

cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item D
November 9, 2015

SUBJECT: Approval of a retailer of hot tubs and swim spas as a use similar to those listed in the 2001 Stipulated Amendment to Consent Judgment for Gateway Village of Novi LLC for a tenant space in the Gateway Village "corner retail building", and minor modification to the building façade for that use.

Burb

SUBMITTING DEPARTMENT: Community Development Department - Planning Division

CITY MANAGER APPROVAL: *AK*

BACKGROUND INFORMATION:

Gateway Village is a residential and commercial development located on the north side of Grand River Avenue, west of Meadowbrook Road. The property is zoned NCC, Non-Center Commercial. On May 16, 2001, a Stipulated Amendment to Consent Judgment was entered for the property. Included in the amendment were specific uses permitted for the non-residential buildings fronting on Grand River Avenue (see list below). The Amendment allowed for "Uses similar to those listed above" as the final approved use for those buildings.

The owner, Triangle Development now requests that a use that is not specifically listed, a retailer of hot tubs and swim spas, be permitted in the corner building, with modifications to the north building façade to allow for an overhead door for loading/unloading of merchandise. See attached plan view and elevation with the proposed addition of a roll-up door. The judgment does not list "hot tub or pool store", nor does it list "general retail" as a permitted use in the development. In order to allow the sales of hot tubs and swim spas, the City Council is asked make a determination that the proposed use would be classified as "DD. Uses similar to those listed above".

Uses included in the stipulated Amendment to the Consent Judgment are provided here:

- A. Bakeries
- B. Bookstores
- C. News Stands
- D. Drugstore, including pharmacy, tobacco, reading matter and vanity goods
- E. Retail specialty food stores and delis, less than 12,000 square feet
- F. Ice cream and confectionery establishments
- G. Liquor, wine and beverage stores
- H. Hardware stores
- I. Studios: photograph, art, music, dancing
- J. Clothing stores
- K. Sporting goods stores
- L. Dry cleaning/laundry outlets dealing directly with consumers
- M. Barber and beauty shops
- N. Copy centers
- O. Florist shops
- P. Locksmiths
- Q. Photo finishing services
- R. Stationers

- S. Shoe repair shops
- T. Watch and clock repair establishments
- U. Tailors
- V. Video rental stores
- W. Upholstery establishments
- X. Sit down restaurants, except for drive-ins and drive-throughs
- Y. Private Clubs
- Z. Office buildings (executive, administrative, professional, accounting, writing, etc.
- AA. Medical Offices
- BB. Financial institutions, banks, stock brokerages
- CC. Multiple family residential dwellings, including clubhouse/meeting rooms
- DD. **Uses similar to those listed above (emphasis added)**

RECOMMENDED ACTION: Approval of a retailer of hot tubs and swim spas as a use similar to those listed in the 2001 Stipulated Amendment to Consent Judgment for Gateway Village of Novi LLC for a tenant space in the Gateway Village "corner retail building", and minor modification to the building façade for that use.

| | 1 | 2 | Y | N |
|------------------------|---|---|---|---|
| Mayor Gatt | | | | |
| Council Member Burke | | | | |
| Council Member Casey | | | | |
| Council Member Markham | | | | |

| | 1 | 2 | Y | N |
|-----------------------|---|---|---|---|
| Council Member Mutch | | | | |
| Council Member Staudt | | | | |
| Council Member Wrobel | | | | |

LOCATION MAP

Gateway Village

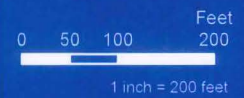
Location Map



City of Novi

Dept. of Community Development
City Hall / Civic Center
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org

