



CITY of NOVI CITY COUNCIL

www.cityofnovi.org

Agenda Item K
June 4, 2007

SUBJECT Approval of the request from Sean Hurwitz, D&S Construction, LLC, applicant for Brockdale Estates, for a variance from Section 11-276(a) that requires a sidewalk on both sides of public and private streets in unplatted areas of the City. The applicant is proposing a six-unit attached single family residential condominium using the City's One-Family Clustering Option to be located on the west side of Novi Road between Thirteen Mile and Fourteen Mile Roads.

SUBMITTING DEPARTMENT: Community Development – Planning ^{Placed by}

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

Brockdale Estates is a six-unit residential development proposed to be located on the west side of Novi Road, just south of the Hickory Woods Elementary School, between Thirteen Mile and Fourteen Mile Roads. The property is zoned R-4, One-Family Residential and the applicant has chosen to use the One-Family Cluster Option in order to preserve existing woodlands and wetlands on the property. The six units are proposed two groups: one group of four attached units on the west side of the site, and two attached units on the east side of the site. Preliminary Site Plan approval was granted by the Planning Commission on April 25, 2007, subject to certain conditions. The Zoning Board of Appeals approved a variance to permit a dead end driveway in excess of 150 feet without a cul-de-sac, subject to the applicant satisfying the Fire Marshal's request for sprinklers within the houses.

The request before City Council is a variance from Section 11-276(a) of the Design and Construction Standards, which requires sidewalks to be placed on both sides of all public and private roads. The applicant is requesting a variance to eliminate the sidewalk along the north side of the east/west entrance road that connects the development to Novi Road. Please see the attached small-size versions of the site plan illustrating the location of the walks. The six proposed homes are all located along a north/south private street, south of the proposed east/west entrance road. Sidewalks are proposed adjacent to the homes on both sides of the north/south street, and along the south side of the east/west road. Therefore, all homes would be directly connected to the pedestrian pathway adjacent to Novi Road via the sidewalk proposed within the development.

The Planning Division supports the variance for the sidewalk on the north side of the entrance road since the elimination of the sidewalk would assist in preserving natural features on the site, while providing a viable connection to the public walks on the south side of the road. A portion of the area on the north side of the development will be placed in a conservation easement, and will assist the applicant in achieving the minimum requirement for 50 percent open space under the One-Family Cluster Option (Section 2403). If the sidewalk is required, the applicant will need to find an equal amount of undisturbed open space on the site for preservation. The plan shows that 50.4 percent of the site is currently proposed to be placed in a conservation easement.

The Planning staff supports the waiver of the sidewalk since the development provides a pedestrian connection to the public walkways in Novi Road, and because the elimination of the sidewalk will assist in providing the flexibility to allow preservation of open space, as is the intent of the One-Family Cluster Option. The Building Official supported the variance and the other reviewers had no objections to the request. The City Attorney provided a letter dated May 14, providing guidance to the City Council in granting variances per Section 11-10 of the code.

RECOMMENDED ACTION: Approval of the request from Sean Hurwitz, D&S Construction, LLC, applicant for Brockdale Estates, for a variance from Section 11-276(a) that requires a sidewalk on both sides of public and private streets in unplatted areas of the City, since the following conditions are satisfied:

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.

	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				

Request for Variance



Request for Variance Design and Construction Standards

Applicant Information

Name: Sean Hurwitz / Brockdale Estates

Address: 3500 W. 11 Mile, Suite A

Berkley, MI 48072

Phone No: 248-584-4848

Engineer Information

Name: Rachid Hatem / Mickalich & Associates

Address: 2359 Avon Industrial Drive

Rochester Hills, MI 48309

Phone No: 248-852-1900

Applicant Status (please check one):

- Property Owner
 Developer
 Developer / Owner Representative
 Other _____

Project Name Brockdale Estates

Project Address/Location 280 New Ct. / Novi Road Between 13 & 14 Mile

Variance Request Eliminate sidewalk on North Side Entry Drive

Justification (attach additional pages if necessary)

Adding a sidewalk on the north side of entrance drive impacts the woodlands. Eliminating this walk reduces destruction of woodlands. South walk still provides access.

