

cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item 7
June 9, 2008

SUBJECT: Consideration of a request from General Growth Properties, applicant for Novi Town Center LLC, for a variance from: **1)** Section 11-278(b)(5) of the Design and Construction Standards requiring paths to be constructed no closer than 3 feet to fixed objects, to allow two existing boulder walls to remain closer than 3 feet to the path; and, **2)** Section 11-164(g)(4) of the Design and Construction Standards requiring sanitary leads to be a minimum 6-inch diameter, to allow an existing 4-inch lead to be used. The subject parcel is Parcel ID No. 50-22-14-351-061 located at the northeast corner of Novi Road and Grand River Avenue).

SUBMITTING DEPARTMENT: Engineering *RTH*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

Three technical issues regarding the new buildings constructed on Novi Town Center's out-lots need to be addressed to reconcile what was constructed with what was approved on the final site plan. Two issues involve retaining walls (Variance 1) and one deals with a sanitary sewer lead (Variance 2).

Variance No. 1

General Growth Properties, applicant for Novi Town Center LLC, is requesting a variance associated with the location of retaining walls for the recently constructed 'Building 2' and 'Building 3' located on the northeast corner of Novi Road and Grand River in Novi Town Center. The variance request, a site location map, an aerial photo, a general site plan, and photographs of the area in question are attached to provide additional background information.

The design plans for 'Building 2' included a 100-foot long retaining wall south of the building; however, the plans did not clearly illustrate that the wall was proposed to be adjacent to the path along the Grand River frontage. A 120-foot long wall was installed, and per the as-built plan provided by JCK, the wall is located 2 to 5 inches from the pathway at the three locations surveyed.

The design plans for 'Building 3' did not include a retaining wall; however, a 153-foot long retaining wall was installed adjacent to the path along the Town Center Drive frontage. Per the as-built plan provided by JCK, the wall is located 4 to 6 inches from the pathway at the three locations surveyed.

The Engineering Department notes that the variance requested does not meet the minimum requirements of the Design and Construction Standards, and acknowledges the potential hazard a fixed object such as a boulder wall may pose to a bicyclist using the path. The City Attorney has addressed several issues related to the variance (see memorandum dated February 11, 2008) but sees no legal impediment to granting the variance. The Community Development Department, Fire Department, Department of Public Works and Landscape Architect (see memorandum dated February 5, 2008) have no objection to the request.

Variance No. 2

General Growth Properties is also requesting a variance associated with the sanitary leads for the recently constructed 'Building 2' located on the northeast corner of Novi Road and Grand River in Novi Town Center. The variance request, a site location map, an aerial photo and a general site plan are attached to provide additional background information.

The design plans for 'Building 2' proposed a 6-inch sanitary lead and two (2) 4-inch sanitary leads to serve the building. The plans were approved with the understanding that the 6-inch lead would be used for the building's general sanitary waste discharge, as is required by ordinance and is industry standard. However, as constructed, the building's general sanitary waste discharges through both the 6-inch lead and one of the 4-inch leads. The applicant has submitted the attached Hold Harmless Agreement indicating it will indemnify the City for any backups related to the 4-inch lead and that a connection to the 6-inch lead would be made in the event that frequent backups occur in the 4-inch lead. The applicant has also submitted calculations comparing the proposed number of drainage fixture units in the building to the capacity of the 4-inch lead.

The Engineering Department notes that although the lead does not meet the minimum requirements of the Design and Construction Standards, the hold harmless agreement would cover any future concerns in regards to obstructions. The Department of Public Works does not recommend approval for reasons related to maintenance and monitoring of the sanitary system (see memo dated May 14, 2008). The City Attorney sees no legal impediment to granting the variance (see memo dated May 8, 2008). The Community Development Department and Fire Department have no objection to the request.

In accordance with Section 11-10 of the Ordinance, the following three conditions must be met for a variance to be granted by Council:

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

RECOMMENDED ACTION: : Consideration of a request from General Growth Properties, applicant for Novi Town Center LLC, for a variance from: **1)** Section 11-278(b)(5) of the Design and Construction Standards requiring paths to be constructed no closer than 3 feet to fixed objects, to allow two existing boulder walls to remain closer than 3 feet to the path; and, **2)** Section 11-164(g)(4) of the Design and Construction Standards requiring sanitary leads to be a minimum 6-inch diameter, to allow an existing 4-inch lead to be used. (The subject parcel is Parcel ID No. 50-22-14-351-061 located at the northeast corner of Novi Road and Grand River Avenue).

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Crawford				
Council Member Gatt				

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



Request for Variance Design and Construction Standards

Applicant Information

Jim Clear, General Manager for General
Growth Properties as agent for Novi Town
Center Investors LLC
26045 Town Center Drive
Novi, MI 48375
(248) 347-3830

Engineer Information

Name: JCK Group, Inc.
Address: 48390 Richardson Road
Commerce Township, MI 48390
Phone No: (248) 363-2550

Applicant Status (please check one):

- Property Owner Developer Developer / Owner Representative
 Other Jim Clear, General Manager for General Growth Properties as agent
for Novi Town Center Investors LLC

Project Name Novi Town Center

Project Address/Location 26045 Town Center Drive, Novi, MI 48375

Variance Request See attached letter

Justification (attach additional pages if necessary)

INTERNAL USE

Date Submitted: 1/18/08
Code Section from which variance is sought: CHAPTER 11 11-278(b)(5)
Submittal Checklist: Twelve (12) sets of plans (folded and to scale)
 One (1) copy of plan on 8.5 x 11 size paper
 \$100 Filing Fee

LAW OFFICES
COOPER, SHIFMAN, GABE, QUINN & SEYMOUR
1026 WEST ELEVEN MILE ROAD -- ROYAL OAK -- MICHIGAN 48067-2451

CHARLES Y. COOPER
ARNOLD J. SHIFMAN
CHARLES H. GABE
MATTHEW C. QUINN
PHILIP H. SEYMOUR
KELLI A. ELDRED
SCOTT R. BAKER

TELEPHONE (248) 399-9703 -- FACSIMILE (248) 399-1711

EMAIL: quinn@coopershifman.com

NOVI OFFICE
26200 TOWN CENTER DRIVE
SUITE 145
NOVI, MICHIGAN 47375
TELEPHONE (248) 349-8050

January 17, 2008

Mayor David B. Landry
And Members of the Novi
City Council
45175 W. Ten Mile Road
Novi, MI 48375

RE: Novi Town Center Request for Variance from Design and Construction Standards

Dear Mayor Landry and Members of the City of Novi Council:

The undersigned represents Novi Town Center Investors LLC who are the owners of the Novi Town Center Mall. You may recall that previously you granted permission for four new buildings to be constructed on outlots. Three of those buildings are now complete and the fourth building will begin this spring. During the City consulting engineers punch list review letter of the three buildings, they have noted four items which they think should be addressed.

Under the City of Novi's Design and Construction Standards, Chapter 11, Section 11-10 *Variances* (b) states as follows:

A variance may be granted when all of the following conditions are satisfied:

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

With this Ordinance requirement as the background, I have the impression that a variance is required from Section 11-278 *Design Considerations* (b) *General* (5) which states:

“Pedestrian safety paths should be constructed no closer than three feet from fences, trees or other permanent above grade obstruction, except as otherwise approved by the City Engineer.”

