



CITY of NOVI CITY COUNCIL

www.cityofnovi.org

Agenda Item C
November 13, 2007

SUBJECT: Acceptance of a Conservation Easement from Lotus Bank for property located at the northeast corner of Twelve Mile and Dixon Roads, covering 0.13 acres of trees and natural vegetation.

SUBMITTING DEPARTMENT: Community Development Department – Planning

CITY MANAGER APPROVAL

BACKGROUND INFORMATION:

On July 13, 2007 Lotus Bank received Final Site Plan approval for a proposed bank on a parcel of land located at the northeast corner of Twelve Mile and Dixon Roads, SP 06-60. The Planning Commission had previously approved the Preliminary Site Plan on January 24, 2007 for a 5,200 square foot bank with three drive-up lanes. A condition of approval of the Preliminary Site Plan required the applicant to provide a conservation easement to preserve existing and planted native vegetation for the part of the site adjacent to the Dixon Road right-of-way.

The conservation easement covers a total of 0.13 acres which represents 10.8% of the total site. The exhibit labeled "Conservation Easement," depicts the area being preserved.

Dixon Road is designated a "Natural Beauty Road" in the City's Thoroughfare Plan. Along Natural Beauty Roads, the City's Natural Beauty Road Ordinance encourages "the maintenance of a 50 foot buffer area uncleared of vegetation within 50 feet of the dedicated right-of-way, as well as the use of existing vegetation to achieve the screening of parking areas and other property development."

During site plan review, the City's Landscape Architect recommended the applicant provide a 25 foot easement, equal to the width of the existing tree canopy along Dixon Road. A driveway and sidewalk will be constructed through a portion of the easement and extensive native plant material will be added to supplement the existing trees, as noted on the approved site plan. The easement covers a portion of the existing tree canopy that extends to the north an additional 1,000 feet along the Dixon Road right of way.

The easement has been reviewed by the City and is currently in a form acceptable to the City Attorney's office for approval by the City Council.

RECOMMENDED ACTION: Acceptance of a Conservation Easement from Lotus Bank for property located at the northeast corner of Twelve Mile and Dixon Roads, covering 0.13 acres of trees and natural vegetation.

	1	2	Y	N
Mayor Landry				
Council Member Capello				
Council Member Crawford				
Council Member Gatt				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

City Attorney Review Letter

October 24, 2007

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Elizabeth M. Kudla
Direct: 248-539-2816
bkudla@secretwardle.com

Barb McBeth, Deputy Community Development Director
City of Novi
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Lotus Bank, SP06-60
Conservation Easement
Our File No: 660120, NOV1**

Dear Ms. McBeth:

We have reviewed and approved the Conservation Easement dated August 6, 2007, pertaining to the Lotus Bank Property, a copy of which is enclosed. The Conservation Easement provides for the protection, in perpetuity of a certain 26-foot natural vegetation buffer along Dixon Road. Except for activities approved by the City, trees and vegetation shall not be disturbed. The terms of the Conservation Easement are sufficient for these purposes. Subject to the City Landscape Architect's approval of the Exhibits, the Conservation Easement may be placed on an upcoming City Council Agenda for acceptance. The original Conservation Easement is not in our possession. It is our understanding that the City has the original.

Please feel free to contact us with any questions or concerns in regard to this matter.

Very truly yours,

Elizabeth M. Kudla/sls

ELIZABETH M. KUDLA

EMK

Enclosure

C: Maryanne Cornelius, Clerk (w/Enclosure)
Mark Spencer, Planner (w/Enclosure)
Shatish Jasti (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

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Conservation Easement and Exhibits

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT is made this 6th day of August, 2007, by and between that LOTUS BANK, a Michigan corporation, whose address is 45650 Grand River Ave., Novi, Michigan 48374, (hereinafter the "Grantor"), and the City of Novi, and its successors or assigns, whose address is 45175 W. Ten Mile Road, Novi, MI 48375, (hereinafter the "Grantee").

