



CITY of NOVI CITY COUNCIL

**Agenda Item E
July 27, 2015**

SUBJECT: Approval of a resolution authorizing termination of portions of an existing access easement and emergency access easement (recorded at Liber 40754, Pages 551 through 556 Oakland County Records) at the request BCP Novi, LLC., as part of the American Tire Distributors site located at 25250 Regency Drive (parcel 22-24-276-023).

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division *BTC RA*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

BCP Novi, LLC, the developer for the American Tire Distributors warehouse located at 25250 Regency Drive (parcel 22-24-276-023), has requested the termination of portions of the existing access and emergency access easement over the site. The access routes located in these areas have been relocated and placed in new easement areas. As such, the applicant has requested that the City terminate and vacate a portion of the existing access and emergency access easement. The existing easement was recorded at Liber 40754, Pages 551 through 556 with the Oakland County Register of Deeds.

The enclosed resolutions for authorizing the termination of portions of an existing access easement and emergency access easement has been prepared for Council's consideration. The proposed easements have been favorably reviewed by the City Attorney (Beth Saarela's letter, attached) and are recommended for approval.

RECOMMENDED ACTION: Approval of a resolution authorizing termination of portions of an existing access easement and emergency access easement (recorded at Liber 40754, Pages 551 through 556 Oakland County Records) at the request BCP Novi, LLC., as part of the American Tire Distributors site located at 25250 Regency Drive (parcel 22-24-276-023).

	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

American Tire Distributors

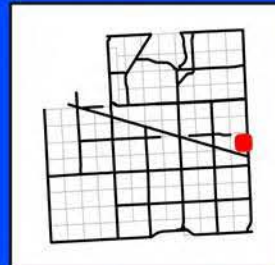


Map Author: A. Wayne
Date: June 29, 2015
Project:
Version #:

Amended By:
Date:
Department:

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 of Novi

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

0 25 50 100 150
Feet

1 inch = 138 feet





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.johnsonrosati.com

July 7, 2015

Rob Hayes, Public Services Director
CITY OF NOVI
45175 Ten Mile Road
Novi, Michigan 48375

**Re: American Tire – JSP14-0023
Resolution Terminating Access Easement and Emergency Access Easement**

Dear Mr. Hayes:

We have received and reviewed, and enclosed please find, the Resolution of the City Council Authorizing Termination of Access Easement and Emergency Access Easement with respect to the American Tire property. In connection with the proposed termination of a portion of the existing access easements, additional Cross Access and Emergency Access Easements have been provided as discussed in our review report dated June 22, 2015. The replacement access easements have been reviewed and approved by our office and the City's Consulting Engineer. The City's Engineering Division has also confirmed that the easements proposed for termination are no longer necessary. Based on all of the above, we see no legal impediment to terminating portions of the existing Access and Emergency Access Easements as described in the attached Resolution. The Resolution may be placed on an upcoming City Council agenda for approval. Once approved, the property owner will record it with the County to facilitate closing on the sale of the property. We will arrange providing the original signed Resolution to the property owner's title company once approved and executed by the City.

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

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.

ELIZABETH KUDLA SAARELA

EMK
Enclosure

- C: Maryanne Cornelius, Clerk (w/Enclosure)
Charles Boulard, Community Development Director (w/Enclosure)
Barb McBeth, Deputy Community Development Director (w/Enclosure)
Sheila Weber, Treasurer's Office (w/Enclosure)
Kristin Pace, Treasurer's Office (w/Enclosure)
Adam Wayne, Construction Engineer (w/Enclosure)
Aaron Staup, Construction Engineering Coordinator (w/Enclosure)
Sarah Marchioni, Building Permit Coordinator (w/Enclosure)
Sue Troutman, City Clerk's Office (w/Enclosure)
Brittany Allen, Taylor Reynolds and Ted Meadows, Spalding DeDecker (w/Enclosure)
Jamie Generous (jamie@bccgp.com) (w/Enclosure)
Paul Lewsley (pjlewsley@ameritech.net) (w/Enclosure)
Chuck Nichols, Esquire (cnichols@nicholslawpa.com) (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

**RESOLUTION OF THE CITY COUNCIL AUTHORIZING
TERMINATION OF ACCESS EASEMENT AND
EMERGENCY ACCESS EASEMENT**

RECITATIONS UNDERLYING THIS RESOLUTION:

The easement granting access to the City of Novi (the "City") whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, through the Regency Centre Condominium, a copy of which is attached as **Exhibit A**, is the subject matter of this Resolution, and shall be referred to herein as the "Easement".

