



CITY of NOVI CITY COUNCIL

Agenda Item M
March 27, 2017

SUBJECT: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Mirage Development, LLC for the Montebello Estates development located north of Nine Mile Road and west of Novi Road (parcel 22-27-453-035).

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

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The developer for the Montebello Estates development, Mirage Development, LLC, requests approval of a Storm Drainage Facility Maintenance Easement Agreement for the Montebello Estates project, located north of Nine Mile Road and west of Novi Road.

The Storm Drainage Facility Maintenance Easement Agreement is a requirement of the Storm Water Management Ordinance and details the responsibilities of the eventual property owner (Montebello Estates Homeowner's Association) to properly maintain their privately owned on-site storm water system. The agreement also contains a provision that permits the City to perform maintenance on the privately owned on-site storm water system should the property owner fail to do so at the expense of the property owner.

In this particular case, the property owner owns and agrees to maintain the storm water detention basin and is providing an access easement to the basin. The owner is also responsible for maintaining the pipes, manholes and open channels leading to and from the on-site storm water system.

The enclosed agreement has been favorably reviewed by City Staff and the City Attorney (Beth Saarela's March 15, 2017 letter) and is recommended for approval.

RECOMMENDED ACTION: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Mirage Development, LLC for the Montebello Estates development located north of Nine Mile Road and west of Novi Road (parcel 22-27-453-035).

Montebello Estates

Location Map

Montebello Estates

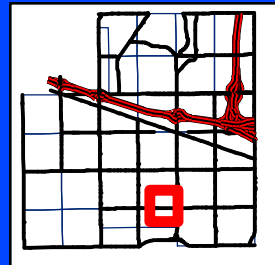


Map Author: Theresa Bridges
Date: March 17, 2017
Project:
Version #:

Amended By:
Date:
Department:

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 of Novi

Engineering Division
Department of Public Services
26300 Lee BeGole Drive
Novi, MI 48375
cityofnovi.org

0 105 210 420 630
Feet

1 inch = 500 feet





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

March 15, 2017

George D. Melistas, Engineering Senior Manager
CITY OF NOVI
City of Novi
45175 Ten Mile Road
Novi, MI 48375-3024

Re: Montebello JSP 15-0076
Storm Drainage Facility Maintenance Easement Agreement

Dear Mr. Melistas:

We have received and reviewed, and enclosed please find the Storm Drainage Facility Maintenance Easement Agreement for storm water drainage and detention facilities serving Montebello Estates. The Storm Drainage Facility Maintenance Easement Agreement is in the City's standard format and is acceptable as provided. The City's Consulting Engineer has reviewed and approved the attached Exhibits. The Agreement appears to be in order and may be placed on an upcoming City Council Agenda for approval. Once approved and executed by the City, the Agreement should be recorded with Oakland County Records by the City Clerk's Office.

Please feel free to contact me with any questions or concerns in regard to this matter.

Sincerely,

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

Elizabeth K. Saarela

Enclosures

C: Cortney Hanson, Clerk (w/Original Enclosures to follow)
Charles Boulard, Community Development Director (w/Enclosures)

Barb McBeth, City Planner (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
Theresa Bridges, Construction Engineer (w/Enclosures)
Darcy Rechten, Staff Engineer (w/Enclosures)
Brittany Allen, Taylor Reynolds, and Ted Meadows, Spalding DeDecker (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Angie Pawlowski, Community Development Bond Coordinator (w/Enclosures)
Mark Paulson and Claudio Rossi, Mirage Development (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

STORM DRAINAGE FACILITY
MAINTENANCE EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this 23RD day of AUGUST, 2016, by and between MIRAGE DEVELOPMENT a Michigan LIMITED LIABILITY, whose address is 45380 W. 10 MILE RD #135, MI 48375 (hereinafter the "Owner"), and the City of Novi, its successors, assigns, or transferees, whose address is 45175 Ten Mile Road, Novi, MI 48375 (hereinafter the "City").

RECITATIONS:

- A. Owner is the owner and developer of a certain parcel of land situated in Section 27 of the City of Novi, Oakland County, Michigan, described on the attached and incorporated **Exhibit A** (the "Property"). Owner has received final site plan approval for construction of a SITE CONDO development on the Property.
- B. The SITE CONDO development, shall contain certain storm drainage, detention and/or retention facilities, including but not limited to, a detention/sedimentation basin, for the collection, conveyance, storage, treatment and/or discharge of storm water from the Property in accordance with all approved plans, and all applicable ordinances, laws and regulations.

NOW, THEREFORE, the Owner hereby covenants and agrees that the Owner shall, at its own expense, perpetually preserve, maintain, and repair all storm drainage, detention and retention facilities, including all wetlands which are part of the system, to insure that the same continue to function as intended. The Owner shall establish a regular and systematic program of maintenance (the "Schedule of Maintenance") for such facilities and areas to insure that the physical condition and intended function of such areas and facilities shall be preserved and maintained. The Schedule of Maintenance and the annual estimated costs for maintenance and repairs for the first three (3) years are described in the attached Exhibit B.

