

MEMORANDUM



TO: PLANNING COMMISSION MEMBERS
FROM: MARK SPENCER, AICP, PLANNER *Mark*
THROUGH: BARBARA MCBETH, AICP, DEPUTY DIRECTOR
OF COMMUNITY DEVELOPMENT
SUBJECT: SP09-18B FINAL SITE PLAN EXTENSION
DATE: MAY 1, 2013

Novi Food Center, LLC, proposes to expand, reconfigure and pave parking areas on the north and south side of their property located on the south side of Grand River Avenue between Sixth Gate and Main Street. The project will include islands, landscaping, a new dumpster enclosure and a driveway connection to the City's parking facility south of the site. On the north side of the site, islands with landscaping, a pathway and decorative paving will separate the parking area from the street. The north parking area will also be connected to the parking lot for Novi Party Store which is owned by the same owner.

Approvals proceeded as follows:

- Planning Commission granted Preliminary Site Plan approval and Storm Water Management Plan approval on September 30, 2009, subject to a number of conditions.
- The Zoning Board of Appeals granted all the variance requests on May 11, 2010.
- The Final Site Plan received approval on January 12, 2011.

The applicant is requesting a one-year extension of Final Site Plan approval, due to delays because of difficulty obtaining financing and anticipates completing the project before the end of this summer. The Zoning Ordinance allows for three, one-year extensions of Preliminary and Final Site Plan approvals. Although the application for the extension was required before the site plan approval expired, the Planning Staff recommends that the Planning Commission consider the extension since the applicant was not notified of the pending expiration.

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

Please refer to the attached letter dated April 28, 2013 from Marvin Poota of Novi Food Center, LLC requesting the one-year extension of the Preliminary Site Plan approval. Also attached are minutes from the pertaining Planning Commission and zoning board of Appeals meetings.

Site Plan Extension Request Letter

From Marvin Poota

April 26, 2013

Novi Food Center IIC

31100 Wixom Road
Wixom, MI 48393

April 26, 2013

Mark Spencer
City of Novi

Dear Mr. Spencer:

We are requesting an extension for the site plan approval for the project on 43035-43043 Grand River Ave. for one additional year until January 2014. Our project was delayed because of difficulties obtaining the funding for the project. Initially we were going to pay out of pocket. But when the scope of the project was expanded, we tried to obtain a loan.

We were not able to obtain a loan until the late summer of 2012, making it difficult to start until this spring when we were informed our approval expired.

We are hoping to break ground in June of this year and complete the project before the end of the summer. We have committed much time and effort to this project and are determined to finish it. Please assist us by extending the approval period.

Sincerely,



Marvin Poota
Vice President

Reduced Site Plan

Planning Commission Minutes

Excerpts

September 30, 2009



PLANNING COMMISSION MINUTES

Excerpts Approved

CITY OF NOVI

Regular Meeting

Wednesday, September 30, 2009 | 7 PM

Council Chambers | Novi Civic Center | 45175 W. Ten Mile

(248) 347-0475

ROLL CALL

Present: Members David Baratta, Victor Cassis, David Greco, Brian Larson, Michael Lynch (arrived at 7:15 PM.), Michael Meyer, Chairperson Mark Pehrson, Leland Prince (arrived at 7:19 PM.)

Absent: Member Andy Gutman (excused)

Also Present: Charles Boulard, Community Development Director; Mark Spencer, Planner; Kristen Kapelanski, Planner; Jana Pritchard, Planner; David Beschke, Landscape Architect; Lindon Ivezaj, City Engineer; Rod Arroyo, Traffic Consultant; John Freeland, ECT; Kristin Kolb, City Attorney

Matters for Consideration

2. NOVI FOOD CENTER, SP09-18

Consideration of the request of Novi Food Center, LLC, for Preliminary Site Plan and Stormwater Management Plan approval. The subject property is located in Section 23, south of Grand River Avenue between Sixth Gate and Main Street, in the TC-1, Town Center District. The applicant proposes to expand, reconfigure and pave parking areas on the north and south side of the property including improvements in the adjacent Grand River Avenue right-of-way.

Planner Spencer explained that this area is a developed area of the city and there are no vacant parcels around it right now. There are no wildlife habitat priority areas or floodplain and none of those issues to deal with on this site. This project does propose an expansion of a non-conforming parking area at the north of the building. A map displayed on the screen shows the right-of-way in green. The right-of-way goes right to the front of the buildings. These buildings are in a platted subdivision and the boundary of the subdivision came right to this right-of-way. There are some questions about the ownership of this strip of right-of-way whether it was abandoned by the Road Commission for Oakland County, or if it belongs to the city, and these are issues that the city attorney and the applicant are going to work out following additional research. At this time, the city attorney recommends that as a condition of approval, an appropriate agreement between the city and applicant be put in place for this right-of-way.

