



## CITY of NOVI CITY COUNCIL

**Agenda Item G**  
**April 10, 2017**

**SUBJECT:** Approval of a request from Ryan Wright for a variance from Section 11-256(f) of the Design and Construction Standards and Chapter 7 of the Engineering Design Manual to install brick pavers on the sidewalk and driveway at a home at 20850 Turnberry Boulevard (parcel 22-36-451-004).

**SUBMITTING DEPARTMENT:** Department of Public Services, Engineering Division GDM

**CITY MANAGER APPROVAL:** 

**BACKGROUND INFORMATION:**

The property owner at 20850 Turnberry Boulevard in Turnberry Estates is requesting a variance from the Design and Construction Standards and subsequent Engineering Design Manual related to the material of sidewalk and driveway at a home. The Applicant's driveway and private walkways are currently brick pavers. The applicant is seeking relief from the standards to allow the brick pavers to remain for aesthetic and subsequent land-value purposes. The existing sidewalk along the property frontage is considered private and is located on a private road.

The ordinance defines the required material of sidewalks to be Portland cement concrete. The Engineering Design Manual excludes the allowance of brick pavers in order for a smoother surface to be provided on an ADA compliant route as compared to brick pavers.

The Design and Construction Standards Request for Variance states that reinstalling a concrete driveway and sidewalk would be a financial burden to the applicant having already installed the brick pavers and would result in less aesthetic sitework. Consistent with the Application for a variance, the City is unaware of any incidences of impeded access over other existing brick paved sidewalks within the subdivision that were installed prior to the adoption of the current Design and Construction Standards.

The Applicant will be provided a Hold Harmless Agreement accepting responsibility for any liability arising out of the installation of brick pavers along the sidewalk. The City will not be responsible for replacement of the brick pavers in the event that the pavers are removed or damaged while the City accesses underlying water main facilities within the City's Easement. The Hold Harmless will apply in perpetuity to subsequent property owners, unless and until the brick pavers are removed and replaced with standard Portland cement concrete.

**RECOMMENDED ACTION:**

Approval of the request from Ryan Wright for a variance from Section 11-256(f) and subsequent Engineering Design Manual, which requires sidewalks to be constructed in compliance with the applicable rules and regulations for private development under the Americans with Disability Act to allow the applicant to install brick pavers on the sidewalk and driveway of a home at 20850 Turnberry Boulevard (parcel 22-36-451-004) subject to recording of an executed Hold Harmless with Oakland County Records.

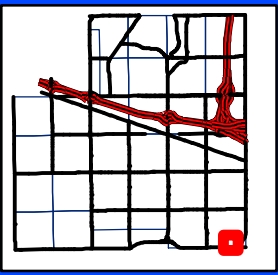
**Location Map**  
20850 Turnberry Boulevard

**20850 Turnberry Boulevard**



Map Author: Theresa Bridges  
Date: April 3, 2017  
Project:  
Version #:  
Amended By:  
Date:  
Department:

**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



1 inch = 250 feet





## Request for Variance Design and Construction Standards

### Applicant Information

Name: Ryan Wright

Address: 20850 Tumberly Blvd.  
Northville, MI 48167

Phone No: 702-575-1191

### Engineer Information

Name: Jekabson & Associates, P.C.

Address: 1320 Goldsmith  
Plymouth, MI 48170

Phone No: 734-414-7200

### Applicant Status (please check one):

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

Project Name Wright Residence - Driveway Variance

Project Address/Location 20850 Tumberly Blvd. Northville, MI 48167

Variance Request Install brick pavers for the sidewalk thru the right of way on both North & South of Drive

Justification (attach additional pages if necessary)

#### INTERNAL USE

Date Submitted: \_\_\_\_\_

Code Section from which variance is sought: \_\_\_\_\_

Submittal Checklist:     One (1) copy of plan on 8.5 x 11 size paper  
                                   \$100 Filing Fee (No fee for driveway width variance requests)

Request Status:         APPROVED     DENIED

Authorized By: \_\_\_\_\_

Authorization Date: \_\_\_\_\_

RECEIVED

DEC 02 2016

CITY OF NOVI  
COMMUNITY DEVELOPMENT

PDCS16-026

## **HOLD HARMLESS AGREEMENT**

This Agreement is between the City of Novi, a municipal corporation ("the City"), whose address is 45175 Ten Mile Road, Novi, Michigan 48375, and Ryan Wright and Rachel Wright, husband and wife, ("Property Owners") whose address is 20850 Turnberry Blvd., Northville, MI 48167 (the "Property").

