

MEMORANDUM



cityofnovi.org

TO: PLANNING COMMISSION
THROUGH: BARBARA MCBETH, AICP, DEPUTY DIRECTOR
COMMUNITY DEVELOPMENT
FROM: MARK SPENCER, AICP, PLANNER *Mark Spencer*
SUBJECT: SP01-63 SCENIC PINES FINAL SITE PLAN EXTENSION
DATE: FEBRUARY 20, 2008

A one-year extension of Final Site Plan approval for Scenic Pines Estates, Site Plan 01-63E, is requested by Marvin Daitch, of Danovi, LLC. The Site Plan is for a 24 unit, detached single family residential development, located in Section 3 on the south side of Pembine Road, between Buffington and Henning Roads, in the R-4, One Family Residential Zoning District. The Planning Commission reviewed the Preliminary Site Plan on September 25, 2002 and approved the Site Plan, subject to a number of conditions. The plans were brought back to the Planning Commission on June 25, 2003 for Final Site Plan review and approval, which was granted. The Planning Department issued final approval of the plans on July 24, 2004. The applicant's wetland permit was revised in 2006 and the Planning Department issued final approval to the Revised Final Site Plan on April 13, 2006.

The applicant requests a one-year extension for the approved final site plan in a letter dated January 21, 2008 (see attached). Section 2516.7 of the Zoning Ordinance permits a total of three site plan extensions. This is the third extension request for the subject property. The first was an extension to the Preliminary Site Plan approval that was granted on June 8, 2005. The second was a one-year extension of Final Site Plan approval granted on February 28, 2007. To date, the Planning Department is not aware of any ordinance changes or other issues that would warrant denying the extension request. **The Planning Department recommends approval of the Final Site Plan extension.**

LETTER FROM APPLICANT REQUESTING EXTENSION

DANOVI, L.L.C.

**28535 Orchard Lake Road, Suite 100
Farmington Hills, Michigan 48334
Telephone: 248.553.5510
Fax: 248.553.5501**

January 21, 2008

Ms. Barbara McBeth
Director of Planning
City of Novi
45175 W. Ten Mile Rd.
Novi, MI 48375

RE: Request for Final Site Plan Extension Approval for the Scenic Pines Estates Project
(SP # 01-63)

Dear Ms. McBeth,

Per our meeting last July 30, 2007 and subsequent conclusion that we are eligible for another one-year extension when our current final site plan approval expires on April 13, 2008, I would like to formally request an extension until April 13, 2009 (also refer to letter dated 8/3/2007, attached). The primary reason for the request remains the current depressed state of the housing market. This makes it difficult to consider new residential construction at the present time. It is our hope that the additional time will see a turn in the housing market.

The subject property is located in Section 3, south of South Lake Drive on the south side of Pembine Road, between Buffington and Henning Roads, in the R-4, One-family Residential District. The subject property is approximately 8.93 acres.

If you should have any questions or need further information, please feel free to contact me using the above information. Thank you for your assistance in this matter.

Sincerely,



Marvin Daitch
Managing Member

PLANNING COMMISSION ACTION SUMMARY EXCERPTS

JUNE 5, 2005

FEBRUARY 28, 2007

PLANNING COMMISSION
REGULAR MEETING
ACTION SUMMARY
WEDNESDAY, JUNE 8, 2005 7:30 P.M.
COUNCIL CHAMBERS - NOVI CIVIC CENTER
45175 W. TEN MILE ROAD, NOVI, MI 48375
(248) 347-0475

CALL TO ORDER

The meeting was called to order at or about 7:30 p.m.

ROLL CALL

Present: Members John Avdoulos, Victor Cassis, Andrew Gutman, David Lipski (7:45 p.m.), Lynn Kocan, Mark Pehrson, Lowell Sprague

Absent: Member Wayne Wrobel

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

CONSENT AGENDA - REMOVALS AND APPROVAL

1. SCENIC PINES ESTATES, SITE PLAN NUMBER 01-63

Consideration on the request of Rick Tatro of Aprecis Group Master Planning Services, Inc. for a one year Final Site Plan extension. The subject property is located in Section 3, south of South Lake Drive on the south side of Pembine Road between Buffington and Henning roads in the R-4, One Family Residential District. The Applicant is proposing twenty-four detached single family homes, approved under the One-Family Clustering Section of the Zoning Ordinance. The subject property is approximately 8.93 acres.

