



CITY of NOVI CITY COUNCIL

Agenda Item J
June 17, 2019

SUBJECT: Approval of Addendum to the Emerson Park Planned Rezoning Overlay (PRO) Agreement, to adjust the date by which the required sidewalk and boardwalk improvements are to be constructed along Ten Mile Road west of Novi Road, subject to final review and approval of the language of the Addendum by the City Manager and City Attorney.

SUBMITTING DEPARTMENT: Community Development - Planning *Bauh*

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

The PRO Agreement between Pulte Homes and the City was signed on February 5, 2018, authorizing a multiple-family development located on Novi Road north of Ten Mile Road. Among other things, it establishes dates by which required sidewalk and pathway improvements were to be constructed along Ten Mile Road on property not owned by either the City or Pulte. The language contemplates that the City would acquire the needed right-of-way across the Ten Mile parcel (which is not owned by Pulte or the City) and then Pulte would build the improvements. If the City couldn't acquire the right-of-way by the time Pulte was ready for its first occupancy permit, then Pulte would pay the City \$250,000 and be relieved of the obligation to build the improvements.

Pulte is ready for its first occupancy permit, but the City hasn't finished its acquisition of the right-of-way. The City has a purchase agreement with the owner of the property to acquire the entire parcel and is in its due diligence period; it expects to close at the end of this month or soon thereafter.

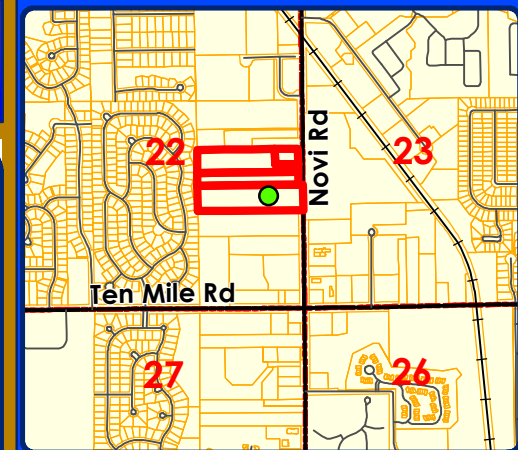
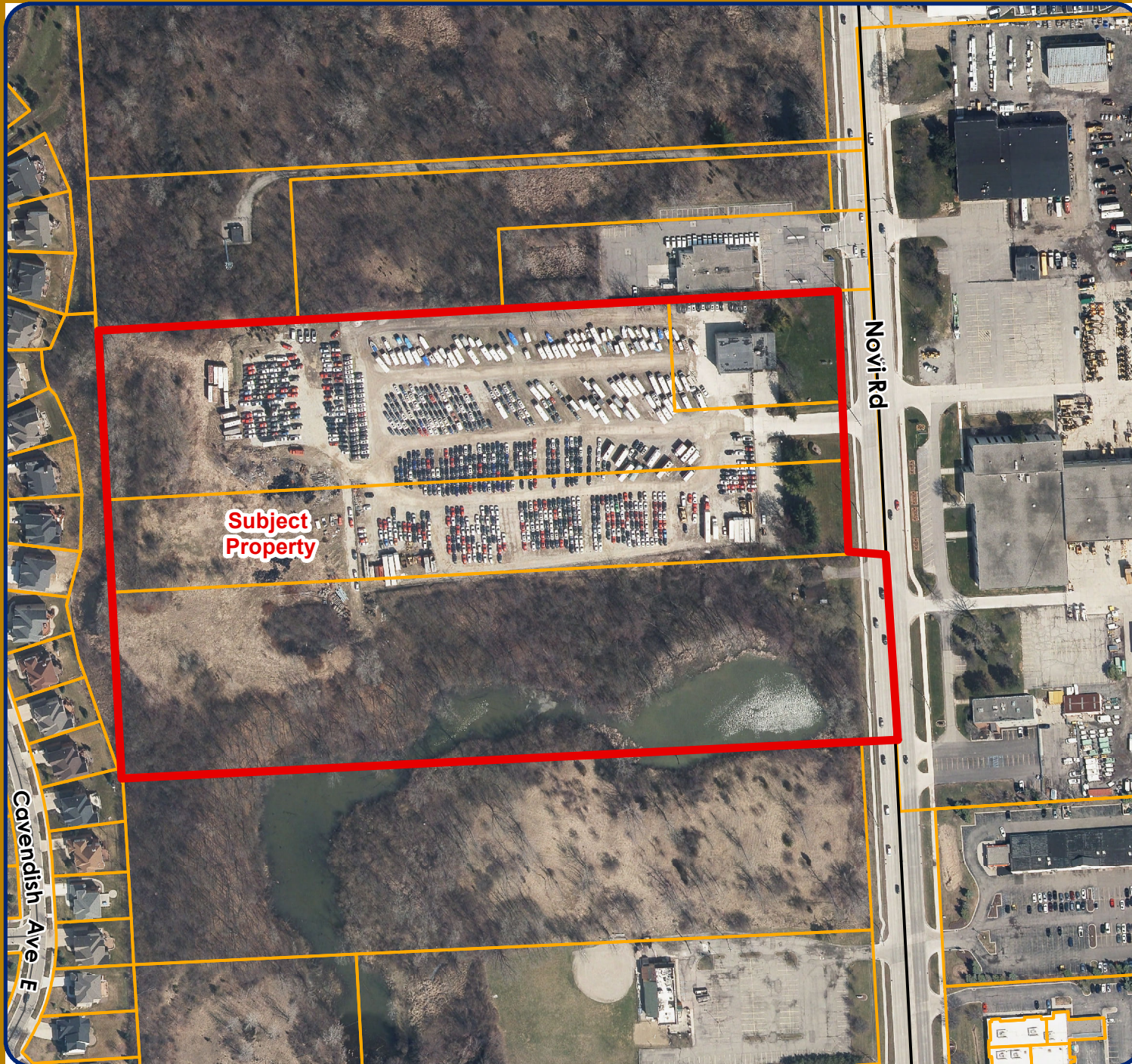
Neither the City nor Pulte want Pulte to have to deposit the default amount with the City—both prefer Pulte to build the pathway improvements.

The attached addendum to the PRO Agreement would adjust the date for Pulte to do so by providing that the pathway must be constructed within 90 days after the City acquires the right-of-way. The default provision would be extended to say that if the City doesn't acquire the right-of-way by December 31, 2019, Pulte would deposit the required amount with the City.

RECOMMENDED ACTION: Approval of Addendum to the Emerson Park Planned Rezoning Overlay (PRO) Agreement, to adjust the date by which the required sidewalk and boardwalk improvements are to be constructed along Ten Mile Road west of Novi Road, subject to final review and approval of the language of the Addendum by the City Manager and City Attorney.

