



Village of Lemont
Planning and Zoning Commission

418 Main Street · Lemont, Illinois 60439
phone 630-257-1595 · fax 630-257-1598

PLANNING & ZONING COMMISSION
Regular Meeting
Wednesday, February 18, 2015
6:30 p.m.

**Planning and Zoning
Commission**

Anthony Spinelli,
Chairman

Commission Members:

Ryan Kwasneski
David Maher
Jerry McGleam
Jason Sanderson
Phil Sullivan
Deb Arendziak

**Planning & Economic
Development Department
Staff**

Charity Jones, AICP, Director
Martha M. Glas, Planner

- I. CALL TO ORDER
 - A. Pledge of Allegiance
 - B. Verify Quorum
 - C. Approval of Minutes December 17, 2014 meeting
- II. CHAIRMAN'S COMMENTS
- III. PUBLIC HEARINGS
 - A. 15-01 UDO Text Amendments
 - B. 15-02 502 Singer Ave. Variation to allow an attached garage encroach 24' into the rear yard and a variation to allow the FAR to be exceeded.
- IV. ACTION ITEMS
- V. GENERAL DISCUSSION
- VI. AUDIENCE PARTICIPATION
- VII. ADJOURNMENT

Village of Lemont
Planning and Zoning Commission
Regular Meeting of December 17, 2014

A meeting of the Planning and Zoning Commission for the Village of Lemont was held at 6:30 p.m. on Wednesday, December 17, 2014 in the second floor Board Room of the Village Hall, 418 Main Street, Lemont, Illinois.

I. CALL TO ORDER

A. Pledge of Allegiance

Chairman Spinelli called the meeting to order at 6:37 p.m. He then led the Pledge of Allegiance.

B. Verify Quorum

Upon roll call the following were:

Present: Arendziak, Kwasneski, Maher, McGleam, Sanderson, Sullivan, Spinelli

Absent: None

Planning and Economic Development Director Charity Jones, Planner Martha Glas, and Village Attorney Jeff Stein.

C. Approval of Minutes for the November 19, 2014 Meeting

Commissioner Maher made a motion, seconded by Commissioner Sullivan to approve the minutes from the November 19, 2014 meeting with no changes. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

II. CHAIRMAN'S COMMENTS

Chairman Spinelli wished everyone a Happy Holiday Season.

III. PUBLIC HEARINGS

A. Donegal Excavating PUD

Chairman Spinelli called for a motion to open the public hearing.

Commissioner Kwasneski made a motion, seconded by Commissioner McGleam to open the public hearing for Donegal Excavating PUD. A voice vote was taken:

Ayes: All

Nays: None
Motion passed

Chairman Spinelli asked for staff to make its presentation.

Mrs. Jones said she was going to go over a brief summary of the application and then review any changes that have occurred since staff's packet has gone out. The property is located at Route 83 and was annexed to the Village on January 12, 2009. Since 2009 there has been on going litigation regarding the annexation with the current property owners. In September 2013 Donegal Excavating had begun the process to purchase the site. They are now present tonight with an application to rezone the property from R-1 to M-3, receive approval for Preliminary Plat of Subdivision and approval for Preliminary Planned Unit Development. The change from Final Planned Unit Development (PUD) to Preliminary is one of the changes in the packet. In the staff report there was a list of 20 conditions and after talking with the applicant, they decided to go with a Preliminary Planned Unit Development (PUD). This will give them time to work out some of those details before coming back for final approval.

Mrs. Jones showed on the overhead a picture of the site plan so she could point out where the major uses will be on the site. The northeast corner is truck parking for lease, which is currently operating on site somewhat now. She showed where the C&DD operation would be and stated she will talk more about that later. She pointed out where the concrete crushing, screening and batching plant was going to be located. The current home/office is going to be renovated and used as their offices with some attendant parking. Mrs. Jones showed pictures of what the machinery would look like. In regards to the C&DD, the construction and debris is brought in and then sorted. It is then taken out to be recycled at other locations.

Mrs. Jones stated additionally, the applicant is seeking entitlements for other industrial uses that are not on the site plan. In the draft Preliminary Planned Unit Development Ordinance these uses are addressed. They include barge loading, transshipment of water borne freight, self-storage facilities, contractor vehicle parking, semi-truck repair and washing and a waste transfer station. These uses are proposed to be allowed but either at the Final PUD stage or later after Final PUD approval an amendment to the Final PUD would have to come in with detail specifics about the site plan and those operations.

Mrs. Jones said staff does recommend approval of the Preliminary PUD with various conditions that are noted in the staff report and the Draft Planned Unit Development Ordinance. The conditions in the Draft PUD Ordinance greatly mirror what was in the staff report. She then read through those conditions. Condition "F" talked about the landscape plan, and it was shown on the overhead where the 20 foot berm would be located. The berm is proposed to provide screening from Route 83 so the C&DD operation would not be visible. There is also a sight line analysis in staff's packet that also talks about this screening. She stated they did receive one piece of correspondence regarding this application from a resident in the Steeples townhomes. The resident

wrote to oppose the rezoning and was concerned that this corridor serves as a “welcome mat” for the Village of Lemont, Cog Hill, Ruffled Feathers and some of the loveliest communities of Lemont. This type of property use is not seen along main highways in other communities and he would rather the Village consider other uses for this property. She said the applicant is present tonight to answer any questions or concerns and also the Village’s Attorney Jeff Stein is also present.

Chairman Spinelli asked everyone in the audience to stand and raise his/her right hand. He then administered the oath.

Al Stefaniak, attorney with Di Monte and Lizak in Park Ridge, said with him is his partner Paul Greco and Simon Bradley who is one of the principle petitioners for the Route 83 properties. He stated Mrs. Jones had covered pretty much everything an applicant would cover in a presentation. The property is 20 acres in size and they are asking for the underlying zoning to be M-3 which is consistent with the Comprehensive Plan. Over the last five to six weeks they have been working with staff to complete the necessary requirements for a PUD. However, there is a level of detail that during that period of time they were not able to achieve so they had backed off from asking for a Final PUD. They are looking for this Commission to recommend to the Village Board approval of the underlying M-3 zoning and that the Preliminary PUD is approved with the understanding that they have to come back at Final and give all the details. They are hoping to get approval from this Commission and Village Board for the uses that they want to put on this property. They know that the details for the uses, other than what is show on the site plan, will have to be provided and they have to satisfy all the conditions that staff and the Village Attorney has recommended.

Mr. Stefaniak said the types of uses that they are asking for are consistent with the history of property and its location. They will work with staff and the Village Engineer to make sure they meet storm water detention, pervious coverage, and landscaping. He understands that there is a concern as to what is visible from the various roads and they will work with staff in regards to that. He stated one thing he does want to say with respect to staff’s recommendation, he does not want to come back in January or February and hear that something was not brought up when he was here in December. If there is an issue that could come up it would be the issue of coming off of Grant Road, going underneath Route 83 and into the property. There is a gap that they are not sure exactly who owns and there might have to be some negotiation with Illinois Department of Transportation. Because of this they might have to do something with Leary Road. He understands that at this point staff is saying to use it for emergency access and that makes sense from a planning perspective. If they run into difficulties they may have to come back and say they need some consideration in regards to that situation.

Mr. Stefaniak stated Mr. Bradley is present to answer any questions regarding the operations. Overall from a legal standpoint they are looking to get a favorable recommendation for Preliminary PUD approval and the zoning change. They do know full well the level of detail that the Ordinance requires and it would have to be met as

they go through the Final PUD process. He said he would like to submit for the record the affidavit for the surrounding properties. They are under a time constraint and are trying to get this property under his clients control in the next week to 10 days. They hope to get approval tonight so they can move forward to the Village Board.

Chairman Spinelli said on the site plan it states they will gain access for lots 3, 4, and 5 through lot 2 and under Route 83. It was indicated that there is a gap on the parcel between the Route 83 right-of-way and their proposed parcel lot 3. Nowhere in the documents does it indicate any kind of ingress/egress easement across lots 3, 4 and 5. This will need to be added to the plats because as of right now without that easement there is no legal access to those lots. He concurs with staff's report as far as Leary Road should not be a primary access. He stated he does not think Leary should be an emergency access either. The reason being is because he has seen crash gates be installed before. Lot 3 would have to provide an additional easement for that crash gate and he has seen crash gates get removed. He would propose that Lot 3 be fenced or completely disconnected from Leary Road. If the Fire Department feels it is necessary for emergency access then he will default to that, but he would recommend that it would be disconnected from the property. The Leary Road intersection with Archer Road is in the right hand turn lane and with the uses that they are proposing for traffic flow that is not conducive for that intersection.

Mr. Stefaniak stated as he had said before they are not intending to do that. He does not want to be in a position that if they come back for Final PUD that they had never said they might not get access under Route 83. His experience is if they have to deal with IDOT then they are going to make them do so much in order to use Leary Road. It might even become cost prohibited in terms of how much detail they would ask them to do. He said he would think that there would need to be more separation between where you would be coming out of from Leary and Route 83. This is a major issue for them and they want to make sure the Commission and staff is aware of the situation.

Chairman Spinelli said not speaking with anyone from IDOT but with working with them in the past, if they have to come this way and get access from Archer Road he would anticipate significant costs for improvements. He agrees that they would make him move that entrance further east.

Chairman Spinelli asked if there was anyone in the audience that would like to come up and speak in regards to this public hearing. None responded. He then asked if the Village Attorney wanted to speak.

Mr. Stein, Village Attorney, stated this evolves around an existing lawsuit that has been pending for about five years and this will resolve that lawsuit. The lawsuit essentially challenges their ability to zone the property and that is why it has to be resolved before they even give approval. Unfortunately Mr. Bradley does not control everything because there are different parties involved. However, he anticipates that they will have that done and completed prior to the meeting on the 22nd or have some indication as to where they are going. Other than that Mr. Stefaniak and Mr. Greco has been great

to work with. He recommended that they bring up the Leary Road issue and he agreed immediately to do so. He agrees with all the conditions that are listed and is happy to answer any questions.

Commissioner Maher asked if it will come before the Commission for the Final.

Mrs. Jones said they would have to resolve all the conditions listed and then it would come back before the Commission as a Final PUD.

Commissioner Kwasneski asked if there was a time frame.

Mr. Stein stated the petitioner would like it done right away but there is a one year cap on it.

Mr. Stefaniak said they are hoping to come back in January or February.

Mr. Stein stated one of the reasons why they are here today is because the seller of the property is demanding that the sale of property happens before the end of the year. It is not necessarily the petitioners fault to have an incomplete Preliminary PUD.

Mr. Stefaniak said in all the years he has been doing this; this has to be one of the most complicated pieces of property.

Chairman Spinelli asked if there are conditions that his client is opposed to or are they willing to address all those issues.

Mr. Stefaniak stated they are willing to address all those issues, but they are not necessarily in agreement with those issues. They are confident that with working with staff, if they are not in agreement with any that they would be able to come up with a compromise.

Commissioner Sanderson said a resident had written in opposing the change in zoning. He asked if right now if it is zoned M-1.

Mrs. Jones stated it is zoned R-1. When the property was annexed, it was annexed without any request for rezoning and without any annexation agreement. The default zoning is R-1. The property has been used for decades as a junkyard.

Commissioner Sanderson said he does not see this sight going residential.

Mrs. Jones stated there are no utilities going to the site and it has to be serviced by well and septic. The Village would not be able to get utilities to the site in the near future.

Commissioner Sanderson asked if junkyards are allowed in Lemont.

Mrs. Jones said they are not and the current use would not be allowed. Part of the reason why this is a PUD is because it is a complicated property. There are a lot of different parcels as well as the particular uses that the petitioner is seeking that are integral to his operations and they are uses that aren't particularly addressed in our ordinance. They fall within the scope of what would be allowed in the M-3 as permitted uses but they are not specifically identified and defined in the UDO. It is a protection to have those particular uses spelled out in a PUD.

Commissioner Sanderson asked what zoning is the Ozinga property down by the Canal. He stated it reminds him of this type of location.

Mrs. Jones said it is in the canal overlay which allows for industrial type uses. She is not sure of the exact zoning.

Commissioner Sanderson stated he is picturing similar type of equipment when looking at the pictures.

Mrs. Jones said Mr. Bradley would be better at answering that.

Commissioner McGleam asked for further explanation in regards to the berm and its location.

Mrs. Jones showed on the overhead where the landscape berm and where the stockpiles from the C&DD would be located. When the material is brought in they stockpile it there, then it gets sorted out and then it is shipped out from there. The berm is a 20 foot high earth and berm that provides screening and also helps contain that stockpile.

Commissioner McGleam asked what is it going to screen it from.

Mrs. Jones stated from Route 83. In the packet there is a sight line analysis that shows the elevation of a person in an average vehicle at Route 83 and then their sight line down. There will be trees on top of the berm.

Commissioner Sanderson said getting the zoning to M-3 does not seem like a big hurdle considering what is down there. He asked other than that they are not tying into a whole lot more until they get the Final PUD with all the conditions.

Mrs. Jones stated at the Final PUD stage they would be reviewing the application to make sure it is consistent to what they approved in the Preliminary. So they would want to make sure that they are providing the detail that was requested and the uses are staying the same as in the Preliminary Sight Plan. Additionally, there was the list of additional uses that could be added to the Sight Plan and be under the Commission's consideration at the Final PUD. At that point, those uses would be evaluated to see if they meet all the requirements.

Chairman Spinelli said they are not committing to the approval of the uses, but to just considering the uses.

Mr. Stein stated they are committing to the approval of the uses as long as they meet the standards later. They know where the 3 uses are going to go and they are tying those property lines now with the concrete crushing, batching and C&DD. The other uses the petitioner just isn't prepared to really tell us where they are going to be on the properties.

Commissioner Sanderson asked if they could hear more about them.

Mrs. Jones said in regards to barge loading and unloading and transshipment of water borne freight it is canal operations. The property does have some frontage on the Cal Sag. This is a permitted use in the Canal Overlay District.

Commissioner Sanderson asked if she could show where this is located on the property.

Mrs. Jones did show it on the overhead. There is not a lot of property but theoretically they could have some barge repair operations or something like that.

Commissioner Sanderson asked if this would be needed to do the concrete batching.

Mrs. Jones stated no and those materials could be trucked in.

Commissioner Sanderson asked if Ozinga was barging materials in.

Mrs. Jones said they probably are.

Commissioner Sanderson stated if they are going to make concrete they will probably barge it in.

Mrs. Jones said they could but it depends on the scale.

Commissioner Sanderson stated the only assumption they could make is that it is going to be a large scale because there is no detail saying how they are going to be bringing in raw material.

Mrs. Jones said they do have some information because if you look on the Preliminary PUD Sight Plan the stock pile areas are shown.

Commissioner Sanderson asked if we are going to approve this use and they can bring barges in, how will we control the expansion of this use.

Mrs. Jones stated when they come in for the Final PUD if they want to have barging then they would have to show what they are bringing in by barge. If they are having

any additional stock piles then they have to show where those piles are going to be, how big they are going to be and how they are going to be contained.

Mr. Stein said they are not approving how big those stock piles are, that will be subject to the conditions later. If it is to the point to where this Commission and Village Board decide that it is too much then they can put those limitations on there. As of right now they are pretty comfortable where the stockpiles are shown right now. He stated we know where they are located, what they are and the relative size of them. The other stuff is a list of stuff that they did not have the details on.

Mrs. Jones stated to go through the rest of them, storage facilities is a permitted use in the M-3. Contractor vehicle parking, although not explicitly defined in the UDO, certainly would be allowed given that we allow container storage yard and things of that nature. Semi-truck repair and washing is another use that is not explicitly identified in the UDO but certainly seems consistent. With this and the waste transfer station they would have to be completely contained within building, so it could not be outside. A waste transfer station would only be considered if it were entirely enclosed and a state of the art facility.

Mr. Stein said they do not control it and it would be all EPA. They would have to agree as a hosting municipality to allow for that. He knows that the Village Board would consider it, but they do not know enough at this time. He is not sure if they are even going to bring it back for the Final PUD, but it could come back two years from now as an amendment.

Commissioner Sullivan asked what kind of waste materials.

Mr. Stein stated you have to be tied to a hauling company like Veolia or Arc. He assumes it is going to be recycling materials but he is not sure.

Commissioner Maher asked if it could be hazardous materials or is it garbage.

Mr. Stein said he thinks it would be garbage and recycle materials and not hazardous.

Chairman Spinelli asked if that would have to be defined if they actually came in requesting it.

Mr. Stein stated yes.

Mr. Stefaniak said there would be an overlay jurisdiction with the IEPA.

Mr. Stein stated they would have to say if they would even allow it, then the IEPA would determine what kind of materials that they could bring in. There has to be a company that does this like Veolia, Waste Management, or Arc that is willing to do it because they are the ones that have the licensing to do it.

Mrs. Jones said we are saying that we will consider the use, but the applicant is not proposing it at this time. There are other entities involved that have jurisdiction.

Commissioner Sanderson asked if when the ordinance comes before the Board these would be listed as part of the allowed uses within that ordinance.

Mr. Stein stated they will be listed with the PUD. The reason why they are doing it as a PUD is because it allows them to do something that is sight specific. It would allow things that would not be allowed in other places and to allow for variations or special uses.

Mr. Stefaniak said their primary concern is they look at the zoning ordinance and then look at what the client wants to do on the piece of property. If you look at the M-3 permitted or special uses many of the things they are asking to be allowed to do on this property don't fit specifically within those categories. His suggestion was to do this as a PUD so it gives staff and them more flexibility and then they have the authority so somebody can't say that the Village is allowing them to do something on the property that is not in that category.

Mr. Stein stated he agreed with him and feels it is a smart way to do it.

Commissioner Sullivan asked what was the reason for the 20 foot height limit.

Mrs. Jones said the 20 foot limit was for the C&DD stockpile. She also talked with Dan Tholotowsky at the Fire Protection District and he confirmed that 20 feet is the maximum height under fire code.

