

MEMORANDUM



TO: PLANNING COMMISSION

THROUGH: BARBARA MCBETH, *AICP*, DEPUTY DIRECTOR
COMMUNITY DEVELOPMENT

FROM: MARK SPENCER, *AICP*, PLANNER *Mark Spencer*

SUBJECT: SP 04-42 EVERGREEN ESTATES 2nd EXTENSION OF
FINAL SITE PLAN APPROVAL

DATE: AUGUST 19, 2008

The proposed project is a 13.2 acre 7-unit single-family site condominium located on the north side of Nine Mile Road between Garfield and Napier Roads. Approvals for the project proceeded as follows:

- The Planning Commission granted Preliminary Site Plan approval, subject to conditions on July 13, 2005.
- The Zoning Board of Appeals approved a variance for the shared access to lots 6 and 7 on September 13, 2005. The applicant received Design and Construction Standards (DCS) variances for a sidewalk on only one side of the internal road and the width of the proposed shared access driveway from the City Council on October 10, 2005.
- The applicant submitted plans addressing the comments in the review letters and the Planning Commission conditions and the Final Site Plan was stamped approved by the Plan Review Center on September 18, 2006.
- On September 5, 2007, the Planning Commission granted a one year extension to the Final Site Plan approval.

The applicant has now requested a second extension of the Final Site Plan approval. The Zoning ordinance allows for three one-year extensions of Preliminary and Final Site Plan approval.

The Planning Department is not aware of any changes to the ordinances, or surrounding land uses, which would affect the approval of the requested extension for one year. Approval of the extension of Final Site Plan approval is recommended.

Please refer to the attached letter dated July 18, 2008, which requests the extension of the Final Site Plan approval. Also attached are minutes from the Planning Commission meetings where the Preliminary Site Plan was approved, and a reduced copy of the approved Final Site Plan.

LETTER FROM APPLICANT REQUESTING EXTENSION

Eden Garden LLC.

July 18, 2008

Ms. Angela Pawlowski
Planning
City of Novi
45175 W Ten Mile Rd.
Novi, Michigan 48375-3024

Re: Request for Extension of Site plan (SP 04-42)
Evergreen Estates Site Condominiums

Dear Ms. Pawlowski

As advised by you, we request extension of this plan for another year. As per the progress on the construction, I express a high degree of confidence that all major construction and development will be completed by September 2008 and we may not need to use this extension. On the other hand, there could be unforeseen events and unavoidable circumstances, which may delay the progress. So we want to apply for this extension to be on the safe side. Thank you in advance for understanding and approval.

In case of any questions or clarifications regarding the request as stated above, please feel free to call me at (248) 388 2517 or email to pchakrav@yahoo.com.

I sincerely appreciate the help and cooperation we receive from you and your office.

Sincerely,

Partha Chakravartti
Eden Garden LLC
24777 Naples Drive
Novi, MI 48374

PLANNING COMMISSION MINUTES EXCERPTS

July 13, 2005

PLANNING COMMISSION
REGULAR MEETING
EXCERPTS
WEDNESDAY, JULY 13, 2005 7:30 P.M.
COUNCIL CHAMBERS - NOVI CIVIC CENTER
45175 W. TEN MILE, NOVI, MI 48375

ROLL CALL

Present: Members John Avdoulos, Victor Cassis, Andrew Gutman, David Lipski (7:43 p.m.), Lynn Kocan, Lowell Sprague, Wayne Wrobel

Absent: Members Andrew Gutman, Mark Pehrson

Also Present: Barbara McBeth, Director of Planning; Tim Schmitt, Planner; Lance Shipman, Landscape Architect; Ben Croy, Civil Engineer; David Gillam, City Attorney; Kelly Karll, Wetland Consultant

1. EVERGREEN ESTATES, SITE PLAN NUMBER 04-42A

The Public Hearing was opened on the request of Partha Chakravarti of Eden Garden, LLC for Preliminary Site Plan, Site Condominium, Wetland Permit, Woodland Permit and Storm Water Management Plan approval. The subject property is located in Section 30, north of Nine Mile, east of Napier Road in the R-A, Residential Acreage District. The subject property is 13.2 acres and the Applicant is proposing a 7-unit single-family site condominium.

