



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item 4
February 7, 2011

SUBJECT: Consideration to amend the Briarwood Consent Judgment to allow limited restaurant uses in the Briar Pointe Plaza located at the northeast corner of Ten Mile Road and Beck Road.

SUBMITTING DEPARTMENT: Community Development Department - Planning ^{Burb}

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The Community Development Department received a letter from Mr. Thomas Rosin of Briarwood of Novi Limited Partnership, the owners of the Briar Pointe Plaza shopping center located at the northeast corner of Ten Mile and Beck Roads. The letter requests consideration of a modification to the Consent Judgment between Briarwood of Novi and the City, in order to permit restaurant uses in the existing Briar Pointe shopping center.

The 1990 Consent Judgment covering the use of the property was entered into between Briarwood of Novi Partners and the City to settle a rezoning matter approved by the City Council and later denied due to a referendum approved by the voters in the City. The approved Final Site Plan for the development is part of the Consent Judgment. The Final Site Plan included the 30,000 square foot shopping center completed in 1994 and 81 site condominium units. The Site Plan preserves about 0.7 acre of woodlands at the corner of Beck and Ten Mile Roads. The Judgment limits commercial uses to only B-1 (Local Business District) uses permitted in the Zoning Ordinance on the date of the Judgment, which does not permit restaurant uses. A similar application to allow restaurant uses was presented to the City Council in 2003, and was denied.

Sit-down restaurants, fast food sit-down restaurants and fast food carry-out restaurants are not permitted in the B-1 District, but are considered principal permitted uses in the B-2 and B-3 Districts. The B-1 District is designed to meet the day-to-day convenience shopping and service needs of people residing in nearby residential areas. While the zoning ordinance does not currently permit restaurants in the B-1, Local Business District, several restaurants are currently located in Novi's B-1 Districts. These restaurants exist either because the zoning district at the time permitted restaurant uses or a variance was granted to permit the use. The Planning Division is not aware of any nearby resident complaints about the external effects of these restaurants.

In this case, the property owner proposes modifying the Consent Judgment to:

1. Permit sit-down and carry out restaurants only, but is not proposing fast food drive-through restaurants, and
2. Limit restaurant uses no more than 30% of the floor space of the shopping center.

The Planning Staff reviewed the proposal and recommends positive consideration of the matter with a set of restrictions to protect neighboring properties. Staff also suggests that the approval be contingent on the applicant agreeing to pay for all of the legal costs

involved with amending the Consent Judgment. It is the Planning Staff's opinion that since most retail centers in the City are permitted to have restaurants and the fact that sit down or carry-out restaurants generally have no negative impact upon the surrounding area, permitting restaurant uses in Briar Pointe Plaza could benefit the residents of the City by reducing the number of vacancies in the center thus adding to the City's tax roll, and by providing a service that is currently not available in this neighborhood.

If the City Council is inclined to amend the Consent Judgment, Planning Staff recommends modifying the Consent Judgment to permit only carry-out and sit-down restaurants in the Briar Pointe Plaza, with the following conditions intended to protect the neighboring residents:

- **Parking** - Limit restaurant floor space to 20% of the center. This follows the parking space requirements of Section 2505 that sets a 20% floor space trigger for restaurant and entertainment uses where additional parking may be required beyond the normal retail center requirement. This would amount to about 6,000 square feet of tenant space.
- **Outdoor Seating** - Permit outdoor seating with up to 20 seats, if space is available and if a plan is submitted for administrative approval.
- **Noise** - Limiting restaurant business hours, including waste hauling and deliveries, to the hours of 6:00 a.m. to 10 p.m. This will help the neighborhood remain relatively quiet during normal sleeping hours.
- **Odor** - Prohibit the outdoor storage of grease, fats or oils and require all wastes to be placed in covered dumpsters. This should limit odors emanating from the site.
- **Aesthetics** - Require all roof mounted equipment, such as but not limited to exhaust fans, to be screened from the view of neighboring properties to ensure the current aesthetics of the building are maintained.
- **Outdoor Storage** - Outdoor storage is currently prohibited except for dumpsters approved on the Final Site Plan.

