

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JUNE 22, 2015 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Members Casey, Markham, Mutch, Poupard, Wrobel

ALSO PRESENT: Peter Auger, City Manager
Victor Cardenas, Assistant City Manager
Thomas Schultz, City Attorney

APPROVAL OF AGENDA:

CM 15-06-80 Moved by Casey, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve the Agenda as presented.

Roll call vote on CM 15-06-80 **Yeas: Staudt, Casey, Markham, Mutch,
Poupard, Wrobel, Gatt**
Nays: None

PUBLIC HEARING – None

PRESENTATIONS

1. Proclamation in recognition of the 95th Birthday of Chief Lee BeGole.

Mayor Gatt presented the proclamation to Chief Lee BeGole. Mr. BeGole spoke about the history of Novi and how he became the first Police Officer for Novi. He thanked everyone for inviting him.

2. Proclamation in recognition of Parks and Recreation for the month of July – Jeff Muck, Director of Parks, Recreation and Cultural Services

Mayor Gatt presented the proclamation to Jeff Muck, Director of Parks, Recreation and Cultural Services. Director Muck thanked everyone in the City for their ongoing support of the parks and programs. They invite everyone to visit the parks and to participate in the programs all year round.

REPORTS:

1. MANAGER/STAFF – None

2. ATTORNEY – None

AUDIENCE COMMENT:

Pati Heath, 23445 Beck Road, said she has lived in Novi for over 15 years. She felt in time there would be a healthy compromise reached regarding the rezoning of surrounding properties. She has written in support of the new development. They believed the zoning changes are the right thing to do and are extremely generous to their neighbors. The neighbors have enjoyed free range since they have built homes next to their property. She asked what happened to old fashion common courtesy. Iroquois Court and Andover Point II homes were built 35 feet off their property line. She did not object. She spoke about planting trees to her property. She feels neighbors have forgotten how to be neighbors.

Tim Gilberg, 47599 Aberdeen, said he is the President of Cheltenham Estates Homeowners Association. He spoke about the proposed development on the southwest corner of Ten and Beck Roads. He feels Beck Road has become a challenge. He suggested the construction project starting on July 13th at the entrance of their subdivision, which will add a three lane cross section, continue towards the turn lane at Ten and Beck Roads to allow additional queuing to the west Ten Mile left hand turn traffic. He didn't know if the developer could help with the construction. He recognizes the developer's right to develop the property but there is an issue with Beck Road traffic. The new subdivision proposed entrances will not allow exiting into rush hour traffic. Perhaps there is an opportunity to do further studies to look at increasing the traffic flow during rush hour.

Michael Balon, 47825 W. Ten Mile Road, supports the development. They have lived there for 19 years. He indicated the natural features that benefit his Echo Valley neighbors, the new development will allow others to move to Novi and it will provide for additional tax base. He noted neighbors would know what will occur around them as opposed to uncertainty which has remained for some time. There is a possibility for a different type of development. Any negativity would send a message to developers that Novi is not a favorable place to develop. He summarized that many have a positive relationship with the City and neighbors. He hopes for a positive vote on the issue and a reasonable solution to all sides.

Jackie Bakewell, 42750 Grand River, said her family has been in Novi since 1950 and she grew up in Echo Valley. They want to sell their property on Ten Mile. The developers have worked hard to accommodate Echo Valley residents to give them the green space that they need and desire. It is a good deal that will generate tax revenue and jobs. She is in support of the proposed Valencia Subdivision.

Jan Pugliese said she supported the development after reading the article in the Novi News and following up with some of the details of the development.

Virginia Lauinger, 23973 Beck Road, said she is for the development. She has been in Novi for 32 years. He noted that she believes in progress. There have been many different proposals to develop the corner that abuts her property and many she didn't feel would help the people of Novi. She is not being selfish by wanting this to go

forward. The developers have proved they are going to build beautiful homes. She hopes Council would allow the development. She wants others to share what she has shared for 32 years in the City.

Christopher Lochkos, 41827 Ridge Road E., supported the rezoning and thought it was a win, win for Novi.

Paul Albanelli, 47500 Iroquois Ct., said he has lived on the corner of Ten Mile and Beck Roads for 27 years. For the last 15 years he has enjoyed the wildlife in the area. He would like to see the property to stay as it is but one of the cornerstones of Novi has been to support responsible development. He didn't know what the R-3 zoning will do to my property value. He thought it wouldn't be as bad as the economic crash of 2008-2009. He noted there will be a 15 foot conservation easement, 15 foot tree preservation easement and 35 foot setbacks. It is 65 feet to the property line before there are any buildings and that they may not see with an R-1 zoning plan. The residents deserve to have their wells and septic tanks protected. They deserve to know what will go in the conservation easement with privacy from the new homes. If all the conditions are met he thought it would be a good development. He is in support of it.

Steve Figurski, 31202 Novi Road, believed this project has met all the criteria for the City of Novi and it would be great to allow them to move forward.

Jerry Smith, 23962 Forest Park, said he backs up to the property and had no objection. He has lived in the City his whole life and had no problem with neighbors.

Debra Looke, 31170 Novi Road, approves the development of this project and thinks it would be a positive addition to the City.

Rod Franchi, 25364 Sutton Ct., spoke in support of the development. He is speaking from an educator's point of view. He first started teaching in 1996. The story of Novi has been one of growth. As the City has grown, the schools have grown in numbers and in programs. When other's visit the school, they are surprised by the number of programs that are offered to the students. It happened because more people have moved into the City. He supports it.

