

ROUND HILL PUD

TIMELINE FROM BEGINNING OF DEVELOPMENT PROCESS

(Still incomplete and our Staff has had no opportunity to correct or complete this Timeline)

Draft of August 15, 2021

SUMMARY TIMELINE OF MAJOR ITEMS FOR ROUND HILL PUD

2015 - Either RJV Ventures or Driftwood Ventures approached CCT to amend the Sentinel Pointe PUD to replace the 40 unit elderly housing facility with a 15-single family detached units in a condo to be called Round Hill ("RH").

1/13/2015 - Preliminary Proposed 15 Condo PUD Submission to CCT.

2/2/2015 - Initial PC Meeting to consider RH development.

There was a lot of discussion with no decisions taken at this time. Steve Peterson said he would get back to the applicant with more questions and to help respond to issues raised at this meeting.

1/16/2016 – BOT had a public hearing to consider whether or not to approve the proposed "Approval of Ordinance to Amend P.U.D #55 to permit 10 Unit Single Family Detached homes for Roundhill."

1. **Board in the end tabled the motion and remanded it to the PC** to deal with three issues:
 - a. Landscape Plan to create some more detailed buffering from the visual eyesore that could develop there.
 - b. Bonding requirements to protect against soil erosion during construction.
 - c. Tightening up on the Maintenance Agreement relating to soil erosion.
2. Both of the last two would apply even after the developer obtained its county approval of a soil erosion plan.

2/1/2016 - PC meeting at which the PC considered the three items the BOT had asked them to resolve. PC considered:

- Landscape plan presented by D&B that purported to include a buffer around perimeter and a modified stormwater maintenance agreement.
- D&B represented that they would be planting scrubs to soften views of the retaining walls on the south and north sides of the site.
- D&B agreed that each unit of RH would have to have a soil erosion permit at time of construction. Township Engineer recommended a \$50,000 performance bond for soil erosion during construction phase.

PC decided:

- \$8,500 performance bond for landscaping around the site as per site plan.
- New stormwater maintenance agreement and a \$50,000 performance bond.

3/9/2016 – BOT approved the amended PUD (Ordinance #1 of 2016). This was after the project was initially approved by the PC in December 2015, first considered by the BOT and tabled to be sent back to the PC on matters relating primarily to the stormwater retention system, and only approved by the BOT after several changes were made.

- This approval was for a 10 unit traditional condominium development, with specific building envelopes for each unit. The units were to have a minimum of approximately 1,300 - 1,600 sq. ft. of livable area.
- From the start, after seeing the initial site plan, there was opposition from Mr. and Mrs. Rohde, the neighbors to the southeast, and their counsel.
- One of the changes was to require performance bonds from the Developer.

There is almost a year's gap in identified (from the public record) activity by the developer.

2/21/2017 – Developer and Builder (“D&B”) applied for a Soil Erosion and Sedimentation Control (“SESC”) Permit by submitting the Site Plan, and showing SESC measures, including construction of 700+ feet of retaining walls. (Finko LLC. is now identified as the developer).

3/8/2017 - KCRC issued a SESC Permit for private road and utilities (found at Exhibit 12 to Rohde Complaint).

6/2017 – Tree clearing began and thereafter proceeded with earthwork on the site.

10/1/2017 - Rohde Complaint Allegation #61, Rohde sent a letter to the PC, KCRC, and Cascade Township notifying them that sediment from RH breached the silt fences, causing major sediment deposits onto the Rohde’s adjoining property. **CCT admitted this allegation in its Written Answer to the Rohde Complaint filed with the Court (“CCT Answer”).**

10/30/2017 - KCRC issued an Inspection Report recommending that a Notice of Violation be sent to builder (copy is found as Exhibit 13 of Rohde Complaint): KCRC issued an inspection report that sediment was observed leaving RH site beyond the south property during a rain event and stating that the RH owner must stabilize the south side of grading east of the pond to prevent further sediment leaving the site. **CCT Answer admitted the content of the Report.**

11/6/2017 – KCRC issued an Official Notice of Violation to Builder (copy is found as Exhibit 14 of Rohde Complaint): KCRC issued this as a result of soil discharge leaving the RH site beyond the south property line as a result of the grading of the site. **CCT Answer admitted the truth of the statement.**

12/12/2017 – Building Permit for Unit 8 granted (PB17001811). [not delivered in permits material]

2/15/2018 - Building Permit for Unit 8 (6538 Round Hill Court) granted (earlier one on 12/12/17 also granted) (PB18000151)

This was originally issued to 6538 Round Hill Court. (There is a stipulation later referenced in the Building Department summary that the address should have been 6546. The permanent parcel # was 41-19-16-103-013 (the PPN for the entire development site 3000 Thornhills Ave.). The

Building Department Plan Review document says that it “Received a call from Steve Peterson indicating that is is OK to issue Permit 2-13-2018”

The application was filed on 12/11/2017. Applicant was the contractor Thomas Michael Homes LLC. The Owner signature was by Raleigh Finkelstein; the contractor signature was by Tom Guisti.

The single family home was to be valued at \$500,000.

4/27/2018 - Finko recorded the Master Deed of Round Hill Condominium with KC Register of Deeds.

But according to **Rohde counsel’s letter to CCT Board on 8/6/2019**, Exhibit B to the Master Deed is the Condominium Subdivision Plan. That subdivision plan deviates substantially from the 2016 approved Site Plan in numerous respects.

Guisti changed the original traditional condo form to a site condo with lots for each unit.

It fails to include the earth retention structures that are required by the Site Plan. Also, by changing it to a site condo, these retention structures would become the responsibility of the unit owner on whose property they are located. There would be no reserve fund of the HOA for major repairs, etc.

5/15/2018 - KCRC again sent an Inspection Report. it set forth the findings set forth just below under the actual notice of violation issued formally two days later .

5/17/2018 - KCRC issued a Notice of Violation to Tom Guisti on behalf of Thomas Michael Homes

This was based on an inspection done by Bruce Schutte and Andrew Reinhardt on 5/15/2018. The official notice was signed by W. Harrall, County SESC Enforcing Agent. Bruce Schutte, the Inspector for the 5/15 Report, personally noted that he had personally hand delivered both the Official Notice and the Inspection Report to Mr. Guist at 3 pm on the 17th of May.

Violations include (as listed in the Inspection Report):

“Earth change has begun, controls not installed per plan.”

“There is potential for sediment to leave this site. Location: Lift Station Road / Lower property line into creek.”

“Sediment is leaving the site. Location: Lower sides of site across property lines - Lift station road from upper unprotected soils.”

“The earth moving is complete but vegetation needs to be established. Location: Total site.”

“The permit has expired and an extension is necessary.”

Under Additional Comments:

“Soils have left this site into the stream from the lift station roadways unsecured edges.”

“All silt fence needs to be maintained - repaired - added to the lift station road edges.”

“The permanent retaining walls & the concrete spillway to the pond still need to be built.”

“Excavation &/or soils have encroached past the property lines in several locations. Restoration with adjoining landowner approval will need to be made.”

Corrections must be complete by 5/24/2018.

KCRC continued its monthly visits and repeatedly indicated violations of its stormwater and erosion plan.

The Rohde’s also made numerous formal complaints with CCT during this 2017-2019 time period

8/1/2018 - KCRC issued a Notice of Violation to Tom Guisti on behalf of Thomas Michael Homes notifying the Builder that soil discharge from RH into the Kent County Drain violated the Kent County SESC Ordinance.

8/8/2018 - MDEQ (Grand Rapids District Office) issued a letter to Tom Guisti on behalf of Thomas Michael Homes. It states that on 7/31/2018, the MDEQ, Water Resources Division conducted an evaluation of RH (together with the KCRC) to evaluate the RH development’s compliance with the DEQ’s rules. The issues cited were:

1. “Temporary SESC measures require maintenance or reinstallation in several locations.”
2. “Sediment has discharged off-site due to the lack of SESC maintenance.”

It demanded a written response by August 24, 2018.

