



# CITY of NOVI CITY COUNCIL

**Agenda Item E**  
**August 29, 2016**

**SUBJECT:** Acceptance of a Conservation Easement from Novi Partners of Ky, LLC. for wetland conservation areas as a part of the JSP14-13 Novi Lakes Health Campus (fka Trilogy) site, located on the south side of Twelve Mile Road between Novi Road and Meadowbrook Road in Section 14 of the City.

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

**CITY MANAGER APPROVAL:** *PA*

*Barb*

**BACKGROUND INFORMATION:**

The applicant has received Final Site Plan approval of a 10.25 acre, senior assisted living facility located on the south side of Twelve Mile Road between Novi Road and Meadowbrook Road. The project will provide 90 beds along with associated parking, landscaping, and detention areas. The Planning Commission approved the Preliminary Site Plan, Wetland Permit, Woodland Permit, and Stormwater Management Plan on August 27, 2014. The Revised Final Site Plan was approved administratively on May 15, 2015.

The applicant is providing a conservation easement over Wetland "B" near the east property line, wetland mitigation areas for Wetland "C" near the south property line, natural feature setbacks, woodland specimen trees, and woodland replacement trees. The conservation easement agreement graphically depicts this easement in Exhibit B. The total conservation area is 2.43 acres.

The easements have been reviewed by the City's professional staff and consultants. The easements are 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 Novi Partners of Ky, LLC. for wetland conservation areas as a part of the Novi Lakes Health Campus (fka Trilogy) site, located on the south side of Twelve Mile Road between Novi Road and Meadowbrook Road in Section 14 of the City.

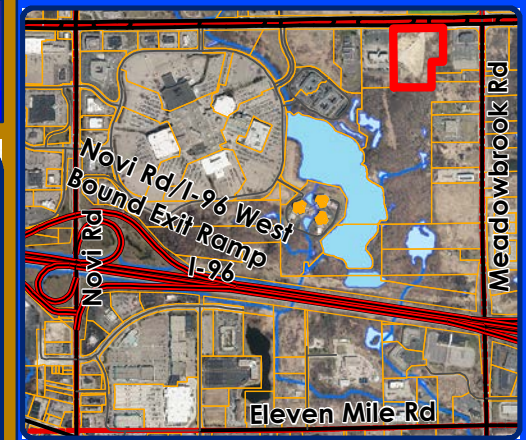
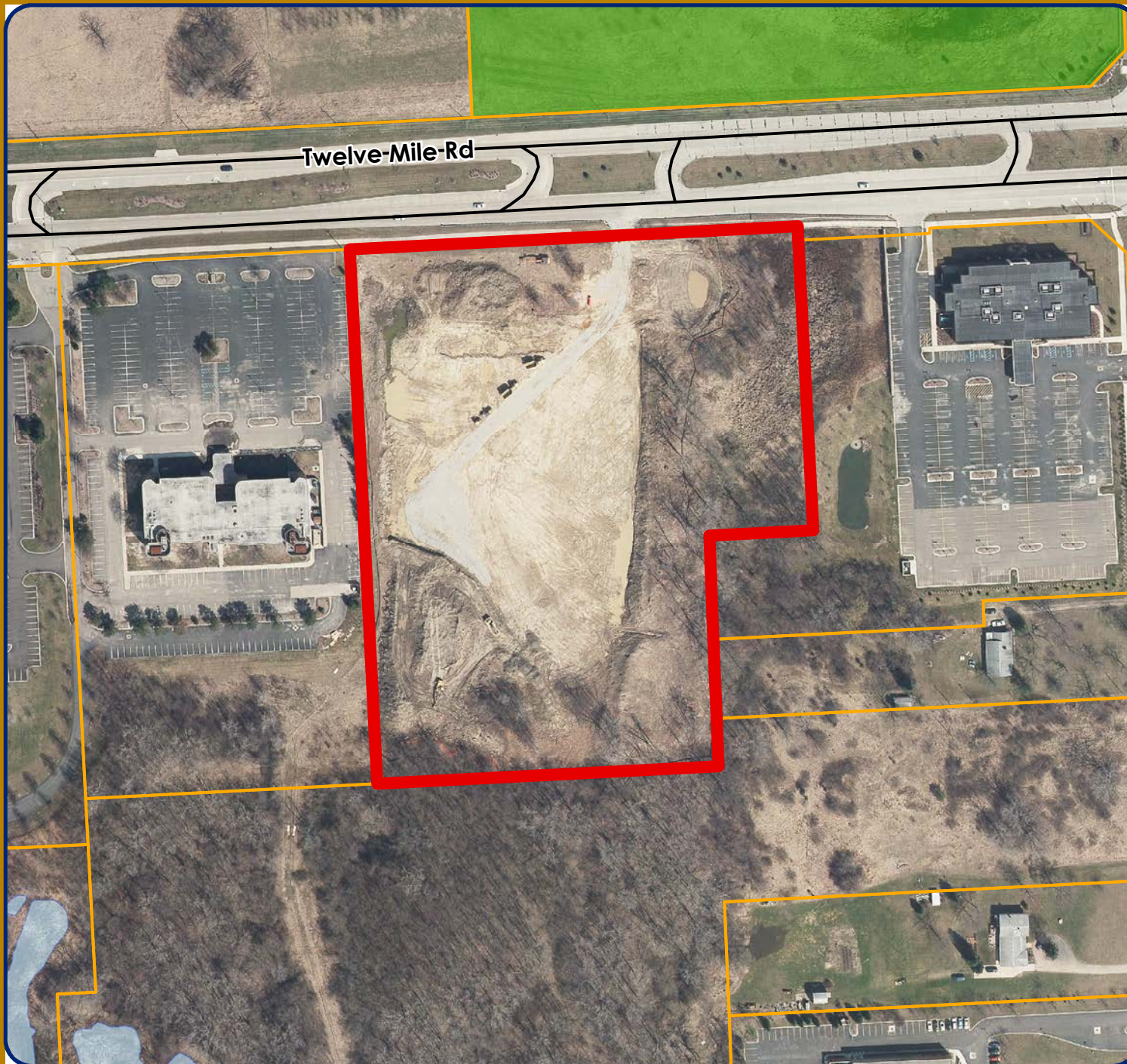
	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

