

**SPECIAL MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JULY 9, 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
Tom Schultz, City Attorney

APPROVAL OF AGENDA:

CM-12-07-109 Moved by Casey, seconded by Margolis; CARRIED UNANIMOUSLY:

To approve the Agenda as presented.

Roll call vote on CM-12-07-109	Yeas: Staudt, Casey, Fischer, Margolis, Mutch, Wrobel, Gatt
	Nays: None

AUDIENCE COMMENT:

Khalid Cossor, representing Main Street Partnership, thanked the City Council, Mayor, City Manager Pearson, and City Attorney Schultz for all of their work they did on the Main Street Project. The partnership has been involved with this Project since 2006, when they had bought the building. It has been a tough time for all of us for the last five or six years. During that period of time, the City was always willing to listen to them or cooperate with them. They have done everything they could in the tough times to make a go of this project. He wanted to assure everyone that they will continue to do what they have done in the past to support this project. He thanked the City Attorney again for the excellent job he did. He said the City Attorney was a good person to work with. He would have liked the project to have done better than it has. He said the last five years has been a learning experience for them. He said they are a profitable organization in spite of the tough times. They have adjusted during that period of time. There will be things that will come up and we will continue to ask the City to provide the same cooperation and perhaps a little more for the next phases of this project. He thought the next couple of years will be tough. They will work with whoever buys the property next to them because it is in their best interest. He concluded that he appreciated the efforts to bring this to a conclusion. They had no conflict with the proposals that the City Attorney has put together and they will sign it.

MATTERS FOR COUNCIL ACTION

1. Consideration of the request of TCF Bank, Victor R. Cassis Living Trust u/a/d November 12, 2011, and Main Street Partnership, LLC, for Final Site Plan approval

for Main Street, SP12-16. The subject site is 20.66 acres of land located in Section 23, east of Novi Road, and south of Grand River Avenue, in the TC-1, Town Center-1 Zoning District. The applicant is proposing to terminate the two condominiums recorded over the property, and create three separate metes-and-bounds parcels, with provision for parking, access, stormwater, and public/private utility easements.

City Manager Pearson wanted to thank City Attorney Schultz, Deputy Community Development Director McBeth, and Community Development Director Boulard for all the work they have done over the five or six months, and Council for identifying that this was a priority by coming here tonight for a special meeting. This final site plan represents the dissolution of the condominium that was a single development by a developer. It has changed over time with the different property owners. The City Administration concurred with the property owners that the best way to move forward was to unwind the original condominium and let each of the properties develop on their own with commonalities. The parking will be carried over in a different form from the original condominium. It was one of the biggest issues. He thought they had reached an accommodation on it with the property owners. There is shared parking but they are not going to have to create individual parking for their developments. It is important to give us an opportunity for future developments. There is some minor language changes that may be necessary to finalize this. They still need agreement from Luna Properties about some of the parking. They have had formal discussions but haven't had been able to get a final review. The latitude in language has been built into the motion before Council.

Larry Czekaj, TCF Bank, thanked everyone for calling the Special Meeting. It is out of the ordinary. He believed he submitted the plan in July, 2011. He had been working with the City Attorney since August when it was decided the best approach was to bring all the owners in because they were interested in the same thing. He commented that it has been great working with the City Staff. It brought three of the owner's together with a common goal. In his experience, it wasn't the most complex transaction he has ever seen but it took some time unraveling the documents in this project. TCF is the lender for building number one. The owners have worked well as good borrowers in difficult times. Going forward, once everything is cleared up, the project should do well.

Victor Cassis had hoped the vote would be positive. After the many years of difficulty, he hopes to look forward to a good future. He thanked the Mayor and Council for accepting this project. He mentioned how City Manager Pearson, City Attorney and Community Development have worked well with him on this project and will miss them. He has prospects for this project. It will go well if we cooperate together. He appreciated everyone's efforts.