This variance is needed for the boulder walls in front of building 2 and building 3 as represented on the attached “as built boulder wall location” drawing dated November 20, 2007 and prepared by Joseph C. Kapelczak, Professional Surveyor. The drawing demonstrates that the sidewalk is adjacent to the boulder wall in front of both buildings.

The request for this variance is based upon the fact that this design consideration should not exist for developments located with the TC and TC-1 Zoning Districts. The purpose of these Districts is to push the buildings and adjacent structures to as close to the road rights-of-way as possible so as to create a downtown effect. The undersigned would therefore propose that the variance be granted under the considerations of Section 11-10 and that the City Council direct the Engineering Department to consider amending this Ordinance for the TC and TC-1 Districts. I will be able to bring to the Council meeting many examples of how other boulder walls and other retaining walls and parking lot walls abut sidewalks many places in the downtown area.

The second area of variance request deals with the boulder walls in front of buildings 2 and 3. First of all, in regards to building 2, my client does not believe that there is any variance to be requested but if the City staff believes it to be necessary then we are requesting it. The boulder wall was shown on the Final Site Plan (see attached Exhibit A). The Final Site Plan was approved by the City Engineering Department on March 20, 2007. Exhibit A comes from page CE-7, dated March 7, 2006, from JCK which was approved as shown. This writer does not understand why a variance is required from an approved plan. The only thing I can think of is that the Final Site Plan showed a boulder wall of 100 feet as compared to the As-Built Plan which shows the boulder wall actually being 120 feet long.

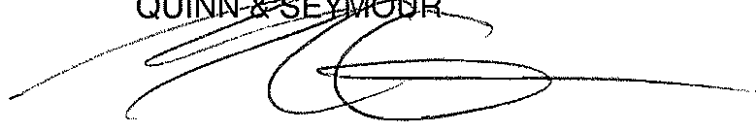
The other retaining wall issue for which a variance is requested is in front of building 3 along Town Center Drive. During the actual construction of this previously proposed landscaped area it was determined that in order to comply with Article VI *Grading and Surface Drainage* Section 11-143 *Design Considerations* (c) Maximum Slope which requires that the maximum ground slope for any part of a site shall be no more than 25% (one vertical to four horizontal), as is demonstrated on the attached as-built boulder wall location diagram, the slope from the existing wrought iron fence to the beginning of the boulder wall was established at 4.3 to 1 in order to comply with the Ordinance. The only way to comply with the Ordinance was to put the boulder wall in place as a field construction decision. This area was to be merely a landscaped area but it was

determined that the slope would be too great to adequately maintain and that there would be a violation of the City Ordinance. It also was determined that this boulder wall is an extension of the existing boulder walls already in place within the Novi Town Center. There are existing boulder walls around both of the major entrance way signs at Grand River Avenue/Town Center Drive and at Novi Road/Crescent Boulevard. There is also a boulder wall further north along Town Center Drive just north of the Eleven Mile Road intersection. Therefore, boulder walls are a common component within the landscape plan of the Novi Town Center. It certainly would not make any sense for the City Council to order Novi Town Center Investors LLC to remove the well designed boulder walls and replace them with a brick wall or some other permanent structure. There is no question that the removal of the walls would be an exceptional practical difficulty to Novi Town Center Investors LLC; that the boulder walls, as an alternative, are adequate for the intended use and do not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and, the granting of this variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property as required by Section 11-10.

Thank you for your consideration of the aforementioned variance requests made by Novi Town Center Investors LLC.

Respectfully submitted,

COOPER, SHIFMAN, GABE,
QUINN & SEYMOUR

A handwritten signature in black ink, appearing to be 'Matthew C. Quinn', written over the printed name of the law firm.

Matthew C. Quinn

MCQ/kw
Enc.

102'-8"
PROPOSED BUILDING 1
8,100 SF.
F. FL ELEV. 914.50

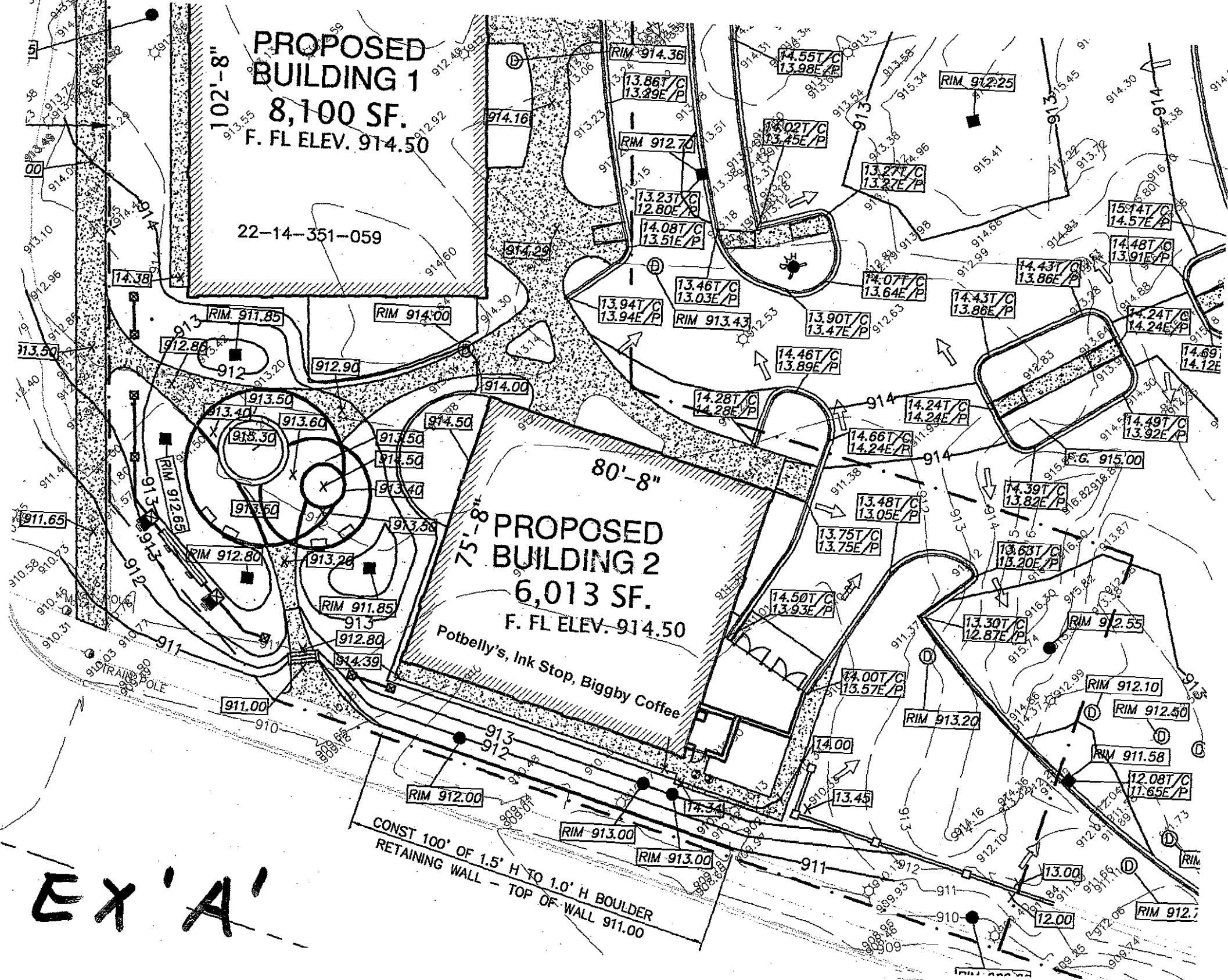
22-14-351-059

80'-8"
PROPOSED BUILDING 2
6,013 SF.
F. FL ELEV. 914.50

Potbelly's, Ink Stop, Biggby Coffee

CONST 100' OF 1.5' H TO 1.0' H BOULDER
RETAINING WALL - TOP OF WALL 911.00

EX 'A'





