



## PLANNING COMMISSION

### MINUTES

CITY OF NOVI

Regular Meeting

**May 6, 2020 7:00 PM**

Remote Meeting

45175 W. Ten Mile (248) 347-0475

In accordance with Executive Order 2020-48, this meeting was held remotely.

#### CALL TO ORDER

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

#### ROLL CALL

Present: Member Avdoulos, Member Ferrell, Member Gronachan, Member Lynch, Member Maday, Chair Pehrson

Absent: Member Anthony

Also Present: Barbara McBeth, City Planner; Lindsay Bell, Senior Planner; Rick Meader, Landscape Architect; Victor Boron, Staff Engineer; Thomas Schultz, City Attorney; Pete Hill, City Environmental Consultant, Madeleine Kopko; Planning Assistant

#### PLEDGE OF ALLEGIANCE

Chair Pehrson led the meeting attendees in the recitation of the Pledge of Allegiance.

#### APPROVAL OF AGENDA

Moved by Member Gronachan and seconded by Member Avdoulos.

**VOICE VOTE TO APPROVE THE MAY 6, 2020 PLANNING COMMISSION AGENDA MOVED BY MEMBER GRONACHAN AND SECONDED BY MEMBER FERRELL.**

**Motion to approve the May 6, 2020 Planning Commission Agenda. *Motion carried 6-0.***

#### AUDIENCE PARTICIPATION

No one in the audience wished to speak.

#### CORRESPONDENCE

There was no correspondence.

#### COMMITTEE REPORTS

There were no Committee Reports.

#### CITY PLANNER REPORT

There was no City Planner Report.

## **CONSENT AGENDA - REMOVALS AND APPROVALS**

There was nothing on the Consent Agenda.

## **PUBLIC HEARINGS**

### **1. ASBURY PARK, LOT 31, PWD19-0023**

Public hearing at the request of the homeowner at 26181 Mandalay Circle, for consideration of a request for a Woodland Use Permit. The property is known as Lot 31, Asbury Park Estates, which is located on the west side of Mandalay Circle, north of Eleven Mile Road, and east of Beck Road in Section 16 of the City. The applicant is proposing to remove seven regulated woodland trees in order to construct an additional garage structure.

City Planner McBeth said the applicant and homeowner, Mr. Jabboori, seeks approval of a Woodland Use Permit, to remove seven regulated woodland trees ranging in size from eight to sixteen inches as well as the woodland understory, from the lot located at 26181 Mandalay Circle, also known as Lot 31, Asbury Park Subdivision. The subdivision is located north of Eleven Mile Road and east of Beck Road. The lot in question is Mr. Jabboori's current residence. The applicant is requesting the removal of all of the remaining woodland trees on the north section of the lot in order to provide additional space for the future construction of additional garage space.

The City's Environmental Consultant, Pete Hill from ECT, reviewed the request and prepared a review letter dated March 18, 2020 which is included in your packet.

The existing woodland remains on the north side of the home, per the original subdivision plan. The home was constructed around 2006. The Planning Commission reviewed the plans for Asbury Park and granted a Woodland Use Permit, which included the preservation of large portions of the existing woodlands in the open space, and in some instances, on the individual lots in that subdivision. The memo in the packet notes that the applicant also requested permission to remove vegetation from the wetland buffer, which was granted by the Zoning Board of Appeals at last month's meeting.

City Planner McBeth continued to say the consultant's review letter states that the request is to clear a section of Regulated Woodland from the north section of the Lot which is north of the existing driveway. Based on the site inspection, the property contains trees that are considered regulated by the City of Novi as they are greater than or equal to 8-inches in diameter-at-breast-height (DBH) and located within an area mapped as Regulated Woodland. The property also contains sapling-sized trees within the understory, but also contains species of invasive vegetation such as common buckthorn. The Plan indicates a total of seven regulated trees are proposed for removal. A total of nine woodland replacement credits would be required for the removal.

