

## # 7

### Section 2400h

Variance requested from required 100 ft. frontyard setback (west frontyard) to allow 7.80 feet being provided; a variance of 92.20 feet is being requested, due to the location of the new right-of-way line, being moved 10 feet to the east.

### Section 2400h

The RCOC is seeking a variance to request a parking lot setback from the required 40 ft. front yard setback on Novi Road, to reflect the new alignment for the Novi Road right of way being moved 10 ft. to the east. Because of the new right of way alignment on Novi Road, this variance request is for a 32.2 ft. front yard setback variance, to allow 7.80 ft. being provided for the front yard perpendicular parallel parking area that fronts on Novi Road.

### Section 2513

A corner clearance clear zone Variance is being requested along the north side of the relocated driveway, due to the location of a newly installed retaining wall. The Variance request is to allow a waiver of the required corner clearance for the relocated north driveway. Under the RCOC Rules and Regulations for commercial driveways, there should not be any vision obstruction, at the measured level of a motor vehicle operator's line of vision, measured from the established street grade. The clear zone is typically measured 25 feet along the right-of-way line, and is to remain clear of all objects which exceed 2 feet in height.

### Section 2509.3b

Variance is being requested for the 25 foot-wide landscape area, contiguous and adjacent to the Novi Road frontage. This Variance is being requested from the required landscape width of 25 feet, as 7.8 feet is being provided. Therefore, a Variance of 17.2 feet is being requested, due to the location of the new right-of-way line, being moved 10 feet to the east.

### Section 2509.3b

Variance request from required right-of-way trees along Novi Road. The Variance is being requested from the required canopy trees, as 7 are required, 3 can be provided; and sub-canopy tree requirement of 11 trees, with 3 capable of being provided. This Variance from the 4 required canopy trees and 8 required sub-canopy trees is based upon the fact that a retaining wall will be located in close proximity to the property line, and the existing trees that can remain; however, there is a reasonable likelihood these remaining trees will not be able to remain.

### Section 2001.3

Variance is being requested from the required outdoor storage yard screening, which would require under the zoning ordinance parking lot screen wall, a landscaped earth berm or a chain-link fence along Novi Road, with heavy screen plantings, to screen the existing outdoor storage yard. The Variance is being requested to allow instead the maintenance of the existing landscaping along the Novi Road frontage, and to allow for the removal of a masonry screen wall. The screen wall is proposed to be removed, due to the proximity of the location of the proposed bridge retaining wall. It is the applicant's understanding that per Section 2001.3 of the Novi Zoning Ordinance, screening of outdoor storage yards may be accomplished through any

one of the following: by a masonry wall, landscaped earth berm, chain link fence with heavy screen plantings, or a combination thereof. Again, because of the proximity of the location of the bridge retaining wall, there would be no further need to retain the existing masonry screen wall because of the height and dimension of the newly constructed proposed bridge retaining wall which will obviate a need to continue the masonry screen wall which presently exists. This is being requested on behalf of the owner Gagliano Enterprises.

#### Section 2509.3b

A variance from the requirement for a 3 ft. high berm when adjacent to parking for a landscape berm to be located within the greenbelt, inasmuch as only 7.8 ft. of greenbelt will be available and 3 ft. high berm requires a minimum of 21 ft. of width. A variance is being requested to eliminate the entire berm requirement.

#### Section 28-5 of Ordinance 09-100.38

A variance to allow the existing sign which advertises the location as being "Collex Collision" to a height of sufficient elevation to be visible to passing motorists traveling on and along Novi Road in both a southerly direction and northerly direction along Novi Road. This sign measures 34 sq. ft. in area, to be placed either perpendicular to Novi Road, or to be elevated and placed in a position upon the existing Collex Collision building, at a sufficient height to be visible for passing motorists to observe the location, to maneuver for ingress and egress into and out of Collex Collision; to be located a minimum of 3 ft. to 5 ft. east of the new right of way line for Novi Road, approximately at least 3 ft. to 5 ft. south of the driveway access into and out of the subject property from Novi Road.

#### Section 28-6 of Ordinance 09-100.38

Allow a variance to construct a temporary 10 ft. high sign, for a term of approximately 18 months to 24 months, to identify the southerly driveway location into and out of the subject property, which sign would measure approximately 34 sq. ft. in area, and which would be erected 10 ft. in height above Novi Road grade, approximately 3 feet to 5 feet east of the new right of way line for Novi Road, approximately 1 ft. to 2 ft. north, of the southerly property line of the subject property.

## # 9

The Road Commission for Oakland County (RCOC) is undertaking a road improvement project along Novi Road between Grand River Avenue south to Ten Mile Road, in which a highway overpass will be constructed over the existing CSX Railroad right-of-way in the southeast portion of the City of Novi. The partial taking from the subject property located at 25100 Novi Road, in conjunction with the bridge overpass is being acquired by the RCOC. The taking from this property will create a highway easement over the west 10 feet of the north 175 feet of the property, that is not already encumbered by the highway easement. This easement will allow a bridge footing and a retaining wall to be installed along the entire frontage along Novi Road. The bridge will overpass the CSX rail-line to the north of the subject property, where it currently crosses Novi Road at grade. The easement itself is quite small; the bridge overpass that will be constructed within the right-of-way will impact the property, by placing the subject property below grade. After the taking, the easement acquired from the property will cause the property to no longer be at grade with Novi Road, due to the bridge overpass construction. The south extreme area of the property will be approximately 4 feet below road grade, while the north extreme location of the property will be approximately 18 feet below grade. The main access drive will change from its current grade level approximately 7 feet from the new road, down to the subject parking lot, as opposed to the current incline of approximately 2 feet prior to the taking. The auxiliary or emergency drive will drop approximately 3 feet from the new Novi Road right-of-way, to the level of the existing property.

Under the Uniform Condemnation Procedures Act (UCPA), Section 4(2), corresponding to MCL 213.54(2), provides that if an acquisition of a portion of a parcel of property is needed by a condemning agency, leaving the remainder of the parcel in nonconformity with a zoning ordinance requirement, then the condemning agency can either, before or after acquisition, apply for a zoning variance for the remainder of the property. When determining whether to grant the zoning variance, the local unit of government (City of Novi ZBA) must consider the potential benefits to the public use for which the property is being acquired, in addition to those criteria applicable under the relevant zoning statute, ordinance or regulation. The condemning agency must have actually or will actually acquire the portion of the parcel of property for the proposed public use for the zoning variance to become effective for the remainder of the parcel. If a variance is granted under MCL 213.54(2), then the remainder parcel is to be considered by the City of Novi to be in conformity with the zoning ordinance for all future uses, with respect to the nonconformity for which the zoning variance was granted. However, if the property was also nonconforming for other reasons, then granting of that variance will have no effect on the status of those other preexisting nonconformities. (See attachments).

