




CITY of NOVI CITY COUNCIL

**Agenda Item J
December 19, 2011**

SUBJECT: Approval of a resolution to vacate the existing sidewalk easement and pathway easement located at 41420 Nine Mile Road on property owned by Gjek & Maria Nuculaj to be replaced with a highway easement containing the existing sidewalk and pathway.

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division ^{10/24} BIC

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

Engineering staff successfully secured a federal safety grant for the replacement of the existing traffic signal at the intersection of Nine Mile Road and Meadowbrook Road. This project includes the replacement of the signals as part of FAST-TRAC in a box span configuration. The new signals will include a left turn phase as well as pedestrian signals. The project will require the acquisition of an easement at the northwest corner of the intersection to install a new signal pole on a parcel owned by Gjek and Maria Nuculaj (see consideration of a highway easement for this parcel elsewhere on this agenda).

During the preliminary design phase of the project, staff identified two obsolete sidewalk/pathway easements on the parcel at the northwest corner of the intersection owned by the Nuculaj's. The recorded easements do not contain the location of the paths and are unlikely to be necessary in the future (see attached map showing the location of existing easements). The Highway Easement being considered elsewhere on this agenda would include the existing paths along Nine Mile and Meadowbrook, and also allows for the improvements related to the signal project.

As a courtesy to the property owner, staff recommends that the two unnecessary easements be vacated per the attached resolution. The easements to be vacated are Liber 17420 Page 684 (Pathway Easement) and Liber 17420 Page 687 (Sidewalk Easement), and are attached for reference. The attached resolution has been drafted by the City Attorney's office for consideration to vacate the existing easements.

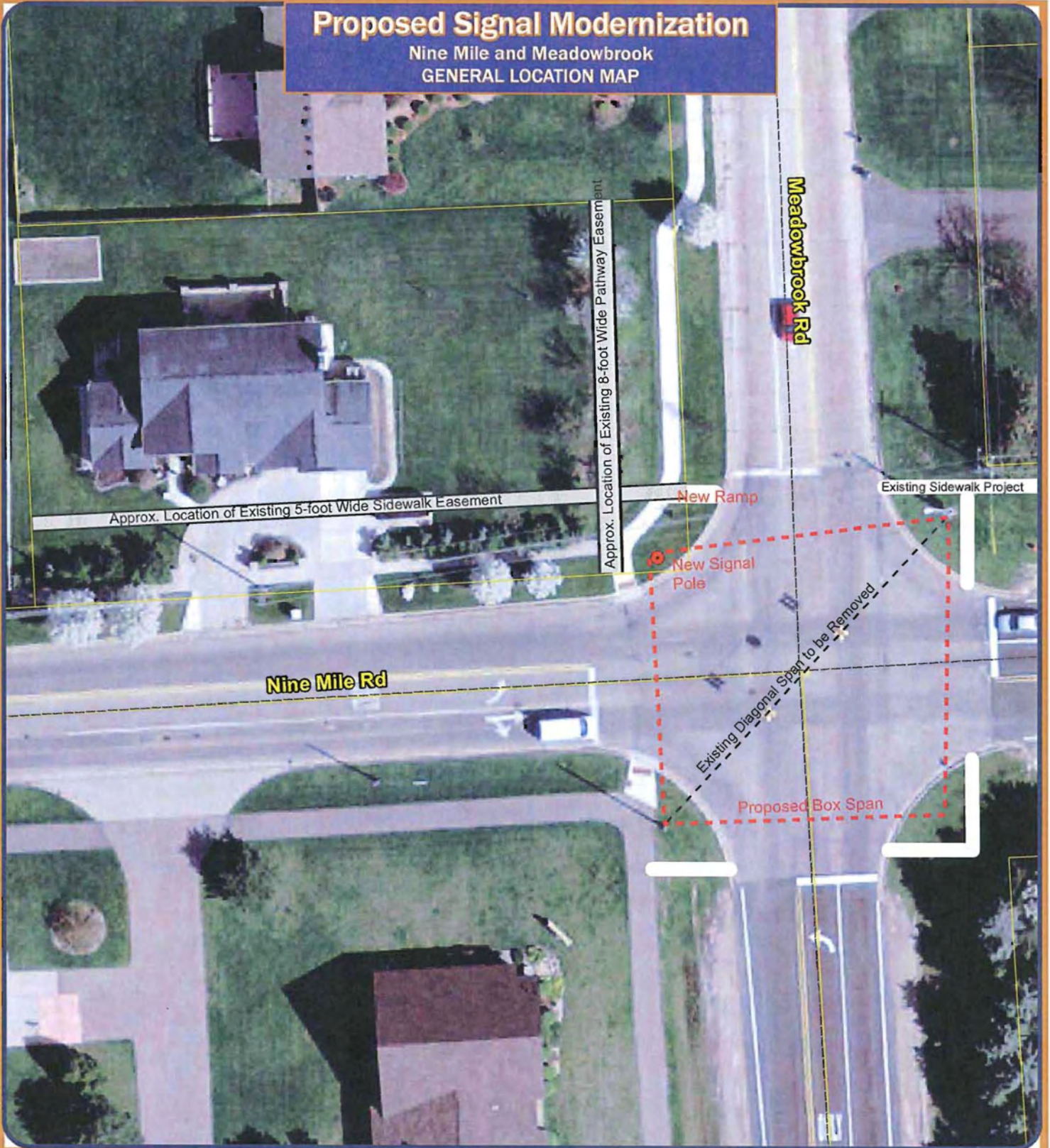
RECOMMENDED ACTION: Approval of a resolution to vacate the existing sidewalk easement and pathway easement located at 41420 Nine Mile Road on property owned by Gjek & Maria Nuculaj to be replaced with a highway easement containing the existing sidewalk and pathway.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Wrobel				