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

**LOCATION MAP**

# 14-13 Trilogy/Novi Lakes Health Campus

Location



## LEGEND

 Sections



## City of Novi

Dept. of Community Development  
City Hall / Civic Center  
45175 W Ten Mile Rd  
Novi, MI 48375  
cityofnovi.org

Map Author: Kirsten Mellem  
Date: 07/08/16  
Project: 14-13 Trilogy/Novi Lakes Health Campus  
Version #: 1

0 45 90 180 270 Feet

1 inch = 208 feet



### 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

August 11, 2016

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

**RE: Trilogy of Novi JSP14-13  
Conservation Easements**

Dear Ms. McBeth:

We have received and reviewed the revised Conservation Easement for the Trilogy of Novi Development. The Conservation Easement is required with respect to preservation of remaining on-site wetlands, wetland migration areas, woodlands and woodland replacement trees. The original executed Conservation Easement appears consistent with the requirements set forth in the City wetland and wetland consultant's reports. Subject to review and approval of the exhibits by the City's Planner and Consulting Engineer for consistency with the approved site plan, 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 in that regard.

Sincerely,

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

Elizabeth K. Saarela

EKS

C: Cortney Hanson, Clerk (w/Original Enclosures)  
Charles Boulard, Community Development Director (w/Enclosures)  
Sri Komaragiri, Planner (w/Enclosures)  
Kirsten Mellem, Planner (w/Enclosures)  
Angie Pawlowski, Community Development Bond Coordinator (w/Enclosures)

Barb McBeth, City Planner

August 11, 2016

Page 2

Aaron Staup, Construction Engineering Coordinator (w/Enclosures)

Theresa Bridges, Construction Engineer (w/Enclosures)

Sarah Marchioni, Community Development Building Project Coordinator (w/Enclosures)

Pete Hill, ECT(w/Enclosures)

Sue Troutman, City Clerk's Office (w/Enclosures)

