

THOMAS R. SCHULTZ
tschultz@rsjalaw.com

27555 Executive Drive, Suite 250
Farmington Hills, Michigan 48331
P 248.489.4100 | F 248.489.1726
rsjalaw.com



ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

MEMORANDUM

CONFIDENTIAL CORRESPONDENCE ATTORNEY-CLIENT PRIVILEGE

TO: Mayor Gatt
Novi City Council

FROM: Thomas R. Schultz, Esq.

RE: Requested Vacations of Portions of Karevich Drive and Gen Mar Drive

DATE: September 6, 2023

The City has been approached by two property owners asking for the City Council to consider vacating portions of two separate public roads in different areas of the City. One is a portion of Karevich Drive west of Novi Road between Twelve Mile and I-96. The other is a portion of Gen Mar Drive, which is also on the west side of Novi Road between Ten Mile and Bond Street.

Under Section 7.6 of the City Charter, an action to vacate these roads requires introduction of a resolution to do so followed by a separate meeting at which a public hearing on the issue must be held. An affirmative vote of five members of the City Council is required to effect the vacation.

With regard to Karevich Drive, the requesting party wants to develop a Culver's in the area, and is proposing essentially to move Karevich Drive as described in the attached materials. With respect to Gen Mar Drive, the requesting party suggests that the roadway is simply no longer needed as a public road given the existing ownership/development.

Neither of these areas is in a platted subdivision, which means the City acquired the properties and owns them as the fee title owner. Simply vacating the property is therefore not enough to effect transfer to adjacent property owners; the City would transfer ownership to those individuals by deed.

Attached to this memorandum is a previous letter City Council from the City Attorney's office back in 2007 relating to a different request for the vacation of Karevich Drive. The purpose of the letter was to address an inquiry from City Council as to whether it could require payment for the vacated property that would be transferred (something that is clearly not permissible when the road in question is part of a platted subdivision). While neither property owner is (as far as we know)

September 6, 2023

Page 2

proposing to pay the City, the previous correspondence does contain a thorough discussion of case law indicating what the City Council should consider in deciding whether to vacate the public roads here.

It's our understanding that these matters will be discussed in closed session on September 11, 2023. If you have any questions in the meantime, please let me know.

TRS:jah

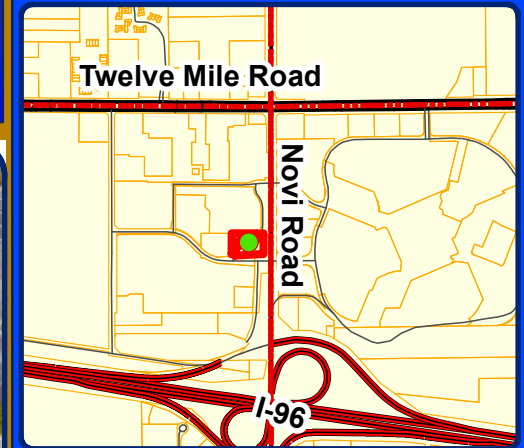
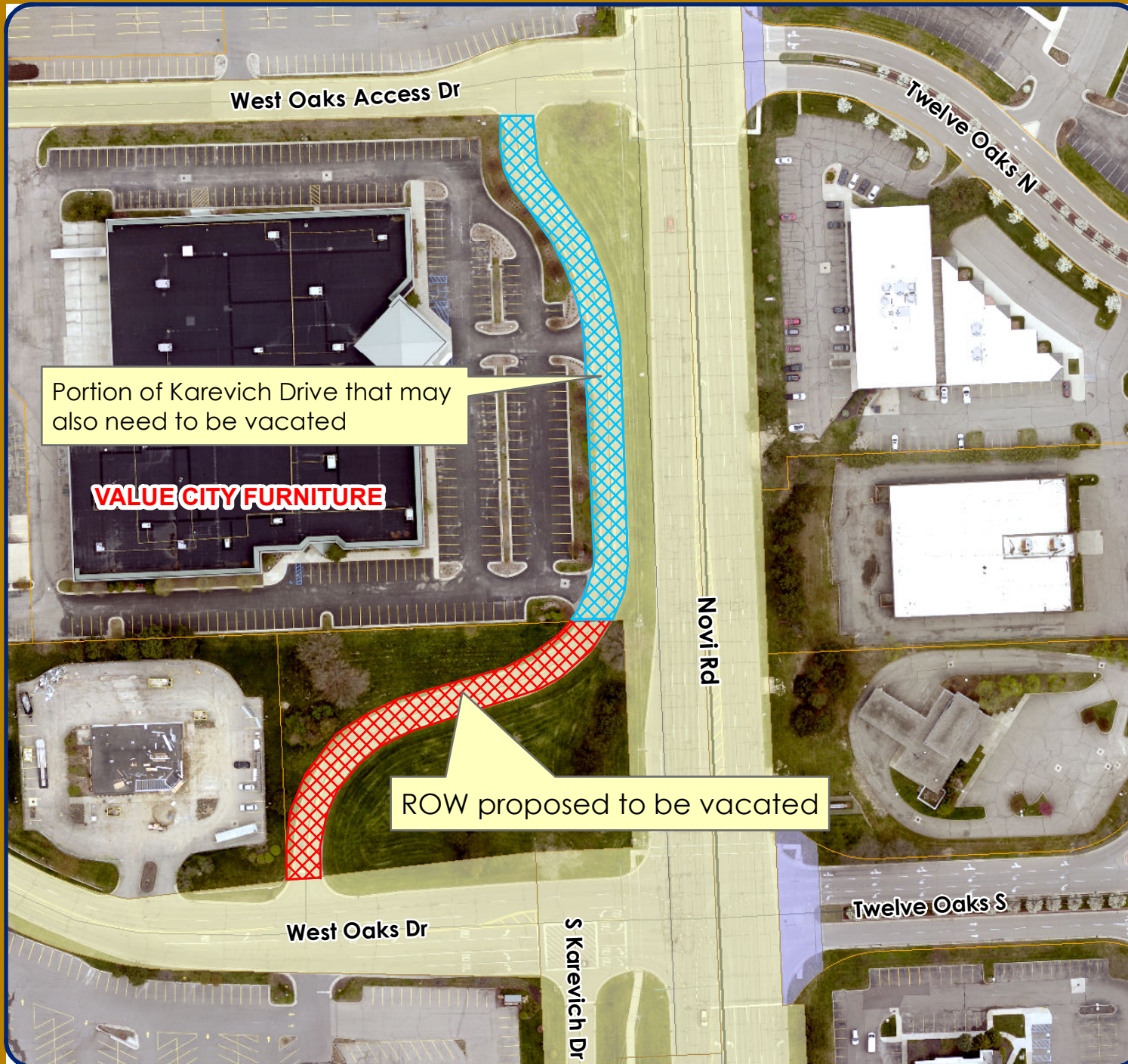
Attachments

cc: Victor Cardenas, City Manager
Cortney Hanson, City Clerk

**NORTH KAREVICH DRIVE
RIGHT OF WAY
POSSIBLE STREET VACATION**

Karevich Drive ROW Vacation

LOCATION



LEGEND

 Subject Property

Right of Way

-  Dedicated
-  Highway Easement
-  Prescriptive
-  Private

City of Novi

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

Map Author: James Hill

Date: 9/7/2023

Project: KAREVICH DRIVE ROW VACATION

Version #: 1

0 30 60 120 180 Feet

1 inch = 138 feet

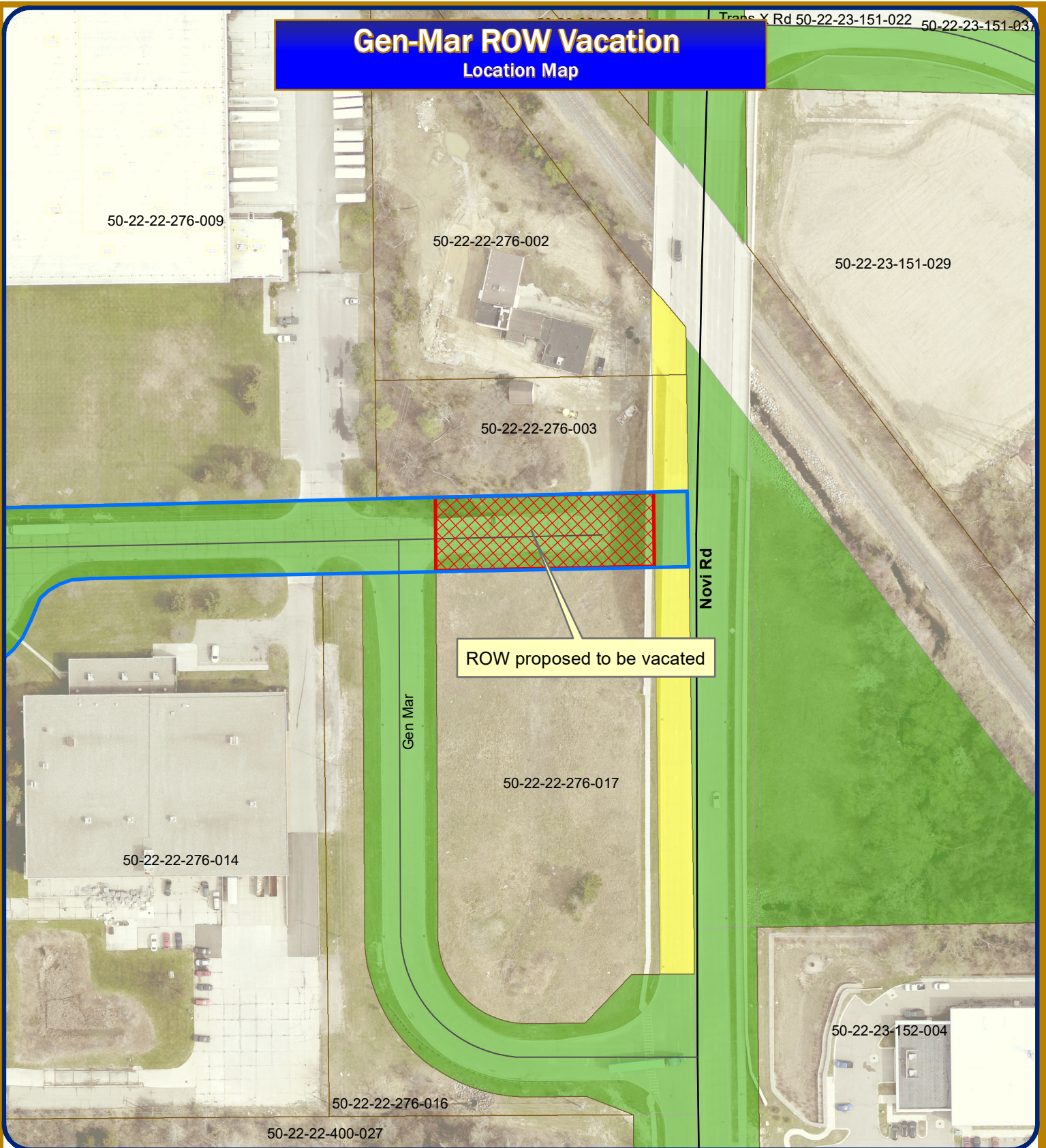


MAP INTERPRETATION NOTICE

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.

