



# PLANNING COMMISSION MINUTES

Draft

CITY OF NOVI

Regular Meeting

**Wednesday, March 10, 2010 | 7 PM**

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

## CALL TO ORDER

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

## ROLL CALL

**Present:** Members Baratta, Cassis, Gutman, Larson, Meyer, Pehrson

**Absent:** Members Greco (excused), Lynch (excused), Prince (excused)

**Also Present:** Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; Mark Spencer, Planner; Lindon Ivezaj, City Engineer; David Beschke, City Landscape Architect; Rod Arroyo, City Traffic Consultant; Tom Schultz, City Attorney

## PLEDGE OF ALLEGIANCE

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

## APPROVAL OF AGENDA

Moved by Member Gutman, seconded by Member Larson:

## VOICE VOTE ON THE AGENDA APPROVAL MOTION:

**Motion to approve the March 10, 2010 Planning Commission Agenda. Motion carried 6-0.**

## AUDIENCE PARTICIPATION

No one from the audience wished to speak.

## CORRESPONDENCE

There was no Correspondence.

## COMMITTEE REPORTS

There were no Committee Reports.

## COMMUNITY DEVELOPMENT DEPUTY DIRECTOR REPORT

Deputy Director McBeth stated that City Council approved the second reading of the Wetland and Watercourse Protection Ordinance Update as well as the Update to the Wetland Map. Also approved were the Zoning Map Amendment and Planned Rezoning Overlay for the Medilodge of Novi to rezone from R-3 (One-Family Residential) to RM-1 (Low-Rise Low Density Multiple Family Residential).

## CONSENT AGENDA - REMOVALS AND APPROVAL

There were no Consent Agenda items.

## PUBLIC HEARINGS

### 1. CVS PHARMACY CHILLER EQUIPMENT, SCREEN WALL AND PARKING LOT, SP10-09

Public Hearing of the request of CVS Pharmacy for Preliminary Site Plan and Special Land Use Permit approval. The subject property is located in Section 22, west of Novi Road, south of Grand River Avenue, in the I-1, Light Industrial District. The subject property is approximately 22 acres and the applicant is proposing to remove 7 parking spaces in order to place an 888 square foot chiller equipment and screen wall compound and add an additional 11 parking spaces to serve the existing

460,000 square foot CVS distribution center building.

Planner Spencer stated that project was located on the north side of Genmar Drive where it intersects with Novi Road, just south of the CSX railroad tracks. To the north are the railroad tracks as well as the Fendt Transit Mix Cement Plant, to the east is the former Blueline warehouse, to the south is the former Johnson Controls building and to the west are a series of single-family homes and subdivisions.

The zoning of the property is I-1, Light Industrial and the property to the north is in the TC, Town Center District. The properties to the east and south are also in the I-1, Light Industrial District and properties to the west are in the R-1, One-Family Residential District.

This site contains some wetlands on the north side of the site and along the middle branch of the Rouge River. This application proposes no impacts to any wetlands. There is no additional pavement proposed for this site and the boundaries of the construction on the site will stay the same.

The applicant is only seeking preliminary site plan and special land use permit approval to remove parking spaces and install the chiller along with an 8 ½ foot tall screen wall. The applicant may make the screen wall higher based on the actual setting of the equipment. There will also be piping on the roof as part of the cooling system and the applicant will be adding an additional 11 parking spaces.

The proposed parking spaces are needed because the applicant is placing the chiller where there are existing barrier free parking spaces. New barrier free parking spaces are proposed at the northeast corner of the building. The proposed location of the chiller is about 490 to 500 feet from the adjoining residential properties and it is proposed to be located on the east side of the building. This is a 460,000 square foot distribution center building that was originally built in the 1980's and expanded to its current size in the mid 1990's.

Planner Spencer said the parking shown on the site plan that is dark in color along the west side of the building was shown to illustrate that there was room available for the banked parking that the applicant was required to have when the site plan was originally approved. This is not an approval of those parking spaces.

In this case, there is a property with I-1 zoning located adjacent to residential zoning, making this use a Special Land Use requiring the approval of the Planning Commission.

The chiller itself is about 55 feet long by 7 ½ feet wide and 8 feet tall. The applicant is proposing to put it in the side yard which would require a variance. If the chiller were placed in the rear yard, as required by the Zoning Ordinance, the building would not be able to block any noise that could travel to the adjacent properties. In this case, the two walls of the building will help block some of the noise of the unit.

Painted islands are proposed for the new parking instead of the required raised islands. This is similar to the rest of the development. Also, because of the truck movements adjacent to the proposed painted islands, it will be more forgiving if the trucks happen to go over the islands. The painted islands would require a waiver from the Planning Commission. Staff supports this waiver.

Planner Spencer stated that the applicant is proposing to add some rooftop equipment, consisting of 6 inch pipes on stands that will sit about 5 feet three inches off the top of the roof. The ordinance requires rooftop equipment to be no more than 5 feet above the roof and screened from view. Staff felt that screening the equipment with sheet metal would be more intrusive than the actual pipes are. The applicant will need a variance for this and the staff supports this as a variance.

As a Special Land Use, the Zoning Ordinance also requires the submittal of a Noise Analysis prepared by a certified sound engineer to help the Planning Commission to determine if the proposed use exceeds the allowable noise standards in the ordinance. Instead the applicant has submitted a Noise Impact Statement and is asking the Planning Commission to waive the Noise Analysis requirement. This site has had noise issues for many years, especially with the neighboring residents. The building has a set of exhaust fans on the west side of the building that generate some substantial noise.

Planner Spencer stated that over the course of several years, a Consent Agreement was reached between the applicant and the City to prohibit the fans from operating between 6:00PM and 6:00AM and for the applicant not to increase noise from the building.

The planning staff has reviewed the Noise Impact Statement that has been provided and based on the manufacturers data and the engineers statements, the equipment being surrounded by a screen-wall and the location of the equipment being on the opposite side of the building from the neighboring residential properties, the Noise Statement appears to present an accurate analysis with the chiller having a low impact on the noise levels.

The Planning Commission can ask for a Full Noise Analysis if it desires and that requirement could be a condition of final site plan approval as proposed in the motion sheet. If staff notices anything unusual in the Noise Analysis when it is reviewed at final site plan, staff would bring the matter back to the Planning Commission. The Planning Commission could also ask to review the final site plan and review the Noise Analysis at that time.

Planner Spencer stated that the applicant is still bound by this Consent Judgment, even if the chillers are approved. To make that clear to the applicant, the planning staff recommends that the Planning Commission include a reference to complying with the Judgment in its approval motion.

As a Special Land Use, the Planning Commission should also consider the following factors when relative to other feasible uses of the site: whether the proposed use will cause any detrimental impact on existing infrastructure or public services, whether the proposed use is compatible with the natural features and adjacent land uses, whether the proposed use is consistent with the goal of the City's Master Plan and whether it will promote the use of the land in a desirable manner and if it is in harmony with the purposes and conforms to applicable site design regulations.

Planner Spencer stated that the Planning Commission should also be aware that the City has received notice from the Michigan Department of Natural Resources and Environment of a pending Wetland Permit. The wetlands are located in the rear of the site. There is also a small mitigation area coming off of the parking lot that the State required. This permit is pending before the DNRE. In their application, the applicant has proposed wetland impacts brought on by a proposed parking lot expansion.

The City has not received any site plan or wetland permit review applications for the proposed parking lot expansion. If something like that was proposed, it would require site plan approval, a special land use permit and a wetland permit from the Planning Commission. The applicant can address this proposed DNRE permit, but it is staff's understanding that this is on hold indefinitely at this time.

Planner Spencer said the preliminary site plan and the special land use permit approval is recommended by the Planning staff and consultants subject to the applicant obtaining the appropriate variances from the Zoning Board of Appeals and continuing to be in compliance with the Consent Judgment.

Chair Pehrson opened the public hearing.