Map Author: Chris Gruba
Date: 10-28-15

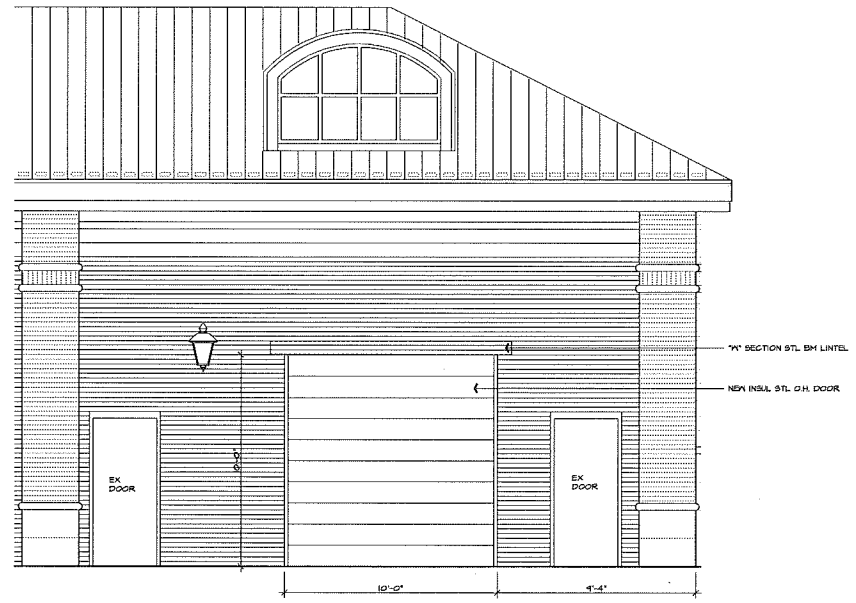


MAP INTERPRETATION NOTICE

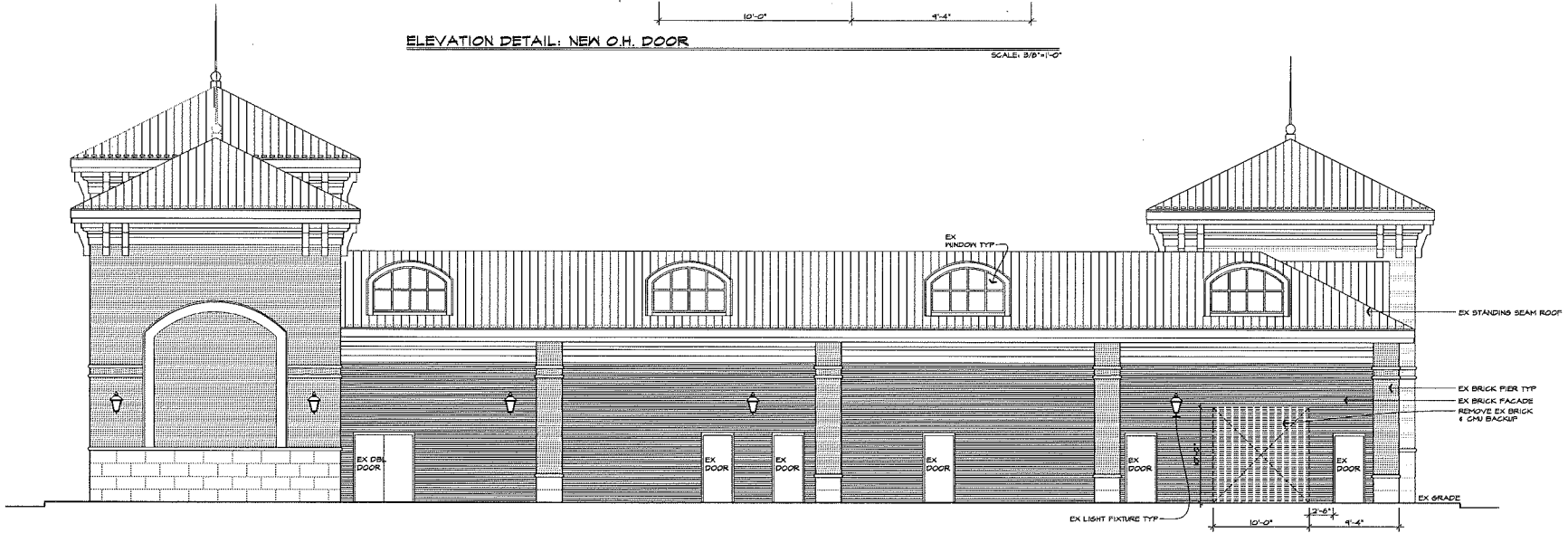
Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate 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.