Michael Kitchen & Jason Unger, DMK Development ([junger@dmkdevelopment.com](mailto:junger@dmkdevelopment.com))  
(w/Enclosures)

Paul Croce, Esquire (w/Enclosures)

Patrick Hanes, Esquire (w/Enclosures)

Thomas R. Schultz, Esquire(w/Enclosures)

**CONSERVATION EASEMENT**

## **CONSERVATION EASEMENT**

THIS CONSERVATION EASEMENT made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Novi Partners of KY, LLC, a Kentucky limited liability company whose address is 9300 Shelbyville Road, Suite 800, Louisville, Kentucky 40222 (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 Section 14 of the City of Novi, Oakland County, Michigan, described in Exhibit A, attached hereto and made a part hereof (the "Property"). Grantor has received final site plan approval for construction of a senior assisted living facility development on the Property, subject to provision of an appropriate easement to permanently protect the remaining woodlands and replacement trees, wetland areas, wetland mitigation areas and natural feature setback areas located thereon from destruction or disturbance. Grantor desires to grant such an easement in order to protect the area.

B. The Conservation Easement Areas (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 City, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the City, all Grantors and purchasers of the property and their respective heirs, 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. The purpose of this Conservation Easement is to protect the woodlands, replacement trees, wetlands, natural feature setbacks and wetland mitigation areas as shown on the attached and incorporated Exhibit B. The subject areas shall be perpetually preserved and maintained, in their natural and undeveloped condition, unless authorized by permit from the City, and, if applicable, the Michigan Department of Environmental Quality and the appropriate federal agency.



2. Except for and subject to the activities which have been expressly authorized by permit, there shall be no disturbance of the woodlands, woodland replacement trees, wetlands, natural feature setbacks, mitigation areas and/or vegetation within the Easement Area, including altering the topography of; placing fill material in; dredging, removing or excavating soil, minerals, or trees, and from constructing or placing any structures on; draining surface water from; or plowing, tilling, cultivating, or otherwise altering or developing, and/or constructing, operating, maintaining any use or development in the Easement Area.

3. 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 and the approved landscape and site plans. Replacement trees shall be replaced by Grantor, at Grantors own expense, in accordance with the approved final site plan and landscape plan in the event they are die or are removed without a permit.

4. 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 written notice to Grantor, Grantee and its authorized employees and agents (collectively, "Grantee's Representatives") may enter upon and inspect the Easement Area to determine whether the Easement Area is being maintained in compliance with the terms of the Conservation Easement.

5. In the event that the Grantor shall at any time fail to carry out the responsibilities specified within this Document, and/or in the event of a failure to preserve and/or maintain the woodlands, wetlands, natural feature setbacks and/or mitigation areas in reasonable order and condition, the City may serve written notice upon the Grantor setting forth the deficiencies in maintenance and/or preservation. Notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place of the hearing before the City Council, or such other Council, body or official delegated by the City Council, for the purpose of allowing the Grantor to be heard as to why the City should not proceed with the maintenance and/or preservation which has not been undertaken. At the hearing, the time for curing the deficiencies and the hearing itself may be extended and/or continued to a date certain. If, following the hearing, the City Council, or other body or official, designated to conduct the hearing, shall determine that maintenance and/or preservation have not been undertaken within the time specified in the notice, the City shall thereupon have the power and authority, but not obligation to enter upon the property, or cause its agents or contractors to enter upon the property and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The cost and expense of making and financing such maintenance and/or preservation including the cost of notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by the Grantor, and such amount shall constitute a lien on an equal pro rata basis as to all of the lots 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 Grantor, all unpaid amounts may be placed on the delinquent tax roll of the City, pro rata, as to each lot, and shall accrue interest and penalties, and shall be collected as, and shall be

deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against the Grantor, and, in such event, the Grantor shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

6. Within 90 days after the Conservation Easement shall have been recorded, Grantor at its sole expense, shall place such signs, defining the boundaries of the Easement Area and, describing its protected purpose, as indicated herein.

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 day and year first above set forth.

