

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

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

REPLY TO ROYAL OAK OFFICE

OF COUNSEL:
CHARLES Y. COOPER
ARNOLD J. SHIFMAN

July 24, 2008

Members of the City of Novi
Zoning Board of Appeals
45175 Ten Mile Road
Novi, MI 48375

RE: Appeal from City Assessor's Determination of Zoning Ordinance Deficiencies

Dear Members of the City of Novi Zoning Board of Appeals:

The undersigned is the legal representative of Mr. Alan Rushforth who is the owner of Parcel 22-26-326-016 on Heslip Drive. Mr. Rushforth had filed the enclosed Application for Land Division in accordance with attached Exhibit A on February 11, 2008. Thereafter, Mr. Lemmon, in his letter of May 12, 2008, Exhibit B, denied the land request due to the lack of interior side yard setbacks and required parking. Please be advised that my client is not contesting the fact that the City Assessor's decision was made more than 45 days after the Application was received due to my client's understanding of the tremendous work load on the City Assessor during the Board of Review time period. Originally, the undersigned filed this appeal with the Novi City Council but was informed by the City Attorney that if the Zoning Board of Appeals granted the variances there would be no need for the City Council to make any decisions and the land division could then be approved by the City Assessor's office.

In order to assist the Zoning Board of Appeals, I am attaching Exhibit C which demonstrates the location of my client's parcel on Heslip Drive. It includes lots 12, 13, 14 and part of 15. Exhibit D is a 2006 aerial photo which demonstrates that my client's parcel includes two light industrial buildings. Historically, both of these buildings have been rented to different entities.

Mr. Rushforth is proposing a land division so that each building would be on its own separate parcel. Parcel A, which lies to the north, will include a one-story office warehouse of 33,842 square feet. It provides 48 parking spaces and two handicap spaces. This building and its parking complies with front yard setbacks, side yard setback on the north and rear yard setback on the west. It is deficient in the interior side yard setback on the

Page two

south due to the proposed common boundary line. The current property address is 22705 Heslip Drive.

Parcel B will consist of a one-story office warehouse building of 20,137 square feet. It will have 43 regular parking spaces and two handicap spaces. It is also deficient in the interior side yard setback on the north side of the proposed common boundary line. Its address is 22655 Heslip Drive.

Within the three page certified survey attached to the Application, Exhibit A, Page 2 demonstrates the access easement which will be shared by both parcels. It is the same access way that has existed since these buildings were constructed in the mid-1980s. Mr. Rushforth will submit the appropriate access easement document to be reviewed and approved by the City Attorney once the Zoning Board of Appeals approves this appeal.

The Zoning Board of Appeals is respectfully requested to use its authority granted by Section 31.04 of the Zoning Ordinance to grant the variance to allow the 0 foot side yard variance for each of the parcels and to allow a parking variance for Parcel A of 38 spaces (86 spaces are required and we are providing 48 spaces along with two handicap spaces) and a one space parking variance on Parcel B (there is a 44 parking space requirement and we have provided 43 parking spaces plus two handicap spaces). The granting of these variances are unique to the subject parcels, are not adverse to the interest of any adjacent property owners and will not serve as precedence for a similar request due to the unique facts of this case. Thank you for your consideration.

Respectfully submitted,

GABE, QUINN & SEYMOUR

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

Matthew C. Quinn

MCQ/kw

Enc.

cc: Alan Rushforth

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

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EMAIL: quinn@coopershifman.com

NOVI OFFICE
26200 TOWN CENTER DRIVE
SUITE 145
NOVI, MICHIGAN 48375-0352
TELEPHONE (248) 349-8050

February 11, 2008

City of Novi
City Assessor's Office
45175 Ten Mile Road
Novi, MI 48375

RE: Application for Land Division
Parcel No: 22-26-326-016

Dear City Assessor's Office:

Please be advised that the undersigned represents Mr. Alan Rushforth, the owner of the captioned property. In that regards he is requesting a land division as indicated in the following documents:

1. Application for Land Division
2. Two signed and sealed surveys
3. Proof of Ownership via Warranty Deed and the owner's original Policy of Title Insurance
4. Letter from JCK and Associates verifying that the request does not violate the Land Division Act
5. A check for the application fee of \$300.00

After you have the opportunity to review this Application and if you need any further information and documentation please contact me as soon as possible.

Very truly yours,

Matthew C. Quinn

MCO/ckj
Enclosures
Cc: Alan Rushforth

CITY OF NOVI
45175 Ten Mile Road
Novi, MI 48375

APPLICATION FOR LAND DIVISION

TO THE CITY ASSESSOR OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN:
I (We) the undersigned, do hereby make application to the City Assessor to divide, combine, or otherwise reconfigure the parcel(s) herein described. In support of this application, the following facts are shown:

Is this division for the purpose of sale, lease of more than one year, or building development?

Yes

No

FILL OUT ITEM #1 FOR PLATTED LOTS OR ITEM #2 FOR ACREAGE PARCELS

1. The property to be divided is part of a recorded plat located in Section 26, having an address^{es} of 22705 and 22655 Heslip Drive, and is known as Lot(s) 12, 13, 14 and South of Novex-One Subdivision.
30 ft. of Lot 15

2. The property to be divided is acreage, is not part of a recorded plat, and is located in Section , having an address of .
Parcel Identification Number Original Acreage
Parcel Identification Number Original Acreage

3. It is requested that the above referenced parcel(s) be divided into 2 new parcels.

4. THE PROPERTY TO BE DIVIDED IS OWNED BY:

NAME: Alan Rushforth

ADDRESS: P.O. Box 926

CITY, ST, ZIP: Bryn Mawr, PA 19010

PHONE: (610) 520-1968 DATE:

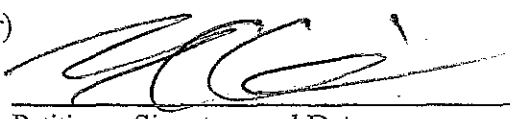
OWNER SIGNATURE: Alan Rushforth

I (We), the above signed, are the legal owner(s) of the above referenced property, and hereby request the division of said property per the attached surveys.

This application must be signed by all persons who have any legal or equitable interest in the parent parcel(s). Attach additional ownership information and signatures as necessary.

5. Petitioner Information (if different from the owner)

Matthew C. Quinn, Attorney



Petitioner Name

Petitioner Signature and Date

City, State, Zip code 1026 West Eleven Mile, Royal Oak, MI 48067

6. TAX BILLING INFORMATION

Please indicate the name and address information for each new parcel.

A. Alan Rushforth

B. _____

P.O. Box 926

Bryn Mawr, PA 19010

C. _____

D. _____

7. Will a transfer(s) of ownership occur as the result of this division? No
If yes, complete and attach Michigan State Tax Commission form(s) L-4260.


