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CITY of NOVI CITY COUNCIL

Agenda Item **E**
 March 23, 2009

SUBJECT: Approval of a request from Flagstar Bank (successor to ADCO, Group, LLC) for a one year extension of Preliminary Site Plan approval for SP05-24, Brooktown, a mixed use condominium project located on the south side of Grand River Avenue between Market Street and Meadowbrook Road in Section 23, in the Gateway East District with a Special Development Option.

SUBMITTING DEPARTMENT: Community Development, Planning *Burke*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

On March 6, 2006, the ADCO Group, LLC received Preliminary Site Plan approval from City Council for a mixed use condominium development that consists of the following:

- 15 - two story stacked ranch multi-family buildings;
- 2 - three story office/retail buildings;
- A single one story restaurant/retail building; and
- 2 - eighteen unit "Live/Work" townhouse buildings.

The applicant has submitted revised Final Site plans for administrative approval, but the plans cannot be stamped for final approval until all of the required conditions of the Special Development Option (SDO) Agreement are met. Among the conditions for approval include City Attorney and Community Development Department Staff approval of the deed restrictions which includes favorable review of the Master Deed and Subdivision Plan. The applicant has been working with the City Attorney on this matter.

The applicant received the first one-year extension of the Preliminary Site Plan approval from City Council on November 13, 2007 and a second one-year extension on March 3, 2008. Flagstar Bank has now taken over the project and is requesting a third extension of the Preliminary Site Plan approval, indicating that the bank will be working to resolve the remaining issues. The Zoning Ordinance allows for up to three, one-year extensions of Preliminary and Final Site Plan approvals. The Planning Division is not aware of any changes to the ordinances or surrounding land uses, which would affect the approval of the requested extension for one year. Approval of the one year extension of Preliminary Site Plan is recommended.

RECOMMENDED ACTION: Approval of a request from Flagstar Bank for a one year extension of Preliminary Site Plan approval for SP05-24, Brooktown, a mixed use condominium project located on the south side of Grand River Avenue between Market Street and Meadowbrook Road in Section 23, in the Gateway East District with a Special Development Option.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Burke				
Council Member Crawford				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

**SITE PLAN EXTENSION REQUEST LETTER
FLAGSTAR BANK
MARCH 10, 2009**



Brandon Kling
Flagstar Bank, FSB
5151 Corporate Dr W-110-2
Troy, MI 48098
248.312.2182
brandon.kling@flagstar.com

March 18, 2009

Barbara McBeth
Planning Department
City of Novi
45175 W. Ten Mile Rd.
Novi, MI 48375

Re: Brooktown Site Plan Extension (#SP05-24)

Ms. McBeth,

Please accept this as a formal request for an extension of the preliminary site plan approval. The bank is currently working to resolve the remaining issues that have, up to this point, prevented the project from moving forward to final site plan approval. Flagstar Bank is asserting an interest in the front parcel with respect to the Brooktown Property via the adversary proceedings in US Bankruptcy Court. We are confident that we will be able to remedy these issues in a timely manner.

Parallel to the final site plan approval, we are also reviewing the verbiage of the completion agreement. We expect our review and approval to be completed soon; thereafter we will send an executed copy your way.

I appreciate the all the friendly help from the Planning Department and everyone at the City of Novi. Please call with any questions 248.312.2182.

Thank you,

A handwritten signature in black ink, appearing to read "Brandon Kling".

Brandon Kling
Commercial REO Officer
Flagstar Bank

CC: Angela Pawloski, City of Novi
Beth Kudla, Secrest Wardle
David Handelsman, Flagstar Bank

**CITY COUNCIL MINUTES
EXCERPTS
MARCH 6, 2006**

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
EXCERPTS**

MARCH 6, 2006 AT 7:00 P.M.

COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD

ROLL CALL: Mayor Landry, Mayor Pro Tem Capello, Council Members Gatt, Margolis, Mutch, Nagy, Paul

ALSO PRESENT: Clay Pearson, Interim City Manager
Tom Schultz, City Attorney
Barbara Mc Beth, Director of Planning
Rob Hayes, City Engineer
Benny McCusker, Director of the Department of Public Works

PUBLIC HEARING

1. Public Hearing on Brooktown Special Development Option (Gateway East Zoning District) for Woodland and Wetland permits associated with the submitted Preliminary Site Plan

There was no one present who wished to speak. Maryanne Cornelius, City Clerk, advised Council that there were response forms at their table from Richard Antuna and Jean Grant.

3. Consideration of the request of ADCO Group, LLC for the proposed Brooktown Preliminary Site Plan, Woodland Permit, Wetland Permit and Stormwater Management Plan. The subject property is located in Section 23, south of Grand River Avenue and west of Meadowbrook Road in the GE (Gateway East) District with a Special Development Option. The subject property is approximately 26.54 acres. The applicant is proposing a 225 unit multiple-family residential development with some retail/office, restaurant and live/work buildings, as depicted on the previously approved Concept Plan.

Matthew Quinn, representing the ADCO Group, reminded Council that this is a project where Council had already approved the SDO for this Gateway East Zoning District, and it is recorded. Next the ordinance requires the preliminary site plan to go to Council to determine that it's in agreement with the conceptual plan that was attached to the SDO. He said there have been many meetings with staff over the preliminary site plan, review letters, corrections made, more meetings, and more review letters. In response to the last set of review letters of inside staff and consultants, a response letter was sent saying they would meet all the expressed concerns. One of the letters Council received from a neighbor on Cherry Hill, Mrs. Grant, has been met with and she is more than happy, as he understood it now. He said they promised they would cooperate, and meet with the City landscape people to insure they would meet the 80-90 landscape opacity requirements within the two year period and probably before that. He was happy to say that has been agreed to. As far as wetland mitigation either being on site or some other place, they think it can all be mitigated, but would partially be subject to the MDEQ review. If they have comments that do not allow full mitigation on site, then we have committed as part of the SDO to make payment to the City for the drainage program into Bishop Creek.

The major changes made to the review are that they have lined up the major driveway to the driveway across the street, and they have complied with the latest tree request requirements.

He said there was an issue of whether all the trees had been counted, and that issue has been satisfied. Mr. Quinn said they are ready to go and would answer any questions Council had.

Ms. McBeth said the plan had basically not changed since the concept plan was first reviewed by the Council in September, and approved again in October of 2005. They still have the 225 dwelling units and a mixture of retail/office and restaurant uses within the building. She said they did provide a preliminary site plan January 12th and staff and consultants reviewed those plans, and had the reviews ready in about a month. She said, as Mr. Quinn indicated, they had a meeting following that round of review letters, because there were a number of issues that still needed to be addressed. One of the main issues was that the woodland survey was not complete at that time, the buffer along the south property line and residents along Cherry Hill, had not been address adequately, and Council would not have been satisfied with that earlier proposal. Also, the wetlands mitigation had not been fully resolved. She noted that they asked the applicant to come in, and they had a meeting with City staff and consultants, and they talked about a number of issues. They chose, instead of revising the plans and submitting for another round of reviews, to come in with a letter, and there is an extensive set of response letters to all of the review letters that were provided.

Ms. McBeth said they are agreeing to all of the items that were included in the review letters with the exception of the six items highlighted on the second page of the motion sheet. As Mr. Quinn indicated there is 0.572 acres of City regulated wetland that is proposed to be filled. The applicant agreed in the SDO agreement that there would be a two to one mitigation on site, if possible, if not there would be a payment into the fund to improve the watershed in that area. She said there were other items, but they could be addressed at the time of final site plan if Council is so inclined to approve the preliminary site plan. There is a list on the third page of the motion sheet that has a number of bolded items as well.

