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ROSATI | SCHULTZ  
JOPPICH | AMTSBUECHLER

August 9, 2024

**CONFIDENTIAL CORRESPONDENCE  
ATTORNEY-CLIENT PRIVILEGE**

Mayor Fischer and City Council  
City of Novi  
45175 Ten Mile Road  
Novi, MI 48375

RE: Property Acquisition Issue—Shawood Lake/329 Elm Court

Dear Mayor Fischer and Council Members:

The City administration has been asked to once again look into the purchase of the property located at 329 Elm Court, better known as the “island” in Shawood Lake. The issue our office was asked to address is exactly who has an interest in the “lake bottom” or “bottomlands” of Shawood Lake—now and in the event the City were to purchase the island property.

As we understand it, the reason we are being asked to look into that question is because the legal descriptions for the island property, both in deeds we have seen and on the City’s map portal, somewhat unusually include all of the lake area/lake bottom up to the opposite (easterly) shore of Shawood Lake, where there are a number of lots/homes in a few different plats that abut that shoreline. The same is true for the property that the City already owns on the west side of the lake—part of Lakeshore Park—which is also generally described as including the land covered by the Lake up to the eastern shoreline, which is mostly developed as the Shawood Walled Lake Heights subdivision plat. A visual depiction of this is attached hereto as Exhibit A.

The description of these two parcels on one “side” of the Lake appearing to include all of the lake bottom despite the fact that a number of other parcels on the other side of the Lake also abut it raises the question as to whether those other parcels are “riparian”—that is, whether the subdivision lots on the eastern side of the Lake include the right to use the Lake and whether they come with any other ownership rights or responsibilities.

*That* question leads in turn to another question: whether, if the City acquires both of the properties that are shown as including all of the lake bottom, would the City become the sole owner of that and the one solely responsible for the Lake?

First, we note that we are still looking into the history of how it came to be that the legal descriptions for the island property and the City’s Lakeshore Park property include the lake

bottom. We have ordered title work but have not received it yet. So, until we have a definite history on that, this opinion will necessarily be incomplete.

Second, even though we have incomplete information right now, we can say that it is *unlikely* that the platted subdivisions on the eastern side of the Lake would *not* have full riparian rights as a result of their location along the shore of the Lake. There is a presumption that if the subdivision plat touches the shoreline then those platted lots are riparian—and that presumption is hard to rebut. The following is a quote from one of the most widely-cited treatises on the subject, *Michigan Real Property Law*, published by the Institute for Continuing Legal Education, (ICLE):

When land is conveyed by reference to an official plat, the boundary lines shown on the plat control. When a plat shows that a lot is bounded by the meander line of a lake, the grant of land is to the water's edge and the land is riparian. *Mumaugh v McCarley*, 219 Mich App 641, 558 NW2d 433 (1996).

That riparian status then, under Michigan law, generally includes a right of ownership out into the center of the lake:

In Michigan, the owner of riparian land that borders on an inland lake ordinarily owns the land under the water to the middle of the lake. *Theis v Howland*, 424 Mich 282, 380 NW2d 463 (1985).

\*\*\*

There is a prima facie presumption that the owner of the upland owns to the center of a lake or to the thread of a watercourse, although this presumption may be overcome by an express reservation in the deed or lease. *Blain v Craigie*, 294 Mich 545, 293 NW2d 745 (1940). In *Hall v Wantz*, 336 Mich 112, 57 NW2d 462 (1953), the court held that this general rule applies to all inland lakes regardless of their size and depth.

Another ICLE-published treatise, *Michigan Real Estate Practice*, reaches the same conclusion about riparian status being granted by virtue of location adjacent to water, and bringing with that ownership of the bottomland:

Riparian owners own the submerged land to the middle of the stream or inland lake whether it is navigable or not. *Aalsburg v Cashion*, 384 Mich 236, 180 NW2d 792 (1970); *Gregory v La Faive*, 172 Mich App 354, 431 NW2d 511 (1988); see also *Lorman v Benson*, 8 Mich 18 (1860). Therefore, whoever owns the shoreline owns the bottomland to the center of the body of water. This is true even if there is a sandbar or unsurveyed island in the water between the shoreline and what would otherwise be the center of the body of water. *Wolff v United States*, 967 F2d 222 (6th Cir 1992); *Booker v Wever*, 42 Mich App 368, 202 NW2d 439 (1972). If a surveyed, separated island exists, there will be two centers—one on either side of the island, between the island and each shore.

