



CITY of NOVI CITY COUNCIL

www.cityofnovi.org

**Agenda Item M
July 23, 2007**

SUBJECT: Acceptance of Conservation Easement for Re/Max 100 Office Center, located on the east side of Beck Road, south of Grand River Avenue, covering 2.544 acres of woodlands and wetlands.

SUBMITTING DEPARTMENT: Community Development Department – Planning ^{Paul}

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

On May 11, 2006, Final Site Plan approval was granted for the Re/Max 100 office building, SP 05-20, located on the east side of Beck Road, south of Grand River Avenue and just to the north of the Visions Spa Salon. The Planning Commission had previously approved the Preliminary Site Plan for a 7500 square foot office building, which included the preservation of a large wooded wetland on the eastern two-thirds of the site. The Re/Max 100 office building has been constructed and is now occupied.

The conservation easement covers a total of 2.544 acres, which represents 72.9% of the site. Exhibit B graphically depicts the areas being preserved. The easement covers a portion of a large wetland complex that traverses multiple properties in the area.

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

RECOMMENDED ACTION: Acceptance of Conservation Easement for Re/Max 100 Office Center, located on the east side of Beck Road, south of Grand River Avenue, covering 2.544 acres of woodlands and wetlands.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Gatt				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Nagy				
Council Member Paul				

City Attorney Review Letter

May 8 2007

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-
3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Elizabeth M. Kudla
Direct: 248-539-2846
bkudla@secretwardle.com

Barbara McBeth, Planning Director
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375

**Re: Remax 100
Conservation Easement
Our File No. 660092 NOV1**

Dear Ms. McBeth:

We have received and reviewed the final executed Conservation Easement for the Remax 100 Project. The form and language of Conservation Easement was prepared by our office and is acceptable. Subject to the approval of the exhibits by the appropriate City consultants, the Conservation Easement may be placed on City Council's agenda for acceptance. Once approved, the original should be recorded with the Oakland County Register of Deeds by the City Clerk's Office. We note that we received a faxed copy and are not in possession of the original signed version.

Should you have any additional questions or concerns in regard to this matter, please feel free to contact me.

Very truly yours,


ELIZABETH M. KUDLA

EMK

Enclosures

C: Maryanne Cornelius, Clerk (w/Enclosures)
Mark Spencer, Planner (w/Enclosures)
Larry Debrincat, Landscape Architect (w/Enclosures)
John Freeland, ECT Environmental (w/o Enclosures)
Crystal Halley, Remax 100 (w/o Enclosures)
Glenn Jones (w/o Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

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Conservation Easement and Exhibits

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT is made this 30th day of April, 2007, by and between JCH, LLC, a Michigan limited liability company whose address is 39500 Orchard Hill Place, Suite 130, Novi, Michigan 48375 (hereinafter the "Grantor"), and the City of Novi, and its successors or assigns, whose address is 45175 W. Ten Mile Road, Novi, MI 48375, (hereinafter the "Grantee").

RECITATIONS:

A. Grantor owns a certain parcel of land situated in Section 16 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 retail development on the Property, subject to provision of an appropriate easement to permanently protect, preserve and/or maintain certain wetlands, wetland buffers, and woodland areas contained therein from destruction or disturbance. Grantor desires to grant such an easement in order to protect the described areas.

