE ON THE MOTION TO ADJOURN MADE BY MEMBER LYNCH.

Motion to adjourn the May 11, 2022 Planning Commission Meeting. Motion carried 7-0.

The meeting adjourned at 8:07 PM.