August 9, 2024

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A description that states that the buyer has received title “to the shore” or “along the shore” conveys a riparian title, and the owner of the shoreline owns the submerged land to the middle of the lake or stream. See *Bauman v Barendregt*, 251 Mich 67, 231 NW 70 (1930). A conveyance of the upland may state that the private grantor reserves or excludes ownership of the submerged land by an explicit reservation of that interest proposed as a division of real property. ***However, as ownership of the submerged land is considered an attribute of riparian ownership, it is not clear that such a severance will be upheld.***

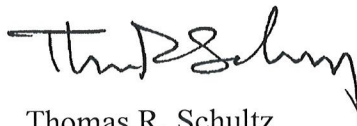
All the foregoing is relevant because the plats at issue on the mostly eastern shore of Shawood Lake do in fact run all the way to the Lake. In fact, the plat with the greatest frontage on the Lake, specifically contains a legal description to the shore of the Lake (called Fish Lake then) and then along the meander line. See copies of the plats attached as Exhibit B.

We reserve the right to add to this opinion—and maybe alter it as necessary—when we get all the title work, but right now it certainly appears that all those other owners along the shore are indeed riparian with rights to use it and any corresponding obligations that come along with that.

It is my understanding that the potential purchase of the island parcel will be discussed in closed session on August 12, 2024. In the meantime, if you have any questions regarding the above, please don’t hesitate to call.

