



# CITY of NOVI CITY COUNCIL

**Agenda Item H**  
**February 6, 2017**

**SUBJECT:** Acceptance of a Perimeter Easement from Secure Development Properties, LLC for a perimeter area and a specific berm area as part of the SP 03-57 Paradise Park site, located south of Grand River Avenue and west of Taft Road in Section 16 of the City.

**SUBMITTING DEPARTMENT:** Community Development Department – Planning *Bauby*

**CITY MANAGER APPROVAL:** 

**BACKGROUND INFORMATION:** 

The applicant received Site Plan approval of an approximately 10.053-acre outdoor recreation park located south of Grand River Avenue and west of Taft Road from Planning Commission on February 25, 2004. The project proposed a family fun park on two lots that included three buildings: one for games and the other two for storage. The project has since been built and additional improvements have been made. The applicant is seeking a certificate of occupancy and a Perimeter Easement is on the list of requirements to be provided prior to close-out of the project. The Perimeter Easement was required as part of the initial Special Land Use and Site Plan approval for the purpose of ensuring that the landscape, trees and buffer areas are maintained on the subject property in order to maintain a buffer for the adjacent residential property.

The applicant is providing a Perimeter Easement over areas near the south, southeast, and southwest parcel lot lines of the primary lot. The grantor agrees not to build any permanent structures in the easement area, but may with the City's approval as part of an approved site plan construct surface improvements such as landscaping and utilities. The easement areas shall not be developed in any manner which alters the natural vegetation. The easement is graphically depicted in Exhibit B. The total easement area is approximately 1.28 acres.

**RECOMMENDED ACTION:** Acceptance of a Perimeter Easement from Secure Development Properties, LLC for a perimeter area and a specific berm area as part of the SP 03-57 Paradise Park site, located south of Grand River Avenue and west of Taft Road in Section 16 of the City.

	1	2	Y	N
<b>Mayor Gatt</b>				
<b>Mayor Pro Tem Staudt</b>				
<b>Council Member Burke</b>				
<b>Council Member Casey</b>				

	1	2	Y	N
<b>Council Member Markham</b>				
<b>Council Member Mutch</b>				
<b>Council Member Wrobel</b>				

LOCATION MAP

# Paradise Park Perimeter Easement



### LEGEND

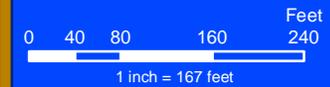
Sections



## City of Novi

Community Development Department  
Civic Center  
45175 W Ten Mile Road  
Novi, MI 48375  
[www.cityofnovi.org](http://www.cityofnovi.org)

Map Author: Kirsten Mellem  
Date: 01/7/2017  
Project: Paradise Park - Perimeter Easement  
Version #: 1



### 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 of Novi GIS Manager to confirm source and accuracy information related to this map.

CITY ATTORNEY LETTER



JOHNSON ROSATI SCHULTZ JOPPICH PC

27555 Executive Drive, Suite 250 ~ Farmington Hills, Michigan 48331  
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela  
esaarela@jrsjlaw.com

www.jrsjlaw.com

January 16, 2017

Barb McBeth, City Planner  
City of Novi  
45175 Ten Mile Road  
Novi, MI 48375-3024

**RE: Paradise Park SP03-57B  
Perimeter Easement**

Dear Ms. McBeth:

We have received and reviewed a proposed Perimeter Easement for the Paradise Park Development. The Perimeter Easement was required as a condition of special land use permit and site plan approval for the family fun park development on the property. The Perimeter Easement has been provided for the purpose of ensuring that the landscape, trees and buffer areas are maintained for the purpose of providing a buffer from the adjacent residential property to the southern portion of the development. The Perimeter Easement is sufficient for the purposes provided. The City's Engineering Division has reviewed and approved the attached Exhibits. The Perimeter Easement should be placed on an upcoming City Council Agenda for acceptance. Once accepted, the Perimeter Easement should be recorded with the Oakland County Register of Deeds.

Should you have any questions or concerns relating to the issues set forth above, please feel free to contact me in that regard.

