



CITY of NOVI CITY COUNCIL

Agenda Item 2
September 22, 2008

SUBJECT: Consideration of a request from Damon DiPonio for a variance from Section 11-276(b) of the Design and Construction Standards, which requires safety paths to be placed along the Nine Mile Road frontage in accordance with the Bicycle & Pedestrian Master Plan, to eliminate the requirement for a portion of the safety path along the applicant's Nine Mile Road frontage. (The subject property occupies parcel number 22-30-401-024 and is located at 49650 Nine Mile Road.)

SUBMITTING DEPARTMENT: Engineering *174*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

Damon DiPonio has requested a variance from Section 11-276(b) of the Design and Construction Standards requiring pedestrian safety paths to be placed across the arterial and collector street system frontage for all projects in accordance with the master plan. The applicant has built a new single family residential home on the property located at 49650 Nine Mile. A copy of the application, including the applicant's justification for the request, has been attached for your information.

The variance request is not recommended for approval by Engineering and Planning (Mark Spencer's September 10, 2008 memorandum, attached). The Planning Department indicates in its memo that sidewalks are planned for the north side of Nine Mile Road and that several developments in the area were required to install sidewalks along the north side of Nine Mile Road. The Engineering Department is not recommending approval of this request because the City's master plan for a complete pathway network anticipates the contribution of each new development to install its required portion thereby reducing the future costs associated with constructing pathway gaps. Construction of the pathway now will also eliminate the need to obtain easements or disturb trees and landscaping later as part of a future City pathway gap project.

Nine Mile Road is classified as a Scenic Drive on the Future Land Use Map, and the Master Plan for Land Use on page 73 discusses Scenic Drives and states that "efforts should be made to preserve the natural vegetation along these roadways and minimize roadway expansion." However, there are no existing trees along the frontage of this property that would be impacted by the construction of the pathway (see photos attached). In cases where a sidewalk would impact vegetation, staff would work with the developer to meander the alignment to save as much vegetation as possible while still constructing the pathway.

The review by the City Attorney references the criteria for granting a variance in Section 11-10 in the attached letter. These criteria are:

- 1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- 2) The alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and
- 3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

In the event that City Council finds that the criteria for a variance or waiver have been met, the City Attorney sees no legal impediment to granting the variance. Building, Public Works, Landscape and Fire have no concerns with the variance request.

RECOMMENDED ACTION: Consideration of a request from Damon DiPonio for a variance from Section 11-276(b) of the Design and Construction Standards, which requires safety paths to be placed along the Nine Mile Road frontage in accordance with the Bicycle & Pedestrian Master Plan, to eliminate the requirement for a portion of the safety path along the applicant's Nine Mile Road frontage. (The subject property occupies parcel number 22-30-401-024 and is located at 49650 Nine Mile Road.)

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Crawford				
Council Member Gatt				

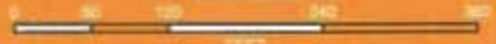
	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