RECITATIONS:

A. Grantor owns a certain parcel of land situated in Section 10 of the City of Novi, Oakland County, Michigan, described in Exhibit A, attached hereto and made a part hereof (the "Property"). Grantor has received final site plan approval for construction of an bank development on the Property, subject to provision of an appropriate easement to permanently protect, preserve and/or maintain a twenty-six (26) foot natural vegetation buffer along Dixon road from destruction or disturbance. Grantor desires to grant such an easement in order to protect the described areas.

B. The Conservation Easement Areas (the "Easement Areas") situated on the Property are more particularly described on Exhibit A, attached hereto and made a part hereof, which contains drawings depicting the protected areas.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$ 1.00), in hand paid, the receipt and adequacy of which are hereby acknowledged, Grantor hereby reserves, conveys and grants the following Conservation Easement, which shall be binding upon the Grantor, the City, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the City, all Grantors and purchasers of the property and their respective heirs, successors, assigns and/or transferees.

1. The purpose of this Conservation Easement is to permanently protect the trees and natural vegetation, in their natural and undeveloped condition, unless authorized by permit from the City and, if applicable, the Michigan Department of Environmental Quality and the appropriate federal agency.
2. Except for and subject to the activities which have been expressly authorized by permit and/or the approved site plan for the development, there shall be no disturbance of the trees and natural vegetation within the Easement Area, including altering the topography of; placing fill material in; dredging, removing or excavating soil, minerals,

or trees; and from constructing or placing any structures on; draining surface water from; or plowing, tilling, cultivating, or otherwise altering or developing, and/or constructing, operating, or maintaining any use or development in the Easement Areas.

3. No grass or other vegetation shall be planted in the Easement Areas with the exception of plantings approved, in advance, by the City in accordance with all applicable laws and ordinances.
4. This Conservation Easement does not grant or convey to Grantee, or any member of the general public, any right of ownership, possession or use of the Easement Area, except that, upon reasonable written notice to Grantor, Grantee and its authorized employees and agents (collectively, "Grantee's Representatives") may enter upon and inspect the Easement Area to determine whether the Easement Area is being maintained in compliance with the terms of the Conservation Easement.
5. In the event that the Grantor shall at any time fail to carry out the responsibilities specified within this Conservation Easement, and/or in the event of a failure to protect, preserve and/or maintain the Easement Areas reasonable order and condition, the City may serve written notice upon the Grantor, setting forth the deficiencies in maintenance and/or preservation. Notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place of the hearing before the City Council, or such other Council, body or official delegated by the City Council for the purpose of allowing the Grantor to be heard as to why the City should not proceed with the maintenance and/or preservation which has not been undertaken. At the hearing, the time for curing the deficiencies and the hearing itself may be extended and/or continued to a date certain. If, following the hearing, the City Council, or other body or official designated to conduct the hearing, shall determine that maintenance and/or preservation have not been undertaken within the time specified in the notice, the City shall thereupon have the power and authority, but not the obligation, to enter upon the property, or cause its agents or contractors to enter upon the property and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The cost and expense of making and financing such maintenance and/or preservation, including the cost of notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by the Grantor, and such amount shall constitute a lien on the Property. The City may require the payment of such monies prior to the commencement of work. If such costs and expenses have not been paid within 30 days of a billing to the Grantor, all unpaid amounts may be placed on the delinquent tax roll of the City, and shall accrue interest and penalties, and be collected as and deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against the Grantor and, in such event, the Grantor shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

6. Within 90 days after the Conservation Easement shall have been recorded, Grantor, at its sole expense, shall place such signs defining the boundaries of the Easement Area and describing its protected purpose, as indicated herein.
7. This Conservation Easement has been made and given for a consideration of a value less than One Hundred (\$ 100.00) Dollars and, accordingly, is (i) exempt from the State Transfer Tax, pursuant to MSA 7.456(26)(2) and (ii) exempt from the County Transfer Tax, pursuant to MSA 7.456(5)(a).
8. Grantor shall state, acknowledge and/or disclose the existence of this Conservation Easement on legal instruments used to convey an interest in the property.