Under the Zoning Enabling Act, Section 604(MCL 125.3604), there is specific statutory authority to allow for the variance from a zoning ordinance requirement to be applied for and granted.

Due to the road project along Novi Road, this site will become a non-conformity with the City of Novi's zoning requirements. Under MCL 213.54(2), the RCOC is requesting that the ZBA for the City of Novi consider the potential benefits to the public use which the property is being acquired, in addition to the practical difficulty, caused by the road improvement project, for which the owner of the property is not responsible. The inability of the owner to conform to City of Novi's zoning ordinance requirements, is directly related to the Novi Road improvement project occurring at this location. Granting the requested variances will allow the spirit of the City of Novi zoning ordinance to be observed; public safety secured and substantial justice done.

The RCOC has redesigned and reconfigured the driveway access slope into and out of the subject property to provide a maximum 6% slope for vehicular traffic existing and entering the Collex Collision site. This was accomplished in conjunction with the owner to accommodate commercial truck traffic.

RCOC intends to maintain all existing barrier free ADA mandated parking spaces; however, they will be relocated in closer proximity to the building entrance. Due to the relocation of the ADA access point, there will be a reduction of driveway slopes. Moreover, all existing non-ADA parking spaces are being maintained so there will be no net effect on existing customer parking for the subject property.

The corner clearance clear zone variance is being request along the north side of the driveway to and from the Collex property. This request is submitted under Section 2513, due to the location of a new retaining wall. The measurement for site distance has been verified under ASHTO standards, which indicate a motor vehicle can sit in Collex driveway and still see around the newly built retaining wall. Moreover, site distance standards for commercial driveway permit applications made to the RCOC have likewise been confirmed under the design criteria submitted. Site distance will be adequate at this location for motor vehicles exiting from the Collex driveway who will be capable of observing the location within distance of the retaining wall.

After the new MSE wall is constructed and the bridge overpass is constructed, it is not likely that the remaining canopy trees and subcanopy trees will be capable of remaining alive. Therefore, the variance request is being submitted under Section 2509.3b for the required canopy trees being located along Novi Road. The RCOC is seeking a variance from this requirement due to the fact that the retaining wall will be located in close proximity to the property line. All existing trees will not be likely capable of continuing growth and development at this location.

Per Section 2001.3 of the Novi Zoning Ordinance, screening of outdoor storage yards can be accomplished through any of the following: by a masonry, landscaped earth berm; chain link fence with heavy screen plantings, or a combination thereof. In this instance, the RCOC is working with the owner to allow for the removal of the existing rolling gate and chain link fence, because once the MSE wall is constructed and the bridge overpass is built, this would allow the owner the option to remove the screening wall in accordance with ZBA requirements. The MSE wall in conjunction with the bridge overpass bridge, eliminates the need to provide the existing chain link fence along Novi Road.

The existing Collex Collision sign located on the property will be removed and relocated, at an elevated height, capable of being observed by passing motorists traveling northbound and southbound on Novi Road, at a sufficient height that visibility will provide passing motorists sufficient time to identify the location of the ingress/egress location into and out of Collex Collision. The sign itself will remain of the existing dimensions being 8.05 ft. by 4.15 ft. It is a backlit sign with navy blue background and the name "Collex" in white lettering and the words "Collision Experts" in red lettering. It is recognized that in order to achieve the required elevation for visibility for passing motorists on and along Novi Road, that the new permanent sign location may be required to become affixed to the Collex Collision building.

In order to provide sufficient notification to passing motorists along Novi Road in southbound and northbound directions, during the course of construction of the Novi Road Mid-Section Project, on behalf of the owner, the RCOC is likewise seeking a zoning variance to provide

temporary construction signage of a sufficient height to identify the location of Collex Collision. This temporary signage would be at least 10 ft. in height and would measure 34 sq. ft. in area. This temporary signage would operate for a period of approximately 18 to 24 months, to assist vehicular traffic on and along Novi Road for business invitees or customers of the Collex Collision location.

On behalf of the owner, the RCOC is likewise seeking a variance to allow the existing white painted block screen wall to be removed, at the election of the owner. The existing block screen wall consists of a cinderblock material, which will no longer be needed nor necessary, based upon the construction of the MSE wall and the height, depth and dimensions of the bridge overpass as part of the Novi Road Mid-Section project. Granting the requested variance will allow the owner the option or election to have the block screen wall removed without facing a zoning ordinance violation.

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Each of the property owners whose property is located within the alignment which is affected by the Novi Road Midsection Project, which principally consists of the construction of the CSX bridge overpass, are in a unique circumstance, whereby due to the partial taking, by way of an acquisition from their property by the RCOC, the CSX bridge overpass will be constructed. This partial acquisition is due to circumstances beyond the control of each of the property owners. It is authorized by law, and by the Michigan Constitution. To undertake this acquisition, the RCOC was required to deposit into escrow a sum which is estimated to be the just compensation for the partial acquisition of the subject property; leaving the property owner with the ability to contest the amount of the compensation, as to whether it is adequate or inadequate in court. The RCOC has determined in its eminent domain proceeding, that it is necessary to acquire a portion of the property owned by Gagliano Enterprises, Inc. (Collex), for the widening of Novi Road, in the area effected for public health, safety and welfare reasons. The main concern to the RCOC is the flow of traffic in a densely developed area. This is both the current traffic pattern situation; and it is contemplated under the Novi Master Plan, with respect to any presently vacant parcels. In seeking these variances from the Novi ZBA, the RCOC recognizes that the property owner has neither caused nor created these circumstances. Moreover, under the previously cited provision under MCL 213.54(2) the RCOC is not to be penalized by seeking the requested variances.

