




CITY of NOVI CITY COUNCIL

**Agenda Item G
February 25, 2013**

SUBJECT: Approval of Storm Drainage Facility Maintenance Easement Agreement with Pulte Land Company, LLC for the Liberty Park – Pool & Pool House project located near Declaration Drive and Dixon Road within the Liberty Park Subdivision development (parcel 22-10-376-001).

SUBMITTING DEPARTMENT: RD Department of Public Services, Engineering Division

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The Pulte Land Company, LLC requests approval a Storm Drainage Facility Maintenance Easement Agreement for the Liberty Park – Pool & Pool House project development, located near Declaration Drive and Dixon Road, as shown on the attached map.

The Storm Drainage Facility Maintenance Easement Agreement is a requirement of the Storm Water Management Ordinance and details the responsibilities of the property owner to properly maintain their privately owned on-site storm water system. The agreement also contains a provision that permits the City to perform maintenance on the privately owned on-site storm water system should the property owner fail to do so at the expense of the property owner.

In this particular case, the property owner, Pulte Land Company, LLC (on behalf of the Liberty Park – Multi-Family Phase 1 & 2 Homeowner's Association) has provided a Storm Drainage Facility Maintenance Easement Agreement covering a detention/sedimentation basin; two Aqua-Swirl sediment separator units; and a 20-foot Ingress/Egress Easement to the storm water facilities.

The enclosed agreement has been favorably reviewed by City Staff and the City Attorney (Beth Saarela's July 19, 2012 letter, attached) and is recommended for approval.

RECOMMENDED ACTION: Approval of Storm Drainage Facility Maintenance Easement Agreement with Pulte Land Company, LLC for the Liberty Park – Pool & Pool House project located near Declaration Drive and Dixon Road within the Liberty Park Subdivision development (parcel 22-10-376-001).

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

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

LIBERTY PARK - POOL HOUSE - SDFMEA

Location Map



Map Author: Aaron J. Staup
Date: February 6, 2013
Project: Liberty Park - Pool & Pool House
Version #: 1