Planner Tim Schmitt located the property on a map. It is located in the bend of the road. It is south of Legacy Parc and the Singh Trail. It is east of Provincial Glades. The ITC corridor is also to the east. The properties are all zoned R-A, and master planned for residential, and public park in the Singh Trail area.

There are substantial wetlands on the property. There are regulated woodlands; this property is very near to the core habitat area.

The Applicant is proposing seven single family homes. The design is a cul-de-sac, and the first home will front Nine Mile. The next four lots will access through the road, and the remaining two lots are proposed with a shared driveway through the wetlands.

The Planning Review indicated that two items will have to go before City Council. A sidewalk is proposed for only one side of the street; the Planning Department approves of this request. This would reduce the disturbance of the natural features. The second request is for a gated access, though historically the City has frowned upon these entries.

A ZBA Variance will be required for lots 6 and 7 due to the fact that they don't have frontage onto a public road (Subdivision Ordinance Section 4.02.a.6). The Applicant is proposing a shared driveway, which is not considered a road.

The Wetland Review recommended approval of the plan. The road crossing the wetland is considered minor. The MDEQ Permit has been issued.

The Woodland Review did not recommend approval. The Applicant is proposing an 81% woodland mortality rate. Woodland Consultant Doris Hill thought the number was substantially lower.

The Landscape Review indicated that a waiver is necessary for the Nine Mile ROW berm, near lots 1 and 2.

The Traffic Reviews noted only minor comments.

The Engineering Review indicated that the road width for lots 7 and 8 will require a variance from City Council. The Applicant is proposing twelve feet and the standard is 28 feet. The gated access will require a City Council variance.

Mr. Partha Chakkarvarti was the Applicant. He explained that this project is the result of four friends looking to build near one another. They hope to preserve the natural features. He thanked the City Staff for all of their help.

Chair Kocan opened the floor for comment:

- ◆ Joe Lund: Lives directly east of the seven lots. He expressed concern for the wetlands and the drainage, and questioned how high the buildings would be.
- ◆ Liz Coleman: Lives across the street. She expressed concern for the traffic, especially because of the property's location on the bend. She did not think the area could accommodate the density. The traffic is very dangerous.
- ◆ Tim Mitz, Garfield Road: Concerned about the traffic and wondered what the City was doing for the infrastructure in the area. There is dewatering in the area. He was concerned about the construction traffic. He asked the City to consider all of these little projects.

Chair Kocan asked Mr. Chakkarvarti the square footage of the homes. He responded that they would be 3,500 to 4,000 square feet minimum. Chair Kocan asked him if he was going to clear the building footprint. He responded that only the roadway will be cleared, and each individual will be responsible for their own lot. He felt that only one or two trees would be removed per footprint.

Member Wrobel thought this project was an interesting concept. He asked if any other options for the shared parking were explored. He did not have a problem with a gated community. He asked what the time frame was for this project. Mr. Chakkarvarti said that he was hoping for a two year period for this project. Options were explored for the driveway, and the City suggested that the Applicant apply for the MDEQ permit. The width is only twelve feet. Lot 1 is facing Nine Mile so as to preserve more natural features.

Member Sprague did not think that gated communities should be promoted. The City does not want to become a bunch of isolated subdivisions. He did not think that it was beneficial to stray from the Ordinance. He did not see a hardship in the request. The Fire Marshal has commented on the safety issues. Member Sprague approved of the sidewalk waiver because it was a smart decision.

Member Sprague asked if all of the lots were spoken for. Mr. Chakkarvarti responded that four lots were specifically selected, and the other three would be sold to their three friends. Member Sprague said that it made it easier for him to consider.

