



CITY of NOVI CITY COUNCIL

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**Agenda Item 1
October 8, 2007**

SUBJECT: Consideration of a request from Northern Equities Group, applicant for Haggerty Corridor Corporate Park - Phase II, for variances from Section 11-276(b) of the Design and Construction Standards requiring safety paths to be placed along the frontage of the arterial and collector street system in accordance with the Bicycle & Pedestrian Master Plan, to: 1) eliminate a portion of the safety path along the applicant's Haggerty Road frontage; and, 2) eliminate a portion of the safety path along the applicant's Thirteen Mile Road frontage.

SUBMITTING DEPARTMENT: Engineering 

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

Northern Equities Group, applicant for Haggerty Corridor Corporate Park Phase II, is requesting two variances associated with a proposed OST development to be located north of Thirteen Mile Road and west of Haggerty Road. The two variance requests, a site location map and the general site plan for the development are attached to provide additional background information. Also included is a letter submitted to Northern Equities outlining additional pathway requirements that the Administration is recommending should a variance(s) be granted.

Last February, City Council granted Northern Equities a variance to postpone construction of pedestrian paths in Phase II along the proposed Cabot and MacKenzie Drives, and instead allow path construction to occur as individual lots are developed. These current variance requests are being made now because the applicant is nearing completion of revisions to the Final Site Plan for Phase II.

Variance 1: Haggerty Road Frontage

The first request is for a variance from Section 11-276(b) of the Design and Construction Standards and entails the elimination of approximately 1,599 feet of 5-foot wide pedestrian safety path along a portion of the Haggerty Road frontage of this development. In lieu of the required path, Northern Equities proposes to: 1) construct paths along gaps currently existing in Phase I of the Haggerty Corridor Corporate Park (south of 13 Mile Road) that generally correspond to areas in Phase I with wetlands, detention basins and overhead power lines; and, 2) construct a 2,518' unpaved "nature path" along the edge of the on-site wetland system in Phase II between Haggerty and the proposed Cabot Drive in a southwesterly direction (labeled "Alternate On-Site Path" on the attached figure).

The Planning Division's preference would be that the applicant construct the Haggerty Road pathway/boardwalk in order to meet the standards of the Bicycle & Pedestrian Master Plan. However, if a variance is granted, the applicant's alternate pathway location would be an acceptable alternative (see Karen Reinowski memorandum dated October 2, 2007). The Engineering Department recognizes that the request does not meet the minimum standards of the Design and Construction Standards; however, to facilitate construction where difficult conditions or safety concerns exist, Engineering would allow a paved path along the alignment Northern Equities has proposed outside of the Haggerty Road right-of-way within an easement. The City Attorney refers to the Planning and Engineering Department reviews; and the Fire Department, Landscape Architect, DPW and Building Division have no objections to the request.

Variance 2: Thirteen Mile Road Frontage

The second request is also for a variance from Section 11-276(b) of the Design and Construction Standards, which requires safety paths to be placed along the frontage of the arterial and collector street system in accordance with the Bicycle & Pedestrian Master Plan. The variance requested is to eliminate the construction of approximately 557 feet of 5-foot wide pedestrian safety path along a portion of the development’s Thirteen Mile Road frontage. In lieu of the required path, Northern Equities proposes to construct paths along gaps in Phase I of the Haggerty Corridor Corporate Park and the unpaved “nature path” along the Phase II wetland system as discussed above for the Haggerty Road variance.

Similar to the Haggerty Road variance request, the Planning Division’s preference would be that the applicant construct the Thirteen Mile Road pathway in order to meet the standards of the Bicycle & Pedestrian Master Plan. However, if a variance is granted, it is recommended that an alternate public-accessible pathway be constructed to maintain access across 13 Mile Road by providing a pathway from Cabot Drive to the northeast corner of the 13 Mile/M-5 intersection (an approximate 2,000’ pathway labeled “Additional City-Recommended Path” on the attached figure, and as referenced in Karen Reinowski’s memorandum dated October 2, 2007). The Engineering Department realizes that this request does not meet the minimum standards of the Design and Construction Standards; however, to facilitate construction where difficult conditions or safety concerns exist, Engineering concurs with the Planning Division that a paved pathway west of Cabot to the M-5/Thirteen Mile intersection, continuing the alternate path proposed in Variance 1, would be an acceptable alternate. Like the alternate pathway associated with the Haggerty variance request, this pathway would be outside of the right-of-way and within an easement. The City Attorney refers to the Planning and Engineering Department reviews; and the Fire Department, Landscape Architect, DPW and Building Division have no objections to the request.

