



Village of Menomonee Falls
W156 N8480 Pilgrim Road
Menomonee Falls, WI 53051-3140
Telephone: (262) 532-4200 Fax: (262) 532-4219

September 3, 2004

Woodmoor, LLC
W178 N9912 Rivercrest Dr.
Suite 101
Germantown, WI 53022

Attn: Scott Bence

Re: Development Agreement
Sanitary Sewer and Water Main Easement
Stormwater Facilities Operation, Inspection & Maintenance Agreement
Woodmoor, LLC
Tax Key No. 0047.967

Dear Scott,

Please find enclosed original signed copies and recorded copies of the Development Agreement, Sanitary Sewer and Water Main Easement, and the Stormwater Facilities Operation, Inspection & Maintenance Agreement for the Woodmoor development for your records. They contain recording information showing proof of recording by the Waukesha County Register of Deeds.

Should you have any questions or require additional information, please do not hesitate to contact either Jon Bretl at (262) 532-4414 or myself at (262) 532-4418.

Sincerely,
VILLAGE OF MENOMONEE FALLS

Linda I. Losiniecki

Linda I. Losiniecki
Administrative Assistant

kwiktag® 012 773 575



Enclosures

Cc: Arlyn R. Johnson, Director of Engineering Services
Jonathan M. Bretl, Civil Engineer I
Frank J. Gebauer, Civil Engineer I
Dave Bate, Financial Services
Vault

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WC3197240-030

DEVELOPMENT AGREEMENT

DOCUMENT TITLE

3197240

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

08-20-2004 3:36 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 62.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 30

Return to:

Village of Menomonee Falls
Engineering Services
W156 N8480 Pilgrim Road
Menomonee Falls, WI 53051

Woodmoor, LLC

Tax Key No. MNFV 47.967

MNFV

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DEVELOPMENT AGREEMENT
Woodmoor

This Development Agreement ("AGREEMENT") is entered into by and between: Woodmoor LLC . , a Wisconsin Limited Liability Company, with a business address of W178 N9912 Rivercrest Drive, Suite 101, Germantown, WI 53022-4645 ("Subdivider") or ("Developer"); and the Village of Menomonee Falls, a municipal corporation of the State of Wisconsin, located in Waukesha County (the "Village"). It is based upon the following:

- A. Developer is the owner of approximately 1.9 acres of land in the Village. This land is located in the SW 1/4 of Section 12, Town 8 North, Range 20 East; and further shown and described in Exhibit "A" attached to this Agreement (the "Property") or ("Subdivision").
- B. Developer desires to develop the Property for residential purposes. The Property is presently zoned RM-2. The zoning classification allows such development.
- C. One of the purposes of this Agreement is to avoid the harmful effects of premature land development, which leaves land undeveloped and unproductive, while at the same time making possible the further development of the Property, which cannot be developed under Village Ordinances unless and until the required public improvements provided in this Agreement are constructed.
- D. The Village's budget and public works schedule do not include the installation of improvements that are reasonably necessary and required for the proposed development of the Property. There thus would be a substantial delay in the construction and installation of such improvements but for this Agreement. Also, the proposed development of the Property would impose substantial burdens upon the Village, which can appropriately be mitigated by this Agreement.
- E. Section 236.13(2)(a) of the Wisconsin Statutes provides that as a condition of plat or CSM approval, the Village may require a subdivider or developer to make and install or to have made and installed any required private improvements and contemplated any public improvements that are reasonably necessary or to execute a surety bond or provide other security to ensure that those improvements will be made within a reasonable time.
- F. Section 236.13(2)(b) of the Wisconsin Statutes provides that the acceptance of dedication of public streets, alleys or other ways may be conditioned upon the construction of such improvements according to Village Specifications and without cost to the Village.
- G. Section 236.45(2) of the Wisconsin Statutes empowers the Village to adopt ordinances governing the development of land that are more restrictive than the provisions of Chapter 236 of the Wisconsin Statutes, and the Village has done so.
- H. In addition, Chapter 94 of the Municipal Code of the Village of Menomonee Falls regulates division of land within the Village and provides that approval of a final PLAT by the Village Board shall be conditioned upon installation of all improvements required by Chapter 94 or in the alternative upon the execution of a contract between the Developer and the Village with sufficient sureties to ensure the installation of all improvements required by Chapter 94.
- I. This Agreement is entered into in fulfillment of these statutory and ordinance requirements.

Developer agrees to develop these lands as herein described in accordance with this Agreement, all Village ordinances, all laws and regulations governing said development, conditions approved by the Village Plan Commission and Village Board of Trustees, and conditions of certain agencies and individuals with Waukesha County.

NOW, THEREFORE, based on the above, and in consideration of the mutual promises and covenants contained herein, the Developer hereby agrees to develop the Property as follows and as otherwise regulated by Village ordinances and all laws and regulations governing said development.

Section I. Improvements

The Developer hereby agrees as follows:

A. Sanitary Sewer

1. Prior to the start of construction of improvements, the Developer shall provide the Village with written certification from the Developer's Engineer or Surveyor that all sanitary sewer facilities and plans conform with all federal, state, county and Village specifications, regulations and ordinances.
2. The Developer shall construct, install, furnish and provide a complete sewerage system up to and including a 15 inch diameter sanitary sewer and all appurtenances, throughout the entire Subdivision, all in accordance with plans, specifications, and drawings on file with the Village and with established standards of the Village as directed by the Director of Engineering Services.
3. Sanitary sewers shall be designed and installed to the limits as directed by the Village, with sizes, slopes, and elevations to accommodate the development of adjacent lands.
4. Construction of the sanitary sewer system will be completed, dedicated to and accepted by the Village before any building permits are issued for lots within the Subdivision but in no case shall the sanitary sewer system be completed and dedicated later than one year from the date of this Agreement.
5. Upon the Village's inspection, cleaning, televising and acceptance of the sanitary sewer system improvements, the Developer shall promptly take all necessary actions to connect and otherwise render such improvements usable. The Village will complete this sanitary sewer cleaning and televising at the Developer's cost.

B. Water

1. Prior to the start of construction of improvements, the Developer shall provide the Village with written certification from the Developer's Engineer or Surveyor that all public water facilities and plans conform with all federal, state, county and Village specifications, regulations and ordinances.

2. Developer shall construct, install, furnish and provide a complete system of water distribution up to and including 16 inch diameter water main and all appurtenances throughout the entire Subdivision, in accordance with the plans, specifications and drawings on file in the Village and with established standards of the Village as directed by the Village Director of Engineering Services.
3. Water mains shall be designed and installed to the limits as directed by the Village with sizes to accommodate the development of adjacent lands.
4. Construction of the water distribution system will be completed, dedicated to and accepted by the Village before any building permits are issued for lots within the Subdivision, but in no case shall the water distribution system be completed and dedicated later than one year from the date of this Agreement.
5. Upon the Village's inspection, water sampling, testing and acceptance of the public water system improvements, the Developer shall promptly take all necessary actions to connect and otherwise render such improvements usable. The Village will complete this inspection, testing and sampling at the Developer's cost.

C. Storm and Surface Water Drainage

1. Prior to the start of construction of improvements, the Developer shall provide the Village with written certification from the Developer's Engineer or Surveyor that all surface and storm water drainage facilities and plans conform with all federal, state, county and Village specifications.
2. The Developer shall construct, install, furnish and provide adequate facilities for storm and surface water drainage throughout the entire Subdivision and grading and paving of the site in accordance with an approved grading plan providing for sump pump discharge via tile or open swale, to a public right of way or to an approved municipal drainage easement, in accordance with the plans, specifications and drawings on file in the Village and established standards of the Village as directed by the Director of Engineering Services. The established standards of the Village include, but are not limited to, the following requirements:
 - a) Storm sewers be designed to accommodate a storm having a minimum recurrence of ten years.
 - b) Storm sewer flow shall be supplemented by overland flow to accommodate the one hundred-year rainfall event in such a manner that it will not adversely affect life or property.
 - c) All drainage facilities be designed for ultimate development of tributary areas.
 - d) Proper facilities be provided to transmit the surface drainage from the Subdivision to a street, waterway or dedicated easement that has

adequate capacity to accept and transmit the anticipated flows from the Subdivision and from adjacent lands.

3. Storm water detention shall be provided in accordance with the MMSD's requirements and with the Village's Stormwater Management Guidelines. Stormwater detention facilities must also comply with the Department of Natural Resources requirements for water quality. All storm water retention and detention basins shall be constructed with an impervious liner including bottom and sides to the 100 year high water elevation.
4. Developer shall provide executed agreements that establish the responsibility for maintenance of the storm water detention basins.
 - a) These agreements shall provide for maintenance of the detention basins within the storm water detention easements in a manner consistent with the lands maintained by the adjacent landowners.
 - b) These agreements shall also contain language holding the Village of Menomonee Falls harmless from costs, damaged, loss, claims, suits, liability or award that might arise, come be brought or incurred or assessed because of the existence of any storm water detention basins on the Subdivision.
5. Construction of surface and storm water drainage facilities shall be completed, dedicated to and accepted by the Village before any building permits are issued for lots within the Subdivision but in no case shall the storm and surface water drainage facilities be completed and dedicated later than one year from the date of this Agreement.
6. The Developer shall provide a storm water detention easement for each stormwater detention basin. The Developer shall also provide such storm sewer easements as may be required by the Village, including but not limited to easements around all storm water detention facilities receiving drainage from public easements or rights of way. The documents establishing these easements shall be based upon standard Village easement forms.

D. Erosion Control

1. To reduce the amount of sediment and other pollutants leaving the construction site during the development of the Subdivision, all construction shall be in accordance with the Erosion Control Code of the Village of Menomonee Falls.
2. Prior to any construction activity, an erosion control plan shall be submitted to and approved by the Village. The Developer shall submit with the erosion control plan a written certification from the Developer's Engineer or Surveyor that the plan conforms with all federal, state, county and Village specifications, regulations and ordinances, and the *Wisconsin Construction Site Best Management Practice Handbook*. No construction shall commence prior to approval of the plan and the implementation of erosion control measures.