IN WITNESS WHEREOF, Grantor and Grantee have executed the Conservation Easement as of the day and year first above set forth.

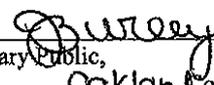
GRANTOR

LOTUS BANK, a Michigan corporation

By: 
 Richard S. Gurne, Its: Executive Vice-President

STATE OF MICHIGAN)
)SS
 COUNTY OF OAKLAND)

On this 6th day of August, ~~2007~~ before me, personally appeared the above named Richard S. Gurne, the Executive Vice-President of LOTUS BANK, a Michigan corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as his free act and deed.


 Notary Public,
 Oakland County, MI
 My commission expires:

My Commission Expires: 11-21-2013

J BURLEY
 NOTARY PUBLIC - STATE OF MICHIGAN
 COUNTY OF OAKLAND
 My Commission expires Nov. 21, 2013
 Acting in the County of Oakland

GRANTEE

CITY OF NOVI
A Municipal Corporation

By:
Its:

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this _____ day of _____, 200__, by, _____, on behalf of the City of Novi, a Municipal Corporation.

Notary Public
Oakland County, Michigan
My Commission Expires: _____

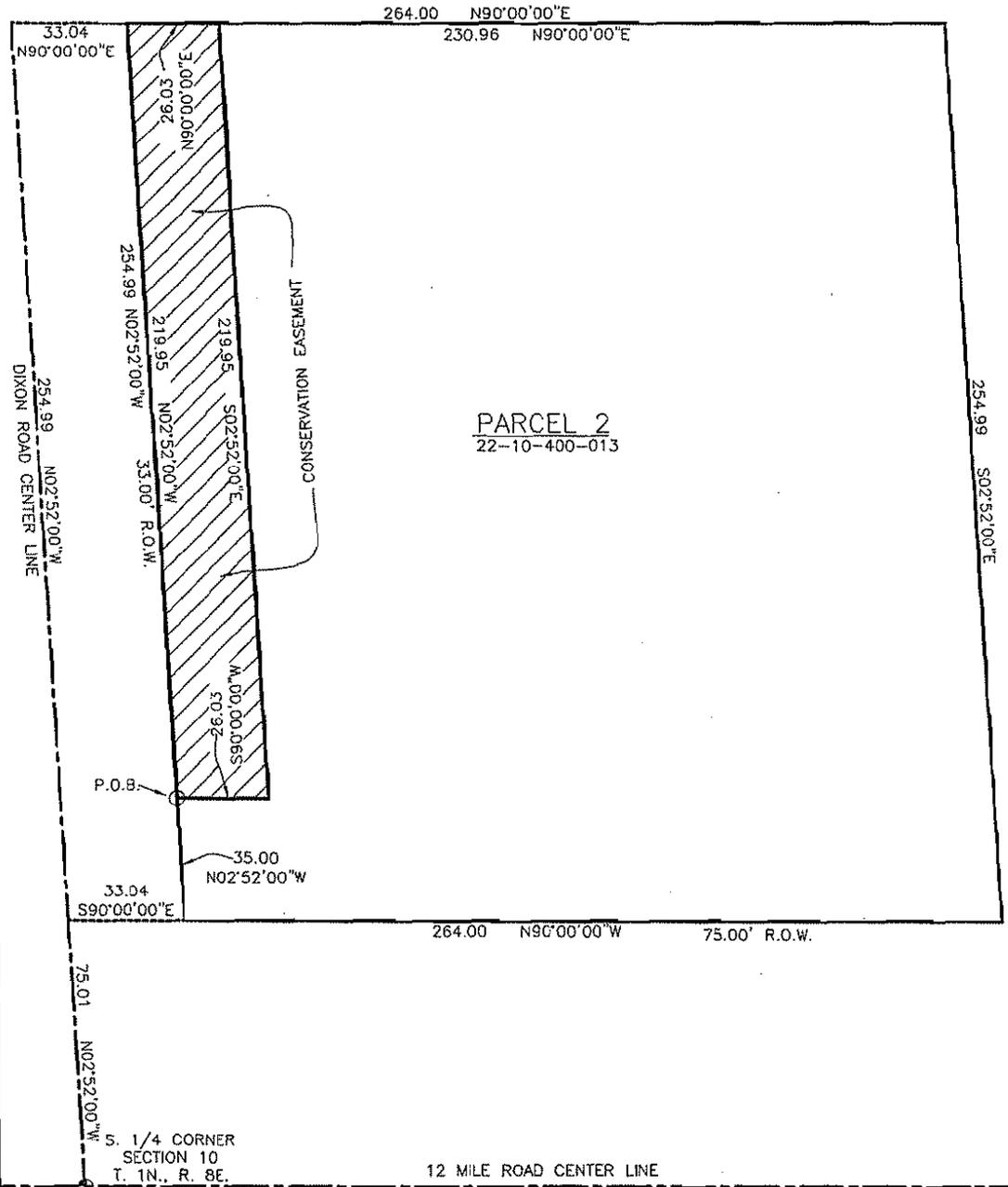
Drafted by:
Elizabeth M. Kudla
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040