Doreen Anglin, 48245 W. 10 Mile, said she has been a resident of Echo Valley Subdivision since 1972. The Anglin family has owned a lot of other property in Novi, also. She has followed this in the newspaper and different articles and feels this is a good project. The developer sounds like he has met the criteria to meet the Master Plan. He has done everything required including a bond for any damage done to wells or septic tanks. He has agreed for the green space in the corner at Beck and Ten Mile Roads. She loves Novi and has seen the progression. She supports this project.

Doug Martin, 31166 Novi Road, said he has lived in Novi most of his life. He thinks it is one of the best places in the Country. He welcomes families moving here. From what he has seen, it seems to be a responsible plan.

Greg Struble, 47490 Edinborough, said he is a recent resident to Novi. He wanted to express his concerns with the rezoning and make it clear his support for continued growth for the Community first and foremost but within the guidelines set forth by the Master Plan. He would like to refer to the R-1 subdivision surrounding the project and the overall area. He wants to ensure the elected leadership hears the existing land owner's concerns along with the input from the developer and supporters. He asked to factor them into the decision. He is in favor of development because it fits the long term character of the community as well as provide for the growth that is needed. This proposed development will be the first R-3 rezoning for residential development within section 29 and western half of section 28. This rezoning could pose a potential negative precedent towards land value of the current owners and compromise the future subdivision developments in Novi. The R-1 and R-A zoning laws that were in effect when the existing land owner's houses were built has been evidenced by the quality of the surrounding subdivisions. These communities are excellent examples of balance that can be achieved when development occurs in an environmentally favorable within existing laws and ordinances. The residents enjoy an open atmosphere while being provided with acceptable levels of privacy in the homes and helping to preserve and enhance our existing property values. The efforts to support the Master Plan are applauded. The elected officials should protect citizens of Novi from the potential negative impact that could occur from the zoning. Changing the Master Plan for about 5 % of section 29 and western half of section 28 would require City leadership to show the benefits. The motivation for the developer is a less stringent zoning. It is good business with more houses. However, if the area in question is being considered for less stringent rezoning, a new land owner should adhere to the same laws and ordinances as the rest of the community has abided by. He spoke about the fourteen areas they wanted to address. They would like the benefits of the development stated to the surrounding land owners. How will a larger home on a smaller lot preserve the R-1 land values? The increased traffic congestion on 10 Mile is an issue.

Chris Brower, 47992 Andover, said he lives in Edinborough Subdivision that is an R-1 zoned subdivision. They attend activities in the City. Novi has great traditions and is community focused which is why he moved to Novi. The issue is important to the Community. He supports progress but it needs to be responsible. Based on the assessment from what he hears from real estate agents, the Master Plan is what makes Novi truly unique. He has spoken with the developer on several occasions to try to reach a win, win solution. They proposed solutions at the Planning Commission meetings where requests were made of a 50 foot easement be included in any future plans from the developer. He questioned why it wasn't shown and why Council would support an unchanged plan. The City has allocated significant tax dollars to planning and regulating areas to protect residents. He asked what signal they are sending to the Community if developers are allowed to rezone regulated areas with little offsetting benefits. The majority of the land is zoned R-1 which has been successful for prior developers. There is an exception of Valencia North. The difference between the two properties is that the north property was vacant but the project land has regulated woodlands on multiple mixed parcels. It is a key reason why so many have spoken in opposition of the plan. He urges Council to stand united with the Community and oppose the plan.

Linda Struble, 47490 Edinborough, said she is not in favor of the rezoning. They believe the City's current Master Plan is appropriate and should be upheld. Clearly, the builder will realize a higher profit. The current land owners in the section will realize a profit on the sales of their homes but the 150 plus surrounding land owners feel there is not a benefit in it to them. The Master Plan established a character for the Community. The character and standards of an R-1 subdivision are different than an R-3. When they purchased their home, they paid attention to the fact that the entire area around them was zoned R-1. Any future homes would be built according to the same high standards. She described the characteristics of a home in her subdivision with an R-1 zoning. Closely spaced homes would not be desirable to have in a back yard when your lot is larger and have paid a higher price. R-1 owners do not want closely spaced homes in their back yard. The City's Master Plan already prevents it from happening. The density ratio of 1.65 units per acre is being listed as a reason for the R-3 plan being almost the same as R-1 but clearly it is not what R-1 is about. It would result in fewer homes on the project site. She believes in upholding the Master Plan and support developing the property under the R-1 zoning and the rezoning should be denied.

Julie Cundy, 41723 Onaway, talked about the intersection at Ten Mile and Beck Road. It is an extreme traffic area and becoming dangerous to the City. There are accidents regularly according to the Police Department. It was the intersection with the most accidents in the City. Putting two more entrances onto Beck Road would be a disservice to the citizens that pass through this intersection. There are currently twelve subdivision entrances between 9 Mile and 10 Mile on Beck with heavy traffic. Residents are experiencing long delays in traffic in the area. Novi was once a great balance between development and nature. It is now becoming unbalanced with the infrastructure not supporting the growth in the homes. She is not in support of the project.

Russell Franchi, 41600 Carmela Ct., voiced his support of the development.

