



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item E
September 14, 2015

SUBJECT: Acceptance of a Conservation Easement from Interphase Land Development, LLC for a woodland, wetland and open space conservation area offered as a part of the Casa Loma development, located on the west side of Beck Road south of 9 Mile Road in Section 32 of the City.

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

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

The applicant has received Final Site Plan approval for a 10-unit single family residential development located on 14.91 acres of land. The site plan was approved utilizing the Open Space Preservation Option. The Final Site Plan was approved administratively on May 8, 2015.

A condition of the Open Space Preservation Option was that the applicant shall provide a conservation easement over the wetland mitigation areas and woodland areas within the development in order to permanently protect these areas from destruction or disturbance. Exhibits B-1 and B-2 graphically depict the preserved area, primarily at the western part of property. The conservation easement covers approximately 3.65 acres, or 24% of the entire property.

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 woodland, wetland and open space conservation easement agreement from Interphase Land Development, LLC as it relates to the Casa Loma development, located on the west side of Beck Road south of 9 Mile Road in Section 32 of the City.

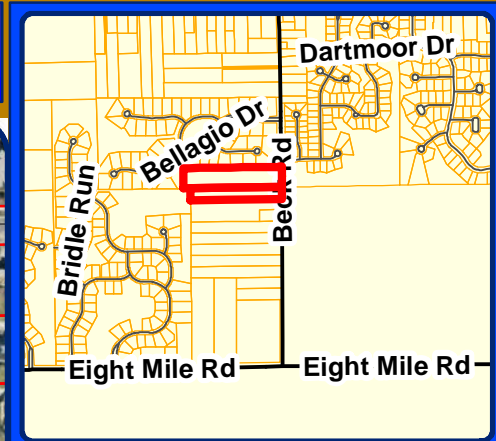
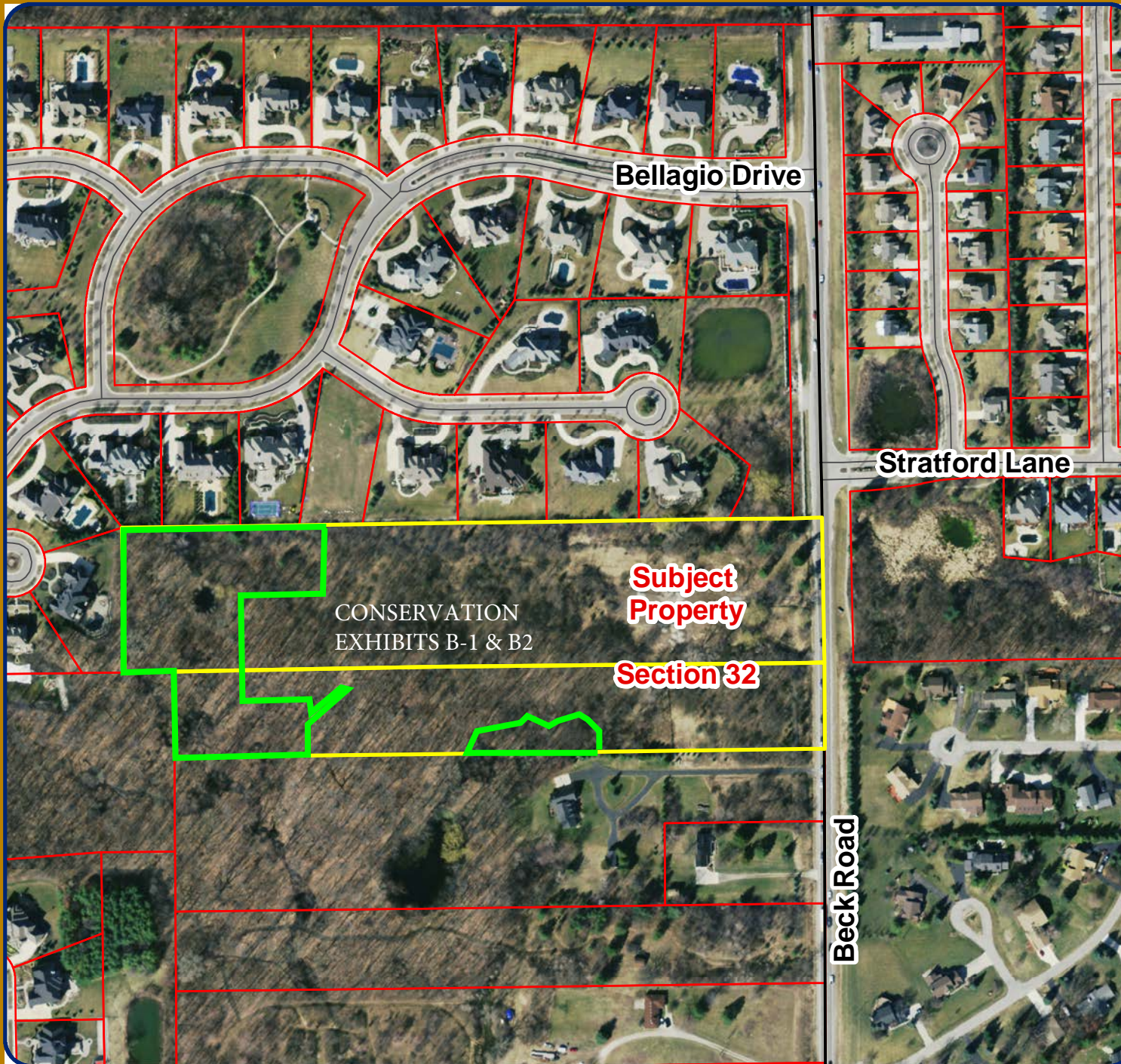
	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Markham				