3. Developer shall re-turf all unpaved areas disturbed during construction operations in accordance with the more restrictive requirements of the approved plans and specifications, or the following minimum requirements:
 - a) Topsoil: 2" on all building sites within the Property.
 - (1) 6" on all storm water detention basins.
 - (2) 4" on all other non-paved areas within and beyond the Property, including street right-of-ways and easements.
 - b) Seed, Fertilizer and mulch shall be placed in accordance with Village Standards and Specifications. Sod or other approved alternative practice shall be placed on all areas subject to erosion, and as may be required by the approved landscape plan.
4. All "wetland", "conservation" and "preservation" areas shall be protected from erosion and deposition of sediment and shall not be disturbed by construction or filling unless specifically permitted by the Wisconsin Department of Natural Resources and the Village of Menomonee Falls.
5. All drainage easements, swales and ditches shall be stabilized with a minimum of four (4) inches of topsoil, seed, fertilizer and Futera erosion blanket or approved equal along and across the entire easement, swale or ditch. More effective measures may be required in accordance with the calculations set forth in the calculations set forth in the Wisconsin Best Management Practice Handbook or if there are reoccurring erosion problems.
6. All swales, ditches, and the pond shall be constructed and stabilized and As-built prior to the issuance of building permits. The Developer shall be responsible for the maintenance and restoration of the swales, ditches and the pond until a vegetative growth has been established to the satisfaction of the Village Director of Engineering Services. The Developer shall also be responsible to ensure that the swales, ditches and the pond are not disturbed, changed, relocated or filled.
7. All slopes and/or berms with slopes greater than or equal to 4:1 shall be stabilized with a minimum of four (4) inches of topsoil, seed, fertilizer and Futera erosion blanket or approved equal. The Developer shall be responsible for the maintenance and restoration of the slopes and/or berms until a vegetative growth has been established to the satisfaction of the Village Director of Engineering Services.
8. All detention basins shall be stabilized with a minimum of six (6) inches of topsoil, seed, fertilizer and Futera erosion blanket or approved equal. The Developer shall be responsible for the maintenance and restoration of the detention basins until a vegetative growth has been established to the satisfaction of the Village Director of Engineering.

9. All other unpaved areas disturbed during construction operations shall be stabilized with a minimum of four (4) inches of topsoil, seed, fertilizer and mulch or sod prior to the issuance or any building permits.
10. All disturbed areas shall be re-turfed no later than October 15th of the year in which construction begins. Areas under construction after October 15th shall be seeded, fertilized and mulched as soon as possible following the end of construction but within 7 days of the end of active disturbance of the soil surface. These areas shall be properly maintained and shall be re-seeded, if necessary, the following spring before June 15th to assure good vegetative growth, all in compliance with the Village of Menomonee Falls Erosion Control Ordinance.
11. All disturbed areas and stockpiles left inactive for seven (7) or more days shall be stabilized with temporary seed, fertilizer, and mulch until such time as the final restoration and stabilization can take place.
12. On-site screening of salvaged topsoil for sale or to be removed from the project site is prohibited unless specifically allowed by Village Zoning Ordinance.

E. Landscaping

1. General Requirements

- a) The Developer shall prior to the commencement of any grading activities, submit to the Village a "Landscape Plan" showing all landscaping the Developer proposes to install within the Subdivision. The Landscape Plan shall be certified by Developer's Landscape Architect to be in conformance with all Village specifications, regulations and ordinances, and with any restrictions or conditions set by the Village Plan Commission or Architectural Control Board.

The Developer shall furnish and install all landscaping in accordance with Village ordinances and standards and as required by the approved landscape plan at no cost to the Village.

The Owner shall be responsible for all-necessary maintenance, repairs and replacements to the work shown on the Landscape Plan.

Developer shall preserve to the maximum extent possible existing trees, shrubbery, vines and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails by use of sound conservation practices.

Developer shall remove and lawfully dispose of all destroyed trees, brush, tree trunks, shrubs, and other natural growth and all rubbish.

Developer shall re-turf all open cuts of ground and provide sod for any open cut subject to erosion in accordance with Village ordinance and standards established by the Director of Engineering Services.

2. Street Tree Landscaping

Not Applicable

F. Street Signs.

Not Applicable

G. Street Lights.

Not Applicable

H. Survey Monuments

The Developer shall place and install all survey or other monuments required by statute or ordinance prior to final plat approval but no later than one year from the date of this Agreement, except that the Village agrees that all monumenting interior to the subdivision may be deferred for a reasonable time, not to exceed one (1) year after the recording of the final plat. The financial guarantee set forth in Section III.A below includes the sum of one hundred dollars (\$100.00) per lot as a financial guarantee that such monuments will be placed within the time required. Building permits will not be issued for any lot which does not have all survey monuments complete in place.

I. Utilities (Gas, Electric, Telephone, Cable TV, etc.)

Plans for the installation of utilities shall be approved by the Village of Menomonee Falls, and the installation of such utilities shall be in accordance with Village standards and specifications. The Developer shall pay for all costs for the installation of utilities.

J. Other Jurisdictions.

Areas of the development under the jurisdiction of other agencies, such as Waukesha County, the State of Wisconsin Department of Natural Resources or the U.S. Army Corps of Engineers, shall be developed in conformance with the requirements of those agencies.

K. Quality of Work.

1. All work performed under the provisions of this Agreement shall be done in a workmanlike manner in accordance with prevailing standards in the construction industry and established standards and specifications of the Village as directed by the Director of Engineering Services.

2. The Village shall have the right during the course of construction to direct the issuance of contract change orders to be paid by the Developer, and to amend the plans and specifications, to assure that construction will conform to Village standards and specifications. The Village shall approve all contract change orders proposed by the Developer.

L. Existing Structures and Debris

1. Developer shall remove from the Subdivision and from all public rights of way and easements and lawfully dispose of all barns, outbuildings, structures, driveways, private water or sanitary sewer systems and any related appurtenances and foundations which are located or found on the Subdivision.
2. Developer shall remove from the Subdivision and from all public rights of way and easements and lawfully dispose of all rubbish and dead, dying, or diseased trees from the Subdivision and from all public rights of way and easements.
3. If the Developer fails to remove all existing barns, outbuildings and structures from the Subdivision within sixty (60) days following issuance of a grading permit and/or erosion permit for the Subdivision, the Village may, at its sole discretion, place a stop work order on the construction of the subdivision until such time as the existing buildings on any property in the Subdivision are properly removed from all public rights of way and easements.

Section II. Dedication and Acceptance.

A. Upon Completion by Developer.

1. Subject to all of the other provisions of this Agreement and the exhibits referred to herein, the Developer shall, without charge to the Village, upon completion of all of the above-described improvements, unconditionally give, grant, convey, and fully dedicate the same to the Village, its successors and assigns, forever, free and clear of all encumbrances whatever, together with, including without limitation because of enumeration, all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, appurtenances and habiliments which may in any way be a part of or pertain to such improvements and together with any and all necessary easements for access thereto. Dedication shall not constitute acceptance of any improvement by the Village. The Village shall not accept the dedication of any improvements that do not fully comply with Village standards and specifications. Claims of financial hardship by the Developer shall not be considered a reason for the Village to accept substandard materials or work.

2. When all improvements are completed and acceptable as called for under this Agreement and all approvals have been received from regulatory agencies, such improvements will be formally accepted by the Village Board. A document for formal Dedication and Acceptance shall be recorded with the Waukesha County Register of Deeds. After acceptance of the dedication, the Village shall have the right to connect or integrate other sewer, water or other facilities with those provided here-under as the Village decides, with no payment or award to, or consent required of, the Developer.

B. Completion by Village Following Developer Default

1. If Developer does not complete the installation of and dedication of improvements by the dates established herein, the Village shall have the

authority, upon thirty (30) days written notice to Developer and its surety or issuer or holder of the financial guarantee provided pursuant to this Agreement, to complete said improvements and take title thereto.

2. The surety, issuer or holder of said financial guarantee shall pay to the Village all costs for such completion including, but not limited to, materials, construction, legal fees, financing costs, engineering, inspection and administrative costs, upon demand.
3. If the surety fails in whole or in part to take any actions required in the preceding paragraph, in addition to its' other remedies, the Village at its' sole discretion shall be empowered without notice of hearing, to impose a special assessment upon any and all property in the Subdivision for the amount of the completion costs, payable with the next succeeding tax roll.

C. Village Responsibility for Improvements

The Village shall not be responsible to perform repair, maintenance, or snow plowing on any improvements until the Village Board has accepted them.

Section III. Developer Guarantee.

A. Satisfactory Financial Guarantee.

1. The Developer shall file with the Village Clerk prior to the start of construction a surety bond or irrevocable letter of credit or other satisfactory financial guarantee payable to the Village as assurance for the faithful performance of and payment for any and all work to be performed pursuant to this Agreement. Such bond, letter of credit, cash or other financial guarantee shall be approved by the Village Attorney and shall be in the amount of \$ 94,479 identified on Exhibit "C", attached to this Agreement. The amount shall be sufficient to fund all financial guarantees required under this Agreement.
2. If the Developer provides an irrevocable letter of credit, Developer shall maintain the letter of credit during the term of this Agreement and shall provide the Village with proof of renewal of the letter of credit at least sixty (60) days prior to the expiration date, if any, of the letter of credit. The failure to provide proof of renewal shall constitute a default under this Agreement.

B. Reduction and Release of Guarantee.

1. From time to time, as work is completed and inspected, and as proper invoices are presented for completed work, the Village may authorize reductions in the amount of the bond, letter of credit, cash or other financial guarantee held by the Village, in accordance with the Village's current procedures for such reductions. Requests sent to the Village for reductions to the financial guarantee will not relieve the Developer of the obligations identified in Section X.L. of this Agreement.