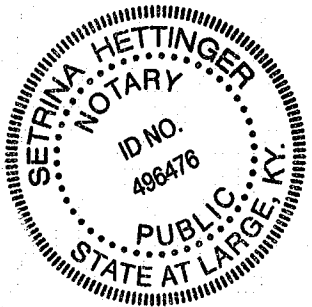
GRANTOR

**NOVI PARTNERS OF KY, LLC**, a Kentucky limited liability company

By: *David M. Kitchen*  
David M. Kitchen  
Its: Manager

STATE OF *KY* )  
COUNTY OF *JEFFERSON* ) ss.

The foregoing instrument was acknowledged before me this *2* day of *August*, 20*16*, by David M. Kitchen, as the Manager of Novi Partners of KY, LLC, a Kentucky limited liability company, on its behalf.



*Setrina Hettinger*  
Notary Public  
Acting in *Jefferson* County  
My Commission Expires: *9/4/2017*

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:  
Cortney Hanson, Clerk  
City of Novi  
45175 Ten Mile Road  
Novi, Michigan 48375

# EASEMENT EXHIBIT "B"

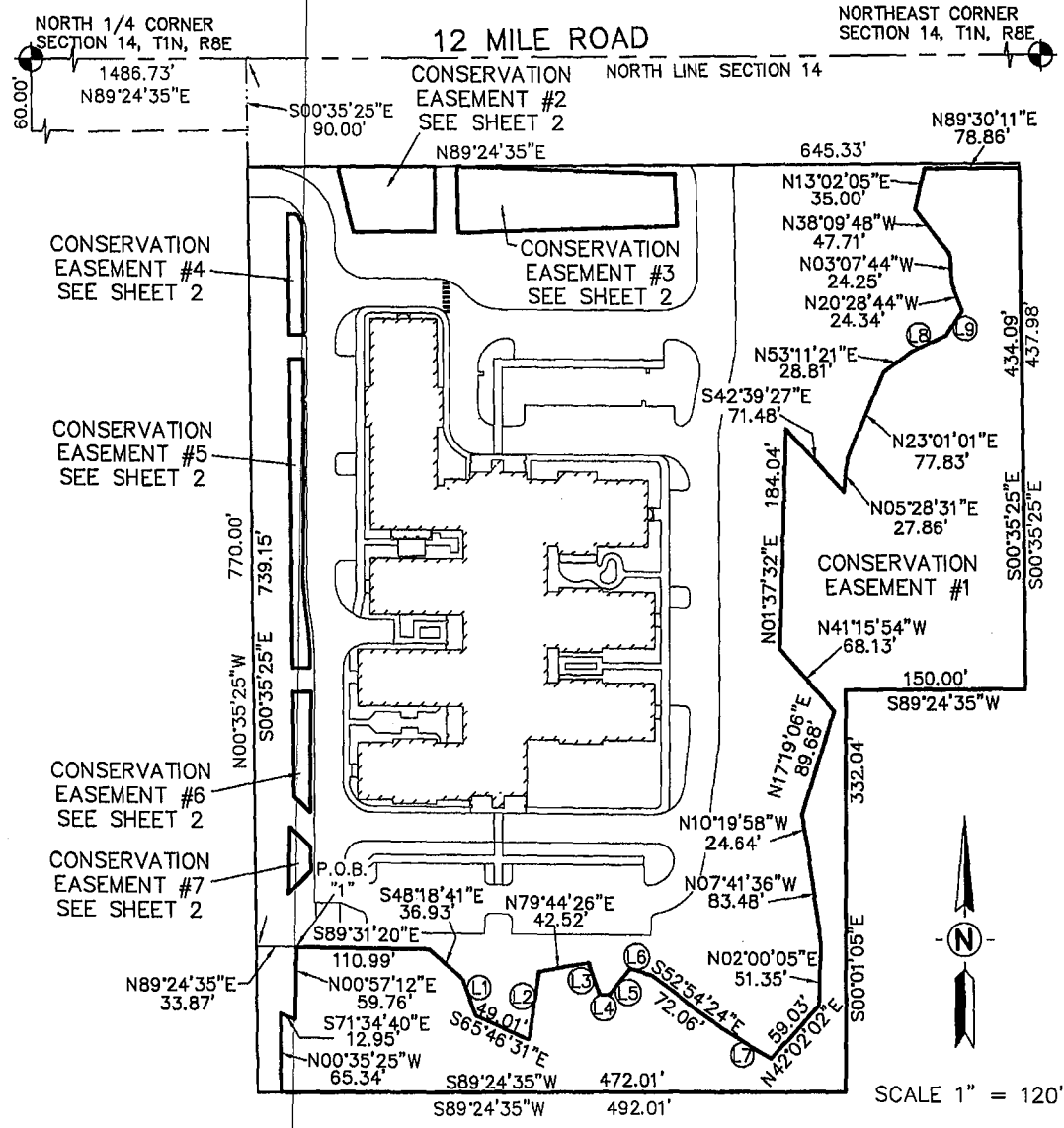
FOR: DMK DEVELOPMENT GROUP, LLC

NOTES:  
 1. A CERTIFIED BOUNDARY SURVEY IS REQUIRED FOR THE EXACT LOCATION OF FENCE AND PROPERTY LINES.

2. ALL EASEMENTS MAY NOT BE SHOWN

SEE PAGES 3 & 4 FOR EASEMENT DESCRIPTIONS

LINE TABLE		
LINE	BEARING	LENGTH
L1	S20°24'59"E	31.76'
L2	N08°23'53"E	57.37'
L3	S19°33'29"E	27.87'
L4	S87°39'10"E	8.02'
L5	N38°30'08"E	28.37'
L6	S73°37'40"E	19.14'
L7	S59°02'57"E	48.35'
L8	N65°21'27"E	32.74'
L9	N32°58'07"E	24.69'



This plan was made at the direction of the parties hereon and intended solely for their immediate use and no survey has been made and no property lines were monumented, all easements recorded or unrecorded may not be shown, unless specifically noted, and no dimensions are intended for use in establishing property lines.

