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CITY of NOVI CITY COUNCIL

Agenda Item 5
July 8, 2013

SUBJECT: Approval of the request of Ten & Beck LLC for Valencia Estates for approval of the revised Planned Rezoning Overlay Agreement associated with Rezoning 18.701, a request to rezone from R-1, One Family Residential to R-3, One Family Residential with a Planned Rezoning Overlay (PRO). The subject property is 24.24 acres and is located at the northwest corner of Beck Road and Ten Mile Road. The project consists of the development of 38 single-family homes. The applicant seeks to revise the PRO Agreement to include a deviation from the Design and Construction Standards related to the minimum depth of cover for the storm sewers.

SUBMITTING DEPARTMENT: Community Development Department - Planning

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION: The petitioner is requesting consideration of a revised Planned Rezoning Overlay (PRO) Agreement, in conjunction with rezoning request 18.701 for property located at the northwest corner of Beck Road and Ten Mile Road. The applicant previously received approval for the proposed rezoning, associated concept plan and PRO Agreement showing a 38 unit single-family development. The approved PRO Agreement has been recorded and the Final Site Plan has been approved administratively by the Planning Division, but Stamping Sets have not been completed.

During the detailed design phase of the project, the unique topography of the site made it difficult to design the storm sewer. The applicant has worked diligently with the Engineering Division to come up with a solution. However, the proposed design will require a variance from the Design and Construction Standards. Sec. 11-94(c) of the Design and Construction Standards includes the following:

Minimum depth of sewers. Unless specifically otherwise approved, no sewer shall have less than three (3) feet of cover.

The applicant has proposed a minimum cover of 9.4" from the finish grade to the top of the storm sewer on a portion of the drainage system that serves five residential parcels and discharges into the Beck Road ditch line. The Engineering Division is in support of adding the proposed variance (see attached memo) and the City Attorney's office sees no issue with this addition to the PRO Agreement (see attached letter). No changes to the building footprint or other exterior site work are proposed. The public benefits offered with this rezoning and PRO have remained the same.

The "First Amended and Restated Planned Rezoning Overlay (PRO) Agreement Beck Ten Land LLC" for Valencia Estates is included in the packet for consideration by the City Council.

The rezoning to R-3, One Family Residential with a Planned Rezoning Overlay (PRO) was approved by the City Council on August 13, 2012, along with approval of the PRO

Agreement. The Planning Commission approved the Preliminary Site Plan on November 14, 2012.

RECOMMENDED ACTION: Approval of the "First Amended and Restated Planned Rezoning Overlay (PRO) Agreement Beck Ten Land LLC" for Valencia Estates. The applicant seeks to revise the PRO Agreement to include a deviation from the Design and Construction Standards related to the minimum depth of cover for the storm sewers. This motion is made because the plan is otherwise in compliance with Article 4, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Zoning Ordinance and City Code.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

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

LOCATION MAP

Valencia Estates JSP12-49

Location



Map Author: Kristen Kapelanski
Date: 11/06/12
Project: JSP12-49
Version #: 1.0

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.

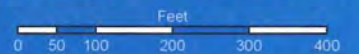
Map Legend

 Subject Property



City of Novi

Dept. of Community Development
City Hall / Civic Center
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org



1 inch = 246 feet

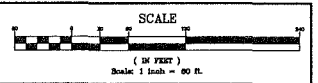
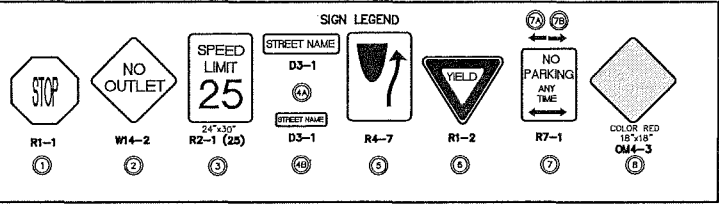
SITE PLAN

PROPOSED DESIGN CRITERIA

OVERALL PARCEL AREA: 24,242 ACRES (GROSS)
 PROPOSED NUMBER OF LOTS: 38 UNITS
 PROPOSED DENSITY: 1.77 UNITS / NET ACRE

PROPOSED LAYOUT CRITERIA (CONSISTENT WITH "R-3" ZONING):
 MINIMUM LOT WIDTH = 90 FEET
 ("90.00" = MEASURED ALONG TANGENT)
 ZONED R-3 WITH PRO
 TYPICAL LOT SIZE = 90.00 x 160.00
 TYPICAL LOT AREA = 14,400 SQ.FT. (R-3; MIN. = 12,000 SQ.FT.)

PROPOSED "R-3" SETBACK DATA:
 FRONT SETBACK = 30.00 FEET
 REAR SETBACK = 35.00 FEET
 SIDE YARD SETBACKS =
 MINIMUM = 10 FEET
 CORNERED TOTAL = 30 FEET



WATER MAIN NOTES:

- MECHANICAL JOINT RESTRAINT SHALL BE USED FOR ALL PUBLIC WATER MAIN AND SHALL BE AREA LUG, OR APPROVED EQUAL.
- RESTRAINT JOINT DESIGN SHALL BE PROVIDED TO THE RESPECTIVE DESIGNER PRIOR TO CONSTRUCTION AND SHALL BE PER. IN THE STANDARDS, CURRENT EDITION.
- CONTRACTOR SHALL FIELD VERIFY LOCATION, SIZE & DEPTH OF EXISTING WATER MAIN AT POINT OF CONNECTION PRIOR TO START OF WATER MAIN INSTALLATION.
- COMPACTED SAND PADDELL IS REQUIRED WITHIN A 1' ON 1' INFLUENCE ZONE UNDER AND WITHIN 3 FEET OF PAVED AREAS.
- FIRE HYDRANTS SHALL BE PLACED NO LESS THAN 7 FEET FROM BACK OF CURB.

