

CITY of NOVI CITY COUNCIL

Agenda Item Q
March 22, 2010

SUBJECT: Approval of resolution vacating a portion of the former Lake Avenue in the Walled Lake Shores Subdivision, a platted but unimproved or "paper" street located in the City of Novi within the Landings Area near 13 Mile and Old Novi Road, in connection with the City's determination to designate the area as park land and open space.

SUBMITTING DEPARTMENT:

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The City Council held a public hearing on the question whether the platted and unplatted roadways that lie within the Landings Area that the Council has determined to improve as park land and open space should be vacated. The roadways are all currently unimproved and therefore "paper" streets. Some of them at one point had been improved and were used in connection with the old historical uses of the landings site (e.g., the Walled Lake Casino/amusement park). However, they are now vacant and open. They do not provide any access to adjacent homes or parcels.

There are five separate resolutions that are needed to effect the vacations. This is because there are three separate subdivision involved (Pratt, Chapman Walled Lake, Walled Lake Shores), because some of the road areas are unplatted (adjacent to the large acreage portion of the landings, roughly in the middle of the site), and because some of the roads (or portions of those roads) are within 25 meters of Walled Lake, which requires—in addition to a Council resolution to vacate—a circuit court lawsuit and judgment vacating the road.

The following resolutions make up the entire "package": (1) a resolution vacating 2 roads (Pratt and a portion of Duana) in the Pratt Subdivision, no part of which are within 25 meters of the lake; (2) a resolution vacating Chapman Drive, in Chapman Walled Lake Subdivision, which is not within 25 meters of the lake; (3) a resolution vacating parts of the former Lake Avenue and Lake Street, which are within 25 meters of the lake but are not part of any platted subdivision and therefore are not subject to the circuit court requirements of the Land Division Act; (4) a resolution vacating a portion of the former Lake Avenue in the Walled Lake Shores Subdivision, which is within 25 meters of the lake; (5) a resolution vacating a portion of the former Walled Lake Road and an "unnamed road" within the Chapman Walled Lake Subdivision, which are within 25 meters of the lake.

With the exception of the resolution relating to the two unplatted roads, all of the resolutions contain language directing the City Manager and City Attorney to take all actions required to effect the vacation, including, if and to the extent necessary, the filing of a circuit court lawsuit. The lawsuit appears to be required to effect the vacation as to items (4) and (5). To the extent litigation would already be required as to those streets, it is the

current intention of the City administration to also file suits as to items (1) and (2) and the streets covered in those. As Council has been informed in prior correspondence, the need to file a circuit court action to "complete" a vacation not within 25 meters of the lake is a matter of dispute, but in light of the intention to seek grant funds for substantial improvements to the property, a conservative approach is proposed to be taken.

RECOMMENDED ACTION:

Approval of resolution vacating a portion of the former Lake Avenue in the Walled Lake Shores Subdivision, a platted but unimproved or "paper" street located in the City of Novi within the Landings Area near 13 Mile and Old Novi Road, in connection with the City's determination to designate the area as park land and open space.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

CITY OF NOVI
OAKLAND COUNTY, MICHIGAN
RESOLUTION VACATING
A PORTION OF LAKE AVENUE, A PLATTED ROAD IN THE
WALLED LAKE SHORES SUBDIVISION
IN THE CITY OF NOVI

At a meeting of the City Council of the City of Novi, Oakland County, Michigan, held on March 22, 2010, at the City Hall, 45175 Ten Mile Road, Novi, Michigan 48375.

WHEREAS, the Novi City Council held a public hearing on February 22, 2010, to consider and hear objections to the proposed vacation of a portion of a public road in the Walled Lake Shores Subdivision, Liber 28 of Plats, Page 20, Oakland County Records, known as the former Lake Avenue, depicted and legally described as follows:

{See the attached and incorporated Sketch & Description Exhibit}

WHEREAS, the City Council has jurisdiction to vacate by resolution the portion of the road in question, provided that, if any part of the road is within 25 meters of a lake or in the general course of a stream, an action to vacate must be filed with the Oakland County Circuit Court; and

WHEREAS, the road is not developed or physically improved as a road and is not needed by any other owners in the subdivision for access to or from their lots or other areas in the subdivision, and is completely within an undeveloped area of property, known as the Landings, that the City has planned for park land.