Proposed Signal Modernization

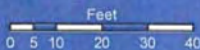
Nine Mile and Meadowbrook
GENERAL LOCATION MAP



Map Author: Croy
Date: 10/10/11
Project: 9/Meadowbrook Signal
Version #: v1.0

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.



1 inch = 40 feet



City of Novi

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

**RESOLUTION OF THE CITY COUNCIL AUTHORIZING
TERMINATION OF SIDEWALK EASEMENT**

RECITATIONS UNDERLYING THIS RESOLUTION:

The easement for constructing, maintaining and repairing a pedestrian/bicycle sidewalk granted to the City of Novi (the "City") whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, which easement is located in Section 26 of the City of Novi, as described on the attached and incorporated Exhibit A is the subject matter of this Resolution, and shall be referred to herein as the "Easement".

The owners of the property upon which the Easement is located (the "Property"), Gjek and Maria Nuculaj, whose address is 41420 Nine Mile Road, Novi, MI 48375 (parcel 22-26-476-041), granted an easement dated April 11, 1997 for a public pedestrian/bicycle sidewalk along the Nine Mile Road frontage of the Property. Subsequently, a public sidewalk was constructed along the property's Nine Mile Road frontage in a location outside of the existing easement. As such, the City has offered to terminate and vacate the existing easement which does not accurately describe the location of the existing public sidewalk. A public highway easement will, instead, be granted to the City by the owners over the existing sidewalk. Any costs associated with terminating the easement shall be the City's expense.

The appropriate City Officials have investigated the need to maintain the Easement for the benefit of the City's pedestrian/bicycle sidewalk system, for the benefit of the Property, and/or for the benefit of surrounding properties. The City Officials have determined it is not necessary to maintain the Easement in the location shown on Exhibit A and hereby agree to terminate it.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. That the following Easement, located in Section 26 of the City, is recorded at Liber 17420, Pages 687-689, Oakland County Records, for constructing, maintaining and repairing a pedestrian/bicycle sidewalk, be terminated:
 - The centerline of an five (5.00) foot wide sidewalk easement, the centerline described as part of the Southeast ¼ of Section 26, T.1N, R.8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant N00°20'50"W, 56.51 feet and S88°47'10"W, 33.01 feet from the Southeast corner of said Section 26; thence S88°47'10"W, 200.02 feet to the Point of Ending.

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 December _____, 2011.