- = Deed Line
- - - = Proposed Easement Line
- - - = Distance Not to Scale

**KEBS, INC.** KYES ENGINEERING  
BRYAN LAND SURVEYS

2116 HASLETT ROAD, HASLETT, MI 48840  
PH. 517-339-1014 FAX. 517-339-8047

13432 PRESTON DRIVE, MARSHALL, MI 49088  
PH. 269-781-9800 FAX. 269-781-9805

DRAWN BY SLH	SECTION 14, T1N, R8E
FIELD WORK BY NAW	JOB NUMBER:
SHEET 1 OF 4	87486.ENG-ESMT-CONS

# EASEMENT EXHIBIT "B"

FOR: DMK DEVELOPMENT GROUP, LLC

**NOTES:**

1. A CERTIFIED BOUNDARY SURVEY IS REQUIRED FOR THE EXACT LOCATION OF FENCE AND PROPERTY LINES.

2. ALL EASEMENTS MAY NOT BE SHOWN

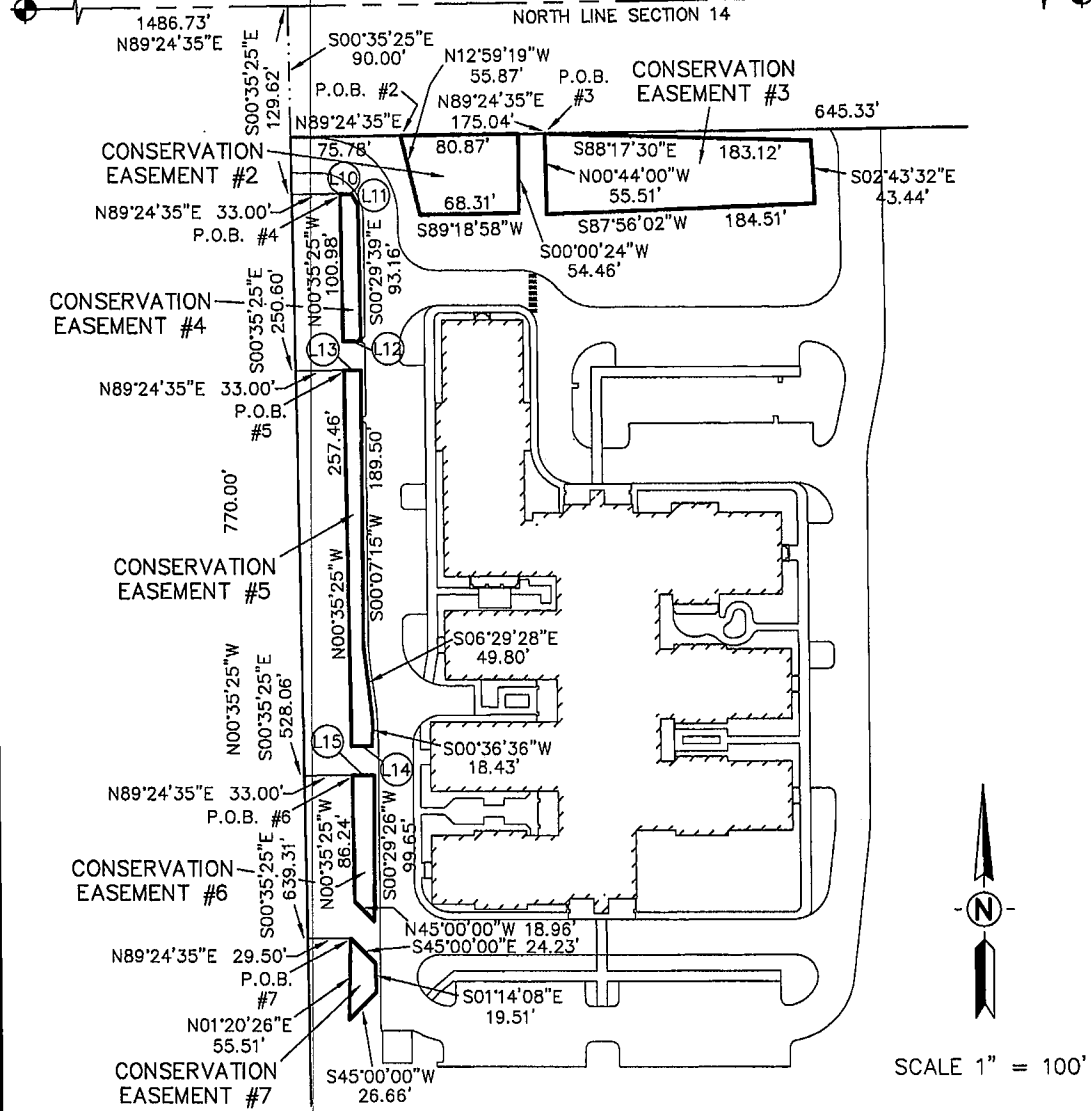
SEE PAGES 3 & 4 FOR EASEMENT DESCRIPTIONS

LINE TABLE		
LINE	BEARING	LENGTH
L10	S87°46'18"E	8.39'
L11	S27°55'48"E	8.52'
L12	N89°48'40"W	12.13'
L13	S89°48'40"E	11.81'
L14	WEST	14.19'
L15	EAST	15.15'

NORTH 1/4 CORNER  
SECTION 14, T1N, R8E

NORTHEAST CORNER  
SECTION 14, T1N, R8E

## 12 MILE ROAD



This plan was made at the direction of the parties hereon and intended solely for their immediate use and no survey has been made and no property lines were monumented, all easements recorded or unrecorded may not be shown, unless specifically noted, and no dimensions are intended for use in establishing property lines.

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DRAWN BY SLH

SECTION 14, T1N, R8E

FIELD WORK BY NAW

JOB NUMBER:

SHEET 2 OF 4

87486.ENG-ESMT-CONS

## EASEMENT EXHIBIT "B"

PARCEL 50-22-14-200-031 DESCRIPTION (PER CITY OF NOVI RECORDS):

PART OF THE NE 1/4 BEG AT A PT DIST S 00-35-25 E 60.00 FT & N 89-24-35 E 1486.73 FT FROM N 1/4 COR, TH N 89-24-35 E 645.33 FT, TH S 00-35-25 E 467.98 FT, TH S 89-24-35 W 150.00 FT, TH S 00-01-05 E 332.04 FT, TH S 89-24-35 W 492.01 FT, TH N 00-35-25 W 800.00 FT TO BEG, EXC N 30 FT