When recorded return to:
Maryanne Cornelius, Clerk
City of Novi
45175 W. Ten Mile
Novi, MI 48375

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CONSERVATION EASEMENT

PARCEL 1



PARCEL 2
22-10-400-013

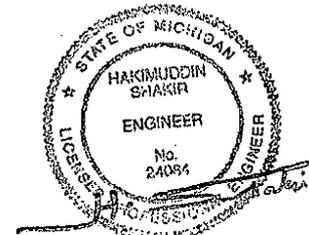


GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

SHEET 1 OF 2



ENGINEERING SERVICES INC. PHONE: (734) 525-7330
32300 SCHOOLCRAFT ROAD (586) 254-2080
LIVONIA, MICHIGAN 48150 FAX: (734) 525-7255
(586) 739-5944

CONSERVATION EASEMENT

LEGAL DISCRIPTION FOR PARCEL 2:

PART OF THE SOUTHEAST 1/4 OF SECTION 10, TOWN 1 NORTH,
RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN DESCRIBED AS:
COMMENCING AT THE SOUTH 1/4 OF SAID SECTION;
THENCE N. 02°52'00" W. 75.01 FT. TO THE POINT OF BEGINNING;
THENCE N. 02°52'00" W. 254.99 FT.;
THENCE N. 90°00'00" E. 264 FT.;
THENCE S. 02°52'00" E. 254.99 FT.;
THENCE S. 90°00'00" W. 264 FT. TO THE POINT OF BEGINNING.

CONSERVATION EASEMENT LEGAL DISCRIPTION:

PART OF THE SOUTHEAST 1/4 OF SECTION 10, TOWN 1 NORTH,
RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN DESCRIBED AS:
COMMENCING AT THE SOUTH 1/4 OF SAID SECTION;
THENCE N. 02°52'00" W. 75.01 FT.
THENCE S. 90°00'00" E. 33.04 FT.
THENCE N. 02°52'00" W. 35.00 FT.
TO THE POINT OF BEGINNING;
THENCE N. 02°52'00" W. 219.99 FT.;
THENCE N. 90°00'00" E. 26.03 FT.;
THENCE S. 02°52'00" E. 219.99 FT.;
THENCE N. 90°00'00" W. 26.03 FT.
TO THE POINT OF BEGINNING.



