

RECEIVED
FEB 13 2003
G. W. Caddell Register Of Deeds
Oakland County, MI

APR 1 2003

LIBER 29507 PG 343

RECEIVED
MAY 20 2003
G. W. Caddell Register Of Deeds
Oakland County, MI

291159
LIBER 29507 PAGE 343
\$40.00 MISC RECORDING
\$4.00 REMONUMENTATION
06/10/2003 09:23:42 A.M. RECEIPT# 48372
PAID RECORDED - OAKLAND COUNTY
G.WILLIAM CADDELL, CLERK/REGISTER OF DEEDS

AGREEMENT FOR PERMANENT WATER QUALITY BASIN

THIS AGREEMENT is made AUGUST 9, 2002, by and between the CITY OF ROCHESTER HILLS, Oakland County, Michigan, of 1000 Rochester Hills Drive, Rochester Hills, Michigan (the "City"), and ROCHESTER PROPERTIES DEVELOPMENT, L.L.C., a limited liability company, of 28470 Thirteen Mile Road, Farmington Hills, Michigan 48334 (the "Developer").

11P
R

WITNESSETH:

WHEREAS, Developer is the owner of certain real property located in the City of Rochester Hills, Oakland County, Michigan, which real property is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, and

WHEREAS, the Developer wishes to develop the above described property, such property to be a condominium project and known as MILL STREAM VILLAGE, a multi-family residential development consisting of Forty Six (46) Condominium Units ("Units") (hereafter known as the "Project"), and

WHEREAS, it is necessary for the Developer to construct one (1) permanent water quality basin areas and the storm sewer lines within the Project (referred to herein as the "Water Quality System") for the protection of adjacent and downstream properties, watercourses and wetlands, which Water Quality System is delineated on the proposed Exhibit B of the Project, and

O.K. - KB

Emg 9/15/03

WHEREAS, the Developer desires to make available and grant to each of the future unit owners in the Project the right to utilize the Water Quality System and provide for its maintenance by the Mill Stream Village Association ("Association") responsible for administration of the Project, and

WHEREAS, it is desirable that the Developer and the City enter into a binding contract relative to the details of development of the Water Quality System and the use, repair and maintenance thereof.

NOW, THEREFORE, in consideration of the Promise, and of the mutual promises contained herein, the parties hereto agree as follows:

1. From the date of recording of the Condominium Subdivision Plan, and until such time as Developer's rights and obligations under this Agreement are assigned as provided for in Paragraph 4 below, Developer shall have the responsibility and be obligated to the City to reasonably maintain and keep in good order the Water Quality System. Maintenance of the Water Quality System shall include stabilization of the banks and slopes, removal of trash, refuse, and accumulated sediment on a reasonable periodic basis, keeping the bottom of the water quality basin free from silt and debris, removing harmful algae, maintaining a steel grating across the discharge structure, cleaning of stone filter systems, replacement of filter fabrics, repair or replacement of the storm lines, erosion control, repair of the over-flow structure, and such other maintenance as may be reasonable and necessary to foster the intended functioning of the Water Quality System. Inspection of the sedimentation and water quality will be performed by City Engineering and the Developer or his designee on a regular basis as deemed

necessary. The costs of inspection shall be paid by the Developer in accordance with Chapter 4-01.13 Subdivision Control. Fees.

2. Developer shall file with the City Clerk security, as provided for in Chapter 4-01, Subdivision Control, of the Code of Ordinances, in such amounts as determined reasonable and necessary by City's engineer to guarantee ongoing maintenance and repair to the Water Quality System. Said security shall terminate after the City engineer determines that ninety percent (90%) of the units and all landscaping and sodding in the tributary watershed area serving the units are completed. Accordingly, accumulated sediment and debris is to be removed, final storm sewer connections made, the water quality basin backfilled with compacted engineered fill, and the area restored and vegetated. This work will be solely the responsibility of the Developer prior to conveyance of the Water Quality System to the Association.

3. Following Developer's conveyance of title to the Water Quality System pursuant to Paragraph 4 below, control and jurisdiction over the Water Quality System shall be vested in the Association. The Association shall be organized as a non-profit corporation for a perpetual term under the laws of the state of Michigan. Membership in the Association shall be mandatory for all unit owners in the Project. The Association shall be responsible, at its sole expense, for the proper maintenance of the Water Quality System, and for compliance with the terms of this Agreement. The Association shall be incorporated prior to the sale of any of the units in the Project to any person other than a builder or developer, or within ninety (90) days following the recording of the Condominium Subdivision Plan, whichever occurs first.