Nancy Mitts, 43999 Stassen Avenue wished to comment. The City of Novi had to get a Consent Judgment against CVS in 2004 on behalf of abutting residents due to the violations CVS Distribution Center created. This Consent Judgment took 9 years to enact. City Code 91900 states it must at all times protect neighboring residential districts from any adverse impacts. Currently diesel trucks are parked in the CVS lot 24 hours a day. CVS has exceeded their statements that they represented to City Council on anticipated truck growth. The neighbors hear the trucks idling all the time and can smell truck fumes. Code 1905, Paragraph 5, says the intended truck delivery service can be effectively handled without long term parking on site. CVS has surpassed the amount of trucks they said they would handle.

Ms. Mitts continued stating that the traffic impact study in 1994 said Novi Road would be adversely affected by this addition. CVS assured residents and City Council that Novi Road would be widened to five lanes. This was another misrepresentation. The Consent Judgment says there will be no attendant noise from the land, building and openings. Ms. Mitts said the neighbors hear noise from the hi-lows, music and even the intercom screaming orders at night through openings in the building. There will be more attendant noise and vibration if they are allowed to put rotation units inside the building, running day and night.

Ms. Mitts said the neighbors' properties are on wells. She has talked to a HAZMAT official and said Oakland County is taking a zero tolerance approach to any spills, leaks, or residual from buildings, trucks and trailers next to residential. Spills, leaks or residual from the CVS trucks and trailers when washed away comes back into the neighboring wells used for drinking water. CVS must have an impermeable parking surface and an impermeable containment system that would not discharge into the environment, according to the official from HAZMAT.

CVS has become a truck and trailer storage location. CVS has 49 bays for loading and they are storing at least 70 to 90 trailers and other vehicles on site in addition to the other daily delivery trucks. The chiller uses an antifreeze like substance. This is another HAZMAT issue which also requires an impermeable containment system and consistent training of the personnel.

Ms. Mitts asked that the request be denied. If the Planning Commission allows CVS to go through with their plan, Ms. Mitts wants the opening in the west wall bricked up. The fans will not be necessary. The Consent Judgment says no attendant noise. Ms. Mitts takes the noise clause seriously and will call the Police Department and create a paper trail. She believes that the City Attorney's office will have to address CVS again.

Ms. Mitts said the impermeable containment issues should be addressed because of the well proximity and wants the well water tested regularly. An aerial photograph shows clearly all the trucks lined up. There are 60 trucks at any given time and 70 to 90 possible. All of the salt or fluid from broken lines or other road debris on the trucks is running off into the Huron River. The erosion on the river bank is clearly visible.

Ms. Mitts indicated that Planner Spencer stated that CVS was thinking about putting parking along the west side, which is residential and a stone's throw from her window. She said that CVS has gotten too big for the area and has misrepresented themselves continually. When the residents first saw the plans years ago, there was nothing on the west wall. One of the City codes says that the only thing on the west wall of I-1 abutting residential should be an accessory door. All of a sudden, six months later after the building was being put up, the residents heard fans running. Ms. Mitts went to the City and asked what happened, since the fans were not supposed to be there. The City said they did not know what happened and did not know how the fans got there. The City then got the Consent Judgment for the residents and that is all the City has done. Ms. Mitts indicated she will keep calling until something is done and feels that bricking up the wall would help a lot.

Mr. John Travis came forward and stated that he resides behind the wetlands in Creek Crossing Subdivision.

Mr. Travis said that from what he understood, CVS was going to fill in the wetlands. But now, from what he heard tonight, that it is on hold. Mr. Travis asked if there will be another public hearing if the wetlands are proposed to be filled.

Chair Pehrson confirmed there would be another hearing.

Mr. Travis asked if CVS were considering filling those wetlands that they instead could consider moving into another location. There is a very large frog population, ducks and ducklings, deer, fox and ground hogs that access those wetlands. Mr. Travis asks that the Commission considers these factors if filling the wetlands is ever proposed.

Staff indicated there was correspondence received as part of the public hearing and that they were still trying to locate that. It would be presented to the Commission as soon as possible.

No one else wished to speak and Chair Pehrson closed the Public Hearing, stating the correspondence could be read into the record later in the discussion.

Member Cassis stated he has always thought the use on this site was much more intense than its location should allow. Member Cassis asked staff what was going to happen to Novi Road in regards to future construction and/or the proposed railroad bridge.

City Engineer Ivezaj indicated there is a grade separation project planned for Novi Road over the railroad tracks. Plans have already been completed. Construction was supposed to start this spring. However, it was postponed due to funding until the fall. So, there are plans in the works for widening Novi Road and a grade separation project over the railroad tracks.

Member Cassis stated that he knows the neighbors to CVS have suffered. They have been at public meetings on numerous occasions objecting to this project and to the things that CVS has added in the past to make the use more intense.

Member Cassis said the City has gone along with this project each time they come in to add to the intensity of the use creating more of a burden for the neighbors.

Member Cassis addressed Chair Pehrson and said he would plead with the Planning Commission to listen to some of the neighbors and consider requiring the applicant to complete a full noise analysis. Apparently, it has been very easy for them to increase the intensity and the use and the trucks that are parked there. Member Cassis remembers CVS pledging not to have all kinds of trucks parked on the site. The more the City is willing to give, the more intense the use of the site will be and the more it will be a liability in that area. Now the traffic going over the railroad tracks has to be considered. CVS has been there and the City has given them approval to be in that location under certain conditions and the Planning Commission needs to reconsider this situation.

Jamie Hawkinson from CVS came forward and Member Baratta thanked him for bringing his facility here and for the jobs that they had created.

Member Baratta stated that the Consent Judgment indicates the fans will not be on from 6PM to 6AM and asked the applicant if they were in violation of that requirement.

The applicant stated that at the time of the Consent Judgment a digital timer that runs off a computer system was installed. One would have to actually override the system to activate the fans during those off-times.

Member Baratta confirmed the fans were not running at the prohibited times.

Member Baratta asked if there were diesel trucks idling in the CVS parking lot creating noise.

Applicant Hawkinson stated that the trucks are typically shut down after midnight and diesel engines are not left running after CVS's run time and business is usually over after midnight.

Member Baratta asked if there would be a problem having the trucks turned off at 6PM, since there are people sleeping from 9PM to midnight.

The applicant said CVS does shuffle trailers in the evenings, but does not have as much activity in the back as they used to. A lot of the truck traffic tends to go from bay doors 5 to 7 all the way up to the other side, which are doors 27 to 35.

Member Baratta asked the applicant how many trucks are being shuffled at night.

Applicant Hawkinson answered saying there is a lot less activity at night and he could not say for sure how many trucks were being moved.

Member Baratta asked him to estimate.

The applicant thought it was probably less than 25.

Member Baratta said issues about containment have been raised and he suspects hydrocarbons coming off vehicles or possibly if CVS has a reefer, some water coming off the reefer as it normally drains. Member Baratta asked if there is a containment system at this facility.

Applicant Hawkinson answered and said they have a gas-oil separator throughout all of the dock wells, drain systems which are inspected once a quarter and a company that comes out and actually does preventative maintenance.

Member Baratta asked if there were forms filed with the DNRE.

The applicant indicated no forms are required with the DNRE, but monthly inspections of the containment valves and the equipment are done with the City's Fire Marshall.

Member Baratta confirmed there were no violations and asked if the applicant was planning to put a screen wall around the chiller unit.

The applicant stated that the plan is to put a screen wall around it and if need be to add an acoustical material to help deaden the sound. A sound engineer is coming out to perform a 24 hour study to see what the noise levels are on the site.

Member Baratta asked what type of wall is proposed.

Applicant Hawkinson indicated an 8 inch thick masonry wall is proposed.

Member Baratta asked what type of coolant the chiller unit typically uses and if it was a sealed unit.

The applicant indicated it is a glycol system and would be a self-contained, sealed unit.