8. Will the parent parcel(s) have any unallocated divisions under the land division act? No
If yes, complete and attach Michigan State Tax Commission form L-4260a.

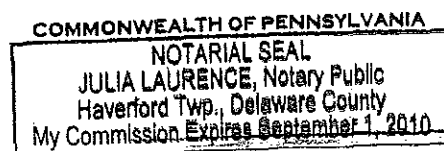
STATE OF MICHIGAN)
) SS:
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 13 day of November, 2008

My commission expires:

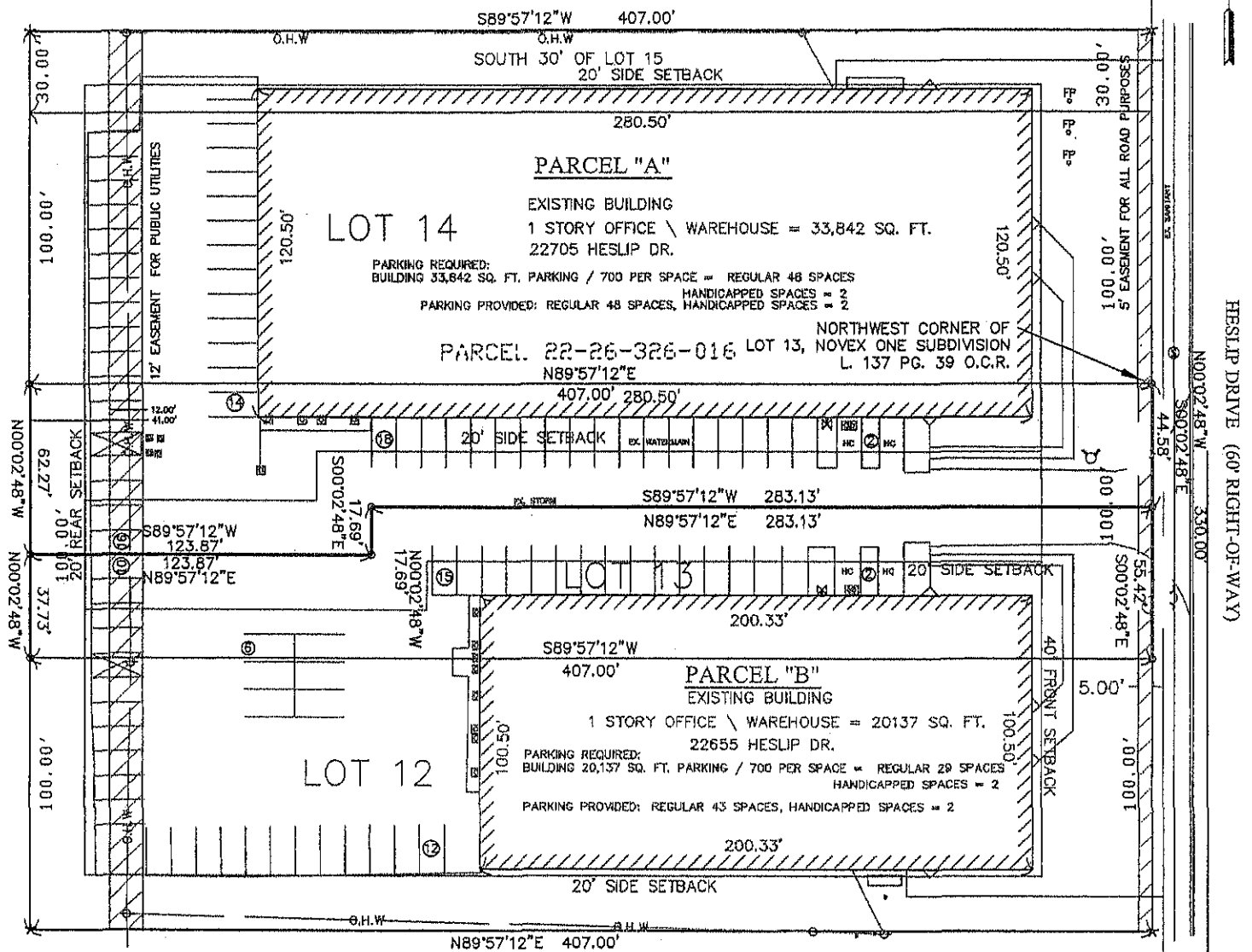
Sept. 1, 2010


Notary Public Delaware County, ~~Michigan~~ Pennsylvania

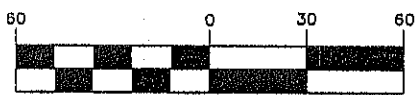


CERTIFIED SURVEY

NOVEX ONE SUBDIVISION (LIBER 137, PAGE 39 D.C.R.)
 LOT 15 PARCEL 22-26-326-015



GRAPHIC SCALE



(IN FEET)
 1 inch = 60 ft.

PARCEL 22-26-376-002

LOT 11

SITE DATA:
 SITE ZONING: L-1 = LIGHT INDUSTRIAL DISTRICT

CITY OF NOVI IS A PARTICIPANT OF
 FEMA FLOOD INSURANCE PROGRAM
 MAPPED AREA PANEL #260175 0006 C
 EFFECTIVE DATE: MAY 3, 1993
 PROPERTY LOCATED IN FLOOD ZONE X
 OUTSIDE 500-YEAR FLOOD PLAIN

PREPARED FOR:

MR. ALAN RUSHFORTH
 3700 DARBY RD.
 BRYN MAWR, PENNSYLVANIA, 19010

LEGEND

- FOUND IRON
- ⊙ FOUND CONC. MONUMENT
- SET CAPPED IRON #24598

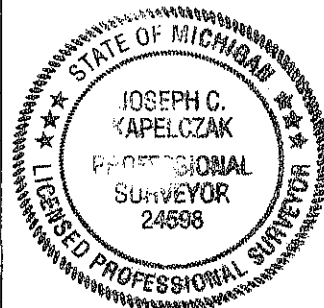
© 2006 JCK & ASSOCIATES, INC.

