



CITY of NOVI CITY COUNCIL

Agenda Item 3
December 20, 2010

SUBJECT: Approval of the request of Singh Development for Uptown Place, SP 03-40B, for a one-year Preliminary Site Plan extension to January 9, 2012. The subject property is located in Section 14, south of Twelve Mile Road between Novi and Meadowbrook Roads in the R-C, Regional Center District, utilizing the PD-2 development option.

SUBMITTING DEPARTMENT: Community Development - Planning ^{Baus}

CITY MANAGER APPROVAL:  

BACKGROUND INFORMATION:

The petitioner, Singh Development Company, is requesting a two-year Preliminary Site Plan extension for Uptown Place, Site Plan 03-40B. Uptown Place is a proposed mixed-use development containing 148 residential units and approximately 22,000 square feet of retail and restaurant space, on 8.0 acres along Twelve Mile Road, at the east entrance to Twelve Oaks Mall. The plan was reviewed by the Planning Commission on January 12, 2005 and denial was recommended to the City Council. The City Council reviewed the request on January 9, 2006 and approved the request. The Preliminary Site Plan was approved utilizing the PD-2 Planned Development Option. A Final Site Plan submittal has not been made.

The applicant has requested a two-year extension of Preliminary Site Plan approval. The applicant has received four prior one-year site plan extensions. The City Council recently adopted an ordinance amendment that provides standards for site plan extensions for Planned Development options. Unlike general site plan extension provisions of the ordinance, the Planned Development section of the Zoning Ordinance does not provide a limitation on the number of site plan extension that are permissible. Below is the language of that ordinance section:

The City Council may grant an extension of the Preliminary and/or Final Site Plan approval for a period of up to two (2) years, and may grant at the conclusion of such extension additional subsequent extensions for similar periods of time. In determining whether good cause exists for an extension, the City Council shall consider the following factors:

- (a) *The applicant has demonstrated that required utility services have been delayed;*
- (b) *The applicant has demonstrated that technical reviews of the Final Site Plan have raised unforeseen development delays;*
- (c) *The applicant has demonstrated that unforeseen economic events or conditions have caused delays;*
- (d) *The approved Preliminary or Final Site Plan to be extended is in compliance with all current site plan criteria and current ordinances, laws, codes and regulations;*
- (e) *There is no pending zoning ordinance amendment that would otherwise substantially change the requirements of the Zoning Ordinance*

The applicant's letter indicates that uncertain economic conditions are the reason for continued delay of the start of the project. This factor is provided in item (c), above.

If approved, this would be the fifth extension of the Preliminary Site Plan for Uptown Place. The first request was approved by the City Council in January 2007, with subsequent requests approved in December 2008, 2009 and 2010.

The Community Development Department is not aware of any changes to the applicable ordinances or surrounding land uses that would affect the approval of the requested extension for one year.

Planning staff confirmed with the Assessor's Office that the 2009 Winter and Summer property taxes and the 2010 Summer property taxes (due currently) have not yet been paid by the property owner. Separately, the property values are under appeal at the State's Tax Tribunal. The BS&A system shows the following tax amounts are due: Summer 2010: \$58,000.06; Winter 2009: \$746.60; Summer 2009: \$64,692.58.

While the applicant is requesting a two-year extension, staff recommends a one-year extension at this time, which is consistent with site plan extensions granted for most developments in Novi, and with the previous site plan extensions for this property. The one-year extension is further recommended so that if ordinances are modified, land uses change dramatically, or other aspects of the site or surrounding area change, then the City Council may wish to deny the site plan extension for another year. Typically, one year extensions allow applicants sufficient time to prepare Final Site Plan documents or seek building permits.

Please refer to the attached letter requesting an extension of the Preliminary Site Plan approval. Also attached are the minutes from initial approval by the City Council.