Damon Pietraz, 48380 Burntwood Ct., said he is a new resident to Novi and a Novi business owner for almost two decades. The nature of his business is finding water and channeling the water. He spoke in opposition of the rezoning. He is in favor of a subdivision; however, it needs to be done responsibly. There are many options to dewatering a property. He spoke about the problems with it. There are problems now in Florida with farmland being dewatered for crops because it develops sink holes in adjacent properties. He said if the dewatering is not done properly there could be contamination of existing wells. He saw all sorts of issues removing the water on the property for building. He spoke in opposition to the rezoning.

Colleen McClorey, 48188 Andover, said she is opposed to the rezoning due to the deviation from the City's Master Plan with no expressed public benefit except to the developer. She asks Council to reject the proposal of rezoning. She pointed out another long standing principal adopted by the City when it enacted the woodlands protection ordinance. She stated the ordinance by saying, "The purpose of the ordinance are to provide for the paramount public concern for the natural resources in

the interest in health, safety and general welfare of the residents of the City." The woodlands ordinance also states that rapid growth and the spread of development and increasing demands on natural resources have had the effect of encroaching upon and eliminating many of the trees and natural resources and thereby affecting not only the environment but the health of the Community. Council should protect the health and welfare for the Community. Novi's leadership prides in sustainable activity. Novi has a tradition to protect the natural resources in the Community.

Laray Anderson, 48360 Burntwood Ct., talked about dewatering. He referred to the City Code. He asked if a plan has been submitted in accordance with the Code. Dewatering for other development ended up in front of his house. No one helped him with the problem. He spoke about financial guarantees and asked if the developer has deposited them with the City.

Stacey Rose, 23940 Forest Park, said he is an Echo Valley Subdivision board member and represented Echo Valley. They thought they could support it with protection for the wells and septic tanks system with the significant 50 foot conservation easement but it didn't happen. He noted the Community Development Department explained to him their role is not to weigh cost benefit. Planning Commissioners said it was not their role either. He was told it was City Council who would hear his concerns and negotiate on the residents' behalf. He learned the 50 foot conservation easement was negotiated early on before the second Planning Commission meeting and it wasn't going to change. He said he thought it was well intentioned but miscalculated. The public concerns after the negotiation were not considered and nothing has changed. Now he feels instead of hearing his concerns, those who had negotiated this early on, became most concern with finding justification for a decision that was already made. Placing higher density than allowed by existing R-1 zoning closer to existing subdivisions is a detriment. Is the detriment worth the benefit to Novi should not be the question. It should be, is it proper to create a detriment to neighboring homeowners so a developer could build just a few more homes. He feels the plan was pre-negotiated. Several issues had a potential to significantly diminish the tree buffer which is being sold as the reason it is okay to have the higher density closer to existing subdivisions. The 15 foot conservation easement is between a 6 foot utility easement and a storm sewer easement. The proposed tree preservation easement overlays the storm sewer easement. Trees cannot be planted in much of the area according to the Environmental Consultant's comments on page 100 of the packet. There is no assurance that the trees would be replaced if they died after a relatively short bond period because they are located on private property. On the basis that the concerns were not fully considered in the early negotiations and because of the impact of Echo Valley and Andover Subdivisions are not being properly mitigated by an adequate conservation easement of 50 feet, thus, on behalf of the Board of Directors representing the 104 residents in Echo Valley, they strongly disapprove of the plan.

Marti Anderson, 48360 Burntwood Court, said she is president of the Homeowner's Association. She said they had an expert architect engineer, who said no more than 43 homes should be built under R-1. She explained she has collected hundreds of letters and petitions which she submitted to the City against the project. There are over 150

signatures on a petition web site which was started June 15th. She said they are looking for a win-win, but the developer is not offering enough. She couldn't understand why a developer could take out so many trees and simply give money to the Tree Fund. Clear cutting the regulated woodlands only benefits the developer. The plan is the same one from 4 months ago. She asked the Council to vote against the rezoning.

Shirley Gene Leslie, 48405 10 Mile Road, said he has lived on Ten Mile since 1986. He said he has watched the area grow and progress. He wants to see the development go through.

Barry Buha, 48035 Andover Drive, said he was against the rezoning. He bought where he is now because of the R-1 zoning and he was assured the surrounding area according to the Master Plan would remain R-1.

A Novi Resident said she was for the project. The people opposing this development are the ones enjoying the parks and school system. Her mother is a longtime resident. She said it is a move in the right direction and she approved.

Mike Jacobson, represents the seller at 10 Mile and Beck Road, said the PRO Plan is beneficial to the City of Novi and not detrimental to the neighbors. It is better than the R-1 plan. He said everyone agreed development is good, it should be responsible and the growth of Novi is important. He represents a lot of builders, developers and businesses in Novi. He said the R-1 plan is more detrimental to Novi than the PRO plan. The people who are objecting the R-1 plan have none of the protections of the PRO, including more lots backing up to their homes, trees cut down to the boundary lines and very limited open space. He said dewatering would happen under R-1 and the PRO, but at least under the PRO the developer is setting money aside. The setbacks have been addressed to provide significantly greater setbacks. The R-1 plan is not beneficial to the neighbors.

Michelle Brower, 47992 Andover, said they recently relocated there because of the R-1 zoning. She said the proposal is not good for the residents, but they are for developing. They moved here because the Master Plan shows R-1 in the area. The lot sizes are an issue. She said an alternative R-1 plan proposal showed 34 homes. She supports an R-1 plan instead of the PRO. They have requested a 50 foot conservation easement to compensate them for the lost benefit. She does not agree with the developer's version of what is generous regarding the amount of conservation space. She believes they should require the area to remain R-1.

