



CITY of NOVI CITY COUNCIL

Agenda Item E October 24, 2016

SUBJECT: Acceptance of a Conservation Easement from Grand Beck Partners, LLC for remaining wetland conservation as a part of the JSP15-73 Citygate Marketplace site, located north of Grand River Avenue and east of Beck Road in Section 16 of the City.

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

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The applicant has received Final Site Plan approval of a 1.88 acre, commercial development located on the east side of Beck Road between Grand River Avenue and I-96. The applicant proposed a 5,908 square foot building with a retail space and two fast food restaurant spaces with associated parking, landscaping, and stormwater facilities utilizing the Retail Service Overlay Option. The Planning Commission approved the Preliminary Site Plan and Special Land Use on December 9, 2015. A second Revised Final Site Plan was approved administratively on May 26, 2016. The development is now under construction.

The applicant is providing a conservation easement over wetlands along the southeast (Wetland Conservation Easement A) and south (Wetland Conservation Easement B) property line containing 0.088 acres and 0.003 acres, respectively. The easement includes the remaining wetland areas. The Conservation Easement graphically depicts these areas in Exhibit C. The total conservation area is 0.091 acres.

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

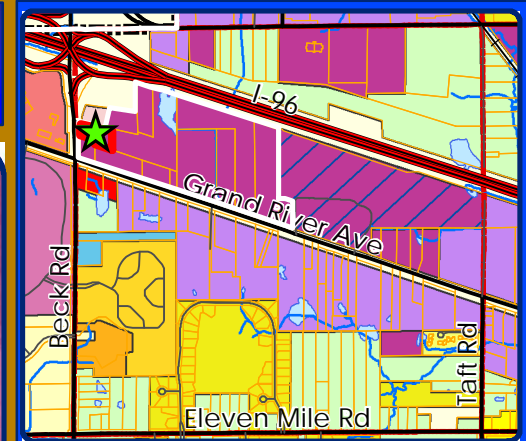
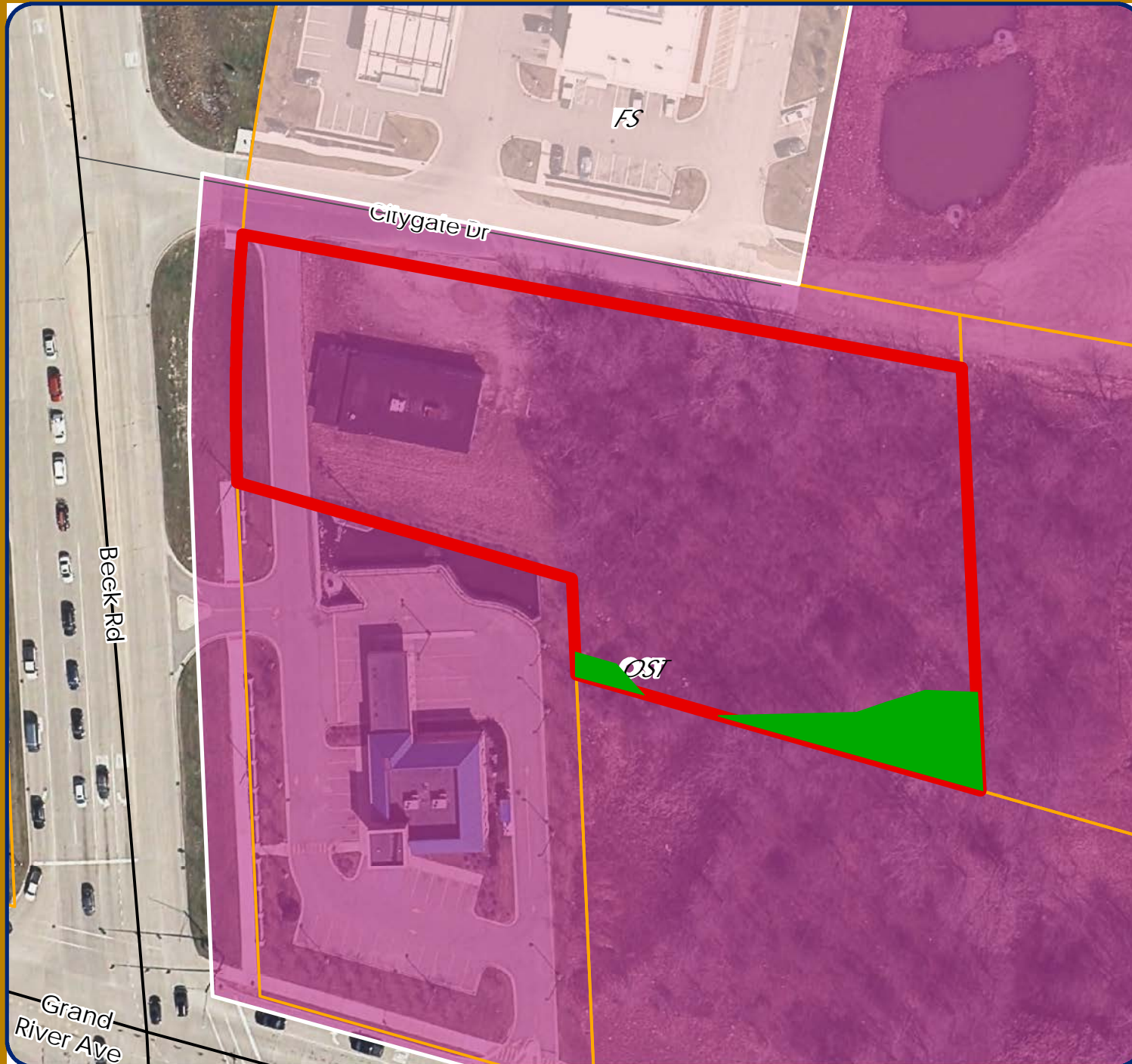
RECOMMENDED ACTION: Acceptance of a Conservation Easement from Grand Beck Partners, LLC for remaining wetland conservation as a part of the JSP15-73 Citygate Marketplace site, located on the north of Grand River Avenue and east of Beck Road in Section 16 of the City.