8/31/2018 - KCRC declares Thomas Michael Homes and Tom Guisti to have committed a Municipal Civil Infraction and fines them \$1,000 (to be paid in 15 days). This is for unspecified violations at 3000 Thornhills Ave. in Cascade. Permit #17-079.

10/3/2018 - Formal letter on Cascade Inspection Services letterhead, signed by Brian Wilson, Cascade Township Building Official, to Tom Guisti for Thomas Michael Homes, LLC, stating that “the KCRC has determined that soil erosion preventative measures are not being maintained to prevent soils from leaving the work site/development.” It further states that “Pursuant to PA 230 sec. 125.1512, you are in violation of the soil erosion ordinance. A STOP WORK order will be issued in 24 hours on October 4, 2018.

It does on to state that this letter is “your official NOTICE per section R114.1 of the 2015 Michigan Residential Code.” It further sets forth his appeal rights. It finally says that “Upon written notification from KCRC officials that compliance has been achieved, the stop work will be lifted.”

This letter is found as **Exhibit #31 to the Rohde Complaint, referencing Factual Allegation #84. As to this paragraph, CCT Answer admits.**

3/28/2019 - Building Permit for Unit 3 issued (PB 19006308)

4/15/2019 - Finko recorded an amendment to the Master Deed modifying the boundaries and lot sizes of six of the ten units, dramatically decreasing the size of at least one lot and dramatically increasing the size of another.

4/19/2019: Lexton, LLC to Dalton DeVos by warranty deed dated 4/18/2019 for \$1.225 million. Unit #8. 6546 Round Hill Court.

1/2019 - Finko, LLC to Lexton, LLC of just Unit 8 by Quitclaim Deed. Consideration is \$1 and other valuable consideration. Recorded three times (1-7-2019; 1-14-2019; 1-23-2019)

4/12/2019 (but not recorded until 4/26/2019) Mortgage Discharge by Finko, LLC of mortgage from Lexton, LLC to Finko, LLC dated 12/17/2018 and recorded 1/23/2019. Finko signatory was Raleigh J. Finkelstein, as Trustee of the Raleigh J. Finkelstein Trust u/a/d March 2, 2012, identified as "Its: Member."

5/20/2019 - Major Planning Commission Meeting -

See Detailed Timeline below for details, but Steve Peterson appeared to try to answer a number of the complaints by Mr. Rohde and others.

8/6/2019 - Letter from Hilger Hammond, counsel for the Rohde's, requesting CCT to:

Put RH on its next BOT meeting agenda

Withdraw approval of Ordinance #1 of 2016 amending the Sentinel Pointe PUD

Direct the Planning Director to issue a C&D Order halting activity on the site, and

Direct the Building Inspector to revoke the Bldg Permit for Unit #3 and revoke the Occupancy Permit for Unit #8.

It also, among other things, confirms that the Developer never recorded the Ordinance, and the responses of CCT to FOIA requests confirms that the CCT does not have a signed, recorded copy of the amended PUD. It also alleges that Finko did not sign and date the PUD and affirm a statement that Finko read, understood, and agreed to abide by all requirements of PUD. It goes on to say that these requirements are critical for control of the development, enforcement of ordinance requirements, and protection of purchasers and adjoining landowners. The amended PUD "expressly states that failure to comply with each of these conditions of approval 'shall be deemed to be both a nuisance per se and a violation of the CCT Zoning Ordinance.'" That is the basis of the request to withdraw approval of the Ordinance from 2016 or in the alternative direct the PD to issue a C&D order halting all work on the site.

The letter was 8 pages and was cc'd to all the then Trustees (other than Rob, to whom the letter was officially sent, as the representative of the Board). It also copies Ben ("TM") and Cliff Bloom.

It appears on a quick look not to be a letter to say "do this or we will sue" but, rather, one that says "do this or we must have a sit down meeting within 7 days."

8/27/2019 -

Email Letter from Steve Peterson to Tom Guisti saying that the Twp will not be issuing an occupancy permit for the home under construction or any other permits for the development.

9/26/2019 – Litigation filed by Rohde’s against the Developer/Builder/CCT/Steve Peterson as PD - Suit was for damages against the Developer/Builder and Mandamus action against CCT

Twenty three page complaint with over 40 exhibits including pictures of damage done to the Rohde property and some of the failures of the RH development. Among the more significant allegations were:

Developer graded the site in a manner that created steep slopes of unsecured earth extending to and sloughing beyond the property boundaries of Round Hill and onto adjacent property owned by Plaintiffs.

Developer submitted a site plan with 700+ linear feet of retaining walls to hold the steep slopes in place and protect against soil erosion and sedimentation impacting adjoining property and the Thornapple County Drain and the Thornapple River.

Multiple allegations against CCT; among others that CCT did not require Developer and Builder to comply with township ordinances and the approved site plan.

12/10/2019 - Fishbeck Report on Site Plan Review

Review based on Revised Site Plan dated Nov. 20, 2019 given to them by CCT.

Fishbeck notes in its first page that “a previous site plan for this location was approved in 2015 with construction onsite occurring since that time. The developer did not construct several elements according to the 2015 site plan. The current site plan resembles the previously approved site plan; however, there are several changes that have occurred since 2015. We believe that most people involved with this site plan are aware of the number of changes and history with the site; therefore, we will attempt to limit our review to the changes and updated site plan and provide some history only where necessary for clarification purposes.

6/10/2020 – BOT Meeting with Public Hearing - Approval of Amended PUD Ordinance

Minutes indicate that BOT approved changes to the Sentinel Pointe PUD pertaining to Round Hill without any indication of what they were. Also, while indicating that there was a public hearing, no mention is made of how long it was, how many spoke or on what aspects of RH. In my view, the minutes are a total waste of paper.

The Staff report, recommending approval of the revised PUD Ordinance says that:

1. The “developer has made several mistakes” during the development of this project. Most notably, these include constructing the units outside of the approved envelopes, not obtaining a building permit for the deck before construction and not adhering to the approved site engineering.” Para. 2

2. The new buildings built on the site (probably means the two units on the north side (units 3 and 4) and excluding unit 8) that have building permits; the deck does not have one. So, unit 8 has a temporary occupancy permit, conditioned on the settlement of this deck issue (a zoning violation). Also, CCT has said it will issue no other permits until this zoning issue is resolved. Para. 4.
3. Developer wants to modify building envelopes for all of the units. Para. 5.

The Materials Testing Consultants (MTC) report of 4/2/20 on the retaining wall on the south side contains a description of some negotiations between Hula Eng. and MTC over what materials to use in the wall. MTC was more concerned about the gravity wall when it got too high. The report also recommends some part-time observation and testing by CCT of the building process to ensure that it is built as per agreed specs. Did CCT do the part-time observation and testing? (pp. 379-381 of the 6/10/20 BOT packet).

6/15/2020 - 6551 Round Hill Court sold (Unit #3) (Filed with County on 6/30/2020)

6/7/2021: PC Meeting where Guisti requests approval for a retaining wall behind Unit #4 and for a pool. PC rejected his request.

6/2021: Email from Craig Meurlin, PC member, to Scott Rissi and Steve Peterson relaying a complaint by Mr. and Mrs. Grunske, who own the property abutting that bayou, of water running directly from the retaining wall (seemingly under or through the wall) and down the hillside across the street from them to the culvert under Thornapple River Drive to the bayou and stopping there for now furthering the build up of silt and dirt from RH. There was heavy rain on Friday and at various times throughout the weekend, but it was not close to the 100 year flood.

DETAILED TIMELINE

2015

2015 – Either RJV Ventures or Driftwood Ventures approached CCT to amend the Sentinel Pointe PUD to replace the 40 unit elderly housing facility with a 15 single family detached units in a condo to be called Round Hill. Director Peterson, in answer to a question at the 12/7/15 meeting, said that RJV Ventures changed its name to Driftwood Ventures.

1/13/2015 - Preliminary Proposed 15 Condo PUD Submission to CCT.

2/2/2015 - Initial PC Meeting to consider RH development.

There was a lot of discussion with no decisions taken at this time. Steve Peterson said he would get back to the applicant with more questions and to help respond to issues raised at this meeting.