The owner of the property described in the attached and incorporated Exhibit A, upon which the Easement is located (the "Property"), granted an easement dated July 24, 2008, recorded on December 3, 2008 at Liber 40754, Pages 551 through 556, Oakland County Records, to provide access for the City and emergency service agencies to the Property. New access and emergency access easements have been granted to the City, and portions of the existing Easement as shown on **Exhibit B** and **Exhibit C** are no longer necessary to provide access to the Property. As such, the City has offered to terminate and vacate portions of the existing easement. Any costs associated with terminating the easement shall be the Owner's expense.

The appropriate City Officials have investigated the need to maintain the Easement for the benefit of the City's and emergency service agencies' access to the Property, and/or for the benefit of surrounding properties. The City Officials have determined it is not necessary to maintain the portions of Easement in the locations shown on Exhibit B and Exhibit C, and hereby agree to terminate them.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. Those portions of the access easement described as "EXISTING 30 FT. WIDE PRIVATE DRIVE EASEMENT TO BE RELEASED" and "EXISTING 24 FT. WIDE

EMERGENCY ACCESS EASEMENT TO BE RELEASED” in the attached and incorporated Exhibit B and Exhibit C, located in Section 24 of the City, described in the Easement which is recorded at Liber 40754, Pages 551 through 556, Oakland County Records, for providing access to the Property, be terminated as shown.

2. This Resolution shall be recorded with the Oakland County Register of Deeds evidencing the termination called for herein.

AYES:

NAYES:

ABSTENTIONS:

Resolution declared adopted.

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

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 the regular meeting held on _____, 2015.

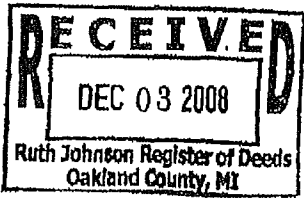
MARYANNE CORNELIUS, CITY CLERK

Drafted by:
Elizabeth Saarela
Johnson, Rosati, Schultz & Joppich
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331
(248) 489-4100

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

EXHIBIT A

[Attached.]



210107
LIBER 40754 PAGE 551
\$25.00 MISC RECORDING
\$4.00 REINUMENTATION
12/05/2008 09:32:12 A.M. RECEIPT# 100096
PAID RECORDED - OAKLAND COUNTY
RUTH JOHNSON, CLERK/REGISTER OF DEEDS

ACCESS EASEMENT

Cavalito, L.L.C., a Michigan limited liability company, the address of which is 27087 Gratiot, Roseville, Michigan (hereinafter referred to as "Grantor"), being the Developer and owner of Units 1, 2, 4 and & 7 of Regency Centre, a condominium, located in the City of Novi, Oakland County, Michigan the legal description of which is as follows:

Units 1, 2, 3, 4, 6 and 7 of Regency Centre according to the Master Deed recorded in Liber 23384, Pages 48 through 104; First Amendment to Master Deed recorded in Liber 29285, Page 136 through 141, Second Amendment to Master Deed recorded in Liber 33391, Page 585 through 587, Third Amendment to Master Deed recorded in Liber 36984, Pages 474 through 476, Oakland County Records and designated as Oakland County Condominium Subdivision Plan No. 1360 together with rights in common elements as set forth in the above described Master Deed ("Master Deed") and as described in Act 59 of the Public Acts of 1978, as amended,

- Unit 1 (50-22-24-276-014)
- Unit 2 (50-22-24-276-015)
- Unit 3 (50-22-24-276-016)
- Unit 4 (50-22-24-276-022)
- Unit 6 (50-22-24-276-019)
- Unit 7 (50-22-24-276-020)