Member Baratta said that while he understands the neighbor's concerns, the Planning Commission should consider the specifics of the request.

Member Baratta asked City Attorney Schultz if relative to the existing consent agenda and items concerning noise and truck traffic that were part of that, what is the remedy and the means by which the citizens should go about to try and resolve some of these issues?

City Attorney Schultz stated that with regard to the Consent Judgment, the residents would have to identify a complaint or a potential violation and show that the Consent Judgment is not being complied with for the City to respond to. The chiller is what is before the Planning Commission this evening.

Member Baratta said that while he understands and empathizes 100% with the residents, the Planning Commission is being asked at this time to look at the chiller for the site plan use and the special land use permit.

Member Meyer asked if the applicant if he feels that this is a heavier and more intense use of this location than what should be there.

The applicant stated that he thought they were within the threshold as far as the intensity of the use.

Member Meyer asked if CVS was sensitive and aware that there are citizens who feel that the noise is not in compliance with the Consent Judgment.

Applicant Hawkinson said CVS has chosen to actually move forward and hire a sound engineer to do a full sound analysis. CVS is also looking at running the fans much less by installing the air rotation system and chiller. Under the current conditions, it becomes unbearable for some of the employees.

Member Meyer confirmed CVS was proposing to remove 7 parking spaces and put in 11 parking spaces to accommodate the installation of the main part of the chiller system.

The applicant noted that the additional parking spaces will be on the existing asphalt that is currently in place.

Moved by Member Meyer, seconded by Member Gutman:

**In the matter of CVS Distribution Center Chiller Equipment, Screen Wall and Parking Lot, SP10-09, motion to approve the Special Use Permit for accessory chiller equipment, screen wall and parking lot modifications subject to the following: a) Planning Commission finding under Section 2516.2.c for the Special Land Use permit that relative to other feasible uses of the site the proposed use will not cause any detrimental impact on existing thoroughfares due to the fact that the addition of the accessory cooler and additional parking spaces will not create any additional traffic; The proposed use is compatible with adjacent uses of land in terms of location, size, character, and impact on adjacent property or the surrounding neighborhood due to the fact that the proposed equipment will not be visible and should not generate an excessive amount of noise since it will be located on the opposite side of the building from the neighboring residential and surrounded by a screen wall; The proposed use is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use; The proposed use will promote the use of land in a socially and economically desirable manner; and The proposed use is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located as noted in the staff and consultant review letters; b) The applicant obtaining variances from the Zoning Board of Appeals for the location of accessory**

**equipment in the side yard, to permit roof top equipment that exceeds five feet and to permit roof top equipment without screening; c) The applicant providing a Noise Analysis demonstrating acceptable noise levels at Final Site Plan submittal; d) Compliance with the amended Consent Judgment between the City of Novi and CVS Michigan Distribution, Inc. and CVS Pharmacy, Inc. on February 13, 2004 especially not causing an attendant increase in noise coming to the neighboring residential properties; and e) Compliance with all conditions and requirements listed in the staff and consultant review letters.**

Member Cassis stated he was glad the Planning Commission was requesting the noise analysis and wondered if the noise analysis should come after the road improvements and bridge are constructed on Novi Road. Member Cassis also noted this matter is a public hearing and the correspondence has not been read into the record yet.

Chair Pehrson stated staff is looking for the correspondence and it will be read into the record.

Member Cassis thinks the Planning Commission should hear the correspondence before any motions or decisions are made.

Chair Pehrson asked Deputy Director McBeth if they found the correspondence and she said they could not find the letters at this time.

Attorney Schultz stated that they could table this item until the Planning Commission has the opportunity to hear those or view those.

Moved by Member Gutman, seconded by Member Meyer:

**In the matter of CVS Distribution Center Chiller Equipment, Screen Wall and Parking Lot, SP10-09, motion to table the matter until the correspondence can be read into the record.**

Moved by Member Gutman, seconded by Member Meyer:

**In the matter of CVS Distribution Center Chiller Equipment, Screen Wall and Parking Lot, SP10-09, motion to withdraw the motion to table the matter.**

The correspondence related to the public hearing was read into the record.

Don VanOust, 25887 Junction, Novi objects to the request as the area is near the wetlands and the fact that CVS has not abided by the terms of the Consent Judgment concerning the noise and the chiller will add to the noise on the site.

Nancy Mitts, 43999 Stassen, Novi has sent her protests to the State of Michigan DNRE since CVS is trying to take over the rest of the wetlands. They are asking DNRE to pave over more wetlands. They have outgrown land use for abutting residential. They are telling DNRE they want to park more trucks. There is a Consent Judgment against them for any further noise. Stop them now please.

Attachments from Nancy Mitts were also included talking about the fans running from 6PM to 6AM and asking who residents should contact. This is a letter of follow-up relative to the code and the ordinances, including the approved site plan. CVS is no longer a warehouse, they are a distribution center and they changed, not the residents. The rest are items highlighted related to storage tanks and chiller tanks relative to site code ordinances.

Chair Pehrson confirmed that was all the correspondence received on this matter.



Member Baratta asked the applicant if a noise analysis will be done with the fans on versus what the noise level would be with the chillers on when the fans would not have to be on so much.

The applicant answered that this was correct. The individual doing the inspection has asked that some fans be turned on so any noise analysis can be done with what is being produced by each unit.

Member Baratta asked if it was the applicant's opinion that there would be less noise emanating from the site once this chiller gets constructed.

Applicant Hawkinson said that would be the case.

Member Meyer asked how far away from existing residences the fans are.

The applicant's engineer said the chiller is 500 feet from residential and the fans are 120 feet from residential.

**ROLL CALL VOTE ON SPECIAL LAND USE APPROVAL FOR CVS PHARMACY CHILLER EQUIPMENT-SCREEN WALL AND PARKING LOT, SP10-09 MOTION MADE BY MEMBER MEYER AND SECONDED BY MEMBER GUTMAN.**

**In the matter of CVS Distribution Center Chiller Equipment, Screen Wall and Parking Lot, SP10-09, motion to approve the Special Use Permit for accessory chiller equipment, screen wall and parking lot modifications subject to the following: a) Planning Commission finding under Section 2516.2.c for the Special Land Use permit that relative to other feasible uses of the site the proposed use will not cause any detrimental impact on existing thoroughfares due to the fact that the addition of the accessory cooler and additional parking spaces will not create any additional traffic; The proposed use is compatible with adjacent uses of land in terms of location, size, character, and impact on adjacent property or the surrounding neighborhood due to the fact that the proposed equipment will not be visible and should not generate an excessive amount of noise since it will be located on the opposite side of the building from the neighboring residential and surrounded by a screen wall; The proposed use is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use; The proposed use will promote the use of land in a socially and economically desirable manner; and The proposed use is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located as noted in the staff and consultant review letters; b) The applicant obtaining variances from the Zoning Board of Appeals for the location of accessory equipment in the side yard, to permit roof top equipment that exceeds five feet and to permit roof top equipment without screening; c) The applicant providing a Noise Analysis demonstrating acceptable noise levels at Final Site Plan submittal; d) Compliance with the amended Consent Judgment between the City of Novi and CVS Michigan Distribution, Inc. and CVS Pharmacy, Inc. on February 13, 2004 especially not causing an attendant increase in noise coming to the neighboring residential properties; and e) Compliance with all conditions and requirements listed in the staff and consultant review letters. *Motion carried 5-1 (Nay- Cassis).***

**2. ZONING MAP AMENDMENT 18.694**

Public Hearing of the request of Novi Mile, LLC, for Planning Commission's recommendation to City Council for rezoning of property in Section 16, east of Beck Road, between I-96 and Grand River Avenue, from OST, Planned Office Service Technology, to FS, Freeway Service District with a Planned Rezoning Overlay (PRO). The subject property is approximately 1.81 acres.