Motion to approve the Consent Agenda. *Motion carried 6-0.*



PLANNING COMMISSION

REGULAR MEETING

EXCERPTS

ACTION SUMMARY

WEDNESDAY, FEBRUARY 28, 2007 7:00 PM
COUNCIL CHAMBERS - NOVI CIVIC CENTER
45175 W. TEN MILE, NOVI, MI 48375
(248) 347-0475

ROLL CALL

Present: Members John Avdoulos, Brian Burke, Victor Cassis, Andrew Gutman, David Lipski, Michael Lynch, Mark Pehrson, Wayne Wrobel

Absent: Member Michael Meyer (excused)

Also Present: Barbara McBeth, Deputy Director of Community Development; Tim Schmitt, Planner; Mark Spencer, Planner; Kristen Kapelanski, Planner; Ben Croy, Engineer; David Beschke, Landscape Architect; Rob Hayes, City Engineer; Mike McLaren, EIT; Tom Schultz, City Attorney; John Freeland, Wetland Consultant; Alan Hall, Façade Consultant

CONSENT AGENDA - REMOVALS AND APPROVAL

2. SCENIC PINES ESTATES, SP01-63E

Consideration of the request of Rick Tatro of Aprecis Group, Inc., for Final Site Plan Extension approval. The subject property is located in Section 3, south of South Lake Drive on the south side of Pembine Road between Buffington and Henning Roads, in the R-4, One-family Residential District. The subject property is approximately 8.93 acres.

Motion to approve the Consent Agenda. *Motion carried 8-0.*

**PLANNING COMMISSION MINTUES
FINAL SITE PLAN APPROVAL
JUNE 25, 2003**



AMENDED

PLANNING COMMISSION
REGULAR MEETING
EXCERPTS
WEDNESDAY, JUNE 25, 2003, 7:30 P.M.
COUNCIL CHAMBERS - NOVI CIVIC CENTER
45175 W. TEN MILE, NOVI, MI 48375 (248) 347-0475

ROLL CALL

Present: Members Avdoulos, Kocan, Markham, Nagy, Papp, Paul (left early), Ruyle, Shroyer

Absent: Member Sprague (excused)

Also Present: David Evancoe, Director of Planning; Barbara McBeth, Planner; Darcy Schmitt, Planner; Tim Schmitt, Planner; Lance Shipman, Landscape Architect; Brian Coburn, Engineer; Ben Croy, Engineer; Tom Schultz, Attorney; Larry DeBrincat, Vilican-Leman; Dr. John Freeland, Tilton & Associates

MATTERS FOR CONSIDERATION

1. SCENIC PINES ESTATES, SITE PLAN NUMBER 01-63

Consideration of the request of Marvin Daitch of Danovi LLC, for approval of a Final Site Plan. The subject property is located in Section 3 and south of Pembine between Buffington and Henning. The developer proposes a 24-unit condominium under the Single-Family Cluster Option in the R-4 (One Family Residential) District. The subject property is 8.93 acres.

Barbara McBeth, City Planner, located the property on an aerial map. The land is undeveloped with the exception of two existing single-family homes and garages on the north end; it is zoned R-4 and master planned for Single Family. To the West are single family homes and vacant land (zoned R-4 and master planned for Single Family). To the north are the Lakewoods and Lilley Pond subdivisions (zoned R-4 and master planned for Single Family). To the east are the South Pointe Condos (zoned R-A and master planned for Single Family). To the south is vacant land (Zoned R-1 and R-A and designated for a community park).

Last September the Planning Commission approved a Preliminary Site Plan for this property with several conditions, one of which was that it return to the Planning Commission table for its Final Site Plan approval. The Staff and Consultants have worked on this site plan and they appreciate the Applicant's efforts in helping to resolve the remaining issues. The plan is for 24 units reviewed under the one-family Cluster Option. Each home will be detached and clustered in groups of three or four on either side of White Pine Trail that runs north and south, and on Pine Cone Court. In excess of 50% of the site are wetlands and woodlands and will be preserved. The existing homes will be removed.

