



## CITY of NOVI CITY COUNCIL

Agenda Item 1  
July 21, 2014

**SUBJECT:** Consideration of a request from CZ Cartage, Inc. for a variance from Section 11-239(b) of the Design and Construction Standards of the City Code, which requires parking areas and maneuvering lanes to be hard-surfaced and curbed, to allow the applicant to construct a parking area that is gravel surfaced on parcel number 22-17-101-006.

**SUBMITTING DEPARTMENT:** Department of Public Services, Engineering Division <sup>RA</sup> <sup>BTC</sup>

**CITY MANAGER APPROVAL:** 

### BACKGROUND INFORMATION:

CZ Cartage, located on Grand River east of Wixom Road, has submitted a site plan to construct a new 1.7 acre unpaved area on the parcel adjacent to its existing site. The area would be used for staging and parking truck trailers for less than 24 hours. The Design and Construction Standards Section 11-239(b) requires that "the entire parking area including parking spaces and maneuvering lanes are required to be hard-surfaced and curbed." The minimum paving standards under the ordinance would be three inches of asphalt on aggregate base or six inches of concrete. The applicant has submitted a Design and Construction Standards Variance Request for the use of asphalt millings mixed with aggregate (gravel) as the surface for the parking lot and maneuvering lane, and to construct the parking area without curb and gutter (see attached application).

The variance request was reviewed by various City departments using the criteria in Section 11-10 of the ordinance. There were no concerns expressed in the reviews by the Landscape Architect, Fire Department, or DPS Field Operations staff.

Community Development and DPS Engineering are recommending **denial** of the variance for the following reasons, which are discussed in greater detail in our attached Memorandum:

- The applicant has not shown that the application of the ordinance standard on this site is infeasible or otherwise presents an exceptional difficulty, nor has it demonstrated that enforcement of the ordinance on this site would be any more difficult or impractical than it would be on any other site where the ordinance has been applied.
- The alternative proposed by the applicant is not adequate for the intended use and substantially deviates from the performance that would be obtained by strict enforcement of the standards for the following reasons:
  - A gravel surfaced parking lot does not provide a stable surface that is resistant to erosion, rutting and wear, and substantially deviates from the ordinance standard.
  - "Hard-surfaced" has a common definition that means the surface is paved; by contrast, asphalt millings mixed with aggregate is defined by the

- Michigan Department of Transportation as an aggregate material, not a paved or hard surface.
- o Curb and gutter serves a drainage purpose to guide and direct the flow of storm water within the parking area to the storm water collection system for treatment and storage prior to discharge and protects the edge of the parking lot from erosion.
- o The applicant has otherwise failed to provide information or calculations to demonstrate that the proposed alternative would meet the standards of the ordinance.
- The granting of the variance will be detrimental to the public health and welfare because the proposed alternative increases the concern for erosion of material from the site, as well as for transport and deposition of suspended solids into the adjacent wetlands and possibly onto adjacent properties. The applicant has not provided any data or information to refute this claim; therefore, staff believes that there is a risk of injury to the wetland and the adjacent property owners

The City Attorney's Office has provided separate correspondence dated May 8, 2014 and July 16, 2014.

The preliminary site plan was approved by the Planning Commission on April 23, 2014, subject to various conditions (see attached Action Summary), including City Council approval of a Design and Construction Standards Variance.

The application package, asserted justifications, relevant ordinance sections, and a recent supplementary submittal from the applicant along with the relevant ordinance sections along with a memo discussing this new information are attached.

**RECOMMENDED ACTION:** Denial of a request from CZ Cartage, Inc. for a variance from Section 11-239(b) of the Design and Construction Standards of the City Code, for the reasons stated in the City Engineer's Memorandum dated July 16, 2014.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

# CZ Cartage

## Location Map



Existing CZ Cartage Site

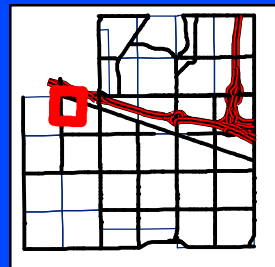
Proposed Parking Area

Map Author: Brian Coburn  
 Date: 5/7/2014  
 Project:  
 Version #:

Amended By:  
 Date:  
 Department:

**MAP INTERPRETATION NOTICE**

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.



**City of Novi**  
 Engineering Division  
 Department of Public Services  
 26300 Lee BeGole Drive  
 Novi, MI 48375  
[cityofnovi.org](http://cityofnovi.org)



1 inch = 480 feet



## Sec. 11-239. Driveways and parking lots.

- (a) Plan requirements. All site plans proposing the construction of driveways and vehicle parking areas, including parking structures, shall provide but not be limited to the following dimensions and features:
- (1) Complete parking spaces, maneuvering lanes and driveways;
  - (2) Typical dimensions and angles of parking spaces, maneuvering lanes and driveways;
  - (3) Radii of driveway returns and all other points of curvature;
  - (4) Proposed and existing parking lot and driveway grades and elevations;
  - (5) Driveway and parking lot cross-sectional view of the pavement structure, including subbase, base and surfacing;
  - (6) Existing and proposed drainage structures and controls shall include.
    - a. Direction of surface water flow by the use of flow arrows;
    - b. Method of surface water disposal on all pavement areas;
    - c. Location of drainage structures and piping;
    - d. Structure details and any other applicable details;
    - e. Delineation of areas contributing surface waters to each structure or stormwater outlet point;
    - f. A bench mark located within one hundred (100) feet of the site based on a U.S.G.S. datum.
  - (7) Proposed and existing elevations shall be shown on the plan at all radii points, finish grade at the corners of all buildings, at 50-foot intervals along the edge of the pavement, and at 50-foot intervals along the line of surface flow. Proposed elevation contours at two-foot intervals shall be provided if requested by the city engineer.
- (b) Design standards.
- (1) Driveway and parking lot surfacing requirements. The entire parking area including parking spaces and maneuvering lanes are required to be hard-surfaced and curbed. Exceptions will be made for private utility service driveways for facilities providing an accessory use. Minimum pavement standards include: For asphalt pavement, three (3) inches asphalt over eight (8) inches aggregate base; for concrete pavement, six (6) inches concrete over properly compacted subgrade. Core reports are required to be provided by the contractor for asphalt paving at the direction of the city engineer. All curbing must be concrete; no asphalt curbs will be allowed.
  - (2) Subgrade requirements.
    - a. All pavement surfaces must be supported upon a prepared subgrade that has been compacted to at least ninety-five (95) percent of maximum unit weight in accordance with MDOT standards. When unstable subgrade materials, i.e., peat, muck, marl, wet clays, etc., are encountered, excavation and removal of such unstable materials and replacement to plan subgrade with approved materials compacted in place shall be required. Approved materials shall include slag, crushed stone, gravel, coarse sand, or other materials approved by the engineer.
    - b. Should it be found that the excavation, removal and replacement of unstable subgrade material is impractical due to excessive depths, alternate pavement structure designs must be submitted to and approved by the engineer prior to pavement installation.



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July 16, 2014

Adam Wayne, Construction Engineer  
City of Novi  
45175 Ten Mile Road  
Novi, Michigan 48375

Re: CZ Cartage – Driveway and Parking Lot Design Standards  
Variance from Design and Construction Standards

Dear Mr. Wayne:

We have received and reviewed the correspondence dated June 25, 2014 from the attorney for CZ Cartage (the "Legal Opinion") regarding the variance request for relief from the driveway and parking lot surfacing requirements of the City Code, Section 11-239(b), which states that parking areas (including parking spaces and maneuvering lanes) are to be hard-surfaced and curbed.

The applicant was granted preliminary site plan approval by the Planning Commission **subject to** receipt of a variance for the lack of curbing and paving from the City Council. The Planning Commission granted waivers within its own authority from the requirement to install interior parking lot landscaping and landscape islands, which the applicant indicated would impede trailer movements. The proposed City Council variance is authorized under Section 11-68(a)(1) and is the only remaining variance request for the project.<sup>1</sup>

As the basis for its request to allow a gravel-type surface (asphalt "millings") instead of hard surface, the applicant primarily argues that installation of concrete paving would be cost-prohibitive and that installing an asphalt surface, while more economical, would be functionally inferior and still ultimately cost-prohibitive due to repairs that would be necessitated from damage caused by trailer movements ("tandem wheels will roll the asphalt"). Those issues are addressed in a separate memo from the City Engineer.