9001360

6P
E

(collectively the "Condominium") for and in consideration of One (\$1.00) Dollar, receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to the City of Novi, a Michigan municipal corporation, the address of which is 45175 W. Ten Mile, Novi, Michigan 48375 and any emergency service agency (hereafter collectively referred to as "Grantee") a nonexclusive easement for access to the Condominium and the regional storm water facilities to the north of the Condominium, over the Private Drives, Emergency Access Easement and Regional Detention Pond Access Easements in the locations depicted and described on Exhibits A, B and C attached hereto and incorporated by this reference. Said access easement shall be for the purposes of ingress and egress to provide, without limitation, fire and police protection, ambulances and rescue services, other lawful governmental or private emergency services to the Condominium, its Co-owners, occupants and invitees thereof and access for the City to the City's regional detention facilities to the north of the Condominium. The foregoing easement shall in no way be construed as a dedication of any roadways to the public.

This instrument shall run with the land and shall be binding upon and inure to the benefit of the Grantor, Grantee, and their respective heirs, representatives, successors and assigns.

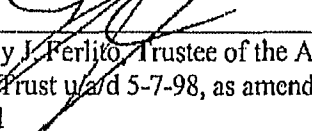
Exempt from transfer tax pursuant to MCLA 207.526(a) and MCLA 207.505 (a)

O.K. - LG

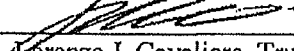
LIBER 0754 PG 552

Executed this 24th day of July, 2008.

Grantor:
Cavalito, L.L.C.

By: 
Anthony J. Ferlito, Trustee of the Anthony J.
Ferlito Trust u/a/d 5-7-98, as amended and
restated

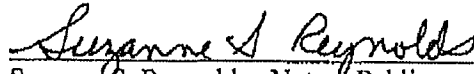
Its: Member

By: 
Lorenzo J. Cavaliere, Trustee of the Lorenzo
J.. Cavaliere Revocable Living Trust u/a/d
12-10-98, as amended
Its: Member

STATE OF MICHIGAN

COUNTY OF MACOMB

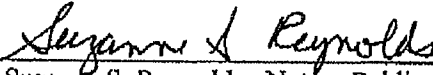
The foregoing was acknowledged before me this 24th day of July, 2008, by Anthony J. Ferlito, Trustee of the Anthony J. Ferlito Trust u/a/d/ 5-7-98, as amended and restated, Member of Cavalito, L.L.C., a Michigan limited liability company, on behalf of the Company.


Suzanne S. Reynolds, Notary Public
Oakland County, MI
My commission expires: 10-22-10
Acting in Macomb County, MI

STATE OF MICHIGAN

COUNTY OF MACOMB

The foregoing was acknowledged before me this 24th day of July, 2008, by Lorenzo J. Cavaliere, Trustee of the Lorenzo J.. Cavaliere Revocable Living Trust u/a/d, 12-10-98, as amended, Member of Cavalito, L.L.C., a Michigan limited liability company, on behalf of the Company.


Suzanne S. Reynolds, Notary Public
Oakland County, MI
My commission expires 10-22-10
Acting in Macomb County, MI

The undersigned mortgagee of Units 1, 2, 4 and 7 of Regency Centre does hereby consent to the foregoing grant, conveyance, existence and recordation of easement, which easement is hereby acknowledged and agreed to be superior to the interest of the undersigned and shall bind the undersigned and the successors and heirs of the undersigned.

Dated this 14th day of AUGUST, 2008.

Fifth Third Bank, a Michigan banking corporation

By: Mark Relfel
Its VICE PRESIDENT

STATE OF MICHIGAN

COUNTY OF OAKLAND

The foregoing was acknowledged before me this 14th day of AUGUST, 2008, by Mark Relfel, the Vice President of Fifth Third Bank, a Michigan banking corporation on behalf of the corporation.

