



**CITY OF WALLED LAKE  
PLANNING COMMISSION  
TUESDAY, MAY 28, 2019**

The Meeting was called to order at 7:30 p.m.

**ROLL CALL:** Novak, O'Rourke, Owsinek, Whitt, Wolfson

**ABSENT:** Hecht, Palmer

**OTHERS PRESENT:** Recording Secretary Pesta, City Attorney Vanerian

**PC 05-01-19 MOTION TO ELECT COMMISSIONER WOLFSON AS  
TEMPORARY CHAIRMAN**

Motion by Owsinek, seconded by Whitt, CARRIED UNANIMOUSLY: To elect Commissioner Wolfson as temporary chairman.

**PC 05-02-19 MOTION TO EXCUSE CHAIRMAN HECHT AND  
COMMISSIONER PALMER FROM TONIGHT'S MEETING**

Motion by Whitt, seconded by O'Rourke, CARRIED UNANIMOUSLY: To excuse Chairman Hecht and Commissioner Palmer from tonight's meeting.

**REQUESTS FOR AGENDA CHANGES:** None

**APPROVAL OF MINUTES:**

**PC 05-03-19 APPROVAL OF THE APRIL 9, 2019 PLANNING COMMISSION  
MEETING MINUTES**

Motion by Owsinek, seconded by Novak, CARRIED: To approve the April 9, 2019 Planning Commission minutes.

**Roll Call Vote**

Yes (4)	Novak, O'Rourke, Owsinek, Wolfson
No (1)	Whitt
Absent (2)	Hecht, Palmer
Abstain (0)	

**COMMUNICATION:** None

**AUDIENCE PARTICIPATION:** None

**ATTORNEY'S REPORT:** None

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

1. PC 271 – Vacant Lot – Apex Ultra Site Plan

**PC 05-04-19 MOTION TO APPROVE PLANNING COMMISSION CASE 271 SITE PLAN CONTINGENT UPON MEETING THE CRITERIA FROM CONSULTANT PLANNER DATED MAY 1, 2019, CONSULTANT ENGINEER DATED MAY 23, 2019 AND FIRE REVIEW LETTERS**

Motion by Whitt, seconded by Novak, CARRIED UNANIMOUSLY: To approve planning commission case 271 site plan contingent upon meeting the criteria from consultant planner dated May 1, 2019, consultant engineer dated May 23, 2019 and fire review letters.

Discussion:

Consultant Planner Ortega explained the proposal is for a provisioning center and the site is 0.87 acres, zoned C-2. He explained the proposed site plan is calling for construction of a medical marijuana facility provisioning center. He further explained the application process and said a resolution was passed by city council with regards to prioritizing applications as they are obtained by the city. Mr. Ortega said the first priority application includes any site is proposing both city and sewer water service that is not currently served. He said the second priority is proposing sewer or water connection that is not currently serviced and the third is for an application proposing construction of a facility with improvement greater or minimum of \$20,000 in value. He explained if an applicant both a first level and third level that takes priority over an application that is only proposing priority level one.

Mr. Ortega said the site is vacant and there is no sewer or water connection and the applicant is proposing new construction that is valued over \$20,000. Mr. Ortega said in addition to the process there are specific submittal requirements for this type of use, and some include description of the proposed services to be provided. He explained the applicant is going for the State's provisioning license under the MMFLA act. He said some of the products are medical marijuana oils, edibles, and marijuana for smoking. Mr. Ortega said the applicant has provided a detailed site plan. He explained everything will be conducted inside the building and no operations will be conducted outside. He said the applicant submitted additional information in regard to State compliance with waste disposal procedures. He said in addition the applicant needs to submit a security plan and it should be reviewed by the police chief. Mr. Ortega said the

owner has to consent to this type of use for the property. He said there is a separation requirement for these facilities, they cannot be located within 500 feet of a school or existing provisioning center and a map has been provided and there is no existing provisioning center within that distance or a school. He stated the applicant must provide is pre-qualification from the State and the applicant meet all State requirements. Mr. Ortega said local approval the applicant must have the pre-qualification from the State. Mr. Ortega explained the proposed provisioning is allowed within the C-2 and the city is limited to only 2 facilities with this district and currently there are no provisioning centers in the C-2. He said the applicant has met all dimensional standards and the building being proposed is new construction and it is an attractive building and meets the proposed use. Mr. Ortega said one thing still needed is the total area that is unpaved to ensure they meet quantity of landscaping provided. In addition, the applicant is required to have a berm off of Maple Road right of way and parking lot and ask they submit a revised cross section that shows there is enough space to provide the berm and that it will function. Mr. Ortega said for the parking it is required 18 spaces and the applicant is proposing 39 spaces. He said the applicant is putting in a new sidewalk. He said a photometric plan needs to be submitted by the applicant. He said the applicant is proposing a wall sign on the building, 53.6 square foot, that will be lit and he asked the applicant to show the lighting to be used for the sign. Mr. Ortega recommends the commission grant site plan approval contingent on 4 items:

1. Approval by the Police Chief of the applicant's security plan;
2. Applicant submittal of a revised site plan for administrative review that includes:
  - a. Revision of any inconsistent notes or labels, including but not limited to, the area of the lot;
  - b. A revised landscape plan which shall include:
    - i. the calculation of the total unpaved open area to ensure compliance with this standard; and
    - ii. the distance between the proposed sidewalk and the curb of the parking lot; and
    - iii. a cross-section detail illustrating the proposed berm;
  - c. A photometric plan in compliance with ordinance lighting standards;
3. Acquisition and continued compliance with all required City licenses and permits; and
4. Acquisition and continued compliance with all required State approvals.

City Attorney Vanerian explained he wanted to follow up on a few things from the planner's comments. Mr. Vanerian said the applicant has to demonstrate prequalification from the State of Michigan and he said there is a memo from one of the city's investigator dated May 24, 2019 that the applicant is pre-qualified by the State of Michigan. He said the other item is from Exhibit C from the applicant's application and it is the proof of ownership documentation with a copy of the deed showing the applicant owns the property. Mr. Vanerian said it would be appropriate for the commission to entertain a motion to accept both items as part of the record for purposes of today's proceedings.

PC 05-05-19

**MOTION TO AMEND ORIGINAL MOTION 05-04-19 TO  
INCLUDE PREQUALIFICATION LETTER FROM THE STATE  
AND PROPERTY OWNERSHIP PAPERWORK INTO THE  
RECORD**

Motion by Whitt, seconded by Novak, CARRIED UNANIMOUSLY: To amend original motion 05-04-19 to include prequalification letter from the State and property ownership paperwork into the record.

2. PUBLIC HEARING

Decker Road – Planned Unit Development (PUD) Site Plan  
Applicant: Schafer Development

Mike Noles, Diffin Umlos is the engineer for the project and stated from the discussions from the other meetings they have revised their plan and reduced the number of units from 44 to 36 units, buffers to adjacent properties were included, lake privileges were relinquished, and the basin was oversized to help downstream flooding. He explained these benefits remain in the plans. Mr. Noles asked support on two issues that vary slightly from the concept approval from last year and these variations are critical for the feasibility of the development. He explained that the first topic is a variation and configuration of the storm water system and the second is a partial waiver of the strict application of the city's tree replacement ordinance.

Mr. Noles said the proposal is consistent with the preliminary PUD, continues to provide a community benefit and consistent with the Walled Lake Master Plan. He explained since receiving concept approval last year Pulte has invested substantial time and resources to further develop the details to support the requirements for final approval. He explained the PUD ordinance allows flexibility in order to achieve Master Plan goals that benefit the entire community, waivers are permitted where they are consistent with these goals, but they are not permitted solely to avoid the rules. He will explain the Beachwood development does achieve the Master Plan goals while solving a community problem that is consistent with Walled Lake standards.

Mr. Noles explained the change from retention to detention basin in order to secure the flood prevention benefits and the applicants seeks a partial waiver from the strict application of the replacement ordinance. He explained the storm water details by stating the development storm water system is designed to collect, store, and discharge water in a way that will reduce flooding. Who is getting hurt by the current situation? Mr. Noles explained the development area is about 10 acres and the drainage area collected by the basin is about 20 acres. He explained currently the 20 acre area has no storm water controls. He explained the rain that falls in the 20 acres flows to the North and to the West in an uncontrolled manner and those in the Lakeland Estates sub receive a tremendous amount of the runoff. Mr. Noles explained the homes on South Drive, Oak Grove and Omega can get periodically inundated with water. He said the folks on Gamma Drive take a beating, all lie in the flow route. He explained the volume of water that will be captured and stored in their basin is 156,000 cubic feet. Mr. Noles explained there are seven and half gallons in a cubic foot and Beachwood basin will hold 11.7 million gallons and there are 128 ounces in a gallon and Beachwood basin will hold 94 million bottles of water. That is for each

100-year event. He explained the downstream residents will see 15.3% reduction in runoff and the continued benefit Beachwood provides is it will capture the stormwater from a large drainage area and immensely improve uncontrolled runoff.