### R E C I T A L S:

- A. The Property Owners of Unit 4 of the Turnberry Estates Condominium, as described in the attached and incorporated Exhibit A, requested a variance from the City of Novi, Design and Construction Standards related to the installation of a brick paver sidewalk along Equestrian Trail, at the location set forth in the attached and incorporated Exhibit B ("Sidewalk Area").
- B. The City has been granted a water system easement in the Property, which includes an easement over, under and through the sidewalk (" Water System Easement") attached as Exhibit C.
- C. The City of Novi, Engineering Design Standards, as incorporated into the Design and Construction Standards (collectively, the "Standards"), sets forth the standards for sidewalks, including compliance with the Americans with Disabilities Act ("ADA"). The City's current Design and Construction Standard do not permit brick paver sidewalks.
- D. The City has granted the Property Owner's a variance to permit the installation of a brick paver Sidewalk Area contiguous to their Property subject to the conditions set forth in this Agreement.

***The parties agree as follows:***

1. The Recitals are incorporated by reference as if fully set forth herein.
2. In the event the City exercises its Easement rights to repair, replace and/or maintain the water main in the Sidewalk Area, or any other brick paver area within the City's Easement shown in Exhibit C, is damaged or parts or all of it are removed by the City, the City will only replace the paving materials in accordance with the Standards in effect at the time of the replacement or repair, and will not be obligated to replace/repair the Sidewalk Area with brick pavers. The Property

Owners, in their sole discretion, may accept the cost the City would otherwise expend to repair or replace the Sidewalk Area in lieu of the City making the repair or replacement. In such case, the Property Owners shall be entitled to reinstall the brick pavers Sidewalk Area.

3. The Property Owners and their successors, assigns, and transferees shall be responsible to the City for any and all liabilities incurred by the City, arising out of, or incident to, granting the variance for a brick paver Sidewalk Area, and the installation and maintenance of the Sidewalk Area. The Property Owners shall hold harmless and indemnify the City and the City's, elected officials, agents and employees, from any and all costs, claims, suits, actions, losses, damages, injuries or demands, relating in any way to the sidewalk slope, including, but not limited to damages and injuries relating to application of the ADA standards, with respect to the Sidewalk Area, including court costs and attorneys' fees.,

4. Property Owners shall maintain insurance, including contractual liability coverage, at their sole cost and expense, with respect to injuries and damages arising out of the construction, operation and maintenance of the Sidewalk Area in a form acceptable to the City. Such policies shall name the City, its elected officials, agents and employees, as additional insureds and shall provide the City with a certificate of insurance or other written evidence of its coverage, including an endorsement which states that such insurance may not be cancelled except upon ten (10) days prior written notice to the City.

5. This Agreement and the rights and responsibilities set forth herein are intended to bind the parties, their heirs, successors and assigns, and shall run with the land and succeeding interests therein, and shall be recorded with the Oakland County Register of Deeds. This Agreement shall automatically terminate and be of no force and effect without further action, if at any time the Sidewalk Area is replaced with poured concrete.

**THE CITY**

The City of Novi, a Michigan municipal corporation

\_\_\_\_\_  
By: Victor Cardenas, Its Acting Public Services  
Director

STATE OF MICHIGAN            )  
  ) ss.  
COUNTY OF OAKLAND        )

The foregoing instrument was acknowledged before me \_\_\_\_day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, the \_\_\_\_\_ of a Michigan \_\_\_\_\_ on its behalf.

\_\_\_\_\_  
Notary Public  
Acting in \_\_\_\_\_ County, Michigan  
My commission expires: \_\_\_\_\_

**PROPERTY OWNERS**

\_\_\_\_\_  
Ryan Wright

\_\_\_\_\_  
Rachel Wright

STATE OF MICHIGAN        )  
  ) ss.  
COUNTY OF OAKLAND     )

The foregoing instrument was acknowledged before me \_\_\_\_day of\_\_\_\_\_, 20\_\_ by Ryan Wright and Rachel Wright, husband and wife.

Michigan

\_\_\_\_\_  
Notary Public  
Acting in \_\_\_\_\_ County,

My commission expires: \_\_\_\_\_

Drafted By:

Elizabeth Kudla Saarela  
Johnson, Rosati, Schultz & Joppich, P.C.  
27555 Executive Drive, Suite 250  
Farmington Hills, MI 48331-5627

When recorded, return to:

Cortney Hanson, City Clerk  
City of Novi  
45175 Ten Mile  
Novi, MI 48375

EXHIBIT A  
OWNERS PROPERTY

Land in the City of Novi, Oakland County, State of Michigan

T1N, R8E, SEC 36 OAKLAND COUNTY CONDOMINIUM PLAN NO 1006 TURNBERRY ESTATES UNIT  
4 L 16685 P 363 10-23-96

Tax item: 50-22-36-451-004

Commonly known as: 20850 Turnberry Blvd., Northville, MI 48167

**LEGAL DESCRIPTION**

UNIT 4 OF, "TURNBERRY ESTATES", OF PART OF THE SOUTHEAST 1/4 OF SECTION 36, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