Planner Kapelanski stated that the applicant is proposing to rezone, with a PRO, a 1.8 acre site on the east side of Beck Road between I-96 and Grand River Avenue. The site is currently vacant but was formerly a

nursery. To the north is MDOT right-of-way; to the east is the balance of the former nursery site with the Wixom ready-mix plant further to the east; to the south is Michigan Laser and to the west is Westmarket Square, across Beck Road.

The subject property is currently zoned OST and the proposed zoning is FS. The site is bordered by OST zoning to the east and south and B-2 zoning on the western side of Beck Road.

The future land use map indicates office uses for the subject property and the properties to the south and east with local commercial uses planned on the western side of Beck Road. The proposed rezoning would be contrary to the current recommendations of the Future Land Use map. Additionally, the subject property is part of an area involved in the Master Plan update and new recommendations for this area for a Retail Service Overlay Provision are anticipated as part of the Master Plan update.

Planner Kapelanski stated that this concept plan appeared before the Planning Commission in January seeking recommendation for a straight rezoning to FS. At that meeting, the Planning Commission recommended approval of the proposed straight rezoning. When the matter appeared before Council, the Council accepted the applicant's offer to enter into a PRO agreement and the Council directed the applicant to work with staff on a PRO. The applicant has now included a concept plan as part of their rezoning request showing a 6,820 square foot gas station with an attached drive-through fast food restaurant. Planning staff is recommending denial of the proposed rezoning with PRO as the rezoning would be contrary to the recommendations of the Master Plan and the proposed site area is not large enough to accommodate the proposed building without significant ordinance deviations. These deviations include deficient parking setbacks in the western and southern yard, deficient dumpster setback and significant landscape waivers.

As part of their proposed public benefit, the applicant has agreed to construct a road connecting Grand River Avenue and Beck Road. This road is anticipated to be included as part of the recommendations of the planned Retail Service Overlay District. The first section of the road would be constructed along with the USA 2 Go development with the remainder of the road constructed when the next parcel to be serviced by the road is developed. The road connection plan has been included as part of the concept plan. The City's Traffic Consultant recommended a minor alteration to the planned road layout but recommends approval of the concept plan and road layout.

The Engineering review and Fire review also recommend approval with items to be addressed on the Preliminary Site Plan. The Façade review noted no concerns with the design of the building, but did recommend the applicant redesign the canopy to be in compliance with the façade ordinance. The Landscape review noted a number of deficient items. These include the lack of berms along I-96, Beck Road and the proposed connection road and a deficient greenbelt along the Beck Road and I-96 frontage. In lieu of the required berm along the access road, the applicant has proposed a three foot high wall for a portion of the frontage. Staff would recommend the applicant continue this wall along the entire access road frontage. In addition, the site is lacking the required amount of parking lot landscaping and the required building foundation landscaping. Lastly, the applicant has included signage as part of their concept plan application. Typically, signage is not included in a PRO Agreement and is instead sent to the Zoning Board of Appeals to receive any required variances during the site plan review process. The Sign Code is not part of the Zoning Ordinance. Typically, only Zoning Ordinance deviations are included in the PRO Agreement. The applicant has proposed a sixty-six square foot ground sign. For comparison purposes, this would be similar to the ground sign at Henry Ford Medical Center. The Sign Code would only permit a thirty square foot ground sign. The applicant has also proposed three wall signs. The Sign Code only permits one ground sign or one wall sign for each business. Signs are also shown on the canopy. The Sign Code does not allow any canopy signs. The applicant has been meeting with and working with staff to eliminate some of the deviations proposed as part of the original concept plan. Planned Kapelanski

indicated she and the applicant were available to address questions and the City's Traffic Consultant Rod Arroyo was at the meeting to address any traffic questions.

Mr. Blair Bowman, Novi Mile, LLC came forward and stated that the Commission will recall that this property was previously the subject of a rezoning application for a straight FS (Freeway Service) rezoning, which was recommended for approval by the Planning Commission to the City Council. Novi Mile, LLC had an opportunity to work with both the City Council and staff in looking at the benefits and the approach of using a PRO.

One of Mr. Bowman's concerns with utilizing the PRO process was with timing, but he is relatively confident and comfortable in regards to when the applicant will be back in front of City Council. Some of the points of the PRO are outlined in the various motion items and options and Novi Mile LLC would still like to be able to discuss those with staff after this evening. Mr. Bowman wondered if the PRO process is ongoing until to the matter appears before the City Council, or if items are sorted out at the Planning Commission meeting as far as timing and the requirements for construction of the access road, prohibitions on turning movements and those types of things that were discussed with staff as being a concern.

Mr. Bowman indicated the PRO allows the applicant and the City the opportunity to deal with some of the very unique components of the site. Many of the deficiencies that were identified were technically probably there and accurate. The proposed use is consistent with the anticipated future land uses of the site and the on-going discussions at the Master Plan and Zoning Committee. Given the setback of this site from the thoroughfares itself; there are massive amounts of green space that will work in conjunction with the proposed landscaping and screening efforts that are part of the plan now to certainly offset any of those types of potential deficiencies.

Chair Pehrson asked if there was anyone in the audience that would like to participate and address the Commission on this matter. Seeing no one, Chair Pehrson closed the Public Hearing and turned it over to the Planning Commission.

City Attorney Schultz explained the difference between a PRO and a straight rezoning. When Mr. Bowman was before the Commission the last time, his request was for a straight rezoning and there were no requirements for road concessions or anything like that. That was just a rezoning request and was recommended for approval to City Council and Council thought some of the issues about access and turn movements could maybe be dealt with in a PRO Agreement.

City Attorney Schultz explained the next step in the process is for the City Council to receive a recommendation from the Planning Commission on whether or not the rezoning should occur and the recommended conditions of the PRO. The motion sheet prepared by staff explains the proposed benefits and the conditions of approval; namely the new collector road, access to the MDOT, stormwater basin and the applicant has asked for some ability to relax some of the standards of the Zoning Ordinance as outlined by Planner Kapelanski. The Planning Commission is asked to have a general discussion about the proposed deviations and the kinds of conditions that should be imposed.

Member Baratta inquired as to whether a PRO and PUD (Planned Unit Development) are the same thing? As part of a complete plan, Member Baratta would expect to receive a master plan of sorts showing buildable areas for the entire four to five acres of the site surrounding the road. Member Baratta asked if it common to get an entire plan in a submission for a PRO?

City Attorney Schultz stated that what is proposed here for discussion is entirely appropriate under the City's PRO or under a PUD.

Mr. Bowman stated that when this application appeared before the City Council it was for a straight rezoning and the staff and administration felt the proposed rezoning could affect some of the other properties in the area and Novi Mile LLC agreed. The applicant has provided a concept plan for development of the gas station site as a part of the PRO. As far as off-site work to properties outside of the gas station site, the applicant does not know at this point what will be built in that area. The applicant has offered the road development and proposed it in the locations where the City wants it to begin and end. The applicant is mainly focusing on the gas station site and the additional benefits. It is appropriate for this kind of proposal.

Member Baratta asked if in the Planning Commission's deliberation of this proposal, is it appropriate as part of our discussion of this PRO to include the designated timeframe that the road and infrastructure would have to be completed by?

City Attorney Schultz stated that that kind of discussion was appropriate. As shown in the provided materials, the applicant has not agreed to construct the road with the development of the gas station, but, when the next development comes in, that is when the road will be built. Those offers and City commentary on those are listed in the motion sheet and those are the kinds of things that can be discussed.

Member Baratta stated he was an advocate of the proposed gas station use when the previous proposal was presented. From a successful business standpoint, a gas station and Tim Horton's on Beck Road should do very well with work traffic. Also, from a business standpoint, the site configuration makes a lot of sense with those particular uses. At first glance, the site does not appear big enough to facilitate the proposed uses.

