



CITY of NOVI CITY COUNCIL

**Agenda Item K
October 20, 2014**

SUBJECT: Acceptance of a Conservation Easement from NADLAN 56 LLC for woodland conservation areas on the Beck North Lot 56 development, located on the north side of Cartier Drive at Hudson Drive in Section 4 of the City.

SUBMITTING DEPARTMENT: Department of Community Development, Planning Division *Bully*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

NADLAN 56 LLC is developing Beck North Lot 56, an 88,904 square foot speculative industrial building on 5.5 acres of land located on the north side of Cartier Drive at Hudson Drive. The current zoning of the property is I-1, Light Industrial. The Special Land Use Permit, Preliminary Site Plan, Woodland Permit and Stormwater Management Plan were approved by the Planning Commission on April 9, 2014.

The applicant has provided a conservation easement over the undisturbed regulated woodlands located on the property. Exhibit B graphically depicts the area being preserved, primarily along the north property line with a small portion extending along the west property line.

The easement has been reviewed by the City's professional staff and consultants. The easement is currently in a form acceptable to the City Attorney's office for acceptance by the City Council.

RECOMMENDED ACTION: Acceptance of a Conservation Easement from NADLAN 56 LLC for woodland conservation areas on the Beck North Lot 56 development, located on the north side of Cartier Drive at Hudson Drive in Section 4 of the City.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

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

LOCATION MAP

JSP14-07 Beck North Lot 56

Location



Map Legend

 Subject Property

Feet

0 120 240 480 720

1 inch = 434 feet



City of Novi

Planning Division
Community Development Dept.
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org

Map Author: Sara Roediger
Date: 3-5-14

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.

CITY ATTORNEY LETTER



JOHNSON ROSATI SCHULTZ JOPPICH PC
27555 Executive Drive, Suite 250 ~ Farmington Hills, Michigan 48331
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.jrsjlaw.com

October 7, 2014

Barb McBeth
Deputy Community Development Director
City of Novi
45175 Ten Mile Road
Novi, MI 48375-3024

**RE: Beck North Lot 56
Woodland and Wetland Conservation Easement**

Dear Ms. McBeth:

We have received and reviewed the final executed Conservation Easement for the woodlands and wetlands to be preserved in connection with the development of Unit 56 of Beck North Corporate Park Condominium. The Conservation Easement is required as a condition of special land use approval and berm waiver. Additionally, the woodland/wetland buffer was significant factor in approving the variances granted for height and loading dock location as it provides a buffer from the existing multiple family residential development to the north. The Conservation Easement is satisfactory for the purposes provided. We recommend approval of the Conservation Easement in its current format. Subject to approval of the attached legal description by the City's Engineering Division, the Conservation Easement may be placed on an upcoming City Council Agenda for acceptance.

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

Sincerely,

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



Elizabeth K. Saarela

EKS

Barb McBeth, Deputy Community Development Director
October 7, 2014
Page 2

C: Maryanne Cornelius, Clerk
Charles Boulard, Community Development Director
Kristen Kapelanski, Planner
Adam Wayne, Construction Engineer
Sheila Weber and Kristin Pace, Treasurer's Office
Sarah Marchioni, Building Permit Coordinator
Sue Troutman, City Clerk's Office
Jackie Varney, Dembs Development
Thomas R. Schultz, Esquire

CONSERVATION EASEMENT

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT made this 27th day of August, 2014, but shall be effective as of the formal acceptance by Grantee (the "Effective Date"), by and between Nadlan 56, LLC, a Michigan limited liability company, whose address is 46855 Magellan Drive, Suite 200, Novi, Michigan 48377 (hereinafter the "Grantor"), and the City of Novi, and its successors or assigns, whose address is 45175 Ten Mile Road, Novi, Michigan 48375 (hereinafter the "Grantee").

RECITATIONS:

A. Grantor owns a certain parcel of land situated in the City of Novi, Oakland County, Michigan, as more particularly described in Exhibit A, attached hereto and made a part hereof (the "Property"). Grantor has received final site plan approval for construction of a light industrial and office development on the Property (the "Development"), subject to provision of an appropriate easement to permanently protect the woodland and wetland areas located thereon from destruction or disturbance following the Effective Date. Grantor desires to grant such an easement in order to protect the area.