Storm Drainage Facility Maintenance Easement Agreement

MAP INTERPRETATION NOTICE

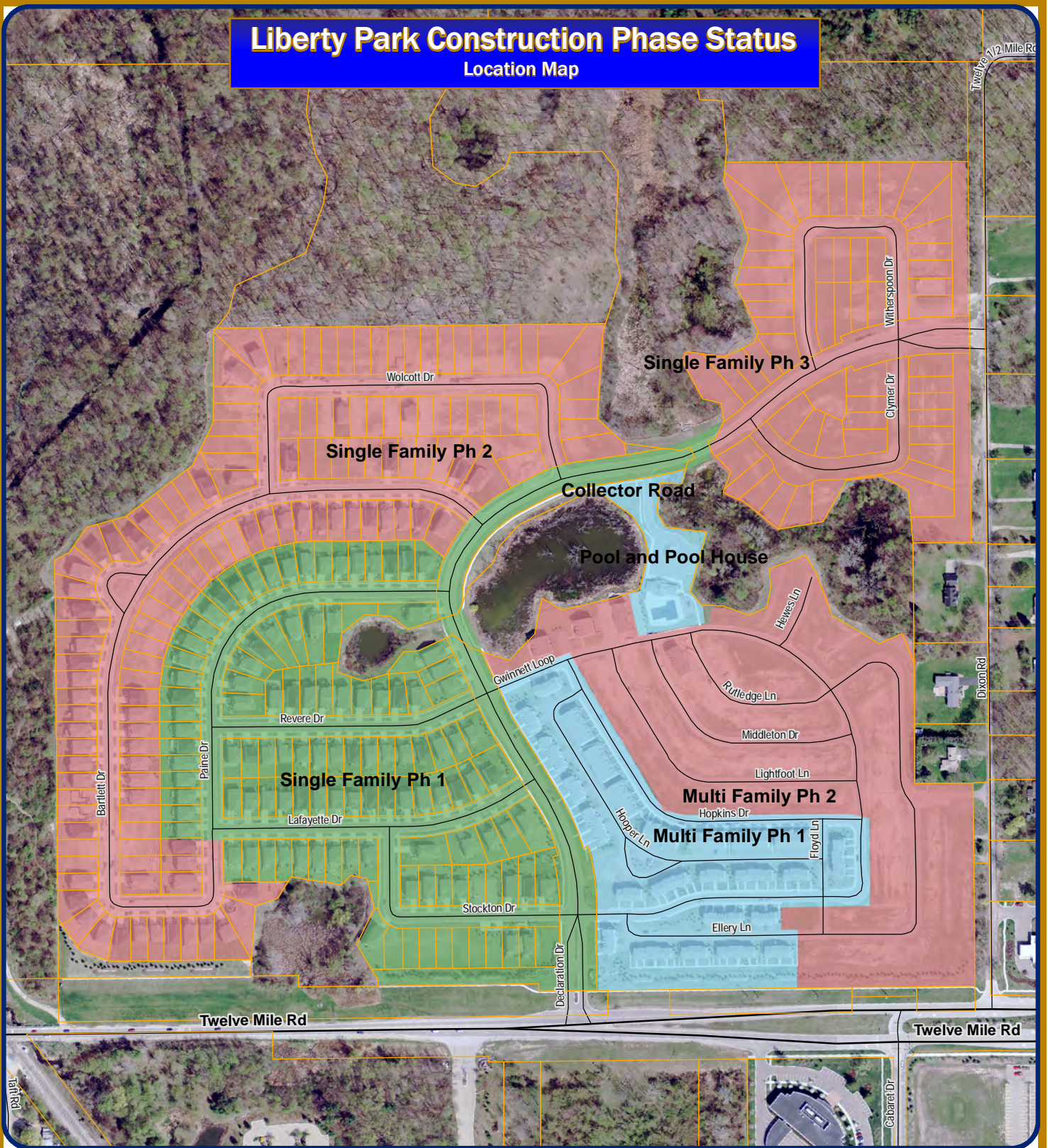
Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate 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.



City of Novi
Engineering Division
Department of Public Services
26300 Lee BeGole Drive
Novi, MI 48375
cityofnovi.org

Liberty Park Construction Phase Status

Location Map



Map Author: Brian Coburn
Date: February 14, 2013

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.

Legend

Liberty Park Subdivision

Completion Status

- Streets and Utilities Accepted
- Utilities Accepted - Private Streets
- Under Construction



City of Novi

Engineering Division
Department of Public Services
26300 Lee BeGole Drive
Novi, MI 48375
cityofnovi.org

JOHNSON | ROSATI | SCHULTZ | JOPPICH

A Professional Corporation

34405 W. Twelve Mile Road Suite 200 ~ Farmington Hills, Michigan 48331-5627
Phone: 248.489.4100 / Fax: 248.489.1726
www.johnsonrosati.com

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

July 19, 2012

Rob Hayes, Public Services Director
City of Novi, Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

**Re: Liberty Park Pool House, SP04-52
Storm Drainage Facility Maintenance Easement Agreement**

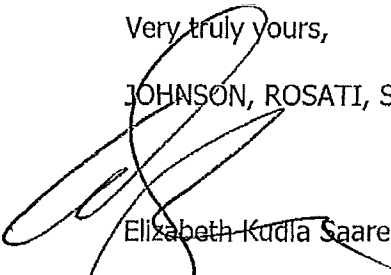
Dear Mr. Hayes:

We have received and reviewed, and enclosed please find, the Storm Drainage Facility Maintenance Easement Agreement for storm water facilities serving the Liberty Park Pool House site. The Agreement is in the City's standard format for a Storm Drainage Facility Maintenance Easement Agreement. Subject to review and approval of the exhibits by the City's Engineering Division, the Storm Drainage Facility Maintenance Easement Agreement is in order and may be placed on an upcoming City Council Agenda for approval. Once approved and executed by the City, the Agreement should be recorded with Oakland County Records by the City Clerk's Office.