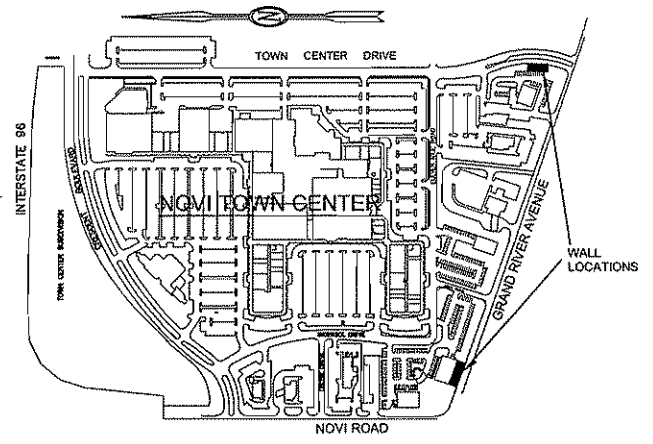
Drawn: LAS	ISSUED FOR
Designed: TJK	DATE
Checked: TJK	

AS-BUILT BOULDER WALL LOCATION

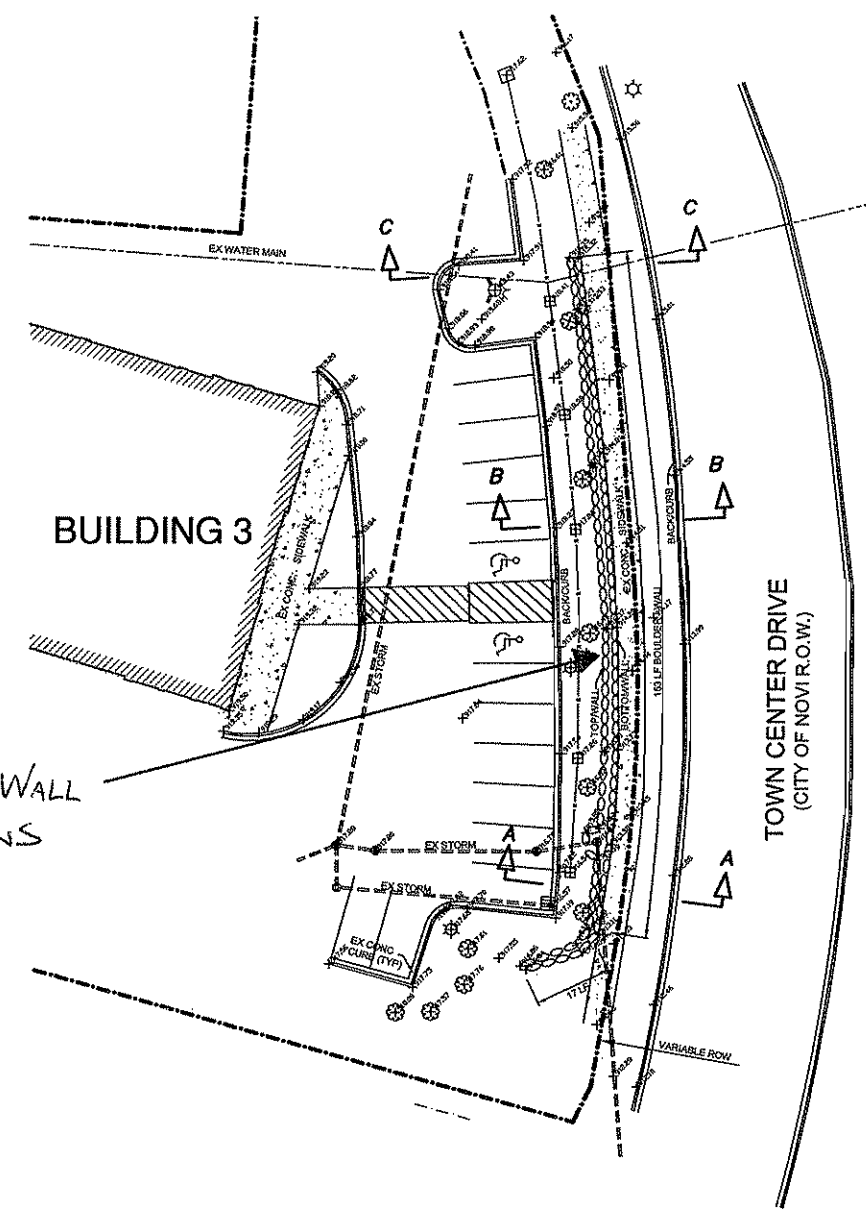
NOVI TOWN CENTER
 CITY OF NOVI

Scale: AS SHOWN
Date: 11/20/07
Job No.: 09711
Sht. No.: 1 OF 1

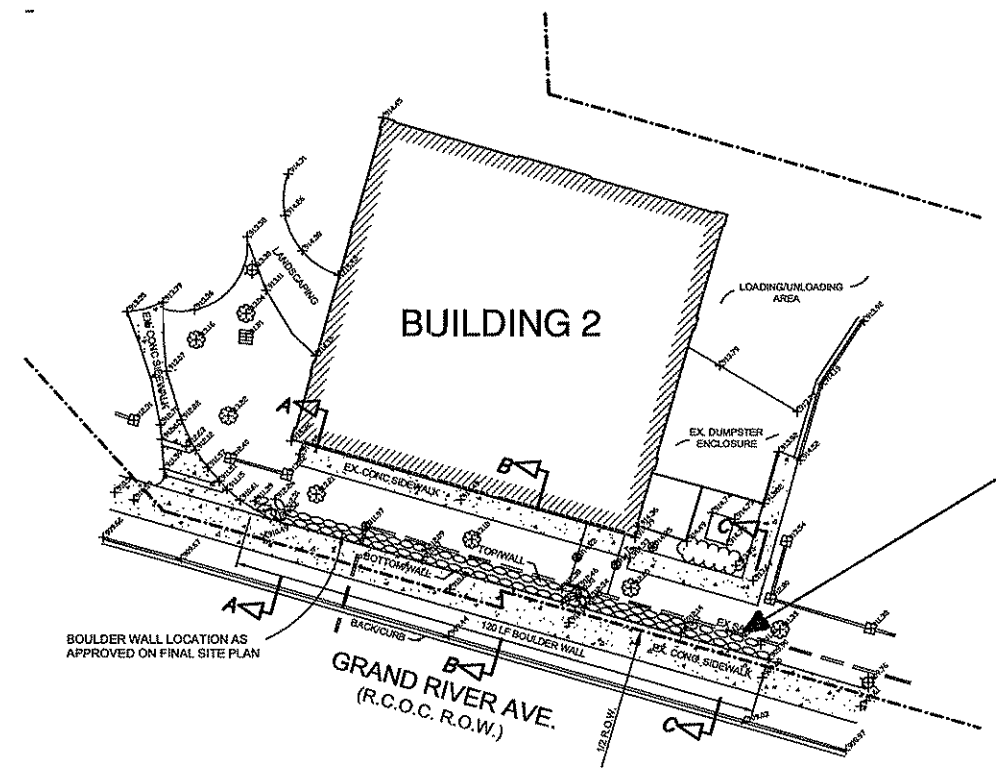
© 2005 J&K & ASSOCIATES, INC.