Each Association member shall be entitled to vote according to the number of units in which he or she has an ownership interest, with the following restrictions:

A. There shall be a total of one (1) vote allowed with respect to each unit of the Project.

B. When two (2) or more members hold an ownership interest in a particular unit as Co-Owners, whether as Tenants In Common, Joint Tenants, or otherwise, the vote attributable to such unit shall be exercised as such Co-Owners shall among themselves determine, but shall not require all Co-Owners' signatures to be valid.

The Association shall have the authority to make and enforce regulations pertaining to the use and maintenance of the Water Quality System, which regulations shall be binding upon all members.

4. The Developer agrees, on or before the date of conveyance of the last unit in the Project, to convey title to the Water Quality System to the Association, and the Association shall accept such conveyance and hold title to the Water Quality System for the benefit of all members of the Association, but free of all encumbrances reflecting obligations to pay money (other than liens for taxes and assessments not then due and payable). Following such conveyance, the Association shall be responsible for maintaining and keeping the Water Quality System in good order in the manner described in Paragraph 1, above, thereby the Developer shall have no further obligation or duty under this Agreement whatsoever. In no event shall the Association be liable for payment of any debts or liabilities incurred by Developer. Any debts or obligations incurred by the Association shall constitute a personal obligation of its members, and

shall be considered an obligation appurtenant to the members' property which shall pass with the title to such property, whether or not specifically set forth in the deeds thereto.

5. In the event that the Developer, its successors, assigns or the Association (after acquiring title to the Water Quality System from Developer), shall at any time fail to maintain the Water Quality System and related facilities in reasonable order and condition, the City may serve written notice upon the Developer, its successors, assigns or the Association setting forth as fully as possible the manner in which the Developer, its successors, assigns or the Association, has failed to maintain the Water Quality System in a reasonable condition, and said notice shall include a demand that deficiencies of maintenance be cured within thirty (30) days thereof, and further, shall state the date and place of a hearing thereof before the City Council or other such board, body, or official to whom the City Council shall delegate such responsibility, which shall be held at least fourteen (14) days after the notice is served. At such hearing, the City may modify the terms of the original notice as to the deficiencies, and may give an extension of time within which they shall be cured. If notice, or in any modification thereof, is not be cured within thirty (30) days or any extension thereof, the City may enter upon said Water Quality System and maintain the same. Said maintenance by the City neither constitute a taking of the Water Quality System nor vest in the public any right to use the same. In the event that the City determines the existence of any emergency, causes by or relating to the Water Quality System which threatens the public health, safety or general public welfare, the City shall have the right to immediately and without notice take appropriate corrective action. The cost of any maintenance or any action by the City, plus the prevailing administrative fee, shall be assessed against the Developer, its successors,

assigns or the Association, and deducted from the security that is then on file with the City. If the security has been terminated or is insufficient to reimburse the City for the maintenance necessary to cure, the cost of maintenance (or any deficiency after applying any security held by the City) by the City shall be assessed against the Developer, its successors, assigns or the Association and added to the tax rolls, and shall be collected and enforced in a like manner as general property taxes are collected and enforced. The City shall be, at its option, subrogated to the right of the Association against its members to the extent of that cost, if the City, by an official resolution, gives thirty (30) days written notice to each member of the Association of the City's election to be so subrogated. The Association members shall bear their pro-rata share of the total cost of maintaining the Water Quality System (including, without limitation, any real or personal property taxes assessed against the Water Quality System), which shall constitute a lien against the member's unit, and the City shall be paid and have the right to charge and collect the costs for such corrective action, as provided herein. Each member's prorated share of the cost shall equal the total cost multiplied by the ratio of the number of units owned by the member divided by the total number of units in the Subdivision.

6. Notwithstanding any other provisions of the Agreement and so long as Developer holds title to the Water Quality System areas, Developer reserves the right to grant easements (in addition to those contained in the Condominium Subdivision Plan) within the Water Quality System areas for the installation, repair and maintenance of water mains, sewers, drainage courses and other public utilities, subject to obtaining the consent of the City, such consent shall not be unreasonably withheld or delayed, provided that such utilities shall be installed in such manner as to minimize damage to the natural

features of the area. After conveyance of title for the Water Quality System to the Association, the Association shall retain the foregoing right to grant easements.

