



**CITY OF NOVI CITY COUNCIL
JULY 12, 2021**

SUBJECT: Acceptance of a Conservation Easement from Erickson Senior Living for wetland conservation areas being offered as a part of JSP18-19 Fox Run RB4.2 Continuing Care Center development, for property located north of Thirteen Mile Road and west of M-5, in Section 1 of the City.

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT, PLANNING

BACKGROUND INFORMATION:

The applicant received site plan approval to build a 75,456 square foot addition to the Continuing Care Center, also known as Phase 4.2 of the multi-phase Fox Run Village project. The City Council approved the revised Preliminary Site Plan with a PD-1 Option, and associated items on August 13, 2018.

The applicant is offering a Wetland Conservation Easement for the purpose of protecting the required wetland mitigation area from destruction and disturbance. The easement area shall be perpetually preserved and maintained, in its intended condition as a constructed wetland, unless authorized by permit from the Grantee. The conservation easement area, shown in Exhibit B of the easement document, graphically depicts the area being preserved. The proposed wetland conservation area totals approximately 0.24 acres.

The easement has been reviewed by the City's professional staff and consultants. The easement is in a form acceptable to the City Attorney's office for consideration and acceptance by the City Council.

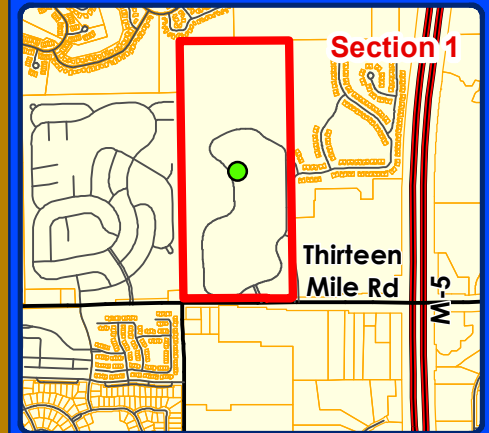
RECOMMENDED ACTION:

Acceptance of a Conservation Easement from Erickson Senior Living for wetland conservation areas being offered as a part of JSP18-19, Fox Run RB.2- Continuing Care Center development, for property located north of Thirteen Mile Road and west of M-5, in Section 1 of the City.



MAP
Location Map with
Conservation Easement Areas

JSP18-19 Fox Run RB4.2 - Continuing Care Center Expansion

WETLAND CONSERVATION EASEMENT



LEGEND

-  Subject Property
-  Conservation Easement Area



City of Novi

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

Map Author: Madeleine Daniels
Date: 06/29/21
Project: FOX RUN RB4.2-CCC
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.

EXECUTED CONSERVATION EASEMENT

WETLAND CONSERVATION EASEMENT AGREEMENT

THIS WETLAND CONSERVATION EASEMENT AGREEMENT (this "Easement Agreement") made this 21st day of May, 2021, by and between Redwood-ERC Novi, LLC, a Maryland limited liability company, whose address is 701 Maiden Choice Lane, Baltimore, Maryland 21228 (hereinafter the "Grantor"), and the City of Novi, and its successors or assigns, whose address is 45175 Ten Mile Road, Novi, Michigan 48375 (hereinafter the "Grantee").

RECITATIONS:

A. Grantor owns a certain parcel of land situated in Section 1 of the City of Novi, Oakland County, Michigan, described in Exhibit A, attached hereto and made a part hereof (the "Property"). Grantor has received final site plan approval for construction of a Continuing Care Facility on the Property, subject to provision of an appropriate easement to permanently protect the remaining wetland and wetland mitigation areas located thereon (the "Easement Areas") from destruction or disturbance. Grantor desires to grant such an easement in order to protect the area.

B. The Easement Areas situated on the Property are more particularly described on Exhibit B, attached hereto and made a part hereof, the second page of which contains a drawing depicting the Easement Areas.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00), in hand paid, the receipt and adequacy of which are hereby acknowledged, Grantor hereby reserves, conveys and grants the following easement (the "Conservation Easement"), which shall be binding upon the Grantor, and the Grantee, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the Grantee, all Grantors and purchasers of the Property and their respective successors, assigns and/or transferees. The Conservation Easement is dedicated pursuant to subpart 11 of part 21 of the Natural Resources and Environmental Protection Act being MCL 324.2140, *et seq.*, upon the terms and conditions set forth herein as follows:

1. The purpose of the Conservation Easement is to protect the Easement Areas. The Easement Areas shall be perpetually preserved and maintained, in their natural and undeveloped condition, unless authorized by permit from the Grantee, and, if applicable, the Michigan Department of Environmental Quality and the appropriate federal agency.