LOCATION MAP
 NO SCALE



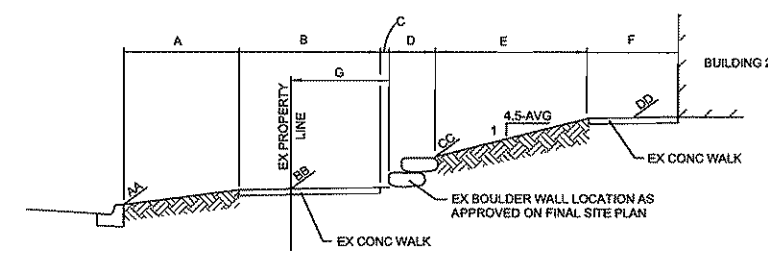
PLAN
 SCALE: 1"=20'



PLAN
 SCALE: 1"=20'

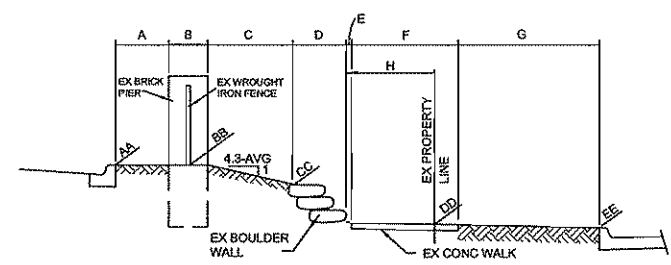
BOULDER WALL LOCATIONS

- LEGEND
- EXIST BOULDER WALL
 - AS-BUILT ELEVATIONS
 - EXIST WROUGHT IRON FENCE
 - EXISTING LIGHT POLE
 - EXIST CONC CURB
 - EXIST PROPERTY LINE
 - EXIST STORM STRUCTURE
 - EXIST SANITARY STRUCTURE
 - EXIST CATCH BASIN
 - EXIST TREE
 - EXIST BRICK PIER
 - EXIST HYDRANT



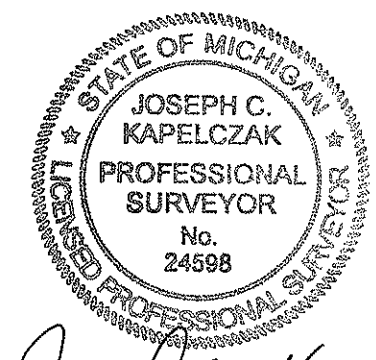
AS-BUILT SECTION A-A, B-B, C-C
 SCALE: 1"=5'

SECTION	DIMENSION (FT)							ELEVATION (FT)			
	A	B	C	D	E	F	G	AA	BB	CC	DD
A-A	6.5	8.0	0.2	2.8	10.9	5.0	5.2	909.57	910.48	912.31	914.46
B-B	6.6	8.0	0.4	2.4	11.0	5.3	1.5	909.44	910.26	912.22	914.49
C-C	6.5	8.0	0.4	2.8	8.6	9.8	1.8	909.03	909.80	911.31	913.54



AS-BUILT SECTION A-A, B-B, C-C
 SCALE: 1"=5'

SECTION	DIMENSION (FT)								ELEVATION (FT)				
	A	B	C	D	E	F	G	H	AA	BB	CC	DD	EE
A-A	1.5	2.2	4.8	3.1	0.5	6.0	8.3	4.2	917.19	916.54	915.34	913.11	912.68
B-B	3.0	2.2	5.5	3.3	0.4	6.0	8.9	4.5	918.27	917.86	916.77	914.61	914.25
C-C	3.4	2.2	4.0	2.6	0.4	6.0	9.3	6.9	917.91	917.35	916.35	915.32	915.25



Joseph C. Kapelczak

February 11, 2008

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-
3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Elizabeth M. Kudla
Direct: 248-539-2846
ekudla@secretwardle.com

Benjamin Croy, Civil Engineer
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Novi Town Center
Request for Variance from Design and Construction Standards
Our File No. 55142.NOV**

Dear Mr. Croy:

Our office has reviewed the proposed request for a variance from the City's design and construction standards which would permit the property owner to maintain an existing safety path not meeting *the location standards* of the City's Design and Construction Standard Ordinance that follow:

- (5) Pedestrian safety paths shall be located within one (1) foot of future rights-of-way lines, unless otherwise directed by the city engineer, for the enhancement of natural resources, or when the topography, existing landscaping, or an existing residence warrants an alternate location. Pedestrian safety paths shall be located a minimum of five (5) feet from back of curb for a curbed roadway, or twelve (12) feet from edge of pavement of an uncurbed roadway. Pedestrian safety paths should be constructed no closer than three (3) feet from fences, trees or other permanent above grade obstruction, except as otherwise approved by the city engineer.

It is our understanding that the existing safety path is not three (3) feet from an existing boulder retaining wall in three locations.

Section 11-10 of the Ordinance Code permits the City Council to grant a variance from the Design and Construction Standards with respect to proposed public improvements, such as a safety, when the property owner shows all of the following:

- (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;

- (2) The alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and
- (3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

The applicant's attorney argues that, (1) the design and construction standard at issue is merely for the purpose of aesthetics in that it does not "create a downtown" effect; (2) a portion of the boulder wall was shown on the approved site plan adjacent to the safety path; and, (3) the boulder wall adjacent to the safety path is necessary to meet slope standards of the City's Design and Construction Standard Ordinance. Additionally, the applicant's attorney indicates that removal of the boulder wall, to bring the safety path into compliance with the ordinance would, (1) constitute a "practical difficulty;" (2) performance would not change if brought into compliance with the ordinance, and (3) a variance would not be detrimental to the public health, safety and welfare, nor injurious to adjacent property owners.

We note additionally, that Engineering has confirmed that the safety path is constructed over existing sanitary sewer facilities. The Applicant previously entered into a "hold harmless" agreement with the City for the purpose of (1) releasing the City from any liability for repair and or replacement of the safety path in the event that they damage, disturb, or remove it in order to maintain or repair the City's facilities, and (2) agreeing to remove the sidewalk and safety path in the event a permanent waiver is not granted.