**LEGEND**

- 000.00 = EXISTING ELEV.
- 000.00 = PROPOSED ELEV.
- = DRAINAGE COURSE
- = SILT FENCE
- F.G. = BRICK LEDGE
- = EXISTING CONTOUR



CITY COPY

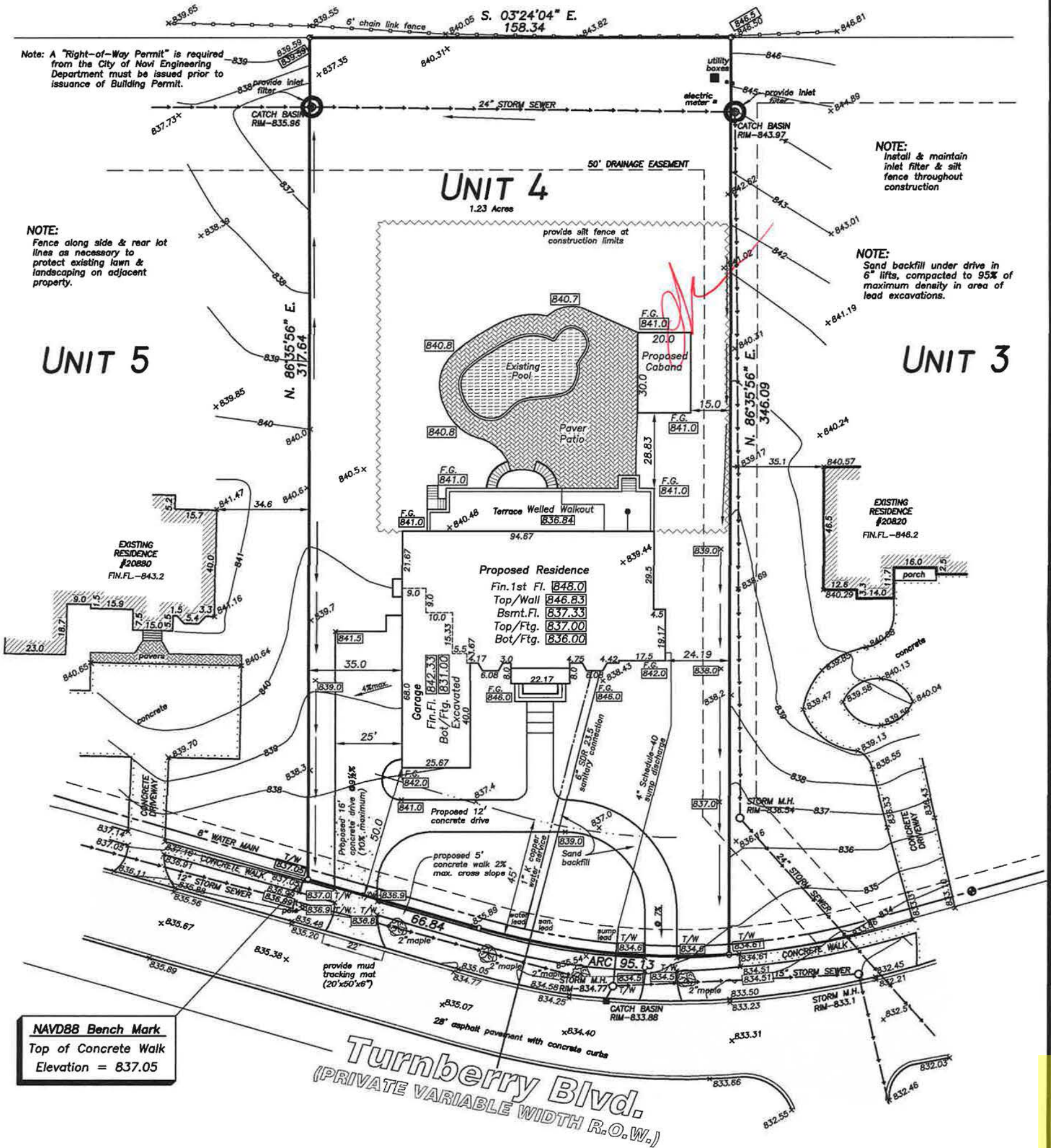


Exhibit B



Know what's below.  
Call before you dig.



**REAR YARD PLAN**

PREPARED FOR: ASCH, LLC  
46870 SEVEN MILE ROAD  
NORTHVILLE, MI 48167  
(248) 348-3942

**JEKABSON & ASSOCIATES, P.C.**  
Professional Land Surveyors  
1320 Goldsmith, Plymouth, MI 48170  
(734) 414-7200 (734) 414-7272 fax

by: *[Signature]*

**REVISIONS:**

DATE	20 May 16
JOB NO.	13-03-017
SCALE	1" = 40'
DRAWN	JRN
CHECKED	JGE
SHEET	1 OF 1