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<sup>1</sup> Although the Legal Opinion indicates that the request includes a variance from the City's parking lot requirements set forth in Sections 2505 ("Off-Street Parking Requirements") and 2506 ("Off-Street Stacking Space") of the City's Zoning Ordinance, we are unaware of a variance requested from Zoning Ordinance standards, which variance would be in front of the Zoning Board of Appeals, instead of City Council.

The Legal Opinion also argues that the requirements of Section 11-239(b) of the City Code are not intended to apply to applicant's proposed use, which the Legal Opinion repeatedly calls a "switching yard" rather than "parking." This memo responds to that issue.

As discussed in the April 23, 2014 Planning Commission Minutes, a copy of which is attached, the applicant wants to use property to the east of its existing warehouse operation for the purpose of "parking truck trailers." The Legal Opinion elaborates that the use consists of "organization of over the road semi-trailers that are brought to the site by truck and temporarily positioned for connection to a different truck..." The Legal Opinion attempts to distinguish the described "switching yard" use from the definition of "Parking" as set forth in Section 201 of the City of Novi Zoning Ordinance, which it contends is limited to "motor vehicles," which it then suggests means only "cars and light trucks," and not semi-trailers.

There is no definition of "motor vehicle" in the Zoning Ordinance. However, the Federal Motor Carrier Act (CZ Cartage is a motor carrier) specifically defines a semi-trailer as a "motor vehicle":

Motor vehicle means any vehicle, machine, tractor, **trailer, or semitrailer propelled or drawn by mechanical power** and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Motor Carrier Safety Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. (49 CFR 390.5)

Moreover, by granting CZ Cartage site plan approval subject to the DCS standards variance, the Commission has effectively determined that the area at issue is a parking lot and is required to be paved. To our knowledge (see footnote 1), no appeal from that requirement was timely taken to the Zoning Board of Appeals. In our view, the City Council should, therefore, act on the merits of the request rather than find(as the Legal Opinion requests) that the paving standard does not apply.<sup>2</sup>

Finally, we question the Legal Opinion's repeated description of the use at issue as a "switching yard." The property at issue is zoned I-1, Light Industrial. A "switching yard" is not listed as a permitted use in the I-1 District (nor is it a defined term in the ordinance). One of the "Required Conditions" in the I-1 District, at Section 1905, is that "all uses shall be conducted wholly within a completely enclosed building." There are only a few enumerated exceptions to that requirement, only one of which—"off-street parking"—would apply to allow what the applicant proposed. In other words, if applicant's proposed use is something other than

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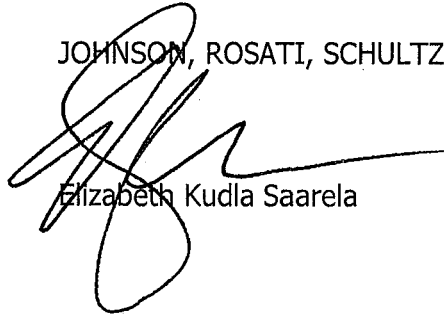
<sup>2</sup> The Legal Opinion's reference to the P-1 District standards is also unavailing, in our opinion. The P-1 District is utilized where parking will be the only use on a parcel of land. The property here is not zoned P-1. Moreover, the property at issue is to be combined with the existing CZ Cartage property, which means that its principal use would not be parking only. (If the two parcels were not combined with the existing CZ Cartage use, then the use proposed would in fact not be allowed as a principal use.)

"parking," then it would not appear to be a permitted use; a "switching yard" would presumably require a use variance from the Zoning Ordinance in this District. Given the language of the I-1 District regulations, it would appear that CZ Cartage needs the area in question to be considered to be a parking lot—and thus subject to the paving requirement.

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

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.

A handwritten signature in black ink, appearing to read 'Elizabeth Kudla Saarela', written over the typed name.

Elizabeth Kudla Saarela

EKS

cc: Maryanne Cornelius, Clerk  
Charles Boulard, Community Development Director  
Matt Wiktorowski, Field Operations  
Brian Coburn, Engineering Manager  
David Beschke, Landscape Architect  
Jeff Johnson, Fire Department  
Thomas R. Schultz, Esquire



## MEMORANDUM

**TO:** VICTOR CARDENAS, INTERIM CITY MANAGER  
**FROM:** ROB HAYES, P.E.; PUBLIC SERVICES DIR/CITY ENGINEER  
BRIAN COBURN, P.E.; ENGINEERING SENIOR MANAGER *BTC*  
**SUBJECT:** CZ CARTAGE VARIANCE REQUEST—ENGINEERING RESPONSE  
**DATE:** JULY 16, 2014

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CZ Cartage, located on Grand River east of Wixom Road, has submitted a site plan to construct a new 1.7 acre unpaved area on the parcel adjacent to its existing site. The area would be used for staging and parking truck trailers for less than 24 hours. The Design and Construction Standards (DCS) Section 11-239(b) requires that "the entire parking area including parking spaces and maneuvering lanes are required to be hard-surfaced and curbed." The applicant has submitted a Design and Construction Standards Variance Request for the use of gravel as paving surface for the parking lot and maneuvering lane, and to construct the parking area without curb and gutter.

This memo is in response to the June 25, 2014 letter that was provided to the City by Phillip Adkison on behalf of his client, CZ Cartage. Each bolded statement below corresponds to a statement in the letter, with a discussion following of Engineering's position to each statement. This memo also includes responses to new information that was provided in the applicant's presentation provided to the City Clerk on July 15.

To summarize and highlight the detailed information provided below:

- A. The ordinance requires parking areas to be constructed of a hard-surface, asphalt or concrete. An aggregate surface would not meet ordinance standards or perform as well as the ordinance requirement. The proposed aggregate would not provide a hard stable surface that is resistant to rutting and wear and is strong enough to support the proposed use by heavy vehicles.
- B. Curb and gutter is required by the ordinance to direct the flow of storm water and to prevent erosion at the edge of the parking area that would flow into the sedimentation and detention basin for discharge into the wetlands. No alternative to curb and gutter is proposed.
- C. A paved surface along with a properly design storm water system will decrease the amount of erosion and sedimentation that would otherwise be present with a gravel surfaced parking lot.
- D. The various gravel surfaced sites referred to in the application materials were apparently constructed before the ordinance requirement to pave parking lots was enacted in 1986 or were not specifically approved for that purpose by the City. Additionally, there are other paved parking areas used for purposes similar to the applicant's that have been constructed to those standards without objection.



**RESPONSE TO "ISSUES PRESENTED" IN JUNE 25, 2014 LETTER**

1. ***Is the proposed use a "parking lot" as defined and intended by the City's zoning ordinance?*** See separate correspondence from the City Attorney dated July 16, 2014. City staff agrees with and incorporates that response.
2. ***Will the proposed surface, composed of asphalt millings, satisfy the objectives of the City requirement for a hard surface (asphalt or concrete)?*** The minimum paving standards under the ordinance are three inches of asphalt on aggregate base or six inches of concrete<sup>1</sup>, but the Section does not provide a standard for an aggregate surface since it is not considered to be a hard surface. The applicant is proposing the use of asphalt millings mixed with natural aggregate as a "hard surface." Hard surface is traditionally defined as a ***paved*** surface. Asphalt millings are treated as an aggregate material in the design of pavement cross-sections. The 2012 Michigan Department of Transportation Specification lists asphalt millings under Salvaged Aggregate in section 902.02.A, as a form of aggregate separate from an asphalt pavement, which would be placed by a paving machine per Section 501 of the specification. For these reasons, staff concludes that aggregate with asphalt millings substantially deviates from the performance that would be obtained by strict enforcement of these standards.

Additionally, the applicant has not provided curb and gutter as required by the ordinance. The application states "since the trailer tires will be parked a considerable distance from the edge of the parking surface due to trailer overhang, curbing provides no useful purpose." Staff disagrees. Curb and gutter can serve as a wheel stop to protect the adjacent unpaved areas as addressed by the applicant. However, curb and gutter also serves an important drainage purpose to guide and direct the flow of storm water within the parking area to the storm water collection system for treatment and storage prior to discharge.