In the event that a permanent waiver is granted, we recommend that the hold harmless agreement be revised eliminating the second condition (agreeing to removal) but keeping the first condition in place. The revised agreement should be recorded with the Oakland County Register of Deeds.

In the event that City Council finds that the standards for a variance or waiver have been met, our office sees no legal impediment to granting the variance, subject to the condition that the Planning Department and Traffic Engineer have also reviewed and approved the proposed plan from an access and traffic safety standpoint.

Benjamin Croy, Civil Engineer
February 11, 2008
Page 3

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

Very truly yours,



Elizabeth M. Kudla

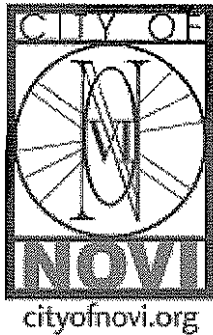
EMK

Enclosure

cc: Maryanne Cornelius, City Clerk (w/Enclosure)
Steve Rumble, Community Development Director (w/Enclosure)
Benny McCusker, DPW Director (w/Enclosure)
Rob Hayes, City Engineer (w/Enclosure)
David Beschke, Landscape Architect (w/Enclosure)
Frank Smith, Fire Department (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

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MEMORANDUM



TO: BEN CROY, ENGINEERING
FROM: DAVID BESCHKE, COMMUNITY DEVELOPMENT
SUBJECT: DCS WAIVER REQUEST
NOVI TOWN CENTER BOULDER WALLS
DATE: FEBRUARY 5, 2008

Although I have taken no exceptions with the newly installed boulder retaining walls at Novi Town Center, please accept the following background information. The boulder wall along Grand River was noted on the engineering plans, but not shown graphically. Please see attached Exhibit A. The boulder wall along Town Center Drive was not shown on any plan sheet. No boulder walls appeared on the approved Landscape Plan for the project, as would have been required for any built element.

Technically the violation of Ordinance standards lies only in the placement of the walls in proximity to the walkways. This is a design and construction standard reviewed by the Engineering Department. The use of boulder walls are neither required nor prohibited under the Landscape Ordinance. There currently exist older boulder walls in several locations within the Novi Town Center development. These were in place prior to the initiation of this development. As such, in my professional opinion, these new boulder walls do not look out of place within the landscape.

While the walls could be removed and the landscape and slopes remain functional, it is more likely that allowing the walls to remain will lead to greater ease of long term maintenance of the landscape features.



05/20/2008



05/20/2008



Request for Variance Design and Construction Standards

Applicant Information

Jim Clear, General Manager
for General Growth Properties
as agent for Novi Town Center
Investors, LLC
26045 Town Center Drive
Novi, MI 48375
(248) 347-3830

Engineer Information

Name: JCK Group, Inc.
Address: 48390 Richardson Road
Commerce Township, MI 48390
Phone No: (248) 363-2550

Applicant Status (please check one):

- Property Owner Developer Developer / Owner Representative
 Other Jim Clear, General Manager for General Growth Properties
as agent for Novi Town Center

Project Name Novi Town Center

Project Address/Location 26045 Town Center Drive, Novi, Michigan 48375

Variance Request See attached

Justification (attach additional pages if necessary)

INTERNAL USE

Date Submitted: _____

Code Section from which variance is sought: _____

- Submittal Checklist: Twelve (12) sets of plans (folded and to scale)
 One (1) copy of plan on 8.5 x 11 size paper
 \$100 Filing Fee

LAW OFFICES
COOPER, SHIFMAN, GABE, QUINN & SEYMOUR
1026 WEST ELEVEN MILE ROAD -- ROYAL OAK -- MICHIGAN 48067-2451

CHARLES Y. COOPER
ARNOLD J. SHIFMAN
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MATTHEW C. QUINN
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TELEPHONE (248) 399-9703 -- FACSIMILE (248) 399-1711

EMAIL: quinn@coopershifman.com

NOVI OFFICE
26200 TOWN CENTER DRIVE
SUITE 145
NOVI, MICHIGAN 47375
TELEPHONE (248) 349-8050

April 23, 2008

Mayor David B. Landry
And Members of the Novi
City Council
45175 W. Ten Mile Road
Novi, MI 48375

RE: Novi Town Center Request for Variance from Design and Construction Standards
For a Sanitary Sewer Lead

Dear Mayor Landry and Members of the City of Novi Council:

The undersigned represents Novi Town Center Investors LLC who are the owners of the Novi Town Center Mall. You may recall that previously you granted permission for four new buildings to be constructed on outlots. Three of those buildings are now complete and the fourth building will be under construction shortly. During the City consulting engineers punch list review letter of the three buildings there remains an outstanding issue regarding the size of the sanitary sewer lead coming out of the structure.

It appears that the City has a Design and Construction Standard which requires a six inch sewer lead to come from a commercial structure. When the applicant submitted its plans, the plans showed a four inch sanitary sewer lead. The plans were approved! Thereafter, when the contractor was putting in the four inch sewer line, the City's inspector, from its consulting engineering firm, noted to the Contractor that the line should be a six inch line but, then and there, the City's inspector agreed that the pipe should be buried as it existed.

The inspector did make the note on the punch list and the parties have been working on a resolution of this matter ever since.

In order for Novi Town Center LLC to unbury this four inch sanitary sewer lead and replace it with a six inch sanitary sewer lead it would take approximately \$10,000. This amount is based on an earlier bid and may actually be higher at this point because there are now tenants in place and the problem now becomes more complex.

Page two

During the aftermath of this issue, Novi Town Center Investors LLC asked Paul Eland, the Project Manager from Wah Yee Associates, Architects and Planners to obtain a calculation from Clark, Trombley, Randers Consulting Engineers to determine if there would be any deficiencies for the four inch pipe size. I have attached an email from Jason Koroniotis (Exhibit A), Mechanical Engineer of that firm, which is dated February 4, 2008, which surmises that the four inch sanitary sewer lead with a slope of 1/8" per foot would max out at 180 drainage fixture units. He has calculated that there are only 113.5 drainage fixture units being used within this building and therefore the four inch line is more than adequate for the purposes of this building.

Additionally, the City's staff brought in for consultation Beth Kudla of the City Attorney's Office. She and I have been working on a proposed Hold Harmless Agreement (Exhibit B), which I have also attached. This Agreement acknowledges that the City has notified my client that a sewer backup could occur from using the smaller diameter line. My client has acknowledged that and is agreeing that they will be solely responsible if there is any significant and frequent backup in the future and the City would then have the right to demand that they replace the lead. My client would also hold the City harmless from any alleged claim by a tenant.

If one thinks about this issue rationally, it is immediately obvious that the entity with the most at risk in this situation is my client and their relationship with current and future tenants. In the retail/rental business, a landlord will always do what is necessary to maintain its tenant occupancy.

My client respectfully requests that the City Council approve this design and construction variance.

Respectfully submitted,

COOPER, SHIFMAN, GABE,
QUINN & SEYMOUR

A handwritten signature in black ink, appearing to read 'M. Quinn', with a long horizontal line extending to the right.

Matthew C. Quinn

MCQ/kw
Enc.