**GEN MAR DRIVE
RIGHT OF WAY
POSSIBLE STREET VACATION**

Gen-Mar ROW Vacation Location Map



Map Author: Croy
Date: 9/7/23
Project: Gen-Mar ROW
Version #: v1.3

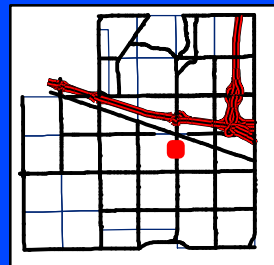
MAP INTERPRETATION NOTICE

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.

Map Legend

Right of Way

- Dedicated
- Prescriptive
- Private



City of Novi

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

Feet
0 25 50 100 150
1 inch = 125 feet



**LETTER FROM CULVERS
REQUESTING VACATION OF PORTION OF STREET
CROSSING THEIR PROPERTY**

August 28, 2023

Mayor and City Council Members
City of Novi
45175 West Ten Mile Road
Novi, Michigan 48375

**RE: Vacation of Karevich Drive
Novi Road and West Oaks**

Dear Mayor and City Council Members:

The purpose of this letter is to formally request the vacation of Karevich Drive directly adjacent to tax parcels 22-15-200-097 and -099. The purpose of this request is to allow for the proposed construction of a new Culver's Restaurant on the tax parcels.

In conjunction with the request to vacate this drive, we are intention to still permit cross-access to the property to the north if the drive is vacated. Cross-access can be provided via three options, noted as follows:

1. Relocation of the public drive (31' wide) along the west and north property lines
2. Replacement of the public drive with a private drive (24' wide) along the west and north property lines.
3. Incorporating the access drives into the parking area design for the project to permit cross-access through the parking area from the northeast to the southwest corners of the parcel.

We believe that any of the three options listed above will maintain the existing cross-access to the overall West Oak Development and allow for the development of the subject parcels.

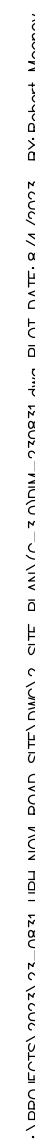
We look forward to discussing this request with you at an upcoming City Council Meeting.

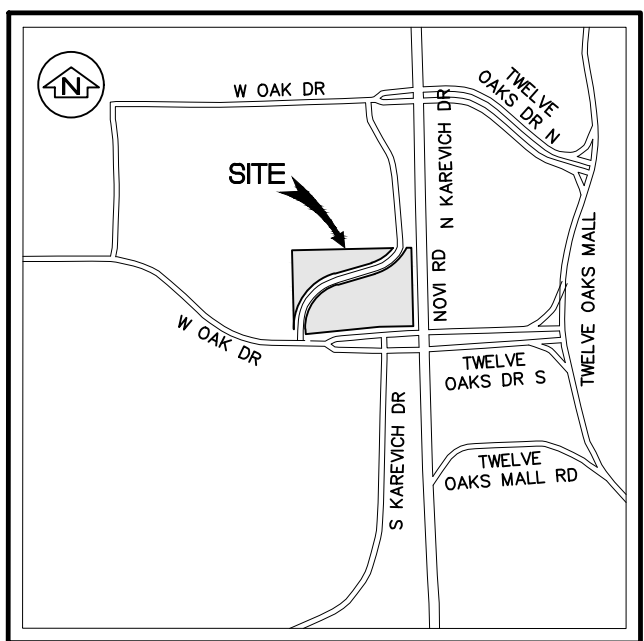
Sincerely,

Union Pacific Holdings, LLC

Charles Paisley

**CULVERS
CONCEPTUAL SITE PLAN
SURVEY OF PARCEL**





NOWAK & FRAUS
ENGINEERS

LEGAL DESCRIPTION
Land in the City of Novi, Oakland County, MI, described as follows:

Parcel 1:
Part of the Northeast 1/4 of Section 15, Town 1 North, Range 8 East, Section 15, Oakland County, Michigan, described as beginning at a point located North 02 degrees 30 minutes 55 seconds West 1103.75 feet along the line of said section 15, on to the East 87 degrees 35 minutes 52 seconds West 75.00 feet from the East 1/4 corner of said section; thence continuing South 87 degrees 35 minutes 52 seconds West 93.99 feet; thence South 83 degrees 19 minutes 17 seconds West 204.58 feet; thence North 82 degrees 36 minutes 18 seconds East 148.65 feet to a point on the line along the arc of a circle, to the right 163.07 feet of a point of tangency, said circle having a radius of 124.00 feet, a central angle of 75 degrees 21 minutes 03 seconds, and a long chord bearing North 35 degrees 16 minutes 23 seconds East 151.57 feet; thence North 72 degrees 56 minutes 55 seconds East 105.98 feet to a point of tangency, said circle having a radius of 146.00 feet, a central angle of 75 degrees 21 minutes 20 seconds, and a long chord bearing North 49 degrees 48 minutes 15 seconds East 114.74 feet; thence North 88 degrees 38 minutes 05 seconds East 12.13 feet to the East 1/4 corner of said section 15, on to the East 87 degrees 35 minutes 52 seconds West 02 degrees 24 minutes 08 seconds East 216.59 feet to the point of beginning.

Parcel 2:
Part of the Northeast 1/4 of Section 15, Town 1 North, Range 8 East, City of Now, Oakland County, Michigan, described as beginning at a point located North 02 degrees 24' 05 seconds West 1103.75 feet along the East line of said section 15 and South 87 degrees 35 minutes 52 seconds West 168.99 feet and South 83 degrees 19 minutes 17 seconds West 236.67 feet and North 02 degrees 24 minutes 08 seconds West 17.24 feet from the East 1/4 corner of said Section; thence continuing North 02 degrees 24 minutes 08 seconds West 1103.75 feet to the East line of said section 15 and North 48 seconds East 279.75 feet to a point on curve; thence along the arc of a curve to the right 73.77 feet to a point of tangency, said curve having a radius of 245.16 feet; thence along the arc of a curve to the left 205.16 feet bearing South 54 degrees 24 minutes 36 seconds West 72.49 feet; thence South 72 degrees 56 minutes 55 seconds West 105.98 feet to a point of curve; thence along the arc of a curve to the left 205.16 feet, said curve having a radius of 156.00 feet; thence along the arc of a curve to the right 73.77 feet bearing South 54 degrees 24 minutes 36 seconds West 190.69 feet to the point of beginning.

Novi Road and West Oaks Drive - Vacant
Tax ID: Parcel 1 22-15-200-099 & Parcel 2 22-15-200-097

BASIS OF BEARING NOTE

The basis of bearing for this survey was established by the record description as shown in the Title Commitment referenced hereon.

TITLE NOTES

2. Any facts, rights, interests or claims that are not shown by the Public Records but that could be ascertained by making inquiry of persons in possession of the Land.

3. Easements, encumbrances, or claims thereof, not shown by the Public Records.

7. Easement granted to Michigan Bell Telephone Company, a Michigan Corporation disclosed by instrument recorded in Liber 6139, Page 332, Oakland County Records. (Affects Parcel 2) [EASEMENT IS WITHIN THE PUBLIC R.O.W. OF NOVI ROAD AND DOES NOT TOUCH THE SURVEYED LAND AND ITS LOCATION IS NOT SHOWN].

8. The terms, provisions and easement(s) contained in the document entitled "Declaration of Easements" recorded April 08, 1981 as Liber 7984, Page 477 of Official Records. (Affects both Parcels) [PERMANENT EASEMENT IS WITHIN THE SURVEYED LAND AND ITS LOCATION IS SHOWN].

9. The terms, provisions and easement(s) contained in the document entitled "Joint Underground Easement" recorded August 09, 1982 as Liber 8224, Page 172 of Official Records. (Affects both Parcels) [EASEMENT IS WITHIN THE SURVEYED LAND AND ITS LOCATION IS SHOWN].

10. The terms, provisions and easement(s) contained in the document entitled "Warranty Deed" recorded April 04, 2000 as Liber 21258, Page 535 of Official Records. (Affects Parcel 1) [EASEMENT IS WITHIN THE SURVEYED LAND AND ITS LOCATION IS SHOWN].

11. Interest, if any, of the United States, State of Michigan, or any political subdivision thereof, in the oil, gas and minerals in and under and that may be produced from the captioned land.

12. Rights of tenants under unrecorded leases.

13. Any rights, title, interest or claim thereof to that portion of the land taken, used or granted for streets, roads or highways.

ALL EXCEPTIONS SHOWN OR NOTED ON THIS SURVEY WERE OBTAINED FROM TITLE COMMITMENT NO. NCS-1183326-MICH, WITH A COMMITMENT DATE OF 06-20-2023, ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY.

SITE DATA
Gross Land Area:
41,566 Square Feet or 0.954 Acres - PARCEL 1
19,326 Square Feet or 0.444 Acres - PARCEL 2
There exist no parking spaces on surveyed land - vacant.

Building Setbacks:

```
Front= 100
Sides= 100
Rear= 100'
```

Max. Building Height permitted: 3 stories/45'

The above zoning and zoning requirements were obtained from the City of Novi online Zoning Map and Zoning Ordinance.

NOTE: The setbacks & height restrictions noted above are for reference purposes only and should not be used for design or construction and should not be used to determine compliance. A surveyor cannot make a certification on the basis of an interpretation or opinion of another party. A zoning endorsement letter should be obtained from the City of Novi to insure conformity as well as make a final determination of the required building setback & height requirements.

SURVEYOR'S CERTIFICATION

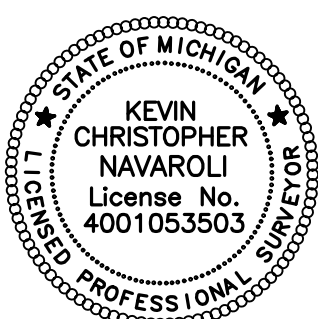
To:

Novi 4 and 5, LLC, a Michigan limited liability company
First American Title Insurance Company

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 11(a), 13, 14, 16, 17, 18 & 19 of Table A thereof.

The field work was completed on 07-07-2023.


Kevin Christopher Navaroli, P.S.
No 4001053503
Date of Plat or Map: 07-17-2023
Revised:



DRAWN BY:
A.G.

