



CITY of NOVI CITY COUNCIL

Agenda Item N
September 12, 2011

SUBJECT: Approval of a request from Krista Franchi for a variance from Section 11-194(a)(19) of the Design and Construction Standards to permit: 1) a reduction in the size of a secondary emergency access easement across Units 5 and 6 of the Mirabella Estates Condominium Subdivision from the required 25 feet to 15 feet and 2) a reduction in the physical width of the emergency drive from the required 18 feet to 15 feet. The secondary access was required on the approved site plan for Mirabella Estates Condominium (formerly known as Meadowbrook 8 Subdivision).

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

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

Krista Franchi, the property owner of unit 6 at Mirabella Estates Condominium, is requesting a variance from Section 11-194(a)(19) of the Design and Construction Standards requiring secondary emergency access drives to be a minimum of 18 feet wide with a minimum easement width of 25 feet. The secondary emergency access was required as a condition of site plan approval for the Mirabella Estates Condominium and at the November 10, 2003 City Council meeting a 25 foot wide Emergency Access Stub Easement over units 5 and 6 of the condominium was approved and placed in escrow for an 18 foot wide secondary emergency access drive for a future connection to the west of this development. Normandy Hills was developed to the west of Mirabella Estates and was approved with an emergency access driveway connection to the subject emergency access drive. The emergency access driveway for Normandy Hills has not been constructed but will be required when the underlying parcel seeks a building permit.

The applicant has recently constructed a home on unit 6 and has requested that the secondary emergency drive be relocated outside of the proposed driveway. The current emergency access drive location (as approved in 2003) would prohibit parking in the applicant's driveway because the only location for a driveway is within the emergency access drive easement. The applicant has proposed that the emergency access be constructed adjacent to the driveway using reinforced turf and that the drive and easement width be reduced from 18 feet to 15 feet, and 25 feet to 15 feet, respectively. The applicant is requesting a reduction in the width of the secondary emergency access easement to provide the access and to maintain full use of the driveway.

The City Attorney has no objection to the approval of the variance, subject to the applicant providing necessary revisions to the proposed Second Amended Master Deed and that the applicant meets the Fire Marshal's requests (Beth Kudla's September 1, 2011 letter, attached). The Novi Fire Department has recommended approval of the reduced easement for the reason that the proposed variance will allow for the necessary ingress and egress of emergency vehicles (Jeff Johnson's August 23, 2011 response, attached). Building, Engineering, and Landscaping have no concerns with the variance request.

The applicant is currently is in site plan review for the attached plan, which includes revisions to the physical characteristics of the emergency access drive.

RECOMMENDED ACTION: Approval of a request from Krista Franchi for a variance from Section 11-194(a)(19) of the Design and Construction Standards to permit: 1) a reduction in the size of a secondary emergency access easement across Units 5 and 6 of the Mirabella Estates Condominium Subdivision from the required 25 feet to 15 feet and 2) a reduction in the physical width of the emergency drive from the required 18 feet to 15 feet. The secondary access was required on the approved site plan for Mirabella Estates Condominium (formerly known as Meadowbrook 8 Subdivision).

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

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

Sec. 11-194. - Design considerations.

(a) (19) Except as provided below, a secondary (emergency) access driveway is required where only one access point is provided. A secondary access driveway shall be a minimum of eighteen (18) feet in width and paved to provide all-weather access and shall be designed to support a vehicle of thirty-five (35) tons. Minimum easement width for secondary access driveways shall be twenty-five (25) feet. A permanent "break-away" gate shall be provided at the secondary access driveway's intersection with the public roadway in accordance with Figure VIII-K. Cellular pavers, with established and viable turf, known as "turf pavers," may be used for a secondary access only, subject to the requirements of subsection c. below.

a.

In the case of residential development, when each dwelling unit is within eight hundred (800) feet of street distance from the nearest point of external access; one thousand five hundred (1,500) feet in the RA district with conventional development; one thousand (1,000) feet in RA district with development option, e.g., RUD, preservation option, etc.

b.

In the case of non-residential development, when the development is of a single building, and when the fire chief (or designee) determines, based upon the use and occupancy of the proposed building, the manner of construction of the proposed building, and the number of occupants for the proposed building, that there is a reduced risk of fire hazard such that the facility may be served by a single point of external access.

c.

Turf pavers may be allowed for a secondary access drive, if all of the following are met:

1.

The proposed use of turf pavers shall be evaluated by the fire marshal, which evaluation shall include a review of the standard details for construction established by the city engineer and adopted by resolution of the city council.

2.

The pavers proposed for such use shall have a minimum design compressive strength of thirty-five (35) tons.

3.

A secondary access drive constructed of turf pavers shall be designated by landscaping and signage clearly indicating its function as a secondary access drive, and shall be mowed and kept clear of snow and ice as necessitated by the weather conditions.

4.

Under no circumstances shall the secondary access drive permitted under this section be considered suitable or intended for use as a platform for fire engine or ladder truck operations.

a.

In the case of residential development, when each dwelling unit is within eight hundred (800) feet of street distance from the nearest point of external access; one thousand five hundred (1,500) feet in the RA district with conventional development; one thousand (1,000) feet in RA district with development option, e.g., RUD, preservation option, etc.

b.

In the case of non-residential development, when the development is of a single building, and when the fire chief (or designee) determines, based upon the use and occupancy of the proposed building, the manner of construction of the proposed building, and the number of occupants for the proposed building, that there is a reduced risk of fire hazard such that the facility may be served by a single point of external access.

Emergency Access Drive Location

Normandy Hills and Mirabella Estates



Approximate Location
Emergency Access Drive
Easement

Unit 10

Unit 5

Mirabella Estates

Unit 11

Unit 6

Normandy Hills Estates Condo

Map Author: Brian Collins
Date: 9/6/11
Project:
Version #

Map information is provided as a service to the public and is not intended to be used as a legal document. The user is responsible for verifying the accuracy of the information. The City of Novi is not responsible for any errors or omissions. The City of Novi is not responsible for any damages or losses resulting from the use of this information. The City of Novi is not responsible for any actions taken based on this information. The City of Novi is not responsible for any consequences of any kind arising from the use of this information. The City of Novi is not responsible for any claims, damages, or losses of any kind arising from the use of this information. The City of Novi is not responsible for any claims, damages, or losses of any kind arising from the use of this information.

Map Legend

- Mirabella Estates
- Normandy Hills Estates Condo

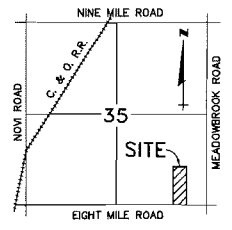


City of Novi

Engineering Division
Department of Public Services
26300 Devel Drive
Novi, MI 48375
city@novi.org

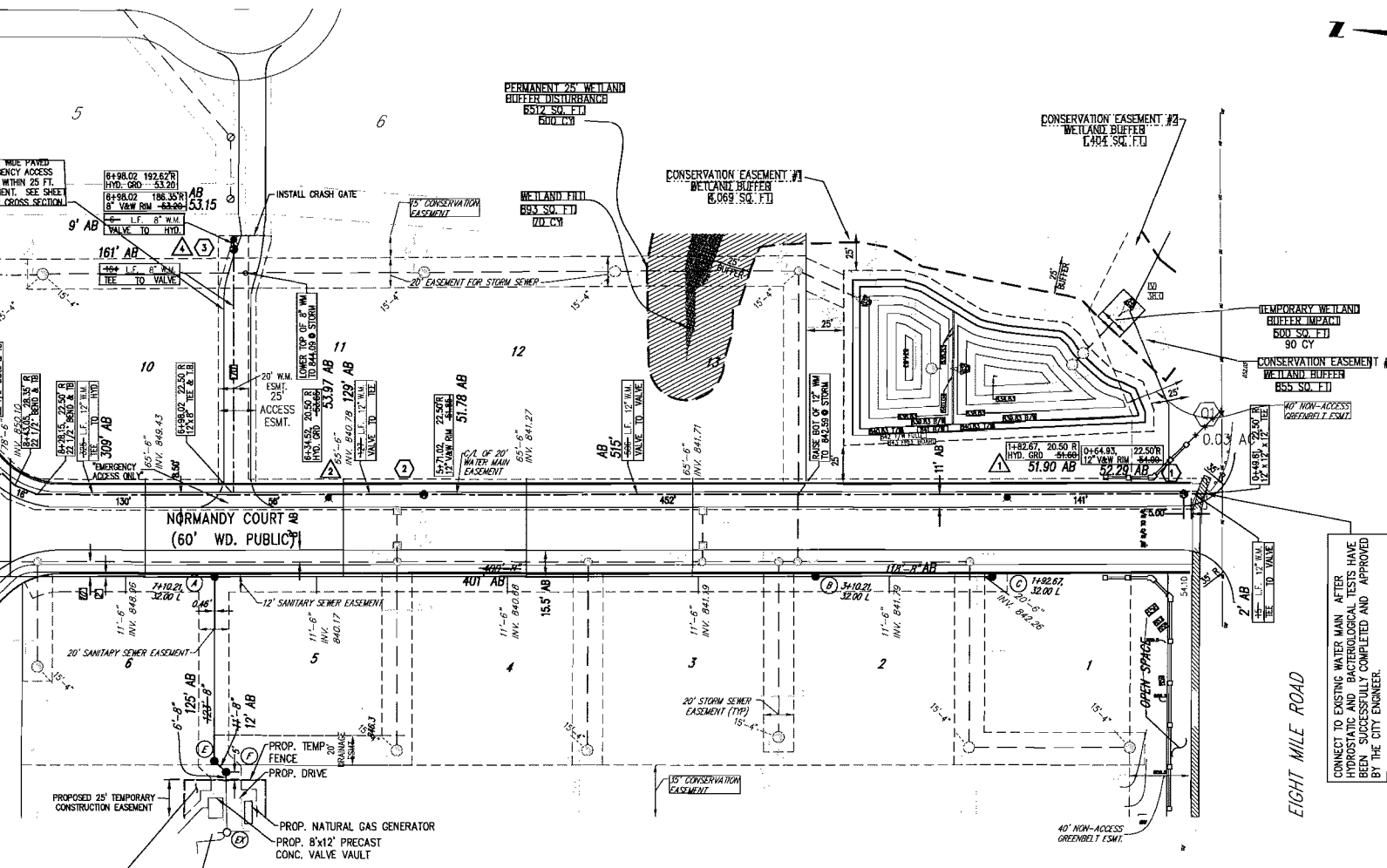


APPROVED NORMANDY HILLS PLAN



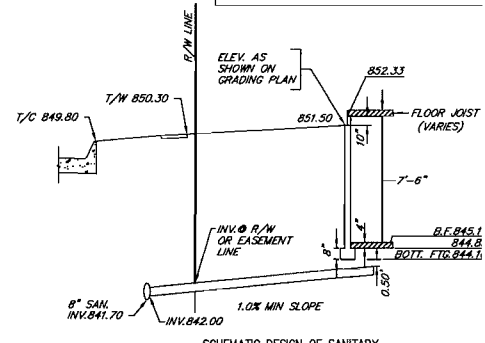
LOCATION MAP
NO SCALE

LEGEND		
PROPOSED	DESCRIPTION	EXISTING
	DRAINAGE STRUCTURE W/ SOLID TYPE COVERS	
	DRAINAGE STRUCTURE W/ GRATE TYPE COVERS	
	DRAINAGE STRUCTURE W/ GRATE TYPE COVERS	
	DRAINAGE STRUCTURE W/ GRATE TYPE COVERS	
	DRAINAGE STRUCTURE W/ GRATE TYPE COVERS	
	DRAINAGE STRUCTURE W/ GRATE TYPE COVERS	
	SANITARY SEWER MANHOLE	
	GATE WELL	
	HYDRANT	
	POWER POLE	
	TELEPHONE PEDESTAL	
	CABLE PEDESTAL	
	DETROIT EDISON PEDESTAL	
	SANITARY SEWER	
	STORM SEWER	
	WATER MAIN	
	WETLAND	
	FENCE LINE	
	SIGN	
	TREE	
	PROPERTY LINE	
	DRAINAGE ARROW	
	OVERHEAD WIRES	
	TOP OF BANK	
	CONTOURS	
	SPOT ELEVATIONS	
	WOODLANDS BOUNDARY	
	BUILDABLE AREA	
	WETLANDS FILL	
	TEMPORARY WETLAND BUFFER IMPACT	
	CONSERVATION EASEMENT AREA	