Sincerely,

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

Elizabeth K. Saarela

EKS  
Enclosures

Barb McBeth, City Planner

January 16, 2017

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C: Cortney Hanson, Clerk  
Charles Boulard, Community Development Director  
Sri Komaragiri, Planner  
Kirsten Mellem, Planner  
Adrianna Jordan, Planner  
Theresa Bridges, Construction Engineer  
Sarah Marchioni, Building Project Coordinator  
Pete Hill, ECT  
Rick Meader, Landscape Architect  
Sue Troutman, City Clerk's Office  
Jeff Wainwright, Secure Development Properties  
Thomas R. Schultz, Esquire

**PERIMETER EASEMENT**

## **PERIMETER EASEMENT**

KNOW ALL PERSONS BY THESE PRESENTS, that Secure Development Properties, LLC, a Michigan limited liability company, whose address is 45799 Grand River Avenue, Novi, Michigan 48374 ("Grantor"), owns the following described parcel of land, to-wit:

(See Exhibit "A" attached hereto)

Tax Identification No.:           22-16-451-046

For and in consideration of One Dollars (\$1,00), receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to the City of Novi, Michigan, a municipal corporation, whose address is 45175 Ten Mile Road, Novi, Michigan 48275 ("The City"), a nonexclusive easement for a perimeter area and a specific berm area (the "Easement Areas"), both as depicted in Exhibit B and described in Exhibit C attached hereto and part of this document, of which is over, upon, across, in through and under the following described real property, to-wit:

See Exhibit B and Exhibit C, attached to and part of this document)

And to be granted henceforth access and privilege to confirm sustainment of such noted easement.

Grantor agrees not to build or to convey to others permission to build any permanent structures on, over across, in through, or under the above-described Easement Areas, except that subject to The City's approval as part of an approved site plan, the Grantor may construct and/or install surface improvements to the property, including and otherwise not limited to landscaping, utilities, and other such items as may facilitate usage of the surrounding properties, or as otherwise provided by the City as part of the aforementioned approved site plan and/or City-approved permits as may be required.

Areas designated as the Easement Areas, shall not be developed in any manner which alters the natural vegetation. Except for and subject to the activities which have been expressly authorized in the approved landscape plans, and for routine maintenance, there shall be no disturbance of the natural vegetation, including altering the topography, placing fill materials, removing or excavating of soil, minerals, or trees, constructing or placing any structures on; or otherwise altering and/or constructing, operating, maintaining any use or development.

The Grantor shall have the authority and responsibility, at its expense, to preserve and maintain all trees, buffers and landscape located in the Easement Areas. The Grantor shall establish and implement a regular and systematic program for the preservation, repair and maintenance of the Easement Areas.

In the event that the Grantor shall at any time fails to carry out the specified responsibilities and/or in the event of a failure to preserve and/or maintain such Easement Areas or facilities in reasonable order and condition, the City may serve written notice upon the Grantor setting forth the deficiencies in maintenance and/or preservation. Notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place of the hearing before the City Council, or such other council, body or official delegated by the City Council, for the purpose of allowing the Grantor to be heard as to why the City should not proceed with the maintenance and/or preservation of the Easement Areas which has not been undertaken. At the hearing, the time for curing the deficiencies and the hearing itself may be extended and/or continued to a date certain. If, following the hearing, the City Council, or other body or official designated to conduct the hearing, shall determine that maintenance and/or preservation have not been undertaken within the time specified in the notice, the City shall thereupon have the power and authority, but not obligation, to enter upon the property, or cause its agents or contractors to enter upon the property and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The cost and expense of making and financing such maintenance and/or preservation, including the cost of notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in the amount of 18% of the total of all costs and expenses incurred, shall be paid by the Grantor, and such amount shall constitute a lien as to the property. The City may require the payment of such monies prior to the commencement of work. If such costs and expenses have not been paid within thirty (30) days of a billing to the Grantor, all unpaid amounts may be placed on the delinquent tax roll of the City, and shall accrue interest and penalties, and shall be collected as, and shall be deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against the Grantor, and, in such event, the Grantor shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit. Should such repairs by the City or its designated agents or contractor cause damage or in any way adversely alter the subject Easement Areas, any of the included easement, or any of the adjacent properties owned by the Grantor inclusive of this property, or other immediately adjacent or abutting adversely affected property, restoration of such damage to its previous condition is the full responsibility of the City and/or its representatives. The City is responsible to ensure that its workers, employees, agents or representatives performing such work are properly and completely insured regarding but not limited to liability, workers' compensation and personal injury.

In addition, while this Agreement is in effect, the City shall maintain, and shall require its contractors employed in connection with this Agreement to maintain, in effect a policy of Comprehensive General Liability Insurance with a minimum combined bodily injury and property damage single limit of \$1,000,000.00 which insurance shall either include a Cross Liability Endorsement or shall not preclude recovery by a named insured as a result of the negligence of any other named insured under said policy. Said policy of insurance shall be written by an insurance company authorized to do business in the State of Michigan and shall name Grantor as an additional insured. This instrument shall run with the land first described above and

shall be binding upon and inure to the benefit of the Grantor, The City and their respective heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned Grantor has affixed His signature this 28<sup>th</sup> day of DEC., 2016.