2. Any payment bond, performance bond, letter of credit or other financial guarantee provided by Developer pursuant to this Agreement shall be in full force and effect and shall not expire until the Village Board has approved or accepted in writing all improvements required to be provided by the Developer pursuant to this Agreement.

C. Village Remedies upon Developer Default.

1. If Developer should be adjudged bankrupt, or if it should make a general assignment for the benefit of its creditors, or if it or its contractors should disregard statutes, ordinances, regulations, orders, or the instruction of the Village Building Inspector or the Director of Engineering Services, or upon failure of performance by Developer or Developer's contractor or sub-contractors to construct, install, furnish and provide any improvement required under this Agreement, or upon any other Developer default or failure to perform under any provision of this Agreement, then the Village Board, upon the certificate of the Director of Engineering Services that sufficient cause exists to justify such action, without prejudice to any other right or remedy of the Village, including the right to damages, and after giving Developer and its surety or issuer or holder of the financial guarantee provided pursuant to this Agreement at least thirty (30) days' written notice and opportunity to cure, may take possession of the premises and of all materials thereon, draw upon any letter of credit or other financial guarantee posted or filed by Developer and finish the work by whatever method the Village may deem expedient. Developer, or its surety in the event of its default, shall pay Village the entire cost of so completing the work if funds available from any letter of credit or other financial guarantee posted by the Developer are insufficient to cover the entire cost.

2. Whether or not the Village Board elects to take charge of the work, Developer shall be liable to Village for its damages sustained by Developer's failure to complete the work on time in addition to the cost of completion of the work.

D. Post-Completion Guarantee.

1. The required improvements in the Subdivision shall be guaranteed for a period of (1) year following the acceptance by the Village Board of such improvements.

2. In order to insure the good quality of materials, workmanship and maintenance of sanitary sewer, water main, storm sewer and drainage and street construction, as required pursuant to Village ordinance and this Agreement, the Developer shall, prior to acceptance by the Village Board of the dedicated improvements, provide one or more guarantee bonds, letters of credit or other satisfactory financial guarantees to the Village in a form or forms approved by the Village Attorney in the amount totaling twenty per cent (20%) of the total installation cost of the sanitary sewer, water main, storm sewer and drainage and street construction as determined by the Director of Engineering Services, for a period of one (1) year after acceptance by the Village Board of the dedication of the improvements.

- a) The Developer may, at its option, in lieu of providing its own guarantee bond, letter of credit or other satisfactory financial guarantee with respect to some or all of said improvements, provide to the Village guarantee bonds, letters of credit or other satisfactory financial guarantees (in a form approved by the Village Attorney) from the individual contractors.
- b) The Village shall have access to such funds and the right at its' sole discretion to call or draw upon such funds to correct or repair any defect or deficiency if the Developer or surety or issuer or holder of Developer's guarantee fails to honor this guarantee to the satisfaction of the Village.
- c) The Director of Engineering Services shall give Developer, the contractor (if the guarantee bond, letter of credit or other financial guarantee is provided by the contractor) and the surety, issuer or holder of the aforesaid financial guarantee at least thirty (30) days' written notice and opportunity to cure before calling or drawing upon the financial guarantee or acting to correct or repair any defect or deficiency, except that nothing shall preclude the Village in the event of an emergency from acting within a lesser period of time, with or without written notice, to correct or repair any defect or deficiency in any improvement provided pursuant to this Agreement. The Developer agrees for itself and for any contractor it retains to do any work in the Subdivision that the Village at its sole discretion shall determine which events constitute an emergency.

Section IV. Method of Improvement.

- A. The Developer shall engage contractors for all work included in this Agreement who are qualified to perform the work.
- B. The Developer shall use materials and make the various installations in accordance with the Village approved plans and specifications made a part of this Agreement by reference and including those standard specifications as the Village Board or its commissions may have adopted and published prior to this date.
- C. Access to or withdrawal by Developer of all or any part of escrowed or secured funds required under Section III of this Agreement shall be permitted only with the approval of the Village.

Section V. Issuance of Building Permits.

A. General

1. Except as provided in Subsections B and below, no building permits for lots within the Subdivision shall be issued until all public utilities and improvements have been completed with the exception of the bituminous concrete surface course on roads and streets, except that the Village may exercise discretion to permit construction of model homes upon a recommendation from the Director of Engineering Services that such a request from a Developer should be approved.

2. If permits for construction of homes are issued by the Village prior to acceptance of the dedication of all improvements by the Village, it is understood that the Village will assume no liability for any damages which may occur to the municipal improvements, and the Developer agrees that any such damages shall be repaired at his sole expense to the complete satisfaction of the Village.

B. Exceptions

1. Exceptions to the requirements for issuance of building permits may be granted by the Village Director of Engineering Services upon written request, but only if the Developer can demonstrate that such request for variance is due to extended periods of rain or other similar construction delays that are beyond the control of the Developer.
2. The fact that the Developer did not adequately plan and coordinate his work with contractors, subcontractors, and utilities, or anticipate seasonal weather conditions will not be considered justification for a variance.
3. In order for the Director of Engineering Services to consider approving an exception under this section, the improvements constructed under Paragraph I.A.4; Section I.B.3; Section I.C.3; Section I.D.3; and Section I.E.1 through 11 must be substantially completed. Substantial completion shall be determined at the sole discretion of the Director of Engineering Services.

In approving a variance, the Director of Engineering Services may establish schedules for completion of any remaining work and penalties for non-compliance.

C. Appeals

The Developer may appeal the decision of the Director of Engineering Services in writing to the Transportation Committee of the Village Board. The decision of the Transportation Committee will be final.

Section VI. Plat Approval.

A. Plat Approval Procedure

The Village will not complete the approval process for the final PLAT of the Subdivision until all of the following have been completed:

- a) Payment by the Developer of all amounts that are due prior to plat approval under this Agreement.
- b) The date this Agreement becomes effective.
- c) Upon either acceptance of dedication of the improvements described in this Agreement, or upon the filing with the Village Clerk and acceptance by the Village of a surety bond or other satisfactory financial guarantee for such purpose in accordance with the terms of this Agreement.

B. Risk of Proceeding with Improvements Before Approvals of Final Plat

If the Developer proceeds with the installation of public improvements or other work on the site prior to the approval of the final plat, it proceeds at its own risk as to whether the final PLAT will receive all necessary approvals. Prior to commencing installation of public improvements or other work on the site, Developer shall notify the Village of the Developer's intention to proceed with installation of public improvements or other work on the site prior to approval of the final PLAT. Additionally, Developer shall make arrangements to have any public improvements or other work on the site inspected by the Village.

Section VII. Developer Responsibility to Indemnify.**A. Compliance with Law and Regulations.**

Developer shall, in the performance of this Agreement, comply with and give all stipulations and representations required by all applicable federal, state and local laws, ordinances and regulations. Developer shall also require such compliance, stipulations and representations with respect to any contract entered into by Developer with others (pertaining to the work covered by this Agreement) as may be required by all applicable federal, state and local laws, ordinances and regulations.

B. Indemnification Agreement.

1. In addition to, and not to the exclusion or prejudice of, any other provision of this Agreement, Developer shall indemnify and hold harmless the Village, its officers, agents and employees, and shall defend the same, from and against any and all liability, claims, loss, damages, interest, action, suits, judgments, costs, expenses, attorneys' fees and the like, to whomsoever owed and by whomsoever and whenever brought or obtained, which may in any manner result from or arise in the course of or out of the performance of the work and this Agreement, expressly including though not limited to negligence and the breach of any duty whether imposed by statutes, ordinances, regulations, order, decree or law of any other sort or by contract, on the part of Developer, or its officers, employees, agents, workmen, or independent contractors, in carrying out the work and in supervising and safeguarding the same in any respect whatever, and including claims arising under any federal, state or local law including Worker's Compensation laws.

2. If a claim is made against the Village arising out of the work and/or this Agreement, the Village agrees that it shall, within ten (10) days of its notice thereof, notify the Developer and any liability insurance carrier designated by the Developer. The Developer shall thereafter provide full cooperation in defense of the claim. The Developer shall, at the option of the Village, defend any claim on behalf of the Village in which case the Developer or its insurer is authorized to act on behalf of the Village in responding to any claim to the extent of this indemnity. Such authorization includes the right to investigate, negotiate, settle and litigate any such claim and control the defense thereof.

3. Developer shall, at its expense, obtain and carry comprehensive general liability insurance with combined single limits of at least \$1 million for one person and at least \$1 million per occurrence, and at least \$1 million property damage (or such higher amounts as the Village shall from time to time reasonably determine). Such policies shall cover both Developer and the Village and its' agents, employees, and officials, and all insurers shall agree not to cancel or change the same without at least ten (10) days' written notice to the Village. A certificate of Developer's insurance evidencing such insurance shall be furnished to Village upon execution of this Agreement. Each such policy shall provide that no act or default of any person other than the Village or its agents shall render the policy void as to the Village or affect the Village's right to recover thereon.
4. In every case, but not as a limitation on the liability of the Developer to the Village, where judgment is recovered against the Village on such claim, if such notice has been given to Developer, any judgment thereon shall be conclusive upon Developer as to the amount of damages and as to its liability to Village to the extent litigated therein.

Section VIII. Development Responsibility Regarding Sale of Lots, and Issuance of Building Permits Prior to Village Board Acceptance of Dedication of Improvement.

- A. The Developer shall include in sale of all lots sold prior to the Village Board acceptance of the dedication of all improvements under this Agreement, the right and obligation to enter onto such lot for the purpose of establishing the surface elevation of all slopes, easements, swales, berms, etc. in accordance with the approved grading plan, and to stabilize, maintain and repair such surfaces until the acceptance by the Village Board of the dedication of all improvements under this agreement.
- B. The Developer shall promptly respond to and resolve any and all grading, drainage and erosion control issues involving property owners, contractors and builders regarding swales, easements, detention basins, right of ways and all other non paved areas until the as-builts have been accepted, the turf has been established to the satisfaction of the Director of Engineering Services, and the Village Board has accepted the Dedication of all improvements under this Agreement.

