



CITY of NOVI CITY COUNCIL

Agenda Item D
June 18, 2018

SUBJECT: Acceptance of a Woodland Conservation Easement from Marty Feldman Chevrolet, Inc. for woodland conservation areas offered as a part of the Feldman Chevrolet parking lot addition, located on the south side of Grand River Avenue, west of Fountain Park Drive in Section 23 of the City.

SUBMITTING DEPARTMENT: Department of Community Development, Planning Division *Barky*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The applicant has received Final Site Plan approval for an expansion to their parking lot of the existing automobile dealership. The overall site is approximately 9.49 acres. The Planning Commission approved the Special Land Use Permit, Preliminary Site Plan, Wetland Permit, Woodland Permit, and Stormwater Management Plan on September 13, 2017. The Final Site Plan was approved administratively on May 10, 2018.

A condition of the Planning Commission approval was that the applicant provide a conservation easement over the woodland replacement trees along the southern and eastern boundaries of the property to preserve, protect and maintain the remaining woodlands, replacement trees and vegetation on the site. Exhibit C of the easement graphically depicts the three areas being preserved.

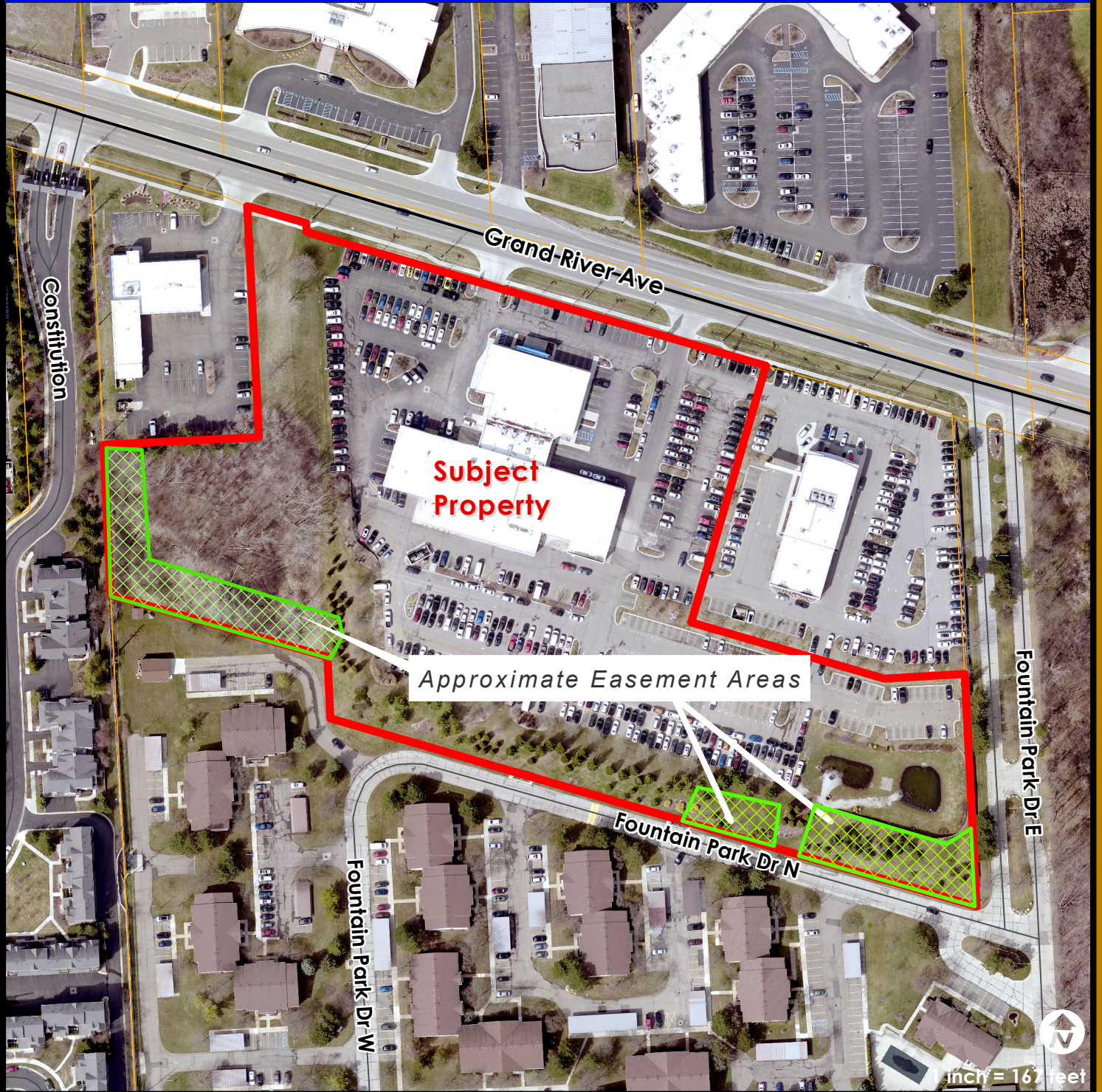
The easement has been reviewed by the City's professional staff and consultants. The easement is currently in a form acceptable to the City Attorney's office for acceptance by the City Council.