Although not technically required for consideration of amendment of this Consent Judgment, a public hearing was set for the February 7th City Council meeting. Public Hearing notices, and a letter from staff with further explanation of the request, were mailed to the 57 property owners within 300 feet of the property, as well as about 12 neighborhood association leaders in the vicinity, in order to notify all of the homeowner-represented subdivision associations within a one-half mile radius of the subject site. Notice of the Public Hearing was also provided in the Novi News.

If approved by the City Council, the City Attorney's Office will be asked to work with the applicant to modify the terms of the existing Consent Judgment. A draft version of the Consent Judgment language is attached to reflect the recommendations provided.

RECOMMENDED ACTION: Approval of the attached Draft Amendment to the Consent Judgment to allow limited restaurant uses in the Briar Pointe Plaza, located at the northeast corner of Ten Mile Road and Beck Road, including the items suggested in the motion sheet being included in the final document.

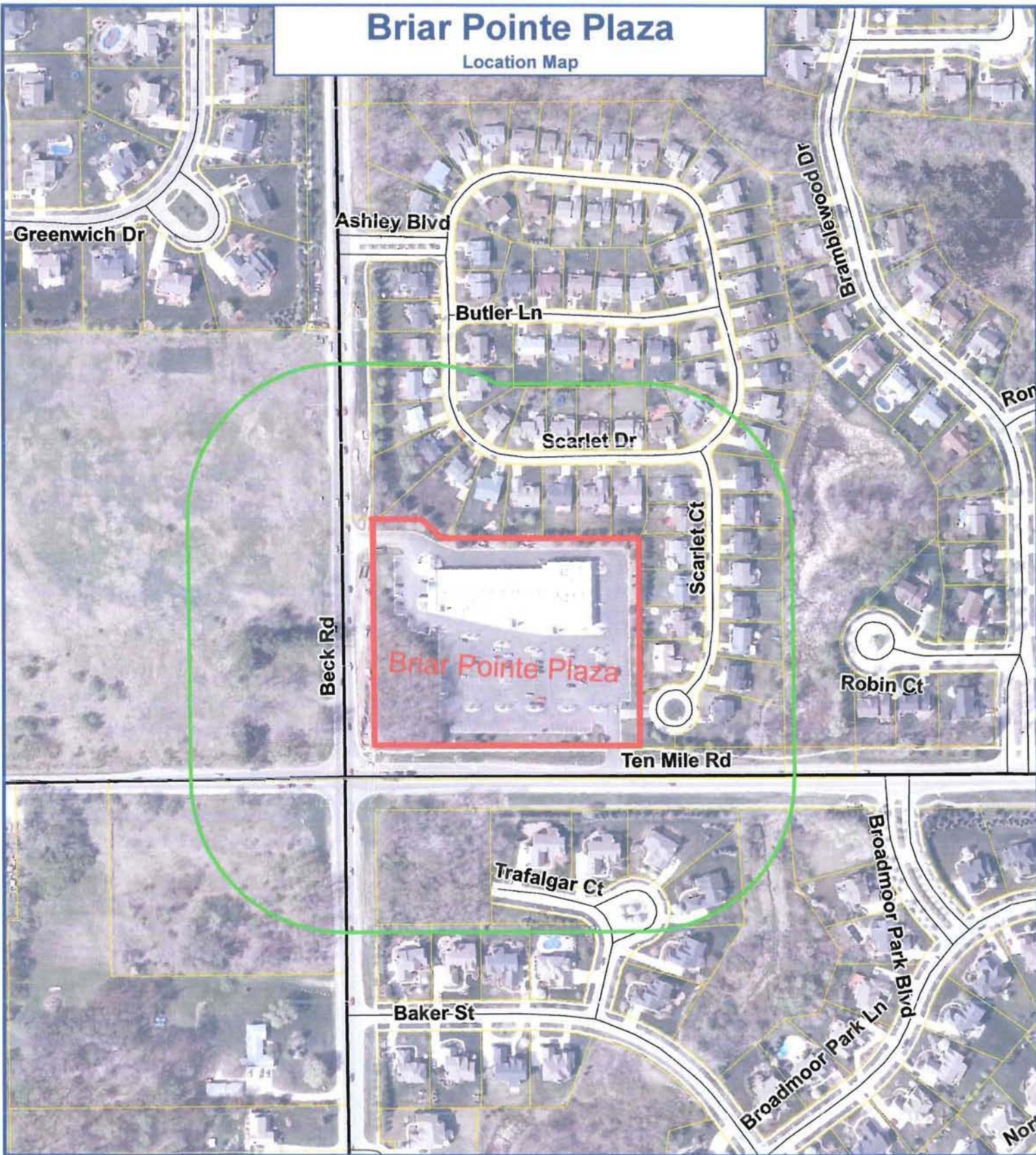
	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