In discussion with the applicant, the woodland replacements are not proposed on the lot, as the space is intended to be used for the future construction of a garage. If the woodland permit is approved, and replacements are not provided, the applicant would be required to pay into the tree fund for such removals. Per the City of Novi's Woodland Ordinance, where a proposed activity such as home construction does not otherwise require site plan approval, the granting or denying of the Woodland Use Permit shall be the responsibility of the Planning Commission.

The Planning Commission is asked to hold the public hearing and approve, approve with conditions, or deny the requested woodland removal permit. If the Planning Commission decides to grant approval of the permit, it shall be subject to payment for the required tree credits to be placed into the City's Tree Fund, and other conditions and items noted in the consultant's review letter.

Maen Jabboori, applicant, said basically our plans are to build an additional three-car garage. It would be a porte-cochere over the driveway and be built to match the home. We have six cars in our home. I have four adult children and there's just not enough parking. We do not want to park in the street and it is not feasible to park in our driveway because we're always pulling cars in and out. We plan to be here for a while, it's a great subdivision, we love Novi and we are just hoping that this can be approved. All the proper permits will be pulled and it will be done professionally.

Chair Pehrson said thank you. This is a public hearing, if anyone in the audience would like to address the Planning Commission you may do so now by using the "raise your hand" feature in Zoom.

Seeing no one and with no written correspondence received, Chair Pehrson closed the public hearing. Chair Pehrson turned it over to the Planning Commission for their consideration.

Member Lynch said I drove by the site today and I read the packet and it looks like the Home Owner's Association agreed to it. It looks like it will fit well with the site. I want to give my gratitude and thanks to the homeowner for at least going to the City before you started construction. In my opinion, I do not see an issue with knocking down a few trees. I'm in total support of this.

Member Avdoulos said I can't tell from the sketch where the actual addition is going. Is the driveway going to be in its location and then is there going to be a side entry garage that's added?

Maen Jabboori, applicant, said the existing driveway is going to remain there. Where the woodlands start is where the construction is going to be. If you can imagine the existing garage, it is basically going to be duplicated on the north side of the property.

Member Avdoulos shared his screen and showed a picture of the property asking where the additional garage was going to be constructed. The applicant confirmed where Member Avdoulos pointed on the north side of the property.

Member Avdoulos asked if the existing driveway would stay. The applicant confirmed that everything is staying and the additional garage will be attached through a porte-cochere.

Member Avdoulos said I am in the same vein as Member Lynch. Just reading through the request and trying to understand it, there's actually not another property that's very close by. It's not going to intrude on that and it's not really going to affect the aesthetics of the woodlands and the park area so I'm inclined to approve this.

Motion made by Member Avdoulos and seconded by Member Lynch.

**In the matter of Asbury Park, Lot 31, PWD19-0023, motion to approve the request for a woodland removal permit subject to payment for the required tree credits to be placed into the City's Tree Fund and other conditions noted in the consultant's review letter.**

Member Maday said I just wanted to concur with everyone else's comments. It looks like it's going to be well put together. If the neighborhood association is on board, which tends to be pretty critical of how you build, I couldn't be more in agreement.

**ROLL CALL VOTE TO APPROVE THE REQUEST FOR A WOODLAND REMOVAL PERMIT SUBJECT TO PAYMENT FOR THE REQUIRED TREE CREDITS TO BE PLACED INTO THE CITY'S TREE FUND AND OTHER CONDITIONS NOTED IN THE CONSULTANT'S REVIEW LETTER MADE BY MEMBER AVDOULOS AND SECONDED BY MEMBER LYNCH.**

**In the matter of Asbury Park, Lot 31, PWD19-0023, motion to approve the request for a woodland removal permit subject to payment for the required tree credits to be placed into the City's Tree Fund and other conditions noted in the consultant's review letter. *Motion carried 6-0.***

## **MATTERS FOR CONSIDERATION**

### **1. BEHAVIORAL CARE SOLUTIONS JSP20-05**

Consideration at the request of Behavioral Care Solutions, for Preliminary Site Plan and Stormwater Management Plan approval. The subject property is located in Section 1, south of Fourteen Mile Road and west of Haggerty Road, and is zoned OST, Office Service Technology. The applicant is proposing to construct an addition to the existing building, resulting in a 6,329 square foot building. The applicant is seeking to continue a stand-alone drive-through ATM under a lease agreement with the previous owner and use as a bank.