Originally, the proposed improvements were only to the rear area of the buildings for the driveway connecting to the Main Street parking lot behind the fire station. At staff's suggestion, the applicant was willing to consider improving the front parking area at the same time. In order to help improve that area, some islands and a narrower drive will be proposed where currently there is just a one big wide apron going into the parking area. The applicant is proposing adding some landscaping and an 8 foot safety path as provided in other areas along Grand River Avenue. Also, a direct driveway connection is proposed to Main Street to improve traffic circulation on the site and also dress it up considerably.

The site plan is in general compliance with the ordinance except for the requirement to meet the 20 foot setback for 3 additional parking spaces. Currently there is one parking spot in front of the building and landscaping, but no driveway connection to the west. Regardless of the right-of-way ownership, a parking setback variance is required. The balance of the parking is an existing non-conformity and is not changing in location. The applicant has indicated a willingness to go for a variance to the ZBA to permit this deficient setback. Staff supports this variance because this will greatly improve the traffic circulation in front of the building and improve the appearance in front of the building.

The applicant has proposed a 22 foot wide access aisle for the north parking lot and 24 feet is required. The applicant has agreed to adjust the plan to meet the 24 foot requirement. Projects in the Town Center District are also required to have pedestrian amenities within the development. The Novi Party Store, which the applicant owns and is to the east of the three buildings that are highlighted in your application packet, had some landscape amenities included in the approved site plan and the applicant has agreed to move them to some other places on the site. These included a bench, trash can and decorative lighting.

City staff and consultants all recommend approval of the preliminary site plan with some minor changes including the waiver of the 3 foot tall wall that is required to separate parking areas from the road right-of-way in the Town Center

District. The city's landscape architect supports this waiver since there really isn't room for practical purposes to place that wall and not have it block visibility. The applicant was asked by the traffic consultant to make some minor site plan changes including adjusting the location of the driveway slightly to the west and the applicant has agreed to do that. These plans also require a same side and opposite side driveway spacing waiver which the applicant is requesting from the Planning Commission and that staff recommends. Our traffic consultant is also recommending that the applicant work with our city attorney's office to provide cross access easements for future connectivity, so at such time the properties to the west decide to re-develop their parking facilities, the parking lots will be connected.

Chair Pehrson asked if the applicant would like to add anything.

Mr. Marvin Poota came forward and stated that his family owns the property and stated the purpose of this project is to improve the look of the site as well as the parking situation which is very tight right now. The applicant also hopes to do some façade changes in the future, if the economy turns around and generally improve the site and have it look like the rest of the area.

Chair Pehrson asked if there was any correspondence and there was none, so the Chair turned it over to the Planning Commission.

Member Cassis stated to Chair Pehrson, the Planning Commission and the city attorney that he did own a couple of those buildings at one time, and that he sold them to the petitioner. Member Cassis was concerned, yet he has no financial interest now and wanted to disclose these facts.

Chair Pehrson thanked Member Cassis and said he did not think they had to recuse him from this matter.

City Attorney Kolb agreed, since there was no direct financial gain.

Chair Pehrson then turned it over to the Planning Commission for discussion.

Member Meyer stated that he had one concern: he had heard that Grand River Avenue between Novi Road and Meadowbrook Road would be widened to five lanes at some point. Member Meyer questioned that if this happened, would that impact the parking added in this proposal.

Lindon Ivezaj, City Engineer stated that there have been plans from Road Commission for Oakland County to possibly widen that into a five-lane roadway, however, there are no plans for widening in the immediate future.

City Attorney Kolb stated that the attorney's office has confirmed that the Road Commission did abandon that property. If the county were going to do a project like that; they would have to reacquire it. So, that would suggest that there are no immediate plans.

Member Meyer stated that he did drive that road often and it does need repair. Member Meyer wondered if the Road Commission might plan on repairing Grand River Avenue near what used to Country Epicure as well as widening it. The road looks attractive from Novi Road to Beck Road, but that maybe due to Rock Financial down the road. Someday, they may do the same between Meadowbrook Road and Novi Road and that could affect the parking that the applicant is talking about.

Chair Pehrson stated that we should talk to Rod Arroyo, Traffic Consultant.