EXHIBIT A

Electronic media viruses are ever increasing in complexity and growth. WYA advises all recipients to scan any disk and attached electronic media files received from outside sources with a current anti-virus program. WYA works diligently to keep our system clean of viruses, but because no system is perfect, occasionally a virus may pass undetected. WYA will not be responsible for any damage caused by such a virus. If any virus is detected by you on any media received from WYA, please contact us immediately.

From: Jason Koroniotis [mailto:JKoroniotis@ctrlansing.com]
Sent: Monday, February 04, 2008 1:25 PM
To: peland@wahyeeassoc.com
Subject: Novi Town Center - Building #2 Sanitary

Paul,

Per your request I calculated each tenant space drainage fixture units (DFU). See attached PDF for maximum DFU for pipe sizes and slopes. Pipe size is 4" and slope is 1/8" per foot.

Potbelly DFU: 52
Ink Stop DFU: 19.5
Coffee shop DFU: 42

Building Total: 113.5 DFU

A 4" sanitary with a slope of 1/8" per foot is maxed out at 180 DFU. As you can see a 4" sanitary with 113.5 DFU is more than adequate.

Jason Koroniotis
Mechanical Designer

Clark Trombley Randers
CONSULTING ENGINEERS

6105 W. St. JOE HWY
SUITE 200
LANSING, MI 48917

PH 517-886-0550 Ext 20
FAX 517-886-0003
jkoroniotis@ctrlansing.com

SANITARY DRAINAGE

TABLE 710.1 (1)
BUILDING DRAINS AND SEWERS

DIAMETER OF PIPE (inches)	MAXIMUM NUMBER OF DRAINAGE FIXTURE UNITS CONNECTED TO ANY PORTION OF THE BUILDING DRAIN OR THE BUILDING SEWER, INCLUDING BRANCHES OF THE BUILDING DRAIN ^a			
	Slope per foot			
	1/16 inch	1/8 inch	1/4 inch	1/2 inch
1 1/4	---	---	1	1
1 1/2	---	---	3	3
2	---	---	21	26
2 1/2	---	---	24	31
3	---	36	42	50
4	---	180	216	250
5	---	390	480	575
6	---	700	840	1,000
8	1,400	1,600	1,920	2,300
10	2,500	2,900	3,500	4,200
12	3,900	4,600	5,600	6,700
15	7,000	8,300	10,000	12,000

For SI: 1 inch = 25.4 mm, 1 inch per foot = 83.3 mm/m.

a. The minimum size of any building drain serving a water closet shall be 3 inches.

TABLE 710.1(2)
HORIZONTAL FIXTURE BRANCHES AND STACKS^a

DIAMETER OF PIPE (inches)	MAXIMUM NUMBER OF DRAINAGE FIXTURE UNITS (dfu)			
	Total for horizontal branch	Stacks ^b		
		Total discharge into one branch interval	Total for stack of three branch intervals or less	Total for stack greater than three branch intervals
1 1/2	3	2	4	8
2	6	6	10	24
2 1/2	12	9	20	42
3	20	20	48	72
4	160	90	240	500
5	360	200	540	1,100
6	620	350	960	1,900
8	1,400	600	2,200	3,600
10	2,500	1,000	3,800	5,600
12	2,900	1,500	6,000	8,400
15	7,000	Note c	Note c	Note c

For SI: 1 inch = 25.4 mm.

a. Does not include branches of the building drain. Refer to Table 710.1(1).

b. Stacks shall be sized based on the total accumulated connected load at each story or branch interval. As the total accumulated connected load decreases, stacks are permitted to be reduced in size. Stack diameters shall not be reduced to less than one-half of the diameter of the largest stack size required.

c. Sizing load based on design criteria.

EXHIBIT B

HOLD HARMLESS AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2008, by and between NOVI TOWN CENTER INVESTORS, LLC, a Delaware limited liability company, whose address is c/o UBS Realty Investors, LLC, 242 Trumbull Street, Hartford, Connecticut, 06103-1212, (the "Owner") and the CITY OF NOVI, a Michigan municipal corporation, whose address is 45175 W. Ten Mile Road, Novi, Michigan 48375 (the "City").

WHEREAS, the Owners have title to and own certain real property located within the City of Novi, County of Oakland, State of Michigan legally described as set forth in the attached and incorporated Exhibit A; hereinafter referred to as the "Property" and

WHEREAS, the Owners are seeking a temporary certificate of occupancy from the City with respect to the retail and restaurant building constructed on the Property;

WHEREAS, the retail and restaurant building on the Property is connected to the City's public sanitary sewage disposal system by private 4-inch sanitary sewer lead. The private sewer lead connection was designed and installed by the Owner.

WHEREAS, the City has notified the property owner in detail, that the City would prefer the 6-inch lead be connected and the 4-inch lead disconnected to prevent potential sewer back-ups that may occur due to the use of a 4-inch lead.

WHEREAS, despite the warnings regarding potential sewer back-up that may occur due to the use of the 4-inch lead, the Owner does not want to connect the 6-inch lead due to the cost associated with the connection and instead wishes to maintain the 4-inch lead.

WHEREAS, the City will permit the 4-inch lead to remain in place only upon certain conditions, including a full comprehensive release of liability of the City, its employees, agents, council and officials for any sewer back-up and resulting damages.

WHEREAS, in the future, if the 4-inch lead causes significant and frequent back-ups, the Owner shall, in the City's reasonable discretion, connect the 6-inch lead at the Owner's expense.

WHEREAS, Owner shall forever release and hold harmless the City for any and all damages caused by or related to sewer back-up caused by the use of the 4-inch sanitary sewer lead.

NOW, THEREFORE, in consideration of the City issuing a temporary certificate of occupancy, and other good and valuable consideration, the Owner understands and agrees as follows:

1. The Owner agrees to, and hereby does, release, indemnify, and hold harmless the City from any and all claims, demands, causes of action, or damages of any kind or nature against the City, its consultants, employees, agents, representatives, or designees (hereinafter collectively "the City"), known or unknown, brought by the undersigned or others, arising by reason of, or in any way associated with, the 4-inch sanitary sewer lead and resulting sewer back-ups on the Property described in the attached and incorporated Exhibit B. This includes, without limitation, claims, demands, costs, or judgments against the City whether such liability, loss, or damage is known or unknown, foreseeable or unforeseeable, due or claimed to be due to the actions of the Owners, its agents, and employees, or of the City, its consultants, officers, agents,

and employees. The Owner shall be responsible for connection of the 6-inch sanitary sewer lead, at its own expense, in the event that the 4-inch lead causes significant and frequent back ups, within the City's reasonable discretion.

2. In the event that the City determines that significant and frequent back ups have occurred, then the Owner must connect the 6-inch sanitary sewer lead, Owner agrees to diligently pursue the connection and undertake all necessary activities to secure approval.

3. This Agreement shall run with the land, and shall be binding upon the Owner and its successors, assigns, heirs and personal representatives.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

CITY OF NOVI, a Michigan Municipal Corporation

By: _____

Its: _____

By: _____

Its: _____

STATE OF MICHIGAN)
)
COUNTY OF OAKLAND)

Subscribed to and acknowledged before me by _____ on this _____ day of _____, 2008.