2. Except for and subject to the activities which have been expressly authorized by permit, there shall be no disturbance of the wetlands, mitigation areas and/or vegetation within the Easement Areas, including altering the topography of; placing fill material in; dredging, removing or excavating soil, minerals, or trees, and from constructing or placing any structures on; draining surface water from; or plowing, tilling, cultivating, or otherwise altering or developing, and/or constructing, operating, maintaining any use or development in the Easement Areas.

3. No grass or other vegetation shall be planted in the Easement Areas after the date of this Easement Agreement with the exception of plantings approved, in advance, by the Grantee in accordance with all applicable laws and ordinances.

4. The Conservation Easement does not grant or convey to Grantee, or any member of the general public, any right of ownership, possession or use of the Easement Areas, except that, upon reasonable written notice to Grantor, Grantee and its authorized employees and agents (collectively, "Grantee's Representatives") may enter upon and inspect the Easement Areas to determine whether the Easement Areas are being maintained in compliance with the terms of this Easement Agreement.

5. In the event that the Grantor shall at any time fail to carry out the responsibilities specified within this Easement Agreement, and/or in the event of a failure to preserve and/or maintain the wetland and/or mitigation areas in reasonable order and condition, the Grantee may serve written notice upon the Grantor 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 of Novi City Council (the "City Council"), or such other council, body or official delegated by the City Council, for the purpose of allowing the Grantor to be heard as to why the Grantee 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 Grantee shall thereupon have the power and authority, but not obligation to enter upon the Easement Areas, or cause its agents or contractors to enter upon the Easement Areas and perform such maintenance and/or preservation as reasonably found by the Grantee to be appropriate. The cost and expense of making and financing such maintenance, and/or preservation including the cost of notices by the Grantee and reasonable legal fees incurred by the Grantee, plus an administrative fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by the Grantor, and such amount shall constitute a lien on the Property. The Grantee 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 after billing to the Grantor, all unpaid amounts may be placed on the delinquent tax roll of the Grantee, 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 Grantee, such costs and expenses may be collected by suit initiated against the Grantor, and, in such event, the Grantor shall pay all court costs and reasonable attorney fees incurred by the Grantee in connection with such suit.

6. Within 90 days after this Easement Agreement is recorded, Grantor, at its sole expense, shall place such signs, defining the boundaries of the Easement Areas and, describing their protected purpose, as indicated herein.

7. This Easement Agreement has been made and given for a consideration of a value less than One Hundred Dollars (\$100.00), and, accordingly, is (i) exempt from the State Transfer Tax, pursuant to MSA 7.456(26)(2) and (ii) exempt from the County Transfer Tax, pursuant to MSA 7.456(5)(a).

8. Grantor shall state, acknowledge and/or disclose the existence of this Easement Agreement as of the day and year first above set forth.

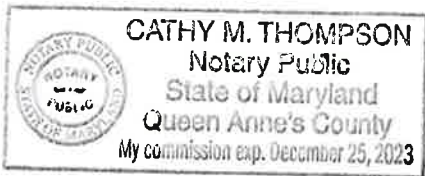
GRANTOR

REDWOOD-ERC NOVI, LLC, a Maryland limited liability company

By: [Signature]
Name: Todd Matthiesen
Its: Chief Financial Officer

STATE OF MARYLAND)
) ss.
COUNTY OF BALTIMORE)

The foregoing instrument was acknowledged before me this 21st day of May, 2021, by Todd Matthiesen, as the Chief Financial Officer of Redwood-ERC Novi, LLC, a Maryland limited liability company, on its behalf.



[Signature]
Notary Public
Acting in Baltimore County
My Commission Expires: 12-25-2023

GRANTEE

CITY OF NOVI
A Municipal Corporation

By: _____

Its:

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_, by _____, on behalf of the City of Novi, a Municipal Corporation.