Member Baratta indicated when talking to real estate developers, he usually tells them that the land is the cheapest thing in a project and the major cost is in the infrastructure that needs to be developed on the site and if there is ever expansion with other structures, it is extremely difficult after the fact to find property and acquire it. The site is too small for what the applicant is proposing. There are setback deviations that would be not be required if the applicant could acquire more property. Staff did not think there would be issues regarding the fuel tanks and fire trucks. But it does seem like it creates a difficult situation with having to fill those tanks in front of the buildings and between the gas pumps. There was not a sidewalk proposed on Beck Road and there should be one. As far as signage, this should have to comply with the City's standards, including both wall signs and canopy signs.

Member Baratta stated that the applicant has a great development, but is just short on property. Member Baratta asked Mr. Bowman if he had tried to acquire additional property.

Mr. Bowman responded the applicant did acquire additional property and expanded the site area to what it is now. Also, from a standpoint of construction of a 6,800 square foot building, this is a sizeable piece of property. In looking at the parking requirements of the community, there is some of it that has a reasonable and rational relationship to the use and others that don't. It puts an excessive amount of pavement area in for this type of site plan and use and the applicant has worked with staff regarding how the parking layout will work and the berming, or absent thereof on the site along the collector road. In looking at the site itself and where it is positioned, it is a huge piece of property when you consider all of the green space and all of the non-used right-of-way along the Beck Road and the I-96 frontage. Technically the site looks tight on paper but it is going to appear much larger with the added off-site landscaping outside of the property lines in the right-of-way. From an operation standpoint, this is an easy flow of movement of both vehicles, with parking in the rear of the building for employees. It is a very well situated site plan for the site and it is a sizeable one.

Member Baratta asked if the total building area, including the Tim Horton's and the gas pump is 6,820

square feet and does that include the canopy?

Mr. Bowman responded he did not think the 6,820 square feet included the canopy area.

Member Baratta asked about the size of the canopy because he looks at that as part of the building structure since it takes up square footage on the site.

Mr. Bowman answered he did not know the size of the canopy off-hand, but could probably size it out on the plan. From an operation standpoint, canopies are determined as a convenience and comfort factor which provide screening from the elements when pumping gas in an outdoor setting and also provide the fire suppression capabilities.

Member Baratta stated from the discussion at the last Planning Commission meeting, he was of the impression that what the applicant was creating was more than just a gas station and more of a retail store, a liquor store. If it is more of a retail store, the applicant would have to meet retail parking codes. Tim Horton's is a restaurant and has seating which will need parking as well. The applicant is going to generate sales from this investment and maybe one day may want to consider adding on to it. This is a wonderful investment from a profit potential, however, the applicant does not have enough real estate for this proposal.

Mr. Bowman answered he did not want to be argumentative and Member Baratta's points are well taken. There is no credit in the parking space calculations given for the overlap in those uses. This is a situation where someone is going to come into the fuel station for fuel, and that person could be a possible customer for the convenience store, and a possible customer for coffee or a meal at Tim Horton's. The way the ordinance lays out and is structured right now an applicant has to provide parking for each use per the ordinance standards. In the applicant's first transition in presenting this to the staff, they had actually eliminated the parking in the rear because it seemed excessive for what our operations would need. This development is going to have excess parking.

Member Baratta asked Mr. Bowman if he felt that the fuel trucks did not create a traffic issue between the canopy and the proposed retail building for off-loading.

Mr. Bowman does not believe the fuel truck will create a traffic issue because this is an operation where the fueling will take place well outside of any mainstream peak period of operation. Given that, the site is designed as proposed in such a way that even if it was fully active, the fuel trucks could facilitate a fuel-up and exit the site safely and without causing or impeding traffic flow.

Member Baratta asked when the fuel truck comes in, will it go east on the proposed new road off of Beck Road and turn left and go around the Tim Horton's or go in front of Tim Horton's and the proposed gas station/retail store and fill the tanks?

Mr. Bowman answer stated there is an area for the drive-through lane as well as two lanes of traffic to pass on the north side of the building.

Member Baratta asked if there has been discussion on putting that underground tank behind the building.

Mr. Bowman stated that the design efforts and construction of this were discussed at length and the fuel tanks were designed into the plan where they are located for a reason and purpose. Mr. Bowman does not know the exact reason why the tanks cannot be in the back of the site, but does know that the location was thoroughly thought through.

Member Larson wanted to commend Mr. Bowman on the great plan and his effort on what he does in the City. Member Larson asked Mr. Bowman if the building is 119 feet tall?

Mr. Bowman answered that he did not think so.

Member Larson stated that on the elevations, the plan says 119 feet, 0 inches.

Member Meyer asked if Traffic Consultant Arroyo could come forward and share some information with the Planning Commission about the access road. Member Meyer asked when the road will go in. Will it be before the gas station is built or afterwards and will it provide a safety factor? Member Meyer said he is trying to picture when the heaviest traffic might be and when Rock Financial has a show and when the show ends and traffic is coming out, people may want to pull into the gas station for gas or use the convenience store. Will this be safely positioned so there will not be any problems with so many cars at this particular time?

Traffic Consultant Arroyo answered the proposed access road will be built to the City's collector road standards which would provide for a three-lane cross section, essentially. The road would be extended to the east and make a connection to the south to Grand River Avenue at the time the next development occurs that is under the control of the applicant. An issue that has been raised is a potential connection to the east and the relationship to Rock Financial Showplace. One of the comments in the traffic review letter is that the new road be designed so it would function as a collector roadway, which means a posted speed limit of 30 miles per hour, which means the road would be designed for 35 miles per hour. Typically, a road is designed five miles per hour over the posted speed limit so it would truly function in that manner.

Traffic Consultant Arroyo stated it is anticipated that the traffic on this roadway will increase over time as development occurs on the properties to the east. There is the possibility a connection even farther to the east could be established to ultimately connect into the Rock Financial Showplace. The Master Plan and Zoning Committee has been discussing a road network here that would run parallel to Grand River Avenue on both the north and south sides that would eventually tie into Grand River in more than one place. The idea here is to build a network that is an alternative to using Grand River Avenue to try to provide some relief. That is what is being proposed and as it is built out will ultimately provide a benefit to the City in terms of having that network in place to help relieve some traffic congestion issues.

Member Cassis stated there are two issues before the Planning Commission tonight, the rezoning and the PRO. As far as the rezoning, Member Cassis indicated some of the Planning Commissioners have gone over the matter on committee level and the Planning Commission level and have digested that process quite intensively. But, gathering from the Council discussion, as well as our discussions here, there are more particulars as far as the site is concerned and the PRO benefits. Member Cassis stated that there are quite a few things that are required of the applicant to comply with as far as the proposed motions are concerned. Member Cassis asked the applicant if those were acceptable.

Mr. Bowman would like to clarify or modify some of the conditions in the motion. But, in general, was in concurrence with the PRO concept, with a few minor modifications.

Member Cassis stated it appears the applicant has one or two issues to sort out in regards to the suggested motion and he is surprised those haven't been discussed with the staff beforehand.

Mr. Bowman said he would like to address those outstanding issues now. They have been talked about but, the applicant just hasn't had a full opportunity to digest those and then agree with everything. This is the kind of process that the PRO allows.

Member Cassis asked the applicant if this was a premature application.

Mr. Bowman answered no and indicated the applicant was ready to proceed to City Council following this recommendation for approval of the formal agreement.

Mr. Bowman stated that one of the issues was the timing of the road and when it gets constructed. Establishing some sort of trigger mechanism is an appropriate way of determining when the road should be constructed instead of just saying arbitrarily it should be constructed two years from now. The applicant's promise going into this process was it could be shown and proven that the traffic could safely operate with the gas convenience center use on the site without any alterations, including the construction of the access road. The traffic study and analysis has shown that the gas station could operate safely without any upgrades to the road network. The next step is to determine when the road is constructed. It would be foolish to say that there is a master plan for that area and get locked into that and then have to come back and change it later.