In the event that the Owner shall at any time fail to carry out the responsibilities specified within this agreement, and/or in the event of a failure to preserve and/or maintain the storm water drainage, detention and retention facilities in reasonable order and condition, the City may serve

written notice upon the Owner setting forth the deficiencies in maintenance and/or preservation along with a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place for a hearing before the City for the purpose of allowing Owner an opportunity to be heard as to why the City should not proceed with the correction of the deficiency or obligation which has not been undertaken or properly fulfilled. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. If, following such hearing, the person conducting the hearing shall determine that the obligation has not been fulfilled or failure corrected within the time specified in the notice, as determined by the City in its reasonable discretion, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter the Property through the Ingress/Egress Easement Area as described and depicted in **Exhibit C** and perform such obligation or take such corrective measures as reasonably found by the City to be appropriate or necessary with respect to the detention/sedimentation basin within the Detention/Sedimentation Basin Easement Area described and depicted in **Exhibit D**, for the purposes described above. The cost and expense of making and financing such actions by the City, including notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in an amount equivalent to twenty-five (25%) percent of the total of all such costs and expenses incurred, shall be paid by Owner within thirty (30) days of a billing to the Owner. All unpaid amounts may be placed on the delinquent tax roll of the City as to the Property, and shall accrue interest and penalties, and shall be collected as, and 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.


The Owner, its agents, representatives, successors, and assigns shall defend, indemnify, and hold harmless the City and the City's, elected officials, agents and employees, from any and all costs, claims, suits, actions, losses, damages, or demands, including court costs and attorneys' fees, relating in any way to or arising out of the design, construction, use, inspection, maintenance, repair, or operation (or omissions in such regard) of the storm drainage system which is the subject of this Agreement.

The parties hereto make this Agreement on behalf of themselves, their heirs, successors, assigns and transferees, and hereby warrant that they have the authority and capacity to execute this Agreement and bind the property as described in the terms and conditions of this agreement.

Invalidation of any of these covenants or conditions by Judgment or Court Order shall in no way affect the validity of any other provision which shall remain in full force and effect.


This agreement shall run with the land and be binding upon all owners, their agents, heirs, successors, assigns and transferees.

IN WITNESS WHEREOF, Owner has executed this Agreement as of the day and year first above set forth.

OWNER
MIRAGE DEVELOPMENT LLC

By: CLAUDIO Rossi
Its: MEMBER

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 23RD day of AUGUST, 2016,
by CLAUDIO ROSSI, as the MEMBER of MIRAGE DEVELOPMENT LLC


Notary Public MARK PAULSON
Acting in Oakland County, Michigan
My Commission Expires: 6/3/2018

CITY OF NOVI
A Municipal Corporation

By:
Its:

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this ____ day of _____ 201__, by _____, on behalf of the City of Novi, a Municipal Corporation.

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

Drafted by: Elizabeth Kudla Saarela Johnson, Rosati, Schultz & Joppich, P.C. 27555 Executive Drive, Suite 250 Farmington Hills, MI 48331	And when recorded return to: Cortney Hanson, City Clerk City of Novi 45175 Ten Mile Rd Novi, MI 48375
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EXHIBIT A

"MONTEBELLO ESTATES"

LEGAL DESCRIPTION SUBJECT PROPERTY

PART OF THE SOUTHEAST 1/4 OF SECTION 27, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT THE SOUTH 1/4 CORNER OF SAID SECTION 27; THENCE NORTH 02°49'43" WEST, 792.96 FEET; THENCE NORTH 87°47'56" EAST, 520.84 FEET; THENCE NORTH 17°09'00" EAST, 122.32 FEET; THENCE NORTH 77°06'00" EAST, 507.00 FEET; THENCE SOUTH 12°07'00" EAST, 98.31 FEET; THENCE NORTH 86°33'12" EAST, 216.00 FEET; THENCE SOUTH 04°03'19" EAST, 340.00 FEET; THENCE SOUTH 50°44'19" EAST, 93.10 FEET; THENCE SOUTH 03°52'37" EAST, 497.04 FEET TO THE SOUTH LINE OF SAID SECTION 27; THENCE SOUTH 87°18'00" WEST ALONG SAID SOUTH LINE, 1379.11 FEET TO THE POINT OF BEGINNING. CONTAINING 26.94 ACRES AND SUBJECT TO EASEMENTS AND RIGHT-OF-WAYS OF RECORD.

AND ALSO, as previously recorded in Liber 4480, on Pages 358 through 361, inclusive, Oakland County Records, as being Part of the Southeast 1/4 of Section 27, Town 1 North, Range 8 East, Novi Township, (now Village of Novi), Oakland County, Michigan, described as beginning at the South 1/4 corner of said Section 27, thence North 0 degrees 03 minutes West along North and South 1/4 Section line 791.68 feet; thence South 89 degrees 33 minutes East along fence line 517.62 feet; thence North 19 degrees 51 minutes East 122.32 feet to a point in fence line; thence North 79 degrees 48 minutes East, along fence line 507.0 feet; thence South 9 degrees 25 minutes East, along fence line 98.31 feet; thence North 89 degrees 12 minutes East 215 feet; thence South 01 degrees 18 minutes 00 seconds East 340.00 feet; thence South 47 degrees 21 minutes East, 92.80 feet to a point in fence along 1/8 line, thence South 01 degrees 37 minutes 00 seconds East, 496.15 feet to the South line of said Section 27; thence due West on Section line 1379.10 feet to the point of beginning. (MCN 495 C, 26.86 Acres)