2/12/2015 - Letter from Fishbeck to Steve Peterson reporting on their review of the preliminary site plan for the development.

1. The site is located in Storm Zone A that requires infiltration if soil conditions have sufficient permeability. The design storm is the 100 year event. The site plan shows the applicant is planning to use an infiltration basin. But more work is needed (soil borings, etc)
2. There are other requirements listed before the next filing.
3. **“The site slopes severely from north to south towards the Thornapple Hills County Drain. Several of the proposed lots have grade differences from front to back of 15 ft - 20 ft.** The site plan does not show how this will be accomplished. The site plan shows one retaining wall along the NE corner of the site. Additional retaining walls may be required along the south slope. Without a detailed grading plan, it is unclear how the applicant will solve these grade differences.”

3/2/2015 – PC Meeting - Review of a new proposal by RJV Ventures to amend the Sentinel Pointe PUD:

1. This would be a development of 15 units of detached single family homes in a traditional condominium with no lots for a unit.
2. Each unit was to be approximately 2,500 sq ft on one floor with a basement (no walk outs).
3. They were planning on a 15 foot perimeter setback and 20 feet between houses.
4. There were a number of issues that needed to be addressed but this was the preliminary plan review meeting. Erosion, retaining walls, density on site for 15 units, stormwater drainage, parking, access to the library and a number of other questions were asked.
5. Tom Guisti made the presentation for RJV, with Nederveld as the engineering firm for the developer.

4/22/2015 - Mark Rohde submitted a 40+ page engineering analysis to the Planning Commission opposing the development.

6/4/2015 - "Applicant's" Engineer letter to CCT outlining maintenance procedures (referenced in Section X of the 2016 Ordinance (on Utilities)

7/6/2015 - Planning Commission Meeting

Received a request to approve a PUD for a 10 house condo project named "Round Hill."

7/27/2015 - Mark Rohde and Sentinel Pointe Retirement Community submitted an opposition packet of materials to the Planning Commission.

This packet supplemented the April 22 submission with more analysis and detail. He had sections about:

- Grading and Retaining Wall Issues
- Storm Sewer and Retention Pond

8/17/2015 - Planning Commission Meeting

Case #15-3229 RJV Ventures - 10 single family detached homes.

Steve Peterson describes these as similar to Heathmoor, Watermark, Forest Hills Condominiums, Summit, Park Place, Meadowwood (and a couple of others). They are in our transitional areas, not our low density areas. Reduction in Unit size (from 15-10) set it up for the guideline 4-6 units/acre for up to 30 unit projects.

Stormwater plan using the pond on the south side of the site was developed with Town Engineers.

Steve Peterson also talks about another component from the Master Plan involving Community Residential Plan with more public roads. The issue is the maintenance of private roads. "Also it was discussed that there be a connection to the Library. After reviewing with the Developers, it was taken off the plan to avoid any conflict with the future Township Hill [sic - Hall] project."

It was said to be difficult to gauge the difference in impact from the original second Sentinel Pointe building "**due to the lack of details from the original plan.**"

12/7/2015 – PC Approval of original plan for PUD – Driftwood Ventures was the Developer.

This was for 10 single family detached units in a condominium. It is unclear whether the units consisted of only the houses or whether this was more of a site condo.

There was discussion of the need for a Landscaping Plan and Director Peterson said that those were not normally required in single family residential developments nor are there "buffer yard requirements". But they have been required in some projects.

PC voted unanimously to send this to the BOT for approval, with Staff conditions. (32 minute meeting, with two projects on the agenda, RH and the Cascade Animal Hospital expansion)

2016

1/14/2016 – Handwritten letter/note from the Deputy Managing Director of KCRC, on RH

They have performed a “cursory review of the proposed SESC Plan and feel if adequately maintained will be sufficient for the proposed grading associated with the proposed development..” Then asks for a \$5,000 surety in cash or an L/C.

1/16/2016 – BOT had a public hearing and then considered whether or not to approve the proposed “Approval of Ordinance to Amend P.U.D #55 to permit 10 Unit Single Family Detached homes for Roundhill.”

Board in the end tabled the motion and remanded it to the PC to deal with three issues:

- a. Landscape Plan to create some more detailed buffering from the visual eyesore that could develop there.
 - b. Bonding requirements to protect against soil erosion during construction.
 - c. Tightening up on the Maintenance Agreement relating to soil erosion.
3. Both of the last two would apply even after the developer obtained its county approval of a soil erosion plan.

1/25/2016 – Rohde letter opposing the RH development plan. He recited the Board’s concerns expressed on 1/16 and puts in his analysis of why the Board is right to be concerned:

1. Retaining wall is within the 15’ setbacks
2. There should have been a landscaping plan required in approved version
3. Retention pond had many potential flaws, most particularly that it is inaccessible to maintain.

2/1/2016 - PC Meeting at which the PC considered the three items asked the BOT to work out the three issues the BOT asked them to:

1. Performance bond consideration to address soil erosion
2. Review of stormwater maintenance agreement to provide additional protection,
3. Landscape Buffer plan

PC considered:

- Landscape plan presented by D&B that purported to include a buffer around perimeter and a modified stormwater maintenance agreement.
- D&B represented that they would be planting shrubs to soften views of the retaining walls on the south and north sides of the site.
- **D&B agreed that each unit of RH would have to have a soil erosion permit at time of construction.** Township Engineer recommended a \$50,000 performance bond for soil erosion during construction phase.

- PC decided:
 - \$8,500 performance bond for landscaping around the site as per site plan.
 - New stormwater maintenance agreement and a \$50,000 performance bond.

2/24/2016 – BOT – Considered approval of the PUD Amendment

Cliff Bloom continues to be the lawyer for CCT.

Board reviewed Peterson's presentation of a new landscape plan as well as the amended Maintenance Agreement for stormwater. There is also a \$8,200 bond to be put in place for landscaping.

A \$50,000 performance bond was also agreed to be put in place "until the site stabilized".

Because there were only 4 members of the BOT present, all needed to vote in favor under the Zoning Enabling Act. The final vote was 3-1 (Peirce has consistently voted against RH's development). So, action was tabled. McDonald, Koessel and Beahan voted in favor.

3/9/2016 – BOT approved the amended PUD (Ordinance #1 of 2016)

1. Approval of PUD Amendment with the following items:
 - a. Approval of the amended Landscape plan dated 1/22/2016 with an \$8,200 performance bond.
 - b. Bloom has tightened the Maintenance Agreement for Stormwater. Kent County Road Commission (KCRC) has reviewed the developer's SESC control plan and is agreeable to it.
 - c. The \$50,000 performance bond has been agreed to by the applicant to be in place until the site stabilizes.
2. Peterson mentions a packet of information from Mr. Rohde challenging some of the interpretations of prior BOT decisions on RH and other matters and said that Mr. Rohde's material did not accurately reflect the Township BOT's decision. He also noted that Mr. Rohde's attorney had sent in a separate letter. Both Mr. Rohde and his attorney want the project stopped.
3. Peterson recommended approval of the amendment to the PUD with the above conditions set forth in it.
4. The Maintenance Agreement provides for remedies that include the Township doing the needed work and then putting a lien on all units for repayment. There is also a SAD provision allowing the immediate creation of an SAD of the unit owners for collection of costs incurred, including admin and legal costs.
5. The Ordinance itself:
 - a. 10 unit condominium

- b. The development must be done in strict compliance with the Ordinance, the site plan and the condition. This approval also had “no modifications” or “deviations” except as approved by formal written approval by the Township. “So-called minor deviations shall not occur or be made unilaterally by the Developer.”
- c. Any deviation is to be considered a violation of CCT’s Zoning Ordinance as well as this Ordinance being approved.
- d. Failure to comply with the site plan or any condition of approval shall be deemed to be both a nuisance per se and a violation of the CCT Zoning Ordinance.”
- e. Ordinance must be filed with land records of Kent County before any construction, and as filed document evidencing the filing must be given to CCT.
- f. Project “shall be developed in exact accordance with the site plan approved by the Township. No alterations, expansions, or additions may occur as to the Project with a formal amendment to this Ordinance, unless expressly otherwise authorized herein.”
 - i. Minimum of 1300 livable sq. ft on one story units; minimum of 1600 sq ft on two story units (at least 800 sq. ft on first floor).
- g. The Township must be supplied with an engineer’s “as-built” certification that the Facilities, as built and installed, matches the approved design.
- h. Soil erosion control plan must show all temporary and permanent soil erosion control measures to be taken before, during and after construction. Plan to be reviewed with Township Engineer prior to commencing any excavation on the site.
- i. Site Plan approved was left undated in the Ordinance in packet for this meeting.

