



CITY of NOVI CITY COUNCIL

**Agenda Item B
December 2, 2013**

SUBJECT: Approval of a request by Retail, LLC and Comcad Properties, LLC to waive the Maintenance and Guarantee Bond required under Section 26.5-33(1)(d)(12) of the ordinance for water and sewer facilities installed for the Maples Place Office Center site located at 42071 Fourteen Mile Road in Section 2 (parcel 50-22-02-200-047).

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division *BIC*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The owners of Maple Place Office Center, Investment – Retail, L.L.C. and Comcad Properties, L.L.C., have requested that the City waive the two-year Maintenance and Guarantee Bond requirement under Ordinance Section 26.5-33(1)(d)(12) for the project due to the length of time that has elapsed since the installation of the utilities.

The Ordinance requires a Maintenance and Guarantee Bond for all newly installed water main and sanitary sewer facilities that will ultimately be dedicated as public for a two-year term. The bond ensures the improvements are in good working order by repairing any defects, whether due to improper or defective materials, equipment, labor, workmanship, or otherwise without expense to the City. The two-year term would normally coincide with the issuance of a Temporary Certificate of Occupancy for the first unit or building.

The water main and sanitary sewer serving this site were installed, tested and approved for operation in 1998 as part of the larger, adjacent Maple Place development. Therefore, the owners of Maple Place Office Center are requesting the waiver for the newly developed office building. The City has not experienced any problems with the facilities in question and therefore staff recommends approval of the requested waiver of the Maintenance and Guarantee Bond requirement. The City Attorney has provided the attached letter with guidance regarding the review standard for the requested variance.

RECOMMENDED ACTION: Approval of a request by Retail, LLC and Comcad Properties, LLC to waive the Maintenance and Guarantee Bond required under Section 26.5-33(1)(d)(12) of the ordinance for water and sewer facilities installed for the Maples Place Office Center site located at 42071 Fourteen Mile Road in Section 2 (parcel 50-22-02-200-047).

	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				

Location Map

Maples Place Office Center



Map Author: Coburn
 Date: 11/25/13
 Project:
 Version #:

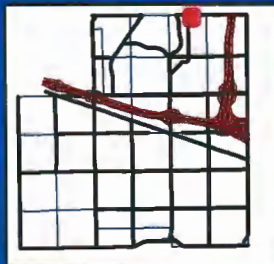
Amended By:
 Date:
 Department:

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.

Map Legend

- Sanitary Sewer
- Water Main
- Maples Place Office Center



City of Novi

Engineering Division
 Department of Public Services
 26300 Lee BeGole Drive
 Novi, MI 48375
cityofnovi.org



1 inch = 152 feet



ATTORNEYS AND
COUNSELORS AT LAW

Marc G. Whitefield
Robert J. Finkel
Richard M. Selik
Alan J. Ferrara
Stephen M. Feldman
David E. Sims
Eric T. Weiss
Nancy Harris Pearce
Stephen D. Kursman
Michael L. Weissman
Daniel G. LeVan
Mark E. Merlanti
Matthew A. Ferrara



October 29, 2013

Mr. Matt Preisz
City of Novi
Construction Technician
Department of Public Services
Field Services Complex
26300 Lee BeGole Dr.
Novi, Michigan 48375

Re: Request for Waiver of Maintenance Bond

Dear Mr. Preisz:

I am writing on behalf of Maple Place Investment – Retail, L.L.C. and Comcad Properties, L.L.C., the owners of the Maple Place Shopping Center and Maple Place Office Center Condominium located at the southeast corner of 14 Mile and Novi Roads. With this letter, I have submitted to the City of Novi for recording, a Water System Easement and Sanitary Sewer System Easement relating to both systems that were installed at the properties in approximately 1998-1999, when the Shopping Center was built.

I understand that upon acceptance of such new systems, the City of Novi generally requires that a maintenance bond be posted for two years following installation to insure that the systems were properly installed, free from defects, and that all labor and materials for the systems were fully paid. When these systems were installed, the requisite easements were overlooked. As the systems and attendant equipment have been operating successfully and without any problems for approximately 15 years, a maintenance bond at this time seems unnecessary. Accordingly, we request that this requirement be waived under Section 1-12 of the Novi City Code.

