



CITY of NOVI CITY COUNCIL

www.cityofnovi.org

Agenda Item 5
February 12, 2007

SUBJECT: Consideration of a request from Jane Gardner for a variance from Section 11-276(b) of the Design and Construction Standards requiring pathways along the arterial roadway network in accordance with the City Bicycle and Pedestrian master plan for the single family home under construction at 46000 Eleven Mile Road.

SUBMITTING DEPARTMENT: Engineering KGH

CITY MANAGER APPROVAL: [Signature]

Table with 2 columns: Category (EXPENDITURE REQUIRED, AMOUNT BUDGETED, APPROPRIATION REQUIRED, LINE ITEM NUMBER) and Value (N/A).

BACKGROUND INFORMATION:

Jane Gardner has requested a variance from Section 11-276(b) of the Design and Construction Standards requiring pedestrian safety paths to be placed across the arterial and collector street system frontage for all projects in accordance with the master plan.

The variance request is not recommended for approval by Engineering, Planning (Barb McBeth's February 1, 2007 memorandum, attached), and Public Works (Howard Aube's February 1, 2007 memorandum, attached). The Planning Department indicates in its memo that one of the goals in the Master Plan for Land Use is to interconnect the City's pathways by continuing to enforce the master plan.

The review by the City Attorney references the criteria for granting a variance in Section 11-10 in the attached letter. These criteria are:

- 1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
2) The alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and
3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

In the event that City Council finds that the criteria for a variance or waiver have been met, the City Attorney sees no legal impediment to granting the variance.

Building, Landscape and Fire have no concerns with the variance request.

The applicant has posted a financial guarantee in the amount of \$2,625 which represents 100% of the current construction cost of the pathway.

A similar variance was granted for the property at 46450 Eleven Mile in February 2006.

**RECOMMENDED ACTION:** Denial of a request from Jane Gardner for a variance from Section 11-276(b) of the Design and Construction Standards requiring pathways along the arterial roadway network in accordance with the City Bicycle and Pedestrian master plan for the single family home under construction at 46000 Eleven Mile Road.














	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Gatt				
Council Member Margolis				

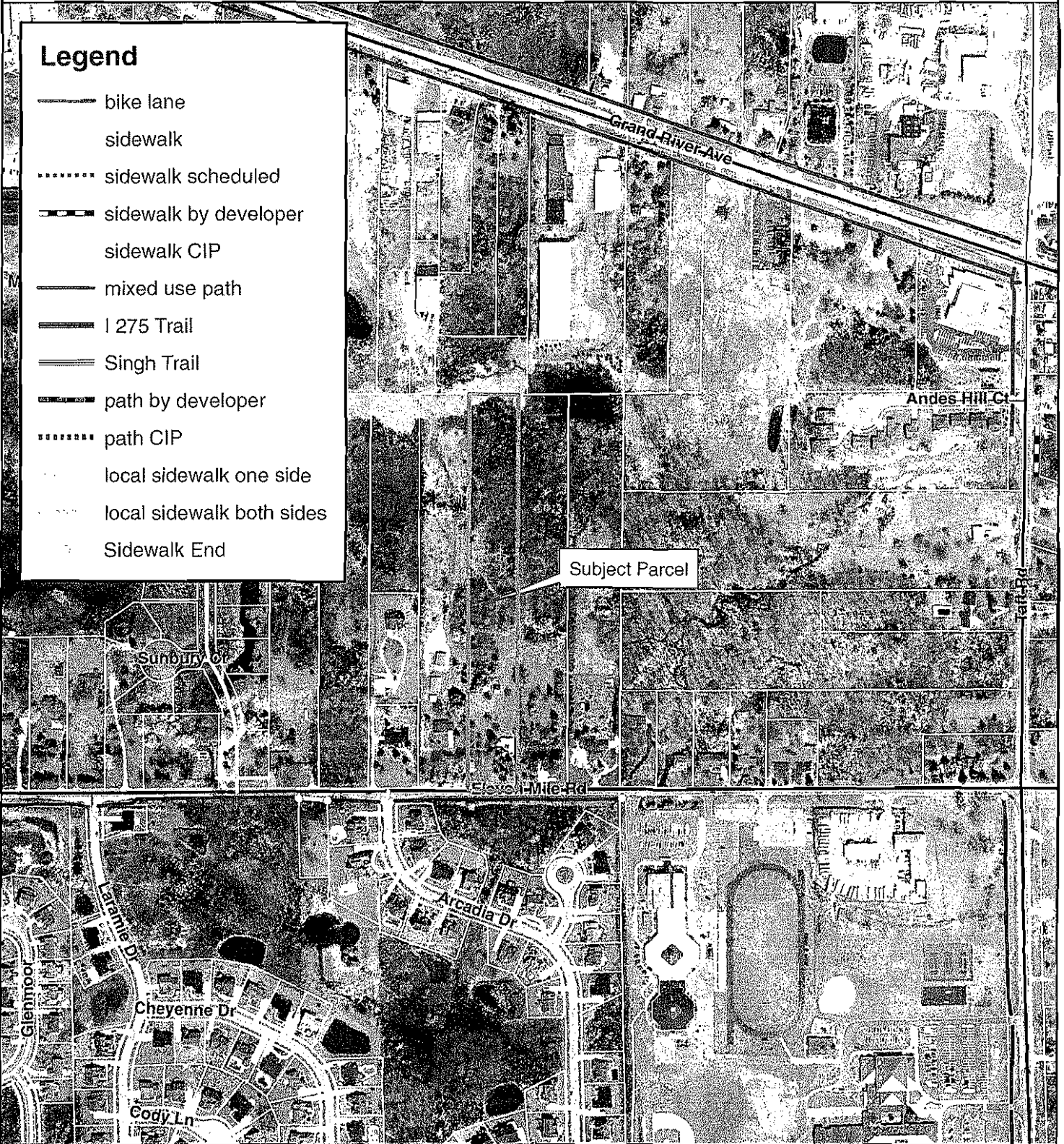
	1	2	Y	N
Council Member Mutch				
Council Member Nagy				
Council Member Paul				

