



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item C

April 13, 2015

SUBJECT: Approval of the form of proposed amendment to the Novi Equities Limited Partnership v. City of Novi Consent Judgment at the request of Novi Promenade Holdings, LLC, relating to property located at the intersection of Grand River Avenue and Wixom Road, to allow the applicant to relocate the existing detention pond and construct two acres of wetland mitigation for the Grand Promenade project (JSP14-15).

SUBMITTING DEPARTMENT: Community Development Department – Planning Division *Barb*

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The applicant is proposing to relocate the existing detention pond on the Novi Promenade site (Grand River Avenue and Wixom Road) and construct two acres of wetland mitigation for an off-site project (Grand Promenade JSP14-15). The proposed improvements are located to the east of the existing Target store and its associated parking on vacant land outside of the existing wetland and woodland conservation area on the Novi Promenade property.

The improvements require an amendment to the Novi Equities Limited Partnership v. City of Novi Consent Judgment since the area in question is shown as a retail store not to exceed 100,000 square feet on the existing Exhibit B, and the changes after the use of the affected land. Attached is the proposed amendment judgment drafted by the City Attorney's office.

Staff Review

Plan Review Center Staff reviewed the proposal and recommended approval of the matter, with the suggestion that the applicant reduce the permitted square footage of "Retail B" to accommodate the reduction in available land. The applicant has maintained such a reduction is not necessary as there would be sufficient space available for a large retail building and associated infrastructure depending on the proposed building footprint. The judgment and proposed exhibits have been drafted without a reduction in the square footage of "Retail B". Staff does not object to the proposed exhibit B as compliance with Zoning Ordinance standards would be required at the time of site plan review and approval.

Planning Commission Consideration

The Planning Commission held the public hearing and approved the Preliminary Site Plan, Wetland Permit and Stormwater Management Plan at their October 22, 2014 meeting subject to City Council amendment of the Consent Judgment. Also approved was the corresponding project, Grand Promenade, where the applicant is proposing 11,970 square feet of retail space with a 3,817 square foot drive-through restaurant (which required special land use approval by the Planning Commission) on 2.56 acres on the south side of Grand River Avenue at Twelve Mile Road, also subject to approval of the amendment of the Consent Judgment.

RECOMMENDED ACTION: Approval of the form of proposed amendment to the Novi Equities Limited Partnership v. City of Novi Consent Judgment at the request of Novi Promenade Holdings, LLC, relating to property located at the intersection of Grand River Avenue and Wixom Road, to allow the applicant to relocate the existing detention pond and construct two acres of wetland mitigation for the Grand Promenade project (JSP14-15), subject to the following:

- a. Final approval as to the form of the Amended Consent Judgment and the attachment of necessary exhibits by the City Attorney's office;
- b. All actions necessary, in the determination of City Attorney's office, for entry of the Amended Consent Judgment, including any required notices to other affected property owners and appropriate proceedings in the Oakland County Circuit Court;
- c. Entry of the Amended Consent Judgment by the Oakland County Circuit Court.

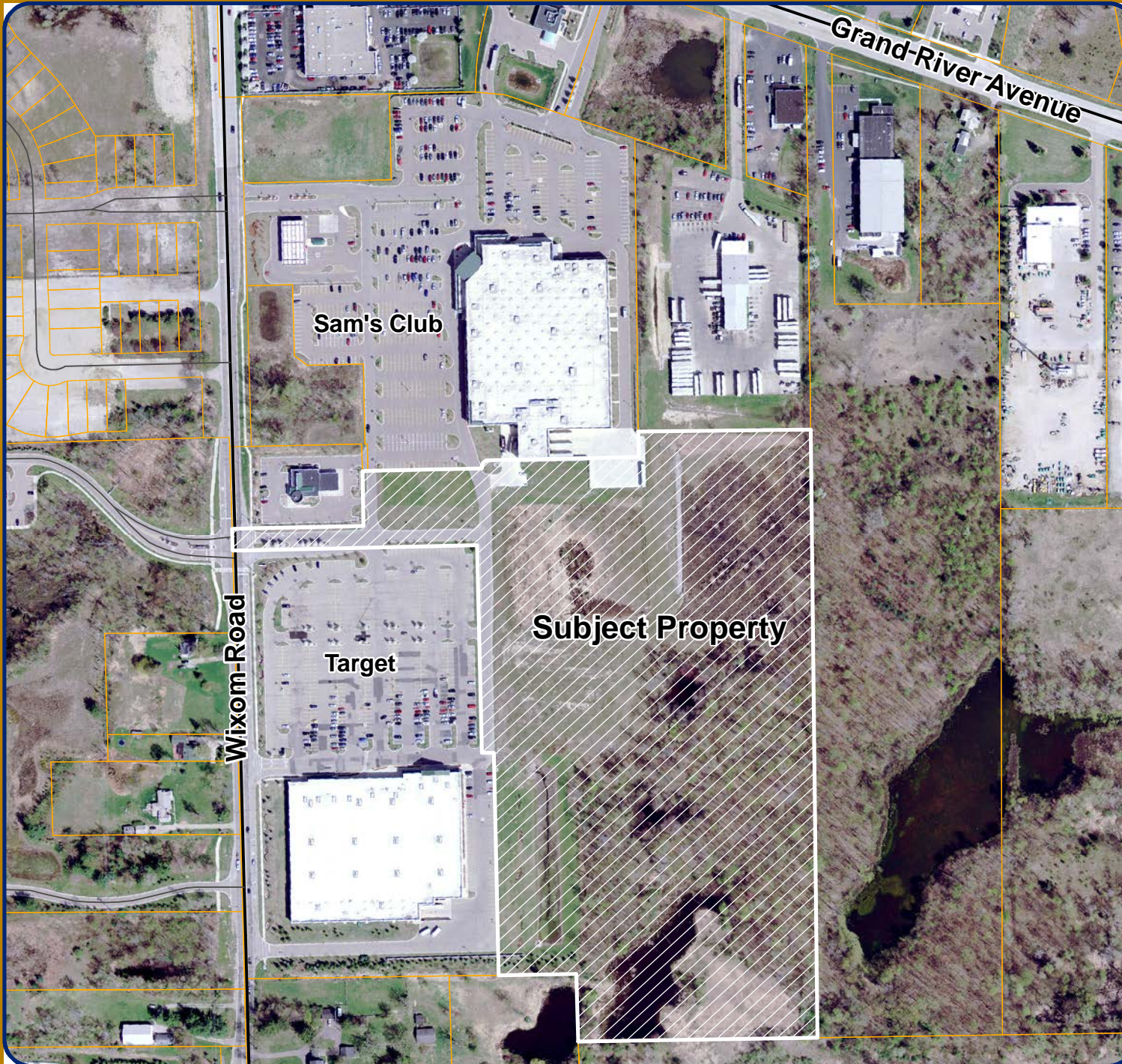
	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Markham				

