

cityofnovi.org

## CITY of NOVI CITY COUNCIL

**Agenda Item 4**  
**August 11, 2008**

**SUBJECT:** Consideration of the vacation of the remaining portion of the former Summit Drive in the Summit Hills subdivision, and approval of a resolution to set a public hearing for the August 25, 2008 City Council meeting.

**SUBMITTING DEPARTMENT:** Engineering *RA*

**CITY MANAGER APPROVAL:** *[Signature]*

### **BACKGROUND INFORMATION:**

When MDOT constructed M-5 in the early to mid-1990's, right-of-way was acquired from the City to construct freeway on- and off-ramps. Part of the acquisition included the majority of the alignment of the former Summit Drive (highlighted in green on the attached map), and Summit Drive was realigned/reconstructed further to the west. The remaining portion of Summit Drive's former alignment abuts Lots 4 and 14 owned by Mr. Robert Schmid and Mr. Jerry Shaba, respectively (highlighted in red on the attached map).

In November 2003, Mr. Schmid requested that this remaining piece of the former Summit Drive be vacated by the City (Schmid letter attached). In addition, Mr. Shaba, has routinely inquired about the status of vacating this land and he has indicated his desire for the street vacation to take place.

Over the ensuing period, several attempts were made by Administration to get this area legally described, but with no success. Recently, the Engineering Department retained the services of surveyors from Stantec to: obtain the necessary legal documents from MDOT describing its rights-of-way, get title work for properties abutting the subject area, survey the area to be vacated, and prepare the attached legal description.

The request has been reviewed favorably by and without comment from Administration staff. Because only two landowners abut the area in question and they both favor the action, formal polling was not conducted. The City Attorney's office has also reviewed this request, and has prepared the attached resolution to hold a public hearing at the August 25<sup>th</sup> Council meeting.

If approved, the approximate one-third acre area would be divided equally between the two landowners. The City of Novi would derive two public benefits as a result of this street vacation. Because this portion of Summit is no longer used or needed, the City's liability would be reduced; and, the City's property tax revenue would be increased.

**RECOMMENDED ACTION:** Consideration of the vacation of the remaining portion of the former Summit Drive in the Summit Hills subdivision, and approval of a resolution to set a public hearing for the August 25, 2008 City Council meeting.

	<b>1</b>	<b>2</b>	<b>Y</b>	<b>N</b>
<b>Mayor Landry</b>				
<b>Mayor Pro Tem Capello</b>				
<b>Council Member Crawford</b>				
<b>Council Member Gatt</b>				

	<b>1</b>	<b>2</b>	<b>Y</b>	<b>N</b>
<b>Council Member Margolis</b>				
<b>Council Member Mutch</b>				
<b>Council Member Staudt</b>				



August 5, 2008

30903 Northwestern Highway  
P.O. Box 3040  
Farmington Hills, MI 48333-  
3040  
Tel: 248-851-9500  
Fax: 248-851-2158  
www.secretwardle.com

Rob Hayes, City Engineer  
CITY OF NOVI  
45175 West Ten Mile Road  
Novi, Michigan 48375

Thomas R. Schultz  
Direct: 248-539-2847  
tschultz@secretwardle.com

Re: **Summit Hills Subdivision**  
**Vacation of "Old" Summit Drive**  
Our File No. 55142 NOV

Dear Mr. Hayes:

We have received and reviewed the materials you provided regarding the Request to Vacate the remaining portion of "Old" Summit Drive within the Summit Hills Subdivision.

The Land Division Act, Public Act No. 288 of 1967, as set forth in MCL 560.101, *et seq.*, provides for the vacation of public roads and alleys within platted subdivisions. MCL 560.255a provides that a municipality may revise, alter, and/or vacate land used for a public way and/or vehicular travel so long as that land is not within 25 meters of a lake or the general course of a stream.

