



CITY of NOVI CITY COUNCIL

Agenda Item 'F'
May 6, 2013

SUBJECT: Approval of a request by the owners of Unit 30 Condominium, Trek, Inc. and Century Construction and Management, LLC, to waive the Maintenance and Guarantee Bond required under Section 26.5-33(1)(d)(12) of the ordinance for water and sewer facilities installed for the Desoto Investments site located in the Beck North Corporate Park in Section 4.

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division ^{LC}
Community Development Department ^{SC}

CITY MANAGER APPROVAL: ^{UM}

BACKGROUND INFORMATION:

The Desoto Investments site plan was constructed on unit 30 (formerly known as Units 10 and 11) of Beck North Corporate Park near the intersection of West Road and West Park Drive in Section 4 in 2007 as two speculative buildings. The site was later split into a new condominium with two units, one for each building, known as Unit 30 Condominium. The constructed site sat vacant until 2011 when one unit of the condo (the east building) was purchased by Trek, Inc.

The original developer of the site failed to complete landscaping and the punchlist and paperwork items necessary for close-out of the project and was unresponsive and uncooperative with the City and Trek. In 2012, the other unit in the condo (the west building) was purchased from the original developer by Century Construction and Management, LLC. The City has worked diligently with the two owners to complete all items necessary for issuance of the certificate of occupancy for each building and to close out the project. The last remaining issue is the maintenance and guarantee bond for the acceptance of utilities.

Section 26.5-33 requires a maintenance and guarantee bond for newly installed water main and sanitary sewer facilities that will ultimately be dedicated as public prior to issuance of certificate of occupancy. This bond ensures the improvements are in good working order by repairing and defect, whether due to improper or defective materials, equipment, labor, workmanship, or otherwise without expense to the City. The owners of the Unit 30 Condominium are requesting a waiver of the Maintenance and Guarantee Bond for the water and sanitary sewer constructed with the Desoto Investments project in Beck North Corporate Park (see attached letter). The two-year term would normally begin once a Temporary Certificate of Occupancy for the building is issued.

The water main and sanitary sewer facilities were installed, tested and approved for operation in 2007. In the five years that the utilities have been in service, the City has not experienced any problems that would have developed from defective materials or workmanship. Staff supports the request to waive the maintenance and guarantee bond because the utilities have been in service for longer than the two-year warranty period.

RECOMMENDED ACTION: Approval of a request by the owners of Unit 30 Condominium, Trek, Inc. and Century Construction and Management, LLC, to waive the Maintenance and Guarantee Bond required under Section 26.5-33(1)(d)(12) of the ordinance for water and sewer facilities installed for the Desoto Investments site located in the Beck North Corporate Park in Section 4.

	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				

Sec. 26.5-33. - Requirements for completion of improvements in developments with public streets and utilities.

The following requirements shall apply where the streets and utilities within a development are contemplated or required to be dedicated to the public and accepted by the city.