DESCRIPTION PARCEL 22-27-452-001

Exhibit B

MONTEBELLO ESTATES

<u>Storm Water Facility</u>	<u>Maintenance Action</u>	<u>Corrective Action</u>	<u>Annual Estimated Cost for Maintenance & Repairs</u>		
			<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>
Storm Sewer/Open Channels	After each storm that meets or exceeds a 10-year storm event, check for piping around culverts or erosion adjacent to culverts. Ensure culverts are not collapsed or clogged.	Implement energy dissipation measures as necessary to prevent erosion. Remove sediment and debris from channels and culverts. Replace collapsed culverts.	\$100	\$103	\$106
Detention Basin	Regularly mow buffer strips. If buffer is a lawn, mow frequently. Remove sediment every five to ten years or as necessary. Remove debris & excessive algae. Check for eroded basin banks.	Implement soil stabilization measures to stop erosion of banks. Repair eroded banks.	\$300	\$309	\$318
Buffer Strips	Periodically inspect to ensure vegetative cover prevents erosion.	Implement energy dissipation measures to prevent erosion.	\$150	\$155	\$160
Sediment Basin	Every three months, check depth of sediment. Check basin for piping, seepage, or mechanical damage. Check for soil caking around standpipes. Ensure outfall is not causing erosion.	Remove sediment that accumulates to no more than 50% of basin volume. Remove caking from around standpipe. Implement energy dissipation measures to prevent erosion. Repair basin or outfall erosion.	\$200	\$206	\$212
Total:			\$750	\$773	\$796

EXHIBIT C

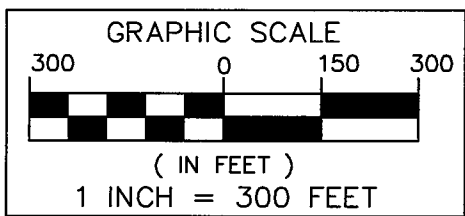
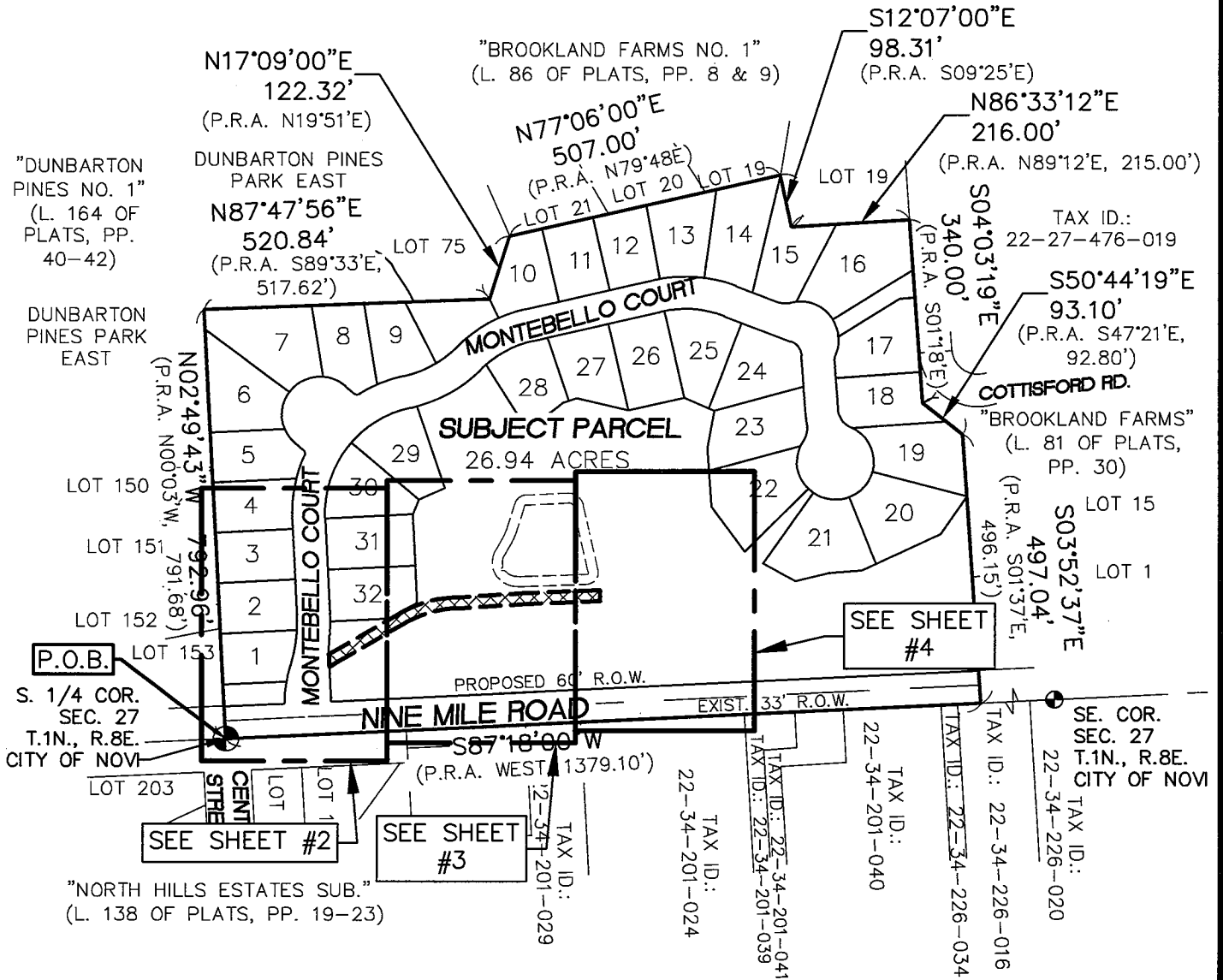
“MONTEBELLO ESTATES”