The Planning Review noted minor items to be addressed at the time of Final Stamping Set submittal. A chart was provided to the Planning Commissioners to assist them in reviewing the changes made as a result of the Preliminary Site Plan approval.

The Wetlands Review noted that two issues are outstanding. Previously the Applicant was told that the MDEQ Permit must be secured. It is currently under review for approval according to the Applicant. Additionally, lots seven and ten encroach the wetland buffer and the Applicant is asking the Planning Commission to reconsider approving this design.

The Woodlands Review noted minor items to be addressed at the time of Final Stamping Set submittal. The Landscape Review noted that the Applicant has not satisfactorily moved the detention pond a distance equivalent to what a berm would occupy (roughly 17 feet). Moving the pond south was not possible because of the woodlands. Moving the pond east was impractical. The Applicant is asking the Planning Commission to reconsider this stipulation made during the Preliminary Site Plan approval process.

Artistic renderings were provided to the Planning Commission for their review. The wall detail indicates a low wall with wrought iron detail above, which is different than what was provided in the landscaping packet. The Applicant asked that the Planning Commission consider the new design.

The Traffic Review and Fire Marshal approved of the plan. The Engineering Review noted minor items to be addressed at the time of Final Stamping Set submittal. The Façade Review is not required until such time as the building permits are sought.

Attorney Robert Carson of Birmingham represented the Applicant. He asked to clarify that none of the lots are in the buffer, and believes that the Woodland Consultant will confirm that. There may be some question regarding the grading, but the resolution made by the Planning Commission in the previous September only required that no lot be in the buffer zone.

Mr. Carson stated that one issue not accommodated by this new plan is the retention pond. The alternative currently shown on the plan is the best available and the most aesthetically pleasing. The original concern was the setback and the placement of the wall near the streetscape. A meeting took place in December between Novi, JCK, Birchler Arroyo and the Applicant's consultants wherein this issue was discussed. They determined jointly that this was the best plan. There was some discussion of moving the wall back and putting the trees in front of the wall. The wall would be used as a retaining feature of the pond. No one felt that this was a good plan. Mr. Carson stressed that the Applicant did not just ignore the request of the Planning Commission; the design did not change because the consensus was the design could not be improved. Mr. Carson said the result is a very pleasing entryway. The wall runs along the entire entry and is a focal point as well as the site's signage.

The other concern was the securing of the MDEQ Permit. The Applicant acknowledges that the permit will be issued prior to any work being done on the site. Mr. Carson stated that tonight's approval of the Final Site Plan will allow the Applicant to move forward on the detailed engineering drawings so as not to lose this building season.

Mr. Carson noted that the variance was not allowed for the outbuilding and that the issue is gone. The other variances have been secured.

Member Shroyer asked John Freeland of Tilton and Associates if lots seven and ten encroach the wetland buffer. He responded that he interpreted the minutes in a broad manner. The plan showed limits of grading for lots seven and ten. His opinion is that if an area is graded outside of the lot, it opens the door to a casual annexation of that specific area. He does believe that the encroachment is avoidable. Only the corners of the lots are encroaching the buffer, and he asked the Applicant why the grading can't just be rounded around the corners rather than performed at a right angle. Mr. Carson responded that the lots don't encroach the buffer, but the Applicant does not wish to portray the situation as no disturbance occurring inside the buffer when it is likely that minimal impact will occur in the corners of those lots in a manner expected from bulldozing. It will not impose on the wetland itself. Tion Sujac of Mickalich and Associates, the design consultants for the property, explained that previously JCK asked the Applicant to show grading limits ten feet from the buildings' envelopes. It is not so much an area of grading, but an area of disturbance. Dr. Freeland stated that the wording on the plan is "limits of grading" and if the terminology is incorrect he recommended that it be corrected. Dr. Freeland agreed that there is no reason that the grading would have to extend that far out.

