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**ZONING BOARD OF APPEALS**  
**CITY OF NOVI**  
**Community Development Department**  
**(248) 347-0415**

Case No. PZ13-0005

Location: 44225 Twelve Mile Road GFS Marketplace

Zoning District: RC, Regional Center District

The applicant is requesting variances from CITY OF NOVI, CODE OF ORDINANCES, Section 2400. Building and parking setback requirements are stated in Section 2400. The minimum building setback in the RC District in all yards is 100 ft. The proposed building setback in the eastern yard is 65 ft. and the proposed building setback in the southern yard is 28 ft. The minimum side and rear yard parking setback in the RC District is 10 ft. The proposed parking area is setback 4 ft. in the side (western) yard and is setback 3 ft. in the rear (southern) yard. The property is located west of Novi Road and south of Twelve Mile Road.

Ordinance Sections:

CITY OF NOVI, CODE OF ORDINANCES, Section 2400 requires that buildings in the RC Zoning District be setback 100 ft.

CITY OF NOVI, CODE OF ORDINANCES, Section 2400 requires that parking in the side and rear yard in the RC Zoning District be setback 10 ft.

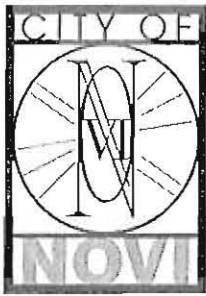
City of Novi Staff Comments:

Please see attached Plan Review Center Report.

Standards for Granting a Dimensional Variance:

A variance may be granted if a practical difficulty exists due to all of the following:

- There are unique circumstances or physical conditions of the property such as narrowness, shallowness, shape, water, topography or similar physical conditions and the need for the variance is not due to the applicant's personal or economic difficulty because \_\_\_\_\_.
- The need is not self-created because \_\_\_\_\_.
- Strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome because \_\_\_\_\_.
- The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district because \_\_\_\_\_.
- The requested variance will not cause an adverse impact on surrounding property, property values or the use and enjoyment of the property in the neighborhood or zoning district because \_\_\_\_\_.



# PLAN REVIEW CENTER REPORT

January 16, 2013

## Planning Review

GFS Marketplace

JSP12-71

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### Petitioner

Sun Vally, Ltd.

### Review Type

Preliminary Site Plan and Special Land Use

### Property Characteristics

- Site Location: South of Twelve Mile Road, west of Donelson Drive (Section 15)
- Site Zoning: RC, Regional Center
- Adjoining Zoning: North: OS-1, Office Service (across Twelve Mile Rd.); South and East: RC; West: OST, Planned Office Service Technology
- Current Site Use: Vacant outlot of Twelve Mile Crossing at Fountain Walk shopping center
- Adjoining Uses: North and West: Existing office; South and East: Shopping Center;
- School District: Novi Community District
- Existing Site Size: 67.21 acres
- Proposed Site Size: 2.15 acres
- Plan Date: 12-14-12

### Project Summary

The applicant is proposing to construct an approximately 16,000 sq. ft. GFS Marketplace retail store on an existing outlot near the northeast corner of the Twelve Mile Crossing at Fountain Walk shopping center. The applicant has proposed splitting the parcel off from the larger shopping center parcel. Associated parking and landscaping would also be constructed.

### Recommendation

**Provided the applicant receives the necessary variances from the Zoning Board of Appeals, staff recommends approval of the Preliminary Site Plan and Special Land Use Permit.** Considering the size of the undeveloped space in question, some of these variance requests may be unavoidable. In order to meet the building setbacks on all four sides of the proposed building, the applicant would have to reduce the size of the building by 30%. There are only minor planning related items to be addressed on the Final Site Plan submittal. There are more significant items to be addressed in the landscape and façade reviews. Prior to proceeding to the Planning Commission, the applicant should submit the relevant sheets for a revised Preliminary Site Plan review for façade and landscape only.

### Ordinance Requirements

This project was reviewed for conformance with the Zoning Ordinance with respect to Article 17 (RC, Regional Center District), Article 24 (Schedule of Regulations), Article 25 (General Provisions) and any other applicable provisions of the Zoning Ordinance. Items in **bold** below must be addressed by the applicant.