Member Sprague was concerned about the safety issues associated with the narrow shared driveway. Mr. Schmitt said that it would be widened to 18 feet. This is a typical width for an emergency lane. It is still not a road. He was actually surprised that the MDEQ issued the permit so quickly. The roads have not been determined to be public or private yet, although the plan ~~does~~ allude to their being private. The stretch of drive across the wetland would have to be maintained by the homeowner's association.

Member Sprague asked what the quality of the land was for lots 6 and 7. What are the impacts to the wetland? Would a full drive exacerbate the situation? Mr. Schmitt said the greater the width, the greater the impact. The quality of the site is similar to the entire area. It is densely wooded.

Wetland Consultant Kelly Karll said that there is a forested wetland in the north end. In terms of the crossing, a wider road will yield greater impacts. From twelve to 18 feet, the impact is not that much greater. They have already been permitted ninety yards of cubic fill, and that would probably increase to 120-150 cubic yards. The Applicant is crossing the wetland at the narrow point to minimize the impact. The impacts should be minimal. The culverts will maintain the hydrological connection.

Member Sprague asked about the entirety of the parcel. Mr. Schmitt responded that the lots do cover all of the land. The parcel used to have a westerly swinging leg along Nine Mile. The land owner split off a total of three parcels.

Member Sprague confirmed that the Singh Trail was just north of this property. Mr. Schmitt said it was in the near vicinity.

Member Sprague asked about the Nine Mile vegetation. Landscape Architect Lance Shipman said that the City would support the waiver for the Nine Mile berm, since it is a natural beauty road. Mr. Shipman was concerned that the Landscape Plan indicated a lot of new plantings along Nine Mile, and he wanted to ensure that the natural setting was not overly disturbed. The Applicant has discussed this with the City, though he has not seen this change on the Plan. Mr. Chakkarvarti said that he would add the berm or address the existing vegetation – it was not a problem. Mr. Sprague supported the waiver and thought the natural landscaping was a better alternative.

Member Sprague asked about the woodland count. Mr. Schmitt said that the City disagrees with the count of dead and dying trees indicated by the Applicant's Landscape Architect. In this case, small trees should be expected in a forested area; not all trees are large. The next submittal should indicate the appropriate mortality rate and show the location of the replacement trees. Member Sprague confirmed that this could be resolved at the time of Final Site Plan submittal.

Member Sprague agreed with the comment from the resident. The density cannot dip below R-A standards. The City must continue to preserve and protect the natural features. He thought that the City should not chip away at the density.

Member Avdoulos agreed. He lived in the area and he got involved with the Planning Commission in an effort to keep his eye on the southwest quadrant of the City. He noted that lots 6 and 7 are each just shy of an acre and a half, less dense than the zoned one acre requirement. He did not support the gated community concept. He noted five small subdivisions in the immediate area and said that if each requested a gated community the area would transform into something the City did not want. He noted that Lot 1 would still have a driveway on Nine Mile. Mr. Schmitt said that Lot 1 will show the location of their drive on its own plot plan. There are requirements for spacing from the property line.

Member Avdoulos approved of the shared driveway being widened. He cautioned the Applicant about building basements. He said that they should check their water tables when it is at its peak. Several homes in the area have had water problems.

Member Avdoulos approved of the sidewalk waiver. Mr. Schmitt said that it was probably a condition of the MDEQ Permit that there would have to be a Conservation Easement.

Member Avdoulos said he would leave it to the City and the Woodland Consultant to sort out the mortality rate. Mr. Schmitt said that this will be resolved at Final Site Plan. Member Avdoulos would prefer the natural vegetation to the berm. He noted that a sign has been erected stating that Nine Mile is a natural beauty road.

Member Avdoulos asked about the detention basin. Civil Engineer Ben Croy said that as long as the wetlands are deemed acceptable for use, the detention basin is not necessary.