These variances are necessary due to the road improvements that RCOC is undertaking on and along Novi Road. The variances sought for the subject property, if granted, should include as part of the resolution adopted by the Novi Zoning Board of Appeals, the specific language contained in MCL 213.54(2), which states as follows:

"The property shall be considered by the City of Novi to be in conformity with the zoning ordinance for all future uses with respect to the nonconformity for which each variance was granted. Moreover, if the subject property was also nonconforming for other reasons, by granting the requested variances, the City of Novi ZBA has not taken any position on the effect on the status of the other preexisting nonconformities. The owner of the subject property may not increase the nonconformity for each zoning variance was granted, without the consent of the City of Novi."

The RCOC stands ready, willing and able to provide a further explanation, detail, drawings or supporting documentation, as either may be requested or needed by the ZBA.

Different sight distances are required for yield or signal controlled intersections. Contact R.C.O.C. design division for determining corner sight distance at yield or signalized approaches.

**POINT OF OBSERVATION**

**Make Road A Paved Surface:**  
(A) Fifteen (15) minimum feet from edge of pavement of through lanes.

**Make Road Gravel Surface:**  
(A) Fifteen (15) minimum feet from edge of gravel.

For gravel surfaced roads an assumed speed of 45 mph. shall be used to determine sight distance unless otherwise posted. Certain existing conditions may require an engineering study to determine the sight distance.

The point of vision shall be from the height of eye, 3.5 feet above the proposed intersecting elevation to a height of object 3.5 feet above the existing or proposed road centerline and shall be continuously visible within the specified limits.

**TABLE I**  
**MINIMUM CORNER SIGHT DISTANCE**

THROUGH ROAD POSTED SPEED IN MPH	MINIMUM SIGHT DISTANCE IN FEET, BOTH DIRECTIONS	
	2 OR 3 LANE THRU ROAD	4 OR 5 LANE THRU ROAD
25	280	295
30	335	355
35	390	415
40	445	470
45	500	530
50	555	590
55	610	650

**GUIDE FOR CORNER SIGHT DISTANCE**

**Notes:**

- Any deviation from given data requires an engineering study approved by the R.C.O.C. in accordance with 2001 AASHTO policy on geometric design.
- This design guide also applies to new Permit & Plat construction projects.
- The above data is based on a left turn maneuver into the intersecting major roadway as described in AASHTO. Due to the higher potential accident severity, the left turning sight distance was used to determine the corner sight distance required. Right turn onto major roads shall have the same sight distances.

ROAD COMMISSION  
FOR OAKLAND COUNTY  
Beverly Hills, Michigan

APPROVED BY

GERALD V. HOLZBERG P.E.  
COUNTY VISTARY ENGINEER/  
DEPUTY MANAGING DIRECTOR

STATE OF MICHIGAN

GERALD V. HOLZBERG  
LICENSED PROFESSIONAL ENGINEER  
NO. 32888

(SEAL)

7-24-10 DATE

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**RULE 6.2 CLEAR VISION AREAS, BUFFER AREAS, AND SIGHT DISTANCE**

6.2.1 At intersections or railroad crossings where the Board controls limited access right-of-way to provide a clear vision area, no driveway shall enter or cross any part of that clear vision area. Where the Board has an easement for a clear vision area at an intersection or railroad crossing, driveways shall not be permitted through the clear vision area if another reasonable access point is available.

6.2.2 Adjacent to driveways, a buffer area between the right-of-way line and the pavement edge shall be used, as determined by the Permits & Environmental Concerns Department, to provide a permanent physical barrier between moving traffic and private property and unobstructed visions on either side of the driveway. This buffer area may consist of a lawn area, a low shrub area, a ditch, or equivalent method and may require the removal of trees, brush, earthen embankments, and other obstructions. Where encroachment of parked vehicles may take place, the Permits & Environmental Concerns Department may require this buffer area to be established by curb or equivalent method.

- A) Minimum sight distance for commercial driveways and private road approaches shall in accordance with figure 6-1, the "Guide for Corner Sight Distance" dated January 4, 1994:
- B) Sight distance for residential drives shall be measured 10 feet from the edge of the traveled portion on gravel roads or 10 feet from the edge of pavement on paved roads in accordance with the table 6-1:

Table 6-1:

Speed Limit, M/P/H	25-30	35	40	45	50	55
Minimum Sight Distance	260-310	360	410	460	510	560

- Sight distance will be measured from an eye height of 3.5 feet to an object height of 3.5 feet.

6.2.3 The Road Commission for Oakland County recommends and may require that the driveway be located in a location that provides sight distance in excess of the minimums provided herein.

6.2.4 Applications for driveways, which do not provide minimum adequate sight distance, may be denied.



Different sight distances are required for yield or signal controlled intersections. Contact R.C.D.C. design division for determining corner sight distance of yield or signalized approaches.

**POINT OF OBSERVATION**

Major Road Paved Surface:  
(A) Fifteen (15) minimum feet from edge of pavement of through lanes.

Major Road Gravel Surface:  
(A) Fifteen (15) minimum feet from edge of gravel.

For gravel surfaced roads on assumed speed of 45 mph, shall be used to determine sight distance unless otherwise posted. Certain existing conditions may require an engineering study to determine the sight distance.

The point of vision shall be from the height of eye, 3.5 feet above the proposed intersecting elevation to a height of object 3.5 feet above the existing or proposed road centerline and shall be continuously visible within the specified limits.

**Notes:**

- Any deviation from given data requires an engineering study approved by the R.C.D.C. in accordance with 2001 AASHTO policy on geometric design.
- This design guide also applies to new Permit & Plot construction projects.
- The above data is based on a left turn maneuver into the intersecting major roadway as described in AASHTO. Due to the higher potential accident severity, the left turning sight distance was used to determine the corner sight distance required. Right turn onto major roads shall have the same sight distances.