As part of both of these requests, Northern Equities proposes to contribute \$25,831.05 toward public pathway construction elsewhere in the City.

In accordance with Section 11-10 of the Ordinance, the following three conditions must be met for a variance to be granted by Council:

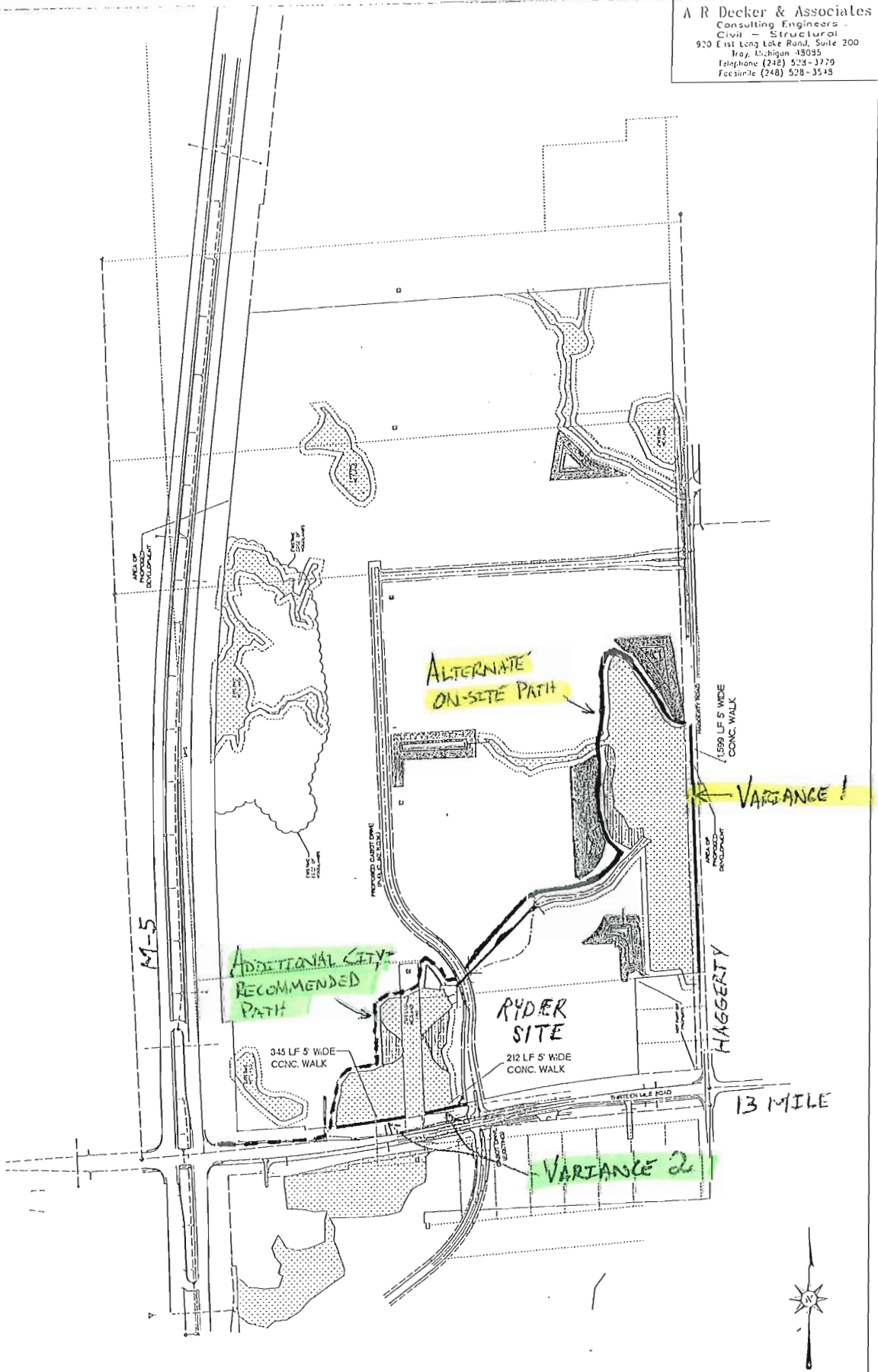
- 1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- 2) The alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict 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.