Mr. Noles explained City and County standards do not require the offsite drainage to be detained at all but doing so will significantly slow the discharge of this water and control flooding downstream. He explained the outlet design changed because the soil report showed the soil on the property would not allow construction of a sustainable retention basin. He explained the retention basin does not have a defined outlet. Mr. Noles further explained water is supposed to percolate into the ground as its primary outlet and the soils will not allow this efficiently to occur. He explained the remedy is the design, which has changed to a detention which releases the water in a minimized way along a specified route and it is more expensive.

Mr. Noles said the Leon Road ditch does not work correctly but is proposing to fix and improve the ditch drainage. He explained the Leon ditch is adequately sized to handle the storm discharge however the driveway culverts restrict flow over by 70%. This proposal will improve drainage without significantly altering the way the ditch system functions. He said the improvement on Leon Road will have the ditch reshaped and stabilized so it flows appropriately. He said the driveway approaches along the route will be replaced, buried and under sized culverts will be replaced. He said the changes to storm water management system will cost \$300,000. He stated the proposed ditch improvements comply with Walled Lake standards and a grading waiver is no longer required for the proposed PUD plan. He said these improvements are an added benefit to the community. He said they requested Oakland County Water Resource Commissioner's office evaluate the Leon drain improvement which is under their jurisdiction. He said he is not moving water to flood other spots. He said there are several factors: the water is released at a control rate. He said the water will be captured and stored in the proposed basin and pumped down, then the storm water out of the basin will be controlled so it is released slowly and after the storm surge has passed, it will take about 4 days to pump all the water to Leon Road ditch instead of just a few hours for uncontrolled runoff to inundate the downstream people. The discharge rate from the basin is 91% less than the undeveloped agricultural rate allowed by City and County standards. He said this limited discharge will ensure there is an insignificant impact to downstream homes, roads, drains or the existing wetland. He explained the second factor is the water is routed through engineered public roadside ditch and storm system rather than overland flow through private backyards. He said Beachwood water changes the surface level of the wetland one quarter of an inch and almost has zero impact.

Mr. Noles said Walled Lake is a kettle lake that does not have an inlet river and is fed by ground water and storm water runoff. The Walled Lake watershed is almost 2,600 acres and the surface area of Walled Lake 650 acres and the outlet is controlled by a weir. He explained during the summer the level of the lake is below the legal limits. He explained the lake level is to remain at or below the weir until rainfall is received to raise the lake elevations. He explained the Beachwood water is detained upstream and is discharged over 4 days after the storm has already passed and said the wetland will remain at the low water level for the four days Beachwood is pumping in the 100-year event.

Mr. Noles explained the wetland has a 15-inch drainpipe owned by WRC and when the County inspected the pipe this year, they found the pipe was modified with unauthorized alteration on both ends of the outlet pipe. He said on one side a homeowner modified the pipe on their own but is in good shape and will only be repaired if the unauthorized work is not accepted by the City, and on one side of the pipe is obstructed by a seawall and the six inch metal pipe restricts the 15-inch outlet pipe. This obstruction is causing a restriction in the drainage and will be repaired by WRC. He said he has been working with Jeff Wilson and the repair will be completed in the next month or two. Mr. Noles said the Beachwood system is designed to collect, store and discharge water in a way that will reduce flooding and will benefit surrounding properties by capturing stormwater from a drainage area that will reduce the uncontrolled runoff.