INTERNAL USE

Date Submitted: _____

Code Section from which variance is sought: SECTION 11-276(b) OF THE DCS

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

City Attorney Letter

May 14, 2007



May 14, 2007

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
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www.secretwardle.com

Elizabeth M. Kudla
Direct: 248-539-2846
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Benjamin Croy, Civil Engineer
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Brockdale Estates
Variance from Design and Construction Standards
Our File No. 55142 NOV**

Dear Mr. Croy:

We have reviewed the materials you forwarded with respect to the variance from the City's Design and Construction Standards requested by the Developer with respect to the Brockdale Estates residential development. The variance requested is from Section 11-276(b) of the Design and Construction Standards, which requires that pedestrian safety paths shall be placed across the arterial and collector street system frontage for all projects in accordance with the "Master Plan for Bicycle and Pedestrian Safety Paths," as well as at those locations specified in the City of Novi Subdivision Ordinance (Appendix C) and the City of Novi Zoning Ordinance (Appendix A).

Granting the variance would allow the Developer to forgo construction of the sidewalk proposed for the north side of the entry drive into the Development. The variance request is proposed for the purpose of saving existing woodlands that are within the boundaries of the proposed sidewalk. The Developer indicates that the sidewalk proposed on the south side of the entry drive provides adequate access to the Development.

Section 11-10 of the Ordinance Code provides the standard for granting variances from the City's Design and Construction Standards. For projects requiring site plan approval, the application for a variance must be made to City Council. Per Section 11-10, City Council may only grant a variance if all of the following conditions are satisfied:

- (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



PLANNING COMMISSION
REGULAR MEETING
EXCERPTS
WEDNESDAY, APRIL 25, 2007 7:00 PM
COUNCIL CHAMBERS - NOVI CIVIC CENTER
45175 W. TEN MILE, NOVI, MI 48375
(248) 347-0475

CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

ROLL CALL

Present: Members John Avdoulos, Brian Burke, Victor Cassis, Andrew Gutman (late), Michael Lynch, Mark Pehrson, Wayne Wrobel

Absent: Member David Lipski

Also Present: Barbara McBeth, Deputy Director of Community Development, Mark Spencer, Planner; Kristen Kapelanski, Planner; David Beschke, Landscape Architect; Ben Croy, Engineer; Kristin Kolb, City Attorney

2. BROCKDALE ESTATES, SP06-43B

The Public Hearing was opened on the request of D & S Contractors for Preliminary Site Plan with One-Family Cluster Option, Stormwater Management Plan, Wetland Permit, and Woodland Permit approval. The subject property is located in Section 3, west of Novi Road, between Thirteen Mile and Fourteen Mile, in the R-4, One Family Residential District. The subject property is 3.07 acres and the Applicant is proposing a six-unit attached one family residential development.

Planner Mark Spencer described the project. There are two buildings housing six units. Each unit is approximately 2,000 square feet. The site is south of Hickory Woods Elementary School. To the west are Single Family Residential homes. To the south is open space for Morgan Creek Estates. To the east are open space for the Maples of Novi and a small portion of the Maples. The properties to the east, west and the subject site are master planned for Single Family Residential. The north property is master planned for educational use. The south property is master planned as a private park.

The zoning of the site, and that to the north, west and south is R-4. To the east is R-A with a consent judgment. There are extensive wetlands on the site. The City's wetland map can always be improved upon by an on-site visit. The site is almost 100% within a regulated woodland. The site is a low-priority natural features habitat area.

Attached single family units are allowed in R-4, subject to a Planning Commission Finding that the proposed development meets the one family clustering option requirements of Section 2403 of the Zoning Ordinance. The clustering option may be used when the Planning Commission finds that the use of a conventional development technique would destroy the unique environmental significance of the site, and fifty percent or more of the site is regulated – woodlands or wetlands. Fifty percent of the quality regulated natural features must be preserved. This Applicant is saving more than fifty percent (50.04%) and will place a conservation easement on that land. The Applicant also proposes a low landscape wall along the perimeter of the area to be preserved, to prevent encroachment by homeowners. Mr. Spencer displayed a plan that showed the boundaries of this easement. There will be open space areas where the detention pond will be located, and there will be some common landscape areas too.