I, *Joseph C. Kapelczak* Professional Surveyor No. 24598 hereby certify that I have surveyed the following described parcel of land in accordance with Act 132, P.A. 1970, that the ratio of closure is within the present acceptable limits:

JCK
 & associates, inc.
 45650 GRAND RIVER AVE.
 P.O. BOX 759
 NOVI, MI. 48376
 PHONE (248) 348-2680

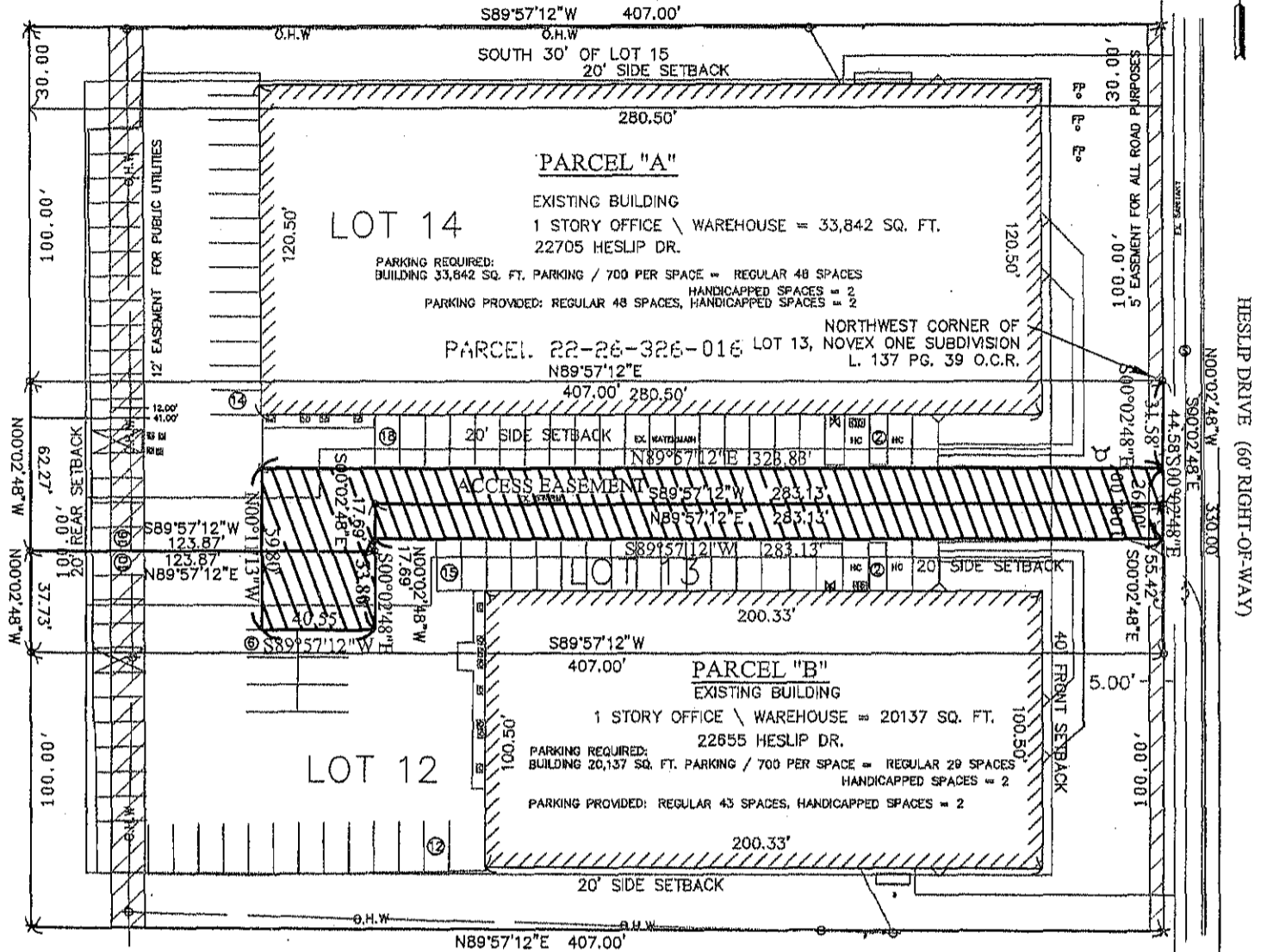
LOT SPLIT
 PARCEL ID. # 22-26-326-016
 LOT 12, 13, 14, & SOUTH 30 FT. LOT 15
 NOVEX-ONE SUBDIVISION PART OF THE
 SOUTHWEST 1/4 OF SECTION 26, T1N. R. 8E.
 CITY OF NOVI, OAKLAND CO., MI.

Date	Drawn	Checked	Job No.
8-17-06	VGR	JCK	09745



CERTIFIED SURVEY

NOVEX ONE SUBDIVISION (LIBER 137, PAGE 39 O.C.R.)
LOT 15 PARCEL 22-26-326-015



GRAPHIC SCALE



(IN FEET)

1 inch = 60 ft.

LOT 11 SITE DATA:
 SITE ZONING: L-1 = LIGHT INDUSTRIAL DISTRICT

CITY OF NOVI IS A PARTICIPANT OF
 FEMA FLOOD INSURANCE PROGRAM
 MAPPED AREA PANEL #260175-0006 C
 EFFECTIVE DATE: MAY 3, 1993
 PROPERTY LOCATED IN FLOOD ZONE X
 OUTSIDE 500-YEAR FLOOD PLAIN

PREPARED FOR:

MR. ALAN RUSHFORTH
 3700 DARBY RD.
 BRYN MAWR, PENNSYLVANIA, 19010

LEGEND

- FOUND IRON
- ⊙ FOUND CONC. MONUMENT
- SET CAPPED IRON #24598

© 2006 JCK & ASSOCIATES, INC.

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JCK
 & associates, inc.
 45650 GRAND RIVER AVE.
 P.O. BOX 759
 NOVI, MI. 48376
 PHONE (248) 348-2680

LOT SPLIT
 PARCEL ID. # 22-26-326-016
 LOT 12, 13, 14, & SOUTH 30 FT. LOT 15
 NOVEX-ONE SUBDIVISION PART OF THE
 SOUTHWEST 1/4 OF SECTION 26, T1N. R. 8E.
 CITY OF NOVI, OAKLAND CO., MI.

Date	Drawn	Checked	Job No.
8-17-06	VGR	JCK	09745



CERTIFIED SURVEY

LEGAL DESCRIPTION:
PARCEL ID. 22-26-326-016

PARCEL OF LAND SITUATED IN THE EAST 1/2, SOUTHWEST 1/4 SECTION 26, T.1N., R.8E., CITY OF NOVI, COUNTY OF OAKLAND, STATE OF MICHIGAN, IS DESCRIBED AS FOLLOW;

LOT 12, 13 AND 14 AND THE SOUTH 30 FEET OF LOT 15 OF NOVEX-ONE, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 137 OF PLATS, PAGES 38, 39 AND 40, OAKLAND COUNTY RECORDS.