Notary Public
Acting in Oakland County, Michigan
My Commission Expires: _____

Drafted By:
Elizabeth K. Saarela, Esquire
Rosati Schultz Joppich & Amtsbuechler PC
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331

After Recording, Return to:
Cortney Hanson, Clerk
City of Novi
45175 Ten Mile Road
Novi, MI 48375

EXHIBIT A

Description of the Property

[to be inserted]

EXHIBIT A

PART OF THE WEST 1/2 OF SECTION 1, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS:
COMMENCING AT THE SOUTHWEST CORNER OF SECTION 1, TOWN 1 NORTH, RANGE 8 EAST; THENCE ALONG THE WEST LINE OF SECTION 1, NORTH 03 DEGREES 28 MINUTES 39 SECONDS WEST 60.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE WEST LINE OF SECTION 1, NORTH 03 DEGREES 28 MINUTES 39 SECONDS WEST 2590.40 FEET TO THE WEST QUARTER CORNER OF SECTION 1, TOWN 1 NORTH, RANGE 8 EAST; THENCE ALONG THE WEST LINE OF SECTION 1 AND ALONG THE BOUNDARY OF "THE MAPLES OF NOVI, MAPLE HILLS", OAKLAND COUNTY CONDOMINIUM PLAN NO 627, NORTH 02 DEGREES 28 MINUTES 35 SECONDS WEST 649.69 FEET; THENCE CONTINUING ALONG THE BOUNDARY OF "THE MAPLES OF NOVI, MAPLE HILLS" THE FOLLOWING TWO (2) COURSES; ONE (1) NORTH 87 DEGREES 21 MINUTES 41 SECONDS EAST 682.69 FEET AND TWO (2) NORTH 03 DEGREES 11 MINUTES 10 SECONDS WEST 2.24 FEET; THENCE ALONG THE SOUTH BOUNDARY OF "HAVERHILL FARMS", OAKLAND COUNTY CONDOMINIUM PLAN NO. 912, NORTH 87 DEGREES 19 MINUTES 27 SECONDS EAST 693.69 FEET; THENCE SOUTH 03 DEGREES 16 MINUTES 01 SECONDS EAST 3236.69 FEET TO A POINT 70.00 FEET NORTH OF THE SOUTH LINE OF SECTION 1; THENCE ALONG THE NORTH LINE OF THIRTEEN MILE ROAD THE FOLLOWING FIVE (5) COURSES: ONE (1) SOUTH 87 DEGREES 31 MINUTES 40 SECONDS WEST 25.33 FEET, TWO (2) SOUTH 02 DEGREES 28 MINUTES 20 SECONDS EAST 15.00 FEET, THREE (3) SOUTH 87 DEGREES 31 MINUTES 40 SECONDS WEST 300.00 FEET, FOUR (4) NORTH 02 DEGREES 28 MINUTES 20 SECONDS WEST 5.00 FEET AND FIVE (5) SOUTH 87 DEGREES 31 MINUTES 40 SECONDS WEST 1050.40 FEET TO THE POINT OF BEGINNING. CONTAINING 102.8 ACRES OF LAND, MORE OR LESS.