The intent of this option is to allow flexibility around natural features or to allow a transitional development. If single lots were designed for this site, more of the regulated woodlands could be cleared, and there could be more encroachment into the wetland buffer areas. The Planning Commission should find that this use provides a transition or preserves the environmental significance of the site. The site must be an unusual shape, or have unbuildable soils, or have severe topography, or have at least fifty percent coverage of natural features, the latter being the trigger for this site. The development must preserve at least 50% of the site in an undisturbed state. The Applicant has already submitted three sets of drawings for review.

The overall density of the development cannot exceed that which is permitted in the district. This site could yield 3.3 units per acre; the Applicant is proposing 1.96 units per acre. The attached dwellings meet the Ordinance requirements for maximum shared walls. The clusters must be of four or less units, be thirty feet from a private street or right-of-way, and 75 feet from the property line. There must be at least 75 feet between clusters. The design meets these requirements. The Applicant must submit an agreement for perpetually maintaining the open

space areas. The Applicant is required to provide a six foot berm adjacent to thoroughfares, though one is not designed along Novi Road. The Planning Commission may waive this requirement to preserve natural features. This waiver is supported by Staff, due to the slope along Novi Road, and the berm would require significant tree removal. It would probably encroach into the wetland.

The plan generally complies with the Zoning Ordinance. There is a 2,800 square foot encroachment into the 25-foot wetland setback with the detention pond. The Wetland Consultant recommends approvals of this plan, as the Applicant has worked with him on reducing this impact considerably.

The Applicant proposes private streets. The City requires that private drives in excess of 150 feet end in a cul-de-sac or T-turnaround. This street does not provide either feature. The street is about 180 feet long. The Fire Marshal supports the design if the homes are equipped with NFPA 13D fire suppression sprinkler systems. The Applicant has agreed to do so. The Staff supports this request because the excess drive length is minimal and the turnaround would just encroach the woodlands more so.

The proposal will not generate much traffic – about sixty trips per day. Additional road improvements on Novi Road will not be required because of the low traffic yield. The entrance requires a Same Side Driveway Spacing Waiver of eleven feet, and an Opposite Side Driveway Spacing Waiver of five feet. The Engineering Department and the Traffic Consultant support these waivers due to the location of the natural features on the site. The chosen location is the only practical spot due to the natural features.

The City requires sidewalks on both sides of streets. The Applicant has provided this within the site but not on the north side of the entrance street – he is seeking a City Council Waiver. Staff supports the request in order to preserve natural features. The residents would be well-served by the south-side sidewalk anyway.

The proposed elevations contain as much as 39% asphalt shingles. The peaked roofs are residential in nature. One elevation provides 16% wood trim, which exceeds the permitted amount for Region One. The Façade Consultant supports this design as the buildings are compatible with the surrounding area.

There are minor items to be addressed at the time of Final Site Plan submittal. The Applicant has agreed to make these changes. The plan is therefore recommended for approval, with the items mentioned in the provided motion sheet.

Al Valentine from GAV Associates architecture firm addressed the Planning Commission. They have worked hard over the last sixteen months to address the Staff's concerns. The waivers are for minor items. He didn't think there was much more that could be addressed.

Mr. Valentine said the 2,000 square-foot homes would each have two- or three-car garages. Half of the site will be developed. The six units will sit on 1.5 acres.

No one in the audience wished to speak. Member Pehrson read the correspondence into the record:

- Ernesto J. Smith, 31116 Centennial Drive: Approved of the plan.
- James Remijan, 41677 Magnolia Court: Objected because City taxes go up, traffic increases, and the City doesn't need that.
- Dolores Kaschalk, 31044 Silverdale: Objected because condos are not needed, it is too close to the school, and traffic and visibility would be negatively impacted.
- Shirley Anne Wahlstrom, 41814 Independence: Objected because the area is overbuilt with this type of construction. Property values cannot be maintained. The elementary school is overcrowded.
- Donna Melton, 30662 Vine Court: Objected because there is a glut of condos and this would drop the area's property value.
- Barbara Hanshaw, 41865 Canterbury: Objected because there is already too much development. She felt the natural features make Novi what it is today.
- Phyllis Abbott, 31187 Livingston Drive: Objected because there are too many condos already.
- Brian Truba, 41891 Canterbury: Objected because the plan does meet Section 2514.b.3 of the Ordinance.

- Property values will decline and there's too many condos in the area.
- Barbara Miller, 41794 Independence: Objected because there are too many condos, and the glut will affect property values.
- Gary Haf, 41677 Juniper: Objected because there are too many condos and land should be preserved.
- Mary Kay McEachin, 30877 Jasper Ridge: Objected to more residential because it affects property values.