The applicant's plan shows that the parking lot would be constructed within 50 feet of a regulated wetland. Instead of curb and gutter, the applicant is proposing to sheet flow the parking lot drainage into the sedimentation and detention basin for discharge into the wetlands. Based on past experience, staff has concerns with the sheet flow of large areas of a parking lot because of the erosion that will likely occur at the edge of the parking area. The lack of pavement to stabilize the surface of the proposed parking area increases the concern for erosion of material from the parking lot and sedimentation of not only the detention basin, but for the transport and deposition of suspended solids into the adjacent wetlands that receive the flow from the detention basin. For these reasons, staff concludes that the lack of curb and gutter substantially deviates from the performance that would be obtained by strict enforcement of these standards.

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<sup>1</sup> The only exception to the paving standards is for private utility driveways for facilities providing an accessory use.

3. ***Will the use of asphalt millings for the switching yard perform better than the required surface for the intended use?*** Following the submittal of the variance application, the City requested additional information from the applicant's engineer regarding the operation of the parking area. The only information provided in the application stated that the proposed use is "unlike the Novi typical parking lot used by the public or private employees as envisioned in the ordinance." The application also notes that because of "the proposed use and its remote location from the public, the requirement of concrete curbing and hard surfacing imposes an exceptional and practical difficulty" to the applicant.

In a telephone discussion with the applicant's engineer, we suggested that the applicant help us to better understand how the proposed operation of this area is different than other parking areas, especially as it relates to how an aggregate surface would perform better than a paved (hard) surface. We further suggested that the applicant provide a video to demonstrate the operation so staff can better understand the applicant's claim. While a video was provided, it did not include a demonstration of the applicant's intended operation, but rather showed a similar unpaved parking area with parked trailers with a narrative by the applicant reiterating the points in the original application and subsequent discussions.

The applicant's engineer asserted that there would be degradation of an asphalt pavement surface due to shear forces imposed by turning trucks in the switching operation. In our opinion, a concrete or asphalt pavement would be resistant to these shear forces and meet the ordinance requirements. A hard-surfaced pavement is required to provide a stable surface that is resistant to rutting and wear and is strong enough to support the proposed use by heavy vehicles. The applicant has not provided data to support the assertion that the proposed cross-section is comparable in strength to the ordinance requirements.

4. ***Will a literal interpretation of the zoning ordinance requirement for asphalt or concrete result in an exceptional difficulty to the applicant?*** On page 4 of the June 25, 2014 response letter, the applicant has provided cost as the sole argument that the requirement to pave the proposed parking area would result in an exceptional difficulty to the applicant. The ordinance requires many site improvements and amenities for development or redevelopment of property. Any applicant could make the argument that such improvements add cost to the project; however, only in those cases where there are site constraints or certain operational difficulties that make enforcement of the ordinance infeasible or otherwise present an exceptional difficulty is there a basis for variance relief.

In this case, the applicant has proposed the construction of a new yet unpaved parking area, but it is required to be paved under the ordinance as would any other site presented to the City for review under the current ordinance. The applicant has not provided any information to demonstrate that the enforcement on the ordinance on this site is any more difficult or impractical than it would be on any other site where the ordinance has been enforced.

5. *Will the granting of a variance result in injury to the public health, safety, or welfare to be injurious to adjoining or neighboring property?* Staff has some concerns about impacts to the wetlands should there be excessive amounts of sediment in the storm water discharge from this site. The applicant has not provided any data or information to refute this claim; therefore, staff believes that there is a risk of injury to the wetland and the adjacent property owners.

## **RESPONSES TO SUPPLEMENTAL INFORMATION IN THE JUNE 25, 2014 LETTER**

### **1. The Objectives of hard surface requirement are not met.**

- Intent of requirement: Staff has identified above several reasons why parking lots should be hard-surfaced and curbed (decrease sediment in storm water, provide hard surface that is stable and resistant to rutting, and provide a surface that can support the proposed use by heavy vehicles). Per Section 11-10, a variance may be granted when all of the following conditions are satisfied:
  - A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
  - 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
  - The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

It is staff's opinion that all three conditions have not been met in the applicant's request.

- Application of parking lot standards: The ordinance defines the area proposed by the applicant as a parking area (see separate City Attorney letter) and therefore the parking area must meet the ordinance standard to be paved and curbed. The applicant claims that the standards are intended for parking lots to which the general public has access, but that assertion is not stated in the ordinance. Many sites have been designed using this standard for areas that are not accessible to the public, such as locations behind locked gates or other barriers. Section 11-239 requires the applicant to provide parking lot stall dimensions meeting the minimum standards in Section 2506 of the Zoning Ordinance, but does not limit the application of the parking construction standards to only those parking lots where the minimum standards are applied. Therefore, the assertion that the parking lot construction standards apply to only a certain configuration of parking is inaccurate.
- Parking Lot Striping: The applicant's plan shows painted parking lot stripes. Staff commented that parking lot striping that was shown on the plan would not be possible on an unpaved surface. It should be noted that there are other sites in the City where there are striped parking stalls in paved lots used exclusively for employee use, such as a warehouse/distribution center where trailers are parked or a car dealership where vehicle inventory is stored.
- Off-site tracking of soil: The applicant states that "asphalt millings are washed to remove fines and compacted to a density that is 95 percent of concrete or asphalt." We are unable to find a specification in this regard. However the

applicant failed to mention that the 21AA aggregate in the mixture can have up to 10 percent fines per Table 902-1 of the 2012 MDOT Specification; therefore, there will be fines that will be tracked from this site as sediment. As for density, concrete has a density of 150 pounds per cubic foot (pcf), asphalt has a density of approximately 145 pcf, but a mixture of 21AA and asphalt milling would have a compacted density of approximately 135 pcf, which is 89% and 93% of the density of concrete and asphalt, respectively. Therefore, the applicant's assertion that the proposed alternative is as dense as the requirement is incorrect and is not an accurate comparison of the different materials being discussed.

The applicant states "the trailers traversing the switching yard must traverse 500 feet of applicant's existing switch yard before reaching the public right-of-way." However, the applicant has not addressed how the sediment tracked onto the existing site from the new unpaved parking area will be removed from the storm water collected prior to discharge.

- Storm water Treatment: The applicant states that "storm water will leave the surface in a controlled fashion," but has not provided information to support this claim.

## ***2. Asphalt millings will not "perform better" than the required surface for the intended use***

- Pavement structure: The applicant claims that the use of 21AA aggregate and recycled asphalt millings to a depth of 12 inches is substantially equivalent to asphalt or concrete, but has not provided any information or calculations to demonstrate that the proposed cross-section meets or exceeds the performance of the cross-section required in the ordinance. Using the AASHTO Pavement Design method, staff calculated a structural number for the asphalt cross-section in the ordinance that is 45% better than the structural number for the section proposed by the applicant, which means that the proposed alternative is not equivalent to an asphalt cross-section and would not perform as well under repeated use.
- Pavement surface: The applicant claims "the proposed surface is superior to asphalt because it can be maintained at a fraction of the cost of asphalt and will provide a surface that is like new after each refreshment." The applicant again has failed to provide additional information or data to support this argument. Additionally, if there is concern about surface damage to asphalt from the operation, concrete would be a better option and would still meet the ordinance requirement. The City also has concerns about the "refreshment" process which has not been defined for staff. If the applicant intends to add aggregate material to the surface, it would likely include more fines that would not be compacted as well as the initial installation and would erode away during rainfall ending up as sediment downstream.
- Percolation: The applicant states "the proposed surface will allow some percolation of the rain into the subsurface." The applicant is correct that it will allow a limited amount of percolation into the subsurface. However, the reduction in runoff would be minimal due to the clay subgrade that is predominate in Novi. In cases where an applicant chooses to implement pervious pavement or to utilize percolation, a different aggregate mix would be used that would facilitate infiltration from the surface. The angular characteristics of the 21AA and the

asphalt millings along with the allowable fines in the 21AA, would bind up the aggregate, limiting the amount of percolation/infiltration that would actually occur. If not designed properly as an infiltration system, the percolation could decrease the strength of the cross-section if there is too much water infiltrating into, and potentially being absorbed and held within, the aggregate cross-section. The percolation aspect of the argument would have a minimal positive impact on the amount and quality of the storm water runoff.