PARCEL ID: 22-01-300-013

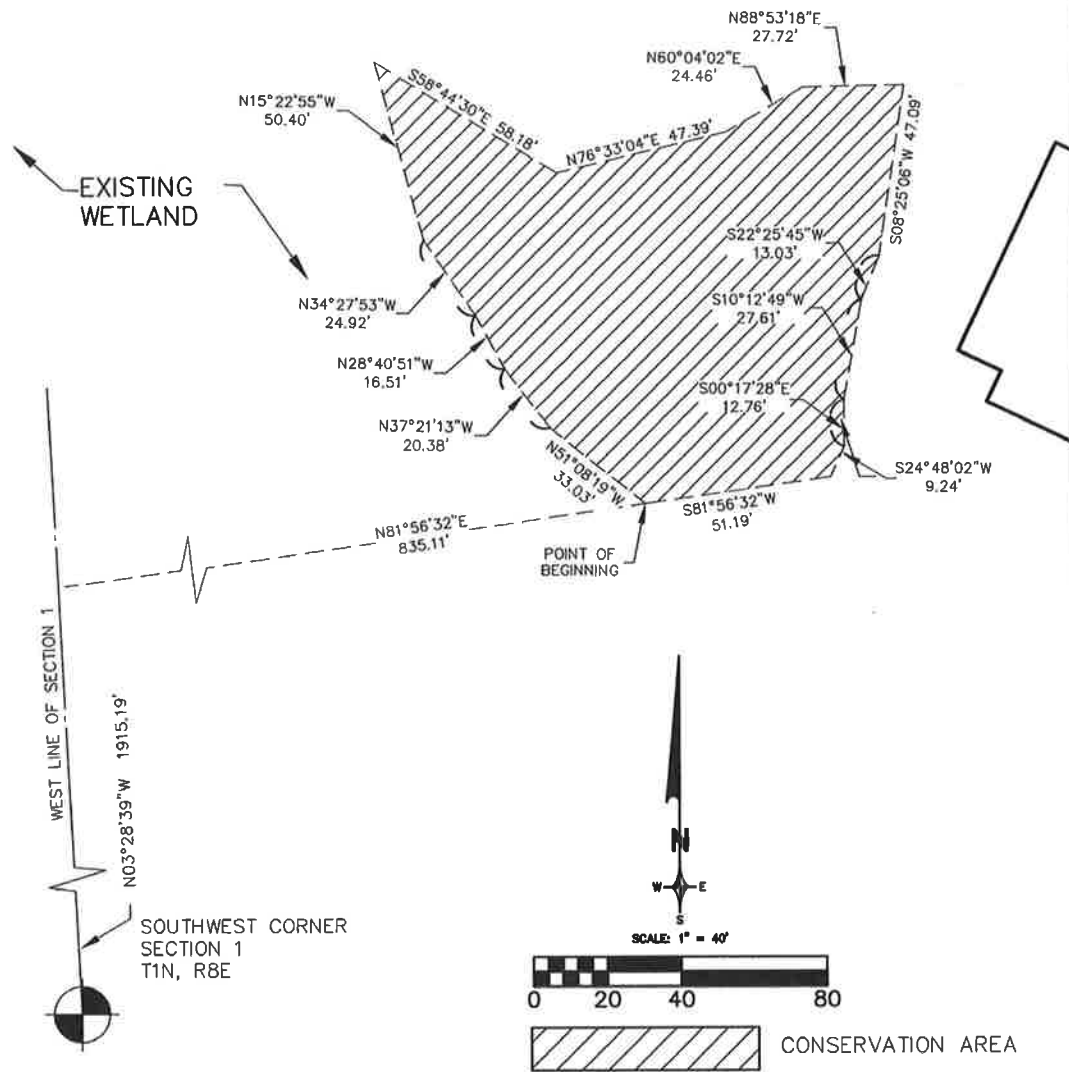
STREET ADDRESS: 41100 W. 13 MILE RD., NOVI

EXHIBIT B

Description and Depiction of the Easement Areas

EXHIBIT B

CONSERVATION EASEMENT



PART OF THE SOUTHWEST QUARTER OF SECTION 1, T1N, R8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION; THENCE ALONG THE WEST LINE OF SAID SECTION, N03°28'39"W, 1915.19 FEET; THENCE N81°56'32"E, 835.11 FEET TO THE POINT OF BEGINNING; THENCE N51°08'19"W, 33.03 FEET; THENCE N37°21'13"W, 20.38 FEET; THENCE N28°40'51"W, 16.51 FEET; THENCE N34°27'53"W, 24.92 FEET; THENCE N15°22'55"W, 50.40 FEET; THENCE S58°44'30"E, 58.18 FEET; THENCE N76°33'04"E, 47.39 FEET; THENCE N60°04'02"E, 24.46 FEET; THENCE N88°53'18"E, 27.72 FEET; THENCE S08°25'06"W, 47.09 FEET; THENCE S22°25'45"W, 13.03 FEET; THENCE S10°12'49"W, 27.61 FEET; THENCE S00°17'28"E, 12.76 FEET; THENCE S24°48'02"W, 9.24 FEET; THENCE S81°56'32"W, 51.19 FEET TO THE POINT OF BEGINNING. CONTAINING 10,606 SQUARE FEET (0.24 ACRES) OF LAND, MORE OR LESS.