Section IX. Village Right to Inspect.

- A. Village Right of Access to Property.
 1. Agents and employees of Village shall at all times have access to the work wherever it is in preparation or progress and Developer shall make appropriate arrangements for such access and for inspection.
 2. If any work is covered up without the inspection, approval or consent of the Village, Developer will, if required by the Village, uncover the work at Developer's expense for examination by the Village. After the examination under this section is complete, Developer will pay costs of replacement.
 3. Re-examination of questioned work not falling under the previous paragraph may be ordered by the Village. If the Village orders such re-examination under

this section, the Developer shall uncover the work. If such work is found to be in accordance with the applicable plans, specifications and regulations, Village shall pay the cost of re-examination and replacement. If such work is found not to be in accordance with such plans, specifications and regulations, Developer shall pay such cost.

B. Approval by Village.

All work shall be done subject to the approval of the Village's representatives. They shall decide all questions which arise as to the amount, quality, and acceptability to materials furnished, work performed, manner of performance, rate of progress of the work, interpretation of plans, specifications and regulations and acceptable fulfillment of this Agreement. Materials shall be furnished and work shall be performed in conformity with Village Standards and Specifications, and with the plans and specifications received by the Director of Engineering Services and on file in the Village and construction industry standards in the Village and the Greater Milwaukee Area.

C. Disclaimer of Liability.

The Village disclaims any and all liability arising from inspection or any failure to inspect any Subdivision improvement constructed by Developer and Developer shall indemnify and hold the Village harmless against any claim arising from the actions of the Village or its agents in relation thereto.

Section X. Miscellaneous Provisions.

A. Covenants to Run with the Land.

The terms of this Agreement are covenants running with the land and binding on the Village and the Developer and any and all successors and assigns.

B. Assignments.

Developer shall not assign this Agreement or obligations arising hereunder without the prior written consent of the Village.

C. Recording.

The Village will record this Agreement with the Waukesha County Register of Deeds within ten (10) days from the date of approval of this Agreement by the Village Board of the Village of Menomonee Falls. The Village will charge the Developer for the recording fees and provide a fully executed copy of this Agreement with recording information to the Developer for their records.

D. Standards.

The terms "established standards of the Village", "Village Standards and Specifications" and others similar thereto used in this Agreement shall mean those standards, specifications, guidelines, or other rules which are in effect on the date of this Agreement.

E. Force Majeure.

The deadlines for Developer's performance under Section 1.A.5 and Section 1.I of this Agreement shall be extended for periods of time during which the Developer's performance is prevented due to causes which are outside the control of the Developer and which cannot be avoided by the exercise of due care by the Developer, including industry wide strikes or labor troubles, casualty, shortage of materials, weather conditions, and other acts of God.

F. Deed Restrictions.

N.A.

G. Plans and Documents

The Developer shall provide the Village the plans and documents identified in Exhibit "B" attached hereto prior to acceptance by the Village Board of the Subdivision improvements.

H. GIS System Data

The Village Engineering Services department will obtain the GPS field data for the sanitary sewer, storm sewer, and water distribution system to update the Village GIS System. All costs for the collection of GPS field data shall be paid for by the Developer.

I. Public Sites, Open Spaces and Special Environmental Areas.

1. Developer shall pay a fee to the Village for environmental land needs of the Subdivision in the amount of \$600 for each lot created by the Subdivision in excess of the number of existing buildable parcels completely eliminated by the Subdivision. Such payment shall be in full and shall be received by the Village prior to recording of the final plat.

J. Impact Fees

1. Sewer, park and water impact fees shall be paid in full prior to building permits or as otherwise provided in Chapter 42 of the Village Municipal Code.

K. Property Taxes and Special Assessment

1. All outstanding property taxes and special assessments shall be paid in full prior to execution of the final subdivision plat by the Village Treasurer.

2. Time Lines for final plat approval under Section 236.11 of the Wisconsin Statues shall be deemed automatically extended if payment for any outstanding taxes or special assessments has not been received by the Village.

L. Grading Plan and Building Grades.

1. The Developer shall furnish to the Director of Engineering Services a grading plan for the entire subdivision. The grading plan shall show existing and proposed contours, and shall list the proposed elevation at each lot corner and intermediate points at which there is a change in slope. All ditches, swales, berms, retention/detention basins, and other features shall be shown. The proposed finished yard grade shall be shown for each proposed residence or structure. The lowest possible basement elevation shall also be shown on those lots designated by the Director of Engineering Services. The grading plan shall be submitted to and approved by the Village prior to the commencement of any construction activity.
2. Basement exposures identified on the approved grading plan provide a transition between adjacent residences and shall be strictly adhered to. Side loading garages will not be allowed if they adversely affect easements or swales, or transitions between lots. The Developer shall inform all purchasers of lots of these requirements in writing and shall obtain and retain on file a written acknowledgement from the purchaser.
3. If side loading garages are to be considered for the subdivision the Master Grading plan shall show the grading for all side loading driveways. A parking pad shall be provided for all side loading driveways that extends from the garage door to a point 25 feet beyond and a minimum of 7' off of the property line. The parking pad shall not impact drainage swales or easements, or any transitions between adjacent properties or building pads.
4. If a property owner or builder wishes to amend the subdivision grading plan by changing the exposure on a residence, or by constructing an end loading garage where the grading plan does not provide for such a garage, or by another type of change in grade, the owner or builder must prepare a grading plan for the lot showing the change. The revised grading plan must be approved in writing by the neighboring property owners, after which it must be approved by the Subdivision Homeowner's Association and then submitted to the Village for approval.

M. Payment Village Engineering, Inspection, Administrative, and Fees by Developer

1. The Developer shall file with The Village Clerk prior to the start of construction, a surety bond or irrevocable letter of credit, cash, or other satisfactory financial guarantee payable to the Village of Menomonee Falls, Wisconsin in the amount of \$13,512 as assurance for the payment of all Village engineering, inspection, administrative, and miscellaneous costs as identified on Exhibit "C" attached to this Agreement.
2. The Developer agrees that the Village shall bill the Developer periodically for amounts due to the Village under this agreement. The Developer agrees to pay such amounts to the Village within thirty (30) calendar days of billing by the Village. Any amount not received by the Village within this 30-day period shall accrue interest at the rate of 18 percent per annum commencing on the date of billing through the date payment is received by the Village.

3. If the actual cost exceeds said amounts, Developer shall pay any deficiency upon demand, and in the event it fails to do so, in whole or in part, the Developer agrees that in addition to its other remedies, the Village at its sole discretion shall be empowered without notice of hearing, to impose a special assessment for the amount of said deficiency, upon each and every lot or tax key parcel in the Subdivision. This assessment shall be payable with the next succeeding tax roll. If the actual cost is less than said amounts, the Village will promptly return the excess, if Developer is not in default under this Agreement. Notwithstanding any of the foregoing payments by Developer for inspection services, any and all inspectors who provide such services shall be under the supervision, direction and control of the Village.

N. Wetlands and Drainage Easements

1. Certain lots within the subdivision contain areas of wetlands, and/or drainage easements. The wetland areas shall not be disturbed, and the elevations of the drainage easement area shall not be altered by the owner of the lot. In some areas the wetland, and/or drainage easement is immediately adjacent to the building pad on the lot resulting in a restriction of usable rear yard and/or side yard.
2. The wetland and drainage easement requirements shall be incorporated into the Deed Restrictions for the Subdivision, and a statement addressing this item shall be placed on the Subdivision Plat. All wetlands and easements shall be shown and identified on the Subdivision Plat.
3. In addition, the Developer shall inform all purchasers of lots of the wetland and easement requirements in writing and shall obtain and retain on file a written acknowledgement from the purchaser.

O. Easement Documents.

1. Executed easement documents for all municipal easements required as part of this subdivision shall be provided by the Developer prior to approval of the final plat by the Village Board of Trustees.
2. Time Lines for final plat approval under Section 236.11 of the Wisconsin Statues shall be deemed automatically extended if these documents have not been received by the Village.

P. Pollution Representation and Warranty

1. Developer warrants to the Village that there are no hazardous substances, pollution or contamination on or in the property comprising the Subdivision or the groundwater within or beneath the dedicated property. Such representation and warranty survive this Agreement, the dedication by Developer of any land or interest in land provided for by this Agreement and the acceptance by the Village of any such dedication.

2. Upon written demand from the Village, the Developer shall promptly indemnify the Village or and hold the Village harmless against any and all claims, liability, damages and the costs of litigation resulting from or arising out of the presence of any such substance, pollution or contamination, including, without limitation, any actual attorneys' fees and expert witness fees.

Q. No Third Party Beneficiaries.

This Agreement is not intended to benefit or to be enforceable by any person other than the Village, the Developer, and their respective successors and assigns, which shall not include, for the purposes of this paragraph, any person who has not assumed all of the benefits and obligations of this Agreement.

R. Amendment of Agreement

The Village and the Developer may, by mutual written agreement, and after approval of the Village Board, amend this Agreement at any time. The Village Board shall not, however, approve an amendment without having first considered the recommendations of the Village staff on the proposed amendment.

S. Severability

If a court of competent jurisdiction adjudges any section, clause, provision or portion of this agreement invalid, such part shall be severed from the Agreement, and the remainder of the Agreement shall survive and shall not be affected thereby.

T. No Threat to Public Health or Safety

1. Notwithstanding any language in this Agreement to the contrary, the Developer shall neither do nor permit any other person to do anything in connection with the performance of the Developer's obligations under this Agreement that poses a threat to the public health or safety.
2. Notwithstanding any language in this Agreement to the contrary, the Developer shall not do or permit any other person to do anything in connection with the performance of their respective obligations under this Agreement that poses a threat to the public health or safety.

U. No Rule of Construction Against Drafter

The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual consent, and no rule of construction shall be applied against any party as the drafter of this agreement.