1. Building Setbacks: Buildings must be setback 100 feet from all property lines. The proposed building is setback 65 feet along the east property line and 28 feet along the south property line. The applicant has elected to seek variances from the Zoning Board of Appeals for these deficiencies. **If the variances are not granted, plans will need to be modified to meet the ordinance standards.**
2. Parking Setback: Parking areas must be setback 10 feet along side and rear property lines. The proposed parking setback in the western side yard is 4 feet and the proposed setback in the southern rear yard is 3 feet. The applicant has elected to seek variances from the Zoning Board of

Appeals for these deficiencies. **If the variances are not granted, plans will need to be modified to meet the ordinance standards.**

3. Minor Items: There are several minor items noted in the planning review chart and lighting review chart. **The applicant should adjust the plans accordingly for the Final Site Plan submittal.**
4. City Council Approval: In the RC District, proposed developments on parcels over 4 acres in area must be approved by the City Council after the review and recommendation of the Planning Commission.
5. Parcel Split: The applicant has indicated and the plan shows a proposed parcel split. This must be completed before Stamping Sets can be stamped approved by the Planning Division.
6. Signage: Exterior Signage is not regulated by the Planning Division or Planning Commission. Please contact Jeannie Niland (248.347.0438) for information regarding sign permits.3

### **Special Land Use Considerations**

In the RC District, a retail establishment whose principal activity is the sale of merchandise in an enclosed building falls under the Special Land Use requirements (Section 1702.1). Section 2516.2.c of the Zoning Ordinance outlines specific factors the Planning Commission shall consider in the review and recommendation to City Council of the Special Land Use Permit request:

- Whether, relative to other feasible uses of the site, the proposed use will cause any detrimental impact on existing thoroughfares in terms of overall volumes, capacity, safety, vehicular turning patterns, intersections, view obstructions, line of sight, ingress and egress, acceleration/deceleration lanes, off-street parking, off-street loading/unloading, travel times and thoroughfare level of service.
- Whether, relative to other feasible uses of the site, the proposed use will cause any detrimental impact on the capabilities of public services and facilities, including water service, sanitary sewer service, storm water disposal and police and fire protection to service existing and planned uses in the area.
- Whether, relative to other feasible uses of the site, the proposed use is compatible with the natural features and characteristics of the land, including existing woodlands, wetlands, watercourses and wildlife habitats.
- Whether, relative to other feasible uses of the site, the proposed use is compatible with adjacent uses of land in terms of location, size, character, and impact on adjacent property or the surrounding neighborhood.
- Whether, relative to other feasible uses of the site, the proposed use is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use.
- Whether, relative to other feasible uses of the site, the proposed use will promote the use of land in a socially and economically desirable manner.
- Whether, relative to other feasible uses of the site, the proposed use is (1) listed among the provision of uses requiring special land use review as set forth in the various zoning districts of this Ordinance, and (2) is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located.

### **Additional Requirements**

In the RC District, there are additional requirements for enclosed retail establishments as noted in Section 1702.1. Namely, the proposed retail establishment should be part of an existing or developing planned commercial shopping center. The proposed GFS Marketplace would be located within the parking area of the existing 12 Mile Crossing at Fountain Walk shopping center and therefore considered a part of the shopping center. In addition, retail establishments are also subject to the site plan review requirements of Section 2404.4 of the ordinance. This would require the Preliminary Site Plan to receive a recommendation for approval or denial from the Planning Commission with City Council ultimately approving or denying the proposed plan.

Section 2406.4.A of the Zoning Ordinance outlines specific factors the Planning Commission and City Council shall consider in the review:

1. The plan meets all the requirements of Section 2516 of this Ordinance for Preliminary Site Plans and the requirements set forth in the City's Site Plan and Development Manual. *Deficiencies and appropriate relief remedies are indicated in the review letters.*
2. The plan satisfies the intent of the Special Land Use provisions as stated in Section 2516.2.c. *See the Special Land Use Considerations noted in this Plan Review Letter.*
3. The Community Impact Statement and Traffic Study are provided, regardless of site size, in accordance with the requirements set forth in the City's Site Plan and Development Manual. **The applicant should request a waiver of the Community Impact Statement. Waivers of the Community Impact Statement can be granted administratively by the staff and in this case, a waiver seems appropriate given the amount of retail space being added compared to the existing retail space in the area. The applicant should request a waiver of the Traffic Study by the City Council.** *Staff would support this waiver. The City Council should consider the following factors when considering a waiver of the Traffic Study requirement:*
  - a. The existing Level of Service (LOS) along roadways will not drop below LOS C as a result of the proposed development;
  - b. The existing LOS along roadways will not be significantly impacted by the proposed development;
  - c. A similar Traffic Study was previously prepared and approved for the site.
4. The plan satisfies the intent of this Section with respect to use of the land and principal and accessory use relationships within the site as well as with uses on adjacent sites.
5. That all existing or proposed streets, road, utilities and marginal access service drives, as are required, are correctly located on the site plan in accordance with the approved plans for these improvements. *See the attached Engineering Review Letter for additional information.*
6. The plan meets all the applicable standards of this Ordinance relative to height, bulk and area requirements, building setbacks, off-street parking and preliminary site engineering requirements. *See the attached Plan Review Chart for additional information.*
7. That there exists a reasonable harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area; that there is a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area to assure proper relationships between:
  - a. The topography of the adjoining lands as well as that of the site itself including any significant natural or manmade features. *Minimal topography for adjacent properties is included in the Preliminary Site Plan package.*
  - b. The relationship of one building to another whether on-site or on adjacent land, i.e., entrances, service areas and mechanical appurtenances. *The applicant has adequately screened mechanical appurtenances and service areas from adjacent properties.*
  - c. The rooftops of buildings that may lie below street levels or from windows of higher adjacent buildings. *No buildings will lie below street levels.*
  - d. Landscape plantings, off-street parking areas and service drives on adjacent lands. *See the Landscape Review Letter for additional information.*
  - e. Compliance with street, road and public utility layouts approved for the area. *See the Engineering and Traffic Review Letters for additional information.*
  - f. The architecture of the proposed building including overall design and façade materials used. Architectural design and façade material are to be complimentary to existing or proposed buildings within the site and the surrounding area. It is not intended that contrasts in architectural design and use of façade materials is to be

discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and façade materials so as to create an adverse effect on the stability and value of the surrounding area. See the *Façade Review Letter* for additional information.

Section 2406.4.B indicates the City Council shall review the proposed plan considering the Planning Commission's recommendation and the requirements of Section 2404.4.A. As part of its approval of the Preliminary Site Plan, the Council is permitted to impose conditions that are reasonably related to the purposes of this section and that will:

1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity;
2. Protect the natural environment and conserving natural resources and energy;
3. Insure compatibility with adjacent use of land; and
4. Promote the use of land in a socially and economically desirable manner.

#### **Site Addressing**

The applicant should contact the Building Division for an address prior to applying for a building permit. Building permit applications cannot be processed without a correct address. The address application can be found on the Internet at [www.cityofnovi.org](http://www.cityofnovi.org) under the forms page of the Community Development Department.

Please contact Jeannie Niland [248.347.0438] in the Community Development Department with any specific questions regarding addressing of sites.

#### **Pre-Construction Meeting**

Prior to the start of any work on the site, Pre-Construction (Pre-Con) meetings must be held with the applicant's contractor and the City's consulting engineer. Pre-Con meetings are generally held after Stamping Sets have been issued and prior to the start of any work on the site. There are a variety of requirements, fees and permits that must be issued before a Pre-Con can be scheduled. If you have questions regarding the checklist or the Pre-Con itself, please contact Sarah Marchioni [248.347.0430 or [smarchioni@cityofnovi.org](mailto:smarchioni@cityofnovi.org)] in the Community Development Department.

