



CITY of NOVI CITY COUNCIL

Agenda Item L
September 15, 2014

SUBJECT: Acceptance of a pathway easement as a donation from Novi Real Estate, LLC for the property located at 48300 Eleven Mile Road for a portion of the regional trail system constructed by the property owner as part of the Medilodge development (parcel 22-17-400-002).

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

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The developer of Medilodge, Novi Real Estate, LLC, is requesting acceptance of a pathway easement to satisfy one of the conditions of their approved Planned Rezoning Overlay (PRO). Medilodge is located on Eleven Mile Road west of Beck Road in Section 17 of the City of Novi (see attached map). The pathway easement (phase 3A of the ITC Corridor Regional Trail) connects the existing pathway in the ITC Corridor Regional Trail to the master planned connection to Beck Road (phase 3B). This represents the second segment of phase 3A as identified in the attached map.

The enclosed pathway easement has been favorably reviewed by the City Attorney (Beth Saarela's March 19, 2014 letter, attached) and is recommended for approval.

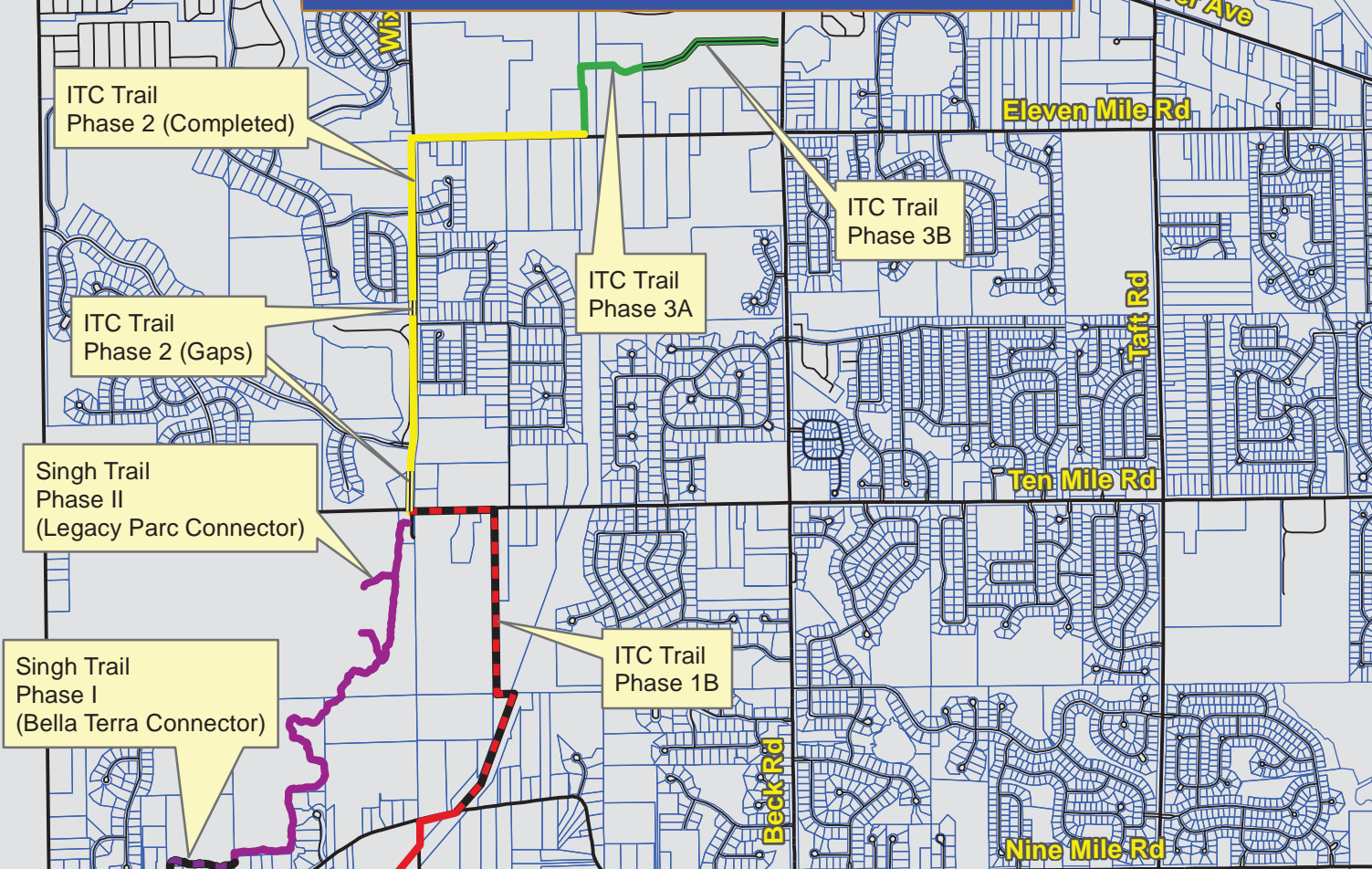
RECOMMENDED ACTION: Acceptance of a pathway easement as a donation from Novi Real Estate, LLC for the property located at 48300 Eleven Mile Road for a new bicycle pathway constructed by the property owner as part of the Medilodge development (parcel 22-17-400-002).