Traffic Consultant Arroyo came forward and stated that there are four lanes on Grand River Avenue - two lanes going westbound, a center turn lane and the other lane going eastbound. The other problem is that those lanes are not 12 feet wide as the Road Commission's standard provides, but are substantially narrower. If this road were to be rebuilt according to current standards, 12 foot lanes would be required, similar to the recent RCOC improvements on Novi Road just north of Grand River Avenue. They ended up not only expanding it, but picking up additional lane width, because those lanes were also narrow. So what that means is, typically, from the back of curb of Grand River Avenue to where the parking area starts, you've got roughly 20 feet right now on this plan and a lane is 12 feet. But, then again, there is the additional widening that they need to pickup. I think the answer to the question is if this were ever to be widened to a standard five lane roadway, the parking we see there in the current configuration would no

longer exist, and would have to be reconfigured or eliminated or go to parallel parking. That would be a design question that would come up if the road was improved.

Planner Spencer stated that the Road Commission has retained a 150 foot right-of-way through that stretch and 75 feet on each side of the center line.

Member Lynch said he was confused, due to the fact that our attorney said the area was abandoned, so that means the applicant can put the parking there. Then I just heard there is a 150 foot easement of which you only need 120 feet, so I do not understand what the issue is.

City Attorney Kolb stated that she wanted to clarify one thing. The Road Commission abandoned it, which does not mean it reverts to the property owner. It reverts to the municipality which is why Planner Spencer pointed out that there is a condition in the motion that there would need to be some kind of discussion between the city and the applicant to allow the applicant to make the changes to the parking in the front of his building.

Member Lynch said that then really the point of this discussion is whether the applicant was aware of all of this, and going to put all that parking in there and sometime in the future the Road Commission or municipality may do something. I just want to make sure the applicant is aware of this.

Mr. Marvin Poota, owner stated he was proposing this project and moving forward as if this easement was actually abandoned to the adjacent property owners and that was our understanding in 1996. That is how we proceeded and hoped to move forward and that the road was not going to be built like that. Obviously, if that is the case, why would we do this parking in the front. We could just proceed and just do the project as shown in the back, on the south side. It does not make sense for us to do the front, if the city is considering putting a road there.

Member Lynch stated that is what he was trying to get at and he is hearing this discussion and he wants to make sure everyone knows the risks. Member Lynch asked if he was stating this properly and was there a potential for road improvements.

City Attorney Kolb spoke and said that she did not think that the city had any plans to put a road there.

Member Lynch clarified that if there are no road improvements planned then this should not be a concern for the applicant.

Chair Pehrson stated that the point Member Lynch is bringing up that there is the potential for someone outside of the city to put in some kind of road improvement there that might impact this particular petitioner.

Member Lynch agreed with Chair Pehrson that he wanted the applicant to understand the situation with the road.

Chair Pehrson stated the applicant should weigh whether or not they want to move ahead knowing road improvements are a possibility.

Planner Spencer stated that the design that you're seeing before you is an example of a sidewalk inside the right-of-way, which is the typical location for a pathway or sidewalk. With a 150 foot right-of-way there is room to accommodate a sidewalk and there would be room with a 120 foot typical five-lane road. There is some possibility that road improvements or widening will be done but, I would say in my opinion; the probability is low. It is something the applicant could further discuss with the Road Commission. The city has entertained the idea of developing this roadway in a different format for quite some time, so their engineer could entertain that. The applicant will be required to get a permit from the Road Commission for the driveway improvements and sidewalk improvements that will be done in the right-of-way. We feel that the Road Commission would be in favor of these improvements and that they would grant them a permit on this, however, we have not seen an approval from the Road Commission yet. It is something we require at the time of final site plan approval.

Member Lynch stated that the applicant is spending a lot of money here and that it was going to look great and that he was in favor of it. I just want to make sure the applicant is aware, however low the risk, that an entity outside of this Commission could come in and say we are going to widen the road and it may impact you.

Traffic Consultant Arroyo said that there was one more observation that may help this and looking at the current configuration and the fact that there are two lanes in the eastbound direction and one lane in the westbound direction. Basically what you see is that the roadway is currently not centered on the center of the right-of-way. What that means is that likely if there was to be a widening, most of it would be on the north side. It could potentially, but you won't know until the final designs are in place and it is very likely and in other conditions where I have seen this before, the widening does typically take place on that opposite side and it then doesn't have much of an impact on this property. I just thought I would share that additional observation because it is an unusual situation where you have four lanes and a center turn lane with two through lanes in one direction and one in the other. So, I think that is positive in terms of the impact on this property potentially.

Member Cassis said he would not comment on the widening of the road since he was involved in the abandonment situation. First of all when he bought 2 or 3 of those buildings, they were in sad shape and he did quite a bit of improvement on those and spent a lot of money. Also, what these people have done, they have put a huge amount of money into that area, especially when they built that liquor store and it has operated properly and they have done a great job.

Member Larson stated that his concern would be if that would be setting a precedent for the other landowners up and down Grand River Avenue to come forward and try to claim this abandoned property.