Site Plan

Location Map

Lotus Bank Location Map



Legend

Tax Parcels



CITY OF NOVI PLAN REVIEW CENTER

Created by Mark Spencer
12/15/06
NOVI PLANNING DEPARTMENT
45175 W. TEN MILE ROAD
NOVI, MI 48375-3024
(248) 347-0475
WWW.CITYOFNOVI.ORG



0 10 20 40 60
FEET

/city lotus bank location.mxd

MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

Planning Commission Minutes

Excerpts

January 24, 2007



AMENDED

PLANNING COMMISSION
REGULAR MEETING
LOTUS BANK, SP06-60, EXCERPT
WEDNESDAY, JANUARY 24, 2007 7:00 PM
COUNCIL CHAMBERS - NOVI CIVIC CENTER
45175 W. TEN MILE, NOVI, MI 48375
(248) 347-0475

CALL TO ORDER

The meeting was called to order at or about 7:15 PM.

ROLL CALL

Present: Members Brian Burke, Victor Cassis, Andrew Gutman (7:21 PM), David Lipski (8:00 PM), Michael Lynch, Michael Meyer, Wayne Wrobel

Absent: Members John Avdoulos, Mark Pehrson

Also Present: Barbara McBeth, Director of Planning; Tim Schmitt, Planner; Mark Spencer, Planner; Kristen Kapelanski, Planner; Ben Croy, Engineer; David Beschke, Landscape Architect; Tom Schultz, City Attorney

MATTERS FOR CONSIDERATION

3. LOTUS BANK, SP06-60

Consideration of the request of Bill Hass of Barber McCalpin Associates for Preliminary Site Plan and Stormwater Management Plan approval. The subject project is located in Section 10, at the northeast corner of Twelve Mile and Dixon Road, in the OS-1, Office Service District. The subject property is 1.2 acres and the Applicant is proposing a 5,200 square foot one story bank.

Planner Mr. Spencer described the project for the Planning Commission. The property is zoned OS-1 and master planned for Office as are a couple of parcels to the north. Further north are large lot Single Family Residential homes zoned R-A. To the south is Fountain Walk, zoned RC and master planned for Regional Commercial uses. To the East is the Manchester Office, zoned OS-1 and master planned for Office. To the west is Liberty Park, zoned R-A and developed pursuant to a court order, and master planned for Multiple Family Residential.

There are no regulated wetlands, floodplains, woodlands or natural feature habitat priority areas on the site.

The Applicant is proposing a 5,300 square foot bank with accessory drive-up and drainage facilities on 1.2 acres of land located at the northeast corner of Twelve Mile Road and Dixon Road. The Applicant proposes an entrance on both Twelve Mile and Dixon Road. Due to the small size of the site, the Applicant is proposing underground stormwater detention.

Since this site is adjacent to a residential district across Dixon Road, a lighting plan was required. The Applicant proposes decorative wall fixtures instead of the ninety-degree cutoff fixtures required by the Ordinance. The Ordinance allows the Planning Commission to waive the requirement if it finds that the use of a decorative fixture is appropriate.

The Applicant is asking for a Planning Commission Waiver of the loading area requirement and has provided the required documentation addressing the sensitive nature of their pickups and deliveries. Staff supports this request.

Dixon Road is listed as a natural beauty road in the Master Plan. As such, the City's Natural Beauty Road Ordinance suggests maintaining a fifty-foot natural vegetation buffer along the right-of-way to preserve the natural character of the road. This is only a suggestion and cannot be enforced as a requirement. The City's Landscape Architect recommends approval of the site plan subject to the Applicant preserving five trees at the corner of Twelve Mile and Dixon. The Applicant has agreed to work with the City on this request. The Applicant has been asked to provide a 22-foot Conservation Landscape Easement along Dixon road. This would provide about a fifty-foot wide strip of landscaping between the road and parking lot. The City and the City Attorney will work on the language of the easement so that the Applicant is allowed to maintain the area. It may not be appropriate for the area to be overgrown with weeds.