PROPOSED CONSERVATION EASEMENT #1: An area of land in the Northeast 1/4 of Section 14, T1N, R8E, City of Novi, Oakland County, Michigan, the limits of said easement described as: Commencing at the North 1/4 corner of said Section 14; thence N89°24'35"E along the North line of said Section 14 a distance of 1486.73 feet; thence S00°35'25"E 739.15 feet; thence N89°24'35"E parallel with said North line 33.87 feet to the point of beginning of this easement description; thence S89°31'20"E 110.99 feet; thence S48°18'41"E 36.93 feet; thence S20°24'59"E 31.76 feet; thence S65°46'31"E 49.01 feet; thence N08°23'53"E 57.37 feet; thence N79°44'26"E 42.52 feet; thence S19°33'29"E 27.87 feet; thence S87°39'10"E 8.02 feet; thence N38°30'08"E 28.37 feet; thence S73°37'40"E 19.14 feet; thence S52°54'24"E 72.06 feet; thence S59°02'57"E 48.35 feet; thence N42°02'02"E 59.03 feet; thence N02°00'05"E 51.35 feet; thence N07°41'36"W 83.48 feet; thence N10°19'58"W 24.64 feet; thence N17°19'06"E 89.68 feet; thence N41°15'54"W 68.13 feet; thence N01°37'32"E 184.04 feet; thence S42°39'27"E 71.48 feet; thence N05°28'31"E 27.86 feet; thence N23°01'01"E 77.83 feet; thence N53°11'21"E 28.81 feet; thence N65°21'27"E 32.74 feet; thence N32°58'07"E 24.69 feet; thence N20°28'44"W 24.34 feet; thence N03°07'44"W 24.25 feet; thence N38°09'48"W 47.71 feet; thence N13°02'05"E 35.00 feet; thence N89°30'11"E 78.86 feet ; thence S00°35'25"E 434.09 feet; thence S89°24'35"W parallel with said North line 150.00 feet; thence S00°01'05"E 332.04 feet; thence S89°24'35"W parallel with said North line 472.01 feet; thence N00°35'25"W 65.34 feet; thence S71°34'40"E 12.95 feet; thence N00°57'12"E 59.76 feet to the point of beginning; said easement containing 2.43 acres, more or less; said easement subject to all other easements and restrictions if any.

PROPOSED CONSERVATION EASEMENT #2: An area of land in the Northeast 1/4 of Section 14, T1N, R8E, City of Novi, Oakland County, Michigan, the limits of said easement described as: Commencing at the North 1/4 corner of said Section 14; thence N89°24'35"E along the North line of said Section 14 a distance of 1486.73 feet; thence S00°35'25"E 90.00 feet; thence N89°24'35"E parallel with said North line 75.78 feet to the point of beginning of this easement description; thence continuing N89°24'35"E parallel with said North line 80.87 feet; thence S00°00'24"W 54.46 feet; thence S89°18'58"W 68.31 feet; thence N12°59'19"W 55.87 feet to the point of beginning; said easement containing 0.09 acre, more or less; said easement subject to all other easements and restrictions if any.

PROPOSED CONSERVATION EASEMENT #3: An area of land in the Northeast 1/4 of Section 14, T1N, R8E, City of Novi, Oakland County, Michigan, the limits of said easement described as: Commencing at the North 1/4 corner of said Section 14; thence N89°24'35"E along the North line of said Section 14 a distance of 1486.73 feet; thence S00°35'25"E 90.00 feet; thence N89°24'35"E parallel with said North line 175.04 feet to the point of beginning of this easement description; thence S88°17'30"E 183.12 feet; thence S02°43'32"E 43.44 feet; thence S87°56'02"W 184.51 feet; thence N00°44'00"W 55.51 feet to the point of beginning; said easement containing 0.20 acre, more or less; said easement subject to all other easements and restrictions if any.