Planner Bell said the subject property is in Section 1, south of Fourteen Mile and west of Haggerty Road. The property is just under one acre. It is zoned OST, Office Service Technology and is surrounded by OST zoned properties on the west and south. To the east is Speedway, which is zoned B-3, General Business. To the north in Commerce Township is a shopping center. The Future land use map indicates Office Research Development and Technology for this property and the surrounding properties.

There are no regulated natural features on the site. The site is developed with a 2,520 square foot building, which was formerly a bank. The applicant is proposing to add an approximately 3,800 square foot addition, resulting in a total building size of 6,329 square feet, to be used for a medical office. Minor changes to the existing site layout are proposed, including closing two of the drive-through lanes and adding a loading area.

The applicant wishes to retain one drive-through lane for a stand-alone ATM which continues to operate on the site under a lease agreement with the previous owner. The Planning Commission is asked to determine whether the ATM use may be allowed to continue as an existing non-conforming use of the site that may be allowed to continue. Several of the Ordinance Requirements for a drive-through lane will require variances from the Zoning Board of Appeals with the current placement of the ATM.

Four landscape waivers are also requested, which require approval of the Planning Commission. Each of these is a result of existing conditions of the site and not created by the changes proposed by the applicant, so the waivers are supported by staff. The site plan meets all other Zoning Ordinance Requirements, is in full compliance with the façade Ordinance, and all reviewers are recommending approval.

Tonight the Planning Commission is asked to approve or deny the Preliminary Site Plan and the Storm Water Management Plan. The applicant Bob Clemente from Behavioral Care Solutions is here to tell you more about their project and to answer any questions you may have.

Bob Clemente, applicant and CEO of Behavioral Care Solutions, said thank you members of the Planning Commission for listening to our request. Basically we are in the medical management business that provides mental health services to long-term care facilities. Those include nursing homes and some assisted living facilities. Those services are provided by psychiatrists, clinical psychologists, doctors, nurse practitioners, and PA's that are psychiatric-prepared, and masters-level fully licensed social workers. We service about 500 nursing homes and we have about 100 clinical staff working within our business who generally work out of their homes. We are a business that's really a family, we have many fine employees, but literally we are a family-business. My sister

is the Chief Operating Officer, my son is General Counsel, and my daughter is Director Liaison. So we have a lot of family that is involved, but all our clinicians and particularly our senior management we treat as family.

For the period that we have owned the property, we have been good neighbors and good citizens of the City of Novi and this property will serve as our primary and main office for our business. We purchased the property from PNC Bank a few years ago. PNC Bank required that we keep the ATM, an issue that is being addressed here, if we wanted to be a purchaser and we also agree that will not otherwise use the location. PNC indicated to us that zoning approval was not required for the ATM and stated as much in our purchase agreement and in related emails. The ATM has been present at this location for many years and for the full time that we have owned the property. In fact, at the time of purchase we obtained a monument sign permit which allowed the term "ATM" to be clearly visible as part of that sign. The ATM agreement between us and PNC remains in place for a period of up to another three years. In my experience I have never seen more than one car at the ATM at any one time.

As a side note, PNC looked out for us and showed a lot of professionalism for us. We helped them sell a property in Keego Harbor and in exchange for that they told us when another property PNC Branch came up, they would offer it to us. That's what they did; we met their price and they were very loyal and committed to us. We offer the same thing back to them. They asked us to leave the ATM, we did it. We're committed to the community of Novi, as a show of such commitment we are presently in the process acquiring a business similar to ours in our neighboring community and we intend to move that business and its employees into this newly renovated building which is why the expansion is needed and warranted. We intend to combine these two businesses and related employees at that location. More importantly, we have made it our duty and vocation to make this property a site our employees and the community would be proud of. Even more so we are committed to doing the right thing and being a significant comfort to the geriatric population and businesses we serve.