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

MAPS
Location
Natural Features

Novi Promenade Detention Pond Relocation JSP14-30

Location



Map Legend

 Subject Property



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

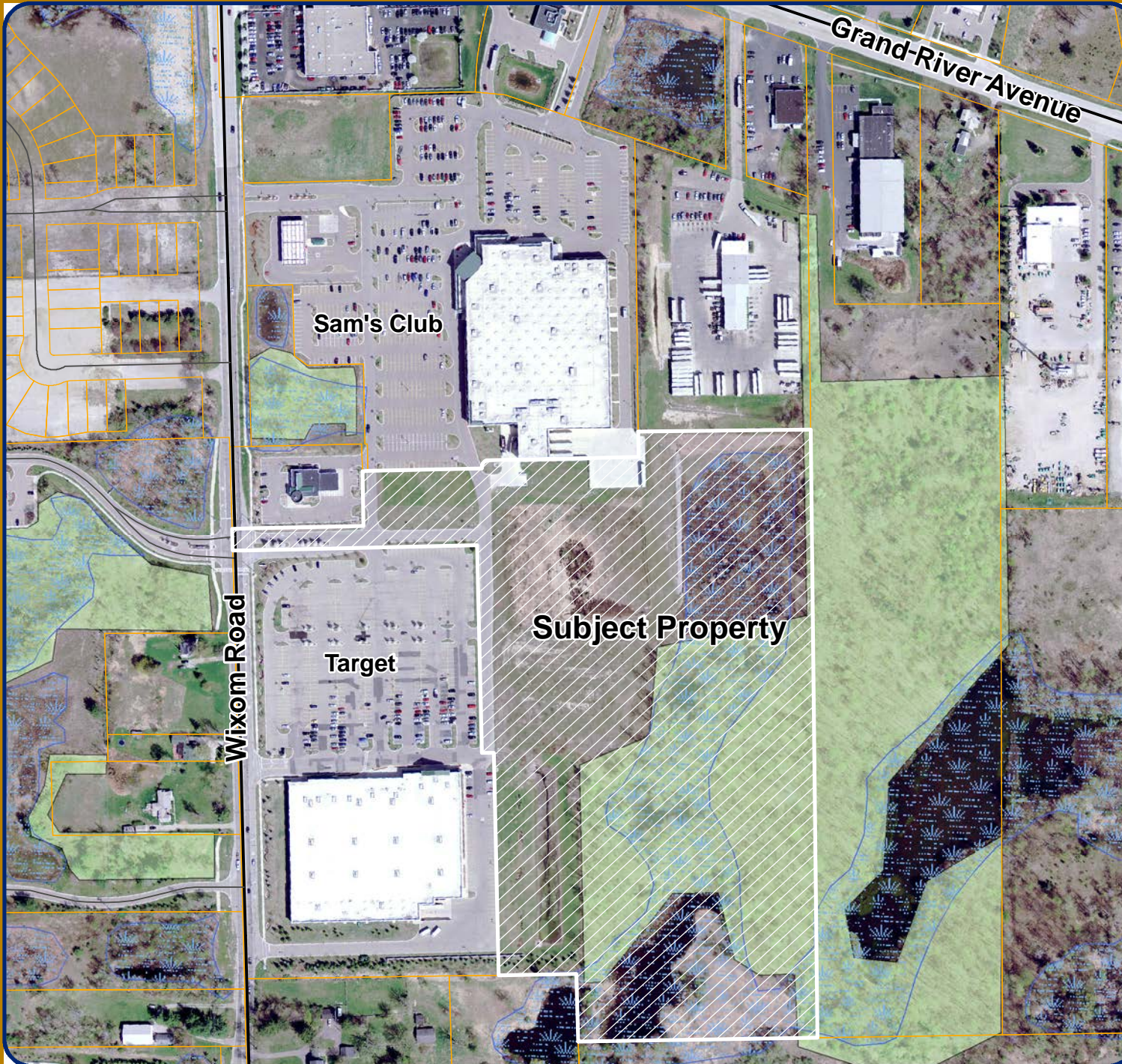
Map Author: Kristen Kapelanski
Date: 10-15-14
Project: Novi Promenade Basin Relocation JSP14-30
Version #: 1.0

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.

Novi Promenade Detention Pond Relocation JSP14-30

Natural Features



Map Legend

-  Subject Property
-  Wetlands
-  Woodlands



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

Map Author: Kristen Kapelanski
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Consent Judgment Amendment

DRAFT

4.9.15 Draft for Council

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

NOVI EQUITIES LIMITED PARTNERSHIP,
and
NOVI PROMENADE HOLDINGS, LLC

Plaintiff,

Case No. 00-021096-CZ
Hon. Rae Lee Chabot

-VS-

CITY OF NOVI,

Defendant.

MOORE PENNA & ASSOCIATES PLLC
ANTHONY J. PENNA (P 67707)
Attorney for Novi Promenade Holdings, LLC
38600 Van Dyke Avenue, Suite 300
Sterling Heights, MI 48312-1173
(586) 883-6585

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.
THOMAS R. SCHULTZ (P 42111)
Attorney for Defendant
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331-3550
(248) 489-4100

AMENDMENT TO CONSENT JUDGMENT

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

PRESENT: _____
Circuit Court Judge

This matter having come before the Court upon the parties' submission of an Amendment to a
Consent Judgment; the parties having agreed to entry of an Amendment to a Consent

Judgment in this matter as set forth below, and according to the express terms and provisions stated herein; and the Court otherwise being duly advised in the premises:

RECITALS

A. A Consent Judgment in this case was entered on July 19, 2001 (the Original Consent Judgment). (Tab 1.) The Original Consent Judgment related to the approval of and conditions surrounding the development of certain property (the Property) located in the City of Novi by Plaintiff Novi Equities Limited Partnership, as developer.

B. Plaintiff Novi Equities Limited Partnership did in fact develop a portion of the Property as permitted under the Original Consent Judgment, and currently there exists within the approved development a Target Store, a Sam's Club retail store, and certain other retail stores located on outlots known collectively as the "Novi Promenade" development. (Tab 2.)