MAPS
Location
Zoning
Future Land Use
Natural Features

17-10 Emerson Park Location Map



LEGEND

 Sections



City of Novi

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

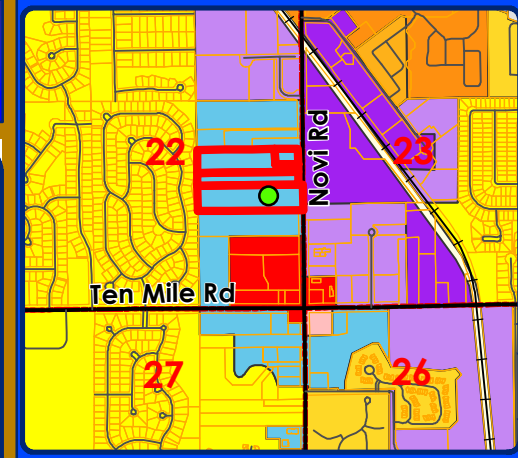
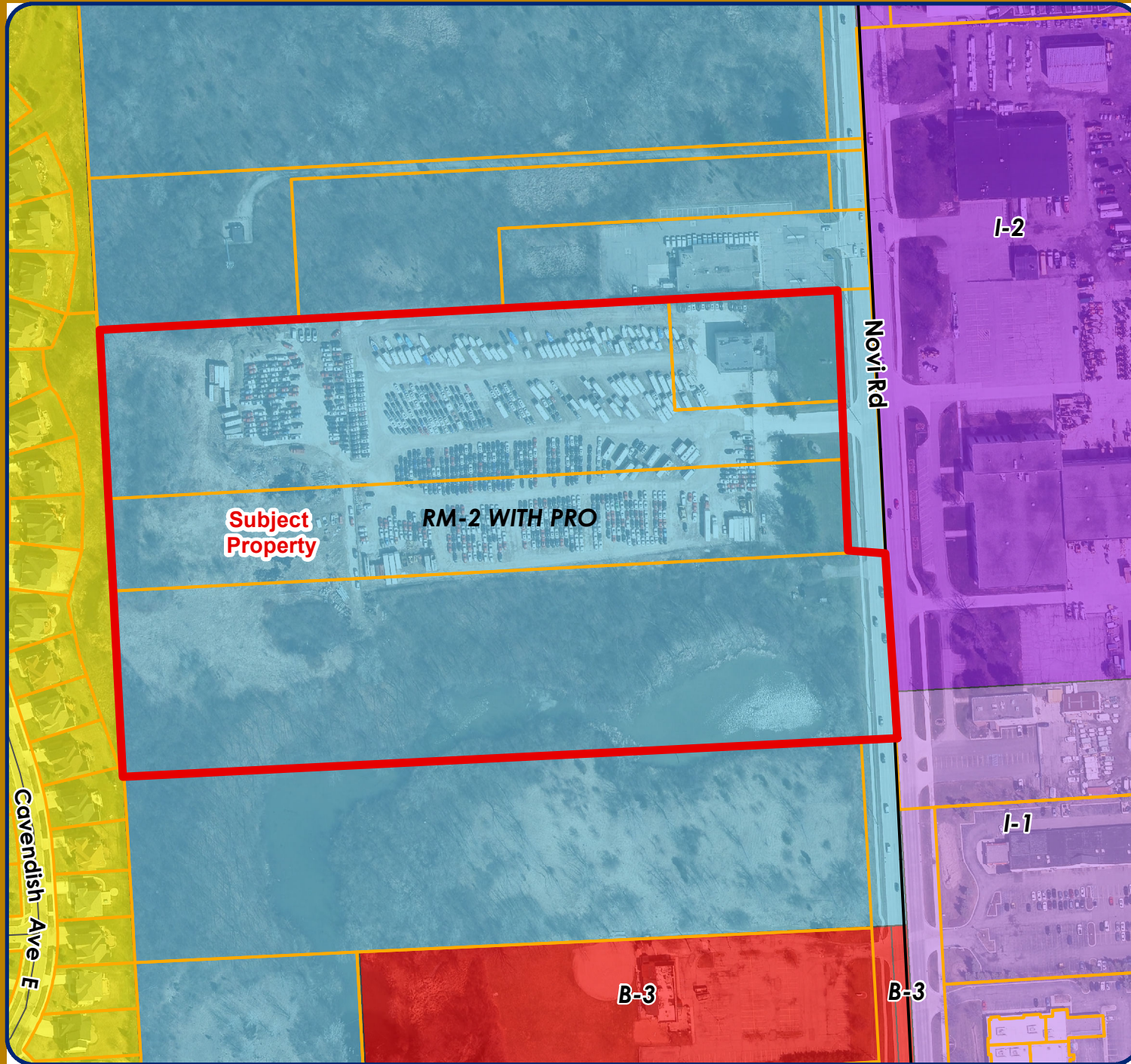
Map Author: Sri Komaragiri
Date: 02/01/18
Project: 17-10 Emerson Park
Version #: 1



MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

17-10 Emerson Park Zoning Map



LEGEND

- Sections
- R-4: One-Family Residential District
- RM-1: Low-Density Multiple Family
- RM-2: High-Density Multiple Family
- B-1: Local Business District
- B-3: General Business District
- I-1: Light Industrial District
- I-2: General Industrial District
- OS-1: Office Service District
- P-1: Vehicular Parking District
- TC-1: Town Center -1 District

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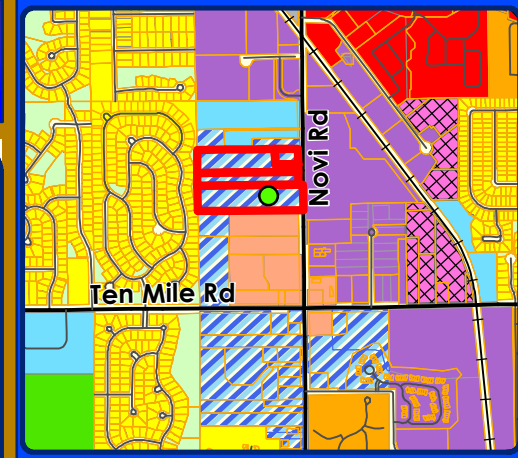
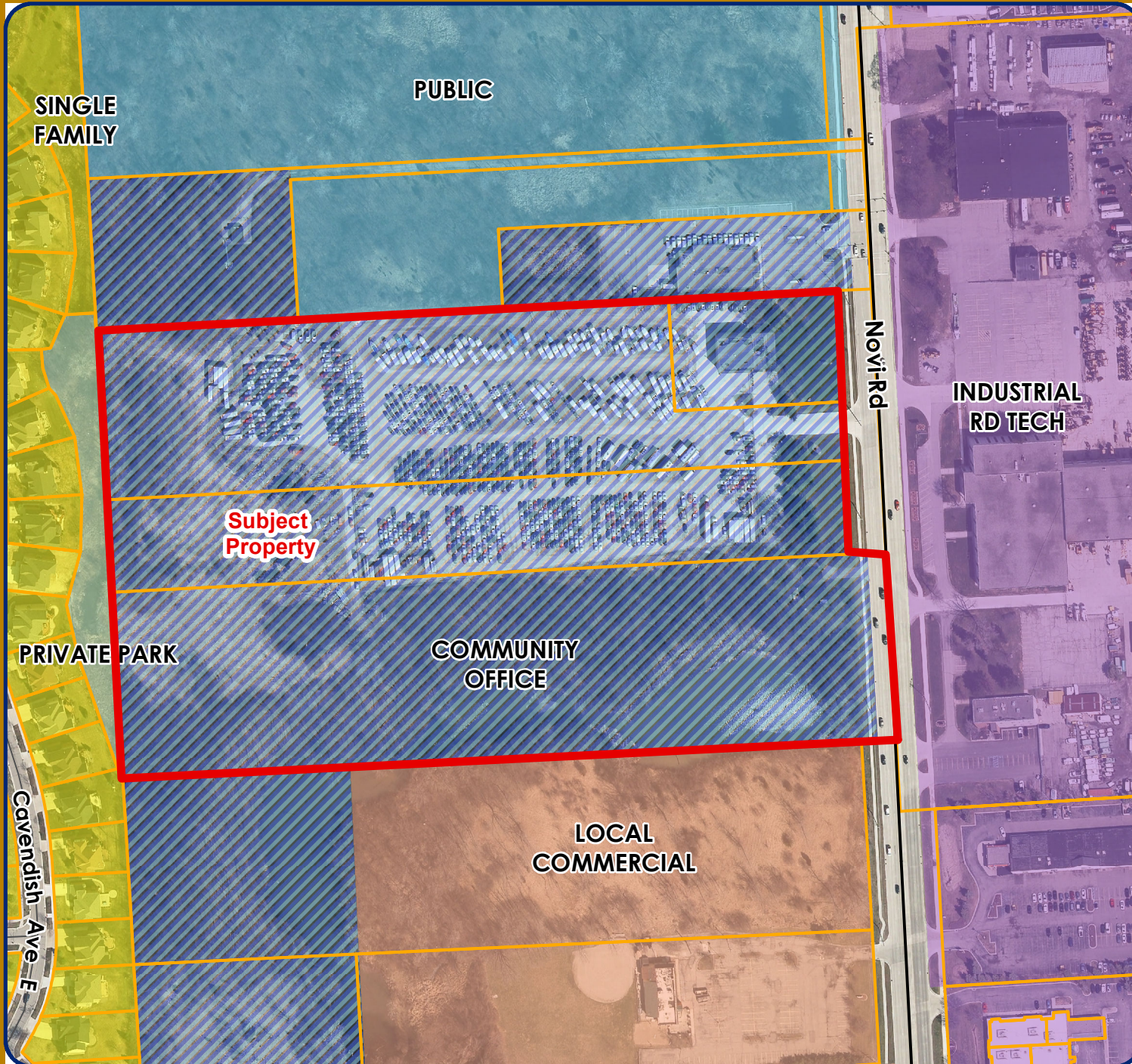
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0 55 110 220 330 Feet
 1 inch = 250 feet