Member Shroyer asked what negative impact would result in disturbing the buffer. Dr. Freeland explained that the 25-foot setback is to protect the wetland and although the impact is small, they could be avoided. Member Shroyer commented that he did not believe anyone on the Commission expected grading outside of the lot area.

Member Shroyer asked Mr. DeBrincat about a bond for the at-risk trees. He responded that there were 67 trees within close proximity of the buildings. The roots may become impacted during the normal course of construction and some are very close to the protective fence. Some of these trees may succumb to the disturbance and therefore are bonded to ensure that the tree count remains consistent throughout the development of this property. If the trees do not die the bond is released. Mr. Carson said the Applicant is favorable to this request. He also wished the record to reflect that two separate Consultants have been a part of this review which has added a level of confusion to the process.

Member Shroyer noted that the reviews indicated that there is no room to add native plantings to the detention pond without the 17-foot buffer. Mr. Shipman explained that the plantings are placed along the fringe or slightly above the freeboard level of the pond. Without the 17 feet, this cannot be done. Mr. Evancoe further clarified that the pond will hold a certain amount of water at all times.

Member Shroyer asked about the rendering. Mr. Carson explained that the neighbor has asked for a location to park his car and that is what is indicated in the drawing. Mark Robinson of the Aprecis Group helped explain the rendering and how the neighbor will have a parking area provided on this site.

Member Shroyer asked which of the two depicted walls will be used on the site. Mr. Carson explained that the wall

with wrought iron will be used if the Planning Commission agrees to the detention pond design. If the design must change, the less ornate wall will be used. Mr. Carson explained that the Ordinance requires a solid wall, but the aesthetics of the new design is better, and it is within the Planning Commission's purview to review and accept the new design as it is substantially within the terms of the Ordinance.

Member Shroyer asked Mr. Schultz if the Planning Commission can approve this design. He responded that the Ordinance provides for the Planning Commission's ability to grant a waiver of the berm in favor of the use of an obscuring wall. If there is relief it would have to come from the ZBA.

Member Markham asked Mr. DeBrincat about the 376 replacement trees. He responded that this number supercedes the Applicant's number of 367, and the Applicant agreed. Member Markham continued that there are 67 "at-risk" trees to be bonded; she asked whether there is a guaranty timeframe involved with the release of the bond. Mr. DeBrincat assumed that the release of the bond would coincide with the replacement tree inspection.

Member Markham asked about the deficit of 184 trees. Mr. DeBrincat explained that 236 trees would be replaced on the site, some of which are evergreens so the replacement value is only 192. There would be a deficit of 184 for planting around the City or their associated costs paid to the tree fund. Mr. Carson stated that the Applicant is aware that he must plant them on-site, off-site or contribute to the fund. He recommended to them that they plant on-site to gain the value.

Member Markham asked about the street name. There is an existing White Pines Drive in the City. Mr. Evancoe responded that it is unlikely that this name would be approved by the Street Naming Committee. Ms. McBeth interjected that the Applicant is aware of this and has already provided an alternative list for consideration.

Member Markham asked how the Applicant would explain to the future homeowners that their decks must not encroach the wetland boundaries, which will in some cases limit the size of their deck to ten feet. Mr. Carson responded that the restrictions will be placed in the Master Deed. This document also will explain to the homeowners how the wetlands and woodlands are taxed. Once the Applicant has drafted the document it will go to the City attorneys and City Council for their review. Mr. Carson explained that when someone purchases a condominium, they are given a full nine days to review the Master Deed.

Member Markham asked about the common-area irrigation. Pat Conroy of Conroy Associates will be performing the irrigation work on this property. He explained that the common area and the landscaped islands will be irrigated and that his plan will be submitted at the time of Final Stamping Set submittal.

Member Papp asked whether this parcel creates a land-locked situation for an adjoining parcel. Ms. McBeth responded that both 208 and 210 Buffington have access. A third parcel is landlocked, however, this landowner gave his support for this site plan during a previous meeting, and therefore has full knowledge of the plan for this property. Mr. Schultz replied to Member Papp that this landowner is not responsible for providing the other landowner with access. He continued that the Applicant is obligated to make the improvements cited on their plans, and if for some reason a private rights issue surfaces, it will be the Applicant's responsibility to resolve that privately. Member Papp thanked the Applicant for responding to the various questions that were still on the table from the last meeting.

