



CITY of NOVI CITY COUNCIL

Agenda Item Q
May 22, 2017

SUBJECT: Acceptance of Wetland Conservation Easement from Granite REIT America, Inc. for wetland conservation areas as part of the Magna Materials Facility project site, JSP 15-16, located south of Thirteen Mile Road and west of Haggerty Road in Section 12 of the City.

SUBMITTING DEPARTMENT: Community Development Department - Planning ^{Bandy}

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The subject property is located at 39600 Lewis Drive in Section 12 of the City in the Haggerty Corporate Park Development. The proposed site plan included restoration of the on-site wetland and additional storm facilities to maintain restored wetland by proposing to route storm water through a 30 inch concrete sewer and landscape area to establish mitigated wetlands per original construction drawings. Due to the volumes and flashiness of the storm water flow experienced at this outlet, channelization and erosion are occurring within the existing swale.

The necessary wetland mitigation areas that were shown on the approved Magna Materials Facility plans from the year 2000 were never constructed or created in the quantity necessary to fulfill the requirements of the original permit. The proposed plan under JSP15-16 contains corrective actions necessary to bring the site into compliance.

The applicant is now providing a Wetland Conservation Easement over three areas on the site. Two areas are along the bioswale next to Lewis Drive and one over a wetland area at the northeast corner of the site. The easement protects existing wetlands on site and graphically depicts this easement in Exhibit B. The total preservation area is 0.67 acres.

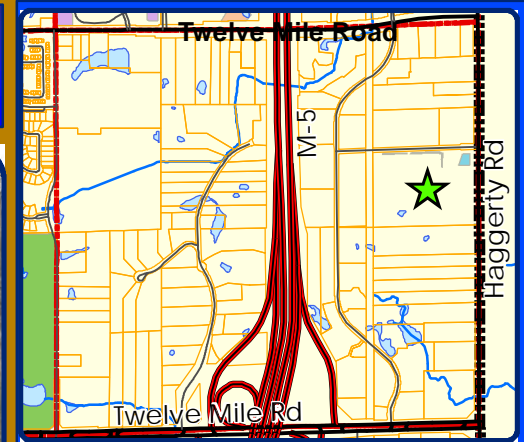
The easement is in the form recommended to be approved by the City Attorney's Office. The Planning and Engineering staff have reviewed the exhibits for accuracy.

RECOMMENDED ACTION: Acceptance of Wetland Conservation Easement from Granite REIT America, Inc. for wetland conservation areas as part of the Magna Seating Systems project site, JSP 15-16, located south of Thirteen Mile Road and west of Haggerty Road in Section 12 of the City.

LOCATION MAP

JSP15-16: Magna FSS Facility

Conservation Easement Location



LEGEND

- Sections
- Wetlands Only
- Woodlands Only
- Wetlands and Woodlands
- Unclassified



City of Novi

Community Development Department
Civic Center
45175 W Ten Mile Road
Novi, MI 48375
www.cityofnovi.org

Map Author: Kirsten Mellem
Date: 04/20/2017
Project: JSP17-17 CAV Tool - Addition
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 of Novi GIS Manager to confirm source and accuracy information related to this map.

WETLAND EASEMENT

WETLAND CONSERVATION EASEMENT

THIS WETLAND CONSERVATION EASEMENT ("Conservation Easement") made this _____ day of _____, 2017, by and between Granite REIT America, Inc., whose address is c/o Granite REIT, 77 King Street West, Suite 4010, Toronto, Ontario M5K 1H1 (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 12 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 corporate office research and development complex development on the Property, subject to provision of an appropriate easement to permanently protect the wetland and wetland mitigation areas located thereon from destruction or disturbance. Grantor desires to grant such an easement in order to protect the area.

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, and 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 protect the wetlands and wetland mitigation areas as shown on the attached and incorporated Exhibit B. The subject areas shall be perpetually preserved and maintained, 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, 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 Conservation Easement 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 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 the Conservation Easement. Nothing contained herein shall prohibit Grantor, any permittee, or their respective authorized agents or representatives from entering the Easement Areas to perform activities within the Easement Areas consistent with the permit(s).

