

ELIZABETH KUDLA SAARELA
esaarela@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

December 5, 2024

***Privileged and Confidential Correspondence
From City Attorney***

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

RE: Ridgeview Public Pathway Easement

Dear Ms. McBeth:

As you know, several residents of the Ridgeview Condominium appeared at the public hearing for the Novi-Ten PRO with Rezoning on October 30, 2024. Most, if not all, of those residents believe that the pathway running through the center of the Ridgeview Condominium is a private pathway and they were concerned that Toll proposed to connect the Novi-Ten PRO pathway to the existing Ridgeview pathway stub as part of the proposed PRO with rezoning. The residents all objected to "inviting" the new residents and the public into their private condominium. In actuality, the pathway through Ridgeview is a **public** pathway as required by the Novi Ten Townhomes PRO (now called Ridgeview) Planned Rezoning Overlay Agreement.

The PRO Agreement for the Ridgeview Condominium required the Developer to grant a public pathway easement through the development as a public benefit/public improvement:

D. Applicants shall provide the following Public Benefits/Public Improvements in connection with the development of the Land:

2. Construction of a pathway for public use through the Development from Nick Lidstrom Drive to the north property line for connection to the future development of the non-residential property to the north in the location and to the standards shown in the PRO Plan attached as Exhibit B Pathway easements in a form acceptable to the City, shall be provided to the City for dedication for public use of the pathways. The pathways will thereafter be repaired and replaced by the City, as determined by the City. Winter maintenance consisting of snow and ice removal shall be completed in accordance with applicable City ordinances, as the may be amended from time to time, as determined by the City. The pathway easements shall be offered to the City for dedication by the Owner prior to the issuance of any building permits (except for the model) for the Development. The

pathway easements shall be non-exclusive and shall permit the fee title owner of the easement property to make use of the property that is not inconsistent with use as a public pathway. The Applicants may construct and/or install underground improvements to the property, including utilities and/or similar improvements, which improvements do not interfere with use, operation, maintenance, repair and replacement of the pathways in the pathway easement areas shown on the PRO Plan;

In accordance with the above requirement of the PRO, the Developer granted the attached public Pathway Easement, dated May 9, 2016. The Pathway Easement is also identified in the Master Deed for the Ridgeview Condominium. The Pathway Easement was accepted by City Council on June 6, 2016, and was recorded with the Oakland County Register of Deeds on July 13, 2016 at Liber 49574, Page 400, Oakland County Records.

The Planning Commission asked us what the process would be to terminate the public Pathway Easement and eliminate the connection from the proposed Novi-Ten PRO with Rezoning.

The Ridgeview Pathway Easement appears to be a significant part of the public benefit of the Ridgeview PRO, creating a connection from the property to the north through to Nick Lidstrom Drive and as a result providing a connection to the following additional pathways required by the Ridgeview PRO:

3. Construction of an off-site pathway for public use to the Novi Dog Park commencing from the site's southeast corner along the rear property line of Novi Sport's Club and a connection to the existing pathway along Nick Lidstrom Drive, in the location and to the standards shown in the PRO Plan attached as Exhibit B;
4. Installation of pedestrian directional signage along the pathways set forth above, which the City and Applicants acknowledge shall include signage identifying the pathway in four (4) locations, including 2 signs along the north and 2 signs on the south, as follows:

In order to terminate the public Pathway Easement granted to the City pursuant to the Ridgeview PRO Agreement, the Ridgeview Condominium Association would be required to apply for a PRO Amendment, which would likely be a major amendment to the PRO since the Amendment would eliminate a public benefit. The process would require the Association to complete the entire PRO review process:

- E. Amendment of PRO Agreement.** Amendment of an approved and recorded PRO Agreement shall be proposed, reviewed, and approved in the same manner as a new rezoning with PRO. Notwithstanding the foregoing, minor modifications to the approved PRO Plan can be approved administratively if the Zoning Ordinance would otherwise allow an administrative site plan review and approval, so long as the City Planner determines that the modifications (i) are minor, (ii) do not deviate from the general intent of the PRO Plan, and (iii) result in reduced impacts on the surrounding development and existing infrastructure. The City Planner may also defer the question

to the Planning Commission. The Planning Commission shall also be permitted to authorize minor amendments to the PRO Plan in its review of the preliminary site plans with regard to parking-related, landscaping-related, and facade-related requirements, provided that it would otherwise have that authority under the Zoning Ordinance and such amendments would not be inconsistent with the PRO Conditions or the PRO Agreement. The Planning Commission may also defer the question to the City Council.

If City Council approves the proposed Amendment, the following additional steps would be required at the Association's expense:

1. Approval and recording of an Amendment to the PRO Agreement and PRO Plan eliminating the public Pathway Easement;
2. Approval and recording of a Resolution Vacating the Public Pathway Easement;
3. Approval and recording of a Master Deed Amendment for the Ridgeview of Novi Condominium eliminating the Pathway Easement.

Should you have any questions or concerns relating to the issues set forth above, please feel free to contact me in that regard.

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC



Elizabeth Kudla Saarela

EKS

C: Cortney Hanson, Clerk
Lindsay Bell, Planner
Dan Commer, Planner
Diana Shanahan, Planner
Thomas R. Schultz, Esquire