C. In addition to these building improvements, the Original Consent Judgment required the Plaintiff to construct other site improvements, including a wetland mitigation area as well as a separate sedimentation/detention pond, and also to preserve certain wetlands (and woodlands) in an area known as the "Permanent Preserve." A Development Site Plan showing all such improvements is attached as Exhibit B to the Original Consent Judgment.

D. While the required site improvements have been made, not all of the approved building improvements were constructed by Plaintiff Novi Equities Limited Partnership. More specifically, there remains an unbuilt retail area known and shown on the plan as "Retail B."

E. Novi Promenade Holdings, LLC has purchased the remaining undeveloped property in the Novi Promenade development. It has asked that it be permitted to amend Exhibit B to the Original Consent Judgment to (i) alter the configuration of the approved sedimentation/detention pond; and (ii) increase the area shown as "Permanent Preserve" for

preservation of woodlands and wetlands by constructing an additional wetland mitigation area approximately 2.0 acres in size.

F. The Additional Wetland Mitigation Area is intended to replace wetlands as mitigation for the filling of wetlands on an adjacent property also owned by Novi Promenade Holdings, LLC. The proposed development on the adjacent property includes a retail building and a drive through restaurant.

G. On October 22, 2014, the City of Novi Planning Commission held a public hearing and approved the proposed development of the adjacent parcel, JSP 14-15, as well as the location of the 2.0 acres of wetland mitigation on the Novi Promenade site JSP 14-30, subject to approval by the City Council of an appropriate amendment to the Original Consent Judgment.

H. The City Council has reviewed the request and is willing to amend the Consent Judgment to allow the increase in the preserved area for the overall site and the alteration of the Exhibit B Site Plan correspondingly, upon the terms and conditions set forth herein.

I. It is not the parties' intention to amend the Original Consent Judgment in any other manner other than to allow the reconfiguration of the sedimentation and detention basin and the wetland area. In all other respects and for all other purposes, the Original Consent Judgment, and the development plans approved thereunder (and since) remain unchanged.

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED AS FOLLOWS:

1. Novi Promenade Holdings, LLC is hereby added as a Successor Defendant to Novi Equities Limited Partnership for purposes of and to the extent required for this Amendment to Consent Judgment.

2. The Development Site Plan attached as Exhibit B to the Original Consent Judgment, as described in Paragraph 10 of the Original Consent Judgment, is amended only as

shown on the attached revised Exhibit B (Tab 3) with respect to the sedimentation/detention pond and the Permanent Preserve area.

2. The area to be added to the Permanent Preserve, which is approximately 2.0 acres in size, as depicted on the revised Exhibit B (Tab 3), shall be subject to the limitations set forth in the Original Consent Judgment, including Paragraph 11, for the Permanent Preserve.

3. With respect to the area added to Exhibit B for the construction of wetland mitigation area to be added to the Permanent Preserve:

- a. All work within the Property shall be conducted in compliance with all ordinances, rules, and regulations, of the City of Novi and the State of Michigan, and in compliance with (i) the preliminary site plan as approved on October 22, 2014; (ii) the wetland permit approved by the City of Novi on October 22, 2014; and (iii) and the storm water management plan approved by the City of Novi on October 22, 2014.
- b. No other part of the Permanent Preserve already existing on the property shall be disturbed in connection with the establishment of the new mitigated wetland area.

4. This Order shall be recorded in the Oakland County Register of Deeds.

5. This Amendment to Consent Judgment is binding on the Parties' heirs, successors, and assigns.

7. Except as expressly and necessarily altered by this Amendment to Consent Judgment, the Original Consent Judgment is not amended and remain in full force and effect.

CIRCUIT COURT JUDGE

Approved as to form and substance:

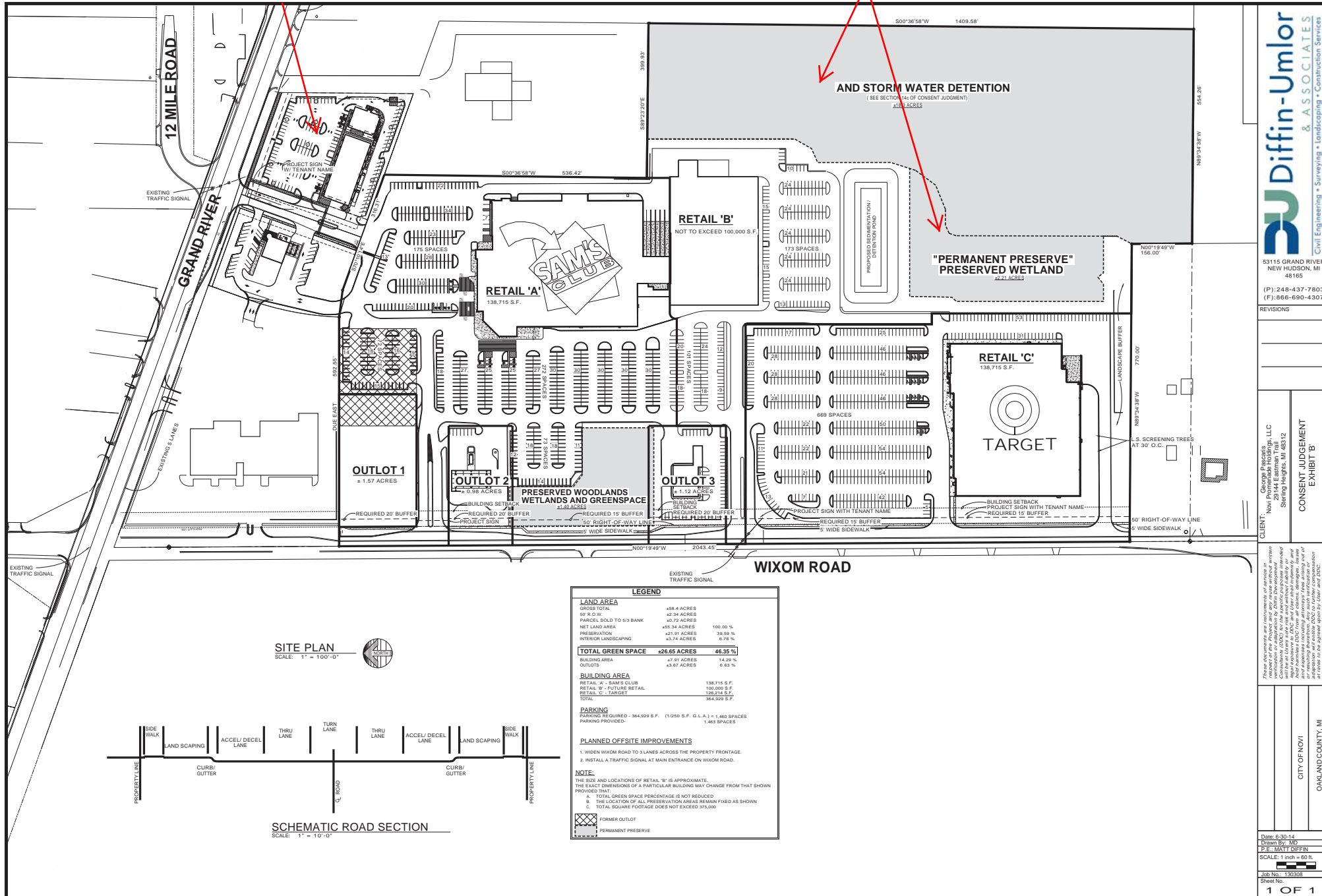
ANTHONY J. PENNA (P 67707)
Attorney for Plaintiff