5. In the event that the Grantor shall at any time fail to carry out the responsibilities specified within this document, 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 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 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 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, 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 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 Areas 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 MCL 207.526(a) and (ii) exempt from the County Transfer Tax, pursuant to MCL 207.505(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

GRANITE REIT AMERICA INC.

By: [Signature]
Its: Lorne Kummer
Vice-President

By: [Signature]
Its: John DeAragon
Vice-President

PROVINCE OF ONTARIO)
) ss.
CITY OF TORONTO)

The foregoing instrument was acknowledged before me this 21 day of April, 2017, by Lorne Kummer and John DeAragon, as the Vice-President and Vice-President, respectively of Granite REIT America Inc., a Delaware corporation, on its behalf.

[Signature]
Notary Public Lawrence HJ. Clarfield
Acting in the Province of Ontario
My Commission Expires: N/A

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
Johnson, Rosati, Schultz & Joppich, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, Michigan 48331

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

EXHIBIT A SKETCH OF PARCEL

LEGAL DESCRIPTION

(Per DeMattia Associates)

AS ROTATED TO THE GRID AZIMUTH ALONG THE EAST LINE OF SECTION 12, COMPUTED FROM THE MICHIGAN SOUTH ZONE STATE PLANE COORDINATES PROVIDED BY JCK & ASSOCIATES. THE ORIGINAL LEGAL DESCRIPTION WAS PROVIDED BY JMS ASSOCIATES.

PART OF THE EAST 1/2 OF SECTION 12, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN DESCRIBED AS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 12; THENCE N02°34'57"W 977.77 FEET ALONG THE EAST LINE OF SAID SECTION 12, ALSO BEING THE CENTERLINE OF HAGGERTY ROAD; THENCE S85°29'34"W 224.69 FEET; THENCE N49°30'26"W 15.56 FEET; THENCE S85°29'34"W 1138.06 FEET; THENCE S02°38'47"E 961.64 FEET; THENCE N86°37'22"E 1373.43 FEET TO THE POINT OF BEGINNING.

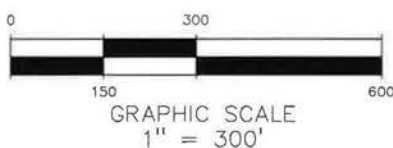
CONTAINS 30.70 (GROSS), 29.36 (FUTURE NET) ACRES OF LAND SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORDS, IF ANY.



INTERNATIONAL TRANSMISSION COMPANY
50-22-12-200-002

39600 LEWIS DRIVE
50-22-12-200-026

BC NOVAPLEX LLC
50-22-12-400-009



PEA, Inc.
2430 Rochester Ct, Ste 100
Troy, MI 48063-1872
t: 248.689.9090
f: 248.689.1044
www.peainc.com