NORTH PART OF PARCEL: 22-26-326-016

LEGAL DESCRIPTION: PARCEL "A"

SOUTH 30 FEET OF LOT 15 AND ALL OF LOT 14 AND PART OF LOT 13 OF NOVEX-ONE A SUBDIVISION PART OF THE SOUTHWEST 1/4 OF SECTION 26, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, AS RECORDED ON LIBER 137 OF PLATS, PAGES 38, 39 AND 40 OAKLAND COUNTY RECORDS. PART OF LOT 13 MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 13; THENCE S.00°02'48"E., A DISTANCE OF 44.58 FEET; THENCE S.89°57'12"W., A DISTANCE OF 283.13 FEET; THENCE S.00°02'48"E., A DISTANCE OF 17.69 FEET; THENCE S.89°57'12"W., A DISTANCE OF 123.87 FEET; THENCE N.00°02'48"W., A DISTANCE OF 62.27 FEET; THENCE N.89°57'12"E., A DISTANCE OF 407.00 FEET TO THE POINT OF BEGINNING. TOTAL COMBINED AREA CONTAINING 73,244 SQUARE FEET OR 1.68 ACRES AND IS SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD.

SOUTH PART OF PARCEL: 22-26-326-016

LEGAL DESCRIPTION: PARCEL "B"

LOT 12 AND PART OF LOT 13 OF NOVEX-ONE A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 26, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, AS RECORDED ON LIBER 137 OF PLATS, PAGES 38, 39 AND 40 OAKLAND COUNTY RECORDS. PART OF LOT 13 MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT POINT LOCATED S.00°02'48"E., A DISTANCE OF 44.58 FEET FROM THE NORTHWEST CORNER OF LOT 13; THENCE S.00°02'48"E., A DISTANCE OF 55.42 FEET; THENCE S.89°57'12"W., A DISTANCE OF 407.00 FEET; THENCE N.00°02'48"W., A DISTANCE OF 37.73 FEET; THENCE N.89°57'12"E., A DISTANCE OF 123.87 FEET; THENCE N.00°02'48"W., A DISTANCE OF 17.69 FEET; THENCE N.89°57'12"E., A DISTANCE OF 283.13 FEET TO THE POINT OF BEGINNING. TOTAL COMBINED AREA CONTAINING 61,066 SQUARE FEET OR 1.40 ACRES AND IS SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD.

ACCESS EASEMENT:

LOT 13 OF NOVEX-ONE A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 26, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, AS RECORDED ON LIBER 137 OF PLATS, PAGES 38, 39 AND 40 OAKLAND COUNTY RECORDS. ACCESS EASEMENT LOCATED IN PART OF LOT 13 MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT POINT LOCATED S.00°02'48"E., A DISTANCE OF 31.58 FEET FROM THE NORTHWEST CORNER OF LOT 13; THENCE S.00°02'48"E., A DISTANCE OF 26.00 FEET; THENCE S.89°57'12"W., A DISTANCE OF 283.13 FEET; THENCE N.00°02'48"W., A DISTANCE OF 33.80 FEET; THENCE N.89°57'12"E., A DISTANCE OF 40.55 FEET; THENCE N.00°02'48"W., A DISTANCE OF 59.80 FEET; THENCE N.89°57'12"E., A DISTANCE OF 323.83 FEET TO THE POINT OF BEGINNING. TOTAL COMBINED AREA CONTAINING 9,791 SQUARE FEET OR 0.22 ACRES AND IS SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD.

EASEMENT FOR ROAD PURPOSES OVER THE EASTERLY 5 FEET OF SAID LAND, AS DISCLOSED BY RECORDED PLAT NOVEX-ONE SUBDIVISION L 137, PG 38-40.

EASEMENT FOR PUBLIC UTILITIES OVER EASTERLY 12 FEET OF THE WESTERLY 41 FEET OF SAID LAND, AS DISCLOSED BY RECORDED PLAT NOVEX-ONE SUBDIVISION L 137, PG 38-40.

BASES OF BEARINGS; NOVEX-ONE SUBDIVISION, LIBER 137 PAGES 38-40 O.C.R.

PREPARED FOR:

MR. ALAN RUSHFORTH
 3700 DARBY RD.
 BRYN MAWR, PENNSYLVANIA, 19010

LEGEND

- FOUND IRON
- ⊙ FOUND CONC. MONUMENT
- SET CAPPED IRON #24598

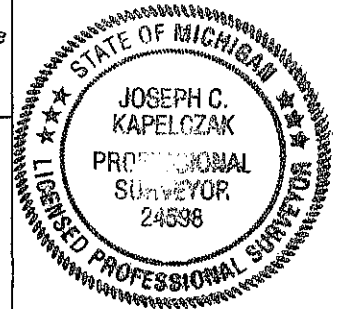
© 2006 JCK & ASSOCIATES, INC.

I, *Joseph C. Kapelczak* Professional Surveyor No. 24598 hereby certify that I have surveyed the following described parcel of land in accordance with Act 132, P.A. 1970, that the ratio of closure is within the present acceptable limits:

JCK
 & associates, inc.
 45650 GRAND RIVER AVE.
 P.O. BOX 759
 NOVI, MI. 48376
 PHONE (248) 348-2680

LOT SPLIT
 PARCEL ID. # 22-26-326-016
 LOT 12, 13, 14, & SOUTH 30 FT. LOT 15
 NOVEX-ONE SUBDIVISION PART OF THE
 SOUTHWEST 1/4 OF SECTION 26, T1N. R. 8E.
 CITY OF NOVI, OAKLAND CO., MI.

Date	Drawn	Checked	Job No.
8-17-06	VGR	JCK	09745



LIBER 37742 PG 728

OAKLAND COUNTY TREASURER'S CERTIFICATE
HEREBY CERTIFY that there are no TAX LIENS or TITLES
held by the state or any individual against the within description
and all TAXES on same are paid for five years previous to the
date of this instrument as appears by the records in the office
except as stated.

JUN 22 2006

160082
LIBER 37742 PAGE 728
\$13.00 DEED - COMBINED
\$4.00 REMEDUMENTATION
06/22/2006 08:13:37 A.M. RECEIPT# 71169



PAID RECORDED - OAKLAND COUNTY
RUTH JOHNSON, CLERK/REGISTER OF DEEDS

100 R.G.
PATRICK H. SHANN, County Treasurer
Dep. 195, Act 208, 1999 as amended
AMT INT R.O.D. JY



WARRANTY DEED

Metropolitan Title Company
America's Premier Title Agency

Corporate
(Platted/Condominium)

Drafted By: Andrew K. Klein 1270 Rickett Road Brighton, MI 48116	Return To: Alan R. Rushforth 3700 Darby Road Bryn Mawr, PA 19010	Send Tax Bills To: Alan R. Rushforth 3700 Darby Road Bryn Mawr, PA 19010
Recording Fee: \$18.00 File Number: 141242	State Transfer Tax: \$See RETVA County Transfer Tax: \$See RETVA	Tax Parcel No.: (50-22-26-326-016)

Know All Persons by These Presents: That **K.R.G. Investments, a Michigan Co-Partnership**
whose address is 1270 Rickett Road, Brighton, MI 48116

Convey(s) and Warrant(s) to **Alan R. Rushforth, a married man**
whose address is 3700 Darby Road, Bryn Mawr, PA 19010

the following described premises situated in the City of **Novi**, County of **Oakland**, State of Michigan, to wit:

Lots 12, 13, 14 and the South 30 feet of Lot 15 of NOVEX-ONE, according to the plat thereof recorded in Liber 137 of
plats, pages 38, 39 and 40, Oakland County Records.