RECOMMENDED ACTION: Approval of the request of Singh Development for Uptown Place, SP 03-40B, for a one-year Preliminary Site Plan extension to January 9, 2012. The subject property is located in Section 14, south of Twelve Mile Road between Novi and Meadowbrook Roads in the R-C, Regional Center District, utilizing the PD-2 development option.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

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

**LETTER FROM THE APPLICANT
NOVEMBER 30, 2010**

SINGH

®

Real Estate - Developers - Builders - Investors - Management

SINGH DEVELOPMENT, L.L.C.
7125 ORCHARD LAKE ROAD
SUITE 200
WEST BLOOMFIELD, MICHIGAN 48322

TELEPHONE: (248) 865-1600
DIRECT DIAL: (248) 865-1614
FAX: (248) 865-1630
E-MAIL: trankine@SinghMail.com

November 30, 2010

Richelle Leskun
Planning Assistant
City of Novi
45175 W. Ten Mile Road
Novi, Michigan 48375-3024

Re: Request for Extension of Preliminary Site Plan Approval
Uptown Place; SP 03-40B
Novi, Michigan

Dear Richelle:

We are in receipt of your letter dated November 12, 2010 regarding the pending expiration of the approved Site Plan for the referenced project, effective January 8, 2011. Please accept this letter as our formal request for the extension of the Preliminary Site Plan for an additional two (2) year period.

As you know, economic conditions in the southeast Michigan market have continued to deteriorate over the past four to five year period and the climate continues to be uncertain. We, therefore, do not feel it is prudent to commence construction on our proposed mixed-use development at this time. We are hopeful for an improvement in the economy over the next two years, at which time we can better ascertain market support for our project.

Please let me know if you should need any additional information or explanation in order to place this request before City Council for their consideration. Thank you.

Sincerely,



Todd J. Rankine
Director, Architecture and Planning

PRELIMINARY SITE PLAN

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JANUARY 9, 2006 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

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

ROLL CALL: Mayor Landry, Mayor Pro Tem Capello, Council Members Gatt, Margolis, Mutch, Nagy, Paul

ALSO PRESENT: Richard Helwig, City Manager

Clay Pearson, Assistant City Manager

Tom Schultz, City Attorney

Barbara McBeth, Planning Director

Rob Hayes, City Engineer

Benny McCusker, Director of the Department of Public Works

1. Consideration of request of Singh Development for Uptown Place for Preliminary Site Plan approval with a PD-2 (Planned Development) Option and Storm Water Management Plan approval. The subject property is in Section 14, south of Twelve Mile Road between Novi and Meadowbrook Roads in the R-C, Regional Center District. The proposed project is a mixed-use development with 148 residential units and approximately 22,000 square feet of retail and restaurant space. The subject property contains approximately 8.0 acres.

Mike Kahm, Singh Development, explained that this proposal is a mixed use development that is on a PD-2 master planned piece of property. He said that provided for special or planned uses that were more fluid than the underlying RC zoning classification of this property, which was the periphery of the Twelve Oaks Mall. In 2002, an ordinance amendment was adopted within the PD-2 Option that allowed for a mixed-use concept to be placed within a designated PD-2 property. They were present to request approval of a project that fits within the criteria of the amended PD-2 Option in the Zoning Ordinance. He said the development was presented to the Planning Commission about a year ago. They were before Council this evening because there were some items that the Planning Commission, at the time, didn't have the power to approve. However, with the adoption of another Council approved ordinance, Council has the discretion on waivers of certain design parameters within the ordinance under the RUD and PUD options. He displayed a rendering of a building that has three stories in the front and four stories in the rear due to the grade of the property. The retail is on the first floor, and will front on 12 Mile Road with parking on 12 Mile Road.

Mr. Kahm said parking for the residential component will be completely under the building. Access to the lower level parking will be on a road, which will be constructed from the finger road into the mall and eventually out to Meadowbrook Road. This is an easement they have with the Taubman Company, which will eventually serve as another access into the mall from Meadowbrook. This road will also be a part of Uptown Place and will be finished as part of their Uptown Park project. Mr. Kahm advised that the access to the underground parking would be at the south, west, and east and the entirety of the parking for residential will be under the building. The surface parking will be for retail. They envision the retail to be service related and complementary to the mall uses.

He said they've spoken with the Taubman Company about the proposed uses and they are in harmony with what is proposed on this property. He wanted to point out specific items on the site plan that needed Council's attention, and they were asking for Council's consideration of waivers to the Zoning Ordinance. Tony Marzelic from Alexander Bogaerts and Associates was also present to answer questions.