WHEREAS, the Novi City Council is satisfied that the described platted road may be vacated without any adverse effects on the public health, safety, and/or welfare.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Novi City Council that: the portion of the platted road formerly known as Lake Avenue, shown on the Plat of Walled Lake Shores Subdivision, Liber 28 of Plats, Page 20, Oakland County Records and legally described as set forth on the attached and incorporated Sketch & Description Exhibit, shall be

and hereby is vacated. This action is taken pursuant to Sections 2526 and 2527 of Act 288 of the Public Acts of 1967, as amended, being MCL 560.256 and MCL 560.257, respectively.

The City Manager and City Attorney are directed to take all actions necessary to effect and complete the vacation, including the filing, if and to the extent necessary, of an appropriate action in the Oakland County Circuit Court to vacate the road in accordance with the Land Division Act, Act 288 of the Public Acts of 1967, as amended, and to make all filings with the Oakland County Register of Deeds and the Michigan State Treasurer as required by law.

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

I, MARYANNE CORNELIUS, the duly-qualified Clerk of the City of Novi, Oakland County, Michigan, do hereby certify that the foregoing is an amended copy of the Resolution adopted by the City Council of the City of Novi with at least five (5) affirmative votes, at a duly-called meeting held on March 22, 2010, a copy of which is on file in my office.

MARYANNE CORNELIUS
Clerk, City of Novi

This Resolution was signed and acknowledged before me on _____, 2010, by MARYANNE CORNELIUS, the duly-authorized Clerk for the City of Novi, a Michigan municipal corporation.

Notary Public, Oakland County, Michigan
My Commission Expires: _____

Recording Fee: \$ _____

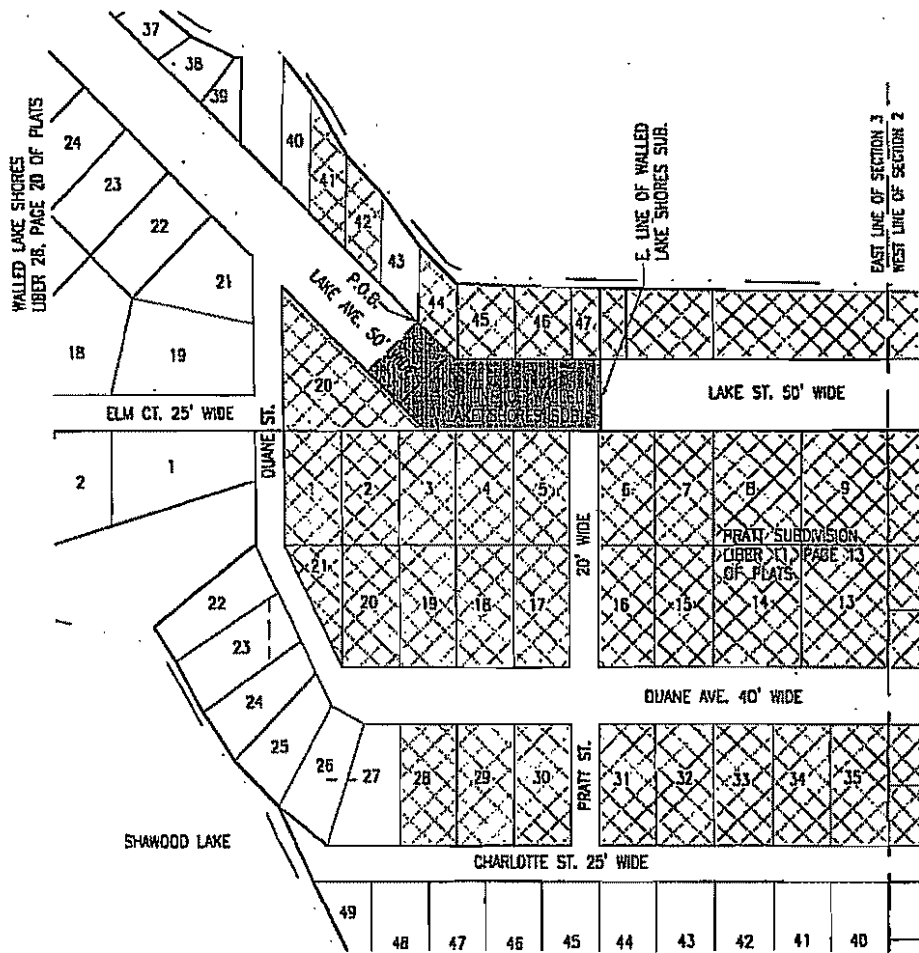
Not Subject to Transfer Taxes: MCL 207.502 and MCL 207.523