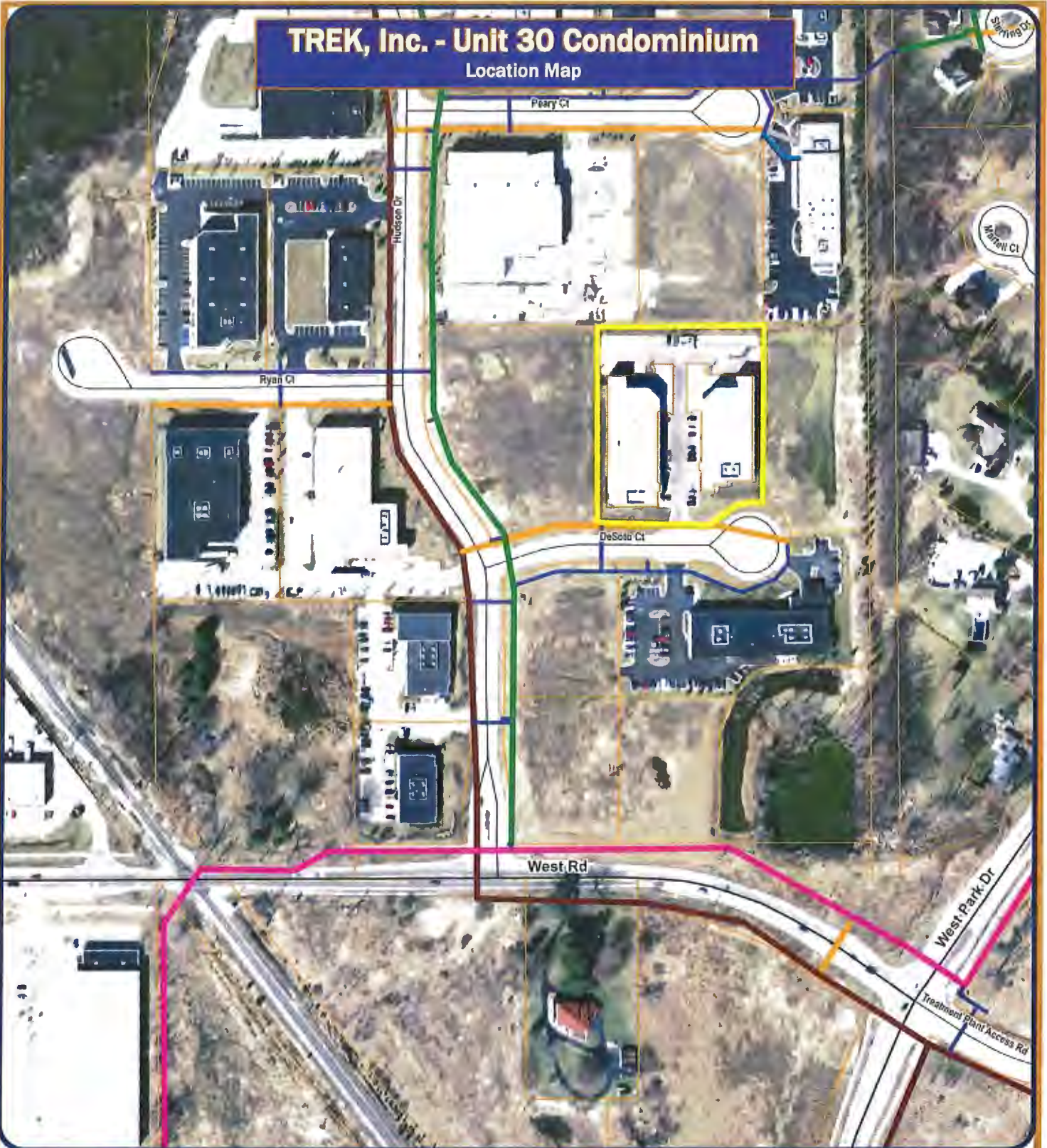
(1) *Completion of utilities and acceptance for maintenance.*

- d. The following acceptance documents (executed by or on behalf of the applicant unless otherwise specified herein) must be submitted to the city engineer for review and approval prior to approval of plot plan for single-family residential building sites, including platted subdivisions and site condominiums and prior to issuance of any temporary certificate of occupancy for all other developments:

- 12. Maintenance and guarantee bond equal to twenty-five (25) percent of the cost of the construction of the utilities to be accepted. This bond must be in effect for a period of two (2) years from the date of the "acknowledgement" signed by the city engineer indicating the city has accepted the utilities and corresponding easements.

TREK, Inc. - Unit 30 Condominium

Location Map



Map Author: Aaron J. Staup
 Date: April 15, 2013
 Project: M & G Bond Walver
 Version #: 1

TREK, Inc. - Unit 30 Condo
 Beck North Corporate Park
 Utility M & G Bond Walver

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 Delwa Drive
 Novi, MI 48375
cityofnovi.org

Unit 30 Condominium

46471-46470 Desoto Court

Novi, MI 48377

Phone: 248 668 2131

Fax: 248 960 1168

Charles Boulard
City of Novi
Economic Development Manager

April 4, 2013

Re: Unit 30 Condominium
Permanent occupancy permit

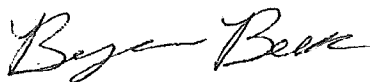
Dear Mr. Charles Boulard,

As the Unit 30 Condominium, we would like to request that the City of Novi's requirement for a bond for the acceptance of water and sewer facilities on this project be waived. We understand that the bond is required to insure that the facilities have been properly installed and operate effectively.

The water and sewer has been installed since 2007 and has been operating properly for that period of time. We have occupied the building premises since January 2011, and we have maintained the water and sewer up to the city standards and we feel that the bond requirement would be burdensome and unnecessary. As such, we respectfully request that the City of Novi accept these facilities without the requirement for the developer to place a bond.

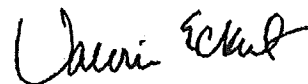
Thank you.

Sincerely,



Benjamin Beck
Trek Inc.