1. They proposed, instead of a berm along the 12 Mile frontage, a three foot masonry wall. They thought it was more in keeping with the urban scale of the development, and more in keeping with the streetscape proposed along 12 Mile. He said it was debatable with the Planning Commission whether this would be a waiver or not so he was offering it for Council discussion. Along the frontage of the building at the retail, the ordinance typically requires landscaping, and on a retail setting that is counter productive because storefronts would be hidden. They proposed to do brick pavers and small street tree plantings, which are more urban in scale. Main Street of Novi and downtown Northville would be an example of this. It is more of the character along the front that they are trying to create. He asked Council to consider granting this use along the front of the building.

2. Another issue with the Planning Commission is the loading area. Because of the functionality of the building and because there is technically road frontage on three sides, 12 Mile, the finger road, and the future road to the south, it's difficult to have all the loading, because of topographic constraints, at just the rear. The loading area shown is intended for residents. There are two other areas for loading intended for the retail components. They are asking for a waiver for side yard loading areas to service the retail. Also, for Council consideration is their taper on 12 Mile, accessing the entry into the development. He said because the taper is within 100 feet of the intersection of the finger road and 12 Mile the ordinance requires Council to grant a waiver. They have already received an Oakland County Road Commission approval for their geometrics. The other two items are related to the height of the building and he asked Tony Marzelic, of Alexander Bogaerts and Associates, to explain that element to the Council.

Mr. Marzelic said there is about 28 feet of fall across this site, with the high point being along 12 Mile Road, and the low at the rear towards the Waltonwood Novi project. He said because of that there is a tremendous amount of fall across the building. With the fall they are 37 feet at the front of the building, and because of the average grade and the fall across the building they exceed the 45 foot limitation with the proposed building height of 47 foot 10 inches. He said that is due primarily because of the extreme amount of fall that goes across this site, and because of the amount of fall it is also considered a four story building.

Member Gatt asked what type of housing was being proposed. Mr. Kahm replied it was geared for the empty nesters; those who are not yet ready to live in a community like Waltonwood. These empty nesters might live here in the summertime and go south for the winter. Mr. Kahm said that is why there is covered underground parking, and there will be concierge services. It is an upscale, high end tenant rental. Member Gatt asked if it was a "for purchase" property and Mr. Kahm said it is intended for rental. Member Gatt stated he was excited about the whole project and thought it was beautiful. He said they had his support. What excited him more was another entrance into the mall because he thought it would do wonders for the residents of Novi, and if nothing else it would add to the community. He had no problem with the variances and thought the three foot wall was very attractive and in keeping with 12 Mile Road. The landscape and loading areas, no problem and it's not really a four story building due to the topography.

Member Nagy stated she's liked the concept plan and was willing to waive the berm issue as this would be in keeping with what they are trying to build. She asked if there would be mechanical units on top of the building, and if they would require screening? Mr. Kahm replied there would be some rooftop mechanical and they would be screened. She asked how much that would add to the height of the roof. Mr. Marzelic replied the only rooftop equipment would be, if necessary, for the commercial component, the 21,000 plus square foot retail. He said they were about four feet tall. Member Nagy said it would add to the 47 feet 10 inches making it about 51 feet if looking from the rooftop. He said correct, to a screened mechanical unit. Member Nagy said she understood his need regarding the loading issue. She asked if he was screening the loading areas in the side yards and if it would be hidden by a wall.

Mr. Kahm said this is actually a story below the retail so it won't be seen from 12 Mile at all. He said they are actually looking at these loading areas a full story below 12 Mile. Obviously, coming down the finger road you would be able to see the loading area, but they intended to hide the dumpster behind a 14 foot garage door on both ends. She said she read the packet and liked this idea in development. She read all the history and thought this was an ordinance that his office helped the Implementation Committee with. Member Nagy said she was willing to do all the waivers. However, the problem she has is that it doesn't meet the intent of the ordinance with regard to the residential density. The calculation