Ms. McBeth said if Council was inclined to approve the preliminary site plan, they would recommend that these items be included and conditions of that. She said there are a number of consultants present, as well as staff. They are woodland consultant and acting landscape architect, Doris Hill, wetlands consultant Dr. John Freeland, traffic consultant Stephan Dearing, project manager and planner, Mark Spencer.

Mayor Pro Tem Capello noted this is not new to Council; they have been working on it for two years. He said Council, the Mayor and Mr. Piccinini had signed the SDO, and he found that the plans before Council tonight for preliminary site plan approval are substantially consistent to the plans that are attached to the SDO. There was one concern of Jean Grant that has been satisfied, and she sent a letter saying that she approves of the project.

CM-06-03-053 Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY: To approve the preliminary site subject to the conditions cited by Ms. McBeth, the consultants and staff bulleted on page 3 of the motion sheet, and to grant the woodland permit, wetland permit, storm water management plan, and Design and Construction Standards waivers. More detail should be provided

such as special paving, something to bring the frontage up to a standard that sets an example to the Gateway district, rather than showing something more common. A brick wall or show tiers, would be fine, but for this particular application it would need to be raised a little above that. That with regard to the wetland mitigation, that the provision in the SDO Agreement requiring on site mitigation at 2 to 1 is not going to be applied to the site plan, and that \$75,000 per acre for whatever cannot be mitigated, and is being filled is \$75,000 per acre.

Mayor Landry asked if those conditions had to be articulated, or can Council refer back to page three of the Administration's submission of this item.

Mr. Schultz said if the references are the bulleted items on page 3, he thought that would be fine.

DISCUSSION

Member Paul commented she appreciated the evergreens that were put behind Mrs. Grant's property since she is 30 feet from the property. She said there is a question about the minimum width of a driveway for a single dwelling unit being 18 feet. Her understanding was

that there was a discrepancy by not increasing the driveway width to 22 feet. She asked for clarification.

Stephan Dearing, traffic consultant, asked if she was referring to the alleys. Member Paul said it is referred to as both alleys and driveways. Mr. Dearing said, regarding the alleys, City requirements are currently no less than 22 feet for a roadway that is going to function as an alley. His understanding was that the developers asked that to be brought down to an 18 foot dimension. In their experience, the City's requirement of 22 feet is well founded. Mr. Dearing said they had worked with a number of older communities that have extensive alley systems, and where they have 22 foot alleys they work well. For example, in Oak Park they have a number of alley systems that are only 20 feet wide, and have such chronic problems that they have to post them as one way. They do not function well as two way movements with anything less than 22 feet. Member Paul said the alleyways they would like 22 feet, but the single set width residential driveways are 18 feet wide, and asked if that was OK. Mr. Dearing said yes. Member Paul also asked about #4 on page 2 of the motion sheet, which says "not aligning the west entrance drive with the drive on the opposite side of Grand River Avenue", and she wanted to hear his recommendation of what he thought was best.

Mr. Dearing noted that when this developer came into the City for pre-application discussions, they specifically identified that driveway as needing to directly align with the existing drive on the north side. He said they have been consistently ignoring that comment for almost a year now. Mr. Dearing said he discussed this with the Road Commission of Oakland County (RCOC) this morning, because they generated review comments on this plan. They basically said they were focusing on the main entrance because it is a boulevard location, and because the traffic study seemed to indicate that it might be signalized. He said they missed even

commenting on the west driveway. However, when the applicant goes back to the RCOG they will be supporting our position that there needs to be a direct alignment between the two drives. Member Paul said as the motion stands does that need to be clarified. Mr. Dearing replied he thought it could be worked out in the next step.

Member Paul said looking at the front entrance there was a comment by staff that they would like it more enhanced. Are you OK with this plan now?

Ms. Doris Hill, the City's consulting landscape architect, noted the last review was completed by Mr. Shipman. She had talked with him and Council has approved the concept as it is so certain criterion has been met. She said, while reviewing the plan and speaking with Mr. Shipman about what his intentions were regarding the frontage, it seemed that just a little more detail should be provided, such as special paving, something to bring the frontage up to a standard that sets an example to the Gateway district, rather than showing something that might be more common. She said to have a brick wall or show tiers, is fine, but for this particular application she said we would want to raise it a little above that. She thought that could be worked out at final site plan.