B. The Conservation Easement Areas (collectively, the "Easement Areas") situated on the Property are more particularly described on Exhibits B and C, attached hereto and made a part hereof, the second page of which contains a drawing depicting the protected area.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00), in hand paid, the receipt and adequacy of which are hereby acknowledged, Grantor hereby reserves, conveys and grants the following Conservation Easement, which shall be binding upon the Grantor and the Grantee, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the Grantee, all purchasers of the property and their respective successors, assigns and/or transferees. This Conservation Easement is dedicated pursuant to subpart 11 of part 21 of the Natural Resources and Environmental Protection Act being MCL 324.2140, *et seq.*, upon the terms and conditions set forth herein as follows:

1. (a) The purpose of this Conservation Easement is to preserve the Easement Areas in their natural and undeveloped condition. Except as otherwise permitted hereunder or as otherwise required by law, no activities shall occur within the Easement Areas unless such activity

has been expressly authorized by the City, and, if applicable, the Michigan Department of Environmental Quality and the appropriate federal agency.

(b) Furthermore, unless otherwise permitted by the applicable governing authority, from and after the Effective Date Grantor shall not disturb the wetlands and woodland areas and/or vegetation within the Easement Areas, including altering the topography of; place fill material in; dredge, remove or excavate soil, minerals, or trees, and construct or place any structures on; or plow, till, cultivate, or otherwise alter or develop, and/or construct, operate or maintain any use or development in the Easement Area. Notwithstanding the foregoing, this Conservation Easement shall not prohibit pedestrian traffic within the Conservation Areas by the Grantor, including, without limitation, Grantor's tenants and their respective employees, agents and invitees.

2. No grass or other vegetation shall be planted in the Easement Areas after the date of this Conservation Easement with the exception of plantings approved, in advance, by the City in accordance with all applicable laws and ordinances.

3. This Conservation Easement does not grant or convey to Grantee, or any member of the general public, any right of ownership, possession or use of the Easement Area, except that, upon reasonable advance written notice to Grantor, Grantee and its authorized employees and agents (collectively, "Grantee's Representatives") may enter upon and inspect the Easement Areas to determine whether the Easement Areas are in compliance with the terms of the Conservation Easement.

4. Grantee may assert that Grantor violated the terms and provisions of Section 1(b) of this Conservation Easement by serving written notice upon the Grantor setting forth the alleged deficiencies. Notice shall also set forth a demand that the alleged deficiencies be cured within a stated reasonable time period, which shall be no less than sixty (60) days, and the date, time and place of the hearing before the City Council, or such other body or official delegated by the City Council, for the purpose of allowing the Grantor to be heard with respect to such alleged violations. If, at the hearing, the City Council, or other governing body or City official designated to conduct the hearing, shall determine that the Grantor violated the terms of the Conservation Easement, such official shall designate the time period specified in the notice, as may be extended by such official, for Grantor to cure such violations. If the Grantor fails to cure such violations within the time period specified in the notice, as may be extended at the hearing, the City shall thereupon have the power and authority, but not obligation to enter upon the Conservation Areas, or cause its agents or contractors to enter upon the Conservation Areas and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The actual cost and expense of performing such maintenance and/or preservation including the actual 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 Grantor within sixty (60) days following written evidence substantiating such costs and expenses, and if not paid within such sixty (60) day period, such amount shall constitute a lien on the Property. If such costs and expenses have not been paid within sixty (60) days of a billing to the Grantor, all unpaid amounts may be placed on the delinquent tax roll of the City, and shall accrue interest and penalties, and shall be collected as, and shall be deemed delinquent real property taxes, according to the laws made and

provided for the collection of delinquent real property taxes. Alternatively, in the discretion of the City, such costs and expenses may be collected by suit initiated against the Grantor, and, in such event, the Grantor shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit. In the event the Property is divided, such charges shall be on a pro-rata basis, as to the units containing Easement Areas.

5. Within 90 days after the Effective Date of the Conservation Easement, Grantor, at its sole expense, shall place such signs, as it determines, in its sole discretion, are reasonably necessary to define the boundaries of the Easement Areas and, describing its protected purpose, as indicated herein.

6. Grantee acknowledges that the westerly storm sewer is located within the Easements Areas, which may require repair, maintenance and/or replacement in the future. Notwithstanding the terms and provisions of Section 1(b) of this Conservation Easement, Grantor, its contractors and agents are hereby authorized to access the storm sewer and perform any and all commercially reasonable repairs and maintenance and any replacement, as may be necessary, in Grantor's sole discretion, and any such work performed within the Easement Areas in connection therewith shall not be deemed a violation of Section 1(b) above.