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

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

JSP15-73: Citygate Marketplace

Location Map



LEGEND

	Sections		Conservation Easement
	R-A: Residential Acreage		
	R-1: One-Family Residential District		
	R-2: One-Family Residential		
	R-3: One-Family Residential District		
	R-4: One-Family Residential District		
	RM-1: Low-Density Multiple Family		
	RM-2: High-Density Multiple Family		
	B-2: Community Business District		
	B-3: General Business District		
	EXO: OST District with EXO Overlay		
	FS: Freeway Service District		
	I-1: Light Industrial District		
	OS-1: Office Service District		
	OSC: Office Service Commercial		
	OST: Office Service Technology		

CITY OF NOVI
 City of Novi
 Dept. of Community Development
 City Hall / Civic Center
 45175 W Ten Mile Rd
 Novi, MI 48375
 cityofnovi.org

Map Author: Kirsten Mellem
 Date: 10/17/2016
 Project: JSP15-73 Citygate Marketplace
 Version #: 2

0 15 30 60 90 Feet
 1 inch = 83 feet

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.



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@jrslaw.com

www.jrslaw.com

October 11, 2016

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

**RE: Citygate Marketplace JSP14-13
Wetland Conservation Easement**

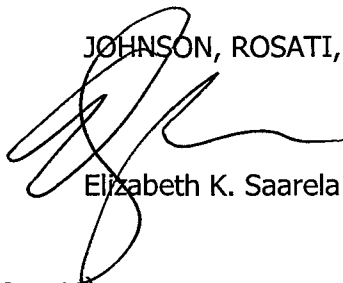
Dear Ms. McBeth:

We have received and reviewed the final executed Conservation Easement for the Citygate Marketplace Development. The Conservation Easement has been provided to protect the "remaining wetlands" on-site are required to be preserved pursuant to the City's wetland permit. Subject to the approval of the attached exhibits, the enclosed Conservation Easement may 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 I that regard.