Mr. Stein stated the materials that they are talking about are like when they take down a house. It would be all the materials. It would then get sorted and either recycled back into the system or goes to a landfill. There is a stockpile of the materials and it could be ugly and that is a concern to the Village Board and staff. Having that earth and berm to block that view from Route 83, which is a highly used thoroughfare, is the solution they had come up with and the petitioner was acceptable to it.

Commissioner Sanderson asked if the equipment was higher than 20 feet.

Mr. Stein said yes and that is not going to have the berm in front of it.

Chairman Spinelli asked if the height of the batching equipment would fall under the guidelines of the building code.

Mrs. Jones stated the maximum height in the zoning district is for principle structures. The equipment is not necessarily a building so it does get a little difficult.

Mr. Stein said the applicant has not provided the specifications of the batching system or equipment that they want to use other than the pictures. It was explained to them that it will be reviewed at Final.

Commissioner Maher asked if it was considered to not allow the recycling.

Mr. Stein stated it was the most highly negotiated use and they had come up with the idea of the berm.

Commissioner Maher asked what the position of staff was when the discussion was started. He asked was staff against allowing this and the berm was to get them over the hump.

Mrs. Jones said she would say that would be a fair characterization.

Mr. Stein stated he did not want to absolutely see a C&DD use down there. He does understand why the petitioner wants it and the nature of the property with what it looks like today. There is another company right across the tracks down the street that is doing the same thing. It is farther away from Route 83 than this location.

Commissioner Maher asked if he could be shown on the map where that location is located.

Mrs. Jones tried to show the general location where it is located.

Commissioner Maher said the general things with the batching don't bother him as much as a pile of scrap building material that continues to grow.

Mr. Stefaniak stated it is going to be limited and it will be contained. They will only be able to keep a certain amount of materials there and the height is going to be limited to 20 feet.

Commissioner Maher said there are current fines with this property. He asked what those fines are for.

Mr. Stein stated they are for basically working without permit, grading and creating stockpiles.

Commissioner Maher said we already have fines with the applicant for areas that have waste material already. There is no cap on a stockpile.

Mr. Stein stated the cap is 20 feet.

Commissioner Sanderson said enforcement is a whole other issue.

Commissioner Maher stated his point is we have an applicant that is going in on a daily basis and violating our codes.

Mr. Stein said he understands the enforcement issue but the enforcement on this is not going to be difficult because if he goes above the berm then he is in violation and will get a ticket.

Commissioner Maher stated they are getting fined now and they continue to build on their piles.

Mr. Stein said they have not in awhile.

Commissioner Maher stated but they did even when we began to fine them. He asked how they are going to enforce this area other than the height.

Mrs. Jones said there is a square footage in the sight plan.

Commissioner Maher asked if there was a fence around it or concrete blocks.

Mrs. Jones stated they can certainly make that part of the PUD.

Chairman Spinelli said it would be strongly advised.

Commissioner McGleam asked how the Fire Department's recommendation would be incorporated into what they are voting on today.

Mrs. Jones stated several of the conditions in here note prior to Final PUD approval compliance with Fire Department Districts requirements. Then there is a catch all condition in the PUD requirements that the sight plan be revised to comply with all applicable Fire Protection Districts and MWRD requirements.

Chairman Spinelli asked if anyone had any further questions for the applicant.

Commissioner Maher asked if there were any Waste Transfer Stations in Lemont currently.

Mr. Stein said no and the closest one is in Summit. They are not a common use that you see.

Commissioner Maher stated he would like to take Waste Transfer Station off the list. He feels this is not a use that we would want in Lemont.

Mr. Stein said it would be an indoor use and it is fully enclosed.

Mrs. Jones stated for the Waste Transfer Station the condition in the ordinance is that it would have to be in fully enclosed buildings.

Commissioner Maher asked if they would be loading it on barges.

Mrs. Jones said the entire operation would have to be fully enclosed, so it would trucks.

Commissioner Maher asked if they leave this on there can they put limitations on the Final PUD for this.

Mr. Stein stated you absolutely can. To do that now would be premature because there is a lot we don't know about this yet.

Mr. Stefaniak said we want it on there so we have the ability to come before you and say we would like this. Then when they do come in and say they would like it, the Commission would give them a list of conditions that they would have to satisfy in order to have it. They need that ability to come back in the future to make that request. All the other details are in the future.

Mr. Stein stated with the Waste Transfer there is a tax and fee for hosting this use.

Commissioner Sanderson asked if these uses are approved tonight as uses, do they have the ability to come back and say they do not want some of them.

Mr. Stein said they are going to be allowed on the site. They would have to come back and say where the use would be located and what size. There could be discussion on location or size, but we can't deny them of the use.

Mrs. Jones stated what is in the proposed Ordinance is that the PUD shall allow for the future construction of all those uses. It can be at the time of Final PUD approval or a future amendment to the PUD that the Village shall enforce all necessary requirements to ensure for proper site design for such uses. They can't say they don't want this use at all, but they could place whatever site design limitations on it that they felt were necessary to ensure that it is okay. So not allowing barges to bring in trash that would be open air to a Waste Transfer Station and stating that it would have to be trucks so it is fully enclosed, could be a limitation.

Commissioner Maher said but if they wanted to exclude Waste Transfer Stations all together then they would have to exclude it from the PUD right now.

Mrs. Jones stated he could make that recommendation.

Commissioner Sanderson asked if they could come back and amend the PUD after they get everything all together.

Mr. Stein said that is correct but he does not recommend removing it because they don't have much information as to what it is. Unless the Commission is dead set against having a Waste Transfer Station that is licensed by the State.

Commissioner Maher stated the problem is if we leave it in there then they can not take it out. As opposed to taking it out now and then allowing it to come back later when they decide if they want to do it. That is the disadvantage for leaving it in is that they can't get rid of it. He said that is the only one he has a problem with.

Chairman Spinelli asked if there are any more questions for the applicant. None responded. He asked if anyone else in the audience wanted to come up and speak in regards to this public hearing. None responded. He then called for a motion to close the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner Kwasneski to close the public hearing. A roll call vote was taken:

Ayes: McGleam, Kwasneski, Sanderson, Maher, Arendziak, Sullivan, Spinelli

Nays: None

Motion passed

Chairman Spinelli asked if there was any further discussion.

Commissioner Sanderson said for the record he has worked with the applicant on past projects as a construction manager.

Mr. Stein asked if Commissioner Sanderson receives any kind of benefit from the applicant and nothing present tonight would pursue your ability to be impartial in determining what to do.

Commissioner Sanderson said he does not receive any kind of benefit and nothing would persuade him to be impartial.

Chairman Spinelli stated the request for the M-3 zoning is appropriate and he is very familiar with why it was initially zoned residential. He does not see any of these parcels becoming any kind of residential. There are similar uses surrounding the property. One of his concerns, which is also Commissioner Maher's concern, is that the current user of the property is blatantly ignoring the Village's requirements and accepting the fines. It wasn't until they went to court and wanted something have they been willing to the pay the fines. To now formally allow them to do this, other than more fines by the Village; he does not see the applicant following the rules. He said he is concerned about the process of what the applicant wants to do continuing in the manner that he has been continuing in. It was mentioned that we would have an easier time enforcing the C&DD piles, however the current user has shown complete disregard for what the Village wants. He understands it is a Preliminary PUD and he is not opposed to the M-3 zoning. It could be that he is opposed to the current user continuing officially as the land owner.

Commissioner Maher said he would like to talk about removing the waste transfer station special use. The applicant should be made to come back at a later date once it is

defined. It is not something that is in Lemont at this time and we should gather some information before it is allowed. It does not mean that we are not allowing it by taking it out. He stated the other thing is condition "I" regarding the construction and demolition debris. There is a statement that says "detailed information regarding the construction and demolition debris recycling operations shall be provided by the Applicant". He said he is concerned about this.

Commissioner Sanderson stated it seems like staff has worked really hard to mitigate that as much as they can and he is not concerned with that one as much. He is not sure if the waste transfer station, even if it was fully enclosed, that he would want it. He does not like the thought of garbage trucks running up and down Route 83. The Village just bought up a lot of property over there and you are going to be hauling garbage across from it. He is not saying with more information they couldn't amend the PUD.

Commissioner Maher said won't they be having garbage trucks bringing in the recycling stuff.

Commissioner Sanderson stated those trucks are bigger. When you demo a house it is not the same as one of these trash trucks that smell.

Commissioner McGleam asked at what point are traffic studies required.

Mrs. Jones said one is usually required for a PUD but one was not required for this circumstance.

Commissioner McGleam asked why.

Mrs. Jones stated given the past use of the property and the intended use of this purchaser.

Commissioner McGleam said all these proposed uses mean an increase in truck traffic.

Mrs. Jones stated it is increased directly to Route 83. It is a strategic arterial route by the State so it is intended to carry the highest volumes of traffic.

Commissioner McGleam asked so there wouldn't be a case where the State would require some type of traffic control measures.

Chairman Spinelli said there is currently a light there.

Mrs. Jones stated Grant Road is not a dedicated roadway.

Commissioner McGleam said he is just trying to understand the process of when one is required and who initiates it. He asked has IDOT been informed of this project.

Chairman Spinelli stated typically when an applicant requires an entrance permit from IDOT or makes a modification to an entrance then they need an IDOT permit. He asked being disclosed now that their access is not a dedicated right-of-way, does that have legal access to Route 83 through an entrance permit or is it an entrance by usage.

Mrs. Jones said there is a light at the intersection. She stated they didn't discover it and the applicant didn't know that Grant Road wasn't a dedicated right-of-way until they actually had the surveys done.

Chairman Spinelli stated if that access was originally permitted as a residential access, whether or not it has been used as a commercial access, if IDOT did not formally change the usage, the property is now changing hands. IDOT may get notified that the permitted use is changing.

Mr. Stein said IDOT will be contacted one way or another. In this situation there are two major hurdles as to why this is a Preliminary and not a Final PUD. One is storm water detention and the other was the access. That is why Mr. Stefaniak brought up the Leary Road issue and that is because they don't know. If they don't have access then it is a big thing. All those issues will be worked out before the Final PUD.

Commissioner McGleam stated the only comment he has regarding the C&DD is that the material moves out so it is not intended for it to sit on the site.

Commissioner Sullivan asked if there would be a way to strike or guarantee that there would not be hazardous waste transferred or stored.

Mrs. Jones said they could add that condition. If the Commission wanted to approve the waste transfer station they could then add the limitation that there is no hazardous waste.

Mr. Stein stated as the hosting municipality we would control what type of facility would go there.

Discussion continued as to whether to include the waste transfer station.

Chairman Spinelli asked if there were any other comments or questions. None responded. He then called for a motion for recommendation to the Mayor and Board of Trustees.

Commissioner Maher made a motion, seconded by Commissioner Arendziak to recommend to the Mayor and Village Board of Trustees approval of the draft ordinance for Donegal Excavating Preliminary PUD with one change:

1. To strike waste transfer station from Section 2, Special Uses.

Subject to the conditions listed as "A" through "S" in draft ordinance. A roll call vote was taken:

Ayes: McGleam, Kwasneski, Sanderson, Maher, Arendziak, Sullivan, Spinelli

Nays: None
Motion passed

Chairman Spinelli called for a motion for Findings of Fact.

Commissioner Kwasneski made a motion, seconded by Commissioner McGleam to authorize the Chairman to approve the Findings of Fact for draft ordinance for Donegal Excavating Preliminary PUD as prepared by staff. A voice vote was taken:

Ayes: All
Nays: None
Motion passed

IV. ACTION ITEMS

None

V. GENERAL DISCUSSION

Commissioner Sullivan asked what was the allowance for Ace Hardware for the amount of product that they can store outdoors.

Mrs. Jones said hardware stores and garden centers are allowed to have outdoor storage. It needs to be spaced so someone can go outside and look at it to buy.

Commissioner Sullivan stated this is skid loads of materials.

Mrs. Glas said it appears to be a staging area.

Commissioner Maher stated he thought they had a discussion and said it is not okay to put a fence up but it is okay to put stuff out there.

Mrs. Jones said she will go and take a look at it.

Chairman Spinelli asked if staff could look at Rolling Meadows drive and the 1st street as you come in. There is a lot of debris being left on the roadways and they need to be notified that they need to clean that up.

Commissioner Sanderson asked if they had heard anything from the Home and Garden Center on 127th.

Mrs. Glas stated they have not submitted anything after the first attempt.

Chairman Spinelli asked if there were any further comments from the audience.

Dan Tholotowsky, Fire Marshall for Lemont Fire Protection, said he has been working with Mrs. Jones very diligently this past week in regards to the public hearing case that

was presented tonight. He stated she and Mrs. Glas have done a wonderful job and he has enjoyed working with both of them. There are some hurdles that will still need to be overcome in regards to that case tonight. However, the commitment from the Fire District is that they are willing to work with the Village to do what is best for the Village.

Chairman Spinelli then called for a motion to adjourn the meeting.

VI. ADJOURNMENT

Commissioner McGleam made a motion, seconded by Commissioner Maher to adjourn the meeting. A roll call vote was taken:

Ayes: All

Nays: None

Motion passed

Minutes prepared by Peggy Halper



Village of Lemont
Planning & Economic Development Department

418 Main Street · Lemont, Illinois 60439
phone 630-257-1595 · fax 630-257-1598

TO: Planning & Zoning Commission
FROM: Martha M. Glas, Village Planner
THRU: Charity Jones, AICP, Planning & Economic Development Director
SUBJECT: Case 15-01 UDO Amendments
DATE: February 13, 2015

SUMMARY

Attached is a table detailing proposed amendments to the UDO to address a variety of issues. Words underlined in table are proposed additions to the text of the UDO and words ~~stricken~~ are proposed deletions. The amendments are organized by topic, rather than by chapter, to facilitate discussion.



TOPIC: Technical Review Committee	Reason for Change
<p>17.03.040 THE TECHNICAL REVIEW COMMITTEE</p> <p>A. Composition. The Technical Review Committee (“TRC”) is comprised of the Planning and Economic Development Department staff, Building Department staff <u>Community Development Department staff</u>, the Village Administrator, Assistant Village Administrator, Public Works Director, Village Engineer, Fire District staff Village Attorney, and representatives of all taxing bodies within Lemont.</p> <p>B. Purpose. The TRC reviews concept plans or proposed plans for projects. The offers a pre-submittal design and code review intended to help developers better understand the requirements and issues a project would raise if formally submitted for land use approval. The TRC is advisory in nature; its recommendations are compiled by the <u>Planning and Economic Development</u> Community Development Department and, upon submission of the land use application, are communicated to the Planning and Zoning Commission.</p>	<p>Update to reflect department names & clarify the participants to reflect what actually happens in practice.</p>
TOPIC: Subdivision Plats	
<p>17.04.110 SUBDIVISION OF LAND AND FINAL PLATS</p> <p>E. Recording of Approved Plats. Upon the approval of the final plat by the Village Board, the following actions shall be taken:</p> <ul style="list-style-type: none"> a. The Village Clerk shall certify such approval and affix the corporate seal of the Village on the final plat and all copies. b. The final plat and all copies shall be distributed to the appropriate Village officials for certification. c. The final plat and all copies shall be returned to the applicant, who shall file <u>be filed for record by the Village</u> in the Recorder of Deeds Office in the appropriate county. Fees and costs associated with this filing shall be paid by the applicant. No other land use actions, administrative approvals, or building permits for the subject lots shall be granted until the applicant returns three print copies of the recorded plat to the Community Development 	<p>Clarify the process to reflect what actually occurs.</p>

<p>Department. <u>the recorded plat is filed and returned.</u></p> <p>d. Copies of the recorded plat shall be distributed as follows:</p> <ul style="list-style-type: none"> i. One copy to the Village Clerk; ii. One copy to the Village Engineer; iii. One copy to the Planning and Economic Development Director. 	
<p>TOPIC: Accessory Uses</p>	<p>Reason for Change</p>
<p>17.06.30 ACCESSORY USES</p> <p>D. Detached Garages and Sheds</p> <ol style="list-style-type: none"> 1. In R districts, detached garages and sheds shall be accessory uses only; they shall not be constructed prior to the establishment of a permitted principal use on the lot. 2. Detached garages and sheds shall be built at least three feet from all lot lines, unless specifically allowed otherwise by this ordinance. Additionally, detached garages and sheds shall be at least 10 feet from the principal structure unless the detached garage or shed meets or exceeds the Village building code standards for attached garages concerning fire protection rating, footing, and foundation. 3. Detached garages and sheds in R districts and detached garages and sheds that are accessory to residential uses shall have a maximum height of 15 feet. Parking structures in the Downtown District are subject to the height limits of the zoning district. Detached garages and sheds in all other districts shall have a maximum height of 30 feet. 4. In R-districts detached garages shall not be established on lots where an attached garage already exists. <u>Similarly, attached garages shall not be established where a detached garage already exists.</u> Only one detached garage shall be allowed per zoning lot, and the area of a detached garage shall not exceed 660 square feet. 	<p>Clarify that the limit on the number of garages in R-districts is applicable to properties with detached garages.</p>

TOPIC: DRIVEWAYS	Reason for Change
<p>17.07.040 DRIVEWAYS IN R ZONING DISTRICTS</p> <p>A. Applicability. The provisions of this section shall apply to all residential land uses in all R zoning districts except for the R-4A zoning. See §17.07.020 of this ordinance for provisions governing driveways in the R-4A zoning district.</p> <p>B. Driveway width. Driveway width shall not exceed 22 feet at the lot line. From the lot line driveway width may gradually be increased to accommodate entry into garages.</p> <p>C. Existing driveways. Driveways existing at the time of approval of the adoption of this section that exceed the standards of paragraph B above shall be allowed to be repaired or replaced, so long as the width of the driveway is not increased.</p> <p>D. <u>Side-load driveways.</u> <u>Minimum width for side load driveway shall be 25 feet from the garage door to the edge of pavement.</u></p> <p>E. <u>Driveway setbacks.</u> <u>Driveways shall be 1 foot from the side lot line.</u></p>	<p>The UDO engineering details show the minimum driveway width for residential driveways to be 9'. As side load garages become more common, a side load driveway minimum is needed to ensure adequate access is provided.</p> <p>Architectural Graphic Standards recommend 25' from the garage door to the edge of pavement for a 90° turn in/back out to a garage door 8'-9' wide.</p>
TOPIC: PLANS/PLATS	
<p>17.08.090 CHANGES TO APPROVED PLANS/PLATS</p> <p>Changes to approved PUD final plans/plats may be modified only in accordance with the provisions of this section. Likewise, any change of a final plan/plat from an approved preliminary plan/plat shall be modified only in accordance with the provisions of this section. The requirements of this section are intended to ensure that significant changes to plans/plats do not occur without the opportunity for public input at a hearing.</p> <p>A. Major Modification of Plans. Major modifications of plans shall require re-review</p>	<p>Correct to reflect the accurate chapter</p>