RECOMMENDED ACTION: Consideration of a request from Northern Equities Group, applicant for Haggerty Corridor Corporate Park - Phase II, for variances from Section 11-276(b) of the Design and Construction Standards requiring safety paths to be placed along the frontage of the arterial and collector street system in accordance with the Bicycle & Pedestrian Master Plan, to: 1) eliminate a portion of the safety path along the applicant’s Haggerty Road frontage; and, 2) eliminate a portion of the safety path along the applicant’s Thirteen Mile Road frontage.

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

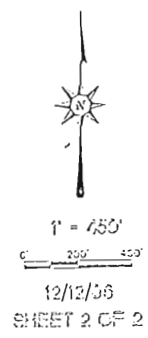
	1	2	Y	N
Council Member Mutch				
Council Member Nagy				
Council Member Paul				

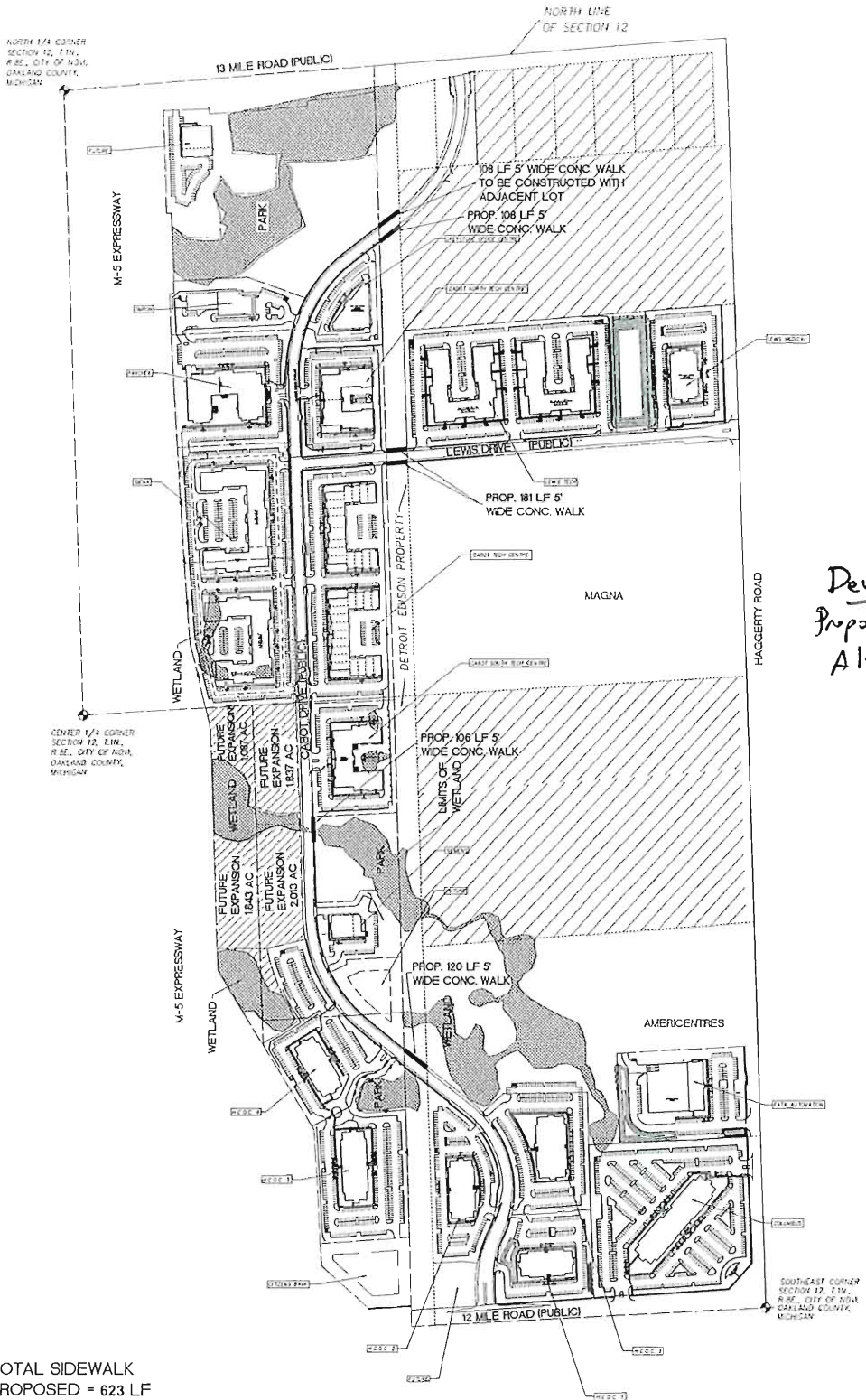
A R Decker & Associates
 Consulting Engineers
 Civil - Structural
 920 East Long Lake Road, Suite 200
 Troy, Michigan 48065
 Telephone (248) 528-3779
 Facsimile (248) 528-3548