David Goldberg, represents the owner at 10 Mile and Beck Road, said the R-1 plan has more lots which back to the existing homes. He also said all trees would be cut back to the boundary lines, and all wetlands would be filled. There would be no 4 acre park. The sanitary sewer connection would occur under either plan. There is no assurance the builder will build larger houses. They represent the corner property owner and the R-1 plan would not include the parcels along Beck Road and Ten Mile Road. There would be no use for their property residentially and commercial uses would be pursued at that corner.

James McGuire, 48028 Andover, said he does not see the compelling reasons why they should ignore the Master Plan. He said the developer could build over 40 homes while leaving the same buffer provided in the PRO. He asked Council to preserve the character of Novi. He asked that they vote no on the rezoning.

Jeff Almoney, 47955 Andover, said he doesn't want to see this development there. He was disappointed that they weren't moving ahead with a project that was better for everyone, not just those selling their property to the developer.

Frank Bauss, 23445 Beck Road, said he was an owner selling property to the developer. He has two parcels with about 15 acres. He said he was a developer and builder of many of the houses in Edinborough. He said the people objecting should be careful what they wish for. They might get larger lots in an R-1 but the rear yards would be smaller and the trees would be clear-cut. Since he owns the property that some people are objecting to being developed, he said he would develop it, but he didn't want to have to do that. He said most of the trees would be removed. His property has not been fenced but those bordering it have been using it.

CONSENT AGENDA REMOVALS AND APPROVALS:

CM 15-06-81 Moved by Casey, seconded by Poupard; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 - 1. June 8, 2015 – Regular meeting

- B. Enter Executive Session immediately following the regular meeting of June 22, 2015 in the Council Annex for the purpose of discussing privileged correspondence from legal counsel.

- C. Approval of resolution authorizing the issuance of Limited Tax General Obligation Refunding Bonds, Series 2015.

- D. Approval of a Street Light Purchase Agreement with Detroit Edison Company for the installation and ongoing operation costs of two street lights to be installed at two Novi Road/Interstate 96 locations.

- E. Approval of Resolution to close Ten Mile Road from the Novi Civic Center to Taft Road and Taft Road to Nine Mile from 11:30 am to 1:30 pm for the International Society for Krishna Consciousness (ISKCON) of Detroit's Festival of Chariots Parade on Sunday, July 19, 2015.

- F. Approval to award bid for the replacement of carpeting at Meadowbrook Commons to Falcon Carpet Services, Troy, MI, in the amount of \$25,508 and amend the 2015-16 budget accordingly.

- G. Approval to adopt resolution establishing insurance requirements for outdoor gathering permits.
- H. Approval of Labor Agreement between the City of Novi and the Full-Time Fire Fighters Association for a term of July 1, 2015 through June 30, 2018.
- I. Acceptance of a pathway easement, a sidewalk easement, and a sign easement as a donation from Pulte Land Company, LLC for the Berkshire Pointe Condominium located south of Grand River Avenue and west of Wixom Road as part of their approved Planned Rezoning Overlay Agreement.
- J. Acceptance of a pathway easement and sidewalk easement as a donation from Toll MI II Limited Partnership for The Preserve at Island Lake (Phase 8) located at the northeast corner of Ten Mile Road and Napier Road per the amended residential unit development plan.
- K. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Pulte Land Company, LLC, for the Berkshire Pointe Condominium located south of Grand River Avenue and west of Wixom Road.
- L. Approval of a Storm Drainage Facility Maintenance Easement Agreement Varsity Lincoln Properties, LLC, for the Varsity Lincoln Display Lot located on the east side of Wixom Road, south of Grand River Avenue (parcel 22-17-101-029).
- M. Approval of Traffic Control Orders 15-13 and 15-14 for the streets within Island Lake Condominium Phase 5C.
- N. Acceptance of Island Lake 5C subdivision streets and adoption of Act 51 New Street Resolution accepting Bellingham Drive, Langley Drive and Langley Court as public, addition 0.23 miles of roadway to the City's street system.
- O. Approval and adoption - Freedom of Information Act (FOIA) Procedures and Guidelines.
- P. Approval of Claims and Accounts – Warrant No. 942

Roll call vote on CM 15-06-81

**Yeas: Casey, Markham, Mutch, Poupard,
Wrobel, Gatt, Staudt**
Nays: None

MATTERS FOR COUNCIL ACTION:

- 1. Consideration of the request of Beck South, LLC for JSP13-75 with Zoning Map Amendment 18.706 to rezone property in Section 29, on the southwest corner of Beck Road and Ten Mile Road from R-1, One-Family Residential to R-3, One-

Family Residential with a Planned Rezoning Overlay. The property totals 41.31 acres and the applicant is proposing a 66 unit single-family residential development.