### ***3. There is no "exceptional" difficulty***

- Construction cost: The applicant claims "the costs for hard surface asphalt or concrete are so excessive that they render this project unfeasible." The applicant did not provide any comparative cost information to help staff understand the argument. Further, the applicant has not provided any information to demonstrate that the enforcement of the ordinance on this site is any more difficult or impractical than it would be on any other site where the ordinance has been applied without objection.

In order to understand the ballpark of costs involved in the project, we prepared our own construction cost estimates:

- Proposed 12-inch aggregate cross-section: \$90,000
- 3-inch asphalt on 8-inch aggregate base: \$162,000
- 6-inch concrete on 8-inch aggregate base: \$300,000

If the applicant disagrees with these estimates, we would be happy to review its alternative information.

- Maintenance costs: The applicant provides limited information regarding the maintenance costs associated with asphalt pavement. We asked for information or even a video of the staging operation to better understand how loading the asphalt in this case is different than any other area where parking occurs. The applicant did not provide that information, except to state that the tandem tires on the trailer will "roll" the asphalt. There are existing sites in the City where trailers are staged on asphalt. If there are concerns, we offer that concrete would be more resistant to the shear forces that may damage asphalt in that situation. When taking into account lifecycle costs (maintenance, rehabilitation, etc.), the cost of concrete can be similar to that of asphalt.

### ***4. Injury to the public health, safety, or welfare or adjoining or neighboring property***

- Planning Commission Waivers: On April 23, 2014, the Planning Commission granted the applicant waivers for interior parking lot landscaping and to allow more than 15 contiguous parking spaces without a landscape island. A few of the commissioners noted that the site was unique as noted in the applicant's letter. However, the waivers that were granted recognize the proposed operation of this site to store and maneuver trailers. The Commission's waiver/approval applies the standards for parking lots to this area.
- Sedimentation Basin: The applicant states that a sedimentation basin is proposed on site although it is not required by Ordinance. This is incorrect. Section 12-217 references the Engineering Design Manual which requires a sedimentation basin

as part of the storm water treatment process, and applies to sites undergoing redevelopment.

- Visibility: The applicant states that the proposed surface cannot be seen from any public road or place. However, this criteria is not part of the ordinance consideration. In fact, there are many parking lots that are not visible from a public road or place that are paved.
- Adjacent property impact: The City has concerns about the sedimentation that could occur due to the sheet flow over the aggregate and how that could impact the wetlands that are located on this site. The applicant provides a description of the adjacent property owners, but does not provide a rebuttal for staff concern about sedimentation. Additionally, the treatment of sediment tracked onto the existing site from the aggregate parking area has not been addressed by the applicant.
- Other business with unpaved work yards: The requirement that parking lots be hard-surfaced was approved by City Council in 1986 as Ordinance No. 86-124. The specific requirements related to the design of asphalt and concrete pavement for parking lots was approved by City Council in 1996 as Ordinance 96-124.07. The applicant provided three examples of sites that have unpaved yards for equipment and material storage (46850 Grand River, 48545 Grand River, and 48595 Grand River) presumably to demonstrate City approval for these in the past. The three examples provided were either approved by the City prior to the Ordinance in question or include operations that have changed to include uses that were not specifically allowed by the City.
  - Cheyenne Express-46850 Grand River: The historical aerial below shows that the site looks the same today as it did in 1980, which is prior to the 1986 ordinance requiring paved parking area.



2010



1980

- o Michigan CAT-24800 Novi Road: The historical aerial below shows that the site looks the same today as it did in 1980, which is prior to the 1986 ordinance requiring paved parking area.



2010

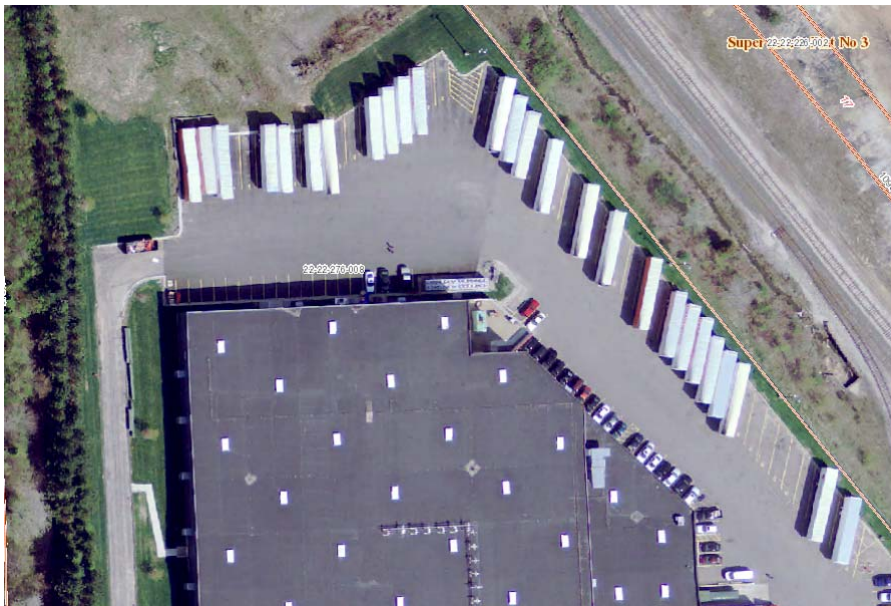


1980

- o Southeastern Equipment Co-48545 Grand River: The original site plan was approved and constructed around 1986 and an addition the building and parking area was approved in 1997. The approved site plans included a paved parking lot at the northern portion of the site, but did not include staging or parking in the unpaved southern portion of the site. There are no site plans for that area approved by the City of Novi that specifically allows the use of that area for parking or storage.
- o Sunbelt Rentals-48595 Grand River: The original site plan was approved and constructed around 1988 and included a paved area on the northern half of the site and delineated the area to the south as a future undeveloped phase. In our search of the records, there were no other site plans submitted for this site to specifically allow parking or storage in the future development area on the southern portion of the site. The 1990 aerial photo shows the site with a paved parking area; however, the 2000 aerial shows that activity on the site expanded to the south to include a gravel area for storage and parking.
- Discussion of Parking Lots for other companies located elsewhere in Michigan (from the presentation): As shown in the discussion above regarding the sites within Novi that have gravel surfaces, it is possible that those listed by the applicant with gravel yards either predate the ordinance in that municipality, expanded without specific approval from the municipality, or the municipality does not have an ordinance to regulate parking areas like the City of Novi. For these reasons, the listing of the sites and the graph showing the parking lot survey is deceptive. One should not infer from the information presented by the applicant that the industry is making a statement about the preferred surface of these parking areas, since it could be based on a number of other ordinance or timing related factors.

In order to demonstrate that Novi has applied the ordinance to parking areas with a similar use to the one presented by the applicant, we present the following sites that have requested site plan approval and have trailer parking areas that are paved.

**43800 Genmar Drive- CVS Distribution Center** was constructed in the 1990s and expanded in the 2000s and includes paved staging area for trailers that is curbed and striped as shown in the 2010 aerial photo below.



**43700 Genmar Drive—Eberspaecher** was constructed in the 1990s and includes a paved staging area for trailers that was curbed and striped as shown in the 2010 aerial photo below. (The parking lot has since been renovated to exclude the trailer staging area and to add additional employee parking).



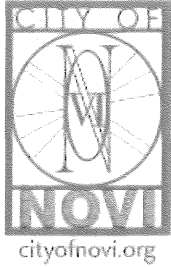


**43600 Genmar Drive—CVS Warehouse Addition (f/k/a Blue Line)** was constructed in the 1990s and uses asphalt surface for staging trailers. This site also uses a switcher vehicle similar to that used by CZ Cartage to move trailers.



For all of the reasons stated above, we do not believe that the application meets the conditions in Section 11-10 and therefore recommend denial of the applicant’s request for a variance from Section 11-239(b) of the Design and Construction Standards.