Mr. Bowman explained that the positioning of this road and the dedication of the right-of-way were key concerns of the City and the applicant is willing to do both of those things. When the applicant begins construction on their next project they would be responsible for and install that road. What has now been introduced by the suggested motion is the fact that any other property owner could trigger the construction of that road. While the applicant is not entirely opposed to some condition being drafted into the PRO stating that, the adjacent owner would have to be responsible for their proportionate share of the costs then as a part of their site planning responsibilities.

Member Cassis stated that this is one issue that should be sorted out and referenced the portion of the road that goes east and along the southern side of the applicant's property. Would the applicant agree to construct the portion of the road going east and continuing until it turns south? Member Cassis stated that the applicant may want to split the construction into two parts but in listening to the applicant, they would like to instead complete the whole road whenever that trigger is activated.

Mr. Bowman said the applicant is willing to construct, at this time, the access road up to the property line of the current proposal.

Member Cassis asked the applicant when the rest of the construction would be triggered.

Mr. Bowman said what the applicant was willing to commit to is to construct the road whenever the current owner begins construction on another parcel. The applicant and/or owner cannot control or commit to continue construction on the access road based on what adjacent owners might or might not be willing to do. If an adjacent property owner were to want to take advantage of the arrangements outlined in the PRO Agreement, they should be required to fulfill certain requirements of the planning process as far as secondary access and this could be a method in which they would do that. If they triggered the construction of the road, they would either install it, or come up with some sharing arrangement and it would get installed.

Member Cassis confirmed with the applicant they are committed to installing the road themselves.

City Attorney Schultz stated that this is an agreement that we are working on and thinks what the applicant is offering is the bare minimum - the construction of a road that is important to the City. What the applicant said is that they own everything, including the property where the road is going, but the property immediately south of the gas station, they do not own. If the applicant develops any that the property they own, their proposal is they will build the rest of the road at that time. The concern is if the property to the south that the applicant does not own is developed as a restaurant or something like that, then the City

would need the road and that is a condition included in the suggested motion. It seems like Mr. Bowman has indicated that might be something the applicant is willing to do. The agreement still needs to be drafted and all the Planning Commission needs to do is conceptually impose a condition regarding that issue. The applicant has said that may be feasible if some kind of cost sharing arrangement can be worked out. That is worth talking about.

If the Planning Commission is okay with that, then as part of the recommendation, the Planning Commission would accept that. If the Planning Commission does not like that idea, then stick with the language that is drafted, but the Commission is going to have to make that call.

Member Cassis asked City Attorney Schultz if the arrangement that has been discussed can be drafted into the agreement and without being a condition of the Planning Commission's motion.

City Attorney Schultz explained that as part of the Planning Commission's motion, instead of "construction of the road should take place when development begins on any adjacent property", the Planning Commission would say "...any property provided it is Novi Mile LLC's property". Some arrangement would have to be made if the adjacent property belonged to a different owner.

Member Cassis explained that the whole point of this discussion is to try to give City Council and the City Attorney enough information to draft an agreement. Member Cassis asked the applicant what the second issue of concern was.

Mr. Bowman responded there is a suggested condition in the motion and in the traffic review letter that the left hand turning movement out onto Beck Road from the collector road should be prohibited once the collector road is installed. Looking at reasonable parameters and guidelines it might not have to be a complete prohibition. Could there be limited left turns at certain timeframes throughout the day. What if there was the ability to signalize that intersection and create a safer environment even with heavier traffic and meet the standards for still allowing left hand turning movements? The applicant does not want to say as part of this agreement, that left turns will be prohibited. Traffic Consultant Arroyo might be able to speak and explain some of the ways that it could be done from a limitation standpoint versus a complete prohibition.

Member Cassis asked if Traffic Consultant Arroyo could give the Planning Commission some input as far as Mr. Bowman's concerns.

Traffic Consultant Arroyo stated there was some discussion earlier about the potential for a traffic signal at the location where the collector would intersect with Beck Road. Traffic Consultant Arroyo received a letter from the Road Commission for Oakland County before the meeting and they indicated that they believe that this is not a viable location for a traffic signal due to the proximity of the Grand River intersection. If something were to be presented at a later point that changed the County's minds, a traffic signal could be considered but that is not likely.

Other issues deal with the prohibition of left turns and at peak hours that is absolutely not going to be appropriate when the connection to Grand River is made. The applicant is suggesting, could there be some off-peak times when potentially those left turns could be allowed. Traffic Consultant Arroyo would be open to evaluating that at some point in the future and keeping the options open for that to happen. It could be that it is okay at certain off-peak times for that to happen, but it is all going to depend upon the conditions on the adjacent roadway and what is being generated by the sites that are accessing this road and during peak hours that it is not going to be appropriate. But, for off-peak times, that could be evaluated at some point in the future.



City Attorney Schultz stated that the motion includes a condition that there will be a presumption that when the road is built that the left hand turns will go away. But, the last couple of lines of that suggested condition read "provided that at the time of development approval or site plan approval, the applicant or its successor's can seek to address left turn issues as part of the site plan approval."

Mr. Bowman asked if that language could be altered, that it would not necessarily be presumed that left turns would be prohibited but obviously if the City deemed it a safety hazard, that movement could be prohibited. It seems like at peak times it is probably not going to make sense.

Chair Pehrson stated that he could give a practical example of why left turns should be prohibited from the standpoint of having to get into Chase Bank off of Grand River Avenue. There is a no left turn allowed into the easterly most entrance so a driver has to go down to Michigan Laser and turn-around and come back. The entire reason for that urban interchange was to reduce traffic accidents at that intersection. At 100 yards away from that signal the City is just going to allow someone to turn left onto Beck Road heading south and go across both lanes of traffic? That doesn't seem likely and it doesn't seem like anyone could drive across that intersection safely.

City Attorney Schultz stated it is the City's decision at the end of the day, subject to the persuasive efforts of the applicant.

Member Cassis stated that he was questioning that left turn movement when the proposal was first presented to the Master Plan and Zoning Committee a year ago. Member Cassis asked the applicant how important that left turn movement is to the project. It is kind of a redundant thing that the applicant will be constructing that new access road

and putting money into it and its entire purpose is to relieve congestion and accommodate drivers who want to go left but the applicant still wants to allow the left turn movement onto Beck Road. It's a circular kind of situation, but the applicant may have an argument that a left turn could be allowed for one or two hours a day.

Mr. Bowman stated that Chair Pehrson's comment is very appropriate to this discussion and he wonders why the artificial barrier was put in along Beck Road.

Member Cassis answered the reason it was put in was because the Beck Road interchange was going to be a clover-leaf interchange.

Mr. Bowman said he was talking about the concrete artificial median.

Member Cassis said that they have devised a certain way to get around the ease of traffic with a clover-leaf.

Mr. Bowman stated that with attempting to make it easy and restricting, some very negative and difficult circumstances have been created. On a daily basis, people do exactly that. People take a left turn into the right in and right out only.

Member Cassis stated that maybe it would be a good idea to completely prohibit left turns.

Mr. Bowman answered that the traffic analysis thus far as indicated that the movement can occur now and the remaining issue is whether that movement will be prohibited in the future. For example, a late evening traveler coming in at 11:00PM when there is no traffic at all may want to turn left onto Beck Road instead of

going all the way around to Grand River. Some practicality can blend with the safety concerns here very easily. Given the right set of circumstances and the right economic development opportunity, a signal may be important to a major corporate tenant, and a signal may be a possibility in the future.

Member Cassis asked what the public benefits associated with the PRO are?

Mr. Bowman reiterated the public benefits including the circulation road system, the off-site joint landscaping in the right-of-way, continuation of the screening wall and those types of things. The applicant has presented one of the nicest gas station and convenience center designs and is looking to make a very significant investment and provide a much needed service to that intersection. Everyone agrees with the Master Plan and Zoning efforts that have been talked about at this location. This parcel and the surrounding parcels are seen as a long term location where some major, positive economic development can take place.