# Sidewalk Location Map

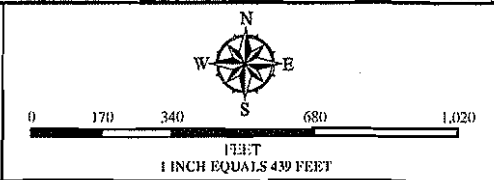
## 46000 Eleven Mile Road

### Legend

-  bike lane
-  sidewalk
-  sidewalk scheduled
-  sidewalk by developer
-  sidewalk CIP
-  mixed use path
-  I 275 Trail
-  Singh Trail
-  path by developer
-  path CIP
-  local sidewalk one side
-  local sidewalk both sides
-  Sidewalk End



**CITY OF NOVI**  
ENGINEERING DIVISION  
45175 W. TEN MILE ROAD  
NOVI, MI 48375  
(248) 347-0454  
WWW.CI.NOVI.MI.US



**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.



## Request for Variance Design and Construction Standards

### Applicant Information

Name: Jane Gardner  
Address: 46000 W. 11 MILE Rd  
NOVI MI 48374  
Phone No: [REDACTED]

### Engineer Information

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone No: \_\_\_\_\_

### Applicant Status (please check one):

- Property Owner       Developer       Developer / Owner Representative  
 Other \_\_\_\_\_

Project Name INSTALLATION OF SIDEWALK AT 46000 11 MILE  
Project Address/Location 46000 W. 11 MILE RD

Variance Request POSTPONE INSTALLATION OF SIDEWALK UNTIL ENTIRE  
Justification (attach additional pages if necessary) PROJECT READY FOR EXECUTION

SEE ATTACHED

### INTERNAL USE

Date Submitted: 1/25/07  
Code Section from which variance is sought: 11-276(b)  
Submittal Checklist:  Twelve (12) sets of plans (folded and to scale)  
 One (1) copy of plan on 8.5 x 11 size paper  
 \$100 Filing Fee

January 23, 2007

Novi City Council  
The City of Novi  
45175 West 10 Mile Rd.  
Novi, MI 48375

To whom it may concern,

I am formally submitting my request for a variance regarding city rules requiring all new home construction to include a new sidewalk on the property. We have recently moved into our new house at 46000 W. 11 Mile Road. Based on a \$2800 bond that we posted last May, the city awarded us a temporary occupancy permit pending a vote from the city granting this variance.

I support the construction of sidewalks generally, but do not see any benefit in adding 250 feet of sidewalk on our property at this time. Our neighbors on both sides will not have sidewalks for 10 years according to the city master plan, and completing the sidewalk in front of our house at this time will look piecemeal and will be detrimental to the appearance of the area. Further, there is a new sidewalk about 80% complete on the south side of 11 Mile which would appear to adequately serve this area. Finally, I believe a variance of this type was granted to Bryn Hartshorne at 46450 11 Mile and would hope for the same outcome regarding this situation as that residence was given.