Based on our review of the materials provided, including a copy of the plat and aerial photographs, it appears that the area in question is not within 25 meters of a lake or the general course of a stream. Subject to confirmation of this fact, the portion of roadway at issue may be vacated by resolution of City Council.

Section 7.6 of the City Charter provides that the issue of right-of-way vacation must be set for a public hearing. Notice of the public hearing must be provided one week in advance in the City's usual manner. We have prepared and enclosed a Resolution that the City may use for setting a public hearing regarding this proposed vacation:

In the Resolution, we listed the August 11, 2008 as the date City Council decides whether to set the public hearings. We did not write in a date of the public hearing.

Please note the Resolution contains a requirement for notice to be mailed directly to owners of parcels adjacent to Summit Drive. This is not a requirement of the Charter or a statute but is common practice for this type of issue.

If City Council determines to proceed with the vacation after the public hearing, we will draft a "second" Resolution accomplishing the vacations for consideration at a separate City Council meeting.

Rob Hayes, City Engineer  
August 5, 2008  
Page 2

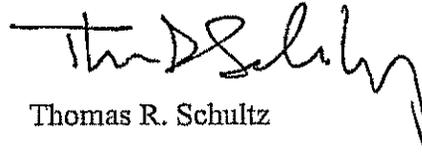
The Resolution vacating Summit Drive must be approved by five (5) members of City Council. Note that, while the vacation by the City Council would abandon the City's interest in the area and will likely result in the City Assessor taking appropriate action to reflect the vacation, it will be up to the adjoining owners to determine if any formal vacation through the Circuit Court is required to assure their clean and unencumbered title to the area as contemplated by the Land Division Act.

It is our understanding that both the Community Development and Engineering Departments have considered the issue of whether the right-of-way should be vacated, and if so, if it is necessary for the City to maintain any utility easements in that area, and that both have determined no easements are required. If the City determines an easement should be retained, the "second" resolution may be modified to set forth an easement.

Finally, MCL 560.257 requires that the resolutions vacating Summit Drive to be recorded within 30 days with the register of deeds and a copy shall be sent to the state treasurer.

Should you have any additional questions or concerns in regard to this matter, please feel free to contact me.