Mr. Noles discussed a partial waiver from the City's tree replacement ordinance. He said not only does the proposal meet preservation of trees, it meets all the buffer requirements, street tree planting requirements, and open space planting requirements. He said the plan includes 240 new replacement trees and there will be over 300 new trees to be planted on the site. He said that is a development cost of \$3,300 per house for the new trees alone. Mr. Noles said the quantity of clearing and the amount of landscaping proposed is consistent with the concept plan. He said the waiver is for the cash payment to the tree replacement fund to benefit offsite properties. He explained this would impose an undue burden on the property and financially cripple the development beyond feasibility. He said to quantify these 695 replacement trees are required by strict application of the Walled Lake ordinance and is seeking a waiver 440 replacement trees. He said they are saving 174 regular trees on the property and 64 landmark trees on the site. Mr. Noles said they are saving the best specimens on the site and not only did they perform an inventory of the trees on the site but also reviewed historical aerial photography to guide the preservation strategy. Mr. Noles said photography from 1940 there was a wide-open feel with a mature tree line along the property borders. He said in 2000 the field went fallow and the property was no longer farmed or maintained, and woodlands began to retake the field. Mr. Noles said the tree replacement ordinance is well written and understood. He said other municipalities have taken different approach Canton Township permits property owner to cut 25% of the trees they own without paying a clearing penalty. He said the City of Novi is also strict but allow 8-inch rather than 6-inch trees and it aims to give landowners a reasonable option to develop their land without an additional fee. Mr. Noles said open fields in Walled Lake have an advantage over the wooded properties. Mr. Noles said the partial waiver if granted will not alter the essential character of the community nor would it reduce the benefits provided by this development. He said approval of the waiver would allow development of the property in a manner that is reasonable, customary and consistent with other properties. Mr. Noles said the proposal meets the spirit, purpose and intent of the Master Plan.

Commissioner O'Rourke asked about the amount of water volume that flows out and the part he was unsure about is does the proposal take into consideration all the properties and displacement of land that will take place that would normally absorb that water, the road coming down and the driveways and basements all will take the water and push it out into the capacity area of the drains. Does this proposal take this into consideration?

Mr. Noles said yes it does. He explained look at all impervious areas: roof tops, driveways, sidewalks, streets and those are factor with extremely fast runoff rate and then you take areas left

natural and natural state and water does not run off as fast because those preserve woodland areas will absorb some of that water so it has a different runoff rate. All of the runoff area and the 20 acres is all captured through the storm system and it goes into the basin and that is how they come about the size of that basin so all of that is taken into consideration to size that basin and store that water.

Commissioner Wolfson asked about the timeline of the ditches and replacement of culverts. Mr. Noles said it will all be done at the same time and if the project goes through it would start in August and everything would be paved in November.

Commissioner Owsinek asked if the applicant is presenting the drainage areas to the Water Resource Commission. Mike said yes and they have applied with a site plan and looking at the existing drainage area and will confirm for a third that our numbers are correct and that is when it will come together.

Commissioner Whitt explained that the city's team has been working with the developer and the biggest issue is the engineering, from the city's side this is an improvement for the entire city in terms of the drainage as it goes engineered it is going to improve the draining issues. Mr. Whitt opined that this proposal works for all the residents in the area if not the whole city. He said his vote will be to move this proposal to the city council. Mr. Whitt said he appreciated the engineer discussion on the tree ordinance and if the project is stopped because the city wants too much money up front we ended the possibility for perpetual taxes so if you are killing a project that never gets developed not only are you taking his property from the property owners. Mr. Whitt opined that the property owners have a right to develop just as the owner before who sold it for a profit. He said the tree waiver being asked should be considered but city council ultimately makes the final call on the proposal.

Commissioner O'Rourke asked who would have responsibility of the maintenance. Commissioner Whitt said the Water Resource Commission, the City will have a portion, and the development would have responsibility as long as it is spelled out in the PUD agreement.

Commissioner Whitt said the developer waived any access to the lake and it was said publicly.

*Open Public Hearing: 8:35 p.m.*

Audience Participation:

Brian Harris – 1576 Oak Grove Drive - said his concern is how the water is going to go down. He said as for the clear cutting and he doesn't know if the developer picked the wrong parcel of land because it is too wooded and does not think we should waiver any of those rules. He said there is going to be a 35-foot buffer around but some trees are going to be saved. He is concerned about the irrigation once the clear cutting begins. He said it does not fit to him.

John Henehan – 1545 Leon - said he thinks it is great that the developer gets an hour and we get 3 minutes. He said the little red riding hood did a great job pretending not to be a wolf. He said we are becoming the weed capital of the nation and putting it next to the batting cages. He said

for the commission to see how you approve stuff rather quickly. He said on the news tonight you will see all the way from Texas to Dakota, from the mountains all the way to the East there is water everywhere. You think we are going to be exempt because the engineer's 100-year study is absolutely correct. The new plan takes the water to the lake. What about the flash floods? He said is this the city we want to be. Mr. Henehan discussed the retention pond in Oakgrove, how beautiful now, they clear cut all the trees around that and when you look in it has litter and tires in it. Mr. Henehan said the engineer referred to the Master Plan when it is convenient, the Master Plan is convenient when it works for them. He said we have to decide what kind of community we are going to be.