7. This Conservation Easement has been made and given for a consideration of a value less than One Hundred (\$ 100.00) Dollars, and, accordingly, is (i) exempt from the State Transfer Tax, pursuant to MSA 7.456(26)(2) and (ii) exempt from the County Transfer Tax, pursuant to MSA 7.456(5)(a).

8. Grantor shall state, acknowledge and/or disclose the existence of this Conservation Easement as of the Effective Date. Grantee acknowledges and agrees that this Conservation Easement shall not be effective or submitted for recording until after the Effective Date.

9. This Conservation Easement shall be binding upon the successors and assigns of the parties and shall run with the land, unless modified or terminated by written agreement of the parties. This easement shall bind the successor and release the grantor for any violations of this Conservation Easement after any such conveyance. The terms 'Grantor' and 'Grantee' wherever used in this Agreement, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its personal representatives, heirs, successors, and assigns, and the above-named Grantee and its successors and assigns.

[Signature Page Follows]

[Signature Page to Conservation Easement]

WITNESS:

GRANTOR

Nadlan 56 LLC,
a Michigan limited liability company

CV
Chelsea Varney

By: RLS
Ryan Dembs
Its: member

STATE OF MI)
COUNTY OF Oakland) ss.

The foregoing instrument was acknowledged before me this 27th day of August, 2014 by Ryan Dembs, as the member of Nadlan 56 LLC, a Michigan limited liability company, on its behalf.

JACLYN M. VARNEY
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Oct 22, 2020
ACTING IN THE COUNTY OF Oakland

Jaclyn M Varney
Notary Public Jaclyn M. Varney
Acting in Oakland County
My Commission Expires: 10/22/20

[Additional Signature Page Follows]

GRANTEE

CITY OF NOVI
A Municipal Corporation

By: _____

Its:

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

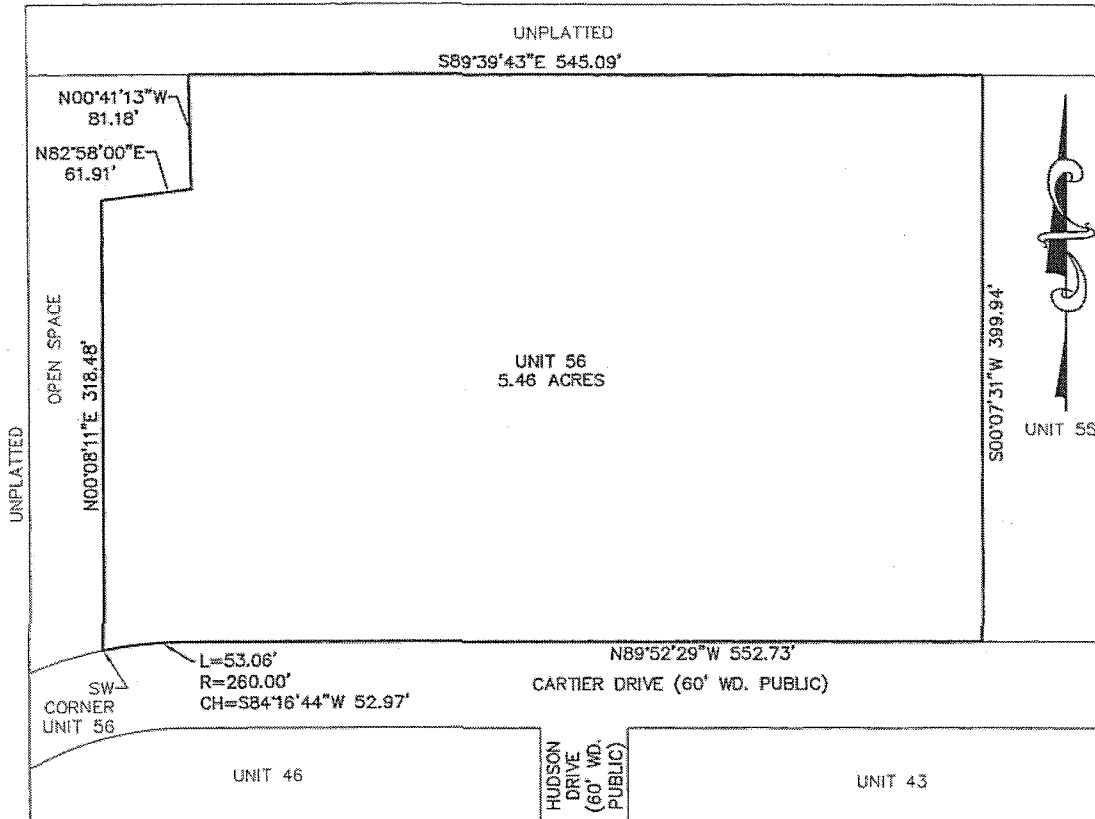
The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____, on behalf of the City of Novi, a Municipal Corporation.