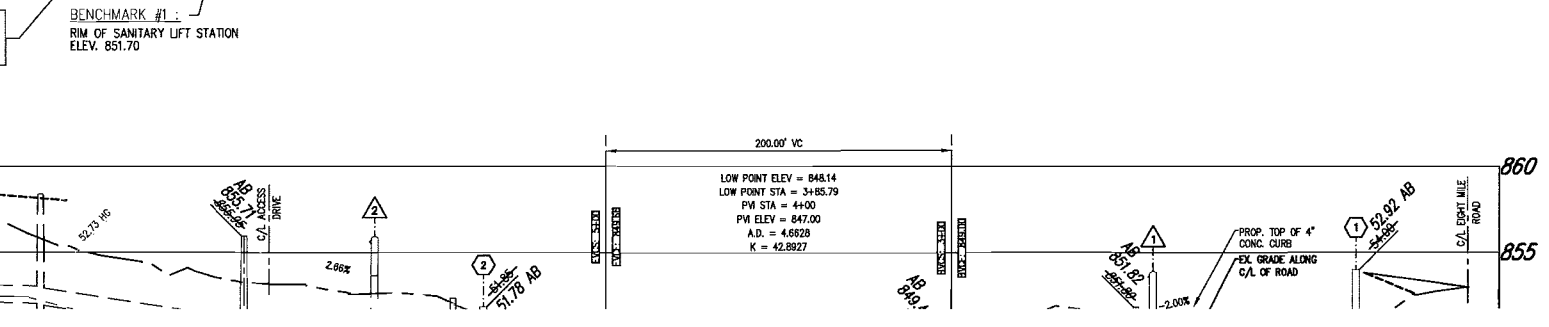


EIGHT MILE ROAD

CONNECT TO EXISTING WATER MAIN AFTER HYDROSTATIC AND BACTERIOLOGICAL TESTS HAVE BEEN SUCCESSFULLY COMPLETED AND APPROVED BY THE CITY ENGINEER.



SCHEMATIC DESIGN OF SANITARY SEWER LEADS
NOT TO SCALE



BENCH MARKS
BENCH MARK #1:



Request for Variance Design and Construction Standards

Applicant Information

Name: Krista J. Franchi

Address: 41600 Carmela Court
Novi, Michigan 48167

Phone No: c/o Kim Capello 248-380-5122

Engineer Information

Name: Jekabson & Assoc

Address: 1320 Goldsmith
Plymouth, Michigan 48170

Phone No: 734-414-7200

Applicant Status (please check one):

Property Owner Developer Developer / Owner Representative

Other Kim T. Capello, Attorney for Owner

Project Name Lot No. 6 Mirabella Estates Emergency Access Easement Re-location

Project Address/Location Unit No. 6 Mirabella Estates, Novi, Michigan

Variance Request Modify and relocate emergency access easement. reduce size to 15 feet in width and to allow for drive to be c

Justification (attach additional pages if necessary)

Practicality, environmental concerns, maintenance and aesthetics.

INTERNAL USE

Date Submitted: 8/15/11

Code Section from which variance is sought: Sec. 11-194(a)(19)

Submittal Checklist: Twelve (12) sets of plans (folded and to scale)

One (1) copy of plan on 8.5 x 11 size paper

\$100 Filing Fee

SECOND AMENDED

MASTER DEED MIRABELLA ESTATES

This Second Amended Master Deed of Mirabella Estates (formerly known as Meadowbrook-8) is made and executed on this ____ day of August, 2011, by Mirabella Estates, LLC, a Michigan limited liability company, hereinafter referred to as the “Developer”, whose address is 46870 Seven Mile Road, Northville, Michigan, 48167, pursuant to the provisions of the Michigan Condominium Act (being Act 59 of the Public Acts of 1978, as amended).

WHEREAS, the Developer desires by recording this Second Amendment to the Master Deed, to relocate and modify the emergency access easements shown on the original and amended plans. The emergency access easement shown on previously recorded plans shall hereby be vacated and be replaced as herein set forth.

NOW, THEREFORE, the Developer did, upon the recording of the Master Plan, establish MIRABELLA ESTATES as a Condominium Project under the Act and does declare that MIRABELLA ESTATES shall, after such establishment be held, conveyed, hypothecated, encumbered, leased, rented, occupied, improved, or in any other manner utilized, subject to the provisions of the Act, and to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in the Master Deed, the Bylaws and the Condominium Subdivision Plan, as amended, all of which shall be deemed to run with the land and shall be a burden and a benefit to the Developer and any persons acquiring or owning an interest in the Condominium Premises and their respective successors and assigns. The original Master Plan and First Amended Master Plan shall be amended as follows:

ARTICLE VIII EASEMENTS

Section 8. Emergency Access Stub Street. Final Site Plan approval of the Condominium was based, in part, on the City's recognition that the City of Novi Subdivision Ordinance requires stub street locations along every 1300-ft of property boundary frontage, and that the subject property is encumbered by an emergency access easement to and from the adjacent property to the west pursuant to the applicable provisions of the Subdivision Ordinance. The Emergency Access Easement (the "Easement") herein established shall provide for emergency access to and from the adjacent property to the west, by emergency service providers, or any private emergency service agency, for purposes of ingress and egress to provide, without limitation, fire and police protection, ambulance, fire and rescue services. The Easement shall be held in escrow, for the benefit of the City, the Developer, the Co-owners, and the Association, to be dedicated to the City, when and if it is necessary to provide emergency access to and from property to the west of the Condominium. The Emergency Access Easement shall be granted by the Developer and shall be binding upon all heirs, successors, assigns and transferees of the property within the Condominium. The dimensions and location of the Emergency Access Easement shall be as depicted on Exhibit "B", attached to this amended Master Deed. Any previous Emergency Access Easements shall be deemed abandoned, vacated, null and void. The Developer, the Association and/or the Co-owners shall not take any action in respect to the Emergency Access Easement Area contrary to the use of the Easement Area for purposes of Emergency Access. In the event the property to the west is developed in a manner that the Emergency Access Easement is not required, in the City's sole discretion, the Easement shall be released to the adjoining property owners of Lots 5 and 6.

The City shall have the right, but not the obligation, to enforce construction and maintenance of the emergency access easement in accordance with the approved plans against the owner of Lot No.6. In the event that the Owner of Lot No. 6 shall at any time fail to carry out the responsibilities specified above, by maintaining the Emergency Access Easement Area in accordance with the Master Deed, as amended, and/or in the event of a failure to construct and maintain the emergency access easement as the City deems necessary, the City may serve written notice upon the Co-owner setting forth the actions which must be taken in respect to the Emergency Access Easement Area to comply with revised final site plan approval, as amended, and/or the City of Novi Design and Construction Standards. 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 Co-owners to be heard as to why the City should not proceed with the construction and/or maintenance of the Emergency Access Easement. 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 the construction has not been commenced and/or completed within the time specified by the City, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Condominium Premises, or cause its agents or contractors to enter upon the Condominium Premises and construct and/or maintain and repair the Emergency Access Easement. The cost and expense of making and financing such construction, maintenance and/or repair, including the cost of notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by the Owner of Lot No. 6 and such amount shall constitute a lien on 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 30 days of a billing to the Owner, all unpaid amounts may be placed on the delinquent tax roll of the City, pro rata, as to each unit, 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 Owner, and, in such event, the Owner shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

Section 1. Modification of Homesites or Common Elements. No Homesite dimension may be modified in any material way without the consent of the Co-owner and mortgagee of such Homesite except as otherwise expressly provided in this Master Deed or in the Bylaws to the contrary.

Except as amended herein, all other Articles, Sections, terms and provisions of the Master Deed of Mirabella Estates, as amended, shall be incorporated herein by reference and remain in full force and effect.

MIRABELLA ESTATES, LLC
a Michigan limited liability company

BY: _____
ALDO STENTA, Member

STATE OF MICHIGAN)
)ss:
COUNTY OF OAKLAND)

On this ____ day of _____, 2011, the foregoing Second Amended Master Deed was acknowledged before me by Aldo Stenta, Member of Mirabella Estates, LLC, a Michigan limited liability company, on behalf of the company.

Jodi Capello, Notary Public
Oakland County, MI
Acting in Oakland County, MI
My commission expires: 8-29-14

MASTER DEED DRAFTED BY AND
WHEN RECORDED RETURN TO:
Aldo Stenta
46870 Seven Mile Road
Northville, MI 48167

EMERGENCY ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Mirabella Estates, LLC, a Michigan Limited Liability Company, whose address is 46870 Seven Mile Road, Northville, Michigan, 48167, Krista Franchi, a married woman, whose address is 41600 Carmella Court, Northville, Michigan, and David and Diane Adams, husband and wife, whose address is _____ Carmella Court, Northville, Michigan, (“Grantors”), for and in consideration of one (\$1.00) Dollar, receipt and sufficiency of which is hereby acknowledged, hereby grant and convey to the City of Novi, a Michigan municipal corporation whose address is 45175 W. Ten Mile, Novi, Michigan, 48375, (“Grantee”), an easement for the purpose of ingress and egress by emergency service providers in, over, upon, and through, the following described premises situated over and across Unit No. 5 and Unit No. 6 of Mirabella Estates in Section 35, T.1N., R.8E., City of Novi, Oakland County, State of Michigan, to-wit:

See attached and incorporated Exhibit A

This transaction is exempt pursuant to MCLA 207.505(a) and MCLA 207.526(a)
The burden and benefit of this easement shall run with the land.

Grantors grant for the benefit of the City and any emergency service agency, an easement over the Easement Area described on the attached and incorporated Exhibit A for use by the City, and/or emergency vehicles. Said easement shall be for purposes of ingress and egress to provide, without limitation, fire and police protection, ambulances and rescue services and other lawful governmental or private emergency services to the premises, owners, occupants and invitees thereof. The foregoing easement shall in no way be construed as a dedication of any roadways to the public.

This instrument shall be binding and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns.

Dated this ____ day of August, 2011.

WITNESSES:

Mirabella Estates, LLC, a
Michigan Limited Liability Company

By: Aldo Stenta
It's Managing Member

Krista Franchi

David Adams

Diane Adams

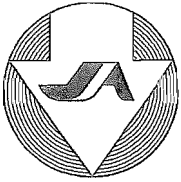
STATE OF MICHIGAN)
)ss:
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ____ day of August, 2011, by Aldo Stenta, managing member of Mirabella Estates, LLC, a Michigan Limited Liability Company on behalf of the company, Krista Franchi, David Adams and Diane Adams.