DRAFT

THOMAS R. SCHULTZ (P 42111)
Attorney for Defendant

"Grand Promenade" 11,970 sq. ft. retail space with drive-thru restaurant

"Novi Promenade" Relocate detention pond and construct 2 acres of wetland mitigation



Diffin-Umlor & ASSOCIATES
 Civil Engineering • Surveying • Landscaping • Construction Services

53115 GRAND RIVER
 NEW HUDSON, MI 48165
 (P): 248-437-7803
 (F): 866-690-4307

REVISIONS

CLIENT: George Pasaris, Novi Promenade Holdings, LLC, 53115 Grand River, Novi, MI 48165

CONSENT JUDGMENT EXHIBIT 'B'

City of Novi
 Oakland County, MI

Date: 6-30-14
 Drawn By: MD
 P.E.: MATT DIFFIN
 SCALE: 1 inch = 80 ft.
 Job No.: 130308
 Sheet No.: 1 OF 1

Exhibit B

Planning Commission Meeting Minutes
Excerpt – October 22, 2014



PLANNING COMMISSION MINUTES

CITY OF NOVI

Regular Meeting

OCTOBER 22, 2014 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 Baratta, Member Lynch, Chair Pehrson

Absent: Member Giacometti (excused), Member Greco (excused), Member Zuchlewski (excused)

Also Present: Barbara McBeth, Community Development Deputy Director; Kristen Kapelanski, Planner; David Beschke, Landscape Architect; Jeremy Miller, Staff Engineer; Tom Schultz, City Attorney; Rod Arroyo, Traffic Consultant

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

Moved by Member Baratta and seconded by Member Lynch:

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

Motion to approve the October 22, 2014 Planning Commission Agenda. Motion carried 4-0.

PUBLIC HEARINGS

3. **NOVI PROMENADE, SP14-30**

Public hearing at the request of Novi Promenade Holdings LLC for Preliminary Site Plan, Wetland Permit, and Stormwater Management Plan approval. The subject property is located in Section 17, on the east side of Wixom Road south of Grand River Avenue in the I-1, Light Industrial District. The subject property is approximately 24.77 acres and the applicant is proposing to relocate the existing detention pond and construct two acres of wetland mitigation for the proposed Grand Promenade project.

Planner Kapelanski said the applicant is proposing to relocate the existing detention basin and construct wetland mitigation on the subject property. The improvements are located east of the existing Target store and are proposed on vacant land adjacent to an existing wetland and woodland conservation area. The site is bordered by retail and industrial to the north, vacant land to the east and south and the Target store to the west. The subject property is currently zoned I-1 Light Industrial but is to be reviewed under the terms outlined in the Novi Promenade consent judgment. I-1 zoning is also shown to the north, east and west with R-1 and I-2 zoning to the south. There is a large wetland and woodland conservation area on the site. There are

existing conservation easements covering this area and it will not be disturbed as part of the proposal. A new wetland mitigation area will be created adjacent to the existing natural area.

The applicant is proposing to create wetland mitigation on the subject property for the proposed fill at the Grand Promenade project previously considered by the Commission. This would also involve relocating the detention basin for the Novi Promenade site. The planning review recommends approval of the plan as it generally meets the requirements of the ordinance. The applicant is required to amend the Novi Equities Limited Partnership v. City of Novi consent judgment to allow this change. The amendment to the judgment would proceed to the City Council provided the Planning Commission approves the site plan this evening. The wetland review recommends approval of the plan stating a City of Novi Non-Minor Use Wetland Permit and an Authorization to Encroach into the 25 Foot Natural Features Setback will be required. The engineering and landscape reviews all recommend approval of the plan noting items to be addressed on the final site plan submittal. The Planning Commission is asked to hold the public hearing and approve or deny the preliminary site plan, wetland permit and stormwater management plan.

Matt Diffin said again we are here to answer any questions. This site is adjacent to the existing wetlands and woodlands. It's an enhancement over what's there now. It shows improved stormwater quality meeting more current standards than how the site was originally approved. Also, we're not putting a new building or pavement, we're actually putting more green space into an area that's adjacent to not only our conservation area but a large wetland and woodland next to that. So we think it fits well.

Moved by Member Baratta and seconded by Member Lynch:

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

In the matter of Novi Promenade Detention Pond Relocation, JSP14-30, motion to approve the Preliminary Site Plan based on and subject to the following:

- a. City Council approval of the proposed amendment to the Novi Equities Limited Partnership v. City of Novi Consent Judgment to allow wetland mitigation and changes to the existing stormwater detention basin on the subject property; and**
- b. The findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and the items listed in those letters being addressed on the Final Site Plan.**

**This motion is made because the plan is otherwise in compliance with Article 19, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance.
*Motion carried 4-0.***

Moved by Member Baratta and seconded by Member Lynch:

ROLL CALL VOTE ON THE WETLAND PERMIT APPROVAL MOTION MADE BY MEMBER BARATTA AND SECONDED BY MEMBER LYNCH:

In the matter of Novi Promenade Detention Pond Relocation, JSP14-30, motion to approve the Wetland Permit based on and subject to the following:

- a. City Council approval of the proposed amendment to the Novi Equities Limited Partnership v. City of Novi Consent Judgment to allow wetland mitigation and changes to the existing stormwater detention basin on the subject property; and**

- b. The findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Final Site Plan.