Member Paul asked Ms. McBeth if she was comfortable with the current motion or does that have to be included. Ms. McBeth said she believed that an additional item, addressing that specifically, should be made because it is not exactly addressed in the comments.

Member Paul said while reading that comment to the maker of the motion, she realized that Ms. McBeth had spent a long time working on the Gateway District. This is a great project

and would be one of the very first, and she would like to see it be the star it's intended to be.

Mr. Quinn said it appeared that this was a matter of definition that is going to go on forever. He said they believed it was a beautiful entranceway. It is going to be the key to focalizing people coming in through the entrance. He stated they believed they had met the intent of the SDO by the landscape diagram submitted. He said they didn't think there was anything more to do.

Mayor Landry asked what, specifically, did they want to recommend. Ms. Hill replied they would like more information on the detail of the materials, such as paver treatments in the pocket parks along Grand River. They also show two benches, and maybe there is room to put more in the front for pedestrian attraction. Mayor Landry asked if there was anything else. Ms. Hill said no, there were trash receptacles but she didn't know if they had proposed those.

Mayor Landry asked Mr. Quinn if they could live with those three items. Mr. Quinn said yes.

Member Paul commented that she appreciated the comment about the actual wetlands trying to be 2 to 1 ratio mitigation. Member Paul said when initially talking about this project they were all trying to meet the requirements of the two to one ratio of mitigation. She asked if when looking at the site plan they were confident that could be reached on this site.

John Freeland, wetlands consultant, responded that under the current plan he didn't believe they could get 2 to 1 mitigation on site; they can get no net loss compensation on site. He

stated they could fill about what they were proposing to fill in the way of regulated wetlands. Member Paul asked if he was comfortable with the plan of the ratio or \$75,000 per acre to the off site area. Mr. Freeland said he was. She thanked the applicant for improving the area and water flow down stream.

Member Nagy said when looking through the list of trees she noticed that it said ash exempt, and she asked why. Ms. Hill noted the Ash is exempt on the project when they document that the emerald ash borer has been located on site, and it was. There are significant stands of dead Ash trees along the back side of the property. In order to maintain the opacity that we want for the people on Cherry Hill, we might want to ask the applicant to take some of those Ash trees down, and put some of the replacement trees in those areas. Ms. Hill replied that they don't usually ask them to take them down in areas where they're not targeting a human or property. Member Nagy said if they have Ash Borer disease we don't want them in Novi, and Ms. Hill said they are dead by now, and will not create any further hazard. Member Nagy thought the project was really nice. She asked if there would be some money coming forward. Mr. Quinn said that's correct.

Mayor Landry asked if the applicant took care of the question about increasing the sidewalk to 5 feet to accommodate the handicapped. Ms. McBeth said that was addressed, and they are at least 5 feet wide adjacent to the live/work area.

Member Mutch noted he and Member Margolis were coming at this a bit late, since most of this process took place before becoming Council members. He asked for a change to the proposed wetland mitigation area, as he had a number of concerns with that proposal. He

realized that the intent was no net loss on the site, which was a good goal, and if they were accomplishing it in a positive way he would support it.

Member Mutch said the location concerned him because it is directly between buildings 10 and 11, and there are four or five lots along Cherry Hill that are going to bump up to that wetland mitigation area. He said it is pretty much cleared, and is not a wooded area so we are not losing woodlands there per se, but we are losing the opportunity to have a buffer area. He said his preference, considering the lack of buffering there now, the future use of the pool area, and the noise and traffic associated with that, to not have the wetland mitigation occur at that location. He would like to see instead, some of the supplemental plantings placed there. Member Mutch said another concern, because of the lack of space in that location, was the wetland consultant indicated there was no 25 foot wetland buffer to protect the quality of the wetland. He was concerned about the flow from that wetland to wherever it will outlet. He thought it was too small to be quality, and whatever wetlands were lost on site, this would not be a quality replacement area. He would much rather see the wetland removed, the area planted with supplemental plantings, and then use the formula for off site replacement, and address it elsewhere in the watershed. The wetland didn't make sense in that location.