Member Mutch thanked everyone involved in this project. He felt it sounded like everyone has come to an agreement on the major issues. It has been easy for Council to wait for everyone to get all the issues cleared up. He saw that it was a lot of

unraveling to return this area back to what it was. We do have some things built into the agreements, but we are making a fresh start for the property owners. He had no problem with the agreements or actions that were taken but had some questions for City Attorney Schultz as to the City's obligations. He asked about the maintenance agreement for the Main Street improvements that had been put in place through an SAD process and asked for clarification as to how it will change the responsibilities for the various parties. City Attorney Schultz replied that the City's responsibilities really won't change from what is happening now. In terms of the agreement, they change under the existing agreement from the 1990's where the City had a minimal obligation. The change in the legal obligation has changed but the City has actually been doing it for the last few years. It will be business as usual. The most important part of the exchange agreement amendment has to do with finally taking that arrangement between the parties, which has been informal in the past, and having everyone agree as to what their maintenance will be. The agreement in its current form was with Evergreen. There was one property owner responsible for all the maintenance, when in truth; there are five owners who are responsible. We are taking the four of them and putting in writing what those responsibilities will be. It will assist the property owners and the City if it turns out that they are not performing their maintenance obligations. Member Mutch confirmed that we have enforcement mechanisms built into the agreements. He asked about the changes to the parking lot lease by the Fire Station. The lease will be extended for an additional ten years and that there is an understanding that various parties will all have access to utilize that property for parking. City Attorney said that the lease right now is with the Condominium Association. We are getting rid of the Association, so it has to be assigned to somebody. Instead of assigning it to all three as separate individual property owners, now, it essentially recognizes that it is primarily used by the Main Street Partnership Group. That is who it is being assigned to but the assignment requires that it will be open and available for public parking. Member Mutch asked if the City will get any compensation for the use of that property. City Attorney Schultz said that we don't get it now and not going forward. Member Mutch asked if it created a taxable situation for the City because it is treated as a public parking lot with this access. City Attorney Schultz said he didn't know whether or not Glenn Lemmon, City Assessor, has it being assessed for taxes. The lease would require them (Main Street Partnership) to pay in the event taxes were assessed and for maintenance. The City has no responsibility at all. Member Mutch noted that we own the property and are not charging for the use of it, but they (Main Street Partnership) are responsible for the maintenance and improvements. The potentially land locked parcel through the vacation of Paul Bunyan Drive within the Site Plan approval will maintain access for that property through a public easement. City Attorney said that it was really Council's motion and the vacation resolution in the second item that guarantees access if they need it. Member Mutch was concerned about the extension of the parking lot lease agreement which takes it to 2051. It makes it chanceling for future Councils. He hoped that all the people will be successful with their developments and the City may want to convert that property to something other than a parking lot. Past Council made the commitment to 2041, so another ten years is not a deciding issue. All the concerns he had were answered or addressed. He said that there had been discussion about Luna as to their participation in the various agreements. He asked if they had everyone in agreement in

terms with what we are asking to approve tonight. City Attorney said they do not have a formal response from Luna. We have had the informal conversation with them. They were at the meetings in November and December and are aware of what is going on. They may have comments on the way we have framed some of the agreements. We are asking them to consent to a larger easement document because, historically, there are easements and rights going back and forth across Main Street between the common area and the Vic's (Luna Property) area. They needed to be kept abreast of what is going on. They probably should consent to what is being done. Their main issue is that it doesn't affect what is going on at their site. The motion that is before Council addresses that towards the end. It is contingent on Luna giving us the approval. Hopefully, they will approve it or the changes will be minor changes so we don't have to revisit this. Member Mutch noted that much of it can be addressed with the parties that were there. City Attorney Schultz said that it was the parking more than anything else. If they are satisfied with the language, then we should be okay.

CM-12-07-110 Moved by Mutch, seconded by Wrobel; CARRIED UNANIMOUSLY:

Approval of the request of TCF Bank, Victor R. Cassis Living Trust u/a/d November 12, 2011, and Main Street Partnership, LLC, SP12-16 Main Street, for the Final Site Plan, subject to the following (if any of the following do not occur, Final Site Plan Approval shall not be complete and effective, and the City staff shall not issue Stamping Sets for the Project):

- 1. Signature and recording of:**
 - a. Termination of Condominium Project and Master Deed – Main Market Condominium**
 - b. Termination of Condominium Project and Master Deed - Novi Main Street Condominium**
- 2. Application by all property owners for a land division, and the granting of the land division by the City Assessor, to establish the three parcels identified on the Site Plan (including appropriate conveyance of the 16-foot wide strip along the northern boundary of Parcel 2, as noted on the site plan)**
- 3. Signature by all parties and recording of:**
 - a. Main Street Area Reciprocal Parking, Access, and Public/Private utilities Agreement**
 - b. Consents of Luna and TCF [as lender for Parcel]**
- 4. Signature by all parties of First Amendment to Exchange Agreement (Main Street Area)**
- 5. Signature by all parties of Second Assignment of Lease Agreement (City-owned parking lot)**
- 6. Compliance with all conditions and requirements listed in the staff and consultant review letters, with any required changes to the final site plan to be included in the final stamping sets.**
- 7. The above-referenced documents are to be signed in substantially the form as attached, with the attachments to be determined by the City staff and any changes to be approved by the City Manager and City Attorney.**