Denise A. Ruff, Notary Public
County, MI

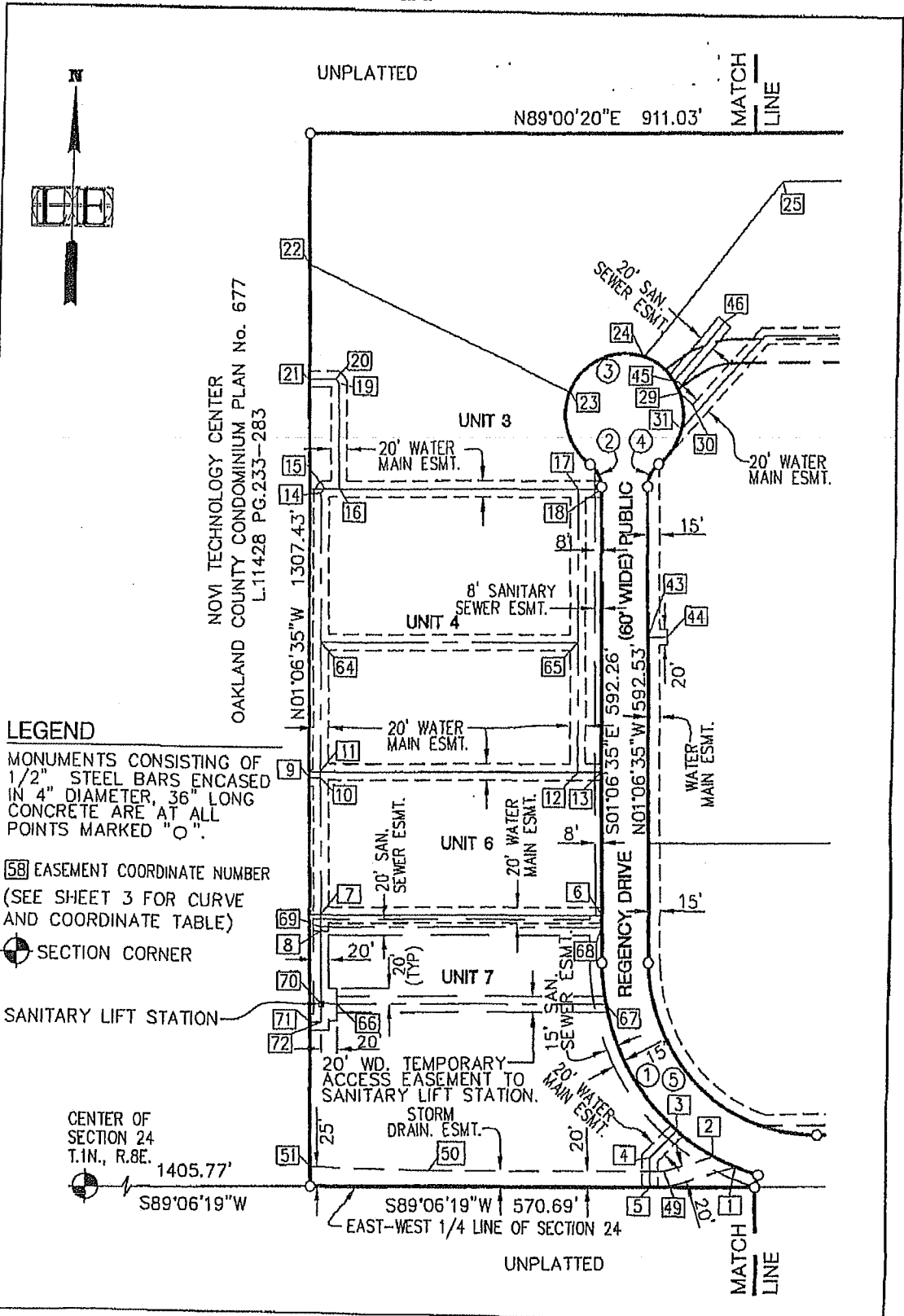
My commission expires: _____
Acting in Oakland County, MI

Drafted by:
Suzanne S. Reynolds
Ferlito Construction, Inc.
27087 Gratiot Ave.
Roseville, MI 48066

DENISE A. RUFF
Notary Public, Oakland County, MI
My Commission Expires: 3/13/14

Return to:
Maryanne Cornelius, Clerk
City of Novi
45175 W. Ten Mile Rd.
Novi, MI 48375

EXHIBIT A



LEGEND

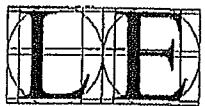
MONUMENTS CONSISTING OF 1/2" STEEL BARS ENCASED IN 4" DIAMETER, 36" LONG CONCRETE ARE AT ALL POINTS MARKED "O".