PROPOSED BUILDING ELEVATION

10-26-15



ELEVATION DETAIL: NEW O.H. DOOR
SCALE: 3/8"=1'-0"



EXISTING ELEVATION (REAR OF BLDG) W/ NEW O.H. DOOR OPENING
SCALE: 3/8"=1'-0"

North Elevation

| ISSUED FOR | DATE |
|------------|------------|
| REVIEW | 10.22.2015 |
| | |
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| | |

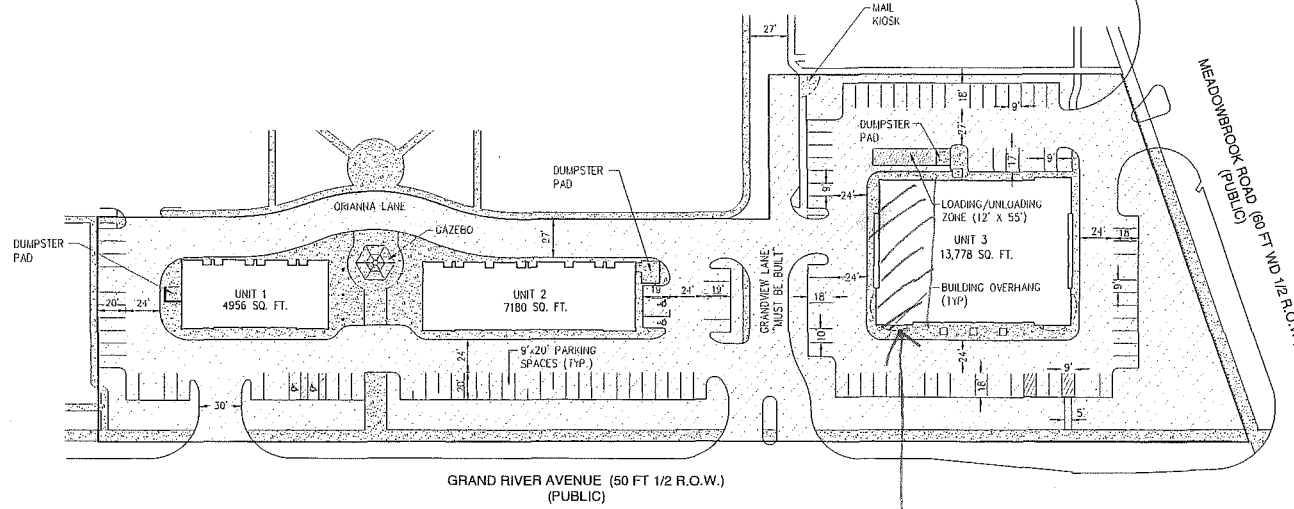
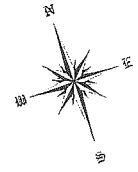
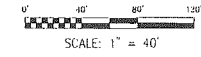
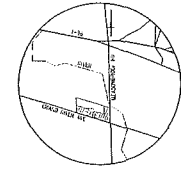
ARCHITECTURAL DESIGN
RESIDENTIAL
COMMERCIAL
INDUSTRIAL
G.A.V. ASSOCIATES, INC.
1000 GRAND AVENUE, SUITE 200
FARMINGTON, CONNECTICUT 06030
TEL: 860-635-8800
WWW.GAVASSOCIATES.COM



PROPOSED INTERIOR RENOVATION FOR:
GATEWAY VILLAGE
41480 GRAND RIVER AVE
NOVI, MI

| DRAWN | DESIGNED | CHECKED |
|-----------------------------------|----------|---------|
| RD | RD | GA |
| SCALE: AS NOTED | | |
| FILE NAME: . | | |
| JOB # 15141 | | |
| SHEET TITLE EXTERIOR ELEVATION | | |
| SHEET # A.201 | | |

SKETCH OF SITE PLAN
AND
FLOOR PLAN



3,850 FT
Hot tub Retail Store.

LEGEND

- UNIT OF OWNERSHIP
- GENERAL COMMON ELEMENT
- SIDEWALKS

NOTE:
ALL UNITS AND COMMON ELEMENTS ARE DESIGNATED AS CONVERTIBLE AREAS PURSUANT TO ARTICLE VII, OF THE MASTER DEED.

SIDEWALKS ADJACENT TO UNITS 1, 2 AND 3, GRAND RIVER AVENUE AND MEADOWBROOK ROAD "MUST BE BUILT".

ALL PARKING SPACES ARE 9 FT. WIDE, THE LENGTHS VARY AS SHOWN ABOVE.