Sincerely,

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



Elizabeth K. Saarela

EKS

C: Cortney Hanson, Clerk (w/Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Sri Komaragiri, Planner (w/Enclosures)
Kirsten Mellem, Planner (w/Enclosures)

Barb McBeth, City Planner

October 11, 2016

Page 2

Adrianna Jordan, Planner (w/Enclosures)

Aaron Staup, Construction Engineering Coordinator (w/Enclosures)

Adam Wayne, Civil Engineer (w/Enclosures)

Sarah Marchioni, Building Project Coordinator (w/Enclosures)

Pete Hill, ECT(w/Enclosures)

Sue Troutman, City Clerk's Office (w/Enclosures)

Rachel Smith, PEA, Inc. (w/Enclosures)

Thomas R. Schultz, Esquire (w/Enclosures)

WETLAND CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT made this ____ day of _____, 20__, by and between Grand Beck Partners, LLC whose address is 4036 Telegraph Road, Suite 305, Bloomfield Hills, Michigan 48303 (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 16 of the City of Novi, Oakland County, Michigan, described in Exhibit A, attached hereto and made a part hereof (the "Property"). Grantor has received final site plan approval for construction of a retail development on the Property, subject to provision of an appropriate easement to permanently protect the remaining wetland 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 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 wetlands 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 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 and/or maintain the wetlands 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 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

GRAND BECK PARTNERS, LLC, a Michigan limited liability company

By: *Doraid Marcus*
Its: MANAGER

STATE OF MI)
COUNTY OF Oakland) ss.

The foregoing instrument was acknowledged before me this 20 day of Sept, 2016, by Doraid Marcus, as the Manager of Grand Beck Michigan a Partners, LLC limited liability company, on its behalf.

ELIZABETH HALABU
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OAKLAND
My Commission Expires February 27, 2022
Acting in the County of Oakland

Elizabeth Halabu
Notary Public
Acting in Oakland County
My Commission Expires: 2-27-2022

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 NO. 22-16-176-033

LEGAL DESCRIPTION

(Per First American Title Insurance Company, Commitment No. 672327, Revision A Date Printed July 31, 2014)

PARCEL NO. 22-16-176-033

The land referred to in this Commitment, situated in the County of Oakland, City of Novi, State of Michigan, is described as follows:

Part of the Northwest of Section 16, Village of Novi, Oakland County, Michigan, described as: Beginning at the East line of Beck Road distant South 00 degrees 36 minutes West 1213.9 feet and South 76 degrees 22 minutes East 72.52 feet from the Northwest corner of Section 16; thence North 4 degrees 22 minutes East 30.33 feet; thence South 76 degrees 22 minutes East along the center line of 60 feet road, 418.44 feet; thence South 00 degrees 36 minutes West 274.10 feet; thence North 70 degrees 53 minutes 34 seconds West 441.76 feet; thence North 00 degrees 36 minutes East 54.65 feet; thence Northerly 144.25 feet, along a curve to the right at radius 1,096.82 feet to the Point of Beginning, EXCEPT the Northerly 30 feet thereof, to be used for road.

SURVEYED AS:

A part of the Northwest of Section 16, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan. More particularly described as commencing at the Northwest corner of said Section 16; thence South 00 degrees 36 minutes 00 seconds West, 1213.98 feet, along the West line of said Section 16; thence South 76 degrees 22 minutes 00 seconds East, 71.75 feet, to the Easterly right of way line of Beck Road (variable width right of way), and the Point of Beginning; thence continuing South 76 degrees 22 minutes 00 seconds East, 420.72 feet; thence South 00 degrees 36 minutes 00 seconds West, 243.22 feet; thence North 70 degrees 50 minutes 10 seconds West, 442.20 feet, to the Easterly right of way line of said Beck Road; thence North 00 degrees 30 minutes 18 seconds East, 54.04 feet, along the Easterly right of way line of said Beck Road; thence 143.69 feet, along a curve to the right, said curve having a radius of 1096.28 feet, a central angle of 07 degrees 30 minutes 36 seconds and chord bearing and distance of North 04 degrees 21 minutes 18 seconds East, 143.59 feet, along the Easterly right of way line of said Beck Road, to the Point of Beginning.

EXCEPT:

Part of the Northwest 1/4 of Section 16, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, being further described as follows: Commencing at the Northwest corner of said section; thence South 00 degrees 36 minutes 01 seconds West 1,352.13 feet, along the West section line; thence South 70 degrees 50 minutes 10 seconds East 64.36 feet to a point on the Easterly line of Beck Road (variable right of way width) and the Point of Beginning; thence continuing South 70 degrees 50 minutes 10 seconds East 200.00 feet; thence South 00 degrees 36 minutes 00 seconds West 55.00 feet; thence North 70 degrees 50 minutes 10 seconds West 200.00 feet, to the Easterly line of Beck Road; thence along said Easterly line North 00 degrees 36 minutes 00 seconds East 54.04 feet; thence along the arc of a curve to the right an arc distance of 0.96 feet, said curve having a radius of 1,096.28 feet, chord bearing and distance of North 00 degrees 35 minutes 57 seconds East 0.96 feet and central angle of 02 degrees 00 minutes 43 seconds, to the Point of Beginning.