Notary Public
Acting in Oakland County, Michigan
My Commission Expires: _____

Drafted By:
Elizabeth K. Saarela, Esquire
Johnson, Rosati, Schultz & Joppich, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, Michigan 48331

After Recording, Return to:
Maryanne Cornelius, Clerk
City of Novi
45175 West 10 Mile Road
Novi, Michigan 48375

EXHIBIT A



UNIT 56 LEGAL DESCRIPTION:

UNIT 47, UNIT 48, UNIT 34, AND PART OF UNIT 15 PART OF "BECK NORTH CORPORATE PARK", AS RECORDED IN LIBER 35825, PAGE 628 OF OAKLAND COUNTY RECORDS, OAKLAND COUNTY, MICHIGAN, AS AMENDED.

ALSO, DESCRIBED AS:

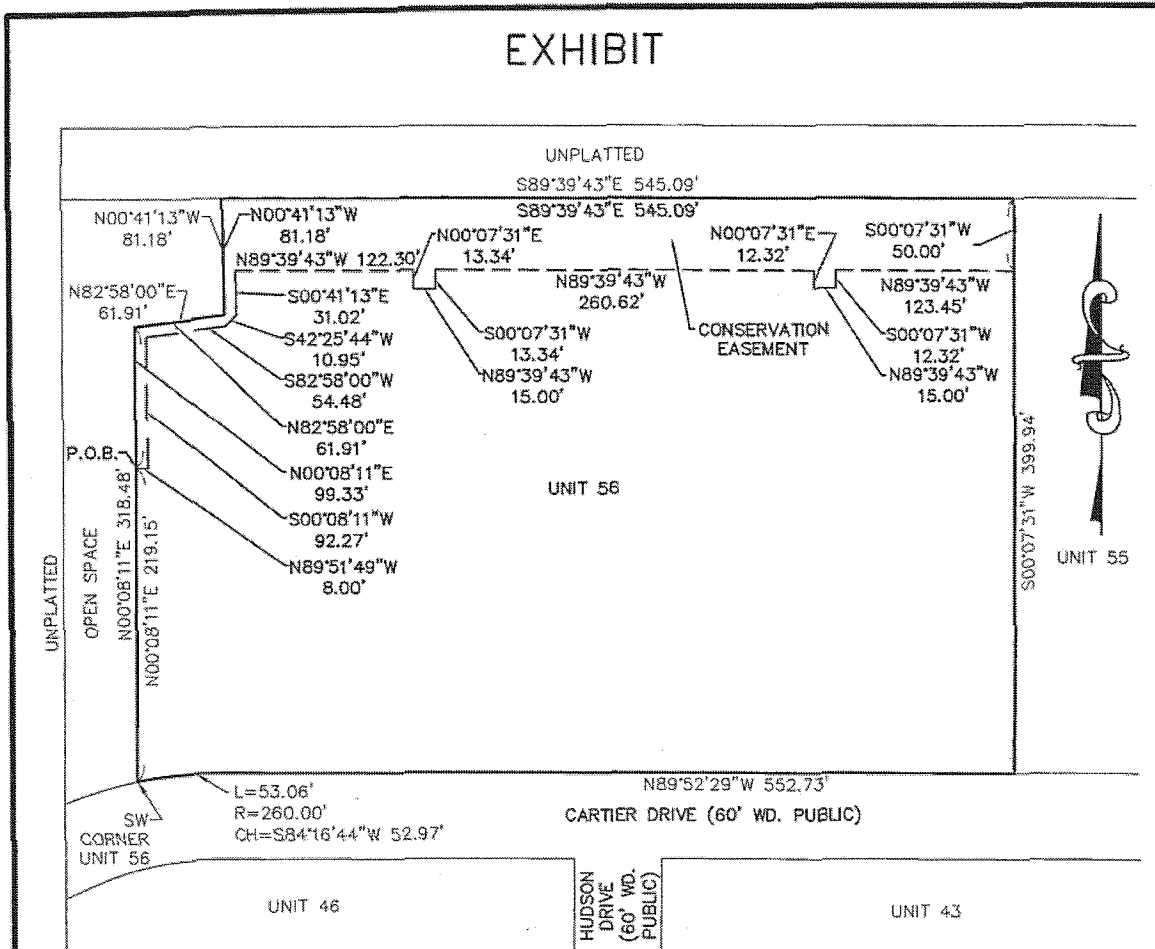
BEGINNING AT THE SOUTHWEST CORNER OF UNIT 56, "BECK NORTH CORPORATE PARK", AS RECORDED IN LIBER 35825, PAGE 628 OF OAKLAND COUNTY RECORDS, OAKLAND COUNTY, MICHIGAN, AS AMENDED; THENCE N00°08'11"E 318.48 FEET; THENCE N82°58'00"E 61.91 FEET; THENCE N00°41'13"W 81.18 FEET; THENCE S89°39'43"E 545.09 FEET; THENCE S00°07'31"W 399.94 FEET; THENCE N89°52'29"W 552.73 FEET; THENCE 53.06 FEET ALONG THE ARC OF A 260.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S84°16'44"W 52.97 FEET TO THE POINT OF BEGINNING, CONTAINING 5.46 ACRES OF LAND, MORE OR LESS, AND BEING SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

