CITY OF NOVI CITY COUNCIL OCTOBER 28, 2024



SUBJECT: Deny request by Jax Kar Wash, to rezone property at the southeast corner of Twelve Mile Road and Cabaret Drive to General Business with a Planned Rezoning Overlay.

SUBMITTING DEPARTMENT: City Manager

KEY HIGHLIGHTS:

- Tentative Approval was not granted by City Council at their last meeting on October 14th.
- The item was postponed to this meeting in order to have a formalized vote be on the record

BACKGROUND INFORMATION:

The petitioner is requesting a Zoning Map Amendment for approximately 1.8 acres of property on the south side of Twelve Mile Road, to the east of Cabaret Drive. The applicant is proposing to rezone the property from Regional Center (RC) to General Business (B-3) using the City's Planned Rezoning Overlay (PRO) option.

The Formal PRO plan proposes a one-story 6,200 square foot building to develop a tunnel car wash, with outdoor vacuum stations that are typically associated with this type of car wash. Access to the site would be from the existing driveway off Cabaret Drive, so no new curb cuts are proposed for either public road frontage.

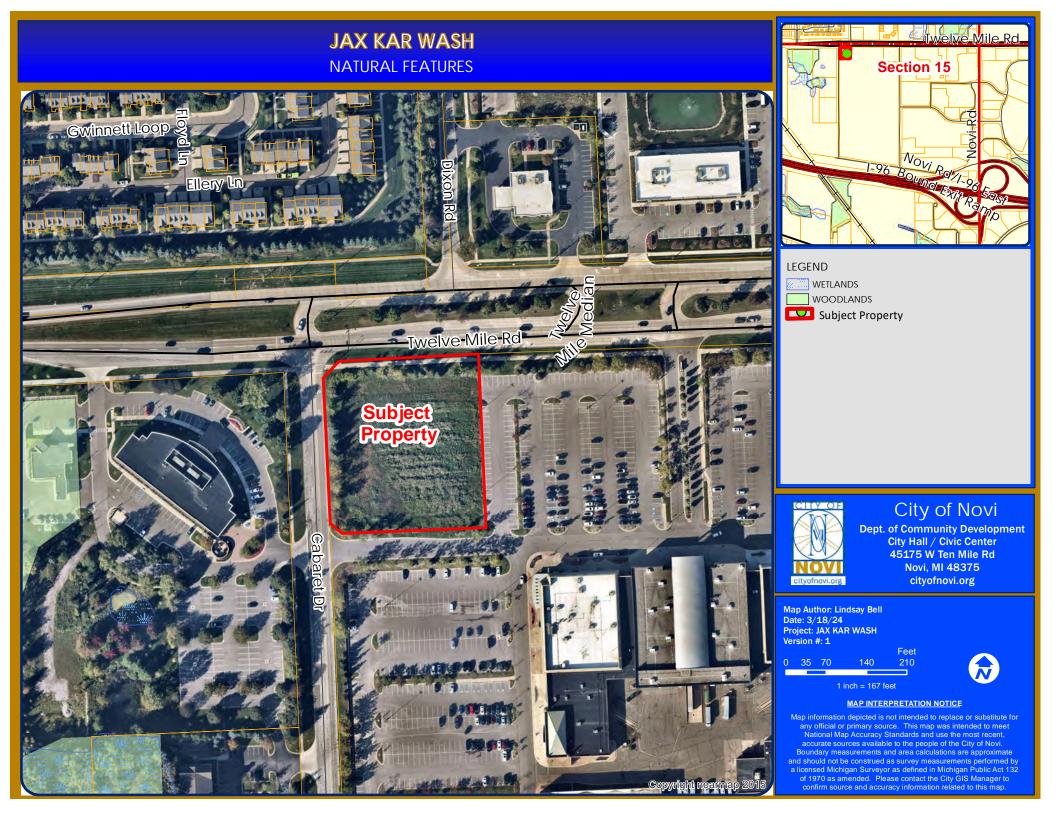
In their proposal the applicant describes some of the reasons this site has remained vacant in the 20+ years since Fountain Walk was developed; including, being limited by lease agreements to not allow a use that would compete with existing tenants of the center. The RC district also requires 100-foot building setbacks, which limits the developable area for a corner site. There are also 55-foot and 60-foot-wide gas line easements that run north-south along both sides of the property. One of the property to be separated out from the rest of the Fountain Walk parcel in order for it to be developed.

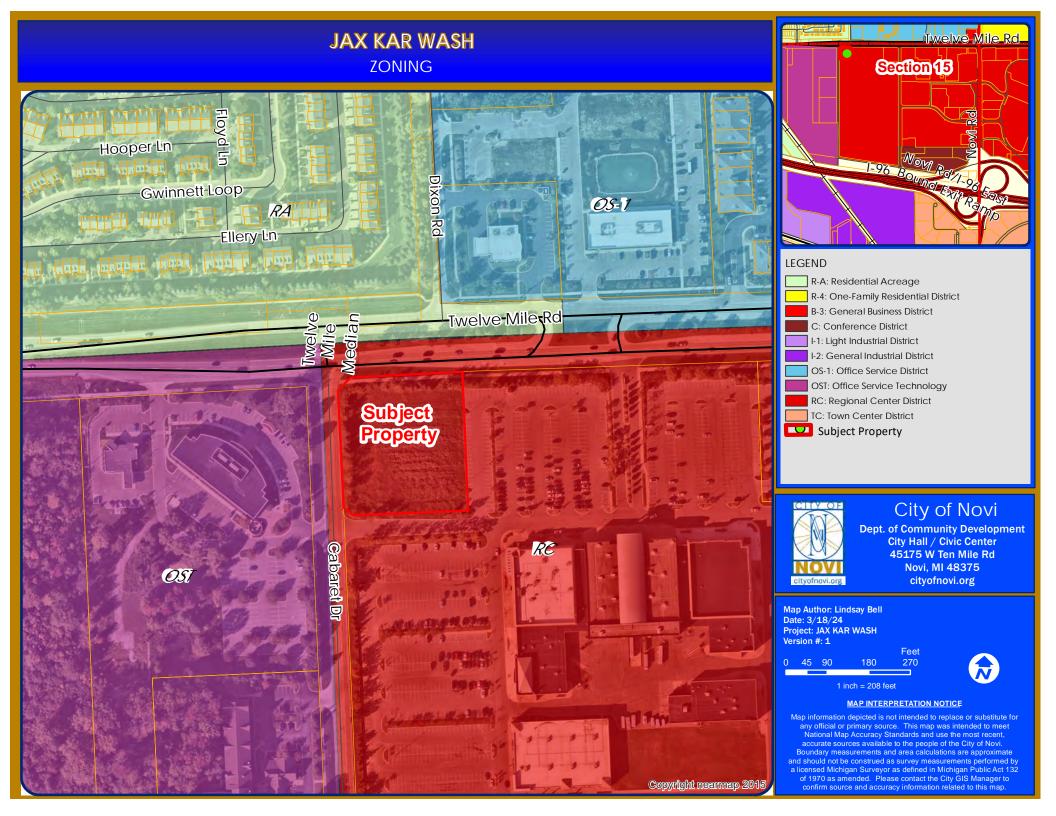
Location maps for the request are attached for reference. The applicant has provided the attached letter dated October 23, 2024.

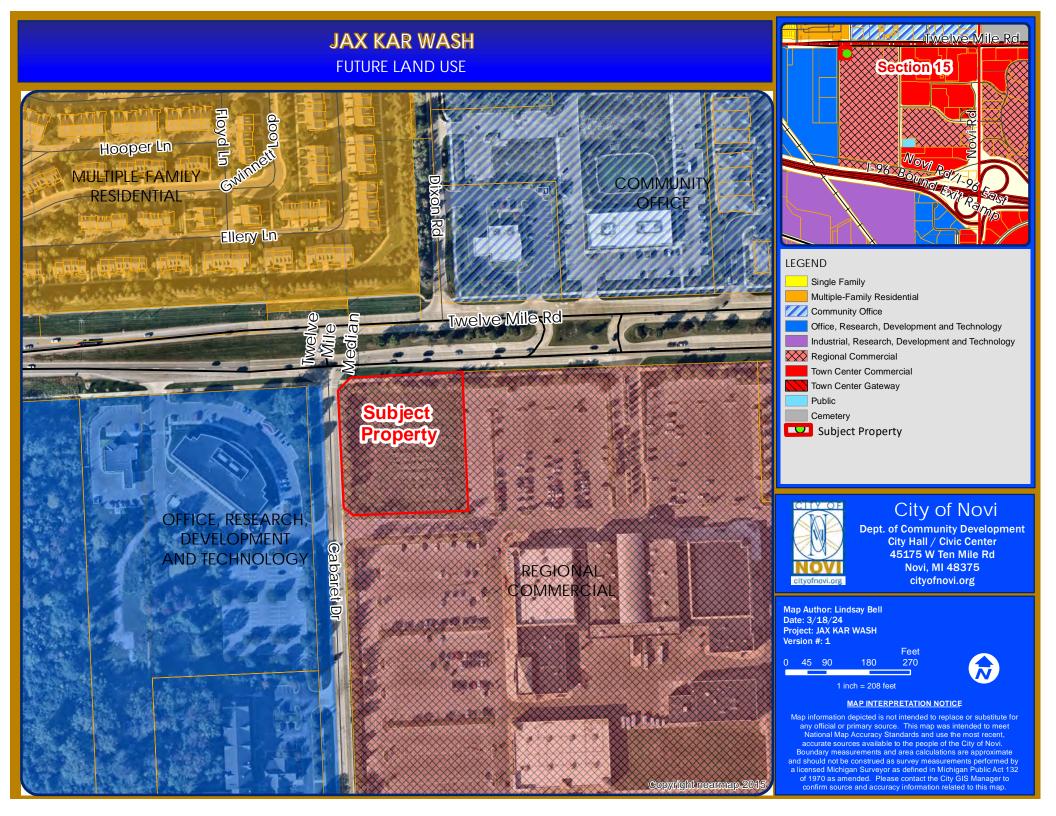
- **RECOMMENDED ACTION:** Denial of the request from Jax Kar wash to rezone property at the southeast corner of Twelve Mile Road and Cabaret Drive to General Business with a Planned Rezoning Overlay based on the following factors:
 - 1. The applicant has not established that there is an enhancement to the project area that can only be accomplished by this PRO. The applicant has not addressed the fact that one of the utility easements on the property indicated as a reason for its limited use might in fact be able to be removed, according to Consumers Power, which holds the easement. That removal could allow a different use than that proposed.
 - 2. The applicant has not established that the limitation of the use of the property to a single use, a car wash, is in the public interest or a benefit to the public in this particular location or under the conditions applicable to this project area.
 - 3. While the applicant asserts that the detriments of the project are limited, the benefits expected to accrue to the City from this use are likewise limited in scope and nature and therefore do not clearly establish that the project is an overall benefit to the public that could not be accomplished without the rezoning.
 - 4. The request to rezone to B-3 is not consistent with the Master Plan for Land Use.
 - 5. The specific need for a car wash use in this location has not been established, which also limits the overall benefit to the public from the rezoning.
 - 6. The limitations on the ability to develop this property in a way that is related to or consistent with the larger retail center is not created by any provision of the zoning ordinance but result instead from the manner in which the retail center itself has been planned, constructed, and occupied or leased by other competing uses, and by the proposed division of the property.
 - 7. The proposed conditions (for example, the pedestrian seating areas and decorative walls) are of limited scope and nature when compared to the project and the entire project area and do not specifically relate to the use of the land.