Very truly yours,

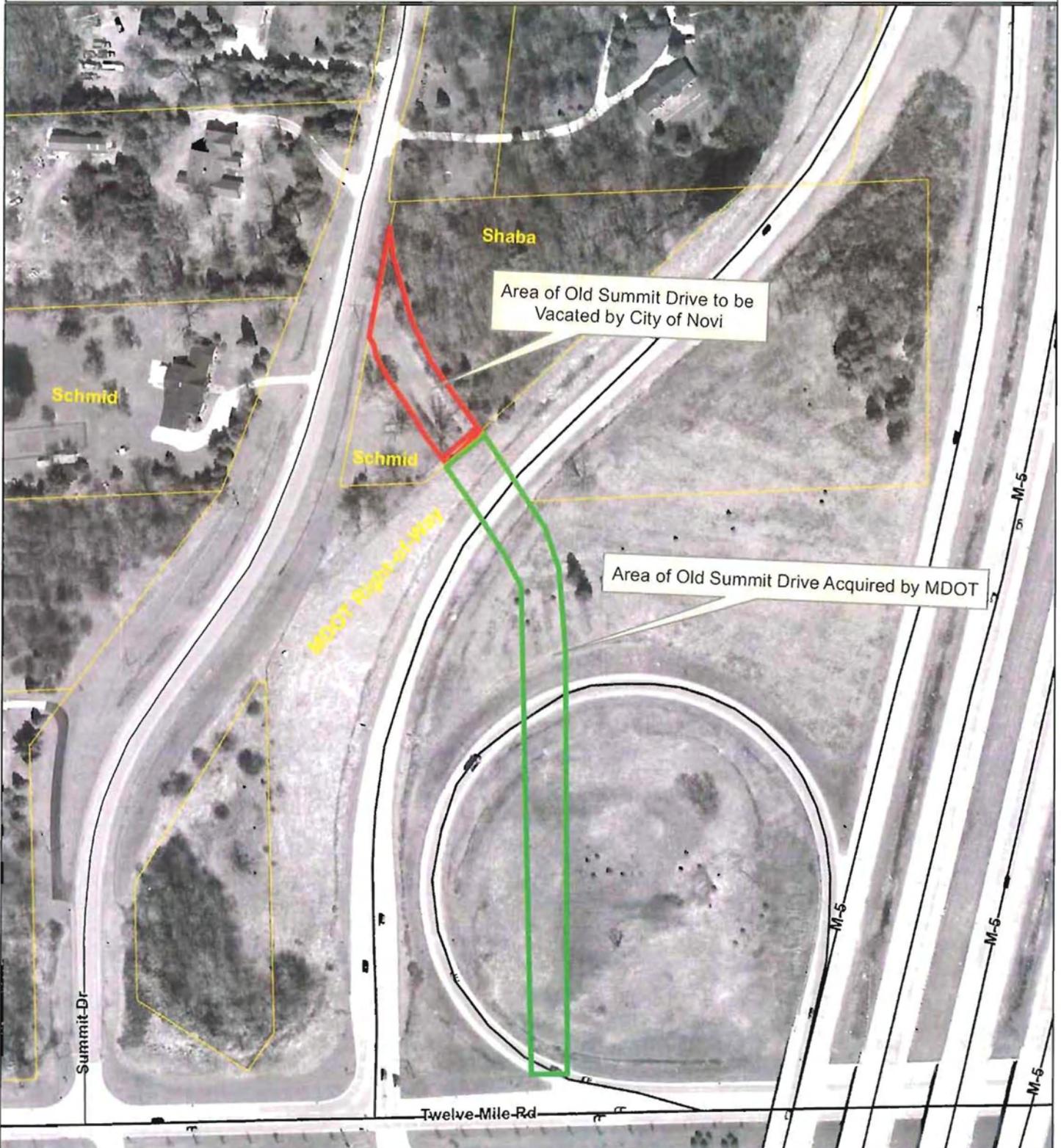


Thomas R. Schultz

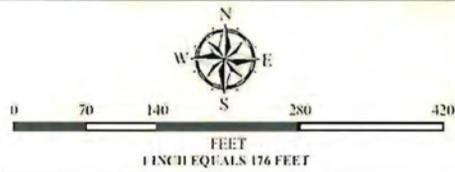
TRS/jes  
Enclosure

1109660

# Summit Drive - Street Vacation



**CITY OF NOVI**  
 ENGINEERING DEPARTMENT  
 NOVI CITY HALL CIVIC CENTER  
 45175 W. TEN MILE ROAD  
 NOVI, MI 48375-3024  
 (248) 347-0454  
 WWW.CITYOFNOVI.ORG