TOTAL SIDEWALK NOT TO BE CONSTRUCTED = 2,156 LF

HAGGERTY CORRIDOR CORPORATE PARK PHASE I
 A NORTHERN EQUITIES
 GROUP DEVELOPMENT





*Developer
 Proposal for
 Alternate 2*

TOTAL SIDEWALK
 PROPOSED = 623 LF

HAGGERTY CORRIDOR CORPORATE PARK PHASE I
 A NORTHERN EQUITIES
 GROUP DEVELOPMENT



VIA HAND DELIVERY

July 26, 2007

Barbara McBeth
City of Novi
45175 W. Ten Mile Rd.
Novi, Michigan 48375-3024



NORTHERN
EQUITIES
GROUP

39000 COUNTRY CLUB DRIVE
FARMINGTON HILLS, MI 48331
(248) 848-6400 FAX (248) 848-6700

Re: Haggerty Corridor Corporate Park Phase II
Site Plan # 06-41
Sidewalk Variance

Dear Barbara:

On November 29th, Northern Equities Group received Preliminary Site Plan Approval for second phase of the Haggerty Corridor Corporate Park; more specifically, the Roads and Utilities. The Park will be a continuation of the public/private partnership that Northern Equities Group and the City of Novi have developed over the last decade. The first phase of the Park has been an enormous success, both from an economic and a community relationship perspective. We are very proud of our efforts to make the Park and Novi a hub of international and domestic research and development in Oakland County and south-eastern Michigan.

The site plan approval was subject to the receipt of a Design and Construction Standards Waiver related to sidewalk issues. As such, we are requesting the following waivers:

1. Sidewalks Along 13 Mile Road. Our property line along 13 Mile Road runs from the M5 Freeway to just west of Haggerty Road. Portions of this property line are part of buildable lots, upon which sidewalks will be constructed at the time buildings are developed. Approximately 544 feet of this property line is not buildable, and as such, we are required to construct sidewalks as part of the development of the Roads and Utilities. However, both the Seeley Drain and the large grade difference created by the raising of 13 Mile as it approaches M5 make the installation of sidewalks almost impossible. More importantly, a sidewalk in this location would be unsafe, given that the sidewalks would be constructed on a cliff approximately 15 feet above the wetland below.

Variance Requested – Waiver of requirement to construct 557 feet of sidewalk.

2. Sidewalks Along Haggerty Road. The first phase of the HCCP Phase II Roads and Utilities contains approximately 2,200 feet of frontage on Haggerty Road. As above, portions of this frontage are contained within buildable lots and sidewalks for those lots will be constructed at the time of the building's development.

Approximately 1,600 feet of this frontage is not buildable, and as such, we are required to construct sidewalks as part of the development of the Roads and Utilities. However, the majority of this frontage along Haggerty Road, south of McKenzie, is part of the Seeley Drain. The environmental impact of any sidewalk construction far outweighs any benefits that they would bring. It should be noted that across the street, where there are no wetland impacts, a sidewalk has been constructed and can be easily used by people wanting to go north or south on Haggerty Road.

There are lights and walk/don't walk signals at 13 Mile Road and 14 Mile Road to allow easy and safe crossings (any Novi resident wanting to use the boardwalk would be coming from either 13 or 14 Mile Road). Besides the environmental impacts, which would be significant, any sidewalk constructed would be subject to MDEQ and Drain Commission jurisdiction and there is little likelihood of receiving a permit. Furthermore, any board would need to be placed very close to the pavement of Haggerty Road. Currently, there is very little shoulder between the pavement and the start of the wetlands. As we all know, in the not too distant future, Haggerty Road will be widened and with that work, the boardwalk would be significantly disturbed, if not totally removed.

Variance Requested – Waiver of requirement to construct 1,599 feet of sidewalk.

3. Sidewalks within the Park, along Cabot and McKenzie Drives. The first phase of the HCCP Phase II Roads and Utilities contain almost 4,000 feet of pavement. The majority of the roadway is adjacent to buildable sites. While the ordinance requires that the internal sidewalks be constructed as part of the development of the roads, we would request that this requirement be postponed until the individual lots are developed. The risk of damage to the sidewalks is very high given the construction which will take place in the future. In addition, we would be cutting the sidewalks for driveways and portions would need to be removed and replaced if the grades we pick for the sidewalks now do not work with the future development.