PROPOSED CONSERVATION EASEMENT #4: An area of land in the Northeast 1/4 of Section 14, T1N, R8E, City of Novi, Oakland County, Michigan, the limits of said easement described as: Commencing at the North 1/4 corner of said Section 14; thence N89°24'35"E along the North line of said Section 14 a distance of 1486.73 feet; thence S00°35'25"E 129.62 feet; thence N89°24'35"E parallel with said North line 33.00 feet to the point of beginning of this easement description; thence S87°46'18"E 8.39 feet; thence S27°55'48"E 8.52 feet; thence S00°29'39"E 93.16 feet; thence N89°48'40"W 12.13 feet; thence N00°35'25"W 100.98 feet to the point of beginning; said easement containing 0.02 acre, more or less; said easement subject to all other easements and restrictions if any.



**KEBS, INC.** KYES ENGINEERING  
BRYAN LAND SURVEYS

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PH. 517-339-1014 FAX. 517-339-8047

13432 PRESTON DRIVE, MARSHALL, MI 49068  
PH. 269-781-9800 FAX. 269-781-9805


DRAWN BY	SLH	SECTION 14, T1N, R8E
FIELD WORK BY	NAW	JOB NUMBER:
SHEET	3 OF 4	87486.ENG-ESMT-CONS


## EASEMENT EXHIBIT "B"

PROPOSED CONSERVATION EASEMENT #5: An area of land in the Northeast 1/4 of Section 14, T1N, R8E, City of Novi, Oakland County, Michigan, the limits of said easement described as: Commencing at the North 1/4 corner of said Section 14; thence N89°24'35"E along the North line of said Section 14 a distance of 1486.73 feet; thence S00°35'25"E 250.60 feet; thence N89°24'35"E parallel with said North line 33.00 feet to the point of beginning of this easement description; thence S89°48'40"E 11.81 feet; thence S00°07'15"W 189.50 feet; thence S06°29'28"E 49.80 feet; thence S00°36'36"W 18.43 feet; thence West 14.19 feet; thence N00°35'25"W 257.46 feet to the point of beginning; said easement containing 0.06 acre, more or less; said easement subject to all other easements and restrictions if any.

PROPOSED CONSERVATION EASEMENT #6: An area of land in the Northeast 1/4 of Section 14, T1N, R8E, City of Novi, Oakland County, Michigan, the limits of said easement described as: Commencing at the North 1/4 corner of said Section 14; thence N89°24'35"E along the North line of said Section 14 a distance of 1486.73 feet; thence S00°35'25"E 528.06 feet; thence N89°24'35"E parallel with said North line 33.00 feet to the point of beginning of this easement description; thence East 15.15 feet; thence S00°29'26"W 99.65 feet; thence N45°00'00"W 18.96 feet; thence N00°35'25"W 86.24 feet to the point of beginning; said easement containing 0.03 acre, more or less; said easement subject to all other easements and restrictions if any.

PROPOSED CONSERVATION EASEMENT #7: An area of land in the Northeast 1/4 of Section 14, T1N, R8E, City of Novi, Oakland County, Michigan, the limits of said easement described as: Commencing at the North 1/4 corner of said Section 14; thence N89°24'35"E along the North line of said Section 14 a distance of 1486.73 feet; thence S00°35'25"E 639.31 feet; thence N89°24'35"E parallel with said North line 29.50 feet to the point of beginning of this easement description; thence S45°00'00"E 24.23 feet; thence S01°14'08"E 19.51 feet; thence S45°00'00"W 26.66 feet; thence N01°20'26"E 55.51 feet to the point of beginning; said easement containing 0.01 acre, more or less; said easement subject to all other easements and restrictions if any.


8/4/16  
 Dane B. Pascoe                      Date:  
 Professional Surveyor No. 54434

	<b>KEBS, INC.</b> KYES ENGINEERING BRYAN LAND SURVEYS
	2116 HASLETT ROAD, HASLETT, MI 48840 PH. 517-339-1014 FAX. 517-339-8047 13432 PRESTON DRIVE, MARSHALL, MI 49068 PH. 269-781-9800 FAX. 269-781-9805
DRAWN BY    SLH	SECTION    14, T1N, R8E
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SHEET        4   OF    4	87486.ENG-ESMT-CONS