By requesting this variance I would like to resolve this as soon as possible, and would request at this time to present this matter before the City Council.

Thank you for your consideration of this request.

Sincerely,



Jane Gardner  
46000 West 11 Mile Rd.  
Novi, MI 48374




# CITY OF NOVI - TREASURY

45175 West Ten Mile Road  
Novi, Michigan 48375-3024  
(248) 347-0440 FAX (248)735-5681

Receipt No. 11577

## RECEIPT

Date 05/18/06

JANE A GARDNER  
25858 ARCADIA DR  
NOVI MI 48374-2445

Check #	DESCRIPTION	AMOUNT
265	PROJECT: 46000 ELEVEN MILE RD ROW/SIDEWALK FIN. GUAR.	\$2,625.00
SW	701-000.00-284.127	TOTAL \$2,625.00

THANK YOU!

**Contract Proposal**

**Goretski Construction Company, Inc.**



4850 South Hill Road ◆ Milford, Michigan 48381 ◆ USA

Phone (248)-685-1404 Fax (248)-685-7620

May 17, 2006

Submitted to:

Jane Gardner

Phone:

248-360-6473

Attention:

Fax:

Address:

25858 Arcadia  
Novi, MI 48374

Project:

ROW Sidewalk

Job Location:

11 Mile

**ROW SIDEWALK IN FRONT OF NEW RESIDENCE  
BID FOR SUMMER 06 WORK**

<i>Description</i>	<i>Approximate Quantity</i>	<i>Units</i>	<i>Price/Unit</i>	<i>Total</i>
<b>ONSITE</b>				
4" CONCRETE SIDEWALK	750	SF	\$ 3.00	\$2,250.00
4" SAND SUBBASE PER DETAIL	750	SF	\$ 0.50	\$375.00