7. The Water Quality System described in the proposed Condominium Subdivision Plan shall be used for no purpose other than its proposed use until such time as the City may determine and signify by written notice to the Association or its successors that there is no further need for the facilities, or the parties hereto mutually agree to an additional or alternate use.

8. The City may enforce the obligations contained herein in a court of competent jurisdiction. Any attorney's fees or costs incurred by the City in enforcement of this Agreement in court shall be paid for by the Developer, its successors or assigns or the Association, as the case maybe.

9. The obligations of Developer contained herein shall not be delegable by Developer except as herein provided, unless approved by a Resolution of the City Council.

10. This Agreement shall constitute restrictions and covenants running with the land described in Exhibit "A" hereto. The parties hereto make this Agreement on behalf of themselves and their respective successors and assigns, and hereby warrant that they have the authority and capacity to make this contract.

IN WITNESS WHEREOF, the parties hereto have set their hands on the date first above written.

WITNESSES:

ROCHESTER PROPERTIES DEVELOPMENT, LLC, a limited liability company,

Jill A. Demetriou
JILL A. DEMETRIOU
Paul A. Bringer
PAUL A. BRINGER

By: *[Signature]*
Gary Sakwa
Its: Authorized Representative

CITY OF ROCHESTER HILLS, a Michigan municipal corporation

SKAD Chose
SKAD CHOSE
Lisa Sage
LISA SAGE

By: *Pat Somerville*
Pat Somerville
Its: Mayor

STATE OF MICHIGAN)
COUNTY OF OAKLAND)


The foregoing instrument was acknowledged before me August 9, 2002, by Gary Sakwa, Authorized Representative of Rochester Properties Development, L.L.C., a limited liability company.

Jill A. Demetriou
Notary Public, Washtenaw County MI
Acting in Oakland County
My Commission Expires November 26, 2003

Jill A. Demetriou
Notary Public

STATE OF MICHIGAN)
)
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me 12/18, 2002, by Pat Somerville who is the Mayor of the City of Rochester Hills, on behalf of the City.



Notary Public

Jean Close
Notary Public, Oakland County, MI
My Commission Expires August 30, 2006

Drafted by:

David Lichtenstein
Grand/Sakwa Properties, LLC
28470 Thirteen Mile Road
Suite 220
Farmington Hills, MI 48334
(248) 855-5500

After Recording, return to:

City of Rochester Hills
Clerks Department
1000 Rochester Hills Drive
Rochester Hills, MI 48309

EXHIBIT B

Sheet 1 of 2

AGREEMENT FOR PERMANENT WATER QUALITY BASIN

PART OF THE SOUTHEAST 1/4 OF SECTION 2, T. 3 N., R. 11 E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN;