is that this would be about 80% residential, and it doesn't meet the intent of the ordinance. Member Nagy felt if they veer away from the ordinance where are they going to go with the next project and the one after that. Member Nagy asked if they could lower the residential to make more of an effort to meet the ordinance requirements. Mr. Kahm stated there was a misconception at the Planning Commission level on two things. One, the ordinance provides that no more than 20% of the buildings shall be retail or office, and they complied with that. He thought the Planning Commission misinterpreted it. The distinction is no more than 20% shall be retail or office. He said they more than comply with that requirement. The other issue about density is that the ordinance provides for residential to be looked at under the RM-2, and the Planning Department actually did a calculation in their planning report and showed that they are below density on this project as compared to what they would be allowed by rooms. There was a calculation in the Planning report that said that. Mr. Kahm didn't know why they made the motion they did, and mentioned at the end of their motion. Their report shows they are below density.

Member Nagy asked Ms. McBeth to address what Mr. Kahm just said. Ms. McBeth stated there were two things that Mr. Kahm indicated. One was the Planning Commission recommendation for denial based on the fact that there seemed to be more residential than they had originally expected, and were not coming in with 20% of the floor area for non-residential purposes. She agreed with Mr. Kahm that the ordinance does provide a maximum of 20% for non-residential types of uses. However, with regard to the density, the RM-2 District has two different standards for density. One level of the standard is for buildings that are three stories and less, and the other is for four stories or more. She said the Planning Commission had made a determination that it is four stories and would be within the density requirements for a four story building. However, the RC District only allows a three story building. Member Nagy said the building height is what we are having a problem with. Ms. McBeth agreed and said that is another factor she thought City Council should take into consideration. Member Nagy said if they didn't have a problem with the building height, then you'd say that the density is coming within the allowed density of RM-2 three stories, and asked if that would be allowable. Ms. McBeth said it would not be allowable at this density, because there is a much lower density for three stories or less than for four stories or more. Member Nagy said the only other alternative Council could have is the burden of the developer to grade that area to make it one level. Ms. McBeth said there are several options. There could be a redesign of the site, and there could be grading with large retaining walls to make it more level across the entire sight. She thought part of the problem was that the site drops off from 12 Mile. It starts at a higher elevation and drops off quite a bit. Member Nagy asked if they had been able to meet with Singh since this project came before the Planning Commission, and have any redesigns been offered. Ms. McBeth said they had not looked at any redesigns since this was before the Planning Commission. Member Nagy asked, during their meeting with Singh, were any

redesigns suggested to the developer. Ms. McBeth said they did. She remembered early on there were a number of different designs they looked at.

Although, she thought the design that was initially presented, when the ordinance amendment came in, is similar to the design presented this evening. Member Nagy asked Mr. Kahm if they have discussed doing any other design that would solve the three story versus four story problem. Mr. Kahm said the problem would be it would be a mammoth retaining wall on the south side of the property, if they were to fill it in. They didn't feel it would be conducive to the mall traffic or the Waltonwood project as the residents would be staring at a 20 ft high retaining wall. It would be costly and had done them before, but aesthetically it wouldn't be the right use for this property. They thought it would be better to try to use the building to work with the grade. Member Nagy said she thought one of Council's goals was to not put any more multiples in.

Member Paul asked Ms. McBeth if they initially knew they would have some HVAC's on top of the building. Ms. McBeth thought there was an assumption that equipment would be put near the loading zones or possibly in the courtyard areas. Member Paul said then this is going to be more than 45 feet, it is going to be 51 feet 10 inches, and she asked if they were concerned about that. Ms. McBeth replied they were concerned and would want to be sure it was screened adequately. Member Paul asked if both buildings would have this height on it or just the one in the rear. Ms. McBeth responded it depended on where the unit would be located, and she wasn't sure the architect indicated that. Member Paul asked if there was anyone from Singh that could tell them if there would be HVAC on the front and back building, and what the height would be there. Mr. Kahm said they needed the rooftop commercial HVAC systems for retail and the proposed restaurant. He said all the residential would be self contained so there wouldn't be any need for rooftop equipment. He said they do have a way to do the mechanical without putting it on the roof. If that's a height issue another spot could be used hide it, and it would not increase the height of the building. Member Paul said it's only on the front of the first building, and he answered that's correct. She asked if that was at the maximum height, because she thought they were talking about the 47 foot building, which is the rear building. Mr. Kahm said the shortest component of the building, the front, is where they need the rooftop because it is where all the retail is, and it would be behind the parapets along the front. Member Paul said that would be the screening. He said the height of the building elevation on 12 Mile is 38.7, and 47.10 is grade averaging around the whole building. He said in the front they are well below the height. She stated she doesn't have a problem with the building because of the grade. She did have a problem if the screening is going to make it even taller. If it is going to be within the peak and can be hidden in the front, she didn't have a problem with that. Mr. Kahm said it depended on where you look at the building. If you look at the front, which is 37 feet 10 inches, and add four feet then we are well below 45 feet. He said the definition of height in the ordinance is the highest point of the building, and then you measure the average grade. So, even though