RECOMMENDED ACTION: Acceptance of a Woodland Conservation Easement from Marty Feldman Chevrolet, Inc. for woodland conservation areas offered as a part of the Feldman Chevrolet parking lot addition, located on the south side of Grand River Avenue, west of Fountain Park Drive in Section 23 of the City.

LOCATION MAP

Feldman Chevrolet, JSP16-31

Location

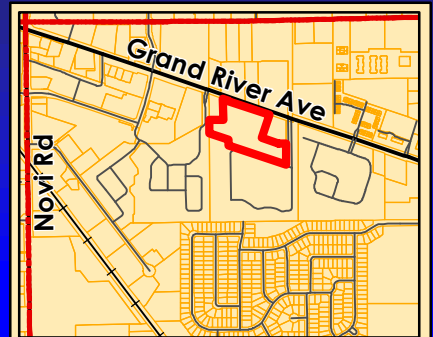


City of Novi

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

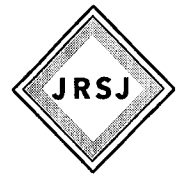
MAP INTERPRETATION NOTICE

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.



Map Author: Lindsay Bell
Date: 06/04/18
Project: Feldman Chevrolet JSP16-31
Version #: 1

CITY ATTORNEY LETTER



June 4, 2018

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

**RE: Feldman Automotive Parking Expansion JSP16-31
Woodland Conservation Easement**

Dear Ms. McBeth:

We have received and reviewed the revised original executed Woodland Conservation Easement for the Feldman Automotive Parking Expansion. The Woodland Conservation Easement has been provided for the purpose of ensuring that the property owner preserves the remaining woodlands, vegetation, and replacement trees within the Woodland Preservation Easement areas shown in the attached exhibits. The terms and condition of the Woodland Conservation Easement appear to be acceptable as provided. The title search provided is consistent with the revised Woodland Conservation Easement. The attached exhibits, which were included with the initial submittal of the Woodland Conservation Easement, have been reviewed and approved by the City's Consulting Engineer. The Woodland Conservation Easement should be placed on an upcoming City Council Agenda for acceptance.

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

Very truly yours,

JOHNSON ROSATI SCHULTZ JOPPICH



Elizabeth K. Saarela

EKS

Enclosure

C: Cortney Hanson, Clerk (w/Original Enclosure)
Charles Boulard, Community Development Director (w/Enclosure)
Sri Komaragiri, Planner (w/Enclosure)
Lindsay Bell, Planner (w/Enclosure)
Hannah Smith, Planning Assistant (w/Enclosure)
Angie Pawlowski, Community Development Bond Coordinator (w/Enclosure)
George Melistas, Engineering Senior Manager (w/Enclosure)
Theresa Bridges, Construction Engineer (w/Enclosure)
Darcy Rechten, Plan Review Engineer (w/Enclosure)
Sarah Marchioni, Community Development Building Project Coordinator (w/Enclosure)
Pete Hill, ECT (w/Enclosure)
Michael Freckelton, Taylor Reynolds & Ted Meadows, Spalding DeDecker (w/Enclosure)
Sue Troutman, City Clerk's Office (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

CONSERVATION EASEMENT

WOODLAND CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT made this 15 day of MAY, 2018, by and between Marty Feldman Chevrolet, Inc. whose address is 30400 Lyon Center Drive East, New Hudson, MI 48165 (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 23 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 parking lot addition on the Property, subject to provision of an appropriate easement to permanently protect the remaining woodland areas and/or woodland replacement trees 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 Exhibits B and C, 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 remaining woodland areas and/or woodland replacement trees 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 maintenance is required to the retaining walls or 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 remaining woodland areas and/or woodland replacement trees and/or vegetation within the Easement Area, 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 Area.

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 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 Document, and/or in the event of a failure to preserve, replace and/or maintain the remaining woodland areas and/or woodland replacement trees in reasonable order and condition, in accordance with the final approved site plan for the Property, 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 an equal pro rata basis as to all of the lots 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, pro rata, as to each lot, 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 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 as of the day and year first above set forth.

GRANTOR

WITNESS:

[Signature]

Its: Executive Vice President

STATE OF Michigan)
COUNTY OF Oakland) ss.