Tax Item No. 22-26-326-016

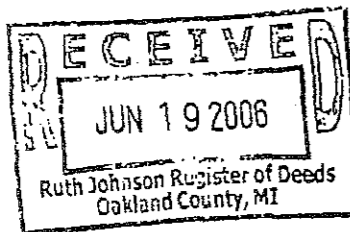
137038

More commonly known as: **22705 and 22655 Heslip Drive, Novi, MI 48375**

For the full consideration of: Real Estate Transfer Valuation Affidavit on File
\$1.00 and other good and valuable consideration

Subject To:
Existing building and use restrictions, easements of record, and zoning ordinances, if any.

Dated this June 09, 2006.



O.K. - LG

28
R
err

REVERSE TO BE AFFIXED AFTER RECORDING

LIBER37742 PG729

AK

(Attached to and becoming a part of Warranty Deed dated: June 09, 2006 between K.R.G. Investments, a Michigan Co-Partnership, as Seller(s) and Alan R. Rushforth, a married man, as Purchaser(s).)

Seller(s):

K.R.G. Investments, *A MICHIGAN CO-PARTNERSHIP*

AK

By: Andrew K. Klein, Representative
also known as Andrew Klein

State of Michigan
County of Wayne

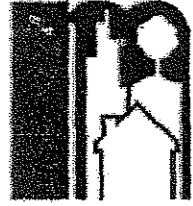
The foregoing instrument was acknowledged before me
this June 09, 2006 by Andrew K. Klein,* Representative of
K.R.G. Investments, a Michigan Co-Partnership.

Sallyann Blinder

Notary Public:
Notary, County/State: /
County Acting In: *Sallyann Blinder*
Commission Expires: *Notary Public, State of Michigan, County of Oakland*
My Commission Expires February 2, 2012
Acting in the County of Wayne

* *also known as Andrew Klein*





Metropolitan Title Company
America's Premier Title Agency

39400 Woodward Ave., Ste. 135A, Bloomfield Hills, MI 48304 Phone: (248)540-4102 Fax: (248)540-2428

ORIGINAL OWNERS POLICY LETTER

ALAN R. RUSHFORTH
3700 Darby Road
Bryn Mawr, PA 19010

Enclosed is your Original Owner's Title Insurance Policy insuring the title to the property you recently purchased.

This is a valuable document and should be kept in a secure place. If you should sell this property, you will need to provide the new purchaser with a new Owner's Title Insurance Policy. When this policy is submitted to **Metropolitan Title Company**, there will be a savings on the cost of the new policy.

Thank you for using **Metropolitan Title Company**.

File No.: 141242

Reference: Rushforth

Property Address: 22705 and 22655 Heslip Drive

ALTA Owner's Policy
(10/17/92)

Policy No.: 141242

Policy of Title Insurance



ISSUED BY

First American Title Insurance Company

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land;

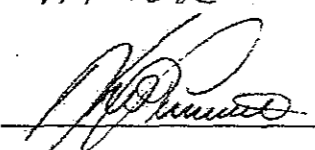
The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

Issuing Agent:
Metropolitan Title Company
39400 Woodward Ave., Ste. 135A
Bloomfield Hills, Michigan 48304
Phone: (248)540-4102 Fax: (248)540-2428

First American Title Insurance Company

By:  President

Attest:  Secretary

Countersigned By: 



Policy Issued By: First American Title Insurance Company

SCHEDULE A

File No.: 141242
2014

Amount of Insurance:
\$2,415,000.00

Date of Policy:
June 23, 2006 @ 8:00 AM

Policy Number:
141242

1. Name of Insured:
Alan R. Rushforth
2. The estate or interest in the land which is covered by this Policy is:
Fee Simple
3. Title to the estate or interest in the land is vested in:
Alan R. Rushforth
4. The land referred to in this Policy, situated in the County of Oakland, City of Novi, State of Michigan, is described as follows:

(SEE EXHIBIT A LEGAL DESCRIPTION)

22705 and 22655 Heslip Drive Novi, MI 48375



Issuing Agent: Metropolitan Title Company
America's Premier Title Agency
39400 Woodward Ave., Ste. 135A, Bloomfield Hills, MI 48304
For additional information call (248)540-4102 or fax to (248)540-2428

This policy is valid only if Schedule B is attached.

SCHEDULE B

File No.: 141242

Policy No.: 141242

General Exceptions

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

Specific Exceptions:

1. Mortgage in the original amount of \$1,932,000.00 executed by Alan Rushforth, a married man and Jan Marie Rushforth, his wife to FlagStar Bank, FSB, dated June 9, 2006, recorded June 22, 2006, in Liber 37742, page 730.
2. Assignment of Rents executed by Alan Rushforth, a married man and Jan Marie Rushforth, his wife to FlagStar Bank, FSB, dated June 9, 2006, recorded June 22, 2006, in Liber 27742, page 741.
3. Covenants, conditions, restrictions and other provisions but omitting restrictions, if any, based on race, color, religion, sex, handicap, familial status or national origin as contained in instrument recorded in Liber 5890, page 180.
4. Easement for road purposes over the Easterly 5 feet of said land, as disclosed by the recorded plat.
5. Easement for public utilities over the Easterly 12 feet of the Westerly 41 feet of said land, as disclosed by the recorded plat.
6. Rights of tenants, under any unrecorded leases, as to Chicago Pneumatic Tool Company and Henrob Corporation.
7. The following matters as disclosed by survey dated 05-18-2006, prepared by JCK & Associates, Inc., being Job No. 30-09745:
 - a) Utility lines running through property
 - b) Concrete onto Easements

EXHIBIT A
LEGAL DESCRIPTION

File No.: 141242

Policy No.: 141242

The land referred to in this Policy, situated in the County of Oakland, City of Novi, State of Michigan, is described as follows:

Lots 12, 13, 14 and the South 30 feet of Lot 15 of NOVEX-ONE, according to the plat thereof recorded in Liber 137 of plats, pages 38, 39 and 40, Oakland County Records.