This motion is made because the plan is otherwise in compliance with Chapter 12, Article V of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 4-0.*

Moved by Member Baratta and seconded by Member Lynch:

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

In the matter of Novi Promenade, JSP14-30, motion to approve the Stormwater Management Plan, subject to:

- a. City Council approval of the proposed amendment to the Novi Equities Limited Partnership v. City of Novi Consent Judgment to allow wetland mitigation and changes to the existing stormwater detention basin on the subject property; and
- b. The findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and the items listed in those letters being addressed on the Final Site Plan.

This motion is made because the plan is otherwise in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 4-0.*

Planning Review



PLAN REVIEW CENTER REPORT

August 20, 2014

Planning Review

Novi Promenade Retention Pond Relocation
JSP14-30

Petitioner

Novi Promenade Holdings LLC

Review Type

Consent Judgment Amendment

Property Characteristics

- Site Location: East of Wixom Rd., south of Grand River (Section 17)
- Site Zoning: I-1, Light Industrial, per consent judgment the site is to be reviewed under the B-3, General Business District
- Adjacent Zoning: North, East & West: I-1; South: R-1 One-Family Residential & I-2, General Industrial;
- Current Site Use(s): Vacant & Detention Pond
- Adjoining Uses: North: Sam's Club & CZ Trucking; East & South: Vacant; West: Target
- School District: Novi Community Schools
- Proposed Site Size: 24.77
- Plan Date: 06-30-14

Project Summary

The applicant is proposing to relocate the existing detention pond and construct two acres of wetland mitigation for the Grand Promenade project (JSP14-15). The improvements are located to the east of the existing Target store and parking lot and are proposed on vacant land outside of the existing wetland and woodland conservation area. The improvements require an amendment by the City Council to the Novi Equities Limited Partnership v. City of Novi Consent Judgment since this area had been planned for a retail store not to exceed 100,000 square feet.

Recommendation

Staff cannot recommend approval of the proposed amended consent judgment unless the applicant reduces Retail 'B' to accommodate the reduction in available land. City Council approval of the proposed amendment to the Novi Equities Limited Partnership v. City of Novi Consent Judgment is required. [Amended on 10-16-14.]

Review Standards

This project was reviewed for conformance with the Zoning Ordinance with respect to Article 15 (B-3 General Business District), Article 25 (General Provisions) and any other applicable provisions of the Zoning Ordinance in addition to the Novi Equities Limited Partnership v. City of Novi Consent Judgment. Please see the items listed below for information pertaining to Ordinance requirements. Items in bold below must be addressed by the applicant.

1. Retail Space: As currently approved, the consent judgment depicts Retail 'B' and associated parking in a portion of the area to be used for the proposed detention pond and wetland mitigation area. In order to permit the use of this site for the purposes of off-site wetland mitigation from the Grand Promenade site, the amount of retail space that could have been

developed on this site shall be reduced accordingly. The Grand Promenade site is proposing to develop nearly 16,000 square feet of retail and restaurant uses. As such, **staff recommends that Retail 'B' on the Exhibit B drawings be reduced to accommodate the reduction in available land.**

Response Letter

A letter from either the applicant or the applicant's representative addressing comments in this and other review letters is required prior to consideration by the City Council and with the next plan submittal.

Pre-Construction Meeting

Prior to the start of any work on the site, Pre-Construction (Pre-Con) meetings must be held with the applicant's contractor and the City's consulting engineer. Pre-Con meetings are generally held after Stamping Sets have been issued and prior to the start of any work on the site. There are a variety of requirements, fees and permits that must be issued before a Pre-Con can be scheduled. If you have questions regarding the checklist or the Pre-Con itself, please contact Sarah Marchioni [248.347.0430 or smarchioni@cityofnovi.org] in the Community Development Department.

Chapter 26.5

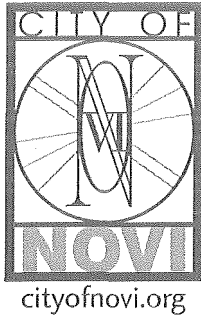
Chapter 26.5 of the City of Novi Code of Ordinances generally requires all projects be completed within two years of the issuance of any starting permit. Please contact Sarah Marchioni [248.347.0430 or smarchioni@cityofnovi.org] for additional information on starting permits. The applicant should review and be aware of the requirements of Chapter 26.5 before starting construction.

If the applicant has any questions concerning the above review or the process in general, do not hesitate to contact me at 248.347.0586 or kkapelanski@cityofnovi.org.



Kristen Kapelanski, AICP – Planner

Engineering Review



PLAN REVIEW CENTER REPORT

August 19, 2014

Engineering Review

Novi Promenade Retention Pond Relocation
JSP14-0030

Petitioner

Novi Promenade Land Holdings, LLC., applicant

Review Type

Revised Preliminary Site Plan

Property Characteristics

- Site Location: S. of Grand River Avenue and E. of Wixom Road
- Site Size: 24.77 acres
- Plan Date: June 30, 2014

Project Summary

- Proposed relocation of the existing Storm Water Management Facilities for Novi Promenade to create a wetland mitigation area for the adjacent Grand Promenade development.

Recommendation

Approval of the Preliminary Site Plan and Preliminary Storm Water Management Plan is recommended.

Comments:

The Preliminary Site Plan meets the general requirements of Chapter 11, the Storm Water Management Ordinance and the Engineering Design Manual with the following items to be addressed at the time of Final Site Plan submittal (further engineering detail will be required at the time of the final site plan submittal):

General

1. Revise the plan set to provide a legible silt fence detail.
2. The City standard detail sheets are not required for the Final Site Plan submittal. They will be required with the Stamping Set submittal.

Storm Sewer

3. Provide a profile of the proposed storm sewer showing a minimum cover of 3 feet and all catch basin sumps. Indicate all structure types, diameter and the 10-year and 100-year hydraulic grade lines at each structure.

Storm Water Management Plan

4. The Storm Water Management Plan for this development shall be designed in accordance with the Storm Water Ordinance and Chapter 5 of the Engineering Design Manual.
 - a. Provide the original basis of design for the existing detention basin on the plan set. The proposed relocated basin must be designed to accommodate the volume as originally approved.
 - b. Remove all references to the 2007 standard unless additionally impervious area is being proposed in the development above what was originally accounted for. Note: proposed wetland mitigation is not permitted to function as a storm water management facility for quality and quantity control.
 - c. Any additional impervious area above the original basis of design must be accounted for in accordance with the design standards as detailed in Chapter 5 of the Engineering Design Manual for the City of Novi.
5. An adequate maintenance access route to the basin outlet structures and any other pretreatment structures shall be provided (15 feet wide, maximum slope of 1V:5H, and able to withstand the passage of heavy equipment). Verify the access route does not conflict with proposed landscaping.