<p>and re-approval in accordance with the provisions of 17.09.070 <u>17.08.070</u> of this ordinance. A “major modification” to an approved PUD plan/plat is any modification that meets any of the following thresholds:</p>	
<p>TOPIC: OFF STREET PARKING</p>	<p>Reason for Change</p>
<p>17.10.20 GENERAL STANDARDS FOR OFF-STREET PARKING</p> <p>D. Restrictions</p> <ol style="list-style-type: none"> 1. Unenclosed off-street parking spaces shall not be used for the repair, dismantling or servicing of any vehicles, equipment, materials, or supplies. 2. Inoperable vehicles shall not be parked or stored in unenclosed parking areas. 3. The parking of vehicles on areas of the front yard other than a driveway is prohibited. 4. Trucks and other commercial vehicles with “C” through “Z” license plates, trailers, recreational vehicles, and boats shall not be permitted to park or be stored in any residential district except when located in a garage or other fully enclosed structure that substantially conceals them from view. Temporary parking on driveways in residential lots is permitted for a maximum of eight consecutive hours or 12 hours within a 24-hour period. A limit of one commercial vehicle with a “B” license plate is permitted to be parked on a residential lot. 	<p>The UDO limits the number of detached garages to one per lot and also limits sheds to 160 square feet therefore, there is no viable option for an “other fully enclosed structure” suitable for storing a boat or recreational vehicle</p>
<p>TOPIC: SIGNS</p>	<p>Reason for Change</p>
<p>17.11.140 SIGNS IN THE B and INT DISTRICTS</p>	<p>Delete duplicative sentence.</p>

<p>C. Wall signs in the B-1 and INT districts. One wall sign per building elevation facing a public street shall be permitted in the B-1 and INT districts. One wall sign per building elevation facing a public street, shall be permitted in the B and INT districts. In the case of a multi-tenant building, one wall sign shall be permitted per tenant. Each wall sign shall:</p> <ol style="list-style-type: none"> 1. Be limited in area to one square foot per each lineal foot of building frontage to a maximum area of 96 square feet. 2. Consist of visible materials that are either of wood, metal, masonry, or a combination of these materials. Plastic and other synthetic materials are prohibited except as a material for alphanumeric characters and logos. 	
<p>TOPIC: TEMPORARY SIGNS</p>	<p>Reason for Change</p>
<p>17.11.100 TEMPORARY SIGNS</p> <p>F. Commemorative Signs. <u>Temporary signs intended to commemorate anniversaries of events of local historic or cultural significance are permitted. The maximum length of time signage can be displayed is one year. Commemorative signs may be freestanding, affixed to a building, or attached to utility or light poles provided that such poles are on private property. Multiple temporary signs are permitted, however the total signage allowance is limited to 96 square feet. Banners are limited to 50 square feet. A sign that advertises a specific special event is subject to the limitations outlined paragraph E and is included in the total signage allowance of this section.</u></p>	<p>A key component of the Village branding strategy is the celebration of Lemont’s rich history and cultural assets.</p> <p>The additional allowance for commemorative signs will help support historic and cultural activities and will help strengthen the branding image.</p>
<p>TOPIC: NONCONFORMING LOTS</p>	<p>Reason for Change</p>
<p>17.13.040 NONCONFORMING LOTS</p> <p>A. Nonconforming Lots in R Districts.</p> <ol style="list-style-type: none"> 1. A nonconforming lot in an R district may 	<p>For discussion</p>

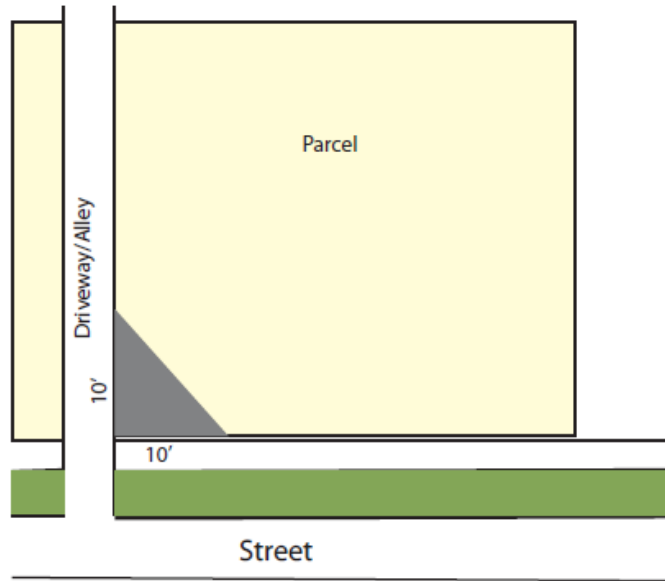
<p>be developed with a single family detached dwelling unit, provided that yard depth, bulk and density restrictions of this ordinance are met.</p>	
<p>TOPIC: FENCES IN R DISTRICTS</p>	<p>Reason for Change</p>
<p><i>17.12.010 GENERAL FENCE STANDARDS FOR ALL DISTRICTS</i></p> <p>A. Construction.</p> <ol style="list-style-type: none"> 1. All fences in all zoning districts shall be erected or installed so that the finished side faces outward, i.e., the construction supports face the interior of the lot on which the fence is installed. 2. All fences in all zoning districts shall be of rigid material. <p>B. Visibility. Fences shall not obscure the visibility of motorists. Figure 17-12-01 illustrates the prohibited area for all fences.</p> <p><i>Replace FIGURE 17-12-01 WITH Exhibit A</i></p>	<p>Current vision triangle is measured from street intersections and is not clear on how to measure when property is adjacent to an alley.</p> <p>The vision triangle was revised to be measured from the lot line, similar to what is done for signs. In R-4A district, a corner lot adjacent to an alley will likely have to have the fence cut the corner.</p>
<div data-bbox="191 1087 1062 1436" data-label="Diagram"> <p>FIGURE 17-12-01 Vision Triangle. Fences shall not be placed within the triangles as shown in the illustration to the right. On street corners, the length of line segments A and B = 20 ft each; on the corners of driveways and access drives, line segments A and B equal 10 ft each.</p> </div>	
<p>TOPIC: URBAN DESIGN STANDARDS</p>	<p>Reason for Change</p>
<p>17.21.030 URBAN DESIGN REQUIREMENTS FOR LOTS ZONED B-1 AND B-3</p> <p>A. Exterior walls Facing a Public Street. For structure in the B-1 and B-3 zoning districts, b Building elevations facing a public street shall have a minimum of 75%, excluding glass, of the wall area facing the</p>	<p>The entire 17.21.030 is intended to be for commercial design standards for property in B-1 & B-3 zoning districts. Currently the UDO, as written, implies only paragraph A of section 17.21.030 applies to B-1</p>

UDO Amendments

<p>street constructed of one or more of the following materials</p> <ol style="list-style-type: none"> 1. Face brick of clay, or 2. Native stone, or 3. Fiber cement board siding, LP Smart Side® <u>composite wood siding or comparable product of similar style and quality as determined by the Village Planning & Economic Development Director.</u> 	<p>& B-3.</p> <p>Composite wood siding has been requested on a number of residential homes. After discussion with the building department, the product was determined to be comparable to fiber cement in terms of durability and warranty and as such, a suitable alternative option to fiber cement board siding</p>
<p>TOPIC: ENGINEERING DETAILS</p>	
<p>Page LS-3 of Appendix G is replaced with Exhibit B</p> <p>Add LS-83a & LS-83B to Appendix G as shown in Exhibit C</p> <p>Page LS-90 of Appendix G is replaced with Exhibit D</p>	<p>B) Remove the discrepancy that shows what the clear area is to be.</p> <p>C) add new light standards for decorative lighting</p> <p>D) Remove the maximum width for a 3-car driveway</p>

EXHIBIT A

Figure 17-12-01 Vision Triangle. Fences shall not be placed within vision triangles.

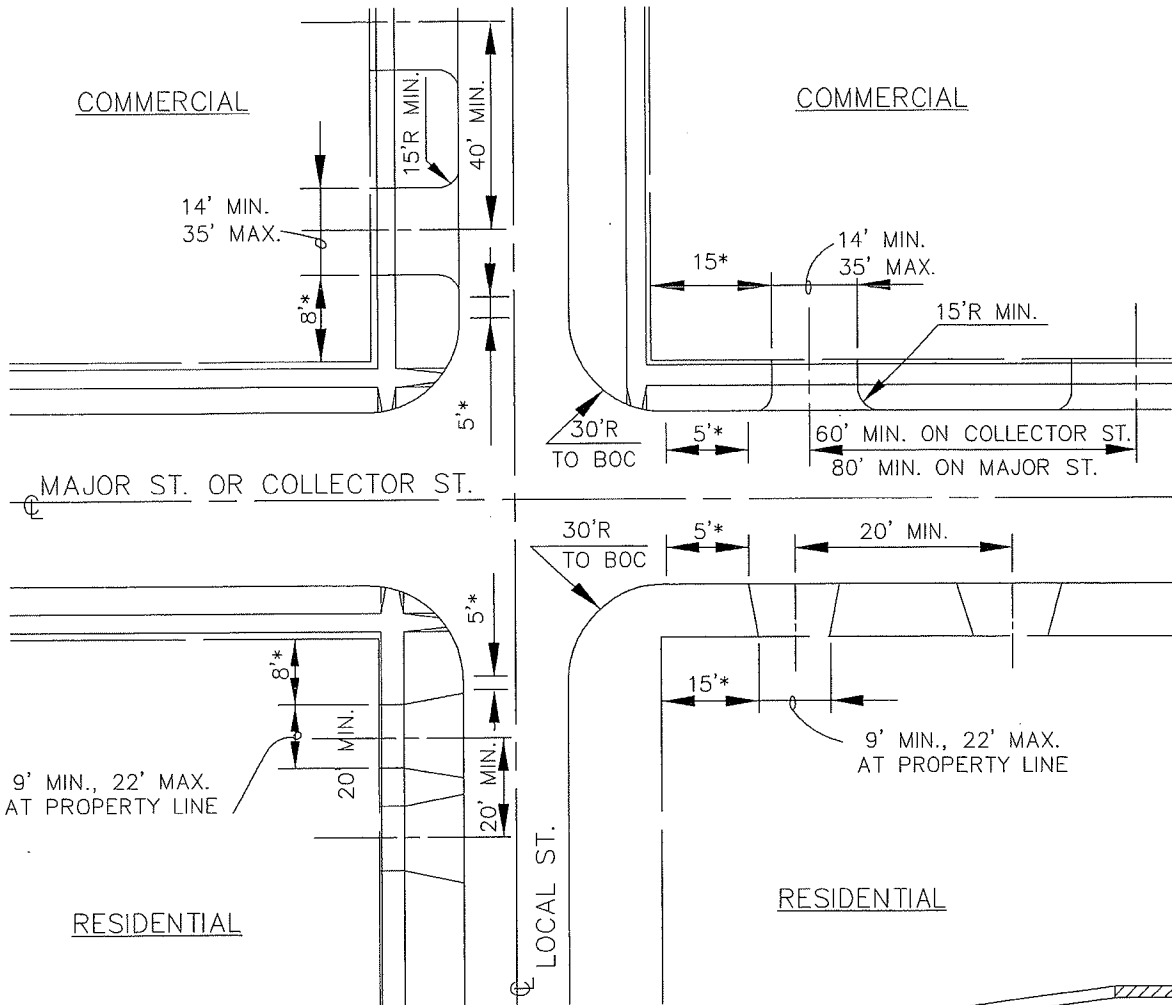


UDO Amendments

Page LS-3 of Appendix G is replaced with Exhibit B

Page LS-83a & LS-83b is added to Appendix G as shown in Appendix C

Page LS-90 of Appendix G is replaced with Exhibit D



NOTES:

1. EXPANSION MATERIAL IS REQUIRED BETWEEN CONCRETE DRIVES AND CURB OR SIDEWALK
2. WHERE NEW CONCRETE WORK MEETS OR ABUTS EXISTING CONCRETE, THE EXISTING CONCRETE SHALL BE SAWCUT TO A STRAIGHT AND CLEAN EDGE AND EXPANSION MATERIAL PLACED BETWEEN THE NEW AND EXISTING WORK.
3. ALL CURB REPLACEMENTS MUST BE AT LEAST 3 FEET IN LENGTH.
4. DRIVEWAY COMPOSITION SHALL BE PER LEMONT STANDARDS NO. LS-16.
5. CONTRACTION JOINTS SHALL BE IN ACCORDANCE WITH SECTION 3.04 OF THE LEMONT STANDARD SPECIFICATIONS WHERE DRIVEWAYS ARE LARGER THAN 12 FEET IN ANY DIRECTION, JOINTS SHALL BE EVENLY SPACED.

*WHICH EVER IS GREATER

DEPRESSED CURB SIDEWALK AND GUTTER

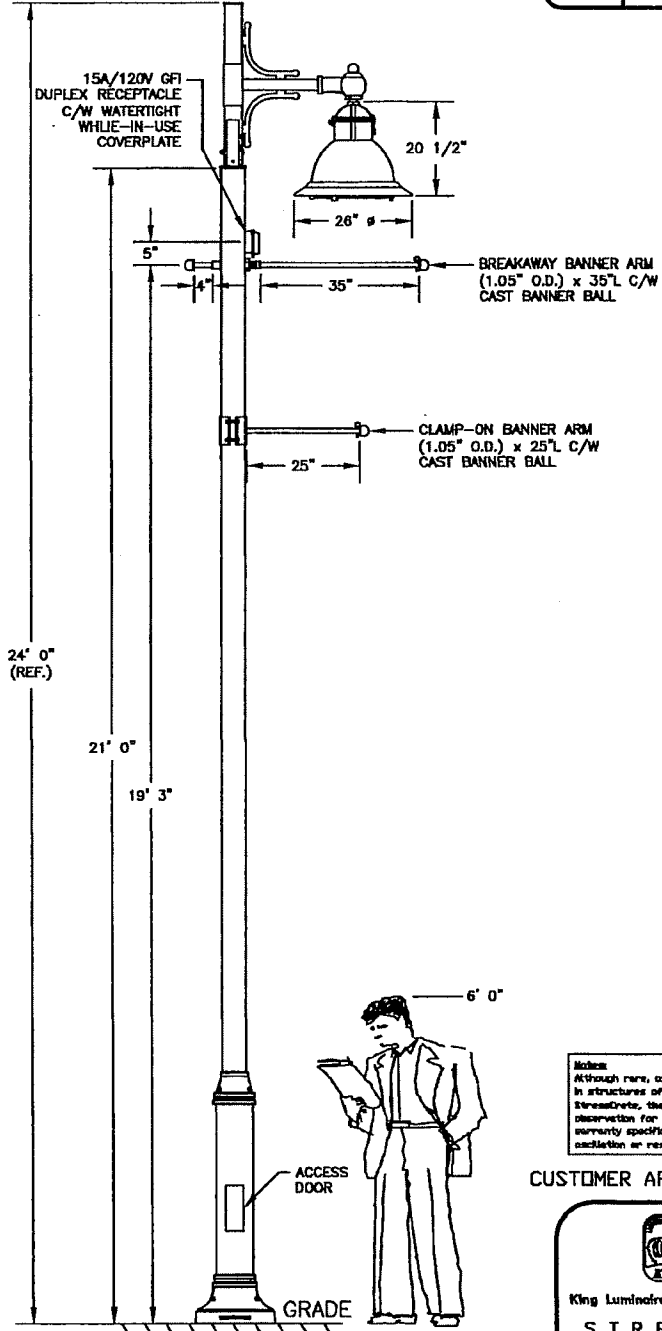
MAXIMUM DRIVEWAY/PARKWAY SLOPE 8%

TYPICAL SECTION

VILLAGE OF LEMONT		
DRIVEWAY APPROACH		
12/10/01	NO. LS-3	REV. 3

REV. 2/03/15
REV. 6/23/08

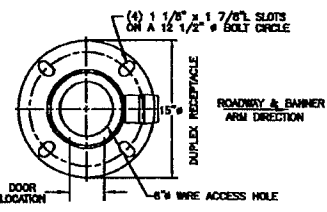
REV.	ALTERATION	DATE	BY



ROADWAY LUMINAIRE SPECIFICATIONS
 CATALOGUE NO.: KB29-HGFL-III-150(MED)
 -MH(PS)-240(MT) S/F KPL20
 QUANTITY:
 MOUNTING TYPE: PENDANT
 OPTICAL DESIGN: HYDROFORMED GLASS FLAT LENS
 IES DESIGNATION: TYPE III
 DESIRED WATTAGE: 150W
 SOCKET TYPE: MEDIUM
 LIGHT SOURCE: METAL HALIDE (PULSE START)
 LINE VOLTAGE: 240V
 PAINT: TEXTURED RAL 6009
 OPTIONS:
ANSI M102 OR M142 LAMP BY OTHERS

ROADWAY ARM SPECIFICATIONS
 CATALOGUE NO.: SPECIAL KA55-T-1-KPL20(MOD)
 QUANTITY:
 MATERIAL: ALUMINUM
 PAINT: TEXTURED RAL 6009
 OPTIONS: (MOD) KPL-20 LEVELING DEVICE

POLE SPECIFICATIONS
 CATALOGUE NO.: KSB83-A-21-BA-DR
 QUANTITY:
 BASE MATERIAL: CAST ALUM. 2 PC BASE
 SHAFT MATERIAL: ROUND EXTRUDED ALUMINUM
 SHAFT DIA.: 5 9/16" ø
 ANCHOR BOLTS: (4) 3/4" x 27" LONG
 BOLT CIRCLE: 10 5/8" ø - 12 1/2" ø
 POLE LENGTH: 21' 0"
 APPROX WEIGHT: T.B.A.
 PAINT: TEXTURED RAL 6009
 OPTIONS: BANNER ARMS
 DUPLEX RECEPTACLE