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

LOCATION MAP

JSP 13-52 Casa Loma - Conservation Agreement

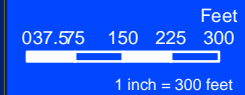
Location



City of Novi

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

Map Author: Christopher Gruba
Date: 08/24/15
Project: JSP 13-52 Casa Loma
Version #: 1



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 10, 2015

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

**RE: *Casa Loma*
Woodland, Wetland and Open Space Conservation Easement**

Dear Ms. McBeth:

We have received and reviewed the original executed Conservation Easement for the Casa Loma Site Condominium Development. The Conservation Easement is being granted in accordance with the approval of the Development pursuant to the Open Space Preservation Option of the City Zoning Ordinance. The Conservation Easement provides for the permanent preservation of the open space, woodlands and wetlands described in Exhibits B-1 and B-2 of the Conservation Easement. Subject to the review and approval of the Exhibits by City staff and/or consultants for consistency with the final approved site plan, the Conservation Easement appears to be in order and may be placed on an upcoming City Council Agenda for approval.

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: Maryanne Cornelius, Clerk
Charles Boulard, Community Development Director
Sri Komaragiri, Planner

Barb McBeth, Deputy Community Development Director

August 10, 2015

Page 2

Adam Wayne, Construction Engineer
Sheila Weber and Kristin Pace, Treasurer's Office
Sarah Marchioni, Building Permit Coordinator
Pete Hill, ECT
Sue Troutman, City Clerk's Office
David Compo, Interphase Development
Bob Langan, Bagley & Langan
Thomas R. Schultz, Esquire

CONSERVATION EASEMENT

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT (the “**Conservation Easement**”) is made this ____ day of _____, 20__, by and between Interphase Land Development, LLC, a Michigan limited liability company whose address is 901 McDonald, Northville, Michigan 48167 (hereinafter the “**Grantor**”), and the City of Novi, and its successors or assigns, whose address is 45175 W. Ten Mile Road, Novi, MI 48375, (hereinafter the “**Grantee**”).