SIGNING QUANTITIES TABLE

DESCRIPTION	QUANTITY
R1-1 30" "STOP" SIGN	1
W14-2 "NO OUTLET" SIGN	1
R2-1(25) "25 MPH SPEED LIMIT" SIGN	1
D3-1 STREET NAME-12" HIGH	2
R4-7 "KEEP RIGHT" SIGN	2
R1-2 30" "YIELD" SIGN	1
R7-1 "NO PARKING ANY TIME" SIGN	3
R7-1 "NO PARKING ANY TIME" SIGN	6
R7-1 "NO PARKING ANY TIME" SIGN	6
OM4-3 END OF ROAD MARKER	1

SIGNAGE NOTES

- ALL SIGNAGE SHALL COMPLY WITH THE CITY OF NOVI TRAFFIC CONTROL SIGN STANDARDS.
- THE "STREET NAME" SIGNS SHALL BE PROVIDED ON EACH POST.
- ALL SIGNAGE SHALL COMPLY WITH THE CITY OF NOVI TRAFFIC CONTROL SIGN STANDARDS.

SYMBOL LEGEND

- SANITARY SEWER
- STORM SEWER
- △ HYDRANT
- △ GATE VALVE & WELL ON U.S. & W.

UNIT DATA

UNIT #	AREA (SQ FT)	TWOFT (FT)
1	14,400	90.00
2	14,400	90.00
3	14,400	90.00
4	14,400	90.00
5	14,400	90.00
6	14,400	90.00
7	14,400	90.00
8	14,400	90.00
9	14,400	90.00
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34	14,400	90.00
35	14,400	90.00
36	14,400	90.00
37	14,400	90.00
38	14,400	90.00

ESTIMATED QUANTITIES

WATER MAIN

ITEM	QUANTITY
1. 8" WATER MAIN 8' L. 0.54	8,328 L.F.
2. 16" WATER MAIN 8' L. 0.54	1,210 L.F.
3. HYDRANT VALVE & BOX	4 EA.
4. 6" HYDRANT LEAD 10' MIN. 1.00	13 EA.
5. 16" X 16" TAPPING SLEEVE, VALVE & WELL, 1 EA.	1 EA.
6. WIRE AND ACCESS DRILL CASING	106 L.F.

SANITARY SEWER

ITEM	QUANTITY
1. 8" PVC TRUSS BAR SANITARY SEWER	8,330 L.F.
2. 6" HDPE LEAD 10' MIN. 1.00	13 EA.

STORM SEWER

ITEM	QUANTITY
1. 8" PVC TRUSS BAR STORM SEWER	839 L.F.
2. 12" 7.5' O.D. SUMP-TYPE PIPE	89 L.F.
3. 18" C-7.5' STORM SEWER	5,400 L.F.
4. 18" C-7.5' STORM SEWER	89 L.F.
5. 18" C-7.5' STORM SEWER	1,091 L.F.
6. 18" C-7.5' STORM SEWER	8 EA.
7. 24" DIA. MANHOLE	7 EA.
8. 24" DIA. MANHOLE	7 EA.
9. 24" DIA. MANHOLE	7 EA.
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100. 24" DIA. MANHOLE	7 EA.

BENCHMARKS

- ARROW ON HYDRANT, LOCATED ON LOT #6, "GREENWOOD OAKS NO. 2" ELEVATION 970.00 (U.S.G.S. DATUM)
- ARROW ON HYDRANT, LOCATED ON THE EAST SIDE OF BECK RD. 8307.4' NORTH OF TEN MILE ROAD. ELEVATION 964.88 (U.S.G.S. DATUM)
- ARROW ON HYDRANT, LOCATED ON THE EAST SIDE OF BECK ROAD, 8307.4' NORTH OF TEN MILE ROAD. ELEVATION 968.50 (U.S.G.S. DATUM)
- TOP OF CONC. MONUMENT, LOCATED AT THE SOUTHEAST CORNER OF LOT 7, "WARRINGTON MANOR SUBDIVISION". ELEVATION 965.44 (U.S.G.S. DATUM)

REVISIONS

NO.	DATE	DESCRIPTION
1	09-10-13	UNDERGROUND UTILITY LOCATIONS AS SHOWN ON THE PLAN WERE OBTAINED FROM UTILITY OWNER AND NOT FIELD LOCATED
2	09-11-13	FOR CITY OF NOVI REVIEW
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VALENCIA ESTATES
 SECTION 80, TOWN 1 NORTH, RANGE 8 EAST
 CITY OF NOVI, OAKLAND COUNTY, MICHIGAN

REVISIONS

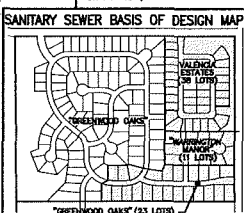
UTILITY WARNING

UNDERGROUND UTILITY LOCATIONS AS SHOWN ON THE PLAN WERE OBTAINED FROM UTILITY OWNER AND NOT FIELD LOCATED

811 Know what's below. Call before you dig.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROVISION OF 480-500 NOTIFICATION OF ALL UTILITIES THAT MAY INTERFERE WITH CONSTRUCTION.