**TABLE 1**  
MINIMUM CORNER SIGHT DISTANCE

THROUGH ROAD POSTED SPEED IN MPH	MINIMUM SIGHT DISTANCE IN FEET, BOTH DIRECTIONS	
	2 OR 3 LANE THRU ROAD	4 OR 5 LANE THRU ROAD
25	280	295
30	335	355
35	380	415
40	445	470
45	500	530
50	555	580
55	610	650

**GUIDE FOR CORNER SIGHT DISTANCE**

ROAD COMMISSION FOR OAKLAND COUNTY  
Beverly Hills, Michigan

APPROVED BY  
*[Signature]*  
GERALD M. HOLMBERG P.E. DATE 7-26-10  
COUNTY HIGHWAY ENGINEER / DEPUTY MANAGER DIRECTOR

STATE OF MICHIGAN  
SERIAL 11  
ROLAND  
DANBORN  
NO. 2009  
PROFESSIONAL ENGINEER  
(SEAL)

**RULE 6.3 DEFINITIONS OF STANDARD DRIVEWAY DIMENSIONS**

The design features described herein with their appropriate illustration of various driveway features as shown in tables 6-2 through 6-9 shall be used by the Applicant in dimensioning proposed driveways or driveway systems on plans accompanying driveway permit applications. These standard dimensions will be used unless conditions require a deviation and the Applicant can show cause for deviation. The Permits & Environmental Concerns Department reserves the right to determine whether this deviation shall be granted and may specify particular dimensions in order that particular driveway system will accommodate the vehicles normally expected without creating undue congestion or hazard on the road. The letters in parentheses accompanying the following design feature titles are used to illustrate these design features in tables 6-2 through 6-9.

- 6.3.1 "Intersecting Angle" (A), the clockwise angle from the road edge of pavement or road centerline if unpaved to the driveway reference line (the centerline or edge of the driveway).
- 6.3.2 "Driveway Width" (B), the distance between driveway edges of pavement (or edges of the gravel surface, if applicable) measured at the point where the edges of the driveway become parallel (point b in the sketches). If the right-of-way line is so close to the pavement that point b falls on the applicant's property, then the width of the driveway at the right-of-way line shall be based on the projected Driveway Width.
- 6.3.3 "Entering Radius" (C), the radius of the driveway edge curve on the right side of a vehicle entering the applicant's property.
- 6.3.4 "Exiting Radius" (D), the radius of the driveway edge curve on the right side of a vehicle exiting the applicant's property.
- 6.3.5 "Curb Ending" (E), the length of the height transition of the driveway curb from ground level to full curb height along an uncurbed road. This curb transition shall be 10 feet minimum.
- 6.3.6 "Right-Turn Lane Length" (F), the length of auxiliary lane constructed preceding the driveway to accommodate traffic entering the applicant's property.
- 6.3.7 "Right-Turn Lane Width" (G), the width of pavement from the outside edge of the through lane to the outside edge of the Right-Turn Lane, or the width of road from outside edge of the through lane to the outside edge at the full width of the Entering and Exiting tapers.
- 6.3.8 "Entering Taper" (H), the length of the diagonal pavement widening, preceding the driveway.
- 6.3.9 "Exiting Taper" (J), the length of the diagonal pavement widening, following the driveway.
- 6.3.10 "Entrance Drive Width" (K), the width of the half of a Divided or a Directional driveway which has been designated for the use of a vehicle entering the applicant's property.
- 6.3.11 "Exit Drive Width" (L), the width of the half of a Divided or a Directional driveway which has been designated for the use of a vehicle exiting the applicant's property.
- 6.3.12 "Island Width" (M), the edge-to-edge distance between the Entrance Drive and Exit Drive.

- 6.3.13 "Island Length" (N), the distance between ends of the Island, measured parallel to the Entrance Drive.
- 6.3.14 "Nose Offset" (P), the distance between the edge of the turn lane or through land and the traffic island of a Divlded or a Directional driveway.
- 6.3.15 "Curb Opening/Cut" (R), the length of the opening along the road curb for an approach and its radii.
- 6.3.16 "Passing Lane Approach Length" (S), the length of auxiliary lane constructed on the opposite side of the road preceding the driveway to accommodate through traffic passing the left turn traffic entering the applicant's property.
- 6.3.17 "Passing Lane Departing Length" (T), the length of auxllary lane constructed on the opposite side of the road following the driveway to accommodate through traffic passing the left turn traffic entering the applicant's property.
- 6.3.18 "Passing Lane Width" (U), the width of pavement from the outside edge of the through lane to the outside edge of the Passing Lane.
- 6.3.19 "Passing Lane Approaching Taper" (V), the length of the diagonal pavement widening preceding the Passing Lane.
- 6.3.20 "Passing Lane Departing Taper" (W), the length of the diagonal pavement widening following the Passing lane.
- 6.3.21 "Exiting Lane Length" (X), auxiliary lane extension from exiting radius to beginning of exiting taper.

**RULE 6.4 STANDARD DIMENSIONS FOR RESIDENTIAL DRIVEWAYS**

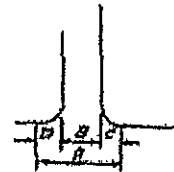
The dimensions of a residential driveway shall conform to those given in tables 6-2 and 6-3.

**Table 6-2:**

**Residential Driveway**

Design Features

<u>Design Features</u>		<u>Typical</u>	<u>Range</u>
Intersecting Angle	A	90°	60° to 90°
Driveway Width	B	16'	12' to 35'
Entering Radius	C	10'	5' to 35'
Exiting Radius	D	10'	5' to 35'
Total B+C+D=	R	36'	14' to 55'

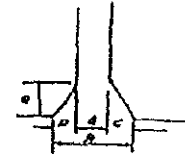


**NOTE:**

The TYPICAL dimension shall be used unless the Permits & Environmental Concerns Department specifies or the applicant shows cause for, a different value. The RANGE in dimensions indicates the working value for each design feature.

**Table 6-3:**  
**Residential Driveway - Subdivision**

<u>Design Features</u>		<u>Typical</u>	<u>Range</u>
Intersecting Angle	A	90°	60° to 90°
Driveway Width	B	16'	10' to 25'
Entering Taper Width	C	6'	2' to 15'
Exiting Taper Width	D	6'	2' to 15'
Taper Depth	Q	10'	10' to 20'
Total	R	24'	14' to 55'
B+C+D=			



**NOTE:**

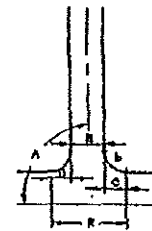
The TYPICAL dimension shall be used unless the Permits & Environmental Concerns Department specifies or the applicant shows cause for, a different value. The RANGE in dimensions indicates the working value for each design feature.

**RULE 6.5 STANDARD DIMENSIONS FOR COMMERCIAL DRIVEWAYS AND PRIVATE ROADS**

6.5.1 Two-way Commercial driveways shall be designed to accommodate one lane of traffic in each direction. The dimensions of a Two-way Commercial driveway shall conform to those given in table 6-4.