| | 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 | | | | |

Proposed ITC Corridor Regional Trail

Alignment and Project Status



| PROJECT | PROJECT PHASE | | | | | Notes |
|--|---------------|---|-----------------|---------|--------------|---|
| | Planning | Preliminary Design/Easement Acquisition | Detailed Design | Bidding | Construction | |
| 8 Mile Mid-Block Crossing (Maybury State Park Connector) | ✓ | ✓ | ✓ | ✓ | ✓ | Completed in 2013. |
| ITC Community Sports Park Trail | ✓ | | | | | Awaiting funding source. |
| ITC Corridor Regional Trail - Phase 1A | ✓ | ✓ | | | | Starting Final Design for 2015 Construction. |
| ITC Corridor Regional Trail - Phase 1B | ✓ | | | | | Construction slated for FY18/19 in the CIP. |
| ITC Corridor Regional Trail - Phase 2 | ✓ | ✓ | ✓ | ✓ | ✓ | Gaps completed in 2013 by private developer. |
| ITC Corridor Regional Trail - Phase 3A (Medilodge Connector) | ✓ | ✓ | ✓ | ✓ | ✓ | Completed in 2013. |
| ITC Corridor Regional Trail - Phase 3B (Providence Park Connector) | ✓ | ✓ | | | | Negotiating easement with Providence Pk Hospital. Construction hinges on whether Phase 1B can be built. |
| Singh Trail | ✓ | | | | | |

Map Author: M. D. McCreadie Jr
 Date: 7/30/13
 Project: Proposed ITC Corridor Regional Trail
 Version #: 7

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.

Legend

- 8 Mile Mid-Block Crossing (Maybury State Park Connector)
- ITC Community Sports Park Trail
- ITC Corridor Regional Trail - Phase 1A
- ITC Corridor Regional Trail - Phase 1B
- ITC Corridor Regional Trail - Phase 2 (Gaps)
- ITC Corridor Regional Trail - Phase 3A (Medilodge Connector)
- ITC Corridor Regional Trail - Phase 3B (Providence Park Connector)
- Singh Trail - Phase I (Bella Terra Connector)
- Singh Trail - Phase II (Legacy Parc Connector)



City of Novi

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



1 inch = 2,500 feet

Medilodge Pathway Easement Location Map

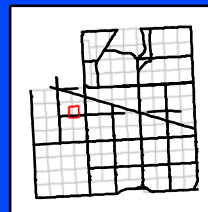


Map Author: A. Wayne
Date: September 2, 2014
Project:
Version #:

Amended By:
Date:
Department:

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1 inch = 248 feet



JOHNSON ROSATI SCHULTZ JOPPICH PC

34405 W. Twelve Mile Road, Suite 200 ~ Farmington Hills, Michigan 48331-5627
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.johnsonrosati.com

March 19, 2014

Rob Hayes, Public Services Director
City of Novi, Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: **Re: Medilodge of Novi – SP10-05D**
Review for Acceptance – Utilities

Dear Mr. Hayes:

We have received and reviewed the following documents for Medilodge of Novi:

- Sanitary Sewer System Easement
- Water System Easement
- Bill of Sale
- Commitment for Title Insurance
- Warranty Deed for Eleven Mile Road Right-of-Way
- Pathway Easement
- Utility Maintenance and Guarantee Bond Deposit Agreement

Water and Sanitary Sewer System Easements

Novi Real Estate, LLC seeks to convey the on-site water and sanitary sewer system easements and corresponding Bills of Sale for the facilities serving the Medilodge Development. We have reviewed and approve the format and language of the above Water and Sanitary System Easements and corresponding Bill of Sale. We note that though the property owner has added additional non-standard language pertaining to restoration and disruption, as well as the reservation of ingress/egress rights, the additional language does not alter the rights and responsibilities of the City and is consistent with standard City practices for the use of a water or sanitary sewer system easement. The property owner has requested that the City sign the easements. We have replaced the signature page for approval of the easement for execution by the Public Services Director, consistent with standard practice for water and sanitary sewer system easements.