Very truly yours,

ROSATI SCHULTZ JOPPICH  
& AMTSBUECHLER PC



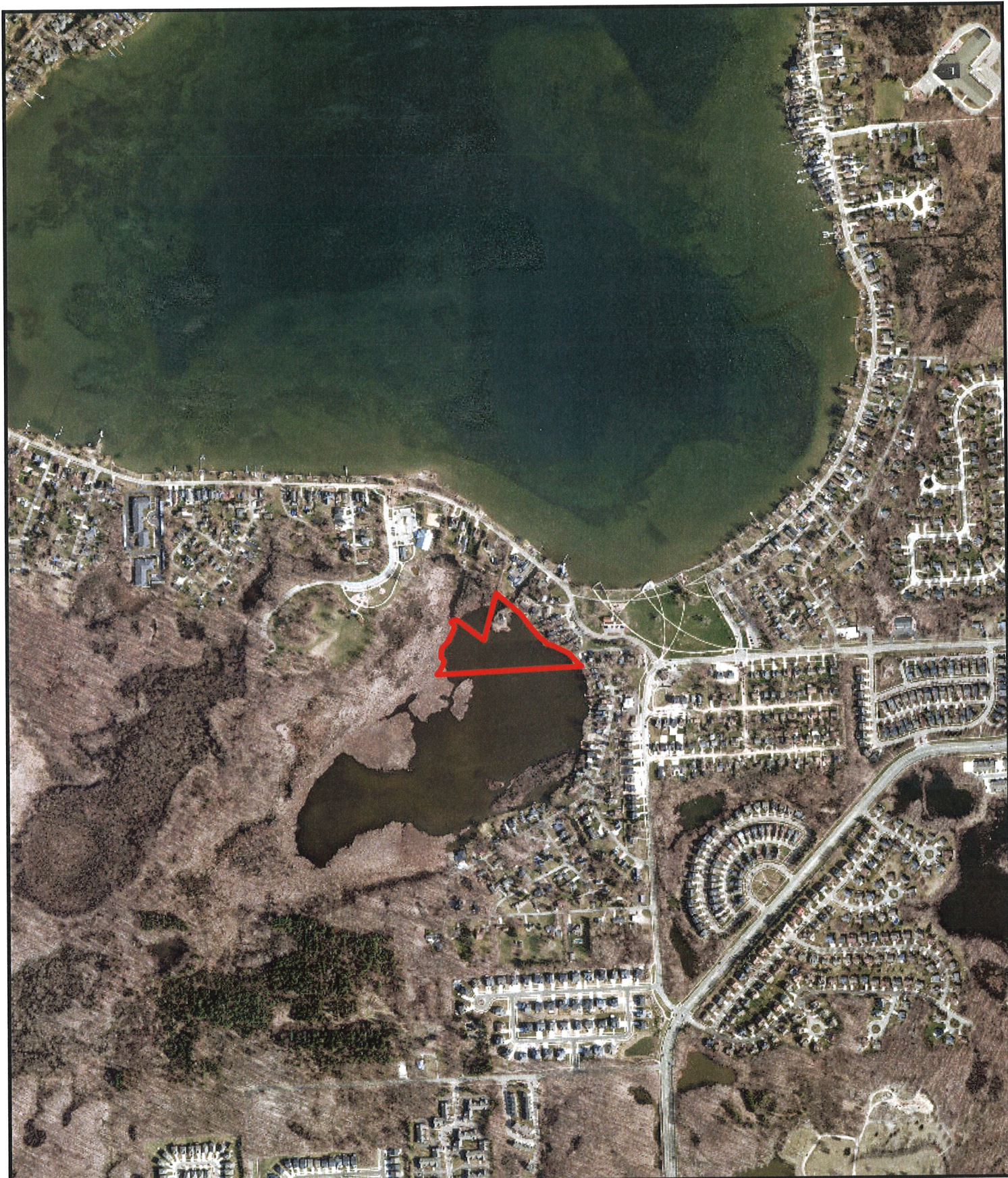
Thomas R. Schultz

TRS/jah

cc: Victor Cardenas, City Manager  
Cortney Hanson, City Clerk  
Jeff Muck, Director of Parks, Recreation & Cultural Services

# EXHIBIT A

# Island Parcel



- 2 Foot Contours
- 5 Foot Contours
- FEMA Base Flood Elevations
- FEMA Cross Sections
- 100 yr - FEMA Floodplain
- 100 yr (detailed) - FEMA Floodplain
- 500 yr - FEMA Floodplain
- FLOODWAY - FEMA Floodplain

Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.



**David Coulter**  
Oakland County Executive

Date Created: 7/30/2024



1 inch = 800 feet

# Parcel Map



## 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 152 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy in information related to this map.

0 0.0275 0.055 0.11 0.165

1 inch = 752 feet



Map Print Date:  
8/9/2024



**City of Novi**

45175 Ten Mile Rd  
Novi, MI 48375  
cityofnovi.org

# EXHIBIT B



*Oakland*

23374

RESOLUTION

CHANGE OF STREET NAME

WHEREAS, the City Council has been presented with a petition signed by the majority of the homeowners on Degross Street requesting the change of the street name, and

WHEREAS, said request has been reviewed by the Street Naming Committee,

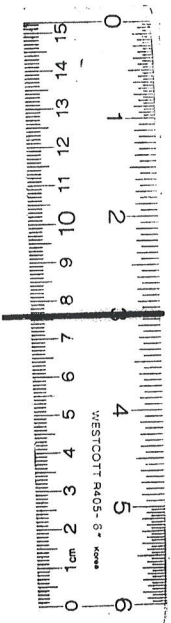
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Novi that the name of Degross Street be changed to Pleasant Cove.

CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Novi at a Regular Meeting held the 18<sup>th</sup> day of June, 1980.

*Geraldine Stipp*  
Geraldine Stipp, City Clerk

PLAT AFFECTED: Shawood Walled Lake Heights Subdivision



12 X

WALLED LAKE SHORES  
A SUB-DIVISION OF PART OF THE S.E.  $\frac{1}{4}$  OF S.E.  $\frac{1}{4}$   
OF SECTION 3, TOWNSHIP OF NOVI OAKLAND CO.  
MICH.

**DEDICATION**

**KNOW ALL MEN BY THESE PRESENTS THAT JENNIE TAYLOR, WAS PROPRIETOR A WIDOW BEING IN THE ANNALS OF THE LAND COMMISSIONER HAS CAUSED THE LAND HEREIN Laid out AND PLATED TO BE KNOWN AS WALL ED LAKE SHORES A SUB-DIVISION OF PART OF THE S.E.  $\frac{1}{4}$  OF SECTION 3, OF TOWNSHIP OF NOVI, OAKLAND CO MICH - AND TOWNSHIP COURT AS SHOWN ON SAID PLAT IS HEREBY DEDICATED TO THE USE OF LOT OWNERS OF SAID PLAT AND ANY OTHER PERSONS WHO MAY ACQUIRE INTEREST THEREIN FOR PUBLIC.**

SIGNED AND SEALED  
IN PRESENCE OF

W. C. Garner - Mr. James Taylor. s.  
W. C. Garner - Mr. James Taylor. s.

STATE OF MICHIGAN: } S.S.  
COUNTY OF OAKLAND: }

*John* COUNTY OF OAKLAND, S.S. ON THIS 21 DAY OF  
1923, BEFORE ME A NOTARY PUBLIC IN  
AND FOR SAID COUNTY PERSONALLY APPEARED THE  
ABOVE NAMED JENNIE TAYLOR.  
KNOWN TO ME TO BE THE PERSON WHO  
EXECUTED THE ABOVE DECLARATION AND ACKNOWLEDGED  
THE SAME AS BEING HER FREE ACT AND DEED.