M
MICKALICH and ASSOCIATES, INC.
 CIVIL ENGINEERING, SURVEYING, PLANNING
 2359 Avon Industrial Drive
 Rochester Hills, Michigan 48309
 PHONE (248) 852-1900
 FAX (248) 852-1070
 HTTP://WWW.MICKALICH.COM

Engineer's Seal

Project Title
THE SHOPS OF GATEWAY VILLAGE OF NOVI

Sheet Title
SITE PLAN

Client
GATEWAY VILLAGE OF NOVI, LLC.

Date Issued for By

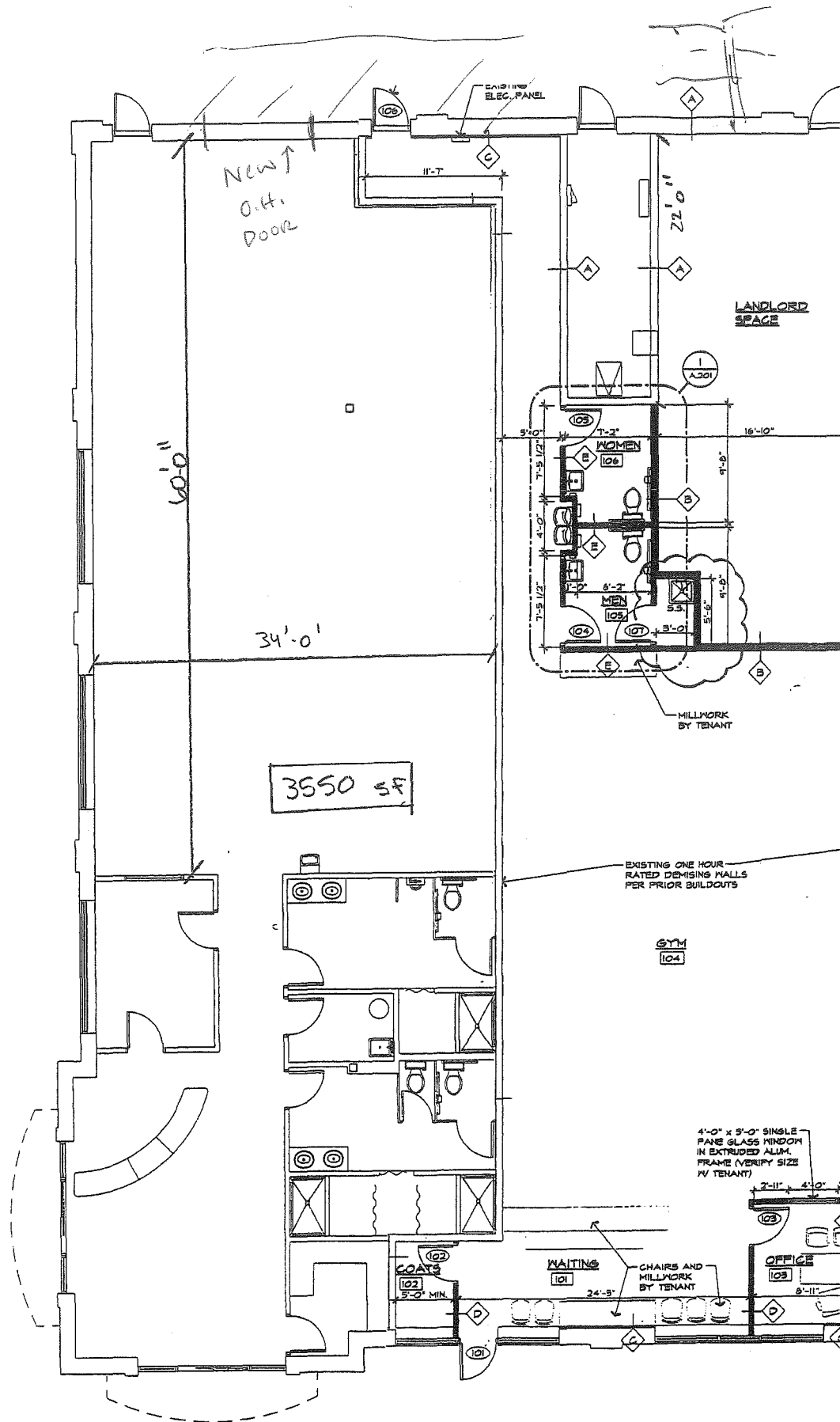
Scale
Vertical _____
Horizontal: **1" = 40'**