Member Avdoulos asked about the curve and the entryway. Mr. Schmitt said that the taper is in the ROW in that area, and it encroaches on the neighbor's property. They will need permission or they will have to modify the taper. Mr. Croy said that the Traffic Consultant may make a recommendation on the final design of this issue. Mr. Croy said that the maximum water service length is being exceeded, and the City will look at this design at Final Site Plan to determine if it's allowable. Mr. Croy said that the Nine Mile water main was scheduled for 2005.

Member Avdoulos agreed that there is reason to be cautious about the traffic. He said that the City must look at this area's infrastructure. Last winter the roads were terrible. If more development comes along, the roads must accommodate the traffic and the water must drain. He wanted to ensure that the Applicant was cautious with overgrowth near the roads. He did not want construction vehicles lining up Nine Mile.

Overall, Member Avdoulos wanted to keep the density at .8 units per acre. He appreciated the residents coming forward on this project.

Member Cassis asked how the tree problem would be resolved. Mr. Schmitt responded that the Applicant is only proposing to remove the trees for the roads and utilities. This design must meet Ordinance requirements. The final outcome will be based on the City Forester's determination. The Planning Commission should include language in an approving motion that addresses the tree count and the mortality rate. There will be additional review on each of the seven lots. Mr. Chakkarvarti said he would abide by the decision of the Woodland Consultant.

Member Cassis said that the homes must remain marketable to others. He did not support the gated community. He was concerned about the shared driveway. Mr. Schmitt said that the Fire Department did not have a problem with an 18-foot width.

Member Cassis said that the project looked good.

Mr. Chakkarvarti said he did not understand the woodland issue. Were they supposed to leave dead and dying trees untouched if they aren't in the footprint? Mr. Schmitt said that the City will review the trees proposed for removal. The City will look at the lots individually, so they might as well address this issue now. For immediate purposes, the permit will be for the trees affected by the roads and utilities. The Applicant said their intent is to design around the trees. Mr. Schmitt said that is what the City expects.

Landscape Architect Lance Shipman said that the immediate concern is what is developed now – the road. The tree survey covers the whole site. Within that chart, there is a rating on the trees, and that is what is under contention. There is a numbering system in the industry, and Mr. Shipman was not sure that their landscape architect used that system. Some trees just don't grow big, but that doesn't *mean* ~~mean~~ that they should rate "poor." The Applicant said that his landscape architect would work this out with the City.

Member Avdoulos recapitulated the timing of the process of this subdivision. Mr. Avdoulos wanted to ensure that the Applicant understood that once the survey was reviewed, it would give him a better understanding of the quality of the trees so that maximum placements of the building footprints could be made.

Chair Kocan said that some of these lots do not look like they are in the regulated woodlands. Mr. Shipman said that the Woodland map is general, and the Woodland Consultant makes the final determination. Chair Kocan wanted the Applicant to understand that each homeowner would be responsible for tree replacements.

Chair Kocan said that she understood that the final design along the road would be determined by the consultant. This decision would be based on maintaining vegetation and the noise attenuation.

Chair Kocan asked whether it would behoove the area if the transformers were not placed in the rear of the lots, if it meant disturbing more of the regulated woodlands. Mr. Shipman said that there is some latitude, and DTE would be a part of these discussions. They are preferred to be placed in the back, but there are situations where they are moved if this would mean more regulated woodland or wetland disturbance. Sometimes DTE comes forward and makes the recommendation on its own. Ultimately, it is DTE's decision, and Mr. Shipman agreed with Chair Kocan that the Planning Commission did not have to weigh in on this.

Chair Kocan asked if the water main was installed by the end of the year, what would be the responsibility for these individual homeowners. Civil Engineer Ben Croy responded that he did not know how this particular subdivision would be handled. The Applicant said it was his intention to have the water main service all of the lots.