BASEPLATE DETAIL

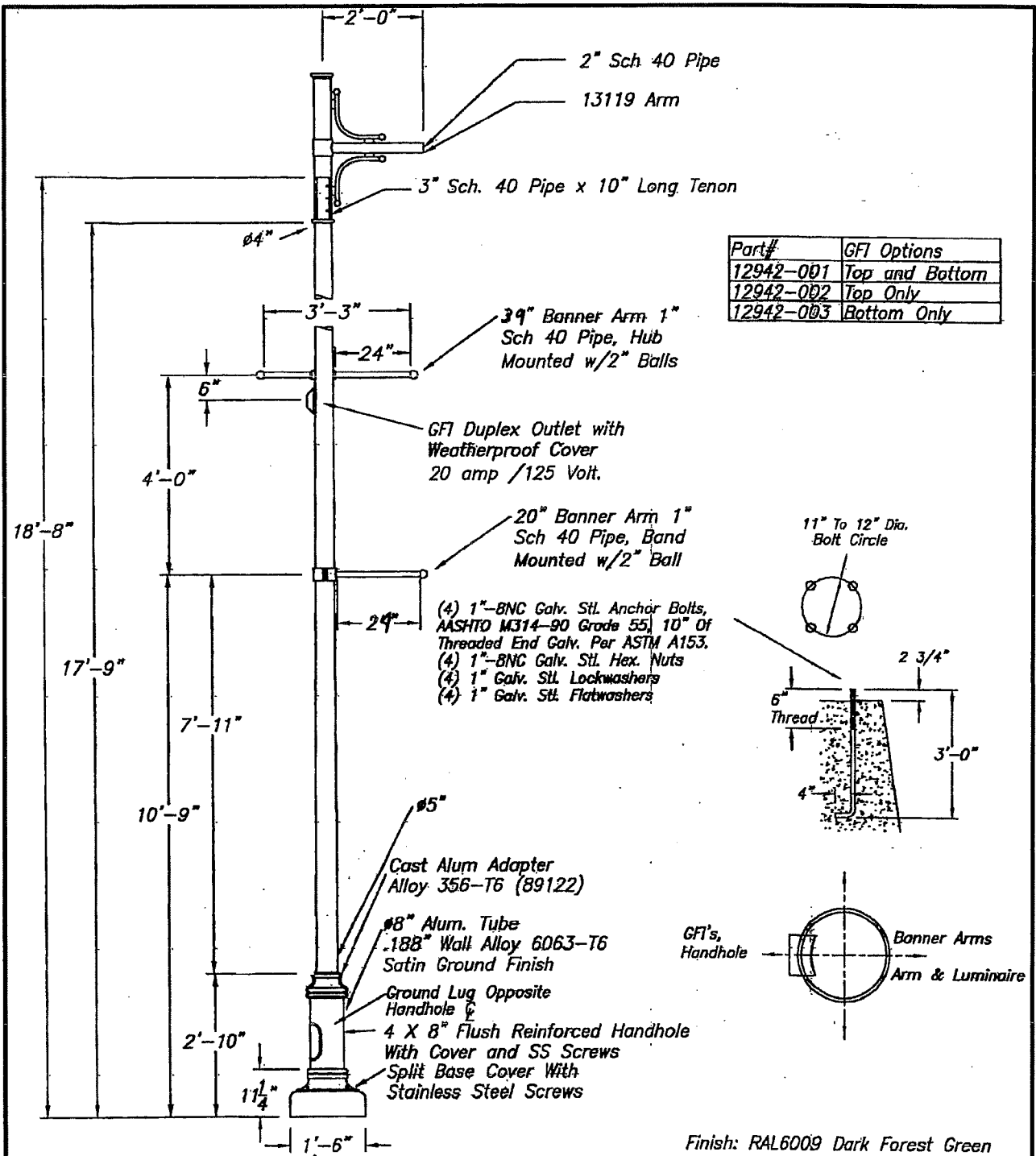
Notes
 Although rare, oscillating loads severe enough to cause damage can occasionally occur in structures of all types. Because they are influenced by many factors not provided to StressCrete, these loads are unpredictable. The users maintenance program should include observation for excessive vibration & examination for any structural damage. The StressCrete warranty specifically excludes fatigue failure or similar phenomena resulting from induced vibration, excitation or resonance associated with the eccentric rotation of attached equipment.

CUSTOMER APPROVAL & DATE: _____

CUSTOMER ORDER No:	-
KMFG. ORDER No:	-
KING U.S. ORDER No:	-

  King Luminaire • StressCrete • Est. 1953 STRESSCRETE GROUP	Manufacturing Locations: Burlington, Ontario 1-800-268-7809 Northport, Alabama 1-800-435-6563 Atchison, Kansas 1-800-837-1024 Jefferson, Ohio 1-800-268-7809			
	PROJECT/CUSTOMER: LEMONT, IL			
DRAWN BY: A. ALVELA	AT: SC1	CHECKED BY: _____	DATE: 07/30/13	REVISION: _____
DRAWING TYPE: CONCEPT DWG.		DRAWING NUMBER: 206A7544-1		

VILLAGE OF LEMONT
 ORNAMENTAL LIGHT STANDARD
 2/03/15 NO. LS-82



Part#	GFI Options
12942-001	Top and Bottom
12942-002	Top Only
12942-003	Bottom Only

Finish: RAL6009 Dark Forest Green

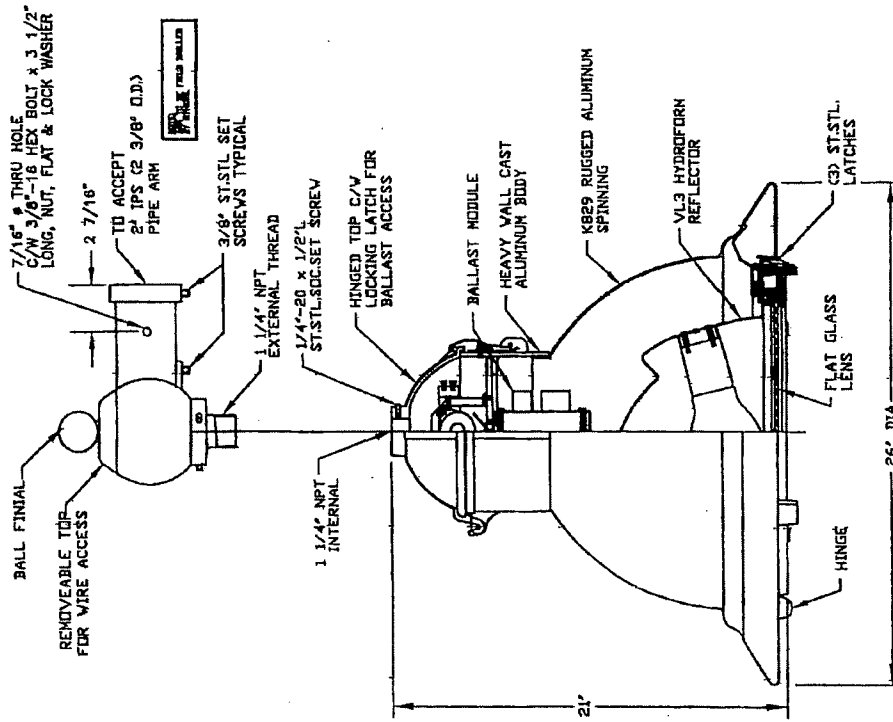
NO.	REVISIONS	DATE
1	Wall was 0.156 added banner	
2	Bolt Circle Was 11"-13"	11/07
	GFI Was 15 Amp (KDF)	
3	Clarified Top Banner Dim's	11/07

hapco
Abingdon, Va.

TITLE: STAFFORD BASE POLES	
CUSTOMER: Lemont	
SCALE: 24	DATE: 10/16/2007
BY: GM	DWG. NO.
CHK'D:	A12942

PAGE
1
OF
2

VILLAGE OF LEMONT	
ORNAMENTAL LIGHT STANDARD	
2/03/15	NO. LS-83a



SPECIFICATIONS

CATALOGUE NO: K829-HGFL-III-150 (MED)
-MH-240-KPL20

QUANTITY: OPTICAL SYSTEM HYDROFORM GLASS FLAT LENS
IES. LTG. CLASS, TYPE III
WATTAGE: 150
SOCKET SIZE: MEDIUM
LIGHT SOURCE: METAL HALIDE
LINE VOLTAGE: 240V
PAINT: RAL #6009
LAMP BY OTHERS

BALLAST INFORMATION:

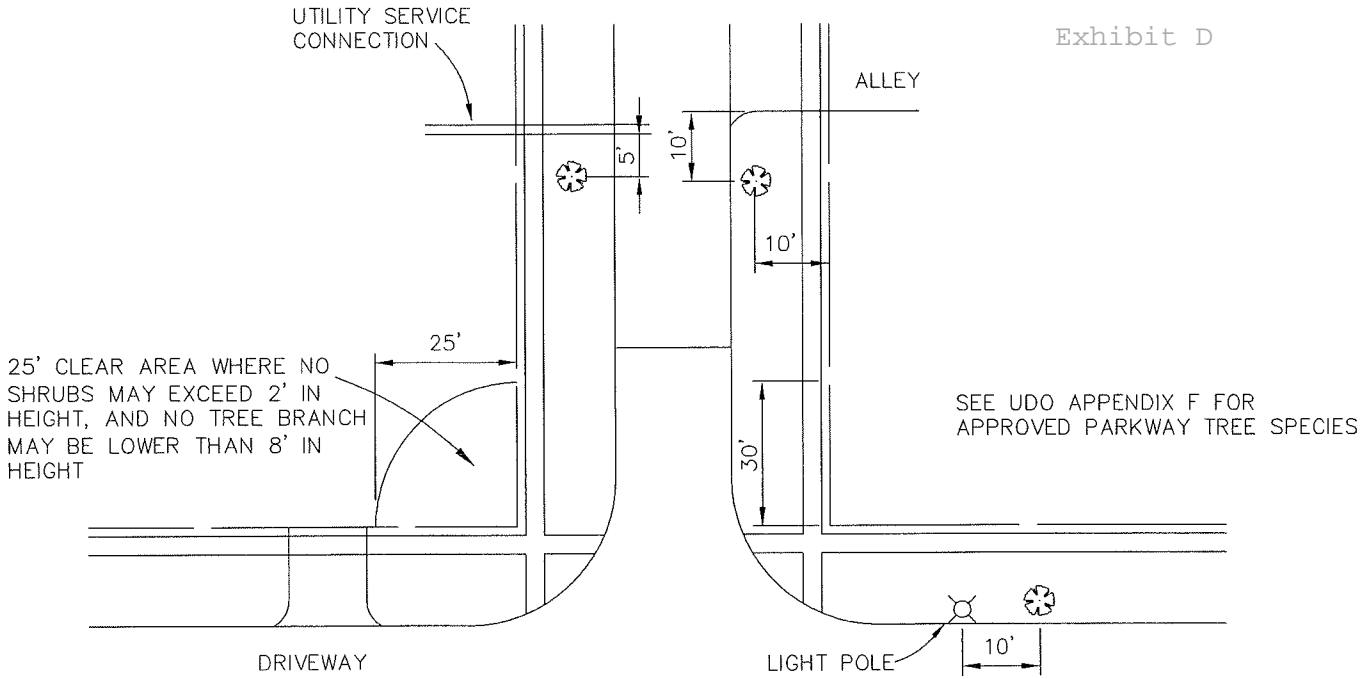
BALLAST TYPE: HX-HPF
BALLAST MANU: ADVANCE / MAGNETEK
CATALOG NUMBER: 71A7991 / S70MLTLC3M

OPTIONS:

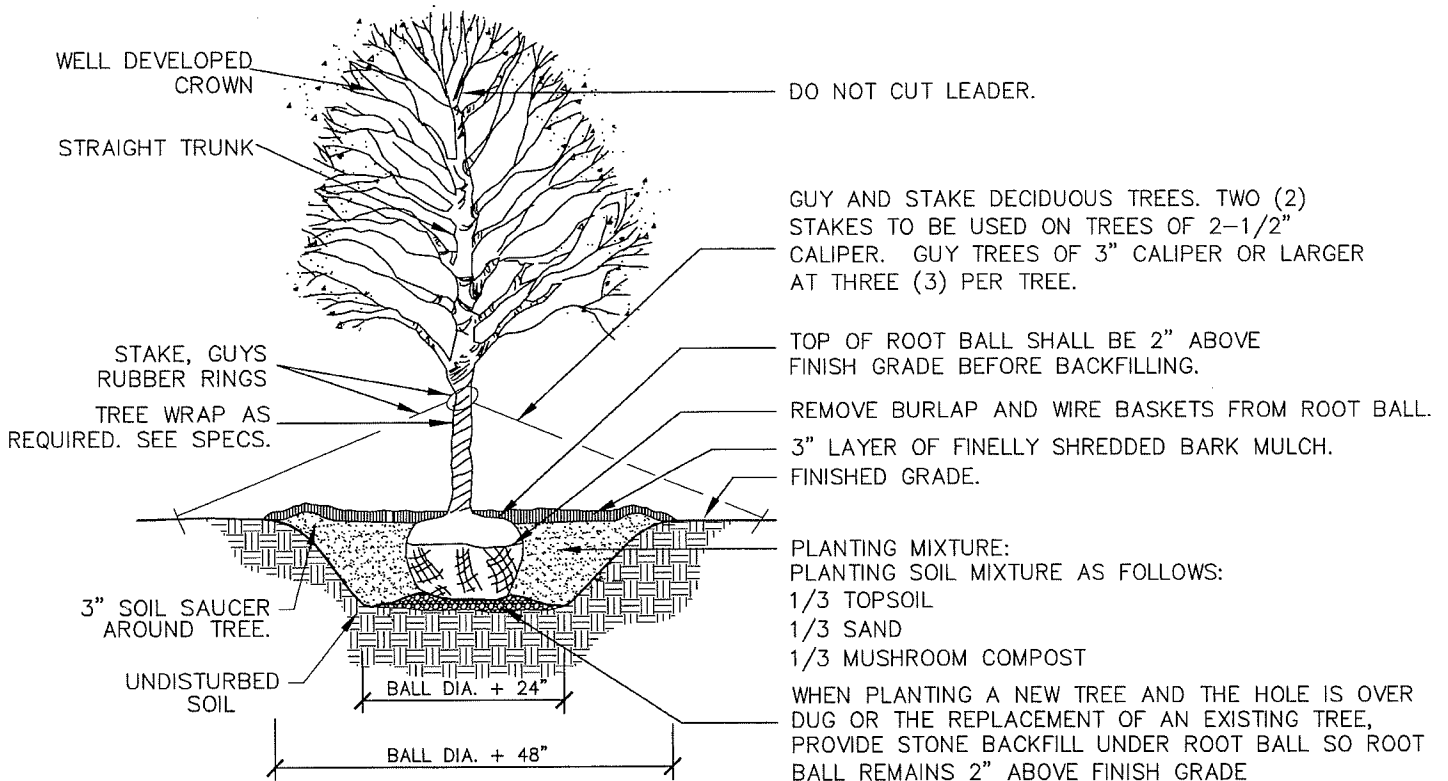
- QUICK DISCONNECT
- TERMINAL BLOCK
- OTHER: KPL-20 LEVELING DEVICE

THE STRESSCRETE GROUP COMPANY INC. 14543 WALLICK ROAD ATCHISON, KANSAS 66802 PHONE (813) 255-3112 FAX (813) 255-3124		
DRAWING NAME:	DWG NUMBER: 829	DATE: 4-30-07
PROJECT/CUSTOMER: LEMONT		DWG BY: M.L.W.
		REV:

- NOTE:**
- 1) LAMP BY OTHERS
 - 2) UNDERSIDE OF SPINNING TO BE PAINTED SAME COLOR AS REST OF LUMINAIRE
 - 3) PIPE SEALER TO BE USED ON ALL N.P.T. THREADED COMPONENTS



PERMITTED TREE LOCATIONS



TREE PLANTING DETAIL

NOTES:

1. TREES SHALL HAVE A MINIMUM TRUNK DIAMETER OF 2 1/2 INCHES. TREES UP TO AND INCLUDING 4 INCHES ARE MEASURED 6 INCHES ABOVE GROUND. TREES LARGER THAN 4 INCHES ARE MEASURED 12 INCHES ABOVE GROUND.
2. A MINIMUM OF 2 (TWO) TREES PER LOT; AT LEAST 1 (ONE) TREE EVERY 40 FEET SHALL BE REQUIRED IN ALL NEW SUBDIVISIONS.
3. PRUNING, IF NECESSARY, MUST BE DONE AFTER PLANTING AND ONLY IF TREES HAVE BROKEN BRANCHES.
4. PLANTINGS SHALL BE PER THE URBAN FORESTRY MANAGEMENT PLAN OF THE VILLAGE OF LEMONT.
5. TREE SPECIES PLACEMENT SHALL BE A STAGGERED PATTERN, SUCH THAT NO TREES OF THE SAME TYPE ARE NEXT TO EACH OTHER
6. TREES SHALL BE PLANTED AT LEAST 15 FEET AWAY FROM ALL TRAFFIC SIGNS.
7. SEE UDO APPENDIX F FOR APPROVED PARKWAY TREE SPECIES.