B. The Conservation Easement Areas (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 protected area.

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 Conservation Easement, which shall be binding upon the Grantor, the City, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the City, all Grantors and purchasers of the property and their respective heirs, successors, assigns and/or transferees. This 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 this Conservation Easement is to permanently protect the wetlands, wetland buffers, and woodland areas, as shown on the attached and incorporated Exhibit B in their natural and undeveloped condition, unless authorized by permit from the City 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 and/or the approved site plan for the site condominium development, there shall be no disturbance of the wetlands, wetland buffers, or woodland 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, or maintaining any use or development in the Easement Areas.
3. No grass or other vegetation shall be planted in the Easement Areas with the exception of plantings approved, in advance, by the City in accordance with all applicable laws and ordinances.
4. This 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 Area, 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 Area to determine whether the Easement Area is being maintained in compliance with the terms of the Conservation Easement.
5. In the event that the Grantor shall at any time fail to carry out the responsibilities specified within this Conservation Easement, and/or in the event of a failure to protect, preserve and/or maintain wetlands, wetland buffers, or woodland areas in reasonable order and condition, the City 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 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 City 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 City shall thereupon have the power and authority, but not the obligation, to enter upon the property, or cause its agents or contractors to enter upon the property and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The cost and expense of making and financing such maintenance and/or preservation, including the cost of notices by the City and reasonable legal fees incurred by the City, 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 an equal pro rata basis as to all of the units on the Property. The City 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 of a billing to the Grantor, all unpaid amounts may be placed on the delinquent tax roll of the City as to the units, and shall accrue interest and penalties, and be collected as and 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 City, 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 City in connection with such suit.

- 6. Within 90 days after the Conservation Easement shall have been recorded, Grantor, at its sole expense, shall place such signs defining the boundaries of the Easement Area and describing its protected purpose, as indicated herein.
- 7. This Conservation Easement has been made and given for a consideration of a value less than One Hundred (\$ 100.00) Dollars 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 Conservation Easement on legal instruments used to convey an interest in the property.

IN WITNESS WHEREOF, Grantor and Grantee have executed the Conservation Easement as of the day and year first above set forth.

GRANTOR

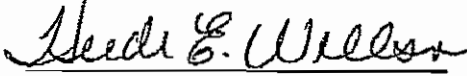
JCH, L.L.C., a Michigan limited liability company


 By: CRYSTAL HALLEY
 Its:

STATE OF MICHIGAN)
) SS
 COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 30th day of April, 2007, by Crystal Halley as the President of JCH LLC.

HEIDI E. WILLSON
 Notary Public, State of Michigan
 County of Wayne
 My Commission Expires Jul. 7, 2013
 Acting in the County of OAKLAND


 Notary Public

Oakland County, Michigan
My Commission Expires: July 7, 2013

GRANTEE

CITY OF NOVI
A Municipal Corporation

By:
Its:

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this _____ day of _____, 200__, by, _____, on behalf of the City of Novi, a Municipal Corporation.

Notary Public
Oakland County, Michigan
My Commission Expires: _____

Drafted by:
Elizabeth M. Kudla
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040

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

EXHIBIT "A"**PROPERTY DESCRIPTION**

PART OF THE SOUTHWEST 1/4 OF SECTION 16, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT THE WEST 1/4 CORNER; THENCE N88°56'01"E 1306.59 FEET; THENCE S00°31'20"E 116.60 FEET; THENCE S88°56'01"W 1307.65 FEET; THENCE NORTH 116.62 FEET TO THE POINT OF BEGINNING. CONTAINING 3.494 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