Sincerely,



Valerie Eckert
Century Construction and
Management LLC



JOHNSON ROSATI SCHULTZ JOPPICH PC

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

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.johnsonrosati.com

July 31, 2012

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

Re: **DeSoto Investments – Lots 10 & 11 Beck North Corporate Park, SP03-23**
Utilities Review for Acceptance

Dear Mr. Hayes:

We have received and reviewed, and enclosed please find, the following documents for Lots 10 & 11 of Beck North Corporate Park (also known as the Unit 30 Condominium):

1. Water System Easement
2. Sanitary Sewer System Easement
3. Bill of Sale
4. Title Commitment
5. Cross Access Easement Agreement

We have the following comments relating to the above-named documents:

DeSoto Investments, Inc., and Trek, Inc., the owners of Units 1 and 2 of the Unit 30 Condominium, seek to convey the water and sanitary sewer system facilities serving Units 10 and 11 of Beck North Corporate Park, also known as the Unit 20 Condominium, to the City of Novi for public use and maintenance. We have reviewed and approve the format and language of the above Water System and Sanitary Sewer System Easements and corresponding Bill of Sale. The Water and Sanitary Sewer System Easements are in the City's standard format and are acceptable subject to approval of the legal descriptions by the City's Engineering Division. Though the Bill of Sale includes a disclaimer by Trek as to warranties of the water and sanitary sewer system, we have no objection to the inclusion of the disclaimer since DeSoto Investments is the developer and is responsible for warranty of the utility facilities pursuant to the requirements of City Ordinance.

In all events, it is our understanding that the developer may request City Council to waive the Maintenance and Guarantee Bond requirement, in writing, based on the age of the water and sanitary sewer system facilities. Section 1-12 of the City of Novi Code provides for City Council to consider a waiver of ordinance requirements provided that the applicant can show all of the following:

Sec. 1-12. - General appeal.

(c) A variance may be granted by the city council from regulatory provisions of this Code when all of the following conditions are satisfied:

(1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;

(2) The alternative proposed by the applicant will 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, nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.

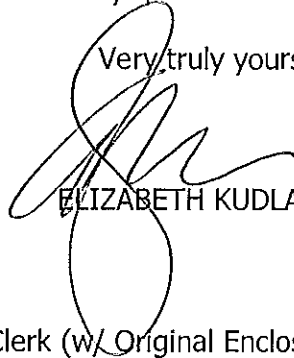
Subject to either the posting of a Maintenance and Guarantee Bond as required by ordinance, or, alternatively to the grant of a waiver pursuant to Section 1-12 of the City of Novi Code. the Water and Sanitary Sewer System Easements may be accepted by Affidavit of the City Engineer.

Finally, the Cross Access Easement Agreement provides cross access to the adjacent property owner over the driveways within the Unit 30 Condo to promote pedestrian and vehicular circulation between Unit 9 of Beck North Corporate Park adjacent public roadways. Though the owner of Unit 9 is not willing to grant cross access over Unit 9 to the Unit 30 Condominium because there is currently no development plan for the site, a cross access easement agreement will be required with respect to Unit 9 at the time it is developed. We recommend acceptance of the Cross Access Easement Agreement in the format provided. Because the Easement Agreement is a private easement and does not require formal acceptance by the City, the Cross Access Easement Agreement may be recorded with the Oakland County Register of Deeds without further action by the City.

Once accepted by Affidavit of the City Engineer, the Water and Sanitary Systems Easements should be recorded with the Oakland County Register of Deeds in the usual manner. The title commitment and original Bill of Sale should be retained in the City's file.