V. Effective Date

This agreement shall become effective from and after the last to occur of the following events:

- a) The Village Board's approval of the Agreement

b) The execution of this Agreement by the Developer.

W. Entire Agreement

This Agreement is the entire agreement of the parties. All prior agreements, commitments, promises, offers, representation and statements made by or on behalf of the parties with respect to the subject matter of this Agreement are hereby terminated and shall have no further effect.

X. Governing Law

The law of the State of Wisconsin shall govern all issues relating to this Agreement.

Y. Incorporation into this Agreement of Conditions Imposed by Village Bodies

If the Village Board imposes any conditions upon the Developer as part of the approval of the issuance of a conditional use permit for a lot in the Subdivision, or if the Architectural Control Board imposes any conditions or requirements as part of any approval given by it to the Developer for a lot in the Subdivision, these conditions or requirements are incorporated by reference and made a part of this Agreement, and may be enforced under this Agreement in addition to any other method or remedy available to the enforcing party.

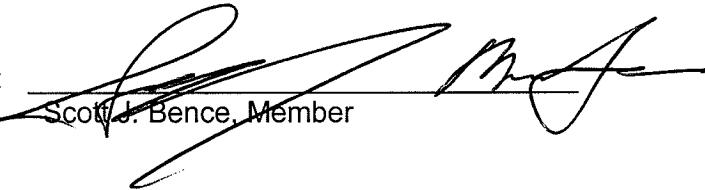
END OF TEXT. SIGNATURE PAGES AND EXHIBITS FOLLOW.

DEVELOPER

IN WITNESS WHEREOF, Woodmoor LLC has caused this Agreement to be signed this 30 day of July, 2004.

Woodmoor LLC

By:


Scott J. Bence, Member

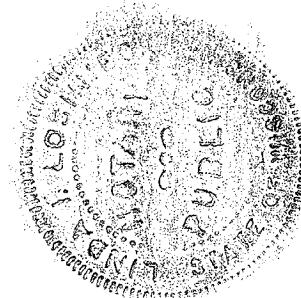
State of Wisconsin)
County of Waukesha) ss.

Personally came before me this 30th day of July, 2004, the above named Scott J. Bence to me known to be the person who executed the foregoing instrument in the respective official capacity as member of Woodmoor LLC, and acknowledged that he executed the foregoing instrument as a corporate officer as the deed of said Woodmoor LLC by its authority.

Linda L. Losonsiecki
Notary Public

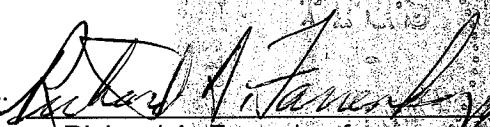
Waukesha County, Wisconsin

My Commission Expires on 12/24/06

VILLAGE OF MENOMONEE FALLS

Approved by the Village Board of the Village of Menomonee Falls on the 21st day of June, 2004.

By: 
Jefferson E. Davis
Village President

Attest: 
Richard A. Farrenkopf
Village Manager/Clerk-Treasurer

Approved as to Form: Michael J. Morse This instrument was drafted by:
Michael J. Morse
Village Attorney Jonathan M. Bretl
Civil Engineer I

001372 AUG 20 2008

EXHIBIT "A"

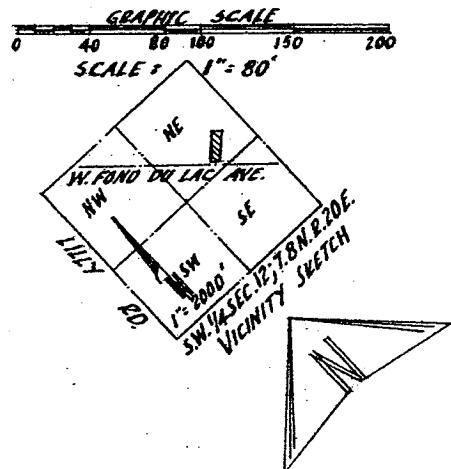
LEGAL DESCRIPTION & MAP OF THE PROPERTY

001373 AUG 20 1968

EXHIBIT "A"

WAUKESHA COUNTY CERTIFIED SURVEY MAP NO. 4373

BEING A DIVISION OF THAT PART OF THE NORTH 1/2 OF THE SW 1/4 OF SECTION 12, T 8 N, R 20 E
IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, WISCONSIN.



U.S. HWY. 41 AND 45

••• INDICATES 1" DIA. IRON PIPE, 24" LONG, WEIGHT 1.13 LBS.
PER LINEAL FOOT.

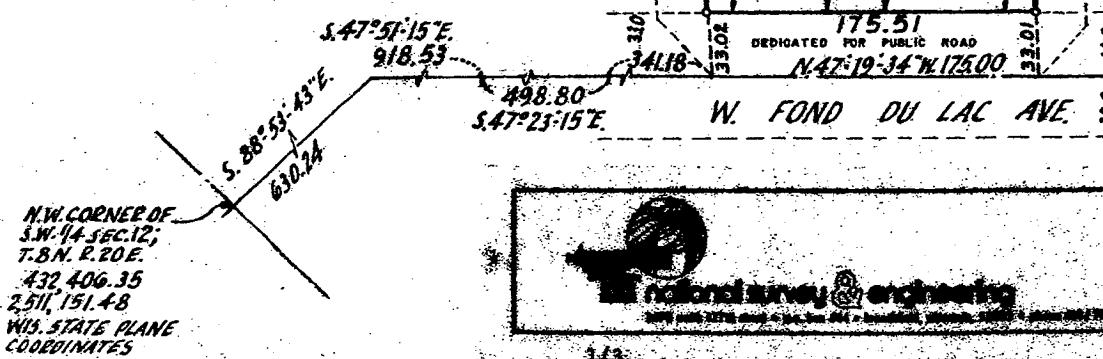
ALL DIMENSIONS SHOWN ARE MEASURED TO THE
NEAREST HUNDREDTH OF A FOOT.

ALL BEARINGS SHOWN ARE REFERENCED TO GRID NORTH,
WISCONSIN STATE PLANE COORDINATE SYSTEM-
SOUTH ZONE.

John Bond.



3/23/83



001374 AUG 20 1983

EXHIBIT "A" CONT...

WAUKESHA COUNTY CERTIFIED SURVEY MAP NO. 4323

BEING A DIVISION OF THAT PART OF THE NORTH 1/2 OF THE SW 1/4 OF SECTION 12, T 8 N, R 20 E
IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE

I, KENNETH E BERKE, registered land surveyor, hereby certify

THAT I have surveyed, divided and mapped a division of that part of the North 1/2 of the SW 1/4 of Section 12, T 8 N, R 20 E, in the Village of Menomonee Falls, Waukesha County, Wisconsin, which is bounded and described as follows:

Commencing at the Northwest corner of said 1/4 Section; thence South 88° 53' 43" East along the North line of said 1/4 Section 630.24 ft. to a point on the center line of West Fond du Lac Avenue; thence South 47° 51' 15" East along said center line 918.53 ft. to a point; thence South 47° 23' 15" East along said center line 498.80 ft. to a point; thence South 47° 19' 34" East along said center line 341.18 ft. to the point of beginning of the land to be described; thence North 40° 29' 16" East 480.91 ft. to a point on the Southwesterly line of U S Highway No. 41; thence South 47° 13' 14" East along said highway right of way line 182.45 ft. to a point; thence South 41° 22' 26" West 480.35 ft. to a point on the center line of West Fond du Lac Avenue, said point being 566.50 ft North 89° 01' 38" West and 67.00 ft. North 47° 19' 34" West of the Southeast corner of the North 1/2 of said 1/4 Section; thence North 47° 19' 34" West along the center line of West Fond du Lac Avenue 175.00 ft to the point of beginning. Herein dedicating the Southwesterly 33.00 ft for street purposes. Containing 1.9710 acres

THAT I have made such survey, land division and this map by the order and direction of ARTHUR ARPE and CAROL L ARPE, husband and wife.

THAT such map is a correct representation of all the exterior boundaries of the land surveyed and of the land division thereof made.

THAT I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes and the subdivision regulations, Chapter 18 of the Village Code, of the Village of Menomonee Falls in surveying, dividing and mapping the same.

MARCH 23, 1983

Date

Kenneth E Berke
Kenneth E Berke, Surveyor S 107

(SEAL)

OWNER'S CERTIFICATE OF DEDICATION

WE, ARTHUR ARPE and CAROL L ARPE, husband and wife, as owners, hereby certify that we caused the land described on this Certified Survey Map to be surveyed, divided, mapped and dedicated as represented on the Certified Survey Map in accordance with the Ordinances of the Village of Menomonee Falls, Wisconsin.

WITNESS the hands and seals of said owners this 24th day of MARCH, 1983.



EXHIBIT "A" CONT....

WAUKESHA COUNTY CERTIFIED SURVEY MAP NO. 4373BEING A DIVISION OF THAT PART OF THE NORTH 1/2 OF THE SW 1/4 OF SECTION 12, T 8 N, R 20 E
IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, WISCONSIN.