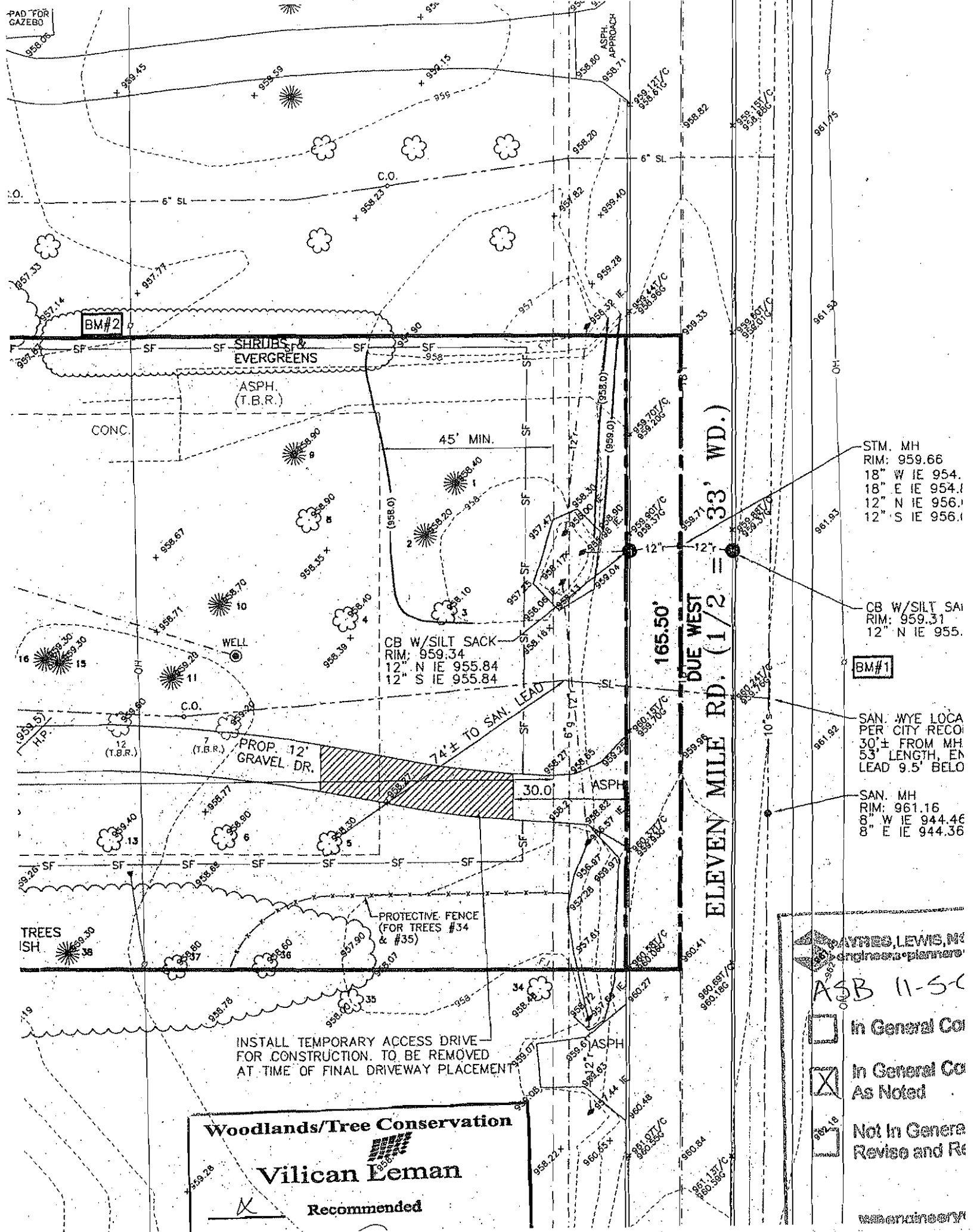
**TOTAL \$2,625.00**

This is the unit price quotation with quantities to be verified upon completion. The above price is based on ONE mobilization. Remobilizing will be an added \$2200.00 per move additional to the contract. The above price does not include permit fees, inspection fees, testing fees, survey staking, backfill of curb, sprinkler repair, restoration, winter protection, traffic control, hi-early concrete, dumpster pads, joint sealing, planter curbs, or any other major excavation. If you have any questions, please do not hesitate to call. Project to be within a tenth of a foot prior to mobilization of Goretski.

A 1% reduction in unit price will be applied if contract invoiced amount is paid within 30 days of first furnishing. A \$0.10 addition will be applied to each unit price if the invoice is not paid within 60 days. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made within 30 days from first furnishing. I have also read and agree to the conditions and exclusions above. We may withdraw this proposal if not accepted within 30 days. By signing the proposal you agree to the above contract, consent, and guarantee Goretski Construction to complete the scope of work outlined above.

Authorized Signature  
By: Jeffery Goretski C.E.  
Vice President

Authorized Accepting Signature  
By:



STM. MH  
 RIM: 959.66  
 18" W IE 954.  
 18" E IE 954.  
 12" N IE 956.  
 12" S IE 956.

CB W/SILT SACK  
 RIM: 959.31  
 12" N IE 955.

SAN. WYE LOCA  
 PER CITY RECO  
 30'± FROM MH  
 53' LENGTH, EN  
 LEAD 9.5' BELOW

SAN. MH  
 RIM: 961.16  
 8" W IE 944.46  
 8" E IE 944.36

WAYNES LEWIS, INC.  
 ENGINEERS/PLANNERS

ASB 11-5-C

In General Co

In General Co  
 As Noted

Not In Genera  
 Revise and Re

**Woodlands/Tree Conservation**

**Vilican Leman**

Recommended



January 26, 2007

RECEIVED BY  
ENGINEERING DIVISION  
JAN 29 2007  
CITY OF NOVI

30903 Northwestern Highway  
P.O. Box 3040  
Farmington Hills, MI 48333-3040  
Tel: 248-851-9500  
Fax: 248-851-2158  
www.secretwardle.com

Elizabeth M. Kudla  
Direct: 248-539-2846  
bkudla@secretwardle.com

Brian Coburn, Civil Engineer  
CITY OF NOVI  
45175 West Ten Mile Road  
Novi, Michigan 48375-3024

**Re: 46000 Eleven Mile  
Request for Variance from Design and Construction Standards  
Our File No. 55142.NOV**

Dear Mr. Coburn:

Our office has reviewed the proposed request for a variance from the City's design and construction standards which would permit the Property Owner to forgo construction of a sidewalk in front of his single family residence on Eleven Mile Road.