Member Avdoulos expressed his concern for the northwest corner. There is a water feature planned at the elevation of 934.50, and the finished elevation of one of the condos is only at 940.00. He also asked the engineers for their explanation of how this elevated water feature will react to a heavy rain. Mr. Croy responded that the pond has an additional capacity of two feet over the static level. Member Avdoulos questioned whether it would be a better design to remove some units and allow more buffer room for this pond. Mr. Carson responded that the design of the pond addresses the concerns that Member Avdoulos expressed. The pond will not be overgrown and the water will not be stagnant. He continued that he would think there would be a greater threat of mosquitoes associated with the wetlands and woodlands than from this pond.

Mr. Conroy clarified that Member Avdoulos' questions referred to the potential for flooding at units 21 through 24, and the flooding of Pembine Road. Member Avdoulos replied that he has concern for any issues that might arise outside the site boundary lines. Mr. Conroy explained that a standard gravity overflow was added to the design. In the event that a one hundred year storm event came, the gravity overflow would alleviate the water prior to any units flooding. Pembine Road has no drainage structures, and it appears that Pembine does occasionally have

drainage problems. Mr. Conroy has added structures at the entrance that will divert the water from the road to the pond. Mr. Conroy asserted that the design will improve the condition of the drainage in the area.

Member Avdoulos appreciated the design of this plan, and noted that the plan makes use of the natural features of the property. The front entry enhances the area. Mr. Carson responded that the Ordinance requires a thirty-inch obscuring wall but the one submitted for approval is only 24 inches of concrete topped by the wrought iron. He suggested that the Applicant could add more obscuring material to the detriment of the design. Member Avdoulos replied that he was satisfied with the submitted plan.

Member Kocan explained that the semantics of section 2509.7.d is "*screening wall*" because the property is abutting a ROW. She read, "...such screening walls shall be face brick on both sides with a suitable cap." She stated that she will listen to the Planning Commissioners to ascertain whether they think the proposed design meets the intent of the Ordinance.

Member Kocan did not see the calculations that reflected the percentage of open space on the property. Ms. McBeth responded that it is 50.01%. Member Kocan stated that the Ordinance requires a majority of the property to be open space for the Cluster Option. She stated that 13 of the 24 houses directly abut the Cluster Option setback of 75 feet. She stated that it is obvious to her that several homeowners will have to come before the Woodlands Review Board just to get a patio. Member Kocan asked whether these landowners will be granted a certain number of feet before they will have to go before the Board. Ms. McBeth explained that the statement that homeowners will be limited to ten-foot patios addresses this issue. Since that is the distance of the tree protection fence from the buildings' envelopes, it seemed reasonable to limit the homeowners to that same area. Member Kocan thought the Applicant said the decks would be limited to 18 feet, and if that is the case that change needs to be made immediately at this table. Member Kocan continued that if homeowners need to take down trees to accommodate their patios, this property will immediately fall below the 50% of open space required by the Cluster Option. Therefore, she finds this site plan to be overbuilt.

Member Kocan previously requested in her motion that the detention pond be moved back 17 feet regardless if that meant the Applicant would have to remove unit 24. She is not pleased that the Applicant just came back with the same design. She stated that the landowners that abut the property are right on top of that water. She believes that this plan restricts those people to just stay within their homes. Member Kocan asked about the MDEQ Permit. She determined that the Applicant is waiting for the permit.

Member Kocan stated that some of the neighboring residents were concerned that some of these homes would end up being three or three and one-half stories tall. She understood that the building height is determined by the average grade on all four sides and it also takes into consideration whether the ground floor is counted as a basement or as a story. She wanted to confirm that the Applicant takes those definitions very seriously and complies with the Ordinance.

Mr. Carson asked to respond to Member Kocan's concern about the detention pond. He explained that the Applicant worked diligently with the Staff regarding the design. The pond could have been moved back and the number of units could have been preserved, but the proposed design is better for the site, the City, the residents, the neighbors and the development. Mr. Carson maintained that the request of the Planning Commission was not ignored. Member Kocan stated that it was a personal opinion.