58 EASEMENT COORDINATE NUMBER (SEE SHEET 3 FOR CURVE AND COORDINATE TABLE)

SECTION CORNER

SANITARY LIFT STATION

CENTER OF SECTION 24
T.1N., R.8E. 1405.77'
S89°06'19"W



LIVINGSTON ENGINEERING
CIVIL ENGINEERING SURVEYING PLANNING

3300 S. OLD U.S. 23, BRIGHTON, MICHIGAN 48114

INTERNET: WWW.LIVINGSTONENG.COM PHONE: (810) 225-7100 FAX: (810) 225-7699

COORDINATE TABLE

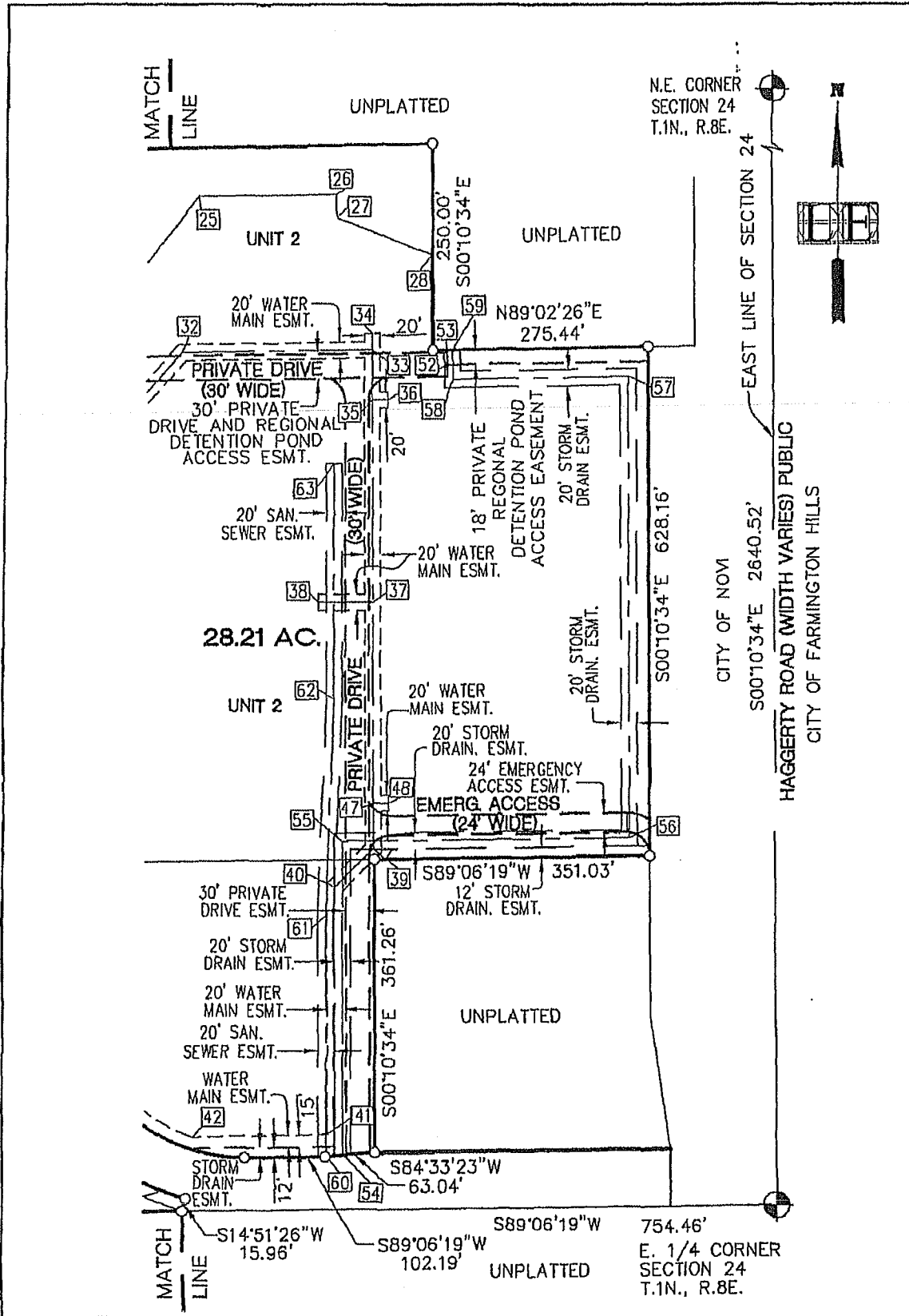
No.	NORTHING	EASTING	No.	NORTHING	EASTING
1	5064.12	4235.00	37	5792.86	4500.44
2	5076.62	4207.61	38	5792.65	4431.99
3	5107.80	4159.60	39	5486.85	4501.94
4	5073.05	4125.92	40	5439.61	4453.07
5	5036.77	4126.49	41	5134.64	4444.00
6	5375.67	4058.65	42	5129.99	4273.40
7	5368.69	3698.67	43	5722.55	4111.95
8	5348.70	3699.05	44	5723.03	4136.94
9	5540.38	3680.40	45	6040.03	4140.04
10	5540.73	3695.33	46	6116.14	4203.33
11	5548.66	3695.18	47	5543.07	4501.67
12	5555.05	4025.22	48	5543.18	4521.67
