



CITY of NOVI CITY COUNCIL

**Agenda Item 1
November 28, 2011**

SUBJECT: Approval to execute an affidavit terminating escrow and returning a sanitary sewer easement to Tasmin Devco, LLC, associated with site plan approval requirements for the Neher Sales office development proposed to be constructed at 41700 Eleven Mile Road.

SUBMITTING DEPARTMENT: Community Development Department - Planning *Bauh*

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

In October 2010, the City received a preliminary site plan application from RHO Realty, on behalf of Neher Sales, for a proposed 9,300 square foot office building to be constructed at 41700 Eleven Mile Road, Sidwell parcel 22-14-451-007 (see attached location map).

The applicant's sanitary sewer design required the procurement of an easement from the neighboring property to the west, owned by Tasmin Devco, LLC. At the request of RHO Realty and the City, Tasmin Devco executed the required sanitary sewer easement and placed it in escrow with the City. The easement was to be released upon the City issuing permits for construction on the Neher Sales property and subject to permits being issued before September 30, 2011.

The applicant submitted plans for building permit review, but building permits have not been issued due to a number of deficiencies in the building permit plan submittal. Construction will not be able to commence in the near future. The recorded *Affidavit Providing Notice of Easement in Escrow* (attached) stipulates that termination of the notice requires approval from City Council.

On October 12, 2011, the City received a request from Tasmin Devco to return the escrowed easement. The City Attorney reviewed the request and prepared an *Affidavit Terminating Escrow* (see attached). City Council approval and execution of the *Affidavit Terminating Escrow* will enable the City to return the escrowed easement. When construction of a building on this property is contemplated again in the future, it is likely that a new easement agreement or other mechanism to provide sanitary sewer easements will be addressed at that time.

RECOMMENDED ACTION: Approval to execute an affidavit to return a sanitary sewer easement and terminate escrow to Tasmin Devco, LLC, associated with site plan approval requirements for the Neher Sales office development proposed to be constructed at 41700 Eleven Mile Road.

	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				

Location Map


SP10-43 Neher Sales

Location Map



Map Author: Mark Spencer
Date: 10/19/10
Project: SP10-43 Neher location
Version #: 1.0

Map Legend

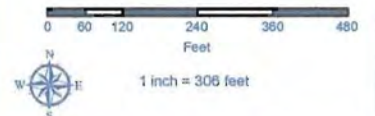
 Tax Parcels

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



**Letter Requesting Release of Easement
October 10, 2011**



**MINASIAN
DEVELOPMENT CORPORATION**

*Minasian Construction Co.
Minasian Management Co.*

**CITY OF NOVI
CITY CLERK'S OFFICE**

2011 OCT 12 A 11:35

October 10, 2011

Ms. Maryanne Cornelius
Office of City Clerk
45175 West Ten Mile Road
Novi, Michigan 48375

RE: 41700-41800 Eleven Mile - Neher Development - Minasian Sanitary Sewer
Easement - City Attorney File 660178

Dear Ms. Cornelius:

I am the manager of Tasmin Devco, LLC (Tasmin) which is the owner of property located at 41800 West Eleven Mile Road. Tasmin executed an easement for the benefit of the adjacent parcel located at 41700 West Eleven Mile Road.

The easement was to be held in escrow by the city of Novi with the condition that the easement would be returned to Tasmin, unrecorded and unaccepted, if a building permit was not issued by September 2011.

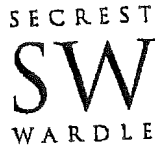
Please accept this letter as Tasmin's formal request for the return of the easement.

Very truly yours,

Ted C. Minasian

Cc: William Panos, esquire
Elizabeth M. Kudla via email (BKudla@SecrestWardle.com)
Thomas Schultz via email (TSchultz@SecrestWardle.com)

City Attorney Letter October 28, 2011



October 28, 2011

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

Elizabeth M. Kudla
Direct: 248-539-2846
bkudla@secrestwardle.com

Barbara McBeth, Deputy Community Development Director
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375

**Re: 41700-41800 West Eleven Mile
Request to Terminate Escrow and Return Easement
Our File No. 660178 NOV1**

Dear Ms. McBeth:

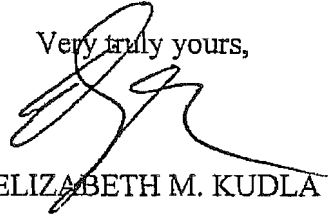
We have received and reviewed the request of Ted Minasian, the manager of Tasmin Devco, LLC, the owner of the property located at 41800 West Eleven Mile Road (the "Property") to release the Sanitary Sewer Easement that the City is holding in escrow with respect to the Property. As you know, on July 20, 2010, Tasmin Devco executed a Sanitary Sewer Easement benefitting the adjacent property at 41700 to allow it to connect to the City's public sanitary sewage disposal system. Under the terms of an "Affidavit Providing Notice of Easement in Escrow," the Sanitary Sewer Easement was being held in Escrow by the City until such time as it was needed for the development of the property located at 41700 West Eleven Mile, but if it was not made effective before September 30, 2011, it was to terminate. Because the development of 41700 West Eleven Mile has not occurred and was not initiated before the September 30, 2011 cutoff date in the Affidavit, Tasmin Devco has requested the release of the Sanitary Sewer Easement for termination in accordance with the terms of the escrow. In the event that the property is proposed for development in the future, a new easement will need to be obtained by the developer for the connection of 41700 West Eleven Mile to the adjacent public sewer.