Paving & Grading

6. Revise the plan set to indicate any paving impacts associated with the relocation of the existing detention basin and associated infrastructure.

The following must be submitted at the time of Final Site Plan submittal:

7. A letter from either the applicant or the applicant's engineer must be submitted with the Final Site Plan highlighting the changes made to the plans addressing each of the comments listed above and indicating the revised sheets involved.
8. An itemized construction cost estimate must be submitted to the Community Development Department at the time of Final Site Plan submittal for the determination of plan review and construction inspection fees. This estimate should only include the civil site work and not any costs associated with construction of the building or any demolition work. **The cost estimate must be itemized** for each utility (water, sanitary, storm sewer), on-site paving, right-of-way paving (including proposed right-of-way), grading, and the storm water basin (basin construction, control structure, pretreatment structure and restoration).

The following must be submitted at the time of Stamping Set submittal:

9. A draft copy of the revised maintenance agreement for the storm water facilities, as outlined in the Storm Water Management Ordinance, must be submitted to the Community Development Department with the Final Site Plan. Once the form of the agreement is approved, this agreement must be

approved by City Council and shall be recorded in the office of the Oakland County Register of Deeds.

The following must be addressed prior to construction:

10. A pre-construction meeting shall be required prior to any site work being started. Please contact Sarah Marchioni in the Community Development Department to setup a meeting (248-347-0430).
11. A City of Novi Grading Permit will be required prior to any grading on the site. This permit will be issued at the pre-construction meeting. Once determined, a grading permit fee must be paid to the City Treasurer's Office.
12. A Soil Erosion Control Permit must be obtained from the City of Novi. Contact Sarah Marchioni in the Community Development Department (248-347-0430) for forms and information.
13. Construction Inspection Fees to be determined once the construction cost estimate is submitted must be paid prior to the pre-construction meeting.
14. A storm water performance guarantee, equal to 1.5 times the amount required to complete storm water management and facilities as specified in the Storm Water Management Ordinance, must be posted at the Treasurer's Office.
15. An incomplete site work performance guarantee for this development will be calculated (equal to 1.5 times the amount required to complete the site improvements, excluding the storm water facilities) as specified in the Performance Guarantee Ordinance. This guarantee will be posted prior to TCO, at which time it may be reduced based on percentage of construction completed.

Please Jeremy Miller at (248) 735-5694 with any questions.



cc: Brian Coburn, Engineering
Kristen Kapelanski, Community Development Department

Landscape Review



PLAN REVIEW CENTER REPORT

August 7, 2014

Landscape Plan

Novi Promenade Retention Pond 14-30

Review Type

Revised Preliminary Landscape Review

Property Characteristics

Site Location: South side of Grand River at 12 Mile (Section 17)
Site Zoning: I-1 – Light Industrial
Current Site Use(s): Mitigation/ Conservation
Proposed Site Size: Unreported
Plan Date: 6-30-2014

Recommendation

Preliminary Site Plan Approval for Grand Promenade Retention Pond 14-30 is recommended. Please address the concern regarding the storm basin as noted below.

Ordinance Considerations

Storm Basin Landscaping

1. *A total of 70-75% of the storm basin rim area must be landscaped with large shrubs. Please provide additional shrub beds to meet this requirement.*

Adjacent to Residential Buffer (Sec. 2509.3.a.)

1. The storm basin and mitigation areas are adjacent to residential properties to the south. An existing landscape berm will remain in place.

Adjacent to Public Rights-of-Way – Berm (Wall) & Buffer (Sec. 2509.3.b.)

1. The storm basin and mitigation areas are not adjacent to public right-of-ways.

Street Tree Requirements (Sec. 2509.3.b.)

1. No street trees are required.

Parking Landscape (Sec. 2509.3.c.)

1. No parking is proposed.

Building Foundation Landscape (Sec. 2509.3.d.)

1. No buildings are proposed.

Plant List (LDM)

1. The Plant List as provided meets the requirements of the Ordinance and the Landscape Design Manual.

Planting Notations and Details (LDM)

1. Planting Details and Notations meet the requirements of the Ordinance and the Landscape Design Manual.

Irrigation (Sec. 2509 3.f.(6)(b))

1. Temporary irrigation will be required until such time as proposed plantings are established. This requirement has been met.

General

1. Please see the Woodland and Wetland reviews for further comments.

Please follow guidelines of the Zoning Ordinance and Landscape Design Guidelines. This review is a summary and not intended to substitute for any Ordinance. For the landscape requirements, see the Zoning Ordinance landscape section on 2509, Landscape Design Manual and the appropriate items in the applicable zoning classification.

Reviewed by: David R. Beschke, RLA

Wetland Review



Environmental Consulting & Technology, Inc.

August 20, 2014

Ms. Barbara McBeth
Deputy Director of Community Development
City of Novi
45175 W. Ten Mile Road
Novi, Michigan 48375

Re: Novi Promenade (JSP14-0030)
Stormwater Management/Wetland Mitigation Plans
Wetland Review of the Revised Preliminary Site Plan (PSP14-0135)

Dear Ms. McBeth:

Environmental Consulting & Technology, Inc. (ECT) has reviewed the Revised Preliminary Site Plan (Plan) for the proposed *Novi Promenade Stormwater Management/Wetland Mitigation* project prepared by Diffin-Umlor & Associated dated June 30, 2014. The Plan was reviewed for conformance with the City of Novi Wetland and Watercourse Protection Ordinance and the natural features setback provisions in the Zoning Ordinance. ECT visited the site on June 3, 2014 for the purpose of a Wetland Boundary Verification.

The site is located south of Grand River Avenue and east of Wixom Road in Section 17. The current Plan provides for a proposed wetland mitigation area associated with the proposed *Grand Promenade* (JSP14-0015) project located north of this site, adjacent to Grand River Avenue. The proposed *Grand Promenade* project proposes 1.33 acre of wetland impact for the purpose of developing a 11,970 square foot retail building as well as associated parking and an underground (sub-surface) stormwater detention system. The parcel on which the *Grand Promenade* development project is to be constructed, contains a shallow open water wetland (Wetland A) surrounded by a perimeter of emergent wetland. This wetland occupies a significant portion of the site area (1.33 acres of the 2.5 acre site).

As the City's threshold for compensatory wetland mitigation is 0.25-acre, the Applicant is required under the City of Novi Wetland and Watercourse Ordinance to provide wetland mitigation at a ratio of 1.5 acres for every 1 acre of wetland impact (1.5 to 1 mitigation ratio) for emergent wetlands and a 2-to-1 mitigation ratio for impacts to forested wetlands.

