




## CITY of NOVI CITY COUNCIL

**Agenda Item P**  
**August 13, 2012**

**SUBJECT:** Approval of an exception from the requirements for a Completion Agreement under Section 1-12 of the City Code to allow completion of development on Lot 38 of the Beck North Corporate Park in accordance with Site Plan SP06-58 with the following conditions:

- Renewal of all expired permits
- A new Preconstruction Meeting will be required with City staff and consultants prior to start of work
- The developer pays for any additional consultant fees required due to the lapse in construction on the site
- A completion agreement will be required if any portion of the project remains incomplete after February 15, 2013

**SUBMITTING DEPARTMENT:** Community Development Department 

**CITY MANAGER APPROVAL:**

### **BACKGROUND INFORMATION:**

Amson Dembs, the developer of Lot 38 of the Beck North Corporate Park is requesting a waiver of the requirement for a project Completion Agreement required under Chapter 26.5 of the Novi City Code due to their ability and intent to complete the project through occupancy within a 6 month period of time for a specific tenant.

#### **Background:**

This project was approved under Site Plan SP06-58 and work was begun on the installation of utilities, grading and preparation of the building pad thereby vesting the Site Plan. Work was suspended due to the recent economic challenges before any construction was started on the building or installation of paving. The applicant has periodically renewed the Soil Erosion and Sedimentation Control permit for the site. In late 2010 the developer was notified that a completion agreement would be required as the 2 year construction window for completion of the work had expired. The developer did not pursue the Completion Agreement for the project in part because of uncertainty as to whether the project would ever be completed according to the original Site Plan.

#### **Today:**

As of the current time the developer is requesting to be allowed to complete construction of the project exactly as originally proposed and approved. The developer has indicated the presence of a tenant with intent to occupy the finished building but needs to provide occupancy within the next 6 months. Chapter 26.5 of the City Code requires a completion agreement, but the developer is requesting an exception as the time required to assemble, negotiate and secure City Council approval for the agreement would prevent the completion of the building and installation of parking within the 6 month window of time needed by their tenant. Chapter 26.5 provides for an appeal of the requirement for a completion agreement pursuant to the standards set forth in Section 1-12 of the City of Novi Code. The applicant must provide facts supporting the following factors to be considered by City Council pursuant to Section 1-12:

- (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- (2) The alternative proposed by the applicant will 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, nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.

Based on the short time frame of less than 6 months in which the building is proposed to be completed, and upon the limited size of the project, Staff agrees that preparing a Completion Agreement for a short time frame would be inefficient. Additionally, the alternative of completion within 6 months would be less than the time frame generally required by a completion agreement. Finally, the public health, safety and welfare will not be affected because the site is presently stabilized and secure. Once construction starts, the City may use currently posted performance guarantees to assure timely completion. Furthermore, if completion does not progress, the City may require a completion agreement at a later time. This waiver would be subject to reinstating the requirement for a completion agreement if the 6 month time frame is not observed.

Staff supports the request with the following conditions:

- Renewal of all expired permits
- A new Preconstruction Meeting will be required with City staff and consultants prior to start of work
- The developer pays for any additional consultant fees required due to the lapse in construction on the site
- A completion agreement will be required if any portion of the project remains incomplete after February 15, 2013

**RECOMMENDED ACTION:** Approval of an exception from the requirements for a Completion Agreement under Section 1-12 of the City Code to allow completion of development on Lot 38 of the Beck North Corporate Park in accordance with Site Plan SP06-58 with the following conditions:

- Renewal of all expired permits
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	1	2	Y	N
<b>Mayor Gatt</b>				
<b>Mayor Pro Tem Staudt</b>				
<b>Council Member Casey</b>				
<b>Council Member Fischer</b>				

	1	2	Y	N
<b>Council Member Margolis</b>				
<b>Council Member Mutch</b>				
<b>Council Member Wrobel</b>				

NADLAN II LLC  
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(248)380-7100 phone  
(248)560-3030 fax

August 7, 2012

City Council  
City of Novi  
45175 W. Ten Mile Rd.  
Novi, MI 48375

Re: SP06-0058 Beck North Corporate Park lot 38

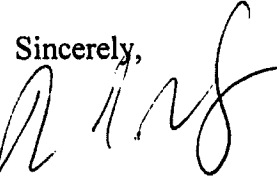
Dear Council,

Nadlan II LLC wishes to appeal the requirement for a completion agreement for Beck North Corporate Park lot 38 under Section 1-12 of the code of ordinance.

Nadlan II LLC has a strong opportunity to secure a tenant providing their delivery requirements are met. The tenant's timing requirements do not allow for the time involved with drafting and finalizing a Completion Agreement. The project will not deviate in any way from the proposed building previously submitted and reviewed nor would the variance be neither detrimental nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.

We feel this prospective tenant is a wonderful fit for the proposed building and a great addition to both Beck North Corporate Park and the City of Novi.

Thank you very much for your time and consideration of this request.

Sincerely,  
  
Ryan Dembs