Please feel free to contact me with any questions or concerns in regard to this matter.

Very truly yours,

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



Elizabeth Kudla Saarela

Cc: Maryanne Cornelius, Clerk (w/Original Enclosures)
Marina Neumaier, Assistant Finance Director (w/Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Barb McBeth, Deputy Community Development Director (w/Enclosures)

Rob Hays, Public Services Director
July 19, 2012
Page 2

Sheila Weber, Treasurer's Office (w/Enclosures)
Kristin Pace, Treasurer's Office (w/Enclosures)
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
David Beschke, Landscape Architect (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Erik Prater, Esquire (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

**STORM DRAINAGE FACILITY
MAINTENANCE EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT is made this 8th day of June, 2012, by and between Pulte Land Company, LLC, a Michigan limited liability company, whose address is 100 Bloomfield Parkway, Bloomfield Hills, Michigan 48304 (hereinafter the "Owner"), and the City of Novi, its successors, assigns, or transferees, whose address is 45175 W. Ten Mile Road, Novi, MI 48375 (hereinafter the "City").

RECITATIONS:

A. Owner established The Townes at Liberty Park, Oakland County Condominium Subdivision Plan No. 1705 ("Development"), by recording a Master Deed, Bylaws and Condominium Subdivision Plan on January 19, 2005 in Liber 34795, Pages 182 through 248, inclusive, Oakland County Records, as amended (the "Property"). Owner has received final site plan approval for construction Development.

B. The Development shall contain certain storm drainage, detention and/or retention facilities, including but not limited to, a detention/sedimentation basin, for the collection, conveyance, storage, treatment and/or discharge of storm water from the Property in accordance with all approved plans, and all applicable ordinances, laws and regulations.

NOW, THEREFORE, the Owner hereby covenants and agrees that the Owner shall, at its own expense, perpetually preserve, maintain, and repair all storm drainage, detention and retention facilities, including all wetlands which are part of the system, to insure that the same continue to function as intended. The Owner shall establish a regular and systematic program of maintenance (the "Schedule of Maintenance") for such facilities and areas to insure that the physical condition and intended function of such areas and facilities shall be preserved and maintained. The Schedule of Maintenance and the annual estimated costs for maintenance and repairs for the first three (3) years are described in the attached Exhibit A.

In the event that the Owner shall at any time fail to carry out the responsibilities specified within this agreement, and/or in the event of a failure to preserve and/or maintain the storm water drainage, detention and retention facilities in reasonable order and condition, the City may serve written notice upon the Owner setting forth the deficiencies in maintenance and/or preservation along with a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place for a hearing before the City for the purpose of allowing Owner an opportunity to be heard as to why the City should not proceed with the correction of the deficiency or obligation which has not been undertaken or properly fulfilled. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. If, following such hearing, the person conducting the hearing shall determine that the obligation has not been fulfilled or failure corrected within the time specified in the notice, as determined by the City in its reasonable discretion, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter the Property through the Ingress/Egress Easement Area as described and depicted in **Exhibit B** and perform such obligation or take such corrective measures as reasonably found by the City to be appropriate or necessary with respect to the detention/sedimentation basin within the Detention/Sedimentation Basin Easement Area described and depicted in **Exhibit C**, for the purposes described above. The cost and expense of making and financing such actions by the City, including notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in an amount equivalent to twenty-five (25%) percent of the total of all such costs and expenses incurred, shall be paid by Owner within thirty (30) days of a billing to the Owner. All unpaid amounts may be placed on the delinquent tax roll of the City as to the Property, and shall accrue interest and penalties, and shall be collected as, and 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 Owner, and, in such event, the Owner shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

The parties hereto make this Agreement on behalf of themselves, their heirs, successors, assigns and transferees, and hereby warrant that they have the authority and capacity to execute this Agreement and bind the property as described in the terms and conditions of this agreement.