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17-10 Emerson Park Future Land Use Map



LEGEND

FUTURE LAND USE

- Single Family
- Multiple Family
- Community Office
- Industrial RD Tech
- Heavy Industrial
- Local Commercial
- TC Commercial
- TC Gateway
- Public
- Public Park
- Private Park
- Cemetery


CITY OF

NOVI
 cityofnovi.org

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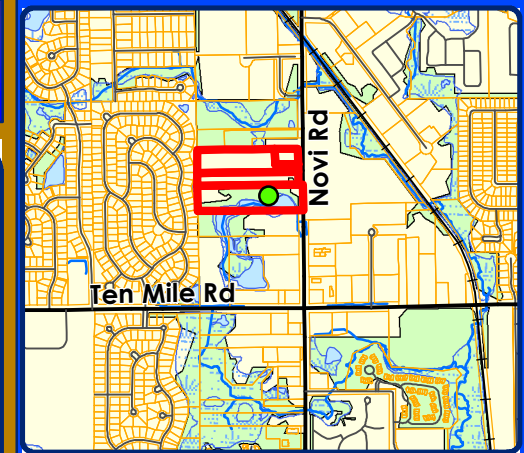
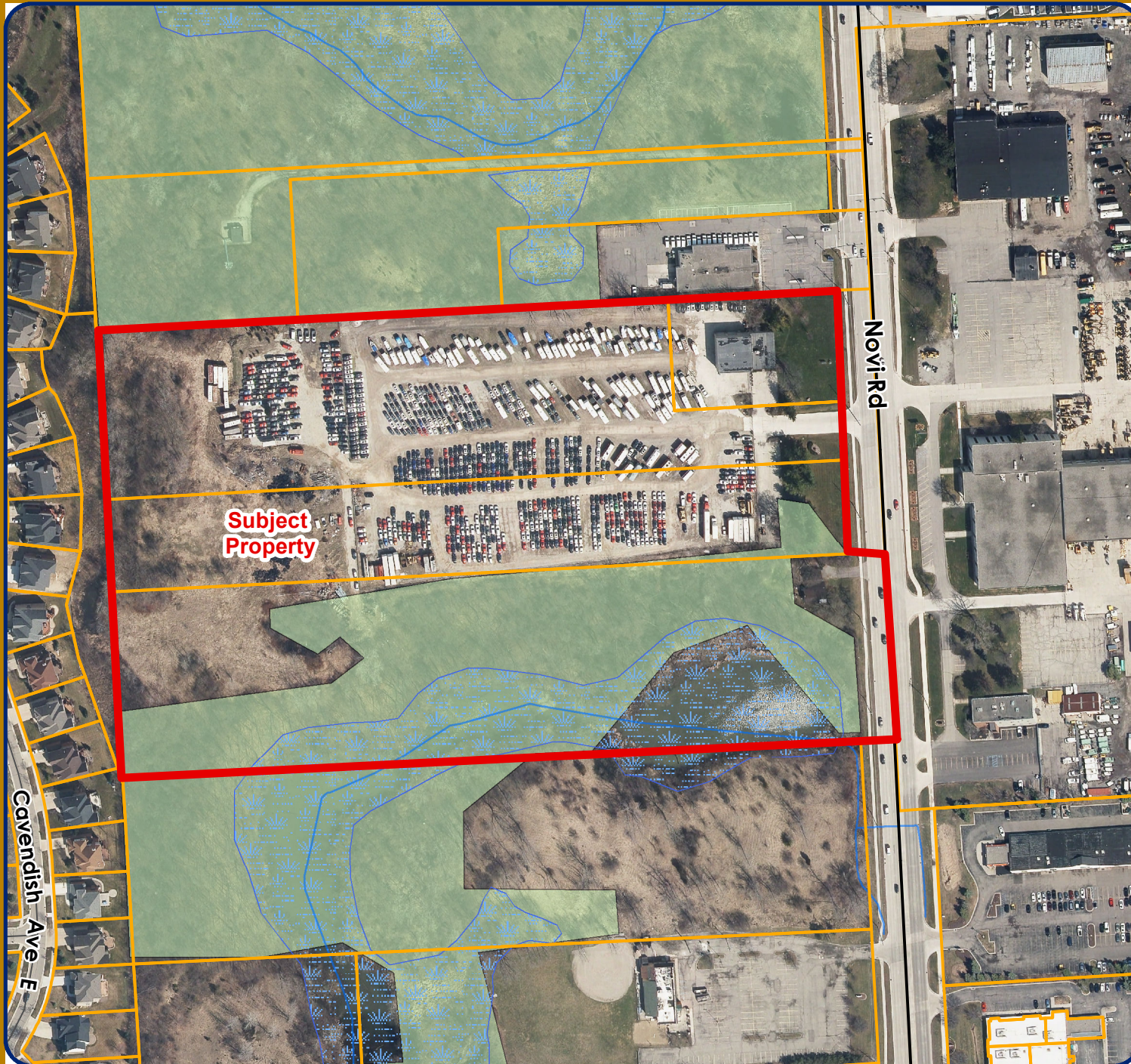
0 55 110 220 330 Feet
 1 inch = 250 feet





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17-10 Emerson Park Natural Features Map