the height point is only way up here in front because of the HVAC equipment, technically by doing the math it ends up being higher. He said from an aesthetic perspective we are proposing that if the HVAC goes on the roof here, it's at the shortest point the component can go, which is the front. Member Paul said aesthetically it is very important to her not to have a really tall building. So, she thought his explanation was good because the main view would be the front view on 12 Mile. She didn't have a problem with the loading zone areas because of how they have been screened. Member Paul also did not have a problem with the waiver of the landscaping berm on 12 Mile, or the waiver of the Design and Construction Standards to allow for the deceleration taper, because it is a preexisting problem with 12 Mile Road with no alternative. She said if they can guarantee the screening to be no higher than what is proposed on this plan, and anything that is going to be higher will be put on the side yards. Member Paul asked Mr. Kahm if he was comfortable with that and he responded he was. Member Paul said she usually supported the Planning Commission but now with the explanation she has received and the fact that this fits within the zoning, she is comfortable.

CM-06-01-002 Moved by Paul, seconded by Capello; MOTION CARRIED:

To approve the Singh Development for Uptown Place for Preliminary Site Plan approval with the PD-2 Planned Development Option and Stormwater Management Plan approval. The subject property is in Section 14, south of 12 Mile Road between Novi and Meadowbrook Roads in RC, Regional Center District. Proposed Project is a mixed use development with 148 residential units and Approximately 22,000 sq. ft. of retail and restaurant space. The subject property contains approximately 8.8 acres. This fits with the Master Plan, waiver for Design and Construction Standards to allow for deceleration taper within 100 ft. of existing taper along 12 Mile Road. The plans require a waiver of the landscape berm along 12 Mile Road and decorative screening will be appropriate with the wall and appropriate for the residential view that Council is trying to give. The proposed loading areas are located in the side yards instead of the rear yard. The proposed building exceeds the maximum building height by one story but they will be working to stay within the screened areas already proposed on these residential and commercial areas. Also, that brick pavers will be used as landscaping. The sidewalks will be along 12 Mile and along the finger road, and extended all the way down to the mall ring road along the west side of the Waltonwood and Twelve Oaks property and along the east west road that goes to Meadowbrook Road. Also, City Council shall be authorized to grant deviations conditioned upon the Council finding that:

1. that each zoning ordinance provision from which a deviation is sought would, if the deviation were not granted, prohibit an enhancement of the development that would be in the public interest;

- 2. that approving the proposed deviation would be compatible with the existing and planned uses in the surrounding area;**
- 3. that the proposed deviation would not be detrimental to the natural features and resources of the affected property and surrounding area, or would enhance or preserve such natural features and resources;**
- 4. that the proposed deviation would not be injurious to the safety or convenience of vehicular or pedestrian traffic; and**
- 5. that the proposed deviation would not cause an adverse fiscal or financial impact on the City's ability to provide services and facilities to the property or to the public as a whole. In determining whether to grant any such deviation, the Council shall be authorized to attach reasonable conditions to the Preliminary Site Plan, in accordance with Section 2406.4.B.**

Mayor Landry addressed Member Paul saying that the statute Ordinance Section 2406.5 requires that if deviations are going to be granted there has to be certain findings by the City Council, which are enumerated in items 1 through 5 on the top of page 2. He asked if she was incorporating those into the motion. Member Paul replied she would.