RECITATIONS:

A. Grantor owns a certain parcel of land situated in Section 32 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 10-unit single family residential site condominium development pursuant to the Open Space Preservation Option of the City of Novi Zoning Ordinance on the Property (the “**Development**”), subject to provision of an appropriate easement to permanently protect the woodlands, wetlands and open space 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-1 and B-2, 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 Grantee, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the Grantee, 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, wetlands and open space, as shown on the attached and incorporated **Exhibits B-1 and B-2**. The subject areas shall be perpetually preserved and maintained, in their natural and undeveloped condition, unless authorized by permit from the Grantee, 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, wetlands and open space 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, or 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 Grantee in accordance with all applicable laws and ordinances.

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 Conservation Easement, and/or in the event of a failure to preserve and/or maintain the woodlands, wetlands and open space in reasonable order and condition, in accordance with the terms of this Conservation Easement or applicable City Ordinance or state statute or regulation, Grantee may serve written notice upon 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 Grantee 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 Grantee shall thereupon have the power and authority, but not the obligation, to enter upon the Easement Areas, or cause its agents or contractors to enter

upon the Easement Areas, and perform such maintenance and/or preservation as reasonably found by the Grantee to be appropriate. The cost and expense of making and financing such maintenance and/or preservation, including the cost of notices by the Grantee and reasonable legal fees incurred by the Grantee, 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 the Property. Grantee 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 Grantee, pro rata as to each unit in the Development, 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 Grantee, in the event Grantee prevails in such litigation, such costs and expenses may be collected by suit initiated the Grantor, and, in such event, Grantor shall pay all court costs and reasonable attorney fees incurred by Grantee 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.

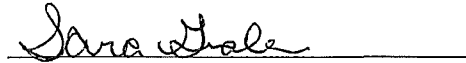
GRANTOR
INTERPHASE LAND DEVELOPMENT, LLC, a
Michigan limited liability company



By: DAVID S. COMPO
Its: MEMBER / MANAGER

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 31ST day of JULY,
2015, by DAVID S COMPO, as the MEMBER / MANAGER of
INTERPHASE LAND a Michigan limited liability company, on its behalf.
DEVELOPMENT, LLC



SARA GRABER
Notary Public, State of Michigan
County of Oakland
My Commission Expires Oct. 29, 2016
Acting in the County of OAKLAND

Notary Public
Oakland County, Michigan
My Commission Expires:

GRANTEE
CITY OF NOVI
A Municipal Corporation

By:
Its:

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

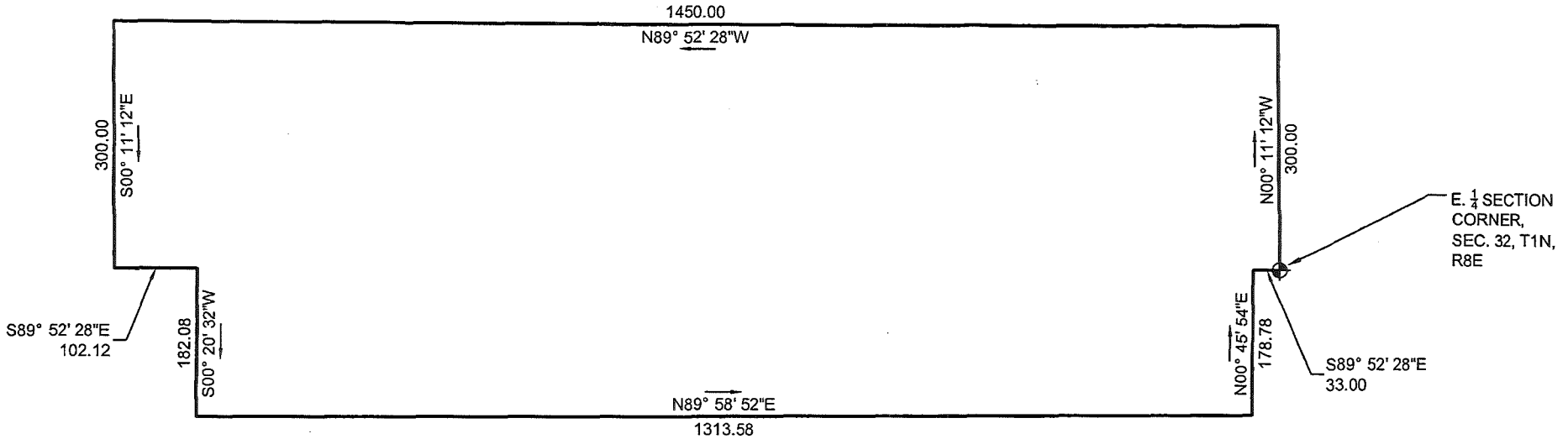
The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by _____, on behalf of the City of Novi, a Municipal Corporation