The terms of the enclosed Affidavit Providing Notice of Easement in Escrow require that "no termination or alteration of the Notice shall be effective unless executed by the City of Novi, in accordance with a Resolution of the City Council of the City of Novi." We have prepared the enclosed Affidavit for this purpose. The Affidavit should be signed by Tasmin Devco, and placed on the next available City Council agenda for approval and execution by the City.

Barbara McBeth, Deputy Community Development Director
October 28, 2011
Page 2

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

Very truly yours,

A handwritten signature in black ink, appearing to read 'EK', with a long horizontal flourish extending to the right.

ELIZABETH M. KUDLA

EMK

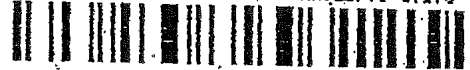
Enclosures

C: Maryanne Cornelius, City Clerk (w/Enclosures)
Brian Coburn, Engineering Manager (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Ted C. Minasian, Minasian Development Corporation (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

1746123_1.doc

Affidavit Providing Notice of Easement in Escrow

143949
LIBER 42276 PAGE 318
\$16.00 MISC RECORDING
\$4.00 REMONUMENTATION
08/10/2010 11:50:04 A.M. RECEIPT# 59195



PAID RECORDED - OAKLAND COUNTY
RUTH JOHNSON, CLERK/REGISTER OF DEEDS

**AFFIDAVIT PROVIDING NOTICE OF
EASEMENT IN ESCROW**

Affiant, TASMIN DEVCO, L.L.C., a Michigan limited liability company, whose address is 41800 West Eleven Mile Road, Suite 200, Novi, Michigan 48375, being the owner of real property located in the City of Novi, County of Oakland, State of Michigan and described as set forth in the attached and incorporated Exhibit A, hereby gives notice that a certain Sanitary Sewer System Easement for the operation and maintenance of a public sanitary sewer and monitoring manhole (the "Sanitary Sewer Easement"), the location of which is shown on Exhibit B, which is attached to and part of this Affidavit, has been executed by Affiant, and is dated 7/22/2010, and is being held in Escrow by the City of Novi (the "City"). The Sanitary Sewer Easement will be accepted and recorded by the City upon the issuance of the initial permit for construction of the adjacent parcel (22-14-451-007), but in all events, before, September 30, 2011. Otherwise the easement shall be terminated and released.

No termination or alteration of the Notice shall be effective unless executed by the City of Novi, in accordance with a Resolution of the City Council of the City of Novi.

AFFIANT, TASMIN DEVCO, L.L.C., a Michigan limited liability company

By: Ted C. Minasian
Ted C. Minasian
Its: ~~Member~~ Manager

STATE OF MICHIGAN)
) SS
COUNTY OF Wayne)
) Oakland

Subscribed and sworn to before me this 10th day of July, 2010, by the above named Ted Minasian, the Manager of TASMIN DEVCO, L.L.C., a Michigan limited liability company, to me known to be a person described in and who executed the foregoing instrument and acknowledged that they executed the same his free act and deed.

Drafted By And Upon Recording Return To:
Elizabeth M. Kudla
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
(248) 851-9500

Tax Parcel No. 22-14-451-029
Recording Fee

Carol C. Higley
Notary Public
County, Michigan
My Commission Expires: _____

RECEIVED
OAKLAND COUNTY
REGISTER OF DEEDS
2010 AUG -9 AM 11:30

Carol C. Higley
Notary Public
Wayne County, Michigan
My Commission Expires December 23, 2012
OK - MH

491792BH

METROPOLITAN

EXHIBIT A

Legal Description of Grantor's Parcel

Land situated in the City of Novi, County of Oakland, Michigan, described as follows:

A part of the Southeast ¼ of Section 14 Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, more particularly described as:

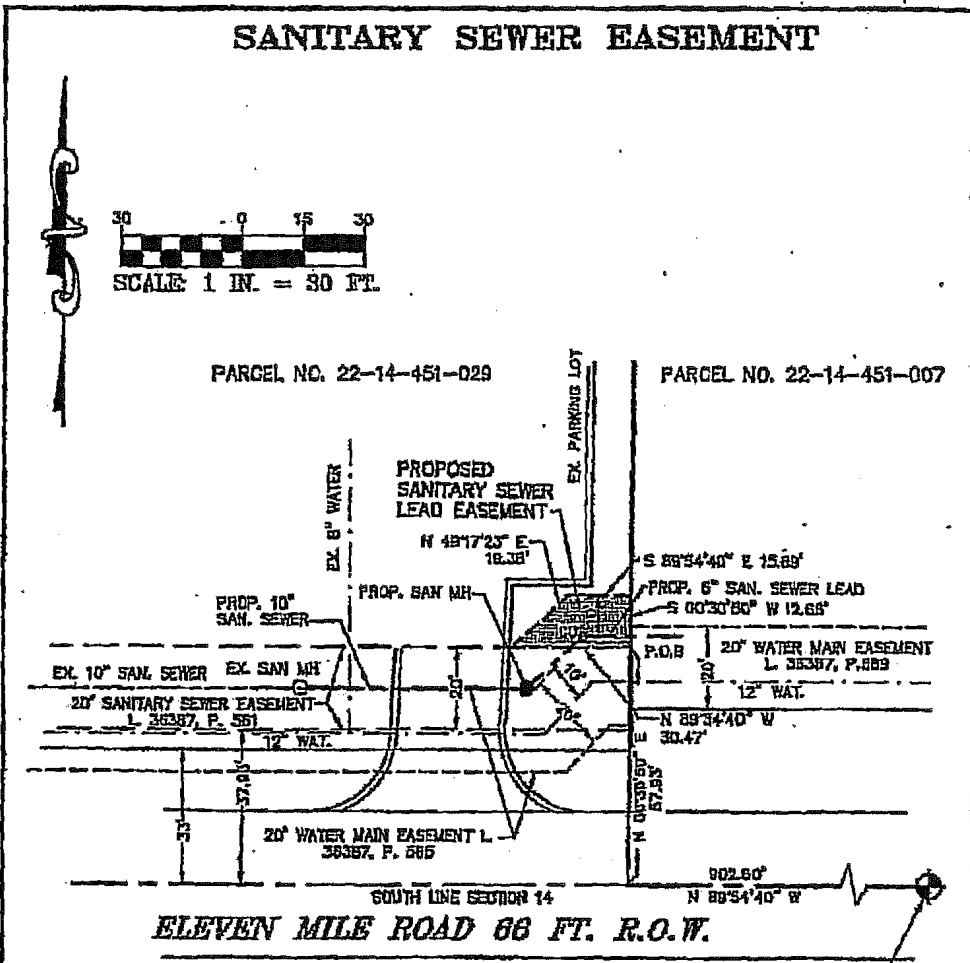
Commencing at the Southeast corner of said Section 14, thence North 89 degrees 54 minutes 40 seconds West, 902.60 feet along the South line of said Section 14 to the point of beginning, thence continuing along said South line North 89 degrees 54 minutes 40 seconds West, 437.00 feet; thence North 00 degrees 36 minutes 35 seconds East, 340.00 feet, thence South 87 degrees 49 minutes 05 seconds East 438.46 feet; thence South 00 degrees 50 minutes 30 seconds West, 324.00 feet; to the point of beginning.

Commonly known as 41800 West Eleven Mile Road.

Parcel ID Number: 22-14-451-029

EXHIBIT B

SANITARY SEWER EASEMENT



SOUTH LINE SECTION 14
ELEVEN MILE ROAD 66 FT. R.O.W.
 SOUTHEAST CORNER SECTION 14, T. 1 N., R. 8 E.

SANITARY SEWER EASEMENT

AN EASEMENT TO INSTALL AND MAINTAIN A SANITARY SEWER LEAD ACROSS PART OF SECTION 14, T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY MICHIGAN, MORE FULLY DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 14; THENCE N 89°54'40" W 802.60 FEET ALONG THE SOUTH LINE OF SAID SECTION 14; THENCE N 00°30'50" E 57.93 FEET TO THE POINT OF BEGINNING OF SAID EASEMENT; THENCE N 89°54'40" W 30.47 FEET; THENCE N 49°17'23" E 18.38 FEET; THENCE S 89°54'40" E 15.89 FEET; THENCE S 00°30'50" W 12.68 FEET TO THE POINT OF BEGINNING. CONTAINING 293 SQ. FT.