This Plan highlights the proposed construction of 2.0 acres of wetland mitigation ("off-site" from the *Grand Promenade* project site, but within the overall Novi Promenade development). The Applicant appears to propose approximately 0.81-acre of open water/emergent wetland mitigation and 1.19 additional acres of emergent wetland mitigation.

The proposed mitigation area is to be constructed in the area of the current Novi Promenade retention basin located just east of the existing Target store (see Photos 1 and 2). This Plan includes the proposed relocation/reconstruction of the existing stormwater retention basin. The construction

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of this mitigation area also includes the replacement or relocation of a number of landscape trees and shrubs (see Photo 3).

The proposed wetland mitigation information/design associated with this Plan will need to be approved concurrently with the Grand Promenade Plan. Specifically, final approval for the *Grand Promenade* Plan (JSP14-0015) will require a complete and approved wetland mitigation design prior to final approval of the development plan.

Onsite Wetland Evaluation

The focus of the June 3, 2014 site inspection was to review the existing on-site wetland boundaries and overall site conditions associated with this wetland mitigation construction project. A large area of existing forested wetland is located east of the proposed project. Although the existing wetland boundary did not appear to be flagged at the time of our site inspection, the current Plan does not appear to propose impacts to this wetland. Due to the size (greater than five acres) and the apparent connectivity of this forested wetland area to streams or drains, this wetland is likely regulated by the MDEQ. ECT recommends that all existing on-site wetland boundaries be flagged in the field so that the delineated wetland boundaries can be reviewed and compared to the future staking limits/project boundary.

What follows is a summary of the wetland impacts associated with the proposed site design.

Wetland Impact Review

As previously noted, the proposed Plan does not appear to impact the existing wetlands that are located to the east of the proposed mitigation site. The Plan does, however, propose to remove the existing Novi Promenade Retention Basin and replace its function with a proposed stormwater detention basin.

The Plan does specify impacts to existing 25-foot natural features (wetland) setback on the east side of the project for the purpose of detention basin grading as well as grading for the proposed mitigation area. The Plan specifies approximately 0.07-acre of impact to the wetland buffer.

Wetland Mitigation

As noted above, this Plan highlights the proposed construction of 2.0 acres of wetland mitigation ("off-site" from the *Grand Promenade* project site, but within the overall Novi Promenade development). The Applicant appears to propose approximately 0.81-acre of open water/emergent wetland mitigation and 1.19 additional acres of emergent wetland mitigation. Sheet 4 of 5 (*Detention Pond/Wetland Mitigation Grading Plan*) provides the proposed grading plan for the wetland mitigation area and the detention basin. The current mitigation plans now indicate a proposed wetland seeding schedule for the mitigation area. Both a wetland seed mix and a wetland & watercourse setback (i.e., buffer) seed mix have been provided. The *Landscape Plan* (Sheet 5 of 5) also provides information related to the proposed trees and shrubs that are to be provided around the perimeter of the proposed wetland mitigation area.

Permits & Regulatory Status

The forested wetland located on the east side of the project site are regulated by the City as it meets one or more of the essentiality criteria set forth in the City's Wetland and Watercourse Protection Ordinance (i.e., storm water storage/flood control, wildlife habitat, etc.).

ECT's understanding is that the forested wetland to the east of the proposed project is also regulated by MDEQ as it appears to be greater than five acres in size and appears to be contiguous to inland lakes, streams or ponds. As submitted, the Plan does not propose any impacts to this area of existing wetland.

Wetlands are protected under Part 303 Wetland Protection, of P.A. 451 of 1994, the Natural Resources and Environmental Protection Act (NREPA, as amended). The Michigan Department of Environmental Quality (MDEQ) assumes authority over wetlands that are 5 acres or greater in area; contiguous (directly adjacent to) to an inland lake, pond, or stream; within 500 feet of an inland lake, pond, or stream; or within 1,000 feet of a Great Lake, Lake Saint Clair, Saint Mary's River, Saint Clair River, or Detroit River.

The MDEQ may also exert regulatory control over isolated wetlands less than five acres in size: "...if the department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner."

The following activities are prohibited within regulated wetlands without a MDEQ permit:

- 1 The placement of fill material;
- 2 Dredging;
- 3 Construction within; and/or
- 4 The draining of surface water from a wetland.

As such, it is the Applicant's responsibility to contact MDEQ in order to determine if the agency has regulatory authority over the wetlands associated with the existing detention basin that is to be removed. It should be noted that the applicant's wetland consultant has requested a pre-application meeting with MDEQ staff. It is our understanding that this meeting took place on Wednesday, August 6, 2014; however our office has not received any feedback as to the regulatory authority of the MDEQ with respect to the site wetlands.

The project as proposed will require a City of Novi *Authorization to Encroach the 25-Foot Natural Features Setback*. This authorization is required for the proposed impacts to the regulated wetland setbacks.

Comments

The following are repeat comments from our Wetland Review of the Preliminary Site Plan letter dated June 6, 2014. The current status of each comment is listed below in ***bold italics***:

1. ECT recommends that all existing on-site wetland boundaries be flagged in the field so that the delineated wetland boundaries can be reviewed and compared to the future staking limits/project boundary.

The applicant has satisfactorily addressed this comment.

2. It is the Applicant's responsibility to confirm that modification of the existing detention pond does not require approval from the Michigan Department of Environmental Quality (MDEQ). It is possible that the agency has regulatory authority over the wetlands associated with the existing detention basin that is to be removed. Please provide any information or correspondence from MDEQ clarifying this.

This comment still applies. It should be noted that the applicant's wetland consultant has requested a pre-application meeting with MDEQ staff. It is our understanding that this meeting took place on Wednesday, August 6, 2014; however our office has not received any feedback as to the regulatory authority of the MDEQ with respect to this wetland.

3. It is the Applicant's responsibility to provide a proposed detention basin design that meets all requirements of the City of Novi as well as the rules of the Oakland County Water Resources Commissioner's office.

This comment has been addressed. The applicant states that the City Engineer has reviewed and approved the preliminary design of the revised detention pond.

4. This Plan should clearly note that the proposed mitigation is compensation for proposed impacts at the *Grand Promenade* development. The Applicant appears to be prepared to meet the City's wetland mitigation requirement for 1.5 to 1 mitigation for proposed impacts at the *Grand Promenade* project site. ECT recommends that the Applicant provide additional information on this Plan outlining the proposed wetland impacts associated with the Grand Promenade plan.