Consulting Engineers • Land Surveyors
• Environmental Services •

RECEIVED OCT 19 2006

45650 Grand River Ave.
Novi, MI 48376
(248) 348-2680
Fax (248) 348-2777

October 18, 2006

Cooper, Shifman, Gabe, Quinn & Seymour
1026 West Eleven Mile Road
Royal Oak, MI 48067-2451

RE: Land Division of Lot 13 Novex-1 Subdivision

Dear Matt:

I am in receipt of your letter of October 5, 2006 inquiring as to whether the land division of Lot 13 Novex-1 Subdivision is in compliance with the Land Division Act. It is in compliance with the Land Division Act, if in fact the municipality approved the split.

If you have any questions, please don't hesitate to call me at 248-939-2049.

Sincerely,

JCK & Associates, Inc.
Consulting Engineers


Joseph C. Kapelczak, PS
President



cityofnovi.org

RECEIVED MAY 14 2008

May 12, 2008

Mr. Alan Rushforth
P.O. Box 926
Bryn Mawr, PA 19010

Re: Parcel 22-26-376-016

Dear Sir:

Please be advised that the request to reconfigure the above referenced parcel has been denied. There appears to be issues with the setbacks and required parking. Please see the attached review and recommendations from City Planner, Mark Spencer. Other than these zoning ordinance issues, my review did not find any problems with your request relative to the Land Division Act.

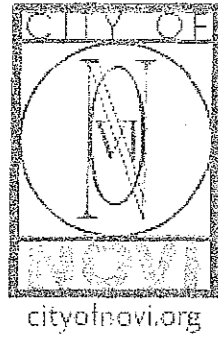
When Mr. Spencer's concerns have been resolved, please feel free to resubmit your land division request. If you have any questions in this matter, feel free to call me at (248) 347-0492.

Sincerely,

D. Glenn Lemmon, Assessor
City of Novi

Cc: Matthew C. Quinn

MEMORANDUM



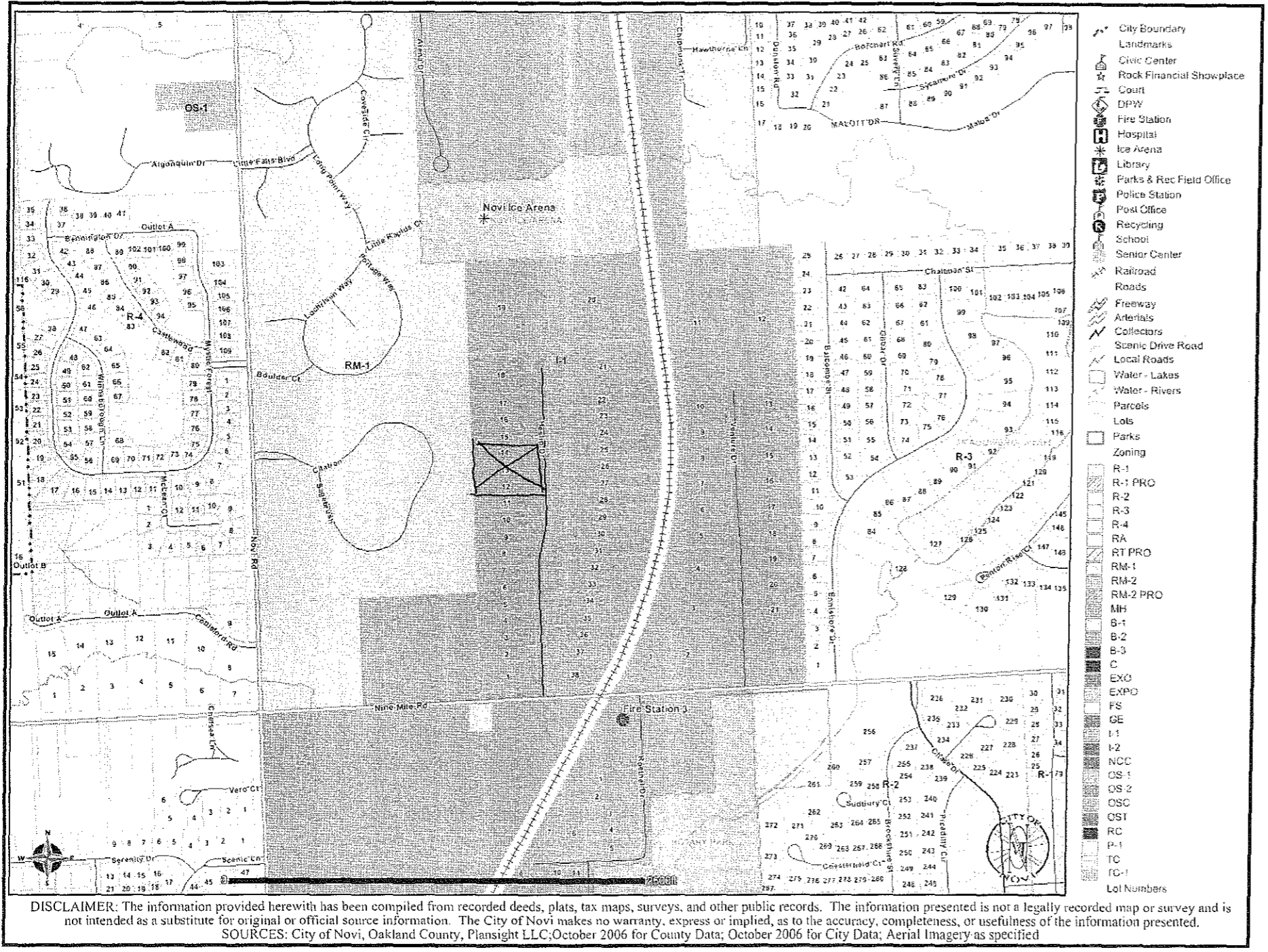
TO: GLENN LEMMON, ASSESSOR – VIA E-MAIL
FROM: MARK SPENCER, AICP, PLANNER
SUBJECT: 22695 HESLIP PROPOSED SPLIT
DATE: APRIL 14, 2008