Because of the small amount of frontage on this site a Same Side Driveway Spacing Waiver is required,

regardless of where the driveway is placed. On Dixon Road, there wouldn't be an issue, even if there were two drives on Dixon. Spacing requirements are based on speed limits. The Traffic Engineer is also recommending that the driveway on Twelve Mile be an entrance only to restrict possible conflicts between through-traffic and exiting traffic. Currently there is a right turn lane partially in existence. The Applicant does not support this request. The City's Engineers are also asking for an access easement and stub to the northerly property; the Applicant has agreed to provide one, as he owns that property as well.

The Applicant will address other minor items at the time of Final Site Plan submittal.

Satish Jasti addressed the Planning Commission. He is the president and CEO of Lotus Bank. Their temporary headquarters will open on Grand River in the third week of March. They chose Novi for their headquarters because Novi does not have a bank headquartered here at this time. They like the demographics of Novi. A community bank is the economic engine of a community. He introduced John Fountain and Bill Hass from Barber McCaLpin Associates.

Mr. Fountain stated that they have designed a beautiful site and that the plan enhances the natural beauty road. He said they would continue a stretch of landscaping going north along the road. He has agreed to add an access to the northerly property.

Mr. Fountain said that they have responded to the reviews and have conceded on all points brought to their attention except for two items. First, they maintain their request for the two-way approach on Twelve Mile. Second, they want to keep the wall mounted light fixtures.

Mr. Fountain said that a bank is a low-volume traffic use. The zoning is classified for lower-volume traffic uses. The site was desirable to them because of the ease of use. Twelve Mile is a boulevard, so their traffic will only head west out of the site. The Twelve Mile approach is in an area set back from the road. This represents a lane for turning activity. The lane continues to the Manchester Office center. They want to maintain the two-way traffic at this approach, because bank traffic entering from Twelve Mile will be able to make an easy turn onto the site. The driver can choose to park and enter the bank, or continue around the building to the drive-through. When those drivers have completed their business, they can return to the front of the site and exit onto Twelve Mile without having to interact with incoming traffic. The traffic moves in an east-west pattern, and the traffic light to the east creates breaks in the traffic that will permit safe ingress and egress. The other approach into the site is on Dixon Road, the natural beauty, unimproved road. Keeping traffic on Twelve Mile is of value, and keeping the Dixon traffic lower in volume is also of value. The plan as proposed does just that. Mr. Fountain hoped the Planning Commission saw this as a favorable design. He noted that the Road Commission of Oakland County has given them preliminary approval on this design.

Mr. Fountain said that they have collaborated well on the preservation of the beauty along Dixon Road. They have volunteered this effort; it is not a requirement.

Mr. Fountain asked the Planning Commission to consider the lighting issue. The wall-mounted lighted fixtures were shown to the Planning Commission. The glass is opaque, so no bulb is exposed. The elevation with fixtures faces the Manchester Office Building. Another elevation is facing Twelve Mile. There are some technical details regarding the lights that were available. It is a low-output enhancement to the building. It is meant to enhance the architectural design. The Applicant did not think the lighting was obtrusive. There are two lights in the drive-through area that the Applicant would agree to remove if the Planning Commission desired.

Member Wrobel thanked the Applicant for choosing Novi. He asked what the City's rationale was for keeping the Twelve Mile entrance for ingress only. Traffic Consultant Sara Merrill responded that their concern was that exiting traffic wouldn't know if the oncoming traffic would be turning into the bank, Dixon Road or Manchester. Also, exiting traffic would have to weave out of this decel lane to get into one of the through-lanes. They would have to weave all the way over if their intent is to go eastbound. Ms. Merrill said that there wouldn't be any issue with vehicular conflicts with this redesign. Vehicles on this site will travel at low speeds. The site will not generate much traffic volume. Motorists and pedestrians alike know to anticipate each other in parking lots.

Member Wrobel asked where the cement ended on Dixon Road. Civil Engineer Ben Croy responded that the approach to Dixon off of Twelve Mile is paved. The entrance on Dixon would be on the chip seal portion of the road. Member Wrobel was concerned that the City has a natural beauty road that is hoped to be kept rustic, yet the request is to force traffic out onto Dixon Road. He thought that was oxymoronic. He did not necessarily agree with the Traffic Consultant's comments.