Variance granted in February 2007

Variance Requested – Postponement of requirement to construct sidewalks within the Park, along the roads, until development of each individual lot.

In consideration of the requested variances, Northern Equities Group would like to propose the following:

1. In lieu of constructing the sidewalks on 13 Mile and Haggerty Roads, we will construct, at our cost, 623 feet of sidewalk in the Haggerty Corridor Corporate Park, Phase I. This will fill in the gaps created by the power lines, detention basins and other non-buildable areas adjacent to the Cabot and Lewis Drives. We are aware that there is no ordinance requirement to construct these sidewalks, but we recognize that they are an asset to both the City and the Park. We see our tenant's using the internal sidewalk all the time during the spring and summer.
2. Northern Equities Group will construct a nature path along the route shown on the attached Exhibit A. The path, 2,518 feet long, will be made of gravel with a binding agent added to lock the base in place. The path will connect the sidewalks on the Ryder site with the sidewalks along McKenzie.
3. In addition, we would contribute to the City \$25,831.05, equal to 1,533 feet multiplied by a width of 5 feet, multiplied by \$3.37, the cost per square foot to build the sidewalks (the price is from an installation of sidewalks completed within the last two weeks in the City). This money can be used by the City to fill in sidewalk gaps throughout the City as directed by the appropriate committee or administrative personnel.

As we discussed, to the extent the City Council does not grant the waivers requested above, the necessary approvals and permits will be sought to construct the required sidewalks and or boardwalks.

Sincerely,

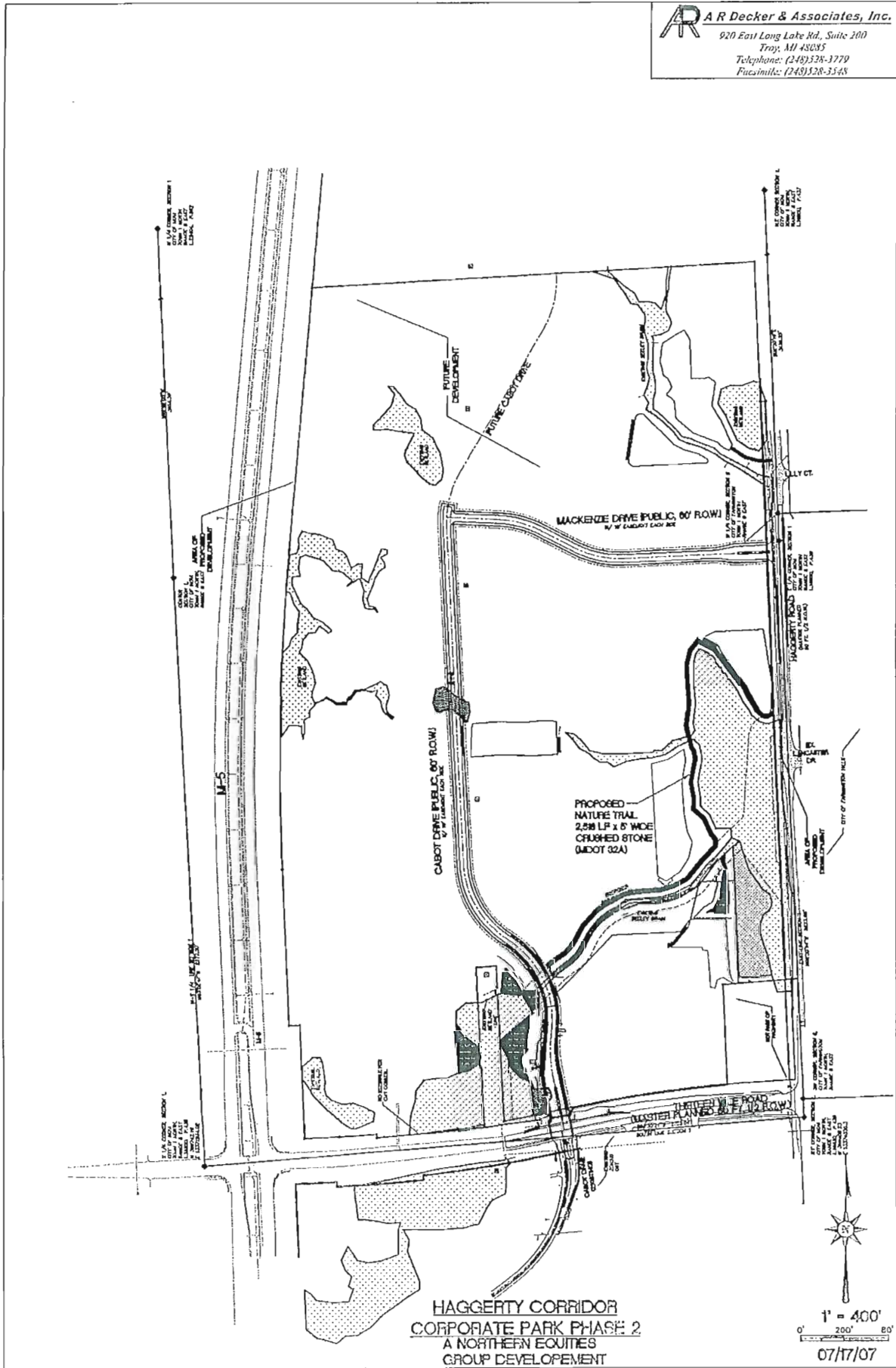
A handwritten signature in cursive script that reads "Matthew S. Sosin /gc". The signature is written in black ink and is positioned to the right of the typed name.