Mr. Bowman would like to continue discussion with the City on how the balance of the property will develop, but looks to the PRO now as a sensible way to commit to the location of the road, commit to the donation of the right-of-way for that and work with the City in concert to try to develop the potential with Michigan Department of Transportation for the off-site basin for that the entire area, including the interchange itself. There are a number of positive things to gain out of the PRO.

Member Cassis stated that the most important positive would be the future development of the area. Member Cassis thanked Mr. Bowman for bringing in some good and healthy projects to that area. This project also impacts the development of The Rock Financial Showplace area. That area is so great and the economic conditions of today prevent the development of some larger projects. Member Cassis is looking forward to seeing some huge project in the area that will make the gas station a small project in scale.

Mr. Bowman stated that the PRO provides a vehicle for dealing with some of the uniqueness of the site and setting out a pretty definite plan. Novi Mile LLC has a very major stake in the investment along this corridor. Things are getting better and there are signs of life with the consumers and the attendance at the Rock Financial Showplace shows. Member Meyer previously referenced the peak times and relative to the Rock Financial Showplace shows and those types of things and concerns over safety. The one nice thing about the operations at the Showplace is they

are at exactly diametrically opposed to peak time periods; weekend traffic, late in the evening, late in the afternoon or early evening traffic type of things. The Showplace has been able to operate relatively efficiently although there have been a couple of shows that have given us a couple of challenges lately.

Member Meyer stated that the golf show was a perfect example. It was wall to wall traffic from Beck Road down to Rock Financial and from Rock Financial down to Novi Road in both directions.

Mr. Bowman stated that it was not so much as a traffic issue as it was a ticket selling situation inside the building. No one would have known that Friday of the Michigan Golf Show would have that type of turnout. It was the busiest show start of any show in history, even including the old operations. The Showplace added some extra personnel and within one hour that back-up was cleared. There were no operational issues and no backup onto the road for the rest of the weekend, which was much busier.

Member Meyer stated he hoped the decision to prohibit left turns or install a traffic signal would not be based on a fatality. On Novi Road alone there are four traffic lights between I-96 and the entrance to the Town Center and Grand River and the lights are within a very short distance and every one of them is necessary.

Member Gutman stated the Master Plan and Zoning Committee discussed this site a few times and there was discussion at a prior Planning Commission meeting where the Planning Commission recommended approval without the PRO. The Planning Commission has expressed support in many different ways. Member Gutman commended Mr. Bowman and John Bowen for the hard work they have done with the City on coming up with the best possible gas station design. Member Gutman asked the applicant if he could confirm the drive-through fast food restaurant would be a Tim Horton's.

Mr. Bowman answered that it was not necessarily going to be a Tim Horton's. The applicant is dealing with some timing issues and that the user is directly affected by those.

Member Gutman asked if there was enough flexibility built into the PRO process, assuming the Planning Commission recommends approval to City Council, that when it gets to the City Attorney's desk to draft the agreement to flesh out those items that the City and applicant are not fully in agreement on.

City Attorney Schultz stated there is leeway. This project has been fast-tracked in the sense that normally the Planning Commission would make some conceptual recommendations and then it would go to the City Council for more clarification and then it would come to the City Attorney's office for a draft of the Agreement and then it would come back again to City Council. The City Attorney's office and the applicant are working on the agreement as we are talking, and the Planning Commission's comments give both parties the input needed to sort of finish the agreement so it can be put before City Council. Council can be flexible at the time it makes its decision and the language of the agreement can have some flexibility, if that is the direction from the Planning Commission and the City Council. The good thing about the PRO is it's all about flexibility.

Member Gutman asked if there is even a need to put in some language in the motion that offers flexibility between the applicant and the City.

City Attorney Schultz responded that kind of flexibility does not need to be in the motion.

Motion made by Member Gutman, seconded by Member Larson:

**In the matter of USA 2 GO, SP10-11 with Zoning Map Amendment 18.694, motion to recommend approval to the City Council to rezone the subject property from OST (Planned Office Service Technology) to FS (Freeway Service) with a Planned Rezoning Overlay with the following ordinance deviations: (a) Ordinance deviations for the parking setback in the front yard (twenty feet required, ten feet provided), exterior side yard (twenty feet required, five feet provided) and the interior side yard (ten feet required, five feet provided); (b) Ordinance deviation for the lack of required setback for the proposed dumpster (ten feet required, five feet provided); (c) Ordinance deviations for the following landscaping requirements: three foot tall berm along the Beck Road frontage with recommended additional plantings in the right-of-way, three foot tall berm along the I-96 frontage with recommended additional plantings in the right-of-way, three foot tall berm along the access road frontage with a partial berm and partial three foot tall wall with the recommended continuation of this wall along the entire frontage, interior parking lot landscaping deficiency of 333 square feet (2,687 square feet required, 2,356 square feet provided), lack of building foundation planting on the south side of the building and foundation planting area deficiency of 1,482 square feet (2,768 square feet required, 1,286 square feet provided); (d) Ordinance deviation for the striped end island (near the northwest corner of the site); (e) Two same-side driveway spacing waivers for the proposed access drives on the new service road (125 feet required, 90 feet and 61 feet provided); And subject to the following PRO Conditions: (f) Applicant shall construct the frontage road for the currently proposed development as shown on the PRO plan to public road standards; (g) Applicant shall provide as part of the PRO**

Agreement a sixty foot right-of-way for the public collector road from Beck Road to Grand River Avenue as shown on the PRO concept plan; (h) Applicant shall construct the remainder of the public collector road to public road standards at the time the development of any adjacent properties, whether by current owners or their successors and assigns or adjacent owners; (i) Upon construction of the public collector road linking Beck Road and Grand River Avenue with the next development after the gas station development, left turns out onto Beck Road will be prohibited; provided, however, that at the time of any development approval or site plan approval, applicant or its successors and assigns can seek to address left turn issues as part of the development/site plan approval; (j) Applicant shall provide an access easement to the City sanitary sewer force main and MDOT pond in the location shown on the PRO plan; (k) Applicant shall initiate/recommence discussions with MDOT and the City to improve the storm water detention area between the gas station site and the I-96 freeway. The basin, owned by MDOT, may provide storm water retention benefits beyond the gas station site as a benefit to other parcels in the area; (l) Applicant shall specify and propose future Beck Road access improvements (to be elaborated by the applicant); (m) The following revisions to the PRO concept plan: Applicant shall provide additional loading zone screening along the northern, southern and eastern property lines; Applicant shall provide air dispensing facilities; Applicant shall shift the southerly connection of the proposed road as indicated in the Traffic Review Letter; Applicant shall redesign the gas station canopy to be in conformance with the façade chart; Applicant shall provide additional vegetation along the easterly property line to screen the loading zone; (n) Applicant shall comply with all of the conditions and items noted in the staff and consultant review letters; and (o) Planning Commission has no objection to the following deviations from the sign ordinance, to be considered by the ZBA pursuant to the Chapter 28 of the City Code, the Sign Ordinance: Ground sign area (30 square feet permitted, 66 square feet provided); Ground sign height (6 feet permitted, 11 feet 6 inches provided); Three wall signs proposed: two for gas station and one for the restaurant (No wall signs are permitted if the above ground sign lists two business names, except one wall sign oriented to freeway would be permitted); Two gas station canopy signs are proposed (canopy signs are not permitted, except those signs showing the height of the canopy); For the following reasons: Approval of the application accomplishes, among other things, and as determined in the discretion of the City Council, the integration of the proposed land development project with the characteristics of the project area, and results in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a Planned Rezoning Overlay; and Sufficient conditions are included on and in the PRO plan and PRO Agreement on the basis of which the City Council concludes, in its discretion, that, as compared to the existing zoning and considering the site specific land use proposed by the applicant, it would be in the public interest to grant the rezoning with Planned Rezoning Overlay; as the benefits which would reasonably be expected to accrue from the proposal are balanced against, and have been found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles.