Note from Ben to CNM 6-17-2021

*Good seeing you today – **going through the files there are a couple different iterations of the Round Hill site plan, I’m not sure which are the approved one and I don’t want to send you the wrong ones.** I will ask Steve or Brian to send you the approved ones. For what it is worth, this is what was in the Township Board packet in January 2016. It was tabled and remanded back to the Planning Commission for changes to the Landscaping Plan.*

*Thanks,
Ben*

2017

2/21/2017 – Finko LLC, by its member, Ralph J. Finkelstein (“Member” without “a” or “the”) authorized Tom Guisti/Thomas Michael Homes to obtain any necessary permits to begin work on RH. (Exhibit 10 to Rohde Complaint)

2/21/2017 – Developer & Builder (“D&B”) applied to the KCRC for a Soil Erosion and Sedimentation Control (“SESC”) Permit by submitting the Site Plan, and showing SESC measures, including construction of 700+ feet of retaining walls. (now this shows Finko LLC.)

As a part of the application there is a 'Soil Erosion and Sedimentation Control Permit Agreement' signed by an illegible signature without a company name attached to it that among other things, agrees:

1. All owners disturbing 5 or more acres must submit their NPDES Notice of Coverage permit before beginning the earth change. Any other DEQ permits should be submitted with site plans as well.
2. Remove sediment caused by soil erosion from storm runoff before it leaves the site of the earth change or enger waters of the state.
3. Place soil away from drainage courses. Soil piles must be protected from the precipitation and wind with non-erosive cover or other BMPs (best management practices). Remove any unused soil when grading is completed.
4. BMPs are to be installed correctly before grading begins at the site. Get from MDEQ.
5. Daily stabilization is mandatory.
6. Seed (and mulch, where required) all disturbed areas within 5 days of final grading. Remove all temporary erosion and sedimentation controls only after vegetation has been fully established. Evaluate if any sediments entered the storm system during the site construction phase and initiate actions to have the system cleaned as appropriate. Clean sediment from detention basins to ensure appropriate design volumes are met.
7. There are others as well in the list.

3/8/2017 – KCRC issued a SESC Permit and required the D&B to install controls as specified on the SESC plan.

4/22/2017 – Nederveld Engineering, for Developer, staked the RH property for tree clearing.

6/2017 – Tree clearing began and thereafter proceeded with earthwork on the site.

Soon very clear in non-compliance with SESC Plan. In particular, no retaining walls.

6/16/2017 – after D&B cleared trees and before the new grading happened (Exh 3 to Complaint).

7/2017 - Mark Rohde inquired if there was a revised site plan showing elimination of the required retaining walls; he was told no such site plan existed.

In his letter to the PC on 5/20/2019, he said that he requested a copy of the drawings for the Project and was rejected.

7/9/2017 – Underground utilities and cul-de-sac done.

Developer and Builder (D&B) then removed 3 acres of old growth trees and cut into the hill to create a level area. D&B represented that they would replace the trees and that landscaping would be dense and very nice.

9/10/2017 – D&B completed grading the site (Exh. 4 to Complaint).

9/2017 – Rohde alerted KCRC and CCT of site grading, drainage, erosion problems.

10/1/2017 Rohde sent a letter to the PC, KCRC and CCT notifying them of sedimentation issues

10/30/2017 - KCRC issued an Inspection Report recommending that a Notice of Violation be sent to builder (copy is found as Exhibit 13 of Rohde Complaint) - The Report that sediment was observed leaving RH site beyond the south property during a rain event and stating that the owner must stabilize the south side of grading east of the pond to prevent further sediment leaving the site. (Exhibit 13 to Complaint), CCT admitted the content of the Report.

11/6/2017 – KCRC issued an Official Notice of Violation to Builder (copy is found as Exhibit 14 of Rohde Complaint): KCRC issued this as a result of soil discharge leaving the RH site beyond the south property line as a result of the grading of the site. **CCT Answer to Rohde Complaint Factual Allegation #64 admitted the truth of the statement.**

12/12/2017 – Building Permit for Unit 8 granted (PB17001811).

No information obtained - follow up.

2018

2/15/2018 - Building Permit for Unit 8 (**6538 Round Hill Court**) granted (earlier one on 12/12/17 also granted?) (PB18000151)

The application was filed on 12/11/2017. Applicant was the contractor Thomas Michael Homes LLC. The Owner signature was by Raleigh Finkelstein; the contractor signature was by Tom Guisti.

This Permit was originally issued to 6538 Round Hill Court. PR12 (uncertain what “PR” means) says that there was no address on application and Building Dept. (“BD”) left message for Builder, “I cannot start to process this without an address assignment from Kent County.” The next notation on the Plan Review document says that on 12/14/17, the BD “Received address assignment sent to Planning.

(There is a stipulation later referenced in the Building Department summary sheet that the address should have been 6546. The permanent parcel # was 41-19-16-103-013 (this is the PPN for 3000 Thornhills Ave. SE. and the owner as identified as Finko LLC (from AccessKent.com property search)). The Building Department Plan Review document says that it “Received a call from Steve Peterson indicating that it is OK to issue Permit 2-13-2018.” [assume year is a typo].

The single family home was to be valued at \$500,000. It was for a “Residence w/Finished Basement.” The Plan Review sheet from the BD says that Residence (or review of?) completed 1/19/2018 and approved on 2/13/2018.

But there is also a letter, dated 10/11/2018 from the Deputy Managing Director of Engineering of the KCRC (on KCRC letterhead), found in the Building Department files for this site, addressed to Tom Guisti of Thomas Michael Homes, LLC saying:

“Per our onsite meeting on 10/10/2018, **the following things will need to be completed in order to release the stop order on 6538 Round Hill Court SE.** (8 months after Residence” and “Complete” on Plan Review - But this may mean the review of the plans were complete??)

1. The \$1,000 civil violation issued on August 31, 2018 will need to be paid to “KCRC.”
2. A revised soil erosion plan to encompass the new soil erosion controls that are in place and any additional controls that will be used on site.
3. Sediment deposited onto the Sentinel Pointe and Rohde properties to the south of the project site will need to be recovered by hand.
4. A schedule moving forward with your plans to stabilize the Roundhill site.
5. A meeting on site with representation from the [KCRC] and Thomas Michael Homes to review the progress and ensure the necessary measures have been taken to stabilize the site.

The next document in the file under this permit (for Unit #8) is an address assignment dated **12/13/17** giving 6538 Round Hill Court to Unit #9.

The next document in the file under this permit (for Unit #8) is an address assignment dated **10/17/18** giving 6546 to Unit #8.

The next document in the file under this permit (for Unit #8) is an email, dated **10/23/2018**, from Andrew Reinhardt, Engineering Inspector at the KCRC, to Bill Benoit of the BD, copying his boss (the Deputy Director of Engineering, Wayne Harrall and Brian Wilson, of the BD at CCT, stating “Mr. Guisti is now in compliance with his soil erosion permit. **The Stop work order can now be lifted on 6538 Round Hill.**

Rohde Complaint Factual Allegation #64 - The plans depicted a single residence with a daylight basement. **CCT Answer admitted this.**

Then the Builder built a house far different than that on Site Plan. **Rohde Complaint Factual Allegation #65** states that Builder did not build a Unit consistent with the building plans submitted to the Township. It became a walk-out basement, expanded the footprint of the house and added a third stall garage. **CCT Answer admitted this, “on information and belief.”**

Rohde Complaint Factual Allegation #66 - The owner of Unit 8 and the Builder failed to obtain the required SESC permit as required by Michigan Law. **CCT Answer admits, “on information and belief.”**

*RH was supposed to be a traditional condo without separate lots; 2,700 sq. ft. of living area and 477 sq ft. of garage space. Price point: \$500x-\$600x. **Rhode Complaint Factual Allegations #23***

All condo buildings and structures shall be placed within the building footprint area as shown on the final approved site plan dated _____ . (in complaint it still is a blank)

Nothing to be built or planted or placed over any of the Facilities (that are part of the stormwater system or drains, etc.)