Robert J. Doe  
NOTARY PUBLIC, OAKLAND  
MY COMMISSION EXPIRES 3-00

## SURVEYS CERTIFICATE

HEREBY CERTIFY THAT THE PLAT HEREON DELINEATED IS A CORRECT ONE AND THAT PERMANENT MONUMENTS CONSISTING OF IRON STAKES, "BIA" TAGS, HAVE BEEN PLANTED AT ALL POINTS MARKED THUS - AS THEREON SHOWN, AT ALL ANGLES IN THE BOUNDARIES OF THE LAND, PLATTED AND AT ALL INTERSECTIONS OF STREETS.

William F. Fisher  
REGISTERED CIVIL ENGINEER.

0-28588

CO: us of this office, enclosed and signed.  
 J. L. Gray, Jr.  
 County of ...

T.J. play was approved on the 28<sup>th</sup> day of

50 Auditor  
Charles A. Brewer

Edward Stevens  
Auditor  
Wadsworth & Boston

**Auditor**

Plat of  
Walden L. Co.  
Barren County. } ss.

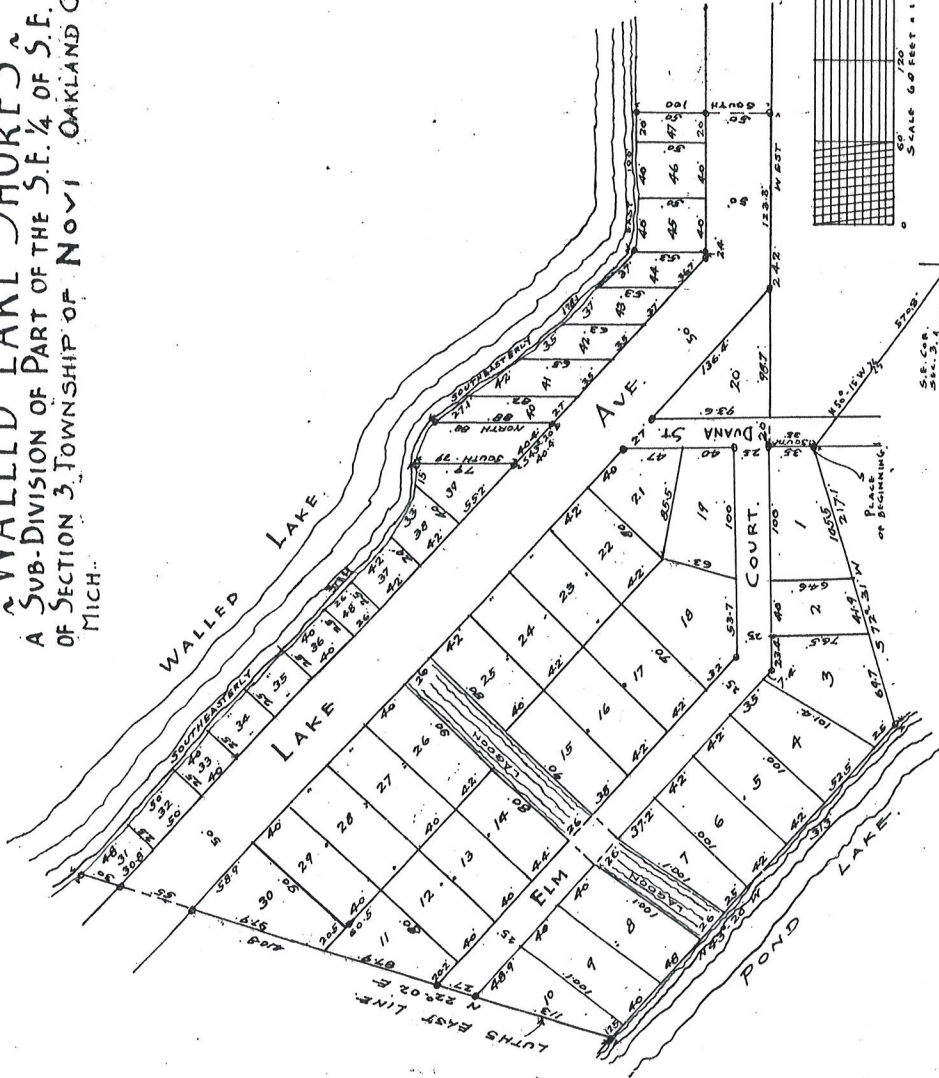
Mar 22 1915  
14 11  
1915

*Staph.*

FILED IN AUDITOR GENERAL'S DEPT

Mar 16-1922  
J. L. Lawrence

DEPUTY AUDITOR GENERAL,

[illegible]

ACCEPTED AND APPROVED BY THE  
TOWNSHIP BOARD OF THE TOWNSHIP OF  
NOVI, OAKLAND CO, MICH - THIS DAY.

1922.  
- Fred W. Duxee  
Super Visor.

on  
CLEAR.

1. *Heck*  
2. *Heck*  
3. *Heck*  
4. *Heck*

Mar-13-1922  
Prof. L. Harvey

$\log_{10} \frac{1}{\rho} = -\log_{10} \rho = -\log_{10} \left( \frac{\text{g}}{\text{cm}^3} \right)$

1

Mar-13/1922  
L. A. Hays

KNOW ALL MEN BY THESE PRESENTS THAT JENNIE TAYLOR, AS PROPRIETOR OF A WOOD-LAND IN THE ANNEXED PLAT BEING HEREIN Laid out and PLATTED, PLACE KNOWINGLY AND LAKE SHORES A SUB-DIVISION OF PART OF THE S.E.  $\frac{1}{4}$  OF SECTION 3, OF TOWNSHIP 10 N., RANGE 10 E., COUNTY OF MICH., AND TOWNSHIP COURT AS SHOWN ON SAID PLAT IS HEREBY DEDICATED TO THE USE OF LOT OWNERS OF SAID PLAT AND ALL OTHER STREETS AND ALLEYS THEREON AND ALL OTHER STREETS AND ALLEYS THEREON ARE DEDICATED TO THE USE OF THE PUBLIC.

SIGNED AND SEALED  
IN PRESENCE OF

$\frac{1}{2} \frac{1}{\sqrt{1 - \frac{v^2}{c^2}}} \frac{1}{\sqrt{1 - \frac{v^2}{c^2}}}$

STATE OF MICHIGAN, S.S.      ON THIS 21 DAY OF  
COUNTY OF OAKLAND,      1922, before me a Notary Public in  
and for said County, personally appeared the  
above named JENNIE TAYLOR, known to me to be the person who  
executed the above dedication and acknowledging the same to be her free act and deed.

NOTARY PUBLIC, OAKLAND CO., MICH.  
MY COMMISSION EXPIRES -

SURVEYORS CERTIFICATE.

WHEREBY CERTIFY THAT THE PLAT HEREON DELINEATED IS A CORRECT ONE AND THAT PERMANENT MONUMENTS CONSISTING OF IRON STAKES, 1" DIA. x 4' LONG, HAVE BEEN PLANTED AT ALL POINTS MARKED THUS - O - AS THEREON SHOWN, AT ALL ANGLES IN THE BOUNDARIES OF THE LAND, PLATTED AND AT ALL INTERSECTIONS OF STREETS.

William J. Fisher  
REGISTERED CIVIL ENGINEER.

RECEIVED

to us of this office.

68-5886

- Detention 4 -  
- Dec 27 1952 -  
- [Signature] -

was produced on 12, 28, 27  
 1915  
 Edward J. Brown  
 August  
 Edward J. Brown  
 August  
 Edward J. Brown  
 August

Register's Office  
Oakland County, Mich.