Invalidation of any of these covenants or conditions by Judgment or Court Order shall in no way affect the validity of any other provision which shall remain in full force and effect.

This agreement shall run with the land and be binding upon all owners, their agents, heirs, successors, assigns and transferees.

Exhibit B

**DESCRIPTION OF A 20.00 FOOT WIDE EASEMENT
FOR INGRESS/EGRESS**

Commencing at the South 1/4 corner of Section 10, T1N, R8E, City of Novi, Oakland County, Michigan; thence S86°55'25"W 2674.38 feet along the centerline of Twelve Mile Road (variable width) and the South line of said Section 10; thence N02°55'25"W 150.00 feet along the West line of said Section 10; thence N86°55'25"E 5.17 feet along the North Right-of-Way line of said Twelve Mile Road for a PLACE OF BEGINNING; thence 15.37 feet along the arc of a 60.00 foot radius non-tangential circular curve to the right, chord bearing N11°15'35"W 15.32 feet; thence N03°35'40"W 111.64 feet; thence 12.54 feet along the arc of a 40.00 foot radius circular curve to the left, chord bearing N10°30'34"W 12.49 feet; thence N19°29'19"W 43.87 feet; thence 16.39 feet along the arc of a 60.00 foot radius circular curve to the right, chord bearing N11°39'43"W 16.34 feet; thence N03°25'17"W 197.80 feet; thence N11°14'13"W 27.11 feet; thence 7.07 feet along the arc of a 60.00 foot radius circular curve to the right, chord bearing N07°51'45"W 7.06 feet; thence N04°29'17"W 71.37 feet; thence N01°41'14"W 78.13 feet; thence N05°51'22"W 49.86 feet; thence 1.91 feet along the arc of a 15.00 foot radius circular curve to the left, chord bearing N09°30'15"W 1.91 feet; thence N13°09'08"W 62.91 feet; thence 24.50 feet along the arc of a 60.00 foot radius circular curve to the right, chord bearing N01°27'07"W 24.33 feet; thence N10°14'53"E 52.23 feet; thence N06°40'57"E 46.94 feet; thence 10.47 feet along the arc of a 40.00 foot radius circular curve to the left, chord bearing N00°48'58"W 10.44 feet; thence N08°18'52"W 53.37 feet; thence N81°41'08"E 20.00 feet; thence S08°18'52"E 53.37 feet; thence 15.70 feet along the arc of a 60.00 foot radius circular curve to the right, chord bearing S00°48'58"E 15.66 feet; thence S06°40'57"W 47.56 feet; thence S10°14'53"W 52.85 feet; thence 16.34 feet along the arc of a 40.00 foot radius circular curve to the left, chord bearing S01°27'07"E 16.22 feet; thence S13°09'08"E 62.91 feet; thence 4.46 feet along the arc of a 35.00 foot radius circular curve to the right, chord bearing S09°30'15"E 4.45 feet; thence S05°51'22"E 50.59 feet; thence S01°41'14"E 78.36 feet; thence S04°29'17"E 70.88 feet; thence 4.71 feet along the arc of a 40.00 foot radius circular curve to the left, chord bearing S07°51'45"E 4.71 feet; thence S11°14'13"E 28.47 feet; thence S03°25'17"E 199.09 feet; thence 10.86 feet along the arc of a 40.00 foot radius circular curve to the left, chord bearing S11°42'30"E 10.83 feet; thence S19°29'19"E 43.87 feet; thence 18.41 feet along the arc of a 60.00 foot radius circular curve to the right, chord bearing S10°41'56"E 18.34 feet; thence S03°35'40"E 111.25 feet; thence 15.88 feet along the arc of a 40.00 foot radius circular curve to the left, chord bearing S15°22'05"E 15.77 feet; thence S86°55'25"W 21.18 feet to the Place of Beginning, containing 0.41 acres of land, more or less, subject to easements, conditions, restrictions and exceptions of record, if any.