Site plan appears to have a northern retaining wall and a "massive earth retention wall approx. 700 ft long and top height of 10+ feet.

4/6/2018 - General Permit? for 3000 Thornhills Ave. SE - (PB - 18000546)

4/9/2018 - Electrical Permit for Unit 8 issued (PE18000658)

4/27/2018 - **Finko recorded the Master Deed of Round Hill Condominium with KC Register of Deeds.**

But according to Rohde counsel's letter to CCT Board on 8/6/2019, Exhibit B to the Master Deed is the Condominium Subdivision Plan. That subdivision plan deviates substantially from the approved Site Plan in numerous respects.

Guisti changed the original traditional condo form to a site condo with lots for each unit.

It fails to include the earth retention structures that are required by the Site Plan. Also, by changing it to a site condo, these retention structures would become the responsibility of the unit owner on whose property they are located. There would be no reserve fund of the HOA for major repairs, etc.

5/17/2018 - **Violation Notice sent by KCRC to Tom Guisti demanding changes be done by 5/24/2018.**

This was based on an inspection done by Bruce Schutte and Andrew Reinhardt on 5/15/2018. The official notice was signed by W. Harrall, County SESC Enforcing Agent. Bruce Schutte, the Inspector for the 5/15 Report, personally noted that he had personally hand delivered both the Official Notice and the Inspection Report to Mr. Guist at 3 pm on the 17th of May.

Violations include (as listed in the Inspection Report):

"Earth change has begun, controls not installed per plan."

"There is potential for sediment to leave this site. Location: Lift Station Road / Lower property line into creek."

"Sediment is leaving the site. Location: Lower sides of site across property lines - Lift station road from upper unprotected soils."

"The earth moving is complete but vegetation needs to be established. Location: Total site."

"The permit has expired and an extension is necessary."

Under Additional Comments:

"Soils have left this site into the stream from the lift station roadways unsecured edges."

"All silt fence needs to be maintained - repaired - added to the lift station road edges."

“The permanent retaining walls & the concrete spillway to the pond still need to be built.”

“Excavation &/or soils have encroached past the property lines in several locations. Restoration with adjoining landowner approval will need to be made.”

Corrections must be complete by 5/24/2018.

5/25/2018 - Mechanical Permit for Unit 8 issued (PM180001234)

6/11/2018 - KCRC Site Inspection Report (found as Exhibit 17 to Rohde Complaint).

It says that violation notice is recommended, as it was on 11/6/17 and 5/17/18

Based on site visit by Bruce Schutte and Andrew Reinhardt

It finds that:

RETAINING WALLS NEED TO BE BUILT [THEIR CAPS] is in Report twice.

Potential for sediment to leave the site. Location: Lots 6&7.

Sediment is leaving the site: South property line Lots 6 &7 (2nd use of all CAPS for RWall).

Vegetation needs to be established - Pond needs topsoil and reseeding with blanket per plan.

CCT Answer to Factual Allegation #69 admitted the content of the report.

Per Rohde Allegation #70, the KCRC notified the Builder that they must discuss the need for controlling all soils on Round Hill ASAP. RH remained vulnerable to continued erosion on the south side. It also stated that, among other things, the retaining walls must be built and “THIS SITE MUST GET STABLEISED [sic] TO AVOID FINES.” **CCT Answer admitted this.**

6/15/2018 - Another KCRC Site Inspection Report.

It finds that

Earth change has begun, controls not installed per plan

Permit remains expired.

It highlights in yellow that the retaining wall must be installed ASAP. “Soil is still leaving the site on the south side of property, coordinate soil recovery with neighboring property owner.” “Finish grade, topsoil, seed and blanket slopes as soon as possible to establish growth. Perimeter of property should be vegetated to create buffer between open soils and adjacent properties. Topsoil and reseed pond area. Install silt sacks as discussed at on-site meeting. Fix and maintain silt fence. **Site remains in violation as long as soils have the potential to leave the property.**

Same two inspectors.

CCT admitted the content of the Report. (CCT Answer to Rohde Complaint Factual Allegation #71)

7/19/2018 - Another KCRC Site Inspection Report (this still references Violation Letter of 5/17/2018)

It finds that little has changed and more problems have arisen with sewer washout on northside of driveway near the entrance. For the south side, the Report uses phrases such as “Southeast corner of property is extremely vulnerable to washouts due to steep, unprotected slopes very close to property lines. This area is in desperate need of stabilization before any substantial rainfall that could cause runoff onto neighboring properties. Silt fence is full and needs repairs in many areas around the site. This site continues to be in violation due to soils leaving the property.”

Same two inspectors.

Rohde Complaint Factual Allegation #72 captures this Report (Exhibit #20). CCT Answer admitted the content of the Report.

8/1/2018 - Another KCRC Site Inspection Report

This one goes one step further than just reporting continuing violations. This recommends another violation notice go to Guisti and it does by certified mail and email. This says corrections must occur by 8/8/2018.

8/1/2018 - KCRC issued a Notice of Violation to Tom Guisti on behalf of Thomas Michael Homes

notifying the Builder that soil discharge from RH into the Kent County Drain violated the Kent County SESC Ordinance. The factual basis for the violations is set forth in the recent SESC field inspection reports. The Builder has 5 days to comply with the SESC Ordinance. The letter also states that the KCRC has “communicated with Cascade Township and will be requesting their assistance in issuing a stop work order on the site.” **Rhode Complaint Factual Allegation #74 covers this and Exhibit 22 to the Rohde Complaint is a copy of this document. CCT Answer to this Allegation #74 admits this.**

8/8/2018 - MDEQ (Grand Rapids District Office) issued a letter to Tom Guisti on behalf of Thomas

Michael Homes. It states that on 7/31/2018, the MDEQ, Water Resources Division conducted an evaluation of RH (together with the KCRC) to evaluate the RH development’s “compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and Rule 323.2190, Permit-By-Rule, of the 1979 Administrative Code.

The issues are:

3. “Temporary SESC measures require maintenance or reinstallation in several locations.”
4. “Sediment has discharged off-site due to the lack of SESC maintenance.”

A written response is due by August 24, 2018.

Interestingly, the letter also notes that it wants to know the “name of the construction storm water operator supervising the site and his reports dated May 2, 2018 - July 31, 2018.

It also requests a schedule indicating when the sediment basin will be final graded and permanent control measures installed.

A copy of this letter is found as **Exhibit 23 to Rohde Complaint (referenced in Factual Allegation #75)** The KCRC is copied on the letter; CCT is not. CCT Answer admits this.

8/9/2018 - KCRC Site Inspection Report

This is a follow up to see what Guisti has done since 8/1 Notice of Violation. Improvements have occurred.

Silt fences were repaired along Mr. Rohde's property line and "most of the soils were recovered." But soils above the fences are still bare and "extremely vulnerable to washouts."

"Retaining wall needs to be installed and vegetation needs to be established ASAP."

The north side "large washout" near entrance was not addressed and "I gave him until 8/13 to fix this problem.

"The site needs vegetation and permanent controls to stabilize ASAP."

A copy of this Report is found as **Exhibit 24 to Rohde Complaint (referenced in Factual Allegation #76)**. CCT Answer admits the content of this Report.

8/30/2018 - KCRC Site Inspection Report

This Report references that a **Notice of Violation was sent on 8/9/2018 to Thomas Michael Homes**. This inspection was done by Andrew Reinhardt, who was accompanied by Steve Peterson and Brian Wilson.