- cc: Tom Schultz, City Attorney
- Charles Boulard, Community Development Director
- Barb McBeth, Deputy Director Community Development



Request for Variance
Design and Construction Standards

RECEIVED

APR 28 2014

CITY OF NOVI
COMMUNITY DEVELOPMENT

Applicant Information

Name: CZ Cartage, Inc.
Address: 6315 W. Coon Lake Road
Howell, MI 48843
Phone No:

Engineer Information

Name: Seiber Keast Engineering, LLC
Address: 7125 Orchard Lake Road, Suite 304
West Bloomfield, MI 48322
Phone No: 248.562.7357

Applicant Status (please check one):

- Property Owner (checked)
Developer
Developer / Owner Representative
Other

Project Name CZ Cartage, Inc.

Project Address/Location 48735 Grand River Avenue, Novi, MI 48374

Variance Request Section 11-239(b) Variance for hard surfacing and curbing for a parking lot.

Justification (attach additional pages if necessary)

See attachment.

INTERNAL USE

Date Submitted: April 28, 2014
Code Section from which variance is sought: Section 11-239(b)
Submittal Checklist: One (1) copy of plan on 8.5 x 11 size paper
\$100 Filing Fee (No fee for driveway width variance requests)
Request Status: APPROVED (checked) DENIED
Authorized By:
Authorization Date:

**SEIBER KEAST ENGINEERING, LLC**  
**ENGINEERING CONSULTANTS**

Clif Seiber, P.E.  
Patrick G. Keast, P.E.  
Azad W. Awad

7125 Orchard Lake Road, Suite 304  
West Bloomfield, MI 48322  
Phone No. 248.231.9036  
E-mail: cs@seibereng.com

April 28, 2014

Mr. Adam Wayne  
City of Novi Engineering Department  
45175 W. Ten Mile Road  
Novi, MI 48375

Re: **CZ Cartage, Inc.**

Dear Adam:

As recommended by the Novi Planning Commission during their meeting of April 23, 2014, this letter is presented as a request for the Novi City Council to grant a variance from the Design and Construction Standards, Section 11-239(b) which requires that parking lots and maneuvering aisles contain hard surfacing and curbing. CZ Cartage, Inc. hereby requests such a variance and asserts that the following conditions are satisfied:

1. A literal application of the substantive requirement of this Section would result in exceptional, practical difficulty to CZ Cartage, Inc. The proposed use of the parking area as a truck trailer switching yard is unlike the Novi typical parking lot used by the public or private employees as envisioned by the ordinance. The proposed truck lot will not be used for motor vehicle parking, only truck trailers for short durations of time (less than 24 hours). Clearly the 80-foot wide aisle and 53-foot deep parking spaces are radically different from the Novi standard for parking lots with 24-foot aisles and 19-foot deep spaces. The use of a mixture of asphalt millings and natural aggregate to a minimum depth of 12 inches will adequately provide a solid surface for the movement of trailers in and out of the parking area. Since the trailer tires will be parked a considerable distance from the edge of the parking surface due to trailer overhang, curbing provides no useful purpose. In light of the proposed use and its remote location from the public, the requirement of concrete curbing and hard surfacing imposes an exceptional and practical difficulty to CZ Cartage, Inc.
2. The alternate of a 12-inch thickness of recycled asphalt millings and 21-AA aggregate shall be adequate for its intended use and does not substantially deviate from the performance that would be obtained by strict enforcement of the standards. Not only will the proposed surfacing adequately support the vehicles using the parking area, but the use of recycled materials is environmentally friendly. In addition, percolation rates into the aggregate will be greater than a paved surface resulting in less surface water runoff. The performance of the proposed alternative will be comparable to the paved surfacing and curbing.

Mr. Adam Wayne  
April 28, 2014  
Page 2

3. The granting of the variance will not be detrimental to the public health, safety and welfare, or injurious to adjoining or neighboring properties. Any runoff from the parking area will be directed to a sediment holding area and a storm water basin sized for the 100-year storm event in accordance with the City of Novi standards. No impairment to the public health, safety and welfare is foreseen, nor will there be any adverse impacts to neighboring properties.

Please present this request for variance to the City Council for their next available agenda.

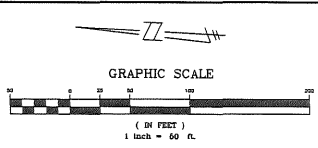
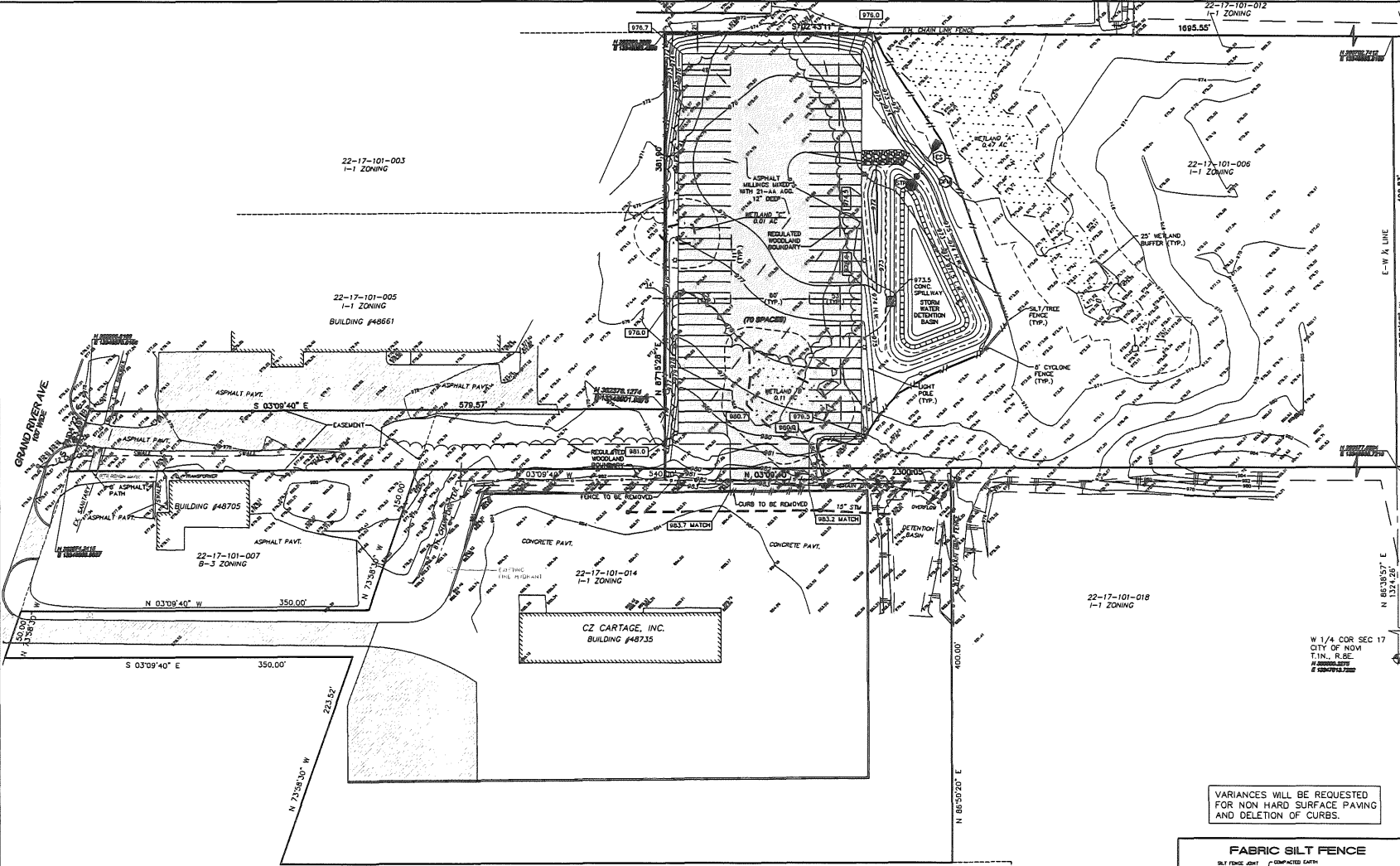
Sincerely,

**SEIBER KEAST ENGINEERING, LLC**

A handwritten signature in cursive script, appearing to read "Clif Seiber".