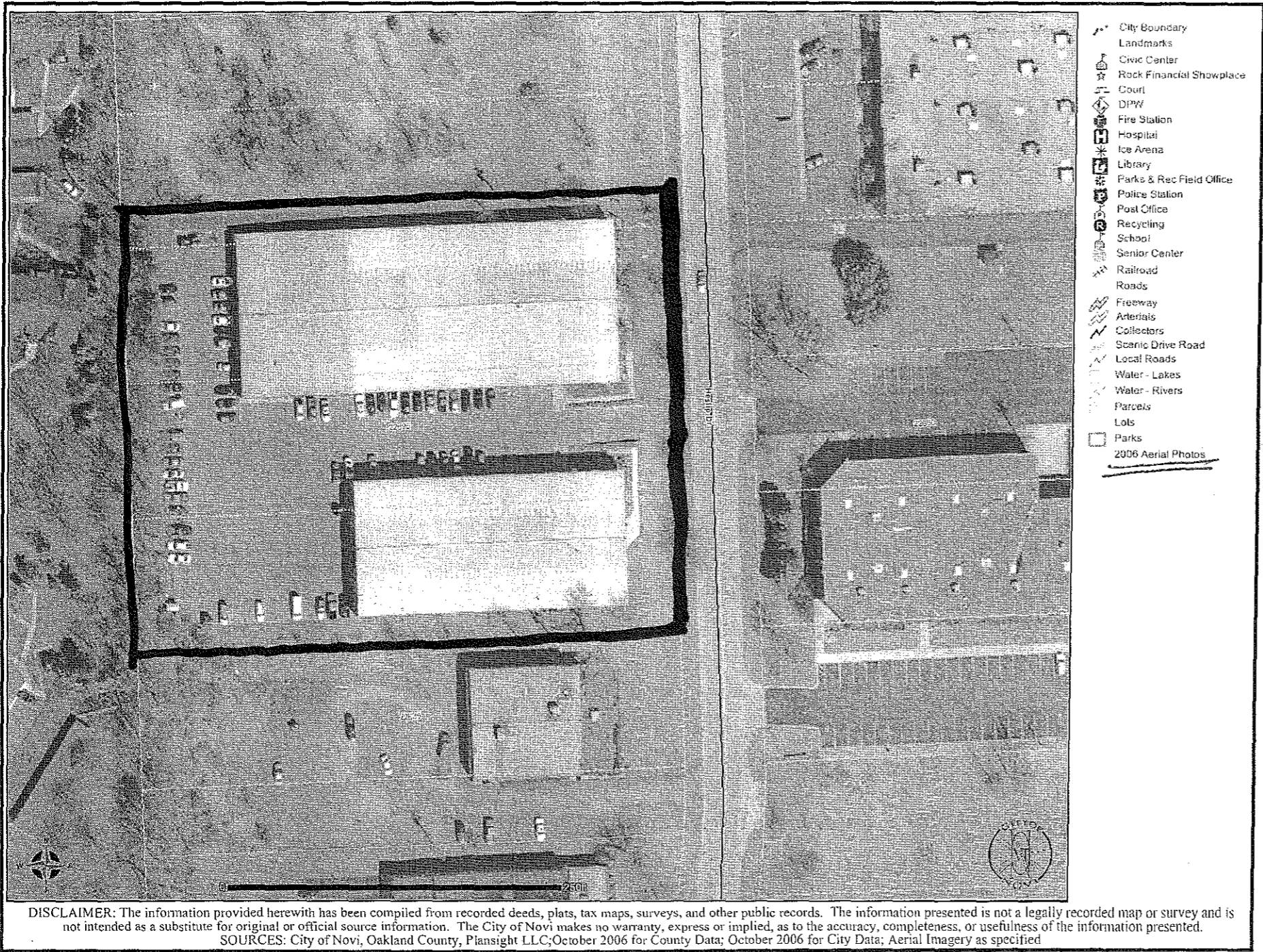
I reviewed the proposed land division for parcel no. 22-26-326-016. As proposed, this split would not meet the requirements of the Zoning Ordinance and should be **denied**. Please see the following comments:

1. The property is located in the City's Light Industrial, I-1, District and the site was developed in the mid 1980s.
2. The site contains two existing non-conforming warehouse/office buildings and the site does not meet the current parking lot design, landscaping requirements, unloading setback from residential uses and parking setbacks from residential uses Zoning Ordinance requirements.
3. Parking required for warehouse buildings with accessory offices is one space per 700 sq. ft. of usable floor area. The smaller building is 26% office and the larger 36% office according to the City's assessing files. Adequate parking exists for warehouses with accessory office (10% of the floor space) but the site is short parking spaces for this larger percentage of office uses. At 1 space per 700 sq. ft. of warehouse and 1 space per 222 sq. ft. of office, the smaller building requires 44 parking spaces and the larger 86 spaces. The land division does not propose to eliminate any parking spaces.
4. In the I-1 District, parking lots are required to be setback 10 feet from the property line. Zero setback is proposed along the proposed division line.
5. The proposed joint access easement appears to be too small for large trucks to adequately maneuver.

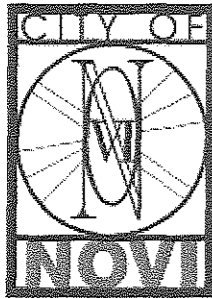
Based on the above review, the Planning Division **does not recommend approval** unless the applicant receives a variance from the Zoning Board of Appeals to permit the parking lot and associated drives to have zero setback along their common boundary. The applicant may want to consider forming a general condominium with the units matching the building footprints and the balance of the site as common elements. The property would continue to be one piece of property, a variance would not be required and approval could be recommended.

c: Barbara McBeth, Deputy Director of Community Development





MEMORANDUM



cityofnovi.org

TO: ZONING BOARD OF APPEALS
FROM: MARK SPENCER, AICP, PLANNER
SUBJECT: HESLIP LAND DIVISION VARIANCE
DATE: JULY 28, 2008

Mark Spencer

On July 28, 2008, the City received an application to the Zoning Board of Appeals to approve three variances for property owned by Mr. Alan Rushforth and located at 22655 and 22705 Heslip Drive. As requested in a letter dated July 28, 2008 from the applicant's attorney Matthew Quinn, the applicant is asking the Board to approve the following:

- Approval of an exception to the parking lot side yard setback requirement of Section 2400 for each of two proposed parcels; and
- A variance to the parking space requirements of Section 2505.14 for the northern proposed parcel.

The applicant's attorney's letter indicates that the applicant is asking for this exception and variance in order to gain approval of a proposed land division for a parcel with tax ID number 22-26-326-016 that was submitted to Glenn Lemmon, City of Novi Assessor. The Planning Staff conducted a Zoning Ordinance review of the proposed split on April 14, 2008 (see attached) and based on this review the proposed land division was denied by the City Assessor. The review recommended the denial of the land division unless the applicant obtained a variance [or an exception] to reduce the side yard parking setbacks for both proposed parcels from 10 feet to zero feet along their proposed common property line. As stated in the review memo, the proposed split would create parcels with zero side yard parking lot setbacks. Although other non-conforming issues exist, only the proposed creation of this additional non-conformity is the reason for the recommendation for denial of the land division. The site does not meet current landscaping, screening, parking lot design and parking space requirements.