Member Mutch referred to the comment in the review letters about the boulevard entrance and the type of tree plantings. They did indicate in their response they would stagger those

trees, but there were also concerns about the species and the lack of diversity? He said the species had been changed, and asked if there was still a question about diversity.

Ms. Hill responded she didn't have a problem with diversity since it is an isolated area, and as long as the applicant maintained the intent and spirit of what was proposed in the boulevard. She thought from a design standpoint it was quite nice. She would support what they were doing; however, she thought the density was a little too much on the plans that are before Council. Member Mutch said one of the requirements of SDO was to meet the opacity requirement of 80% to 90% adjacent to the residential areas. It is a little tricky because of existing trees and dead Ash trees, and we are trying to bring in woodland replacement trees, correct? Ms. Hill agreed, and Member Mutch said also evergreen trees to meet the opacity requirements in that area. She said right, in the woodland ordinance evergreen trees can be used on a two to one credit basis. So instead of putting in one replacement tree two would be required. Ms. Hill said along the north edge of the woodland, where the retaining walls are, they suggested at least a double row of evergreens along there. She thought the total number of credits for this project, at this point, was around 300. Ms. Hill said if you take half of them and doubled it about 300 evergreens could be placed along there. She said if she were on Cherry Hill, her concern would be the loss of the view, but if an evergreen buffer was there, which could be done with replacement credits, a lot of the view would be preserved most of the year around. Then the balance of the credits could be used in the areas where the Ash trees have died.

Member Mutch asked if there would be issues with bringing replacement trees into areas that are already regulated understory, and if there would be problems infilling. She said she didn't think so, because the areas they would choose would be areas where it is pretty much a dominant Ash location, and once those trees are cut down there would be an opening for the replacement trees. She said they want to take them down for safety and so they wouldn't fall on the trees being planted. He said that approach made sense. Member Mutch said the landscaping areas he had looked at and the plans he had seen mainly addressed the more

eastern part of the site. He didn't have a good feel for whether what they proposed in terms of replacement trees, evergreens, and landscaping would address opacity and buffer along that area. He asked if she was comfortable with the plans she had seen. Ms. Hill said the most recent plans show that buffer planting, and she was comfortable with that, with the idea there are a few places she would like to add a few more trees. She thought they were willing to work with her on that. She planned to go out in the area once the trees were budded out, and thought that would be the wisest approach to take.

Member Mutch said the issue of the mitigated wetland, the southern location, if additional plantings were put there would that help address some of the noise and lights coming from the pool area. She said it would to a point, and she believed they could also put the plants in there if it is a mitigation area. She thought they had talked about putting in some Black Spruce, Cedar and Hemlock to fulfill both needs. She said the evergreens were all wetland friendly. Member Mutch said he would like to see both happen. However, he looked at the wetland with its 25 foot buffer, and the small size of it; and thought they could have a better affect elsewhere in the City.

Member Mutch said he thought, in terms of accessibility, that the less than 5 foot walks weren't required by code. Ms. McBeth stated he was correct, and that they had looked into it this afternoon after he asked the question. They found the building code required at least a minimum of 3 foot wide walkways to individual home doors was sufficient. Member Mutch asked Mr. Quinn about the varying sidewalk list.

Mr. Quinn said he would assume it is all design and open space.

Member Mutch asked Council what their opinion was on the issue of removing the wetland mitigation and having it carted off site, and if their preference was to stay with this proposal or go back to the original proposal that didn't have the wetland located there.

Mr. Quinn said that might not be up to any of us. It would be up to the MDEQ, and they were anticipating this particular area would be an MDEQ requirement. If it's not, then there is probably no reason to have it there.