ALPINE
ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS

46892 WEST ROAD
SUITE 109
NOVI, MICHIGAN 48377
(248) 926-3701 (BUS)
(248) 926-3765 (FAX)

CLIENT:	DATE: 7/11/2014
AMSON DEMBS DEVELOPMENT, INC.	DRAWN BY: TAG
EXHIBIT A	CHECKED BY: GLM
BECK NORTH CORPORATE PARK - UNIT 56	0
SECTION: 4 TOWNSHIP: 1 N. RANGE: 8 E.	FBI
CITY OF NOVI	CH
OAKLAND COUNTY	
MICHIGAN	

EXHIBIT



VARIABLE WIDTH CONSERVATION EASEMENT

COMMENCING AT THE SOUTHWEST CORNER OF UNIT 56, "BECK NORTH CORPORATE PARK", AS RECORDED IN LIBER 35825, PAGE 628 OF OAKLAND COUNTY RECORDS, OAKLAND COUNTY, MICHIGAN, AS AMENDED; THENCE N00°08'11"E 219.15 FEET TO THE POINT OF BEGINNING; THENCE N00°08'11"E 99.33 FEET; THENCE N82°58'00"E 61.91 FEET; THENCE N00°41'13"W 81.18 FEET; THENCE S89°39'43"E 545.09 FEET; THENCE S00°07'31"W 50.00 FEET; THENCE N89°39'43"W 123.45 FEET; THENCE S00°07'31"W 12.32 FEET; THENCE N89°39'43"W 15.00 FEET; THENCE N00°07'31"E 12.32 FEET; THENCE N89°39'43"W 260.62 FEET; THENCE S00°07'31"W 13.34 FEET; THENCE N89°39'43"W 15.00 FEET; THENCE N00°07'31"E 13.34 FEET; THENCE N89°39'43"W 122.30 FEET; THENCE S00°41'13"E 31.02 FEET; THENCE S42°25'44"W 10.95 FEET; THENCE S82°58'00"W 54.48 FEET; THENCE S00°08'11"W 92.27 FEET; THENCE N89°51'49"W 8.00 FEET TO THE POINT OF BEGINNING.

ALPINE
ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS

46882 WEST ROAD
SUITE 109
NOVI, MICHIGAN 48377
(248) 926-3701 (BUS)
(248) 926-3765 (FAX)

CLIENT: AMSON DEMBS DEVELOPMENT, INC.		DATE: 7/11/2014
DRAWN BY: TAG		CHECKED BY: GLM
CONSERVATION EASEMENT		
BECK NORTH CORPORATE PARK - UNIT 56		SECTION: 4 TOWNSHIP: 1 N. RANGE: 8 E.
CITY OF NOVI		CITY OF NOVI
OAKLAND COUNTY		OAKLAND COUNTY
MICHIGAN		MICHIGAN
SCALE: HOR 1"=100 FT.		VER 1"=-- FT.