Jodi Capello, Notary Public
Oakland County, MI
Acting in Oakland County, MI
My commission expires: 8-29-14

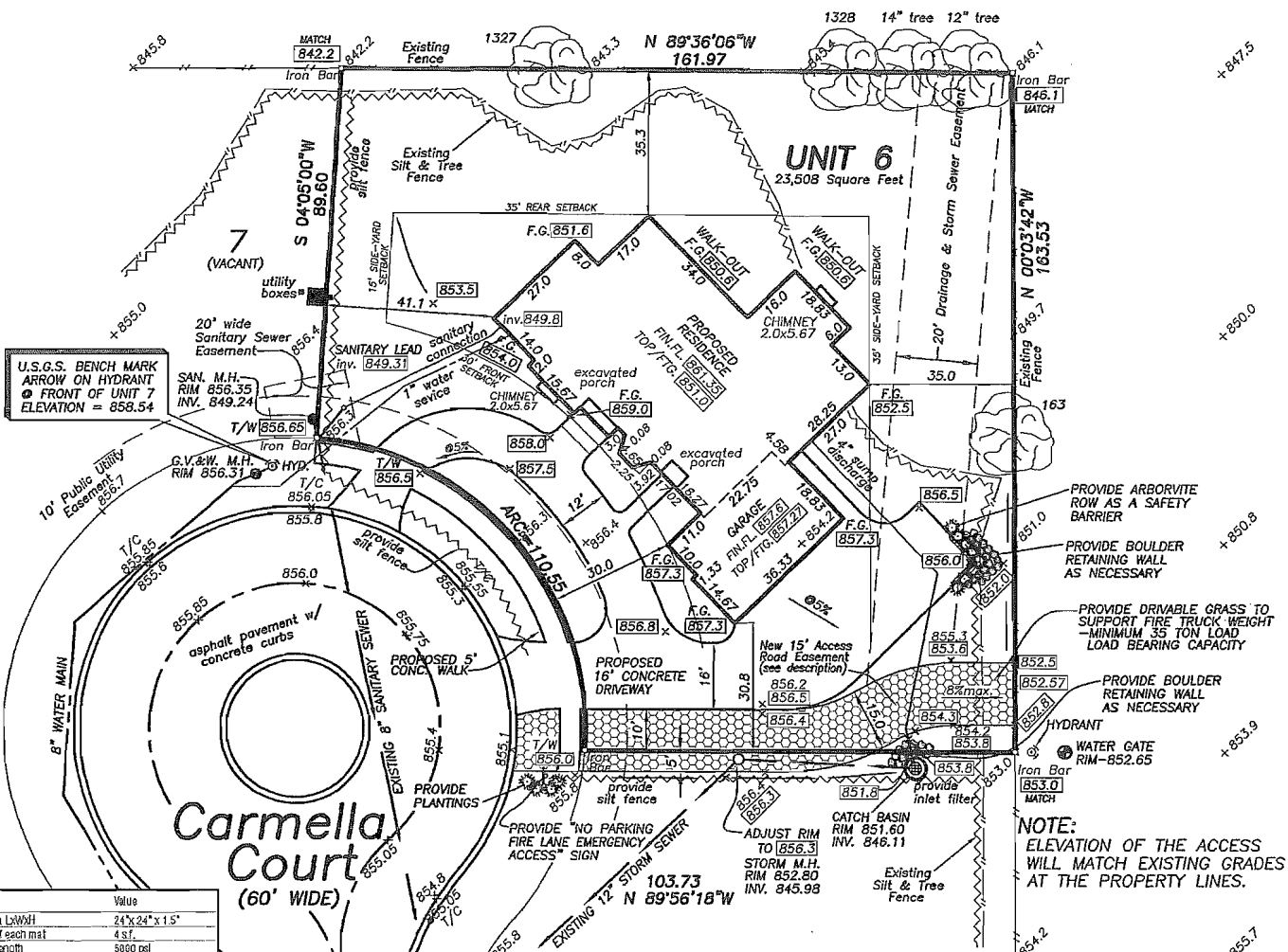
THIS INSTRUMENT DRAFTED BY:
Kim Thomas Capello
26444 Taft Road
Novi, MI 48375

AND WHEN RECORDED RETURN TO:
Maryanne Cornelius, Clerk
45175 W. Ten Mile Road
Novi, MI 48375



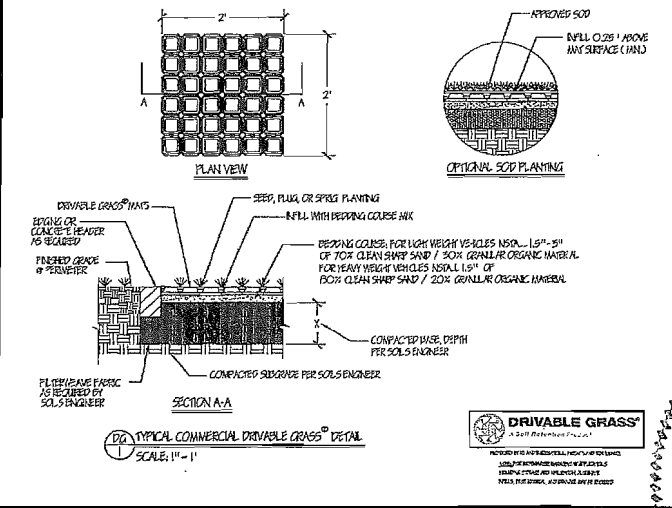
LEGAL DESCRIPTION

UNIT 6, "MEADOWBROOK-8 SITE CONDOMINIUM", LAND IN PART OF THE SOUTHEAST 1/4 OF SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN.



U.S.G.S. BENCH MARK
ARROW ON HYDRANT
FRONT OF UNIT 7
ELEVATION = 858.54

Property	Value
Nominal Area LxWxH	24"x24"x 1.5"
Gross Area of each mat	4 s.f.
Concrete Strength	5000 psi
Weight of each mat	45 lbs
Flexibility min. radius of curvature	12 in
Plantable Area	89% 100% for Sod
Concrete Surface Area	40%
Concrete Bearing Area	88%
Mats per pallet	60
Area covered per pallet	240 s.f.
Color*	Bull/Ton, Grey, Terracotta



NOTE:
ALL WORK SHALL CONFORM TO THE CURRENT CITY OF NOVI STANDARDS & SPECS.

NOTE:
ALL PROPOSED GRADES SHALL MEET AND MATCH EXISTING GRADE AT WOODLAND PROTECTION FENCE.

NOTE:
ELEVATION OF THE ACCESS WILL MATCH EXISTING GRADES AT THE PROPERTY LINES.

NOTE:
INSTALL & MAINTAIN INLET FILTER & SILT FENCE THROUGHOUT CONSTRUCTION

NOTE:
FENCE ALONG SIDE & REAR LOT LINES AS NECESSARY TO PROTECT EXISTING LAWN & LANDSCAPING ON ADJACENT PROPERTY.

NOTE:
3 WORKING DAYS BEFORE YOU DIG
CALL MISS DIG
1-800-482-7171
(TOLL FREE)

DRIVE PLAN

Prepared for:
Krista J. Franchi
4160 Carmella Court
Northville, MI 48167

REVISIONS:
28 June 11
2 Aug. 11

DATE: 21 June 11
JOB NO.: 05-07-006
SCALE: 1" = 20'
DRAWN: JBN
CHECKED: JGE
DATE: 06/21/11

000.00 = EXISTING ELEVATION
000.00 = PROPOSED ELEVATION
--- = DRAINAGE COURSE

STATE OF MICHIGAN
JOHN JERABSON
PROFESSIONAL SURVEYOR
1320 Gokemite, Plymouth, MI 48170
(313) 414-7200 (734) 414-7222

JERABSON & ASSOCIATES, P.C.
Professional Land Surveyors
1320 Gokemite, Plymouth, MI 48170
(313) 414-7200 (734) 414-7222



cityofnovi.org

CITY OF NOVI
Engineering Department
MEMORANDUM

To: Charles Boulard, Community Development
 David Beschke, Landscape Architect
 Beth Kudla, Attorney
 *Jeff Johnson, Fire Department

From: Nathan Bouvy, Engineering

Date: 8/12/11

Re: Variance from Design & Construction Standards
 Lot No. 6 Mirabella Estates Emergency Access Easement Relocation

Attached is a request for a Variance from the Design and Construction Standards. Please review for a future City Council Agenda. In accordance with Section 11-10 of the Ordinance, the following three conditions **must be met** for a variance to be granted by Council:

- 1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- 2) The alternative proposed by the applicant would be adequate for the intended use and would not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and,
- 3) The granting of the variance would not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

Following review of the variance, check the appropriate box below and provide your signature. If you have no basis for recommending either approval or denial, please check the "No Exceptions Taken" box. If you are recommending approval or denial of the request, **please also complete the matrix on the reverse of this form.** Please return to my attention by **8/26/11.**

ROUTING

Delivered To	Returned On	RECOMMENDED ACTION			Signature
		Approval*	Denial*	No Exceptions Taken	
Ben Croy (Engineering)					
Charles Boulard (Comm Dev.)					
David Beschke (Landscape Arch)					
Beth Kudla (City Attorney)					
* Jeff Johnson (Fire Department)	8/23/11	X			

* SEE REVERSE

If recommending approval or denial, please complete the following:

1. Would a literal application of the substantive requirement of the ordinance result in an exceptional, practical difficulty to the application? Yes No

Explain:

Each situation is evaluated independantly. This appeal, justification and proposed variance seem reasonable for this request.

2. Would the alternative proposed by the applicant be adequate for the intended use and not deviate from the performance that would be obtained by strict enforcement of the standards? Yes No

Explain:

The Modification and relocation on the emergency access and easement by reducing to 15 Feet width for the secondary access will still provide the necessary ingress and egress still allow emergency vehicles to get through.

3. Would granting the variance not be detrimental to public health, safety, or welfare, and not injurious to adjoining or neighboring property? Yes No

Explain:

This unique circumstance does not appear to pose any limitation to public safety services.

September 1, 2011

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

Elizabeth M. Kudla
Direct: 248-539-2846
bkudln@secrestwardle.com

Nathan Bouvy, Engineering
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Lot No. 6 Mirabella Estates Emergency Access Easement
Location
Request for Variance from Design and Construction Standards
Our File No. 72236 NOV1**

Dear Mr. Bouvy:

Our office has reviewed the proposed request for a variance from the City's design and construction standards for secondary emergency access driveways, as set forth in the City's Design and Construction Standards, Section 11-194(a)(19), to permit a reduction in the size of the secondary emergency access drive across Units 5 and 6 of the Mirabella Estates Condominium Subdivision from 18 feet to 15 feet, and a reduction in the corresponding easement from 25 to 15 feet.

Section 11-10 of the Ordinance Code permits the City Council to grant a variance from the Design and Construction Standards with respect to proposed public improvements, such as a safety, when the property owner shows all of the following:

- (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- (2) The alternative proposed by the applicant shall 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.

The applicant has requested a reduction in the size of the secondary emergency access easement for practicality, environmental concerns, maintenance

and aesthetic reasons. The Novi Fire Department has recommended approval of the reduced easement for the reason that it still provides the necessary ingress and egress necessary for emergency response vehicles.

In the event that a waiver is granted, the original 18-foot easement that has been held in escrow by the City should be released to the property owner. A proposed second amendment to the Master Deed for Mirabella Estates has been provided identifying a reduced 15-foot easement. We have no objection to approval of the variance, subject to the applicant providing the following revisions to the proposed Second Amended Master Deed:)) *

1. The Master Deed should be titled "Second Amendment to Master Deed" because all the terms of the Master Deed and First Amendment are to remain in effect other than the creation/modification of the secondary emergency Access Easement.
2. The language of the Secondary Emergency Access Easement within the Amended Master Deed should be modified to clarify that the easement will be immediately effective and is no longer being held in escrow for use at a future date. The modification can be made by making the following revisions:
 - a. The phrase "held in escrow" should be deleted from the first paragraph of Section 8 of the Seconded Amended Master Deed.
 - b. The phrase "shall be granted" in the 12th line of the first paragraph of Section 8 should be revised to state "is hereby granted."
 - c. Since the property to the west has already been developed, the phrase the following sentence should also be deleted from Section 8:

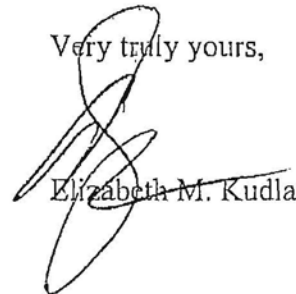
In the event the property to the west is developed in a manner that the Emergency Access Easement is not required, in the City's sole discretion, the Easement shall be released to the adjoining property owners of Lots 5 and 6.