Drawn **DSK**
Checked **TCS**
Approved **APM**
Date **2-27-03**

Job no.
99220

Sheet no.
3

NORTH
↑



41430 Grand River Ave
Suite A
Plymi, MI 48375

**EMAIL FROM PIERRE NONA
TRIANGLE DEVELOPMENT**

McBeth, Barb

Subject: RE: Tenant for 41430 Grand River Avenue, Suite A, Novi, MI 48375

Hi Sri.

This is Pierre Nona with Triangle Development/Shops of GV, LLC. We had talked about a month ago when we had an interest from a possible tenant for our empty space at 41430 Grand River, Suite A (in Unit 3 of Shops of Gateway Village). We had discussed the new tenant's use (hot tub and swim spa retailer) and their need for an overhead door to move large items into the space.

In our last discussion, there was still some questions about what would need to be done since this property was developed under a Consent Judgment.

Well, the retailer has decided to move forward with leasing this space. I would like to set up a meeting with the appropriate parties at the City of Novi planning department in order to facilitate the approval of this use.

I strongly feel that all of these "approvals" can and should be done "administratively" through Novi's planning department. As such, I believe it would be worthwhile if Barb MacBeth is part of the meeting.

I know you had intimated that the approval may require a rework of the Consent Judgment. However, I disagree with that and feel that administrative approval is warranted for the following reasons:

- Regarding the "use" of the space, this is a "hot tub and swim spa retailer". The consent judgment (attached) specifically calls this building a "Corner **RETAIL** Building" and lists a number of approved "office and retail" uses, including "DD. Uses similar to those listed above". Obviously, the Consent Judgment could not list all possible retail users and this line was inserted as a catchall for "similar uses". Just like a "cell phone store" was not included on the list but there has been a cellphone retailer in the Center since it was built. It was obvious that was a similar and consistent use for this retail building under the Consent Judgment. I would argue that a spa and hot tub retailer is also a similar and consistent use for this building since it was meant for Retail and/or office uses. There has never been a need to go back to Planning Commission, City Council or redo the Consent Judgment for these other uses because they have always been deemed similar.
- Regarding the need to add a 10'x10' overhead door, the actual building of 41430 Grand River Avenue was not designed and built until 2006-2007, even though the Consent Judgment had approved this building as a very preliminary "conceptual design" in 2001. The final design of this building was "similar" to the conceptual design on the Consent Judgment but it was not exactly the same. However, all approvals of the final design were made administratively by the Planning Department and did not require any City Council approvals or changes to the Consent Judgment. Actually, I remember that Novi wanted extra details included on the design, which we accommodated. Based on the approval of the actual building design not needing a change to Consent Judgment, I would argue that a minor change like adding an overhead door is definitely an administrative approval process.

I would appreciate the opportunity to meet in person with the appropriate personnel so we can get the process started quickly. Time is of the essence for this tenant.

I look forward to hearing from you soon.

Thank you and have a great day.

Pierre Nona
Triangle Development/Shops of GV, LLC

**STIPULATED AMENDMENT
TO CONSENT JUDGMENT**

EB

IN THE STATE OF MICHIGAN
CIRCUIT COURT FOR THE COUNTY OF OAKLAND

GATEWAY VILLAGE OF NOVI, LLC,
a Michigan limited liability company,

Plaintiff/Counter-Defendant,

vs.

CITY OF NOVI, a Michigan municipal
corporation, et al,

Defendants/Counter-Plaintiffs.