<u>MAPS</u> Location Zoning Future Land Use Natural Features









LETTER FROM APPLICANT 10/23/2024

LAW OFFICES LANDRY, MAZZEO, DEMBINSKI & STEVENS, P.C.

37000 GRAND RIVER AVENUE, SUITE 200 FARMINGTON HILLS, MICHIGAN 48335

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D. B. LANDRY dlandry@lmdlaw.com

Office:(248) 476-6900Direct:(248) 919-3783Fax:(248) 476-6564

October 23, 2024

Via Email: bmcbeth@cityofnovi.org

Mayor Fischer & Members of the City of Novi City Council 45175 W. Ten Mile Road Novi, MI 48375-3024

> RE: Jax Kar Wash Novi. JZ24-01 Application for rezoning with PRO. Pre-App 23-031

Dear Mayor Fischer & Members of the City Council:

We understand that this matter will be on the City Council agenda for the October 28, 2024 meeting. We would ask the City Council to consider the following.

Jax Kar Wash submitted an Application for Rezoning with Planned Rezoning Overlay (PRO) pursuant to the provisions of the City of Novi Zoning Ordinance Section 7.13.2. As set forth in that ordinance, the Application for a PRO is a two-step process. The reason it is a two-step process is to inform the applicant early on whether the requested use is eligible for a rezoning with PRO and whether it is likely to be approved. An initial PRO Application describes the proposed use, describes the surrounding uses and is to explain why the proposed use would "achieve integration of the proposed land development project with the characteristics of the project area" and "will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use and that the land use or activity is consistent with the public health, safety, and welfare of the City." Zoning Ordinance Section 7.13.2.A.

The PRO process provides that an Initial Concept Plan is submitted by the applicant at the initial stage. After review of the initial concept by the City Administration the Planning Commission and City Council considers an initial review of the application. The purpose of the initial review is, as set forth in the ordinance, "*initial submission to planning commission and City Council for eligibility reviews*." Zoning Ordinance Section 7.13.2.D.iii. The purpose of the initial eligibility review is to "*provide only an initial indication to the applicant as to whether an applicant should proceed to a formal submission of the PRO application*." *Id*. While the initial review by the City Council is not binding the point is to inform an applicant before the applicant incurs the very expensive undertaking of preparing detailed site plans with engineering, landscaping, storm water, etc. expenses. If the project is not felt to be eligible for a PRO because the use is objected to at the location the applicant should be told that at the initial review stage so that the second step of the process is not undertaken at significant expense needlessly. If the City

Council doesn't think the use is appropriate at this particular parcel that should be communicated to the applicant at the initial review stage by the City Council.

In the case of Jax Kar Wash at the Initial Planning Commission Review of April 19, 2024, all but one of the Planning Commission members gave positive comments:

"Member Lynch...he does not have a problem approving this change of use...this is a very unique piece of property with many restrictions which makes it very challenging...Member Dismondy stated that after 22 years of no development there because its such a complicated site with easements and setbacks, he figured there'd be more pushback from the neighbors, and they seem to be doing the opposite of pushing back and supporting...it just seems like a good use for this site...Member Roney...its difficult to identify any detriments...the key thing when he read the packet was seeing the five businesses give their support...putting all those together, there is a public benefit for all those supporting Fountain Walk...Member Avdoulous...so what are the benefits to site. As indicated, it would promote activity on the site. It is also something that is going create convenience for the residents around there. It is complimentary to what is going on at Fountain Walk, he thinks a car wash can be a destination spot since he lives on a gravel road...Chair Pehrson stated there is a reason why there is a PRO option in the City relative to allowing applicants to come forward with unique opportunities for the City that necessarily weren't considered ten or twenty years ago with properties splits and the way things come about with easements taken into account. When we look at the Master Plan it gives us a guideline, it doesn't give us hard, fast rules, rather a reference point to start. The pros definitely outweigh the cons in this particular application."

Of the Initial Planning Commission review only one Planning Commissioner, Member Becker, was opposed to the project.

At the initial eligibility review by the City Council on June 3, 2024, Council Members gave the following comments regarding eligibility:

- "**Member Staudt** expressed that he likes the proposal and thinks it's a good use of the property but is not buying the public benefits.
- **Member Thomas** added by saying that she generally likes the proposal and thinks it is a good spot for that particular business.
- **Member Heintz** stated that he thought overall the applicants have great potential and liked how they saved water...he concluded by stating that the project could help that spot and it's a creative use of that space.
- **Member Gurumurthy** commented that she thinks a car wash aligns and fits with the whole area. She said that it would great if when people took walks, there were pockets of places where they can sit and have some time.
- **Member Smith** agreed with his colleagues and thinks this is a good site for the project but that the public benefit needs work.
- **Mayor Pro-Tem Casey** started by saying that she has a different opinion then some of her colleagues in terms of putting a car wash on the site...she concluded by saying that she is sharing some of the hesitancy right now with the idea of a PRO...

- **Mayor Fischer** then stated that as far as the PRO process, this is a very interesting use and that he shares some of the same hesitancy as the Mayor Pro-Tem.
- The Mayor then wondered if the PRO process is the right one and stated that there are a lot of discussions in the presentation about the set backs and having a hard time putting a different sort of business under the current zoning...there are a lot of people who seems to be nodding in favor of this project. The applicant now has some feedback including some public benefit things that they are going to have to think through."

What was a developer to think? We acknowledge that the initial comments are not binding. However, a majority of the Planning Commission and City Council had no problem with the use and stated no objections to the eligibility of this proposal for a PRO. Indeed, "there are a lot of people who seem to be nodding in favor of this project." With only one Planning Commissioner and two City Council Members expressing questions regarding the eligibility of the project for a PRO the applicant proceeded to step two and incurred \$100,000.00 dollars in the entire PRO process. It came as a complete shock that the Motion to Approve the PRO failed by a 3-4 vote. That was especially disappointing when there were no objections from any of the surrounding property owners and with Fountain Walk's owner including a number of the businesses in Fountain Walk in favor of this rezoning.

This matter is scheduled to be on the City Council agenda for the October 28, 2024 meeting for another Motion. We would request that the City Council consider the history of this PRO application process. It is respectfully requested that if a Motion is made to deny the PRO that such Motion fail and a second Motion to approve the PRO be made and approved. This use, a commercial use, is entirely consistent with the surrounding uses.

THIS IS NOT SPOT ZONING

There was some use of the term "spot zoning" in the discussions. The term "spot zoning" does not appear anywhere in the Michigan Zoning Enabling Act. Spot zoning is a pejorative term used to describe an island of zoning surrounded by totally inconsistent uses. In *Raabe v Walker* 383 Mich 165, 175 (1970) the Court defines spot zoning as creating "a comparatively small zone of permitted use inconsistent with that in the larger area..." In that case the Court dealt with a request to rezone land from agricultural to heavy industrial. The rezoning was denied. In *Penning v Owens* 340 Mich 355, 367 (1954), the Court defines spot zoning as "creating a small zone of inconsistent use within a larger zone". In the case of Jax Kar Wash the proposed use – a car wash – is a commercial use. The surrounding zoning area is regional commercial. Thus, the proposed use is a commercial use within a larger commercial use. In fact, the question of spot zoning was discussed at the Planning Commission of August 28, 2024 as follows:

"Chair Pehrson asked city attorney Beth Saarela to clarify the difference between what has been referred to as spot zoning in this case verses what the Planning Commission is being asked to look at relative to the PRO. City attorney Saarela responded that spot zoning is sort of like taking one property in an area that has nothing similarly zoned in that area and asking to rezone it for just that one parcel. Sometimes that is done through a ZBA use variance. It's not something that should be done. The difference here is the rezoning request is for a similar use to the surrounding area and is tied to a specific plan with an agreement."

Attorney Saarela was correct: "the difference here is the rezoning request is for a similar use to the surrounding area and is tied to a specific plan with an agreement".

Jax Kar Wash respectfully requests that the City Council reconsider this matter at its upcoming meeting and vote to approve the PRO.

Thank you for considering this matter.

Very truly yours,

LANDRY, MAZZEO, DEMBINSKI & STEVENS, P.C.

/S/ David B. Landry David B. Landry

DBL/slw Cc:

CITY'S RESPONSE TO LETTER FROM APPLICANT

MEMORANDUM

TO: VICTOR CARDENAS, CITY MANAGER
FROM: BARBARA MCBETH, AICP, CITY PLANNER
SUBJECT: JAX KAR WASH REZONING
DATE: OCTOBER 24, 2024

City Council has received a letter from the attorney for Jax Kar Wash, submitted in connection with the Council's expected consideration of that PRO application—to rezone property at the southeast corner of Twelve Mile Road and Cabaret Drive from Regional Center to General Business with a PRO—at its October 28, 2024 meeting. Among other things, the letter focuses on the Council's comments or reactions during the June 3, 2024 Initial Review—the new process added to the PRO to allow early input by the City Council before formal submission of an application to the Planning Commission and then City Council. That first meeting is informal, with no motions made: "The City Council's review and comments shall not constitute a recommendation and shall not be binding on the applicant or the City."