ALSO DESCRIBED FOR TAX PURPOSES AS FOLLOWS:

Town 1 North, Range 8 East, Section 16 part of Northwest 1/4 beginning at point distant South 00 degrees 36 minutes 01 minutes West 1213.98 feet and South 76 degrees 21 minutes 59 seconds East 72.21 feet from Northwest section corner, thence South 76 degrees 21 minutes 59 seconds East 420.26 feet, thence South 00 degrees 36 minutes 01 seconds West 243.22 feet, thence North 70 degrees 50 minutes 08 seconds West 241.76 feet, thence North 00 degrees 36 minutes 00 seconds East 55 feet, thence North 70 degrees 50 minutes 10 seconds West 200 feet, thence along curve to right, radius 1096.28 feet, chord bears North 04 degrees 21 minutes 18 seconds East 142.66 feet, distance of 142.76 feet to beginning.



PEA, Inc.

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

CLIENT:
GRAND BECK PARTNERS, LLC
4036 TELEGRAPH RD, SUITE 205
BLOOMFIELD HILLS, MI 48301

SCALE: 1" = 60'

JOB No: 2014-162

DATE: 3-29-16

DWG. No: 1 of 3

EXHIBIT "B"
WETLAND CONSERVATION EASEMENTS

LEGAL DESCRIPTION

(Per PEA, Inc.)

WETLAND CONSERVATION EASEMENT "A"

A variable width wetland conservation easement over Part of Parcel No. 22-16-176-033, being part of the Northwest 1/4 of Section 16, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, said easement being more particularly described as:
Commencing at the Northwest corner of said Section 16; thence along the west line of said Section 16, S00°36'01"W, 1213.98 feet; thence S76°21'59"E, 72.21 feet to the Easterly line of Beck Road (variable width); thence continuing S76°21'59"E, 420.26 feet; thence S00°36'01"W, 185.31 feet to the Point of Beginning;
thence continuing S00°36'01"W, 57.91 feet;
thence N70°50'08"W, 161.92 feet;
thence S85°08'38"E, 88.28 feet;
thence N71°43'53"E, 39.93 feet;
thence S89°23'59"E, 27.68 feet to the Point of Beginning.
Containing 0.088 acres of land, more or less.

WETLAND CONSERVATION EASEMENT "B"

A variable width wetland conservation easement over Part of Parcel No. 22-16-176-033, being part of the Northwest 1/4 of Section 16, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, said easement being more particularly described as:
Commencing at the Northwest corner of said Section 16; thence along the west line of said Section 16, S00°36'01"W, 1213.98 feet; thence S76°21'59"E, 72.21 feet to the Easterly line of Beck Road (variable width); thence continuing S76°21'59"E, 420.26 feet; thence S00°36'01"W, 243.22 feet; thence N70°50'08"W, 212.97 feet to the Point of Beginning;
thence continuing N70°50'08"W, 28.79 feet;
thence N00°36'00"E, 3.27 feet;
thence S76°51'38"E, 21.38 feet;
thence S38°54'01"E, 10.10 feet to the Point of Beginning.
Containing 0.003 acres of land, more or less.



PEA, Inc.

2430 Rochester Ct, Ste 100
Troy, MI 48063-1872
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CLIENT:
GRAND BECK PARTNERS, LLC
4036 TELEGRAPH RD, SUITE 205
BLOOMFIELD HILLS, MI 48301