Member Wrobel liked the look of the bank. He had no problem with the lighting fixtures. He did feel as though the elevation facing the natural beauty road was very boring.

Member Meyer said that it didn't make sense to him that people would enter from Twelve Mile, use the drive-through, then have to drive all the way around the building to exit onto Dixon Road. He noted that Twelve Mile does have a boulevard. He would be in favor of the traffic exiting onto Twelve Mile. He thought the Consultant's suggestion would create more of a traffic safety problem.

Member Lynch agreed. Member Lynch questioned whether it was the Planning Commission's role to enforce design parameters in order to prevent people from violating traffic laws. He thought that the redesign of the entrance would cause more problems. He didn't think he could support the one-way entrance from Twelve Mile. He would feel delinquent in his duties by requiring this redesign.

Member Lynch did not have a problem with the lights. These lights are not high intensity. They probably won't even permeate the foliage. He agreed with Member Wrobel that Dixon is a scenic drive. He didn't know what the Applicant could do to make the elevation less bland, but if the Applicant couldn't find a way to improve it, Member Lynch would still support the project.

Chair Cassis asked if the Applicant was asking for the traffic to be able to turn left onto Twelve Mile. Ms. Merrill said that Twelve Mile has a boulevard, so traffic can only go to the right. Ms. Merrill said that their request is for traffic to turn onto Dixon Road, then turn right onto Twelve Mile. The Applicant apologized if Chair Cassis misunderstood his comments to mean that they wanted their traffic to be able to turn left onto Twelve Mile.

Member Gutman asked what the City's concern was regarding the lighting. Mr. Spencer said that the Zoning Ordinance requires outdoor lighting adjacent to residential to have cut-off fixtures. The Ordinance allows the Planning Commission to waive this requirement for decorative or historic fixtures. It is discretionary. The Planning Department is concerned that lights would be visible from the residential homes. This would be more apparent with higher wattage light bulbs. It is a direct light source rather than an indirect reflection.

Moved by Member Gutman, seconded by Member Wrobel:

In the matter of Lotus Bank, SP06-60, motion to approve the Preliminary Site Plan subject to: 1) A Planning Commission Finding that a loading zone is not required due to the sensitive nature of deliveries that need to occur as close to the front door as practical; 2) The Applicant providing ninety-degree cut-off shielded wall lighting fixtures; 3) The Applicant providing a Conservation Easement along the Dixon Road right-of-way; 4) The Applicant preserving trees numbered 1, 3, 5, 6 and 8; 5) A Planning Commission Waiver of the right-of-way canopy tree requirement to permit the substitution of ten sub-canopy trees; 6) A Planning Commission Waiver of the perimeter greenspace canopy tree requirement to permit the substitution of six canopy trees with 14 sub-canopy trees; 7) A Planning Commission Waiver of the Same Side Driveway Spacing requirements for the location of the Twelve Mile driveway as depicted; 8) The Applicant providing a secondary access easement and driveway stub to the property to the north; and 9) The conditions and items listed in the Staff and Consultant review letters being addressed on the Final Site Plan; for the reason that the plan is otherwise in compliance with the Master Plan.

DISCUSSION

Member Lynch asked about the second stipulation. Director of Planning Barbara McBeth said this stipulation

would not allow the decorative fixtures. She said that allowing the use of these fixtures is up to the Planning Commission. Member Lynch thought that the Planning Commission accepted the request to allow the decorative lighting.

Member Gutman said he felt that he needed to support the Zoning Ordinance on this issue.

City Attorney Tom Schultz told Member Lynch if he wanted to amend the motion to remove the stipulation and to allow the decorative fixtures, he could do so.

Moved by Member Lynch, seconded by Member Burke:

In the matter of Lotus Bank, SP06-60, motion to amend the motion to include, "The Applicant being permitted to install decorative fixtures," thereby removing the stipulation, "The Applicant providing ninety-degree cut-off shielded wall lighting fixtures."