In The Presence of:

Gene M. MergesArthur Arpe (SEAL)
Arthur ArpeCarol L. Arpe (SEAL)
Carol L ArpeSTATE OF WISCONSIN) :SS
WAUKESHA COUNTY (PERSONALLY came before me this 24 day of March, 1983 the above named
ARTHUR ARPE and CAROL L ARPE, husband and wife, to me known to be the persons who executed
the foregoing instrument and acknowledged the same.Gene M. Merges (SEAL)Notary Public, State of Wisconsin
My Commission is Permanent (Expires) Aug 3 1986MENOMONEE FALLS PLAN COMMISSION:PRELIMINARY APPROVAL4/14/83

Date

William E. Freiseller
SecretaryFINAL APPROVAL4/14/83

Date

William E. Freiseller
SecretaryVILLAGE BOARD APPROVALRESOLVED that the Certified Survey Map being a division of that part of the
North 1/2 of the SW 1/4 of Section 12, T 8 N, R 20 E, in the Village of Menomonee Falls,
Waukesha County, Wisconsin, having been approved by the Plan Commission being the same is
hereby approved and the dedication herein accepted by the Village Board of Trustees of
the Village of Menomonee Falls on this 2 day of May, 1983.Carl G. Stely
PresidentI hereby certify that the foregoing is a copy of a resolution adopted by the
Village Board of Trustees of the Village of Menomonee Falls, Wisconsin on
May 2, 1983.Lorraine A. Stine
Village ClerkRECORDED 5-23-83 DOCUMENT NO. 1214367, VOLUME 34 AND PAGES NO. 166 - 168

THIS INSTRUMENT DRAFTED BY KENNETH E BERKE, SURVEYOR



EXHIBIT "B"

Plans and documents to be provided by the Developer to the Village prior to acceptance of the Subdivision improvements by the Village Board:

1. Complete set of construction as-built drawings in ink on standard size mylar* and AutoCAD format (*.DWG) on computer disk or CD. Plan and profile sheets shall indicate asbuilt data without removing original data from the drawings.** These as-built drawings shall be labeled as "as-builts" within the title block of each sheet and be stamped and signed by a Professional Engineer.
2. Pond grading as-built plan on mylar* and AutoCAD format (*.DWG) on computer disk or CD. The grading as-built plan shall indicate the as-built elevations of the drainage swales and stormwater detention areas without removing original data from the drawings..
3. Design sheets for each length of sanitary sewer main and storm sewer main on Village forms or on forms approved by the Village. Design computations shall also be provided for all storm sewers based upon a 10-year storm event and, where applicable, the 100-year storm event.
4. All necessary permits must be obtained from other agencies including but not limited to, the State of Wisconsin, the Department of Natural Resources, the U. S. Army Corps of Engineers, or Waukesha County.
5. An executed agreement shall be provided by the developer, which will establish the responsibility of the Homeowners Association and/or each individual lot owner within the proposed subdivision, for maintenance of the detention basin(s) within the stormwater detention easement(s) in a manner consistent with the lands maintained by the individual residents of the Subdivision. This Agreement shall also contain language that will serve to hold harmless the Village of Menomonee Falls from costs, damages, loss, claim, suit, liability or award which might arise, come, be brought, or incurred or assessed because of the existence of the Stormwater Detention Basin within the Subdivision.
6. The Developer will execute the proposed municipal easement documents. These documents shall include provisions that, in the event the Village has to excavate in the easements, the Village will restore the easement surface grade to the proposed grade as shown on the master grading plan. The easement surface will be restored with topsoil, seed, fertilizer and mulch. The Village will not approve or restore shrubs, trees, pavements or structures of any type.
7. Provide Warranty Deeds, Title Policies, and Mortgage releases, if applicable, for the transfer of any Outlots to the Village.

EXHIBIT "B" (Continued)

- * Mylar shall be double matte 0.004" minimum thickness. Xero-graphic mylar reproductions are not acceptable.
- ** Sanitary sewer and storm sewer asbuilts shall include field measurement from center to center of each structure, and all rim and invert elevations. Lengths, sizes, and distances between all laterals shall also be shown along with depth of lateral below grade.
- ** Water main asbuilts shall include measurements between all valves and fittings, and any variation in elevation from the approved plan.

EXHIBIT "C"

WOODMOOR

Village Engineering, Inspection, Administrative and Misc. Costs

ESTIMATED AMOUNT	ITEM
\$ 1,000	Village administration and legal expenses.
\$ 6,500	Village administration and inspection of sanitary sewer and laterals, surface and storm water drainage facilities, water distribution system and water services, and street grading and construction including curb and gutter (10%)
\$ 1,866	Sewer impact fee (1 units x \$1866 per unit) The sewer impact fees for the remaining 20 units are to be collected at the time building permits are applied for.
\$ 1,906	Water impact fee (1 units x \$1906 per unit) The water impact fees for the remaining 20 units are to be collected at the time building permits are applied for.
\$ 1,240	Park impact fee (1 units x \$1240 per unit) The park impact fees for the remaining 20 units are to be collected at the time building permits are applied for.
\$ 1,000	Erosion Control Fee
\$ 000	Platting Fee (See Section X.(H)) (1-1 lots x \$600 per each newly created lot)
\$ 000	Street signs, stop signs, etc. (0 x\$250 each)
\$ 000	Street Lighting (0x\$3000)
\$ 0	Lot pipes Guarantee (\$100 per lot)
<hr/> \$ 13,512	Total Estimated Village Engineering, Inspection, Administrative and Miscellaneous Costs.

EXHIBIT "C" (Continued)

WOODMOOR

Development Improvement Costs

\$ 64,467	Sanitary Sewer Water Main Storm Sewer and Drainage
\$ 0000	Street Construction
\$ 0000	Grading and Restoration
\$ 6,500	Construction Contingency (8%)
\$ 000	Street Trees and Landscaping
\$ 10,000	Engineering (non-Village)
<hr/> \$ 80,967	Total Subdivision Improvement Costs
<hr/> \$ 94,479	Total Funds Required for Letter of Credit or other Financial Guarantee.

001380 AUG 20 08



WC3197241-004

WATER MAIN AND
SANITARY SEWER
EASEMENT

DOCUMENT TITLE

3197241

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

08-20-2004 3:36 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 10.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 4

Return to:

Village of Menomonee Falls
Engineering Services
W156 N8480 Pilgrim Road
Menomonee Falls, WI 53051

Woodmoor, LLC

Tax Key No. MNFV 47.967

MNFV

04
1
4

EASEMENT

Woodmoor LLC, ("Grantor") hereby warrants and represents that they are the owner in fee of the real estate hereinafter described and that said real estate is free and clear of all liens and encumbrances. The Grantor together with their respective heirs, personal representatives, and assigns, do hereby grant unto the said Village of Menomonee Falls and its assigns, commencing with the date hereon, permanent and perpetual easements for municipal water main, municipal sanitary sewer, and related facilities.

The easement rights granted herewith include the right to build, construct, operate, inspect, maintain, repair, reconstruct and enlarge any and all presently existing and hereinafter constructed municipal facilities, and the right of entry in, across, beneath, and above the real estate here-in-after more particularly described as follows, to wit

1. A permanent and perpetual easement for the aforementioned municipal sanitary sewer, municipal water main, and related facilities purposes, commencing with the date hereof and being more particularly described as follows, to wit:

See Exhibit "A" for Description and Drawing.

The above used bearings are referenced to the Wisconsin State Plane Coordinate System, South Zone Grid.

001382 AUG 2004

The Grantor may not grant additional easements over the above described permanent and perpetual municipal easement without the express written consent of the Village of Menomonee Falls. The Village of Menomonee Falls further retains the right to place reasonable conditions on the purpose and scope of use of any such additional easement. In the event the Village has to excavate in the easements, the Village will only restore the easement grade to the proposed grade as shown on the approved master grading plan. The easement surface will be restored with topsoil, seed, fertilizer and mulch. The Village will not approve or restore shrubs, trees or structures of any type. Pavements will be approved only with express written consent of the Village of Menomonee Falls.

The rights and obligations created by the easements shall be covenants running with the Property and shall inure to the benefit of and be binding upon the parties, their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, **Woodmoor LLC**, has caused this Agreement to be signed this 30 day of July, 2004.

Woodmoor LLC,



Scott J. Bence, Member

State of Wisconsin)

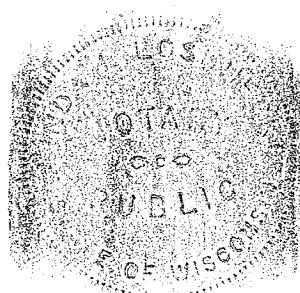
) Ss.

County of Waukesha

Personally came before me this 30th day of July, 2004, the above named Scott J. Bence to me known to be the person who executed the foregoing instrument in his respective official capacity as corporate officer of Woodmoor LLC, and acknowledged that he executed the foregoing instrument as managing member of said Corporation by its authority.

Linda L. Losiniecki
Notary Public
Waukesha County, Wisconsin
My Commission Expires on 12/24/06

This instrument was drafted by:
The Village of Menomonee Falls
Jonathan Bretl
Date: June 15, 2004