PREPARED BY AND UPON RECORDING RETURN TO:
THOMAS R. SCHULTZ (P42111)
SECRET WARDLE
30903 NORTHWESTERN HIGHWAY
NOVI HILLS, MI 48334

1393413

EXHIBIT "A"

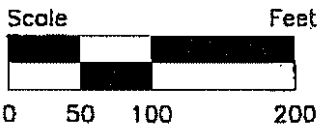
WALLED LAKE SHORES SUBDIVISION ROAD VACATION





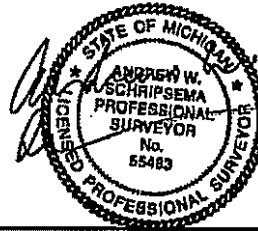
PLATTED ROADWAYS TO BE VACATED IN WALLED LAKE SHORES SUBDIVISION (L.28, P.20 OF PLATS OF O.C.R.)

A PARCEL OF LAND LOCATED IN THE SOUTHEAST FRACTIONAL 1/4 OF SECTION 3, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN. MORE PARTICULARLY DESCRIBED AS:

THAT PORTION OF LAKE AVENUE (50' WIDE) BOUNDED ON THE NORTH BY LOTS 44-47 AS PLATTED IN WALLED LAKE SHORES SUBDIVISION, RECORDED IN LIBER 28, PAGE 20 OF PLATS, OAKLAND COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 44 (P.O.B.), THENCE SOUTHWESTERLY ALONG A LINE LYING PERPENDICULAR TO THE CENTERLINE OF SAID LAKE AVENUE TO A POINT ON THE SOUTHERLY LINE OF LAKE AVENUE; THENCE PROCEEDING SOUTHEASTERLY ALONG THE SOUTHERLY LINE OF LAKE AVENUE TO THE SOUTHEAST CORNER OF SAID LOT 20, AS PLATTED IN SAID WALLED LAKE SHORES SUBDIVISION; THENCE CONTINUING EASTERLY ALONG THE SAID SOUTHERLY LINE TO THE SOUTHEAST CORNER OF WALLED LAKE SHORES SUBDIVISION; THENCE PROCEEDING NORTHERLY ALONG THE EAST LINE OF WALLED LAKE SHORES SUBDIVISION TO THE SOUTHEAST CORNER OF SAID LOT 47; THENCE PROCEEDING WESTERLY ALONG THE SOUTH LINE OF SAID LOTS 44-47, SAID LINE ALSO BEING THE NORTHERLY LINE OF LAKE AVENUE, TO THE POINT OF BEGINNING (P.O.B.).



 = CITY-OWNED PROPERTY
 = ROAD TO BE VACATED



CITY OF NOVI ROAD VACATIONS PART OF WALLED LAKE SHORES SUBDIVISION ROAD VACATION SKETCH		SHEET 5 OF 8
CITY OF NOVI		0163-98-0231
34000 Plymouth Road Livonia, MI 48150 P (734) 522-6711 F (734) 522-6427 WWW.OHM-ADVISORS.COM		
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