LEGEND

-  WETLANDS
-  WOODLANDS



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OFF-SITE PATH PLAN

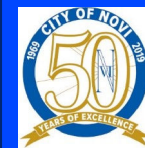
JSP 17-10 EMERSON PARK: OFF-SITE PATH

Context Map



LEGEND

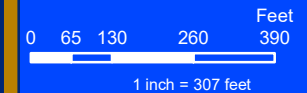
 Sections



City of Novi

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

Map Author: Sri Komaragiri
Date: 06/12/19
JSP17-10 EMERSON PARK
Version #: 1



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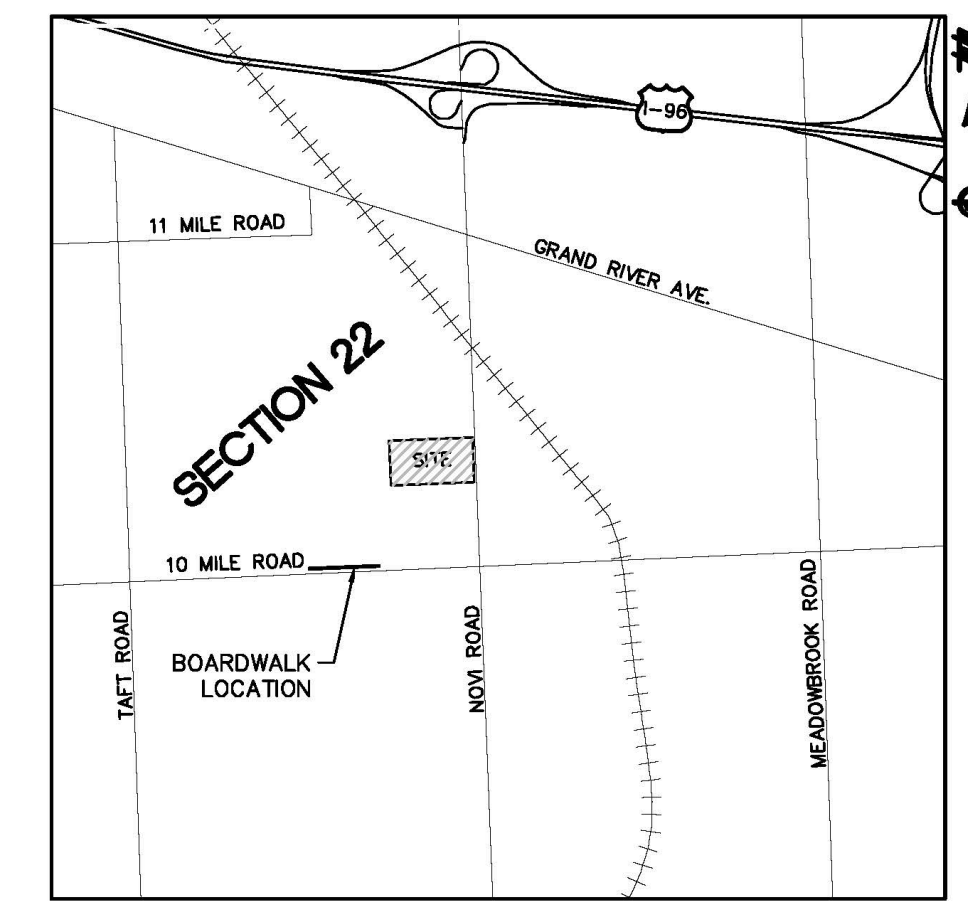
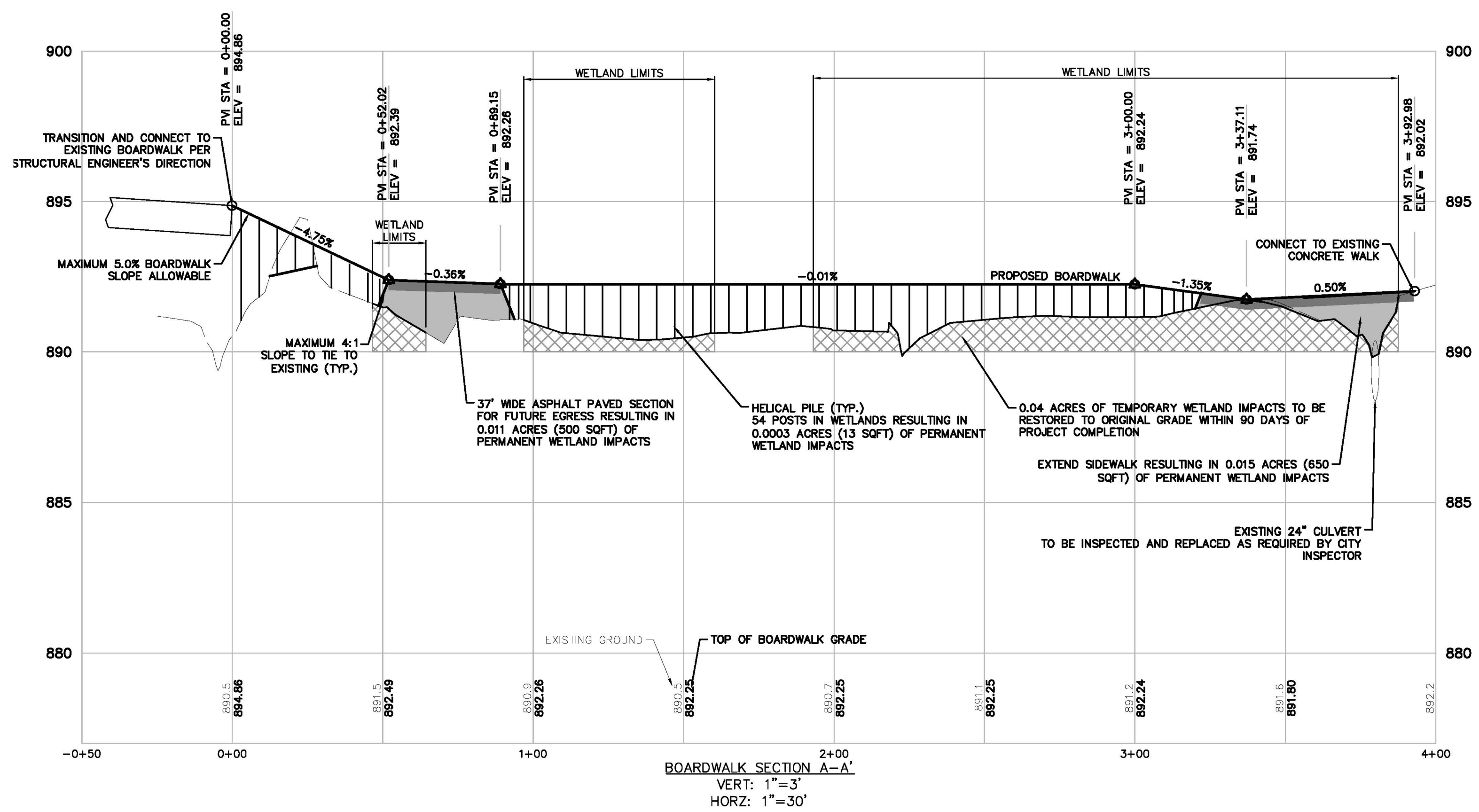
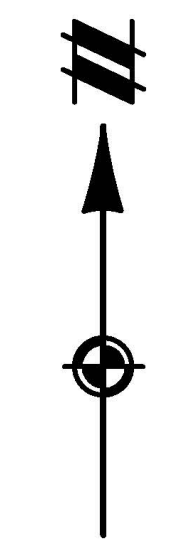
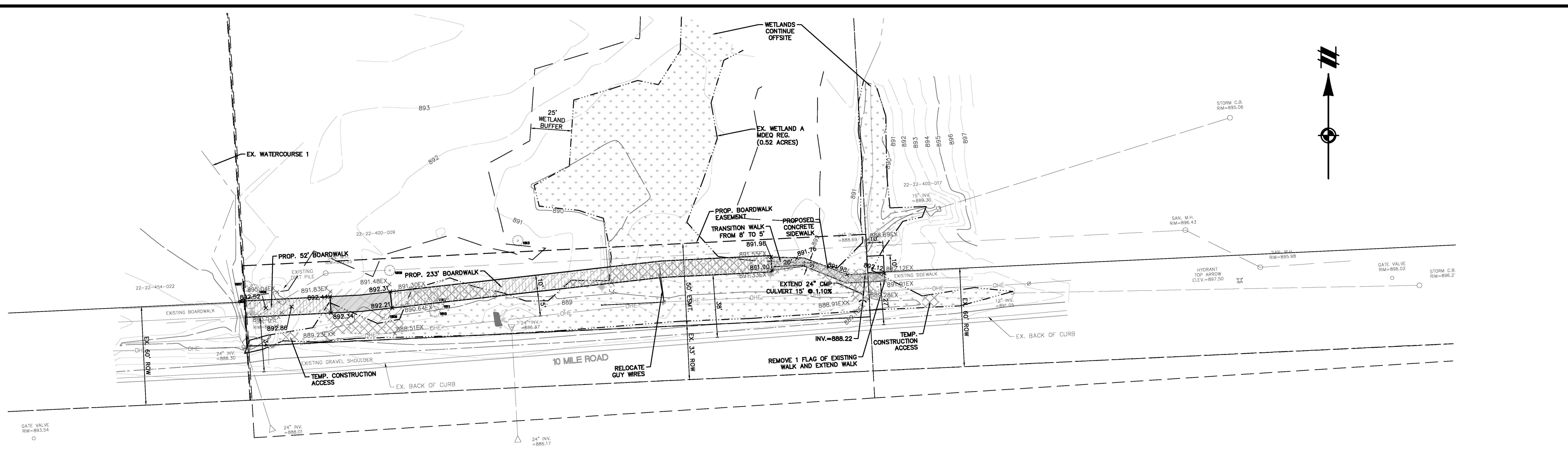
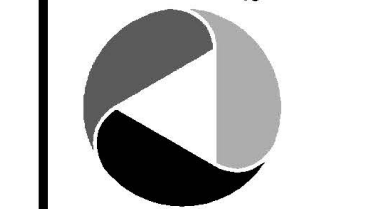
Know what's below.
Call before you dig.

THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREE TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

NOTICE: CONSTRUCTION SITE SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. NEITHER THE OWNER NOR THE ENGINEER SHALL BE EXPECTED TO ASSUME ANY RESPONSIBILITY FOR SAFETY OF THE WORK OF PERSONS ENGAGED IN THE WORK OF ANY NEARBY STRUCTURES, OR OF ANY OTHER PERSONS.

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ATWELL
866.850.4200 www.atwell-group.com
311 NORTH MAIN STREET
ANN ARBOR, MI 48104
734.994.4000



LOCATION MAP
1" = 3000'

LEGEND

	BOUNDARY LINE
	EXIST. EASEMENT
	SECTION LINE
	BOUNDARY/PROPERTY LINE
	EXIST. SETBACK
	EXIST. TREE LINE
	EXIST. CURB AND GUTTER
	EXIST. FENCE
	EXIST. GRAVEL
	EXIST. BUILDING
	EXIST. WETLAND BUFFER
	EXIST. WETLAND
	PROP. SETBACK
	PROP. BUILDING
	PROP. BACK OF CURB
	PROP. WALK
	PROP. ASPH.
	PROP. BOARDWALK
	PROP. WETLAND BUFFER IMPACT
	PROP. WETLAND IMPACT
	SOIL BORING

NOTES

1. APPLICABLE EASEMENTS MUST BE OBTAINED FROM PROPERTY OWNER PRIOR TO CONSTRUCTION OF THE OFF-SITE PATHWAY AND BOARDWALK IMPROVEMENTS. CITY OF NOVI IS TO OBTAIN APPLICABLE EASEMENTS.
2. ROCO PERMIT REQUIRED FOR ANY WORK WITHIN THE 10 MILE RIGHT-OF-WAY.
3. MDEQ PERMIT IS REQUIRED FOR ANY WETLANDS IMPACT ASSOCIATED WITH THE OFF-SITE PATHWAY AND BOARDWALK IMPROVEMENTS.
4. SEE CITY STANDARD BOARDWALK DETAIL SHEET FOR ADDITIONAL DETAILS.
5. PROVIDE FOUNDATIONS AT ENDS OF BOARDWALK PER CITY OF NOVI DETAILS.
6. PROVIDE COMPOSITE HAND RAILS ALONG BOARDWALK PER CITY OF NOVI DETAILS.
7. BOARDWALK SHALL BE CONSTRUCTED WITH 2% MAXIMUM CROSS SLOPE AND 5% MAXIMUM LONGITUDINAL SLOPE.
8. RAMPS & SIDEWALK SHALL MEET ADA SPECIFICATIONS.

OFFSITE WETLAND IMPACT TABLE

Wetland Area	Wetland Area On-site (acre)	Wetland Buffer Area On-site (acre)	City Regulated	MDEQ Regulated	Wetland Impact Area (SF)	Estimated Cut Impact Volume (cubic yards)	Estimated Fill Impact Volume (cubic yards)	Estimated Net Impact Volume (cubic yards)	Impacts to Wetland Buffer Area (acre)	Wetland Buffer to be restored?
A	0.52	0.44	Yes	Yes	0.03	0	52	52	0.05	Yes
Total (MDEQ)	0.52	0.44	-	-	0.03	0	52	52	0	0
Total (CITY)	0.52	0.44	-	-	0.03	0	52	52	0.05	0.05

SECTION 22
TOWN 1 NORTH, RANGE 8 EAST
CITY OF NOVI
OAKLAND COUNTY, MICHIGAN

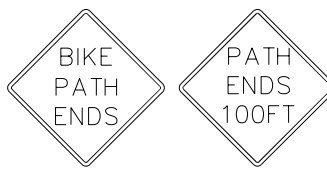
PULTE HOMES OF MICHIGAN, LLC
EMERSON PARK
FINAL SITE PLAN
OFFSITE PATH

DATE: FEBRUARY 8, 2018
3/20/18 PER CITY
5/8/18 PER CITY & ROCO

REVISIONS

NO.	DESCRIPTION

SCALE: 1" = 30 FEET
DRAWN BY: CR
CHECKED BY: SS
P.M.: MB
JOB #: 16002400
FILE CODE: -
SHEET NO.



TYPICAL SIGNING
NO SCALE

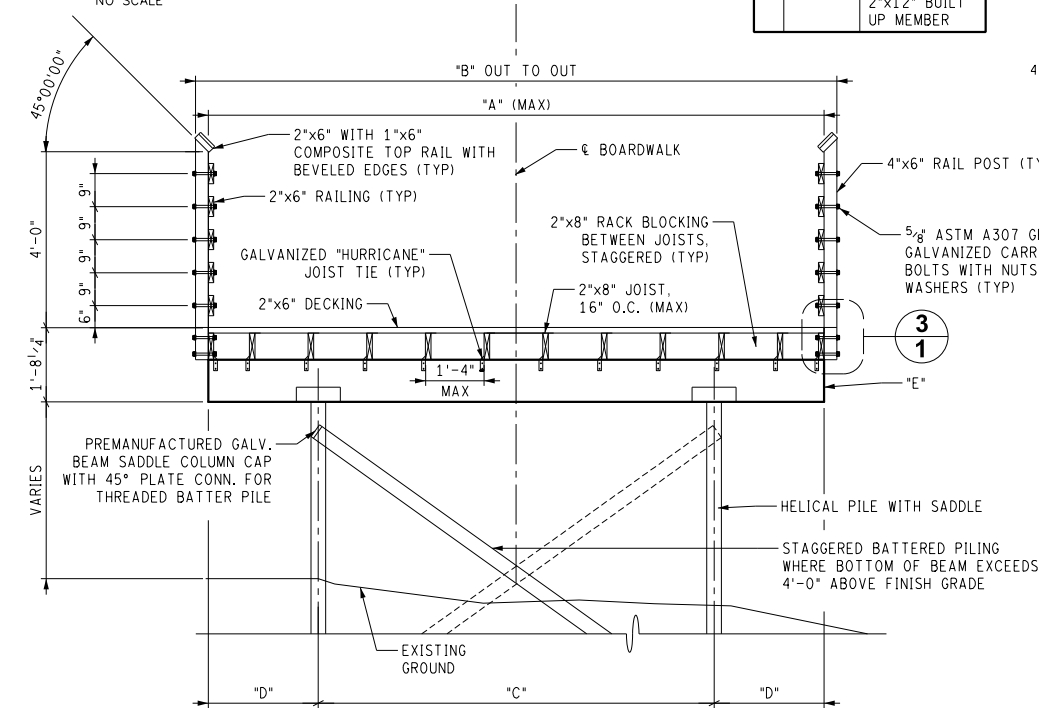
- NOTES:
1. SIGNS SHALL BE 18"x18" AND CONSTRUCTED OF .063 ENGINEERING GRADE REFLECTIVE ALUMINUM WITH 1-1/2" RADIUS AT CORNERS.
 2. SIGNS SHALL HAVE A YELLOW BACKGROUND WITH BLACK COPY AND BLACK OUTLINE.
 3. SIGN LOCATION TO BE DETERMINED BY DESIGN ENGINEER AND APPROVED BY THE CITY.