DISCUSSION

Chair Cassis was pleased that the Applicant chose Novi. He liked the building. He thought the traffic design was acceptable and would function very well. The exit onto Twelve Mile pleased him as well. Sometimes people don't want to exit onto a side street. Chair Cassis liked the amendment to the motion. The decorative lighting gives a little bit of life to the walls. The lighting won't hurt anyone's eyes.

Member Lipski asked whether this amendment would set a precedent. Mr. Schultz responded that the key question is whether this will have an impact on the residents. This is probably the main issue to consider, as Member Lipski suggested. In terms of a precedent, each waiver opportunity stands on its own merits. The Planning Commission has had the opportunity to evaluate the issue. If the Planning Commission feels the lighting fixture is appropriate then the members can vote accordingly.

Member Lipski asked the Applicant to describe briefly the lighting, and what the lateral impact of the lighting might be. Mr. Fountain said the light projects to the side as opposed to out. It comes with a 14-watt bulb. The use is really illuminating the building. Member Lipski asked whether, in all practicality, this light would project into a neighbor's yard. Mr. Fountain said no. Member Lipski said that this amendment to the motion would then be appropriate.

Member Gutman thanked the Applicant for his additional input. He would be willing to support the amendment to his motion.

Member Meyer asked the Applicant when these lights would be lit. Mr. Fountain said that the timer would likely turn these lights off at 10:00 or 11:00 PM, along with the site lighting.

The Applicant also asked to confirm that the two-way drive onto Twelve Mile was acceptable to the Planning Commission and was not prohibited by the motion language.

ROLL CALL VOTE ON LOTUS BANK, SP06-60, AMENDMENT TO THE PRELIMINARY SITE PLAN MOTION MADE BY MEMBER LYNCH AND SECONDED BY MEMBER BURKE:

In the matter of Lotus Bank, SP06-60, motion to amend the motion to include, "The Applicant being permitted to install decorative fixtures." *Motion carried 7-0.*

ROLL CALL VOTE ON LOTUS BANK, SP06-60, PRELIMINARY SITE PLAN MOTION MADE BY MEMBER GUTMAN AND SECONDED BY MEMBER WROBEL, AS AMENDED:

In the matter of Lotus Bank, SP06-60, motion to approve the Preliminary Site Plan subject to: 1) A Planning Commission Finding that a loading zone is not required due to the sensitive nature of deliveries that need to occur as close to the front door as practical; 2) The Applicant being permitted

to install decorative fixtures; 3) The Applicant providing a Conservation Easement along the Dixon Road right-of-way; 4) The Applicant preserving trees numbered 1, 3, 5, 6 and 8; 5) A Planning Commission Waiver of the right-of-way canopy tree requirement to permit the substitution of ten sub-canopy trees; 6) A Planning Commission Waiver of the perimeter greenspace canopy tree requirement to permit the substitution of six canopy trees with 14 sub-canopy trees; 7) A Planning Commission Waiver of the Same Side Driveway Spacing requirements for the location of the Twelve Mile driveway as depicted; 8) The Applicant providing a secondary access easement and driveway stub to the property to the north; and 9) The conditions and items listed in the Staff and Consultant review letters being addressed on the Final Site Plan; for the reason that the plan is otherwise in compliance with the Master Plan. *Motion carried 7-0.*

Moved by Member Gutman, seconded by Member Meyer:

ROLL CALL VOTE ON LOTUS BANK, SP06-60, STORMWATER MANAGEMENT PLAN MOTION MADE BY MEMBER GUTMAN AND SECONDED BY MEMBER MEYER:

In the matter of Lotus Bank, SP06-60, motion to approve the Stormwater Management Plan subject to the conditions and items listed in the Staff and Consultant review letters being addressed on the Final Site Plan, for the reason that the plan is in compliance with the Stormwater Management Ordinance. *Motion carried 7-0.*