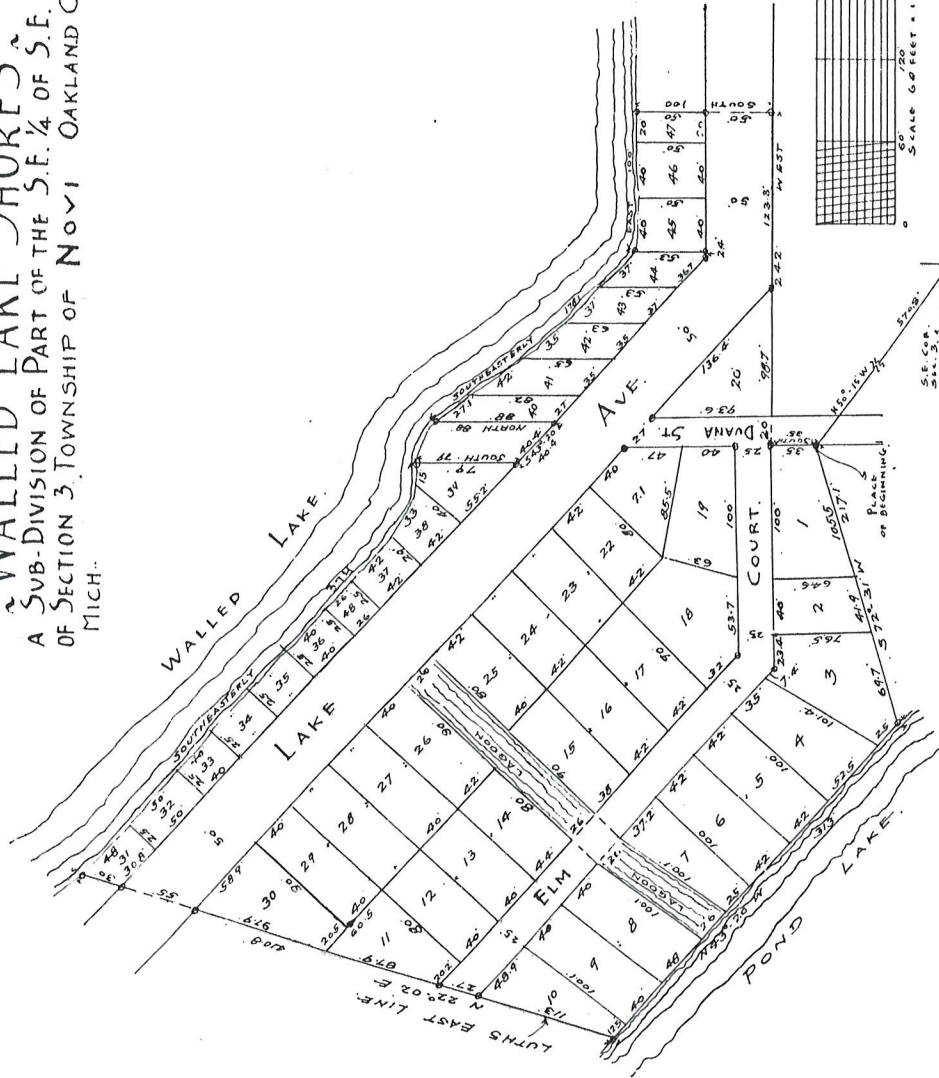
Washed Lake, Idaho

22-10-72

20 Stanley C. Rogers

Mar 16 1872

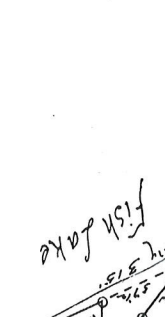
*E. J. H. H. H.*



ACCEPTED AND APPROVED BY THE  
TOWNSHIP BOARD OF THE TOWNSHIP OF  
NOVI, OAKLAND CO., MICH. - TWIST DAY,  
OF 1922.

U. 121  
SUPERVISOR.  
A. L. B. 121

Nov-13-1922  
 Jan. 2: 46.000



McC. & Co., Nov. 17, Oakland Co Mich

Adriana Nald.

Notary Public, Oakland Co. Mich.

• x. 6cc. 2K

Waklam  
Balls dug  
1714 9  
Libel. 11. 24  
82  
Dan A. 112 24

Alt 121 12.1.1915  
C-120-140000

*Chas - R. Hancock*

60  
 712  
 1914  
 1914

2475

Examined and Approved  
May 12 1887  
A. L. Himes

T.I.N. R. 8 E.  
NOVI TWP.  
OAKLAND CO.  
MICH.