Mr. Clemente continued as you have probably heard, the nursing home population is particularly vulnerable to the COVID-19 virus. We have dedicated ourselves to being part of the solution for this population. We provide more than one-hundred frontline medical health providers to service their needs; they are extraordinarily brave people who go into those environments. We are very proud of what they have done for us and the community. We serve pretty much all of the nursing homes that are in our immediate area. In conformance with our mission, one month ago we purchased 45,000 N95 masks at a time when they were virtually unavailable and we have contributed them to long-term care facilities without charge. We tried to target nursing homes that were struggling with COVID outbreaks and use the published State of Michigan nursing home COVID incident report that were just recently published to identify and provide badly needed N95 masks for the nursing home staff at these locations. We are the largest business of our kind in the Midwest. We recognize our responsibility and have been the kind of business you would want to thrive in your community, and we have thrived. We have worked very closely and cooperatively with the City of Novi Staff in developing this site renovation. We ask for your consideration in reviewing our collective efforts and approving our request. Thank you again for your time.

Chair Pehrson turned it over to the Planning Commission for their consideration.

Member Avdoulos said when I was looking at the project, it started evolving and the first thing that I appreciate is that we have an existing structure that's being utilized and we're adding to it. That is a plus. Behavioral Health is an important service to any community, especially now. I'm involved in health care architecture so I understand how this is a growing need and so it's a great thing for our community. I was a bit confused with the ATM and I'm glad you explained that a little, but I'm still

confused on how that works. Through my reading, I understand that it was something that was added on without somebody knowing, so it didn't meet a lot of requirements and that's why we have a lot of variances related to it. All in all, I have no issues with the project. There's a lot of staff that is supportive of this and it's the great amount of variations that are attributed to the project because of the ATM. To me, it's unique to have something that is not really part of the use of the building, but if there is an agreement in place I don't know if we can do anything with it. I like it, I think it's going to be a good addition to that area and to our community as a whole, but I'll give the floor to my fellow Planning Commissioners.

Member Ferrell said I think it's great that you bought and donated the masks, that is very commendable. We definitely need the behavioral health right now for the frontline workers, so that's really great that you are a part of that process of providing that. I had a question for the City Attorney about the ATM. Is that something that is allowed? I guess I want to hear what the City has to say about that.

City Attorney Schultz said, through the Chair, we talked about this quite a bit at the administrative level when this came in. First of all, I'll start out by saying the comments from Mr. Clemente about the agreement between the applicant and PNC are not really what ought to be driving this for the City. Whatever the representations of PNC were, they're not really the driving force for the Commission. Normally you come to a site and you have a non-conforming aspect to it, but you are not, as a Planning Commission, obligated to allow that to remain. It can be brought into compliance. I don't think there's necessarily an obligation for you to require it to be removed either. I think that's really what's at issue here. I think this is at the Planning Commission's discretion. You can say bring the whole site into compliance and we could see what the applicant would do with that. But the suggested motions are set up for you to potentially exercise your discretion on that aspect. If you determine that it's acceptable to stay as a non-conforming aspect of the site, we decided it ought to go to the Zoning Board of Appeals for the other aspects of it.

Member Gronachan said I want to thank the petitioner for clarifying everything. I think this is unfortunate that this exists, but I think the building and the repurposing of this building is exciting especially for that end of Novi. I think that this is just a blip and I don't think it should have a negative impact on our decision. I think that the project itself fits all the other criteria and if that ATM wasn't there we wouldn't be here. Having said that, it's not a negative impact of the surrounding areas in terms of not being a 24-hour bank and there's not a lot of traffic to add to this building so I'm in full support of this project as it stands.

Member Lynch said thank you Mr. Clemente for doing what you do. I have no issue with what you're proposing. I appreciate you honoring your commitment to PNC Bank. There mere fact that you're honoring your commitment to the prior owner should not hold up your business, so I personally don't mind what you do with the ATM. I think the project, as proposed, is fine with me.

Member Maday said I think because I don't see any negative impacts of the ATM being part of the site, I don't have a problem with it being non-conforming. I think it's awkward and I don't really know how that works, but it appears you're okay with it. So I'm okay with it as well and I'm in support of it.

