

MEMORANDUM



TO: CITY OF NOVI PLANNING COMMISSION
FROM: KIRSTEN MELLEEM, PLANNER
THROUGH: BARBARA MCBETH, *AICP*, CITY PLANNER
SUBJECT: BOLINGBROKE RECONSIDERATION OF WOODLAND PERMIT
DATE: JULY 20, 2017

On June 30, 2017, Planning staff received a letter from G. Michael Kahm, Senior Vice President of Development with Singh Development, LLC regarding the Bolingbroke project (JSP17-34). The Planning Commission approved the Preliminary Site Plan, Woodland Permit, and Stormwater Management Plan most recently on June 28, 2017 subject to a number of conditions.

The applicant would like the Planning Commission to reconsider the motion made on June 28, 2017 regarding the Woodland Permit associated with both the Bolingbroke project (12 ½ Mile and Novi Road) and the Ballantyne project (currently approved for the northwest corner of Eight Mile Road and Garfield Road). The motion for approval of the Woodland Permit incorporated the items in the review letters, including this recommendation:

It should be noted that 537 of the total 588 (91%) Woodland Replacement requirements are proposed to be planted at Ballantyne; a proposed off-site development to be located at the northwest corner of W. Eight Mile and Garfield Road. Only 50 Woodland Replacement credits required (9% of the total) are proposed to be planted on the Bolingbroke development site. It should be noted that the Ballantyne development's Final Stamping Set plans were approved in December 2015 and will expire in December 2017. It is our understanding that the applicant has yet to apply for any building permits at the Ballantyne site and there is a fairly significant uncertainty as to whether the Ballantyne site will be built by this developer. ECT recommends that the applicant be required to pay the 537 proposed off-site replacements to the City of Novi Tree Fund should either of the following conditions occur:

- a. No Building Permits are applied for and issued for the Ballantyne site by December 2017, or
- b. If the current owner of the Ballantyne site (Singh Development) sells the property.

Applicant's letter

In his letter, the applicant states that the slowdown of the very high-end homes market has delayed the construction of the Ballantyne project and therefore also delayed the planting of the 537 woodland replacement trees from the Bolingbroke site to the

Ballantyne site. The applicant would like the Planning Commission to reconsider the deadline of December 2017 for building permits at Ballantyne as it is not feasible at this time, and to instead extend the deadline to December 2022 or for five years. The rationale from the applicant's viewpoint is to allow for the very high-end homes market to rebound and allow time for the development, and all of the necessary pre-requisites to the development, to begin. See attached copy of letter.

City's Woodland Consultant

The City's woodland consultant, Pete Hill, Senior Associate Engineer with Environmental Consulting & Technology, Inc. (ECT) has reviewed the request. Our consultant does not support an extension of the deadline to plant the replacement trees because it does not follow the intent of the City's Woodlands Protection Ordinance (Chapter 37) or the Performance Guarantees (Chapter 26.5) requirements.

Section 37-8 states that replacements shall be:

- (d) on-site within the same woodland area,
- (f) elsewhere on the subject property (and preserved with conservation or landscape easement to be granted to the City), or
- (g) credits paid to the City of Novi Tree Fund.

The application review procedures of the Woodland Ordinance state in Section 37-30.e: whenever a use permit is granted, the Planning Commission shall: (2) Fix a reasonable time within which any woodland operations must be completed; (a) in general, woodland operations are to be completed in a time period consistent with the provisions of Chapter 26.5, particularly section 26.5-5(c). The provisions of Chapter 26.5 state that all required site improvements shall be completed within two years after issuance of the initial permit and within 6 months after a temporary occupancy permit has been issued for any structure on the property, whichever is shorter or occurs first.

Staff Recommendation

It is Staff's opinion that the additional five years that the applicant is requesting is too long of a timeframe to wait for the necessary replacement of the 745 regulated trees that were removed in 2005 (when the development of Bolingbroke originally commenced and has remained in this state for 12 years), and that this long of a timeframe would not be consistent with intent of the Code of Ordinances. Staff advises that a defined time frame for planting of the replacement trees is advised since it is the intent of the ordinance to protect our natural resources and public health, prevent erosion and flooding, and maintain natural beauty for existing and future residents.

Staff recommends that, if the Planning Commission wishes to reconsider the motion made at the previous Planning Commission meeting, that an alternate timeframe be considered

due to the statements provided by the applicant regarding the actions that would be necessary for the applicant to receive building permits prior to December 2017. Staff would recommend that the deadline for the applicant to acquire building permits for the Ballantyne site be extended to no later than November 1, 2018 to allow sufficient time for the applicant to obtain the required permits, update the Ballantyne site plan to accept Bolingbroke replacement trees, and to request a site plan extension for the Ballantyne project due to expire in December 2017.