After receiving the letter, which appeared to have some fairly selective quotes from the minutes of the June 3rd City Council meeting, staff reviewed the minutes and offers the following additional information:

First, the applicant had indicated the following as "public benefits" or conditions of approval in its submission to Council:

- One goal of the Master Plan is to retain and support the growth of existing business and attract new businesses to the City.
- Jax Kar Wash employs high school students and is offering to pay \$54,000 to refurbish the library's teen space.
- The applicant has offered to build a 230 square foot patio with bench along Twelve Mile Road, as suggested during the previous Planning Commission meeting.

Following the applicant's presentation, there was initial discussion by the Members of the City Council that the suggestion to support the Novi Public Library's teen space didn't meet the intent of the ordinance as a public benefit or condition of the approval, as there was no direct link between the offer and the proposed development, and that under the PRO Ordinance, the intent is to enable enhancement of the project area as compared to the existing zoning. Council members noted that the City has no fiduciary responsibility to the library, and that it is inappropriate to fund anything for it.

Further comments by the City Council indicated that developing a vacant parcel in itself is not considered a benefit, and that other adjustments to the project that might make it constitute an overall benefit to the public would be considered by the City Council at the next meeting. For example, Council members encouraged adding more landscaping, and taking the applicant's inspiration of being interested in protecting the environment suggested adding a charging station that would benefit the region, and solar panels on the roof to reduce the use of energy from the grid.

Some Council members expressed hesitancy about using the PRO Option for this use, including not being sure that the project meets the definition of what a PRO is intended to do, and inquired whether a car wash is really considered an enhancement to the area. Further discussion included the possibility that if the car wash was not ultimately successful, that the property could revert back to the current RC zoning so that other B-3 uses would not be considered.

No vote was taken, and no subsequent approval was promised. In other words, while there were positive comments, there was other feedback as well.

Moreover, there were additional issues raised at the Formal Consideration that weren't discussed at the Initial Review—most notably the new information about the potential for removing one of the Consumers Gas easements and the fact that the land division being proposed was largely responsible for the reduced buildable area available for use.

FORMAL PRO PLAN

PRELIMINARY SITE PLANS **JAX KAR WASH** 44175 WEST 12 MILE ROAD

CITY OF NOVI, OAKLAND COUNTY, MICHIGAN





	INDEX OF DRAWINGS
NUMBER	TITLE
	COVER SHEET
C-1.0	TOPOGRAPHIC SURVEY
C-3.0	PRELIMINARY SITE PLAN
C-4.0	PRELIMINARY GRADING PLAN
C-5.0	EROSION CONTROL PLAN
C-6.0	PRELIMINARY UTILITY PLAN
C-9.0	NOTES AND DETAILS
C-9.1	ADS DETAILS
C-9.2	ADS DETAILS
C-9.3	RAMP DETAILS
L-1.0	PRELIMINARY LANDSCAPE PLAN
L-1.1	LANDSCAPE CALCULATIONS
L-2.0	LANDSCAPE DETAILS
T-1.0	TREE PRESERVATION PLAN
PFP-1	OVERALL FLOOR PLAN
PE-1A	BUILDING ELEVATIONS
PE-1B	EXP AND VACUUM ELEVATIONS
1 OF 1	PHOTOMETRIC PLAN

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9≣Å JAX KAR WASH | PEA JOB NO. 2023-1246 | PRELIMINARY SITE PLANS

NOT FOR CONSTRUCTION



DESIGN TEAM

APPLICANT: JAX KAR WASH 26777 CENTRAL PARK BOULEVARD SUITE: 180 SOUTHFIELD, MICHIGAN 48034 CONTACT: TODD GESUND EMAIL: TODD @JAXKARWASH.NET

PEA GROUP 1849 POND RUN AUBURN HILLS, MI 48326 CONTACT: JAMES P. BUTLER, PE PHONE: 844.813.2949 EMAIL: JBUTLER@PEAGROUP.COM

CIVIL ENGINEER

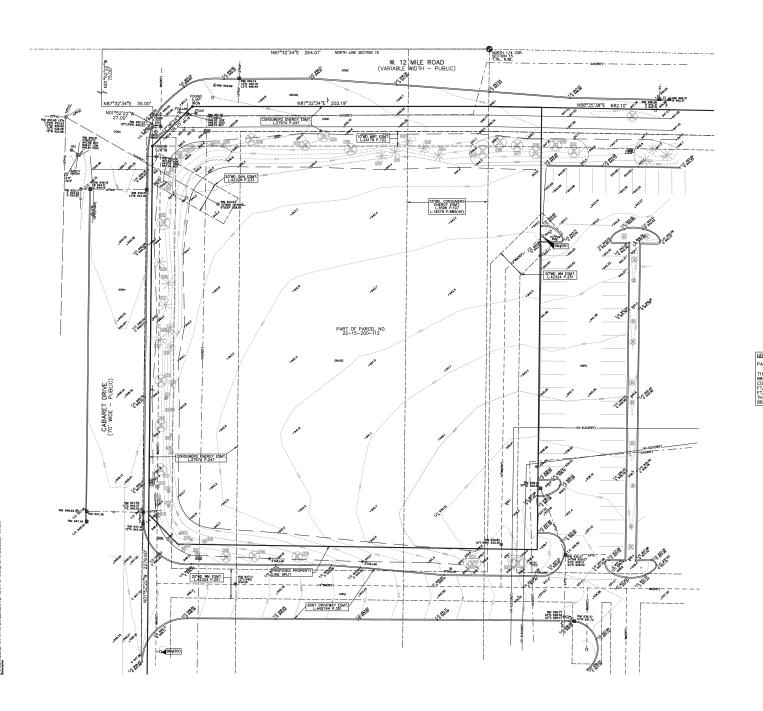
ARCHITECT F.A. STUDIO 28281 EVERGREEN ROAD, SUITE 123 SOUTHFIELD, MI 48076 CONTACT: DAVID S. BRINKMEIER, AIA PHONE: 248,619,2354 EMAIL: DBRINKMEIER@FA.STUDIO

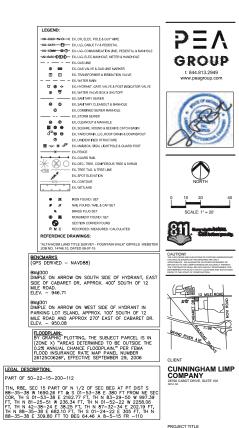
CONTRACTOR CUNNINGHAM LIMP COMPANY 28790 CABOT DRIVE, SUITE 100 CONTACT: MS. ALYSSA COOK COOKA@CLC.BUILD

LANDSCAPE ARCHITECT

PEA GROUP 7927 NEMCO WAY, STE. 115 BRIGHTON, MI 48116 CONTACT: LYNN WHIPPLE, PLA PHONE: 844.813.2949 EMAIL: LWHIPPLE@PEAGROUP.COM

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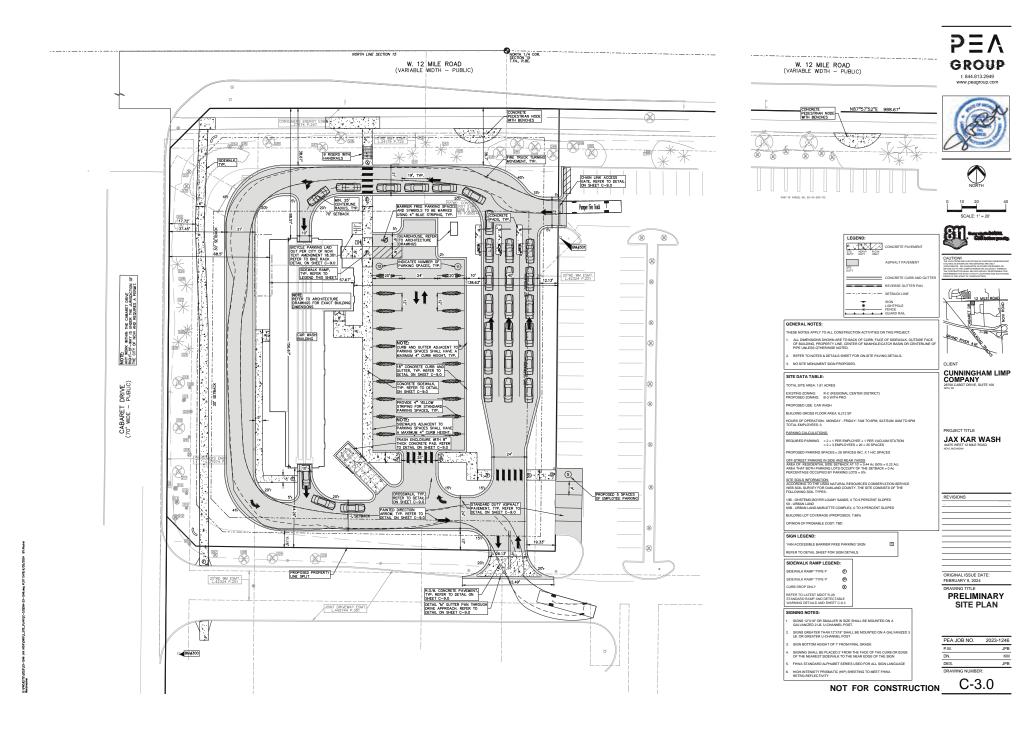