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

**LOCATION MAP
BRIAR POINTE PLAZA**

Briar Pointe Plaza

Location Map



Map Author: Mark Spencer
 Date: 1/5/11
 Project: Briar Pointe plaza location
 Version #: 2.0

MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended 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 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

Map Legend

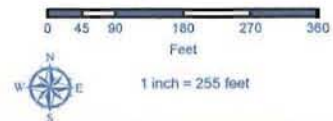
Tax Parcels



300 foot Notice Buffer



City of Novi
 Planning Division
 Community Development Dept.
 45175 W Ten Mile Rd
 Novi, MI 48375
 cityofnovi.org



**DRAFT AMENDMENT TO
CONSENT JUDGMENT
FOR CONSIDERATION**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

BRIARWOOD OF NOVI PARTNERS,

Plaintiff,

v

Case No. 89-368533-CE

CITY OF NOVI, a Michigan municipal corporation,
PLANNING COMMISSION OF THE CITY OF NOVI,
BUILDING OFFICIAL OF THE CITY OF NOVI, and
THE ELECTION COMMISSION OF THE
CITY OF NOVI,

Defendants.

JEFFREY R. KRAVITZ (P16232)
Attorney for Plaintiff
5116 Woodlands Drive
Bloomfield Hills, MI 48302
(248) 792-9899

THOMAS R. SCHULTZ (P42111)
Attorney for Defendant, City of Novi
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
(248) 539-2847

S E C R E T W A R D L E

FIRST AMENDMENT TO CONSENT JUDGMENT

1. The parties entered into a Consent Judgment in this case on December 13, 1990 (the "Consent Judgment"). A copy of the Consent Judgment is attached as Exhibit 1 to this document. The Consent Judgment was recorded at Liber 11671, Page 530, Oakland County Records.
2. The Plaintiff in the case as originally filed was Briarwood of Novi Partners. The successor-in-interest to Briarwood of Novi Partners as of the date hereof is Briarwood of Novi Limited Partnership.
3. Briarwood of Novi Limited Partnership, as successor (hereinafter Plaintiff-Successor), has asked that the City of Novi agree to amend the Consent Judgment to allow certain uses not

permitted in the Consent Judgment. Specifically, Plaintiff-Successor has asked the City to allow certain restaurant uses that are currently prohibited.

4. The City of Novi held a public hearing on the requested amendment on February 7, 2011.

5. Following the public hearing, and upon consideration of the requested amendment, the City of Novi City Council has determined that amendment to the Consent Judgment is appropriate upon the terms and conditions below.

6. The Court agrees to entry of this First Amendment to Consent Judgment after being fully informed of its purposes and intent.

IT IS HEREBY ORDERED AND ADJUDGED that:

A. With respect to the Commercial Land as identified in Section II, Page 3, of the Consent Judgment, the additional use of sit down and carry out restaurants shall be permitted, subject to all of the terms and conditions of the Consent Judgment and further subject to the following terms and conditions:

1. Restaurant uses shall not exceed 20 percent of the floor space of the center;
2. Hours of operation for any restaurant shall be 6:00 a.m. to 10:00 p.m.;
3. No outdoor storage shall be permitted except for a dumpster located within an enclosure as depicted on Exhibit C of the Consent Judgment;
4. No outdoor storage of grease, fats, or oils shall be permitted at any time;
5. All restaurant waste must be placed in a covered dumpster within the enclosure described above;
6. All roof top equipment must be screened from view from neighboring properties; and
7. No deliveries or waste pick up between the hours of 10:00 p.m. and 6:00 a.m. shall be permitted.

In all other respects, the Consent Judgment shall remain the same, and no other provision of the Consent Judgment is affected by this amendment.

The rights and responsibilities set forth in this amendment shall run with the land as to the subject property and shall be binding upon and inure to the benefit of the parties and their successors, heirs, assigns, and transferees, and this amendment shall be recorded in the Oakland County Register of Deeds.

CIRCUIT COURT JUDGE

The undersigned stipulate to entry of the foregoing, and waive notice and hearing thereon.

THOMAS R. SCHULTZ (P42111)
Attorney for Defendant, City of Novi

JEFFREY R. KRAVITZ (P16232)
Attorney for Plaintiff Successor, Briarwood of Novi,
a limited partnership

THOMAS ROSIN
Briarwood of Novi, a limited partnership

1569711

LETTER FROM APPLICANT

BRIAR POINTE PLAZA

P O BOX 692 • BLOOMFIELD HILLS • MICHIGAN • 48303-0692

October 12, 2010

VIA: E-MAIL & U.S. MAIL

Ms. Barbara E. McBeth
Deputy Director Community Development
City of Novi
45175 West Ten Mile Road
Novi, MI 48375

**Re: Briar Pointe Plaza
Novi, Michigan**

Dear Ms. McBeth:

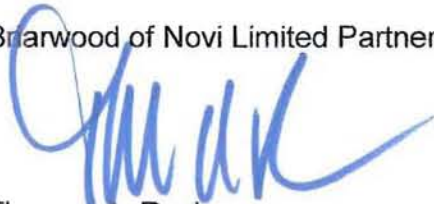
This is a follow up to our recent meeting and discussions concerning the above property located at the Northeast corner of 10 Mile Beck Road.

We are seeking a request to amend the Consent Judgment concerning the permitted uses within the shopping center. Specifically we are seeking restaurants either a carryout with no limitation or a sit down restaurant with no limitations. We have received a few requests from prospective tenants and would like to proceed as our center is now approximately 20% vacant. We would consider a restriction of up to no more than 30% of the center to be occupied with a restaurant(s) – carryout(s).

Once you review please let us know how best to proceed.

Very truly yours,

Briarwood of Novi Limited Partnership



Thomas A. Rosin

TAR/vm

**PUBLIC HEARING NOTICE
AND COURTESY LETTER**

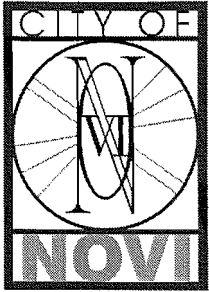
City of Novi
Notice of Public Hearing
Briarwood of Novi Amendment to Consent Judgment

NOTICE IS HEREBY GIVEN that the City of Novi will hold a Public Hearing on a possible amendment to the Briarwood of Novi Consent Judgment. The Hearing will be held at the regular City Council meeting on Monday, February 7, 2011 at 7:00 p.m., EST, at the Novi Civic Center, 45175 W. Ten Mile Road, Novi, Michigan 48375, for the purpose of hearing public comments on the possible amendment to the Briarwood of Novi Consent Judgment to allow restaurant uses within the Briar Pointe Plaza shopping center, Sidwell parcel 22-21-300-025.

All interested citizens are requested to attend this Hearing. Comments will also be received in writing or in person at the City Offices, 45175 W. Ten Mile Road, Novi, Michigan 48375, until 4 p.m. February 7, 2011.

Arrangements to reasonably accommodate special needs, including handicap accessibility or interpreter will be made upon receiving 72-hour advance notice. Contact Maryanne Cornelius at 248-347-0576 for special services.

MARYANNE CORNELIUS,
CITY CLERK



January 11, 2011

Re: Briar Pointe Plaza Restaurant Uses

Dear Novi Resident:

The City of Novi received a letter from the owner of the Briar Pointe Plaza shopping center located at the northeast corner of Ten Mile and Beck Roads regarding possible modification to allowable tenants in the shopping center. The development and uses in the shopping center are governed by a Consent Judgment between the property owner (Briarwood of Novi) and the City. The current Consent Judgment prohibits any restaurants as a hold-over from former zoning classifications.

The property owner proposes to modify the Consent Judgment to permit only sit-down and carry-out restaurants in this shopping center. The property owner is not requesting allowance for any fast food drive-through restaurants. The owner has suggested that the restaurant uses would be limited to no more than 30% of the floor space in the existing center.

Although not technically required for consideration of an amendment to the Consent Judgment, Novi's City Council has decided to set a public hearing for possible action on this request for the February 7th City Council meeting. Notice is provided with this letter. Concerned citizens are welcome to attend the meeting to express thoughts and concerns or may return a written response prior to the meeting.

While some residents express concerns regarding restaurants locating nearby because of anticipated parking, noise, odor, aesthetic or outdoor storage problems, some of these concerns can be reduced if certain conditions are established. If the City Council is inclined to amend the Consent Judgment, Planning Staff has recommended that any modifications to the Consent Judgment should allow only carry-out and sit-down restaurants in the Briar Pointe Plaza, with several conditions intended to protect the neighboring residents, including the following: limiting the restaurant floor space to 20% of the total shopping center area and restricting operation of any restaurant to the hours between 6:00 a.m. to 10 p.m.

If you have any questions about this proposed change, please feel free to contact me at (248) 347-0475.

Sincerely,

Barbara McBeth
Community Development Deputy Director
City of Novi
bmcbeth@cityofnovi.org

CITY COUNCIL

Mayor
David B. Landry

Mayor Pro Tem
Bob Gatt

Terry K. Margolis

Andrew Mutch

Dave Staudt

Justin Fischer

Wayne Wrobel

City Manager
Clay J. Pearson

City Clerk
Maryanne Cornelius

City of Novi
45175 W. Ten Mile Road
Novi, Michigan 48375
248.347.0460
248.347.0577 fax

cityofnovi.org

RECORDED

CONSENT JUDGMENT

FRIED AND LEVITT, P.C.
ATTORNEYS AND COUNSELORS
30700 TELEGRAPH ROAD, SUITE 3655
BIRMINGHAM, MICHIGAN 48010
TELEPHONE (313) 845-1003

DAVID M. FRIED
GARY E. LEVITT
LOUIS D. EUGREE
DENNIS WATSON
BETH FRIED HASRELL*

FACSIMILE
(313) 845-5108
*ALSO ADMITTED IN FLORIDA

January 7, 1991

Mrs. Geraldine Stipp
City Clerk
City of Novi
45175 West Ten Mile Road
Novi, Michigan 48375

RE: Briarwood of Novi Partners -vs- City of Novi, et al
Case No. 89-368-533 CE

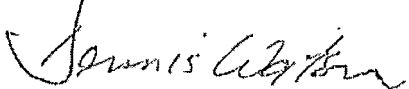
Dear Mrs. Stipp:

Enclosed is a copy of the recorded Consent Judgment entered
in the above matter on December 13, 1990.

The Judgment was recorded in Liber 11671, Page 530.

Very truly yours,

FRIED AND LEVITT, P.C.


Dennis Watson
Assistant City Attorney
City of Novi

DW/kb
enclosure

RECEIVED

JAN 10 1991
AB
CITY CLERK
CITY OF NOVI

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

BRIARWOOD OF NOVI PARTNERS,

Plaintiff,

vs.

Case No. 89-368533 CE
Hon. Francis X. O'Brien

CITY OF NOVI, a Michigan
Municipal corporation,
PLANNING COMMISSION OF THE
CITY OF NOVI,
BUILDING OFFICIAL OF THE
CITY OF NOVI, and
THE ELECTION COMMISSION OF THE
CITY OF NOVI,

3432 REG/FEES PAID
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Defendants.

HONIGMAN MILLER SCHWARTZ AND COHN
By: NORMAN HYMAN (P15319)

AND

SEYBURN, KAHN, GINN, BESS,
HOWARD AND HARNISCH, P.C.
By: JAMES M. GINN (P14015)
MARTY A. BURNSTEIN (P11443)
Attorneys for Plaintiff

FRIED & LEVITT, P.C.
Attorneys for Defendants
By: DAVID M. FRIED (P13710)

CUMMINGS, McCLOREY, DAVIS
& ACHO, P.C.
CAROL ROSATI (P32288)
Co-Counsel for Defendants

A TRUE COPY
LYNN D. ALLEN
Clerk of Circuit Court - County of Oakland
[Signature]

CONSENT JUDGMENT

At a session of said Court, held in the
Courthouse, City of Pontiac, County of
Oakland and State of Michigan, on

DEC 13 1990, 1990.