LEGAL DESCRIPTION

INGRESS/EGRESS EASEMENT

An Ingress/Egress Easement, being a part of the Southeast 1/4 of Section 27, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; being more particularly described as commencing at the South 1/4 Corner of said Section 27; thence North $87^{\circ}18'00''$ East, 194.35 feet, along the South line of said Section 27 and the centerline of Nine Mile Road; thence North $02^{\circ}40'36''$ West, 123.33 feet, for a POINT OF BEGINNING; thence continuing North $02^{\circ}40'36''$ West, 21.17 feet; thence 1.79 feet along a curve to the right, said curve having a radius of 300.00 feet, a central angle of $00^{\circ}20'32''$ and a chord bearing and distance of North $02^{\circ}30'20''$ West, 1.79 feet; thence North $57^{\circ}53'41''$ East, 5.59 feet; thence North $59^{\circ}46'31''$ East, 146.91 feet; thence 101.77 feet along a curve to the right, said curve having a radius of 220.17 feet, a central angle of $26^{\circ}29'01''$ and a chord bearing and distance of North $74^{\circ}14'21''$ East, 100.87 feet; thence North $86^{\circ}14'27''$ East, 130.81 feet; thence North $87^{\circ}49'25''$ East, 131.42 feet; thence South $89^{\circ}50'21''$ East, 24.62 feet; thence South $00^{\circ}09'39''$ West, 20.00 feet; thence North $89^{\circ}50'21''$ West, 24.21 feet; thence South $87^{\circ}49'25''$ West, 130.74 feet; thence South $86^{\circ}14'27''$ West, 130.75 feet; thence 92.74 feet along a curve to the left, said curve having a radius of 200.17 feet, a central angle of $26^{\circ}32'39''$ and a chord bearing and distance of South $74^{\circ}16'10''$ West, 91.91 feet; thence South $59^{\circ}46'25''$ West, 146.15 feet; thence South $57^{\circ}53'41''$ West, 16.55 feet, to the Point of Beginning. All of the above containing 0.248 Acres.

EXHIBIT C



INGRESS/EGRESS EASEMENT
(0.239 ACRES)

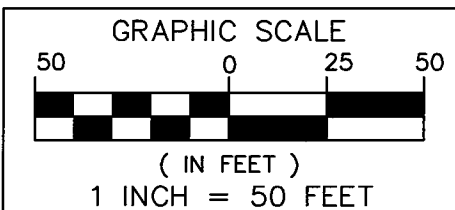
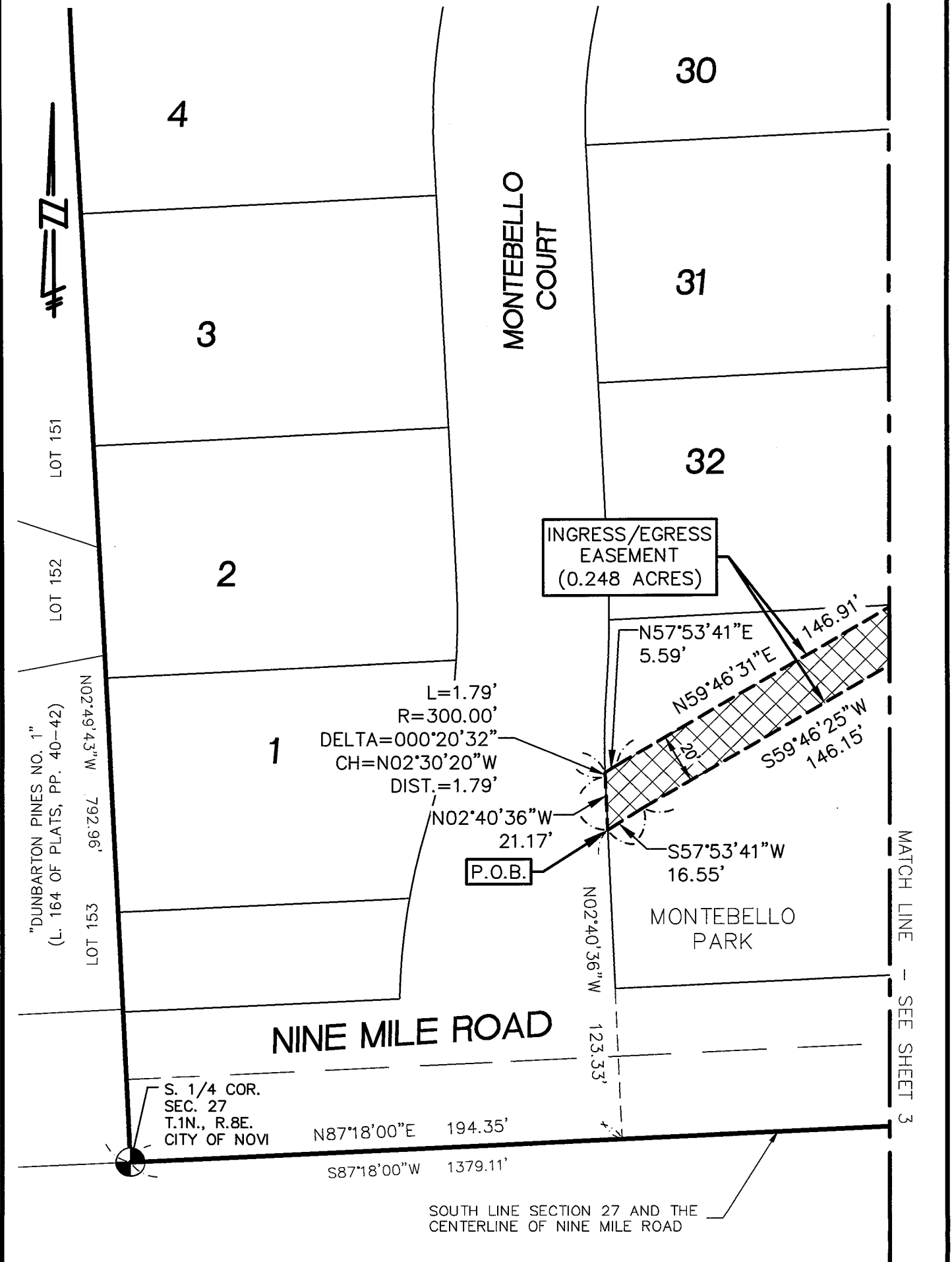
SUBJECT PROPERTY AND SHEET INDEX