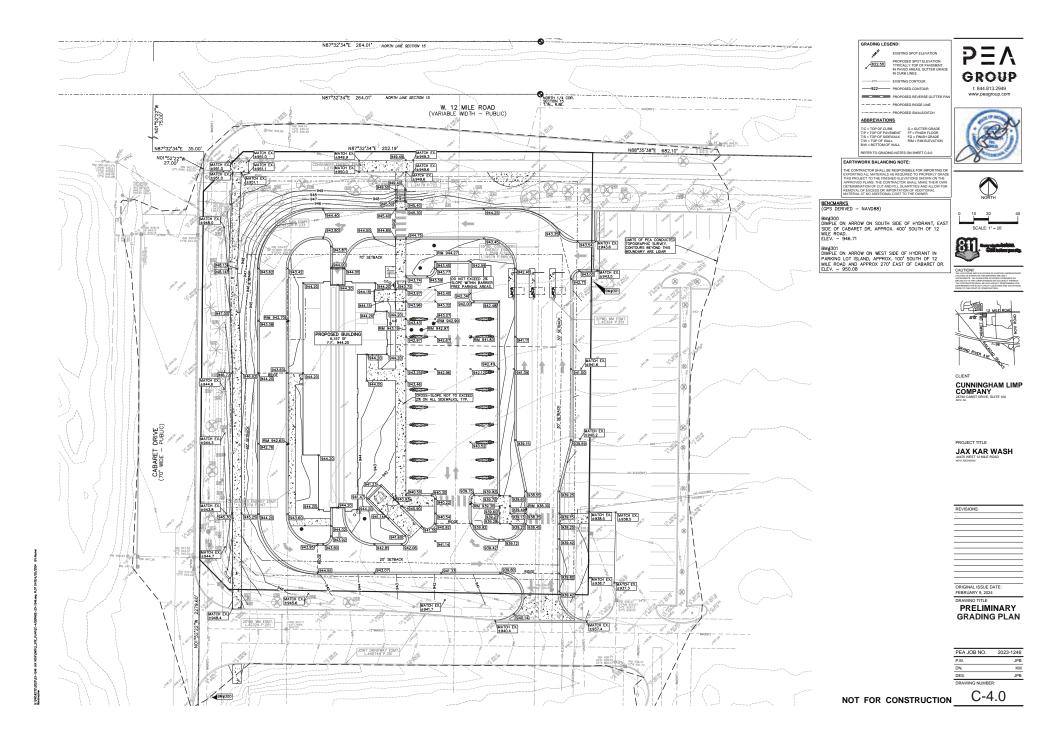
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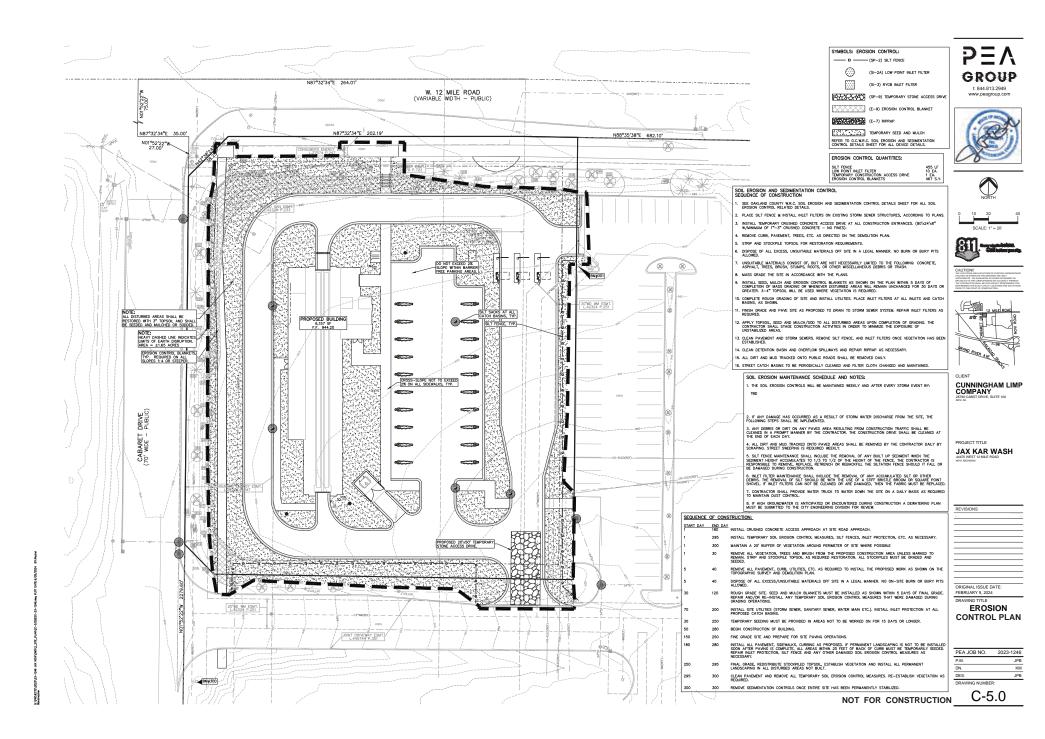
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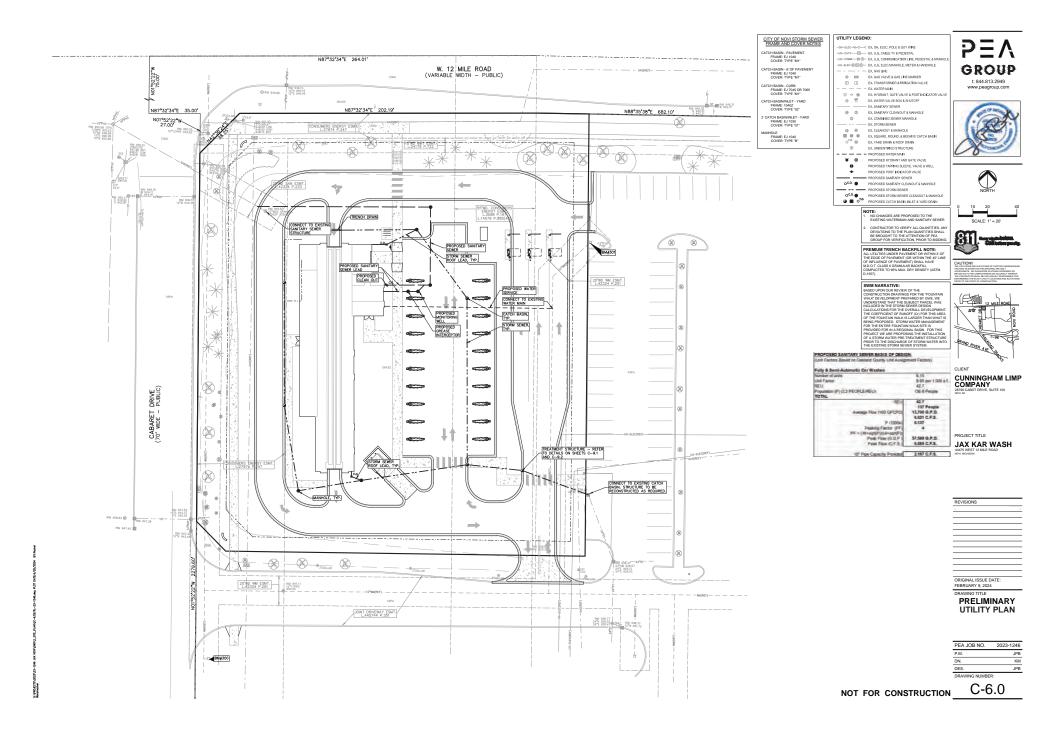
TOPOGRAPHIC SURVEY

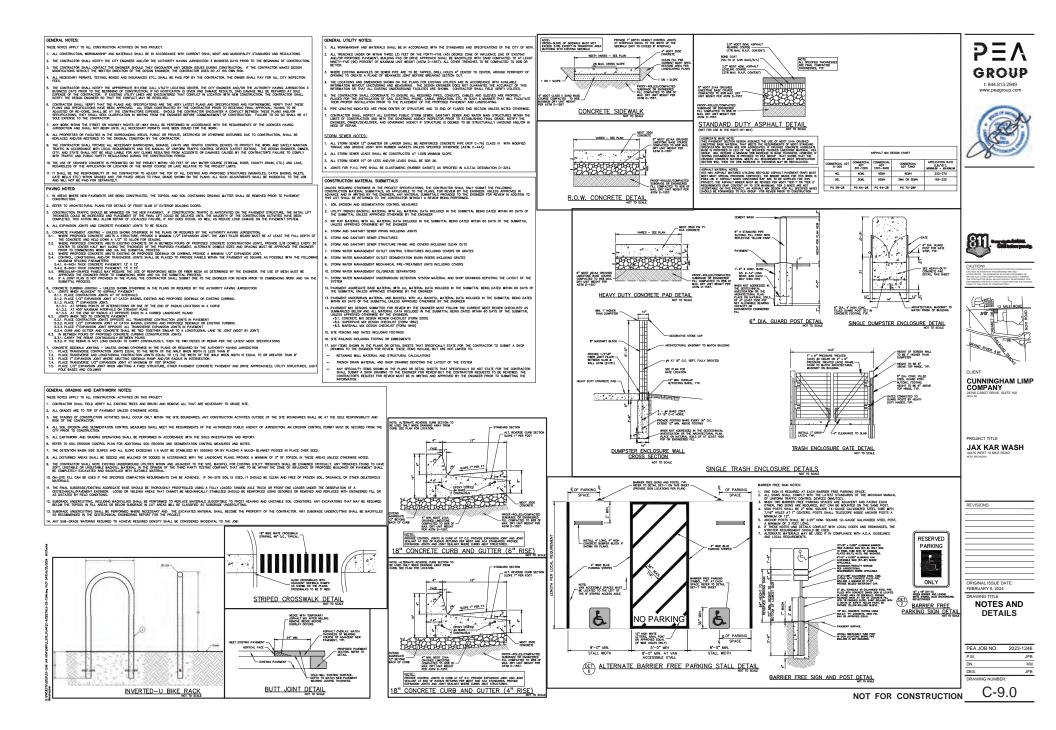


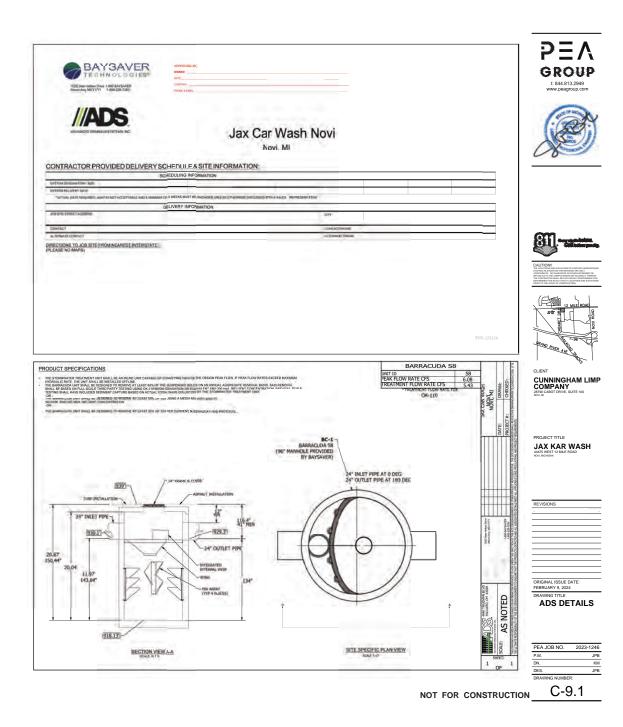












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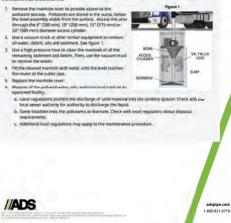
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Model	Manhole Diameter in. (mm)	Total System Volume Gallons (Liters)	Treatment Chamber Capacity Gallons (Liters)	Standard Sediment Capacity (20" depth) Yards ³ (meters ³)	NJDEP Sediment Capacity (50% of standard depth)
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Maintenance Instructions



Barrucuda Specification

Materials and Design

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OR - OR - The Starrasula Max unto skall be designed to remove at least 50% of TSS using a media mix with d_{ix}=75 micron and 200 mg/L influent concentration. OR

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Installation

ADS

Installation of the stormwater treatment unit(s) shall be performed per inanufacturer's installation instructions. Such instructions can be obtained by calling Advanced. Dranage Systems as 800-517-6170 or by logging on to www.adcoper.com.

