

CITY of NOVI CITY COUNCIL

Agenda Item C
June 6, 2011

SUBJECT: Approval to waive the Maintenance and Guarantee Bond requirement for the Country Cousin Mobile Home Park water main extension on Haggerty Road south of 12 Mile Road.

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

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The owner of the Country Cousin Mobile Home Park, Mr. Russell Button, along with the law offices of Couzens, Lansky, Fealk, Ellis, Roeder & Lazar, P.C., 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 October 6, 2009 letter). The water main was installed, tested and approved for operation in 2008.

The City requires a maintenance and guarantee bond for all newly installed water main and sanitary sewer facilities that will ultimately be dedicated as public for a two-year term. The bond ensures that for a period following formal acceptance, the improvements are in good working order by repairing any defect, whether due to improper or defective materials, equipment, labor, workmanship, or otherwise without expense to the City. The property owner has worked with Engineering staff and the City Attorney since 2008 and has provided acceptance documentation that meets the City's requirements.

Staff recommends a waiver of the two-year maintenance and guarantee bond for the water system facilities, as requested by Country Cousin, because the facilities have been in service for three 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 the Country Cousin Mobile Home Park water main extension on Haggerty Road south of 12 Mile Road.

	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				



May 4, 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: 248-539-2846
bkudla@secretwardle.com

Rob Hayes, Public Services Director
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Country Cousins Water Main
Our File No. 660049.NOVI**

Dear Mr. Hayes:

We have received and reviewed the following documents for acceptance of the water main constructed to service the Country Cousins' Property:

- Water System Easement
- Bill of Sale
- Title Commitment
- Maintenance Bond Waiver Request

Country Cousin Inc. (fka Country Cousin Mobile Village, Inc.), seeks to convey the water main constructed to serve the Country Cousin Mobile Home Park. Our office has reviewed and approves the format and language of the Water System Easement and corresponding Bill of Sale. The City's Engineering Division has reviewed and approved the legal description. As such, we recommend acceptance of the Easement and the corresponding Bill of Sale.

The water main was installed, tested, and approved for and has been in operation for over two years and has been functioning properly since that time.

Generally, the terms of a maintenance and guarantee bond require the developer to repair or replace defective water mains and/or sanitary sewer lines for two years from the time of formal acceptance of the facilities by the City.

Section 1-12 of the Ordinance Code permits the City Council to grant a variance from provisions of the City of Novi Code, including Section 26.5-10 regarding maintenance and defect guarantees for site improvements, as well as the previous maintenance and guarantee bond requirements in effect prior to the adoption of Chapter 26.5, when the property owner shows all of the following:

Rob Hayes, Public Services Director
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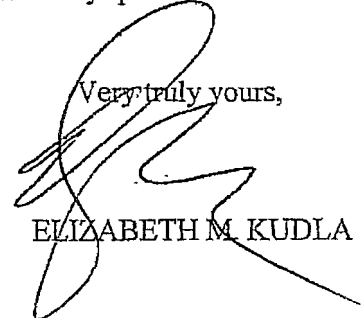
- (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- (2) The alternative proposed by the applicant will be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict 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.

The property owner seeks this variance on the basis that the water main has been in place and operating properly for over three years while the intended warranty period under the ordinance is two years.

Subject to approval of the bond waiver, the Water System Easement may be accepted by Affidavit of the City Engineer. Once accepted, the Water System Easement should be recorded with the Oakland County Register of Deeds. The Bill of Sale and title work should remain in the City's file. The property owner's attorney has requested a copy of the recorded Water System Easement be provided to him upon recording with the County.

Please feel free to contact me 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)
Marina Neumaier, Assistant Finance Director (w/Enclosure)
Brian Coburn, Senior Civil Engineer (w/Enclosure)
Aaron Staup, Construction Engineering Coordinator (w/Enclosure)
Sue Troutman, City Clerk's Office (w/Enclosure)
Christopher Williams, Esq. (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

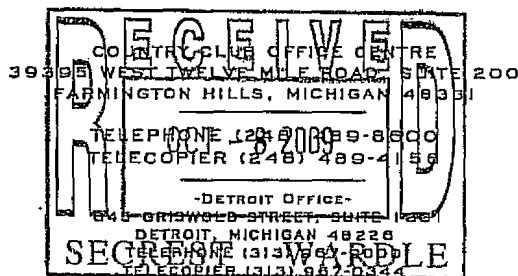
LAW OFFICES
COUZENS, LANSKY, FEALK, ELLIS,
ROEDER & LAZAR, P.C.

SHELDON A. FEALK
JACK S. COUZENS, II
JERRY M. ELLIS
DONALD M. LANSKY
BRUCE J. LAZAR
ALAN C. ROEDER
RENARD J. KOLASA
KATHRYN GILSON SUSSMAN
JEFFREY A. LEVINE
PHILLIP L. STERNBERG
LISA J. WALTERS
DONALD A. WAGNER
GREGG A. NATHANSON
CYNTHIA L. M. JOHNSON
MARK S. FRANKEL
ERIC J. GOULD
DAVID A. LAWRENCE

RUSSELL F. ELDER
GARY SCHWARGZ
ALISA A. KWANG
AMBER L. SLUSSER
JOSEPH H. WENER
KEITH J. BEAUCHEMIN
CHRISTOPHER M. WILLIAMS
KELLY A. HOUGH-BREEN

OF COUNSEL,

HAROLD A. LARSON
DONALD G. HARMS
MARK G. LANDAU
MONICA D. MOONS
KENNETH F. POSNER
LAWRENCE F. SCHILLER



October 6, 2009

Mr. Brian Coburn
Senior Civil Engineer
City of Novi
Public Services - DPW Garage
26300 Delwal Dr.
Novi, MI 48375

Re: Water System Easement for Property with Tax ID No. 22-13-200-028

Dear Mr. Coburn:

Please be advised that our office represents Country Cousin, Inc. Please consider this a formal request that you waive any maintenance bond related to the Water System Easement that is being provided by Country Cousin, Inc. to the City of Novi.

Thank you for your attention to this matter.

Very truly yours,

COUZENS, LANSKY, FEALK, ELLIS,
ROEDER & LAZAR, P.C.

Christopher M. Williams

CMW/kdr
Enclosure

cc: Mr. A. Russell Button

Elizabeth M. Kudla, Esq. ✓

O:\CMW\Button (real estate)\2009\Finals\coburn ltr 10-6-09.doc

Country Cousin

Water Main Extension Location Map



Public Water Main Extension

Map Author: Brian Coburn
Date: 5/27/11

Map Legend



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

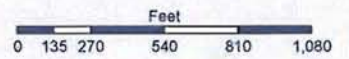
MAP INTERPRETATION NOTICE

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.

Water Main	10	24		
4	12	30		
6	16	36		
8	20	42 DMS		

PARKNAME

COUNTRY COUSIN INC



1 inch = 83,333 feet