MARYANNE CORNELIUS, CITY CLERK

Drafted by:

Elizabeth Saarela
30903 Northwestern Highway
PO Box 3040
Farmington Hills, MI 48334

When recorded return to:

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

EXHIBIT A

JUL 24 97 168548

LIBR 17420 PAGE 687

11.00 MISCELLANEOUS RECORDING
42.00 REMONUMENTATION
24 JUL 97 3:47 P.M. RECEIPT# 5264
RECORDED - OAKLAND COUNTY
JAN. A. ELLEN, CLERK/REGISTER OF DEEDS

SIDEWALK EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Gjek Nuculaj, a married man and Maria Nuculaj, his wife, whose address is 22415 Meadowbrook Road, Novi, Michigan 48050 conveys to the City of Novi, a Michigan Municipal Corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48050, an easement for constructing, maintaining and repairing a pedestrian/bicycle sidewalk in, over, upon and through the following described premises situated in the City of Novi, Oakland County, State of Michigan, to wit:



The centerline of a five (5.00) foot wide sidewalk easement the centerline described as part of the Southeast 1/4 of Section 26, T.1N., R.8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant N.00°20'50"W., 56.51 feet and S.88°47'10"W., 33.01 feet from the Southeast corner of said Section 26, thence S.88°47'10"W., 200.02 feet to the Point of Ending.

This instrument also includes a temporary construction easement, granting unto the City of Novi and/or its agents the right to move men and equipment on and through, and the right to store material and excavated dirt, and the right to alter the underlying lands within an area 5 feet wide, lying North & South of and adjacent to the above described permanent easement. Said temporary construction easement shall terminate upon completion of pathway. The premises so disturbed by reason of the exercise of any of the foregoing powers, shall be restored in accordance with the plans and specifications for the proposed sidewalk.

For the sum of \$ 1.00.

As further consideration for the granting of this easement, the City of Novi shall indemnify and save harmless, the Grantor, from and against any and all detriments, damages, losses, claims, suits, costs, or other expenses which the Grantor may suffer, sustain, or be subject to caused either wholly or in part, directly or indirectly, by reason of the use of the above premises pursuant to the rights granted herein.

This instrument shall be binding upon and insure to the benefit of the parties hereto, their heirs, representatives, successors, and assigns.

Dated this 11 day of APRIL, 19 97.

Signed by:

Gjek Nuculaj
Gjek Nuculaj
Maria Nuculaj
Maria Nuculaj

Suzanne K. Rice
Witness SUZANNE K. RICE
Michelle A. Poisson
Witness MICHELLE A. POISSON

11.00
+ 2.00

STATE OF MICHIGAN
COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this 11 day of APRIL, 19 97, by GJEK NUCULAJ AND MARIA NUCULAJ, HIS WIFE

Suzanne K. Rice
Notary Public SUZANNE K. RICE
Oakland County, Michigan Notary Public, Oakland County, MI
Commission Expires: My Commission Expires Aug. 14, 2001
Wayne Co

Drafted by and return to:
Gary E. Bowman
JCK & Associates, Inc.
45650 Grandriver
Novi, MI 48374

Part of Tax Parcel No.: 22-26-476-041

Recording Fee: _____
Revenue Stamps: _____

O.K. - KB

AGREEMENT

The undersigned, Maria Nuculaj and Gjek Nuculaj owners in consideration of being granted permission from the City of Novi it erect Drive within easements over:

The centerline of a five (5.00) foot wide sidewalk easement the centerline described as part of the Southeast 1/4 of Section 26, T. 1N., R. 8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant N. 00° 20' 50" W., 56.51 feet and S. 88° 47' 10" W., 33.01 feet from the Southeast corner of said Section 26, thence S. 88° 47' 10" W., 200.02 feet to the Point of Ending.

Novi, Michigan, agree to indemnify and hold harmless the City of Novi, its agents and employees, arising out of performance of work by the City, its agents or employees within easement, including but not limited to claims of damage to said Drive.