Barracuda[®] Max & Barracuda Maintenance Guide

Drie of Barrausain's advantages is the ease of maintenance. Like any system that collects pollutains, the Barrausa must be maintened for continued effectiveness. Maintenance is a simple procedure performed along a variaum route is maint regarding. The system were periodinal to minimize the volume of water methode diarray course maintenance, reducing disposal tools.

Contractors can access the collutants stored in the marihole through the manhole cover. This allows them to gain vacuum hose access to the bottom of the markets to remove sediment and trash. There is no confined quare entry necessary for impaction or maintenance.

The entire maintenance procedure typically takes 2 to 4 hours, detending on the system's size, the captured material, and the vacuum truck's capacity.

Local regulations may apply to the maintenance procedure. Sufe and legal disposal of poliulants is the responsibility of the maintenance constactor. Maintenance should be performed only by a qualified.

Inspection and Cleaning Cycle

Parlodic inspection is needed to determine the need for and herearnoy of maintenance. You should begin inspecting as soon as contanuction is complete and then on an annual basis. Typically, the spitem needs to be cleaned every 1-X years.

Excessive one, fuels in sediments may reduce the maintenance cycle. Periodic inspection is important.

Determining When to Clean

//ADS

adspipe.com 800-821-6710

To determine the sediment depth, the invirtuenance contractor should lower a stadia rod into the manhole until it contacts the top of the captured sediment and mark that spot on the rod. Then push the probe through to the bottom of the sump and mark that spot to determine sediment depth. Maintenance should occur when the sediment has reached the levels indicated in the Storage











CUNNINGHAM LIMP COMPANY 28790 CABOT DRIVE. SUITE 100

CLIENT

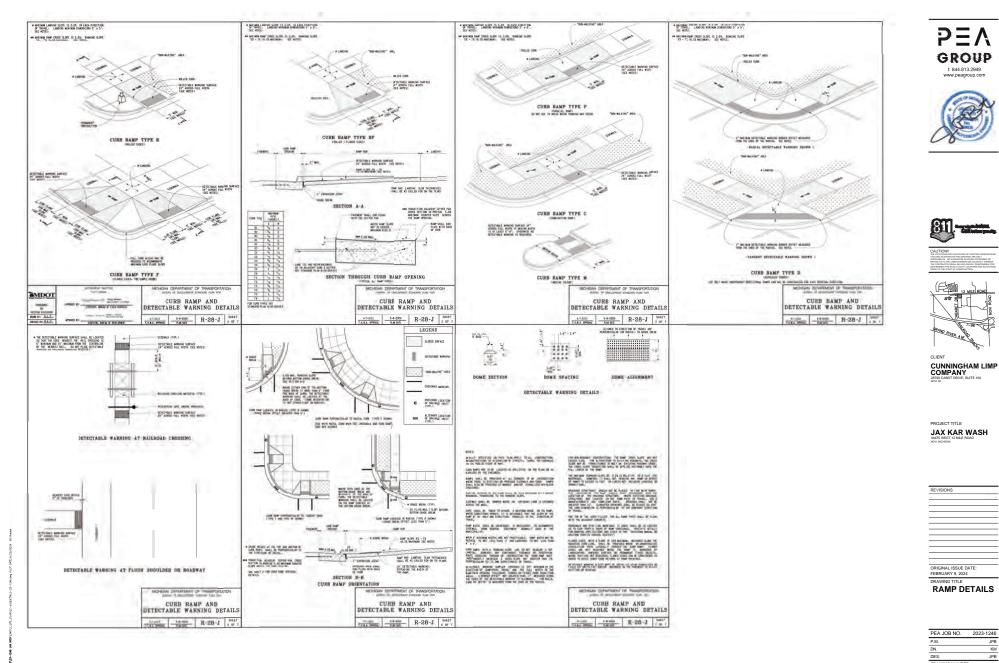
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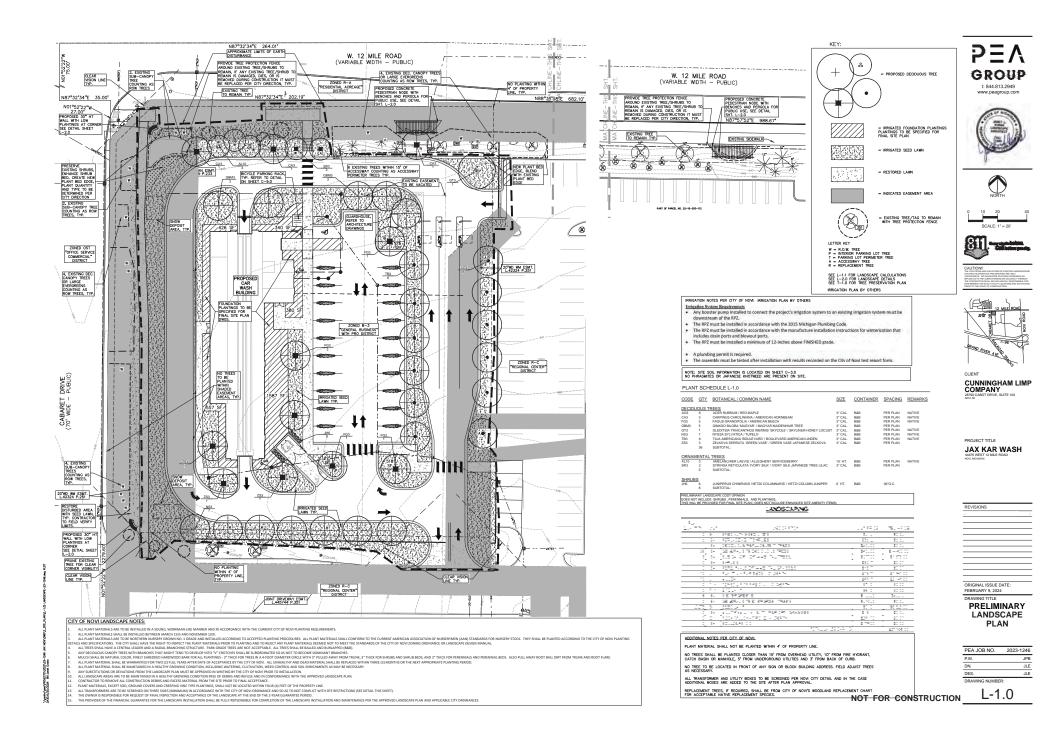
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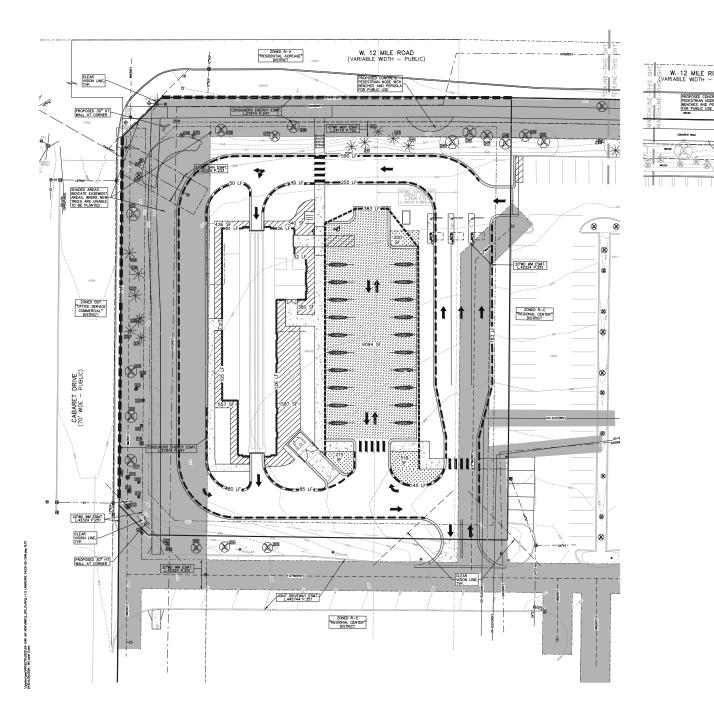
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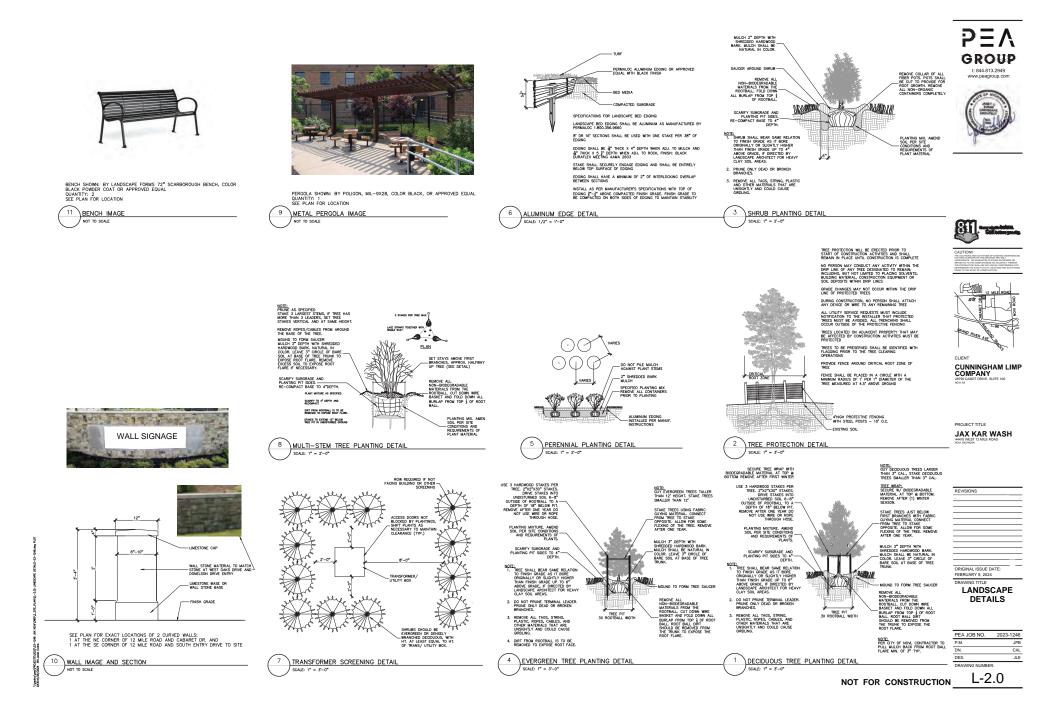
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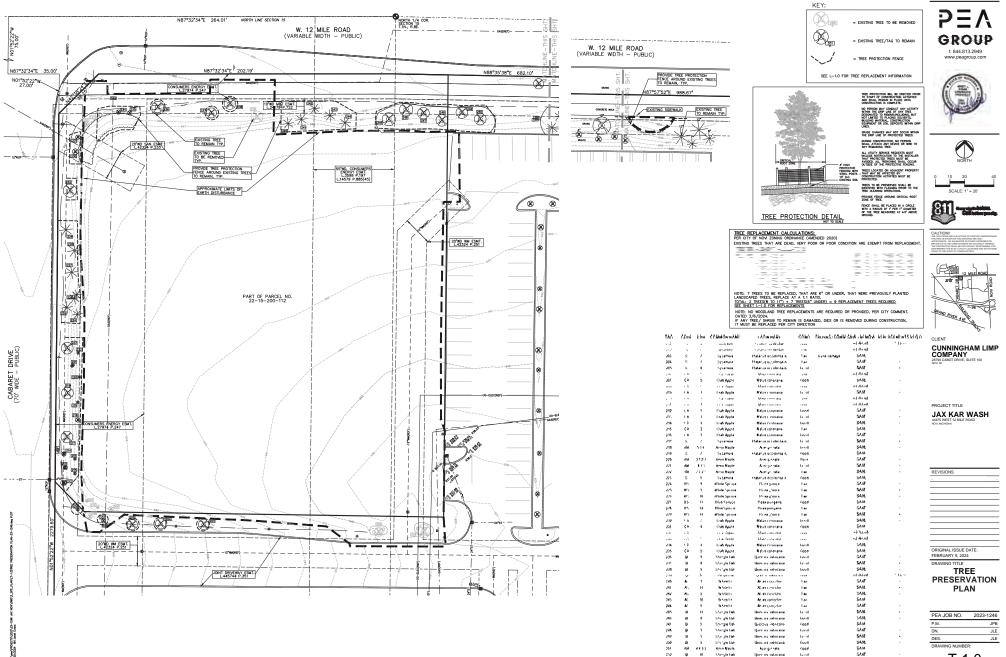
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NOT FOR CONSTRUCTION