Clif Seiber, P.E.

Cc: Paul Cornell, Wynn Berry



22-17-101-003  
I-1 ZONING

22-17-101-005  
I-1 ZONING  
BUILDING #48661

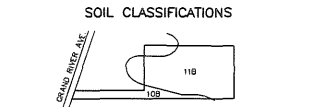
22-17-101-006  
I-1 ZONING

22-17-101-007  
B-3 ZONING

22-17-101-014  
I-1 ZONING

22-17-101-018  
I-1 ZONING

- ### SOIL EROSION CONTROL SEQUENCE OF CONSTRUCTION
1. INSTALL SILT FENCE AND STONE OUTLET FILTERS.
  2. STRIP AND STOOPPILE TOPSOIL.
  3. WASH GRADE.
  4. CONSTRUCT UTILITIES.
  5. INSTALL SEDIMENT FILTERS ON CATCH BASINS.
  6. INSTALL ALL PUBLIC UTILITIES.
  7. FINISH GRADE AND ESTABLISH VEGETATION.
  8. CLEAN PAVEMENT.
  9. REMOVE SOIL EROSION CONTROL MEASURES.
  10. CONTROL DUST AT ALL TIMES.
  11. REMOVE ALL MUD FROM PUBLIC ROADS DAILY.

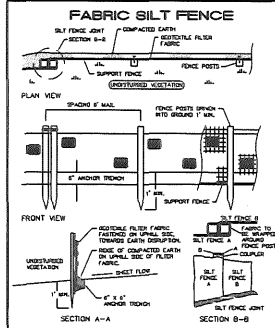


Soil classifications were determined by the Soil Survey of Oakland County, Michigan published by the United States Department of Agriculture, Soil Conservation Service.

Soil Types:  
10B Marlette Sandy Loam, 1 to 6% slopes  
11B Copse Sandy Loam, 0-4% slopes

- ### LEGEND
- | EXISTING | PROPOSED | PAVEMENT (ASPHALT)              |
|----------|----------|---------------------------------|
|          |          | PAVEMENT (ASPHALT)              |
|          |          | SIDE WALK (CONCRETE)            |
|          |          | CONCRETE CURB AND GUTTER        |
|          |          | STORM SEWER                     |
|          |          | SANITARY SEWER                  |
|          |          | WATER MAIN                      |
|          |          | MANHOLE                         |
|          |          | CATCH BASIN W/STREAM ISLAND     |
|          |          | CURB INLET W/SALT SAC           |
|          |          | END SECTION GATE VALVE HYDRANT  |
|          |          | WETLAND                         |
|          |          | CONTOURS                        |
|          |          | SPOT ELEVATION                  |
|          |          | SURFACE DRAINAGE OVERFLOW ROUTE |
|          |          | TREE FENCE                      |
|          |          | SILT FENCE                      |
|          |          | PROPOSED DRIVEWAY LOCATION      |
|          |          | LIMIT OF DISTURBANCE            |

VARIANCES WILL BE REQUESTED FOR NON HARD SURFACE PAVING AND DELETION OF CURBS.



**CZ CARTAGE, INC.**  
SECTION 20, TOWN 1 NORTH, RANGE 8 EAST  
CITY OF NOVI, OAKLAND COUNTY, MICHIGAN

REVISIONS	
1	REVISE PER CITY 12-15-13
2	REVISE STORM SEWER 04-28-14

DATE: 07-26-13 DESIGNED BY: J.A.L. FOR NUMBER: 13-061

PRELIMINARY SITE PLAN

**SEIBER, KEAST ENGINEERING, L.L.C.**  
CONSULTING ENGINEERS  
7125 ORCHARD LAKE ROAD • SUITE 304 • WEST BLOOMFIELD, MI • 48322  
PHONE: 248-562-7327 FAX: 248-562-7329



LAW OFFICES

# ADKISON, NEED & ALLEN

PROFESSIONAL LIMITED LIABILITY COMPANY

PHILLIP G. ADKISON  
KELLY A. ALLEN  
SALAM F. ELIA  
LINDA S. MAYER  
GREGORY K. NEED  
G. HANS RENTROP

OF COUNSEL:  
KEVIN M. CHUDLER

40950 Woodward, Suite 300  
Bloomfield Hills, Michigan 48304  
Telephone (248) 540-7400  
Facsimile (248) 540-7401  
www.ANAfirm.com

June 25, 2014

Via Electronic Mail Only

City Council  
City of City of Novi  
45175 Ten Mile Road  
Novi, Michigan 48375

**Re: C.Z. Realty, LLC Request for City Council Variance**

Dear Council Members

Our office represents C.Z. Realty, LLC (C.Z.) with respect to its request for a City Council variance from the parking lot requirements found in the City's Zoning Ordinance (Sections 2505 and 2506) and the City's Design and Construction Standards and deemed applicable to the proposed truck switching yard C.Z. proposes to construct adjacent to its facility at 48735 Grand River Avenue, Novi, MI 48374.

The following issues are presented:

1. Is the proposed use a "parking lot" as defined and intended by the City's zoning ordinance? **Applicant would answer no.**
2. Will the proposed surface, composed of asphalt millings, satisfy the objectives of the City requirement for a hard surface (asphalt or concrete)? **Applicant would answer yes.**
3. Will the use of asphalt millings for the switching yard perform better than the required surface for the intended use? **Applicant would answer yes.**
4. Will a literal interpretation of the zoning ordinance requirement for asphalt or concrete result in an exceptional difficulty to the applicant? **Applicant would answer yes.**
5. Will the granting of a variance result in injury to the public health, safety, or welfare to be injurious to adjoining or neighboring property? **Applicant would answer no.**

**Is the proposed use a “parking lot” as defined and intended by the City’s zoning ordinance? If not, the hard surface requirements of Zoning Ordinance Section 2506 and the City’s Design and Constructions Standards do not apply.**

Section 201 of the Novi Zoning Ordinance defines parking as:

*Parking:* Shall mean the parking of a *motor vehicle* for short duration, and possessing the element of a vehicle in use, being temporarily parked until it is shortly to be again put into service. The terms temporarily or shortly, for the purpose of this definition, shall mean and be measured by hours or at most by a day or two.

The switching yard proposed by applicant is not for temporary parking of motor vehicles, but is for organization of over the road semi-trailers that are brought to the site by a truck and temporarily positioned for connection to different truck and then taken from the site to deliver the contents of the trailer to a remote location.

The parking space and maneuvering requirements in the ordinance, appropriate for cars and light trucks, do not work for semi-trailers. This is an indicia that this section was not intended to apply to operations like the applicant’s.

Likewise, the Zoning Ordinance’s long list of parking requirements for particular uses all anticipate that the parking will serve diverse principal permitted uses and the vehicles parked will be those of customers, owners, or tenants; not trailers involved in a primary commercial activity on the site.

Consider too that Section 2505 actually prohibits off-street parking as the sole use of a parcel in all districts except the P-1 Vehicular Parking District. By its terms:

The P-1 Vehicular Parking Districts are intended to permit the establishment of areas to be used for *off-street parking of private passenger vehicles*, a use incidental to a principal use. (Emphasis added)

**Will the proposed surface, composed of asphalt millings, satisfy the objectives of the City requirement for a hard surface (asphalt or concrete)?**

It is assumed that the City’s requirement for asphalt or concrete surfaces in parking lots was motivated by a concern about the following:

- A. Uniform appearance.
- B. Keeping soil and mud off public streets.
- C. Facilitating storm water drainage.
- D. Allowing for traffic control stripping.

E. Providing a stable surface for vehicles and pedestrians

Applying standards that were obviously intended for parking lots to which the general public has access creates an exceptional hardship and does not promote public safety. Although the 80 foot wide drive aisle and 54 foot deep parking spaces required for applicant's use are radically different from the City's standards for 24 foot drive aisles and 19 foot deep spaces, the proposed surface does satisfy all 5 objectives noted above.