3. The Fire Marshall has raised additional concerns with respect to the terms of the Secondary Emergency Access Easement that should be addressed in the Amended Master Deed as follows:
 - a. The Amended Master Deed should indicate that snow will be removed from the emergency access easement area on a permanent basis and who is responsible for removing it and/or the cost of removal. The Master Deed should give the City the ability to enforce the removal of the snow by completing the removal and charging the cost back to the responsible party.
 - b. The Amended Master Deed should indicate that the Emergency Access Easement Area should remain clear of any and all obstructions at all times, including, but not limited to vehicles, structures, landscaping and any other object that may impede emergency vehicle access.

Subject to the above revisions, in the event that City Council finds that the standards for a variance or waiver have been met, our office sees no legal impediment to granting the variance.

If you have any questions regarding the above, please call me.

Very truly yours,



Elizabeth M. Kudla

EMK

Enclosure

cc: Maryanne Cornelius, Clerk (w/ Enclosure)
Marina Neumaier, Assistant Finance Director (w/Enclosure)
Charles Boulard, Community Development Director (w/Enclosure)
Barb McBeth, Deputy Community Development Director (w/Enclosure)
Ben Croy, Civil Engineer (w/Enclosure)
David Beschke, Landscape Architect (w/Enclosure)
Mark Spencer, Planner (w/Enclosures)
Jeff Johnson, Fire Department (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

If recommending approval or denial, please complete the following:

1. Would a literal application of the substantive requirement of the ordinance result in an exceptional, practical difficulty to the application? Yes No

Explain:



2. Would the alternative proposed by the applicant be adequate for the intended use and not deviate from the performance that would be obtained by strict enforcement of the standards? Yes No

Explain:

3. Would granting the variance not be detrimental to public health, safety, or welfare, and not injurious to adjoining or neighboring property? Yes No

Explain:

BUSINESS OF THE NOVI CITY COUNCIL
NOVI, MICHIGAN

SUBJECT	Approval of Emergency Access Stub Easement, Affidavit providing Notice of Easement in Escrow, the Escrow Agreement, and Memorandum of Agreement relating to Escrow of Meadowbrook 8 Emergency Access Stub Street Easement and all documents required by the City of Novi to facilitate such.		
DATE SUBMITTED	October 30, 2003	FOR AGENDA	November 10, 2003
DEPT APPROVAL	 Nancy McClain, PE, City Engineer	 LEGAL APPROVAL IF REQUIRED	

BRIEF HISTORY

The Novi Planning Commission has required Terrasanto Development, LLC, the developer of the Meadowbrook 8 Site Condominium project, to reserve an Emergency Access Stub Easement over Units 5 and 6 of the Condominium complex and to cause this easement to be put in escrow under an agreement with the City of Novi for possible future development. Our City Attorneys have prepared the document language and the developer has signed the required documents. The City Engineering staff has reviewed the legal descriptions of the easement location. All documents concerning this matter have been reviewed and approved by our City Attorney for City Council consideration.

RECOMMENDED ACTION

Approval of Emergency Access Stub Easement, Affidavit providing Notice of Easement in Escrow, the Escrow Agreement, and Memorandum of Agreement relating to Escrow of Meadowbrook 8 Emergency Access Stub Street Easement and all documents required by the City of Novi to facilitate such.

	1	2	Y	N
MAYOR CSORDAS				
COUNCIL MEMBER CAPELLO				
COUNCIL MEMBER GATT				
COUNCIL MEMBER LANDRY				

	1	2	Y	N
COUNCIL MEMBER LORENZO				
COUNCIL MEMBER NAGY				
COUNCIL MEMBER PAUL				

REVISED 12/02/01 - JCK
3/17/03 - JCK

PREPARED FOR
TERRASANTO DEVELOPMENT LLC
688 PARK AVENUE
ALLEN PARK, MI 48101
313-368-0800

ARPEE/DONNAN, INC.
LAND SURVEYING · ENGINEERING · MAPPING
36937 SCHOOL CRAFT
LIVONIA, MICHIGAN 48150
PHONE: 313-483-3535 FAX: 313-483-3534

UTILITY PLAN
MEADOWBROOK-8
SITE CONDOMINIUM
PART OF THE S.W. 1/4 SECTION 35, T. 1 N., R. 6 E.
CITY OF WOODLAND COUNTY, MICHIGAN

DATE 7/1/02
DRAWN BY WCO
CHECKED BY JCV
FILE# 02047-2
JOB #
02047
SH. 5 OF 11

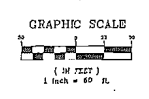
EXISTING		LEGEND	
○ SENSE MANHOLE	⊗ GATE VALVE & WELL	⊗ GATE VALVE & WELL	⊗ GATE VALVE & WELL
⊗ FIVE HUBWHEEL	⊗ UTILITY POLE	⊗ UTILITY POLE	⊗ UTILITY POLE
⊗ CATCH BASIN	⊗ 30" SPOT ELEVATION	⊗ 30" SPOT ELEVATION	⊗ 30" SPOT ELEVATION
⊗ 30"	⊗ EX. CONDUIT	⊗ EX. CONDUIT	⊗ EX. CONDUIT
⊗ 60"	⊗ EX. CONDUIT	⊗ EX. CONDUIT	⊗ EX. CONDUIT
⊗ 150"-18" FLOW ROUTE	⊗ EX. CONDUIT	⊗ EX. CONDUIT	⊗ EX. CONDUIT
⊗ CLASS 3 SAND BARREL	⊗ EX. CONDUIT	⊗ EX. CONDUIT	⊗ EX. CONDUIT
⊗ PROPOSED ELEVATION	⊗ PROJ. CONTOUR	⊗ PROJ. CONTOUR	⊗ PROJ. CONTOUR
⊗ TREE PROTECTION FENCING	⊗ PROJ. CONTOUR	⊗ PROJ. CONTOUR	⊗ PROJ. CONTOUR

NOTE:
UTILITIES INCLUDING SANITARY LEADS
LOCATED UNDER OR WITHIN 1' OF 1'
INFLUENCE OF EXISTING WELLS OR
CONDUITS INTO SAND COMPACTS IN
PLACE TO EX. OF BANK, MUST BE COVERED.

WATER SYSTEM NOTES
1. PROVIDE A MINIMUM PIPE COVER OF 2.5 FEET ABOVE WATER MAIN
MEASURED FROM TOP OF PIPE UNLESS OTHER PAVED AREA THEN
PROVIDE 1.0' OF COVER.
2. REPAIR/REPLACE EXISTING SIZES OF PIPE FOR THE EXISTING NON PWC RESERVOIR
ASSOCIATION, OR (SMA), (MWA), (CONCRETE TOWER).
3. USE CLASS 3 SAND BARRELS AT JUNCTIONS OF WATER MAIN WITHIN A 15'
INFLUENCE OF THE PAVED AREA COVERING.

SANITARY SEWER NOTES
1. NO CONCRETE PIPE SHALL BE USED FOR SANITARY SEWER MAINS OR COLLECTOR
WELLS SHALL BE MADE TO SANITARY SEWER.
2. REPAIR/REPLACE EXISTING SIZES OF PIPE FOR THE EXISTING NON PWC RESERVOIR
ASSOCIATION, OR (SMA), (MWA), (CONCRETE TOWER).
3. NO FLOWING SPRINGS SHALL BE CONNECTED TO THE EXISTING SEWER.
4. DIRECTION OF EXCAVATION AROUND EXISTING MANHOLES SHALL NOT
EXCEED THE WIDTH OF THE MANHOLE.
5. ALL MANHOLES AND COVERS SHALL BE IN ACCORDANCE WITH CURRENT
STANDARDS OF THE CITY OF WOODLAND COUNTY.
6. THE DESIGN OF SEWER AND COLLECTOR STAINS BY
UTILIZING MATERIALS OF AN INFERIOR NATURE.
7. ALL SEWER SHALL BE TYPICALLY 18" MINIMUM MAIN SIZE UNLESS APPROVED
BY THE CITY ENGINEER FROM THE DESIGN SEWER.
8. ALL SANITARY SEWER LEADS SHALL BE AT A MINIMUM OF 18" SIZE.
9. ALL SANITARY SEWER LEADS SHALL BE 90° BENDS.
10. THE TOP OF SANITARY SEWER LEADS SHALL BE COVERED WITH A 15" WOODEN
WALKER TO 6" BELOW THE GRADE SURFACE.

STORM SEWER NOTE
1. ALL SUMP LEADS SHALL HAVE A MINIMUM OF 1% SLOPE.



ESTIMATED QUANTITIES

STORM SEWER	
1. 8" PVC (UNPAVED) IN WOODEN STRUCTURE	310 LF
2. 12" C-76 CL IV	225 LF
3. 15" C-76 CL IV	200 LF
4. 18" C-76 CL IV	160 LF
5. 24" C-76 CL IV	151 LF
6. 30" C-76 CL IV	41 LF
7. 15" 450 SECTION	3 EACH
8. 24" 450 SECTION	1 EACH
9. 27" 450 SECTION	2 EACH
10. 4" DIA CB	2 EACH
11. 4" DIA CB	2 EACH
12. 3" DIA INLET	1 EACH
13. 2" DIA INLET	1 EACH
14. 2" WOOD STAKE/POLE	1 EACH
15. 4" PVC SOLID LEAD	90 LF
16. 60'-CLASS OPERATOR	1 EACH
17. 11" C-76 CL V	54 LF

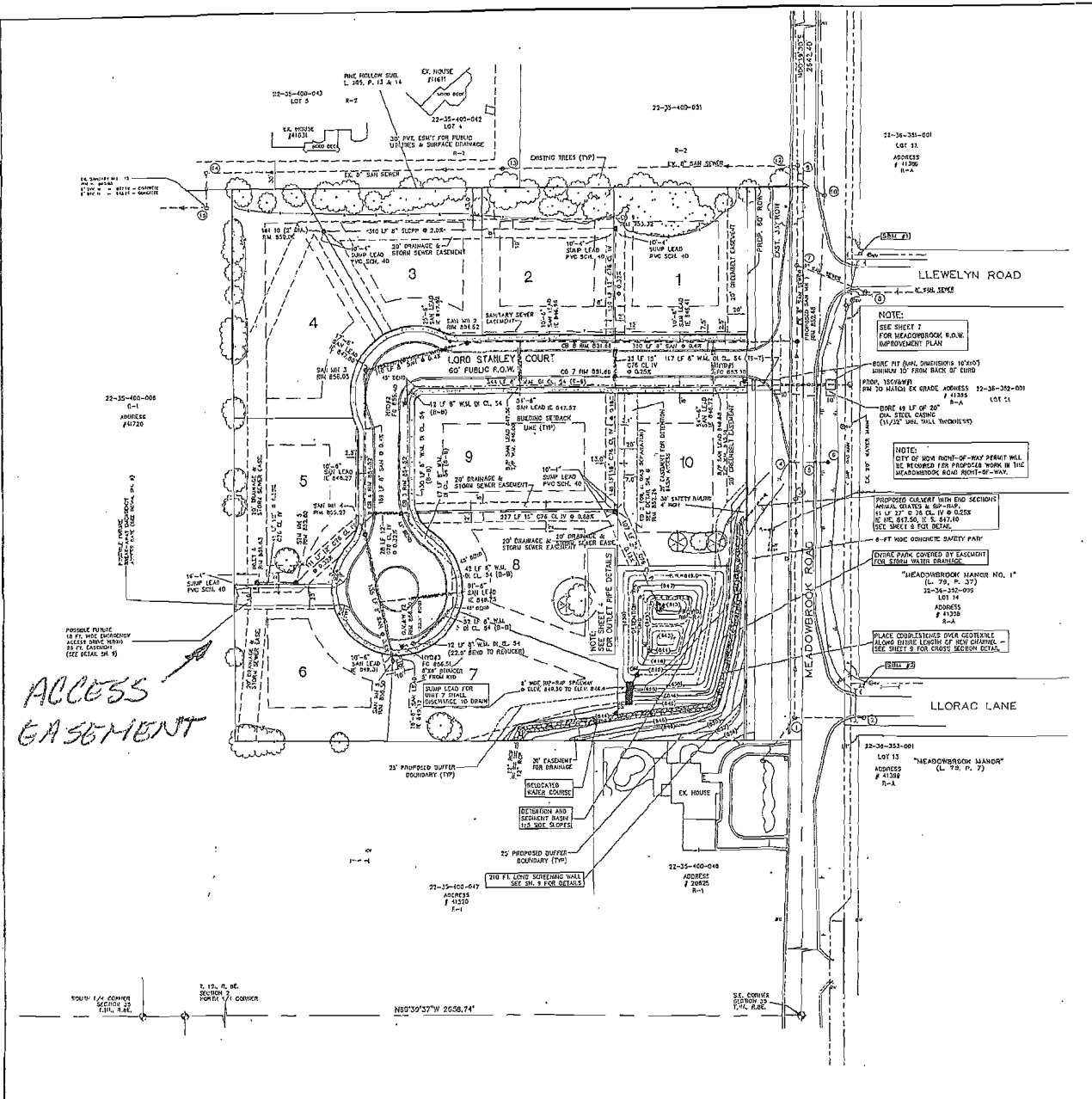
SANITARY SEWER	
1. 8" PVC BRIS	365 LF
2. 8" PVC 200-215 LEAD	300 LF
3. 4" DIA MH	5 EACH