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CODE COMPLIANCE

APPLICABLE CODE REQUIREMENTS: THE BUILDIN UNK BEEN DESIGNED IN ACCORDANCE WITH THE FOLLOWING: -2015 MICHIGAN BUILDING CODE (MBC) -2015 MICHIGAN PULMENC CODE (MBC) -2015 MICHIGAN PULMENC CODE (MBC) -2015 MICHIGAN PULMENC CODE (MBC) -2015 MICHIGAN BURGHER FREE DESIGN LAW (PA 1 OF 1986 AS AUENOED), -2015 MICHIGAN BURGHER FREE DESIGN LAW (PA 1 OF 1986 AS AUENOED),

OCCUPANCY CLASSIFICATION: - USE GROUP 'S-1' (STORAGE). NON SEPARATED MIXED USES -MOST RESTRICTIVE 'S-1' USE SHALL BE APPLIED TO ENTIRE BUILDING (MBC 508.3.1)

CONSTRUCTION CLASSIFICATION: - TYPE VB (MBC 602.5)

FIRE SUPPRESSION REQUIREMENTS:

- BUILDING IS NOT PROTECTED BY A FIRE SUPPRESSION AUTOMATIC FIRE SPRINKLER SYSTEM (MIG 602.3). - ROPOSSE DUILDING DOES NOT HAVE ANY HIGH PILE STORAGE - PROPOSE DUILDING UDLOST NOT HAVE AGENERATOR - ROPOSED BUILDING WILL NOT HAVE A GENERATOR

BUILDING AREA:

- TOTAL BUILDING AREA= 6,308 S.F. (GROSS)

ALLOWABLE AREA: TYPE V B, MBC 506.2
 PROPOSED BUILDING IS 6,308 S.F. ≤ 9,000 S.F. - ACCEPTABLE

ALLOWABLE BUILDING HEIGHT:

- PER 'B', TYPE V B: 40 FEET, 3 STORIES (MBC TABLE 504.3, 504.4) - PROPOSED BUILDING 21'-10", ONE-STORY - ACCEPTABLE BUILDING OCCUPANCY:

PER MBC TABLE 1004.1.2

TOTAL BUILDING AREA:6,308 S.F. MINUS 599 S.F. PERIMETER WALL THICKNESS = 5,709 S.F. 'B' USE BUSINESS STORAGE/ MECH. SPACE TOTAL BUILDING OCCUPANTS 756 S.F. / 100 S.F. PER OCC. = 8 OCCUPANTS 4,820 S.F. / 300 S.F. PER OCC. = 17 OCCUPANTS = 25 OCCUPANTS

MINIMUM NUMBER OF EXITS:

- MBC TABLE 1006.3.1 25 OCCUPANTS = 2 EXITS REQUIRED | 5 EXITS PROVIDED

EXIT WIDTH REQUIREMENTS:

- DOORS (MBC 1005.3.2) 25 OCCUPANTS X 0.2* PER OCCUPANT = 5.0* TOTAL DOOR WIDTH REQUIRED AT 33* CLEAR WIDTH PROVIDED PER 36* DOOR, A MINIMUM OF 2EXIT DOORS ARE PROVIDED 5 EXIT DOORS ARE PROVIDED

EXIT DISTANCE LIMITATIONS:

- 200' MAX ALLOWED (MBC TABLE 1017.2) - ALL OCCUPANTS ARE WITHIN 200 FEET OF AN EXIT REQUIRED EXIT DOOR SEPARATION IS GREATER THAN ½ OF THE LENGTH OF MAXIMUM OVERALL DIAGONAL DIMENSION OF THE AREAS SERVED (MBC 1007.1.1 EXCEPTION 2)

FIRE RESISTANCE RATINGS OF BUILDING ELEMENTS:

- TYPE 1I B' CONSTRUCTION
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 0HR. (MBC TABLE 601)

 BEARN WALLS - EXTEROR
 0HR. (MBC TABLE 601)

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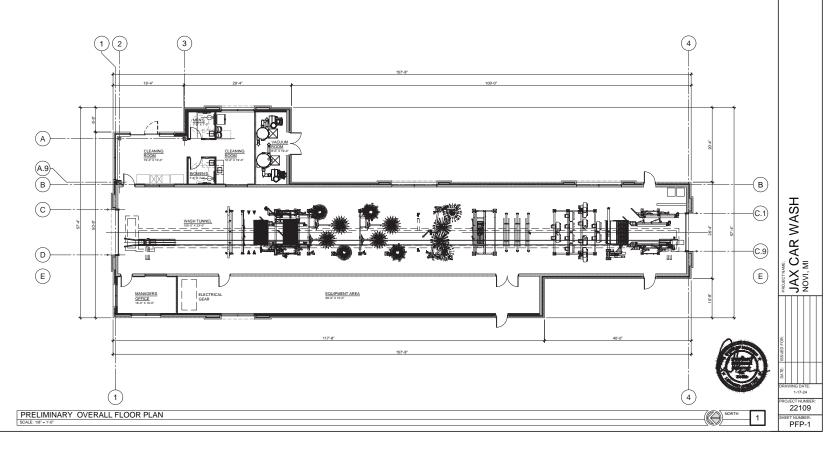
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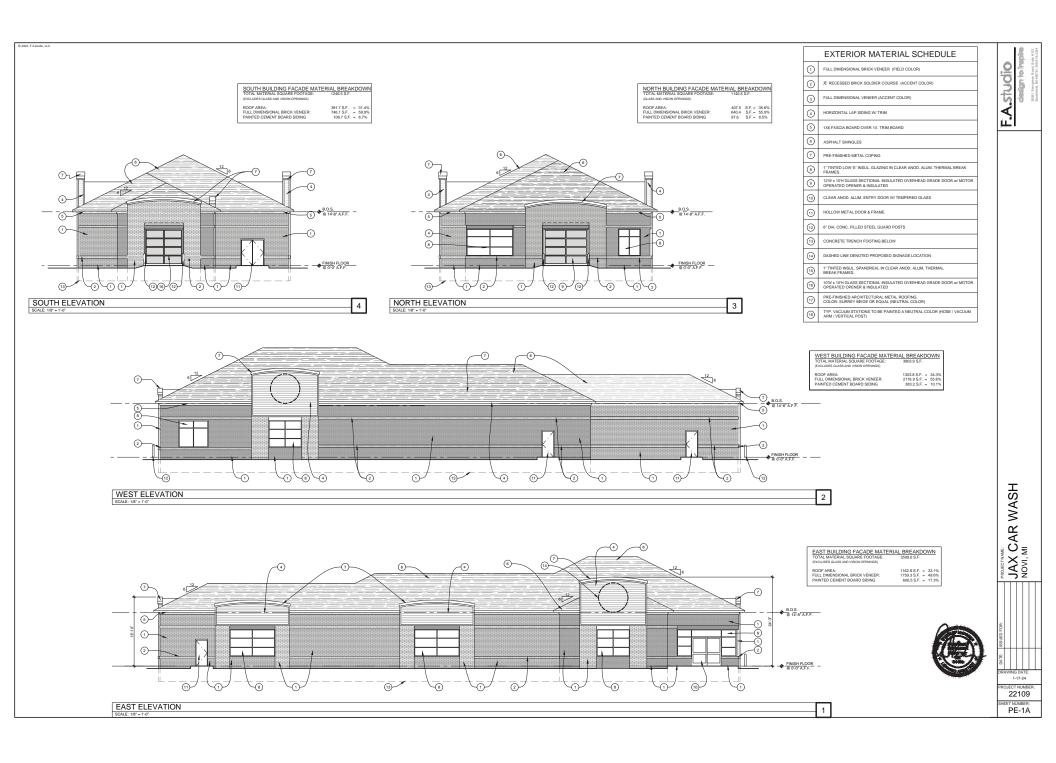
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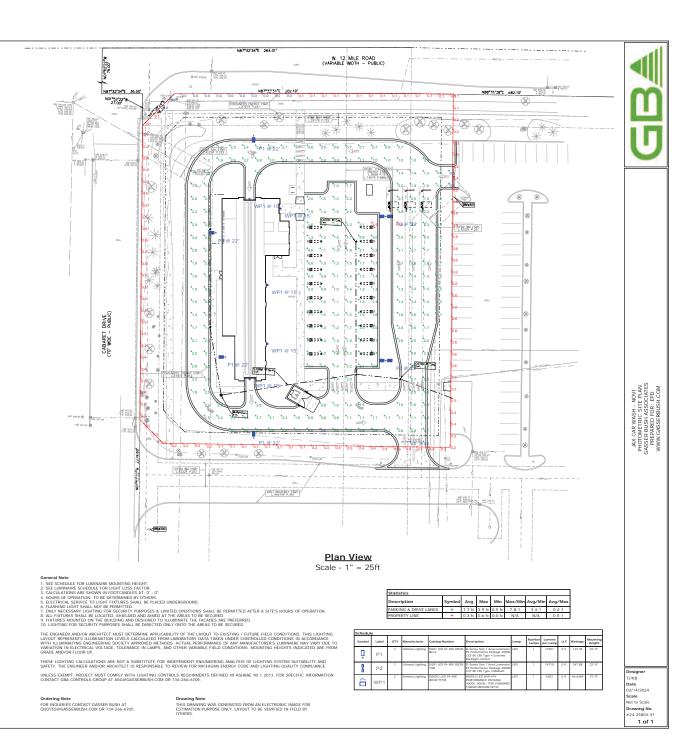
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CITY COUNCIL MINUTES