CITY OF NOVI, a Municipal
corporation

By: _____

Its: _____

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this ____ day of _____ 20____, by _____, on behalf of the City of Novi, a Municipal corporation.

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

Drafted by:

Elizabeth M. Kudla
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040

And when recorded return to:

Maryanne Cornelius, City Clerk
City of Novi
45175 W. Ten Mile Rd
Novi, MI 48375

IN WITNESS WHEREOF, Owner has executed this Agreement as of the day and year first above set forth.

PULTE LAND COMPANY, LLC, a Michigan limited liability company

By: _____

Its: VP of Construction ops.

STATE OF MICHIGAN)
)ss.
COUNTY OF OAKLAND)

Acknowledged before me on June 8, 2012, by Stephen Atwood, the V.P. of Construction of Pulte Land Company, LLC, a Michigan limited liability company, on behalf of the company.

Sharon E. Berbo
Notary Public Sharon E. Berbo
Oakland County, Michigan
Acting in Oakland County, Michigan
My Commission Expires: 9/14/12

**Liberty Park - Poolhouse
Exhibit B**

<u>Storm Water Facility</u>	<u>Maintenance Action</u>	<u>Corrective Action</u>	<u>Annual Estimated Cost for Maintenance Action</u>		
			<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>
Storm Sewer/Open Channels	After each storm that meets or exceeds a 10-year storm event, check for piping around culverts or erosion adjacent to culverts. Ensure culverts are not collapsed or clogged. Remove invasive wetland plant species (i.e., Purple Loosestrife, Giant Reed, Canary Grass, etc.). Annually inspect all on-site adjacent catch basins for obstructions, sediment and/or clogging.	Implement energy dissipation measures as necessary to prevent erosion. Remove sediment and debris from channels and culverts. Replace collapsed culverts. Harvest invasive wetland plants and dispose of properly. Hire a contractor to jet and vacator the storm sewer.	\$125	\$130	\$140
Aquaswirl (if present)	Follow Aquaswirl recommended maintenance and inspection interval. At a minimum, quarterly inspection during the first year, twice per year after the first year. If sediment pile is within 30"-36" of the water surface, then corrective action is required. Refer to inspection/maintenance manual provided with the specific Aquaswirl structure.	Remove accumulated sediment and debris buildup with a Vac truck. Material to be disposed of in accordance with local and state requirements.	\$200	\$200	\$150
Buffer Strips	Periodically inspect to ensure vegetative cover prevents erosion.	Implement energy dissipation measures to prevent erosion.	\$150	\$155	\$160
Total:			\$475	\$485	\$450

Note: The Owner and/or Association shall maintain a log of all inspection and maintenance activities and make the log available to City personnel as needed.

Exhibit C

**DESCRIPTION OF A VARIABLE WIDTH
DETENTION & SEDIMENTATION EASEMENT**

Commencing at the South 1/4 corner of Section 10, T1N, R8E, City of Novi, Oakland County, Michigan; thence S86°55'25"W 2674.38 feet along the centerline of Twelve Mile Road (variable width) and the South line of said Section 10; thence N02°55'25"W 1028.95 feet along the West line of said Section 10 for a PLACE OF BEGINNING; thence S81°41'08"W 19.80 feet; thence S08°18'52"E 53.37 feet; thence 10.47 feet along the arc of a 40.00 foot radius circular curve to the right, chord bearing S00°48'58"E 10.44 feet; thence S06°40'57"W 46.94 feet; thence S10°14'53"W 52.23 feet; thence 24.50 feet along the arc of a 60.00 foot radius circular curve to the left, chord bearing S01°27'07"E 24.33 feet; thence S13°09'08"E 7.60 feet; thence S68°42'25"W 39.91 feet; thence N71°03'57"W 163.91 feet; thence N45°23'31"W 101.85 feet; thence N52°29'26"E 237.45 feet; thence S59°36'28"E 116.54 feet to the Place of Beginning, containing 1.07 acres of land, more or less, subject to easements, conditions, restrictions and exceptions of record, if any.