This Report references "multiple rain events throughout the week have all continued to cause breaches in the SESC controls in all of the previous violation locations and sediment continues to leave the site. Crews have repaired the washout at the entrance and recovered a portion of the soils that have left the property and re-seeded. No erosion blanket has been placed on the slope where the washout continues to occur. Two people were in the process of recovering soils in the Southeast corner of the property, but nothing has been done to stabilize the slopes and stop these washouts from happening in the future. THE AREAS THAT CONTINUE TO BE AN ISSUE ARE THE SAME AREAS SPECIFICALLY MENTIONED IN THE NOTICE OF VIOLATION THAT WAS DELIVERED ON 08/09/2018".

Corrections are to be completed by: ASAP.

A copy of this Report is found as **Exhibit 25 to Rohde Complaint (referenced in Factual Allegation #77)**. CCT Answer admits the content of this Report.

8/31/2018 - KCRC declares Thomas Michael Homes and Tom Guisti to have committed a Municipal Civil Infraction and fines them \$1,000 (to be paid in 15 days). This is for unspecified violations at 3000 Thornhills Ave. in Cascade. Permit #17-079.

This is an official document signed by Wayne Harrall.

A copy of this Municipal Civil Infraction document is found as **Exhibit 26 to Rohde Complaint (referenced in Factual Allegation #78)**. **As to this paragraph, CCT Answer admits.**

9/18/2018 - KCRC Site Inspection Report

“An attempt was made at recovering soils from Mr. Rohde’s property in SE corner, but there is still a lot of soils remaining that will need to be removed by hand. I would strongly recommend additional silt fence rows in this area to avoid more soils lost off of the property. This area continues to be extremely volatile, this area needs to be stabilized with a retaining wall and vegetation ASAP.”

A copy of this Report is found as **Exhibit 27 to Rohde Complaint (referenced in Factual Allegation #79)**. **As to this paragraph, CCT Answer admits.**

9/28/2018 - Email from Andrew Reinhardt to Tom Guisti asking for

“a meeting with Tom Guisti and Mr. Fortunato[, Builder’s Storm Water Operator,] to discuss issues on the Roundhill site that continue to cause problems and discharge soils onto neighboring properties. I would like to walk the site with you and discuss possible solutions and timeframes for fixing these issues. We are running out of time to establish vegetation and there is a lot of rain in the forecast in the near future. Your site continues to be in violation as soils continue to breach your temporary controls and leave the site. If you continue to refuse to permanently remedy these issues by establishing vegetation and installing permanent controls, [KCRC] will utilize the Surety issued for the project in order to stabilize the site. Please let us know when you would be available for a meeting on site as soon as possible. Also, please provide an update on the status of the \$1,000 fine you received.”

This email was sent on Saturday the 28th; within 3 hours, Tom Guisti said he “was available Tuesday afternoon and he would check with John.”

A copy of this email exchange is found as **Exhibit 28 to Rohde Complaint (referenced in Factual Allegation #80)**. **As to this paragraph, CCT Answer admits.**

10/1/2018 - Rohde sent a letter to the Township and the SESC “notifying them that RH again failed to contain the soil erosion both on the Rohde property and that of adjacent land owner Sentinel Pointe Retirement Community.”

This allegation is found in **Rohde Complaint, Factual Allegation #81**. **As to this paragraph, CCT Answer admit, on information and belief.**

10/1-2/2018 - Builder's Storm Water Operator inspected the RH Site and filed a NPDES and SESC Inspection Report.

Mr. John Fortunato, of Williams and Works, "observed that many areas of the silt fence had build up or had been washed away and were in need of repair, and areas of rutting were identified throughout the site requiring regrading, among other things." quoting from the Rohde Complaint, Factual Allegation #81.

There are two reports from Mr. Fortunato, with accompanying pictures, illustrate the numerous areas of violations both from water runoff and sediment controls being in significant disrepair. **Exhibits #29 and #30 to the Rohde Complaint, referenced in Factual Allegation #81 and #82, contain those reports. CCT Answer, as to these two paragraphs, admit on information and belief.**

The first report was copied only to the DEQ (Brandie Stefanski).

The second report comments that an on-site meeting with the KCRC representatives was held to discuss issues related to the site.

10/3/2018 - Formal letter on Cascade Inspection Services letterhead, signed by Brian Wilson, Cascade Township Building Official, to Tom Guisti for Thomas Michael Homes, LLC, stating that "the KCRC has determined that soil erosion preventative measures are not being maintained to prevent soils from leaving the work site/development." It further states that "Pursuant to PA 230 sec. 125.1512, you are in violation of the soil erosion ordinance. A STOP WORK order will be issued in 24 hours on October 4, 2018.

It does on to state that this letter is "your official NOTICE per section R114.1 of the 2015 Michigan Residential Code." It further sets forth his appeal rights. It finally says that "Upon written notification from KCRC officials that compliance has been achieved, the stop work will be lifted."

This letter is found as **Exhibit #31 to the Rohde Complaint, referencing Factual Allegation #84. As to this paragraph, CCT Answer admits.**

10/11/2018 - Formal letter from Wayne Harrall of KCRC, to Tom Guisti of Thomas Michael Homes, LLC. detailing the results of an onsite meeting on October 10, 2018. It lists the actions needed to lift the stop work order on 6538 Round Hill Court SE. (Unit #8) The Brian Wilson letter did not specify a particular unit in its Notice of the Stop Work Order.

They are:

1. The August 31, 2018 civil fine will need to be paid to the KCRC. [several weeks overdue]
2. A revised soil erosion plan to encompass the new soil erosion controls that are in place and any additional controls that will be used on site.
3. Sediment deposited onto the Sentinel Pointe and Rohde properties to the south of the project site will need to be recovered by hand.
4. A schedule moving forward with your plans to stabilize the Roundhill site.

5. A meeting on site with representation from the KCRC and Thomas Michael Homes to review the progress and ensure the necessary measures have been taken to stabilize the site.

The only person cc'd on the letter is Andrew Reinhardt, of the KCRC. Neither Mr. Fortunato nor CCT are copied.

This letter is found at **Exhibit 32 to the Rohde Complaint, referencing Factual Allegation #85. CCT Answer admits** as to this paragraph.

2019

At some point in 2019, Tom Guisti filed for PUD changes in building envelopes and grading (Case No. 19-3527). The records show no final action on it (but this is from a 2019 report).

2/4/2019 - KCRC Site Inspection Report

This is a progress report. Site is mostly snow covered, but is melting at a very fast rate. Overall, sediment is not leaving the site and the SESC are working but need to be maintained. Some silt fences are down and needs repair. The retaining wall has been staked but no work has started.

2/8/2019 - Building Permit for Unit 3 issued (PB 19006308)

4/15/2019 - Finko recorded an amendment to the Master Deed modifying the boundaries and lot sizes of six of the ten units, dramatically decreasing the size of at least one lot and dramatically increasing the size of another.

4/19/2019: Sale of Unit #8

1/2019 - Finko, LLC to Lexton, LLC of just **Unit 8** by Quitclaim Deed. Consideration is \$1 and other valuable consideration. **Recorded three times (1-7-2019; 1-14-2019; 1-23-2019)**

4/18/2019: Lexton, LLC to Dalton DeVos by warranty deed dated 4/18/2019 for \$1.225 million. Unit #8. 6546 Round Hill Court. PP #41-19-16-120-008 Instrument #201904260028497.

4/12/2019 (but not recorded until 4/26/2019) Mortgage Discharge by Finko, LLC of mortgage from Lexton, LLC to Finko, LLC dated 12/17/2018 and recorded 1/23/2019. Finko signatory was Raleigh J. Finkelstein, as Trustee of the Raleigh J. Finkelstein Trust u/a/d March 2, 2012, identified as "Its: Member."

5/20/2019 – Planning Commission Meeting –

There was a long discussion of the problems at RH. Mark Rohde's son, Judd, read a statement by his father, citing that Mark had done an analysis, code review, and presentation to the PC regarding the then proposed RH PUD. He said that he found two design elements that violated Michigan law.