EXCERPT JUNE 3, 2024

REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI MONDAY, JUNE 3, 2024, AT 7:00 P.M.

Mayor Fischer called the meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL:	Mayor Fischer, Mayor Pro Tem Casey, Council Members Gurumurthy, Heintz, Smith, Staudt, Thomas
ALSO PRESENT:	Victor Cardenas, City Manager Tom Schultz, City Attorney

APPROVAL OF AGENDA:

CM 24-06-79 Moved by Thomas, seconded by Casey; MOTION CARRIED: 7-0

To approve the agenda as presented

Roll call vote on CM 24-06-79

Yeas: Casey, Gurumurthy, Heintz, Smith, Staudt, Thomas, Fischer Nays: None

PUBLIC HEARINGS: None

PRESENTATIONS:

PRESENTATIONS FOR BOARDS AND COMMISSIONS

1. Laurel Acho - PRCS Commission

In lieu of going through her application again, Ms. Acho addressed qualifications not in her application. She has a Bachelor of Science in Business Administration, majored in marketing, and went to law school. She has done surveys and then would summarize the results. She has written summaries, charts, graphs, and done PowerPoint presentations. She has designed brochures, written newsletters, organized & marketed events, wrote articles about new products and then pitched them to magazines & journals. She also uses her marketing skills to design her own business cards and other promotional materials.

2. Farah Baig - PRCS Commission

Ms. Baig is long time resident having moved here in 1993 and has seen a lot of development since then. She is pleased to see Novi take an active role in maintaining its green spaces. She has had the opportunity to sit at several of the Older Adult Committee meetings and is excited about plans to create a community center. She is a strong proponent of intergenerational interactions and feels the PRCS is a natural space to make that happen. She currently works as a consultant with the State of Minnesota while they develop their blueprint for an age-friendly state. She expressed that the opportunity has given her a unique perspective on the importance of natural space that makes our

CM 24-06-81 Moved by Thomas, seconded by Casey: MOTION CARRIED: 7-0

Approval of a cost participation agreement with the Road Commission for Oakland County for the preliminary engineering associated with the widening of Twelve Mile Road between Beck Road and Dixon Road in the estimated amount of \$937,680.

Roll call vote on CM 24-06-81

Yeas: Heintz, Smith, Staudt, Thomas, Fischer, Casey, Gurumurthy Nays: None

2. Initial review of Planned Rezoning Overlay (PRO) eligibility of the request of Jax Kar Wash, JZ24-02, to rezone property at the southeast corner of Twelve Mile Road and Cabaret Drive from Regional Center to General Business with a Planned Rezoning Overlay.

City Manager Cardenas commented that this is part of the PRO process that was amended and allows for early input on request. The Petitioner is requesting a zoning map amendment for approximately 1.8 acres of property on the south side of Twelve Mile. The site is currently vacant and is part of Fountain Walk and Twelve Mile Crossing Commercial Center. The vacant site is located by Cabaret Drive and Twelve Mile with Liberty Park residential developments to the north and the Vibe Credit Union to the west.

David Landry, Legal Counsel for Jax Car Wash, is with the applicant who is applying for a rezoning from regional commercial to B-3 with a planned rezoning overlay and the proposal would limit the B-3 uses to only one use and that is auto wash. The parcel in guestion is on the northwest corner of Fountain Walk, Twelve Mile and Cabaret Drive, which has been vacant for 22 years. There are unique characteristics to this property. First, like all other regional commercial centers, when a large tenant comes in there are restrictions. This parcel has unique physical characteristics to it. Under the RC zoning district requirements, there is a 100-foot setback so the only portion of the property that could be developed is a little square. In addition, there are two 55 to 60-foot easements from Consumers Energy running along the east and west parts of the property. An auto wash building is perfect because it's long and skinny and would fit right in the middle of the parcel. Mr. Landry continued to say that per the PRO ordinance, the intent as written is to accomplish a land development project to achieve integration of the proposed development with the characteristics of the project area, which is Fountain Walk. Mr. Landry stated that the owner of Fountian Walk, Mr. Michael Zimmerman is in full support and asks the Council to approve this PRO and that Mr. Zimmerman states "that is why we are excited about Jax Car Wash. This is a higher quality use that has absolutely no competition with our tenants. It brings a good amount of traffic to the area and will be complimentary to other tenants.". The only interest that Fountain Walk has ever received has been from gas stations which can't be put on a RC. Mr. Landry referred to a letter the Council has from Imagine Theater's owner Mr. Glance, who wants this project there and Buddy's Pizza wants it as well. Mr. Landry continued by saying that as far as integrating with the area around it, there's no objection from any of the surrounding people. With respect to eligibility, PRO's are a two-step process. The first process is with the Planning Commission and City Council to talk about eligibility and then you go back and do the site plan, the landscaping and everything else. The ordinance says that an applicant to propose a new zoning district must have site specific conditions that have two aspects to them. One, that it is more strict or limiting than the regulations that would apply under the proposed zoning district. The proposed zoning district is B-3, and we are proposing to limit it to a single use only. The building height is less than what would be allowed under B-3. The setback is far greater at 68 feet instead of 30 feet, which would be allowed under B-3. The façade that's proposed is 60% brick on two sides of the building, double what the ordinance requires. Mr. Landry reiterated that the first requirement for eligibility is satisfied because what is being proposed is stricter than the regulations that would apply if it were a straight rezoning under B-3. The second aspect is showing a public benefit. The ordinance does not define public benefit with any kind of specificity saying that the proposed improvement must constitute an overall public benefit that outweighs any material detriment or not, and or that could not otherwise by accomplished without the proposed rezoning. The ordinance defines public benefits in relative terms. Public benefit is not the same for all parcels so before the public benefit can be analyzed, the public detriment must be defined. When considering a rezoning the first thing to be looked at is adjacency and will it integrate in with what's around it. There are letters from the owner of Fountain Walk that wants this and there have not been any negative comments from anybody. When looking at traffic, the City's traffic consultant is recommending approval. The only entrance and exit are on Fountain Walk so there would never be any stacking on Cabaret or on Twelve Mile. Engineering recommends approval as there's no storm water problem. The Fire Department recommends approval and Façade recommends approval with a Section 9 waiver. Mr. Landry states that nobody's opposed to it, the property has been vacant for 22 years, and it's a unique parcel that has unique characteristics that have prevented development in the past. The public benefit in this case is threefold. Number one, the master plan economic development goal, number 18 in the plan is to retain and support the growth of existing business and attract new business to the City. Number two, Jax Car Wash employs high school students and is offering to pay \$54,000 to refurbish the library's teen space. And thirdly, due to the easements on the property, the applicant has offered to build a 230 square foot patio with bench along Twelve Mile. Per Mr. Landry, a member of the Planning Commission suggested that if there's going to be bus service to Fountain Walk, perhaps the applicant can install a bus stop area, which the applicant is willing to do, instead of a patio with benches. In conclusion, Mr. Landry said that five of the six Planning Commissioners that looked at the project, studied the pros and cons plus the public benefits, were in favor of it. He also commented that this would be the only standalone car wash north of I-94. In the packet provided to the Council, there is an analysis by the administration that gives examples of conditions that may be more strict or limited and provide an overall benefit to the public. The administration has analyzed all the aspects to criteria and indicated that yes, the conditions were included except for traffic because there is no traffic problem.