GRANTOR:  
Secure Development Properties, LLC, a Michigan limited liability company

By: Jeff L. Wainwright  
Its: C.O.O. / OWNER

Jeff L. Wainwright

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF OAKLAND )

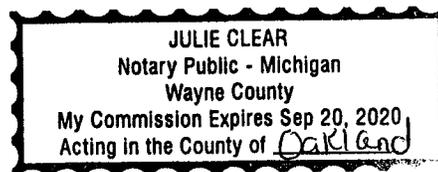
On this 28<sup>th</sup> day of December, 2016, before me, personally appeared the above-named Jeffrey Wainwright, the Owner of Secure Development Properties LLC, a MI limited liability co., to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as his free act and deed.

Julie Clear

Notary Public  
Acting in Oakland County, Michigan  
My Commission Expires: 9/20/20

THIS INSTRUMENT DRAFTED BY:  
Elizabeth K. Saarela  
Johnson, Rosati, Schultz & Joppich, P.C.  
27555 Executive Drive, Suite 250  
Farmington Hills, MI 48331

WHEN RECORDED, RETURN TO:  
Cortney Hanson, Clerk  
City of Novi  
45175 Ten Mile Road  
Novi, MI 48334



# EXHIBIT A

## LEGAL DESCRIPTION OVERALL SUBJECT PARCEL:

A part of the Southeast 1/4 of Section 16, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; more particularly described as commencing at Southeast Corner of said Section 16; thence North 00°59'30" East, 1325.52 feet, along the East line of said Section 16 and the centerline of Taft Road, to the Northeast corner of "Andes Hills Condominium", O.C.C.P. #784, as recorded in Liber 12942, on Pages 685 through 733, Oakland County Records; thence South 89°53'10" West, 786.14 feet, along the North line of said "Andes Hills Condominium", to the Northwest corner of said "Andes Hills Condominium" and the POINT OF BEGINNING; thence South 00°59'48" West, 330.24 feet, along the West line of said "Andes Hills Condominium", to the Southwest corner of said "Andes Hills Condominium"; thence Due West, 545.99 feet (previously described as 545.94 feet); thence North 00°42'26" East, 329.38 feet (previously described as 328.96 feet); thence North 89°54'44" East, 144.79 feet (previously described as 144.63 feet); thence North 00°59'30" East, 826.59 feet (previously described as 826.52 feet), to the centerline of Grand River Avenue right-of-way; thence South 71°06'18" East, 284.26 feet, along the centerline of said Grand River Avenue right-of-way; thence South 00°59'30" West, 360.01 feet; thence South 71°06'18" East, 139.07 feet; thence South 00°59'45" West, 328.86 feet, to the Point of Beginning. All of the above containing 10.053 Acres. All of the above being subject to the rights of the public in Grand River Avenue. All of the above being subject to easements, restrictions, and right-of-ways of record.  
Sidwell No.'s 22-16-451-009, 22-16-451-046



## EXHIBIT C

### LEGAL DESCRIPTION

#### EASEMENT FOR PERIMETER/ LANDSCAPE BERM

(1) A 50' wide easement, being part of the Southeast ¼ of Section 16, town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; said easement being more particularly described as commencing 50' west of the Southeast Corner of the Zoning Boundary Line located north of S 89 degrees, 53 minutes, and 10 seconds lot line identification, thence South to a line 50' north of the southern most property line, N 359490.7887 / E. 13357534.5385 (corner), thence west to a line 50' east of the eastern most property line, N. 359465.0662 / E. 13356989.1508 (corner), thence northward to property line commencing at N. 359794.2425 / E. 13356977.6959.

(2) An easement of size 40' by 140' rectangular in shape, reserved for the purpose of becoming a potential future landscape berm and being part of Southeast ¼ of Section 16, town 1 North, Range 8 East, City of Novi, Oakland County, Michigan: said easement being located 90' from the eastern most property line, S 89 degrees, 53 minutes, and 10 seconds lot line identification, thence, the southern most boundary of the said easement being located 120' north of the southern property line commencing at corner N 3594490.7887 / E. 1335757534.5385.

All of the above being subject to easements, restrictions, and right-of-way of record.

Sidwell Numbers: 22-16-451-009, 22-16-451-046