WATER MAIN	
1. 12" CL 54	778 LF
2. 8" 200" 15WAW	1 EACH
3. 20" MONTE EMB & OUT.	300 LF
4. 10" B-2 CURB & OUT.	240 LF
5. 10" F-B CURB & GATE	178 LF
6. 4" CONC. WALK	7225 SF.

PAVING	
1. 8" ASPH (IN R.O.W.)	433 S.F.
2. 4" ASPH	2596 S.F.
3. 20" MONTE EMB & OUT.	300 LF
4. 10" B-2 CURB & OUT.	240 LF
5. 10" F-B CURB & GATE	178 LF
6. 4" CONC. WALK	7225 S.F.

EXISTING STRUCTURES LIST

1. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	1. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
2. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	2. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
3. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	3. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
4. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	4. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
5. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	5. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
6. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	6. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
7. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	7. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
8. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	8. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
9. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	9. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
10. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	10. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
11. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	11. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
12. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	12. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
13. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	13. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
14. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	14. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
15. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	15. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
16. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	16. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
17. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	17. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
18. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	18. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
19. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	19. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE
20. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE	20. SANITARY MH # 1525 R# 1525 R# 1525	CONCRETE



**SECRET, WARDLE, LYNCH, HAMPTON,
TRUEX AND MORLEY**

ELIZABETH M. KUDLA
DIRECT DIAL (248) 539-2846
Email bkudla@secrestwardle.com

Counselors at Law
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, Michigan 48333-3040

Telephone (248) 851-9500
Fax (248) 851-0369

September 24, 2003

Brian Coburn, Civil Engineer
City of Novi
45175 West Ten Mile Road
Novi, Michigan 48375-3024

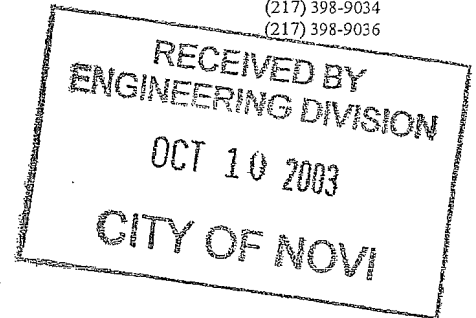
**Re: Meadowbrook 8 Site Condominium
Access Stub Easement Escrow Documents
Our File No: 72236 NOV**

94 Macomb Place
Mt. Clemens, MI 48043-5651
(810) 465-7180
Fax (810) 465-0673

7335 Westshire Dr., Suite 103
Lansing, MI 48917-9764
(517) 627-1881
Fax (517) 627-1887

1500 East Beldine, SE, Suite 160
Grand Rapids, MI 49506-4361
(616) 285-0143
Fax (616) 285-0145

2904 Cherry Hills Drive
P.O. Box 11258
Champaign, IL 61821-1258
(217) 398-9034
(217) 398-9036



Dear Mr. Coburn:

As you may recall, and as is set forth in the Minutes of the September 25, 2002 Planning Commission Meeting, the Planning Commission conditioned final site plan approval of this project, in part, on the developer submitting the necessary legal documentation reserving an Emergency Access Stub Easement over portions of Units 5 and 6 of the Condominium, which easement may be necessary for use by future developments adjacent to the project. We have prepared, and the developer has executed and submitted, an Emergency Access Stub Easement, a copy of which is enclosed, to be held in escrow until such time as emergency access may be needed for use by future developments. In the event that adjacent parcels develop without a need for the emergency access, the Planning Commission has recommended that the City, with City Council's approval, would release the Easement. To effectuate the terms of this condition the following documents should be approved by City Council:

- Emergency Access Stub Easement
- Affidavit Providing Notice of Easement in Escrow
- Escrow Agreement
- Memorandum of Agreement relating to Escrow of Meadowbrook 8 Emergency Access Stub Street Easement

Once approved, either our office or an alternative Escrow Agent, acceptable to the City and the Developer, will hold the Emergency Access Stub Easement unrecorded, in Escrow, until such time as City Council directs it to be recorded, or released in accordance with the terms of the above

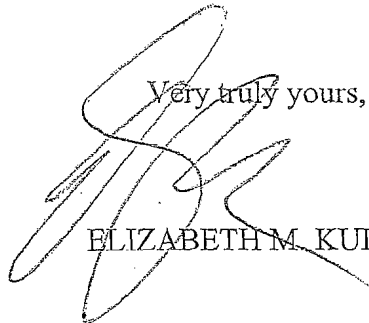
Brian Coburn, Civil Engineer
September 24, 2003
Page 2

named Escrow Agreement and Memorandum of Agreement relating to Escrow of Meadowbrook 8 Emergency Access Stub Street Easement.

Additionally, the Emergency Access Stub Easement and provisions requiring the Condominium Subdivision Homeowners to construct the Access Stub, at the Homeowner's Expense, have been satisfactorily addressed and referenced in the Master Deed and Condominium Subdivision Plan for the Project.

If the Exhibits attached to the enclosed documents satisfactorily describe the project and Emergency Access Easement Area, the issue of approval of the above named documents may be placed on an upcoming City Council Agenda. Please feel free to contact us with any questions or concerns in regard to this matter.

Very truly yours,



ELIZABETH M. KUDLA

EMK

Enclosures

C(w/o enc.): Maryanne Cornelius, Clerk
Marina Neumaier, Asst. Director of Finance
Nancy McClain, City Engineer (w/enc.)
Haim Schlick, Construction Engineer
Donald Saven, Building Official
David Hales, Terrasanto Development
Gerald A. Fisher, Esq. (w/enc.)
Thomas R. Schultz, Esq.

458868_2.DOC

would be an emergency access connection or full connection. In this particular case, there was a choice to be made. A full access stub or an emergency access connection could be required. He recommended the emergency access connection for many reasons. It has the least impact on the applicant as they would not lose any lots, they would not have provide for the 60-feet of right-of-way and dedicate an actual road thereby having to deal with potential traffic from the each other's project. The option will provide the emergency access benefits by creating a gated emergency access connection to allow the emergency vehicles to pass back and forth. He noted the woodland area, which was previously evaluated by the former Woodland Consultant who determined they were not high quality woodlands. The former consultant determined it was a reasonable location for a connection from the adjacent property. Mr. Arroyo recommended the construction of the emergency access stub and the easement be put into place from the beginning. In the event the development comes forward and can find another point of access, (from Country Place or another point), and the connection is not needed for the development to continue forward then the emergency access stub could be removed at some point in the future upon approval by the Council. Finally, the Commission does not have the authority to grant a waiver as the City Council is the body authorized to grant waivers or variances from the Subdivision Ordinance.



(Pause in discussion for motion to extend meeting)

PM-02-09-219 TO EXTEND THE COMMISSION MEETING UNTIL ALL OF THE ITEMS ON THE AGENDA HAVE BEEN SATISFIED.

Moved by Ruyle, seconded by Kocan, CARRIED UNANIMOUSLY: To extend the Commission meeting until all of the items on the agenda have been satisfied.

VOTE ON PM-02-09-219 CARRIED UNANIMOUSLY

Yes: Avdoulos, Kocan, Nagy, Papp, Paul, Ruyle, Shroyer, Sprague
No: None

(Discussion continued)

Member Ruyle commended the Developer for addressing the basic requests of the Commission. He noted his concern with the stub road.

PM-02-09-220 IN THE MATTER OF MEADOWBROOK-8 CONDOMINIUMS SP01-72 TO GRANT FINAL SITE PLAN APPROVAL SUBJECT TO THE COMMENTS OF THE ATTACHED REVIEW LETTERS BEING ADDRESSED PRIOR TO STAMPING SET APPROVAL, THE DEVELOPER'S REQUEST NOT TO IMPROVE THE EMERGENCY ACCESS STUB AT THIS TIME SHALL BE GRANTED UPON THE CONDITION THAT ALL DOCUMENTS REQUIRED BY THE CITY ATTORNEY FOR DEDICATING THE EMERGENCY ACCESS STUB SHALL BE EXECUTED AND DELIVERED TO THE CITY TO HOLD AND RECORD AT THE APPROPRIATE TIME AND THAT THE MASTER DEED TO CONTAIN LANGUAGE APPROVED BY THE CITY ATTORNEY PROVIDING FOR THE ASSESSMENT OF THE UNITS IN THE DEVELOPMENT FOR ALL COSTS OF IMPROVING THE EMERGENCY ACCESS STUB AT SUCH TIME.

Moved by Ruyle, seconded by Shroyer, *MOTION AMENDED*: In the matter of Meadowbrook-8 Condominiums SP01-72 to grant Final Site Plan Approval subject to the comments of the attached review letters being addressed prior to Stamping Set approval, the Developer's request not to improve the emergency access stub at this time shall be

Member Paul clarified that she was please with the landscaping at this point.

Ms. McGuire stated there is work that remains to be done.

Member Paul noted her concern that all the landscape comments would be met since Ms. McGuire would no longer be employed with the City.

Ms. McGuire stated she did not approve the Final Site Plan for landscaping, as indicated in the review letter. The issue needed to be addressed. She stated the items are not major; however, they have not been addressed yet.

Member Paul asked the Applicant if he was willing to meet all of the requirements that Ms. McGuire has listed in the landscaping review.

Mr. Hales answered, yes. He indicated that his agreement to comply is in writing.

Concerning the access road, Member Avdoulos noted the recommendation for a 20-foot radius on the north and a 10-foot on the south. He asked if this should be indicated on a Master Deed to give the buyers of Lot 5 and Lot 6 the knowledge that there will be a radius on their property.

Mr. Arroyo indicated that it would be need on the Final Site Plan. Should the Commission chose to move forward, he suggested they approve the Final Site Plan subject to a further administrative review of some of the minor issues, to allow the Site Plan to be cleaned up prior to stamping.

Member Avdoulos amended the motion.

Member Ruyle and Member Shroyer accepted the amendment.

Member Kocan stated it appears that the items that need to be addressed to bring the site plan up to *where it needs to be* are included in the consultant and staff letters. The developer has stated on the record as well as by letter that he would comply with everything. Member Kocan indicated this is her reasoning for accepting the package although the site plan itself is not finalized.