Notary Public
_____ County, Michigan
Acting in Oakland County
My Commission Expires: _____

STATE OF MICHIGAN)
)
COUNTY OF OAKLAND)

Subscribed to and acknowledged before me by _____, on this
_____ day of _____, 2008.

Notary Public
_____ County, Michigan
Acting in Oakland County
My Commission Expires: _____

OWNER

NOVI TOWN CENTER INVESTORS, LLC, a
Delaware limited liability company
BY: UBS REALTY INVESTORS LLC, Its
Manager

BY: _____
Rick Zalatoris
ITS: Director

STATE OF _____)
)ss
COUNTY OF _____)

Subscribed to and acknowledged before me this _____ day of _____, 2008.

Notary Public
_____ County, _____
My Commission Expires: _____

PREPARED BY:
Elizabeth M. Kudla, Esq.
Secrest, Wardle, Lynch, Hampton,
Truex & Morley, PC
30903 Northwestern Hwy.
Farmington Hills, MI 48333

WHEN RECORDED, RETURN TO:
Maryanne Cornelius, City Clerk
City of Novi
45175 W. Ten Mile Rd.
Novi, MI 48375

PROPOSED
BUILDING 1
10 SF.

1-059
PERMANENT
SEWAGEMENT

SAN MH #12
RIM 914.60
CP @ 10.32%
6'-5" 907.60

4" C.B. W/2" SUMP
RIM 911.85
12"NE 906.13
12"W 906.23

SAN MH #11
RIM 910.00

4-inch lead used for
sanitary discharge

2' SQ. MON. WELL #5
WITH CONCRETE CAP
RIM EL. 909.92

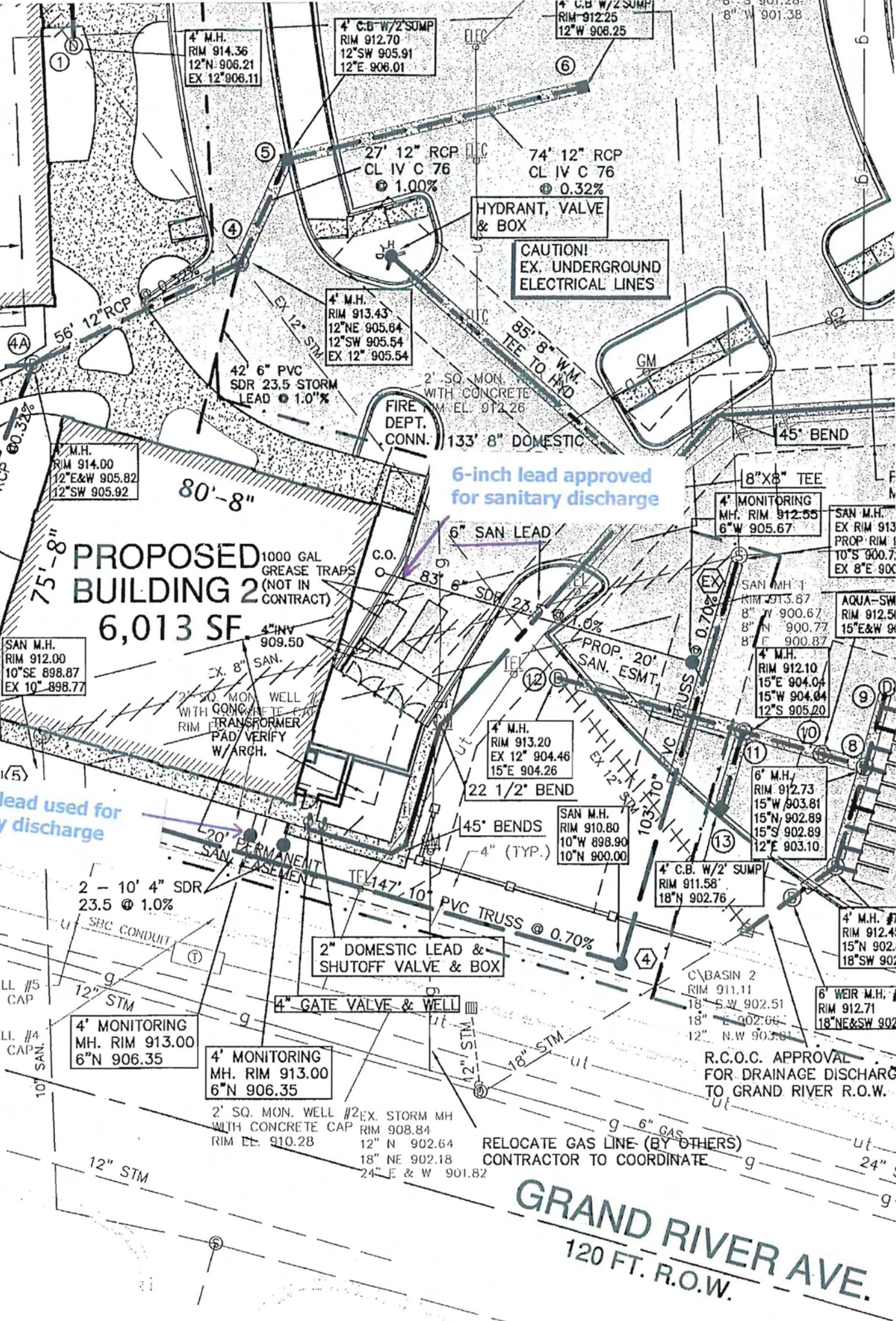
2' SQ. MON. WELL #4
WITH CONCRETE CAP
RIM EL. 909.72

2' SQ. MON. WELL #2 EX. STORM MH
WITH CONCRETE CAP RIM 908.84
RIM EL. 910.28

12" STM

12" STM

24" E & W 901.82



**PROPOSED
BUILDING 2
6,013 SF**

1000 GAL
GREASE TRAPS
(NOT IN CONTRACT)

6-inch lead approved
for sanitary discharge

2" DOMESTIC LEAD &
SHUTOFF VALVE & BOX

4" GATE VALVE & WELL

4' MONITORING
MH. RIM 913.00
6"N 906.35

4' MONITORING
MH. RIM 913.00
6"N 906.35

RELOCATE GAS LINE (BY OTHERS)
CONTRACTOR TO COORDINATE

GRAND RIVER AVE.
120 FT. R.O.W.

R.C.O.C. APPROVAL
FOR DRAINAGE DISCHARGE
TO GRAND RIVER R.O.W.

80'-8"

SAN M.H.
RIM 912.00
10"SE 898.87
EX 10" 898.77

M.H.
RIM 914.00
12"E&W 905.82
12"SW 905.92

42' 6" PVC
SDR 23.5 STORM
LEAD @ 1.0%

4' M.H.
RIM 913.43
12"NE 905.64
12"SW 905.54
EX 12" 905.54

4' C.B. W/2" SUMP
RIM 912.70
12"SW 905.91
12"E 906.01

4' C.B. W/2" SUMP
RIM 912.25
12"W 906.25

27' 12" RCP
CL IV C 76
@ 1.00%

74' 12" RCP
CL IV C 76
@ 0.32%

HYDRANT, VALVE
& BOX

CAUTION!
EX. UNDERGROUND
ELECTRICAL LINES

2' SQ. MON.
WELL WITH CONCRETE
CAP RIM EL. 912.26

FIRE
DEPT.
CONN.