PRESENT: HON. FRANCIS X. O'BRIEN
CIRCUIT JUDGE

O.K. - TS

The parties having filed their pleadings in this matter,
and having entered into a settlement to resolve this litigation

BURN, KAHN, GINN,
BESS, HOWARD &
HARNISCH
REGIONAL CORPORATION
900 TOWN CENTER
SUITE 1400
FIELD, MI 48075-1195
(313) 393-7620

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which is embodied in this Consent Judgment, and the parties having stipulated to the form and substance of this Consent Judgment:

IT IS ORDERED AS FOLLOWS:

I. EXHIBITS AND DEFINITIONS.

The following Exhibits are attached to and made a part of this Consent Judgment:

A. Exhibit "A" which contains the legal description of the land to be developed for commercial/business uses as provided in this Judgment ("Commercial Land").

B. Exhibit "B" which contains the legal description of the land to be developed for residential use as provided in this Judgment ("Residential Land").

C. Exhibit "C" which is the Approved Final Site Plan for both the Commercial and Residential Land.

D. Exhibit "D" which is the Landscape Plan for the Commercial Land and the Residential Land.

E. Exhibit "E" which is the Elevation and Site Detail Sheet for the shopping center development shown on Exhibit C.

The following definitions are used throughout this Consent Judgment:

"Plaintiff" or "Briarwood" refers to Briarwood of Novi Partners, a Michigan partnership and its successors and assigns.

"Defendant" or "City" refers to City of Novi.

"City Council" refers to the City Council of the City of Novi.

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II. USE, CONSTRUCTION AND DEVELOPMENT OF
COMMERCIAL LAND.

A. The City shall permit the Commercial Land (Exhibit A) to be used for all those uses permitted in the B-1 (Local Business) Zoning District, being Article 13, Sections 1301 and 1302, of the City of Novi Zoning Ordinance in effect on the date of this Consent Judgment.

B. The City shall permit the use, construction upon, improvement and development of the Commercial Land in accordance with the Approved Final Site Plan attached as Exhibit C, the Landscape Plan attached as Exhibit D, the Elevation and Site Detail Sheet attached as Exhibit E, and such engineering plans as may from time to time be approved by the City Engineer after the entry of this Consent Judgment and subject to the granting of all necessary permits as provided in Paragraph IV.B. below.

C. The City and Plaintiff understand that floor space in the buildings to be constructed on the Commercial Land is intended by Plaintiff to be leased to tenants, and that the needs of individual tenants will vary relative to the floor plan of leased space and the location of windows, doors and signs, the type of store front, and the facade below the canopy of exterior demising walls. Consequently, modifications to the buildings on the Commercial Land to satisfy the needs of such tenants relative to those elements may be made by written request of the Plaintiff and the written approval of the City's Planning Consultant, without the necessity of amending this Consent Judgment, which approval

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shall not be unreasonably delayed or withheld provided the request is consistent with the spirit and intents of this Consent Judgment. Provided further, such modifications shall not alter the building footprints, the facade materials or the architectural form of the buildings on the Commercial Land as depicted in Exhibits C, D and E, and all tenant signage shall comport with applicable sign regulations as provided in Paragraph IV B.

III. USE, CONSTRUCTION, AND DEVELOPMENT
OF RESIDENTIAL LAND.

A. The City shall permit the Residential Land (Exhibit B) to be used for a detached residential condominium development with up to a maximum of eighty one (81) condominium units in accordance with the Approved Final Site Plan attached as Exhibit C, the Landscape Plan attached as Exhibit D, and such engineering plans as may from time to time be approved by the City Engineer after the entry of this Consent Judgment and subject to the granting of all necessary permits as provided in Section IV.B. below. The configurations of the buildings shown on the Approved Final Site Plan may be modified by Briarwood so long as the configurations are within the "building envelope" as shown on the Approved Final Site Plan.

B. The City and Plaintiff understand that the buildings to be constructed on the Residential Land are intended for sale as detached single-family units. In order to meet changing consumer preferences modifications to driveway locations and angles and

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spacing between units as shown on the Approved Final Site Plan (Exhibit C) and Landscape Plan (Exhibit D) pertaining to the Residential Land in addition to those permitted by notes on Exhibits C and D and those which are made as a result of modifications of configurations of buildings as permitted in Paragraph III A may be made at the written request of the Plaintiff and written approval of the City's Planning Consultant without the necessity of amending this Consent Judgment, which approval shall not be unreasonably delayed or withheld provided the request is consistent with the intent and spirit of this Consent Judgment, and provided the spacing between any two (2) units is not reduced to below fifteen (15') feet.