Ordinance Considerations

The City's Zoning Ordinance prohibits making a change to land that is non-conforming with the City's Zoning Ordinance. Section 2501 of the City's Zoning Ordinance states the following:

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

Therefore, creating a non-conforming lot due to not meeting the required setback requirements is prohibited unless a variance or an exception is granted to reduce the setback requirement.

The City's Code of Ordinances (Land Division Ordinance) also prohibits the creation of non-conforming parcels. Section 32-36(a)(2) states the following:

All the parcels to be created by the proposed land division(s) shall fully comply with the applicable lot, yard and area requirements of pertinent

ordinances, including, but not limited to, minimum lot frontage/width, minimum road frontage, minimum lot area, maximum lot coverage, minimum set-backs for existing buildings/structures, and depth to width ratios or have received a variance from such requirement(s) from the appropriate zoning board of appeals.

Section 32-36(a)(3) states the following:

All divisions shall result in "buildable" parcels with sufficient area to comply with all required setback provisions...

Section 3104(c) of the Zoning Ordinance permits the Zoning Board of Appeals to approve some specific special approval situations. Setbacks [or yard regulations] are one of these special situations. Section 2906 states the following:

When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified as determined by the Board of Appeals.

Approval of special situations can be done when the Board finds the following as stated in Section 3104:

...[the] proposed exception or special approval will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Novi.

Further, the Board can impose conditions with their approval to promote the purpose of this Ordinance.

Side yard parking setbacks

The proposed land division would create a parking lot setback of zero feet on both of the proposed parcels. Section 2400 of the Zoning Ordinance requires a side yard setback of 10 feet in the I-1, Light industrial District, thus the proposed split would create two new non-conforming parcels. The applicant is asking the Board to grant approval of an exception to permit a zero foot side yard parking setback.

Since the two buildings and the parking lot are existing and no known problems have surfaced due to this configuration, the reduction of the parking setbacks on the two proposed parcels will not impair the supply of air and light to adjacent property, increase fire risk, endanger public safety, increase congestion, diminish neighboring property values, or have any other negative effects upon the health, safety, welfare, comfort or morals of the residents of Novi. Only the landscaping that would normally separate the parking lots between two parcels would be missing by eliminating the required setback areas.

Compliance with the required setback can be maintained if the land is not split. It would also be maintained if the applicant created a general condominium for the site and created units for the

building footprints. The balance of the site would be in a common element. This would allow the owner to sell the buildings individually. Technically the lot would not be split and thus it would continue to comply with the Ordinance.

The Planning Staff recommends **finding that it is not reasonable to make the applicant comply with the side yard parking setback requirements along the proposed property split line** due to existing site layout conditions and since the reduction of the parking setbacks along the common boundary of the two proposed parcels will not impair the supply of air and light to adjacent property, increase fire risk, endanger public safety, increase congestion, diminish neighboring property values, or have any other negative effects upon the health, safety, welfare, comfort or morals of the residents of Novi. Based on this finding, the Planning Staff **recommends approval of the proposed exception** to permit a parking setback of zero feet along the proposed property line and recommends the Board consider imposing conditions to reduce a parking space disparity between the two proposed parcels. See discussion below.

Parking space requirements

The applicant is asking for a variance from Section 2505.14 to reduce the parking requirement for the northern lot. Parking required for warehouse buildings with accessory offices (up to 10% is the rule of thumb standard for accessory office use) is one space per 700 square feet of usable floor area. If the offices in these buildings were only accessory offices and less than 10% of the total floor area, a combined total of 77 parking spaces would be required. Since 93 total spaces are provided on the site the site, adequate parking exists for warehouses with accessory office for both proposed lots, but the site is short parking spaces for the existing larger percentage of office uses.

Offices are required to have one space for every 222 square feet of gross leaseable floor area. The smaller (southern) building is 26% office and the larger (northern) building is 36% office according to the City's assessing files. At one space per 700 square feet of warehouse and one space per 222 square feet of office, the smaller building requires 44 parking spaces and the larger 86 parking spaces. The proposed split will provide 45 parking spaces to the smaller building which meets the ordinance requirements but only 50 parking spaces are provided for the larger building which will make it short 36 spaces. Prospective buyers and leaseholders may be impacted by these requirements, although this is not directly at issue with the lot split request. The proposed division does not eliminate any parking spaces and therefore will not increase the non-conformity.

Many older developments throughout the City do not meet current ordinance requirements. When these properties redevelop they must meet current Ordinance requirements. The granting of variances for these requirements would reduce the chance that these deficiencies would ever be corrected. A granting of the parking variance as requested would reduce the chance of the site becoming conforming in the future, therefore the Planning Staff **does not recommend approval** of the parking space variance request since the lot split does not increase this non-conformity.

Furthermore, if the Board is inclined to approve the proposed exception to the side yard parking setback requirements, the Planning Staff **recommends** placing one of the following conditions on their approval of the exception to provide for a more equitable distribution of the existing parking spaces:

- Divide the lot so that each parcel contains the same percentage (73%) of their required parking spaces so that both proposed parcels are equally complying with the parking requirements of the Ordinance; or
- Reduce the amount of office space in the northern building to 10% of the building or less so that both parcels comply with the parking requirements of the Ordinance, or
- Execute a non-revocable parking easement on both parcels so that all of the existing parking lot spaces will be available for use by the occupants and visitors of both proposed parcels.

Summary

None of the other existing non-conformities would be enlarged or increased due to the proposed land division and therefore no variances are needed regarding these non-conformities in order to approve the proposed land division. The proposed land division can be approved if the Board grants an exception to permit the proposed zero feet side yard parking setback.

At this time, the Planning Staff **recommends the Board find that complying with the side yard setbacks is not reasonable due to existing site conditions, and recommends granting an exception for the proposed zero feet side yard parking setbacks since the reduced setbacks should not create any health, safety or welfare problems with one of the following conditions to ensure a more equitable distribution of available parking spaces on the site:**

- **Divide the lot so that each parcel contains the same percentage (73%) of their required parking spaces; or**
- **Reduce the amount of office space in the northern building to 10% of the building or less; or**
- **Execute a non-revocable parking easement on both parcels before the division.**

The Planning Staff **recommends denial of the parking space variance request since this action may reduce the chance of this site complying with parking space requirements in the future, and since the proposed split does not increase the non-conformity that exists on the site.**

If you need any additional information on this matter, please feel free to contact me.

c: Thomas R. Schultz, City Attorney
 Steve Rumble Director of Community Development
 Barbara McBeth, Deputy Director of Community Development
 Charles Boulard, Building Official