LOCATION MAP

49650 Nine Mile Road



CITY OF NOVI
DEPARTMENT OF PUBLIC WORKS
2000 DELWIN
NOVI, MI 48275-3024
(248) 730-2640
MAP AUTHOR: Brian Coburn, PE

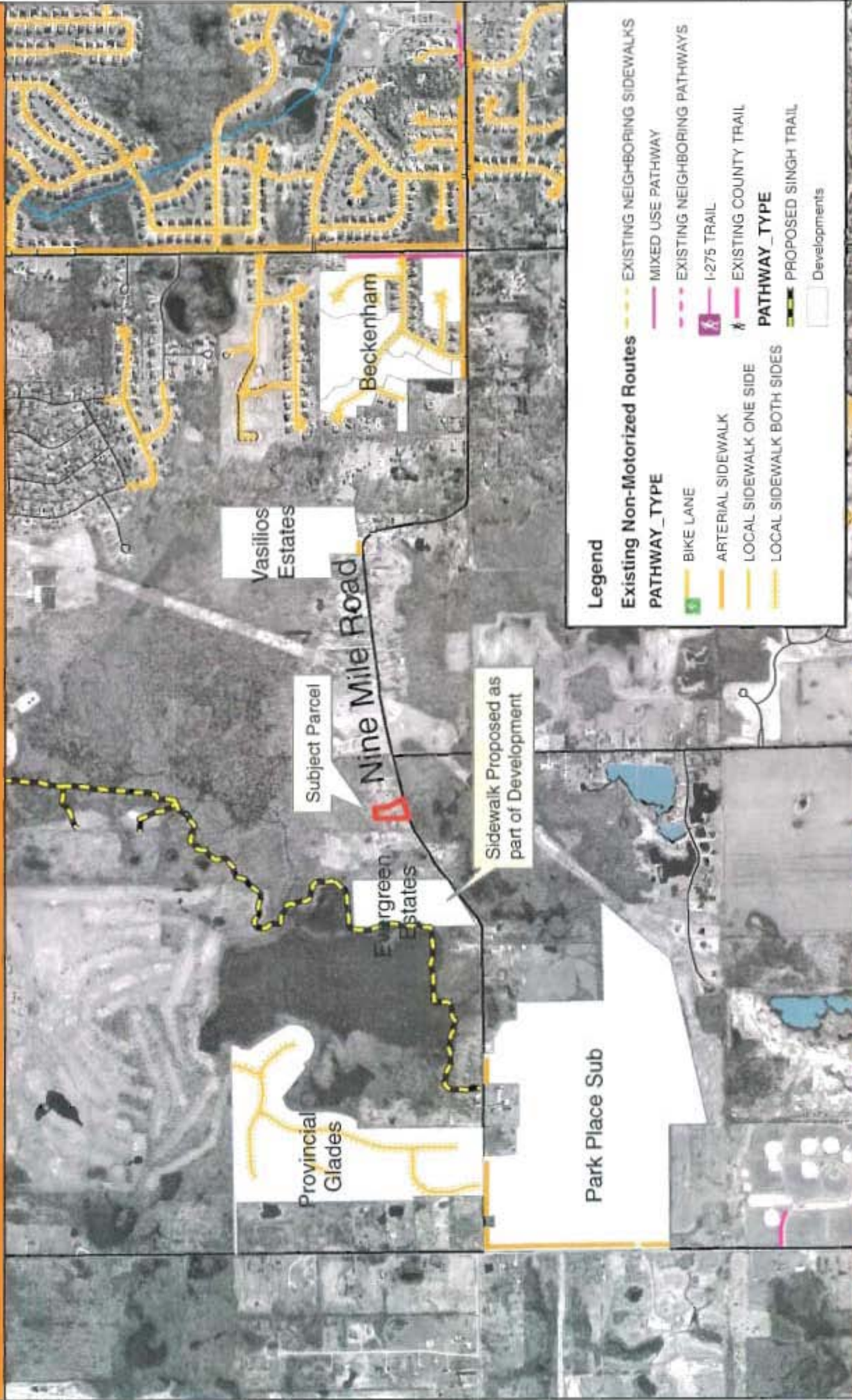


1 INCH = 146 FEET

MAP PRINT DATE: 11/15/23

MAP INTERPRETATION NOTICE
Map is otherwise depicted is not intended to represent or substitute for any official or primary source. This map was checked to meet National Map Accuracy Standards and use the most recent accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 130 of 1975 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

MAP SHOWING DEVELOPMENTS ALONG NINE MILE ROAD REQUIRED TO INSTALL PATHWAYS



CITY OF NOVI
 DEPARTMENT OF PUBLIC WORKS
 30300 DELMAR
 NOVI, MI 48375-3028
 (248) 735-5440
 MAP AUTHOR: Brian Gibson



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49650 Nine Mile—Looking east from west property line



49650 Nine Mile—Looking west from east property line

MEMORANDUM



TO: BRIAN COBURN, CIVIL ENGINEER
FROM: MARK SPENCER, AICP, PLANNER *Mark Spencer*
SUBJECT: SIDEWALK VARIANCE FOR 49650 NINE MILE ROAD
DATE: SEPTEMBER 10, 2008

The Planning Staff does not recommend approval of the requested variance due to the following reasons:

1. The Master Plan for Land Use, 2004 depicts a planned sidewalk for the north side of Nine Mile Road between Garfield and Napier Roads.
2. The Pathway and Sidewalk Prioritization Analysis and Process updated in December 2007 depicts a proposed sidewalk in this same location.
3. The developers of Beckenham, Park Place, Vasilios Estates, Provincial Glades and Evergreen Estates were all required to install their portion of sidewalk or pathways along Nine Mile Road.
4. If sidewalk segments are not installed as parcels are developed, the City may end up paying for its construction in the future.

If you have any questions on this recommendation, please feel free to contact me.



August 27, 2008

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2150
www.secretwardle.com

Elizabeth M. Kudla
Direct: 248-539-2846
ekudla@secretwardle.com

Brian Coburn, Civil Engineer
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: 49650 Nine Mile
Request for Variance from Design and Construction Standards
Our File No. 55142.NOV**

Dear Mr. Coburn:

Our office has reviewed the proposed request for a variance from the City's design and construction standards which would permit the applicant to forgo construction of a sidewalk in front of the single family residence on Nine Mile Road.

Section 11-10 of the Ordinance Code permits the City Council to grant a variance from the Design and Construction Standards with respect to proposed public improvements, such as a sidewalk, when the property owner shows all of the following:

- (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- (2) The alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and
- (3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

The applicant has indicated that there no other sidewalks along this portion of Nine Mile Road, thus the sidewalk would not lead or connect to another sidewalk. Additionally, the location of the drainage culvert would require a culvert to divert water around the sidewalk.