REV. 2/03/15
 REV. 4/08/14
 REV. 10/10/13
 REV. 4/13/10
 REV. 11/09/09
 REV. 6/23/08

VILLAGE OF LEMONT		
TREE PLANTING		
12/10/01	NO. LS-90	REV. 6



Village of Lemont
Planning & Economic Development Department

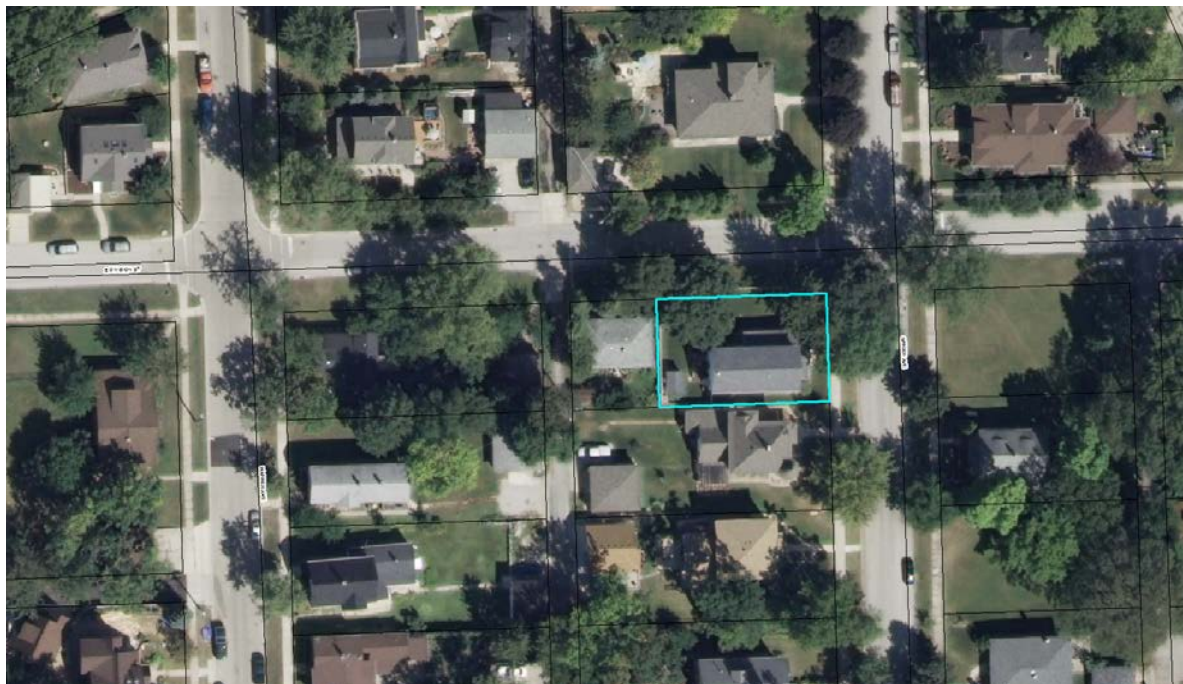
418 Main Street · Lemont, Illinois 60439
phone 630-257-1595 · fax 630-257-1598

TO: Planning & Zoning Commission
FROM: Martha M. Glas, Village Planner
THRU: Charity Jones, AICP, Planning & Economic Development Director
SUBJECT: Case 15-02 502 Singer Ave. Variations
DATE: February 11, 2015

SUMMARY

Eric and Katie Brousseau, owners of 502 Singer Ave., are requesting 2 variations for 502 Singer Ave. to allow for the construction of an attached garage. The first variation is from Table 17-07-01 of the Unified Development Ordinance to allow a 24' encroachment into the 30' rear yard setback and the second is a variation from Section 17.07.020.E to allow the floor area ratio to be exceeded by 15%.

The attached garage would be accessed using an easement on 104 E. Division, west of the subject property, to the alley. The applicants are beneficiaries of the 104 E. Division Trust, owner of the lot to be used for access. Staff is recommending approval with conditions.



PROPOSAL INFORMATION

Case No. 15-02
Project Name 502 Singer Ave. Variations

General Information	
Applicant	Eric & Katie Brousseau
Owners	Eric & Katie Brousseau
Status of Applicant	owners
Requested Actions:	Variations to rear yard setback and to exceed floor area ratio in R-4A
Site Location	502 Singer Ave. (PIN 22-29-103-015-0000)
Existing Zoning	R-4A
Size	5,639 sq ft
Existing Land Use	Single family
Surrounding Land Use/Zoning	R-4A to the north, east, south and west
Comprehensive Plan 2030	The Comprehensive Plan classifies this site as Infill Residential
Zoning History	In 2007, applicants were granted a fence variation (O-19-07)

Special Information	
Public Utilities	

BACKGROUND

The subject lot (including both PINs 22-29-103-014 and 22-29-103-015) was platted in the early 1800's as lot 10 of in block 2 of Norton and Warner's subdivision. The lot size was similar to neighboring lots and measured at 60' x 142'. In 1950, a building permit was issued for the construction of a 24 x 36 frame home. The home was given a Division St. address and the portion of lot 10 on which it was constructed was divided into a separate lot of record. The owners of 502 Singer Ave. (PIN 22-29-103-015) also own this parcel (104 E. Division PIN #22-29-103-014) and intend to submit a plat of easement for 104 E. Division to provide access to the proposed attached garage at 502 Singer Ave.

The subject property, in its current configuration, does not have a garage and has limited off-street parking. There is no street parking available in front of the home on Singer Ave. Street parking along Division is also not optimal due to the steep elevation of the lot in relation to the street. Additionally, there is no sidewalk along Division St. to provide a safe path to the home. An attached garage accessed through the alley would provide the owners reasonable use of the property.



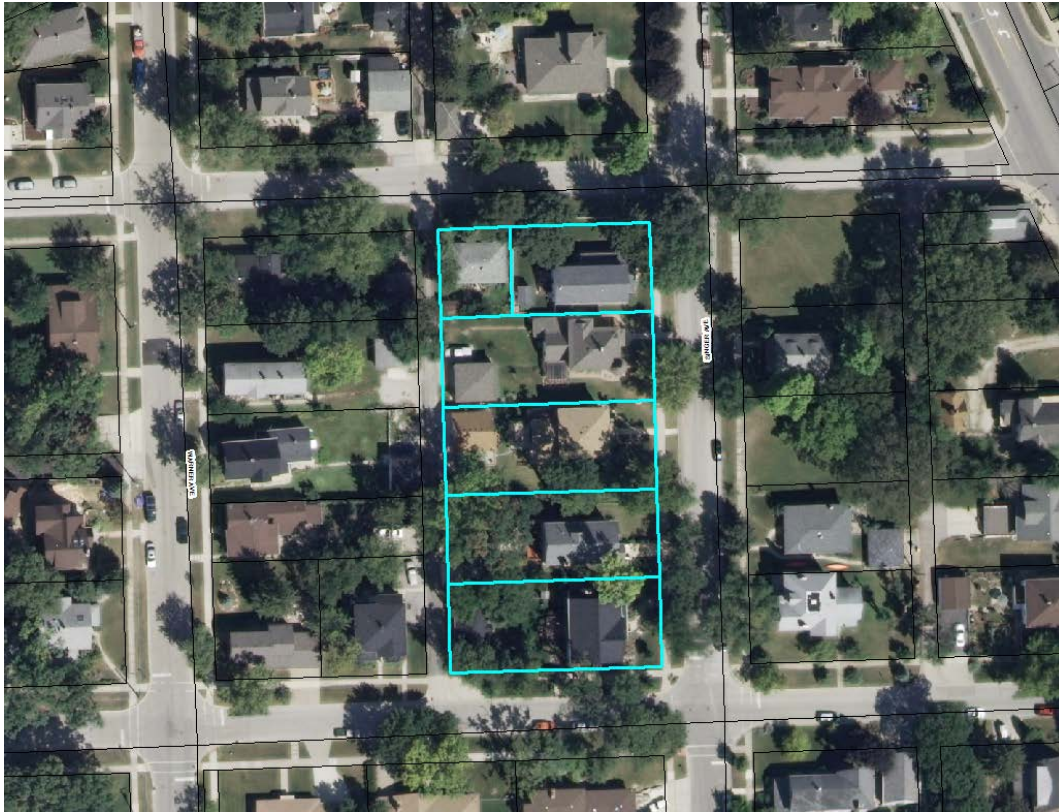
STANDARDS FOR VARIATIONS

UDO Section 17.04.150.D states that variation requests must be consistent with the following three standards to be approved:

1. The variation is in harmony with the general purpose and intent of the Unified Development Ordinance;

Analysis. The general purpose of the UDO is specified in UDO Section 17.01.050. Of the eight components listed, four are not applicable to the variation requests. The variation requests for a rear yard setback encroachment and increase in the floor area to allow for construction of an attached garage is consistent with the remaining four components.

- **Promoting and protecting the general health, safety and welfare.** The variation requests will not injure the health, safety and general welfare of the public. As discussed, off-street parking is limited. Parking on Division St. is not optimal due to the elevation of the lot and the lack of a sidewalk. The attached garage will provide a safe, off-street parking option for the owner. The lot to the west, which is also owned by the applicant, will provide access from the alley via an easement.
- **Ensuring adequate natural light, air, privacy, and access to property.** The variations will have no impact on light and air to the property. The variation would make the property accessible from the alley as would be required in the UDO. The new driveway may decrease privacy for the home on Division St., however, it is owned by the applicant. Any future resident would be aware of the easement and the impact.
- **Protecting the character of established residential neighborhoods.** The subject site is located in an established residential area and is zoned R-4A. This area encompasses the majority of the older and historic homes in the village. The two homes present on the property have existed on the property since 1950. Many of the homes in the area have detached garages. When looking at an aerial photo (see below), the original lot 10 is similar to neighboring lots with respect to building footprints (principal home with a detached structure in the rear). The addition will increase the mass of the home but it is still in scale with the other homes on the block and would not alter the character of the neighborhood. The two sheds that currently exist on the properties will be removed to accommodate the addition and driveway.



- **Conserving the value of land and buildings throughout the Village.** Investments that allow a property to be fully utilized add value to the land and generally conserve value throughout the Village. Additionally, providing off street parking via an attached garage is a convenience that is valued when a home is being appraised.
2. The plight of the owner is due to unique circumstances, and thus strict enforcement of the Unified Development Ordinance would result in practical difficulties or impose exceptional hardships due to the special and unique conditions that are not generally found on other properties in the same zoning district;

Analysis. The UDO states that in making a determination whether there are unique circumstances, practical difficulties, or particular hardships in a variation petition, the Planning and Zoning Commission shall take into consideration the factors listed in UDO §17.04.150.D.2.

- **Particular physical surroundings, shape, or topographical conditions results in a particular hardship upon the owner as distinguished from a mere inconvenience.** The lot size of the subject property and the placement of the home cause a hardship to the owner. When the lot was split, the rear yard was reduced causing the home to be closer to the rear lot line. The reduced lot size and physical surroundings limit the placement of a garage and reduces the allowable floor area.

As can be seen in the plat of survey, the home is not built to the side yard setback, but rather 30ft from the side lot line along Division St. Building an

attached or detached garage in the side yard would be an option; however the topography is quite steep and would make it difficult to access from Division. Additionally, utilities including water and Nicor gas run along the south side of Division and would need to be relocated if a garage was constructed in the side yard and accessed from Division. A Nicor representative indicated that the Nicor gas line would have to be lowered to accommodate any new driveway in that area and that the costs would be extensive. When these physical and financial constraints are taken into consideration, the proposed location and access is the only viable option for the homeowner.

- ***The conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning district.*** The conditions upon which this petition is based would not generally be applicable to other properties in the R-4A district. The circumstances with the second home, the lot division and the physical topography are all unique to this property.
- ***The alleged difficulty or hardship has not been created by any person presently having an interest in the property.*** The applicant purchased the subject property in 2005. The Division Street home was constructed in 1950. The home construction and lot division was not created by anyone presently having an interest in the property.
- ***The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the subject project is located.*** The reduced lot size, topography and location of utilities all compromise the applicant's ability to add off-street parking on the subject property. The topography of the area also limits the applicant's ability to safely use the on-street parking available on Division St. and limits driveway access from Division St. These constraints make it difficult to locate the garage anywhere but in the rear yard. By constructing an attached garage, rather than a detached garage, the applicants provide more space between the proposed garage the existing home on the Division St., minimizing the impact on residents of the Division St. home. Granting of the variation to allow a 24' encroachment into the rear lot is therefore not viewed as a detriment to public welfare of other property in the neighborhood.

Floor area ratio (FAR) is meant to regulate the bulk of a home in the R-4A district. It is calculated using the lot area and includes in the calculation any portion of an attached garage that is in excess of 200 sq. ft. A detached garage is not subject to FAR but is not the preferred option due to the other constraints discussed previously. Despite the need for a FAR variance, the attached garage will not be an excessive increase in mass and will be of similar scale to neighboring homes. As such, the variation to allow increased floor area will not be detrimental to other property or improvements in the neighborhood.

- ***The variation will not impair an adequate supply of light and air to adjacent properties or substantially increase congestion in the public street or increase***

the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood. The variation request for the rear yard encroachment and increased floor area will not impair the adequate supply of light or air to adjacent properties. A detached garage, which would be permitted by right, would have similar impact and arguably could have greater impact as it could be constructed 3' from the lot lines. The existing 8' x 12' shed will be removed to accommodate the addition.

3. The variation will not alter the essential character of the locality and will not be a substantial detriment to adjacent property.

Analysis. See the analysis contained within section one of the variation standards, regarding the UDO's purposes of protecting the character of established residential neighborhoods and conserving the value of land and buildings throughout the Village.

Engineering Comments. The Village Engineer stated that from a winter visual inspection, this case appears acceptable, but a Grading Plan will be needed, due to the close south lot line proximity.

Historic Preservation Commission. The HPC advised the applicant to have architectural plans drawn and formal engineering completed because the available space looked inadequate, but did not have any objections to the proposal. The applicant indicated that if the area was found to be too restrictive to accommodate 2 cars than the garage plans would be reduced to one car garage door, with the remaining garage area used for storage.

RECOMMENDATIONS

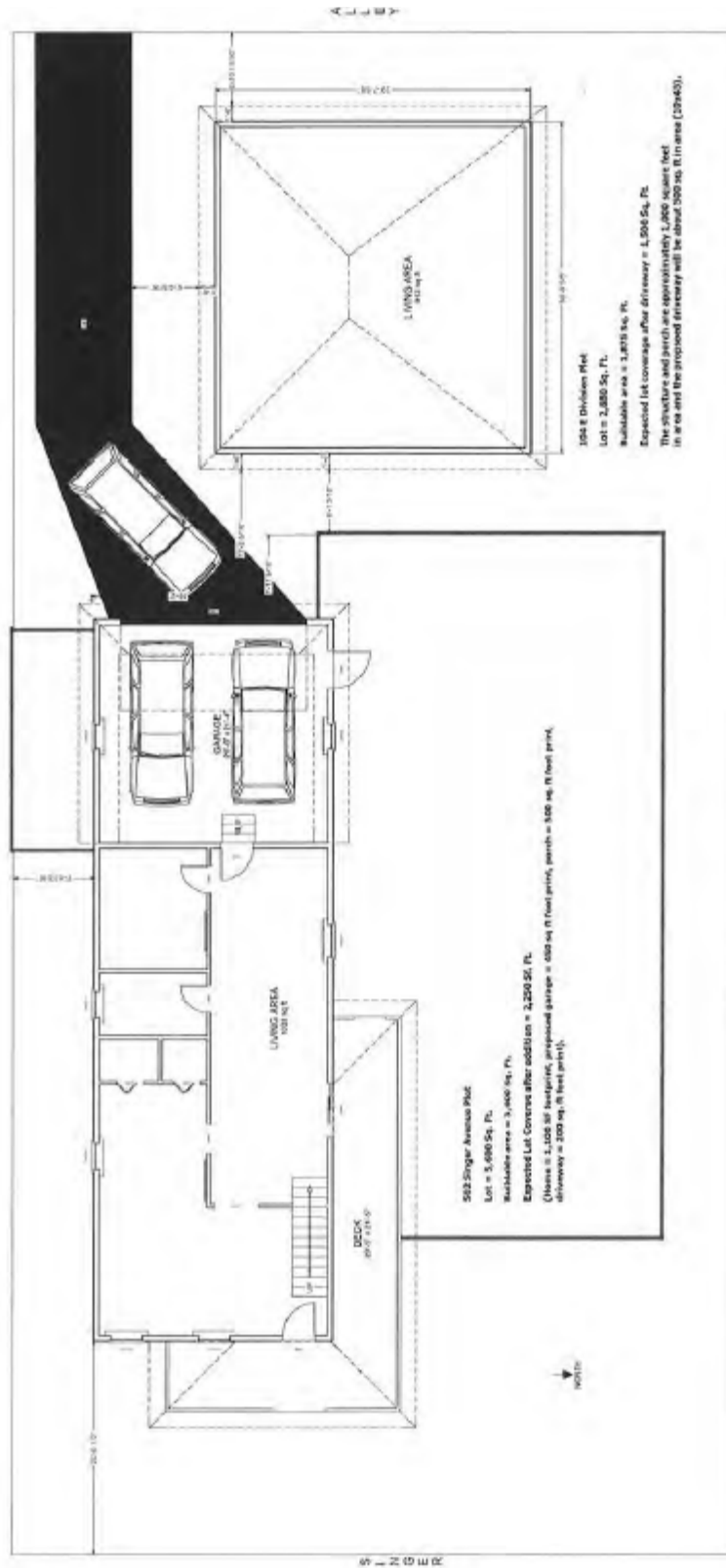
The UDO requires that the applicant demonstrate consistency with all three of the variation standards contained within §17.04.150.D. and staff finds that they were substantially met. However, a geometry plan depicting the attached garage and proposed driveway location on a survey is required to ensure the proposed driveway configuration can safely accommodate two vehicles. Additionally, a grading plan will also be required to fully evaluate the proposal. Staff recommends approval of the variation request for a 24' encroachment into the rear yard and approval of the variation request to exceed the maximum floor area ratio with the following three conditions:

- 1) Grading plan approval
- 2) Geometry plan approval
- 2) Plat of easement approval

ATTACHMENTS

1. Exhibit A – Site plan
2. Exhibit B – Site photos
3. Applicant submissions

EXHIBIT A – Site Plan



PLAT OF SURVEY

OF

LOT 10 EXCEPT THE WEST 48 FEET THEREOF IN BLOCK 2 IN NORTON AND WARNER'S SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE SOUTH 30 FEET THEREOF HERETOFORE DEDICATED FOR THE NORTH 1/2 OF EUREKA AVENUE) IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS: 502 SINGER AVENUE