13	5555.63	4055.17	49	5057.04	4143.94
14	5893.60	3688.50	50	5052.31	3840.56
15	5898.69	3693.46	51	5054.98	3689.80
16	5899.04	3711.45	52	6085.26	4595.04
17	5904.99	4018.39	53	6103.26	4594.74
18	5905.57	4048.39	54	5108.86	4464.08
19	6029.97	3708.92	55	5495.31	4462.90
20	6034.92	3703.90	56	5501.02	4828.89
21	6034.28	3670.83	57	6071.00	4827.13
22	6177.02	3668.07	58	6067.23	4602.22
23	6024.76	4005.40	59	6103.37	4601.29
24	6070.40	4100.24	60	5106.58	4442.51
25	6288.50	4276.79	61	5404.22	4441.69
26	6291.53	4453.11	62	5672.36	4452.35
27	6262.86	4453.85	63	5963.19	4451.46
28	6218.92	4576.26	64	5707.73	3692.10
29	6025.99	4147.33	65	5714.12	4022.12
30	6011.03	4164.17	66	5257.88	3720.88
31	5980.63	4150.55	67	5264.55	4065.62
32	6099.44	4256.06	68	5360.67	4058.95
33	6103.51	4498.92	69	5353.70	3699.02
34	6123.63	4498.82	70	5257.48	3700.88
35	6042.28	4499.22	71	5234.79	3686.32
36	6042.38	4519.22	72	5235.08	3701.31