APPROVED BY:
K.N./R.FRAUS

EMAIL:
rfraus@nfe-engr.com

DATE ISSUED:

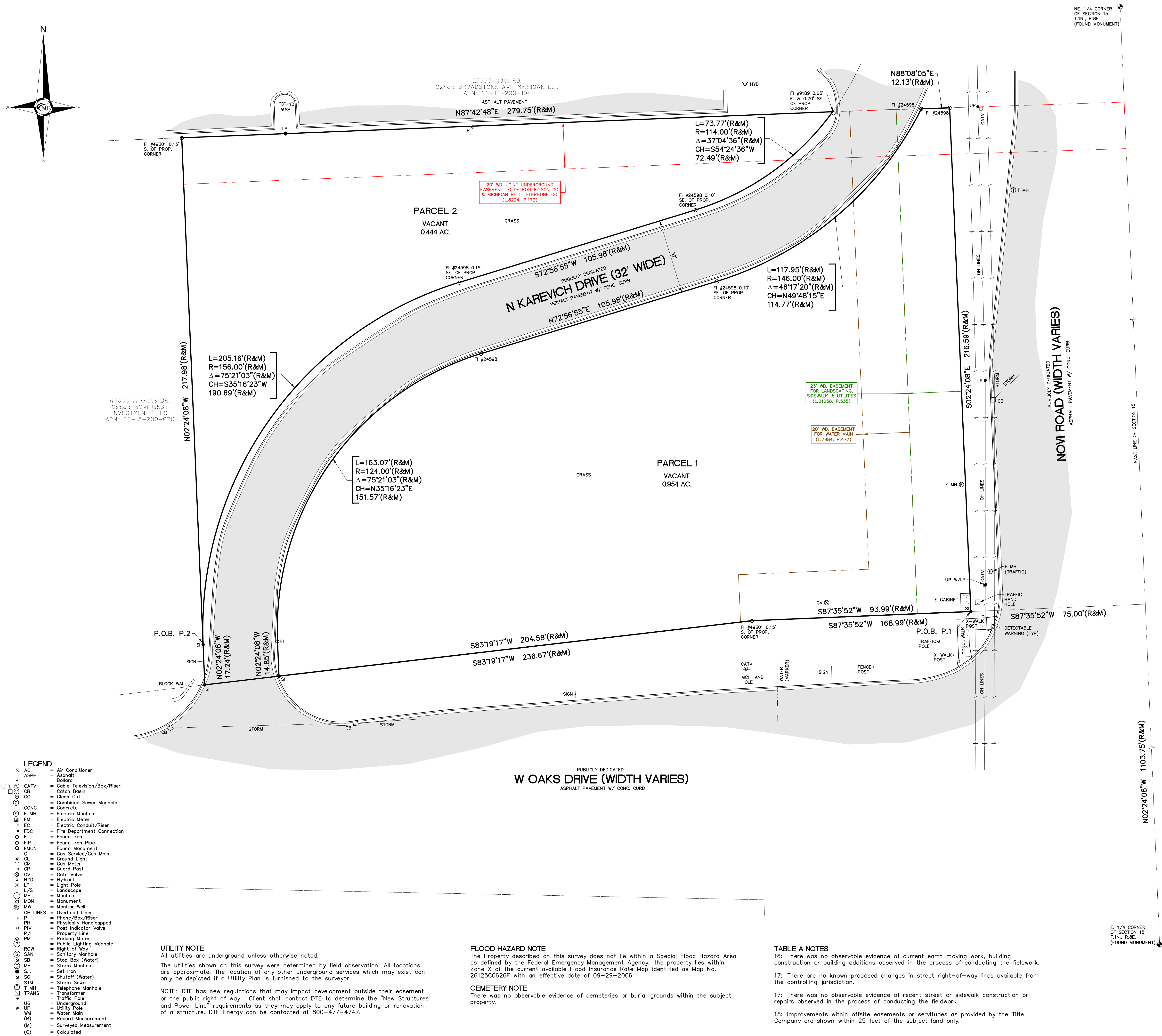
SCALE: 1" = 20'

NFE JOB NO.

SHEET NO.

N706

1 of 1



CULVERS
FULL CONCEPTUAL PLAN SET

PRELIMINARY SITE PLANS

CULVER'S OF NOVI

NOVI ROAD & WEST OAKS DRIVE PART OF THE NE. 1/4 OF SECTION 15, T.1N., R.8E.

CITY OF NOVI, OAKLAND COUNTY, MICHIGAN

PERMIT / APPROVAL SUMMARY		
DATE SUBMITTED	DATE APPROVED	PERMIT / APPROVAL



INDEX OF DRAWINGS	
NUMBER	TITLE
	COVER SHEET
1 OF 1	ALTA/NSPS LAND TITLE SURVEY (BY NF ENGINEERING)
C-3.0	PRELIMINARY SITE PLAN
L-1.0	LANDSCAPE PLAN
L-1.1	LANDSCAPE CALCULATIONS
L-1.2	LANDSCAPE DETAILS
	ARCHITECTURAL SHEETS
A-2.0	DIMENSIONED FLOOR PLAN
A-3-BRICK	EXTERIOR ELEVATIONS, DOOR & WINDOW SCHEDULE

DESIGN TEAM

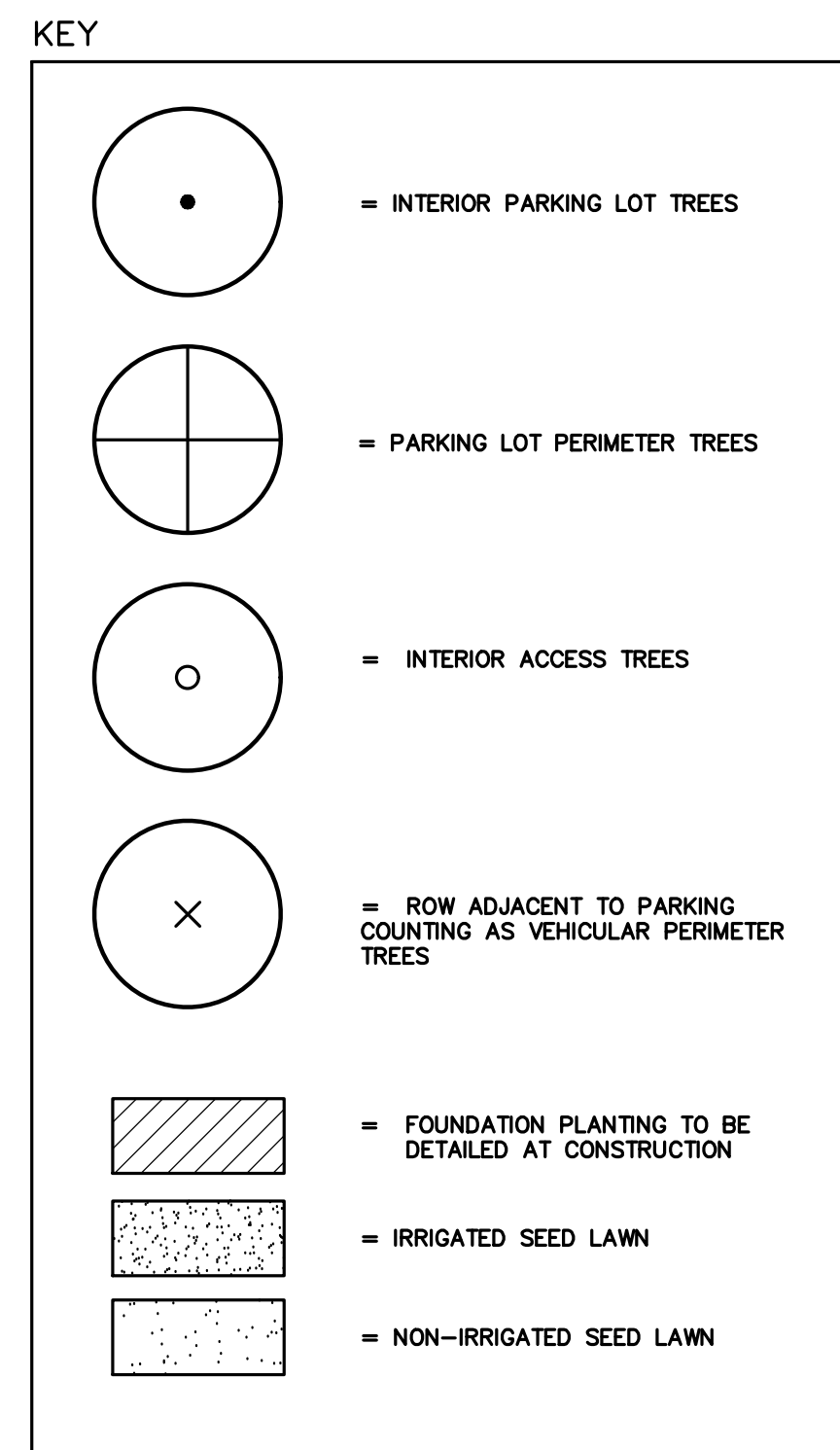
APPLICANT/DEVELOPER	CIVIL ENGINEER
UNION PACIFIC HOLDINGS, LLC 49169 ALPHA DRIVE WIXOM, MI 48393 CONTACT: CHARLES PAISLEY PHONE: 248.971.0252 EMAIL: CHARLES@UNIONPACIFICHOLDINGS.COM	PEA GROUP 1849 POND RUN AUBURN HILLS, MI 48326 CONTACT: JAMES P. BUTLER, PE PHONE: 844.813.2949 EMAIL: JBUTLER@PEAGROUP.COM
ARCHITECT	LANDSCAPE ARCHITECT
HENRICKSON 2325 BELMONT CENTER DR. STE. B BELMONT, MI. 49306	PEA GROUP 7927 NEMCO WAY, STE. 115 BRIGHTON, MI 48116 CONTACT: LYNN WHIPPLE, PLA PHONE: 844.813.2949 EMAIL: LWHIPPLE@PEAGROUP.COM



REVISIONS	
DESCRIPTION	DATE
ORIGINAL ISSUE DATE	8/4/2023

NOT FOR CONSTRUCTION

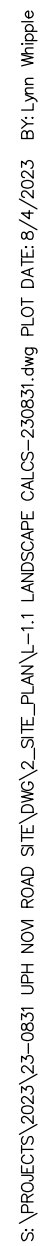




(F) TREE PLANT LIST: L-1.0							No more than 25% of one genus and 15% of one species	
QUANTITY	KEY SYMBOL	COMMON NAME	SCIENTIFIC NAME	SIZE	SPEC	COMMENT	GENUS %	SPECIES %
9	AR3	October Glory Red Maple	<i>Acer rubrum 'October Glory'</i>	3" Cal.	B&B	Native	17%	17%
6	GT3	Skyline Honeylocust	<i>Gleditsia triacanthos</i>	3" Cal.	B&B	Native	11%	11%
7	LT3	Tulip Tree	<i>Liriodendron tulipifera</i>	3" Cal.	B&B	Native	13%	13%
7	NS3	Tupelo	<i>Nyssa sylvatica</i>			Native	11%	11%
3	QS3	Scarlet Oak	<i>Quercus coccinea</i>	3" Cal.	B&B	Native	6%	6%
2	QR3	Red Oak	<i>Quercus rubra</i>	3" Cal.	B&B	Native	4%	9%
7	TB3	American Basswood	<i>Tilia americana</i>	3" Cal.	B&B	Native	13%	13%
41	TOTAL DECIDUOUS							
(F) SUBCANOPY TREE PLANT LIST: L-1.0							LESS THAN 200 TREES	
QUANTITY	KEY SYMBOL	COMMON NAME	SCIENTIFIC NAME	SIZE	SPEC	COMMENT	GENUS %	SPECIES %
5	CF8	Flowering Dogwood	<i>Cornus florida</i>			Native	9%	9%
3	MC2	Coralburst Crab	<i>Malus 'Coralcoke'</i>	2" Cal.	B&B	Non-Native	6%	6%
4	MRS2	Royal Star Magnolia	<i>Magnolia stellata 'Royal Star'</i>	2.0" Cal.	B&B	Non-Native	8%	8%
12	TOTAL SUBCANOPY							
53	TOTAL TREES							