**Table 6-4:**  
**Two-Way Commercial Driveway Dimensions**

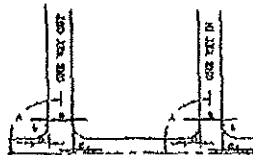
<u>Design Features</u>		<u>Typical</u>	<u>Range</u>
Intersecting Angle	A	90°	60° to 90°
Driveway Width	B	24'	22' to 40'
Entering Radius	C	35'	10' to 35'
Exiting Radius	D	35'	10' to 35'
Total	R		42' to 105'
B+C+D=			



**NOTE:**

The TYPICAL dimension shall be used unless the Permits & Environmental Concerns Department specifies or the applicant shows cause for, a different value. The RANGE in dimension indicates the working value for each design features.

6.5.2 The dimensions of a Directional One-way Commercial driveway system shall conform to those given in table 6-5.



**Table 6-5:**

**Directional (One-Way) Commercial Driveway Dimensions**

	<u>Design Features</u>		<u>Typical</u>	<u>Range</u>
One Way IN	Intersecting Angle	A	90°	60° to 90°
	Driveway Width	B	16'	16' to 20'
	Entering Radius	C	35'	20' to 35'
	Exiting Radius	D	5'	5' to 10'
One Way Out	Entering Radius	C	5'	5' to 10'
	Exiting Radius	D	35'	10' to 35'
	Total B+C+D=	R	25'	42' to 105'

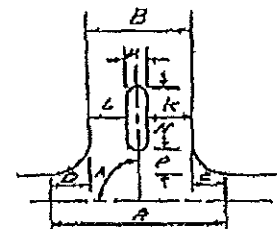
**NOTE:**

The TYPICAL dimension shall be used unless the Permits & Environmental Concerns Department specifies or the applicant shows cause for, a different value. The RANGE in dimension indicates the working value for each design features.

6.5.3 A Divided Commercial driveway shall have a curbed island separating the Entrance Drive and the Exit Drive. The radii forming the edges on this island shall be designed to accommodate the largest vehicle that will normally use the driveway. The minimum area of the island shall be 50 square feet. The dimensions of a Divided Commercial driveway shall conform to those given in table 6-6.

**Table 6-6:**

<u>Design Features</u>		<u>Typical</u>	<u>Range</u>
Intersecting Angle	A	90°	60° to 90°
Driveway Width	B	60'	46' to 78'
Entering Radius	C	35'	15' to 35'
Exiting Radius	D	35'	10' to 35'
Entrance Drive Width	K	22'	20' to 27'
Exit Drive Width	L	22'	20' to 27'
Nose Offset	P	12'	6' to 18'
Island width	M	16'	6' to 24'
Total B+C+D=	R		71' to 148'



**NOTE:**

The TYPICAL dimension shall be used unless the Permits & Environmental Concerns Department specifies or the applicant shows cause for, a different value. The RANGE in dimension indicates the working value for each design features.

## 125.3603. General powers and duties of board: voting requirements for determinations

## Notes of Decisions

## 9. Appeals, generally

Zoning board of appeals (ZBA) validly exercised its powers by reviewing and affirming the township board's decision to deny a landowner's proposed planned unit development (PUD); ordinance which provided for appeal to ZBA for a planned

unit development (PUD) was authorized by statute, which provided that for PUD decisions, "an appeal may be taken to the board of appeals only if provided for in the zoning ordinance." *Hughes v. Alma Twp.* (2009) 771 N.W.2d 453, 284 Mich. App. 50. Zoning And Planning ⇐ 440.1

## 125.3604. Appeals; right to appeal; statement of grounds for determination of board; time for appeal; stay of proceedings; notice and hearing; representation of parties; dispositions by board; granting of variances

Sec. 604. (1) An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under this act. The zoning board of appeals shall state the grounds of any determination made by the board.

(2) An appeal under this section shall be taken within such time as \* \* \* prescribed by the zoning board of appeals by general rule, by \* \* \* filing with the body or officer from whom the appeal is taken and with the zoning board of appeals \* \* \* a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.

(3) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed \* \* \*. However, if the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, \* \* \* proceedings may be stayed only by a restraining order issued by the zoning board of appeals or a circuit court.

(4) Following receipt of a written request \* \* \* for a variance, the zoning board of appeals shall fix a reasonable time for the hearing of the request and give notice as provided in section 103.<sup>1</sup>

(5) \* \* \* If the zoning board of appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, \* \* \* the zoning board of appeals shall conduct a public hearing on the request. Notice shall be given as required under section 103. However, if the request does not involve a specific parcel of property, notice need only be published as provided in section 103(1) and given to the person making the request as provided in section 103(3).

(6) At a hearing under subsection (5), a party may appear \* \* \* personally or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

(7) If there are practical difficulties for nonuse variances as provided in subsection (8) or unnecessary hardship for use variances as provided in subsection (9) in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ordinance shall establish procedures for the review and standards for approval of all types of variances. The zoning board of appeals may impose conditions as \* \* \* otherwise allowed under this act.

(8) The zoning board of appeals of all local units of government shall have the authority to grant nonuse variances relating to the construction structural changes or alterations

(9) The authority to grant variances from uses of land is limited to the following:

(a) Cities and villages.

(b) Townships and counties that as of February 15, 2006 had an ordinance that uses the phrase "use variance" or "variances from uses of land" to expressly authorize the granting of use variances by the zoning board of appeals.

(c) Townships and counties that granted a use variance before February 15, 2006.

(10) The authority granted under subsection (9) is subject to the zoning ordinance of the local unit of government otherwise being in compliance with subsection (7) and having an ordinance provision that requires a vote of  $\frac{2}{3}$  of the members of the zoning board of appeals to approve a use variance.

(11) The authority to grant use variances under subsection (9) is permissive, and this section \* \* \* does not require a local unit of government to adopt ordinance provisions to allow for the granting of use variances.

P.A.2006, No. 110, § 604, Eff. July 1, 2006. Amended by P.A.2008, No. 12, Imd. Eff. Feb. 29, 2008.

<sup>1</sup> M.C.L.A. § 125.3103.