DATE: 09-09-13 | PREPARED BY: A.A. | JOB NUMBER: 18-01 | CHECKED BY: C.A. | DRAWING FILE:



SANITARY SEWER BASIS OF DESIGN CONNECTION TO EX. MANHOLE AT BECK ROAD

23 UNITS FROM EXISTING GREENWOOD OAKS #1 & #2
 11 UNITS FROM EXISTING WARRINGTON MANOR
 38 UNITS FROM PROPOSED VALENCIA ESTATES

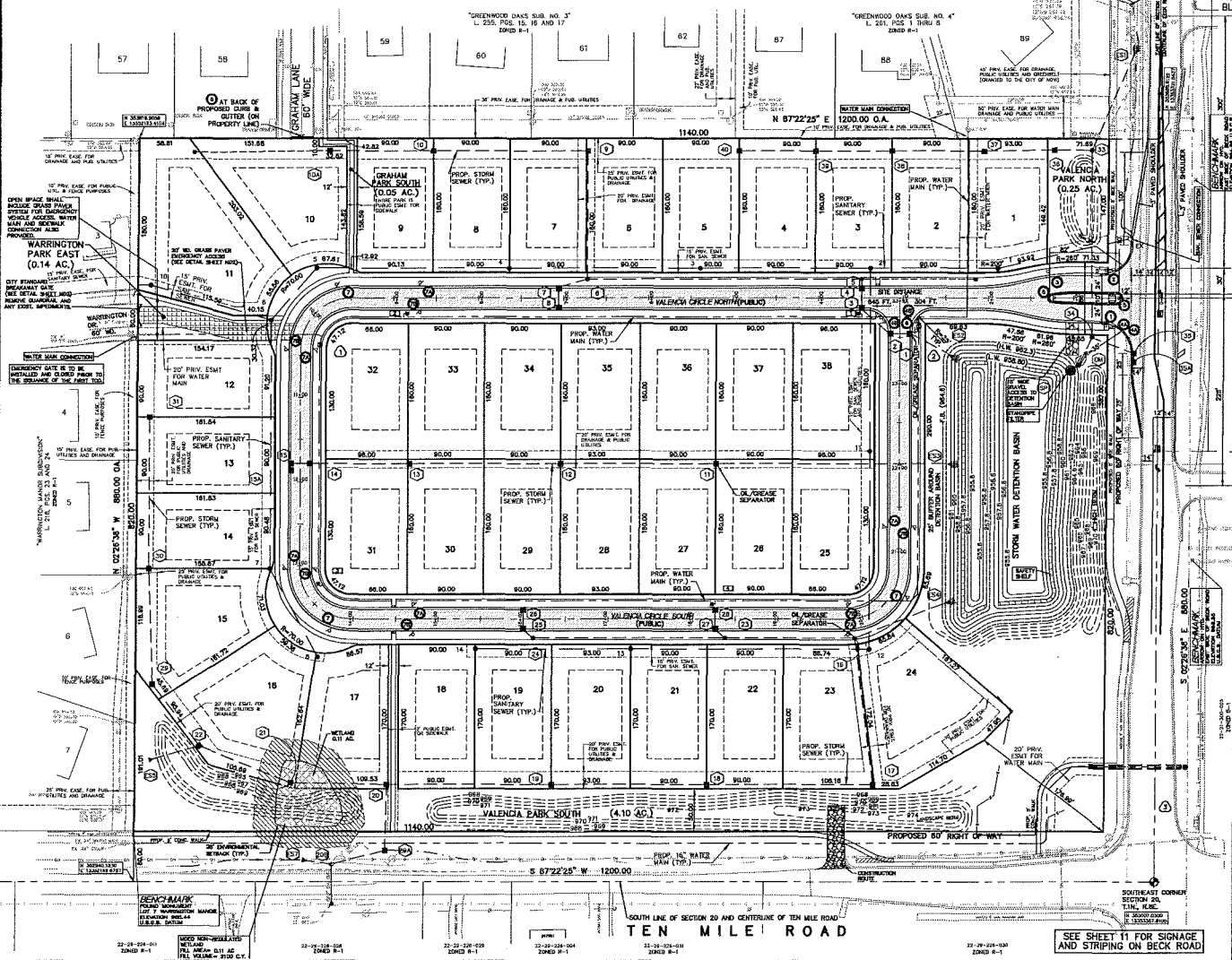
TOTAL NO. OF UNITS = 72
 POPULATION = 72 UNITS x 3.2 PEOPLE/UNIT = 230 PEOPLE

AVERAGE FLOW = 230 PEOPLE x 100 GAL/CAP/DAY = 0.0355cfs

PEAK FACTOR = 1.5
 PEAK FLOW = 0.05325cfs

PEAK FLOW FOR POPULATION LESS THAN 500; USE PEAK FACTOR = 4.0
 PEAK FLOW = 0.0355 x 4.0 = 0.1422cfs

(CAPACITY OF AN 8" PIPE @ 0.40% SLOPE IS 0.175cfs)
 THEREFORE PIPE CAPACITY IS SUFFICIENT.