Section 11-10 of the Ordinance Code permits the City Council to grant a variance from the Design and Construction Standards with respect to proposed public improvements, such as a sidewalk, when the property owner shows all of the following:

- (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- (2) The alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and
- (3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

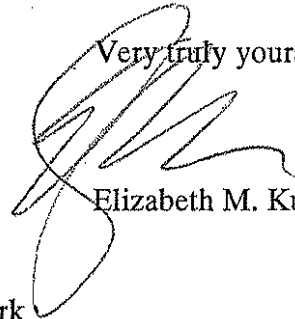
The Applicant has indicated that her neighbors on either side will not have sidewalks for 10 years according to the City Safety Path Plan. She has concerns that the installation would look piecemeal and would be detrimental to the appearance of the area. She asserts that other nearby sidewalks are adequate to serve the area. She points out that a similar variance was granted to a neighbor by the City.

In the event that City Council finds that the standards for a variance or waiver have been met, our office sees no legal impediment to granting the variance, subject to the condition that the Planning Department and Traffic Engineer have also reviewed and approved the proposed plan from an access and traffic safety standpoint.

It is our understanding that City Council may require the Applicant to post a bond to secure completion of the sidewalk in the future if the variance is granted. In addition, City Council should require the Applicant to grant the City a sidewalk easement which should be recorded at this time to ensure the City is able to gain access to install a sidewalk in the future, event if Applicant sells her property to others.

If you have any questions regarding the above, please call me.

Very truly yours,



Elizabeth M. Kudla

EMK

cc: Maryanne Cornelius, City Clerk  
Barb McBeth, Planning Director  
Benny McCusker, DPW Director  
Don Saven, Building Official  
Rob Hayes, City Engineer  
Ben Croy, Civil Engineer  
David Beschke, Landscape Architect  
Frank Smith, Fire Department  
Thomas R. Schultz, Esquire



## MEMORANDUM

TO: Brian Coburn, *PE*, Engineer

FROM: <sup>Baugh</sup> Barbara McBeth, *AICP*, Director of Planning

DATE: February 1, 2007

SUBJECT: **Design and Construction Standards Waiver Request  
46000 Eleven Mile**

---

This memo is sent in response to your request regarding the Planning Department's opinion of the request to eliminate a public sidewalk for the single family home located at 46000 Eleven Mile Road, between Taft and Beck Roads in Section 16.

The Planning Department cannot support the requested variance to eliminate the required public sidewalk for the following reasons:

- The Master Plan for Land Use provides a number of goals and recommendations. On page 119, one goal identifies the desire to interconnect the City's pedestrian and bicycle paths by continuing to enforce the Pathway Master Plan with new developments.
- The Bicycle and Pedestrian Master Plan (Figure 55 of the Master Plan for Land Use) recommends a 5 foot wide pathway along the north side of Eleven Mile Road, and an 8 foot wide pathway along south side of Eleven Mile Road in this area.
- The recently adopted Pathway and Sidewalk Prioritization Analysis and Process places this missing sidewalk segment at a rank of 47 out of the 122 segments identified. Please see the attached detail from the plan for proposed and existing sidewalks and pathways in the immediate vicinity of this request.
- Asbury Park subdivision is now under construction to the west of this property. Asbury Park has installed pathway connections within the subdivision, as well as along the Eleven Mile Road frontage, as recommended in the Master Plan.
- The Planning Department recommends that the applicant construct the pathway at this time to reduce the city's cost when pathways are budgeted for completion in this area.