Hailey Henehan – 1545 Leon - said she is Mr. Henehan's kid. She said that retention pond off of Oakgrove is disgusting. She said this is the woods I use to grow up in and these are the memories they are cutting down and the deer she talk about in her backyard. She said she goes on a walk every night and people speed down this road. She said what is this going to do to our roads and says Decker Road is in terrible shape. She wants to be able to take pictures of deer. She said she wants to see the coyote her mom took a picture of. She said she wants to continue to grow up and walk down the street and see homes far apart. She said she does not want to live in Novi where houses are close together, she wants to live in Walled Lake and this is not a community, it is changing.

Randy Champ - 1275 Leon - said his family has been here 75 years. He said the swamp behind him would be a nightmare. He said his father use to have that land and use it to grow tomatoes and squash. He said the density does not fit the area. He said if you want that density go to Novi, Livonia, or Wixom. He said the Master Plan discusses the greatest assets of woodlands should be preserved with natural buffers. He said he is happy to hear that they are leaving some of the big trees around, you tagged two trees that I consider my property. He said if people want to live close together then go somewhere else. Mr. Champ said he be happy to buy his property back. He said he is opposed to the density. He is concerned about the detention pond and the mosquitos. He said there are hawks and eagles that hunt there. He said where are the animals going to go? Mr. Champ said they don't care because they do not pay the tax dollars. Mr. Champ said the master plan said we should preserve the green areas. He said his dad sub divided that property and sold it as woodland estate not condo cove.

Andrea Quoon - 1564 Oakgrove - said she has lived here since her house was built. She said this proposal is devastating to her. She asked about the buffer zone and if they are clearing everything?

Hailey Henehan asked what the pink tags are on her trees and said people measured her shed. She said the PUD is not going on her shed. She said well actually her parents shed.

Mike Noles explained how staking and surveying property works. He said surveying is when they do a boundary survey, tree survey and topo survey not only survey your property but a certain distance outside your property and make sure you have location of the topography so you know what happens. He explained the purpose is so we can determine things like the water on Oakgrove Drive drains to the property that you are considering tonight. He said same with trees if they do not know the exact location of the property lines at the location, they strattle it. He



explained that the pink tags do not mean clearing of trees, it is taking inventory of the trees on the land. He said it will have a conservation easement and it will stay exactly the way it is. Mr. Noles said they will be planting some of the replacement trees in the buffer zone to enhance the privacy. He said the emergency access road only and it has gates on both sides with locks only for the fire department. No one in the neighborhood will be able to go down the road.

Cheryl Cooper - 1570 Oakgrove – asked what is happening with the fence that is there?

Mike Noles said there is no proposal to remove, replace, or add any fencing along those lines. He said the fence will remain and the 35 feet behind the fence will be the conservation easement.

*Close Public Hearing: 8:58 p.m.*

Discussion:

City Attorney Vanerian explained that city council makes the final call if the PUD is approved, denied, or approved subject to any conditions. He said a tree waiver is more a council decision not a planning commission issue. Mr. Vanerian explained planning commission may recommend approval, approval with conditions, or denial.

**PC 05-06-19                      MOTION TO RECOMMEND PLANNING COMMISSION CASE  
262 PUD TO CITY COUNCIL FOR FINAL APPROVAL**

Motion by Whitt, seconded by Novak, CARRIED: To recommend planning commission case 262 PUD to city council for final approval.

Roll Call Vote

Yes (4)	Owsinek, Whitt, Novak, Wolfson
No (1)	O'Rourke
Absent (2)	Hecht, Palmer
Abstain (0)	

**COMMISSIONERS COMMENTS:**

Commissioner Whitt opined that this is not a final approval and the vote was 4 to 1, with the difficult part being given to the city council which makes the final decision.

Commissioner Owsinek explained the city council's hands will be full and they will take all the comments under consideration.

Commissioner Wolfson explained that this is a tough call. He said we have to move forward to do different things. He said there are legal obligations to allow developers submit plans. He said this proposal falls into the hands of city council. He said the developer explained everything very well.

**PC 05-07-19                      ADJOURNMENT**

Motion by Novak, seconded by O'Rourke, CARRIED UNANIMOUSLY: To adjourn the meeting at 9:06 p.m.

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Chelsea Pesta  
Deputy City Clerk

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Neal Wolfson  
Commissioner