By: [Signature]
Jay Feldman, President

The foregoing instrument was acknowledged before me this 15 day of May, 2018 by Sarah Mikho, as the Notary Public of Oakland County a limited liability company, on its behalf.

* Jay Feldman, President
of Marty Feldman
Chevrolet, Inc.

Sarah Mikho
Notary Public
Acting in Oakland County 2/19
My Commission Expires: December, 19



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: _____

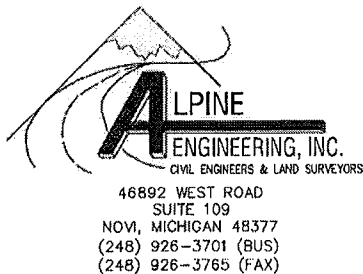
Drafted By:
Elizabeth K. Saarela, Esquire
Johnson, Rosati, Schultz & Joppich, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, Michigan 48331

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

EXHIBIT A

PARCEL DESCRIPTION:

COMMENCING AT THE CENTER OF SECTION 23, T1N-R8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE N89°58'54"W 29.50 FEET ALONG THE EAST-WEST 1/4 LINE OF SAID SECTION 23; THENCE N00°17'15"E 999.47 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N00°17'15"E 72.13 FEET; THENCE N70°56'16"W 264.85 FEET; THENCE N00°15'38"E 176.73 FEET; THENCE S89°47'01"E 183.02 FEET; THENCE N00°13'02"E 271.77 FEET; THENCE S70°56'15"E 71.98 FEET ALONG THE SOUTHERLY LINE OF GRAND RIVER AVENUE (VARIABLE WIDTH); THENCE S00°17'15"W 10.58 FEET; THENCE S70°39'32"E 562.75 FEET ALONG THE SOUTHERLY LINE OF SAID GRAND RIVER AVENUE; THENCE S19°20'28"W 314.01 FEET; THENCE S70°39'32"E 236.44 FEET; THENCE N89°47'05"E 94.39 FEET; THENCE S00°12'02"W 273.71 FEET; THENCE N70°39'32"W 791.04 FEET TO THE POINT OF BEGINNING, CONTAINING 9.49 ACRES OF LAND, MORE OR LESS.



CLIENT: FELDMAN CHEVROLET OF NOVI		DATE: 4-24-18
DRAWN BY: JRV		CHECKED BY: GLM
WOODLAND CONSERVATION EASEMENTS		0
42355 GRAND RIVER AVE.		FBK: 1
SECTION: 23	TOWNSHIP: 1N	RANGE: 8E
CITY OF NOVI		CHF:
OAKLAND COUNTY		SCALE HOR 1" = FT.
MICHIGAN		VER 1" = FT.

08-172

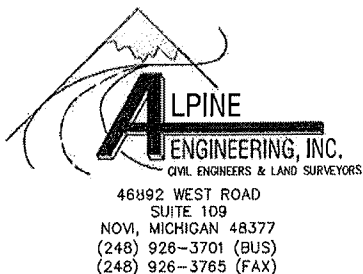
EXHIBIT B

EASEMENT DESCRIPTIONS:

EASEMENT #1:
 COMMENCING AT THE CENTER OF SECTION 23, T1N-R8E,
 CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE
 N89°58'54"W 29.50 FEET ALONG THE EAST-WEST 1/4 LINE
 OF SAID SECTION 23; THENCE N00°17'15"E 1071.60 FEET
 TO THE POINT OF BEGINNING; THENCE N70°56'16"W 264.85
 FEET; THENCE N00°15'38"E 176.73 FEET; THENCE
 S89°47'01"E 45.00 FEET; THENCE S00°15'38"W 141.91
 FEET; THENCE S70°56'15"E 269.26 FEET; THENCE
 S13°01'23"E 21.24 FEET; THENCE S76°58'37"W 55.54 FEET
 TO THE POINT OF BEGINNING.

EASEMENT #2:
 COMMENCING AT THE CENTER OF SECTION 23, T1N-R8E,
 CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE
 N89°58'54"W 29.50 FEET ALONG THE EAST-WEST 1/4 LINE
 OF SAID SECTION 23; THENCE N00°17'15"E 999.47 FEET;
 THENCE S70°39'32"E 478.07 FEET TO THE POINT OF
BEGINNING; THENCE N34°38'13"E 46.65 FEET; THENCE
 S70°39'32"E 88.37 FEET; THENCE S12°14'58"W 45.35 FEET;
 THENCE N70°39'32"W 106.27 FEET TO THE POINT OF
 BEGINNING.