SEIBER, KEAST ENGINEERING, L.L.C.
 CONSULTING ENGINEERS
 100 MAINCENTRE • SUITE 10 • NORTHVILLE, MICHIGAN • 48167
 PHONE: 248.308.3331 EMAIL: INFO@SEIBERKEAST.COM

MONTEBELLO ESTATES
 SECTION 27, TOWN 1 NORTH,
 RANGE 8 EAST, CITY OF NOVI,
 OAKLAND COUNTY, MICHIGAN

SCALE:	1" = 300'
DATE:	05-10-16
JOB NO.:	15-012
DWG FILE:	15-012ESMT-STW
DRAWN BY:	DFR, AT
CHECK:	JE
SHEET:	1 OF 4

EXHIBIT C



INGRESS/EGRESS EASEMENT
(0.248 ACRES)

INGRESS/EGRESS EASEMENT



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MONTEBELLO ESTATES

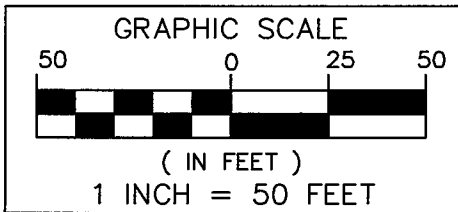
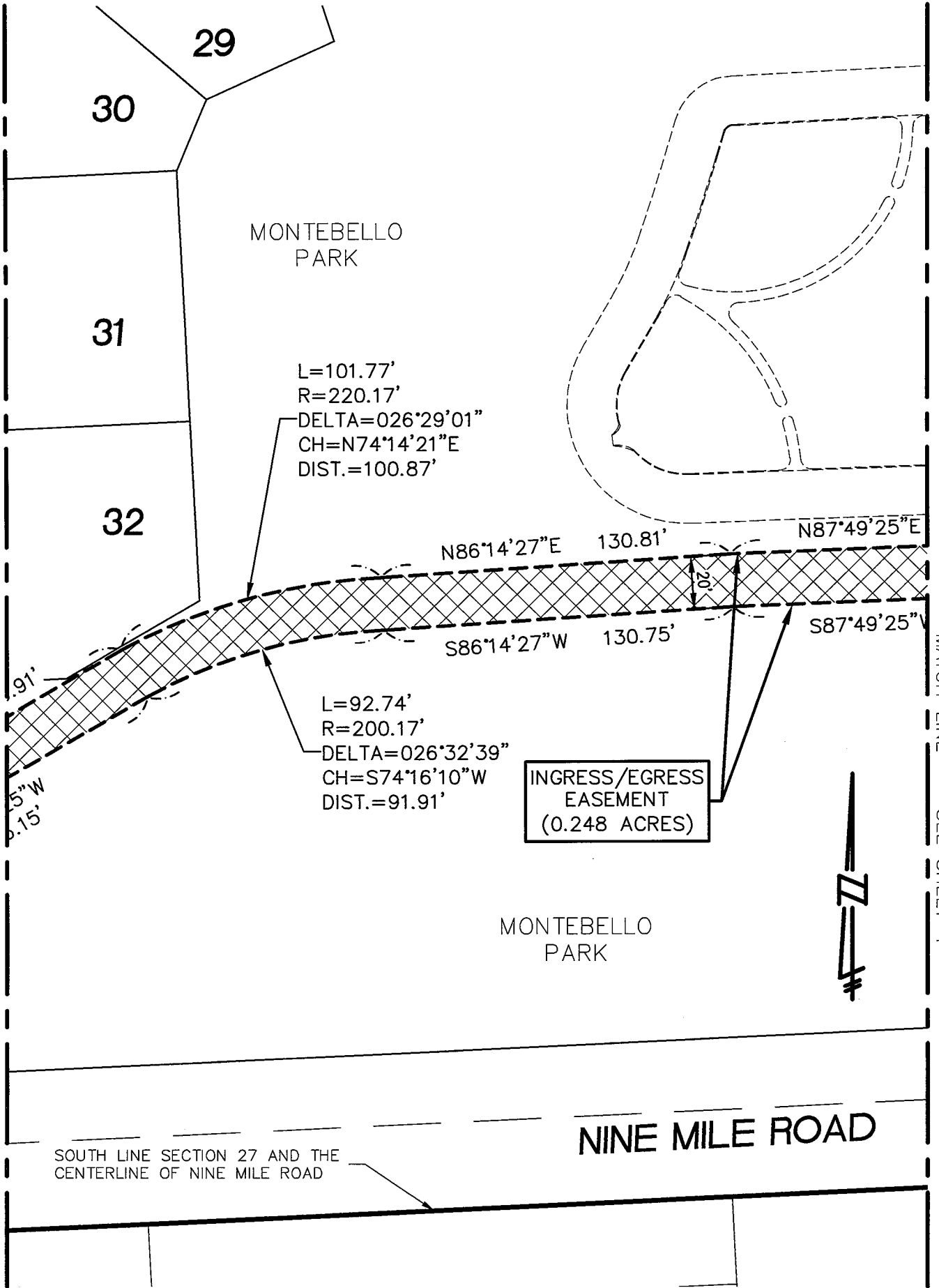
SECTION 27, TOWN 1 NORTH,
RANGE 8 EAST, CITY OF NOVI,
OAKLAND COUNTY, MICHIGAN