Chair Nagy stated that she reviewed the motion made at the time of Preliminary Site Plan, and it included the 17-foot buffer at the pond. She referred to the pictures in the room and stated that the first design is less friendly. The area is not formal in design. The second picture shows a much better design and while it is not in keeping with the area, it is more appealing and friendly.

Chair Nagy asked again about how the Master Deed will address the decks. Mr. Carson responded that the units closest to the buffer will be restricted from building their decks in the buffer zone. Units that are farther away will be able to build larger decks and that all these options will be spelled out in the Master Deed. Chair Nagy concurred that the document can specifically list individual units and their limitations. Chair Nagy supported the plan at the table. She approved of the new fence design. She asked for a motion from the Planning Commission.

Moved by Member Shroyer, supported by Member Ruyle:

In the matter of the request of Marvin Daitch of Danovi LLC, Site Plan 01-63E, motion to grant approval of the Final Site Plan, subject to: 1) Reconsideration of the Planning Commission condition that the Michigan Department of Environmental Quality permit is needed prior to Final Site Plan approval, as it is on its way; 2) Reconsideration of the Planning Commission condition that no grading of the wetland buffer will take place in lots 7 and 10; 3) Reconsideration of the Planning Commission condition to set back the detention pond a distance equivalent to what a berm would occupy; 4) The replacement of the thirty-inch-brick wall with a thirty-inch-stone wall capped by a wrought iron fence similar to what is depicted in the rendering because that is in compliance with the Ordinance; and 5) Subject to the comments on the attached review letters being addressed at the time of Stamping Set review; Because the Applicant has worked diligently with the City, and has taken into consideration the comments from the surrounding neighbors.

DISCUSSION

Mr. Schultz commented about the use of the word "reconsideration" with regard to the grading of the wetland buffer in lots 7 and 10. Member Shroyer confirmed that the motion removes the condition imposed during the Preliminary Site Plan approval.

Mr. Schultz asked whether the motion now reflected that the screening portion of the wall must be thirty inches without the inclusion of the wrought iron measurement. Member Shroyer responded that the motion approves of the wall measurement being attained by the combination of the stone wall and wrought iron components. Member Ruyle then withdrew his seconding of the motion because he supports a thirty-inch screening wall that would not include the wrought iron in its measurement. Member Shroyer was open to that recommendation and restated the motion to require that the obscuring portion of the wall be thirty inches, so Member Ruyle then re-seconded the motion.

Member Kocan asked whether any of the conditions of the Preliminary Site Plan approval need to be restated in this motion. Mr. Schultz told the Planning Commission that this motion could reflect that any pending items from the Preliminary Site Plan motion are still in effect with this approval. Member Shroyer accepted that as an amendment to his motion and Member Ruyle agreed.

ROLL CALL VOTE ON THE DANОВI LLC SITE PLAN 01-63E AMENDED MOTION MADE BY MEMBER SHROYER, SECONDED BY MEMBER RUYLE:

In the matter of the request of Marvin Daitch of Danovi LLC, Site Plan 01-63E, motion to grant approval of the Final Site Plan, subject to: 1) Reconsideration of the Planning Commission condition that the Michigan Department of Environmental Quality permit is needed prior to Final Site Plan approval, as it is on its way; 2) Reconsideration of the Planning Commission condition that no grading of the wetland buffer will take place in lots 7 and 10; 3) Reconsideration of the Planning Commission condition to set back the detention pond a distance equivalent to what a berm would occupy; 4) The replacement of the thirty-inch-brick wall with a thirty-inch-stone wall capped by a wrought iron fence similar to what is depicted in the rendering because that is in compliance with the Ordinance; 5) Subject to the comments on the attached review letters being addressed at the time of Stamping Set review; and 6) the remaining conditions from the Preliminary Site Plan remain in effect with Final Site Plan approval; Because the Applicant has worked diligently with the City, and has taken into consideration the comments from the surrounding neighbors.

Motion carried 5-2. (Yes: Papp, Ruyle, Shroyer, Markham, Nagy; No: Avdoulos, Kocan).