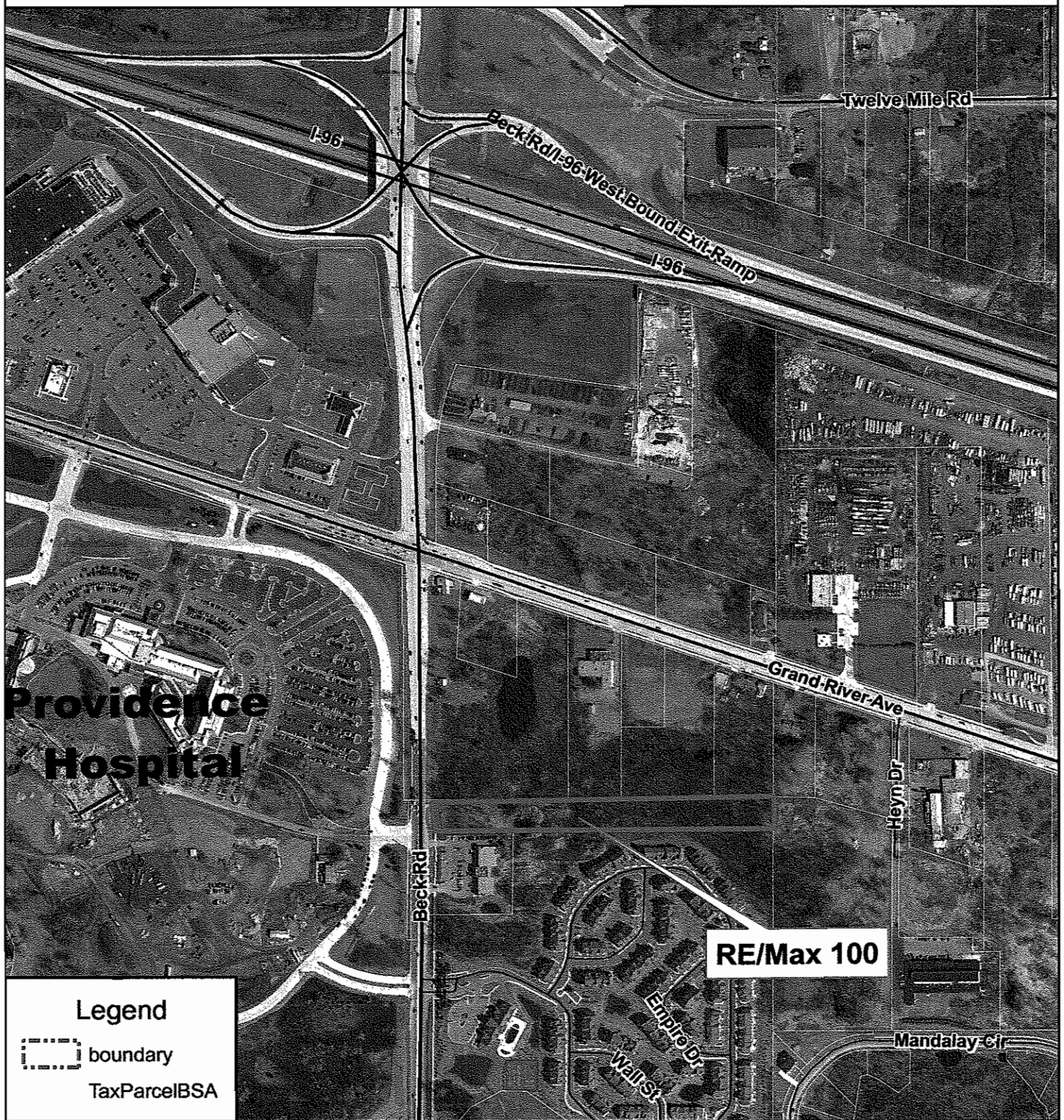
EXHIBIT "B"CONSERVATION EASEMENT

PART OF THE SOUTHWEST 1/4 OF SECTION 16, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT A POINT DISTANT N88°56'01"E 354.46 FEET FROM THE WEST 1/4 CORNER OF SAID SECTION 16; THENCE N88°56'01"E 952.13 FEET; THENCE S00°31'20"E 116.60 FEET; THENCE S88°56'01"W 951.13 FEET; THENCE NORTH 116.42 FEET TO THE POINT OF BEGINNING. CONTAINING 2.544 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD

Location Map

Re/Max 100

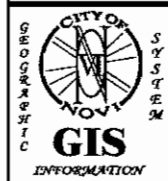
Location Map



Legend

boundary

TaxParcelBSA



CITY OF NOVI PLAN REVIEW CENTER

Created by Mark Spencer
6/29/07
NOVI PLANNING DEPARTMENT
45175 W. TEN MILE ROAD
NOVI, MI 48375-3024
(248) 347-0475
WWW.CITYOFNOVI.ORG

0 110 220 440 660
FEET

/remaxrlocation.mxd

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.

Site Plan