SCALE:	1" = 50'
DATE:	05-10-16
JOB NO.:	15-012
DWG FILE:	15-012ESMT-STW
DRAWN BY:	DFR, AT
CHECK:	JE
SHEET:	2 OF 4

EXHIBIT C

MATCH LINE - SEE SHEET 2

MATCH LINE - SEE SHEET 4



INGRESS/EGRESS EASEMENT
(0.248 ACRES)

INGRESS/EGRESS EASEMENT



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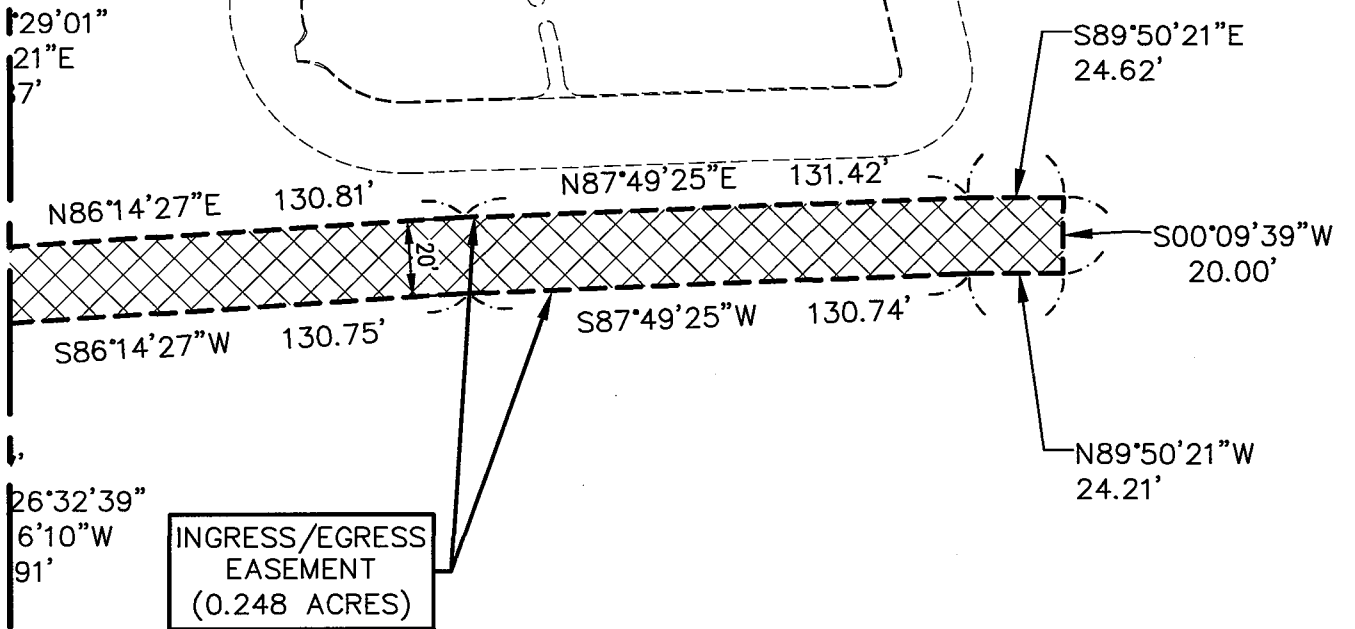
MONTEBELLO ESTATES

SECTION 27, TOWN 1 NORTH,
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OAKLAND COUNTY, MICHIGAN

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DRAWN BY: DFR, AT
CHECK: JE
SHEET: 3 OF 4

EXHIBIT C

MONTEBELLO PARK



INGRESS/EGRESS
EASEMENT
(0.248 ACRES)

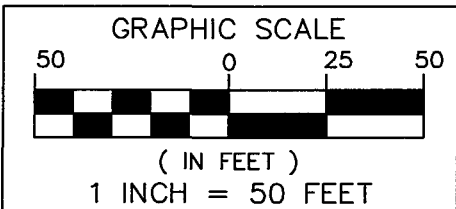
MONTEBELLO PARK

SOUTH LINE SECTION 27 AND THE
CENTERLINE OF NINE MILE ROAD

NINE MILE ROAD

S87°18'00\"/>

MATCH LINE - SEE SHEET 3



INGRESS/EGRESS EASEMENT
(0.248 ACRES)