City Manager Auger commented that over the past 12 to 15 years there have been several proposals brought forth to develop the southwest corner of Beck and Ten Mile Roads. When the recent development was presented to the City it was much different than it is now. Staff worked with developer to produce the most desirable outcome for all in this project. It has taken over a year. The developer has listened to staff, consultants, and residents to get this far in the process and that is why the PRO is being recommended. This developer has been able to amass nine properties that will become one development. R-1 would allow homes to be 35 feet from the property lines. The developer has agreed to place the new homes 65 feet from the property lines. In addition, within the 65 feet, the developer has agreed to a 15 foot conservation easement plus an additional 15 foot tree easement. The tree easement is where the trees will be saved and additional trees would be added to increase the buffering between residential developments. The tree consultant's report indicates a 1,000 plus trees would be removed in accordance with the City tree ordinance. Of those trees, several hundred are listed as fair, poor or very poor condition. They will be replaced on the site or funded to be replaced elsewhere in the City. The developer has agreed to plant larger trees than listed in the City ordinance. There were concerns by residents about dewatering. He did not believe there is any lawful way to have a financial guarantee for that purpose if not for the PRO. In fact, there may be case law to the contrary. The developer has agreed to post a bond. The depth of the dig to connect to the sanitary sewers is about 12 feet. At the southeast section of the development, the surrounding well depths are over 100 feet. In keeping with residents' concerns for a wildlife corridor, the thirty foot easements and no fences permitted will allow this to continue. The approximate four and half acres in the center of the development would also address wildlife habitat. Traffic engineers see the 10 Mile entrance/exit alternative as more detrimental to traffic flows than the Beck Road design. There will be deceleration lanes added to Beck Road. Eyebrows are internal road designs that were removed. Staff is recommending doing away with this design feature in the near future as the benefits do not make up for the additional cost to build and maintain. He summarized by saying this type of project is what PRO's are designed to help facilitate. It strikes a balance between the positive quality residential growths and surrounding neighbors concerned for the ambiance that they are used to. It also allows development with continuity versus several small developments shoehorned into odd shaped parcel configurations without maintaining natural quarters where our wildlife inhabitant areas can grow.

Howard Fingerroot, Pinnacle Homes, spoke about the neighborhoods they have built in Novi. They are proud of the developments they have done in Novi. He showed pictures of homes they have built in Novi. They are proposing the R-3 PRO and he felt there was some confusion from the neighbors that have spoken. He clarified that the R-3 PRO is consistent with the Master Plan and the density of the plan is consistent also. He noted Andover and Echo Valley Subdivisions are both denser than what they are proposing. He talked about the plan features. Plans that cluster create open space

and are considered good planning. They are using smaller width lots because they are able to make 30% of the site open space. The City staff and consultants embraced it. One of the features is that the trees on the property at the corner will remain and they will reforest it. It will be positive for the City of Novi. There will be a greenbelt along Ten Mile. He explained how the changes came about to the plan by talking with the neighbors. They reassured everyone that there will not be dewatering of the property. He explained the analysis showed that it will not be impactful to the wells. They offered a \$75,000 bond to cover any damage to the wells affected by the dewatering. If he did an R-1 development he felt it would leave a lot of holes that the City would like filled.

Mayor Gatt asked if it is voted down would the developer be able to make money on a R-1 development. Mr. Fingerroot said it would be a profitable development as an R-1. Mayor Gatt asked him to explain his statement that the R-3 PRO was consistent with the Master Plan. Mr. Fingerroot explained that the R-3 doesn't but the R-3 PRO does. He said the proposed development meets the intent of the Master Plan to provide single family residential uses on the property. He said the City staff has said it meets the Master Plan. The density doesn't change but has more preservation. Mayor Gatt wanted him to explain dewatering. Mr. Fingerroot explained that when the digging starts and ground water starts to fill in the trenches to install the sanitary sewer pipes, storm sewer pipes or water main, pumps are used to pump out the water until it is dry enough to lay the pipes. After they are done, they fill it back in. He explained the dewatering would be minimal. Mayor Gatt questioned him if the \$75,000 bond posted would cover any damaged wells and felt it wasn't a lot of money to cover many damaged wells. Mr. Fingerroot said that there are only two wells within 500 feet of the digging that were 40 feet deep. Every other well was more than 100 feet deep and it would not affect those wells. John Lamb, McDowell and Assoc. studied the flow of water. Mayor Gatt asked about the two exits onto Beck Road and asked if he had any thoughts of putting an exit on Ten Mile Road. Mr. Fingerroot said that they had looked at it and said they have changed the plan over 15 times with different configurations. The traffic consultants and staff recommended the plan as it is now. The ordinance requires a certain amount of pavement or an eyebrow at a 90 degree turn and the City didn't think they were a good idea. Mayor Gatt confirmed they would add them if Council suggested it and the reason they do not have an exit on Ten Mile is because the staff and consultants have said it is not the way to do it. Mayor Gatt asked staff if they could address the amount of accidents at Ten Mile and Beck Road. City Manager Auger believed that statistically 8 Mile and Haggerty was the worst intersection. Rob Hayes, Director of Public Services, said he believed it was in the top ten list of the amount of accidents at an intersections but it is not the number one crash rate in the City. Grand River, Ten Mile and Eight Mile at Haggerty are the top intersections for crash rate.

Member Casey asked what the R-1 plan would look like. Mr. Fingerroot said he could show her and presented some background information. He said this process has been extremely long relative to any other developments he has done. He has spent a lot of money because of it. He had to look at the best way to go if the rezoning was not passed. With the R-1 zoning he didn't have to go to Council and start building after getting permits. He had to be very efficient to go forward with this development. He

would have 19 homes that back up to the west and south under the R-1. Under the PRO he has 18 homes. Under the PRO plan he has the setbacks and easements. Under the R-1 he is only 35 feet from the property lines and can go into the set back with a deck. The benefit for him is that there is no road block. By doing the PRO, he was able to shrink the site. The corner site is difficult to develop as the owner of the property said.