DISCUSSION

Mayor Pro Tem Capello wanted clarification. He said he supported the motion. He said Member Paul was allowing the four stories and the 47 feet 10 inches, correct. He said looking at the plan, he thought from her presentation that Mr. Kahm also needed a landscape variance for the greenery along the building where the walkway and the pavers are; is that true? Mr. Kahm said that was left in limbo when they were before the Planning Commission, but to be clear he thought the Planning staff were recommending approval but wanted some feedback, because Mr. Kahm said they were trying to maintain the urban character of the front of the building, particularly because it is retail. He said they were offering the area to be brick pavers, which is demonstrated on the landscape plan. They were trying to keep within the spirit of the ordinance yet realizing that this is an urban design in retail, not trying to hide the building. He wanted to be sure Council was comfortable with that approach to the landscaping along the front of the building.

Mayor Pro Tem Capello asked Ms. McBeth if she thought that needed to be added as an additional variance or was she comfortable with the plan as it sits without a variance. Ms. McBeth thought it was Mr. Shipman's opinion that those decorative pavers have in the past served as landscaping, screening and buffering around the building. She said if he wanted it clarified in the motion it would make it even better for the Planning Commission to look at during final site

plan. He asked Member Paul if she wanted to add that. She responded she would add it as an amendment and, as seconder of the motion, Mayor Pro Tem Capello accepted.

Mayor Pro Tem Capello said in the goal setting sessions Council set a goal to have no additional multiples but we also had an exception for any projects that were in the planning stages. At that time, this was in the planning stages, and so was an exception to our goal.

Member Margolis thought this was a very nice development for the City. She said as the City gets more and more developed Council would see more and more difficult sites like this. She appreciated their going the extra mile to try to fit within the ordinances of the City and producing a development that will really do us proud. Member Margolis stated they had her support and that she didn't have an issue with the building height. She said looking at it from the front it would not look like a four story building. She noted it's the grading issues that need work.

Member Mutch asked Mr. Kahm who would be maintaining the access road coming in off the Twelve Oaks access road. Mr. Kahm replied it would be a private road. There is a joint maintenance agreement very much like the balance of the mall roads where there is a collective "pot of money" that the Taubman Company oversees. He said they and Singh would maintain that road.

Member Mutch said, in the future, Mr. Kahm had talked about that road being extended out to Meadowbrook Road and asked if there were any plans, at any point, to make that a City road or is the intent for that entire access road to be private. Mr. Kahm responded it's the intent for it to be private. Member Mutch said in terms of their bigger picture looking at this project with the other project they have coming in on Meadowbrook Road there will be a connection via access road, is there going to be any other connection between these two projects. Mr. Kahm said it was too early to say now, but there is a possibility that could happen, but they haven't solidified the final plans for Uptown Park, so that is a possibility. However, right now there are no definitive plans to connect the two. Member Mutch said the access road on the plan as it goes east off of the property there is another connection to the DMC development to the north, is that going to be constructed along with this. Mr. Kahm said yes, it is across the south side of the DMC property and there is already a pre-existing easement on their property for the road. Member Mutch asked if that road would be connected all the way to the eastern boundary of their property. Mr. Kahm said yes. Member Mutch commented that he didn't see the sidewalk being extended, and if the long-term goal is to have this access road interconnect he wanted to see that sidewalk included with the access drive. Mr. Kahm agreed with that being necessary.

Member Mutch said the regarding the access into the parking garage, it wasn't clear to him what the traffic pattern is. He was concerned that coming in off of