This comment has been addressed.

5. The proposed wetland mitigation information/design associated with this Plan will need to be approved concurrently with the Grand Promenade Plan. Specifically, final approval for the *Grand Promenade* Plan (JSP14-0015) shall not be issued prior to final approval of this wetland mitigation design.

This comment still applies.

6. Subsequent site plan submittals should include detailed wetland mitigation information such as proposed grading and planting details.

Prior to final approval, the Applicant shall provide a mitigation plan that includes the following information, and meets the requirements outlined in the Novi Code of Ordinances, Section 12-176 (Chapter 12 – Drainage and Flood Damage Prevention):

- a) Depiction and delineation of existing wetlands and watercourses in the vicinity of the proposed mitigation area.
- b) Depiction of existing contour data within the mitigation area as well as within any adjacent wetlands or watercourses, extending for a distance of at least seventy-five (75) feet into the wetland interior.
- c) Proposed contour data within mitigation areas using one-foot contours. Spot elevations shall be provided at critical locations (e.g. inverts of water control structures).
- d) A graphic scale, north arrow and date. The scale shall be one (1) inch equals fifty (50) feet or larger.
- e) Cross sections of critical areas.
- f) Identification of disposal areas for dredged material and depiction of the method of containment.
- g) A cost estimate for the purpose of establishing a bond amount, including, but not limited to, the cost of clearing, grading, soil placement, stabilization, planting and monitoring.
- h) Data indicating the expected hydrologic cycle, identifying the source of expected water levels, as well as the invert elevation of all water control structures.
- i) The limits of disturbance and methods of stabilization and erosion control.
- j) A list of proposed plant materials, which shall include the botanical and common names, quantities, size and spacing of plants and type of plants (e.g., bare root, balled and burlapped, containerized, etc.).

This comment has been addressed.

7. In addition to the wetland mitigation plan, the Applicant shall also provide a written summary of the goals and objectives of the mitigation plan. This summary shall include:
 - A description of the size and type of wetland to be constructed;
 - The hydrology expected;
 - A timetable for construction and plantings, as well as a guarantee of plant materials for two (2) years.

This comment has been addressed.

8. The Applicant shall also provide as a part of the mitigation plan, a program to monitor the status of the replacement wetland for up to five (5) years after the wetland mitigation has

been planted in the mitigation area. The monitoring program shall include annual progress reports submitted no later than December 1 of each year to the body approving the permit, which provide the following information:

- a) A measure of the percentage of coverage of wetland species versus upland species;
- b) A measure of vegetation diversity;
- c) A description of vegetation and animal community structure;
- d) A record and description of hydrological development;
- e) A written summary of wetland development describing the progression of wetland development;
- f) A photographic record of the wetland for each year.

This comment still applies. The applicant should provide this information in the Final Site Plan submittal.

Recommendation

ECT recommends conditional approval of the Revised Preliminary Site Plan for wetlands contingent on the Applicant addressing the items noted above under "Comments". In addition, the applicant shall provide a copy of the MDEQ Wetland Use Permit to the City upon issuance. A City of Novi Wetland Permit cannot be issued prior to receiving this information.

If you have any questions regarding the contents of this letter, please contact us.

Respectfully submitted,

ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.



Matthew Carmer, PWS
Senior Scientist
Professional Wetland Scientist #1746



Pete Hill, P.E.
Senior Associate Engineer

cc: David Beschke, City of Novi, Licensed Landscape Architect
Kristen Kapelanski, AICP, City of Novi Planner
Valentina Nukulaj, City of Novi Customer Service Representative

Attachments: Figure 1 & Site Photos



Figure 1. City of Novi Regulated Wetland and Woodland Map (accessed June 5, 2014). Regulated wetland boundaries are shown in blue. The approximate project boundary is shown in red.

Site Photos



Photo 1. Looking north at west edge of existing detention basin. This basin to be replaced with proposed wetland mitigation area.



Photo 2. Looking north at existing detention basin.



Photo 3. Existing trees that require transplanting; located on the northeast side of the site.

Applicant Response Letter

October 6, 2014

Kristen Kapelanski, AICP
Planner, Community Development
City of Novi
45175 W. 10 Mile Road
Novi, MI 48375

Re: Novi Promenade
Wetland Mitigation \ Detention Pond Relocation
JSP14-30

Dear Mrs. Kapelanski:

Comments listed below directly correspond to the June 9, 2014 Preliminary Site Plan review comments provided by the City's consultants for the above mentioned project.

Planning Review Response

1. The Applicant agrees to work with City to facilitate the steps necessary to amend the consent judgment.

Engineering Review Response

1. The silt fence detail shall be revised prior to our next submittal.
2. City standard details shall be provided with the Stamping Set submittal.
3. Storm sewer profiles and additional details shall be provided with our Final Site Plan submittal.
4. The Storm Water Management Plan comments shall be addressed prior to our next submittal.
5. The landscaping shall be modified along the proposed maintenance access route to ensure proper access prior to our next submittal.
6. No paving is proposed or removed with the detention pond relocation as currently proposed.
7. A letter highlighting changes shall be submitted with our Final Site Plan submittal.
8. An itemized cost estimate shall be provided with our Final Site Plan submittal.
9. A draft copy of the maintenance agreement for the storm water facility shall be provided with our Final Site Plan submittal.
10. A pre-construction meeting shall be required prior to construction.

Engineering Comments:

11. A grading permit will be required prior to construction.
12. A soil erosion permit shall be required prior to construction.
13. Construction Inspection fees shall be paid prior to construction.
14. Storm water performance guarantee shall be posted prior to Temporary Certificate of Occupancy is granted.
15. An incomplete site work performance guarantee shall be posted prior to The Temporary Certificate of Occupancy is granted.

Landscape Review Comments:

1. Storm Basin Landscaping – Additional shrub beds shall be added prior to our next submittal.

Wetland Review Comments:

2. MDEQ provided their determination letter in September 8, 2014 stating that the Grand Promenade project area and the modifications proposed on the Novi Promenade property would not require a permit. A letter is attached.
5. The Applicant understands that the Grand Promenade plans and approvals need to be approved concurrently with the Grand Promenade Plans.
8. The Monitoring Program information shall be added to the Final Site Plan submittal.

We hope the information provided is helpful with expediting the review process, and we look forward to continuing working with staff on this project. If there are any questions, or if any additional information is needed please let us know.

Respectfully submitted,

Diffin-Umlor and Associates



Matthew A. Diffin, P.E.

Principal