Rob Hayes, Public Services Director
March 19, 2014
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We note that the concerns with respect to the existing Oil and Gas Lease on the property have been satisfactorily addressed pursuant to the enclosed Lessee's Release of Surface Rights and correspondence from MDEQ confirming directional drilling at depths required pursuant to state law would not interfere with the City's utilities.

The Maintenance and Guarantee bond for the water and sanitary sewer is generally in the City's standard format with a few minor non-substantive revisions and is acceptable for the purpose of guaranteeing the water and sewer facilities against defects in materials and workmanship for two years from the date of acceptance.

Upon the issuance of the Affidavit of Acceptance by the City, and execution of the easements by the Public Services Director, the Water and Sanitary Sewer System Easements should be recorded with the Oakland County Register of Deeds in the usual manner. The Commitment for Title Insurance, Maintenance and Guarantee Bond and Bills of Sale should be retained in the City's file

Warranty Deed for Eleven Mile ROW

Novi Real Estate, LLC seeks to convey the right-of-way for Eleven Mile Road to the City. The enclosed Warranty Deed is acceptable for this purpose.

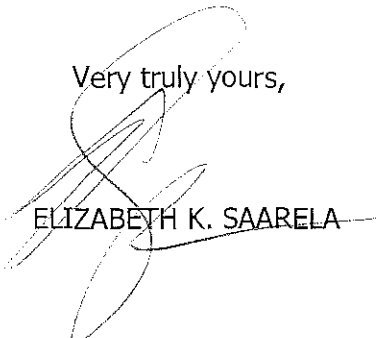
Pathway Easement

The property owner is required to provide a public pathway through its adjacent open space area as a condition of the approved PRO. As an alternative to the indemnity originally requested by the property owner, the property owner will be added to the City's municipal insurance policy as an additional insured with respect to the pathway. Additionally, the standard Pathway Easement language has been modified to indicate that *the City will maintain the pathway*, including snow clearing, since the pathway is not along the project's road frontage and instead crosses an open space area that the property owner would not otherwise maintain for public use in the winter.

The Warranty Deed and Pathway Easement should be placed on an upcoming City Council Agenda for consideration for final acceptance. Once accepted the Warranty Deed and Pathway Easement should be recorded with Oakland County Records in the usual manner.

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

Very truly yours,


ELIZABETH K. SAARELA

EKS

Rob Hayes, Public Services Director

March 19, 2014

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Enclosures

C: Maryanne Cornelius, Clerk (w/Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Barb McBeth, Deputy Community Development Director (w/Enclosures)
Sheila Weber, Treasurer's Office (w/Enclosures)
Kristin Pace, Treasurer's Office (w/Enclosures)
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)
Brian Coburn, Engineering Manager (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
David Beschke, Landscape Architect (w/Enclosures)
Brittany Allen and Ted Meadows, Spalding DeDecker (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Alan J. Schwartz, Esquire (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

PATHWAY EASEMENT

THIS PATHWAY EASEMENT is made this ___ day of _____, 2014, by and between Novi Real Estate, LLC, a Michigan limited liability company, whose address is 30230 Orchard Lake Road, Suite 160, Farmington Hills, Michigan 48334 (hereinafter referred to as the "Owner"), and the City of Novi, its successors, assigns, or transferees, whose address is 45175 W. Ten Mile Road, Novi, MI 48375 (hereinafter the "City").

RECITATIONS:

A. The Owner is the owner and developer of the following described parcel of real property (the "Property") situated in the City of Novi, Oakland County, Michigan:

The West 1/2 of the Southwest 1/4 of the Southeast 1/4
of Section 17, Town 1 North, Range 8 East

Commonly known as: 48300 Eleven Mile Road
Novi, Michigan 48374

Tax Identification Number: 50-22-17-400-002

B. Pursuant to and in accordance with that certain Planned Rezoning Overlay, by and between Owner and the City, dated August 8, 2011, and recorded September 6, 2011, Liber 43345, Page 820, Oakland County Records, Owner has constructed a non-motorized ten-foot wide pathway (the "Path") over, across and through the center of the twenty-foot wide area described on the attached and incorporated Exhibit A (the "Easement Area").