VARIABLE CALLOUTS	
SIDEWALK	BIKE PATH
A 10'-0"	14'-0"
B 10'-7"	14'-7"
C 7'-0"	9'-0"
D 1'-6"	2'-6"
E 2"x12" HEADER	6"x12" TIMBER HEADER OR (4) 2"x12" BUILT UP MEMBER

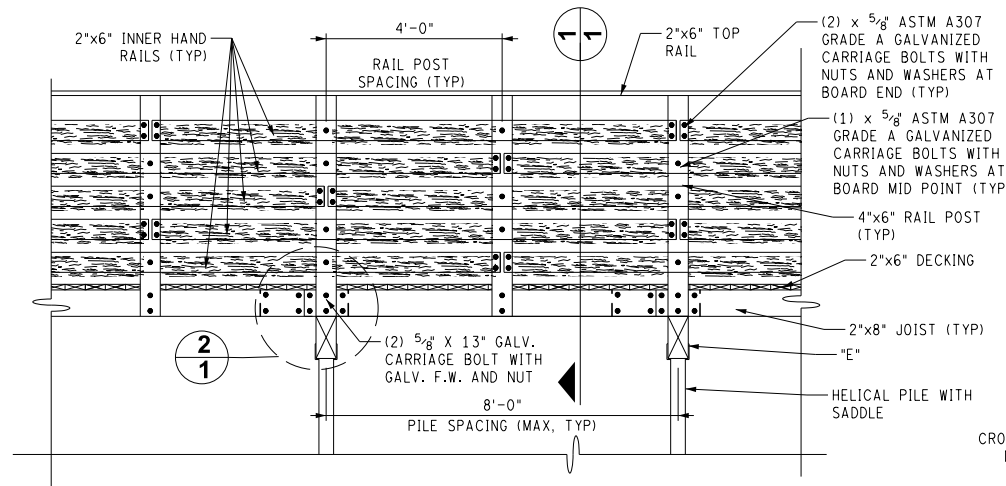
BOARDWALK NOTES

1. THE DESIGN OF THIS STRUCTURE IS BASED ON CURRENT AASHTO LRFD BRIDGE DESIGN SPECIFICATION PEDESTRIAN LOADING OF 90 PSF AND A MAINTENANCE VEHICLE (3,500 LB PER CITY OF NOVI) LOADING NOT ACTING CONCURRENTLY. LIVE LOAD DEFLECTION DOES NOT EXCEED 1/80 OF SPAN LENGTH AND 1/20 OF CANTILEVER ARM.
2. ALL BOARDWALK SKELETAL LUMBER SHALL BE KILN DRIED SOUTHERN YELLOW PINE #2, OR OWNER APPROVED EQUAL. LUMBER SUPPLIED SHALL MEET THE REQUIREMENTS OF SECTION 912 OF MDOT STANDARD SPECIFICATIONS FOR CONSTRUCTION.
3. CONDITION AND TREAT STRUCTURAL TIMBER AND LUMBER IN ACCORDANCE WITH AWPA U1, SECTION 6, COMMODITY SPECIFICATION A. REFER TO USE CATEGORY 4A (UC4A) FOR ABOVE GROUND REQUIREMENTS AND USE CATEGORY 4C (UC4C) FOR GROUND CONTACT REQUIREMENTS.
4. TIMBER AND LUMBER FOR DECK, RAILING, AND OTHER AREAS AS DETERMINED BY THE ENGINEER WHERE FREQUENT HUMAN CONTACT MAY OCCUR MUST MEET THE REQUIREMENTS OF SECTION 912.10 OR MDOT STANDARD SPECIFICATIONS FOR CONSTRUCTION.
5. THE DESIGN OF STRUCTURAL MEMBERS IS BASED ON MATERIAL OF THE FOLLOWING GRADES AND STRESSES:
 CONCRETE: GRADE 3500 $f'_c = 3,500$ psi
 STEEL REINFORCEMENT: GRADE 36 OR GRADE 50 $f_y = 60,000$ PSI
 STRUCTURAL STEEL: AASHTO M 270 GRADE 36 OR GRADE 50 $f_y = 36,000$ psi
 $f_y = 50,000$ psi
 STRUCTURAL TIMBER AND LUMBER: Southern Pine #2, $F_b = 1,700$ psi, $E = 1,700,000$ psi
 HARDWARE AND FASTENERS: ASTM 307, GRADE A $f_u = 60,000$ psi, $f_y = 36,000$ psi
 ASTM F1554, GRADE 36 $f_u = 60,000$ psi, $f_y = 36,000$ psi
6. ALL BOLTS, WASHERS AND OTHER HARDWARE SHALL BE GALVANIZED IN ACCORDANCE WITH AASHTO M232.

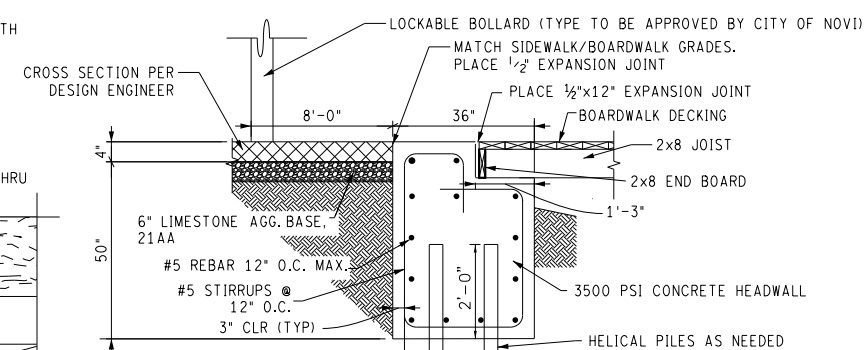
7. DECK SCREWS SHALL BE CLIMACOATED, HOT DIPPED GALVANIZED PLATED OR OWNER APPROVED EQUAL. DECK SCREWS SHALL BE A MINIMUM #10 X 4-INCH WITH AN UNTHREADED UPPER SHAFT TO PREVENT BOARD JACKING AND TO ALLOW FOR TIGHTER FASTENING. DECK SCREWS SHALL BE USED FOR FASTENING ALL BOARDWALK MEMBERS UNLESS NOTED ON THE PLANS.
8. RUST RESISTANT GALVANIZED CARRIAGE BOLTS TO BE USED FOR ALL RAILING/POST AND UNDERSTRUCTURE CONNECTIONS.
9. RUST RESISTANT GALVANIZED HURRICANE JOIST TIES TO BE USED FOR ALL JOIST/HEADER CONNECTIONS.
10. IN AREAS FAVORABLE TO TERMITE DAMAGE, AS DETERMINED BY THE CITY, METHODS OF PROTECTION SHALL BE BY CHEMICAL SOIL TREATMENT, PRESSURE TREATED WOOD, IN ACCORDANCE WITH THE AWPA, NATURALLY TERMITE-RESISTANT WOOD OR PHYSICAL BARRIERS (SUCH AS METAL OR PLASTIC TERMITE SHIELDS) OR ANY COMBINATION OF THESE METHODS.
11. DO NOT "NOTCH" THE GUARDRAIL POST AROUND THE FASCIA JOIST.
12. DECK BOARDS SHALL BE PIER ADVANTAGE WOOD DOCK PLANKING BY PINE RIVER GROUP OR CITY OF NOVI APPROVED EQUAL.
13. COMPOSITE TOP RAIL BOARDS SHALL BE CONSTRUCTED, MANUFACTURED AND FABRICATED IN ACCORDANCE WITH ASTM D7032-06A STANDARD SPECIFICATIONS.
14. THE ENGINEER OF RECORD IS REQUIRED TO PROVIDE ONE (1) SOIL BORING PER EVERY 100 LINEAR FEET OF PROPOSED BOARDWALK TO HARDPAN AND PROVIDE DATA TO THE CITY FOR REVIEW OF PROPOSED BOARDWALK PILE DEPTH.
15. HELICAL PILE SUPPORT DESIGN SHALL BE BASED UPON SOIL CONDITIONS AS DETERMINED BY THE DESIGN ENGINEER. SUBMIT HELICAL PILE SUPPORT DESIGN TO THE CITY FOR REVIEW. SUBMITTED DESIGNS WILL BE REQUIRED TO SHOW SUPPORT FOR LIVE LOADING INCLUDING A 3,500 LB VEHICLE IN ADDITION TO THE DEAD LOAD OF THE BOARDWALK. USE A MINIMUM FACTOR OF SAFETY EQUAL TO 3 FOR DETERMINATION OF DESIGN PILE CAPACITY. DESIGN HELICAL PILE SYSTEM FOR A DESIGN LIFE OF 75 YEARS. ALL SUPPORT DESIGNS SHALL BE SIGNED AND SEALED BY A LICENSED, QUALIFIED PROFESSIONAL ENGINEER.
16. VEHICULAR TRAFFIC ON THE BOARDWALK IS PROHIBITED. INSTALL LOCKABLE BOLLARDS (TYPE TO BE APPROVED BY THE CITY OF NOVI) AT EACH ACCESS POINT TO THE BOARDWALK TO PREVENT VEHICULAR TRAFFIC ON THE BOARDWALK. THE CITY WILL PROVIDE PADLOCKS AND KEYS WITH ALL BOLLARDS. VEHICULAR TRAFFIC IS LIMITED TO AUTHORIZED CITY OF NOVI MAINTENANCE VEHICLE (3,500 LB).
17. ALTERNATIVE CABLE RAILING SYSTEM SHALL BE USED AT LOCATIONS WHERE DIRECTED BY THE CITY WHEN SIGHT DISTANCE CONCERNS EXIST. THE DESIGN ENGINEER SHALL PROVIDE SPECIFICATIONS AND DETAILS UPON REQUEST.