EASEMENT #3:
 COMMENCING AT THE CENTER OF SECTION 23, T1N-R8E,
 CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE
 N89°58'54"W 29.50 FEET ALONG THE EAST-WEST 1/4 LINE
 OF SAID SECTION 23; THENCE N00°17'15"E 999.47 FEET;
 THENCE S70°39'32"E 604.50 FEET TO THE POINT OF
BEGINNING; THENCE N12°14'58"E 60.54 FEET; THENCE
 S70°32'31"E 128.00 FEET; THENCE S89°47'58"E 42.75
 FEET; THENCE S00°12'02"W 78.16 FEET; THENCE
 N70°39'32"W 186.54 FEET TO THE POINT OF BEGINNING.

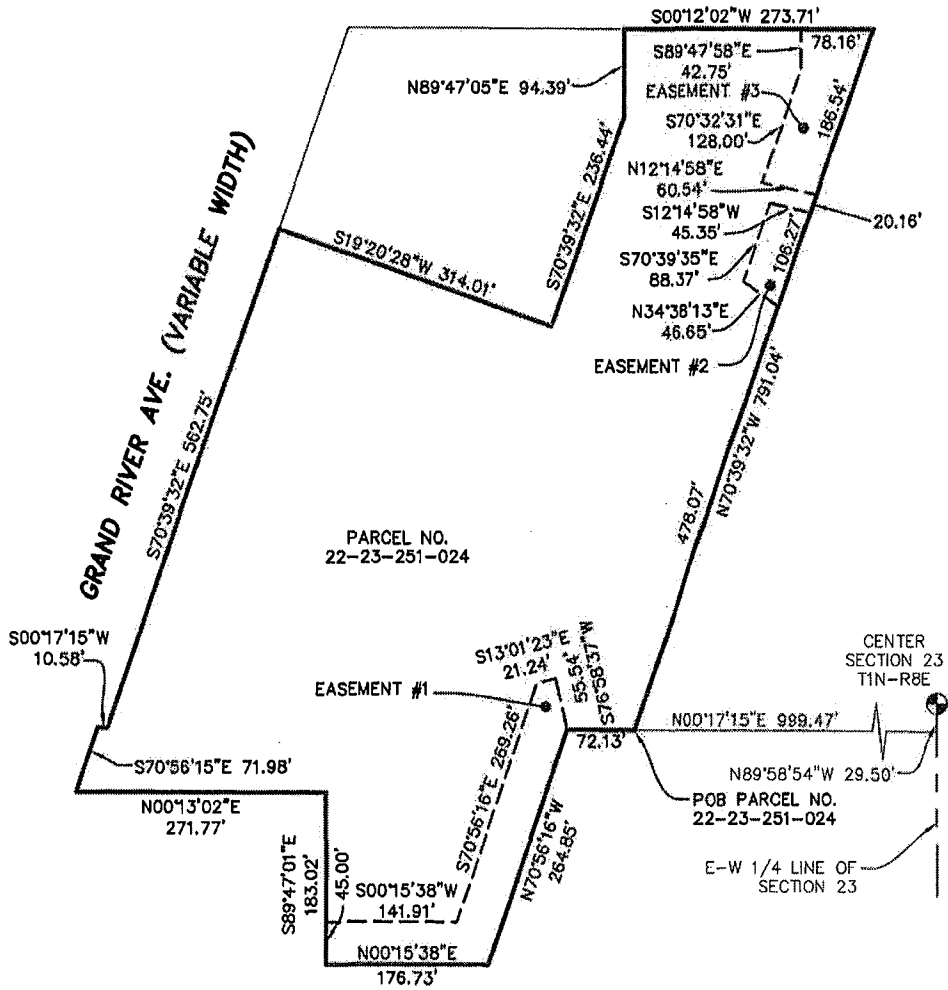


CLIENT: FELDMAN CHEVROLET OF NOVI		DATE: 4-24-18
WOODLAND CONSERVATION EASEMENTS		DRAWN BY: JRV
		CHECKED BY: GLM
42355 GRAND RIVER AVE.		1
SECTION: 23	TOWNSHIP: 1N RANGE: 8E	
CITY OF NOVI OAKLAND COUNTY MICHIGAN		08-172
SCALE: HOR 1" = FT. VER 1" = FT.		

EXHIBIT C



FOUNTAIN PARK DRIVE



ALPINE
ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS

46892 WEST ROAD
SUITE 109
NOVI, MICHIGAN 48377
(248) 926-3701 (BUS)
(248) 926-3765 (FAX)

CLIENT:	FELDMAN CHEVROLET OF NOVI		DATE:	4-24-18
WOODLAND CONSERVATION EASEMENT			DRAWN BY:	JRV
42355 GRAND RIVER AVE.			CHECKED BY:	GLM
SECTION: 23	TOWNSHIP: 1N	RANGE: 8E		
CITY OF NOVI OAKLAND COUNTY MICHIGAN			FBK:	1
			CHF:	
			SCALE	HOR 1"=150 FT. VER 1"= FT.

08-172