Chair Cassis closed the Public Hearing.

Member Avdoulos noted that the Applicant has been working with the City on this plan. He felt the plan met the intent of the clustering option. The natural features allow for this option to be used and although the site is not unusually shaped, the woodland shape creates a "U." There isn't severe topography other than the wetlands. The Applicant has tried to contain the detention on the site. The Fire Marshal will accept the design with the inclusion of the NFPA sprinkler systems installed. A lot has gone into this project. The homes are not sized super-extraordinarily, and they are pleasant looking. They are situated in such a way that they won't be that noticeable. They do not front Novi Road. The road leads into the site. The Applicant has done a nice job working with this cluster option. Staff supporting some of the waiver requests will aid in making this site work well and is appropriate.

Moved by Member Avdoulos, seconded by Member Wrobel:

In the matter of Brockdale Estates, SP06-43B, motion to approve the Preliminary Site Plan subject to:

- 1) A Planning Commission Finding that the proposed development qualifies to use the One-Family Cluster Option because the site is almost entirely regulated woodlands and a substantial portion of the site contains regulated wetlands and if the site was developed for detached single-family homes it is likely that, in order to produce the required minimum 10,000 square foot lots, grading would extend close to the edge of the wetlands, some wetlands would likely be filled and additional woodland impact would occur;**
- 2) A Planning Commission Finding that the proposed development meets the One-Family Clustering Option requirements outlined in Section 2403 with minor corrections to be addressed on the Final Site Plan;**
- 3) The Applicant obtaining a ZBA Variance to permit a dead end corridor over 150 feet without an approved turn-around or cul-de-sac provided that all units are sprinkled to NFPA 13 requirements and the Applicant has indicated this stipulation in the response letter, and the Fire Marshal wants this listed on the prints;**
- 4) The Applicant providing a sidewalk on the north side of the entrance street or obtaining a City Council Variance to eliminate requirement, as the City Staff has supported this request for a Variance in order to save the natural features on the north side;**
- 5) A Planning Commission Finding that the proposed wetland buffer encroachment is acceptable;**
- 6) A Planning Commission Waiver of the right-of-way landscape berm requirement, as supported by the City's Landscape Architect;**
- 7) The Planning Commission granting a Same Side Driveway Spacing Waiver of 11 feet;**
- 8) The Planning Commission granting an Opposite Side Driveway Spacing Waiver of five feet;**
- 9) A Planning Commission Section 9 Waiver to permit an excess amount of wood trim - up to 16%, and asphalt shingles - up to 39%, as proposed, as supported by the City's Façade Consultant;**
- and 10) The conditions and items listed in the Staff and Consultant review letters being addressed on the Final Site Plan; for the reason that the plan meets the intent of the Zoning Ordinance.**

DISCUSSION

Chair Cassis complimented the Staff for working with the Applicant on the cluster option. It works well for this sensitive area. The Applicant has captured the right way to align the buildings. The natural features are being preserved. He felt this project would meet with its own success.

Member Meyer felt the key was saving the natural features. He thanked Mr. Spencer for his presentation regarding the preservation area. He thought the plan represented sixteen months of productive work.

ROLL CALL VOTE ON BROCKDALE ESTATES, SP06-43B, PRELIMINARY SITE PLAN MOTION MADE BY MEMBER AVDOULOS AND SECONDED BY MEMBER WROBEL:

In the matter of Brockdale Estates, SP06-43B, motion to approve the Preliminary Site Plan subject to:

1) A Planning Commission Finding that the proposed development qualifies to use the One-Family Cluster Option because the site is almost entirely regulated woodlands and a substantial portion of the site contains regulated wetlands and if the site was developed for detached single-family homes it is likely that, in order to produce the required minimum 10,000 square foot lots, grading would extend close to the edge of the wetlands, some wetlands would likely be filled and additional woodland impact would occur; 2) A Planning Commission Finding that the proposed development meets the One-Family Clustering Option requirements outlined in Section 2403 with minor corrections to be addressed on the Final Site Plan; 3) The Applicant obtaining a ZBA Variance to permit a dead end corridor over 150 feet without an approved turn-around or cul-de-sac provided that all units are sprinkled to NFPA 13 requirements and the Applicant has indicated this stipulation in the response letter, and the Fire Marshal wants this listed on the prints; 4) The Applicant providing a sidewalk on the north side of the entrance street or obtaining a City Council Variance to eliminate requirement, as the City Staff has supported this request for a Variance in order to save the natural features on the north side; 5) A Planning Commission Finding that the proposed wetland buffer encroachment is acceptable; 6) A Planning Commission Waiver of the right-of-way landscape berm requirement, as supported by the City's Landscape Architect; 7) The Planning Commission granting a Same Side Driveway Spacing Waiver of 11 feet; 8) The Planning Commission granting an Opposite Side Driveway Spacing Waiver of five feet; 9) A Planning Commission Section 9 Waiver to permit an excess amount of wood trim - up to 16%, and asphalt shingles - up to 39%, as proposed, as supported by the City's Façade Consultant; and 10) The conditions and items listed in the Staff and Consultant review letters being addressed on the Final Site Plan; for the reason that the plan meets the intent of the Zoning Ordinance. *Motion carried 8-0.*

Moved by Member Avdoulos, seconded by Member Wrobel:

ROLL CALL VOTE ON BROCKDALE ESTATES, SP06-43B, WETLAND PERMIT MOTION MADE BY MEMBER AVDOULOS AND SECONDED BY MEMBER WROBEL:

In the matter of Brockdale Estates, SP06-43B, motion to approve the Wetland Permit subject to the conditions and items listed in the Staff and Consultant review letters being addressed on the Final Site Plan, for the reason that the plan meets the intent of the Ordinance. *Motion carried 8-0.*

Moved by Member Avdoulos, seconded by Member Wrobel:

ROLL CALL VOTE ON BROCKDALE ESTATES, SP06-43B, WOODLAND PERMIT MOTION MADE BY MEMBER AVDOULOS AND SECONDED BY MEMBER WROBEL:

In the matter of Brockdale Estates, SP06-43B, motion to approve the Woodland Permit subject to the conditions and items listed in the Staff and Consultant review letters being addressed on the Final Site Plan, for the reason that the plan meets the intent of the Ordinance. *Motion carried 8-0.*

Moved by Member Avdoulos, seconded by Member Wrobel:

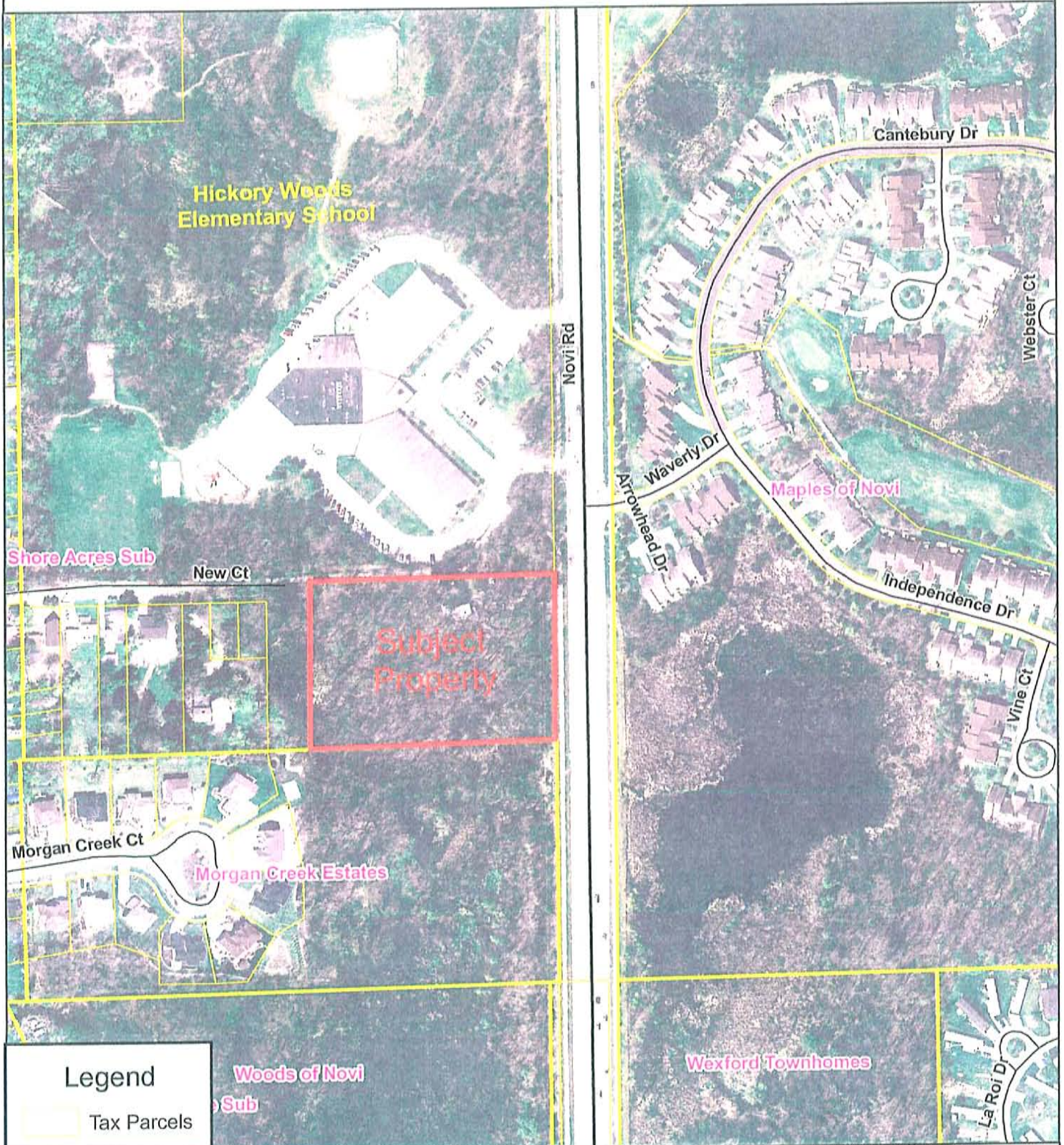
ROLL CALL VOTE ON BROCKDALE ESTATES, SP06-43B, STORMWATER MANAGEMENT PLAN MOTION MADE BY MEMBER AVDOULOS AND SECONDED BY MEMBER WROBEL:

In the matter of Brockdale Estates, SP06-43B, motion to approve the Stormwater Management Plan subject to the conditions and items listed in the Staff and Consultant review letters being addressed on the Final Site Plan, for the reason that the plan meets the intent of the Ordinance. *Motion carried 8-0.*

Location Map

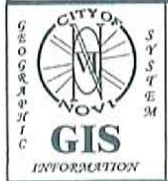
Brockdale Estates

Location Map



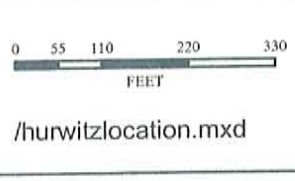
Legend

Tax Parcels



CITY OF NOVI PLAN REVIEW CENTER

Created by Mark Spencer
 6/9/06
 NOVI PLANNING DEPARTMENT
 45175 W. TEN MILE ROAD
 NOVI, MI 48375-3024
 (248) 347-0475
 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.

Reduced Site Plans

SHEET TITLE	LANDSCAPE PLAN
SHEET NO.	LD-2
DATE	
SCALE	AS SHOWN
PROJECT	PROPOSED CLUBSTER HOUSING CONDOS
OWNER	NOVI, MICHIGAN
DESIGNER	D&S CONTRACTORS, INC.
DATE	07/14/2016