Suzanne K. Ruci
Witness

Maria Nuculaj
Maria Nuculaj
N 242 5850 09716

Michelle A. Poisson
Witness

Gjek Nuculaj
Gjek Nuculaj
N 242 2280 005502

Barbara Holmes
Barbara Holmes

CITY OF NOVI
Kathleen S. McLallen
KATHLEEN S. MCLALLEN
MAYOR

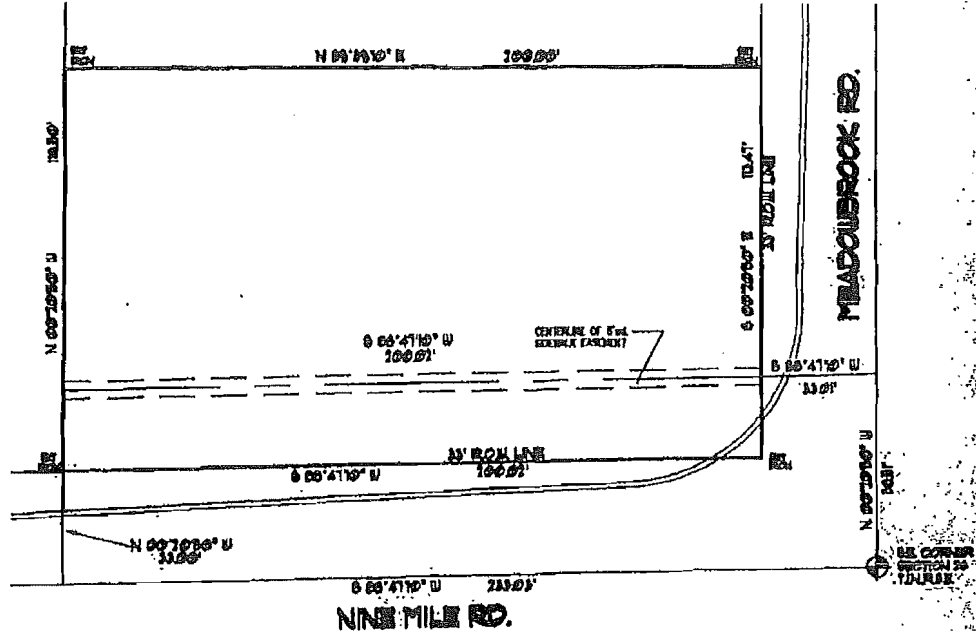
MaryAnn Cabadas
MaryAnn Cabadas

Tonni Bartholomew
TONNI BARTHLOMEW, CLERK

DATED: 6-12-97

EASEMENT SKETCH

LIBR 17420 PAGE 689



LEGAL DESCRIPTION

PART OF THE SE 1/4 OF SECTION 26, T.1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED: AS BEGINNING AT A POINT DISTANT S. 88°47'10" W., 233.03 FEET AND N.00°20'50" W., 33.00 FEET FROM THE SE CORNER OF SAID SECTION 26; THENCE N.00°20'50" W., 116.50 FEET; THENCE N.89°39'10" W., 200.00 FEET; THENCE S.00°20'50" E., 113.47 FEET; THENCE S.88°47'10" W., 200.02 FEET TO THE POINT OF BEGINNING. CONTAINING 22,997 SF OR 0.52 ACRES AND SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD.

MARIA J. GUEK NUCULAJ
20498 BEACH DALY
REDFORD, MICH 48240
(313) 582-1644

MA MICKALICH and ASSOCIATES, INC.
CIVIL ENGINEERING SURVEYING PLANNING

20 WEST HURON ST. PONTIAC, MICHIGAN 48342. PHONE: (810) 253-0551 FAX: (810) 253-0550 E-MAIL: ADD: MICKASSO@FLASH.NET

DRAWN BY DER JOB No. 97019

DESCRIPTION
SIDEWALK EASEMENT
NUCULAJ RESIDENCE, CITY OF NOVI

DATE 4-11-97 SHEET No. 1 OF 1 SCALE 100'

ENGINEER'S SEAL

**RESOLUTION OF THE CITY COUNCIL AUTHORIZING
TERMINATION OF PATHWAY EASEMENT**

RECITATIONS UNDERLYING THIS RESOLUTION:

The easement for constructing, maintaining and repairing a pedestrian/bicycle pathway granted to the City of Novi (the "City") whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, which easement is located in Section 26 of the City of Novi, as described on the attached and incorporated Exhibit A is the subject matter of this Resolution, and shall be referred to herein as the "Easement".

The owners of the property upon which the Easement is located (the "Property"), Gjek and Maria Nuculaj, whose address is 41420 Nine Mile Road, Novi, MI 48375 (parcel 22-26-476-041), granted an easement dated April 4, 1997 for a public pedestrian/bicycle pathway along the Meadowbrook Road frontage of the Property. Subsequently, a public pathway was constructed along the property's Meadowbrook Road frontage in a location outside of the existing easement. As such, the City has offered to terminate and vacate the existing easement which does not accurately describe the location of the existing public pathway. A public highway easement will, instead, be granted to the City by the owners over the existing pathway. Any costs associated with terminating the easement shall be the City's expense.