#### **Chapter 26.5**

Chapter 26.5 of the City of Novi Code of Ordinances generally requires all projects be completed within two years of the issuance of any starting permit. Please contact Sarah Marchioni at 248-347-0430 for additional information on starting permits. The applicant should review and be aware of the requirements of Chapter 26.5 before starting construction.

#### **Response Letter**

A letter from either the applicant or the applicant's representative addressing comments in this and other review letters is required prior to consideration by the Planning Commission and with the next plan submittal.

If the applicant has any questions concerning the above review or the process in general, do not hesitate to contact me at 248.347.0586 or [kkapelanski@cityofnovi.org](mailto:kkapelanski@cityofnovi.org).



**ZONING BOARD OF APPEALS**  
**CITY OF NOVI**  
 Community Development Department  
 (248) 347-0415

For Official Use Only

ZBA Case No: P2130005 ZBA Date: 3/12/13 Payment Received: \$ 300 (Cash)

Check # 3229 Include payment with cash or check written to "City of Novi."

**TO BE COMPLETED BY APPLICANT - PLEASE PRINT**

Please submit one original signed application and 13 copies of all supporting documentation relevant to the appeal.

Applicant's Name GFS Marketplace Realty Five, LLC Date December 20, 2012

Company (if applicable) GFS Marketplace Realty Five, LLC

Address\* Po Box 1812 City Grand Rapids ST MI ZIP 48375  
\*Where all case correspondence is to be mailed.

Applicant's E-mail Address: Ryan.Sytsma@gfs.com

Phone Number (616) 717-6648

FAX Number (616) 717-9053

Request is for:

Residential Construction (New/ Existing)  Vacant Property  Commercial  Signage

1. Address of subject ZBA case: Approximately 44225 W. 12 Mile Road ZIP 48375

2. Sidwell Number: 5022-15-200-100 may be obtained from Assessing Department (248) 347-0485

3. Is the property within a Homeowner's Association Jurisdiction? Yes  No

4. Zoning:  RA  R-1  R-2  R-3  R-4  RT  RM-1  RM-2  MH  OS-1  OS-2  OSC  OST RC OTHER

5. Property Owner Name (if other than applicant) Sun Valley Ltd.

6. Does your appeal result from a Notice of Violation or Citation Issued?  Yes  No

7. Indicate ordinance section(s) and variances requested:

1. Section 2400 Variance requested Reduce 100' east and south setbacks to 65' and 35'
2. Section 2400 Variance requested Parking within 10' west and south setbacks  
*setback 4' in west + 3' in south*
3. Section \_\_\_\_\_ Variance requested \_\_\_\_\_
4. Section \_\_\_\_\_ Variance requested \_\_\_\_\_

8. Please submit an accurate, scaled drawing of the property showing:

- a. All property lines and dimensions correlated with the legal description.
- b. The location and dimensions of all existing and proposed structures and uses on property.
- c. Any roads, easements, drains, or waterways which traverse or abut the property and the lot area and setback.
- d. Dimensions necessary to show compliance with the regulations of this Ordinance.

9. State the practical difficulties which prevent conformance with the Zoning Ordinance requirements (attach separate sheet if necessary):

See attached.

10. Describe any unique circumstances regarding the property (i.e., shape, topography, etc.) which are not common to other properties in the area and which prevent strict compliance with the Zoning Ordinance:

See attached.

**SIGN CASES ONLY:**

Your signature on this application indicates that you agree to install a Mock-Up Sign ten (10) days before the scheduled ZBA meeting.

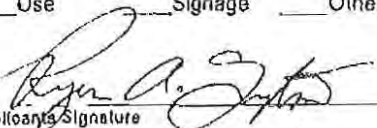
Failure to install a mock-up sign may result in your case not being heard by the Board, postponed to the next scheduled ZBA meeting, or cancelled. A mock-up sign is NOT to be the actual sign. Upon approval, the mock-up sign must be removed within five (5) days of the meeting. If the case is denied, the applicant is responsible for all costs involved in the removal of the mock-up or actual sign (if erected under violation) within five (5) days of the meeting.