Matthew S. Sosin
Vice President

Attachment

EXHIBIT "A" - NATURE PATH ROUTE

A R Decker & Associates, Inc.
 920 East Long Lake Rd., Suite 200
 Troy, NJ 08645
 Telephone: (248)528-1779
 Facsimile: (248)528-3348



**HAGGERTY CORRIDOR
 CORPORATE PARK PHASE 2
 A NORTHERN EQUITIES
 GROUP DEVELOPMENT**

1" = 400'
 0' 200' 400'
 07/17/07



Mr. Matthew S. Sosin
Vice President
Northern Equities Group
39000 Country Club Drive
Farmington Hills, Michigan 48331

October 1, 2007

CITY COUNCIL

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Kim Capello

Bob Gatt

Terry K. Margolis

Andrew Mutch

Toni Nagy

Lynne Paul

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Clay J. Pearson

City Clerk
Maryanne Cornelius

Dear Mr. Sosin:

We have reviewed the proposal to provide a pathway within the interior of Haggerty Corridor Corporate Park Phase II, in lieu of the sidewalk/boardwalk system along 13 Mile Road and Haggerty Road that would be required to meet the standard of Chapter 11 of the City Code (Design and Construction Standards), Section 11-276(b).

If a waiver of the 13 Mile Road and Haggerty Road pathways is granted, it is critical to provide an alternate pedestrian access to eliminate any potential gaps in the system. Upon further review of the proposed alternative, a pathway system within Haggerty Corridor Corporate Park, it was determined that additional elements are necessary to provide pedestrians appropriate access. Therefore, we request the following items be addressed as part of a revised pathway plan to be considered by the City Council for review of the waiver requests:

- Consider installing a pathway from the western site boundary, around the wetland, to Cabot Drive. This path would provide continuous access across 13 Mile Road from M-5 to the eastern boundary of the Haggerty Corridor Corporate Park.
- All pathways must be 5' in width to meet the standards of the Bicycle and Pedestrian Master Plan, paved per the Design and Construction standards, designed with appropriate grades, and meet all applicable Michigan barrier-free regulations.
- The pathway must be installed outside of the wetland buffer, and must be included within a sidewalk easement.
- Woodlands and/or MDEQ permits may need to be secured.
- Wayfinding signs clearly identifying the internal pathway system and where it leads must be provided at pathway ends along the major roads to effectively guide pedestrians.
- If City Council approves the waiver and this alternate plan, detailed plans would need to be provided.

45175 W. Ten Mile
Novi, MI 48375
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"Enhancing Novi's quality of life"



CITY COUNCIL

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The waiver request will be on the City Council's October 8, 2007, agenda. Following your review of these pathway system modifications, please contact us to discuss this proposal. Also, please provide a written response by Wednesday, October 3rd, at noon, which will be included in the packet to City Council. A pathway developed as part of the Haggerty Corridor Corporate Park II would benefit both the general public and the owners within Haggerty Corridor Corporate Park Phase II.