Member Casey asked the City Attorney or staff about what the ordinance requires to make restitution of damaged wells. City Attorney Schultz said the general rule of equitably apportioning development rights between property owners is that the property owner has the right to put in a sewer on their property when they develop. The law assumes that there can be adverse impacts to the adjacent property. It is a reasonable use standard which can allow a pretty significant impact. The City has a separate ordinance that adds protections that the common law may not allow. Director Hayes said the ordinance has a very aggressive requirement that calls for a dewatering plan. They would review that as part of the site plan process. They would review it to make sure it is documented out properly. During actual construction the inspectors ensure that plan is being followed each day. It would require the developer to make the owner whole if a well was damaged. City Attorney Schultz said the one thing about the PRO is the kind of development document that can be used to add a requirement that may not be in the ordinance. There is a general requirement to provide potable water. He didn't remember any dewatering issue ever.

Member Casey thanked everyone for their work on this development. There are a lot of different opinions about what should be done with these properties. She liked hearing both points of view. Her primary concern is about the traffic issues. She heard from the residents about the kind of buffer they would like in their back yards. She respects what the developer has done with the additional plantings. She thought what he did with the buffer was good. The number of trees that will be cut is a concern of hers, also. It is a significant amount of trees. She hoped more trees would be retained.

Member Mutch thanked those who spoke and provided their input on the development. It helped them to clarify the key concerns with the property and what is the best outcome for the City of Novi. His concerns echoed Member Casey's concerns. There will be more traffic on the corner and we don't want to exacerbate an already bad traffic situation. He has heard from staff and consultants but he thinks putting the second entrance closer to Beck Road versus Ten Mile Road defies common sense. The key difference between this development and the one to the north is the distance of the entrance from the intersection. This development is about 500 feet from the intersection where the Valencia to the north is about 750 feet. It would make a big difference how that intersection operates. It will create problems. Currently, the proposed development of the property will result in the destruction of significant areas of regulated woodlands and the degradation of the remaining woodlands and wetlands on site. Specifically, this proposal will result in the destruction of over 1,000 trees that are eight inches or larger in size. Of the trees that are to be destroyed include 20 trees that have a 30 inch diameter. The replacement trees required by the ordinance are 2.5 inches in size. Clearly, what is being lost would be the woodlands as a whole. The removal of regulated woodlands at this scale in a residential

development is completely contrary to the City's Master Plan and the City's woodland protection ordinance. The items that meet the Master Plan have been used where some do not. The Master Plan does not contemplate clear cutting large areas of a site and removing large areas of regulated woodlands of this nature. He mentioned the wetland consultant commented that the plan includes proposed impacts to onsite wetlands with 25 foot wetland setbacks. The current plan impacts have increased from the previous plan submittal. Also he said the woodland consultant noted the applicant should demonstrate alternative site layouts that would reduce the overall impacts to woodland. The applicant should consider modification of the proposed lot boundaries in order to preserve existing woodland areas. He didn't see significant effort to protect the regulated woodlands. He noted the open space calculation of 30% included detention basins and landscaping required by ordinance and is only 7.5 acres open space without it. The key of the PRO is the intent to allow the developers flexibility in developing challenging sites and in exchange for providing public benefits. The intent is not to allow developers to evade the City's ordinance requirements or develop properties in a matter contrary to our Master Plan. The public benefit should be tangible, long lasting and benefit the City at large. He felt most of the listed public benefits either benefit the developer or future residents of the development and are because of market demand. The decisions are mainly about public policy and City Council has the responsibility and authority to make those decisions. He thought one of the flaws of the PRO process is that City Council is asked to make those decisions at the end of the process. He feels they should be asked in the initial process. In review of the R-1 proposal, he sees wetland and woodland destruction. He didn't think that plan could be approved. Some areas of the site present challenges for any development proposal but most of the major concerns related to this proposal could be addressed by a plan that preserves a majority of the natural resources on the site.

Member Poupard asked what would be the benefit to the City by not asking for a deviation and going back to the R-1 plan. Mr. Fingerroot said the R-1 plan is a bad plan as Member Mutch pointed out. The central part with all the trees is where they were forced to put a detention because they had to make this site efficient in order to make economic sense. It is a plan that is the best of all bad plans. They vetted the plan with staff and consultants and they said it was the best option. The R-1 plan can be done and would not be as environmentally friendly as the R-3 PRO. Member Poupard couldn't imagine the people that she heard speaking against the R-3 PRO plan recommending the R-1 plan.

Member Markham was pleased with the interest about this development and seeing community activism. She thought a residential development is the right development for the property. She was glad that Mr. Fingerroot accumulated enough parcels for a quality development. She is concerned with not having an entrance on Ten Mile Road. She would like to see an entrance on Ten Mile to support the development. She noted the PRO proposal is planned with the maximum of 66 homes. The R-1 plan didn't include all the parcels and had fewer homes. She asked if he knew how many homes could be built if all the parcels were used under R-1. Mr. Fingerroot said he didn't know how many. It wouldn't make sense for him to do that because the homes would back up to the main roads. That is why he took out the parcels near the intersection.