IV. GENERAL PROVISIONS APPLICABLE TO THE DEVELOPMENT, CONSTRUCTION AND USE UPON BOTH THE COMMERCIAL AND RESIDENTIAL LAND.

A. This Consent Judgment, including Exhibits A, B, C, D and E, and such engineering plans as may from time to time be approved by the City Engineer after entry of this Consent Judgment, shall exclusively govern the development, construction and use of both the Commercial and Residential Land.

B. The City shall grant Briarwood, its contractors and subcontractors all City permits and authorizations necessary to develop the land in accordance with this Consent Judgment, including those necessary to bring electricity, telephone, gas, cable television, water, and sewer to the Commercial and Residential Land and to construct all such utilities on the

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Commercial and Residential Land, provided Plaintiff has made all requisite filings and submissions and has paid the required fees. This shall not relieve Briarwood from obtaining all necessary approvals, permits, and authorizations from applicable utilities, and governmental agencies other than the City and the City's boards, commissions, staff and consultants. The City shall not unreasonably delay in providing or issuing permits, authorizations and submissions required in connection with the development and use of the lands in accordance with this Consent Judgment. The City, the City Engineer and those City officials, employees, and agents of the City who have the responsibility for approving plans submitted to them shall approve such engineering, construction, and other plans submitted by the Plaintiff which comply with this Consent Judgment and other applicable City Code requirements, subject to the provisions of Paragraph IV C below. As a condition to receiving permits for construction upon either Commercial or Residential Land, construction plans must be submitted and approved by the City in accordance with the State Construction Code, as enforced in the City of Novi pursuant to Chapter 7, Article II of the Novi Code of Ordinances in effect on the date of this Consent Judgment. As a condition to receiving permits for signage on either the Commercial or Residential Land, application for sign permits shall be submitted to and approved by the City of Novi Department of Building and Safety in accordance with Chapter 28

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(Signs) of the Novi Code of Ordinances in effect on the date of this Consent Judgment. For purposes of applying Chapter 28 the Commercial Land shall be a "business district" and the Residential Land shall be a "residential district".

C. The Plaintiff's development and use of the Commercial and Residential Lands shall be in conformity with all applicable statutes, laws, codes and ordinances, except where any of the express provisions of this Consent Judgment, including the attached Exhibits, differ from any provisions of the City's Zoning Ordinance or other ordinances, resolutions, rules or regulations of the City, in which case the provisions of this Consent Judgment, including its Exhibits, shall apply and the provisions of the City's Zoning Ordinance and any other ordinances, resolutions, rules or regulations shall be inapplicable to the extent of the inconsistency. Future amendments to the City's Zoning Ordinance or other regulatory ordinances after the date of this Consent Judgment shall not apply to prohibit development of both the Commercial and Residential Land as provided in this Consent Judgment.

V. MISCELLANEOUS PROVISIONS.

A. The City, its officers, agents, employees and all others acting in concert with it are enjoined from restricting or preventing the use of the Commercial Land and the Residential Land as provided in this Consent Judgment, and they shall permit such

Lands to be developed and improved as provided in this Consent Judgment.

B. This Consent Judgment is a complete resolution of all issues included in this case. Plaintiff's claim for monetary damages set forth in its Amended Complaint is dismissed with prejudice and without costs. No costs shall be assessed to any party.

C. This Consent Judgment has been approved by the Plaintiff, through the unanimous consent of its partners, and has further been approved by the City of Novi, through the approval of the City Council for the City of Novi at a meeting duly scheduled and after appropriate notice had been given, in accordance with the laws of the State of Michigan and the ordinances of the City of Novi, duly resolving to approve this settlement and the terms contained herein. It is further ordered that this Consent Judgment is binding upon the parties, their heirs, successors and assigns. The obligations contained in this Consent Judgment shall run with the Lands. A copy of this Consent Judgment shall be recorded with the Oakland County Register of Deeds.

D. This Consent Judgment, including the text and exhibits, may be amended from time to time with the written consent of Briarwood and the City Council and without the consent of any other person or entity, including any mortgagee, lien holder, or any other person or entity having or claiming any right,

JRN, KAHN, GIBB,
55. HOWARD &
HARNISCH
SIGNAL CORPORATION
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SUITE 1500
FIELD, MI 48073-1195
3) 353-7820

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interest or lien in or on all or any portion of the Commercial Land and the Residential Land.