Chair Pehrson said I want to echo everyone. I think at this point in time it is not a major non-conformance. Again, I think there's more benefit to allowing this to move forward then there is anything negative. I'm in support of this as well. If there are no other comments, I would look for someone to make a motion.

Motion made my Member Avdoulos and seconded by Member Maday.

In the matter of Behavioral Care Solutions, JSP20-05, motion to approve the Preliminary Site Plan based on and subject to the following:

- a. Planning Commission determination the ATM use may continue as an existing nonconforming use of the site;
- b. Continued operation of the ATM is subject to the Zoning Board of Appeals granting the necessary variances for the drive-through requirements found in Section 5.3.11 as follows:
  1. Drive-through lane not separated from egress lane.
  2. Drive-through lane encroaching into side yard parking setback.
  3. Drive-through bypass lane of 16 feet where 18 feet is required.
  4. May also require variance for not having a minimum of 3 stacking spaces.
- c. Landscape waiver for lack of greenbelt between parking and property line *because this is an existing condition of the site, which is hereby granted;*
- d. Landscape waiver for lack of greenbelt berm and all landscaping *because this is an existing condition of the site, which is hereby granted;*
- e. Landscape waiver for deficiency in perimeter trees *provided due to existing site conditions and the presence of utility easement, which is hereby granted;*
- f. Landscape waiver for parking bay greater than 15 spaces *because this is an existing condition of the site, which is hereby granted;*
- g. 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.

Member Ferrell said I have a question. The applicant said that there is only three and half years left on the ATM agreement, is that something we want to have a timeline on to remove it? I am only asking because I wanted to see what everyone else thinks about that. Is that something that we want to leave indefinitely on the property?

City Attorney Schultz said that is something you could do. I don't have an opinion on whether you should, but it is an appropriate discussion to have.

Member Ferrell said I would agree to have the ATM terminated at the end of their agreement with the owner of PNC Bank.

Chair Pehrson asked if that is a friendly amendment to the motion and Member Ferrell confirmed.

Member Lynch asked if the applicant could respond to the amendment.

Bob Clemente, applicant, said for me we're setting this all up with a canopy. We're putting the applicable design of the whole building across that canopy. Everything is being set up to meet all the criteria to be able to leave the ATM there and if we remove it, I'm setting myself up to do construction again and that wouldn't be something that would be at least, applicant friendly because I don't want to be in a position that I'm going to have to undo the construction I already did. To me, that is going to complicate things.

Member Ferrell said I understand. To some respect, I would agree with it, but in essence we really don't have to agree to allow keeping the ATM. I get the cost aspect, but I just don't want to start something that could potentially set precedence for other people.

Chair Pehrson so as the motion stands now with a friendly amendment, the ATM would be removed after the agreement ends.

Member Lynch said I was in favor of the original motion, but now by adding this burden, I'm not in

favor of the amendment. I'm in favor of the project as it stands. I see that the applicant is spending a lot of money architecturally and then in three years were going to make him spend more money. Tom, you said we could use our discretion and I don't believe were setting precedent. I think this is an interesting case, but I don't think this sets precedent for any other project than this particular project that's in front of us. My concern is that I agree with the project, I'd like to see it go forward, but I don't agree with the amendment. Now I'm going to vote against it - because of the amendment, not because of the project. How would I vote on this?

City Attorney Schultz said, through the Chair, your vote on the motion as amended would be no. If it doesn't pass because others feel the same as you, then another motion could be made.

Member Gronachan said I echo the comments of Member Lynch. I feel that this is a minimal impact and I don't feel that the petitioner needs to modify the plan. This is unfortunate, we're not supposed to use what happened to the applicant as a reason for the decision, but this has minimal impact on the way this business stands now. I don't feel that he should be held for three years just to experience more expense and more hardship, if you will, to go back and undo this. This is not a drive-thru party store where it could have a negative impact. This will have minimal impact and I feel that I can't support the amendment either.