## Historical and Statutory Notes

## 2008 Legislation

P.A.2008, No. 12, in subsec. (1), in the first sentence substituted "this" for "the" preceding "state", and inserted "the" preceding "local unit"; in subsec. (2), in the first sentence deleted "shall be" preceding "prescribed", "the" preceding "filing", and "of" preceding "a notice", and inserted "body or"; rewrote subsec. (3); in subsec. (4), deleted "concerning a request" following "written request"; rewrote subsec. (5); in subsec. (6), in the first sentence substituted "a" for "the" preceding "hearing" and "personally" for "in person", and inserted "under subsection (5)"; and, in subsec. (11), substituted "does not" for "shall not be construed to". Prior to the amendment, subsecs. (3) and (5) read:

"(3) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, in which

case proceedings may be stayed by a restraining order issued by the zoning board of appeals or a circuit court."

"(5) Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term 'occupant' may be used."

## Law Review and Journal Commentaries

The "finality rule" of *Paragon v. City of Novi*: The achievement of fairness in land use jurispru-

dence. Gerald A. Fisher, Mich. Pub Corp LQ 1 (Winter 2010).

## Research References

## Encyclopedias

Mich. Civ. Jur. Zoning § 37, Variances, Exceptions, and Special Uses.

Mich. Civ. Jur. Zoning § 43, Zoning Board of Appeals—Statutory Powers and Duties.

Michigan Civil Practice Forms § 196:11, for Injunction—Against Gun Club.

Michigan Legal Forms § 38:11.10, Michigan Zoning Enabling Act.

**213.54. Acquisition of just compensation for whole parcel; nonconformance with zoning ordinance; entry upon property, purposes, obstruction or denial of entry, lawful possession; definitions**

Sec. 4. (1) If the acquisition of a portion of a parcel of property actually needed by an agency would destroy the practical value or utility of the remainder of that parcel, the agency shall pay just compensation for the whole parcel. The agency may elect whether to receive title and possession of the remainder of the parcel. The question as to whether the practical value or utility of the remainder of the parcel of property is in fact destroyed shall be determined by the court or jury and incorporated in its verdict.

(2) If the acquisition of a portion of a parcel of property actually needed by an agency would leave the remainder of the parcel in nonconformity with a zoning ordinance, the agency, before or after acquisition, may apply for a zoning variance for the remainder of the parcel. In determining whether to grant the zoning variance, the governmental entity having jurisdiction to grant the variance shall consider the potential benefits of the public use for which the property would be acquired, in addition to those criteria applicable under the relevant zoning statute, ordinance, or regulation. The agency must actually acquire the portion of the parcel of property for the proposed public use for the zoning variance to become effective for the remainder. If a variance is granted under this subsection, the property shall be considered by the governmental entity to be in conformity with the zoning ordinance for all future uses with respect to the nonconformity for which that variance was granted. However, if the property was also nonconforming for other reasons, the grant of that variance has no effect on the status of those other preexisting nonconformities. An owner shall not increase the nonconformity for which a variance is granted under this section without the consent of the governmental entity. An agency has the same right to appeal action on a zoning variance as would a property owner seeking a zoning variance. This section does not deprive a governmental entity of its discretion to grant or deny a variance.

(3) An agency or an agent or employee of an agency may enter upon property before filing an action for the purpose of making surveys, measurements, examinations, tests, soundings, and borings; taking photographs or samplings; appraising the property; conducting an environmental inspection; conducting archaeological studies pursuant to section 106 of title I of the national historic preservation act, public law 89-665, 16 U.S.C. 470f; or determining whether the property is suitable to take for public purposes. The entry may be made upon reasonable notice to the owner and at reasonable hours. An entry made pursuant to this subsection shall not be construed as a taking. The owner or his or her representative shall be given a reasonable opportunity to accompany the agency's agent or employee during the entry upon the property. The agency shall make restitution for actual damage resulting from the entry, which may be recovered by special motion before the court or by separate action if an action for condemnation has not been filed. The term "actual damage" as used in this subsection does not include, and an agency shall not make restitution

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

BOARD OF COUNTY ROAD COMMISSIONERS  
FOR THE COUNTY OF OAKLAND,

Plaintiff,  
v.

09-104353-CC  
Hon. Shalina Kumar

GAGLIANO ENTERPRISES, LLC, COUGAR  
CUTTING PRODUCTS, INC. and BANK OF  
AMERICA, NA,

Defendants,  
and

COLLEX COLLISION EXPERTS, INC.,

Third Party Joinder.

---

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**ORDER ALLOWING PARTIES TO PROCEED WITH  
ZONING BOARD OF APPEALS VARIANCE APPLICATIONS BEFORE  
THE CITY OF NOVI ZONING BOARD OF APPEALS**



At a session of said Court, held at the Courthouse in the City of Pontiac, Michigan on the \_\_\_ day of ~~FEB 28 2011~~, 2011.

SHALINA KUMAR

PRESENT: \_\_\_\_\_  
CIRCUIT COURT JUDGE

Both parties having appeared through counsel at a status conference by Order of the Court, and the parties having appeared for Facilitation with former Judge Gene Schnelz as ordered by the Court on September 8, 2010; and the parties having made significant progress through their respective engineering experts towards a mutually acceptable application for submission to the City of Novi Zoning Board of Appeals ("ZBA"), and the parties wishing to proceed with their application for submission to the ZBA for consideration thereof; and the Court being fully advised in the premises;

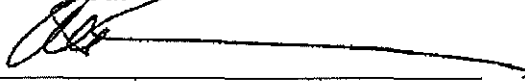
NOW, THEREFORE, IT IS HEREBY ORDERED that this Court's Order of September 8, 2010 is hereby modified to allow the parties to proceed with their ZBA zoning variance applications for submission at the next available meeting of the City of Novi ZBA.


IT IS FURTHER ORDERED that this Order does not affect any other matters pertaining to any scheduling conference or any other substantive matter involving the pending condemnation action.

  
CIRCUIT COURT JUDGE

Approved as to form and content. Notice of entry is waived.

  
ROBERT S. ROLLINGER (P27237)  
Attorney for Plaintiff

  
ALAN ACKERMAN (P10025)  
Attorney for Defendant

  
BRIAN J. RENAUD (P34987)  
Attorney for Plaintiff

## Letter Visibility Chart

Viewing Distance In Feet	Minimum Required Letter Height in Inches
100 ft	4"
250 ft	10"
360 ft (city block)	16"
500 ft	22"
750 ft	33"
1000 ft	43"
1320 ft (1/4 mile)	57"

Calculations based on externally (or naturally) lit sign with all upper case Helvetica letters utilizing optimal negative space. Factors that may affect required letter size are: color scheme, font selection, traffic and weather conditions, or sign standoff. Consult with experienced sign professionals at Gemini Signs for optimal design.