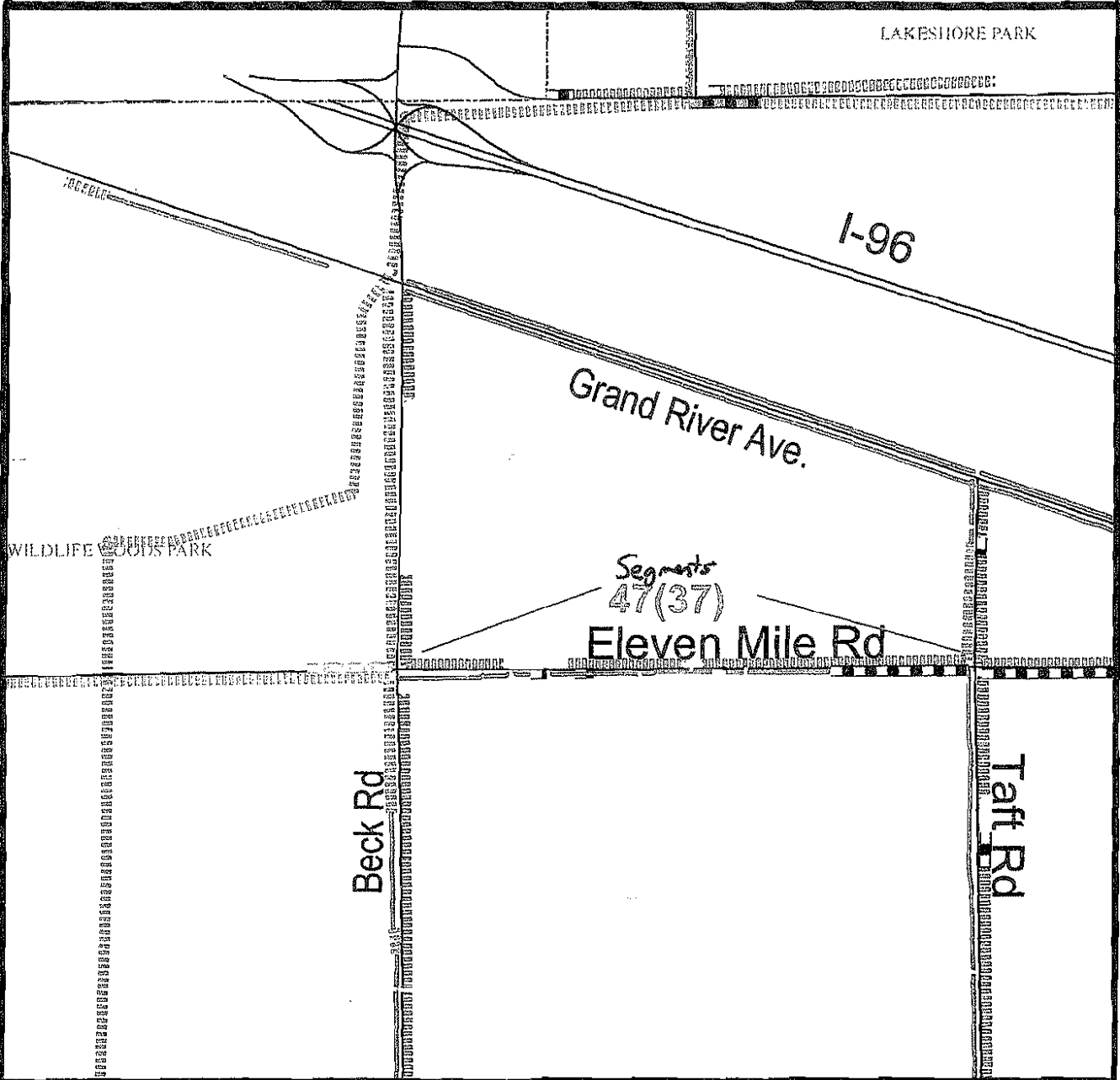
Attachment    Detail map from Pathway and Sidewalk Prioritization plan



# Sidewalks and Pathways

## Existing and Proposed North Side Eleven Mile Rd. - Beck to Taft Rds.

City of Novi, Michigan



### Legend

- I 275 Trail
- bike lane
- existing arterial sidewalk
- sidewalk scheduled 05/06
- sidewalk by developer
- sidewalk scheduled 06/07
- Top 20 Priority sidewalk
- scheduled Top 20 sidewalk
- existing pathway
- Singh Trail scheduled
- Top 20 Priority pathway
- pathway by developer
- scheduled Top 20 Priority pathway
- pathway scheduled 06/07
- local sidewalks one side
- local sidewalks both sides
- Other Proposed Sidewalk Segments
- Other Proposed Pathway Segments
- Proposed Regional Pathway Segments
- City Boundary

00 (000) = Rank (Segment No.)

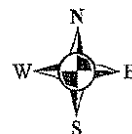
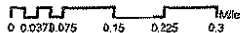
sidewalks and pathways by developer include all submitted projects that include required sidewalks or pathways

Created using the (SIB)  
Geographic Information  
System of:

The City of Novi  
45715-1100 Ten Mile Road  
Novi, Michigan 48226  
(248) 347-0454

Date Created:  
Feb. 1, 2007

Created by: Mark Spencer, AICP,  
Planner, Plan Review Center





## Memorandum

City of Novi  
Department of Public Works

**To:** Benny McCusker

**From:** Howard Aube

**Date:** February 1, 2007

**Subject:** Request for a Variance from Design & Construction  
46000 Eleven Mile Road

---

I have reviewed this request for a variance from the Design and Construction standard, and recommend the variance regarding the sidewalk installation be **Denied**.

The construction of sidewalks on a site by site bases will accelerate the over all completion of the City wide sidewalk system.