1. ALL PLANT MATERIALS ARE TO BE INSTALLED IN A SOUND, WORKMAN-LIKE MANNER AND IN ACCORDANCE WITH THE CURRENT CITY OF NOVI PLANTING REQUIREMENTS.
2. ALL PLANT MATERIALS SHALL BE INSTALLED BETWEEN MARCH 15th AND NOVEMBER 15th.
3. ALL PLANT MATERIALS ARE TO BE NORTHERN NURSERY STOCK NO. 1 GRADE AND INSTALLED ACCORDING TO ACCEPTED PLANTING PROCEDURES. ALL PLANT MATERIALS SHALL CONFORM TO THE CURRENT AMERICAN ASSOCIATION OF NURSERYMEN (AAN) STANDARDS FOR NURSERY STOCK. THEY SHALL BE PLANTED ACCORDING TO THE CITY OF NOVI PLANTING DETAILS AND SPECIFICATIONS. THE CITY SHALL HAVE THE RIGHT TO INSPECT THE PLANT MATERIALS PRIOR TO PLANTING AND TO REJECT ANY PLANT MATERIALS DEEMED NOT TO MEET THE STANDARDS OF THE CITY OF NOVI ZONING ORDINANCE OR LANDSCAPE DESIGN MANUAL.
4. ALL TREES SHALL HAVE A CENTRAL LEADER AND A RADIAL BRANCHING STRUCTURE. PARK GRADE TREES ARE NOT ACCEPTABLE. ALL TREES SHALL BE BALLED AND BURLAPPED (B&B).
5. ANY OBVIOUS CANOPY TREES WITH BRANCHES THAT MIGHT TEND TO DEVELOP INTO "T" CROTCHES SHALL BE SUBORDINATED SO AS NOT TO BECOME DOMINANT BRANCHES.
6. MULCH SHALL BE NATURAL COLOR, FINELY SHREDDED HARDWOOD BARK FOR ALL PLANTINGS - 3" THICK FOR TREES IN A 4-FOOT DIAMETER CIRCLE WITH 3" MULCH FOR THE TRUNK, 3" THICK FOR SHRUBS AND SHRUB BEDS, AND 2" THICK FOR PERENNIALS AND PERENNIAL BEDS. ALSO PULL AWAY ROOT BALL DIRT FROM TRUNK AND ROOT FLEET.
7. ALL PLANT MATERIAL SHALL BE WARRANTED FOR TWO (2) FULL YEARS AFTER DATE OF ACCEPTANCE BY THE CITY OF NOVI. ALL UNHEALTHY AND DEAD MATERIAL SHALL BE REPLACED WITHIN THREE (3) MONTHS OR THE NEXT APPROPRIATE PLANTING PERIOD.
8. WATER AND SOIL SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION, INCLUDING WATERING, CULTIVATION, WEED CONTROL AND SOIL ENRICHMENTS AS MAY BE NECESSARY.
9. ANY SUBSTITUTIONS OR DEVIATIONS FROM THE LANDSCAPE PLAN MUST BE APPROVED IN WRITING BY THE CITY OF NOVI PRIOR TO INSTALLATION.
10. ALL LANDSCAPE AREAS ARE TO BE MAINTAINED IN A HEALTHY GROWING CONDITION FREE OF DEBRIS AND REFUSE AND IN CONFORMANCE WITH THE LATEST LANDSCAPE PLAN.
11. CONTRACTOR TO REMOVE ALL CONSTRUCTION DEBRIS AND EXCESS MATERIAL FROM THE SITE PRIOR TO FINAL ACCEPTANCE.
12. PLANT MATERIALS, EXCEPT SOD, GROUND COVERS AND CREEPING VINE TYPE PLANTINGS, SHALL NOT BE LOCATED WITHIN FOUR (4) FEET OF THE PROPERTY LINE.
13. ALL TRANSFORMERS ARE TO BE SCREENED ON THREE SIDES (MINIMUM) IN ACCORDANCE WITH THE CITY OF NOVI ORDINANCE AND SO AS TO NOT CONFLICT WITH DTE RESTRICTIONS (SEE DETAIL THIS SHEET).
14. THE OWNER IS RESPONSIBLE FOR REQUEST OF FINAL INSPECTION AND ACCEPTANCE OF THE LANDSCAPE AT THE END OF THE 2-YEAR GUARANTEE PERIOD.
15. THE OWNER OF THE FINANCIAL GUARANTEE FOR THE LANDSCAPE INSTALLATION SHALL BE FULLY RESPONSIBLE FOR COMPLETION OF THE LANDSCAPE INSTALLATION AND MAINTENANCE AS APPLIED UNDER THE CITY OF NOVI ZONING ORDINANCE AND LANDSCAPE DESIGN MANUAL.

L-1.0



PROJECT TITLE
**NOVI ROAD
AND WEST
OAK DRIVE**
VACANT
NOVI ROAD & WEST OAKS DRIVE
PART OF THE NE. $\frac{1}{4}$ OF SECTION 15,
T. 1N., R. 8E.
CITY OF NOVI, MI

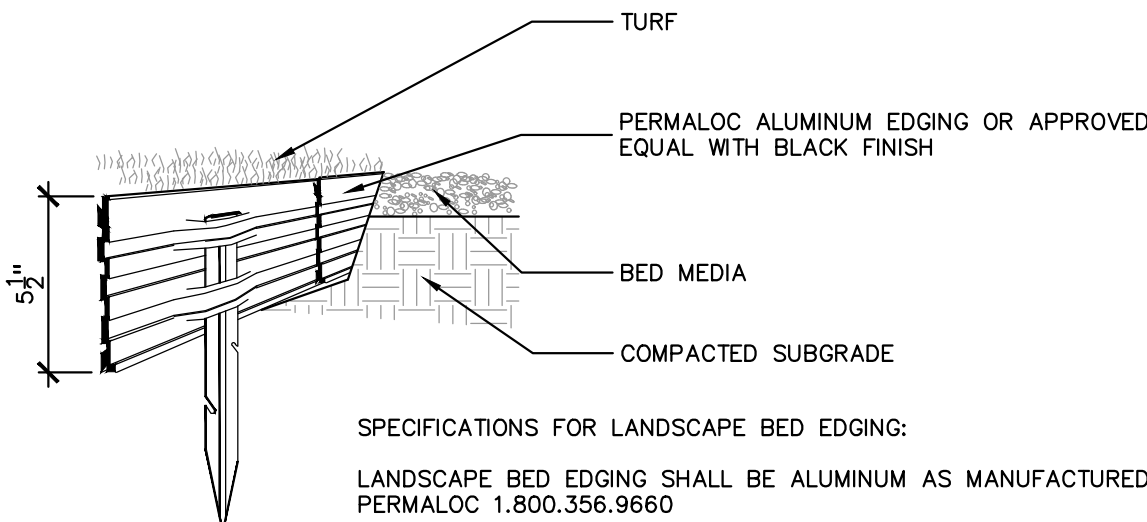
PEA JOB NO.	23-0831
P.M.	JPB
DN.	LAW
DES.	LAW
DRAWING NUMBER:	

L-1.1

S:\PROJECTS\2023\23-0831 UPH NOV ROAD SITE\DWG\2 SITE_PLAN\1-12 LANDSCAPE DETAILS-230831.dwg PLOT DATE 8/4/2023 8/1/24 Lynn Whipple

AREA OF NO IRRIGATION NOTE PER CITY OF NOV:

IN AREAS WHERE NO PERMANENT IRRIGATION IS REQUIRED PLANTS AND/OR SEED MUST BE WATERED AS NECESSARY UNTIL THEY ARE ESTABLISHED WITH A TEMPORARY METHOD, HOSE, OR PORTABLE WATER TANKS. LANDSCAPE MUST BE MAINTAINED PER APPROVED FINAL SITE PLAN IN PERPETUITY, PER ZONING ORD. SECTION 5.5.7, INCLUDING REPLACEMENT OF ALL DEAD OR A FAILING PLANT MATERIAL WITHIN 3 MONTHS OF ITS DISCOVERY, OR NEXT APPROPRIATE GROWING PERIOD, WHICHEVER COMES FIRST.



SPECIFICATIONS FOR LANDSCAPE BED EDGING:

LANDSCAPE BED EDGING SHALL BE ALUMINUM AS MANUFACTURED BY PERMALOC 1.800.356.9660

8' OR 16' SECTIONS SHALL BE USED WITH ONE STAKE PER 38" OF EDGING

EDGING SHALL BE 5/8" THICK X 4" DEPTH WHEN ADJ. TO MULCH AND 3/4" THICK X 5 1/4" DEPTH WHEN ADJ. TO ROCK, FINISH: BLACK DURAFLEX MEETING AAMA 2603

STAKE SHALL SECURELY ENGAGE EDGING AND SHALL BE ENTIRELY BELOW TOP SURFACE OF EDGING

EDGING SHALL HAVE A MINIMUM OF 2" OF INTERLOCKING OVERLAP BETWEEN SECTIONS

INSTALL AS PER MANUFACTURER'S SPECIFICATIONS WITH TOP OF EDGING 3/4"-2" ABOVE COMPACTED FINISH GRADE. FINISH GRADE TO BE COMPACTED ON BOTH SIDES OF EDGING TO MAINTAIN STABILITY

3 ALUMINUM EDGE DETAIL

SCALE: 1/2" = 1'-0"

NOTE:
PRUNE AS SPECIFIED
STAKE 3 LARGEST STEMS, IF TREE HAS MORE THAN 3 LEADERS, SET TREE STAKES VERTICAL AND AT SAME HEIGHT.

REMOVE ROPES/CABLES FROM AROUND THE BASE OF THE TREE.

MOUND TO FORM SAUCER WITH 3" OF MULCH. PULL THE MULCH 3" AWAY FROM THE TRUNK DOWN TO THE SOIL.

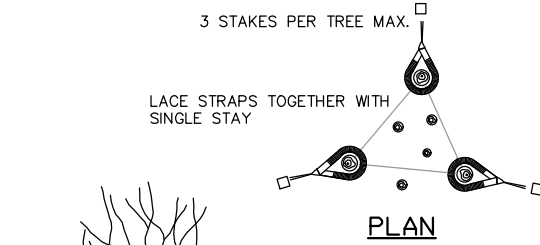
SCARIFY SUBGRADE AND PLANTING PIT SIDES. RE-COMPACT BASE TO 4" DEPTH.

PLANT MIXTURE AS SPECIFIED

SCARIFY TO 4" DEPTH AND RE-COMPACT

DIRT FROM ROOTBALL IS TO BE REMOVED TO EXPOSE ROOT FLARE.

STAKES TO EXTEND 12" BELOW TREE PIT IN UNDISTURBED GROUND



SET STAYS ABOVE FIRST BRANCHES, APPROX. HALFWAY UP TREE (SEE DETAIL)

REMOVE ALL NON-BIODEGRADABLE MATERIALS FROM THE ROOTBALL. CUT DOWN WIRE BASKET AND FOLD DOWN ALL BURLAP FROM TOP 1/3 OF ROOT BALL.

PLANTING MIX. AMEND SOIL PER SITE CONDITIONS AND REQUIREMENTS OF PLANT MATERIAL

2 MULTI-STEM TREE PLANTING DETAIL

SCALE: 1" = 2'-0"

SECURE TREE WRAP WITH BIODEGRADABLE MATERIAL AT TOP & BOTTOM REMOVE AFTER FIRST WINTER

USE 3 HARDWOOD STAKES PER TREE. 2"x2"x36" STAKES. DRIVE STAKES INTO UNDISTURBED SOIL 6"-8" OUTSIDE OF ROOTBALL TO A DEPTH OF 18" BELOW PIT. REMOVE AFTER ONE YEAR DO NOT USE WIRE OR ROPE THROUGH HOSE.

PLANTING MIXTURE. AMEND SOIL PER SITE CONDITIONS AND REQUIREMENTS OF PLANTS.

SCARIFY SUBGRADE AND PLANTING PIT SIDES TO 4" DEPTH.

NOTE:
1. TREE SHALL BEAR SAME RELATION TO FINISH GRADE AS IT BORE ORIGINALLY OR SLIGHTLY HIGHER THAN FINISH GRADE UP TO 6" ABOVE GRADE, IF DIRECTED BY LANDSCAPE ARCHITECT FOR HEAVY CLAY SOIL AREAS.