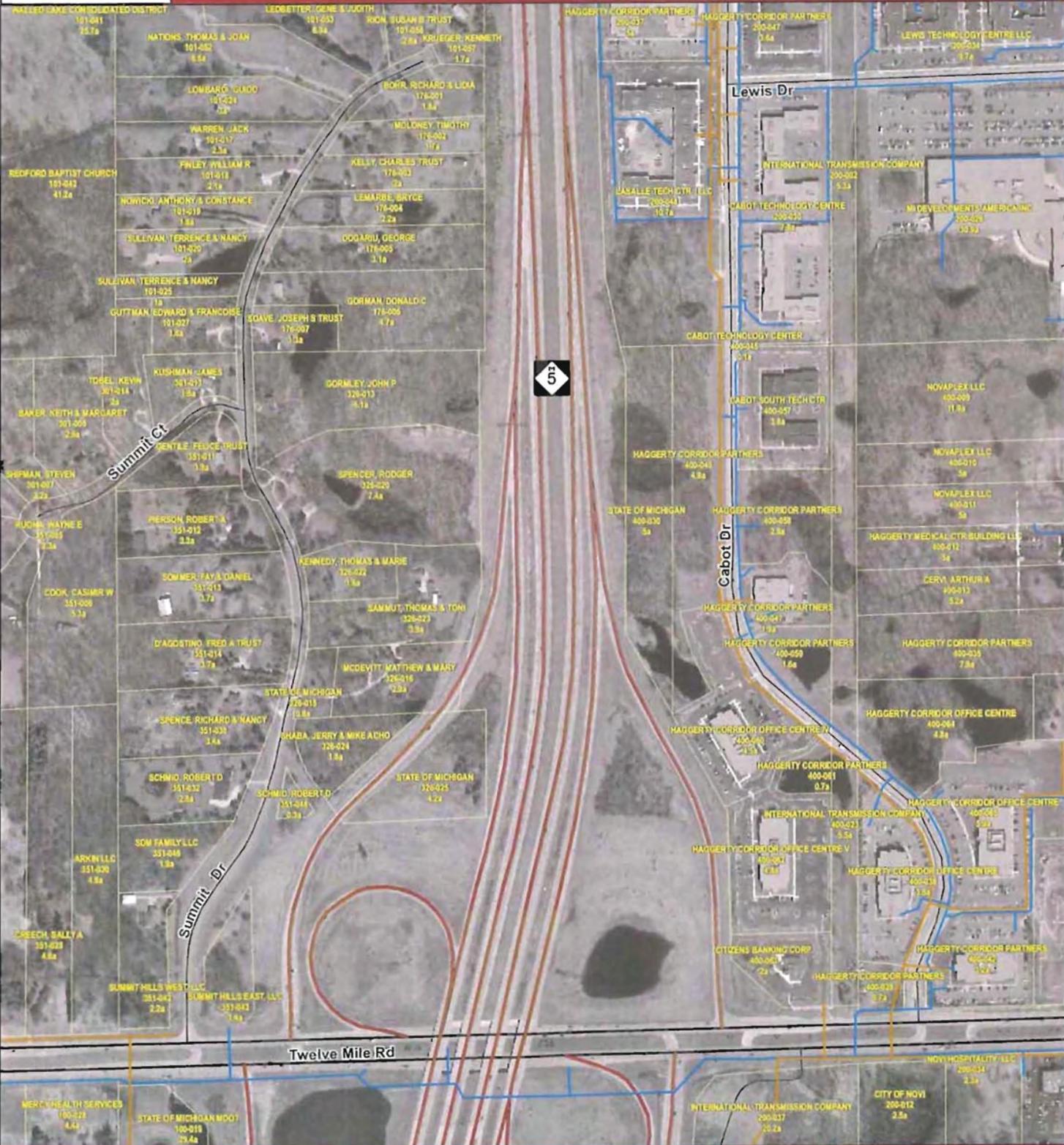


**MAP INTERPRETATION NOTICE**  
 Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements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

- Sanitary Mains
- Water Mains
- Freeways
- Major Roads
- Minor Roads
- Tax Parcels

# M-5 Twelve Mile Corridor Property Ownership & Utility Reference

## Section 12 - City of Novi, Michigan



**CITY OF NOVI**  
 GEOGRAPHIC INFORMATION SERVICES  
 45175 W. TEN MILE ROAD  
 NOVI, MI 48375-3024  
 (248) 347-3279  
 MAP AUTHOR: CHRIS BLOUGH,  
 CITY GIS MANAGER

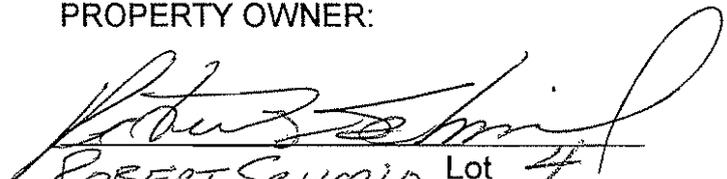


**MAP INTERPRETATION NOTICE**  
 Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements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

TO THE NOVI CITY COUNCIL:

The undersigned owner of Lot 4 in Summit Hills Subdivision, requests the City Council, pursuant to Section 7.6(a) of the City Charter, to introduce the following Resolution to vacate a portion of Old Summit Drive, and set a public hearing for the adoption of the Resolution. The reason for this request is that that portion of Old Summit Drive has been abandoned and has not been used by the adjoining property owners or the general public since the construction of Relocated Summit Drive, and is maintained by the undersigned property owner.