Variance approval is void if permit not obtained within one hundred eighty (180) days of date of decision. There is a five (5) day hold period before work/action can be taken on variance approvals. All property owners' within 300 feet of ZBA property address will be notified of the ZBA case and variance requests.


**PLEASE TAKE NOTICE:**

The undersigned hereby appeals the determination of the Building Official/ Inspector or Ordinance Officer made

Construct New Home/Building     Addition to Existing Home/Building     Accessory Building  
 Use     Signage     Other

  
Applicant's Signature

Dec. 20, 2012  
Date

  
Property Owners Signature

Dec. 20, 2012  
Date

**DECISION ON APPEAL**

Granted     Denied    Postponed by Request of Applicant  Board

The Building Inspector is hereby directed to issue a permit to the Applicant upon the following items and conditions:

\_\_\_\_\_

\_\_\_\_\_  
Chairperson, Zoning Board of Appeals

\_\_\_\_\_  
Date

December 21, 2012

Zoning Board of Appeals  
City of Novi  
45175 W 10 Mile Rd  
Novi, MI 48375

Re: Setback Variance Request – Application Items #9 & #10  
GFS Marketplace Store – Novi, MI  
Paradigm Project #1205049

Dear Board Members:

In addition to the information contained on the ZBA application and enclosed plans, we have prepared the following additional discussion regarding these requests:

9. Regarding the building setbacks, the practical difficulties associated with this project are primarily driven by the project being part of a larger development (Fountain Walk) which is zoned RC – Regional Center. The setbacks associated with this zoning district are relatively large (100' from all property lines) due to typical large retail center layout that located buildings in the center of the site surrounded by parking. However, when these setbacks are applied to a small (2.15 acre) outlot, the 100' setback distance is very restrictive and limiting to development on this size parcel.
  - East Building Setback: While the proposed site plan shows the building encroaching into this setback, we have designed the site to eliminate parking east of the building (which would be permitted per ordinance up to 10' from east property line) in order to provide additional screening. Although the building does not meet 100' setback, there will be more screening to soften the view of the building than standard commercial development, with parking between building and roadway.
  - South Building Setback: This setback encroachment is due to proposed property line to create separate GFS outparcel. This is a 100' setback within the same development, and it is our understanding that the 100' setback was intended to be provided at perimeter of larger development.
  - West Parking Setback: The setback encroachment is necessary to limit the setback variance on the east property line. In addition, the remainder of the development parking consists of double rows of parking, while we have provided a small (7.5') landscape buffer along this west property line.
  - South Parking Setback: This setback encroachment is again due to proposed property line to create separate GFS outparcel. A 13' wide landscape area is still provided between adjacent driveway and GFS parking, which exceeds 10' landscape setback required by ordinance. However, the proposed property line is located to keep existing site lighting on larger development parcel and creates the need for setback variance.



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Board of Zoning Appeals – City of Novi  
Setback Variance Request  
GFS Marketplace – Novi, MI  
Paradigm Project #1205049

10. As noted above, the RC zoning designation is somewhat unique to parcels located within the City. In review of the most current zoning map, the only RC parcels are in this specific area (Fountain Walk, 12 Oaks Mall, etc.). The larger setbacks associated with the RC district are typically designed to transition from the larger commercial development to adjacent local commercial. However, in this case the adjacent property is also zoned RC and consists of large box commercial development. If the larger commercial center is treated as one development, the proposed GFS would not be required to provide these larger (100') perimeter setbacks on the east and south property lines, and the building as located would conform with applicable City requirements. In addition, if this site were in a standard commercial district (B-1 through B-3) it would also meet applicable building setback standards.

I trust that our responses adequately address your concerns. Should you have any further questions, or require any additional information to complete your review, please do not hesitate to contact me at (616)785-5567 or [jwalsh@paradigmae.com](mailto:jwalsh@paradigmae.com). We look forward to further discussion at an upcoming Board meeting.

Respectfully Submitted,

PARADIGM DESIGN, INC.  
Digitally signed by  
 John Walsh, P.E.  
Date: 2012.12.21  
10:41:09 -05'00'  
John Walsh, P.E., LEED® AP  
Associate