PM-02-09-221

IN THE MATTER OF MEADOWBROOK-8 CONDOMINIUMS SP01-72 TO GRANT FINAL SITE PLAN APPROVAL SUBJECT TO THE COMMENTS OF THE ATTACHED REVIEW LETTERS BEING ADDRESSED PRIOR TO STAMPING SET APPROVAL, THE DEVELOPER'S REQUEST NOT TO IMPROVE THE EMERGENCY ACCESS STUB AT THIS TIME SHALL BE GRANTED UPON THE CONDITION THAT ALL DOCUMENTS REQUIRED BY THE CITY ATTORNEY FOR DEDICATING THE EMERGENCY ACCESS STUB SHALL BE EXECUTED AND DELIVERED TO THE CITY TO HOLD AND RECORD AT THE APPROPRIATE TIME AND THAT THE MASTER DEED TO CONTAIN LANGUAGE APPROVED BY THE CITY ATTORNEY PROVIDING FOR THE ASSESSMENT OF THE UNITS IN THE DEVELOPMENT FOR ALL COSTS OF IMPROVING THE EMERGENCY ACCESS STUB AT SUCH TIME, SUBJECT TO FURTHER ADMINISTRATIVE REVIEW PRIOR TO STAMPING SET APPROVAL.

Moved by Ruyle, seconded by Shroyer, CARRIED UNANIMOUSLY: In the matter of Meadowbrook-8 Condominiums SP01-72 to grant Final Site Plan Approval subject to the comments of the attached review letters being addressed prior to Stamping Set approval, the Developer's request not to improve the emergency access stub at this time shall be granted upon the condition that all documents required by the City Attorney for dedicating

Member Ruyle felt the issue had been extensively discussed. The Commission has repeatedly given negative recommendations of the proposal. He continued to feel that the proposed location is not the appropriate area for a mixed-use development. Town Center is a more appropriate location. He did not support the Zoning Text Amendment.

Member Kocan stated unless the matter goes before the Master Planning and Zoning Committee and receives a recommendation, then her comments remain the same as the June 19, 2002 Planning Commission meeting. Although the addition of mixed-use development to the Ordinance could be considered, the proposal for a minimum of 20% commercial with the rest residential is considered a zoning to residential as opposed to remaining commercial. Member Kocan did not support the proposal. The Developer has not requested a Master Plan Change, however she questioned the possibility of having the Master Planning and Zoning Committee review the request. She asked the Staff to comment.

Mr. Evancoe indicated the Council requested for the matter to return in 60-days from their review. He noted that the Commission seemed to indicate that the matter has been reviewed thoroughly and continues to hold the same opinion(s). Therefore, he suggested that the Commission send the matter back to Council for its second reading.

Chairperson Nagy stated the Commission's comments were explicit in its concerns and reasons as to why the request was found not appropriate. She questioned what the Council did not understand when they sent the matter back to the Commission. The previous Planning Commission had the matter before the Master Planning and Zoning Committee. She asked if the Ordinance is being changed on a Council level.

Mr. Fisher stated if the Planning Commission sends a negative recommendation then City Council has the option of following the Commission's recommendation or not following it.

Chairperson Nagy questioned if the Council already approved the first reading, then what would be the purpose of sending it back to the Commission.

Mr. Fisher stated in some instances, the first reading is a formality to move the matter forward. He indicated his impression at the City Council meeting was that there was intent to not delay processing of the Ordinance one way or the other. He was not certain that there was a firm understanding of whether it would be approved or not approved ultimately. There was a definite feeling that the Council did not want the matter delayed. The Council did first reading so that when the matter returned, it could be disposed of with finality.

Chairperson Nagy reiterated her comments from the past meeting. She stated the Master Planning and Zoning Committee is working on the Master Plan for Land Use. The matter has not been before the Master Planning and Zoning Committee. She would appreciate the opportunity to place the matter before the Committee, however not be forced into a period of 60-days. She was not opposed to a mixed-use development; however, she shared the same concerns expressed by other commissioners regarding the 20% and residential, proposed location etc.

Ms. Brock indicated that the matter went before the previous Master Planning and Zoning Committee in October 2001.

Chairperson Nagy pointed out that the matter has received all negative recommendations. She asked if it would be appropriate for the current Master Planning and Zoning Committee to make a determination. She did not feel anything would change.

Mr. Fisher agreed that it did not sound like it would be productive.

Chairperson Nagy did not feel it would be a productive step in terms of the Commission, Applicant, Council and those involved. She advised the Council to read the Commission's

Regular Meeting of the Novi Planning Commission
Wednesday, September 25, 2002 – Page 35

Chairperson Nagy indicated that the Commission clearly understands the Council's request and the Commission made all of their comments.

Mr. Pham indicated that Singh Development did not speak at City Council.

Chairperson Nagy understood and clarified that the Commission was not placing blame to the applicant.

Mr. Pham stated B-1 and B-2 is already allowed the PD-2 Option and is not a change proposed by Singh Development. He noted Singh Development's agreement with Mayor Pro-Tem Bononi in that there would need to be a greater restriction to keep the integrity of a mixed-use development building.

Chairperson Nagy indicated that she shared Mayor Pro-Tem Bononi's concern.

VOTE ON PM-02-09-222 CARRIED UNANIMOUSLY

Yes: Avdoulos, Kocan, Nagy, Papp, Paul, Ruyle, Shroyer, Sprague
No: None

3. APPROVAL OF AUGUST 21, 2002 PLANNING COMMISSION MINUTES

Member Kocan made minor corrections to the minutes.

Chairperson Nagy made minor corrections to the minutes.

PM-02-09-223 TO APPROVE THE AUGUST 21, 2002 PLANNING COMMISSION MINUTES AS AMENDED.

Moved by Kocan, seconded by Ruyle, CARRIED UNANIMOUSLY: To approve the August 21, 2002 Planning Commission Minutes as amended.

VOTE ON PM-02-09-223 CARRIED UNANIMOUSLY

Yes: Avdoulos, Kocan, Nagy, Papp, Paul, Ruyle, Shroyer, Sprague
No: None

4. APPROVAL OF JULY 24, 2002 PLANNING COMMISSION MINUTES

Member Kocan made minor changes to the minutes.

Member Avdoulos made minor change to the minutes.

PM-02-09-224 TO APPROVE THE JULY 24, 2002 PLANNING COMMISSION MINUTES AS AMENDED.

Moved by Ruyle, seconded by Kocan, CARRIED UNANIMOUSLY: To approve the July 24, 2002 Planning Commission Minutes as amended.

VOTE ON PM-02-09-224 CARRIED UNANIMOUSLY

Yes: Avdoulos, Kocan, Nagy, Papp, Paul, Ruyle, Shroyer, Sprague
No: None

Mr. Evancoe suggested placing the item under Matters for Discussion on the next agenda.

Chairperson Nagy agreed.

Member Kocan reminded the commissioners that a 7:00 pm start time could eliminate the ability for Committees to meet prior to the Commission meeting.

Chairperson Nagy agreed.

3. UPCOMING WETLANDS SEMINAR

Member Paul announced she needed name of those interested in attending the Superior Introduction to Wetland Values seminar on 9:30am-4:30 pm on October 5, 2002.

SPECIAL REPORTS

None

AUDIENCE PARTICIPATION

None

ADJOURNMENT

PM-02-09-225 TO ADJOURN THE REGULAR MEETING OF THE PLANNING COMMISSION AT 12:35 A.M.

Moved by Ruyle, seconded by Shroyer, CARRIED UNANIMOUSLY: To adjourn the Regular Meeting of the Planning Commission at 12:35 a.m.

VOTE ON PM-02-09-225 CARRIED UNANIMOUSLY

Yes: Avdoulos, Kocan, Nagy, Papp, Paul, Ruyle, Shroyer, Sprague
No: None

Donna Howe - Planning Assistant

Transcribed by: Christine Otsuji
October 18, 2002

Date Approved: _____

AFFIDAVIT PROVIDING NOTICE OF
EASEMENT IN ESCROW

Affiant, Terrasanto Development, LLC, a Michigan limited liability company, whose address is 6828 Park Avenue, Allen Park, Michigan 48101, being the owner of real property located in the City of Novi, County of Oakland, State of Michigan and described as set forth in the attached and incorporated Exhibit A, hereby gives notice that a certain Emergency Access Stub Street Easement providing for vehicular ingress and egress for public and private emergency service providers (the "Access Easement"), the location of which is shown on Exhibit B, which is attached to and part of this Affidavit, has been executed by Affiant and is being held in Escrow by the City of Novi (the "City"), to be released, dedicated, accepted and recorded in accordance with the terms of the Escrow Agreement Regarding the Meadowbrook 8 Emergency Access Stub Street Easement. The Escrow Agreement sets forth the terms and conditions upon which the Access Easement will be dedicated to the City and recorded, or released to the owner of the subject property in the event such Access Easement is deemed unnecessary by the City.

No termination or alteration of the Notice shall be effective unless executed by the City of Novi, in accordance with a Resolution of the City Council of the City of Novi.

WITNESSES:

AFFIANT, TERRASANTO DEVELOPMENT, LLC, a Michigan limited liability company

By: [Signature]
David Hale
Its: Member

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND) Novi Oakland

Subscribed and sworn to before me this 15 day of September, 2003, by _____ of _____, a Michigan limited liability company on behalf of the limited liability company.

Drafted By And Upon Recording Return To:

Elizabeth M. Kudla
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
(248) 851-9500

[Signature]
Notary Public
Calhoun County, Michigan

My Commission Expires:

4/14/2004

Tax Parcel No. _____
Recording Fee _____

EXHIBIT A

Land in Part of the Southeast $\frac{1}{4}$ of Section 35, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan more particularly described as follows:

Commencing at the Southeast corner of said Section 35, Town 1 North, Range 8 East, and proceeding along the east line of said Section 35 and centerline of Meadowbrook Road, North $00^{\circ} 19' 30''$ East 534.70 feet as calculated and measured (recorded as northerly 534.70 feet) to the point of beginning; thence generally following along with an old wire fence in part, North $89^{\circ} 36' 06''$ West 602.60 feet as calculated and measured (recorded as Westerly 603.16 feet) to a found old iron pipe at the Southwest corner of the Trapp Parcel; thence generally following along with an old wire fence, North $00^{\circ} 03' 42''$ West 575.36 feet as calculated and measured (recorded as North $00^{\circ} 22' 54''$ West 576.01 feet) to a found old iron pipe at the Northwest corner of the Trapp Parcel; thence along the north line of the Trapp Parcel absent the original fence called for, South $89^{\circ} 34' 42''$ East 606.48 feet as calculated and measured (recorded as Easterly 607.0 feet along the north line of the Power Parcel as fenced) to a point on the east line of Section 35 in Meadowbrook Road; thence along the east line of Section 35 and centerline of Meadowbrook Road, South $00^{\circ} 19' 30''$ West 575.09 feet as calculated and measured (recorded as Southerly 576.0 feet) back to the point of beginning.

Containing 7.983 gross acres, subject to the rights of the public in Meadowbrook Road and also subject to all easements, restrictions, or reservations of record, or otherwise.

EXHIBIT

ACCESS ROAD EASEMENT

LAND IN PART OF THE SOUTHEAST 1/4 OF SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, AND PROCEEDING ALONG THE EAST LINE OF SAID SECTION 35 N 00°19'30" E 534.70 FEET; THENCE N 89°36'08" W 802.80; THENCE N 00°03'42" W 138.53 FEET TO THE POINT OF BEGINNING; THENCE N 00°03'42" W 25.00 FEET; THENCE N 89°56'18" E 103.73 FEET; THENCE 25.28 FEET ALONG A 70.00 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 20°40'38" AND A CHORD BEARING S 05°48'14" E 25.12 FEET; THENCE S 89°56'18" W 108.23 FEET TO THE POINT OF BEGINNING.