PROPERTY OWNER:

  
ROBERT SCHMID Lot 4

Dated: 11-13<sup>o</sup>, 2003

**RESOLUTION NO.**

That the following described part of Old Summit Drive, part of An abandoned public street is hereby vacated in that the same is no longer required for public use and the public interest will be served by such vacation.

(LEGAL DESCRIPTION TO BE SUPPLIED)

CITY OF NOVI

OAKLAND COUNTY, MICHIGAN

**RESOLUTION TO SET PUBLIC HEARING TO CONSIDER VACATING A PORTION OF  
A PLATTED ROAD IN THE SUMMIT HILLS SUBDIVISION  
IN THE CITY OF NOVI**

At a meeting of the City Council of the City of Novi, Oakland County, Michigan, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, at the City Hall, 45175 West Ten Mile Road, Novi, Michigan 48375.

The following resolution was offered by \_\_\_\_\_ and supported by \_\_\_\_\_.

**WHEREAS**, a request has been received by the City Council seeking the vacation, discontinuance, or abolition of the following portion of a platted road within the City of Novi, legally described as:

A PARCEL OF LAND BEING PART OF SUMMIT DRIVE OF "SUMMIT HILLS", A SUBDIVISION OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 12, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 43 OF PLATS, PAGE 57, OAKLAND COUNTY RECORDS, AND BEING MORE SPECIFICALLY DESCRIBED AS COMMENCING AT THE SOUTH 1/4 POST OF SAID SECTION 12; THENCE SOUTH 85° 12' 58" WEST 904.37 FEET ALONG THE SOUTH LINE OF SAID SECTION 12 AND THE CENTERLINE OF TWELVE MILE ROAD; THENCE NORTH 03° 55' 42" WEST 86.99 FEET; THENCE ALONG THE WESTERLY RIGHT OF WAY OF M-5 ON THE NEXT THREE COURSES: NORTH 32° 24' 14" EAST 60.71 FEET; NORTH 03° 55' 42" WEST 483.64 FEET; NORTH 28° 53' 31" EAST 162.71 FEET; THENCE NORTH 08° 23' 28" EAST 295.92 FEET TO THE WESTERLY LINE OF SUMMIT DRIVE AS PLATTED IN SAID "SUMMIT HILLS" SUBDIVISION FOR THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 08° 23' 28" EAST 131.92 FEET TO THE EASTERLY LINE OF SAID SUMMIT DRIVE; THENCE SOUTHEASTERLY 191.31 FEET ALONG THE EASTERLY LINE OF SUMMIT DRIVE AND THE ARC OF A 405.00-FOOT CURVE TO THE LEFT, DELTA ANGLE 27° 03' 53", CHORD BEARING SOUTH 24° 08' 46" EAST 189.53 FEET; THENCE SOUTH 37° 40' 42" EAST 78.66 FEET ALONG THE EASTERLY LINE OF SAID SUMMIT DRIVE TO THE WESTERLY RIGHT OF WAY OF M-5; THENCE SOUTH 45° 00' 00" WEST 60.49 FEET ALONG THE WESTERLY RIGHT OF WAY OF M-5 TO THE WESTERLY LINE OF SAID SUMMIT DRIVE; THENCE NORTH 37° 40' 42" WEST 86.37 FEET ALONG THE WESTERLY LINE OF SAID SUMMIT DRIVE; THENCE NORTHWESTERLY 93.38 FEET ALONG THE WESTERLY LINE OF SUMMIT DRIVE

AND THE ARC OF A 465.00-FOOT CURVE TO THE RIGHT, DELTA ANGLE 11° 30' 20", CHORD BEARING NORTH 31° 55' 33" WEST 93.22 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.30 ACRES OF LAND, MORE OR LESS. SUBJECT TO EASEMENTS, RESTRICTIONS AND OTHER PERTINENT INSTRUMENTS.