Mayor Landry stated Member Mutch would like the moving of the wetland off site. Mr. Quinn responded that would be up to the MDEQ, it is part of their review, and not up to him or to Council. If they require that it be placed on site then it will go there. If they don't require it then they would pay for the money to go off site. Mayor Landry said he heard a one to one, and asked what it meant. Mr. Quinn said, in other words, right now that wetland is being replaced on that site for the MDEQ standards. Therefore it's on a one to one basis, and if it isn't there, and would have cost us \$75,000, then we will pay the \$75,000 to the Bishop Creek Improvement Fund.

Member Margolis appreciated the applicant working with the City so well on this plan. She said she would go for whatever the applicant wanted regarding the wetlands, because she was looking at the minutes of the Council meeting from when this was brought forward. She said it was the Council who asked for this to be mitigated on site, and felt that Council needed to work in good faith with the applicant. She said the applicant had been working very hard to comply with our requirements.

Member Gatt agreed with Member Margolis, and supported whatever the applicant wanted to do. He thought this was a very exciting project. This Council sat and talked for an hour about economic development, and now we want to change the direction Council set this developer months and months ago. Member Gatt said whatever is best and good for their company will get his support. This is a \$65 million project, and he thought other cities would give their right arm to be in our position. It will be a wonderful addition in Novi, and he commended them for coming forth.

Mayor Pro Tem Capello amended his motion to add that if MDEQ doesn't want them to mitigate on site, they would contribute whatever the equivalent amount of cash to Bishop Creek fund.

Member Mutch said he would vote for the project. However, we are creating a situation where it would be in the City's best interest, if we are trying to maximize the amount of wetlands preserved and get money for Bishop Creek, to leave it as it originally was. He

wasn't sure how this would work to the City's benefit, and now we are looking at a third option. He wasn't sure where Council was going on this issue, but didn't feel it was a make or break issue on this proposal. He thought Council needed to be willing to look at the alternatives the developer brought forward. The original plan did not include the mitigation, and it came forward with some understanding of what Council wanted. He understood that they tried to put the wetland mitigation on site, and thought anyone looking at that realized it really isn't going to be an attractive area for either their project or for the adjacent subdivision. But if that is Council's pleasure then that's Council's pleasure.

Member Nagy said she thought, last time, they were going to try to do whatever they could on site, and contribute to Bishop Creek. If they couldn't they were going to pay. She thought that was the motion the last time.

Mr. Schultz stated the SDO Agreement basically says they are to provide the 2 to 1 mitigation on site if they can, then whatever they can't they mitigate it at \$75,000 per acre. He said in terms of where he heard the discussion going, it would probably be helpful if the motion actually said that with regard to the wetland mitigation, that the provision in the SDO Agreement requiring on site mitigation at 2 to 1 is not going to be applied to the site plan, and that \$75,000 per acre for whatever cannot be mitigated, and is being filled is \$75,000 per acre. Assuming that the MDEQ permit is passed, and that's an assumption at this point.

Mr. Freeland said they are proposing to build 0.572 acres. At 2 to 1 they are responsible for mitigating a little over 1 acre of compensation. Mayor Landry asked how many acres does this plan show for on site mitigation. Mr. Freeland believed it was .59 acres. Mayor Landry said OK that is the 2 to 1, therefore right now with this plan it's mitigating with a half acre on site and a \$75,000 contribution. Mr. Freeland said it would be about half the \$75,000,

Mayor Landry asked if there is no mitigation how much money goes into Bishop Creek. Mr. Freeland said they would be responsible for approximately 1.2 acres so it would be 1.2 times \$75,000.

Mayor Landry said he heard that the applicant has no problems with that, assuming that the MDEQ would allow them to not mitigate on the site.