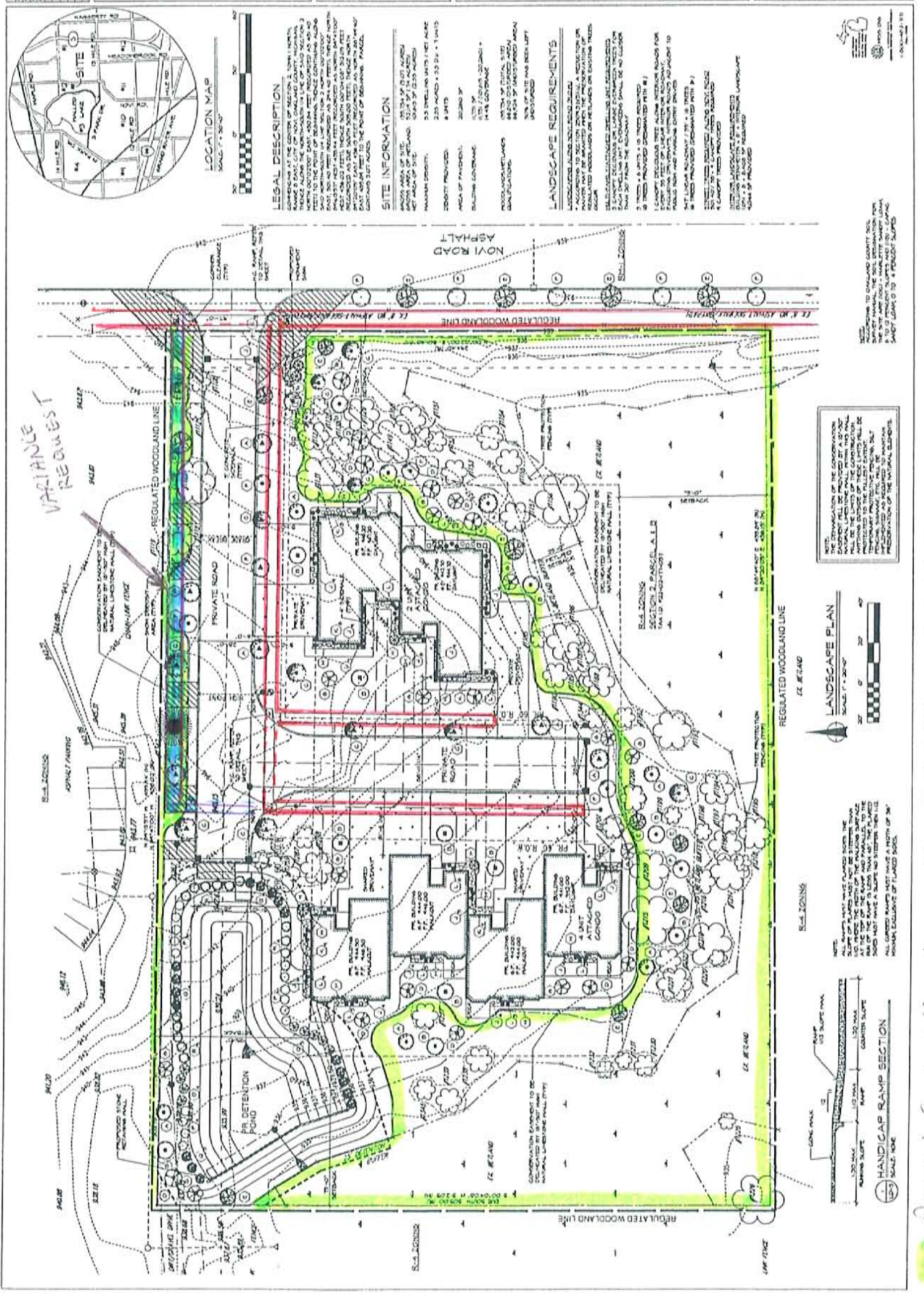
ARCHITECTURAL DESIGN
RESIDENTIAL COMMERCIAL HOUSING
123 W MAIN ST. SUITE 100
NOVI, MI 48240
TEL: 248-264-8420



D&S CONTRACTORS, INC.
123 W MAIN ST. SUITE 100
NOVI, MI 48240
TEL: 248-264-8420

PROPOSED CLUBSTER HOUSING CONDOS
SECTION 13 PARCEL A & B
NOVI ROAD
NOVI, MICHIGAN

DATE	07/14/2016
DRAWN BY	AY
CHECKED BY	
SCALE	AS SHOWN
FILE NAME	LANDSCAPE PLAN
SHEET #	LD-2



LANDSCAPE PLAN
SCALE: AS SHOWN
FILE NAME: LANDSCAPE PLAN

VARIANCE REQUEST

THE DEVIATION OF THE COMBINATION... (Note regarding regulatory requirements)

LANDSCAPE PLAN
SCALE: 1" = 20'

NOTE: ALL SLOPES MUST HAVE PLANTED SOIL... (Notes regarding slope stability and planting)

HANDICAP RAMP SECTION
SCALE: 1" = 10'

PROPOSED CONSERVATION EASIMENT = EXISTING PATH & PROPOSED SIDE WALK
LOCATION OF REGISTERED WALKWAY