ARPEE/DONNAN, INC.
 LAND SURVEYING • ENGINEERING • MAPPING
 38837 SCHOKLRAFT (734) 853-3333
 LIVONIA, MICHIGAN 48150 FAX (734) 853-3324

EXHIBIT "A"
 MEADOWBROOK-B CONDOMINIUM
 CITY OF NOVI, OAKLAND COUNTY, MICHIGAN

DATE: 8/22/03
 FB: DRAWN: WGD
 PROJ. NO: 02047
 SHEET 1 OF 1

EMERGENCY ACCESS STUB STREET EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Terrasanto Development, LLC, a Michigan limited liability company whose address is 6828 Park Avenue, Allen Park, Michigan, 48101 ("Grantor"), owner of the Property (as described on the attached Exhibit A), hereby grants and conveys to the City of Novi, a Michigan Municipal Corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48375 (the "City"), in consideration of (\$ 10.00), an easement for emergency access for the benefit of the City, the Grantor, the Meadowbrook Homeowner's Association (the "Association"), and the owners of the property to the west of the Property, and their respective heirs, successors, assigns and transferees, which easement is described in the attached and incorporated Exhibit B (the "Easement Area") subject to the following terms and conditions:

1. That said Easement is intended to provide vehicular ingress, egress and circulation to and from the Property and the property to the west of the subject Property, for use by emergency service providers, including, but not limited to public fire, police and ambulance services.
2. That the Easement and Stub Street therein shall be a gated entry. The Grantor and the Condominium Homeowner's Association are responsible for providing the City fire and emergency service providers with a key or code, whatever is necessary to get through the gate in the event of an emergency. The Grantor and Association shall remain responsible for informing the fire and other emergency officials of any changes in the lock or code. The Grantor, the Association and each and every Co-owner of a unit within the Property, hereby indemnify and hold harmless the City and all emergency service providers, all of their officers, officials, employees, representatives and agents, from any claim, cause of action, damage, loss, injury, or death, which result from or are in any way due to the gated entryway.
3. The Stub Street within the Easement Area shall be constructed and maintained in a good and useful condition by the Grantor, and/or the Condominium Homeowner's Association, in accordance with approved final site plan, all applicable laws and ordinances. The Easement Area and Stub Street shall be maintained as a General Common Element of the Meadowbrook 8 Condominium, Oakland County Condominium Subdivision Plan No. _____, in accordance with the terms and conditions of the Master Deed for Meadowbrook 8 recorded at Liber _____, Pages _____, Oakland County Records. Upon a failure of the Grantor and/or the Association to construct and or maintain the Easement Area and Stub Street required or to otherwise maintain the Easement Area in the required condition, the City may do so with the actual and reasonable costs incurred chargeable to and promptly payable by the responsible property owner. The construction, maintenance and repair obligations under this paragraph are specifically enforceable by the City of Novi, with its reasonable costs and expenses chargeable to and collectible against the parcel owners and, if necessary, as a delinquent special assessment on the City tax rolls in accordance with the procedure set forth in the Master Deed for Meadowbrook 8.

4. This Easement and the rights and responsibilities set forth are permanent and perpetual and intended to bind the parties hereto, their heirs, successors and assigns, and their respective properties, to touch and concern said parcels, and to run with the land and succeeding interests therein.

5. This Easement may not be expanded or modified except by a further agreement in writing and in recordable form by the parties hereto or their heirs, successors or assigns.

**Terrasanto Development, LLC., a
Michigan limited liability company.**



By: David Hales, Member

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me 5 day of Sept, 2003 by David Hales, Member of Terrasanto Development, LLC, on its behalf.

Drafted By:

Elizabeth M Kudla
30903 Northwestern Hwy.
P.O. Box 3040
Farmington Hills, MI 48333-3040



Notary Public, Wayne County Michigan

My commission expires 1/14/2004

When recorded return to:

EXHIBIT A

Land in Part of the Southeast $\frac{1}{4}$ of Section 35, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan more particularly described as follows:

Commencing at the Southeast corner of said Section 35, Town 1 North, Range 8 East, and proceeding along the east line of said Section 35 and centerline of Meadowbrook Road, North $00^{\circ} 19' 30''$ East 534.70 feet as calculated and measured (recorded as northerly 534.70 feet) to the point of beginning; thence generally following along with an old wire fence in part, North $89^{\circ} 36' 06''$ West 602.60 feet as calculated and measured (recorded as Westerly 603.16 feet) to a found old iron pipe at the Southwest corner of the Trapp Parcel; thence generally following along with an old wire fence, North $00^{\circ} 03' 42''$ West 575.36 feet as calculated and measured (recorded as North $00^{\circ} 22' 54''$ West 576.01 feet) to a found old iron pipe at the Northwest corner of the Trapp Parcel; thence along the north line of the Trapp Parcel absent the original fence called for, South $89^{\circ} 34' 42''$ East 606.48 feet as calculated and measured (recorded as Easterly 607.0 feet along the north line of the Power Parcel as fenced) to a point on the east line of Section 35 in Meadowbrook Road; thence along the east line of Section 35 and centerline of Meadowbrook Road, South $00^{\circ} 19' 30''$ West 575.09 feet as calculated and measured (recorded as Southerly 576.0 feet) back to the point of beginning.

Containing 7.983 gross acres, subject to the rights of the public in Meadowbrook Road and also subject to all easements, restrictions, or reservations of record, or otherwise.

EXHIBIT "B"

ACCESS ROAD EASEMENT

LAND IN PART OF THE SOUTHEAST 1/4 OF SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, CITY OF INOWI, OAKLAND COUNTY, MICHIGAN MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, AND PROCEEDING ALONG THE EAST LINE OF SAID SECTION 35 N 00°18'30" E 534.70 FEET; THENCE N 89°38'08" W 802.60; THENCE N 00°03'42" W 138.53 FEET TO THE POINT OF BEGINNING; THENCE N 00°03'42" W 25.00 FEET; THENCE N 88°56'18" E 103.73 FEET; THENCE 25.28 FEET ALONG A 70.00 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 20°40'36" AND A CHORD BEARING S 05°48'14" E 25.12 FEET; THENCE S 88°56'18" W 108.23 FEET TO THE POINT OF BEGINNING.

ARPEE/DONNAN, INC. LAND SURVEYING • ENGINEERING • MAPPING 36837 SCHOLCRAFT LIVONIA, MICHIGAN 48150	EXHIBIT "A" MEADOWBROOK-B CONDOMINIUM CITY OF INOWI, OAKLAND COUNTY, MICHIGAN	DATE: 8/22/03
		FB: DRAWN: WGD
		PROJ. NO: 02047
		SHEET 1 OF 1
(734) 953-3335	FAX (734) 953-3324	

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated this 5 day of Sept, 2003, by and between Terrasanto Development, LLC, a Michigan limited liability company (referred to herein as "Developer"), whose address is 6828 Park Avenue, Allen Park, Michigan, 48101, and the City of Novi, a Michigan municipal corporation (the "City"), having the address of 45175 West Ten Mile Street, Novi, Michigan, 48375.

RECITATIONS:

Developer is the owner of certain land located in the City of Novi, County of Oakland, State of Michigan, which is more particularly described on the attached and incorporated Exhibit A, which land is referred to herein as "the Property". Developer is in the process of developing the Property as a Residential Site Condominium Development, which is commonly known as the Meadowbrook 8 Condominium, Oakland County Subdivision Plan No. _____, established pursuant to the Master Deed for Meadowbrook 8, recorded at Liber _____, Pages _____ of Oakland County Records.

Final Site Plan approval of the Condominium was based, in part, on the City's recognition that the City of Novi Subdivision Ordinance requires stub street locations along every 1300-ft of property boundary frontage, and that the subject property may require emergency access to and from adjacent property to the west upon the future development of that property, pursuant to the applicable provisions of the Subdivision Ordinance. In the alternative to constructing and dedicating a 60-ft wide public right-of-way, to provide for the least amount of impact on the subject Property, while meeting all applicable ordinance requirements, the Developer has agreed that the Developer shall reserve and preserve an easement for constructing and maintaining an emergency access stub street (the "Stub Street").

Because the property to the west of the subject Property may develop with or without a need for an Emergency Access Street, an Emergency Access Stub Street Easement (the "Easement") has been executed, and will be held in Escrow, by the City Attorney, to be released or alternatively dedicated and recorded, in accordance with the terms of the Escrow Agreement.

In order to provide the Developers flexibility in developing the Property, and in the alternative to the dedication of a 60-ft wide Street right-of way, the parties wish to provide the opportunity to release the Developer, and its successors, assigns and transferees from the terms of the Emergency Access Stub Street Easement in the event the property to the west develops without a need for such an Easement.

Therefore, Developer has executed a subsequent document titled the Emergency Access Stub Street Easement (the "Easement"), which is to be held in escrow pursuant to this Agreement.

The parties desire that the Easement be held in escrow by Gerald A. Fisher, Esq. ("Escrow Agent") to be delivered to the City or Developer, as appropriate, in accordance with the terms of this Escrow Agreement and Escrow Agent is willing to hold the same in escrow and deliver same in accordance with the terms of this Agreement.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Concurrently with the execution of this Escrow Agreement, the Developer herewith delivers to the Escrow Agent, in accordance with this Escrow Agreement, an Emergency Access Stub Street Easement, executed by Developer and dated as of Sept 5, 2003.
2. The Escrow Agent shall hold the Easement in escrow pursuant to the terms and conditions of this Escrow Agreement without direct charge to the Developer for his services as the Escrow Agent.
3. Escrow Agent is authorized and directed to release and deliver the Easement as follows:

The Easement shall be released from escrow and placed before the City Council for acceptance or, alternatively release by the City, upon the first of the following to occur:

- (a) Upon notification to the Escrow Agent in writing, of a confirmation by the City Engineer, that the Easement is necessary to provide emergency ingress and egress to and from the property to the west of the subject Property.
- (b) Upon notification to the Escrow Agent from the City Engineer that the property to the west has been developed or approved for development with an alternate emergency access or for a use without need for emergency access;

In all events, prior to releasing the Easement, Escrow Agent shall provide 30 days advance written notice by regular mail to the undersigned Developer at their last known address.

4. If at the time of its release from escrow the Oakland County Register of Deeds determines that the Easement is unacceptable for recording due to its form or lack of compliance with recording requirements, Escrow Agent shall notify Developer or its successors, assigns or transferees, and Developer shall promptly execute and deliver to Escrow Agent, and Escrow Agent agrees to accept, a substitute

Easement in the form and manner required by the Oakland County Register of Deeds.

- 5. This Escrow Agreement may not be modified or amended except in writing signed by the party or parties against whom such a modification is sought to be enforced.
- 6. This Escrow Agreement shall be binding upon and inure to the benefit of the undersigned parties and their respective heirs, successors, representatives, agents and assigns, and an affidavit or other notice may be recorded by any of the undersigned parties reflecting the existence of this Agreement and the instrument being held by Escrow Agent hereby.
- 7. Upon Escrow Agent's delivery of the instrument deposited herewith and performance of all other obligations hereunder, the escrow created hereby shall terminate and Escrow Agent shall be released from all further obligation. It is expressly agreed and understood by Developer and the City that Escrow Agent's obligations hereunder are limited and restricted to holding the Easement delivered in accordance with this Escrow Agreement, and to making delivery of the Easement and any substitute thereof to the City, as provided for in this Escrow Agreement, and that by acceptance of this escrow, Escrow Agent is acting in the capacity of a depository only and, as such is not responsible for the genuineness or validity of the instruments or the marketability of title as of the date of this Escrow Agreement or the date of the release of the instrument hereunder.

WITNESSES:

CITY OF NOVI

* _____
 * _____

By: * _____
Richard J. Clark, Mayor

STATE OF MICHIGAN)
) SS
 COUNTY OF OAKLAND)

Subscribed and sworn to before me this 5 day of September, 2003, by Richard J. Clark, Mayor of the City of Novi on its behalf.