Mr. Peterson did set forth answers to the issues raised in the public hearing and the concerns raised in letters delivered to the township:

1. As to soil erosion, he said it was not his responsibility. It was the County's; he also said that they had said that Gusti's paperwork was in order. No one at CCT seemed able to point out to them that the retaining wall was not built and that there had been numerous complaints. Also, in the , soil erosion is in the Cascade zoning duties as well.
2. The claim that the PUD site development plan completely changed during construction. Peterson said that he does not find this to be the case, but says that the project is not yet finished, so it is not unusual for final grades to be completed until the project is done. If there is something that they want to change, they will have to apply for an amendment, or build as originally approved.
3. Home size has violated the PUD approval requirements. "Peterson stated that the buildings are limited to the building envelopes The current home and second home that has been started are both within those envelopes." Only minimum house size would be regulated, not maximum so long as it is within the envelope.
4. Deck not inside envelope; Peterson said that was the reason for the meeting today.
5. Landscape buffer element requirement can not be constructed as required. Peterson said that was always done at the end of projects, not during construction.
6. Site fill was improperly compacted at the south property unit locations. This was a concern of Mr. Rohde though the minutes are unclear what they are talking about. Peterson said Rohde had been spoken with and the Building Department was made aware of it and it is up to them whether or not to require any testing.
7. There was discussion of a letter from Varnum about retaining walls. Peterson said that letter was written at a time when Varnum was not the Twp's attorney.
8. Sperla asked about whether there had been any contact with the DNR regarding silt and materials drifting into the river. Peterson said no recent contacts, but the Township has sent its engineer out in the past to do tests in the bayou for materials and tests have come back as mostly organic to the river. He also talked about a big drain completed to stabilize a hill near Centennial Park, west of Thornhills and east of the condo project, where it was believed a lot of fill was coming from and flowing into the river. They have both been completed in the past few years.

In the Staff Analysis for the 12/16/2019 Meeting of the PC, Para. #1 says that **"During that meeting [the May 20 meeting] we learned that they also had plans to remove the large retaining walls that were part of the original approved site plan and some concern was raised that they may have expanded beyond the approved building envelope."**

8/6/2019 - Letter from Hilger Hammond, counsel for the Rohde's, requesting CCT to:

Put RH on its next BOT meeting agenda

Withdraw approval of Ordinance #1 of 2016 amending the Sentinel Pointe PUD

Direct the Planning Director to issue a C&D Order halting activity on the site, and

Direct the Building Inspector to revoke the Bldg Permit for Unit #3 and revoke the Occupancy Permit for Unit #8.

It also, among other things, confirms that the Developer never recorded the Ordinance, and responses of CCT to FOIA requests confirms that the CCT does not have a signed, recorded copy of the amended PUD. It also alleges that Finko did not sign and date the PUD and affirm a statement that Finko read, understood, and agreed to abide by all requirements of PUD. It goes on to say that these requirements are critical for control of the development, enforcement of ordinance requirements, and protection of purchasers and adjoining landowners. The amended PUD “expressly states that failure to comply with each of these conditions of approval ‘shall be deemed to be both a nuisance per se and a violation of the CCT Zoning Ordinance.’ That is the basis of the request to withdraw approval of the Ordinance from 2016 or in the alternative direct the PD to issue a C&D order halting all work on the site.

The letter was 8 pages and was cc’d to all the then Trustees (other than Rob, to whom the letter was official sent, as the representative of the Board). It also copies Ben (YM) and Cliff Bloom.

It appears on a quick look not to do this or we will sue, but rather do this or we must have a sit down meeting within 7 days

8/27/2019 -

Letter from Steve Peterson to Tom Guisti saying that the Twp will not be issuing an occupancy permit for the home under construction or any other permits for the development.

9/26/2019 – Litigation filed by Rohde’s

Developer graded the site in a manner that created steep slopes of unsecured earth extending to and sloughing beyond the property boundaries of Round Hill and onto adjacent property owned by Plaintiffs.

Developer submitted a site plan with 700+ linear feet of retaining walls to hold the steep slopes in place and protect against soil erosion and sedimentation impacting adjoining property and the Thornapple County Drain and the Thornapple River.

Multiple complaints to CCT; yet CCT did not require Developer and Builder to comply with township ordinances and the approved site plan.

12/10/2019 - Fishbeck Report on Site Plan Review

Review based on Revised Site Plan dated Nov. 20, 2019 given to them by CCT.

Fishbeck notes in its first page that “a **previous site plan for this location was approved in 2015 with construction onsite occurring since that time. The developer did not construct several elements according to the 2015 site plan. The current site plan resembles the previously approved site plan; however, there are several changes that have occurred since 2015. We believe that most people involved with this site plan are aware of the number of changes and**

history with the site; therefore, we will attempt to limit our review to the changes and updated site plan and provide some history only where necessary for clarification purposes.”

The report listed several particular areas of changes:

-Storm Sewer and Grading along north property line. Not done as per 2015 Site Plan; new site plan “is acceptable”, but “storm sewer and grading existing structures are critical to the design and function of the retention basin.” At end, this new plan “should accomplish the original goal of routing the offsite runoff around the new retention basin **provided the grading work is constructed properly.”**

Retention Basin

Storm Sewer Outlet at Retention Basin

Basin Emergency Overflow

Grading South of Units 6-10

Slope Restoration South of Unit 6 - this notes that a retention wall was to have been built previously and comments on Guisti’s new plan for this area without a wall.

The conclusion says, among other things, that:

the additional work called out in the site plan must be done promptly and “**recommends a \$100,000 bond at a minimum.”**

The site improvements should be inspected by CCT on a regular basis until final construction. There is no way to ignore the fact that the site was not constructed according to the 2015 approved site pIN. Given the history, we would not be comfortable recommending an approval with some sort of additional oversight. The oversight can be completed by CCT staff or if Fishbeck is expected to provide that oversight,” then a \$20,000 escrow account is needed.in case the work is not completed.

[more to be added from report]

12/11/2019 - Filing with Kent County of Site Development and Stormwater Runoff Facility Maintenance Agreement between CCT and Finko, LLC.

There seems to be something odd at the least and perhaps backdated about this Agreement.

The first page of the document says it was “executed on this March 10, 2016” between Cascade Charter Township and Finko, LLC. At the end, the document says that it “shall be deemed effective as of” 3/10/2016.

Finko signatory was Raleigh J. Finkelstein, as a Member. **His signature was notarized (as personally appearing before the notary) on December 9, 2019. The notary purposely**

crossed out the 2016 in the typed document and inserted in pen "2019" above the crossed out typed 2016 date.

Rob Beahan's signature was notarized by Padley Gallagher who said Beahan personally appeared before her on December 9, 2016. Was Padley employed by CCT on 19/9/2016?

Agreement provides, among other things:

The recitals say that the Developer has received the required approval from CCT for this agreement under the CCT stormwater zoning ordinance #7 of 2002, as amended, as a single family residential condominium project.

Section 1 says that CCT has approved the "site plan" for the Project so long as the Project and all parts of it are in compliance with the CCT stormwater Ordinance, as it may be amended from time to time and this Agreement.

"Facilities" are defined as the storm drainage and water retention systems, pipes, ponds, and facilities for the Project and on the Property, as shown on the Site Plan. The Developer and its successors under the agreement must also ensure that the Facilities are constructed, installed and maintained properly.

Maintenance and repair regarding the following items must be done on a regular basis for such facilities to ensure that all components of the Facilities function reasonable and properly at all times:

- Sediment Control

- Erosion Control

- Ensuring constant structural integrity of the physical system.

- Designated access to the Facilities

- Anything else to ensure Facilities are functioning properly and in full compliance with the Storm Water Ordinance and this Agreement.

The Developer shall provide to CCT a recordable permanent easement, within 60 days of request of CCT after installation of the Facilities, for storm sewer pipes, basins, spillways, waterways, and designated access routes. Have the Facilities been installed? Have we requested such easements? This says the Developer will; does it bind owners of units sold? Developer will also provide to CCT a permanent easement or irrevocable license for access from public roadways to all parts of the Facilities.