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

Very truly yours,

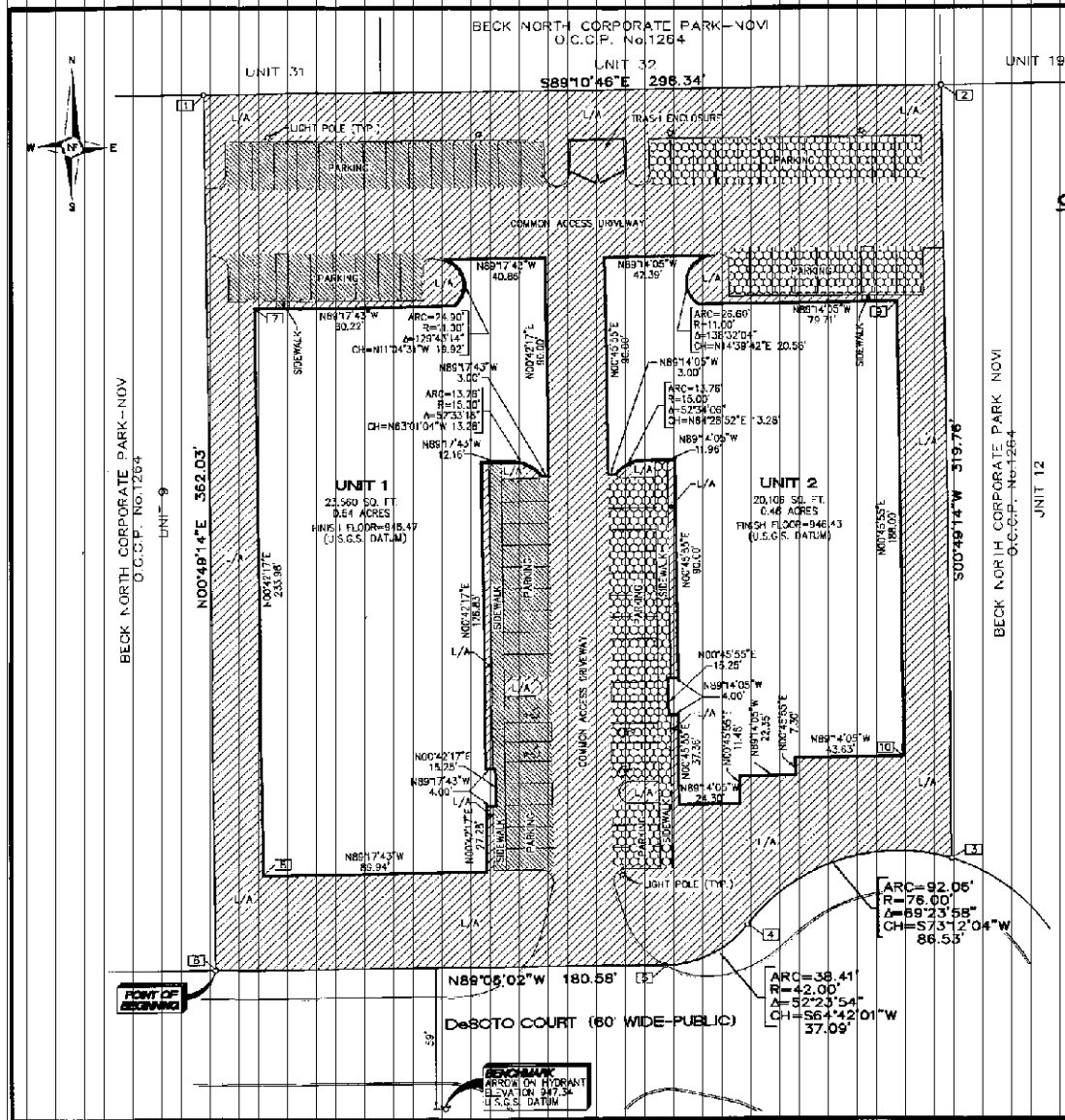


ELIZABETH KUDLA SAARELA

EMK
Enclosures

- C: 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)
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)
Crystal Sapp and Ted Meadows, Spalding DeDecker (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Sherman Freund, DeSoto Investments (w/Enclosures)
Ben Beck, Trek, Inc. (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

LIBER 42161



NOTES

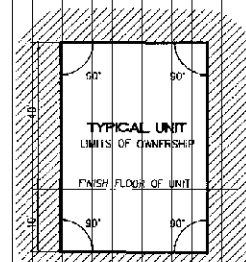
1. INFORMATION AS SHOWN HAS BEEN OBTAINED BY FIELD OBSERVATIONS PERFORMED BY KOWAN & FRAUS ENGINEERS ON JUNE 1, 2010.
2. UNITS 1 AND 2. ALL UTILITIES, ROADS AND DRIVES REQUIRED TO SERVICE SAID UNITS SHALL BE BUILT.

COORDINATE DATA

NO.	NORTHING	EASTING
1	5247.28	4995.73
2	5243.07	5239.94
3	4923.26	5289.46
4	4898.28	5204.52
5	4885.44	5171.05
6	4885.27	4995.55
7	5158.06	5111.51
8	4928.69	5016.53
9	5154.00	5271.74
10	4985.07	5299.73

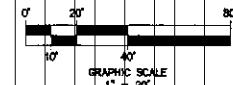
LEGEND

- LIMITS OF OWNERSHIP
- GENERAL COMMON ELEMENT
- LIMITED COMMON ELEMENT (APPURTENANT TO UNIT 1)
- LIMITED COMMON ELEMENT (APPURTENANT TO UNIT 2)
- MONUMENT CONSISTING OF 1/2" DIA. STEEL BAR ENCASED IN 4" DIA. CONCRETE, 36" LONG
- MONUMENT CONSISTING OF 1/2" STEEL ROD, DRILLED AND SET IN PLACE, 6" LONG
- COORDINATE POINT NUMBER
- EXISTING LIGHT POLE
- LANDSCAPED AREA



TYPICAL UNIT SECTION

NET 10 SCALE



SITE PLAN

AS-BUILT 6/10/2010

CFE ENGINEERS

CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

1677 WOODWARD AVE
FONTANA, CA 92335-5523
TEL: (951) 332-1931
FAX: (951) 332-4287

Unit 30
Condominium



DATE PLOTTED:	DATE:	SCALE:	SHEET NO.:
DESIGNED BY:	DATE:	GRAPHIC SCALE:	3
DRAWN BY:	DATE:	1" = 20'	(74)