2. DO NOT PRUNE TERMINAL LEADER. PRUNE ONLY DEAD OR BROKEN BRANCHES.

3. REMOVE ALL TAGS, STRING, PLASTIC, ROPES, CABLES, AND OTHER MATERIALS THAT ARE UNSIGHTLY AND COULD CAUSE GIRDLING.

NOTE:
GUY DECIDUOUS TREES LARGER THAN 3" CAL., STAKE DECIDUOUS TREES SMALLER THAN 3" CAL.

TREE WRAP:
SECURE W/ BIODEGRADABLE MATERIAL AT TOP & BOTTOM. REMOVE AFTER (1) WINTER SEASON.

STAKE TREES JUST BELOW FIRST BRANCHES WITH FABRIC GUYING MATERIAL. CONNECT FROM TREE TO STAKE OPPOSITE. ALLOW FOR SOME FLEXING OF THE TREE. REMOVE AFTER ONE YEAR.

MULCH 3" DEPTH WITH SHREDDED HARDWOOD BARK. MULCH SHALL BE NATURAL IN COLOR. LEAVE 3" ORCLE OF BARE SOIL AT BASE OF TREE TRUNK.

MOUND TO FORM TREE SAUCER

REMOVE ALL NON-BIODEGRADABLE MATERIALS FROM THE ROOTBALL. CUT DOWN WIRE BASKET AND FOLD DOWN ALL BURLAP FROM TOP 1/3 OF ROOT BALL. ROOT BALL DIRT SHOULD BE REMOVED FROM THE TRUNK TO EXPOSE THE ROOT FLARE.

NOTE:
PER CITY OF NOV, CONTRACTOR TO PULL MULCH BACK FROM ROOT BALL FLARE MIN. OF 3" TYP.

1 DECIDUOUS TREE PLANTING DETAIL

SCALE: 1" = 3'-0"



0 10 20 40
SCALE: 1" = 20'



CAUTION!!
THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

CLIENT
UNION PACIFIC HOLDINGS, LLC
49169 ALPHA DRIVE
WIXOM, MI

PROJECT TITLE
NOVI ROAD AND WEST OAK DRIVE
VACANT
NOVI ROAD & WEST OAKS DRIVE
PART OF THE NE 1/4 OF SECTION 15,
T.1N., R.8E.
CITY OF NOVI, MI

REVISIONS	

ORIGINAL ISSUE DATE:
AUGUST 04, 2023

DRAWING TITLE
LANDSCAPE DETAILS

PEA JOB NO. 23-0831

P.M. JPB

DN. JKS

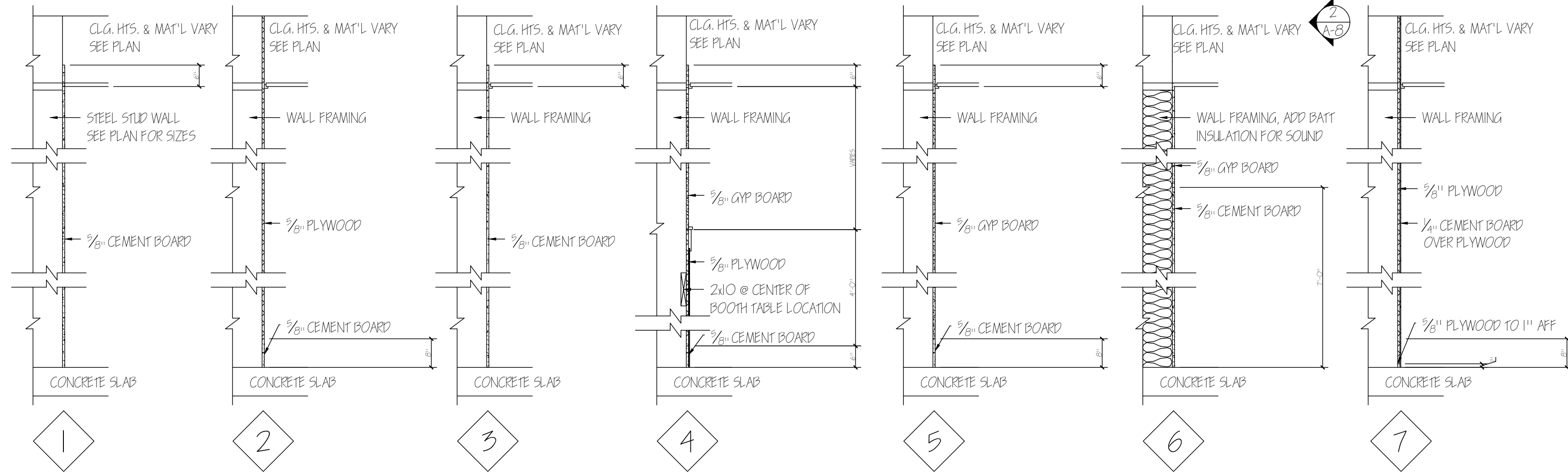
DES. JKS

DRAWING NUMBER:

NOT FOR CONSTRUCTION

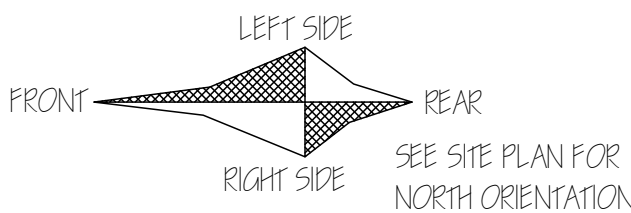
L-1.2

WALL TYPE DETAILS
SCALE: 1/2" = 1'-0"



- GENERAL NOTES:**
- DIMENSIONS SHOWN ARE TO FACE OF STUD UNLESS NOTED OTHERWISE.
 - ALL INTERIOR GYPSUM TO RECEIVE PAINT OR VMC SHOULD BE TAPED, SEALED, AND SANDED TO RECEIVE FINISH.

DIMENSIONED FLOOR PLAN - METRO M - 2023 PROTOTYPE
SCALE: 1/4" = 1'-0"
4,060 SQUARE FEET



REVIEW	06.29.23
NOT FOR CONSTRUCTION	
DRAWN BY:	JMV
CHECKED:	DSH
DIMENSIONED FLOOR PLAN	
PROJECT No.	230509

DOOR:					FRAME:		HARDWARE	NOTES
NO.	WIDTH	HGT.	MAT'L	TYPE	MATERIAL	TYPE	GROUP	
1	2 @ 36"	84"	ALUM	A	ALUM	A	1	
2	2 @ 36"	84"	ALUM	A	ALUM	B	2	
3	36"	84"	ALUM	A	ALUM	C	3	
4	42"	84"	ALUM	B	ALUM	D	4	
5	36"	84"	HPL	C	ALUM	E	5	OPTIONAL ARM PULL
6	36"	84"	HPL	C	ALUM	E	5	OPTIONAL ARM PULL
7	28"	60"	HPL	E	ALUM	E, 2'-8"	6	
8	36"	60"	HPL	E	ALUM	E, 3'-4"	6	
9	36"	84"	HPL	D	ALUM	E	7	GLASS FOR DOOR PROVIDED BY GC
10	34"	84"	HPL	C	ALUM	E	8	
11	-	-	-	-	ALUM	E	-	DOOR OPTIONAL

NOTE: SEE PROTOTYPE SHEET 1-1 FOR NATIONAL ACCOUNT INFORMATION

GROUP #	DOOR	QTY	DESCRIPTION	CATALOG #	FINISH	MFG
EXTERIOR DOUBLE DOOR	1	2	CONT. HINGE	112HD	62B	IVES
		1	REMOVABLE MULLION	5654	62B	VON DUPRIN
		2	PANIC HARDWARE	35A-NL-CP-388-299	62B	VON DUPRIN
		2	RM CYLINDER	20-057	62B	SCHLAGE
		2	90 DEG OFFSET PULL	8190HD 10" O	630	IVES
		1	OH STOP	1005	630	QLYNN
		2	SURFACE CLOSER	4111 EDA	689	LCN
		2	MOUNTING PLATE	4110-18	689	LCN
		2	BLADE STOP SPACER	4110-61	689	LCN
		2	MEETING STILE	4193AA	AA	ZERO
EXTERIOR DOUBLE DOOR	1	2	DOOR SWEEP	59A	A	ZERO
		1	THRESHOLD	625A-MSLA-I O	A	ZERO
*NOTES - PERIMETER WEATHERSTRIPPING BY DOOR / FRAME MFG.						
GROUP #	DOOR	QTY	DESCRIPTION	CATALOG #	FINISH	MFG
INTERIOR DOUBLE DOOR	2	2	CONT. HINGE	112HD	62B	IVES
		2	PUSH / PULL BAR (SET)	9190HD-10" N5	630	IVES
		2	OH STOP	1005	630	QLYNN
		2	SURFACE CLOSER	4111 EDA	689	LCN
		2	MOUNTING PLATE	4110-18	689	LCN
		2	BLADE STOP SPACER	4110-61	689	LCN
		2	BLADE STOP SPACER	4110-61	689	LCN
*NOTES - PERIMETER WEATHERSTRIPPING BY DOOR / FRAME MFG.						
GROUP #	DOOR	QTY	DESCRIPTION	CATALOG #	FINISH	MFG
SECONDARY ENTRY DOOR	3	1	CONT. HINGE	112HD	62B	IVES
		1	PANIC HARDWARE	35A-NL-CP-388-299	62B	VON DUPRIN
		1	RM CYLINDER	20-057	62B	SCHLAGE
		1	90 DEG OFFSET PULL	8190HD 10" O	630	IVES
		1	OH STOP	1005	630	QLYNN
		1	SURFACE CLOSER	4111 EDA	689	LCN
		1	MOUNTING PLATE	4110-18	689	LCN
SECONDARY ENTRY DOOR	1	1	BLADE STOP SPACER	4110-61	689	LCN
		1	DOOR SWEEP	59A	A	ZERO
		1	THRESHOLD	625A-MSLA-I O	A	ZERO
*NOTE - PERIMETER WEATHERSTRIPPING BY DOOR / FRAME MFG.						
GROUP #	DOOR	QTY	DESCRIPTION	CATALOG #	FINISH	MFG
REAR EXTERIOR DOOR	4	1	CONT. HINGE	224HD	62B	IVES
		1	RM CYLINDER	20-057	62B	SCHLAGE
		1	90 DEG OFFSET PULL	8190HD 10" O	630	IVES
		1	PUSH BAR	35A	32D	VON DUPRIN
		1	LOCK GUARD	L612	630	IVES
		1	SURFACE CLOSER	4111 SHCUSH	689	LCN
REAR EXTERIOR DOOR	1	1	GASKETING	429A	A	ZERO
		1	DOOR SWEEP	32BAA	AA	ZERO
		1	DOOR SWEEP	39A	A	ZERO
		1	THRESHOLD	65A-MSLA-I O	A	ZERO
		1	RAIN DRIP	142A	A	ZERO
*NOTE - MOUNT 429A HEAD SEAL PRIOR TO MOUNTING CLOSER. KICK PLATES BOTH SIDES						
GROUP #	DOOR	QTY	DESCRIPTION	CATALOG #	FINISH	MFG
PUBLIC RR DOOR	5	3	HINGE	3	MARLITE	
		1	PUSH PLATE	#53 x US92D	BURNS	
		1	PULL PLATE	#5352B x US92D	BURNS	
		1	SURFACE CLOSER	4011	LCN	
		2	KICK PLATE	8" x 34" ALUM 62B	ROCKWOOD	
		1	WALL STOP	321T-US92D	PCI	
PUBLIC RR DOOR	1	1	ARM PULL	MPN 69811	NEMCO	
		1	ARM PULL	MPN 69811	NEMCO	
*NOTE - ARM PULL IS OPTIONAL. VERIFY WITH FRANCHISEE.						
GROUP #	DOOR	QTY	DESCRIPTION	CATALOG #	FINISH	MFG
RR STALL DOOR	6	7.8	2	HINGE	MARLITE	
		1	SPRING HINGE	SATIN 1502 SPRING 4.5x4		