This letter visibility chart has been made based upon information provided by Pennsylvania Transportation Institute, Penn State University and the United States Sign Council (USSC). c1998.

## Letter Visibility Chart

### Letter Visibility Chart

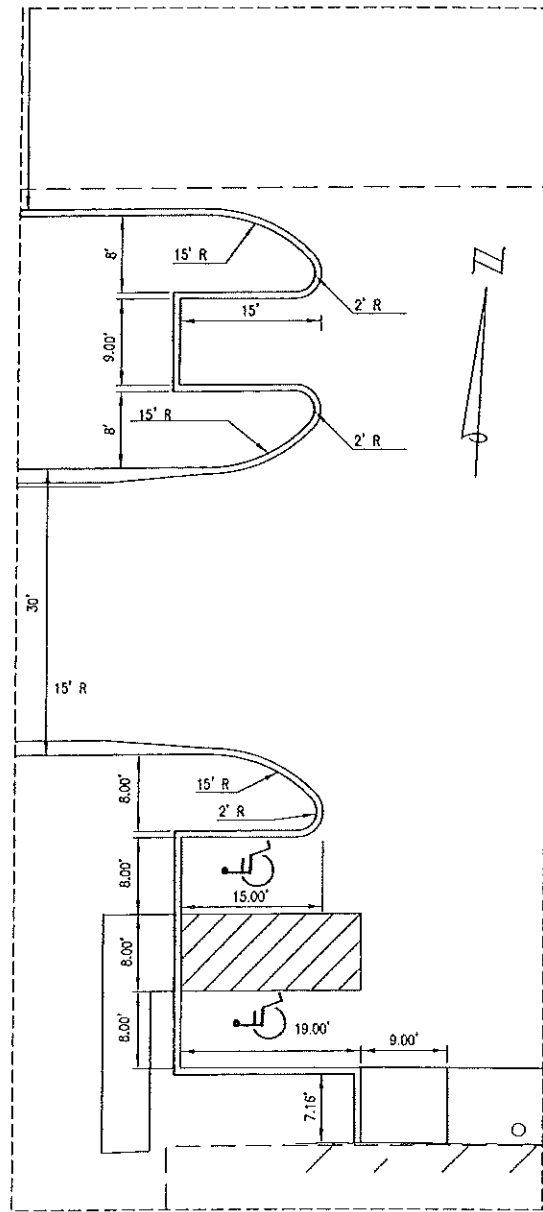
Distances will vary approximately 10% with various color combinations. 5,280 feet equals one mile. Maximum distance in color would be RED or BLACK on WHITE background.

MAXIMUM READABLE DISTANCE	READABLE DISTANCE FOR MAXIMUM IMPACT	LETTER HEIGHT
100'	30'	3"
150'	40'	4"
200'	60'	6"
350'	80'	8"
400'	90'	9"
450'	100'	10"
525'	120'	12"
630'	150'	15"
750'	180'	18"
1000'	240'	24"
1250'	300'	30"
1500'	360'	36"
1750'	420'	42"
2000'	480'	48"
2250'	540'	54"
2500'	600'	60"

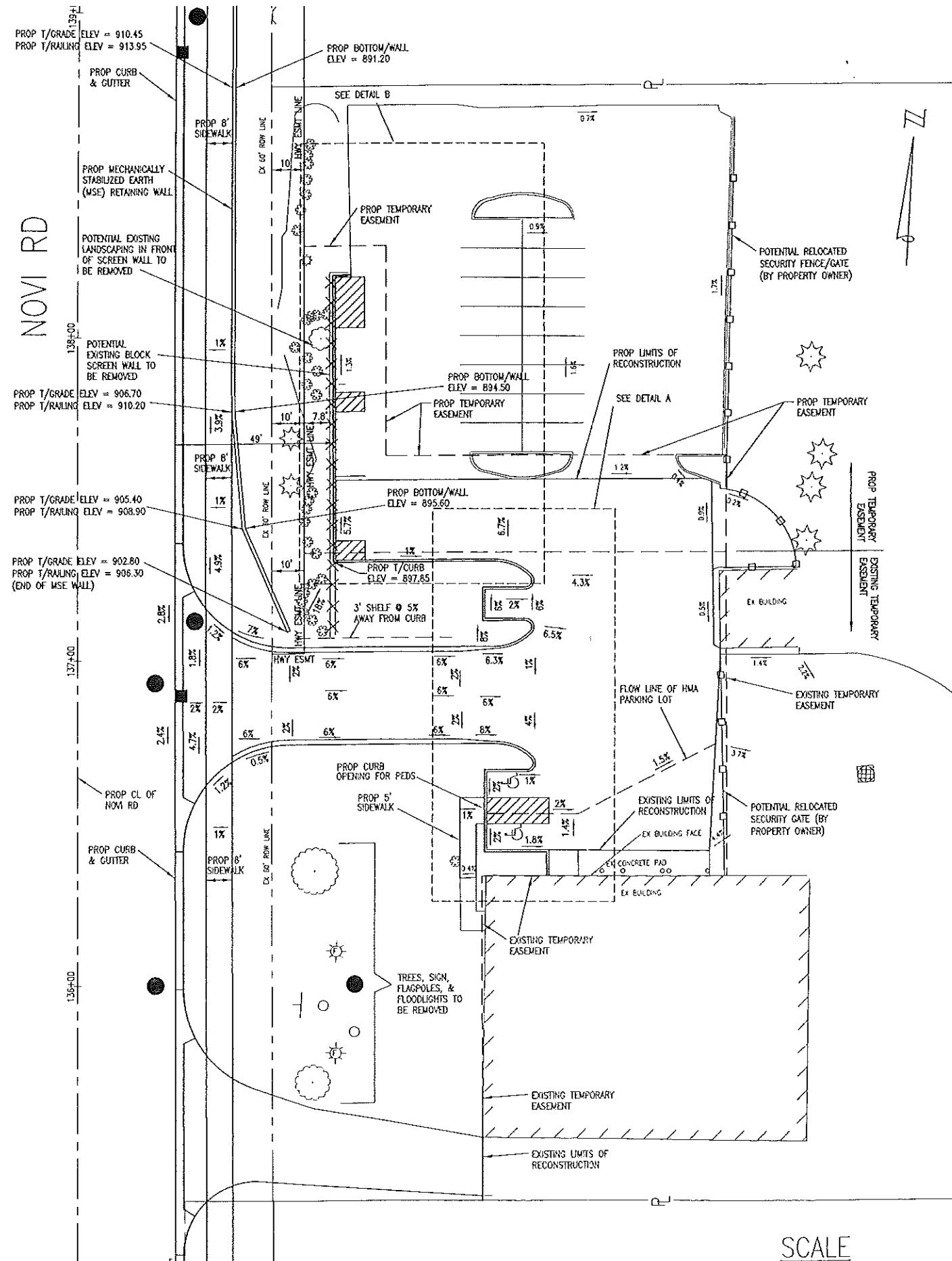
**IMPORTANT NOTICE TO PURCHASER:** All statements, technical information and recommendations herein are based on tests we believe to be reliable, but the accuracy or completeness thereof is not guaranteed, and the following is made in lieu of all warranties, expressed or implied, including the implied warranties of merchantability and fitness for a particular purpose. Before using, user shall determine the suitability of the product for its intended use, and user assumes all risk and liability whatsoever in connection therewith. NEITHER SELLER NOR MANUFACTURER SHALL BE LIABLE EITHER IN TORT OR IN CONTRACT FOR ANY LOSS OR DAMAGE, DIRECT, INCIDENTAL, OR CONSEQUENTIAL, ARISING OUT OF THE USE OF OR THE INABILITY TO USE THE PRODUCT. No statement or recommendation not contained herein shall have any force or effect unless in an agreement signed by officers of seller and manufacturer.