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

Drafted By:
Elizabeth K. Saarela
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331

When Recorded, Return To:
Maryanne Cornelius, City Clerk
City of Novi
45175 West Ten Mile
Novi, MI 48375

EXHIBIT "A"



**CASA LOMA
OVERALL PROPERTY**

PART OF THE NE 1/4 OF SECTION 32, T1N, R8E,
CITY OF NOVI, OAKLAND COUNTY, MICHIGAN

PART OF SOUTHEAST 1/4 OF SECTION 32, CITY OF NOVI, TOWN 1
NORTH, RANGE 8 EAST, OAKLAND COUNTY, MICHIGAN. BEGINNING AT
A POINT ON THE EAST LINE OF SAID SECTION 32, DISTANT DUE NORTH
2456.01 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 32;
THENCE CONTINUING ALONG SAID EAST LINE DUE NORTH 178.69 FEET
TO THE EAST 1/4 CORNER OF SAID SECTION 32; THENCE SOUTH 89
DEGREES 33 MINUTES 40 SECONDS WEST 1347.88 FEET; THENCE
SOUTH 00 DEGREES 13 MINUTES 20 SECONDS EAST 182.08 FEET;

THENCE NORTH 89 DEGREES 25 MINUTES 00 SECONDS EAST 1347.20
FEET TO THE POINT OF BEGINNING. EXCEPT THE EASTERLY 33 FEET
DEEDED TO THE CITY OF NOVI IN LIBER 9163, PAGE 377.

PART OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 32
TOWN 1 NORTH, RANGE 8 EAST, NOVI TOWNSHIP (NOW CITY)
OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT THE
EAST 1/4 CORNER OF SAID SECTION 32; THENCE RUNNING WESTERLY
1450.0 FEET ALONG THE EAST AND WEST LINE OF SAID SECTION;
THENCE NORTHERLY 300 FEET; THENCE EASTERLY PARALLEL TO 1/4
SECTION LINE 1450 FEET; THENCE SOUTHERLY ALONG THE EAST LINE
OF THE SECTION, 300 FEET TO THE POINT OF BEGINNING.