The following suggested motion is provided to allow the Planning Commission to reconsider the motion as requested by the applicant:

In the matter of Bolingbroke JSP17-34, motion to reconsider the motion that approved the Woodland Permit approved by the Planning Commission on June 28, 2017 as requested by the applicant in the letter dated June 30, 2017.

Following discussion, if the Planning Commission chooses, the following motion suggested by Planning Staff could be considered:

In the matter of Bolingbroke JSP17-34, motion to approve the Woodland Permit subject to the applicant being required to pay the 537 proposed off-site replacements to the City of Novi Tree Fund should either of the following conditions occur:

- a. No Building Permits are applied for and issued for the Ballantyne site by November 1, 2018, or
- b. If the current owner of the Ballantyne site (Singh Development) sells the property.

This motion is made for the following reasons:

To allow the applicant sufficient time to obtain the required permits, update the Ballantyne site plan to accept Bolingbroke replacement trees, and to request a site plan extension for the Ballantyne project due to expire in December 2017. This motion is subject to the findings of compliance with Ordinance standards in the staff and consultant review letters, and all of the other the conditions and items listed in those letters being addressed on the Electronic Stamping Set. This motion is made because the plan is otherwise in compliance with Chapter 37 of the Code of Ordinances and all other applicable provisions of the Ordinance.

C: Charles Boulard, Community Development Director
Tom Schultz, City Attorney



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June 30, 2017

Barbara E. McBeth
City Planner
City of Novi
45175 W. Ten Mile Road
Novi, Michigan 48375-3024

Re: Request for Reconsideration of Woodland Permit Approval
Bolingbroke JSP 17-34
Novi, Michigan

Dear Barb:

As a follow-up to the Planning Commission action regarding the Woodland Permit for the referenced development, made at their meeting on June 28, 2017, and further to our most recent telephone conversation, this is to respectfully request a reconsideration by the Planning Commission for those conditions included in the approved motion for the granting of the Woodland Permit. The motion approving the Woodland Permit was as follows:

In the matter of Bolingbroke JSP17-34, motion to approve the Woodland Permit based on and subject to the findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Electronic Stamping Set. This motion is made because the plan is otherwise in compliance with Chapter 37 of the Code of Ordinances and all other applicable provisions of the Ordinance. Motion carried 6-0.

As you know, our proposal was to allow for the planting of 537 woodland replacement requirements off-site at our 'Ballantyne' site condominium development at the northwest corner of Eight Mile and Garfield Road in Novi. The start of that planned gated community development has been delayed due to the slowdown in the very high-end homes market, but it is still our intention for that community to be developed. Our currently proposed Landscape Plans for 'Ballantyne' call for the planting of those woodland replacement requirements for Bolingbroke in areas to be preserved under permanent Woodland Conservation Easements, as shown on the proposed landscape plans.

The finding in the consultant review letter from Environmental Consulting & Technology, Inc. dated May 3, 2017, which was included as part of the Planning Commission motion to approve, stated the following recommendation;

Woodland Comments

ECT recommends that the Applicant address the items noted below prior to the issuance of building permits for the project:

1. It should be noted that 537 of the total 588 (91%) Woodland Replacement requirements are proposed to be planted at Ballantyne; a proposed off-site development to be located at the northwest corner of W. Eight Mile and Garfield Road. Only 50 Woodland Replacement credits required (9% of the total) are proposed to be planted on the Bolingbroke development site. It should be noted that the Ballantyne development's Final Stamping Set plans were approved in December 2015 and will expire in December 2017. It is our understanding that the applicant has yet to apply for any building permits at the Ballantyne site and there is a fairly significant uncertainty as to whether the Ballantyne site will be built by this developer. ECT recommends that the applicant be required to pay the 537 proposed off-site replacements to the City of Novi Tree Fund should either of the following conditions occur:
 - a. No Building Permits are applied for and issued for the Ballantyne site by December 2017, or
 - b. If the current owner of the Ballantyne site (Singh Development) sells the property.

Though we appreciate the concern that the woodland trees have a definitive planting deadline, we would ask that some consideration be given for the development of 'Ballantyne' within an adjusted timeframe. In lieu of the stated deadline of December 2017 for the pulling of building permits at Ballantyne, as noted in comment 1(a) above, we would like to propose that that deadline be extended to **December 2022**, or five (5) years hence.

The rationale for this request is to allow for the very high-end market to rejuvenate and to allow time for the development to be completed to the point where building permits can be issued. As that was the threshold stated in the consultant letter, we would ask for time to construct the project infrastructure, obtain final City inspection approvals and record the Master Deed and Bylaws, all of which are prerequisites for building permits to be issued.

We hope that the above explanation and the restatement of our intent to plant the woodland replacement requirements for Bolingbroke within Woodland Preservation Easements in a project to be developed in the City of Novi will find merit with the Planning Commission. If there should be any questions or additional clarification needed in order to have this request considered by the Planning Commission, please do not hesitate to contact me.

Very truly yours,



G. Michael Kahm
Senior Vice President