Member Avdoulos said the way I understood it, when Member Ferrell mentioned this, is that this would give the owner flexibility so after the agreement, do they have to remove it or do they continue? I was thinking it would give them flexibility, but if they wanted to remove it they could. I just want clarification on that.

City Attorney Schultz said yes, I think they would always have flexibility to remove it so you wouldn't have needed to amend your original motion. The owner would have that flexibility anyways. I think Member Ferrell's suggestion was a requirement to remove it at the end of the agreement. You are the maker of the motion. After further discussion, if you decide you don't want the friendly amendment and the secondary agrees to remove that then you can vote on that.

Member Avdoulos said I agree with the comments from Member Lynch and Member Gronachan.

Chair Pehrson said so as maker of the motion you wish to remove the friendly amendment.

Member Avdoulos said yes and Member Maday seconded.

Member Maday said I agree with Member Lynch. I go back to my original statement. It's not a negative impact and I'd hate to put that on something that is developing in our community.

Chair Pehrson said the motion stands as is without any further requirement about the ATM at this time.

**ROLL CALL VOTE TO APPROVE THE PRELIMINARY SITE PLAN FOR PROJECT JSP20-05 BEHAVIORAL CARE SOLUTIONS MADE BY MEMBER AVDOULOS AND SECONDED BY MEMBER MADAY.**

**In the matter of Behavioral Care Solutions, JSP20-05, motion to approve the Preliminary Site Plan based on and subject to the following:**

- a. Planning Commission determination the ATM use may continue as an existing nonconforming use of the site;**
- b. Continued operation of the ATM is subject to the Zoning Board of Appeals granting the necessary variances for the drive-through requirements found in Section 5.3.11 as follows:**



1. Drive-through lane not separated from egress lane.
  2. Drive-through lane encroaching into side yard parking setback.
  3. Drive-through bypass lane of 16 feet where 18 feet is required.
  4. May also require variance for not having a minimum of 3 stacking spaces.
- c. Landscape waiver for lack of greenbelt between parking and property line *because this is an existing condition of the site, which is hereby granted;*
  - d. Landscape waiver for lack of greenbelt berm and all landscaping *because this is an existing condition of the site, which is hereby granted;*
  - e. Landscape waiver for deficiency in perimeter trees provided *due to existing site conditions and the presence of utility easement, which is hereby granted;*
  - f. Landscape waiver for parking bay greater than 15 spaces *because this is an existing condition of the site, which is hereby granted;*
  - g. 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.

This motion is made because the plan is otherwise in compliance with Article 3, Article 4, and Article 5 of the Zoning Ordinance and all other applicable provisions of the Ordinance. *Motion carried 6-0.*

Motion made by Member Avdoulos and seconded by Member Gronachan.

**ROLL CALL VOTE TO APPROVE THE STORMWATER MANAGEMEN PLAN FOR PROJECT JSP20-05 BEHAVIORAL CARE SOLUTIONS MADE BY MEMBER AVDOULOS AND SECONDED BY MEMBER GRONACHAN.**

In the matter of Behavioral Care Solutions, JSP20-05, motion to approve the Stormwater Management Plan, 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. This motion is made because the plan is otherwise in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 6-0.*

## **2. APPROVAL OF THE MARCH 25, 2020 PLANNING COMMISSION MINUTES.**

Motion made by Member Lynch and seconded by Member Avdoulos.

**ROLL CALL VOTE TO APPROVE THE MARCH 25, 2020 PLANNING COMMISSION MINUTES MADE BY MEMBER LYNCH AND SECONDED BY MEMBER AVDOULOS.**

Motion to approve the March 25, 2020 Planning Commission Minutes. *Motion carried 6-0.*

### **SUPPLEMENTAL ISSUES**

There were no supplemental issues.

### **AUDIENCE PARTICIPATION**

No one in the audience wished to speak and Chair Pehrson closed the second audience participation.

### **ADJOURNMENT**

Moved to adjourn made by Member Lynch and seconded by Member Gronachan.

**Motion to adjourn the May 6, 2020 Planning Commission meeting.**

The meeting was adjourned at 7:45 PM.