that finger road for Twelve Oaks Mall there would be issues of people queuing up or stacking up to turn into the garage entrance. He was also concerned about the sidewalks around the building and pedestrian conflicts where they cross those entrances and exits to the garage. Mr. Kahm replied that the sidewalks will be along 12 Mile and along the finger road, and they would like to extend that sidewalk all the way down to the mall ring road along the west side of the Waltonwood and Twelve Oaks property. He said it would also be along the east west road that goes to Meadowbrook Road. The parking is on two levels. The lower level parking will only be accessed from the south. The east and west entries are a level above and provide a vertical separation. Mr. Kahm said, as far as a conflict here, there really aren't many units here as far as the massing of the building, and didn't see the crossing problem to be much of an issue. Member Mutch asked if the garage entrances were entrance and exit both ways. Mr. Kahm said yes. Member Mutch said with people coming back in the evening, and coming down the entrance road, as to not having to turn into that garage, will there be a stacking issue on the mall entrance road? Mr. Kahm stated they used the Main Center project as a guide and have never had that kind of problem, and that has a much less circulation availability than this one does. Member Mutch said it looks like there are sidewalks adjacent to the building itself. Mr. Kahm said yes, there are, and that's for access from these surface parking spaces for people going up to the retail won't walk in and out of the parking area. Member Mutch asked if there would be situations where people are crossing across those garage entrances. Mr. Kahm said these garage entrances are going to be securely gated and are inset into the building so anyone coming out of the building is going to hear the gate coming up. Drivers won't be able to zoom out of the building.

Member Mutch said the big problem he has with this project is that the ordinance is pretty clear regarding the height. Section C states "a maximum permitted building height of the RC, Regional Center District, shall apply to all uses under the PD-2 Option", and the RC District has a height limitation of 45 feet. He felt they had gotten fixated on how it would look, but the real issue is what the impact is. The impact is the density and if it is a three story building and meets the RC requirements its 1/3rd of the density. Member Mutch said if it was a three story building and 47 feet it would produce the lower density. He said it is the number of stories that is driving the density quite high. He said another concern is the intent of the ordinance which is to provide transitional uses on the periphery of regional oriented shopping centers. He thought that a transitional use is not only in the kind of use, and he thought this was a transitional use, but also in its impact. He said putting buildings that are higher than the principle buildings in the district on the periphery doesn't strict him as a transitional use. Another concern is the nature of the multiple. Obviously, the City made a policy decision when they amended this ordinance to allow the higher density, mixed use in this area. But the other multiple developments in the area are the Enclave condominiums, the other Singh condominium project, Waltonwoods senior complex and these are proposed to be apartments. Member Mutch thought it was not only the

density of the use but the impact of the use. He said Council has been trying to move away from that in their long term vision of the City. He didn't think, from a policy viewpoint, that it was clear to him that we wanted this kind of density in the RC District in the PD-2. He said the language is pretty clear that they weren't looking to do the density permitted in RM-2 by limiting the uses to three stories. Member Mutch said he couldn't support the project as proposed.

Mayor Landry stated he didn't have a problem with the height. He said the average height is only 2 feet 10 inches higher; the front height from 12 Mile Road is well below 45 feet. He thought the topography created unusual circumstances and they had to be looked at and not ignored. Mayor Landry was not concerned about loading or height, and preferred the loading areas not be in the back. He was also fine with the landscape berm and the deceleration taper is being proposed by the Oakland County Road Commission as far as he was concerned.

Mayor Landry believed this was the first mixed use development proposed, it is a good thing, a good project, and he would support it.

Member Nagy asked Ms. McBeth if there were any requests for waivers from the Brooktown developer to have more than the allowed stories. Ms. McBeth said they had not asked for any waivers for the building height. Member Nagy asked if any projects had come forward that had the same circumstances with the grading and did anyone else requested 4 stories instead of the three allowed by the ordinance. Ms. McBeth said not that she recalled. Member Nagy said she had read Mr. Avdoulos' comments in the Planning Commission minutes and he mentioned that the first finished floor is actually the first floor. Ms. McBeth said he was making a point that there were only three levels of residential dwellings, and she thought that was the point he was trying to make. She said the building immediately adjacent is one story with a taller roof on portions of it, the building adjacent to that is a little taller, and she thought the building to the east was three stories. Member Nagy asked if the roof line would be the same height if she were standing on the east side and looking at both of them. Ms. McBeth said it all looks the same height with the exception of the front area, which is a little lower. Ms. McBeth displayed the elevations.

Member Paul added to the motion items the developer stated he would like to do: Add the sidewalk to the ring road.

Roll call vote on CM-06-01-002 Yeas: Capello, Gatt, Margolis, Nagy, Paul, Landry

Nays: Mutch