Member Markham said that is probably the number they need to be working with in the PRO. Maybe that number can be laid out differently on the site. She doesn't support the waivers to the pathway requirements. She would expect the development to connect to other pathways. Mr. Fingerroot said they would connect the pathway north to 10 Mile Road. There is a pathway south that runs into one of the neighbor's yards and they didn't want it to end in their property. He would put it in if that was what Council wanted. Member Markham would like more discussion with those who have a concern. It is better to resolve the issues now to put any sidewalk segments in at this time. Mr. Fingerroot recommended doing it at the site plan process and they will put it in if decided. Member Markham felt there could be a better placement of the homes. She would rather see minimizing cutting into the woodlands to the greatest extent possible. She didn't think it would be necessary to preserve the woodlands on the corner and put in plantings along 10 Mile Road. She thinks it is important to preserve the woodlands that are internal to the site because they are bigger and more contiguous. She would like to see a nice corner site and sacrifice the trees there rather than the quality woodlands in the middle. She agrees the PRO is the way to go. She agrees having the small lot sizes to increase the density can be a benefit. There is less infrastructure and less maintenance to the City. She thought it was important to protect the woodlands and try to put homes around those. She didn't think this was the right plan. She didn't think it was the intention of the woodland ordinance to replace cut regulated woodlands by planting trees somewhere else.

Member Wrobel thanked everyone for their involvement. He commented about the Master Plan. He has served on the Planning Commission for many years and has served as a Chairman of the Master Plan Committee. He noted the Master Plan is a fluid document and is not written in stone. There can be variances made by Council over time to correct it where they feel it necessary. That is why it is updated every five years. The Master Plan is a guide but it is not the law. The R-1 development plan is horrible but said he is curious that they want to do an R-3 PRO including all the property but the R-1 excludes the property and asked if he did a plan incorporating all the properties. Mr. Fingerroot said it didn't make sense for him because it would push too many of the units close to Ten Mile and Beck Roads. They would be too difficult to sell and not very attractive. He didn't like the R-1 plan.

Member Wrobel said the intersection at Ten Mile and Beck Roads is very congested. Any entrance on Beck or Ten Mile will be horrible. The traffic situation will have to be addressed by Council and Oakland County Road Commission in the future. He spoke about his experience with an entrance on both roads. He thinks the R-3 PRO offers more buffer to the residents. The corner property has had a lot of commercial proposals. He would like to see residential on that corner.

Mayor Pro Tem Staudt spoke about the votes necessary to pass this development. He had never talked to the developer. He would like to see a 50 foot conservation easement. It is important to him to have a residential development in that area. This is a good development for the area. Mr. Fingerroot made the development across the street acceptable to the residents and Council. It is important to look at all viewpoints. He didn't see a win-win with an R-1. He didn't want it in the City. Mr. Fingerroot said

there is a 15 foot easement buffer that is owned by the homeowner's association and on the lot there is a 15 conservation easement. They will populate where possible with trees. Mayor Pro Tem Staudt said his definition of a conservation easement is not part of the property. He would prefer to see the 30 feet to be a part of the homeowner's association as opposed to the 15 foot easements. Mr. Fingerroot said it is in favor of the homeowner's association because they will have all the rights and obligations with it. Mayor Pro Tem Staudt said he heard two members in favor of the Ten Mile entrance and said they need to consider some of the issues presented. He didn't think a decision could be made tonight. He would not approve an R-1 plan. He is looking to get this approved but he felt it is possible to get an approved plan in the future. Mr. Fingerroot said the process has taken so long and he is trying to keep the eight homeowner's property together and he will close on the property that is zoned R-1. He said they have worked together in good faith. He didn't know if he could deliver and asked what would be the process. Would he have to start over? Mayor Pro Tem Staudt said he could come back to Council with it instead of going to the Planning Commission again. It is similar to what they went through with Valencia North. He thought the public benefit should go to the people who abut to the property. It is a benefit to the whole city to build the development. He didn't want it voted down. Maybe another 10 feet of easement would accommodate another 200 trees. He would like to see it done with the R-3 PRO.

Mayor Gatt said R-1 is a bad plan. He didn't think those opposed would want the R-1 plan. The development would add to the tax base and it is good for Novi. He agreed with Mayor Pro Tem Staudt. The developer is close to getting his vote. He thought if he saved more trees and presented a drawing with an entrance on Ten Mile. They should listen to the professionals who are paid a lot of money by the City but it will take 5 members of Council to vote yes and in order to get that it may take an entrance on Ten Mile. He was a policeman in Novi for a long time and he said it may create road hazards. The police will be vigilante but he would like to see a drawing with it. He would like to postpone action on the item. He said the neighbors have seen what could happen with an R-1 zoning. He stated again the developer did not have to come back to Council with an R-1. The developer could clear cut the land while following the building codes. He didn't think that was what everyone wants.

Member Casey said to the developer that she didn't get a sense of comfort when he said the R-1 is a salvage plan of what is out there. She would like him to come back with a better plan. Residents are not seeking an R-1 and it may be acceptable. She knew it was their chance to have the conversation with him about the challenge. Mr. Fingerroot said he will try to make the R-3 plan better. He didn't want to disappoint Council and come back with a better R-1 plan. He wanted to take it off the table.