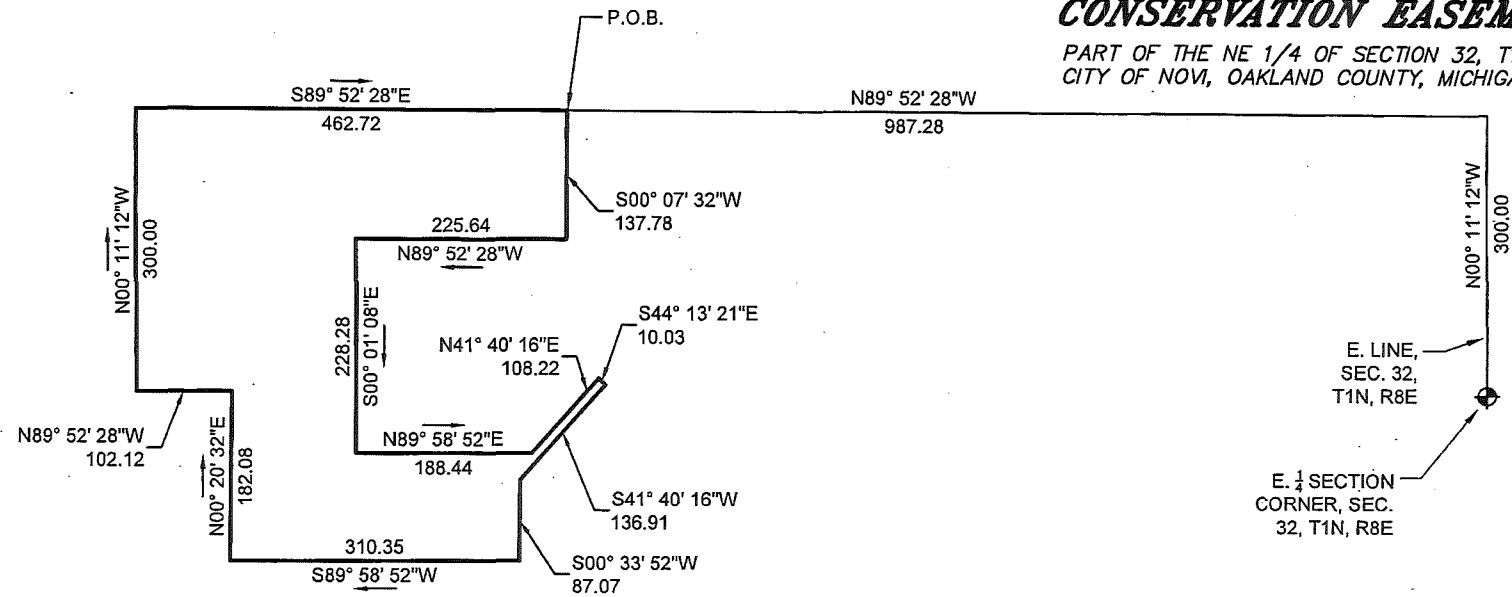
NEDERVELD
www.nederveld.com
1.800.222.1868
Ann Arbor Grand Rapids
Chicago Holland
Columbus Indianapolis
6th of August 2014
project no. 11500089
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1" = 150'

EXHIBIT "B-1"

**CASA LOMA
CONSERVATION EASEMENT**

PART OF THE NE 1/4 OF SECTION 32, T1N, R8E,
CITY OF NOVI, OAKLAND COUNTY, MICHIGAN



THAT PART OF THE NE 1/4 OF SECTION 32, T. 1 N.,
R. 8 E., CITY OF NOVI, OAKLAND COUNTY,
MICHIGAN.

FURTHER DESCRIBED AS:
COMMENCING AT THE EAST 1/4 CORNER OF
SAID SECTION AND THE CENTERLINE OF BECK
ROAD, N00°11'12\"W, 300.00 FEET; THENCE
N89°52'28\"W, 987.28 FEET TO THE POINT OF
BEGINNING OF THE OF THE EASEMENT TO BE
DESCRIBED; THENCE S00°07'32\"W, 137.78 FEET;
THENCE N89°52'28\"W, 225.64 FEET; THENCE

S00°01'08\"E, 228.28 FEET; THENCE N89°58'52\"E,
188.44; THENCE N41°40'16\"E, 108.22 FEET;
THENCE S44°13'21\"E, 10.03 FEET; THENCE
S41°40'16\"W, 136.91 FEET; S00°33'52\"W, 87.07
FEET; THENCE S89°58'52\"W, 310.35 FEET; THENCE
N00°20'32\"E, 182.08 FEET; THENCE N89°52'28\"W,
102.12 FEET; THENCE N00°11'12\"W, 300.00 FEET;
THENCE S89°52'28\"E, 462.72 FEET TO THE POINT
OF BEGINNING. CONTAINING 3.40 ACRES, MORE
OR LESS. SUBJECT TO ANY EASEMENTS,
COVENANTS, CONDITIONS, RESTRICTIONS
AND/OR RESERVATIONS OF RECORD.