INGRESS/EGRESS EASEMENT



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MONTEBELLO ESTATES

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CHECK:	JE
SHEET:	4 OF 4

EXHIBIT D

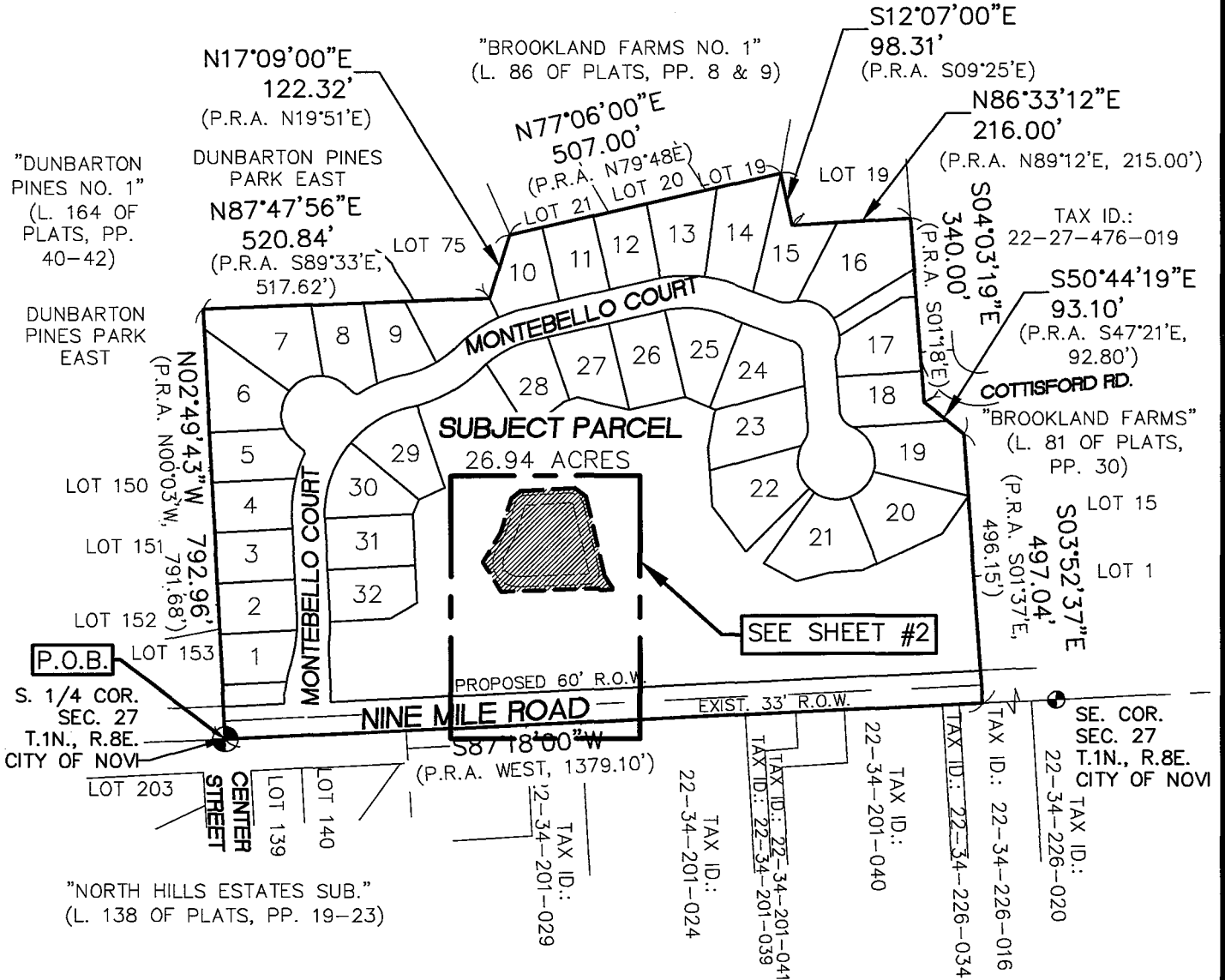
“MONTEBELLO ESTATES”

LEGAL DESCRIPTION

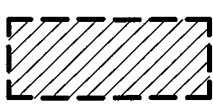
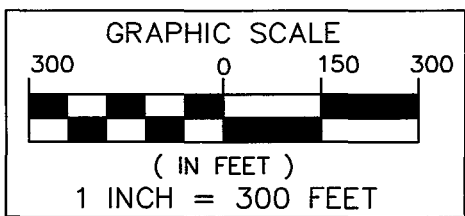
DETENTION/SEDIMENTATION BASIN EASEMENT AREA

A Detention/Sedimentation Basin Easement Area, being a part of the Southeast 1/4 of Section 27, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; being more particularly described as commencing at the South 1/4 Corner of said Section 27; thence North 87°18'00" East, 691.47 feet, along the South line of said Section 27 and the centerline of Nine Mile Road; thence North 02°12'10" West, 240.75 feet, for a POINT OF BEGINNING; thence North 52°13'50" West, 5.89 feet; thence South 88°06'19" West, 175.61; thence North 31°27'26" West, 63.91 feet; thence North 31°01'30" East, 64.11 feet; thence North 17°11'30" East, 66.33 feet; thence North 52°05'00" East, 20.53 feet; thence North 87°10'40" East, 99.08 feet; thence South 52°46'29" East, 25.80 feet; thence South 12°43'39" East, 150.11 feet; thence South 32°12'07" East, 24.74 feet; thence South 00°09'39" West, 5.22 feet; thence North 89°50'21" West, 21.07 feet, to the Point of Beginning. All of the above containing 0.754 Acres.