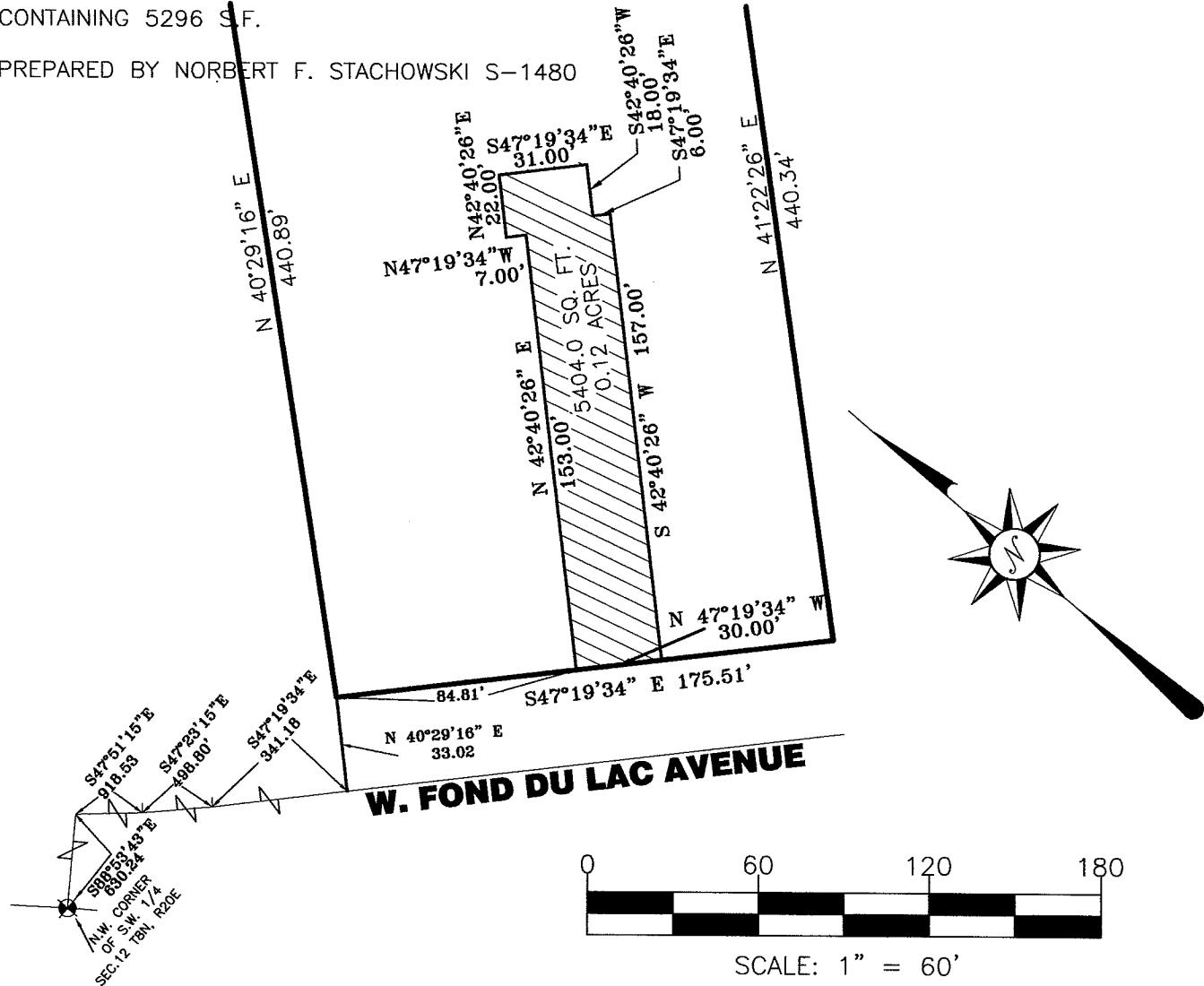
BEING A PUBLIC WATERMAIN AND SANITARY SEWER EASEMENT IN PARCEL 1 OF CSM # 4323 LOCATED IN PART OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 12, TOWN 8 NORTH RANGE 20 EAST, VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, WISCONSIN.

COMMENCING AT THE NORTHWEST CORNER OF SAID 1/4 SECTION THENCE SOUTH $88^{\circ}53'43''$ EAST ALONG THE NORTH LINE OF SAID 1/4 SECTION 630.24 FEET TO A POINT ON THE CENTERLINE OF FOND DU LAC AVENUE, THENCE SOUTH $47^{\circ}51'15''$ EAST ALONG SAID CENTERLINE 918.53 FEET TO A POINT; THENCE SOUTH $47^{\circ}23'15''$ EAST ALONG SAID CENTERLINE 498.80 FEET TO A POINT; THENCE SOUTH $47^{\circ}19'34''$ EAST ALONG SAID CENTERLINE 341.18 FEET TO THE SOUTHWEST CORNER OF CSM # 4323; THENCE ALONG THE WESTERLY LINE OF SAID CSM NORTH $40^{\circ}29'16''$ EAST, 33.02 FEET TO A POINT ON THE NORTHERN R.O.W LINE OF FOND DU LAC AVENUE; THENCE ALONG SAID R.O.W. LINE SOUTH $47^{\circ}19'34''$ EAST, 84.81 FEET TO THE POINT OF BEGINNING.

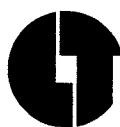
THENCE NORTH $42^{\circ}40'26''$ EAST, 153.00 FEET TO A POINT; THENCE NORTH $47^{\circ}19'34''$ WEST, 7.00 FEET TO A POINT; THENCE NORTH $42^{\circ}40'26''$ EAST, 22.00 FEET TO A POINT; THENCE SOUTH $47^{\circ}19'34''$ EAST, 31.00 FEET TO A POINT; THENCE SOUTH $42^{\circ}40'26''$ WEST, 18.00' FEET TO A POINT; THENCE SOUTH $47^{\circ}19'34''$ EAST, 6.00 FEET TO A POINT; THENCE SOUTH $42^{\circ}40'26''$ WEST, 157.00 FEET TO A POINT ON THE NORTHERLY R.O.W. LINE OF FOND DU LAC AVENUE; THENCE NORTH $47^{\circ}19'34''$ WEST, ALONG SAID R.O.W. 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 5296 S.F.

PREPARED BY NORBERT F. STACHOWSKI S-1480



WOODMOOR
EXHIBIT A
SANITARY SEWER & WATERMAIN
EASEMENT



LAND TECH ENGINEERING, INC.

LAND PLANNING • ENGINEERING CONSULTING

557 COTTONWOOD AVENUE, HARTLAND, WI 53029

(262) 367-7599

REV. 6/15/04
03066
A

001384 AUG 2004



WC3197242-008

STORMWATER FACILITIES
OPERATION, INSPECTION &
MAINTENANCE AGREEMENT

DOCUMENT TITLE

3197242

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

08-20-2004 3:36 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 18.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 8

Return to:

Village of Menomonee Falls
Engineering Services
W156 N8480 Pilgrim Road
Menomonee Falls, WI 53051

Woodmoor, LLC

Tax Key No. MNFV 47.967

MNFV

04
25
28

STORMWATER FACILITIES OPERATION, INSPECTION, & MAINTENANCE AGREEMENT

Village of Menomonee Falls

THIS AGREEMENT is between Woodmoor LLC (the "Property Owner"), and the Village of Menomonee Falls, (the "Village"). It is based upon the following:

- A. The Property Owner is the owner of certain real property (the "Property") located in the Village of Menomonee Falls, and which is further described as follows: Certified Survey Map 4323 as recorded by deed in the land records of Waukesha County, Volume 34, Pages 166-168, Document Number 1214367, as shown in Exhibit "A".
- B. The Property Owner intends to develop the Property pursuant to a Site Plan approved by the Village and known as Woodmoor, (the "Plan") as shown in Exhibit "B".
- C. The health, safety, and welfare of the residents of Menomonee Falls, Wisconsin, require that on-site Stormwater Management Facilities be provided on the Property.
- D. The Plan provides for the construction of any detention basin, retention basin, outlet structures, inlet structures, storm sewer, underground storage facility, swales, berms or any structure and grading associated with stormwater management (the "Stormwater Management Facilities") within the confines of the Property.
- E. The Village requires that on-site Stormwater Management Facilities as shown on the Plan be constructed, operated and adequately maintained by the Property Owner.

NOW, THEREFORE, based on the above, the parties agree as follows:

1. The on-site Stormwater Management Facilities shall comply with the policy outlined in the Village "Stormwater Management Guidelines," and with the Milwaukee Metropolitan Sewage District "Stormwater Rules, Chapter 13 of the MMSD Rules and Regulations;" and shall be constructed by the Property Owner in compliance with Village approved plans and specifications identified in the Plan.
2. Upon completion of the project, The Property Owner shall supply the Village with an as-built plan of the Stormwater Management Facilities within thirty (30) days of completion of the project. The as-built plan will be used by the Village to determine if the Stormwater Management Facilities are constructed according to the Village approved plans. The Stormwater Management Facilities will be accepted only after the Village approves the as-built plans.
3. The Property owner shall not construct, place or allow or suffer the construction or placement of structures within the Stormwater Management Facilities that affect the operation of the facilities; or that alter the elevations and slopes from those designed, established and constructed; without the specific written approval of the Village.
4. The Property Owner shall submit a landscape proposal and diagram with vegetation types to the Village prior to planting trees or shrubs in the Stormwater Management Facilities. The Village shall have the right to determine which species of trees and shrubs are appropriate for planting within the Stormwater Management Facilities. The Property Owner shall not plant shrubs or trees in the Stormwater Management Facilities unless approved by the Village.
5. The Property Owner shall adequately maintain the Stormwater Management Facilities. Adequate maintenance is defined as good working condition so that these facilities are performing their design functions. The Property Owner must inspect the Stormwater Management Facilities within 24 hours of any major rain event.

6. The Property Owner shall hire a licensed professional engineer to inspect the Stormwater Management Facilities and submit an inspection report biannually to the Village as proof of compliance. The Village approved Biannual Inspection Report form shall be used to determine the condition of the facilities. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facility such as berms, outlet structure, pond areas, access roads, etc. The conditions shall be noted in the inspection report.
7. The Property Owner will perform or otherwise be responsible for any work necessary to keep the Stormwater Management Facilities in good working order. This obligation includes making all the necessary repairs and/or improvements to correct damages, both natural and man made; and to resolve any citizen complaints. If deficiencies or damages are noted in the inspection report provided to the Village under ¶6 or if complaints are reported to the Village, the Property Owner has thirty (30) days from the date of the report or complaint to take appropriate measures to correct any deficiencies or damages and respond to citizen complaints.
8. The Property Owner hereby grants permission to the Village, its authorized agents and employees, to enter upon the Property and to inspect the Stormwater Management Facilities whenever the Village deems necessary.
9. If the Property Owner fails to inspect the Stormwater Management Facilities as required, or maintain the Stormwater Management Facilities in good working condition acceptable to the Village and make all the necessary repairs and/or improvements to correct damages, both natural and man made, and to resolve any complaints, the Village, upon thirty (30) days written notice to the Property Owner, may enter upon the Property and take whatever steps necessary to correct deficiencies. In addition, if the Village performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Village shall be empowered without notice of public hearing, to impose a special charge for the cost of said work upon the Property Owner payable at the next succeeding tax bill.
10. This Agreement imposes no liability of any kind whatsoever on the Village. The Property Owner agrees to hold harmless the Village, its board members, employees, agents, and officers from any costs, damages, loss, claim, suit, liability or award which may arise, come, be brought or incurred or assessed because of the existence of, any action or failure to act with respect to the storm water facilities on the Property or because of any adverse effect upon any person or property related or alleged to be related to the storm water detention basins from any liability if the Stormwater Management Facilities fail to operate properly. The Village shall have the right to defend any such claim and the Property Owner shall reimburse the Village for any and all cost and/or expenses, including but not limited to attorney's fees, which the Village may incur as a result of such claims.
11. This Agreement shall be recorded With the Register of Deeds Waukesha County, Wisconsin, and shall constitute a covenant running with the land, and shall be binding on both parties, their successors or assigns.