Nancy R. Hammett
 Notary Public
Wayne County, Michigan
 My Commission Expires: 6/14/2008

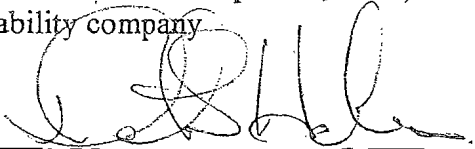
WITNESSES:

OWNER:

* _____

Terrasanto Development, LLC, a Michigan liability company

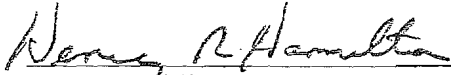
* _____

* 

By: David Hale Its: Member

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Subscribed and sworn to before me this 5th day of September, 2003, by
_____ of _____, a Michigan limited liability company on behalf of the
limited liability company.



Notary Public
Wagoner County, Michigan
My Commission Expires: 1/14/2004

WITNESSES:

ESCROW AGENT:

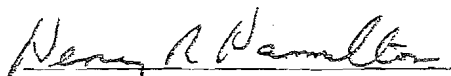
* _____

Gerald A. Fisher

* _____

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Subscribed and sworn to before me this 5th day of September, 2003, by Gerald
A. Fisher of Secrest, Wardle, Lynch, Hampton, Truex and Morley.



Notary Public
Wagoner County, Michigan
My Commission Expires: 1/14/2004

***PLEASE PRINT OR TYPE NAME UNDER SIGNATURE**

PROPERTY DESCRIPTION EXHIBIT

493198_1.DOC

EXHIBIT A

Land in Part of the Southeast $\frac{1}{4}$ of Section 35, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan more particularly described as follows:

Commencing at the Southeast corner of said Section 35, Town 1 North, Range 8 East, and proceeding along the east line of said Section 35 and centerline of Meadowbrook Road, North $00^{\circ} 19' 30''$ East 534.70 feet as calculated and measured (recorded as northerly 534.70 feet) to the point of beginning; thence generally following along with an old wire fence in part, North $89^{\circ} 36' 06''$ West 602.60 feet as calculated and measured (recorded as Westerly 603.16 feet) to a found old iron pipe at the Southwest corner of the Trapp Parcel; thence generally following along with an old wire fence, North $00^{\circ} 03' 42''$ West 575.36 feet as calculated and measured (recorded as North $00^{\circ} 22' 54''$ West 576.01 feet) to a found old iron pipe at the Northwest corner of the Trapp Parcel; thence along the north line of the Trapp Parcel absent the original fence called for, South $89^{\circ} 34' 42''$ East 606.48 feet as calculated and measured (recorded as Easterly 607.0 feet along the north line of the Power Parcel as fenced) to a point on the east line of Section 35 in Meadowbrook Road; thence along the east line of Section 35 and centerline of Meadowbrook Road, South $00^{\circ} 19' 30''$ West 575.09 feet as calculated and measured (recorded as Southerly 576.0 feet) back to the point of beginning.

Containing 7.983 gross acres, subject to the rights of the public in Meadowbrook Road and also subject to all easements, restrictions, or reservations of record, or otherwise.

EXHIBIT "A"

ACCESS ROAD EASEMENT

LAND IN PART OF THE SOUTHEAST 1/4 OF SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOV, OAKLAND COUNTY, MICHIGAN MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, AND PROCEEDING ALONG THE EAST LINE OF SAID SECTION 35 N 00°19'30" E 634.70 FEET; THENCE N 89°36'08" W 802.60; THENCE N 00°03'42" W 138.53 FEET TO THE POINT OF BEGINNING; THENCE N 00°03'42" W 25.00 FEET; THENCE N 89°38'18" E 103.73 FEET; THENCE 25.28 FEET ALONG A 70.00 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 20°40'38" AND A CHORD BEARING S 05°46'14" E 26.12 FEET; THENCE S 89°38'18" W 108.23 FEET TO THE POINT OF BEGINNING.

<p>ARPEE/DONNAN, INC. LAND SURVEYING • ENGINEERING • MAPPING 38937 SCHOKLORFT (734) 853-3333 LIVONIA, MICHIGAN 48150 FAX (734) 853-3324</p>	<p style="text-align: center;">EXHIBIT "A" MEADOWBROOK-d CONDOMINIUM CITY OF NOV, OAKLAND COUNTY, MICHIGAN</p>	<p>DATE: 8/22/03 FB: DRAWN: WGD PROJ. NO: 02047 SHEET 1 OF 1</p>
---	--	---

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

MEMORANDUM OF AGREEMENT RELATING TO ESCROW OF
THE MEADOWBROOK 8 EMERGENCY ACCESS STUB STREET EASEMENT.

MEMORANDUM OF AGREEMENT between Terrasanto Development, LLC, a Michigan limited liability company (hereinafter referred to as the "Developer"), whose address is 6828 Park Avenue, Allen Park, Michigan 48101, and the City of Novi, a Michigan municipal corporation (the "City"), whose address is 45175 West Ten Mile Rd., Novi, MI 48375, to confirm certain rights and obligations relating to that certain "Emergency Access Stub Street Easement" executed by the Developer and dated Sept 5, 2003.

RECITATIONS:

Developer is the owner of certain property located within the City of Novi, Oakland County, Michigan, as described on the attached and incorporated Property Description Exhibit (the "Property"). Developer is in the process of developing the Property as a Single Family Site Condominium Development, which is commonly known as the Meadowbrook 8 Condominium, Oakland County Condominium Subdivision Plan _____, established by the Meadowbrook 8 Master Deed, recorded at Liber _____, Pages _____ of Oakland County Records.

Final Site Plan approval of the Condominium was based, in part, on the City's recognition that the City of Novi Subdivision Ordinance requires stub street locations along every 1300-ft of property boundary frontage, and that the subject property may require emergency access to and from adjacent property to the west upon the future development of that property, pursuant to the applicable provisions of the Subdivision Ordinance. In the alternative to constructing and dedicating a 60-ft wide public right-of-way, to provide for the least amount of impact on the subject Property, while meeting all applicable ordinance requirements, the Developer has agreed that the Developer shall reserve and preserve an easement for constructing and maintaining an emergency access stub road (the "Stub Road").

Because the property to the west of the subject Property may develop with or without a need for an Emergency Access Road, an Emergency Access Stub Street Easement (the "Easement") has been executed, and will be held in Escrow, by the City Attorney, to be released or alternatively dedicated and recorded, in accordance with the terms of the Escrow Agreement.

In order to provide the Developers flexibility in developing the Property, and in the alternative to the dedication of a 60-ft wide road right-of way, the parties wish to provide the opportunity to release the Developer, and its successors, assigns and transferees from the terms of the Emergency Access Stub Street Easement in the event the property to the west develops without a need for such an Easement.

NOW, THEREFORE, IT IS HEREBY ACKNOWLEDGED AND AGREED that:

1. To be a valid and enforceable the Easement must:
 - a. Contain a legal description of the Easement Area, which has been approved by the appropriate City Engineer or Engineering Consultant
 - b. Be reviewed and approved by the City Attorney and City Engineer, prior to depositing the instrument into escrow pursuant to subparagraph e, below;
 - c. Be signed by the Developer or its then-existing owners of all or any portion of the specific portions of the Property which is the subject to the Easement; and
 - d. Be delivered into the escrow, via the designated escrow agent pursuant to and in accordance with the Escrow Agreement executed by the undersigned parties concurrently with this Agreement, no more than five days after subparagraphs a through c, above, have been completed.
2. Failure to provide the Easement shall constitute a reasonable basis for City denial of any future approvals, building permits and certificates of occupancy relating to development on the Property.
3. This Memorandum of Agreement shall be binding upon and shall inure to the benefit of the City and the Developer, their respective heirs, successors and assigns, and all future owners of the Property or any portion thereof.

WITNESSES:

CITY OF NOVI, a Michigan municipal corporation

*

By: _____
Richard J. Clark, Mayor

*

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Subscribed and sworn to before me this 5th day of September, 2003, by
Richard J. Clark, the Mayor of the City of Novi, a Michigan municipal corporation its behalf.

Henry R. Hamilton

Notary Public

Washtenaw County, Michigan

My commission expires: 1/14/2007

OWNERS:

TERRASANTO DEVELOPMENT, LLC, a
Michigan limited liability company

By: [Signature]

David Hale, Its Member

*

*

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Subscribed and sworn to before me this 5th day of September, 2003, by

of _____, a Michigan limited liability company on behalf of the
limited liability company.

Henry R. Hamilton

Notary Public

Washtenaw County, MI

My commission expires: 1/14/2007

***PLEASE PRINT OF TYPE NAME UNDER SIGNATURE**

493195_1.DOC

PROPERTY DESCRIPTION EXHIBIT

EXHIBIT A

Land in Part of the Southeast $\frac{1}{4}$ of Section 35, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan more particularly described as follows:

Commencing at the Southeast corner of said Section 35, Town 1 North, Range 8 East, and proceeding along the east line of said Section 35 and centerline of Meadowbrook Road, North $00^{\circ} 19' 30''$ East 534.70 feet as calculated and measured (recorded as northerly 534.70 feet) to the point of beginning; thence generally following along with an old wire fence in part, North $89^{\circ} 36' 06''$ West 602.60 feet as calculated and measured (recorded as Westerly 603.16 feet) to a found old iron pipe at the Southwest corner of the Trapp Parcel; thence generally following along with an old wire fence, North $00^{\circ} 03' 42''$ West 575.36 feet as calculated and measured (recorded as North $00^{\circ} 22' 54''$ West 576.01 feet) to a found old iron pipe at the Northwest corner of the Trapp Parcel; thence along the north line of the Trapp Parcel absent the original fence called for, South $89^{\circ} 34' 42''$ East 606.48 feet as calculated and measured (recorded as Easterly 607.0 feet along the north line of the Power Parcel as fenced) to a point on the east line of Section 35 in Meadowbrook Road; thence along the east line of Section 35 and centerline of Meadowbrook Road, South $00^{\circ} 19' 30''$ West 575.09 feet as calculated and measured (recorded as Southerly 576.0 feet) back to the point of beginning.

Containing 7.983 gross acres, subject to the rights of the public in Meadowbrook Road and also subject to all easements, restrictions, or reservations of record, or otherwise.

EXHIBIT "A"

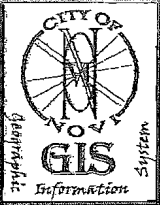
ACCESS ROAD EASEMENT

LAND IN PART OF THE SOUTHEAST 1/4 OF SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOV, OAKLAND COUNTY, MICHIGAN MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, AND PROCEEDING ALONG THE EAST LINE OF SAID SECTION 35 N 00°19'30" E 534.70 FEET; THENCE N 88°36'06" W 802.80; THENCE N 00°03'42" W 138.53 FEET TO THE POINT OF BEGINNING; THENCE N 00°03'42" W 25.00 FEET; THENCE N 88°56'18" E 103.73 FEET; THENCE 25.28 FEET ALONG A 70.00 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 20°40'38" AND A CHORD BEARING S 05°46'14" E 25.12 FEET; THENCE S 88°56'18" W 108.23 FEET TO THE POINT OF BEGINNING.

ARPEE/DONNAN, INC.
 LAND SURVEYING • ENGINEERING • MAPPING
 38837 SCHOCKLRAFT
 LIVONIA, MICHIGAN 48150 (734) 853-3335
 FAX (734) 853-3324

EXHIBIT "A"
 MEADOWBROOK-B CONDOMINIUM
 CITY OF NOV, OAKLAND
 COUNTY, MICHIGAN


DATE: 8/22/03
FB: DRAWN: YGD
PROJ. NO: 02047
SHEET 1 OF 1



Location Map Meadowbrook 8 Site Condo

City of Novi, Michigan

Legend

-  Meadowbrook 8 site Tax Parcel