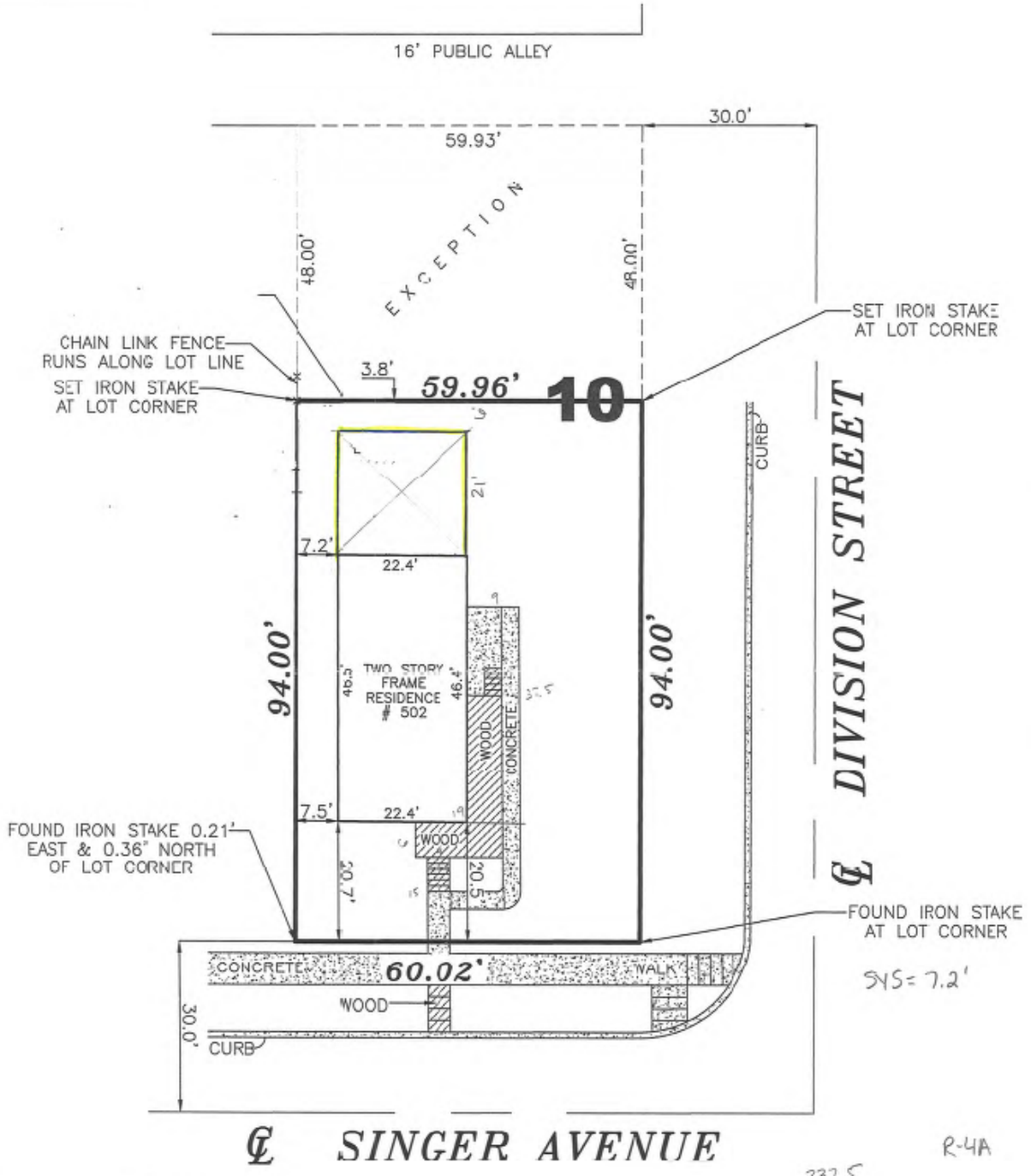


EXHIBIT B





Variation Application Form

APPLICANT INFORMATION

Brousseau Eric + Katie

Applicant Name

Company/Organization

502 Singer Ave

Applicant Address

312 925 5330

Telephone & Fax

kbrousseau@amplify.com

E-mail

CHECK ONE OF THE FOLLOWING:

- Applicant is the owner of the subject property and is the signer of this application.
- Applicant is the contract purchaser of the subject property.
- Applicant is acting on behalf of the beneficiary of a trust.
- Applicant is acting on behalf of the owner.

PROPERTY INFORMATION

502 Singer Ave

Address of Subject Property/Properties

~~22-29-103-015-0000~~ 22-29-103-015-0000

Parcel Identification Number of Subject Property/Properties

5,600 sq ft

Size of Subject Property/Properties

DESCRIPTION OF REQUEST

Set back variance for attached garage

Brief description of the proposed variation

REQUIRED DOCUMENTS

See Form 500-A, Variation Application Checklist of Required Materials, for items that must accompany this application.

FOR OFFICE USE ONLY

Application received on: _____

By: _____

Application deemed complete on: _____

By: _____

Current Zoning: _____

Fee Amount Enclosed: _____

Escrow Amount Enclosed: _____

Variation Application Form

Village of Lemont

APPLICATION FEE & ESCROW

Application Fee = \$250 (per zoning lot)

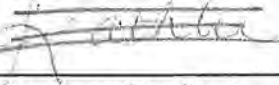

Fee is non-refundable. A zoning lot is defined as "a single tract of land located within a single block that (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed, or built upon, under single ownership or control" (Unified Development Ordinance Chapter 17.02).

Required Escrow = \$500

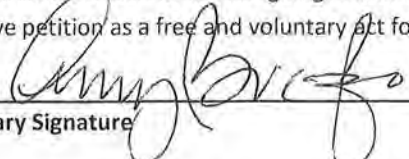
At the time of application, the applicant shall submit a check for the establishment of an escrow account. The escrow money shall be used to defray costs of public notice, consultants, or other direct costs incurred by the Village in association with the variation application. Additionally, should the applicant fail to remove the required public notice sign in a timely manner, the escrow account may be used to defray the costs of the sign's removal. After completion of the variation review process, any unused portion of the escrow account will be refunded upon request.

AFFIRMATION

I hereby affirm that I have full legal capacity to authorize the filing of this application and that all information and exhibits herewith submitted are true and correct to the best of my knowledge. I permit Village representatives to make all reasonable inspections and investigations of the subject property during the period of processing of this application. I understand that as part of this application I am required to establish an escrow account to pay for direct costs associated with the approval of this application, such as the fulfillment of public notice requirements, removal of the public notice sign, taking of minutes at the public hearing and fees for consultants hired by the Village to evaluate this application. I understand that the submitted fee is non-refundable and that any escrow amount leftover upon project completion will be refunded upon request. I understand that I am responsible for the posting of a public hearing sign and for the mailing of legal notice to all surrounding property owners as required by Village ordinances and state law.

		11/24/14
Signature of Applicant		Date
Illinois		COOK
State		County

I, the undersigned, a Notary Public in and for the aforesaid County and State, do hereby certify that _____ is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and that said person signed, sealed and delivered the above petition as a free and voluntary act for the uses and purposes set forth.


Notary Signature

Given under my hand and notary seal this 24 day of NOV A.D. 20 14.

My commission expires this 16 day of MAY A.D. 20 18.



Variation Criteria Worksheet

Unified Development Ordinance (UDO) Section 17.04.150.D.1 establishes the criteria that all applications for variations must meet. In addition, Section 17.04.150.D.2 of the Unified Development Ordinance requires that the Planning & Zoning Commission or Zoning Hearing Officer take the following conditions into consideration when determining whether a request qualifies for a variation. You may want to consider the following in your variation request:

- The particular physical surroundings, shape, or topographical condition of the specific property involved results in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations of the Unified Development Ordinance were fulfilled;
- The conditions upon which the petition for variation is based would not be applicable, generally, to other property within the same zoning classification;
- The alleged difficulty or hardship has not been created by any person presently having an interest in the property;
- The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the subject property is located; and
- The variation will not impair an adequate supply of light and air to adjacent properties, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Please describe below how your variation request meets the criteria of UDO Section 17.04.150.D.1. Attach additional sheets if necessary.

UDO Section 17.04.150.D.1.a

The variation is in harmony with the general purpose and intent of the Unified Development Ordinance;

The addition is expected to add to the charm + character of the historical district

UDO Section 17.04.150.D.1.b

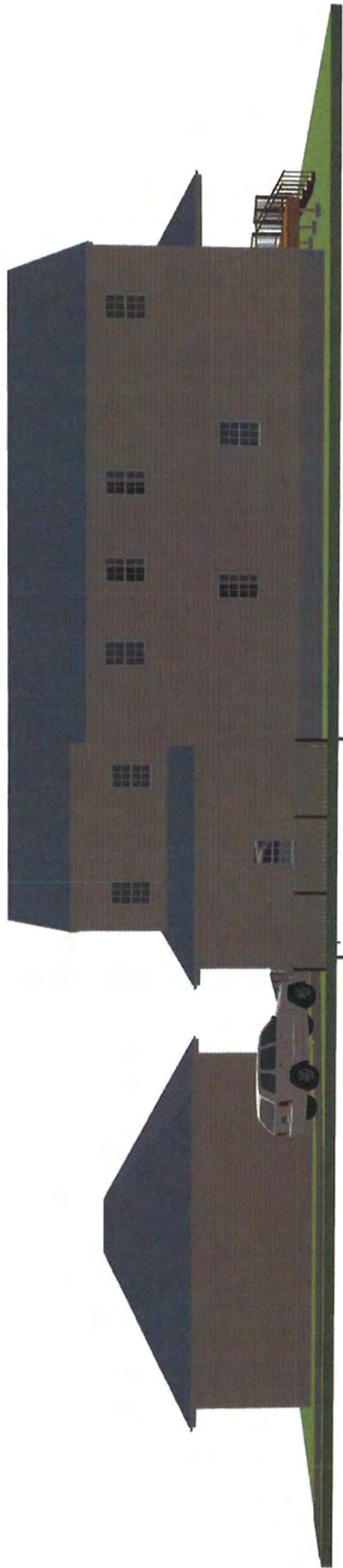
The plight of the owner is due to unique circumstances and thus strict enforcement of the Unified Development Ordinance would result in practical difficulties or impose exceptional hardships due to the special and unusual conditions that are not generally found on other properties in the same zoning district; and

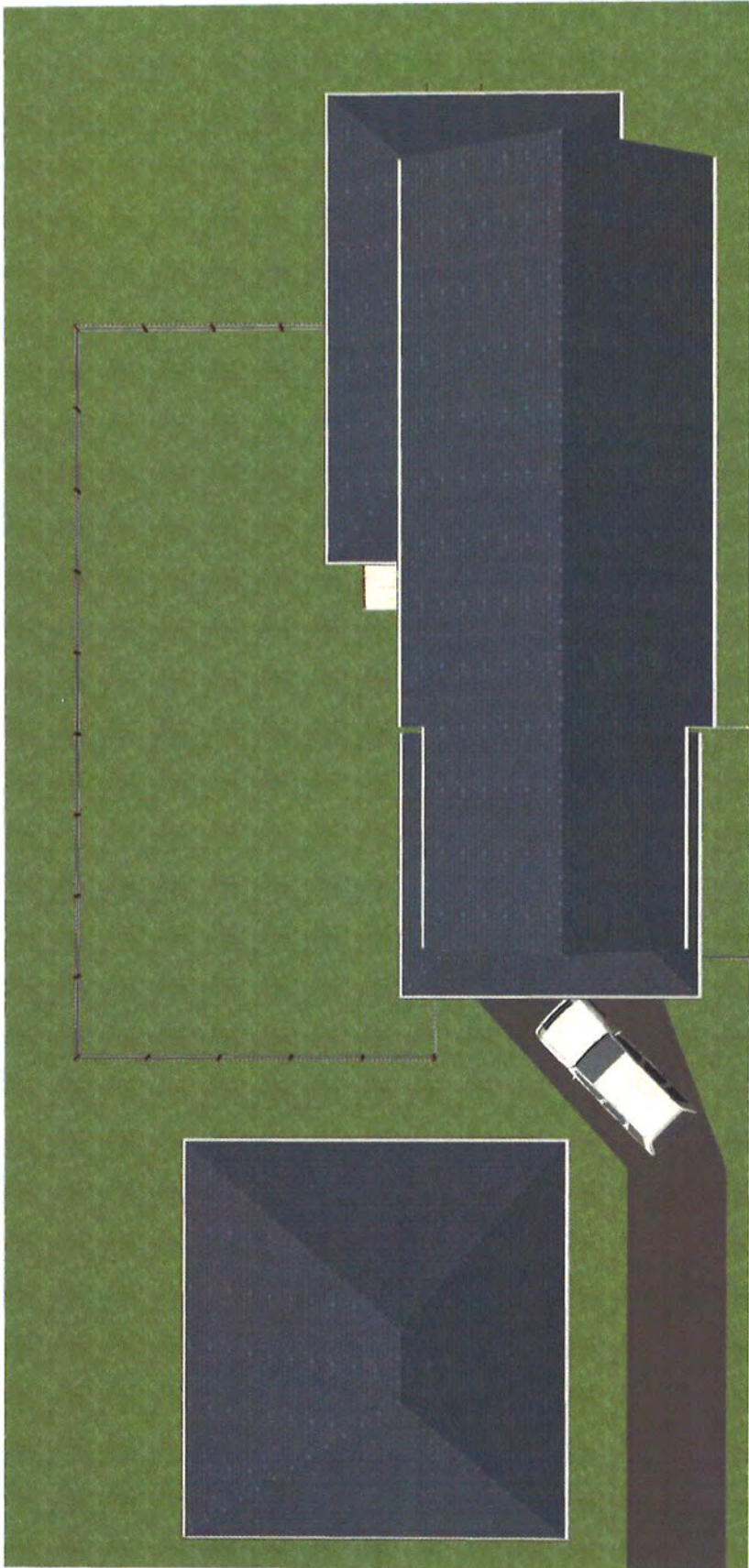
502 Singer property is at elevated elevation from surrounding roads and has no other access within city limits present access through elevation modifications

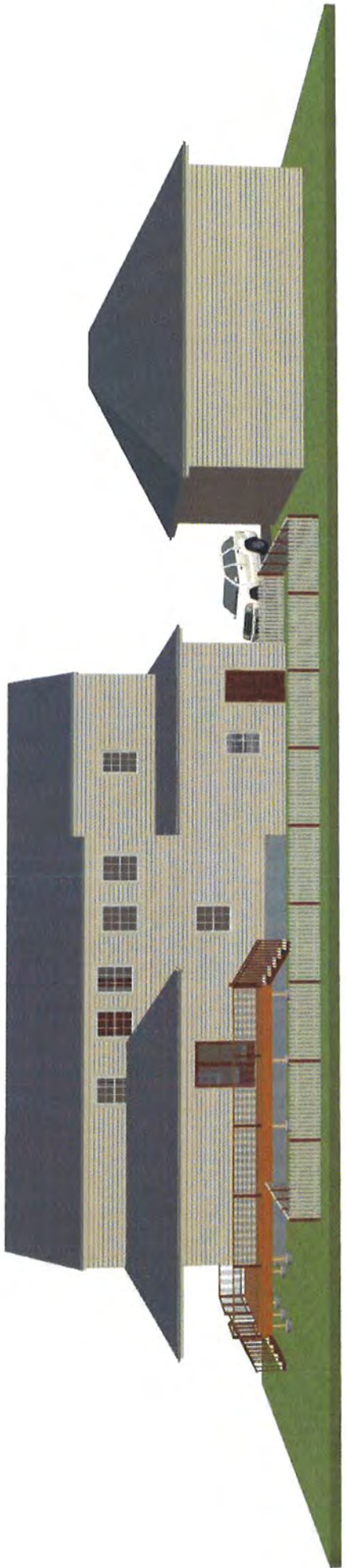
UDO Section 17.04.150.D.1.c

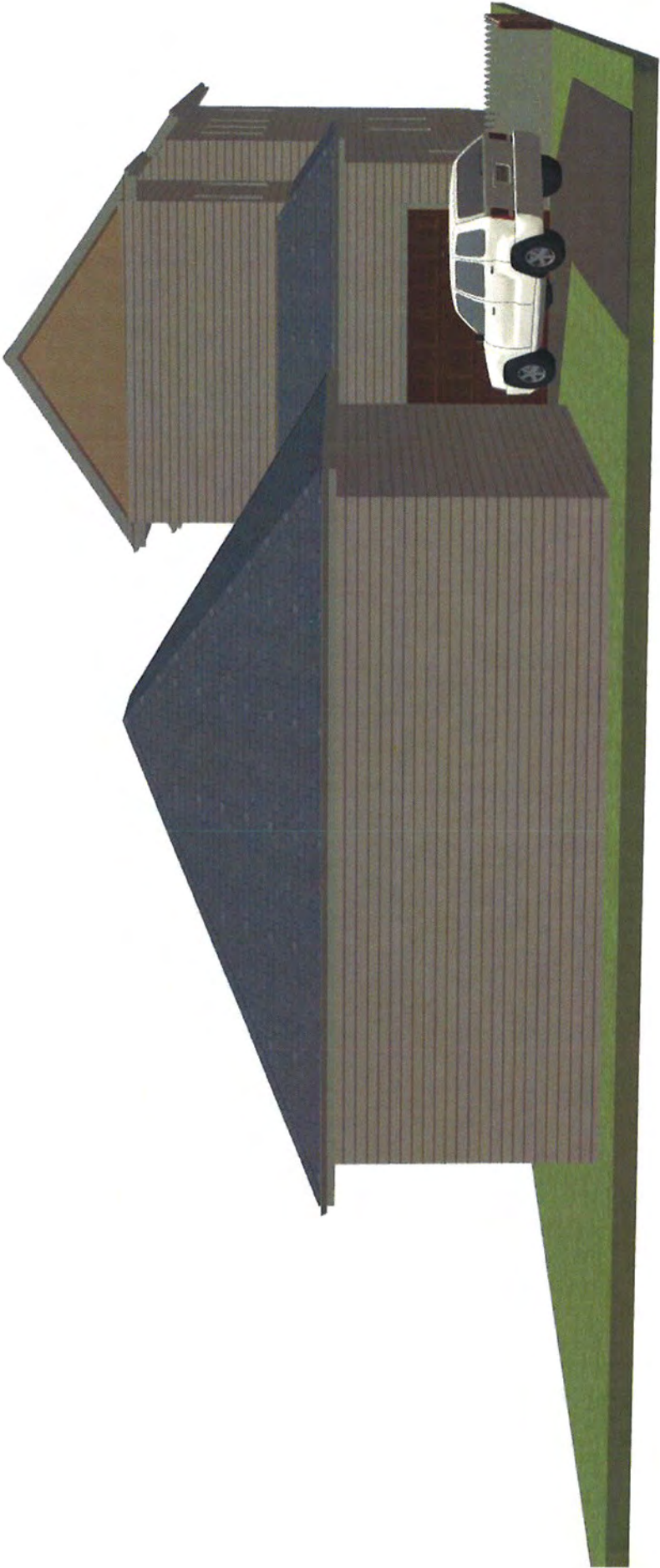
The variation will not alter the essential character of the locality and will not be a substantial detriment to adjacent property.