IN WITNESS WHEREOF, Woodmoor LLC has caused this Agreement to be signed this 30 day of July, 2004.

By: 

Scott J. Bence, Member

State of Wisconsin)
) Ss.
County of Waukesha)

Personally came before me this 30th day of July, 2004, the above named Scott J. Bence to me known to be the person who executed the foregoing instrument in his respective official capacity as Member of said corporation, and acknowledged that he executed the foregoing instrument as a corporate officer as the deed of said Corporation by its authority.

Linda J. Losiniecki

Notary Public

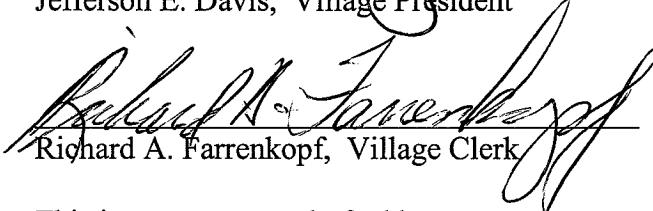
Waukesha County, Wisconsin

My Commission Expires on 12/24/06

Approved by the Board of Trustees of the Village of Menomonee Falls, this 21 day of June, 2004.

VILLAGE OF MENOMONEE FALLS


Jefferson E. Davis, Village President


Richard A. Farrenkopf, Village Clerk

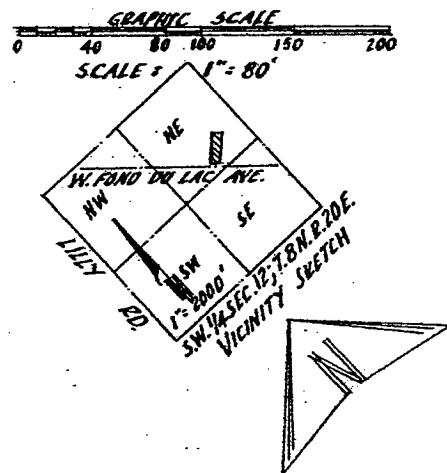
This instrument was drafted by
The Village of Menomonee Falls
Jonathan M. Bretl
Date: June 14, 2004

001368 AUG 20 19

EXHIBIT "A"

WAUKESHA COUNTY CERTIFIED SURVEY MAP NO. 4373

BEING A DIVISION OF THAT PART OF THE NORTH 1/2 OF THE SW 1/4 OF SECTION 12, T 8 N, R 20 E
IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, WISCONSIN.

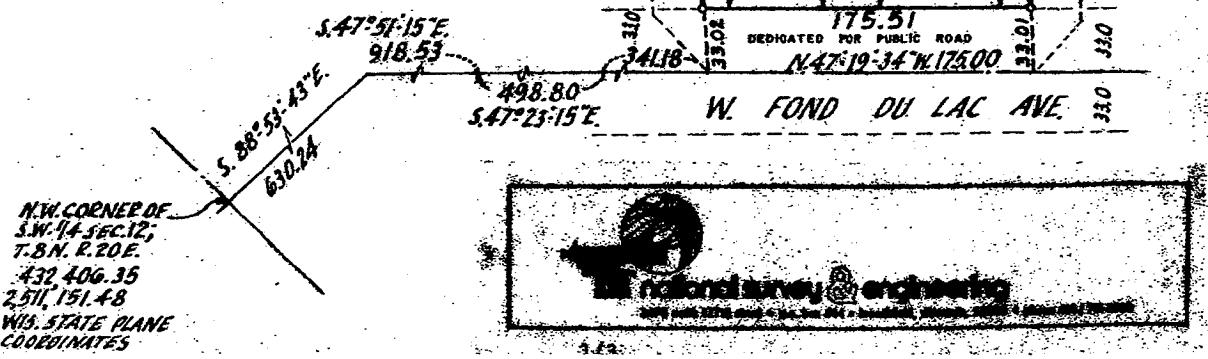


U.S. HWY. 41 AND 45

- INDICATES 1" DIA. IRON PIPE, 24" LONG, WEIGHT 1.13LBS.
PER LINEAL FOOT.
- ALL DIMENSIONS SHOWN ARE MEASURED TO THE
NEAREST HUNDREDTH OF A FOOT.
- ALL BEARINGS SHOWN ARE REFERENCED TO GRID NORTH,
WISCONSIN STATE PLANE COORDINATE SYSTEM-
SOUTH ZONE.



3/23/83



001389 AUG 20 8

EXHIBIT "A" CONT...

WAUKESHA COUNTY CERTIFIED SURVEY MAP NO. 4323

BEING A DIVISION OF THAT PART OF THE NORTH 1/2 OF THE SW 1/4 OF SECTION 12, T 8 N, R 20 E
IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE

I, KENNETH E BERKE, registered land surveyor, hereby certify

THAT I have surveyed, divided and mapped a division of that part of the North 1/2 of the SW 1/4 of Section 12, T 8 N, R 20 E, in the Village of Menomonee Falls, Waukesha County, Wisconsin, which is bounded and described as follows:

Commencing at the Northwest corner of said 1/4 Section; thence South 88° 53' 43" East along the North line of said 1/4 Section 630.24 ft. to a point on the center line of West Fond du Lac Avenue; thence South 47° 51' 15" East along said center line 918.53 ft. to a point; thence South 47° 23' 15" East along said center line 498.80 ft. to a point; thence South 47° 19' 34" East along said center line 341.18 ft. to the point of beginning of the land to be described; thence North 40° 29' 16" East 480.91 ft. to a point on the Southwesterly line of U S Highway No. 41; thence South 47° 13' 14" East along said highway right of way line 182.45 ft. to a point; thence South 41° 22' 26" West 480.35 ft. to a point on the center line of West Fond du Lac Avenue, said point being 566.50 ft North 89° 01' 38" West and 67.00 ft. North 47° 19' 34" West of the Southeast corner of the North 1/2 of said 1/4 Section; thence North 47° 19' 34" West along the center line of West Fond du Lac Avenue 175.00 ft to the point of beginning. Herein dedicating the Southwesterly 33.00 ft for street purposes. Containing 1.9710 acres

THAT I have made such survey, land division and this map by the order and direction of ARTHUR ARPE and CAROL L ARPE, husband and wife.

THAT such map is a correct representation of all the exterior boundaries of the land surveyed and of the land division thereof made.

THAT I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes and the subdivision regulations, Chapter 18 of the Village Code, of the Village of Menomonee Falls in surveying, dividing and mapping the same.

Date

MARCH 23, 1983

Kenneth E Berke
Kenneth E Berke, Surveyor S 107

(SEAL)

OWNER'S CERTIFICATE OF DEDICATION

WE, ARTHUR ARPE and CAROL L ARPE, husband and wife, as owners, hereby certify that we caused the land described on this Certified Survey Map to be surveyed, divided, mapped and dedicated as represented on the Certified Survey Map in accordance with the Ordinances of the Village of Menomonee Falls, Wisconsin.

WITNESS the hands and seals of said owners this 24th day of MARCH, 1983.



001390 AUG 20 2

EXHIBIT "A" CONT....

WAUKESHA COUNTY CERTIFIED SURVEY MAP NO. 4313

BEING A DIVISION OF THAT PART OF THE NORTH 1/2 OF THE SW 1/4 OF SECTION 12, T 8 N, R 20 E
IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, WISCONSIN.

In The Presence of:

June M. Menger

Arthur Arpe (SEAL)
Arthur Arpe

Carol L. Arpe (SEAL)
Carol L Arpe

STATE OF WISCONSIN)
:SS
WAUKESHA COUNTY (

PERSONALLY came before me this 24 day of March, 1983 the above named
ARTHUR ARPE and CAROL L ARPE, husband and wife, to me known to be the persons who executed
the foregoing instrument and acknowledged the same.

June M. Menger (SEAL)
Notary Public, State of Wisconsin
My Commission is Permanent (Expires) Aug 3 1986

MENOMONEE FALLS PLAN COMMISSION:

PRELIMINARY APPROVAL

4/14/83

Date

William E. Fruileta
Secretary

FINAL APPROVAL

4/14/83

Date

William E. Fruileta
Secretary

VILLAGE BOARD APPROVAL

RESOLVED that the Certified Survey Map being a division of that part of the
North 1/2 of the SW 1/4 of Section 12, T 8 N, R 20 E, in the Village of Menomonee Falls,
Waukesha County, Wisconsin, having been approved by the Plan Commission being the same is
hereby approved and the dedication herein accepted by the Village Board of Trustees of
the Village of Menomonee Falls on this 2 day of May, 1983.

Carl G. Stely
President

I hereby certify that the foregoing is a copy of a resolution adopted by the
Village Board of Trustees of the Village of Menomonee Falls, Wisconsin on _____
May 2, 1983

Janice A. Stone
Village Clerk

RECORDED 5-23-83 DOCUMENT NO. 1214367, VOLUME 34 AND PAGES NO. 166 - 168

THIS INSTRUMENT DRAFTED BY KENNETH E BERKE, SURVEYOR

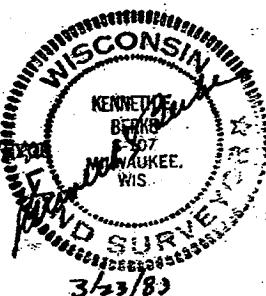


EXHIBIT "B"

U.S. HIGHWAY "41" & "45"

10. OUTLET STRUCTURE

WOODMOOR