Sincerely,

Karen F. Reinowski, AICP, PCP
Planner, City of Novi

Benjamin Croy, P.E.
Civil Engineer, City of Novi

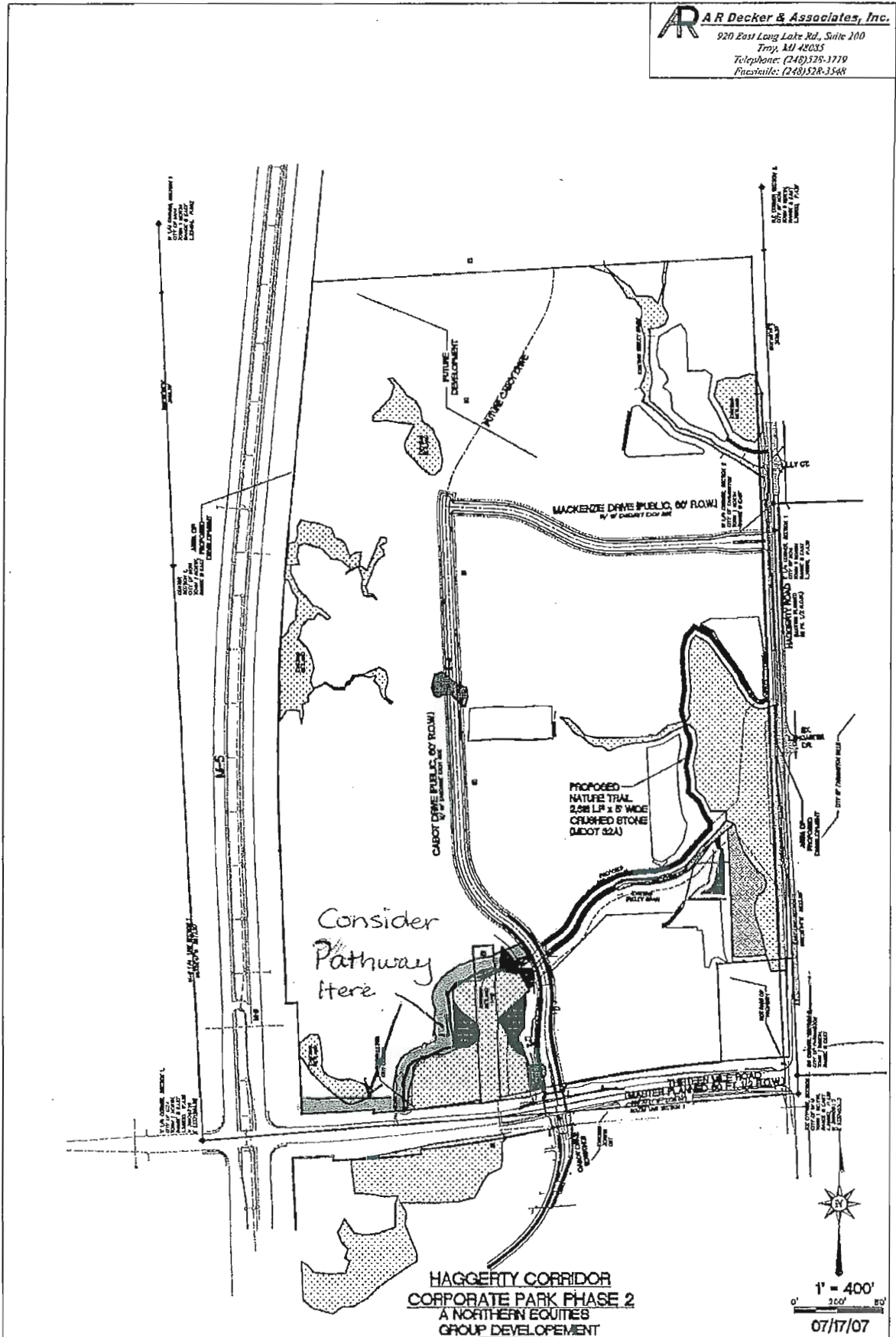
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**HAGGERTY CORRIDOR
 CORPORATE PARK PHASE 2
 A NORTHERN EQUITIES
 GROUP DEVELOPMENT**

1" = 400'
 0' 200' 400'
 07/17/07



August 9, 2007

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Fax: 248-851-2158
www.secretwardle.com

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

Barbara McBeth, Deputy Community Development Director
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Haggerty Corridor Corporate Park II
Variances from Design and Construction Standards
Our File No. 55142.NOV**

Dear Ms. McBeth:

We have reviewed the materials you forwarded with respect to three variances from the City's Design and Construction Standards that Northern Equities Group has requested with respect to the Haggerty Corridor Corporate Park II Development. The variances requested are from Chapter 11 of the City of Novi Code of Ordinances requiring the construction of pedestrian safety paths 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).