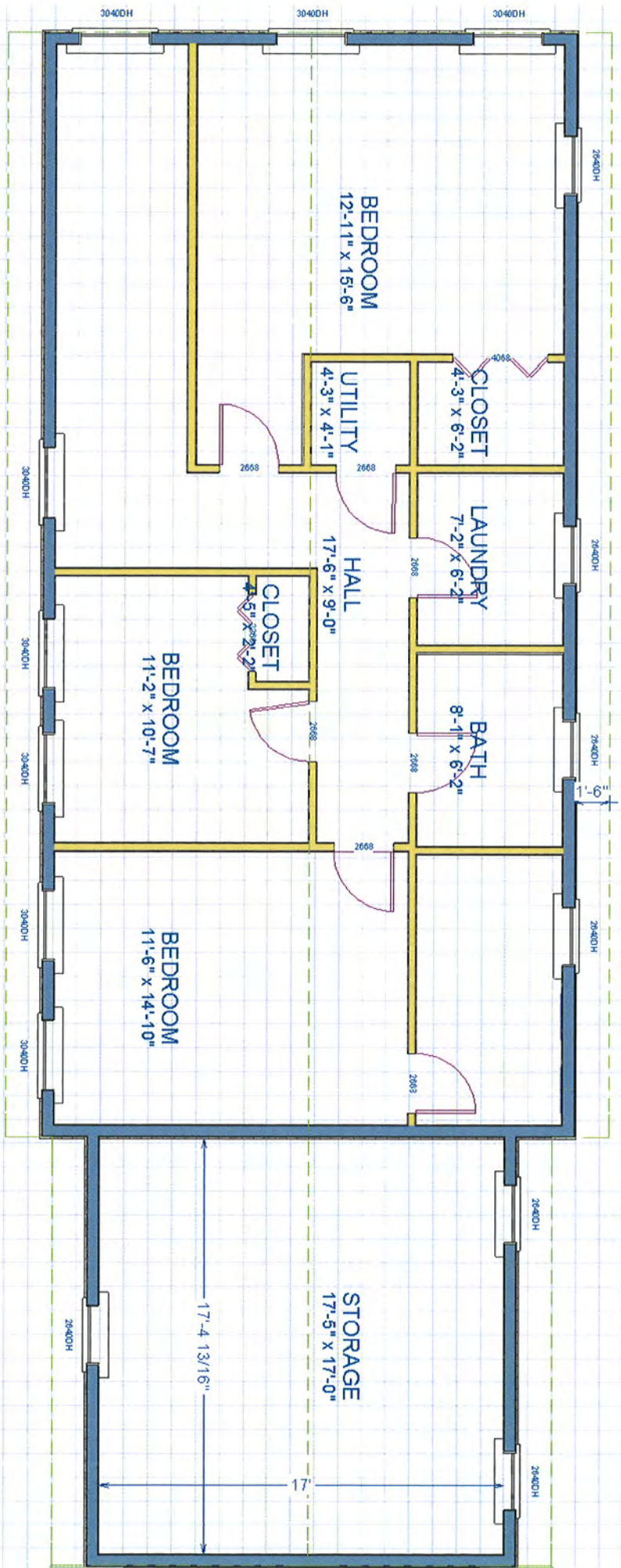
This enhancement will in no way affect neighboring properties as seen by the 502 Singer + 104 E. Division, which was formerly part of 502 Singer before being split in 1982



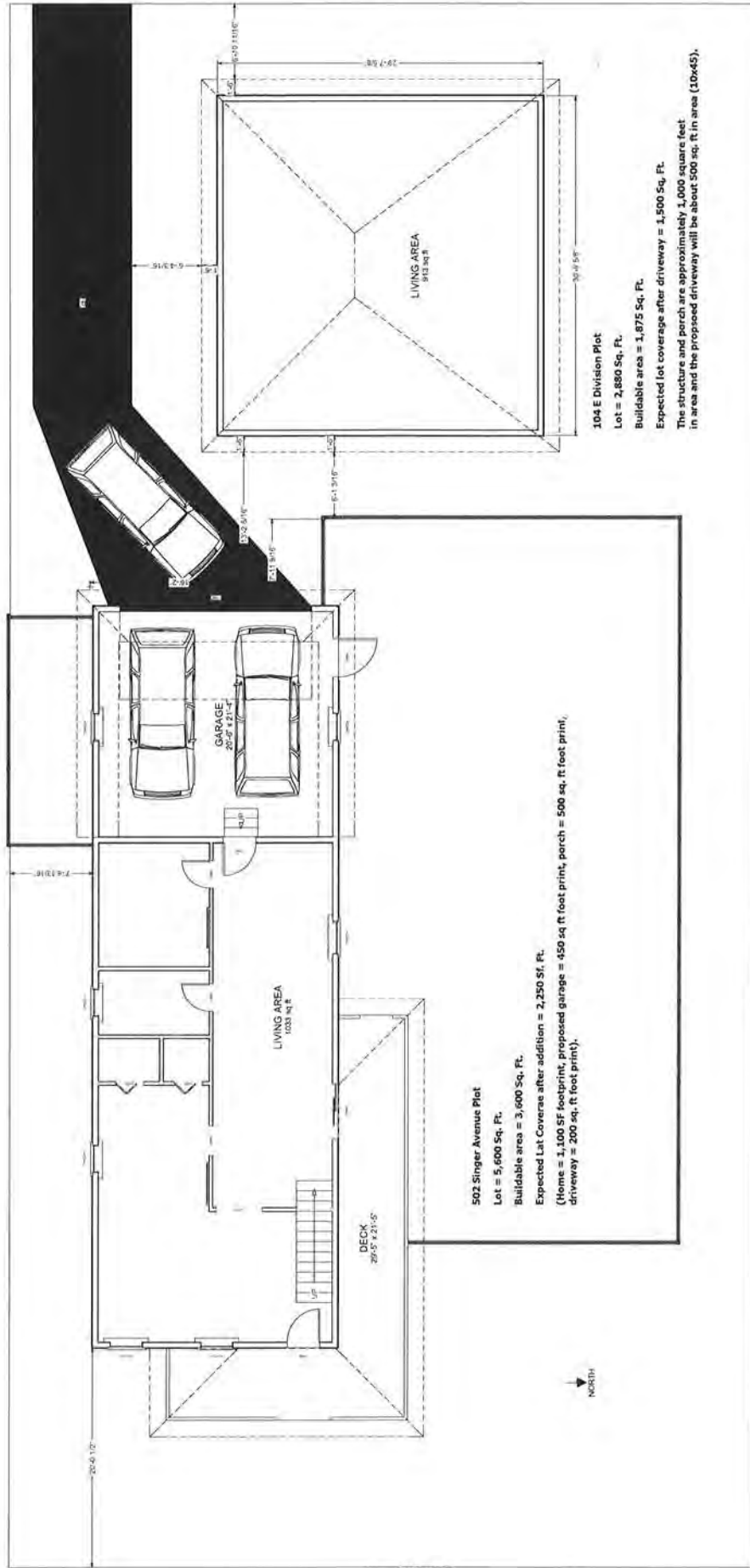








← N ↑ E →



S I N G E R

D I V I S I O N

**AFFIDAVIT OF TITLE
COVENANT AND WARRANTY**

STATE OF Illinois)
) SS.
COUNTY OF Cook)

The undersigned affiant, being first duly sworn, on oath says, and also covenants with and warrants to the grantee hereinafter named:

ERIC BROUSSEAU and KATIE BROUSSEAU

That affiant has an interest in the premises described below or in the proceeds thereof or is the grantor in the deed dated November 1, 2005, to ERIC BROUSSEAU and KATIE BROUSSEAU grantee, conveying the following described premises:

LOT 10 EXCEPT THE WEST 48 FEET THEREOF IN BLOCK 2 IN NORTON AND WARNER'S SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE SOUTH 30 FEET THEREOF HERETOFORE DEDICATED FOR THE NORTH 1/2 OF EUREKA AVENUE) IN COOK COUNTY, ILLINOIS.


That no labor or material has been furnished for premises within the last four months, that is not fully paid for.


That since the title date of August 24, 2005, in the report on title issued by Chicago Title Insurance Company, affiant has not done or suffered to be done anything that could in any way affect the title to premises, and no proceedings have been filed by or against affiant, nor has any judgment or decree been rendered against affiant, nor is there any judgment, note or other instrument that can result in a judgment or decree against affiant within five days from the date hereof.

That the parties, if any, in possession of premises are bona fide tenants only, and have paid promptly and in full their rent to date, and are renting from _____ to _____, and not for any longer term, and have no other or further interest whatsoever in premises.

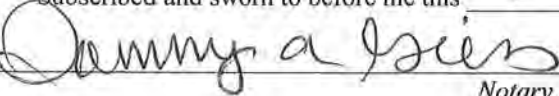
That all water taxes, except the current bill, have been paid, and that all the insurance policies assigned have been paid for.

That this instrument is made to induce, and in consideration of, the said grantee's consummation of the purchase of premises.

 (SEAL) _____ (SEAL)
PATRICK A. MCDERMOTT

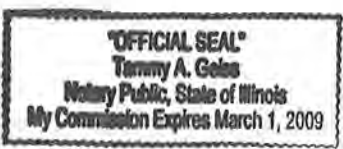
 (SEAL) _____ (SEAL)
AMY K. MCDERMOTT

Subscribed and sworn to before me this 1 day of November, 2005.


Notary Public



Chicago Title Insurance Company





BILL OF SALE

Seller, PATRICK A. MCDERMOTT and AMY K. MCDERMOTT, Husband and Wife, of the Village of Lemont, Cook County, Illinois in consideration of TEN & 00/100 DOLLARS, and other good and valuable consideration, receipt whereof is hereby acknowledged, does hereby sell, assign, transfer and set over to buyer, ERIC BROUSSEAU and KATIE BROUSSEAU of the City of Chicago, Cook County, Illinois, the following described personal property located on the premises commonly known as 502 Singer Avenue Lemont, Illinois, to-wit:

all items of personal property listed on real estate contract dated September 7, 2005

Seller hereby represents and warrants to Buyer that Seller is the absolute owner of said property, that said property is free and clear of all liens, charges and encumbrances, and that Seller has full right, power and authority to sell said personal property and to make this bill of sale. All warranties of quality, fitness, and merchantability are hereby excluded.

If this bill of sale is signed by more than one person, all persons so signing shall be jointly and severally bound hereby.

IN WITNESS WHEREOF, Seller has signed and sealed this bill of sale at Lemont, Illinois this November 1, 2005.



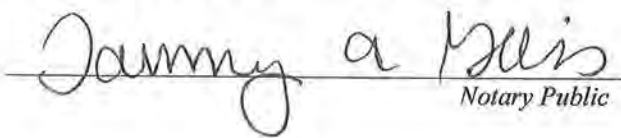
PATRICK A. MCDERMOTT



AMY K. MCDERMOTT

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY THAT PATRICK A. MCDERMOTT and AMY K. MCDERMOTT personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1 day of November, 2005



Notary Public



Exhibit "A"

LEGAL DESCRIPTION

LOT 10 EXCEPT THE WEST 48 FEET THEREOF IN BLOCK 2 IN NORTON AND WARNER'S SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE SOUTH 30 FEET THEREOF HERETOFORE DEDICATED FOR THE NORTH 1/2 OF EUREKA AVENUE) IN COOK COUNTY, ILLINOIS.

Address commonly known as:
502 Singer Ave
Lemont, IL 60439

PIN#: 22-29-103-015-0000

STATE OF ILLINOIS, COUNTY OF Cook ss.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY THAT Thomas M. Pavlik, single, personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal, this 13 day of March, 2012



Michelle J. Jacobs-Caley (Notary Public)

Prepared By: Michelle J. Jacobs-Caley
310 State Street
Lemont, Illinois 60439

Mail To:
Timothy J. Somen
120 S. LaSalle Street, Suite 1335
Chicago, Illinois 60603

Name & Address of Taxpayer:
Timothy J. Somen
120 S. LaSalle Street, Suite 1335
Chicago, Illinois 60603

104 E. DIVISION REVOCABLE TRUST

WE, ERIC BROUSSEAU and KATHLEEN BROUSSEAU, have transferred ten dollars to Timothy J. Somen as trustee. That asset and any other assets received by the trustee (the “trust estate”) shall be held in trust subject to the provisions of this instrument.

Article 1 Introduction

1.1 Family. We are married to each other. ERIC is sometimes referred to as “husband” and KATHLEEN as “wife.” The first to die of us shall be referred to as the “deceased spouse,” and the survivor shall be referred to as the “surviving spouse.” We have two (2) children now living, namely EILY BROUSSEAU and COLIN BROUSSEAU. We intend by this instrument to provide for all our children, including any born or adopted in the future.

1.2 Name of Trust. The name of this trust, as amended at any time and from time to time, shall be the 104 E. DIVISION TRUST.

Article 2 Right To Amend or Revoke

2.1 During Joint Lifetimes.

(a) Right To Amend. While we are both living, this instrument may be amended by a written instrument signed by both of us, referring to this instrument and delivered to the trustee.

(b) Right To Revoke. While we are both living, this instrument may be revoked by a written instrument signed by either of us, referring to this instrument and delivered to the other and to the trustee. On revocation, the trustee shall deliver the trust property to us as we direct.

2.2 After Death of First To Die. After the death of the first of us to die, the surviving spouse may amend or revoke the Survivor’s Trust at any time by written instrument signed by the surviving spouse, referring to this instrument and delivered to the trustee. If the surviving spouse

revokes the Survivor's Trust, the trustee shall deliver the assets of such trust to the surviving spouse or as the surviving spouse directs.

Article 3
Administration of Trust During Joint Lifetimes

While we are both living, the trustee shall administer the trust estate as follows:

3.1 **Payments Prior to Incapacity.** As long as neither of us is incapacitated, the trustee shall pay to us as much of the income and principal as we jointly request from time to time.

3.2 **Payments During Incapacity.** As long as either or both of us are incapacitated, the trustee may pay to each of us as much of the income and principal as the trustee considers necessary for the health, maintenance in reasonable comfort, education, or best interests of that person.

3.3 **Accumulation of Excess Income.** Any income not paid in each year and any income not paid at the death of the first of us to die shall be added to principal.

3.4 **Determination of Incapacity.** Either of us shall be incapacitated if that person is under a legal disability or is unable to give prompt and intelligent consideration to financial affairs. The determination of a person's inability shall be made in writing, signed by that person's personal physician and, if that person's spouse is then living and able to so act, by the spouse, and delivered to the trustee, or if that person is then acting as trustee, to the successor trustee. The trustee may rely conclusively on that writing.

Article 4
Gift on Death of Deceased Spouse

On the death of the deceased spouse, the trustee shall distribute the balance of the trust estate to the trustee to hold as the Survivor's Trust.

Article 5
Survivor's Trust

The trustee shall administer the Survivor's Trust as follows:

5.1 **Mandatory Payment of Income.** Beginning with the death of the deceased spouse, the trustee shall pay all the income to the surviving spouse. On the death of the surviving spouse, any accrued or unpaid income shall be added to principal.

5.2 **Discretionary Payment of Principal.** The trustee may pay to the surviving spouse as much of the principal as the trustee from time to time considers necessary for the health, maintenance in reasonable comfort, and best interests of the surviving spouse.

5.3 **Lifetime Right of Withdrawal.** During the surviving spouse's life, the trustee shall distribute as much or all of the principal to the surviving spouse as the surviving spouse from time to time requests by written instrument delivered to the trustee during the surviving spouse's lifetime.

5.4 **Power of Appointment at Death.** On the death of the surviving spouse, the trustee shall distribute the Survivor's Trust not required for payment of the surviving spouse's debts, administration expenses, and death taxes to any one or more persons, organizations, and the surviving spouse's estate as the surviving spouse appoints by will, specifically referring to this power of appointment.

5.5 **Distribution on Termination.** On the death of the surviving spouse, the trustee shall distribute the Survivor's Trust not effectively appointed as follows:

(a) **Death Taxes and Other Charges.** The trustee shall pay the surviving spouse's debts, administration expenses, and death taxes as required by this instrument.

(b) **Gifts of Tangible Personal Property.** The trustee shall make gifts of tangible personal property as follows:

(1) By Written Direction. First, as the surviving spouse directs by any written instrument signed by the surviving spouse. The surviving spouse may from time to time amend or revoke the written instrument, and any subsequent instrument shall control to the extent it conflicts with prior ones. Any decisions made in good faith by the trustee in distributing tangible personal property shall not be subject to review, and the trustee shall be held harmless from any cost or liability as to those decisions. The surviving spouse shall be deemed to have left only those written instruments that the trustee is able to find after reasonable inquiry within 60 days after the surviving spouse's death.