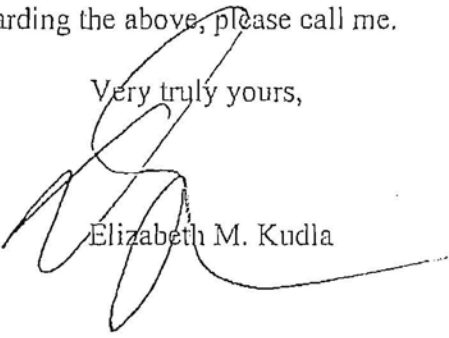
Brian Coburn, Civil Engineer
August 27, 2008
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In the event that City Council finds that the standards for a variance or waiver have been met, our office sees no legal impediment to granting the variance, subject to the condition that the Planning Department and Traffic Engineer have also reviewed and approved the proposed plan from an access and traffic safety standpoint.

It is our understanding that City Council may require the Applicant to post a bond to secure completion of the sidewalk in the future if the variance is granted. In addition, City Council should require the Applicant to grant the City a sidewalk easement which should be recorded at this time to ensure the City is able to gain access to install a sidewalk in the future, event if Applicant sells her property to others.

If you have any questions regarding the above, please call me.

Very truly yours,



Elizabeth M. Kudla

EMK

Enclosure

cc: Maryanne Cornelius, City Clerk (w/Enclosure)
Steve Rumble, Community Development Director (w/Enclosure)
Benny McCusker, DPW Director (w/Enclosure)
David Beschke, Landscape Architect (w/Enclosure)
Frank Smith, Fire Department (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)



Request for Variance Design and Construction Standards

Applicant Information

Name: Damon DiPonio
Address: 20040 Hubbard Street
Livonia, MI 48152
Phone No: 248-909-8441

Engineer Information

Name: Gary Wierfel (Ambit Land Surveyors)
Address: 691 Wing Street
Plymouth, MI 48170
Phone No: 734-455-5501

Applicant Status (please check one):

Property Owner Developer Developer / Owner Representative
Other _____

Project Name 49650 Nine Mile Road

Project Address/Location _____

Variance Request Sidewalk Variance

Justification (attach additional pages if necessary)

INTERNAL USE

Date Submitted: 8/7/08

Code Section from which variance is sought: 11-276(b)

Submittal Checklist: Twelve (12) sets of plans (folded and to scale)

One (1) copy of plan on 8.5 x 11 size paper

\$100 Filing Fee

Damon DiPonio
20040 Hubbard Street
Livonia, MI 48152

September 8, 2008

City of Novi
Attn: Novi City Council
45175 W. Ten Mile Road
Novi, MI 48375

RE: Plot Plan for 49650 Nine Mile Road

Dear Novi City Council:

I am the property owner of 49650 Nine Mile Road. My builder, Mario Giannandrea (Stone Hollow Properties), has submitted a plot plan and request for building permit on my behalf so that I may construct my new primary residence at 49650 Nine Mile Road.

I am requesting a waiver for the required sidewalk along Nine Mile between Beck Road and Napier Road.

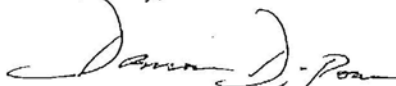
My reasons for requesting the sidewalk variance are as follows:

- There are no sidewalks in this area of Nine Mile between Beck and Napier Roads.
- This sidewalk would not connect to any other existing sidewalk.
- This property drains to an existing catch basin in the Nine Mile Road right-of-way ditch. The drainage from this property will cross the sidewalk.
- The City of Novi has designated this area of Nine Mile Road, between Beck and Napier Road, as a "Natural Beauty Road". The City of Novi 2004 Master Plan for Land Use designates "Nine Mile Road, from Beck to Napier Road" as a "Scenic Drive". Page 73 of the Master Plan says, "Efforts should be made to preserve the natural vegetation along these roadways and minimize roadway expansion".

I am requesting this variance in order to preserve the character and beauty of this area of Nine Mile at least until such time that sidewalks are installed along the entire length of Nine Mile between Beck and Napier Roads. Installing a sidewalk at 49650 at this time, where no existing sidewalks exist in this area of Nine Mile Road, would detract from the character and beauty of this scenic roadway.

Thank you for considering this request.

Sincerely,



Damon DiPonio

AMBIT LAND SURVEYORS INC
691 WING STREET, PLYMOUTH, MICHIGAN 48170
PHONE: (734)455-5501 / FAX: (734) 455-1573
EMAIL: AMBITLS@AOL.COM

DATE: 8-7-08

TO: ROB HAYES
DIRECTOR CITY OF NOVI ENGINEER DEPARTMENT
45175 W. 10 MILE ROAD
NOVI, MI. 48375

RE: Plot Plan for # 49650 Nine Mile Road

Dear Mr. Hayes,

On behalf of the property owner we are requesting a waiver for the required sidewalk along Nine Mile Road. There are no side walks in this area of Nine Mile and the property owner does not want a sidewalk that will not connect to an existing sidewalk. Also, this property drains to an existing catch basin in the Nine Mile Road right-of-way ditch. The drainage from this property will either cross the sidewalk or a culvert will be needed at the sidewalk.

Please contact the property owner's builder Mario Giannandrea (Stone Hollow Properties) 248-672-5221 if there are any fees required to waive the sidewalk requirement.

Please respond at your earliest convenience.

Sincerely,


Gary K. Wuerfel, P.E.

CC: Mario Giannandrea, Damon Diponio