The project area will only be seen and used by 2 crew members whose job it is to park and retrieve trailers. **THE GENERAL PUBLIC IS NOT ALLOWED IN THE SWITCHING AREA.**

The stripping consideration is important when a parking lot is used by unrelated parties with varying driving skills and who have no regular or permanent connection to the facility for which parking is being supplied. Here, trailers of varying sizes and shapes will be parked by the applicant's full time professional employees whose jobs are to make the most efficient use of the site. Parking stripes will actually interfere with this purpose to some degree. Nevertheless, the applicant is willing to stripe the exterior dimensions of the site to provide guidance. The center of the facility is where the tandem axle trailers will be pivoted into the proper alignment for parking along the exterior portion of the site.

The proposed surface will serve to keep mud and soil off public streets. The asphalt millings are washed to remove "fines" and compacted to a density that is 95 percent of concrete or asphalt. Additionally, trailers leaving the switching yard must traverse 500 feet of applicant's existing switching yard before reaching the public right of way.

Storm water will leave the surface in a controlled fashion, going first to a settling basin and then to the on-site wetland.

**Will the use of asphalt millings for the switching yard perform better than the required surface for the intended use?**

Use of 21-AA aggregate and recycled asphalt millings to a depth of 12 inches will provide structural support substantially equivalent to asphalt or concrete for the vehicles and trailers using the staging area while allowing superior functionality for the intended purpose. Note that motor vehicles will not be parked or stored here, but used only to place the tandem axle trailers in a holding location for 24 hours or less in most cases.

The proposed surface is superior to asphalt because it can be maintained at a fraction of the cost of asphalt and will provide a surface that is "like new" after each refreshment.

The proposed surface will allow the tandem wheels to pivot without undue wear on the surface or the tires of the trailers.

The proposed surface allows some percolation of rain into the subsurface.



**Will a literal interpretation of the zoning ordinance requirement for asphalt or concrete result in an exceptional difficulty to the applicant?**

Costs for hard surface asphalt or concrete are so excessive that they render this project unfeasible and present an exceptional practical difficulty.

The cost of using and maintaining asphalt for this project would be prohibitive.

- a. Initial costs are 2 times the cost of the proposed surface.
- b. Maintenance costs are multiple of the proposed surface.
  - i. Turning trailers on their tandem wheels will “roll” the asphalt (particularly on hot days) and require saw cutting and replacement.
  - ii. Multiple cutting and replacement will eventually result in chunking.
  - iii. Chunking pavement will require regular resurfacing at great expense.
  - iv. Unnecessary and regular replacement of asphalt paving is not an environmentally sound practice.

The cost of using concrete would be prohibitive.

- a. Initial costs are 4 times cost of proposed surface.
- b. This business simply cannot support cost of concrete for this application.

**Will the granting of a variance result in injury to the public health, safety, or welfare to be injurious to adjoining or neighboring property?**

The Planning Commission recognized that this project does not represent the usual type of parking lot contemplated by the City ordinances regulating design and construction of such facilities. Taking into account both the public health, safety, and welfare as well as the impact on neighboring property owners (one of whom showed up to support the project) the Planning Commission granted waivers for:

- a. Parking lot landscaping
- b. Parking lot islands

Although not required by City ordinances, the applicant has proposed a sediment holding area in addition to the required storm water basin sized for a 100 year storm event.

The proposed surface cannot be seen from any public road or place.

The adjacent land noted below is not adversely impacted by the use of the proposed surface:

- a. West of the project area: applicant’s property.

- b. East of the project area: a gravel yard for the storage of construction equipment.
- c. South of the project area: wetland and forested area.
- d. North of the project area: long panhandle providing construction access to the site and property owned by applicant's seller on Grand River Avenue, almost 600 feet away.

The proposed surface is stable and hard and will not find its way off-site. In fact, trailers exiting the project area must traverse nearly a quarter of a mile of concrete surface owned by applicant.

Other businesses in the City have work yards that are not surfaced with concrete or asphalt and have proven not to present a danger to the public health, safety, or welfare. See photos below.

48545 Grand River:





46850 Grand River:





48595 Grand River:



The granting of this variance will advance the City's objectives and will not adversely impact the public or neighboring property owners.

If you have any questions or need any further information, please do not hesitate to contact my office.

Very truly yours,

**ADKISON, NEED & ALLEN, P.L.L.C.**



Phillip G. Adkison

/jl



## MEMORANDUM

**TO:** ROB HAYES, P.E.; DIRECTOR OF PUBLIC SERVICES  
**FROM:** BRIAN COBURN, P.E.; ENGINEERING MANAGER *BIC*  
**SUBJECT:** VARIANCE REQUEST FOR CZ CARTAGE  
**DATE:** MAY 6, 2014

*To: Mayor & Council -  
FYI for an item  
that will be before  
you on May 19th.  
Vice*

CZ Cartage, Inc., located on Grand River Avenue east of Wixom Road, has submitted a site plan through Community Development to construct a new 1.7 acre area that would be used for staging and parking truck trailers for less than 24 hours. The preliminary site plan was approved by the Planning Commission on April 23, 2014, subject to various conditions. One of those conditions is approval of a Design and Construction Standards Variance Request for the use of gravel as a paving surface for a parking lot and maneuvering lane. The proposed parking lot cross-section would consist of a mixture of asphalt millings and aggregate to a depth of 12 inches and would be constructed without curb and gutter.

The Design and Construction Standards (DCS) Section 11-239(b) requires that "the entire parking area including parking spaces and maneuvering lanes are required to be hard-surfaced and curbed." The section allows an exception to the standard only for private utility driveways for facilities providing an accessory use. The minimum paving standards under the ordinance would be three inches of asphalt on aggregate base or six inches of concrete.

Section 11-10 of the Ordinance permits the City Council to grant a variance from the Design and Construction Standards when a property owner shows all of the following:

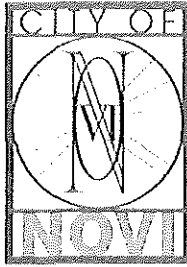
- b) A variance may be granted when all of the following conditions are satisfied:
- (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
  - (2) The alternative proposed by the applicant shall be adequate for the intended use and 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.

Staff has reviewed the application against the Ordinance standards that are outlined above. We disagree with the applicant's engineer that the proposed cross-section is adequate for the intended use and does not substantially deviate from the performance of the ordinance standard cross-section. A hard-surfaced pavement is required to provide a stable surface that is resistant to rutting and wear and is strong enough to support the proposed use by heavy vehicles. The applicant has not provided data to support the assertion that the proposed cross-section is comparable in strength to the ordinance requirements and capable of supporting 35 tons for emergency vehicles (as required in section 11-239(b)(5)). We also noted that the plan shows delineated parking stalls, however it would not be possible to apply pavement markings without a paved surface.

The applicant's plan shows that the parking lot would be constructed within 50 feet of a regulated wetland. Curb, gutter and storm catch basins are not proposed on the plan to guide and direct the flow of storm water within the parking area. Instead, the applicant is proposing to sheet flow the parking lot drainage into the sedimentation and detention basin. Based on past experience, staff has concerns with the sheet flow of large areas of parking lot because of the erosion that will likely occur at the edge of the parking area. The lack of pavement to stabilize the surface of the proposed parking area increases the concern for erosion of material from the parking lot and sedimentation of not only the detention basin, but transport and deposition of suspended solids into the adjacent wetlands that receive the flow from the detention basin. Asphalt millings have been used in the City as a base material under a paved surface. We have some concern with the use of asphalt millings as a surface material because of the residual oil in the asphalt millings could potentially leach into the adjacent storm water and wetland areas. For these reasons, we believe that granting the variance would be detrimental to public health and could impact wetlands on adjacent properties.