Chart provided by the California Institute of Technology.

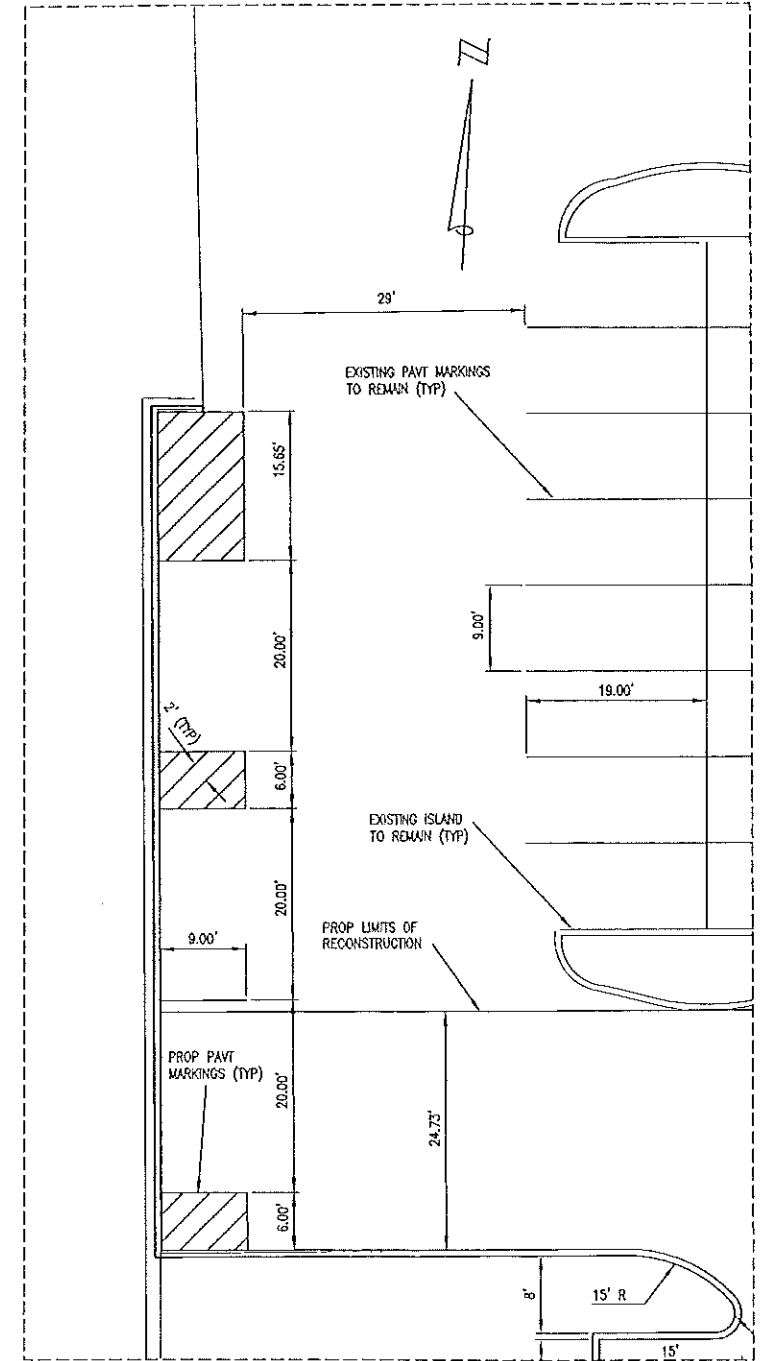




DETAIL A:  
SCALE  
H : 1"=20'  
(11"x17" PAPER)



SCALE  
H : 1"=40'  
(11"x17" PAPER)



DETAIL B:  
SCALE  
H : 1"=20'  
(11"x17" PAPER)



DATE	3/10/2011	CDR	JM	ENGR	JM	PROJ	CD	SECTION	T.N.	TANK	CD	COUNTY	OSKAND	CITY/TOWNSHIP	NOVI	SCALE	DATE	DATE	DATE	
NOV DATE		NOV DATE		NOV DATE		NOV DATE		NOV DATE		NOV DATE		NOV DATE		NOV DATE		NOV DATE		NOV DATE		NOV DATE
ROAD COMMISSION FOR OAKLAND COUNTY																				
34000 Plymouth Road   Livonia, MI 48150   F (734) 522-8427   WWW.OHM-ADVISORS.COM																				
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NOVI ROAD  
NORTH OF TEN MILE RD TO MAIN ST  
COLLEX  
NV10 - CONCEPTUAL PLAN