133' 8" DOMESTIC

45' BEND

8"X8" TEE

4' MONITORING
MH. RIM 912.55
6"W 905.67

SAN M.H.
EX RIM 913
PROP RIM 1
10"S 900.7
EX 8"E 900

SAN MH #1
RIM 913.87
8" W 900.67
8" N 900.77
8" E 900.87

AQUA-SW
RIM 912.5
15"E&W 91

4' M.H.
RIM 912.10
15"E 904.04
15"W 904.04
12"S 905.20

6' M.H.
RIM 912.73
15"W 903.81
15"N 902.89
12"E 903.10

SAN M.H.
RIM 910.80
10"W 898.90
10"N 900.00

4' C.B. W/2" SUMP
RIM 911.58
18"N 902.76

4' M.H. #1
RIM 912.4
15"N 902.
18"SW 902

6' WEIR M.H.
RIM 912.71
18"NE&SW 902

CYBASIN 2
RIM 911.11
18" S.W 902.51
18" E 902.66
12" N.W 903.61

2 - 10' 4" SDR
23.5 @ 1.0%

PVC TRUSS @ 0.70%

30" STM

12" STM

12" STM

10" SAN.

12" STM

18" STM

12" STM

18" STM

12" STM

18" STM

4' M.H.
RIM 913.20
EX 12" 904.46
15"E 904.26

22 1/2" BEND

45' BENDS

4" (TYP.)

103' 10" PVC TRUSS

12" STM

18" STM

12" STM

18" STM

12" STM

18" STM

12" STM

18" STM

12" STM

18" STM

4" INV
909.50

EX. 8" SAN.

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50
TRANSFORMER
PAD/VERIFY
W/ARCH.

EX. 8" SAN.

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

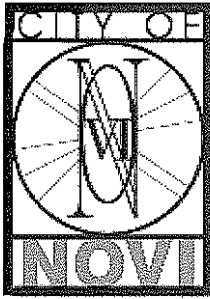
2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50

2' SQ. MON. WELL
WITH CONCRETE CAP
RIM EL. 909.50



cityofnovi.org

MEMORANDUM

Date: May 14, 2008

To: Benny McCusker, Director Of Public Works

From: Tim Sikma, Water and Sewer Manager

Subject: Variance From Design & Construction Standards for Novi Town Center

We have reviewed Mr. Quinn's request for variance for sanitary sewer leads for the building at the Novi Town Center. We found that the plans that were attached to the variance request included three taps to Building # 2 that were not included as sewer leads in the plans we reviewed on February 5, 2007.

There are two four inch service leads and one six inch lead. With the potential of restaurant waste containing fats oil and grease, we feel that it is necessary to insure that all grease laden lines are connected to a grease interceptor both now and in the future uses for this facility. This building should have one monitoring location for sampling purposes so that compliance with the pretreatment standards for commercial waste can be properly monitored. We feel that even with a hold harmless letter that maintenance activities will require additional cleaning of the sanitary sewers downstream of the location. The additional maintenance of their system may also cause sanitary sewer backups beyond the capacities of their private sewer services.

Based on the need for sanitary sewer sample monitoring and the need to maintain the cleaning of the sanitary sewer lines in the area, we recommend that the plumbing be routed to one six inch sanitary sewer after a properly sized grease interceptor that is capable of containing the wastes from this facility. We believe that it is in the best interest of the City of Novi to deny the requested variance.

Should you have any questions or concerns regarding this review, please contact me.

May 8, 2008

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-
3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Elizabeth M. Kudla
Direct: 248-539-2846
bkudla@secretwardle.com

Benjamin Croy, Civil Engineer
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Novi Town Center
Request for Variance from Design and Construction Standards
Our File No. 660114.NOV**

Dear Mr. Croy:

Our office has reviewed the proposed request for a variance from the City's Design and Construction Standards which would permit the property owner to maintain an existing 4" sanitary sewer lead not meeting the requirement for a 6" inch sanitary sewer lead as set forth in the City's Design and Construction Standard Ordinance, Section 11-164(g)(4), which states:

- (4) Size and length. Minimum size for house leads shall be six-inch nominal internal diameter. Maximum length of building sewers shall be one hundred (100) feet unless otherwise approved by the city.

The Applicant has included calculations from its consulting engineer indicating the four-inch sanitary sewer lead will be sufficient to handle the sanitary sewer drainage from the subject building. It is our understanding that there is a six-inch lead installed but not connected that could be accessed and connected in the event the four-inch lead proves insufficient.

Additionally, the Applicant has provided a "Hold Harmless" Agreement providing the following:

- The Applicant accepts responsibility and holds harmless the City for any sewer back-ups relating to the four-inch lead.
- In the event the four-inch lead frequently causes back-ups, the Applicant will connect the existing six-inch inch lead at its own expense.

We are satisfied that the terms of the Hold Harmless Agreement are sufficient to protect the City for liability from a sewer back-up, and give the City the right to require connection of the six-inch inch lead if the four-inch lead proves insufficient.

Section 11-10 of the Ordinance Code permits the City Council to grant a variance from the Design and Construction Standards with respect to proposed public improvements, such as a safety, when the property owner shows all of the following:

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

In the event that City Council finds that the standards for a variance or waiver have been met, our office sees no legal impediment to granting the variance, subject to the approval of the City Engineer, and execution and recording of the Hold Harmless Agreement.

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

Very truly yours,



Elizabeth M. Kudla

EMK

Enclosure

cc: Maryanne Cornelius, City Clerk (w/Enclosure)
Steve Rumpel, Community Development Director (w/Enclosure)
Benny McCusker, DPW Director (w/Enclosure)
Rob Hayes, City Engineer (w/Enclosure)
Frank Smith, Fire Department (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)



CITY OF NOVI
Engineering Department
MEMORANDUM

To: Steve Rumple, Community Development
 David Beschke, Landscape Architect
 Beth Kudla, Attorney
 Frank Smith, Fire Department
 Benny McCusker, DPW

From: Benjamin Croy, Engineering

Date: April 28, 2008

Re: Variance from Design & Construction Standards
 Novi Town Center

RECEIVED APR 29 2008

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

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

Following review of the variance, check the appropriate box below and provide your signature. If you have no basis for recommending either approval or denial, please check the "No Exceptions Taken" box. If you are recommending approval or denial of the request, **please also complete the matrix on the reverse of this form.** Please return to my attention by **May 12th.**

ROUTING

Delivered To	Returned On	RECOMMENDED ACTION			Signature
		Approval*	Denial*	No Exceptions Taken	
Ben Croy (Engineering)					
Steve Rumple (Community Dev.)					
David Beschke (Landscape Arch)					
Beth Kudla (City Attorney)	5/9/08			X	
Frank Smith (Fire Department)					
Benny McCusker (DPW)					

* SEE REVERSE

If recommending approval or denial, please complete the following:

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

Explain:

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

Explain:

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

Explain:
