



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item E
January 24, 2011

SUBJECT: Acceptance of a Conservation Easement from Citizen's Bank, for Charneth Fen located on the south side of 12 ½ Mile Road between Novi Road and Dixon Road, in Section 10, covering 0.88 acres.

SUBMITTING DEPARTMENT: Community Development Department - Planning ^{Burb}

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

Charneth Fen is a 27-unit, attached condominium project, approved for the south side of 12 ½ Mile Road, west of Novi Road. City Council approved the Preliminary Site Plan on October 6, 2003 with the proposed conservation easements for wetland and woodland conservation. The former property owner, Diversified Land Development, received Final Site Plan approval for the development from the Planning Division on August 13, 2004, for SP 02-15. Modified Final Site Plans were approved on June 23, 2005 for a revised Final Site Plan, SP 05-14.

The attached Exhibit B depicts the three areas being preserved. The easements cover about 19.8% of the 4.44 acre site. There are a substantial amount of wetlands and woodlands that will fall within these easements.

The easements have been reviewed by the City's professional staff and consultants and are currently in a form acceptable to the City Attorney's office for approval by the City Council.

RECOMMENDED ACTION: Acceptance of a Conservation Easement from Citizen's Bank, for Charneth Fen located on the south side of 12 ½ Mile Road between Novi Road and Dixon Road, in Section 10, covering 0.88 acres.

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

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

Location Map

Charneth Fen

Location Map



Charneth Fen

Carlton Forest II

Carlton Way

Old Novi Rd

Twelve 1/2 Mile Rd

Traci Trail

Melanie Ln

Novi Rd

Map Author: Mark Spencer
Date: 1/19/11
Project: Charneth Fen
Version #: 2.0

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.

Map Legend

-  Tax Parcels
-  Charneth Fen
-  Proposed Conservation Easement



City of Novi
Planning Division
Community Development Dept.
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org



1 inch = 212 feet

Reduced Site Plan

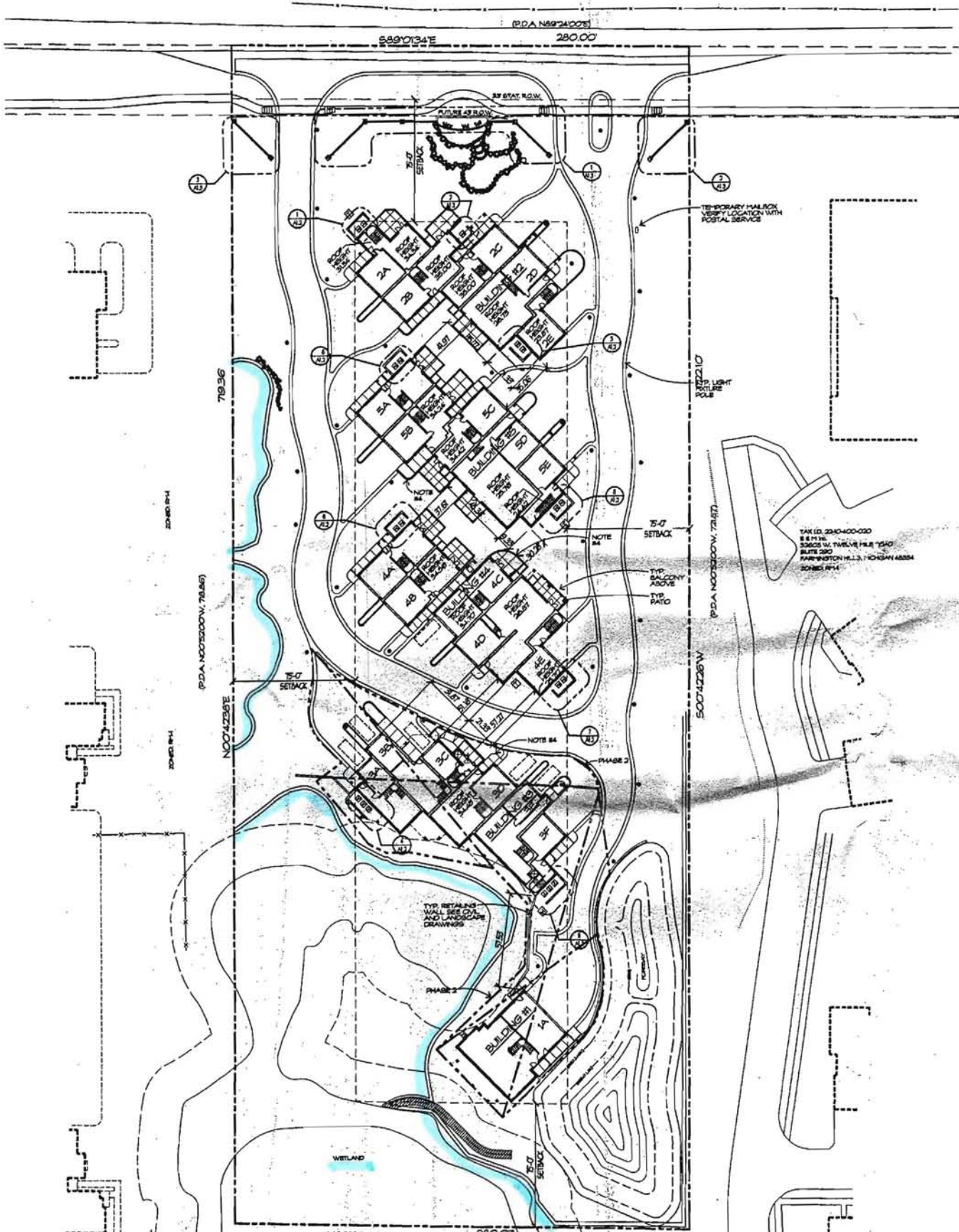
ZONED R-1
TAX ID. 23-10-260-008

12 1/2 MILE ROAD

(P.D.A. N892400E)

S891034E

280.00



TEMPORARY HALTBOX
NEEPLY LOCATION WITH
POSTAL SERVICE

TAX ID. 23-10-400-020
S&S Co.
30600 W. TWELVE MILE ROAD
SUITE 200
FARMINGTON HILLS, MICHIGAN 48334
ZONED R-1

ZONED R-1

(P.D.A. N0073000W, 78186)

N074236E

ZONED R-1

NOTE #4

75-0' SETBACK

TYP. BALCONY ABOVE

TYP. PATIO

(P.D.A. N0073000W, 72487)

S0074226W

NOTE #4

PHASE 2

TYP. RETAINING WALL SEE CIVIL AND LANDSCAPE DRAWINGS

PHASE 2

WETLAND

75-0' SETBACK

N887800W
(P.D.A. N892400E)

280.07

TAX ID. 23-10-400-024
S&S Co.
30600 W. TWELVE MILE ROAD
SUITE 200
FARMINGTON HILLS, MICHIGAN 48334
ZONED R-1

SITE PLAN
SCALE: 1" = 40'-0"



Conservation Easement and Exhibits

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT made this _____ day of _____, 2010, by and between Citizens Bank, a Michigan banking corporation whose address is 28001 Cabot Drive, Suite 240, Novi, MI 48377 (hereinafter the "Grantor"), and the City of Novi, and its successors or assigns, whose address is 45175 W. Ten Mile Road, Novi, MI 48375, (hereinafter the "Grantee").

RECITATIONS:

A. Grantor owns a certain parcel of land situated in section 10 of the City of Novi, Oakland County, Michigan, described in Exhibit A, attached hereto and made a part hereof (the "Property"). Grantor has received final site plan approval for construction of the Charneth Fen Condominium development on the Property, subject to provision of an appropriate easement to permanently protect the woodland and wetland areas located thereon from destruction or disturbance. Grantor desires to grant such an easement in order to protect the area.

B. Grantor is successor developer of the project pursuant to Covenant Deed dated November 13, 2007, recorded at Liber 39768, page 890 of Oakland County Records.

C. The Conservation Easement Areas (the "Easement Areas") situated on the Property are more particularly described on Exhibit B, attached hereto and made a part hereof, the second page of which contains a drawing depicting the protected area.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$ 1.00), in hand paid, the receipt and adequacy of which are hereby acknowledged, Grantor hereby reserves, conveys and grants the following Conservation Easement, which shall be binding upon the Grantor, and the City, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the City, all Grantors and purchasers of the property and their respective heirs, successors, assigns and/or transferees. This Conservation Easement is dedicated pursuant to subpart 11 of part 21 of the Natural Resources and Environmental Protection Act being MCL 324.2140, et. Seq., upon the terms and conditions set forth herein as follows:

1. The purpose of this Conservation Easement is to protect the woodlands and wetlands, as shown on the attached and incorporated Exhibit B. The subject areas shall be perpetually preserved and maintained, in their natural and undeveloped condition, unless authorized by permit from the City, and, if applicable, the Michigan Department of Environmental Quality and the appropriate federal agency.
2. Except for and subject to the activities which have been expressly authorized by permit, there shall be no disturbance of the woodlands, wetlands and/or vegetation within the Easement Area, including altering the topography of; placing fill material in; dredging, removing or excavating soil, minerals, or trees, and from constructing or placing any structures on; draining surface water from; or plowing, tilling, cultivating, or otherwise altering or developing, and/or constructing, operating, maintaining any use or development in the Easement Area.
3. No grass or other vegetation shall be planted in the Easement Areas with the exception of plantings approved, in advance, by the City in accordance with all applicable laws and ordinances.
4. This Conservation Easement does not grant or convey to Grantee, or any member of the general public, any right of ownership, possession or use of the Easement Area, except that, upon reasonable written notice to Grantor, Grantee and its authorized employees and agents (collectively, "Grantee's Representatives") may enter upon and inspect the Easement Area to

determine whether the Easement Area is being maintained in compliance with the terms of the Conservation Easement.

5. In the event that the Grantor shall at any time fail to carry out the responsibilities specified within this Document, and/or in the event of a failure to preserve and/or maintain the wetland areas and/or protected woodlands in reasonable order and condition, the City may serve written notice upon the Grantor setting forth the deficiencies in maintenance and/or preservation. Notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place of the hearing before the City Council, or such other Council, body or official delegated by the City Council, for the purpose of allowing the Grantor to be heard as to why the City should not proceed with the maintenance and/or preservation which has not been undertaken. At the hearing, the time for curing the deficiencies and the hearing itself may be extended and/or continued to a date certain. If, following the hearing, the City Council, or other body or official, designated to conduct the hearing, shall determine that maintenance and/or preservation have not been undertaken within the time specified in the notice, the City shall thereupon have the power and authority, but not obligation, to enter upon the property, or cause its agents or contractors to enter upon the property and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The cost and expense of making and financing such maintenance and/or preservation, including the cost of notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by the Grantor, and such amount shall constitute a lien on an equal pro rata basis as to all of the lots on the property. The City may require the payment of such monies prior to the commencement of work. If such costs and expenses have not been paid within 30 days of a billing to the Grantor, all unpaid amounts may be placed on the delinquent tax roll of the City, pro rata, as to each lot, and shall accrue interest and penalties, and shall be collected as, and shall be 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 Grantor, and, in such event, the Grantor shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

6. Within 90 days after the Conservation Easement shall have been recorded, Grantor at its sole expense, shall place such signs, defining the boundaries of the Easement Area and, describing its protected purpose, as indicated herein.

7. This Conservation Easement has been made and given for a consideration of a value less than One Hundred (\$ 100.00) Dollars, and, accordingly, is (i) exempt from the State Transfer Tax, pursuant to MSA 7.456(26)(2) and (ii) exempt from the County Transfer Tax, pursuant to MSA 7.456(5)(a).


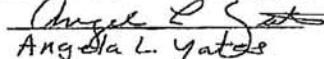
8. Grantor shall state, acknowledge and/or disclose the existence of this Conservation Easement on legal instruments used to convey an interest in the property.


IN WITNESS WHEREOF, Grantor and Grantee have executed the Conservation Easement as of the day and year first above set forth.

GRANTOR

CITIZENS BANK, a Michigan
Banking Corporation

WITNESS:

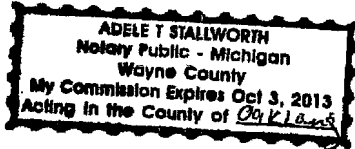

Sandra L. Miszczak

Angela L. Yates


By: Christopher T. Ludorf
Its: Special Loans and ORE Officer

STATE OF MICHIGAN)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 15 day of NOVEMBER 2012 by Christopher T. Ludorf, Special Loans and ORE Officer, on behalf of Citizens Bank.

Adele T. Stallworth
Notary Public
Wayne County, MI
My Commission Expires: 10-3-13



CITY OF NOVI, a Municipal Corporation

By Louis Csordas Its: Mayor
DAVID Landry

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this ____ day of _____, 20__ by Louis Csordas, its Mayor, on behalf of the City of Novi, a Municipal Corporation.
DAVID Landry

Notary Public
Oakland County, Michigan
My Commission Expires: _____

Drafted by and after recording,
return to:

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

C:\N:\Portbl\Secrest\BKUDLA\579938_1.DOC

EXHIBIT A

**SUBJECT PARCEL
PROPOSED CHARNETH FEN CONDOMINIUMS
LEGAL DESCRIPTION**

A part of the Southeast 1/4 of Section 10, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; more particularly described as commencing at the East 1/4 Corner of said Section 10; thence North 89°01'34" West, 805.22 feet, along the East and West 1/4 line of said Section 10 and the centerline of 12 1/2 Mile Road, to the Point of Beginning; thence South 00°42'26" West, 722.10 feet; thence North 88°28'00" West, 280.07 feet, to the Easterly line of "Carlton Forest", Oakland County Condominium Plan No. 1241; thence North 00°42'38" East, 719.36 feet, along the Easterly line of said "Carlton Forest", to a point on the East and West 1/4 line of said Section 10 and the centerline of said 12 1/2 Mile Road (said point being South 89°01'34" East, 1621.14 feet, from the Center of said Section 10); thence South 89°01'34" East, 280.00 feet, along the East and West 1/4 line of said Section 10 and the centerline of said 12 1/2 Mile Road, to the Point of Beginning. All of the above containing 4.633 Acres. All of the above being subject to the rights of the public in 12 1/2 Mile Road. All of the above being subject easements, restrictions and right-of-ways of record.

EXHIBIT B
WOODLAND AND WETLAND PRESERVATION

LEGAL DESCRIPTION

An easement for woodland and wetland preservation being a part of the Southeast 1/4 of Section 10, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; said easement being more particularly described as commencing at the East 1/4 Corner of said Section 10; thence North 89°01'34" West, 805.22 feet, along the East and West 1/4 line of said Section 10 and the centerline of 12 1/2 Mile Road, to the Northeast corner of the Subject Parcel; thence South 00°42'26" West, 722.10 feet, along the Easterly line of the Subject Parcel; thence North 88°28'00" West, 84.94 feet, along the Southerly line of the Subject Parcel, to the POINT OF BEGINNING (1); thence North 88°28'00" West, 195.13 feet, to the Easterly line of "Carlton Forest", Oakland County Condominium Plan No. 1241; thence North 00°42'38" East, 237.71 feet, along the Easterly line of said "Carlton Forest", to Point "A"; thence North 55°19'05" East, 56.17 feet; thence South 33°55'03" East, 47.08 feet; thence South 61°26'25" East, 26.12 feet; thence South 76°46'21" East, 55.41 feet; thence South 48°35'35" East, 29.30 feet; thence South 11°06'17" West, 13.62 feet; thence South 37°11'01" West, 85.98 feet; thence South 03°25'00" West, 24.71 feet; thence South 76°20'29" West, 35.39 feet; thence South 80°33'37" East, 38.69 feet; thence South 39°29'52" East, 33.83 feet; thence South 68°57'50" East, 34.83 feet; thence South 31°13'02" East, 36.74 feet, to the POINT OF BEGINNING. AND ALSO, said easement being described as commencing at said Point "A"; thence North 00°42'38" East, 51.49 feet, along the Easterly line of said "Carlton Forest", to the POINT OF BEGINNING (2); thence North 00°42'38" East, 113.58 feet, along the Easterly line of said "Carlton Forest", to Point "B"; thence South 72°17'00" East, 20.65 feet; thence South 16°19'28" West, 18.29 feet; thence South 34°34'56" East, 25.51 feet; thence South 12°09'17" West, 22.58 feet; thence South 48°32'12" West, 18.45 feet; thence South 00°42'38" West, 26.52 feet; thence South 55°27'26" West, 13.97 feet, to the POINT OF BEGINNING. AND ALSO, said easement being described as commencing at said Point "B"; thence North 00°42'38" East, 8.39 feet, along the Easterly line of said "Carlton Forest", to the POINT OF BEGINNING (3); thence North 00°42'38" East, 113.82 feet, along the Easterly line of said "Carlton Forest"; thence South 89°39'24" East, 12.55 feet; thence South 42°34'27" East, 16.56 feet; thence South 08°30'49" West, 40.57 feet; thence South 12°33'37" East, 14.04 feet; thence South 30°31'44" West, 17.82 feet; thence South 02°08'42" East, 27.96 feet; thence South 72°43'35" West, 14.88 feet, to the POINT OF BEGINNING.

EXHIBIT B

PAGE 2

EAST & WEST 1/4 LINE OF SECTION 10
AND CENTERLINE OF 12 1/2 MILE ROAD

CENTER OF SECTION 10
T.1N., R.8E.
L.5449, P.212,
1521.14'
S89°01'34"E

S89°01'34"E 280.00'

POINT OF BEGINNING
(SUBJECT PARCEL)

EAST 1/4 COR.
SECTION 10
T.1N., R.8E.
L.16850, P.426,

805.22'
N89°01'34"W

12 1/2 MILE ROAD
33' STATUTORY R.O.W.

43' R.O.W.

PROPOSED
CHARNETH FEN
CONDOMINIUMS
4.633 ACRES

EASEMENT FOR
WOODLAND
AND WETLAND
PRESERVATION

POINT OF
BEGINNING (3)
EASEMENT

POINT "B"

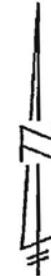
EASEMENT FOR
WOODLAND
AND WETLAND
PRESERVATION

POINT OF
BEGINNING (2)
EASEMENT

POINT "A"

EASEMENT FOR
WOODLAND
AND WETLAND
PRESERVATION

POINT OF
BEGINNING (1)
EASEMENT



EASEMENT FOR WOODLAND AND
WETLAND PRESERVATION



SEIBER, KEAST &
ASSOCIATES, INC.
CONSULTING ENGINEERS

MILLETICS AND
ASSOCIATES, L.L.C.
LAND SURVEYORS

40388 GRAND RIVER AVENUE SUITE 110 NOV, MI 48375-2123
(248) 473-7880

CHARNETH FEN CONDOMINIUMS
SECTION 10, T.1N., R.8E.,
CITY OF NOV
OAKLAND COUNTY, MICHIGAN

SCALE: 1" = 100'
DATE: 3-29-2004
JOB NO.: 01-058
DWG FILE: 01-058EE
DRAWN BY: KAL
CHECK: CS
SHEET: 1 OF 1

City Attorney Review Letter

January 12, 2011

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Elizabeth M. Kudla
Direct: 248-539-2816
bkudla@secretwardle.com

Barb McBeth, Deputy Community Development Director
City of Novi
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Charneth Fen SP02-15 and SP05-14
Conservation Easement
Our File No: 660188. NOV**

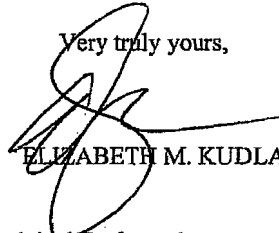
Dear Ms. McBeth:

We have reviewed and approved the enclosed Conservation Easement pertaining to the Charneth Fen Condominium. The Conservation Easement provides for the protection, in perpetuity of wetlands and woodland areas on the subject property. All issues set forth in our November 1, 2010 review report have been address. The exhibits describing and depicting the protected areas have been approved by Community Development.

Once approved by City Council and executed by the City, the original should be recorded with the Oakland County Register of Deeds.

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

Very truly yours,



ELIZABETH M. KUDLA

EMK

Enclosure

C: Maryanne Cornelius, Clerk (w/original Enclosure)
Mark Spencer, Planner (w/Enclosure)
Christopher Ludorf, Citizens Bank (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

1557264_1.doc

City Council Minutes

Excerpts

October 10, 2003

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, OCTOBER 6, 2003 AT 7:30 P.M.
COUNCIL CHAMBERS - NOVI CIVIC CENTER - 45175 W. TEN MILE ROAD**

Mayor Clark called the meeting to order at 7:30 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Clark, Mayor Pro Tem Bononi, Council Members Capello, Csordas, Landry, Lorenzo, Sanghvi

ALSO PRESENT: Rick Helwig – City Manager

Craig Klaver – Chief Operating Officer

Clay Pearson – Assistant City Manager

Gerald Fisher – City Attorney

Dave Evancoe – Director of Planning

Nancy McClain – City Engineer

2. Consideration of the request of Ken Albers of Diversified Land Development, LLC for preliminary site plan approval with a PD-1 (Planned Development) Option, Design and Construction Standard waiver for public sidewalk, and a wetland permit, for a 27-unit residential development, SP 02-15B. The subject property is located in Section 10, on the south side of 12-1/2 Mile Road, west of Novi Road in the RM-1 (Low Density, Low Rise Multiple Family) District. The subject property is 4.633 acres.

Member Lorenzo asked Mr. Ken Albers if the condominium would be a owner occupied project. Mr. Albers said all 27 units would be owner occupied. Member Lorenzo said a concern of hers regarding the PD-1 option, which allows the developer to build an additional story with more rooms, is whether this would reduce buildable area or preserve additional woodlands or wetlands that would otherwise not be preserved. She said it appeared that the site would be maxed-out, and no upland woodlands would be preserved. She questioned what the benefit would be to the City to allow the increase to a third story and create additional units than allowed under RM-1. The Planning Department estimated that if the development consisted of only 2-story buildings and kept the same room configuration, there would be 21 units as opposed to 27 units. She questioned the benefit to the City of the changes, except adding population.

Member Lorenzo said she would support the plan if the developer would agree to remove building #1. This would still net at least 5 additional units, as well as the configuration of rooms. Removing building #1 will eliminate some buildable area on the site, thus creating less impervious surfaces. This would also preserve a small wetland area that is adjacent to the larger wetland area.

Mr. Albers said the PD-1 district has certain standards to meet. The reason for the requested switch to PD-1 is to conserve more natural features on the land by building further upwards while constructing fewer buildings. He disagreed with the density count which was provided to her by the Planning Department. If the RM-1 requirements were used without the PD-1 option, he would be able to construct 32 units on the site, versus the 27 that he proposed.

Member Lorenzo asked if he had ever submitted a plan that showed 32 units on the property. Mr. Albers said Diversified Land Development had submitted alternate plans to the Planning staff throughout the conceptual portion of the development. They had submitted a plan that showed 66 units on site. There were 7 or 8 different design formats submitted.

Member Lorenzo asked how many variances those plans needed. Mr. Albers said the 66 unit design needed fewer variances than the current plan. Member Lorenzo said she found this hard to believe as she looked at the site. Mr. Albers noted that the documents were included in the packet provided to the Planning Commission. The plans that Council received had evolved from previous submittals. This was actually the third submittal of the site plan.

Mr. Albers said the formulas for PD-1 would allow for 94 units, which is certainly not practical for the site. The 27 units is well below the 94 units, and is also below the 32 units that would be allowed under RM-1. He pointed to wetland areas on a map that he said could be developed, but that Diversified Land Development has decided instead to preserve. Currently the property is clear to the water's edge, but under the site plan trees will be planted to make a net gain of 103 trees. PD-1 also dictates that the development must be in harmony with surrounding areas, and the condominium development would be surrounded on the east, west and south sides by a total of 481 condominium and apartment units. Since this is a small and separate development, additional setbacks are required, whereas these would be eliminated if the parcel were part of an adjacent development. There will be no permanent disturbance to the wetland area.

Member Lorenzo appreciated Mr. Albers' explanation. Without seeing the plans for 66 units or 32 units on the site, she could not comment on the layout. She would support the plan, but only with the removal of building #1.

Mr. Albers said there were 3 minor variances for the proposed layout, which the Planning Commission has recommended for approval to the Zoning Board of Appeals. The purpose of variances from the Zoning Board is to relieve hardships

placed upon property owners because of extreme conditions. This site meets all of those requirements. The parcel is a unique shape – it is two and a half times longer than it is wide. The site is small in comparison to other sites, and thus the restrictions that are set up for larger areas place a hardship on the developers of the parcel. The combined total of the setbacks is 150 feet, but the total building envelope is only 130 feet. He said the Planning Commission made positive comments about the constructions designs, which are 100% brick, earth-tone façade. Removing building #1 would not affect variances at all because none were needed for that construction.

Member Sanghvi asked if there was anyone in the Planning Department who could verify how many plans were presented before the current proposal came to Council. Mr. Evancoe answered that there were 3 plans presented. The original plan was a "total build out" plan that showed a number of units, and in fact what is currently called unit #1 originally had 2 units. A plan was presented to the Planning Commission in April, which made a number of suggestions that resulted in the current plan being submitted.

CM-03-10-326 Moved by Sanghvi, seconded by Csordas; MOTION CARRIED: To approve request of Ken Albers of Diversified Land Development, LLC for preliminary site plan approval with a PD-1 (Planned Development) Option, Design and Construction Standard waiver for public sidewalk, and a wetland permit, for a 27-unit residential development, SP 02-15B, subject to Design and Construction Standard waivers, variances, and Planning Commission conditions. The subject property is located in Section 10, on the south side of 12-1/2 Mile Road, west of Novi Road in the RM-1 (Low Density, Low Rise Multiple Family) District. The subject property is 4.633 acres.

DISCUSSION

Mayor Pro Tem Bononi asked Mr. Albers to describe the condition of 12 ½ Mile Road as it would serve his site. Mr. Albers said 12 ½ Mile Road would be the main entry to the development. Currently, 12 ½ Mile Road is a hard-packed gravel road. For the last 2 years, this has been used extensively by gravel haulers that have been balancing the Sandstone development down the street, as well as by the equipment from the 180-unit development adjacent to his property. They will be widening the road in front of their development.

Mayor Pro Tem Bononi asked if Mr. Albers was saying that this was not a permanently constructed roadway, as the road is not paved and does not have curbs and gutters. She said she was asking in regards to the findings that are required for the special land use considerations in planned developments (PD). What Mr. Albers proposed is in character compliance of the surrounding zones. Although he has RM-1 to the south and west of his site, the area is predominately RA and R-4. She was not completely convinced that what Mr.

Albers proposed was compatible with the existing zoning and uses surrounding the area, but asked for Mr. Albers' opinion.

Mr. Albers said the zoning that the Mayor Pro Tem referred to was no longer current. The property on the south side of 12 ½ Mile used to be R-1, but property immediately on the east from Novi Road up to his property is RM-1 and is being developed with the PD-1 option. To the south are 301 apartments.

Mayor Pro Tem Bononi said she was aware of the properties immediately surrounding Mr. Albers' property, but the compatibility of the existing zones provides a different perception.

Mr. Albers commented that the property immediately to the west is 180 units and is also zoned multiple. The only RA remaining is across the street, and he believed this had already been surveyed and tagged and would be proposed for rezoning as well.

Mayor Pro Tem Bononi remarked that she found the capacity of the roadway deficient, and felt that increasing the multiple might create a domino effect in the area for more multiples, which she was concerned about. She was concerned about the character of the buildings and the building mass. The topography of the land will forgive some of the building heights, but the landscaping proposed in the plans was more mature in relation to the construction than what will realistically occur. She expressed concern about how the square footage would fit the character of the buildings. The proposal calls for 171,016 square feet on 4.633 acres. She said she would be more favorable of the proposal if it called for fewer buildings that would be constructed higher. In comparison, the square footage is the equivalent of 2.13 Wal-Mart's, or 2.85 super-store supermarkets. If the configuration of the parcel does not suit the number of units that Diversified Land Development wishes to build, it does not make the land parcel a hardship. She felt the development proposal was too dense for the site and would not meet the requirements for compatibility of character.

Mr. Albers said the site is very small in comparison to the adjacent developments in the area. The net site area density of his development is less than any of the developments that surround his. The allowable building coverage for the site, per ordinance, is 25%. The company is only proposing 13.65%. The impact on the traffic and utilities would be so minor that the traffic consultants said a traffic study was not even required for the site. He said the actual total combined square footage of all of the buildings would only be 60,000 square feet.

Mayor Pro Tem Bononi had a problem with the findings regarding the special land use and how the project would fit in there. If the project featured higher buildings with a reduced footprint, she would support the proposal, but she felt the stated plan was too dense for the site.

Member Csordas asked Mr. Evancoe how many units could be developed on the property without the Planned Development status. Mr. Evancoe said he believed the developer's statement was accurate, and was either 32 or 35 units.

Member Csordas felt the development would fit precisely what is desired for that area and the rest of the City. Many parcels that will come forward from the balance of the build-out are going to be difficult parcels to develop. He commended the developer for proposing 5 less units that would be allowed for the site, and said the development was a good use of the land. He inquired what the average sale price of the units would be. Mr. Albers replied that prices will likely start about \$275,000 to \$280,000.

Member Csordas said he was surprised by the relatively low cost of the condos because the artist's rendition of the final product was of a very attractive development. This would bring good revenue to the City for very low service requirements. The Planning Commission forwarded a positive recommendation for the preliminary site plan, wetland permit, and storm water management plan.

Member Csordas asked Mr. Albers to explain the waiver for the public sidewalk. Mr. Albers said the requirements are for the sidewalk to be in the future right-of-way, as opposed to the existing right-of-way. On the submittal, the sidewalk was moved into the future right-of-way with the exception of a small area around a waterfall, where the sidewalk was moved around that water feature. They have offered to present documentation to the City Attorney that if the road was ever widened and that portion of the sidewalk had to be moved, the developer would pay all costs to bring the sidewalk back in.

Member Csordas commented that the City is protected against that waiver. He noted that the City Engineering Department indicated that the storm water management plan is satisfactory for the preliminary site plan review, which Mr. Evancoe agreed was correct. Member Csordas said the City needs to apply flexibility to projects that come forward and look for projects that encourage families to move to Novi. This is an upscale development with excellent use of the land, and will be a success.

Member Landry said this appeared to be an applicant that came with a potential site plan, and the applicant was willing to work with the Planning Department. This is the third iteration of what was originally prepared. Both the Planning Department and Planning Commission have recommended approval. The development is less dense than the surrounding area and is surrounded by multiples, so it would make sense to develop the parcel as multiples as well.

Member Landry said the motion, as he heard it, did not specifically recommend design and construction standard waivers. He asked Mr. Fisher if this should be added to the motion. Mr. Fisher said it should, as it was important to clarify that

the motion contemplates all of the recommended action and is subject to the variances and Planning Commission conditions if approved.

Member Landry asked if the proposal were to receive approval from Council, but did not obtain the waivers from the Zoning Board of Appeals, the procedures would need to start over from the beginning. Mr. Fisher stated this was correct. Member Landry proposed a friendly amendment to the motion to include the design and construction standard variances, and make these subject to the waivers from the Zoning Board of Appeals as set forth in the recommendation of the Planning Commission.

Member Sanghvi and Member Csordas agreed to the friendly amendment.

Mayor Clark said he supported the proposal. The development would not be for a Wal-Mart or box store, but rather individually owned homes which in this case are condominiums. As the City begins to build out, it has more difficult sites to develop, and it must be creative. This development will add a true amenity to the City.

Roll Call Vote on CM-03-10-326 Yeas: Capello, Csordas, Landry, Sanghvi, Clark

Nays: Lorenzo, Bononi

Absent: None