Chair Kocan said that she did not know the full extent of the dewatering in the area. She asked if dewatering would occur in this area. Mr. Croy said that there is a possibility of it, though it would be minor. The problem that Chair Kocan alluded to was the large subdivision that was dewatering in order to install sewer lines at thirty feet deep. That dewatering has caused a problem, and now that developer is seeking an alternative plan.

Chair Kocan said that she was not aware of any other subdivision where each individual homeowner was responsible for his or her own tree removal program. This is a difficult problem. Mr. Shipman said it was more common than what Chair Kocan might think. This practice is also common where the developer builds the roads and sells off the lots to builders. By doing it in this manner, more trees may be saved. This allows for the building footprint, not the building envelope, to be the area that is cleared. From a residential standpoint, this is the new way, because the lots left in the City to build are the lots covered in trees, wetlands, slopes, etc. The homeowner will submit a plot plan, and if the area is protected, they will have to account for the removed trees. Those trees within the building footprint can be approved for removal by the Woodland Consultant. If there are removals that are outside of the footprint or within an area already deemed protected, then the request would go before the Woodland Review Board.

Chair Kocan said this property is zoned R-A. This property is 13.2 acres, and therefore could essentially have as many as thirteen homes. This plan has been scaled down to seven homes. It may affect traffic, but it is not something not anticipated by the City. She hoped that the Traffic Consultant has approved the entrance as safe. She would not support the gate request, both in light of the Fire Department and the exclusionary feel.

Chair Kocan wondered if the motion should state that the Planning Commission does not support this request. City Attorney David Gillam told her that the motion could grant approval with the removal of the gate. However, it is worded, the Applicant can still go to City Council, but at least it makes the Planning Commission's position clear.

Chair Kocan said that the Woodland motion must state that the Applicant must abide by the City Forester's and/or the Woodland Consultant's acceptance of the tree survey. She wondered if it was appropriate to state that within the deeds and restrictions, it must state that each individual homeowner must adhere to the City's Ordinance.

Chair Kocan said that the shared driveway was creative. It may not be the best application, but it is unique and she did not see that it would present a problem. She did approve of the expansion of the width to eighteen feet. She confirmed that the MDEQ would have to re-approve that design, and she said that the motion should also reflect this information.

Member Avdoulos confirmed with Mr. Croy that all of the stormwater ran away from Nine Mile into the wetlands. He approved of this, because water onto Nine Mile creates more problems, like ice slicks in the winter. He complimented the Applicant on his work on this plan. He said this area is very sensitive, and this is only seven homes spread over thirteen acres. He hoped the quality of the homes were appropriate for the area.

The Applicant stated for the record that he did not have an issue with the transformer situation.

Member Sprague asked if the drive created a legal exposure for the City. Mr. Gillam said that there would be no exposure. The Applicant is the one seeking the waiver, and there would be no liability issue.

Moved by Member Sprague, seconded by Member Avdoulos:

In the matter of Eden Garden, LLC for Evergreen Estates, SP04-42A, motion to approve the Preliminary Site Plan, subject to: 1) A City Council variance for the sidewalk to be placed only on the west side of the internal road; 2) A City Council variance for the deficient width of the shared access drive for lots 6 and 7 (28 feet required vs. 18 feet proposed); 3) A revision of the plan to remove the gated access; 4) A ZBA variance for the lack of frontage for lots 6 and 7; 5)

A Planning Commission Waiver for the ROW berm along Nine Mile, provided sufficient landscaping and buffer area is provided; and 6) The comments in the Staff and Consultant reviews being addressed at the time of Final Site Plan submittal; for the reason that the plan is otherwise in compliance with the Ordinance.

DISCUSSION

Mr. Shipman said that it might be appropriate to mention that Nine Mile is designated as a natural beauty road and that the Applicant continues to work with City Staff, which is the guiding factor for that waiver. This better guides the Applicant into understanding what the intent of the waiver is. Member Sprague and Avdoulos agreed with the language.