ARPEE/DONNAN, INC. LAND SURVEYING • ENGINEERING • MAPPING 32233 SCHOOLCRAFT, SUITE 103 (734) 953-3335 LIVONIA, MICHIGAN 48150 FAX (734) 953-3324	PREPARED FOR NEHER HOLDINGS, LLC 33804 GRAND RIVER FARMINGTON, MICHIGAN 48335 (248) 442-4800	DATE: 06/03/2010
	FIB: DRAWN: WRD	PROJ. NO: 10017
	SHEET 1 OF 1	(Empty)
	(Empty)	(Empty)

Affidavit Terminating Escrow

AFFIDAVIT TERMINATING ESCROW

Affiants, TASMIN DEVCO, L.L.C., a Michigan limited liability company ("Grantor"), whose address is 41800 West Eleven Mile Road, Suite 200, Novi, Michigan 48375, being the owner of real property located in the City of Novi, County of Oakland, State of Michigan and described as set forth in the attached and incorporated Exhibit A, and the City of Novi, a Michigan Municipal Corporation (the "City"), whose address is 45715 W. Ten Mile Road, Novi, MI hereby give notice that a certain Sanitary Sewer System Easement for the operation and maintenance of a public sanitary sewer and monitoring manhole (the "Sanitary Sewer Easement"), the location of which is shown on Exhibit B, which is attached to and part of this Affidavit, which has been executed by Affiant, and is dated July 20, 2010, and has been held in Escrow by the City is being released to Grantor at Grantors request, pursuant to Resolution of the City Council of the City of Nov, and terminated in accordance with the terms of the Escrow because a permit was not issued for construction of the adjacent parcel (22-14-451-007) before September 30, 2011.

AFFIANTS

TASMIN DEVCO, L.L.C., a Michigan limited liability
company

By: _____

Its: Member

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Subscribed and sworn to before me this _____ day of _____, 2010, by the above named Ted C. Minasian, the Manager of TASMIN DEVCO, L.L.C., a Michigan limited liability company, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as his free act and deed.

Notary Public
_____ County, Michigan

My Commission Expires: _____

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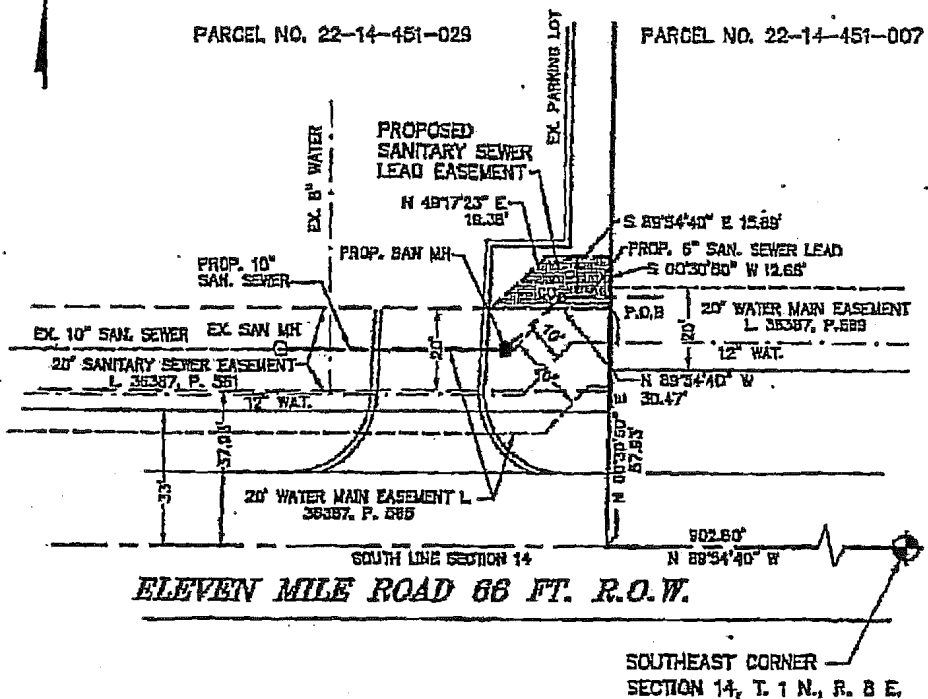
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Commonly known as 41800 West Eleven Mile Road.

Parcel ID Number: 22-14-451-029

EXHIBIT B

SANITARY SEWER EASEMENT



SANITARY SEWER EASEMENT
 AN EASEMENT TO INSTALL AND MAINTAIN A SANITARY SEWER LEAD ACROSS PART OF SECTION 14, T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY MICHIGAN, MORE FULLY DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 14; THENCE N 89°54'40" W 802.60 FEET ALONG THE SOUTH LINE OF SAID SECTION 14; THENCE N 00°30'50" E 57.93 FEET TO THE POINT OF BEGINNING OF SAID EASEMENT; THENCE N 89°54'40" W 30.47 FEET; THENCE N 49°17'23" E 19.38 FEET; THENCE S 89°54'40" E 15.89 FEET; THENCE S 00°30'50" W 12.66 FEET TO THE POINT OF BEGINNING, CONTAINING 293 SQ. FT.

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