C. Owner desires to grant to the City a nonexclusive permanent easement for use of the Path by the City and the general public, as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. Owner hereby grants and conveys to the City, for the use and benefit of the City and the general public, a nonexclusive permanent easement in and to the Path. The City and general public may use the Path for non-motorized travel only

2. The City shall be responsible for the maintenance, repair and replacement of the Path so that it remains in good order, condition and repair (which shall include, but is not limited to, keeping the Path free and clear of snow, ice and debris). Such maintenance, repair and replacement shall be completed at the City's sole cost and expense. Owner further grants and warrants to the City the right of ingress and egress to and from the Easement Area as is reasonably required to complete such maintenance, repair and/or replacement to the Path. The City shall, at its expense, procure and maintain, for so long as this Agreement remains in full force and effect, commercial general liability insurance with

limits of not less than \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate (if such commercial general liability insurance contains a general aggregate limit, it shall apply separately with respect to the Path), naming Owner and its agents as additional insureds against all liability for injury to or death of a person or persons or damage to property arising from the use and/or maintenance of the Path by the general public and the City. Within ten business days after (i) execution of this Agreement and (ii) the written request of Owner thereafter, the City shall furnish Owner with a certificate or certificates of such required insurance, or other acceptable evidence that such insurance required to be provided by the City is in force. Such insurance may be furnished by the City under any blanket policy carried by it or under a separate policy therefor. Upon completion of any such maintenance, repairs and/or replacement, the City shall, in a good and workmanlike manner, promptly restore the Easement Area to the same condition which existed prior to such maintenance, repairs and/or replacement.

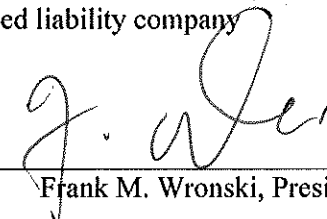
3. Owner agrees not to build or to convey to others permission to build permanent structures on, over, across, in, through, or under the Easement Area, except that, subject to the City's approval as part of an approved site plan, Owner may construct and/or install surface improvements to the Easement Area, including paved driveways, parking and/or walkways; landscaping; utilities and/or similar improvements, which improvements do not interfere with the use, operation, maintenance, repair and replacement of the Path or the easements granted to the City in this Agreement.

4. This instrument shall run with the Property and shall be binding upon and inure to the benefit of the City, Owner, and their respective heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned have executed this Pathway Easement Agreement as of the day and year first written above.

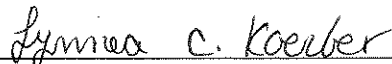
GRANTOR:

NOVI REAL ESTATE, LLC, a Michigan limited liability company

By: 
Frank M. Wronski, President

STATE OF MICHIGAN)
)SS
COUNTY OF OAKLAND)

On this 5th day of March, 2014, before me, personally appeared Frank M. Wronski, in his capacity as President of Novi Real Estate, LLC, a Michigan limited liability company, who states that he has signed this document of his own free will, duly authorized on behalf of Novi Real Estate, LLC.


Notary Public
Macomb County, Michigan
My Commission Expires: 11-19-2019
Acting in Oakland County

Signatures continued on next page

GRANTEE:

CITY OF NOVI, a Michigan municipal corporation

By: _____
Robert J. Gatt, Mayor

By: _____
Maryanne Cornelius, Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

On this ____ day of _____, 2014, before me appeared Robert J. Gatt, Mayor, and Maryanne Cornelius, Clerk, who stated that they have signed this document of their own free will on behalf of the City of Novi in their respective official capacities.

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

Drafted by:
Elizabeth Saarela
34405 W. Twelve Mile
Suite 200
Farmington Hills, MI 48331

When recorded return to:
Maryanne Cornelius
City of Novi
City Clerk
45175 W. Ten Mile Road.
Novi, MI 48375

EXHIBIT A

EASEMENT AREA

Part of the Southeast ¼ of Section 17, T1N-R8E, City of Novi, Oakland County, Michigan, more particularly described as follows: Commencing at the South ¼ Corner of said Section 17; thence along the North and South ¼ line of said Section 17, N 02°21'26" W, 1017.19 feet to the POINT OF BEGINNING of the centerline of the 20 foot wide Pathway Easement to be described; thence along the centerline of the 20 foot wide Pathway Easement, the following 8 courses: 1) N 87°46'22" E, 37.04 feet; 2) along the arc of a curve to the right, 27.40 feet, said curve has a radius of 115.00 feet, a central angle of 13°38'59", and a long chord which bears S 85°24'09" E, 27.33 feet; 3) along the arc of a curve to the left, 32.37 feet, said curve has a radius of 115.00 feet, a central angle of 16°07'31", and a long chord which bears S 86°38'25" E, 32.26 feet; 4) N 85°17'50" E, 62.22 feet; 5) along the arc of a curve to the right, 63.76 feet, said curve has a radius of 105.00 feet, a central angle of 34°47'40", and a long chord which bears S 77°18'20" E, 62.79 feet; 6) S 59°54'30" E, 48.41 feet; 7) along the arc of a curve to the left, 157.59 feet, said curve has a radius of 200.00 feet, a central angle of 45°08'47", and a long chord which bears S 82°28'53" E, 153.55 feet; 8) N 74°56'43" E, 259.71 feet to the Point of Terminus of said centerline.