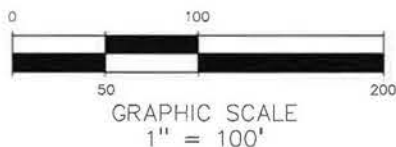
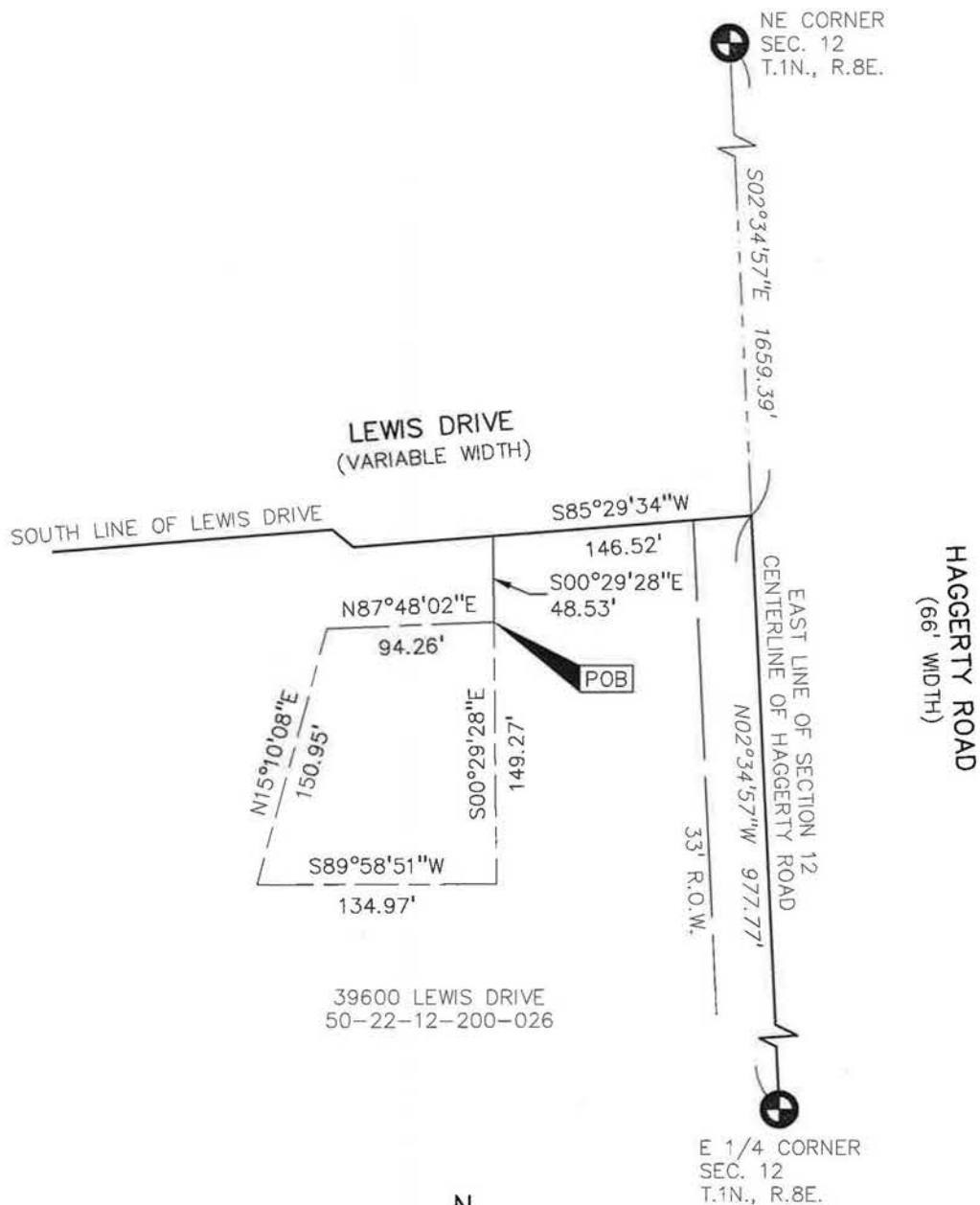
CLIENT: Granite Reit America Inc. 77 King Street West, Suite 4010 Toronto, Ontario M5K 1H1	SCALE: 1" = 300'	JOB No: 2011-268
	REV: 01-10-17 DATE: 08-17-16	DWG. No: 1 of 1

EXHIBIT B SKETCH OF PROPOSED CONSERVATION EASEMENT NO. 1

LEGAL DESCRIPTION – PROPOSED CONSERVATION EASEMENT NO. 1

A Conservation Easement over part of the East 1/2 of Section 12, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, more particularly described as:

Commencing at the East Quarter Corner of Section 12, Town 1 North, Range 8 East; thence $N02^{\circ}34'57''W$, 977.77 feet along the East Line of said Section 12, also being the centerline of Haggerty Road (66 foot wide) to the easterly extension and southerly line of Lewis Drive (Variable Width); thence along the said easterly extension of the southerly line of Lewis Drive, $S85^{\circ}29'34''W$, 146.52 feet, thence $S00^{\circ}29'28''E$, 48.53 feet to the POINT OF BEGINNING; thence continuing $S00^{\circ}29'28''E$, 149.27 feet; thence $S89^{\circ}58'51''W$, 134.97 feet; thence $N15^{\circ}10'08''E$, 150.95 feet; thence $N87^{\circ}48'02''E$, 94.26 feet to the POINT OF BEGINNING.
Containing $\pm 16,863$ square feet of land



CLIENT:
Granite Reit America Inc.
77 King Street West, Suite 4010
Toronto, Ontario M5K 1H1

SCALE: 1" = 100'
REV: 01-10-17
DATE: 08-17-16

JOB No: 2011-268
DWG. No: 1 of 3



PEA, Inc.

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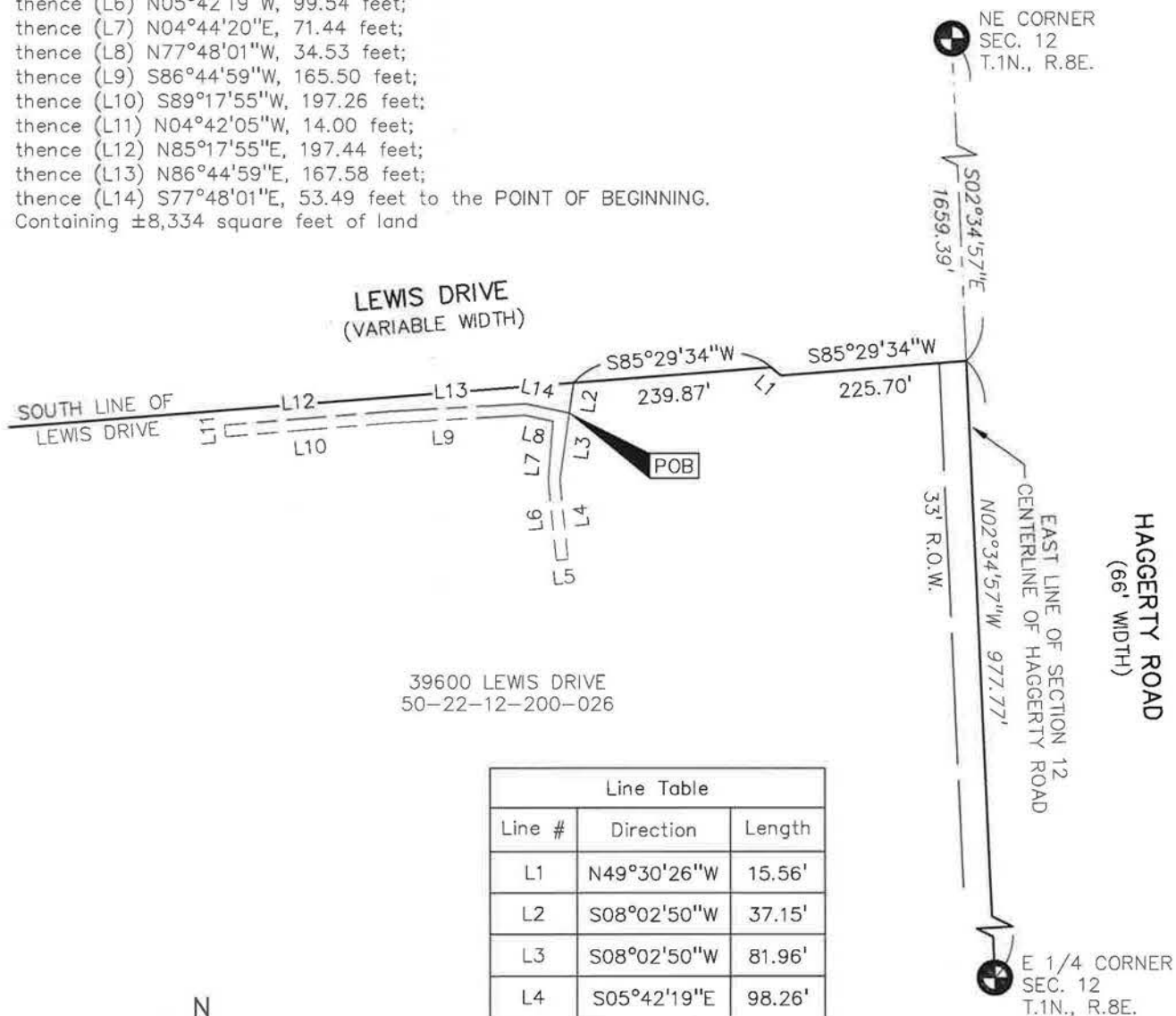
EXHIBIT B SKETCH OF PROPOSED CONSERVATION EASEMENT NO. 2