CURVE DATA

NO.	RADIUS	ARC	DELTA	CHORD	CHORD BEARING
1	276.00'	356.89'	74°05'20"	332.54'	S38°05'54"E
2	34.00'	32.29'	54°25'17"	31.09'	S28°19'14"E
3	76.00'	383.13'	288°50'32"	88.44'	S88°53'24"W
4	34.00'	32.29'	54°25'15"	31.09'	N26°06'02"E
5	216.00'	338.48'	89°47'06"	304.90'	N46°00'08"W

LIVINGSTON ENGINEERING





N.E. CORNER SECTION 24 T.1N., R.8E.

EAST LINE OF SECTION 24

CITY OF NOVATO

$S00^{\circ}10'34''E$ 2640.52'

HAGGERTY ROAD (WIDTH VARIES) PUBLIC CITY OF FARMINGTON HILLS

UNPLATTED

E. 1/4 CORNER SECTION 24 T.1N., R.8E.

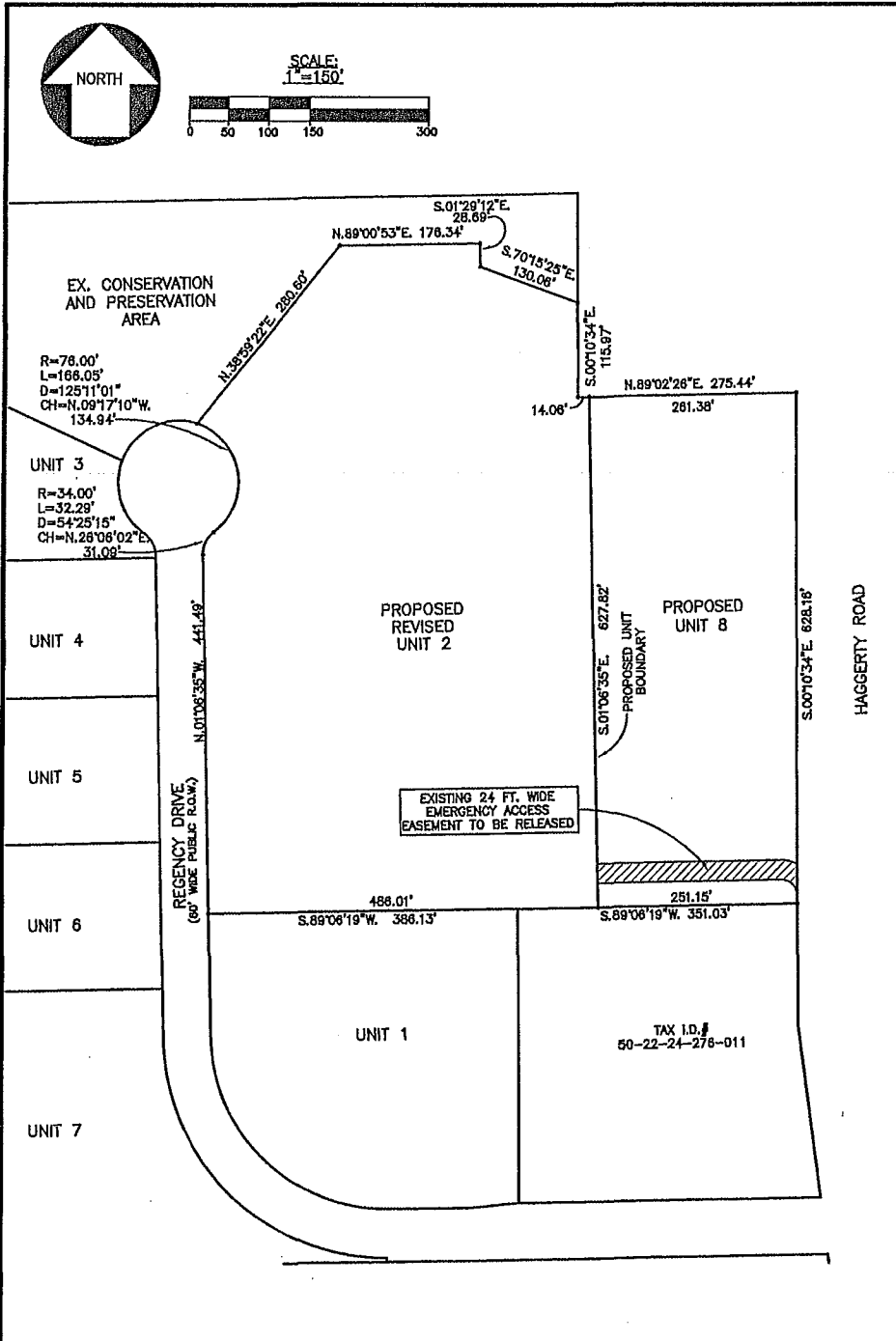



[End of Exhibit A to Resolution]

EXHIBIT B

[Attached]