Member Mutch spoke about his initial comments. He felt the approach of putting as many homes as possible on the property is creating problems. He thought the developer is putting too many lots on the collection of properties to sustain their ordinances. The properties to the south have environmental challenges. Some of the woodlands have been there since the 1940's. He feels the proper approach would be to work with those limitations. He didn't know the economics driving the decision to

come up with the amount of lots. This site, unlike Valencia North, needs a much different approach because it didn't have as many natural resources. That is what he is looking for. He asked the woodlands consultant, Matt Carmer, Environmental Services, Inc., what would be the important areas to focus on. Mr. Carmer said the highest quality woodlands are in the central and southern portions of the site. Some of it being preserved is high quality woodlands. The southern portion of the site is more mature woodlands and closer to Ten Mile are lower quality trees. Member Mutch asked about replanting the high quality woodlands that will be removed. Mr. Carmer said the trees on the corner are of less quality. Member Mutch asked about specific lots. He pointed out the lots that will have an impact to a number of trees that are larger and higher quality trees and on the southern lots would be the ones along Beck Road. Member Mutch asked him about the buffer area and what would be the viability of the areas if the trees are removed around it. Mr. Carmer said that a 30 foot easement is better than 15 foot. An easement in the owner's back yard doesn't persist as woodlands over time without enforcement in his experience. Member Mutch said that he agreed. The concept didn't work in other areas in the Community. He felt the developer should look at the site as a whole. Mr. Carmer said that the easement was proposed on the green areas but he hasn't seen it in the plan and it is important to make sure there is an easement over all the remaining woodlands. He suggested protecting it with split rail fence and signs to protect the areas. Member Mutch said he has high expectations from the developers and for staff and consultants to adhere to the ordinances. There needs to be a give within the buffer area and he didn't think they should throw our standards out to accommodate 66 lots.

Member Wrobel commented that R-1 will not be considered. Mr. Fingerroot said he was willing to work with the City and would like to have a meeting in July to keep all the sellers in place. He didn't think he could come up with a plan that Mr. Mutch will approve but he will do the best he can do.

CM 15-06-82 Moved by Wrobel, seconded by Staudt ; CARRIED UNANIMOUSLY:

To postpone the consideration of the request of Beck South, LLC for JSP13-75 with Zoning Map Amendment 18.706 to rezone property in Section 29, on the southwest corner of Beck Road and Ten Mile Road from R-1, One-Family Residential to R-3, One-Family Residential with a Planned Rezoning Overlay until the July 27, 2015 City Council meeting. The property totals 41.31 acres and the applicant is proposing a 66 unit single-family residential development.

Member Markham added there was a question about needing a waiver to not build a berm by the Church property because our ordinance requires it. She would support not building a berm. The quality woodland is there and it wouldn't make sense to her to put a berm there. She wanted to have a good understanding of the number homes that can be built on the site. Mr. Fingerroot said he directly and indirectly employs 200 people. These projects have to make sense with 200 families benefiting from the profits

he makes. Member Markham said she understood and she is in favor of the R-3 PRO. There are a lot of good things in the proposal.

Mayor Pro Tem Staudt said it important to provide Mr. Fingerroot with the issues necessary to approve the plan. He is done looking at R-1 zoning. The developer would have no incentive to make it better. The ones who back up to it should not consider it. He commented that high standards go along with a level of fairness. He thought they looked at his project objectively. He hopes the developer comes back with something that can be approved with the minimum 5 votes.

Mayor Gatt said the PRO gives the City a chance to regulate the developer. If they turn down the PRO, the property will be developed without any regulation. We want what is best for the City. Progress keeps Novi great.

Roll call vote on CM 15-06-82 **Yeas: Markham, Mutch, Poupard, Wrobel, Gatt, Staudt, Casey**
Nays: None

Member Markham left the room at 10:11 p.m.

2. Consideration of Ordinance 15-104.10 to amend the City of Novi Code of Ordinances Chapter 21, "Nuisances" Article II, "Related to Property" Division 1 "Lot Clearing" in order to amend the title and the definition of plant materials affected. **FIRST READING**

CM 15-06-83 **Moved by Wrobel, seconded by Staudt; CARRIED UNANIMOUSLY:**

To approve Consideration of Ordinance 15-104.10 to amend the City of Novi Code of Ordinances Chapter 21, "Nuisances" Article II, "Related to Property" Division 1 "Lot Clearing" in order to amend the title and the definition of plant materials affected. FIRST READING

Roll call vote on CM 15-06-83 **Yeas: Mutch, Poupard, Wrobel, Gatt, Staudt, Casey**
Nays: None
Absent: Markham

3. Approval to award a service contract for Sanitary Sewer Televising and Cleaning Services (for Sections 35 and 36) and as-needed additional services City-wide to Metro Environmental Services, Inc., the low bidder, in the estimated amount of \$195,100.56, subject to final review and approval of form of agreement by the City Manager's office and the City Attorney.

CM 15-06-84 **Moved by Casey, seconded by Wrobel; CARRIED UNANIMOUSLY:**

Mayor Gatt submitted Mark Pehrson for re-appointment to the Planning Commission.

CM 15-06-87 Moved by Wrobel, seconded by Casey; **CARRIED UNANIMOUSLY:**

To approve the re-appointment of Mark Pehrson to the Planning Commission.

Roll call vote on CM 15-06-87 Yeas: Staudt, Casey, Markham, Mutch,
Poupard, Wrobel, Gatt
Nays: None

Mayor Gatt submitted Michael Lynch for re-appointment to the Planning Commission.

CM 15-06-88 Moved by Wrobel, seconded by Casey; **CARRIED UNANIMOUSLY:**

To approve the re-appointment of Michael Lynch to the Planning Commission.

Roll call vote on CM 15-06-88 Yeas: Casey, Markham, Mutch, Poupard,
Wrobel, Gatt, Staudt
Nays: None

AUDIENCE COMMENT – None

COMMITTEE REPORTS – None

MAYOR AND COUNCIL ISSUES – None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION – None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 10:17 P.M.

Cortney Hanson, Deputy City Clerk

Robert J. Gatt, Mayor

Transcribed by Jane Keller

Date approved: July 13, 2015