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

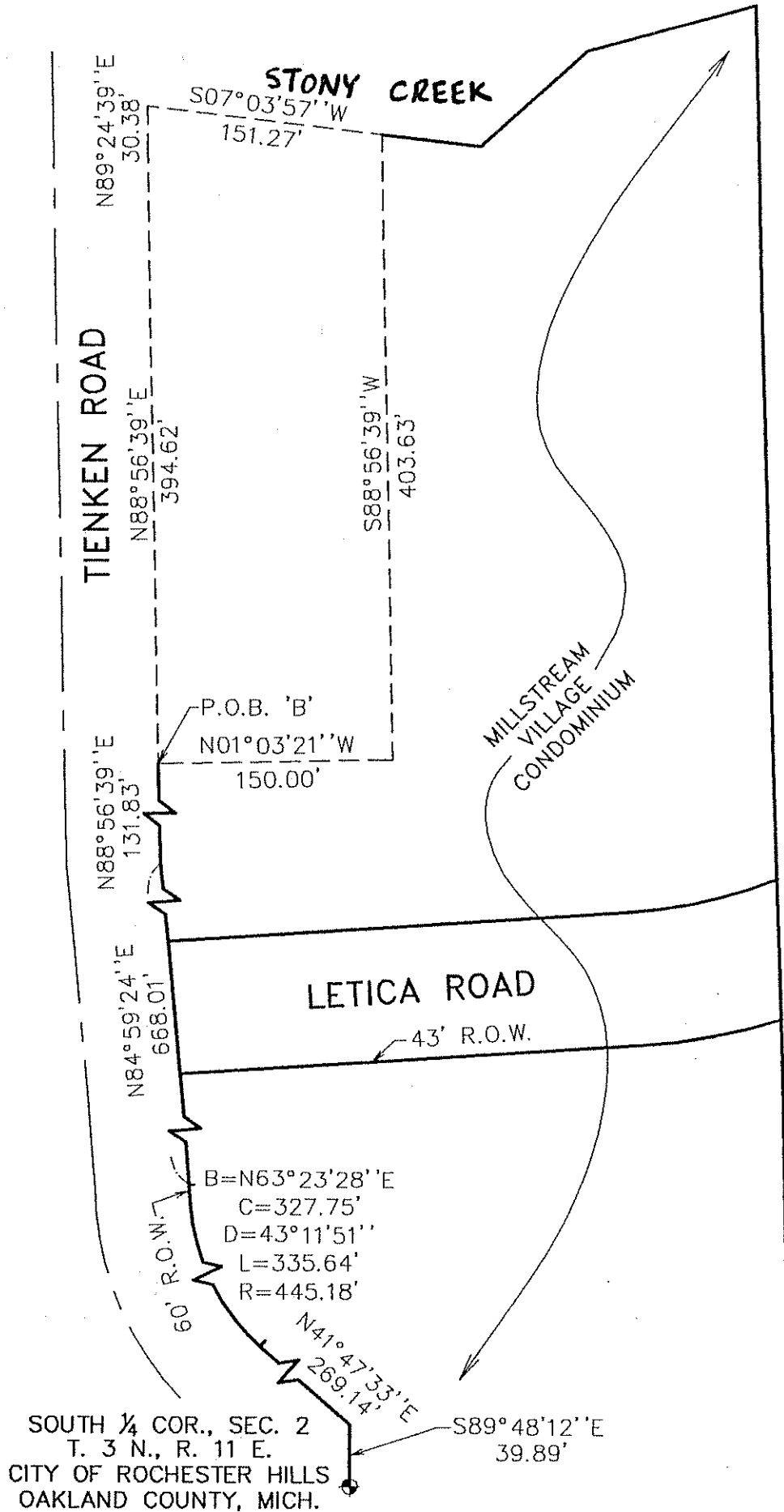
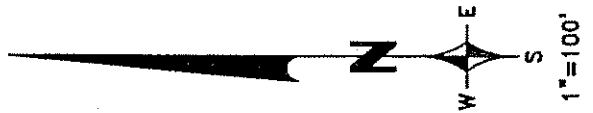
COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 2; THENCE S. 89°48'12" E., 39.89 FEET ALONG THE SOUTH LINE OF SAID SECTION TO THE SOUTH RIGHT OF WAY LINE OF TIENKEN ROAD (120' WIDE RIGHT OF WAY); THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE THE FOLLOWING FOUR (4) COURSES: 1) N. 41°47'33" E., 269.14 FEET; AND 2) ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 445.18 FEET, ARC LENGTH OF 335.64 FEET, CENTRAL ANGLE OF 043°11'51", A CHORD BEARING OF N. 63°23'28" E., AND A CHORD LENGTH OF 327.75 FEET AND 3) N. 84°59'24" E., 668.01 FEET AND 4) N. 88°56'39" E., 131.83 FEET TO THE POINT OF BEGINNING 'A'; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE N. 88°56'39" E., 394.62 FEET; THENCE N. 89°24'39" E., 30.38 FEET; THENCE S. 07°03'57" W., 151.27 FEET; THENCE S. 88°56'39" W., 403.63 FEET; THENCE N. 01°03'21" W., 150.00 FEET; THENCE TO THE POINT OF BEGINNING. CONTAINING 1.43 ACRES OF LAND.

above legal falls within
Mill Stream Village
15-02-452-000ent
OCQ# 1458

APPROVED DECE
M. Lewis
ROCHESTER HILLS
ENGINEERING DEPT.

EXHIBIT B

Sheet 2 of 2



APPROVED *DESC*
M. T.
ROCHESTER HILLS
ENGINEERING DEPT.

REVISIONS		
ITEM	DATE	BY
DRAWN BY	DESIGNED BY	DATE
AJ	MDC/TK	2-20-02

MILLSTREAM VILLAGE CONDOMINIUM		SCALE HOR: 1" = 100' VER: 1" = N/A
CITY OF ROCHESTER HILLS		FIELD BOOK NO.
STORM SEWER EASEMENT		JOB NO. 97183
ZEMMET WOZNIAK & ASSOCIATES CIVIL ENGINEERS & LAND SURVEYORS 28450 FRANKLIN ROAD SOUTHFIELD, MICHIGAN 48034 (248) 352-8950		SHEET NO. 3 of 3