



CITY of NOVI CITY COUNCIL

**Agenda Item 1
May 9, 2011**

SUBJECT: Approval to waive the Maintenance and Guarantee Bond requirement for water and sewer facilities at the Charneth Fen Condominiums project, located at 28401 Melanie Lane, south of 12 ½ Mile Road in Section 10 (parcel 22-10-426-001).

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

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION: *[Signature]*

The original developer for Charneth Fen, Diversified Land Development, LLC, defaulted on the mortgage held by Citizens Bank Corporation in 2007. Citizens Bank has requested that the City waive the two-year Maintenance and Guarantee Bond requirement for the project because of the length of time that has elapsed since the installation of the utilities [see attached April 14, 2011 letter]. Water and sanitary sewer facilities were installed, tested and approved for use.

I. Waive the Maintenance and Guarantee Bond requirement for water and sewer at Charneth Fen Condo's.pdf

The City requires a maintenance and guarantee bond for all newly installed water main and sanitary sewer facilities that are dedicated as public for a two-year term. The bond ensures that for a normal acceptance, the improvements are in good working order by replacement materials, equipment, labor, workmanship, or otherwise without expense to the City. The two-year term would normally coincide with the issuance of a Temporary Certificate of Occupancy for the first unit or building, however, Citizens Bank has just recently initiated the process toward utility acceptance.

Staff recommends a waiver of the two-year maintenance and guarantee bond for the water and sanitary sewer facilities, as requested by Citizens Bank, because the facilities have been in service for five years (longer than the guarantee period of two years) and in that time the City has not experienced any problems with the facilities.

RECOMMENDED ACTION: Approval to waive the Maintenance and Guarantee Bond requirement for water and sewer facilities at the Charneth Fen Condominiums project, located at 28401 Melanie Lane, south of 12 ½ Mile Road in Section 10 (parcel 22-10-426-001).

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

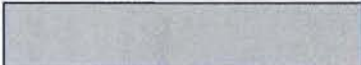
| | 1 | 2 | Y | N |
|-----------------------|---|---|---|---|
| Council Member Mutch | | | | |
| Council Member Staudt | | | | |
| Council Member Wrobel | | | | |

Charneth Fen

Location Map




Map Author: Brian Coburn
Date: 4/25/11

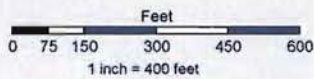


MAP INTERPRETATION NOTICE

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 or 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

 Charneth_Fen



City of Novi
Engineering Division
Department of Public Services
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org



April 14, 2011

Mr. Aaron Staup, Construction Engineering Coordinator
City of Novi Department of Public Services
26300 Delwal Drive
Novi, MI 48375

Re: **Charneth Fen Condominiums**

Dear Mr. Staup:

As you know Citizens Bank is in the process of completing the dedication of the water main and sanitary sewer utilities to the City of Novi for operation and maintenance. As part of that process a two-year Maintenance and Guarantee Bond is required to be submitted together with other related documents. As the owner of the Charneth Fen Condominiums, I hereby request a bond waiver from the City Council for the following reasons.

The owner, Diversified Land Development, LLC, commenced construction of the Charneth Fen Condominiums during the summer of 2005. At that time the utility systems including the water mains and sanitary sewers were completed and made operational. In 2007, Diversified Land Development, LLC defaulted on its mortgage and a Covenant Deed was issued in lieu of foreclosure on November 13, 2007. At that time Citizens Bank became the owner of the project. Now, nearly six years after construction, Citizens Bank has completed the utility punch list items and has submitted the related documentation for dedication of those utilities to the City of Novi. Typically the underground contractor that installs the utilities provides a two-year Maintenance and Guarantee Bond. However, that contractor's whereabouts are unknown to the bank, and even if the contractor were located, it would be unlikely that the surety company would issue a bond for construction that took place so long ago. Both the water main and sanitary sewer have been operational for nearly six years without incident. For these reasons, we conclude the following:

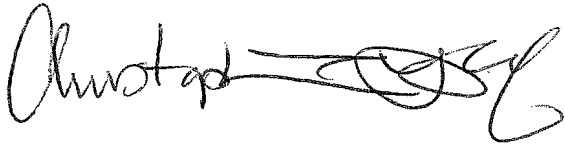
1. That the literal application of the bonding requirement will result in exceptional and practical difficulty to the owner, Citizens Bank; and
2. The fact that the systems have been operational for six years without incident more than exceeds the two-year bond term requirement and represents a reasonable alternative and does 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.

Mr. Aaron Staup, Construction Engineering Coordinator
April 14, 2011
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Please place this matter on the City Council agenda for their consideration and acceptance of the utility systems.

Sincerely,

CITIZENS BANK
A Michigan Banking Corporation

A handwritten signature in black ink, appearing to read "Christopher T. Ludorf", with a stylized flourish at the end.

Christopher T. Ludorf
Special Loans and ORE Officer