SEE SHEET T1 FOR SIGNAGE AND STRIPING ON BECK ROAD

OVERALL COMPOSITE UTILITY, SIGNAGE AND FINAL PLAN

SEIBER, KEAST ENGINEERING, L.L.C.
 CONSULTING ENGINEERS
 7123 ORCHARD LAKE ROAD • SUITE 200 • WEST BLOOMFIELD, MI • 48322
 PHONE: 248.542.7337

SHEET 2

DRAFT FIRST AMENDMENT TO PLANNED REZONING
OVERLAY AGREEMENT



JOHNSON ROSATI SCHULTZ JOPPICH PC

34405 W. Twelve Mile Road, Suite 200 ~ Farmington Hills, Michigan 48331-5627
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.johnsonrosati.com

June 12, 2013

Barb McBeth
Deputy Community Development Director
City of Novi
45175 Ten Mile Road
Novi, MI 48375-3024

**RE: Beck Ten Land – First Amended and Restated Planned Rezoning
Overlay Agreement**

Dear Ms. McBeth:

We have received and reviewed the proposed Beck Ten Land First Amended and Restated Planned Rezoning Overlay Agreement ("PRO Agreement"). The Agreement has been prepared for the purpose of memorializing the Design and Construction Standard variance recently requested by the Developer. Paragraph 2 of the PRO Agreement has been amended to include subparagraph c., to allow the installation of storm sewer with less than three feet of cover to allow for proper drainage through Valencia Estates from the Greenwood Oaks Subdivision No. 4 to the drainage outlet on Beck Road. The remainder of the PRO Agreement is unchanged. Subject to approval of the Design and Construction Standard variance by City Council, the proposed amendment to Paragraph 2 of the PRO Agreement is acceptable.

The First Amended and Restated Planned Rezoning Overlay Agreement should be recorded by the Oakland County Register of Deeds upon approval and execution by the City.

Please feel free to contact me with any questions or concerns in regard to this matter.

Very truly yours,



ELIZABETH K. SAARELA

Barb McBeth, Deputy Community
City of Novi
June 12, 2013
Page 2

EMK

Enclosures

cc: Maryanne Cornelius, Clerk (w/ Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Kristen Kapelanski, Planner (w/Enclosures)
Adam Wayne, Engineer (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
Bradley Scobel, Esquire (w/Enclosures)
Thomas R. Schultz, Esq. (w/Enclosures)

FIRST AMENDED AND RESTATED
PLANNED REZONING OVERLAY (PRO) AGREEMENT
BECK TEN LAND

THIS FIRST AMENDED AND RESTATED PLANNED REZONING OVERLAY (PRO) AGREEMENT (“AGREEMENT”, is by and between Beck Ten Land LLC, a Michigan limited liability company whose address is 28800 Orchard Lake Rd, Ste 200, Farmington Hills, MI 48334 (referred to as “**Developer**”); and the City of Novi, 45175 West Ten Mile Road, Novi, MI 48375-3024 (“**City**”), and hereby replaces, in its entirety, the Planned Rezoning Overlay (PRO) Agreement previously executed by the City September 10th, 2012.

RECITATIONS:

- I. Developer is the developer of the vacant 24.24 gross acre property located on the northwest corner of Ten Mile Road and Beck Road, herein know as the “Land” described on **Exhibit A**, attached and incorporated herein.
- II. For purposes of improving and using the Land for a 38-lot residential site condominium at a maximum density of 1.77 dwelling units per acre, to allow for development with smaller and narrower lots, and a slightly higher density than is permitted in the R-1 Classification, Developer petitioned the City for an amendment of the Zoning Ordinance, as amended, so as to reclassify the Land from R-1, One-Family Residential, to R-3, One-Family Residential. The R-1 classification shall be referred to as the “**Existing Classification**” and R-3 shall be referred to as the “**Proposed Classification**.”
- III. The Proposed Classification would provide the Developer with certain material development options not available under the Existing Classification, and would be a distinct and material benefit and advantage to the Developer.
- IV. The City has reviewed and approved the Developer’s proposed petition to amend the zoning district classification of the Land from the Existing Classification to the Proposed Classification under the terms of the Planned Rezoning Overlay (PRO) provisions of the City’s Zoning Ordinance and has reviewed the Developer’s proposed PRO Plan (including proposed home elevations) attached hereto and incorporated herein as **Exhibit B** (the “PRO Plan”), which is a conceptual or illustrative plan for the potential development of the Land under the Proposed Classification, and not an approval to construct the proposed

improvements as shown; and has further reviewed the proposed PRO conditions offered or accepted by the Developer.

- V. In proposing the Proposed Classification to the City, Developer has expressed as a firm and unalterable intent that Developer will develop and use the Land in conformance with the following undertakings by Developer, as well as the following forbearances by the Developer (each and every one of such undertakings and forbearances shall together be referred to as the "Undertakings"):
- A. Developer shall develop and use the Land solely for a 38-lot residential site condominium at a maximum density of 1.77 dwelling units per acre, in accordance with the PRO Plan. Developer shall forbear from developing and/or using the Land in any manner other than as authorized and/or limited by this Agreement.
 - B. Developer shall develop the Land in accordance with all applicable laws and regulations, and with all applicable ordinances, including all applicable setback requirements of the Zoning Ordinance with respect to the Proposed Classification, except as expressly authorized herein or as shown on the PRO Plan. The PRO Plan is acknowledged by both the City and Developer to be a conceptual plan for the purpose of depicting the general area contemplated for development. Some deviations from the provisions of the City's ordinances, rules, or regulations that are depicted in the PRO Plan are approved by virtue of this Agreement; however, except as to such specific deviations enumerated herein, the Developer's right to develop the 38-lot residential site condominium under the requirements of the Proposed Classification shall be subject to and in accordance with all applications, reviews, approvals, permits, and authorizations required under applicable laws, ordinances, and regulations, including, but not limited to, site plan approval, storm water management plan approval, woodlands and wetlands permits, façade approval, landscape approval, and engineering plan approval, except as expressly provided in this Agreement. The home elevations shall be substantially similar (as determined by the City) to that submitted as part of the Developer's final approval request, as depicted in **Exhibit B**.
 - C. In addition to any other ordinance requirements, Developer shall comply with all applicable ordinances for storm water and soil erosion requirements and measures throughout the site during the design and construction phases, and subsequent use, of the development contemplated in the Proposed Classification.
 - D. Developer shall provide the following Public Benefits/Public Improvements in connection with the development of the Land:

1. Developer shall provide upgraded frontage landscaping, in accordance with the landscape plan that is attached as **Exhibit B**;
2. Developer shall provide a pocket park with a platform for City owned art at the location identified in the landscape plan attached as **Exhibit B**. The association of co-owners formed to administer the condominium project shall be responsible for maintaining the pocket park and the City shall be responsible for maintaining, safeguarding and insuring any artwork placed by the City within the pocket park;
3. Housing sizes shall be upgraded (minimum 2,400 square feet);
4. Developer shall provide funding toward completion of a future major non-motorized pathway connection along Ten Mile to connect to the ITC corridor (not to exceed \$9,000), which will be payable to the City before the City schedules the pre-construction meeting for the development;
5. Developer shall retain the landmark maple tree located near the northeast corner of the site;
6. Developer shall dedicate right-of-way along Beck and Ten Mile Roads, as shown in the PRO Plan;
7. Developer shall complete a water main loop connection as further approved by the City during the site plan approval process.
8. The Developer shall complete improvements in the Beck Road right of way required as a result of the proposed road connection, as shown in the PRO Plan.
9. Maximum density shall be 1.77 dwelling units per acre;
10. Developer shall provide pathway connections along perimeter roadways, as shown in the PRO Plan; and

E. The following PRO Conditions shall apply to the Land and/or be undertaken by Developer:

1. The homes constructed within the Land shall be substantially in accordance the elevations attached as **Exhibit B**, to confirm housing style and size, a noted public benefit; and

2. Developer shall comply with all conditions listed in the staff and consultant review letters which are identified on attached **Exhibit C**.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Upon the Proposed Classification becoming final following entry into this Agreement:
 - a. The Undertakings and PRO Conditions shall be binding on Developer and the Land;
 - b. Developer shall act in conformance with the Undertakings; and
 - c. The Developer shall forbear from acting in a manner inconsistent with the Undertakings;
2. The following deviations from the standards of the zoning ordinance are hereby authorized pursuant to §3402.D.1.c of the City's zoning ordinance.
 - a. Lack of paved eyebrows;
 - b. Location of proposed sidewalks in relation to the edge of the right-of-way; and,
 - c. Sewers shall be permitted to have less than three (3) feet of cover as is necessary to maintain current drainage pattern from the Greenwood Oaks No. 4 Subdivision.
3. In the event Developer attempts to or proceeds with actions to complete improvement of the Land in any manner other than as 38-lot residential site condominium, as shown on **Exhibit B**, the City shall be authorized to revoke all outstanding building permits and certificates of occupancy issued for such building and use.
4. Developer acknowledges and agrees that the City has not required the Undertakings. The Undertakings have been voluntarily offered by Developer in order to provide an enhanced use and value of the Land, to protect the public safety and welfare, and to induce the City to rezone the Land to the Proposed Classification so as to provide material advantages and development options for the Developer.
5. All of the Undertakings represent actions, improvements, and/or forbearances that are directly beneficial to the Land and/or to the development of and/or marketing of a 38-lot residential subdivision on the Land. The burden of the Undertakings on the Developer is roughly proportionate to the burdens being created by the development,

and to the benefit which will accrue to the Land as a result of the requirements represented in the Undertakings.

6. In addition to the provisions in Paragraph 2, above, in the event the Developer, or its respective successors, assigns, and/or transferees proceed with a proposal for, or other pursuit of, development of the Land in a manner which is in material violation of the Undertakings, the City shall, following notice and a reasonable opportunity to cure, have the right and option to take action using the procedure prescribed by law for the amendment of the Master Plan and Zoning Ordinance applicable to the Land to amend the Master Plan and zoning classifications of the Land to a reasonable classification determined appropriate by the City, and neither the Developer nor its respective successors, assigns, and/or transferees, shall have any vested rights in the Proposed Classification and/or use of the Land as permitted under the Proposed Classification, and Developer shall be estopped from objecting to the rezoning and reclassification to such reasonable classifications based upon the argument that such action represents a "downzoning" or based upon any other argument relating to the approval of the Proposed Classification and use of the Land; provided, this provision shall not preclude Developer from otherwise challenging the reasonableness of such rezoning as applied to the Land. In the event the City rezones the Land to a use classification other than the Proposed Classification, this Agreement shall terminate and be null and void.
7. By execution of this Agreement, Developer acknowledges that it has acted in consideration of the City approving the Proposed Classification on the Land, and Developer agrees to be bound by the provisions of this Agreement.
8. After consulting with an attorney, the Developer understands and agrees that this Agreement is authorized by and consistent with all applicable state and federal laws and Constitutions, that the terms of this Agreement are reasonable, that it shall be estopped from taking a contrary position in the future, and, that the City shall be entitled to injunctive relief to prohibit any actions by the Developer inconsistent with the terms of this Agreement.
9. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, successors, assigns and transferees, and an affidavit providing notice of this Agreement may be recorded by either party with the office of the Oakland County Register of Deeds.
10. The Zoning Board of Appeals (ZBA) shall have no jurisdiction over the Property or the application of this Agreement until after site plan approval and construction of the development as approved therein.
11. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided by law.

12. This Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. Any and all suits for any and every breach of this Agreement may be instituted and maintained in any court of competent jurisdiction in the County of Oakland, State of Michigan.

13. This Agreement may be signed in counterparts.

{Signatures begin on following page}

WITNESSES:

Print Name:

Print Name:

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

On this ____ day of _____, 2013, before me appeared Howard Fingeroot who states that he has signed this document of his own free will duly authorized on behalf of the Developer.