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Ann Arbor Chicago Columbus
Grand Rapids Holland Indianapolis

7th of August 2014 Rev: 11/26/2014
project no. 11500089

1" = 150'

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11500089-EXHIBIT 11/26/2014

EXHIBIT "B-2"

THAT PART OF THE NE 1/4 OF SECTION 32, T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN.

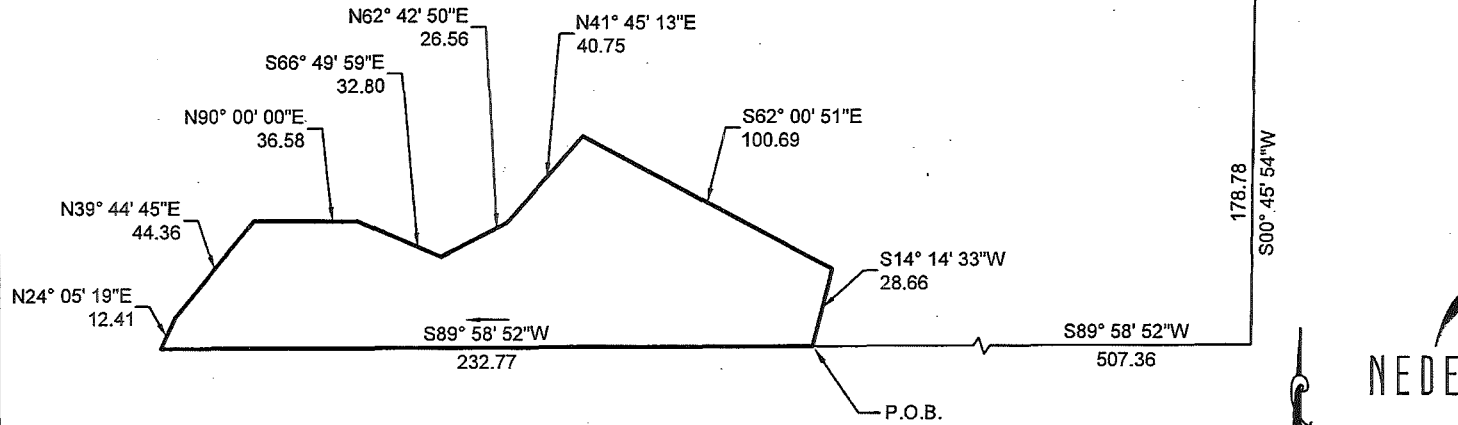
FURTHER DESCRIBED AS:

COMMENCING AT THE EAST 1/4 CORNER OF SECTION 32; THENCE N89°52'28"W, 33.00; THENCE S00°45'54"W, 178.78 FEET; THENCE S89°58'52"W, 507.36 FEET TO THE POINT OF BEGINNING OF THE EASEMENT TO BE DESCRIBED; THENCE CONTINUING S89°58'52"W, 232.77 FEET; THENCE N24°05'19"E, 12.41 FEET; THENCE N39°44'45"E, 44.36 FEET; THENCE

N90°0'00"E, 36.58 FEET; THENCE S66°49'59"E, 32.80 FEET; THENCE N62°42'50"E, 26.56 FEET; THENCE N41°45'13"E, 40.75 FEET; THENCE S62°00'51"E, 100.69 FEET; THENCE S14°14'33"W, 28.66 FEET TO THE POINT OF BEGINNING. CONTAINING 0.25 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS, COVENANTS, CONDITIONS, RESTRICTIONS AND/OR RESERVATIONS OF RECORD.

CASA LOMA CONSERVATION EASEMENT

PART OF THE NE 1/4 OF SECTION 32, T1N, R8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN



E. 1/4 SECTION CORNER, SEC. 32, T1N, R8E



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7th of August 2014 Rev: 11/26/2014
project no. 11500089

1" = 50'

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11500089-EXHIBIT 11/26/2014