**WHEREAS**, the road at issue is a portion of the "Old" Summit Drive, located north of Twelve Mile Road and west of the M-5 Connector, which has been replaced by a realigned road, the "Relocated" Summit Drive, as a result of the freeway improvements in the area;

**WHEREAS**, the request for vacation asserts that the portion of the "Old" Summit Drive sought to be vacated is no longer used for public road purposes because of the availability of the "Relocated" Summit Drive;

**WHEREAS**, the City Council has considered such request and has determined to proceed thereon in accordance with the requirements of the applicable statutory, charter, and ordinance provisions, and pursuant to the terms of the attached proposed resolution;

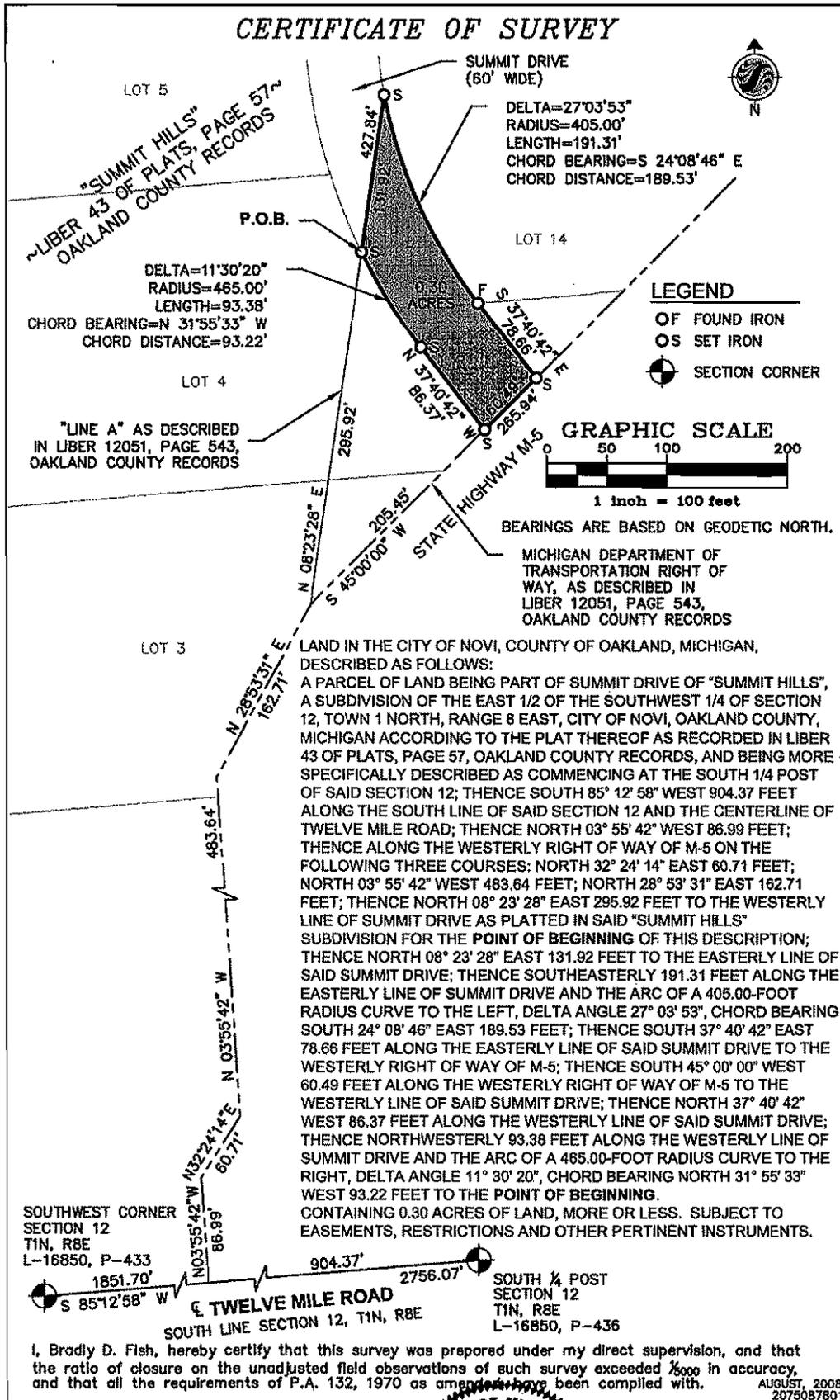
**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Novi City Council that:

1. That the City Council deems it advisable to consider the vacation, discontinuance, or abolition of the portion of a platted public road located in the Summit Hills Subdivision, west of the M-5 Connector and north of Twelve Mile Road, within the City of Novi, County of Oakland, State of Michigan, and which is legally described as:

A PARCEL OF LAND BEING PART OF SUMMIT DRIVE OF "SUMMIT HILLS", A SUBDIVISION OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 12, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 43 OF PLATS, PAGE 57, OAKLAND COUNTY RECORDS, AND BEING MORE SPECIFICALLY DESCRIBED AS COMMENCING AT THE SOUTH 1/4 POST OF SAID SECTION 12; THENCE SOUTH 85° 12' 58" WEST 904.37 FEET ALONG THE SOUTH LINE OF SAID SECTION 12 AND THE CENTERLINE OF TWELVE MILE ROAD; THENCE NORTH 03° 55' 42" WEST 86.99 FEET; THENCE ALONG THE WESTERLY RIGHT OF WAY OF M-5 ON THE NEXT THREE COURSES: NORTH 32° 24' 14" EAST 60.71 FEET; NORTH 03° 55' 42" WEST 483.64 FEET; NORTH 28° 53' 31" EAST 162.71 FEET; THENCE NORTH 08° 23' 28" EAST 295.92 FEET TO THE WESTERLY LINE OF SUMMIT DRIVE AS PLATTED IN SAID "SUMMIT HILLS" SUBDIVISION FOR THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 08° 23' 28" EAST 131.92 FEET TO THE EASTERLY LINE OF SAID SUMMIT DRIVE; THENCE SOUTHEASTERLY 191.31 FEET ALONG THE EASTERLY LINE OF SUMMIT DRIVE AND THE ARC OF A 405.00-FOOT CURVE TO THE LEFT, DELTA ANGLE 27° 03' 53", CHORD BEARING SOUTH 24° 08' 46" EAST 189.53 FEET; THENCE SOUTH 37° 40' 42" EAST 78.66 FEET ALONG THE EASTERLY LINE OF SAID SUMMIT DRIVE TO THE WESTERLY RIGHT OF WAY OF M-5; THENCE SOUTH 45° 00' 00" WEST



# CERTIFICATE OF SURVEY



I, Bradly D. Fish, hereby certify that this survey was prepared under my direct supervision, and that the ratio of closure on the unadjusted field observations of such survey exceeded 1/5000 in accuracy, and that all the requirements of P.A. 132, 1970 as amended have been complied with.

AUGUST, 2008  
2075087801



**Stantec**

Stantec Consulting Michigan Inc.  
 3959 Research Park Drive  
 Ann Arbor MI U.S.A.  
 48108-2216  
 Tel. 734.761.1010  
 Fax. 734.761.1200  
 www.stantec.com



Client/Project  
 CITY OF NOVI  
 SUMMIT DRIVE  
 "SUMMIT HILLS"  
 Figure No.  
 1.0  
 Title

P.A. 132  
 CERTIFICATE OF SURVEY