REVISIONS			CONSERVATION EASEMENT FOX RUN CCE NOVI MICHIGAN		DATE	SCALE HOR: 1" = 40' FIELD BOOK NO.	
ITEM	DATE	BY	ZEIMET WOZNIAK <small>& ASSOCIATES</small> Civil Engineers & Land Surveyors 55800 GRAND RIVER AVE. SUITE 100 NEW HUDSON, MICHIGAN 48165 P: (248) 437-5099 F: (248) 437-5222 www.zeimetwozniak.com		1-14-19		
EASEMENT UPDATE	4-26-21	JGD			DESIGNED BY	JOB NO. 18111	
			DRAWN BY	SHEET NO. 1/1			
			WJA				

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ATTORNEY'S APPROVAL LETTER

ELIZABETH KUDLA SAARELA
esaarela@rsjalaw.com

2755 Executive Drive, Suite 250
Farmington Hills, Michigan 48331
P 248.489.4100 | F 248.489.1726
rsjalaw.com



ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

June 8, 2021

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

**RE: Fox Run Continuing Care JSP 18-0019
Wetland Conservation Easement Agreement**

Dear Ms. McBeth:

We have received and reviewed a revised Wetland Conservation Easement Agreement for Fox Run Continuing Care. The Wetland Conservation Easement Agreement has been revised for the purpose of protecting the remaining wetlands and mitigation areas. The Wetland Conservation Easement Agreement is in the City's standard easement format and is consistent with the title commitment provided. The exhibits have been approved by the City's Consulting Engineer. The Wetland Conservation Easement Agreement may be placed on an upcoming City Council agenda for acceptance.

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

A handwritten signature in blue ink, appearing to read 'Elizabeth Kudla Saarela', is written over a horizontal line.

Elizabeth Kudla Saarela

Barb McBeth, City Planner
City of Novi
June 8, 2021
Page 2

EKS

Enclosure

C: Cortney Hanson, Clerk (w/Original Enclosure)
Charles Boulard, Community Development Director (w/Enclosure)
Barb McBeth, City Planner (w/Enclosure)
Lindsay Bell, Planner (w/Enclosure)
Christian Carroll, Planner (w/Enclosure)
Madeleine Daniels, Planning Assistant (w/Enclosure)
Rick Meader, Landscape Architect (w/Enclosure)
Sarah Marchioni, Community Development Building Project Coordinator (w/Enclosure)
Angie Sosnowski, Community Development Bond Coordinator (w/Enclosure)
Ben Croy, City Engineer (w/Enclosure)
Kate Richardson, Project Engineer (w/Enclosure)
Rebecca Runkel, Project Engineer (w/Enclosure)
Victor Boron, Project Engineer (w/Enclosure)
Michael Freckelton, Taylor Reynolds & Ted Meadows, Spalding DeDecker (w/Enclosure)
Andrew Hirschfield, Erickson Senior Living (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

ENGINEERING CONSULTANT'S APPROVAL LETTER

May 28, 2021

Barb McBeth, Planning Director
City of Novi
26300 Lee BeGole Drive
Novi, Michigan 48375

Re: Fox Run 4.2 (CCC) - Planning Document Review
Novi # JSP18-0019
SDA Job No. NV19-207
EXHIBITS APPROVED

Dear Ms. McBeth,

We have reviewed the following document(s) received by our office on May 27, 2021 against the current submitted plan set. We offer the following comments:

Submitted Documents:

1. Wetland Conservation Easement – (unexecuted: exhibit dated 4/26/21)
Exhibit Approved.

The exhibits do not require further revisions for review. The draft exhibits are approved and ready for execution and City Council acceptance.

Sincerely,

SPALDING DEDECKER



Mike Freckelton, EIT
Project Engineer

Cc (via Email): Lindsay Bell, City of Novi
Victor Boron, City of Novi
Madeleine Daniels, City of Novi
Sarah Marchioni, City of Novi
Ted Meadows, Spalding DeDecker
Taylor Reynolds, Spalding DeDecker
Kate Richardson, City of Novi
Christian Carroll, City of Novi
Beth Saarela, Rosati, Schultz, Joppich, Amtsbuechler