PROPOSED EASEMENT SKETCH



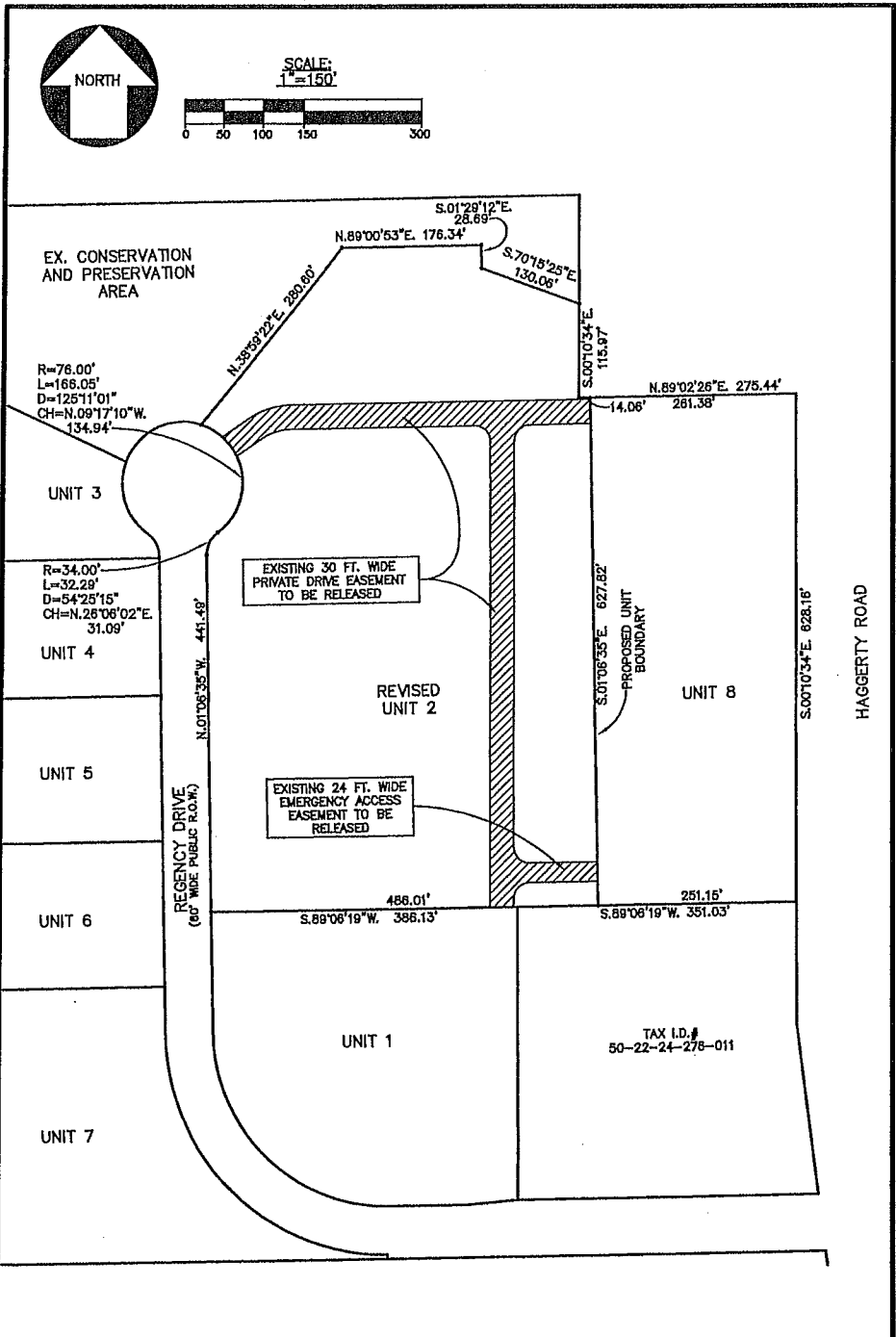
PREPARED FOR: BC CONSTRUCTION GROUP 8700 N. SECOND ST., SUITE 201 BRIGHTON, MICHIGAN 48116 PHONE: 810/986-9757	JOB NO. 1411	PROPOSED EASEMENT SKETCH
	SCALE 1"=150'	 ENVIRONMENTAL ENGINEERS, INC. 18820 WEST TEN MILE ROAD SOUTHFIELD, MICHIGAN 48076 PHONE: 248/424-9510
	DATE 07/25/14	
	REVISION	
	SHEET 2 OF 3	


[End of Exhibit B]

EXHIBIT C

[Attached.]

PROPOSED EASEMENT SKETCH



<p>PREPARED FOR:</p> <p>BC CONSTRUCTION GROUP 8700 N. SECOND ST., SUITE 201 BRIGHTON, MICHIGAN 48116 PHONE: 810/986-9757</p>	<p>JOB NO.</p> <p>1411</p>	<p>PROPOSED EASEMENT SKETCH</p>
	<p>SCALE</p> <p>1"=150'</p>	 <p>ENVIRONMENTAL ENGINEERS, INC. 18820 WEST TEN MILE ROAD SOUTHFIELD, MICHIGAN 48075 PHONE: 248/424-9510</p>
	<p>DATE</p> <p>06/10/15</p>	
	<p>REVISION</p>	
	<p>SHEET 2 OF 3</p>	