The first variance the Applicant is requesting is to receive a waiver from constructing 557 feet of pedestrian safety path along 13 Mile, and, instead, be permitted to construct the safety path within Haggerty Corridor Corporate Park I, to close gaps between detention basins and other non-buildable areas within the project.

The Applicant requests the variance based on the assertion that the Seeley Drain and a large grade difference created by the raising of Thirteen Mile Road as it approaches M-5 make the installation of the sidewalk almost impossible, and may create a dangerous safety path due to a 15-foot drop to the wetland below.

The second variance the Applicant is requesting is to receive a waiver from constructing a pedestrian safety path along 1,599 feet of the Applicant's Haggerty Road frontage. The Applicant is requesting the variance because the area is within the Seeley Drain and the Applicant asserts that it would cause a negative environmental impact and that it would likely be objectionable to the MDEQ and OCDC. Additionally, the Applicant indicates that there is not enough space to construct a boardwalk, and, further, any boardwalks would likely be damaged or removed if Haggerty Road is widened.

Alternatively, the Applicant would like to construct a 2,518 foot nature path in another part of the City, and to contribute \$25,832.05 to the City to construct pedestrian safety paths in other areas of the City.

Finally, the Applicant has requested a variance from Chapter 11 of the Code to permit the construction of sections of a pedestrian safety path within the Haggerty Corridor Corporate Park II Development at the time of development of each individual lot in order to prevent damage to the safety path due to on-going construction and to avoid changes due to grade changes.

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, 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.

Applicant indicates that this request meets the requirements for an exception and/or a variance under the ordinance. In the event that City Council finds that the standards for a variance or exception have been met, our office sees no legal impediment to granting the variance or exception, subject to the condition that the Planning Department, the Fire Department and City Engineer have also reviewed and approved the proposed plan.

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

Very truly yours,



ELIZABETH M. KUDLA

EMK
Enclosure
cc(w/o enc.): Maryanne Cornelius, Clerk

Barbara McBeth, Deputy Director of Community Development

August 9, 2007

Page 3

Benny McCusker, DPW Director

John Hines, Building Official

Mark Spencer, Planning

Benjamin Croy, Civil Engineer

David Beschke, Landscape Architect

John Freeland, ECT, Inc.

Frank Smith, Fire Department

Thomas R. Schultz, Esquire

C:\NrPortbl\manage\BKUDLA\964989_1.DOC



MEMORANDUM

TO: Barbara McBeth, *AICP*, Deputy Director of Community Development

FROM: Karen F. Reinowski, *AICP, PCP*, Planner

DATE: October 2, 2007

SUBJECT: Variance from Design & Construction Standards
HCCP Phase 2, SP06-41
Sidewalk Waiver

The preferred safety path design would be to provide a sidewalk/ boardwalk combination along both 13 Mile Road and Haggerty Road to meet the standard of the Bicycle and Pedestrian Master Plan. (For those areas impacted by the Seeley Drain, or a severe change in grade, a boardwalk could be designed and constructed to provide a safe access). The sidewalk/ boardwalk would need to be located within 1' of the future right-of-way line, so it would not be impacted by future road widening. Also, regardless of whether the areas that would need a boardwalk design are required or waived, those areas not impacted by the Seeley Drain or wetlands should be provided with a safety path to meet the intent of the Master Plan.

Haggerty Road

If the sidewalk/ boardwalk combination is waived by City Council or not approved by the MDEQ and/or the Drain Commission, then the alternate design of a 5' wide safety path within the HCCP II site (along a portion of Cabot Drive, the Seeley Drain and wetland) should be provided in the area proposed on the attached sketch. However, the safety path should be constructed to meet both the Michigan barrier-free code and the Design and Construction Standards, and not be a typical "nature walk". The safety path should be placed within an easement, and be maintained by the city in the same manner as a public sidewalk within the road right-of-way. Pedestrian way-finding signs should be provided to guide pathway users along the internal route to both 13 Mile Road and Haggerty Road.

13 Mile Road

If the sidewalk/ boardwalk combination is waived by City Council or not approved by the MDEQ, staff recommends that a second 5' wide safety path should be provided on 13 Mile Road, from the western end of the site to the western edge of the wetland, then around the wetland to meet Cabot Drive (see attached sketch). This would maintain a continuous pedestrian connection along 13 Mile Road. If engineering issues do not make it feasible to construct the path in the standard right-of-way location, we would consider an alternate placement closer to 13 Mile Road, if it meets all relevant safety standards. As noted for Haggerty Road, the safety path should be constructed to meet the Michigan barrier-free code and the Design and Construction Standards, and pedestrian way-finding signs should be installed.