Todd Gesund, Vice President/Director of Expansion, has worked in the car wash business since he was nine. His family owned a company called Super Car Wash and they had 11 locations throughout metro Detroit. The company started in 1977 and they were competitors with Jax Car Wash. Over the last 20 years, there was talk about joining forces to become one large car wash company and a couple of years ago, that came to fruition. One thing that's been special about being part of the Jax family is the name Jax as it is synonymous with car washing in Detroit. Jax was founded in 1953 and they own and operate 29 locations in 18 different cities around Michigan. In addition to David Landry, Mr. Gesund brought Jon Zimmerman, CEO of Jax Car Wash and Lindon Ivezaj who is the CEO of their design build team, Cunningham-Limp. Michael Zimmerman, owner of Fountain Walk, and Bruce Milen, second generation founder of Jax Car Wash, were unable to attend this meeting but did attend the Planning Commission meeting. Mr. Gesund stated that he was excited about the positive comments and feedback received from the Planning Commission. Mr. Gesund said excellent service sets them apart and one of the things they pride themselves on and makes them different and unique is that they hand towel dry every vehicle as it exits the site. Customers are greeted as they come on site and when they exit, their car is dried off and employees say goodbye as that is part of the experience. Jax Car Wash also offers free vacuums, and they have an indoor mat cleaning room as well as customer restrooms. They are involved in the communities they are in and have a charity weekend. Jax had school fundraisers, group donations and organizations. They do towel drive fundraisers on site, and they don't turn anybody away. They help raise thousands of dollars in the communities in which they reside, every year. They employ lots of high school students in different communities as they have phenomenal relationships with the high schools. For example, a soccer team from Walled Lake comes and they are allowed to dry cars for the day, and they collect tips and Jax Car Wash makes donations. High school bands have been on site with their instruments. Mr. Gesund said he grew up in the area, on Twelve Mile in Farmington Hills and frequented Twelve Oaks. He saw the development of the Novi Town Center and Fountain Walk as he lived in Novi in his late twenties. Novi is a phenomenal community with unbelievable retail. Mr. Gesund corrected Mr. Landry's previous statement by saying there are no car washes north of I-96, not I-94. Mr. Gesund addressed the site layout in his presentation and showed some of the different multiple access points. He continued to say with the easement restrictions and the narrow piece of property, they fit perfectly on the site. He also said that they believe they fill a need for Novi and there are several customers that come out to Walled Lake, their closest site. He said that customers ask about a Novi location and that Novi is a dense population and they're complimentary to the businesses and retail of Fountain Walk. They are going to build a beautiful building that is going to enhance the area. Talking about the site layout, there's no new curb cut off on Twelve Mile Road and people will be able to get in at many points. There will be phenomenal stacking space here so cars won't back up into the parking lot as they can stack 29 spaces on site, 20 before the pay stations and an additional nine stacking spaces after the pay stations. The vacuums and indoor mat room on the east side of the building are only going to be used by their car wash customers and that is significant because it limits who's coming into the site. There will be little to no noise outside of the car wash building since all the vacuum and blower motors are inside the building and all their new sites have this special room. The building has

been designed to fit harmoniously with Fountain Walk and the other surrounding retail district. The building is not a typical looking car wash as there is landscaping that will exceed what's required, giving it a park-like setting. The car wash would be open 7:00 am to 8:00 pm, Monday through Saturday and 8:00 am to 6:00 pm on Sundays. They would employ anywhere from four to six employees at a time, depending on the weather. Most customers would come from a three-mile radius around the site. Mr. Gesund stated that customers don't wake up in the morning deciding to just get a car wash and go back home. Instead, they wake up, think about going to Dick's for some gear or Ford's Garage for lunch and then get a car wash at their favorite car wash. Mr. Gesund said this is the synergy he spoke about why he feels they will complement the area and then he concluded by saying that Fountain Walk has struggled over the years and now that it's 100% occupied, hopefully the car wash can keep that momentum going.

Mayor Fischer stated this is part of Council's early initial PRO process and an opportunity to provide feedback as the applicant goes through the remainder of the PRO process. Jon Zimmerman made himself available to answer questions from Council.

Member Staudt expressed that he likes the proposal and thinks it's a good use of the property but is not buying the public benefits. There is no fiduciary responsibility to the library and it's inappropriate to fund anything for it. He also doesn't think that developing a vacant parcel is a benefit of the proposal. Member Staudt liked the idea of the patio area along Twelve Mile as well as the suggestion from the Planning Commission. Mr. Staudt said that previously discussed was that the City was spending \$3.5 million dollars of the overall cost of \$35 million for an investment into Twelve Mile so he thinks it would be appropriate to think about what can be done along Twelve Mile, whether it is better landscaping, picnic benches or whatever. He also said that Novi has a property value of somewhere around \$5 billion and one lot's not going to change the makeup of the City's tax base, but he liked the idea and look, and he agrees that the lot has been empty too long. Member Staudt continued to say that what the applicant was asking for is reasonable but would make adjustments to the public benefit and would probably look forward to supporting this in the future.

Member Thomas added by saying that she generally likes the proposal and thinks it is a good spot for that particular business. She said she could see herself going there for a car wash and maybe stopping over to Coldstone for an ice cream. She would love to have funding for the library but thinks the public benefit needs to be tied more to that area in the community. She likes the idea of having covered areas especially if you're walking and biking down that path and get caught in the rain as there is not a lot of shade.

Member Heintz stated that he thought overall, the applicants have great potential and liked how they saved water. He expressed that a public benefit could be a spin off from the inspiration of being interested in the environment and suggested the applicants could have a space for a charge station or whatever would be a benefit for that region. He concluded by stating that the project could help that spot and it's a creative use of that space.

Member Gurumurthy commented that she thinks a car wash aligns and fits with the whole area. She said that it would be great if when people took walks, there were pockets of places where they can sit and have some time. She also wanted to add that in terms of the parking lot, she encouraged adding more in terms of landscaping.

Member Smith agreed with his colleagues and thinks this is a good site for the project but that the public benefit needs work. He said from an environmental aspect, he suggested adding solar panels to the roof since he's sure a car wash uses a lot of electricity. He also said that although we love the library, it isn't a great fit as a public benefit.

Mayor Pro Tem Casey started by saying that she has a different opinion than some of her colleagues in terms of putting a car wash on the site, specifically the PRO that the applicant is seeking. We have heard quotes from part of the ordinance but the other piece to think about is the benefit of a PRO and the reason for a PRO is to enable enhancement of the project area as compared to the existing zoning. This is a tough space and that was left undeveloped as Fountain Walk built around it and that's a challenge the owner is trying to solve for. There are easements on this property that are restricting what can be used on that property. Mayor Pro Tem Casey wondered if this really is a PRO opportunity. She complimented the applicants on how the traffic flowed but struggles with whether a car wash is really an enhancement. She continued to say that it is not Jax, it's not anything specific to this project. She did state that she was happy about the feedback on the noise because that was one of the things that she saw that was left pending. She concluded by saying that she is sharing some of the hesitancy right now with the idea of a PRO and the basically she's not sure that this project meets the definition of what a PRO is intended to do.

Mayor Fischer said that he wanted to discuss the restriction to this specific use. As part of the PRO proposal, B-3 has many different uses, as he understands it. He then asked City Attorney Tom Schultz if the property is restricted to just the car wash use, what happens if the applicants get bought out or sell out or it doesn't turn out financially viable? City Attorney Tom Schultz responded by saying he assumed that the City would write the PRO agreement like with Carvana, where if this is no longer being used for what it was built for and we're back to whatever the open space is. How exactly that is written, the City would have to work on that. Mayor Fischer then said that he would be interested to see that kind of terminal view of it because he doesn't want to get in a situation where the applicants could come back and say the car wash didn't work so let's try to go with the other B-3 items. The Mayor would want to see a reverting back to the current zoning. Mayor Fischer then stated that as far as the PRO process, this is a very interesting use and that he shares some of the same hesitancy as the Mayor Pro Tem. This is a wonderful business, and it has nothing to do with that but has to do with the fact that there are plenty of areas in the city where a car wash use is allowable. The Mayor then wondered if the PRO process is the right one and stated that there are a lot of discussions in the presentation about the setbacks and having a hard time putting a different sort of business under the current zoning in there. He then asked Attorney Schultz is this not more appropriate to be sent to the Zoning Board for some sort of variance as opposed to the

PRO process given that there are hesitancies on the public benefit aspect. Attorney Schultz commented that a variance is hard to get and not many are given out but that it's a possibility, but essentially the applicant would have to show that there's no other use to that property and that it's the zoning ordinance that's causing the issues. The Mayor responded that he felt like the presentation was going down that path, hence the question. Attorney Schultz then stated that the question for Council or the ZBA is, is it really the ordinance causing the problem or the way that the who property's already been built out? The underlying easements are not the fault of the ordinance, and the tenant restrictions are the City's issue. Attorney Schultz said he thinks it would be a complicated case to present to the ZBA for a variance. The Mayor then asked Mr. Landry if, from Fountain Walk's perspective, the owner had anyone interested in the property over the last 22 years. Mr. Landry said that all he knows was what Mr. Zimmerman's packet letter stated was that since he's owned the property, since 2018 or 2019, the only inquire he's had was from a gas station, which he won't allow but otherwise nobody's even inquired because of all the restrictions and the building envelop is the size of a postage stamp. Mr. Landry also commented that the applicant would agree if the car wash doesn't work, the zoning would revert. The Mayor reiterated that he shares some hesitancy with the Mayor Pro Tem. There are a lot of people who seem to be nodding in favor of this project. The applicant now has some feedback and clearly some public benefit things they are going to have to think through.

3. Consideration of request for Fireworks Permit by Eddie Hesano to be operated by Great Lakes Fireworks, LLC, on Saturday, July 27th, 2024, on Walled Lake.

City Manager Cardenas said the applicant is here to answer questions. Also, with respect to the staff's viewpoint, all the inspections, preparations, respective applications and insurance have all been acquired.

Mayor Pro Tem Casey addressed Mr. Hesano by stating that she wanted to go on record to say that she didn't want to see constant requests for fireworks coming to the Council as she thinks there are a lot of people for whom fireworks are a challenge. Mr. Hesano said he agreed, and he would only be having one fireworks event per year.

CM 24-06-82 Moved by Casey, seconded by Staudt: MOTION CARRIED: 7-0

Approval of request for Fireworks Permit by Eddie Hesano to be operated by Great Lakes Fireworks, LLC, on Saturday, July 27th, 2024, on Walled Lake.

Mayor Fischer supports the sentiment from Mayor Pro Tem Casey and said that from an ordinance review respective, not all the pieces are put together at this point so the Council will have more discussions on what the policy and framework for fireworks is going forward. He concluded by saying that he is not looking forward to repeat permit requests.

Roll call vote on CM 24-6-82

Yeas: Smith, Staudt, Thomas, Fischer, Casey, Gurumurthy, Heintz