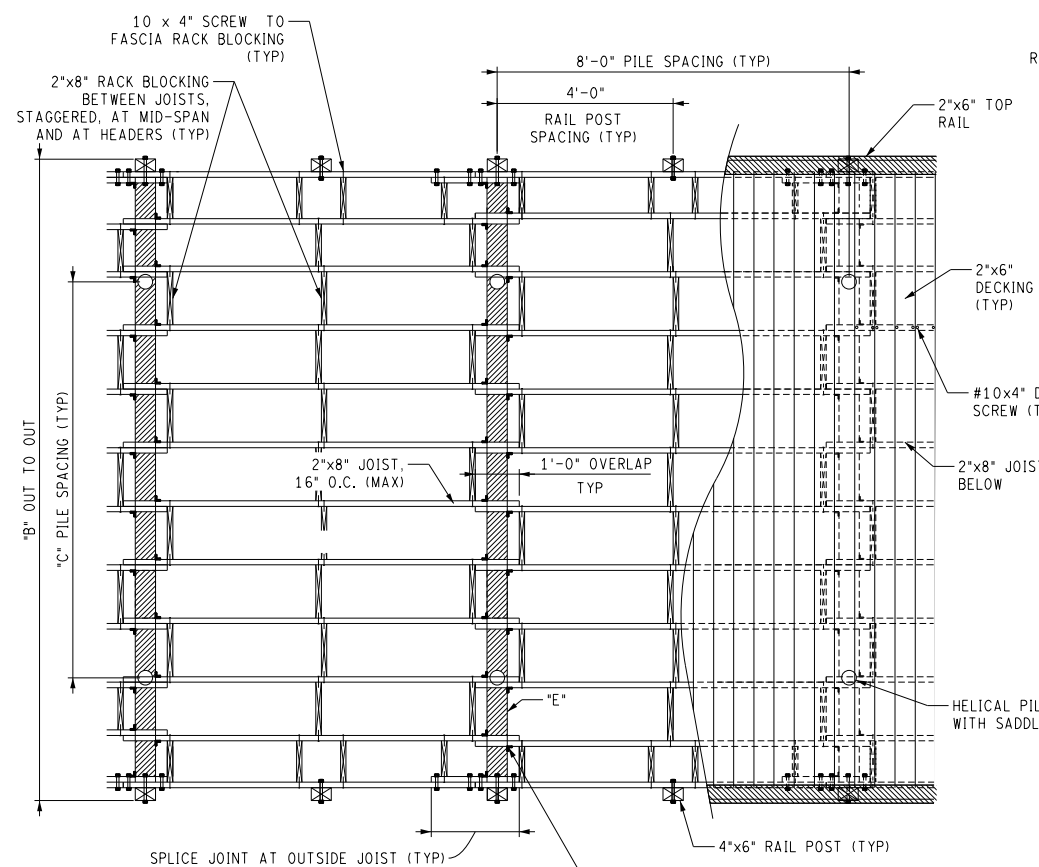
1 BOARDWALK SECTION AND CROSS BRACING DETAIL
NO SCALE



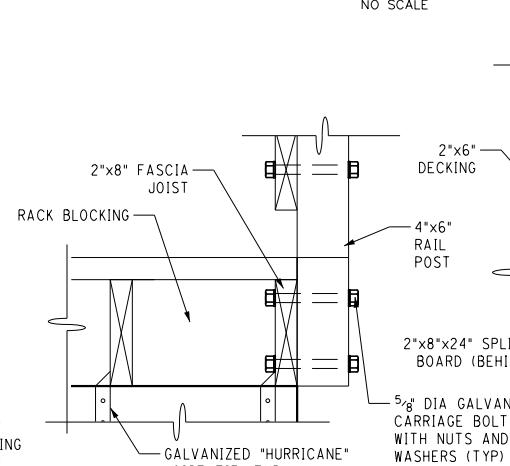
TYPICAL PROFILE FOR BOARDWALK
NO SCALE



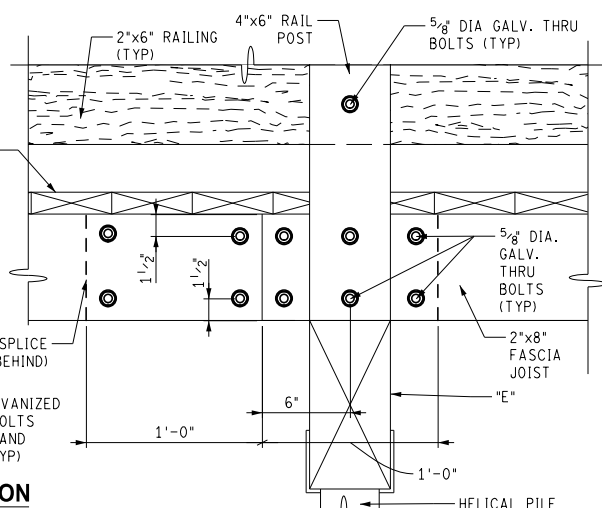
PATHWAY / BOARDWALK INTERFACE DETAIL



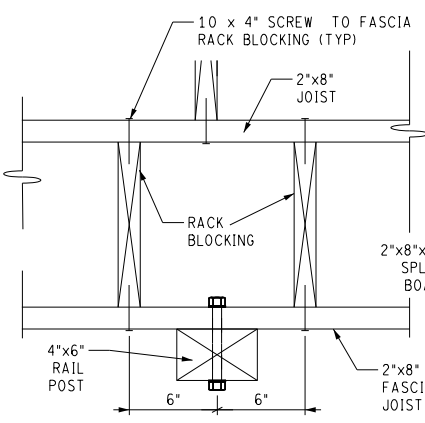
TYPICAL BOARDWALK PLAN VIEW



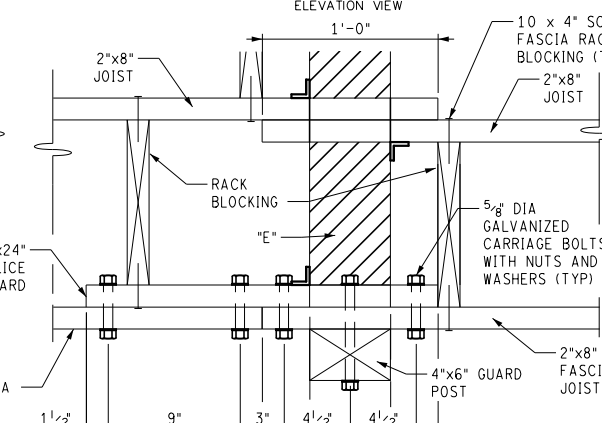
3 RAIL POST TO FASCIA JOIST SECTION
NO SCALE - SECTION VIEW



2 TYPICAL FASCIA DETAILS & FASCIA JOIST JOINT SECTION
ELEVATION VIEW

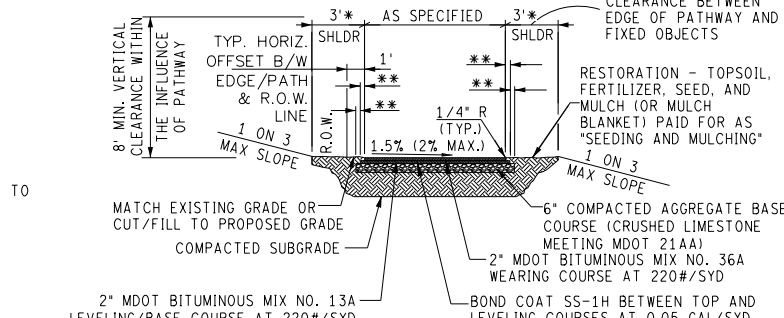


3 TYPICAL RAIL POST TO FASCIA JOIST MIDSPAN CONNECTION
PLAN VIEW

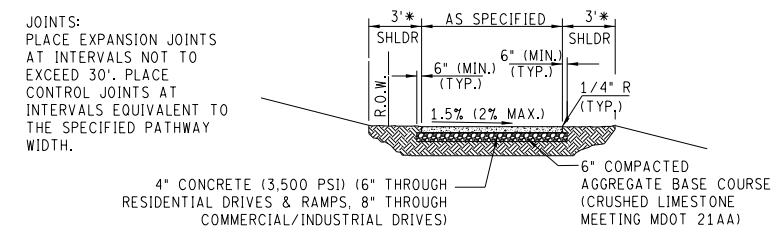


3 TYPICAL RAIL POST TO FASCIA JOIST AT HEADER CONNECTION
PLAN VIEW

- * SHOULDER WIDTH REDUCTION WILL BE ALLOWED (MIN. 1') TO MINIMIZE GRADING WHERE EXIST CROSS-SLOPE EXCEEDS 1 ON 10 (10%) OR TO PRESERVE EXIST LANDSCAPE (BY DIRECTION OF THE CITY ENGINEER)
- ** 6" MINIMUM (TYP)



NON-MOTORIZED PATHWAY BITUMINOUS SECTION
NO SCALE



NON-MOTORIZED PATHWAY CONCRETE SECTION
SEE BITUMINOUS SECTION FOR ADDITIONAL DETAILS

PATHWAY AND BOARDWALK DETAILS

CITY OF NOVI

Revisions
09/10/15 - AW
04/12/18 - JM

Drawn
Designed
Checked

Scale
NO SCALE
Date
05/04/12
Job No.
Sht. No.

**ADDENDUM TO
PLANNED REZONING OVERLAY (PRO) AGREEMENT
EMERSON PARK**

This Addendum to Planned Rezoning Overlay (PRO) Agreement ("Agreement") is by and between Pulte Homes of Michigan, LLC, a Michigan limited liability company, whose address is 100 Bloomfield Hills Parkway, Bloomfield Hills, MI 48304, referred to as "Applicant"; and the City of Novi, whose address is 45175 Ten Mile Road, Novi, MI 48375-3024 ("City").

RECITATIONS

I. The Applicant and the City entered into a PRO Agreement effective February 5, 2018, which is recorded at Liber 51897, Page 508, Oakland County Records.

II. The PRO Agreement requires the Applicant to construct a sidewalk and boardwalk (the "Pathway") across a separate parcel of property located on Ten Mile Road.

III. The PRO Agreement further contemplates that the City will acquire the necessary easement or other authority to construct the Pathway, sets forth a timeframe by which the Applicant will construct the Pathway once the easement is acquired, and provides that, if the City is not able to acquire the easement by a certain time the Applicant shall deposit \$250,000 with the City, which shall then be responsible for the construction.

IV. It is apparent that under the terms of the PRO Agreement the Applicant would have to deposit the \$250,000 with the City and be relieved of responsibility to build the Pathway, as the City has not yet acquired the easement and Applicant is close to securing its first occupancy permit. The City does, however, have a signed purchase agreement for the Ten Mile property, involving the entire parcel, not just an easement or right-of-way, and is in its due diligence period prior to closing.

V. Rather than have the Applicant deposit the required amount with the City as contemplated in the PRO Agreement, both the City and the Applicant prefer that the Applicant complete the Pathway, and have to that end agreed to extend the date for the Applicant to do so.

NOW, THEREFORE, based upon the foregoing, the parties agree as follows:

1. Paragraph D.2 is hereby amended to read in full as follows:

The construction of an off-site approximately 380-foot long pedestrian path connection in the area between the entrance of Churchill Crossing Subdivision at Churchill Boulevard and the existing retail complex at the northwest corner of Novi Road and Ten Mile Road, on the north side of Ten Mile Road west of Novi Road at Applicant's own expense (except for the cost of acquiring the necessary easement or right-of-way, which acquisition shall be pursued by the City). As part of final site plan approval applicant will submit a preliminary design/layout containing a depiction of a feasible location of the pedestrian pathway and a Design Engineer's estimate of the cost to construct the pathway. The pathway may require a portion to be designed as a boardwalk. The pathway shall meet applicable City Design and Construction Standards for similar improvements. The boardwalk portion shall be constructed using helical piers, foundation walls at each end of the approach viaducts, and composite railing along each side. Pathway construction will commence when (a) the City has obtained the necessary easements and right-of-way agreements, and (b) after Applicant with the City's assistance, as required, obtains, as applicable, any permits required from Michigan Department of Environmental Quality, Oakland County Road Commission and other agencies with jurisdiction over such improvements. City and Applicant agree that subject to conditions set forth in this Section, performance and implementation of the other provisions of this PRO Agreement may proceed while the easement acquisitions and permits for the pathway are pending. Subject to matters outside of the control of Applicant, such as weather conditions, acts of God or so called force majeure events and, assuming easements are obtained in a timely fashion, the pathway shall be completed not later than 90 days from the date that (i) the City notifies the Applicant that the City has acquired the necessary easement rights and requests, and (ii) after Applicant receives the necessary approvals and/or permits required from Michigan Department of Environmental Quality, Oakland County Road Commission and other agencies with jurisdiction over such improvements. In the event that the City is unable to acquire the necessary easement or right-of-way, or any required permit necessary to construct the pathway by December 31, 2019, the Applicant shall submit an amount equivalent to the Design Engineer's Estimate for construction submitted by the Applicant, as approved by the City's Engineering Division, in an amount not less than \$250,000, for deposit into the City's Sidewalk Fund, which such payment will be in lieu of Applicant's obligation to build the pedestrian path as set forth in the Agreement. Failure to submit the payment as and when required will constitute a breach of this Agreement entitling the City to any and all remedies hereunder, which shall include the right to withhold building and occupancy permits until compliance, subject to Applicant's notice and cure rights described in Section 3 of the Agreement.

2. Except as otherwise provided in paragraph 1, the terms and provisions of the PRO Agreement are complete and unchanged and shall remain in full force and effect as initially approved.

[SIGNATURES ON NEXT PAGE]