The appropriate City Officials have investigated the need to maintain the Easement for the benefit of the City's pedestrian/bicycle pathway system, for the benefit of the Property, and/or for the benefit of surrounding properties. The City Officials have determined it is not necessary to maintain the Easement in the location shown on Exhibit A and hereby agree to terminate it.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. That the following Easement, located in Section 26 of the City, is recorded at Liber 17420, Pages 684-686, Oakland County Records, for constructing, maintaining and repairing a pedestrian/bicycle pathway, be terminated:
 - The centerline of an eight (8.00) foot wide pathway easement, the centerline described as part of the Southeast $\frac{1}{4}$ of Section 26, T.1N, R.8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant S88°47'10"W, 55.01 feet and N00°20'50"W, 33.00 feet from the Southeast corner of said Section 26; thence continuing N00°20'50"W, 113.81 feet to the Point of Ending.

EXHIBIT A

Jul 24 97 168547A

USE 17120 PAGE 684

11.00 MISCELLANEOUS RECORDING
12.00 REINDEMENTATION
24 JUL 97 3:46 P.M. RECEIPTS BOOK
- 20 REGISTERED - OAKLAND COUNTY
- M. D. BLEN, CLERK/REGISTER OF DEEDS

PATHWAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Gjek Nuculaj, a married man and Maria Nuculaj, his wife, whose address is 22415 Meadowbrook Road, Novi, Michigan 48050 conveys to the City of Novi, a Michigan Municipal Corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48050, an easement for constructing, maintaining and repairing a pedestrian/bicycle pathway in, over, upon and through the following described premises situated in the City of Novi, Oakland County, State of Michigan, to wit:

The centerline of a eight (8.00) foot wide pathway easement the centerline described as part of the Southeast 1/4 of Section 26, T.1N., R.8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant S.88°47'10"W., 55.01 feet and N.00°20'50"W., 33.00 feet from the Southeast corner of said Section 26; thence continuing N.00°20'50"W., 113.81 feet to the Point of Ending.

This instrument also includes a temporary construction easement, granting unto the City of Novi and/or its agents the right to move men and equipment on and through, and the right to store material and excavated dirt, and the right to alter the underlying lands within an area 5 feet wide, lying East & West of and adjacent to the above described permanent easement. Said temporary construction easement shall terminate upon completion of pathway. The premises so disturbed by reason of the exercise of any of the foregoing powers, shall be reasonably restored to its original condition by the City of Novi.

For the sum of \$ 1.00.

As further consideration for the granting of this easement, the City of Novi shall indemnify and save harmless, the Grantor, from and against any and all detriments, damages, losses, claims, suits, costs, or other expenses which the Grantor may suffer, sustain, or be subject to caused either wholly or in part, directly or indirectly, by reason of the use of the above premises pursuant to the rights granted herein.

This instrument shall be binding upon and insure to the benefit of the parties hereto, their heirs, representatives, successors, and assigns.

Dated this 4th day of APRIL, 1997.

Signed by:

WITNESSES:

Gjek Nuculaj
Gjek Nuculaj
Maria Nuculaj
Maria Nuculaj

Katerina Nicaj
KATERINA NICAJ
Lela Desovicaj
LELA DESOVICAJ

STATE OF MICHIGAN
COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this 4th day of April, 1997, by GJEK NUCULAJ AND MARIA NUCULAJ, HIS WIFE

Janice L. Long
Notary Public
Oakland County Michigan
Commission Expires: ANNE L. LONG

Drafted by and return to:
Gary E. Bowman
JCK & Associates, Inc.
45650 Grandriver
Novi, MI 48374