[illegible]

TYPE "A"
 78" x 84" CLEAR ANODIZED ALUMINUM FINISH, 3/8" PERIOD INSULATING GLASS @ DOOR 1, SINGLE LEAF DOOR 2

TYPE "B"
 42" x 84" INSULATED CLEAR ANODIZED ALUM. DOOR W/ 10"X10" VISION LITE AND INTERNAL PRIVACY FLAP

TYPE "C"
 36" x 84" HIGH PRESSURE LAMINATE (HPL) DOOR FACED W/ WILSONART 10-776-60 KENSINGTON MAPLE

TYPE "D"
 36" x 84" HIGH PRESSURE LAMINATE (HPL) DOOR FACED W/ WILSONART 10-776-60 KENSINGTON MAPLE W/ TEMPERED CLEAR GLASS LITE

TYPE "E"
 36" x 84" HIGH PRESSURE LAMINATE (HPL) DOOR FACED W/ WILSONART 10-776-60 KENSINGTON MAPLE

Labels for Type "B": VISION LITE, ALUM. PANELS, GLASS PROVIDED BY GC

Architectural Elevation Drawings of a Culver's Restaurant Building

Front Elevation Details:

- Dimensions:**
 - Overall Height: 25'-0" (Total), 18'-10" (Main Wall), 9'-0" (Sill Height)
 - Overall Width: 51'-0"
- Materials & Features:**
 - Metal Bahama Style Awnings:** "Green Blue" 5001 (RAL); by owner's vendor, 6'-7" H x 8'-0" W
 - Brick:** (See Table)
 - Veneered Stone:** (See Table)
 - Aluminum Canopy:** To match store front
 - Knock Box:** Coordinate w/ local fire department
 - Signage:** By owner
 - Blue LED Accent Lighting:** Optional
 - Coordinate Returns w/ Structural Engineer:** Ensuring lateral stability

Side Elevation Details:

- Dimensions:**
 - Overall Height: 20'-10" (Main Wall), 9'-0" (Sill Height)
 - Overall Width: 51'-0"
- Materials & Features:**
 - Metal Bahama Style Awnings:** "Green Blue" 5001 (RAL); by owner's vendor, 6'-7" H x 8'-0" W
 - Brick:** (See Table)
 - Veneered Stone:** (See Table)
 - Signage:** By owner
 - Blue LED Accent Lighting:** Optional
 - E.I.F.S. @ Cornices:** (See Table) (Typical)

Bahama Style Awnings (Owner Supplied / Vendor Installed)

Quantities:

- 5 - Metal Awnings @ 6'-7" H x 8'-0" W x 1'
- 4 - Metal Awnings @ 6'-7" H x 8'-0" W x 1'
- 3 - Metal Awnings @ 6'-7" H x 6'-0" W x 1'
- 1 - Metal Awnings @ 5'-6" H x 6'-0" W x 1'

Metal Awning Color Specifications:

- "Green Blue" 5001 (RAL) by owner's vendor

Architectural elevation drawings of a building facade for National Account Counters. The drawings show two views: a side elevation and a front elevation. The side elevation features a brick wall with a stone veneer base, a metal Bahama style awning, and a sign for 'Culver's'. The front elevation shows a similar facade with a central entrance and a sign for 'Culver's'. Various materials and dimensions are labeled, including veneered stone, metal Bahama style awning, aluminum canopy, and brick. Dimensions are provided for the overall height and width of the building sections.

Side Elevation Labels:

- SCUPPER CANOPY TO MATCH STOREFRONT
- SCUPPER OVERFLOW
- ALUMINUM CANOPY TO MATCH STOREFRONT
- METAL BAHAMA STYLE AWNING: "GREEN BLUE" 5001 (RAL); BY OWNER'S VENDOR, 6'-7" H x 8'-4" W
- VENEERED STONE (SEE TABLE)
- BRICK (SEE TABLE)
- RUNNER CANOPY, METAL FINISH TO MATCH ROOF EDGE FLASHING
- VENEERED STONE (SEE TABLE)
- EIFS @ CORNICES (TYP.) (SEE TABLE)

Front Elevation Labels:

- SCUPPER CANOPY TO MATCH STOREFRONT
- SCUPPER OVERFLOW
- ALUMINUM CANOPY TO MATCH STOREFRONT
- METAL BAHAMA STYLE AWNING: "GREEN BLUE" 5001 (RAL); BY OWNER'S VENDOR, 6'-7" H x 6'-0" W
- VENEERED STONE (SEE TABLE)
- BRICK (SEE TABLE)
- CO2 FILL BOX/ WASTE OIL CONNECTION
- METAL BAHAMA STYLE AWNING: "GREEN BLUE" 5001 (RAL); BY OWNER'S VENDOR, 5'-6" H x 6'-0" W
- COORDINATE STONE VENEER AT LADDER TO ALLOW FOR INSTALLATION
- ALUMINUM LADDER FOR ROOF ACCESS, CLEAR FINISH, BRACE AT PARAPET
- SCUPPER CANOPY TO MATCH STOREFRONT
- SCUPPER OVERFLOW
- ALUMINUM CANOPY TO MATCH STOREFRONT
- METAL BAHAMA STYLE AWNING: "GREEN BLUE" 5001 (RAL); BY OWNER'S VENDOR, 6'-7" H x 6'-0" W
- VENEERED STONE (SEE TABLE)
- BRICK (SEE TABLE)
- CO2 FILL BOX/ WASTE OIL CONNECTION
- METAL BAHAMA STYLE AWNING: "GREEN BLUE" 5001 (RAL); BY OWNER'S VENDOR, 5'-6" H x 6'-0" W
- COORDINATE STONE VENEER AT LADDER TO ALLOW FOR INSTALLATION
- ALUMINUM LADDER FOR ROOF ACCESS, CLEAR FINISH, BRACE AT PARAPET

Dimensions:

- Overall height: 20'-10"
- Overall width: 18'-10"
- Overall width: 25'-0"

NATIONAL ACCOUNT COUNTERS

EXTERIOR FINISHES SUPPLIER CONTACTS FOR NATIONAL ACCOUNT ITEMS PROVIDED & INSTALLED

ITEM	SUPPLIER	CONTACT
MANUFACTURED STONE	ENVIRONMENTAL STONEWORKS	KRIS KANAK ACCOUNT kkanak@es 651-277-87
MANUFACTURED STONE	BORAL	SUSAN KING ACCOUNT Susan.King 413-207-72
BOLLARD COVERS	IDEAL SHIELD	LAURENCE lbuckley@i

EXTERIOR FINISHES SUPPLIER CONTACTS FOR		
NATIONAL ACCOUNT ITEM	ITEMS PROVIDED & INSTALLED BY GC	
ITEM	SUPPLIER	CONTACT INFO
MANUFACTURED STONE	ENVIRONMENTAL STONeworks	KRIS KANAK ACCOUNT MANAGER kkanak@estoneworks.com 651-277-8770
MANUFACTURED STONE	BORAL	SUSAN KING ACCOUNT MANAGER Susan.King@boral.com 413-207-7285
BOLLARD COVERS	IDEAL SHIELD	LAURENCE BUCKLEY lbuckley@idealsield.com 313-359-8080

**2007 CONFIDENTIAL CORRESPONDENCE
FROM THE
CITY ATTORNEY'S OFFICE
REGARDING PREVIOUS REQUEST
TO VACATE KAREVICH DRIVE**

September 18, 2007

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

CONFIDENTIAL COMMUNICATION
ATTORNEY-CLIENT PRIVILEGE

Thomas R. Schultz
Direct: 248-539-2847
tschultz@secretwardle.com

Mayor Landry and City Council
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

RE: *Possible Vacation of Karevich Drive*
Our File No. 55142 NOV

Dear Mayor Landry and City Council Members:

The City Council has on its agenda for September 24, 2007 a discussion of whether to proceed with the proposed vacation of Karevich Drive as requested by Art Van Furniture. Back in June, 2006, Council tabled the matter and asked that a revised landscape plan be prepared providing different and additional landscaping within the area of the proposed Karevich Drive vacation. Several members of City Council indicated that they would consider the proposed vacation only if appropriate landscaping were proposed for installation and maintenance in the area to be vacated. The intention was for the proposed installation and maintenance of approved landscaping to be memorialized in the form of an agreement before conveyance of the vacated site to Art Van.

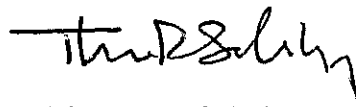
We have prepared a draft of a proposed transfer agreement, which is attached, along with a draft quit claim deed from the City to Art Van. However, the landscape plan that has been submitted by Art Van has not at this point actually been endorsed by the Community Development staff. The question staff is raising is whether the proposed landscaping is sufficiently extensive over and above what might be required by ordinance to satisfy the Council's concerns. The matter has been placed on the City Council's agenda for consideration as to whether the proposed plan for landscaping meets the City Council's expectations. Because this fundamental question remains open, we have not transmitted the draft agreement to Art Van.

As a reminder of the issues presented by this request for vacation, our initial letter to City Council regarding what the City's options are is attached to this letter. Much of the delay between the last meeting and the coming meeting is

due to circumstances unrelated to the City involving the rights of adjacent properties to use Karevich Drive. Specifically, there was an easement between Art Van and LaSalle Bank (the former Standard Federal) granting an easement across Art Van's property to allow the bank to access Karevich Drive. By virtue of the attached termination of easement, this issue appears to have been resolved.

I look forward to discussing this at the Council's September 24, 2007 meeting. If you have any questions regarding the above, please do not hesitate to call.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas R. Schultz", with a stylized, flowing script.

Thomas R. Schultz

TRS/jes

Enclosures

cc: Clay J. Pearson, City Manager
Pam Antil Assistant City Manager
Maryanne Cornelius, City Clerk
Barb McBeth, Community Development
Rob Hayes, Engineering

DRAFT

PROPERTY TRANSFER AGREEMENT

AGREEMENT, by and between Art Van Furniture, Inc., a Michigan corporation, whose address is 6500 E. 14 Mile Rd., Warren, MI 48092 ("**Art Van**"), and the City of Novi, a Michigan municipal corporation, 45175 West Ten Mile Road, Novi, Michigan 48375-3024 ("**City**").