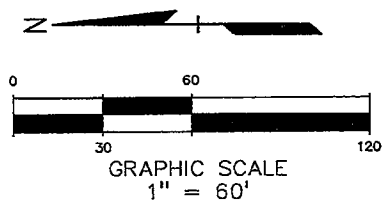
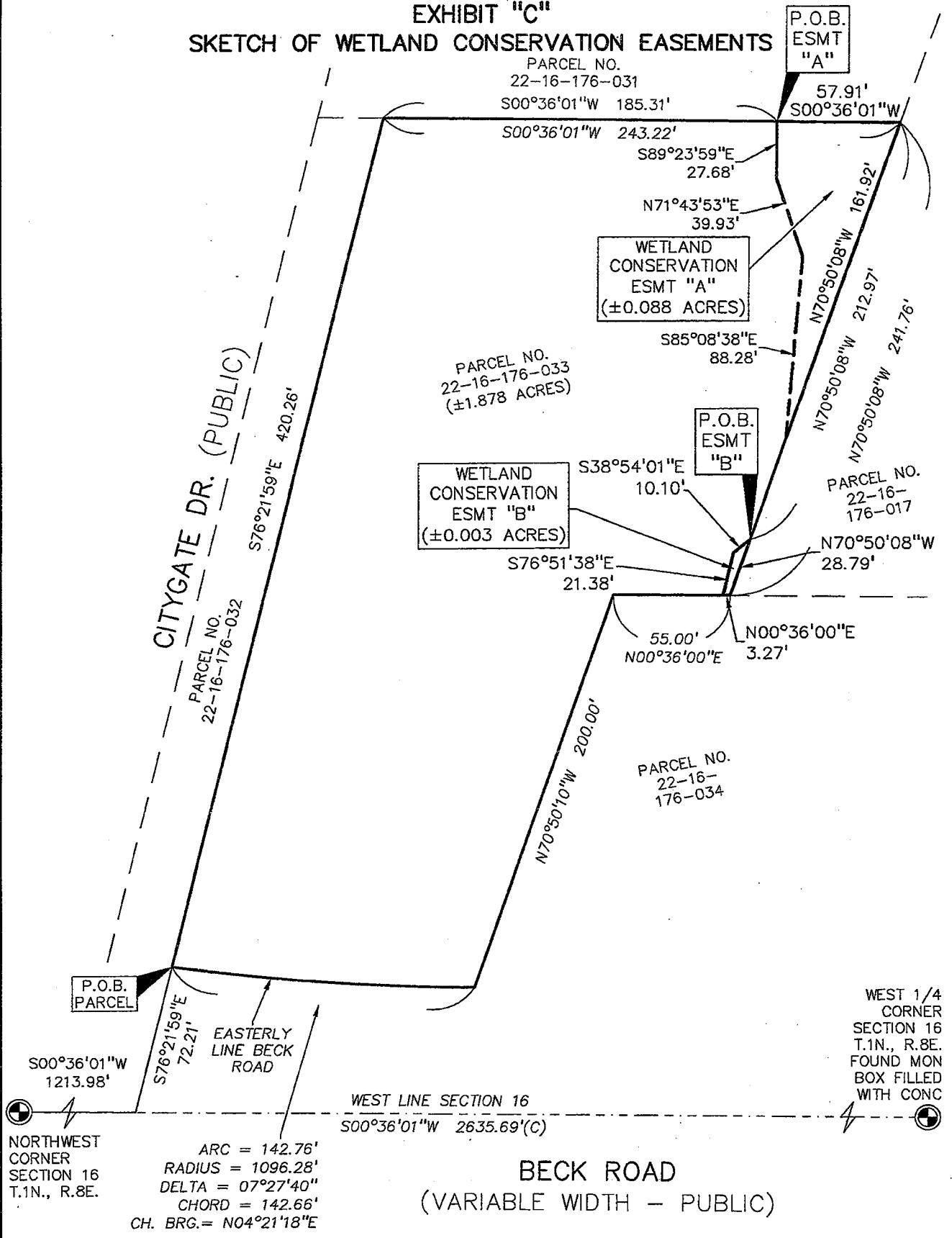
SCALE: 1" = 60'

JOB No: 2014-162

DATE: 3-29-16

DWG. No: 2 of 3

EXHIBIT "C"
SKETCH OF WETLAND CONSERVATION EASEMENTS



PEA, Inc.

2430 Rochester Ct, Ste 100
 Troy, MI 48063-1872
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 www.peainc.com

CLIENT:
GRAND BECK PARTNERS, LLC
 4036 TELEGRAPH RD, SUITE 205
 BLOOMFIELD HILLS, MI 48301

SCALE: 1" = 60'
 DATE: 3-29-16

JOB No: 2014-162
 DWG. No: 3 of 3