LEGAL DESCRIPTION – PROPOSED CONSERVATION EASEMENT NO. 2

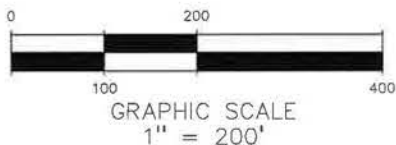
A Conservation Easement over part of the East 1/2 of Section 12, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, more particularly described as:

Commencing at the East Quarter Corner of Section 12, Town 1 North, Range 8 East; thence N02°34'57"W, 977.77 feet along the East Line of said Section 12, also being the centerline of Haggerty Road (66 foot wide) to the easterly extension and southerly line of Lewis Drive (Variable Width); thence along the said easterly extension of the southerly line of Lewis Drive S85°29'34"W, 225.70 feet; thence (L1) N49°30'26"W, 15.56 feet; thence S85°29'34"W, 239.87 feet; thence (L2) S08°02'50"W, 37.15 feet to the POINT OF BEGINNING;

thence continuing (L3) S08°02'50"W, 81.96 feet;
 thence (L4) S05°42'19"E, 98.26 feet;
 thence (L5) S84°17'41"W, 14.00 feet;
 thence (L6) N05°42'19"W, 99.54 feet;
 thence (L7) N04°44'20"E, 71.44 feet;
 thence (L8) N77°48'01"W, 34.53 feet;
 thence (L9) S86°44'59"W, 165.50 feet;
 thence (L10) S89°17'55"W, 197.26 feet;
 thence (L11) N04°42'05"W, 14.00 feet;
 thence (L12) N85°17'55"E, 197.44 feet;
 thence (L13) N86°44'59"E, 167.58 feet;
 thence (L14) S77°48'01"E, 53.49 feet to the POINT OF BEGINNING.
 Containing ±8,334 square feet of land



Line Table		
Line #	Direction	Length
L1	N49°30'26"W	15.56'
L2	S08°02'50"W	37.15'
L3	S08°02'50"W	81.96'
L4	S05°42'19"E	98.26'
L5	S84°17'41"W	14.00'
L6	N05°42'19"W	99.54'
L7	N04°44'20"E	71.44'
L8	N77°48'01"W	34.53'
L9	S86°44'59"W	165.50'
L10	S89°17'55"W	197.26'
L11	N04°42'05"W	14.00'
L12	N85°17'55"E	197.44'
L13	N86°44'59"E	167.58'
L14	S77°48'01"E	53.49'



PEA, Inc.
 2430 Rochester Ct, Ste 100
 Troy, MI 48063-1872
 t: 248.689.9090
 f: 248.689.1044
 www.peainc.com

CLIENT:
Granite Reit America Inc.
 77 King Street West, Suite 4010
 Toronto, Ontario M5K 1H1