RECITATIONS:

- I. Art Van Furniture, Inc., is the owner and developer of a certain parcel of land situated in Section 15 of the City of Novi, Oakland County, Michigan, described on the attached and incorporated Exhibit A (the "Property"). Owner is seeking site plan approval for construction of an expansion to an existing furniture store development on the Property (the "Development").
- II. As part of the Development, Art Van has requested the City to vacate a portion of Karevich Drive adjacent to the Development, and convey it to Art Van to incorporate into the Development.
- III. The City Council of the City of Novi has jurisdiction to vacate a portion of Karevich Drive, described in the attached and incorporated Exhibit B, which is an unplatted street dedicated for public use, no part of which is within 25 meters of a lake or the general course of a stream.
- IV. The City Engineering Department and other appropriate city consultants have investigated the need to maintain Karevich Drive as a public road for traffic purposes and for access to any public water main and/or sanitary sewer located within the public road right of way. The City Engineering Department and other consultants have determined it is not necessary to continue or maintain Karevich Drive as a public road.
- V. Upon vacation of Karevich Drive as a public road, the City intends to convey its interest, whatever interest it may have, in that vacated portion of Karevich Drive ("Vacated Karevich Drive") to Art Van to develop and maintain in accordance with the landscape plan prepared by Atwell-Hicks, dated August 17, 2006, incorporated into this Agreement by reference and on file with the City.

- VI. In proposing the vacation of Karevich Drive and requesting its conveyance to Art Van, Art Van has expressed as a firm and unalterable intent and commitment that it will install and maintain the landscape in accordance with the approved landscape plan.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Upon the vacation of that portion of Karevich Drive described in the attached and incorporated Exhibit A, and the conveyance of that portion of Karevich Drive to Art Van, Art Van shall install and maintain the landscaping shown in the approved Landscape Plan, in perpetuity, including, but not limited to the replacement, at its own expense, of dead or dying landscape materials. Any and all modifications to the Landscape Plan, and/or the landscape shall be approved in writing by the City.
2. In the event that Art Van, or its successors, assigns or transferees shall at any time fail to carry out the responsibilities specified in Paragraph 1, above, and/or in the event of a failure to preserve and/or maintain the landscape on Vacated Karevich Drive in reasonable order and condition, the City may serve written notice upon Art Van 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 Art Van 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 Art Van, and such amount shall constitute a lien as to 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 Art Van, 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. In the discretion of the City, such costs and expenses may be collected by suit initiated against Art Van, and in such event, Art Van shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

3. The City makes no warranties or representations that it is conveying good or marketable title to Art Van, but only whatever interest it may have, if any.
4. All real estate taxes becoming due and payable on or after the date of vacation of Karevich Drive shall be the responsibility of Art Van.
5. Art Van represents and warrants to the City that it has inspected the property constituting Vacated Karevich Drive (or caused it to be inspected) in its entirety. The City has made no representations or warranties about Vacated Karevich Drive or anything pertaining to it, such as its condition or suitability for a particular purpose. Art Van agrees to accept Vacated Karevich Drive in its present "as is" condition, with all defects, latent, and patent, and to make no claims against the City concerning the condition of Vacated Karevich Drive or any matter pertaining to Vacated Karevich Drive.
6. By execution of this Agreement, Owner acknowledges that it has acted in consideration of the City approving the vacation of Karevich Drive, and agrees to be bound by the provisions of this Agreement.
7. After consulting with an attorney, the Owner understands and agrees that this Agreement is authorized by and consistent with all applicable state and federal law and Constitutions, that the terms of this Agreement are reasonable, that it shall be estopped from taking a contrary position in the future, and, that the City shall be entitled to injunctive relief to prohibit any actions by the Owner inconsistent with the terms of this Agreement.
8. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, successors, assigns and transferees, and an affidavit providing notice of this Agreement may be recorded by either party with the office of the Oakland County Register of Deeds.
9. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan that are applicable to Agreements made and to be performed in that State.
10. All warranties and representations and indemnities made by the parties shall survive performance of the obligations imposed by this agreement, and shall survive closing.
11. Any waiver, alteration or modification of any of the provisions of this agreement, or cancellation or replacement of this agreement, shall not be valid unless in writing and executed by the parties with the same formality as this agreement. Any waiver by any party of any provision of this agreement or any right or option under this agreement shall not be controlling, nor shall it prevent or stop such party from thereafter enforcing such provision, right, or option. The failure of any party to insist in any one or more instances upon the strict performance of any of the terms or provisions of this agreement by another party shall not be construed as a waiver or

relinquishment for the future of any such term or provision, and the same shall continue in full force and effect.

12. Nothing contained in this agreement nor any act of the parties shall be deemed or construed by any party or by any third party to create the relationship of principal and agent, of partnership, of joint venture, of joint enterprise, or of any association between the parties hereto, nor shall anything contained in this agreement or any act of the parties be construed to render any party liable for the debts or obligations of any other party.
13. No provision in this Agreement is to be interpreted for or against any party because that party or that party's legal representative drafted the provision.
14. In the event any of the provisions of this agreement are deemed to be invalid or unenforceable, those provisions shall be deemed severable from the remainder of this agreement and shall not cause the invalidity or unenforceability of the remainder of this agreement. If any provision of this agreement shall be deemed invalid due to its scope.
15. This Agreement may be signed in counterparts.

WITNESSES:

ART VAN

Art Van Furniture, Inc., a Michigan corporation

DRAFT

Print Name: _____

Print Name: _____

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

On this _____ day of _____, 2007 before me appeared _____,
authorized representative of Art Van Furniture, Inc., who states that he has signed this document of
his own free will on behalf of Art Van Furniture, Inc.

Notary Public

WITNESSES:

CITY OF NOVI

Print Name: _____

By: _____
David Landry, Mayor

By: _____
Maryanne Cornelius, Clerk

Print Name: _____

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

On this _____ day of _____, 2007 before me appeared David Landry and Maryanne Cornelius, who stated that they had signed this document of her own free will on behalf of the City of Novi in their respective official capacities, as stated above.

Notary Public

C:\NrPortbl\manage\BKUDLA\965364_1.DOC

[illegible]

On this _____ day of _____, 2007 before me appeared David Landry and Maryanne Cornelius, who stated that they had signed this document of her own free will on behalf of the City of Novi in their respective official capacities, as stated above.

Notary Public

When Recorded Return to:	Send Subsequent Tax Bills To: Art Van Furniture, 6500 E. 14 Mile Rd., Warren, MI 48092	Drafted by: Elizabeth M. Kudla 30903 Northwestern Highway Farmington Hills, MI 48334
--------------------------	--	---

C:\NrPortbl\manage\BKUDLA\965513_1.DOC

April 26, 2006

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretswardle.com

Thomas R. Schultz
Direct: 248-539-2847
tschultz@secretswardle.com

**CONFIDENTIAL COMMUNICATION
ATTORNEY-CLIENT PRIVILEGE**

Mayor Landry and City Council
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

RE: *Potential Vacation of Karevich Drive*
Our File No. 55142 NOV

Dear Mayor Landry and City Council:

At the April 3, 2006, City Council meeting, the Council discussed a request from the Art Van Furniture Corporation to vacate all or a portion of Karevich Drive, a public road that provides internal circulation for the West Oaks Shopping Center. The only property that actually abuts Karevich Drive (other than the right-of-way for Novi Road) is owned by Art Van. Two questions arose at the April 3 meeting that Council asked our office to address. The first question is whether, if the road is vacated, the underlying property reverts or transfers (as, for example, in a platted subdivision) to adjacent or abutting property owners. The second question is whether, assuming that the property underlying the road does not revert or transfer to adjacent property owners, the City can effectively "sell" the underlying property, or obtain monetary consideration for it in some manner.

Overview

The answers that follow are not as concrete as we would like them to be. The case law regarding the vacation of streets and the effect of vacation—at least where the road involved is not in a plat, or owned by the state or county, or was not dedicated specifically for road purposes (in all of which cases transfer or reverter to adjacent properties is the rule)—is generally quite old and not dispositive. Moreover, we have found *no reported case* here in Michigan in which a municipality has been paid consideration (i.e., has sold) the underlying property following the vacation of a public road.

One thing that our research has disclosed, however, is the requirement that the determination to vacate a public roadway must be made "in the public interest" and on the basis of appropriate considerations of public benefit. A decision to vacate a roadway is reviewable for fraud, abuse of discretion, or collusion.

Both the case law and the treatises generally provide that the identity of the person or entity requesting the vacation, the use that such person or entity might make of the vacated area, or the amount or nature of the "consideration" that the municipality might receive for the vacation are not in and of themselves considerations of the public interest. "*A city cannot barter away streets and alleys, nor can it do indirectly, by invoking its power of vacating ways, what it cannot do directly.* Streets and alleys are not to be vacated at the instance of individuals interested only in the acquisition of the vacated property. . . ." *Horton v Williams*, 99 Mich 423 (1894).

This means that the determination whether to vacate the street must be discussed by the City Council as a *separate and distinct question from whether consideration may be received or the underlying property sold*. Failure to keep these considerations separate on the "record," as difficult as that might be as a practical matter, could lend itself to a claim that in vacating the public interest in the roadway the Council had in mind the interests of Art Van or increasing the City's general fund, rather than issues of traffic safety and the public welfare as it relates to the roadway at issue.

With that cautionary note, our opinion on the questions raised by the Council is as follows, again recognizing that the case law on the issues is not as clear as it could be:

- *Vacation of property owned by the City in "fee simple" (e.g., through a warranty deed given for value) does not transfer or revert the property to adjacent owners.* This rule appears to be most clearly applicable to the portion of Karevich Drive to the south closest to West Oaks Drive, which crosses a parcel of property that the City acquired by warranty deed, for a value.
- *With regard to property that is less than a fee simple interest, the general common law rule is that on vacation the property transfers or reverts to the adjacent property owners.* This rule *could* possibly be applicable to the northerly portion running generally parallel to Novi Road in front of the Art Van building, which appears to have been gifted to the City specifically in contemplation of future road improvements.
- *With respect to property in which the City retains the underlying fee title interest, the City would need to convey that property to someone*

in order for title to transfer. The question whether the City is entitled to effectively *sell* the title appears to be a question of first impression here in Michigan, but we believe that *a sale of the underlying land would be permitted, under certain circumstances.*

A. Transfer or Reverter Following Vacation

The property at issue came to the City by two separate deeds, which is relevant to the question of what happens in the event of a vacation. The southern-most area, a 0.3-acre strip (see attached drawing), is all that remains from a larger parcel the City bought for value (over \$400,000) and to which it received a typical warranty deed. The City later sold the rest of the land it received under this deed to Art Van, but specifically exempted out the road area. The northern-most area, a 0.5-acre strip, the City appears to have secured by way of a quit claim deed for "\$1.00," or essentially as a gift. The timing of that transaction suggests that the property was conveyed for roadway purposes.

The common-law rule in Michigan is that a vacated street or alley reverts to the abutting landowner. See *Thompson-McCully Quarry Co v Berlin Charter Township*, 259 Mich App 483 (2003); *Township of Dalton v Muskegon Co Board of Co Road Commissioners*, 223 Mich App 53 (1997); *Valoppi v Detroit Engineering & Machine Co*, 339 Mich 674 (1954). It is this rule that has generally been incorporated into the statutes dealing with platted subdivisions, MCL 560.221 *et seq.*, and the vacation of county roads, MCL 224.18 *et seq.*

While there is a great deal of case law that purports to "apply" this common-law standard to award ownership of vacated roadways to abutting property owners, on close inspection they are without exception cases that involve the vacation of roads that are in plats, or that are owned by the state or the county, or that are created in documents that clearly limit the "dedication" of the property for roadway purposes or that are in the nature of mere easements. In such cases, it makes sense to say that elimination of the limited public interest eliminates the entire public interest.