Township will be provided with an "as built" engineer's certificate that the Facilities have been constructed and installed as required in the design.

Section 2 (Enforcement)

If the Facilities are not all installed, maintained or repaired in accordance with the approved Site Plan, CCT's Storm Water Ordinance and this Agreement (whether due to Developer, a Unit owner or HOA fault or negligence or neglect), after 30 days notice by CCT, CCT can, at its discretion, come in and do the required installation, maintenance and repair and charge costs, plus reasonable legal and administrative charges, back to the Developer and HOA. These costs shall also be a lien on the common areas and each unit.

If CCT is involved in any litigation regarding the enforcement, interpretation of this agreement and CCT prevails in whole or in part, Developer and HOA are jointly and severally liable for the reasonable costs of such litigation, including attorneys fees.

All remedies are cumulative.

Section 3 (Special Assessment District)

An automatic special assessment district shall be automatically created (and deemed agreed to by all unit owners and developer) if the Facilities are not installed, maintained and repaired properly.

Section 4 (Disclosure)

The obligations of this Agreement apply to all future owners of units, as well as Developer and HOA, and if Developer and HOA do not comply with requirements, the individual Unit owners will have to do what has to be done to be in compliance.

The Developer and the Unit Owners have to comply with all other laws and regulations of federal, state and local government, including the PUD zoning approval, with regard to the Facilities. The document says that due to the grades involved compliance and maintenance may be very difficult, but those difficulties are not relevant. Compliance and maintenance must occur. **(Section 5)**

The obligations shall be deed restrictions that permanently run with the land against the Developer and its successors in interest, including the HOA and the individual units. **(Section 6)**

6/10/2020 – BOT Meeting with Public Hearing - Approval of Amended PUD Ordinance

Minutes indicate that BOT approved changes to the Sentinel Pointe PUD pertaining to Round Hill without any indication of what they were. Also, while indicating that there was a public hearing, no mention is made of how long it was, how many spoke or on what aspects of RH. The minutes are a total waste of paper.

The Staff report, recommending approval of the revised PUD Ordinance says that:

4. The “developer has made several mistakes during the development of this project. Most notably, these include constructing the units outside of the approved envelopes, not

obtaining a building permit for the deck before construction and not adhering to the approved site engineering.” Para. 2

5. The new buildings built on the site (probably means the two units on the north side (units 3 and 4?) and excluding unit 8) have building permits; the deck does not have one. So, unit 8 has a temporary occupancy permit, conditioned on the settlement of this deck issue (a zoning violation). Also, CCT has said it will issue no other permits until this zoning issue is resolved. Para. 4.
6. Developer wants to modify building envelopes for all of the units. Para. 5.

The Materials Testing Consultants (MTC) report of 4/2/20 on the retaining wall on the south side contains a description of some negotiations between Hula Eng. And MTC over what materials to use in the wall. MTC was more concerned about the gravity wall when it got too high. The report also recommends some part-time observation and testing by CCT of the building process to ensure that it is built as per agreed specs. Did CCT do the part-time observation and testing. (pp. 379-381 of the 6/10/20 BOT packet).

6/15/2020 - 6551 Round Hill Court sold (Unit #3) (Filed with County on 6/30/2020)

\$1,225,000 Purchase Price for property as designated on Master Deed, as amended, filed in 2018 (Instrument No. 20180427-0032560). Property is in Condominium Subdivision Plan #1053. P. Parcel No. 41-14-16-120-003.

Finko LLC, acting through its authorized agent, Raleigh J. Finkelstein, sold property to H. Joseph R. Hinton Grantor Legacy Trust.

9/11/2020 - 6569 Round Hill Court sold (Unit #4) Filed with County on 9/16/2020

\$172,000 is the consideration referenced in the warranty deed. P.P No. 41-14-16-120-004.

Seller is Finko LLC, by Raleigh J. Finkelstein, as trustee of the Raleigh J. Finkelstein Trust u/a/d March 2, 2012, which is THE Member of Finko LLC. [\(Does this mean that Guisti is no longer in control?\)](#)

Purchasers are Peter Ferris, an unmarried man, and Duna Martin, an unmarried woman, as joint tenants.

Finko’s address on this deed is 801 Broadway NW, Unit 448, Grand Rapids, MI 49504

There is also a Mortgage from the Purchasers to MERS (Mortgage Electronic Registration System, Inc.), acting as nominee for Lake Michigan Credit Union, dated 9/11/2020, as security for a promissory note in a principal amount of **\$1,345,500**. 15 year financing.

6/7/2021: PC Meeting where Guisti requests approval for a retaining wall behind Unit #4 and for a pool. He had already excavated the hillside, leaving a dangerous dirt cliff (8 foot or higher). The excavation was within the 25 foot setback where nothing could be built, including the pool or the retaining wall. PC rejected his request.

6/28/2021: Email from Craig Meurlin, PC member, to Scott Rissi and Steve Peterson [relaying](#) a complaint by Mr. and Mrs. Grunske, who own the property abutting that bayou, of water running directly from the retaining wall (seemingly under or through the wall) and down the hillside across the street from them to the culvert under Thornapple River Drive to the bayou and stopping there for now furthering the build up of silt and dirt from RH. There was heavy rain on Friday and at various times throughout the weekend, but it was not close to the 100 year flood.

7/6/2021 – Members Meurlin and Noordhoek did a visual inspection of the wall and the Rohde property (with Mr. Rohde) that indicated possibly much more severe problems:

1. Missing major catch basin (#106) required in the stormwater retention system
2. No water was coming through the tiles at bottom of the wall into the Rohde spillways (which were part of the overall system); instead water was coming up primarily on one side of the slopes of the natural culvert on the Rohde property a good bit away (estimate of mine is 20-50 yards away) from the Retainer Wall; this might indicate groundwater being forced up which may indicate water coming under the wall (because the existing system is clogged by sand and silt (no silt containment mesh was on the catch basin we did look at). This might over time undermine the foundation of the retainer wall. Also, Mr. Grunske reports after one of the rains in the past 10 days that he walked up to the Wall and saw water and sand was coming through the wall. The questions that arise are:
 - a. Was the wall built according to specifications?
 - b. Is the wall structurally sound after making it higher and if water is coming under the wall where no catch basin is?
3. We also could not find a way down to maintain the containment pond at Round Hill.

7/9/2021 - KCRC Site Inspection Report

1. There were official “no violations” noted for particular notice. Andrew Reinhardt visited.
2. But the report said that:
 - a. There is still the potential for sediment to leave the site. Catch basins on the southside of the site are not protected. Silt fence and vegetation should be established around them ASAP. Sediment laden water is entering the detention basin from the unprotected catch basins. The slope above the retaining wall needs to be regraded and vegetated, sediment is accumulating above the retaining wall. The South slope behind the active construction needs to be graded and stabilized, sediment is accumulating at the silt fence at the bottom of the slope.
 - b. Corrections must be completed by ASAP.

7/12/2021 - PC Meeting

1. There was discussion of the safety of the existing large retaining wall itself. Members Meurlin, Moxley and Noordhoek all have toured the site and are concerned about the safety of the wall. The drainage system of the development did not seem to be working, with the spillways dry and catch basin 106 not being visible behind the wall.
2. The PC asked PD Peterson to have our engineers visit the site and report back to the PC on the safety of the Wall.

7-20-2021 - KCRC Site Inspection Report

1. The visit was by Andrew Reinhardt.
2. This report is a bit more negative. The itemized issues included a "Controls full of sediment on Southside of site.
3. Below in the notes, it says that the catch basins have silt fence around them on the southside, there are still several catch basins that need protection. Suggests that Guisti topseed, seed and install erosion blanket around all catch basins and install protection around the perimeter to keep sediment out of the storm sewer. SESC controls are full of sediment at the bottom of the slope on the southside. Must clean out and maintain all controls. There are alot of washouts on the hill slope above the retaining wall. This slope needs to be regraded, covered with topsoil, seed and erosion blanket, sediment is accumulating above the retaining wall.