86-316708-CH



JUDGE Nanci J. Grant
GATEWAY VILLA V NOVI CITY

COOPER, SHIFMAN, GABE,
QUINN & SEYMOUR
MATTHEW C. QUINN (P24116)
Attorney for Plaintiff/Counter-Defendant
1026 West Eleven Mile Road
Royal Oak, MI 48067
(248) 399-9703

SECRET, WARDLE, LYNCH, HAMPTON,
TRUEX & MORLEY
GERALD FISHER (P13462)
30903 Northwestern Hwy.
P.O. Box 3040
Farmington Hills, Michigan 48333-3040
248-539-2818

RY
DEPUTY COUNTY CLERK
RECEIVED FOR FILING
OAKLAND COUNTY CLERK
STATE OF MICHIGAN
G. WILLIAM CADDELL, Clerk
In Testimony whereof, I have subscribed my name and
placed the Seal of said Court this MAY 16 2007
G. WILLIAM CADDELL, Clerk - Judge of District

STIPULATED AMENDMENT
TO CONSENT JUDGMENT

At session of said Court held in the Courthouse
Tower, City of Pontiac, County of Oakland, and
State of Michigan, held on _____

PRESENT: JOANE YOUNG
Circuit Court Judge

A Consent Judgment having heretofore been entered by the Court on June 1,



Law Offices
Cooper, Shifman,
Gabe, Quinn,
& Seymour
1026 West Eleven Mile
Road
Royal Oak, Michigan
48067
(248) 399-9703

1990 ("Consent Judgment"); a Stipulated Order to Amend Consent Judgment ("Order to Amend") having heretofore been entered by Court on June 8, 1996; and the parties having agreed through their respective counsel to entry of this Stipulated Amendment to Consent Judgment, and the Court being fully advised in the premises.

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED that the Consent Judgment, as previously amended, is hereby further amended as follows:

1. That portion of the subject property described as follows, and otherwise identified by Tax Identification No. 50-22-23-226-041, shall be used in accordance with the preliminary site plan approved by the Novi City Council on August 28, 2000, and designated as City of Novi Site Plan No. SP 00-30A.

A part of the northeast 1/4 of section 23, T.1N., R.8E, City of Novi, Oakland County, Michigan, more particularly described as follows: Commencing at the northeast corner of said section; thence along the east line of section 23 also being the centerline of Meadowbrook Road, distant S00°22'43"W, 1427.73 feet, to the point of beginning of the parcel as described; thence continuing along the east line of section 23, also being the centerline of Meadowbrook Road, (66 feet wide) S00°22'43"W, 468.61 feet; (previously described as 469.26 feet); thence along the northerly line of Grand River Avenue, (100 feet wide) N70°36'38"W, (previously described as N68° 40'W) 439.06 feet; thence continuing along the northerly line of Grand River Avenue, N70°47'39"W (Previously described as N68°51'W) 971.84 feet; to a found 3/4 inch iron pipe; thence N00°20'28"E, 626.38 feet; (previously described as N01°04'00"E, 627 feet); thence N89°17'30"E, 127.39 feet; thence S00°22'50"W, 174.65 feet; Thence S70°37'48"E, 318.96 feet; thence S19°22'12"W, 25 feet; thence S70°37'48"E, 967.18 feet; to the point of beginning.

also reference as the Triangle Development property.

2. The approved preliminary site plan, SP00-30A, consists of the following plan sheets, all of which are on file within the records of the City of Novi.

A. A site plan cover sheet entitled "Gateway Village" and dated 5-16-00.

B. A site plan prepared by Ludwig & Associates Limited, bearing project #99-09-05, and dated 5-17-00, with revision dates of 1-11-00, 1-19-00, 2-22-00, 5-17-00, 6-15-00, 6-27-00 and 7-7-00.

C. The following concept drawings prepared by Victor Saroki & Associates Architects PC, and all dated 7-10-00:

- (1) Screen Wall Detail
- (2) Elevation Study of Ornamental Fencing and Light Fixtures
- (3) Small Retail Building South Elevation Study
- (4) Small Retail Building North Elevation Study
- (5) Small Retail Building West Elevation Study
- (6) Small Retail Building Floor Plan
- (7) Large Retail Building South Elevation Study
- (8) Large Retail Building North Elevation Study
- (9) Large Retail Building West Elevation Study
- (10) Large Retail Building Floor Plan
- (11) Corner Retail Building South Elevation Study
- (12) Corner Retail Building West Elevation Study
- (13) Corner Retail Building East Elevation Study
- (14) Corner Retail Building North Elevation Study
- (15) Corner Retail Building Floor Plan
- (16) 12 Unit Elevation Study
- (17) 10 Unit Elevation Study
- (18) 8 Unit Elevation Study
- (19) 8 Unit Elevation Study Alternate
- (20) 4 Unit Elevation Study
- (21) Units "A", Townhouse Type Basement Level Floor Plan Options
- (22) Units "A", Townhouse Type First Level Floor Plan 1 or 2 Bedroom (3-Room) Units
- (23) Units "A", Townhouse Type First Level Floor Plan 3 Bedrooms (4-Room) Units
- (24) Units "B", Townhouse Type Second Level Floor Plan 2 Bedrooms (3-Room) Units
- (25) Units "B", Townhouse Type Second Level Floor Plan 3 Bedrooms (4-Room) Units
- (26) Units "B", Townhouse Type Third Level Floor Plan Options
- (27) Units "B", Townhouse Type Third Level Floor Plan Options