Here, by contrast, the City has acquired more than just an easement or common-law dedication interest. A warranty deed is a covenant that the grantor has lawful title to the property being conveyed and guarantees its possession against all others. *Dikeman v Arnold*, 71 Mich 656 (1888). A quit claim deed is a lesser guarantee of title, but still conveys all of the right, title, and interest in the real estate held by the grantor at the time of conveyance. *Doelle v Read*, 329 Mich 655 (1951).

While we have found no cases in Michigan that discuss the issue at great length, there appears to be a general consensus in the law that, where a

municipality does have an unencumbered fee interest in the land underlying the road, merely vacating the road does *not* revert or transfer that property to the adjacent owner. McQuillin's *Municipal Corporations*, §30.202.10, states that "upon the vacation, discontinuance or abandonment of a public street or alley, generally the title in fee to the land involved remains in the owner thereof, whether the municipality, the abutting property owner, or the original dedicator or proprietor, unless otherwise controlled by statute or charter, or by an effective deed or other instrument in the chain of title." Reynolds, *Local Government Law*, §131, also states that a street being vacated results in the property being restored to the owner of the fee; if the locality itself owns the fee, it remains with the owner.

As applied to Karevich Drive, with regard to the *0.3-acre parcel* that remains from the larger parcel bought in fee by the City, we conclude that upon vacation the road would cease to be a public road, but the property would remain in the ownership of the City. With regard to the *0.5-acre parcel*, we believe that the result *should* be the same, since the unqualified quit claim deed would have transferred all of Art Van's title in that area. However, we note that Art Van could make an argument that its quit claim deed to the City was only intended to be a common-law dedication of the property for road purposes, given all of the circumstances surrounding its conveyance. If a court were to agree, the common-law rule of reverter would apply to return the property so dedicated to Art Van upon vacation of the public's interest in the road. We believe it is more likely that if asked a court would be hard-pressed to find that the fee to this portion did not also pass to the City.

B. Transfer of Property Owned in Fee, For Consideration

It is only because the City finds itself in the somewhat unusual position of being the fee owner of the property underlying Karevich Drive (the 0.3-acre area at least, and likely the remaining 0.5-acre area as well) that it has the luxury of being able to ask whether it can now sell that fee interest for money. Because we can find no Michigan cases that prohibit that sale, and because there is case law from other jurisdictions and in the treatises that would seem to authorize it, we answer the question "yes," but with some limitations.

The first limitation is, as noted above, that merely getting money for the land is not a sufficient "public interest" on which to base a decision to vacate a public roadway. Under *Horton*, quoted above, the City can't "barter" for the vacation of a roadway. Antieau's *Local Government Law*, §9.26, makes the point equally clearly:

There is an intimation in a few cases that public interest may be found by the local government's receipt of payment for the land

vacated from the person petitioning for the vacation, but this is not a sufficient public interest. The better rule is that local governments cannot vacate streets or alleys for the commercial advantage or profit of the local government

The Antieau treatise goes on to state that “When a local government has a fee interest in the streets and then *validly* vacates the street, it should in good faith be able to make such other reasonable and appropriate use of the tract as deemed wise and fitting by the governing body of the corporation.” The validity of the vacation is the key part of that rule.

The vacation of streets must be exercised for the public or general welfare. See *In re Spears*, 227 Mich 525 (1924). While there is no reason to conclude that the subsequent sale of the property to the adjoining property owner for a profit would *necessarily* invalidate the vacation, the City must be very careful in its articulation of the reasons for vacating the road. If the City finds (based on the OHM traffic study, for example) that the road is expensive to maintain and it is not being fully utilized by the general public, these would be reasons to vacate the road. The fact that the property would be sold to Art Van for a profit, or would be beneficial to Art Van in future development would not make the vacation invalid, but should also not be viewed as the public benefits justifying the vacation of the road.

The Antieau quote above also alludes to the other limitation on the City’s general authority to convey the property it owns in fee as it sees fit and on terms it sets, and that is the limitation that operates to govern a city’s actions generally—it must not act in an arbitrary and capricious manner to adversely affect the rights of any individual or property owner. In this regard, we note that a sale to someone other than the abutting property owner (like a competitor, who might leverage ownership of the strip) could become problematic. The City unfortunately has little guidance on what is “reasonable” in terms of a sale, or in terms of imposing conditions on a transfer to the abutting owner, because, given the way in which most vacations transfer or revert the property by operation of law, there are few cases or examples to follow. This leads to the final matter of who might be able to challenge the City’s decision to vacate or not vacate the road or the conditions it imposes in connection with such action.

C. Review of City’s Decision to Vacate or Not

The decision to vacate a highway is legislative in nature and will not be disturbed absent fraud, collusion, or clear abuse of discretion. See *Kader v City of Clawson*, 7 Mich App 380, 382 (1967); *Forster v Pontiac*, 56 Mich App 415, 419 (1974). Generally, to be able to challenge a city’s action in vacating a street, the petitioner must allege that his property abuts on that part of the street vacated, or

that he will suffer special or peculiar damage or inconvenience not common to all. See *Tomaszewski v Palmer Bee*, 223 Mich 565 (1923).

Only Art Van actually abuts the road at issue, but as we noted in our last correspondence to Council, the road improvements were paid for by way of special assessment district that included more parcels than just Art Van. The mere fact that the road was built with SAD funds does not preclude its vacation. See, e.g., *Clayton & Lambert Manufacturing Co v Detroit*, 34 F2d 303 (ED Mich, 1929) (plaintiff not entitled to enjoin the city from vacating a portion of a street where plaintiff had paid a special assessment to widen the street; the city was not required to forever maintain the street as so widened); *Ross v City of Dearborn*, 52 Mich App 84 (1974).

Similarly, the likelihood of others who do not directly abut Karevich Drive being able to establish "special damages," when that road is not needed to give direct access to their parcels, seems very remote. However, Council in its deliberations and discussion on the record will want to be careful not to give those others who might object to the vacation a reason to argue that the decision to vacate the road is based on other than recognized considerations of public benefit—e.g., an intention to confer a benefit on Art Van to the exclusion of others, or, again, merely to secure financial gain to the City.

Should Council ultimately determine that it does *not* want to vacate the road, or should it decide to condition the vacation on certain actions by Art Van to lessen or eliminate the potential adverse impacts of the vacation on the surrounding properties or on the public generally, the same deferential standard of review would apply. A court cannot require the City to vacate a road; it can only review the City's decision-making process to confirm that no irregularities in the process occurred. *Petition of Wernicke*, 331 Mich 91 (1951).

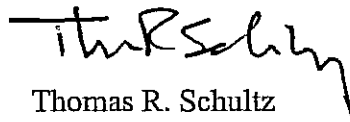
Conclusion

Given the non-typical way in which the City acquired title to some or all of the road in question, our review of Michigan case law and other legal authorities leads us to conclude that the City if it vacates the road in question would retain ownership of the underlying land, which it could then convey to another person or entity (and in fact would have to do so to divest itself of continuing ownership and maintenance responsibilities). It can even sell the underlying property, or convey it for consideration. *However*, the Council must be very careful to identify the public interests being served by the vacation *other than* the possible future use of the property by another or the financial gain to the City. Otherwise, the City is exposed to a claim that it is bartering away a public roadway for financial gain or to confer a special benefit on another, which could trigger a review of the decision to vacate the property by a court.

Given the complexity of this issue, we suggest that this letter be added to the topics for discussion at the executive session on May 8, 2006, to confirm the scope and extent of the Council's authority *before* this matter is placed on an agenda for public discussion.

If you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,



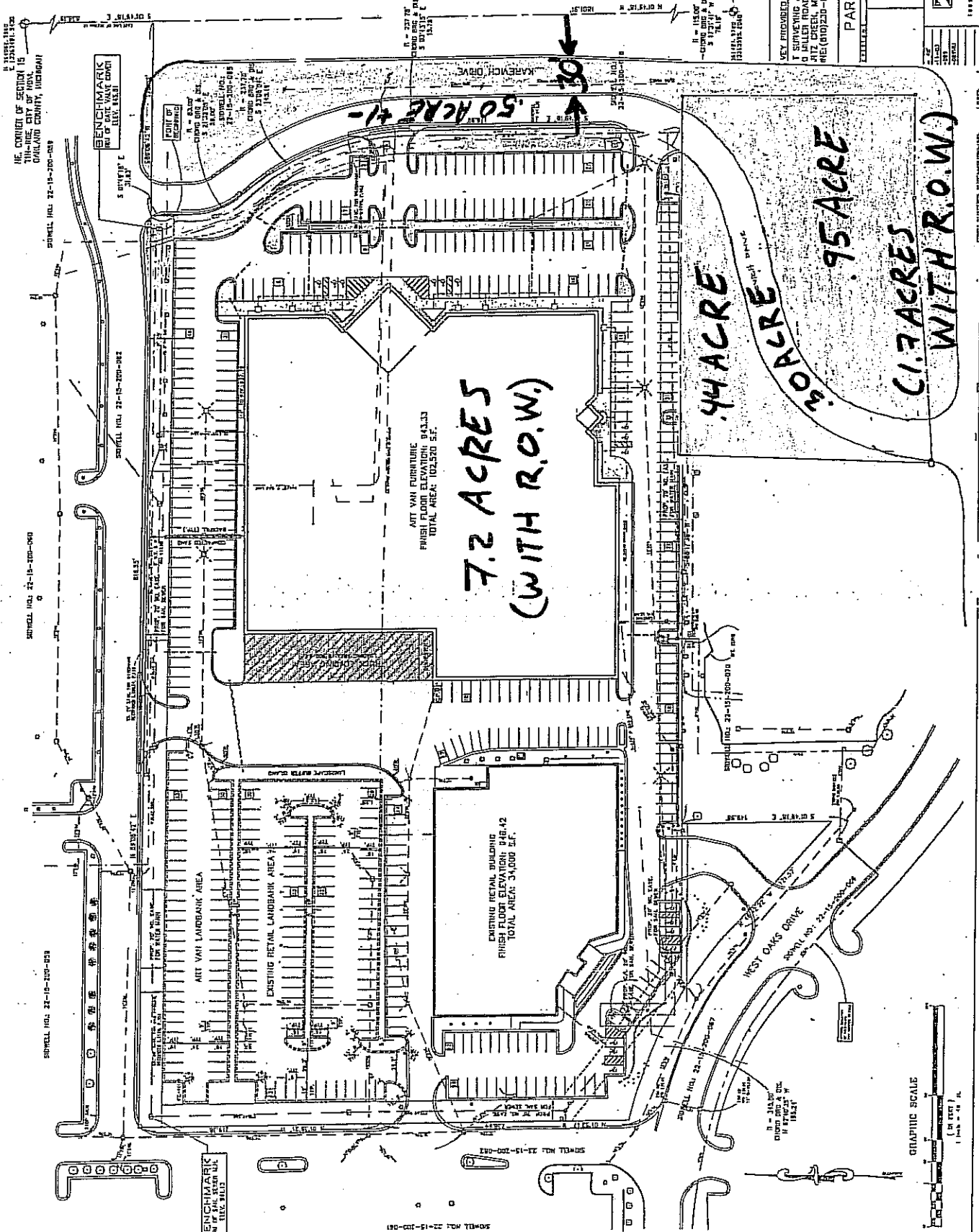
Thomas R. Schultz

TRS/jes

cc: Clay Pearson, Interim City Manager
Maryanne Cornelius, City Clerk
Kathy Smith-Roy, Finance Director

C:\NrPortbl\lmanage\SEEFELJ\817754_1.DOC

NOVI ROAD



EXISTING SITE PLAN