Planner Spencer stated that this was a unique abandonment case and we weren't going to go into all the details of it, but this involved subdivisions that were platted back in the 1920's originally, and abandoned in the 1940's. Another subdivision was platted in 1949, and came up to the edge of this abandoned right-of-way. If it had encumbered all of Grand River Avenue in the plat originally, then the abandonment of the right-of-way could have been to the neighboring property owners. But, in this case, there were no neighboring property owners. When they abandoned the plat in 1941, they left about 4 lots in this whole subdivision. However, they did not abandon road right-of-ways in many places including where Paul Bunyon Drive was, Novi Road and Grand River Avenue. The abandonment, in our attorney's opinion, was to the city and not to any adjoining property owners. Because of this, we may have to involve the remaining property owners that are in the plat with some kind of agreement. There are two other properties, the ones adjacent to either side of this that our attorney's office has indicated that we would like to have involved with any kind of final settlement of this right-of-way. So it should not go beyond those properties.

Moved by Member Greco, seconded by Member Lynch:

**ROLL CALL VOTE ON THE PRELIMINARY SITE PLAN APPROVAL FOR NOVI FOOD CENTER, SP09-18
MOVED BY MEMBER GRECO AND SECONDED BY MEMBER LYNCH:**

In the matter of Novi Food Center, SP09-18, motion to approve the Preliminary Site Plan subject to the following: a) The applicant obtaining a setback variance for three parking spaces in adjacent access aisles from the Zoning Board of Appeals; b) The applicant increasing the north driveway width from 22 feet to 24 feet on the final site plan; c) The applicant providing an alternative location for landscape amenities as offered by the applicant in their response letter; d) A Planning Commission Waiver of the required Town Center parking area wall for the reasons that the wall would be limited in length and would restrict clear vision at the entrances; e) A Planning Commission Waiver of the same side and opposite side driveway spacing; f) Resolution of ownership issues with the City of Novi regarding former Road Commission right-of-way adjacent to Grand River Avenue with an appropriate agreement between the applicant and the City of Novi allowing or facilitating the use of this area by the applicant; g) The applicant working with the city attorney to provide cross access easements at the time of final site plan approval; h) The conditions and items listed in the staff and consultants review letters being addressed on the final site plan for the following reasons: because it is otherwise in compliance with Article 16, Section 2400, and Article 25 of the Zoning Ordinance and all other applicable provisions of the ordinance. *Motion carried 8-0.*

Moved by Member Greco, seconded by Member Lynch:

ROLL CALL VOTE ON STORMWATER MANAGEMENT PLAN APPROVAL FOR NOVI FOOD CENTER, SP09-18

MOVED BY MEMBER GRECO AND SECONDED BY MEMBER LYNCH:

In the matter of Novi Food Center, SP09-18, motion to approve the Stormwater Management Plan subject to the conditions and items listed in the staff and consultants review letters being addressed on the final site plan because it is otherwise in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the ordinance. *Motion carried 8-0.*

Zoning Board of Appeals Action Summary

May 11, 2010



cityofnovi.org

May 12, 2010

ZONING BOARD OF APPEALS
45175 West Ten Mile Road
Novi, Michigan 48375-3024
(248) 347-0415

Marvin Poota
43025 Grand River Avenue
Novi Mi 48375

RE: Zoning Board of Appeals Case No. 09-042 43025-43043 Grand River Avenue

Variance Request: Requesting set back variances to permit construction of parking lot improvements and expansion of the parking lot located in the front yard of four existing retail buildings located at 43025 to 43043 Grand River Avenue. The property is zoned TC-1, Town Center, and located on the south side of Grand River Avenue between Sixth Gate Road and Main Street. Various retail tenants currently occupy the buildings.

At the May 11, 2010 Regular Meeting of the Zoning Board of Appeals the following motion passed:

IN CASE NO 09-042 Motion to grant the setback variances to permit construction of the parking lot improvements and expansion of the parking lot located in the front of the 4 existing retail buildings. The frontage, setback, density requirements unreasonably prevent the use of the property for a permitted purpose. The variance will provide substantial justice to the petitioner and surrounding property owners in the zoning district. There are unique circumstances to the property and the problem is not self created. Adequate light and air are provided to adjacent properties. There is no increase of fire or public safety danger. Property values will not be diminished within surrounding area and it is within the spirit of the Zoning Ordinance.

Motion Carried 7-0
Motion Maker: Member Skelcy

Sincerely,

CITY OF NOVI
ZONING BOARD OF APPEALS

Charles Boulard
Community Development Director

Cc: Wayne Wrobel
Mark Spencer

Location Map

Novi Food Center SP09-18

Location Map



Map Author: Mark Spencer
Date: 9/10/09
Project: Novi Food Center
Version #: 1.0

Map Legend

 Tax Parcels



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



MAP INTERPRETATION NOTICE

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