EXHIBIT D



SEE SHEET #2



DETENTION/SEDIMENTATION
EASEMENT AREA
(0.754 ACRES)

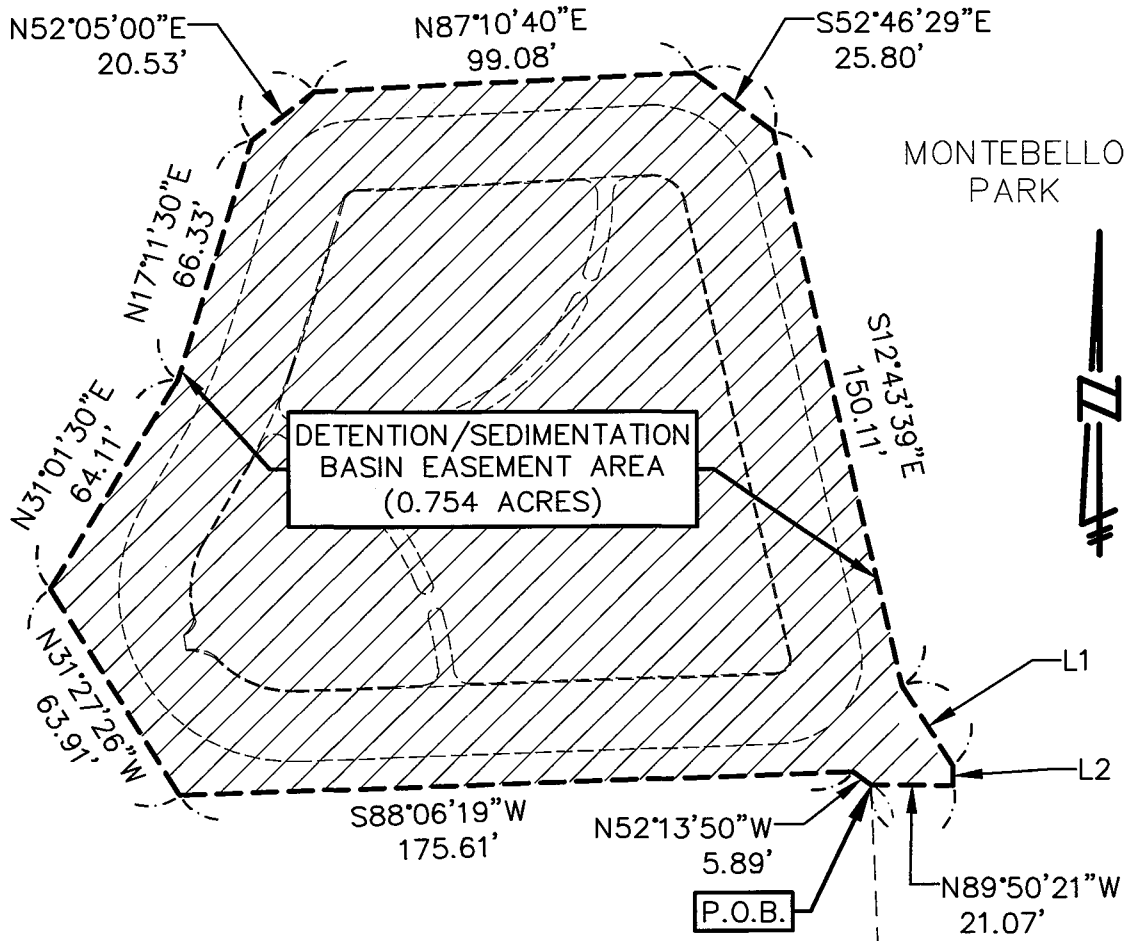
SUBJECT PROPERTY AND SHEET INDEX

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MONTEBELLO ESTATES
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SCALE:	1" = 300'
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DRAWN BY:	DFR, AT
CHECK:	JE
SHEET:	1 OF 2

EXHIBIT D



LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S32°12'07"E	24.74'
L2	S00°09'39"W	5.22'

MONTEBELLO PARK

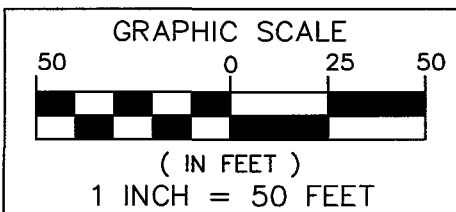
SOUTH LINE SECTION 27 AND THE CENTERLINE OF NINE MILE ROAD

NINE MILE ROAD

N87°18'00"E 691.47'

S87°18'00"W 1379.11'

S 1/4. COR.
SECTION 27
T.1N.,R.8E.,



DETENTION/SEDIMENTATION
 BASIN EASEMENT AREA
 (0.754 ACRES)



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ENGINEERING, L.L.C.**

CONSULTING ENGINEERS

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MONTEBELLO ESTATES

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SCALE: 1" = 50'
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 DWG FILE: 15-012ESMT-STW
 DRAWN BY: DFR, AT
 CHECK: JE
 SHEET: 2 OF 2