DEVELOPER

BECK TEN LAND LLC

By: _____
Howard Fingeroot
Its: Manager

), Notary Public
 County
Acting in County
My commission expires:

CITY OF NOVI

Print Name:

Print Name:

Print Name:

Print Name:

By: _____
Robert J. Gatt, Mayor

By: _____
Maryanne Cornelius, Clerk

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

On this ____ day of _____, 2013, before me appeared Robert J. Gatt and Maryanne Cornelius, who stated that they had signed this document of their own free will on behalf of the City of Novi in their respective official capacities, as stated above.

_____, Notary Public
County
Acting in County
My commission expires:

THE UNDERSIGNED OWNER ACKNOWLEDGES AND AGREES TO THE FOREGOING.

WITNESSES:

OWNER

Print Name:

TEN & BECK, L.L.C.

Print Name:

By: _____
Richard D. Rosin
Its: Manager

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

On this ____ day of _____, 2013, before me appeared Richard D. Rosin who states that he has signed this document of his own free will duly authorized on behalf of the Owner.

_____, Notary Public
County
Acting in County
My commission expires:

Drafted by:

Elizabeth Kudla Saarela
Johnson, Rosati, Schultz & Joppich
34405 W. Twelve Mile Road, Suite 200
Farmington Hills, MI 48331-5627

When recorded return to:
Maryanne Cornelius, Clerk
City of Novi
45175 West Ten Mile Road
Novi, MI 48375-3024

EXHIBIT A

Real property located in the City of Novi, Oakland County, Michigan, more particularly described as follows:

The South 880 feet of East 1580 feet of the Southeast $\frac{1}{4}$ of Section 20, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, Except the West 380 feet thereof.

(Tax ID Number 22-20-400-005)

EXHIBIT B

PRO PLAN

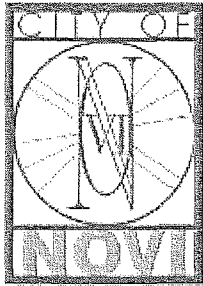
EXHIBIT C

STAFF AND CONSULTANT REPORTS

1. Planning Review Report dated June 4, 2012, from Kristen Kapelanski,
2. Engineering Revised Concept Review dated June 1, 2012, from Adam Wayne
3. Memorandum dated January 25, 2012, from Brian Coburn, Engineering Manager
4. Traffic Review Letter dated June 4, 2012, from Birchler Arroyo Associates, Inc
5. Memorandum dated June 4, 2012, from Birchler Arroyo Associates, Inc.
6. Revised Concept Landscaping Review dated January 6, 2012, from David R. Beschke
7. Wetland Review dated November 15, 2011, from Environmental Consulting & Technology, Inc.
8. Woodland Review dated November 15, 2011, from Environmental Consulting & Technology, Inc.
9. Façade Review dated March 19, 2012, from DRN & Associates, Architects, PC
10. Fire Safety Review dated June 6, 2012 from Andrew Copeland, Inspector

ENGINEERING MEMO

MEMORANDUM



cityofnovi.org

TO: BRIAN COBURN, ENGINEERING MANAGER
FROM: ADAM WAYNE, STAFF ENGINEER AW
SUBJECT: VALENCIA ESTATES
DATE: JUNE 28, 2013

Beck Ten Land, LLC submitted a site plan to construct a 38 lot single family subdivision on approximately 24 acres in the SE $\frac{1}{4}$ of Section 20 of the City of Novi. Because of the unique topography of this site the applicant has had some difficulty with the design of the storm sewer and has met with staff several times on this issue. The applicant originally proposed a number of variances from the Design and Construction Standards, but now only proposes one variance from Section 11-94(c) requiring that all storm sewer have a minimum cover of 3 feet. Beck Ten Land, LLC is requesting a variance to allow a minimum cover of 9.4 inches from finish grade to the top of the storm sewer on a portion of the drainage system that serves five residential parcels and discharges into the Beck Road ditch line. The plan proposes the use of a special reduced cover rear yard drainage structure to accept surface drainage.

The applicant has demonstrated on the proposed site plan that the existing rear yard elevations in Greenwood Oaks No. 3 and 4 to the north set the maximum rear yard elevations in Valencia Estates to the south. The applicant notes in their letter dated April 26, 2013 that "drainage flows into the property and doesn't currently have a positive drainage outlet." Without a positive drainage outlet, the options for onsite treatment are limited to various types of retention, which pose an increased flood risk because retention basins rely solely on infiltration to dewater the basin between storms rather than through an outlet. This letter additionally states that with the given elevation of the downstream drainage course, minimum cover over the storm sewer cannot be maintained while satisfying Novi City Code requirements for minimum pipe and surface slope. The proposed solution provides a minimum cover of 9.4 inches from finish grade to top of pipe (not meeting ordinance requirements) with the minimum swale slope of 2 percent and the minimum pipe slope of 0.32 percent (meeting ordinance requirements).

Based upon the proposed design and the content of the applicant's variance request, the applicant has demonstrated that in this specific case the specifications in the Design and Construction Standards would result in exceptional difficulty. The special rear yard drainage structure included in the variance request submittal does not substantially deviate from the performance that a drainage structure with the allotted minimum cover would provide. The proposed design focuses on maintaining positive drainage away from the adjacent structures and conveying storm water discharge to a designated drainage course. In the event that the proposed storm sewer was blocked, the overland flow from a 100-year storm event would be below the one foot of freeboard required to any building

structure finish grade. For these reasons, the Engineering Division recommends approval of the requested variance from Section 11-94(c) of the Design and Construction Standards. Community Development, Field Operations, the Fire Department, The City's Landscape Architect, and the City's Attorney have all responded with no exceptions taken in regards to the request for variance from Section 11-94(c) of the Design and Construction Standards.