SCALE: 1" = 200'
 REV: 01-10-17
 DATE: 08-17-16

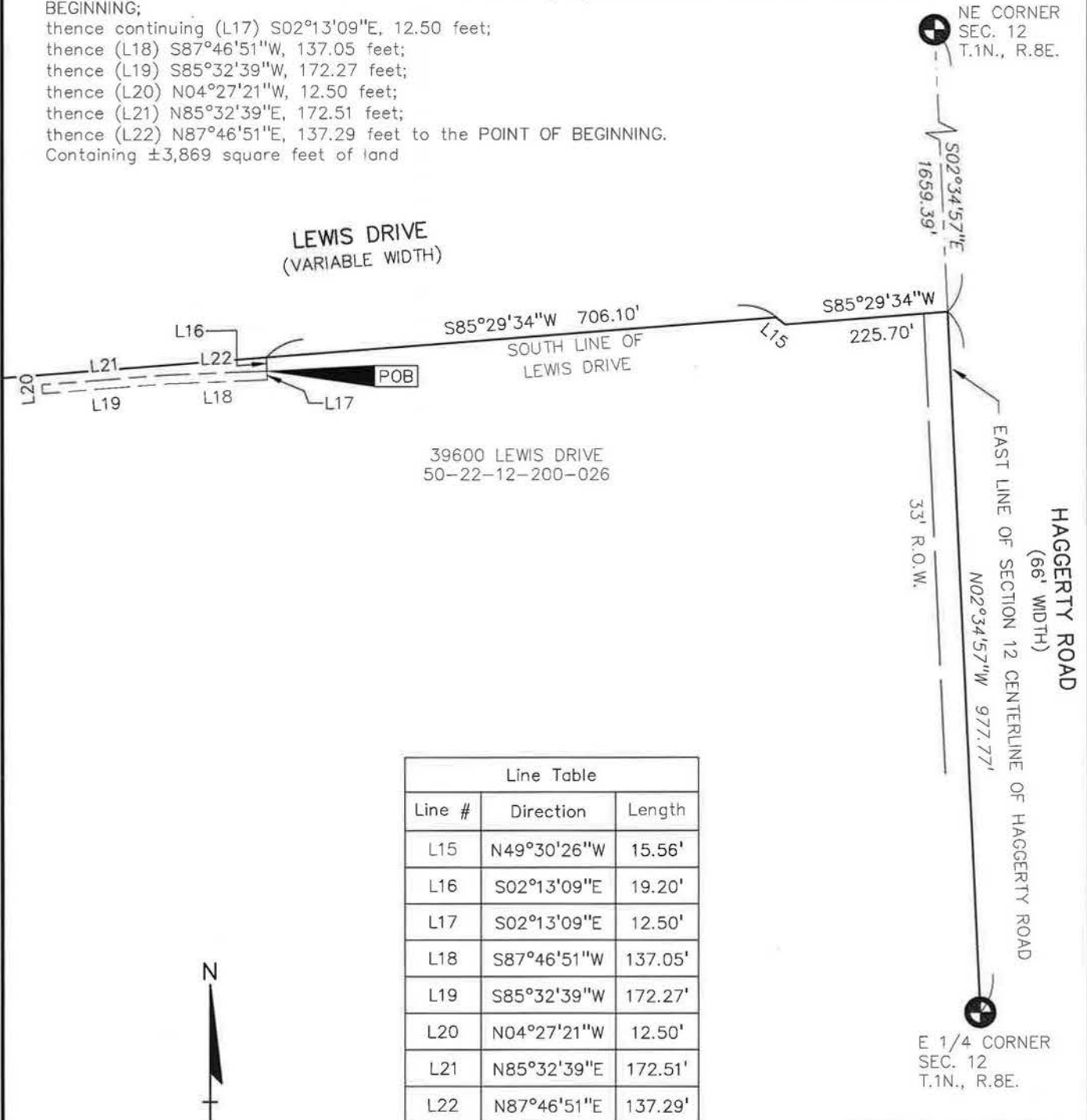
JOB No: 2011-268
 DWG. No: 2 of 3

EXHIBIT B SKETCH OF PROPOSED CONSERVATION EASEMENT NO. 3

LEGAL DESCRIPTION – PROPOSED CONSERVATION EASEMENT NO. 3

A Conservation Easement over part of the East 1/2 of Section 12, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, more particularly described as:

Commencing at the East Quarter Corner of Section 12, Town 1 North, Range 8 East; thence $N02^{\circ}34'57''W$, 977.77 feet along the East Line of said Section 12, also being the centerline of Haggerty Road (66 foot wide) to the easterly extension and southerly line of Lewis Drive (Variable Width); thence along the said easterly extension of the southerly line of Lewis Drive $S85^{\circ}29'34''W$, 225.70 feet; thence (L15) $N49^{\circ}30'26''W$, 15.56 feet; thence $S85^{\circ}29'34''W$, 706.10 feet; thence (L16) $S02^{\circ}13'09''E$, 19.20 feet to the POINT OF BEGINNING;
 thence continuing (L17) $S02^{\circ}13'09''E$, 12.50 feet;
 thence (L18) $S87^{\circ}46'51''W$, 137.05 feet;
 thence (L19) $S85^{\circ}32'39''W$, 172.27 feet;
 thence (L20) $N04^{\circ}27'21''W$, 12.50 feet;
 thence (L21) $N85^{\circ}32'39''E$, 172.51 feet;
 thence (L22) $N87^{\circ}46'51''E$, 137.29 feet to the POINT OF BEGINNING.
 Containing $\pm 3,869$ square feet of land



Line Table		
Line #	Direction	Length
L15	$N49^{\circ}30'26''W$	15.56'
L16	$S02^{\circ}13'09''E$	19.20'
L17	$S02^{\circ}13'09''E$	12.50'
L18	$S87^{\circ}46'51''W$	137.05'
L19	$S85^{\circ}32'39''W$	172.27'
L20	$N04^{\circ}27'21''W$	12.50'
L21	$N85^{\circ}32'39''E$	172.51'
L22	$N87^{\circ}46'51''E$	137.29'

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 77 King Street West, Suite 4010
 Toronto, Ontario M5K 1H1

SCALE: 1" = 200'
 REV: 01-10-17
 DATE: 08-17-16

JOB No: 2011-268
 DWG. No: 3 of 3

ATTORNEY LETTER



JOHNSON ROSATI SCHULTZ JOPPICH PC
27555 Executive Drive, Suite 250 ~ Farmington Hills, Michigan 48331
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.jrsjlaw.com

April 27, 2017

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

**RE: Magna Stormwater/Wetland Revisions JSP15-016
Wetland Conservation Easement**

Dear Ms. McBeth:

We have received and reviewed the final executed Wetland Conservation Easement for the Magna Development. The Wetland Conservation Easement has been provided for the purpose of preserving remaining wetlands and wetland mitigation areas within the Magna Development site. The final executed Wetland Conservation Easement is acceptable. The exhibits have been reviewed and approved by the City's Consulting Engineer. The Wetland Conservation Easement may be placed on an upcoming City Council Agenda for acceptance.

Once approved, the Wetland Conservation Easement should be recorded with the Oakland County Register of Deeds in the usual manner. We note that the top-margin of the first page of the Wetland Conservation Easement is 2-inches instead of the 2 ½ inches required by state law for recording; however, since the document was executed in Toronto, Ontario, Canada, the State law (MCL 565.201) contains an exception to allowing the formatting to vary from the requirement.

Should you have any questions or concerns relating to the issues set forth above, please feel free to contact me in that regard.

Sincerely,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth K. Saarela

Barb McBeth, City Planner

April 27, 2017

Page 2

EKS

Enclosures

C: Cortney Hanson, Clerk (Original Enclosure to follow via Interoffice Mail)
Charles Boulard, Community Development Director
Sri Komaragiri, Planner
Kirsten Mellem, Planner
Theresa Bridges, Construction Engineer
Darcy Rehtien, Staff Engineer
Sarah Marchioni, Building Project Coordinator
Pete Hill, ECT
Sue Troutman, City Clerk's Office
Mario Pecile, Granite REIT America, Inc.
Thomas R. Schultz, Esquire