Part of Tax Parcel No.: 22-26-476-041

Recording Fee: _____
Revenue Stamps: _____

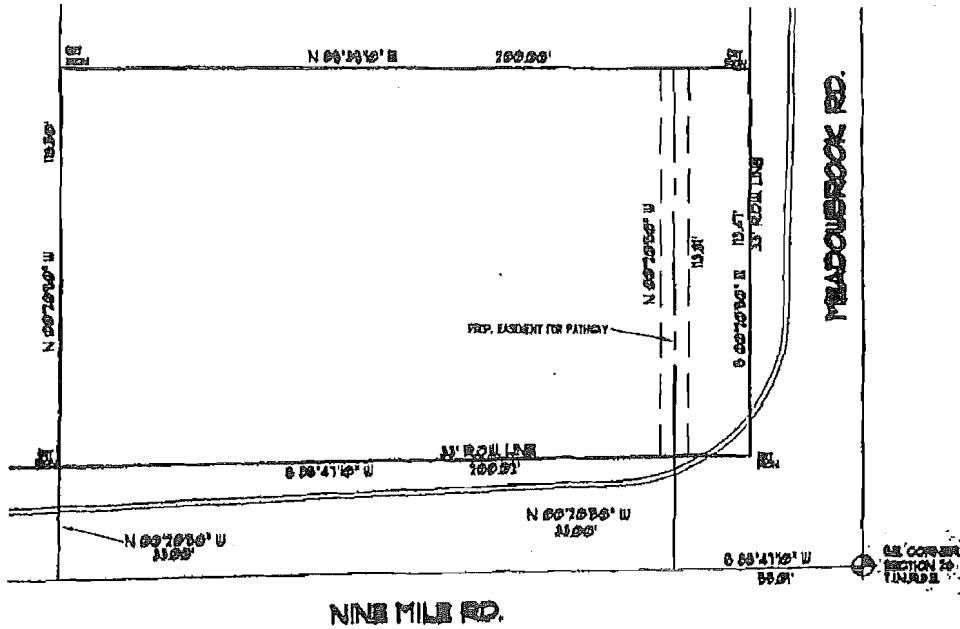
O.K. - KB

11.70
12.00

NOTARY PUBLIC - OAKLAND COUNTY, MI
ANNIE H. WATKINS CO., INC. CLERK
MY COMMISSION EXPIRES 10/25/99

EASEMENT SKETCH

1181P 17420 PAGE 685



LEGAL DESCRIPTION
 PART OF THE SE 1/4 OF SECTION 26, T.1 N., R. 8 E., CITY OF NOVI
 OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS
 BEGINNING AT A POINT DISTANT S. 88°47'10" W., 233.03 FEET
 AND N.00°20'50" W., 33.00 FEET FROM THE SE CORNER OF SAID
 SECTION 26; THENCE N.00°20'50" W., 116.50 FEET; THENCE
 N.89°39'10" W., 200.00 FEET; THENCE S.00°20'50" E., 113.47
 FEET; THENCE S.88°47'10" W., 200.02 FEET TO THE POINT OF
 BEGINNING. CONTAINING 22,997 SF OR 0.52 ACRES AND SUBJECT
 TO ANY EASEMENTS OR RESTRICTIONS OF RECORD.

MARIA J GURK NUCULAJ
 20408 BEACH DALY
 REDFORD, MICH 48240
 (313) 582-1644



MICKALICH and ASSOCIATES, INC.
 CIVIL ENGINEERING SURVEYING PLANNING

20WEST HURON ST. PONTIAC, MICHIGAN 48342 PHONE: (810) 253-055 FAX: (810) 253-0550 E-MAIL: ADD: MICKASSO@FLASH.NET

DRAWN BY DER JOB No. 97019

DESCRIPTION
 PATHWAY EASEMENT
 NUCULAJ RESIDENCE, CITY OF NOVI

DATE 4-11-97 SHEET No. 1 OF 1 SCALE 1"=40'

ENGINEER'S SEAL

AGREEMENT

The undersigned, Maria Nuculaj and Gjek Nuculaj owners in consideration of being granted permission from the City of Novi to erect Drive within easements over:

The centerline of a eight (8.00) foot wide pathway easement the centerline described as part of the Southeast 1/4 of Section 26, T.1N., R.8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant S.88°47'10"W., 55.01 feet and N.00°20'50"W., 33.00 feet from the Southeast corner of said Section 26; thence continuing N.00°20'50"W., 113.81 feet to the Point of Ending.

Novi, Michigan, agree to indemnify and hold harmless the City of Novi, its agents and employees, arising out of performance of work by the City, its agents or employees within easement, including but not limited to claims of damage to said Drive.

Barbara K. Stambaugh
Witness
BARBARA K. STAMBAUGH

Maria Nuculaj
Maria Nuculaj

Suzanne K. Rice
Witness
SUZANNE K. RICE

Gjek Nuculaj
Gjek Nuculaj

Barbara Holmes
Barbara Holmes

CITY OF NOVI
Kathleen S. McLallen
KATHLEEN S. MCLALLEN
MAYOR

Maryann Cabadas
Maryann Cabadas

Tonni Bartholomew
TONNI BARTHLOMEW, CLERK

DATED: April 4, 1997