CITY ATTORNEY MEMO



JOHNSON ROSATI SCHULTZ JOPPICH PC

34405 W. Twelve Mile Road, Suite 200 ~ Farmington Hills, Michigan 48331-5627

Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.johnsonrosati.com

May 14, 2013

Adam Wayne, Engineering
City of Novi
45175 Ten Mile Road
Novi, Michigan 48375

Re: **Valencia Estates – Storm Sewer Depth**
Variance from Design and Construction Standards

Dear Mr. Wayne:

Our office has reviewed the proposed request for a variance from the City's Design and Construction Standards seeking a waiver from the City's design standard for depth of storm sewers to provide a minimum of three (3) feet of cover, pursuant to Section 11-94 (c) of Novi Code.

The applicant indicates that the need for the waiver results from the elevation difference between the property line where the drainage originates (Greenwood Oaks Subdivision No. 4, Lots 87-89) and the ultimate drainage outlet in Beck Road which would prevent proper drainage from being achieved if three (3) feet of cover was provided. The alternative design would allow positive drainage to Beck Road and would provide between 9.4 and 17.4 inches of coverage.

Section 11-10 of the Ordinance Code permits the City Council to grant a variance from the Design and Construction Standards when a property owner shows all of the following:

- (a) A variance may be granted when all of the following conditions are satisfied:
 - (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
 - (2) The alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the

performance that would be obtained by strict enforcement of the standards; and

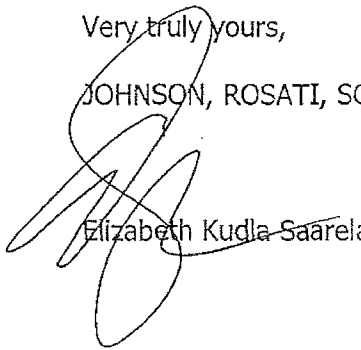
- (3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

If City Council finds that the standards for a variance or waiver have been met, based on the recommendation of the City's Engineering Division, our office sees no legal impediment to granting the variance.

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

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth Kudla-Saarela

EKS
Enclosure

C: Maryanne Cornelius, Clerk (w/Enclosure)
Charles Boulard, Community Development Director (w/Enclosure)
Matt Wiktorowski, Field Operations (w/Enclosure)
Brian Coburn, Engineering Manager (w/Enclosure)
David Beschke, Landscape Architect (w/Enclosure)
Jeff Johnson, Fire Department (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)



CITY OF NOVI
Engineering Department
MEMORANDUM

To: Charles Boulard, Community Development
 David Beschke, Landscape Architect
 Beth Saarela, Attorney
 Jeff Johnson, Fire Department
 Matt Wiktorowski, Field Ops

From: Adam Wayne, Engineering

Date: May 9, 2013

Re: Variance from Design & Construction Standards
 Valencia Estates

Attached is a request for a Variance from the Design and Construction Standards. Please review for a future City Council Agenda. In accordance with Section 11-10 of the Ordinance, the following three conditions **must be met** for a variance to be granted by Council:

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

Following review of the variance, check the appropriate box below and provide your signature. If you have no basis for recommending either approval or denial, please check the "No Exceptions Taken" box. If you are recommending approval or denial of the request, **please also complete the matrix on the reverse of this form.** Please return to my attention by **May 16, 2013.**

ROUTING

Delivered To	Returned On	RECOMMENDED ACTION			Signature
		Approval*	Denial*	No Exceptions Taken	
Brian Coburn (Engineering)					
Charles Boulard (Comm Dev.)					
David Beschke (Landscape Arch)					
Beth Saarela (City Attorney)				✓	
Jeff Johnson (Fire Department)					
Matt Wiktorowski (Field Ops)					

*** SEE REVERSE**

If recommending approval or denial, please complete the following:

1. Would a literal application of the substantive requirement of the ordinance result in an exceptional, practical difficulty to the application? Yes No

Explain:

2. Would the alternative proposed by the applicant be adequate for the intended use and not deviate from the performance that would be obtained by strict enforcement of the standards? Yes No

Explain:

3. Would granting the variance not be detrimental to public health, safety, or welfare, and not injurious to adjoining or neighboring property? Yes No

Explain:

CITY COUNCIL MINUTES – EXCERPT
AUGUST 13, 2012

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, AUGUST 13, 2012 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Members Casey, Fischer, Margolis, Mutch, Wrobel

ALSO PRESENT: Clay Pearson, City Manager
Victor Cardenas, Assistant City Manager
Tom Schultz, City Attorney
Barb McBeth, Deputy Community Development Director

APPROVAL OF AGENDA:

CM-12-08-126 Moved by Wrobel, seconded by Margolis; CARRIED UNANIMOUSLY:

To approve the Agenda as presented.

Roll call vote on CM-12-08-126	Yeas: Staudt, Casey, Fischer, Margolis, Mutch, Wrobel, Gatt
	Nays: None

MATTERS FOR COUNCIL ACTION

1. Approval of the request of Beck Ten Land, LLC for ZCM12-02 with Zoning Map Amendment 18.701 to rezone property in Section 20, on the northwest corner of Beck Road and Ten Mile Road from R-1, One-Family Residential to R-3, One-Family Residential with a Planned Rezoning Overlay and to approve the corresponding concept plan and PRO agreement between the City and the applicant. The property totals 24.24 acres and the applicant is proposing a 38 unit single-family residential development.