ROLL CALL VOTE ON EVERGREEN ESTATES, SP04-42A, PRELIMINARY SITE PLAN MOTION MADE BY MEMBER SPRAGUE AND SECONDED BY MEMBER AVDOULOS:

In the matter of Eden Garden, LLC for Evergreen Estates, SP04-42A, motion to approve the Preliminary Site Plan, subject to: 1) A City Council variance for the sidewalk to be placed only on the west side of the internal road; 2) A City Council variance for the deficient width of the shared access drive for lots 6 and 7 (28 feet required vs. 18 feet proposed); 3) A revision of the plan to remove the gated access; 4) A ZBA variance for the lack of frontage for lots 6 and 7; 5) A Planning Commission Waiver for the ROW berm along Nine Mile, provided sufficient landscaping and buffer area is provided, due to Nine Mile's designation as a natural beauty road and the Applicant will continue to work with City Staff; and 6) The comments in the Staff and Consultant reviews being addressed at the time of Final Site Plan submittal; for the reason that the plan is otherwise in compliance with the Ordinance.

Motion carried 6-0.

Moved by Member Sprague, seconded by Member Avdoulos:

ROLL CALL VOTE ON EVERGREEN ESTATES, SP04-42A, STORMWATER MANAGEMENT PLAN MOTION MADE BY MEMBER SPRAGUE AND SECONDED BY MEMBER AVDOULOS:

In the matter of Eden Garden, LLC for Evergreen Estates, SP04-42A, motion to approve the Stormwater Management Plan, subject to the comments in the Staff and Consultant reviews being addressed at the time of Final Site Plan submittal; for the reason that the plan is otherwise in compliance with the Ordinance.

Motion carried 6-0.

Moved by Member Sprague, seconded by Member Avdoulos:

ROLL CALL VOTE ON EVERGREEN ESTATES, SP04-42A, WOODLAND PERMIT MOTION MADE BY MEMBER SPRAGUE AND SECONDED BY MEMBER AVDOULOS:

In the matter of Eden Garden, LLC for Evergreen Estates, SP04-42A, motion to approve the Woodland Permit, subject to: 1) The comments in the Staff and Consultant reviews being addressed at the time of Final Site Plan submittal; 2) Resolution of the tree survey issue to satisfy the City Staff requirements; and 3) Acknowledgement that the individual homeowners will be required to comply with the Woodland Ordinance regarding home placement and tree replacement; for the reason that the plan is otherwise in compliance with the Ordinance.

Motion carried 6-0.

Moved by Member Sprague, seconded by Member Avdoulos:

ROLL CALL VOTE ON EVERGREEN ESTATES, SP04-42A, WETLAND PERMIT MOTION MADE BY

MEMBER SPRAGUE AND SECONDED BY MEMBER AVDOULOS:

In the matter of Eden Garden, LLC for Evergreen Estates, SP04-42A, motion to approve the Wetland Permit, subject to: 1) The comments in the Staff and Consultant reviews being addressed at the time of Final Site Plan submittal; and 2) A revision to the MDEQ permit for the expanded width of the shared drive between lots six and seven; for the reason that the plan is otherwise in compliance with the Ordinance.

Motion carried 6-0.