Woody Hill, from King McGregor Environmental, said the Novi regulated impacts are .572 acres. The agreement with the Council is that there would be a 2 to 1 mitigation for all wetland impacts, including non essential wetlands. So, the total wetland area on the site being impacted is .77 acres. So the 2 - 1 ratio is approximately 1-1/2 acres. MDEQ regulated wetland impacts are approximately .04ths of an acre. He said they had designed this so that we are at a 1.5 to 1 ratio replacement for the MDEQ wetland impacts, presuming they would require at least that. They would like the option to do this on site if the MDEQ required it. If the MDEQ does not require it on site, then they would prefer to pay into the fund. Mayor Landry asked how much they would pay, and Ms. Hill said the mitigation required for all wetland impacts by the City is about 1.5 acres.

Mr. Schultz stated under the agreement he thought it would be .77 acres essential and non-essential that is being impacted. So, as he read the agreement the calculation would be

based on .77% of the \$75,000 per acre, based on the 1 to 1. Mayor Landry said .77 times \$75,000, which would be more than the \$37,500. Mr. Schultz thought what they were suggesting was that if Council wanted them to skip the mitigation and pay into the fund they are willing to do that at a 1 to 1. Mayor Landry said that was his understanding too. Member Nagy said the motion was a 2 to 1 ratio the last time. Mayor Landry said that was if they were going to mitigate on site.

Member Mutch suggested looking at the language, but believed the mitigation would be performed at a 2 to 1 ratio, accomplished on site to the extent feasible as determined by Council, and if the required mitigation cannot be completed on site it shall be accomplished through a contribution to the City. He said he would defer to Mr. Schultz and the language of the agreement.

Mr. Schultz said Council is, already, not following the agreement, and there is nothing wrong with that. It is entirely appropriate. However, the question before Council is going to be are they willing to do this at 1 to 1 to get the contribution, or would they prefer the 2 to 1 ratio, and they may be able to point at the MDEQ.

Member Capello withdrew his amendment.

Roll call vote on CM-06-03-053

**Yeas: Mutch, Nagy, Paul, Landry, Capello, Gatt,
Margolis**

Nays: None

**CITY COUNCIL MINUTES
EXCERPTS
NOVEMBER 13, 2007**

REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI

EXCERPTS

TUESDAY, NOVEMBER 13, 2007 AT 7:00 P.M.

COUNCIL CHAMBERS - NOVI CIVIC CENTER - 45175 W. TEN MILE ROAD

ROLL CALL: Mayor Landry, Council Members Capello, Crawford, Gatt, Margolis, Mutch, and Staudt

ALSO PRESENT: Clay Pearson, City Manager

Pamela Antil, Assistant City Manager

Tom Schultz, City Attorney

Marina Neumaier, Assistant Finance Director

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION: Consent Agenda items which have been removed for discussion and/or action.

F. Approval of a request from ADCO, Group, LLC for a one year extension of Preliminary Site approval for SP05-24, Brooktown, a mixed use condominium project located on the south side of Grand River Avenue between Market Street and Meadowbrook Road in Section 23 – Mayor Pro Tem Capello

Mayor Pro Tem Capello stated ADCO, Group, LLC was not the owner of the Brooktown entity. He said they were owned by Brooktown Commercial Entities, LLC. He said he represented one of the two Brooktown Commercial, LLCs and wanted to disclose that. He stated he had no financial interest in it but if Council wanted to recuse him from voting on this issue, they could. It would benefit his client but would not benefit him in any way.

Mayor Landry said, for new Council members, all elected officials were required to vote on matters before City Council. He said they could not choose which to vote on and which to not vote on. The only time a Council member could be excused from voting was if the other members excused and allowed them to not vote. He said if anyone felt there was a conflict of interest they should raise it, but oftentimes a Council member might seek to recuse themselves saying he/she would prefer not to vote. However, it was up to the other members of Council whether to allow them to vote or not. He asked Mr. Schultz if he saw any reason that there was a conflict of interest, which would require that Mayor Pro Tem Capello not vote on this issue.