May 10-1927  
To L. L. Hanna

**SUBDIVISION**  
 of Part of N.E. 1/4 of Sec. 10 and Part of N.W. 1/4 of Sec. 11  
 T.1N. R.8E.  
 NOVI TWP.  
 OAKLAND CO.  
 MICH.  
 Mabel L. Brundage  
 SCALE: 1"=100'

SCALE: 1" = 100'

0 50 100 200 300

NOTE: All dimensions are given in feet and decimals thereof

STATE OF MICHIGAN  
COUNTY OF OSHTONAW (S.D.)  
On this 22nd day of June, 1922 before me  
a Notary Public in and for said county, personally appeared the above named  
James Smith & Son,  
known to me to be the only known who being  
each by an duly sworn affidavit as the President and Secretary,  
Treasurer respectively, of said Smith and Company  
a Michigan Corporation and that the said affidavits and instrument  
in the corporate seal of said corporation, in the instrument was signed  
and sealed in full of said corporation's ratification of the Board of  
Directors and the said James Smith & Son, acknowledged  
said instrument to be the true and legal act of said corporation  
James Smith  
Notary Public, in and for Wayne County, Michigan.  
My commission expires Aug. 2nd 1920

My remembrance expires Aug 2nd 1930

23374

Children's Campaign Certificate  
 Amount of \$1000.00 (Ten Hundred and 00/100 Dollars)  
 This is to certify that there are the Tax Exemptions of Titles  
 and the amount of \$1000.00 (Ten Hundred and 00/100 Dollars)  
 for the family described in the enclosed return, and the  
 results of this office, for the year 1923.  
 F. J. Kelly  
 Revenue, Wash. April 22 1924

DESCRIPTION.

the land embraced in the annexed plat of "Shuswap Milled Lake Heights Subdivision" of Part of N.W. ¼ of Sec. 10 and Part of N.W. ¼ of Sec. 11, T.14N., R.10W., N. 4th Twp., Yukon Co., Mich. is described as follows: Beginning at a point at the N.E. Corner of said section 10, and running thence along the N. line of section 11, N. 89°19'20"E. 89.50 ft. to a point; thence S. 8°28'00"W. along the center line of Novi Road, 546.76 ft. to a point; thence along the E. line of said section 10, South, 1059.42 ft. to a point; thence N. 89°04'50"W. 1342.75 ft. to a point; thence S. 1°06'10"E. N. 0°16'10"E. 450.00 ft. to a point; thence meandering along the shore of Shuswap Lake, also known as Fish Lake as follows, N. 69°01'09"E. 245.02 ft. to a point; thence S. 1°06'10"E. 136.46 ft. to a point; thence N. 80°37'50"W. 202.70 ft. to a point; thence N. 65°11'50"E. 290.83 ft. to a point; thence N. 54°38'13"E. 152.06 ft. to a point; thence N. 28°02'53"E. 136.24 ft. to a point; thence N. 3°34'35"W. 80.16 ft. to a point; thence S. 36°35'42"E. 82.20 ft. to a point; thence N. 12°53'49"E. 219.54 ft. to a point; thence N. 13°40'06"E. 209.04 ft. to a point; thence along the N. line of said section 10, N. 89°44'00"E. 360.00 ft. to the point of beginning.

[illegible]

STATE OF MICHIGAN } S.S.  
COUNTY OF Washtenaw

On this 17 day of April 1932 before me  
a Notary Public, personally came the above named  
Thomas H. Steward, Nellie G. Steward  
William H. Steward, Hazel K. Steward  
and Ella Steward a single woman  
known to me to be the persons who executed the above dedication and  
acknowledged the same to be their free act and deed.

Eugene Smith  
Notary Public, in and for Washtenaw Co., Michigan.

My commission expires Jan. 2, 1932

I hereby certify that the plat hereon delineated is a correct one and that permanent metal monuments of not less than one inch in diameter and fifteen inches in length set in concrete base at least four inches in diameter and forty-eight inches in depth have been placed at points marked thus (a) as thereon shown at all angles is the boundaries of the land platted, at all the intersections of streets, intersections of streets and alleys, or of streets and alleys, and at the intersections of streets and alleys with the boundary of the plat.

Henry J. Kimball  
Registered Surveyor.

I hereby certify that this plat has been approved by the Township Board  
of the Township of NOVI.....at a session held  
April 21.....1927  
Edw. Banks.....CLERK.

[illegible]

1230  
Approved by the Board of County Directors  
of Oakland County, Michigan, this 23<sup>rd</sup>  
day of April 1968.  
Edward J. Swann  
Chairman