City Manager Pearson said that this item has been to Council once for the concept. This is in conformance with that. This actual agreement is the last step for Council with the Planned Rezoning Overlay for this all-residential development at the northwest corner of Beck Road and Ten Mile Road.

Member Margolis wanted to clarify the one change that was made from the preliminary approval was the Stormwater Management. City Manager Pearson said, as they viewed the design to accommodate earlier comments, the Stormwater basin shifted a slightly negligible amount. It didn't change the number of units or anything else of substance.

CM-12-08-127 Moved by Margolis, seconded by Wrobel; MOTION CARRIED: 6-1

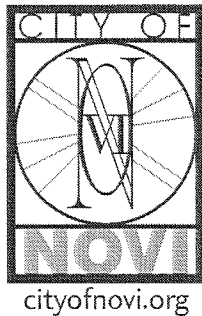
To approve the request of Beck Ten Land, LLC for ZCM12-02 with Zoning Map Amendment 18.701 to rezone property in Section 20, on the northwest corner of Beck Road and Ten Mile Road from R-1, One-Family Residential to R-3, One-Family Residential with a Planned Rezoning Overlay and to approve the corresponding concept plan and PRO agreement between the City and the applicant.

Roll call vote on CM-12-08-127

Yeas: Fischer, Margolis, Wrobel,
Gatt, Staudt, Casey

Nays: Mutch

**PLANNING COMMISSION MINUTES – EXCERPT
NOVEMBER 14, 2012**



PLANNING COMMISSION MINUTES

CITY OF NOVI

Regular Meeting

November 14, 2012 7:00 PM

Council Chambers | Novi Civic Center | 45175 W. Ten Mile
(248) 347-0475

CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

ROLL CALL

Present: Member Anthony, Member Greco, Chair Gutman, Member Lynch, Member Zuchlewski

Absent: Chair Pehrson (Excused), Member Prince (Excused)

Also Present: Kristen Kapelanski, Planner; David Beschke, Landscape Architect; Brian Coburn, Engineer; Adam Wayne, Engineer; Beth Kudla-Saarela, City Attorney; Rod Arroyo, Traffic Consultant

PLEDGE OF ALLEGIANCE

Member Anthony led the meeting attendees in the recitation of the Pledge of Allegiance.

APPROVAL OF AGENDA

Moved by Member Lynch and seconded by Member Anthony:

VOICE VOTE ON THE AGENDA APPROVAL MOTION MADE BY MEMBER LYNCH AND SECONDED BY MEMBER ANTHONY:

Motion to approve the November 14, 2012 Planning Commission Agenda. Motion carried 5-0.

MATTERS FOR CONSIDERATION

1. VALENCIA ESTATES JSP12-49

Consideration of the request of Beck Ten Land, LLC, for Preliminary Site Plan and Stormwater Management Plan approval. The subject property is located in Section 20, on the northwest corner of Beck Road and Ten Mile Road in the R-3, One-Family Residential District (with a Planned Rezoning Overlay). The subject property is 24.24 acres and the applicant is proposing a 38 unit single-family residential development with access provided from Beck Road.

Planner Kapelanski said the applicant is proposing to construct 38 single family homes at the northwest corner of Ten Mile Road and Beck Road. To the north and west of the property are existing single-family homes. To the east, across Beck Road is an existing shopping center and to the south, across Ten Mile Road, are existing single-family homes and vacant land. The subject property was recently rezoned to R-3 with a Planned Rezoning Overlay. The site is bordered by R-1 zoning to the north and west with R-1 and B-1 zoning to the east across Beck Road and R-1 zoning to the south, across Ten Mile Road. The Future Land Use map indicates single-family uses for the subject property and the majority of the surrounding properties. The natural features map does show a small area of regulated wetland near Ten Mile Road.

The concept plan is in compliance with the Zoning Ordinance, the approved concept plan and the approved Planned Rezoning Overlay Agreement. All reviews recommend approval with items to be addressed on the Final Site Plan submittal.

Howard Fingerroot with Pinnacle Homes said he was here about six or eight months ago, prior to the City Council. He went through the process and got the PRO approved. He does not have anything new to add but is here to answer any questions.

Member Lynch said this has been a highly discussed area for a number of years and the applicant has done a fantastic job on the plan for this corner. It fits in nicely with the character of that area. It does not burden the corner of Beck Road and Ten Mile Road. The layout looks good.

Member Anthony said he approved the concept plan and the applicant has since addressed all the concerns that were brought up by the residents and by Council. He intends to support the plan.

Motion by Member Greco and seconded by Member Lynch:

ROLL CALL VOTE ON PRELIMINARY SITE PLAN APPROVAL MOTION MADE BY MEMBER GRECO AND SECONDED BY MEMBER LYNCH:

In the matter of Valencia Estates, JSP12-49, motion to approve the Preliminary Site Plan subject to the conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan because the plan is otherwise in compliance with the approved PRO concept plan and PRO Agreement and Article 4, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance. *Motion carried 5-0.*

Motion by Member Greco and seconded by Member Lynch:

ROLL CALL VOTE ON STORMWATER MANAGEMENT PLAN APPROVAL MOTION MADE BY MEMBER GRECO AND SECONDED BY MEMBER LYNCH:

In the matter of Valencia Estates, JSP12-49, motion to approve the Stormwater Management Plan, subject to the conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan because the plan is otherwise in compliance with the approved PRO concept plan and PRO Agreement and with Chapter 11 of the Code of Ordinances and all other applicable provision of the Ordinance. *Motion carried 5-0.*