Mr. Schultz said one of the Council member's clients actually had an ownership and interest in the property. Mayor Pro Tem Capello said in the commercial aspect of the property, which was covered in the site plan approval. Mr. Schultz said from his perspective, the question for the Council member was whether he was sure he could vote and be fair, but in addition the question would be appearance of propriety as well as anything else. He thought the request to recuse would be appropriate but it would be up to the Council to determine whether it was appropriate.

Member Mutch thought, for appearance purposes, it would be cleaner if Mayor Pro Tem Capello recused himself to avoid raising any issues down the road regarding the approval.

Member Gatt disagreed. He felt Mayor Pro Tem Capello had disclosed his relationship with one of the partners but he had no financial interest, and he didn't think it fell under the parameters of when a member should recuse themselves.

Mr. Schultz asked Mayor Pro Tem Capello if representing the client had any connection with this property; Mayor Pro Tem Capello said yes, in many aspects.

Mayor Landry asked if he represented one of the people involved in this, with respect to legal matters involving this property. Mayor Pro Tem Capello said he did.

Mayor Landry said he would agree that he should be recused. Mr. Schultz said a vote for recusal had to be unanimous.

Member Margolis thought he should be recused, if only for appearance sake.

CM-07-11-328 Moved by Margolis, seconded by Mutch; CARRIED UNANIMOUSLY:

To recuse Mayor Pro Tem Capello from voting on Consent Agenda Item F.

DISCUSSION

Member Gatt stated he would support it, not for appearance, but because he believed there could be a financial interest.

Roll call vote on CM-07-11-328 Yeas: Crawford, Gatt, Margolis, Mutch, Staudt, Landry

Nays: None

Abstain: Capello

CM-07-11-329 Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY:

To approve request from ADCO, Group, LLC for a one year extension of Preliminary Site approval for SP05-24, Brooktown, a mixed use condominium project located on the south side of Grand River Avenue between Market Street and Meadowbrook Road in Section 23.

Voice vote

Note: Mayor Pro Tem Capello abstained from voting, left Council Chambers during the vote and returned after the vote had been taken.

I.

**CITY COUNCIL MINUTES
EXCERPTS
MARCH 3, 2008**

Excerpt

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, MARCH 3, 2008 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

ROLL CALL: Mayor Landry, Mayor Pro Tem Capello, Council Members Crawford, Gatt, Margolis, Mutch, Staudt

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION

E. Approval of a request from ADCO, Group, LLC for a one year extension of Preliminary Site approval for SP05-24, Brooktown, a mixed use condominium project located on the south side of Grand River Avenue between Market Street and Meadowbrook Road in Section 23 in the Gateway East District and approved with a Special Development Option – Removed by Mayor Pro Tem Capello

Mayor Pro Tem Capello requested to be recused because he represented one of the members of the LLC that had a third interest in the commercial.

CM-08-03-039 Moved by Mutch, seconded by Staudt; CARRIED UNANIMOUSLY:

To recuse Mayor Pro Tem Capello from the vote on Item E of the Consent Agenda.

Voice vote

Mayor Pro Tem Capello left Council Chambers.

CM-08-03-040 Moved by Staudt, seconded by Margolis; CARRIED UNANIMOUSLY:

To approve request from ADCO, Group, LLC for a one year extension of Preliminary Site approval for SP05-24, Brooktown, a mixed use condominium project located on the south side of Grand River Avenue between Market Street and Meadowbrook Road in Section 23 in the Gateway East District and approved with a Special Development Option.

Roll call vote on CM-08-03-040 Yeas: Crawford, Gatt, Margolis, Mutch, Staudt, Landry

Nays: None

Recused: Capello

REDUCED SITE PLAN

LOCATION MAP

Brooktown Village

Location Map



CITY OF NOVI PLAN REVIEW CENTER
Created by Mark Spencer
2/19/07
NOVI PLANNING DEPARTMENT
45175 W. TEN MILE ROAD
NOVI, MI 48375-3024
(248) 347-0175
WWW.CITYOFNOVI.MI.US



/brooktown location.mxd

MAP INTERPRETATION NOTICE
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