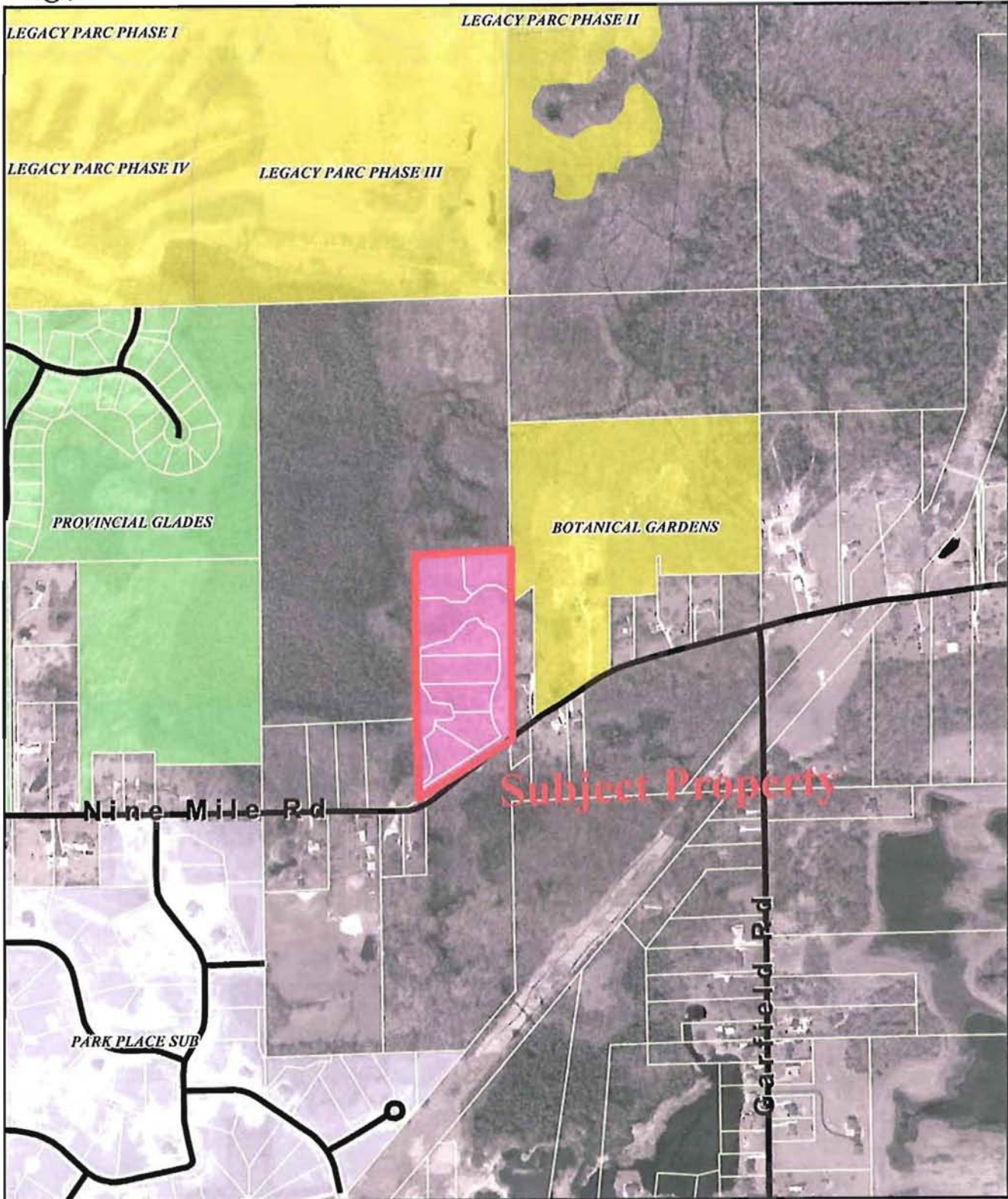
REDUCED COPY OF APPROVED FINAL SITE PLAN

LOCATION MAP



SP 04-42 Evergreen (Eden) Estates Location Map

City of Novi, Michigan



Created using the (GIS) Geographic Information Systems of
 The City of Novi
 45715 West Ten Mile Road
 Novi, Michigan 48375
 (248) 347-0454

Coordinate System Description -
 Projection Michigan State Plane
 Zone South Zone (6401)
 Horizontal Datum NAD 1983
 Map Units International Feet

Date Created:
 June 2, 2005



0 100 200 400 600 800 Feet

Created by:
 Mark Spencer, AICP
 Planner, Plan Review Center