This motion is made because the plan is otherwise in compliance with Article 16, Article 24, and Article 25, together with all other applicable provisions of the Zoning Ordinance, with respect to the Property within the plan, and because the plan is consistent with rights to shared parking on the Property by adjacent properties, including specifically Parcel No. 22-23-176-011, which shall be considered to have sufficient parking for its existing and historically approved uses for the improvements on Parcel No. 22-23-176-011.

Mayor Gatt said that this has been a long journey and started probably twenty years ago. There is light at the end of the tunnel and today is a great day for the citizens, business owners, and residents in Novi. Main Street is going to do well. He asked the three owners present to make Main Street look presentable for the City of Novi and make Main Street the jewel that was once a dream. He knows they can. He and the people in Novi will be watching.

Roll call vote on CM-12-07-110 **Yeas: Casey, Fischer, Margolis, Mutch, Wrobel, Gatt, Staudt**
Nays: None

2. Approval of adoption of a resolution to vacate the remaining public right of way of Paul Bunyan Drive, also known as Orchard Avenue or Sixth Gate, east of Novi Road and south of Grand River Avenue, reserving an easement for public utilities and for public ingress and egress, and conditioned upon the completion of the termination of the Main Market Condominium.

City Manager Pearson wanted to add that this was a request for a vacation of a street that is a stub road off of Novi Road. We have already vacated some of the right of way just to the east. It makes sense to honor the adjoining property owners request for this vacation. There will be rights of access that will be maintained. When the properties develop, the site plan will be flexible about the route it takes. There will be some east-west access which ties it together and get this property on the tax rolls and potential use.

Member Mutch asked City Attorney Schultz if all that property will accrue to Mr. Cassis's adjoining property. City Attorney Schultz said that was their belief and that is how we intend to do it. It is contingent on a transfer between TCF and Mr. Cassis.

CM-12-07-111 Moved by Mutch, seconded by Wrobel; CARRIED UNANIMOUSLY:

Approval of the attached resolution to vacate the remaining public right of way of Paul Bunyan Drive, reserving an easement for public utilities and a public vehicular ingress and egress easement across the entirety of the vacated right-of-way as with the portion vacated to the east, and subject to the following:

- 1. The Main Street Final Site Plan SP 12-16 be approved by the City Council, and all the conditions of the approval be met;**

2. **The public ingress and egress easement reserved in the resolution shall maintain alignment with the existing commercial driveway on the west side of Novi Road, unless and until any future site plan amendments are approved by the City;**
3. **The public ingress and egress easement reserved in the resolution shall be maintained in good repair and kept unrestricted, including the recorded access easement over the easterly portion of the former Paul Bunyan right-of-way previously vacated;**
4. **Ownership of the existing 0.17-acre "devil's strip" on the south side of the Paul Bunyan right-of-way shall be transferred to the owner of Unit 2/Proposed Parcel 2 consistent with note included on Main street Final Site Plan SP 12-16, with City staff to take such action as is necessary to confirm vesting of title in the owner of such property; and**
5. **An access easement shall be granted to the owner(s) of Parcel 50-22-23-102-027 to avoid creating a landlocked parcel, unless the owner agrees to combine that parcel with an adjacent parcel.**
6. **A separate Public Utilities and Ingress and Egress Easement in Connection with Street Vacation, in substantially the same form as attached hereto, shall be executed by the benefitting property owner(s) if required by the City.**

Mayor Gatt added high accolades to City Manager Pearson and City Attorney Schultz. He had been working with these gentlemen since November on this project. Everyone at the table should be proud of their City Attorney and a City Manager when it comes to this matter. It has been very difficult. These gentlemen have waded through it all and got us to where we are today. He thanked them on behalf of the City Council and the whole City.

Roll call vote on CM-12-07-111

Yeas: Fischer, Margolis, Mutch, Wrobel, Gatt,
Staudt, Casey
Nays: None

AUDIENCE COMMENT – None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 7:36 P.M.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: July 23, 2012