E. The Court retains jurisdiction to interpret and enforce the terms and conditions of this Consent Judgment, reconcile any differences between the parties that may arise relating to performance of the terms of this Consent Judgment, assure there is no unreasonable delay in the issuance of building or constructions permits or certificates of occupancy, and assure compliance by Plaintiff with all permits issued by the City.

FRANCIS X. O'BRIEN
CIRCUIT JUDGE

CIRCUIT COURT JUDGE

APPROVED AS TO FORM AND SUBSTANCE:

SEYBURN, KAHN, GINN, BESS,
HOWARD AND HARNISCH, P.C.

BRIARWOOD OF NOVI PARTNERS,
a Michigan co-partnership

By: Marty A. Burnstein
MARTY A. BURNSTEIN
Attorney for Plaintiff
2000 Town Center, Suite 1500
Southfield, MI 48075-1195

By: Richard P. Miller

HONIGMAN MILLER SCHWARTZ AND COHN

By: Norman Hyman
NORMAN HYMAN
Attorney for Plaintiff
2290 First National Building
Detroit, Michigan 48226

FRIED & LEVITT, P.C.

By: David M. Fried
DAVID M. FRIED
Attorney for Defendant
30700 Telegraph Road
Suite 3655
Birmingham, MI 48010-3734

SEYBURN, KAHN, GINN,
HOWARD &
HARNISCH
A PROFESSIONAL CORPORATION

2000 TOWN CENTER
SUITE 1500
SOUTHFIELD, MI 48075-1195

(313) 253-7620

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LEGAL DESCRIPTION

Part of the Southwest 1/4 of Section 21, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, more particularly described as commencing at the Southwest corner of said Section 21, for a point of beginning; thence North 02 degrees 26 minutes 38 seconds West, 510.00 feet, along the West line of said Section 21 and the centerline of Beck Road; thence North 87 degrees 48 minutes 04 seconds East, 155.00 feet; thence South 47 degrees 19 minutes 17 seconds East, 56.69 feet; thence North 87 degrees 48 minutes 04 seconds East, 385.00 feet; thence South 02 degrees 26 minutes 38 seconds East, 470.00 feet, to the South line of said Section 21 and the centerline of Ten Mile Road; thence South 87 degrees 48 minutes 04 seconds West, 580.00 feet along the South line of said Section 21 and the centerline of Ten Mile Road, to the point of beginning.

Pt of - 22-21-300-017

EXHIBIT A

116711542

LEGAL DESCRIPTION

Part of the West 1/2 of Section 21, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, more particularly described as commencing at the West 1/4 corner of said Section 21; thence South 02 degrees 26 minutes 38 seconds East, 1321.00 feet along the West line of said Section 21 and the centerline of Beck Road, to the point of beginning; thence North 87 degrees 33 minutes 22 seconds East, 670.00 feet; thence South 52 degrees, 15 minutes 38 seconds East, 217.51 feet; thence South 11 degrees 16 minutes 00 seconds East, 102.44 feet; thence South 12 degrees 29 minutes 38 seconds East, 187.22 feet; thence South 33 degrees 40 minutes 02 seconds East 109.23 feet; thence South 19 degrees 22 minutes 22 seconds West, 218.46 feet; thence South 02 degrees 26 minutes 38 seconds East, 600.00 feet, to the South line of Section 21 and the centerline of Ten Mile Road; thence South 87 degrees 48 minutes 04 seconds West, 280.00 feet, along the South line of Section 21 and the centerline of Ten Mile Road; thence North 02 degrees 26 minutes 38 seconds West, 470.00 feet; thence South 87 degrees 48 minutes 04 seconds West, 385.00 feet; thence North 47 degrees 19 minutes 17 seconds West, 56.69 feet; thence South 87 degrees 48 minutes 04 seconds West, 155.00 feet, to the West line of said Section 21 and the centerline of Beck Road; thence North 02 degrees 26 minutes 38 seconds West, 808.45 feet along the West line of said Section 21 and the centerline of Beck Road, to the point of beginning.

22-21 - 300 - 016 - SW $\frac{1}{4}$
Pt of 22-21 - 300 - 017 Repeat ~~#~~ SW $\frac{1}{4}$