Mr. Matt Preisz
October 29, 2013
Page 2



Please process this request in the usual manner and contact me with any questions. Thank you for your assistance.

Very truly yours,

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

Richard M. Selik
Direct Dial: 248/785-4000

RMS/sep
Enclosures
Cc (via email): Elizabeth Kudla Saarela, Esq. (esaarela@jrsilaw.com)
David Goldberg, Esq. (goldy6@sbcglobal.net)
Justin M. Geller

Q:\27494.001\NOVI.LTR.PREISZ.DOC

Sec. 26.5-33. Requirements for completion of improvements in developments with public streets and utilities.

The following requirements shall apply where the streets and utilities within a development are contemplated or required to be dedicated to the public and accepted by the city.

(1) Completion of utilities and acceptance for maintenance.

...

d. The following acceptance documents (executed by or on behalf of the applicant unless otherwise specified herein) must be submitted to the city engineer for review and approval prior to approval of plot plan for single-family residential building sites, including platted subdivisions and site condominiums and prior to issuance of any temporary certificate of occupancy for all other developments:

...

12. Maintenance and guarantee bond equal to twenty-five (25) percent of the cost of the construction of the utilities to be accepted. This bond must be in effect for a period of two (2) years from the date of the "acknowledgement" signed by the city engineer indicating the city has accepted the utilities and corresponding easements.



JOHNSON ROSATI SCHULTZ JOPPICH PC

34405 W. Twelve Mile Road, Suite 200 ~ Farmington Hills, Michigan 48331-5627

Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.johnsonrosati.com

November 25, 2013

Rob Hayes, Public Services Director
CITY OF NOVI
Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: Maples Place Dentist Office *JSP12-0055*
Utilities and ROW- Review for Acceptance

Dear Mr. Hayes:

We have received and reviewed, and enclosed please find, the following on-site documents for the Maples Place Dentist Office:

1. Water System Easement
2. Sanitary Sewer System Easement
3. Bill of Sale
4. Request for Maintenance and Guarantee Bond Waiver
5. Commitment for Title Insurance

We have the following comments relating to the above-named documents:

Water and Sanitary sewer System Easements

Maple Place Investment-Retail, L.L.C., and Camcad Properties seek to convey the water and sewer system facilities serving the overall Maples Place shopping center and new dentist office unit. We have reviewed and approve the format and language of the above Water and Sanitary System Easements and corresponding Bill of Sale.

The property owners have requested a waiver of the Maintenance and Guarantee Bond based on the age of the water and sanitary sewer system facilities. Section 1-12 of the City of Novi Code provides for City Council to consider a waiver of ordinance requirements provided that the applicant can show all of the following:

Sec. 1-12. - General appeal.

(c) A variance may be granted by the city council from regulatory provisions of this Code 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 will be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and
- (3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.

The basis of the request is that the utilities have been functioning properly without any defects for many years so that the bond would be an unnecessary expense for the applicant. Based on the standards above, it appears that the bond would be unnecessary to guarantee that the facilities are functioning properly, therefore the intent of the ordinance has been met and the public health, safety and welfare is not compromised.

Subject to (1) to approval of the legal descriptions for the easements by the City's consulting engineer; and (3) the grant of a waiver pursuant to Section 1-12 of the City of Novi Code (or alternatively posting of a Maintenance and Guarantee if the waiver is not approved) the Water and Sanitary Sewer System Easements may be accepted by Affidavit of the City Engineer.

Upon acceptance by Affidavit of the City Engineer the Water System Easements should be recorded with the Oakland County Register of Deeds. The Bill of Sale and Title Commitment should remain in the City's file.

Please feel free to contact me with any questions or concerns in regard to this matter.

Very truly yours,

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



ELIZABETH KUDLA SAARELA

EMK

Rob Hayes, Public Services Director

November 25, 2013

Page 3

Enclosures

C: Maryanne Cornelius, Clerk (w/ Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Barb McBeth, Deputy Community Development Director (w/Enclosures)
Sheila Weber, Treasurer's Office (w/Enclosures)
Kristin Pace, Treasurer's Office (w/Enclosures)
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)
Matt Preisz, Construction Technician (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
David Beschke, Landscape Architect (w/Enclosures)
Brittany Allen and Ted Meadows, Spalding DeDecker (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Richard M. Selik, Esq. (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)