The applicant has been notified of staff's recommendation for denial and intends to seek a variance from City Council. We will prepare for City Council consideration on a future agenda.





cityofnovi.org

**CITY OF NOVI**  
**Engineering Department**  
**MEMORANDUM**

**To:** Charles Boulard, Community Development  
 David Beschke, Landscape Architect  
 Beth Saarela, Attorney  
 Jeff Johnson, Fire Department  
 Matt Wiktorowski, Field Ops

**From:** Adam Wayne, Engineering

**Date:** April 29, 2014

**Re:** Variance from Design & Construction Standards  
 CZ Cartage, Inc.

Attached is a request for a Variance from the Design and Construction Standards Section 11-239(b). 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 **Friday May 9<sup>th</sup>, 2014.**

**ROUTING**

Delivered To	Returned On	RECOMMENDED ACTION			Signature
		Approval*	Denial*	No Exceptions Taken	
Brian Coburn (Engineering)					
Charles Boulard (Comm Dev.)			X		<i>W. Saarela</i>
David Beschke (Landscape Arch)			(X)		
Beth Saarela (City Attorney)					
Jeff Johnson (Fire Department)					
Matt Wiktorowski (Field Ops)					

\* 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:

THE APPLICANT HAS NOT SHOWN THAT THE ORDINANCE REQUIREMENTS ARE EXCEPTIONAL OR A PRACTICAL DIFFICULTY

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:

THE PROPOSED SOLUTION WOULD NOT BE ADEQUATE FOR THE INTENDED USE - PERFORMANCE FOR STABILIZATION, STORM WATER QUANTITY AND CONTROL AS WELL AS DURABILITY WOULD BE SIGNIFICANTLY LESS. LACK OF CURBS AND PAVING WOULD LIKELY LEAD TO CONTINUOUS EROSION & REPLACEMENT OF EDGE AREAS THROUGH USE & PLOWING.

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:

PROXIMITY TO WETLANDS AS WELL AS PROPERTY LINES OF ADJACENT PARCELS INDICATES THAT THE ABOVE CONCERNS ARE LIKELY TO IMPACT ADJACENT PROPERTIES. THIS PROPERTY AND USE ARE NOT EXCEPTIONAL - CLAIM THAT OVERHANGS ON TRAILERS PREVENTS PARKING NEAR THE EDGE OF PAVING AREA IS DIFFICULT TO ENVISION AS W/O PAVING SHOULD AND CURBS - PARKING WILL SIMPLY EXPAND OUTWARD.



# PLANNING COMMISSION ACTION SUMMARY

CITY OF NOVI

Regular Meeting

**April 23, 2014 7:00 PM**

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

(248) 347-0475

## CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

## ROLL CALL

**Present:** Member Anthony, Member Giacometti, Member Lynch, Chair Pehrson, Member Zuchlewski

**Absent:** Member Baratta (excused), Member Greco (Excused)

**Also Present:** Barbara McBeth, Deputy Director of Community Development; Sara Roediger, Planner; Kristen Kapelanski, Planner; Adam Wayne, Engineer; David Beschke, Landscape Architect; Beth Saarela, City Attorney; Pete Hill, City's Environmental Consultant; Matt Carmer, City's Environmental Consultant.

## APPROVAL OF AGENDA

Motion to approve the April 23, 2014 Planning Commission agenda. *Motion carried 5-0.*

## PUBLIC HEARINGS

### 1. ORCHARD HILLS NORTH, JSP14-01

Public hearing at the request of Mirage Development, LLC for Preliminary Site Plan with a Site Condominium, Wetland Permit, Woodland Permit and Stormwater Management Plan approval. The subject property is 9.1 acres in Section 26, located on the south side of Ten Mile Road, between Meadowbrook Road and the CSX railroad in the R-4, One-Family Residential District. The applicant is proposing a 12 unit single-family residential development.

**In the matter of Orchard Hills North, JSP14-01, motion to approve the Preliminary Site Plan with a Site Condominium based on and subject to the following:**

- a. The conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan; and
- b. City Council variance from Appendix C of the Subdivision Ordinance Section 4.05 of the City Code to permit a pedestrian pathway on only one side of the proposed road; and
- c. City Council variance from Section 11-194(a)(7) of the Design and Construction Standards of the City Code to permit a cul-de-sac street length greater than 800 ft.; and
- d. City Council variance from Section 11-194(a)(19)(a) of the Design and Construction Standards of the City Code to permit not provide a secondary access driveway; and
- e. City Council variance from Section 11.258(a) of the Design and Construction Standards of the City Code to permit a bicycle path to vary more than 1 foot from the future right-of-way; and
- f. City Council variance from Section 11-194(c) of the Design and Construction Standards of the City Code to permit less than 3 feet of cover to the top of the storm sewer; and
- g. Planning Commission waiver of the required berms in the locations of existing wetland and standing water; which is hereby granted; and
- h. Administrative variance from Appendix C of the Subdivision Ordinance Section 4.04(A)(1) of the City Code to not provide a stub street to adjacent property;
- i. Planning Commission waiver of berm height to allow a reduced berm height of three to four feet because of the landscaping that is proposed; which is hereby granted; and
- j. Applicant will work with staff to construct a pathway to the school west of lot 12 in accordance with the City's Non-motorized Master Plan.

This motion is made because the plan is otherwise in compliance with Article 4, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance. *Motion carried 5-0.*

In the matter of Orchard Hills North, JSP14-01, motion to approve the Wetland Permit based on and subject to the findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Final Site Plan. This motion is made because the plan is otherwise in compliance with Chapter 12, Article V of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 5-0.*

In the matter of Orchard Hills North, JSP14-01, motion to approve the Woodland Permit based on and subject to the findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Final Site Plan. This motion is made because the plan is otherwise in compliance with Chapter 37 of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 5-0.*

In the matter of Orchard Hills North, JSP14-01, motion to approve the Stormwater Management Plan, subject to the findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and the items listed in those letters being addressed on the Final Site Plan. This motion is made because the plan is otherwise in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 5-0.*

## 2. CZ CARTAGE, JSP13-70

Public hearing at the request of CZ Trucking Realty, LLC for Preliminary Site Plan, Wetland Permit, Woodland Permit and Stormwater Management Plan approval. The subject property is located in Section 17, south of Grand River Avenue and east of Wixom Road in the I-1, Light Industrial District. The subject property is 17.78 acres and the applicant is proposing to construct a parking area for 72 trailer trucks.

In the matter of CZ Cartage, JSP13-70, motion to approve the Preliminary Site Plan based on and subject to the following:

- a. Planning Commission waiver for interior parking lot landscaping which is hereby granted;
- b. Planning Commission waiver to allow more than 15 contiguous parking spaces without a landscape island which is hereby granted;
- c. City Council granting a DCS Variance for the lack of curbing and paving; and
- d. The findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and the items listed in those letters being addressed on the Final Site Plan.

This motion is made because the plan is otherwise in compliance with Article 19, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance. *Motion carried 5-0.*

In the matter of CZ Cartage, JSP13-70, motion to approve the Wetland Permit based on and subject to the findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Final Site Plan. This motion is made because the plan is otherwise in compliance with Chapter 12, Article V of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 5-0.*

In the matter of CZ Cartage, JSP13-70, motion to approve the Woodland Permit based on and subject to the following:

- a. The findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Final Site Plan; and
- b. Planning Commission approval of applicant's woodland delineation.

This motion is made because the plan is otherwise in compliance with Chapter 37 of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 5-0.*

In the matter of CZ Cartage, JSP13-70, motion to approve the Stormwater Management Plan, subject to the findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and the items listed in those letters being addressed on the Final Site Plan. This motion

is made because the plan is otherwise in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 5-0.*

#### **MATTERS FOR CONSIDERATION**

1. **DETROIT METROPOLITAN CREDIT UNION, JSP12-69**

Consideration of the request of Stucky Vitale Architects for a recommendation to City Council regarding the Preliminary Site Plan. The subject property is located in Section 23 at the northeast corner of the intersection of Main Street and Novi Road in the TC-1, Town Center District. The development area is 0.83 acres and the applicant has proposed a second story on the previously approved Detroit Metropolitan Credit Union.

**In the matter of Detroit Metropolitan Credit Union, JSP12-69, motion to recommend approval of the Revised Preliminary Site Plan subject to the conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan. This motion is made because it is otherwise in compliance with Article 16, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance. *Motion carried 5-0.***

2. **APPROVAL OF THE APRIL 9, 2014 PLANNING COMMISSION MINUTES**

Motion to approve the April 9, 2014 Planning Commission Minutes. *Motion carried 5-0.*

#### **SUPPLEMENTAL ISSUES**

#### **ADJOURNMENT**

The meeting was adjourned at 7:57 PM.

Please note: Actual Language of motions subject to review.