Chair Pehrson thanked Mr. Bowman for bringing this back with the PRO and noted he was the one dissenter on the last vote and now feels much better with the PRO. The applicant should be aware that relative to the ground sign, the City is looking for something tasteful. This can be made into a signature on that corner.

Deputy Director McBeth stated that speaking to the Chair's comments just now regarding the signage and the on-going discussions, staff has been talking with the applicant about the signage that was proposed. As the Planning Commission can see from the motion, the proposed signage is quite a bit larger than what is typically allowed for gas stations, maybe twice the area for the ground sign and twice the height. Staff and the applicant seemed to be reaching some agreements today about reducing the height and the size of that ground sign. There is also some discussion about possibly adjusting the wall signs, still providing three, but maybe one on the north side and two on the west side. Staff and the applicant are looking for a little

flexibility and there might be some modifications to that actual signage and the applicant has said they will continue to work with the staff on the proposed signage.

Chair Pehrson stated that to the extent that the Planning Commission needs to add language relative to allow staff and the applicant to make those determinations, is that language in what has been included in the motion?

City Attorney Schultz stated that there needs to be a correction to item o, which right now says that the Planning Commission has no objection to what's proposed. I think as Deputy Director McBeth just indicated, that the motion should read "that the applicant and the City work towards appropriate signage" so that the Planning Commission is not actually recommending variances for the signage to the Zoning Board of Appeals, which is how the motion is currently written.

Member Gutman agreed to the suggested amendment to the motion as did the seconder, Member Larson.

Member Cassis noted this property is close to a freeway asked if the signage in that area can be a bit flexible.

Deputy Director McBeth stated there is a bit more of flexibility for properties that abut the freeway and that are in the Freeway Service District and staff is taking that into consideration.

**ROLL CALL VOTE ON MOTION TO RECOMMEND APPROVAL TO CITY COUNCIL MADE BY MEMBER GUTMAN AND SECONDED BY MEMBER LARSON.**

**In the matter of USA 2 Go, SP10-11 with Zoning Map Amendment 18.694, motion to recommend approval to the City Council to rezone the subject property from OST (Planned Office Service Technology) to FS (Freeway Service) with a Planned Rezoning Overlay with the following ordinance deviations: (a) Ordinance deviations for the parking setback in the front yard (twenty feet required, ten feet provided), exterior side yard (twenty feet required, five feet provided) and the interior side yard (ten feet required, five feet provided); (b) Ordinance deviation for the lack of required setback for the proposed dumpster (ten feet required, five feet provided); (c) Ordinance deviations for the following landscaping requirements: three foot tall berm along the Beck Road frontage with recommended additional plantings in the right-of-way, three foot tall berm along the I-96 frontage with recommended additional plantings in the right-of-way, three foot tall berm along the access road frontage with a partial berm and partial three foot tall wall with the recommended continuation of this wall along the entire frontage, interior parking lot landscaping deficiency of 333 square feet (2,687 square feet required, 2,356 square feet provided), lack of building foundation planting on the south side of the building and foundation planting area deficiency of 1,482 square feet (2,768 square feet required, 1,286 square feet provided); (d) Ordinance deviation for the striped end island (near the northwest corner of the site); (e) Two same-side driveway spacing waivers for the proposed access drives on the new service road (125 feet required, 90 feet and 61 feet provided); And subject to the following PRO Conditions: (f) Applicant shall construct the frontage road for the currently proposed development as shown on the PRO plan to public road standards; (g) Applicant shall provide as part of the PRO Agreement a sixty foot right-of-way for the public collector road from Beck Road to Grand River Avenue as shown on the PRO concept plan; (h) Applicant shall construct the remainder of the public collector road to public road standards at the time the development of any adjacent properties, whether by current owners or their successors and assigns or adjacent owners; (i) Upon construction of the public collector road linking Beck Road and Grand River Avenue with the next development after the gas station development, left turns out onto Beck Road will be prohibited; provided, however, that at the time of any development approval or site plan approval, applicant or its successors and assigns**

can seek to address left turn issues as part of the development/site plan approval; (j) Applicant shall provide an access easement to the City sanitary sewer force main and MDOT pond in the location shown on the PRO plan; (k) Applicant shall initiate/recommence discussions with MDOT and the City to improve the storm water detention area between the gas station site and the I-96 freeway. The basin, owned by MDOT, may provide storm water retention benefits beyond the gas station site as a benefit to other parcels in the area; (l) Applicant shall specify and propose future Beck Road access improvements (to be elaborated by the applicant); (m) The following revisions to the PRO concept plan: Applicant shall provide additional loading zone screening along the northern, southern and eastern property lines; Applicant shall provide air dispensing facilities; Applicant shall shift the southerly connection of the proposed road as indicated in the Traffic Review Letter; Applicant shall redesign the gas station canopy to be in conformance with the façade chart; Applicant shall provide additional vegetation along the easterly property line to screen the loading zone; (n) Applicant shall comply with all of the conditions and items noted in the staff and consultant review letters; and (o) Applicant will continue to work with the staff on the proposed signage; For the following reasons: Approval of the application accomplishes, among other things, and as determined in the discretion of the City Council, the integration of the proposed land development project with the characteristics of the project area, and results in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a Planned Rezoning Overlay; and Sufficient conditions are included on and in the PRO plan and PRO Agreement on the basis of which the City Council concludes, in its discretion, that, as compared to the existing zoning and considering the site specific land use proposed by the applicant, it would be in the public interest to grant the rezoning with Planned Rezoning Overlay; as the benefits which would reasonably be expected to accrue from the proposal are balanced against, and have been found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles. *Motion carried 6-0*

## **MATTERS FOR CONSIDERATION**

### **1. APPROVAL OF THE JANUARY 13, 2010 MINUTES**

Moved by Member Gutman, seconded by Member Larson:

**VOICE VOTE ON JANUARY 13, 2010 PLANNING COMMISSION MINUTES APPROVAL MOTION MADE BY MEMBER GUTMAN AND SECONDED BY MEMBER LARSON:**

A motion to approve the January 13, 2010 Planning Commission minutes. *Motion carried 5-0 (Abstain – Meyer).*

### **2. APPROVAL OF THE FEBRUARY 24, 2010 MINUTES**

Moved by Member Gutman, seconded by Member Larson:

**VOICE VOTE ON FEBRUARY 24, 2010 PLANNING COMMISSION MINUTES APPROVAL MOTION MADE BY MEMBER GUTMAN AND SECONDED BY MEMBER LARSON:**

A motion to approve the February 24, 2010 Planning Commission minutes. *Motion carried 5-0. (Abstain – Meyer)*

## **CONSENT AGENDA REMOVALS FOR COMMISSION ACTION**

There were no Consent Agenda removals.

**MATTERS FOR DISCUSSION**

There were no Matters for Discussion.

**SUPPLEMENTAL ISSUES**

There were no Supplemental Issues.

**AUDIENCE PARTICIPATION**

No one from the audience wished to speak.

**ADJOURNMENT**

Moved by Member Gutman, seconded by Member Larson:

**Motion to adjourn. Motion carried 6-0.**

TUE	03/16/10	ZONING BOARD OF APPEALS MEETING	7:00 PM
WED	03/24/10	PLANNING COMMISSION MEETING	7:00 PM
FRI	04/02/10	CITY OFFICES CLOSED	
MON	04/05/10	CITY COUNCIL MEETING	7:00 PM
TUE	04/13/10	ZONING BOARD OF APPEALS MEETING	7:00 PM
WED	04/14/10	PLANNING COMMISSION MEETING	7:00 PM
MON	04/19/10	CITY COUNCIL MEETING	7:00 PM
WED	04/28/10	PLANNING COMMISSION MEETING	7:00 PM
MON	05/03/10	CITY COUNCIL MEETING	7:00 PM

Transcribed by Juanita Freeman  
Account Clerk  
March, 2010

Date Approved:

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Richelle Leskun, Planning Assistant