D. The following Landscape Plans prepared by Ludwig & Associates Limited:

- (1) LP-1: Conceptual Landscape Plan (West Portion) bearing project

#99-09-05, and dated 5-17-00, with revision dates of 1-11-00, 1-19-00, 2-22-00, 5-17-00, 6-15-00, 6-27-00 and 7-07-00

- (2) LP-2: Conceptual Landscape Plan (East Portion), bearing project #99-09-05, and dated 5-17-00, with revision dates of 1-11-00, 1-19-00, 2-22-00, 5-17-00, 6-15-00, 6-27-00 and 7-7-00
- (3) LP-3: Wetland Restoration/Mitigation Plan, bearing project #99-09-05, and dated 5-17-00, with revision dates of 1-11-00, 1-19-00, 2-22-00, 5-17-00, 6-15-00, 6-27-00 and 7-7-00
- (4) LP-4: Landscape Details, bearing project #99-09-05, and dated 7-12-00
- (5) TPP-1: Tree Preservation Plan, bearing project #99-09-05, and dated 7-10-00

E. The following preliminary site plan sheets prepared by Mickalich and Associates, Inc.:

- (1) C-1; Overall/Stringer Plan, dated 1-18-00, with revision dated 6-19-00 and 7-9-00
- (2) C-2: Preliminary Grading and Utility Plan, dated 1-11-00, with revision dated 1-18-00, 5-16-00, 6-19-00 and 7-9-00
- (3) C-3: Preliminary Grading and Utility Plan, dated 1-11-00, with revision dated 1-18-00, 5-16-00, 6-19-00 and 7-9-00
- (4) C-4: Topographic Survey, dated 1-24-00, with revision dates 1-26-00 and 5-16-00
- (5) C-5: Topographic Survey, dated 1-24-00, with revision dates 1-25-00 and 5-16-00
- (6) C-6: Details, dated 5-16-00

3. That the following land use activities shall be permitted on the Triangle

Development property in accordance with the approved site plan:

- A. Bakeries
- B. Bookstores
- C. News Stands
- D. Drugstore, including pharmacy, tobacco, reading matter and vanity goods

- E. Retail speciality food stores and delicatessens are limited to 12,000 interior square feet
- F. Ice cream and confectionery establishments
- G. Liquor, wine and beverage stores
- H. Hardware stores
- I. Studios: photograph, art, music, dancing
- J. Clothing stores
- K. Sporting goods stores
- L. Dry cleaning/laundry outlets dealing directly with consumers
- M. Barber and beauty shops
- N. Copy centers
- O. Florist Shops
- P. Locksmiths
- Q. Photo Finishing services
- R. Stationers
- S. Shoe Repair Shops
- T. Watch and clock repair establishments
- U. Tailors
- V. Video rental stores
- W. Upholstery establishments
- X. Sit down restaurants or other places serving food or beverages, except those having the character of a drive-in having a drive-thru window outdoor seating for restaurants and food establishments
- Y. Private Clubs
- Z. Office buildings for any of the following occupations: 1) executive, administrative, professional, accounting, writing, clerical, drafting and sales
- AA. Medical offices, including laboratories and clinics
- BB. Financial institutions, banks, stock brokerages
- CC. Multiple family residential dwellings, including clubhouse and meeting rooms
- DD. Uses similar to those listed above

4. That a final site plan consistent with the approved preliminary site plan, and consistent with all conditions imposed thereon by the City Council on August 28, 2000, shall be submitted for review by the property owner. The final site plan shall be evaluated in accordance with all applicable statutes, laws, ordinances, codes and regulations.