(2) Gifts of Remaining Tangible Personal Property. All tangible personal property not otherwise effectively disposed of shall be distributed in shares of equal value to our children who survive the surviving spouse (to the exclusion of the descendants of any child who does not survive the surviving spouse), to be divided among them as they agree or, if they cannot agree within 60 days after the surviving spouse's death, as the trustee determines.

(c) Remaining Trust Property. The trustee shall distribute the remaining Survivor's Trust in shares of equal value to our surviving children, provided that if a child of mine predeceased me but a descendant of the child survives me, the trustee shall distribute the share the deceased child would have received, if living, *per stirpes* to the child's descendants who survive me.

Article 6 Trustee Succession

6.1 Resignation. A trustee may resign at any time by signed notice to the other trustee, if any, and to the income beneficiaries.

6.2 Individual Trustee Succession. Each acting individual trustee (unless limited in the instrument in which the trustee was designated) may, by signed instrument filed with the trust records, (a) designate one or more individuals or qualified corporations to act with or to succeed the

trustee consecutively or concurrently, in any stated combination and on any stated contingency, and (b) amend or revoke the designation before the designated trustee begins to act.

6.3 Default of Designation. If at any time a person ceases to act as trustee and no other trustee is designated or willing to succeed that person, then the other trustee shall act as the sole trustee. If at any time no trustee is acting and no designated trustee is able and willing to act, then the first of the following who is able and willing to act shall be trustee:

- (a) ERIC BROUSSEAU;
- (b) KATHLEEN BROUSSEAU;
- (c) Any individual or qualified corporation appointed in an instrument signed by a majority of the income beneficiaries.

6.4 Corporate Trustee Substitution. A corporate trustee may be removed at any time by an instrument signed by a majority of the income beneficiaries but only if, on or before the effective date of removal, a qualified corporation has been appointed corporate trustee in the same manner.

Article 7 Trustee Actions

7.1 Control. Except as otherwise provided, whenever more than one trustee is acting, the “trustee” means all trustees collectively, and a majority of the trustees qualified to participate in an action or decision of the trustees shall control. Any trustee who is not qualified to participate in or dissents from such action or decision shall not be liable therefor.

7.2 Accountings. Upon written request, the trustee shall send a written account of all trust receipts, disbursements, and transactions and the property comprising the trust to each income beneficiary and, at the option of the trustee, to the future beneficiaries of the trust. A future

beneficiary of a trust is a person to whom the assets of the trust would be distributed or distributable if the trust then terminated. Unless court proceedings on the account are commenced within three months after the account is sent, the account shall bind and be deemed approved by all of the following beneficiaries who have not filed written objections to the account with the trustee within three months after the account is sent, and the trustee shall be deemed released by all such beneficiaries from liability for all matters covered by the account as though such account was approved by a court of competent jurisdiction: (a) each beneficiary to whom the account was sent and (b) if the account was sent to all income and future beneficiaries of the trust, then all beneficiaries of the trust who have any past, present, or future interest in the matters covered by the account.

7.3 Trustee's Right to Account Settlement Before Distribution. Before distribution of any trust principal, the trustee shall have the right to require settlement of any open accounts of the trust from which the distribution is being made, either by the written approval and release of all beneficiaries having an interest in the distribution or, if the releases cannot be obtained, by court settlement of the open accounts. All the trustee's reasonable fees and expenses (including attorneys' fees) attributable to approval of the trustee's accounts shall be paid by the trust involved.

7.4 Acceptance of Predecessor's Accounts. On the signed direction of the income beneficiaries, the trustee shall accept without examination the accounts rendered and property delivered by or for a predecessor trustee or my executor. Such acceptance shall fully discharge the predecessor trustee or my executor and shall bind all beneficiaries.

7.5 Notice. If a beneficiary is under legal disability, the trustee shall give any notice or accounting to the beneficiary's personal representative, if any, and if none, to a parent of the beneficiary, if any, and if none, to any person who the trustee believes has demonstrated concern for the interest of the beneficiary. That person may sign any instrument for the beneficiary.

7.6 Special Trustees. If the trustee (the “principal trustee”) is unable or unwilling to act as trustee as to any property, such person or qualified corporation as the principal trustee shall designate by signed instrument shall act as special trustee as to that property. Any special trustee may resign at any time by giving written notice to the principal trustee. The special trustee shall have the powers granted to the principal trustee under this instrument, to be exercised with the approval of the principal trustee. Net income and any proceeds of sale shall be paid to the principal trustee, to be administered under this instrument. The principal trustee may remove and replace the special trustee at any time.

7.7 Delegation to Co-Trustee. Any individual trustee may delegate any or all of that trustee’s powers and duties to a co-trustee, except that no trustee shall be permitted to delegate any discretion with respect to the distribution of income or principal to a beneficiary. Any delegation may be for a definite or indefinite period and may be revoked by the delegating trustee. Any delegation or revocation shall be in writing, signed by the delegating trustee, and delivered to the co-trustee to whom the delegation is made. Any person or institution may rely on the written certification of a co-trustee that the co-trustee has the power to act without concurrence of any other trustee, provided, however, that the co-trustee shall attach to the written certification a copy of the instrument by which the powers and duties have been delegated.

7.8 Compensation. The trustee shall be entitled to reimbursement for expenses and to reasonable compensation.

7.9 Determinations by Trustee. The trustee’s reasonable determination of any question of fact shall bind all persons.

7.10 Third-Party Dealings. The trustee’s certification that the trustee is acting according to this instrument shall protect anyone dealing with the trustee. No one need see to the application of money paid or property delivered to the trustee.

7.11 Exoneration of Trustee. Any individual trustee acting in good faith shall not be liable for any act or omission. No trustee shall be liable for any act or omission of another trustee.

7.12 Bond. No trustee need give bond to, qualify before, or account to any court.

7.13 Powers of Successor Trustee. Unless expressly limited, each successor trustee shall have all the titles, powers, duties, discretions, and immunities of the original trustee.

Article 8 Trustee Powers

In addition to all powers granted by law, the trustee shall have the following powers, to be exercised in a fiduciary capacity:

8.1 Retention. To retain any property transferred to the trustee, regardless of diversification and regardless of whether the property would be considered a proper trust investment;

8.2 Sale. To sell at public or private sale, contract to sell, grant options to buy, convey, transfer, exchange, or partition any real or personal property of the trust for such price and on such terms as the trustee sees fit;

8.3 Purchase. To purchase at public or private sale any real or personal property to be held in the name of the trust for such price and on such terms as the trustee sees fit;

8.4 Real and Tangible Personal Property. To make leases and subleases and grant options to lease, although the terms thereof commence in the future or extend beyond the termination of any trust; to purchase, operate, maintain, improve, rehabilitate, alter, demolish, abandon, release, or dedicate any real or tangible personal property; and to develop or subdivide real property, grant easements, and take any other action with respect to real or tangible personal property that an individual owner thereof could take;

8.5 Borrowing. To borrow money from any lender, extend or renew any existing indebtedness, and mortgage or pledge any property in the trust;

8.6 Investing. To invest in bonds, common or preferred stocks, notes, options, common trust funds, mutual funds, shares of any investment company or trust or other securities, life insurance, partnership interests, general or limited, limited liability company interests, joint ventures, real estate, or other property of any kind, regardless of diversification and regardless of whether the property would be considered a proper trust investment;

8.7 Joint Investments; Distribution; Determination of Value. To make joint investments for two or more trusts held by the same trustee; to distribute property in cash or in kind, or partly in each; and to allocate or distribute undivided interests, different property, or disproportionate interests to the beneficiaries, and to determine the value of any property so allocated or distributed; but no adjustment shall be made to compensate for a disproportionate allocation of unrealized gain for federal income tax purposes, and no action taken by the trustee pursuant to this paragraph shall be subject to question by any beneficiary;

8.8 Rights as to Securities. To have all the rights, powers, and privileges of an owner of the securities held in trust, including, but not limited to, the powers to vote, give proxies, and pay assessments and to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations and, incident to such participation, to exercise or sell stock subscription or conversion rights;

8.9 Conservation of Assets. To take any action that an individual owner of an asset could take to conserve or realize the value of the asset and with respect to any foreclosure, reorganization, or other change with respect to the asset;

8.10 Delegation. To employ agents, attorneys, and proxies of all types (including any firm in which a relative of mine or his or her spouse is a partner, associate, or employee or is otherwise affiliated) and to delegate to them any powers the trustee considers advisable;

8.11 Payment of Expenses and Taxes. To pay all expenses incurred in the administration

of the trust, and to pay all taxes imposed on the trust;

8.12 Determination of Principal and Income. To determine in cases not covered by statute the allocation of receipts and disbursements between income and principal, except that (a) if the trust is beneficiary or owner of an individual account in any employee benefit plan or individual retirement plan, income earned after death in the account shall be income of the trust, and if the trustee is required to pay all trust income to a beneficiary, the trustee shall collect and pay the income of the account to the beneficiary at least quarterly (and to the extent that all income cannot be collected from the account, the deficiency shall be paid from the principal of the trust); (b) reasonable reserves for depreciation, depletion, and obsolescence may be established out of income and credited to principal only to the extent that the trustee determines that readily marketable assets in the principal of the trust will be insufficient for any renovation, major repair, improvement, or replacement of trust property that the trustee deems advisable; and (c) any premium paid for interest-bearing debt obligations shall be amortized as an income expense;

8.13 Dealings with Fiduciaries. To deal with, purchase assets from, or make loans to the fiduciary of any trust made by me or a trust or estate in which any beneficiary under this trust has an interest, even though a trustee under this instrument is the fiduciary, and to retain any assets or loans so acquired, regardless of diversification and regardless of whether the property would be considered a proper trust investment; to deal with a corporate trustee under this instrument individually or a parent or affiliate company; and to deal with the fiduciary of any other estate, trust, or custodial account even though the fiduciary is a trustee under this instrument;

8.14 Compromising Claims. To litigate, compromise, settle, or abandon any claim or demand in favor of or against the trust;

8.15 Nominee Arrangements. To hold any asset in the name of a nominee, in bearer form or otherwise, without disclosure of any fiduciary relationship;

8.16 Elections Under Retirement Plans. To elect, pursuant to the terms of any employee benefit plan, individual retirement plan, or insurance contract, the mode of distribution of the proceeds thereof, or change the beneficial ownership, and no adjustment shall be made in the interests of the beneficiaries to compensate for the effect of the election or change;

8.17 Liability Insurance. To purchase liability and casualty insurance of any kind for the protection of the trust estate, including comprehensive liability insurance;

8.18 Accepting Additional Property. To accept additional property from any source and administer it as a part of the trust; if the addition is made by will, the trustee may accept the statement of the personal representative of the estate of the transferor that the property delivered to the trustee constitutes all of the property to which the trustee is entitled without any duty to inquire into such representative's administration or accounting;

8.19 Environmental Provision. To inspect and monitor businesses and real property (whether held directly or through a partnership, corporation, trust, or other entity) for environmental conditions or possible violations of environmental laws; to remediate environmentally damaged property or to take steps to prevent environmental damage in the future, even if no action by public or private parties is currently pending or threatened; to abandon or refuse to accept property that may have environmental damage; and to expend trust property to do the foregoing; and no action or failure to act by the trustee pursuant to this paragraph shall be subject to question by any beneficiary;

8.20 Qualified Conservation Easements. To create, on land meeting the requirements of Code §2031(c)(8)(A), a qualified conservation easement, as defined in Code §2031(c)(8)(B), with or without the consent of any beneficiary, and to make the election provided in Code §2031(c)(6); and

8.21 Ability To Take Other Actions. To do all other acts to accomplish the proper management, investment, and distribution of the trust.

Article 9
Administrative Provisions

9.1 Administration After Death of Deceased Spouse. After the death of the deceased spouse, the trustee may hold the trust estate a separate trust until all payments, allocations, and distributions directed by this instrument have been completed. The trustee may from time to time distribute income or principal in satisfaction of the succeeding trusts, distributive shares, or gifts and shall distribute the trust estate in complete satisfaction of such trusts, shares, or gifts as soon as practicable after the deceased spouse's death.

9.2 Income Payments. Mandatory income payments shall be made at least quarterly.

9.3 Standard for Discretionary Payments. In the exercise of discretion to make a payment to a beneficiary, the trustee may consider all income and resources known to the trustee to be available to the beneficiary and the standard of living of the beneficiary.

9.4 Exercise of Power of Appointment. A testamentary power of appointment granted under this instrument may be exercised only by a will specifically referring to the power. The appointment may be either outright or subject to such trusts and conditions as the holder of the power designates. The holder of the power may grant to any person to whom principal may be appointed further powers of appointment. In determining whether a testamentary power of appointment has been exercised, the trustee may rely on an instrument admitted to probate in any jurisdiction as the will of the holder of the power or may assume the power of appointment was not exercised in the absence of actual notice of the holder's will within three months after the holder's death.

9.5 No Advancements. No payment made to any beneficiary under this instrument shall

be treated as an advancement.

9.6 Allocation of Assets and Income. For purposes of funding any pecuniary gifts, the trustee may allocate or distribute assets in any manner, but the trustee shall value each asset at its fair market value on the date on which the asset is allocated or distributed.

9.7 Small Trust Termination. The trustee may terminate any trust with a value at the time of termination less than the Minimum Trust Value. This power may not be exercised by a trustee who is a beneficiary of the trust. The Minimum Trust Value shall be the sum of (a) \$100,000 and (b) the percentage increase, if any, in the cost of living from January 1 of the year in which we executed this instrument until January 1 of the year of termination multiplied by \$100,000. For this purpose, the increase in the cost of living shall be determined pursuant to the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average, All Items, as published by the Bureau of Labor Statistics of the U.S. Department of Labor. If that index ceases to be published, there shall be substituted any other index the trustee determines to reflect similar information. Distribution under this paragraph shall be to the income beneficiaries in the proportions they are entitled to receive the income or, if their interests are indefinite, to the income beneficiaries in equal shares.

9.8 Facility of Payment. The trustee may make any payments (other than distributions on termination) to a beneficiary under legal disability or whom the trustee determines to be unable to properly manage his or her affairs in any of the following ways: (a) to the legally appointed guardian of the beneficiary, (b) to an adult relative or friend of the beneficiary in reimbursement for proper expenditures on behalf of the beneficiary, (c) to a custodian for the beneficiary under a Uniform Transfers or Gifts to Minors Act, (d) by making direct expenditures for the benefit of the beneficiary, or (e) to the beneficiary directly. The trustee may make distributions of tangible

personal property to a beneficiary under legal disability or whom the trustee determines to be unable to properly manage his or her affairs in any of the ways listed in (a), (c), or (e) above.

9.9 Spendthrift. No interest under this instrument shall be assignable by any beneficiary or be subject to the claims of his or her creditors, including claims for alimony or separate maintenance. The preceding sentence shall not be construed as restricting in any way the exercise of any right of withdrawal or power of appointment or the ability of any beneficiary to release his or her interest.

9.10 Consolidation and Division of Trusts. The trustee may at any time consolidate any trust held under this instrument with any other trust if the beneficiaries of the trusts are the same and the terms of the trusts are substantially similar. Further, the trustee, in the trustee's absolute discretion, may divide a trust (the "initial trust") into two or more separate trusts and may segregate an addition to a trust (the "initial trust") as a separate trust.

(a) Funding. In dividing the initial trust, if the division is to be effective as of the death of either of us or as of the death of any other person, the trustee shall fund each separate trust with property having an aggregate fair market value fairly representative of the appreciation or depreciation in value from the date of such death to the date of division of all property subject to the division.

(b) Terms. A trust created pursuant to this paragraph shall have the same terms and conditions as the initial trust, and any reference to the initial trust in this instrument shall refer to that trust. The rights of beneficiaries shall be determined as if that trust and the initial trust were aggregated, but (1) different tax elections may be made as to the trusts, (2) disproportionate discretionary distributions may be made from the trusts, (3) taxes may be paid disproportionately

from the trusts, (4) upon termination the share of a remainder beneficiary (including any recipient trust) may be satisfied with disproportionate distributions from the trusts, and (5) a beneficiary of the trusts may disclaim an interest in one of the trusts without having to disclaim an interest in another trust. In administering, investing, and distributing the assets of the trusts and in making tax elections, the trustee may consider differences in federal tax attributes and all other factors the trustee believes pertinent.

9.11 Accrued and Unpaid Income. On the death of any beneficiary, any accrued or unpaid income shall be paid as income to the next beneficiary succeeding in interest.

9.12 Controlling Law. The validity and effect of each trust and the construction of this instrument and of each trust shall be determined in accordance with the laws of Illinois. The original situs and original place of administration of each trust shall also be Illinois, but the situs and place of administration of any trust may be transferred at any time to any place the trustee determines to be for the best interests of the trust.

9.13 Life Insurance. Each of us retains during our respective separate lives all rights under insurance policies payable to the trustee on our separate lives, including the right to change the beneficiaries and to assign any policies to any lender, including any trustee, as security for any loan. During the life of an insured the trustee shall have no responsibility with respect to the policies for the payment of premiums or otherwise. After the death of an insured, the trustee shall take whatever action the trustee considers best to collect the proceeds of any policies then payable to the trustee, but the trustee need not incur expense or take legal proceedings unless indemnified. Payment to and the receipt of the trustee shall be a full discharge of the liability of any insurance company, which need not take notice of this instrument or see to the application of any payment.

Article 10
Payment of Death Taxes, Expenses, and Debts

10.1 Payments. After the death of either of us, the trustee shall make the following payments:

- (a) Death Taxes. All of that person's death taxes.
- (b) Expenses. All of that person's expenses for last illness, funeral, and burial; costs of safeguarding and delivering tangible personal property; and estate administration expenses.
- (c) Debts. All of that person's debts, other than debts secured by life insurance, by an interest in a land trust or cooperative, or by real property.

10.2 Source of Payments Generally. The trustee shall make all payments required under this Article as follows:

- (a) Death of Deceased Spouse. At the death of the deceased spouse, from the trust estate.
- (b) Death of Surviving Spouse. At the death of the surviving spouse, from the principal of the Survivor's Trust remaining after distribution of any gifts of tangible personal property or gifts of specific sums of money. If the cash and readily marketable assets from which the above payments are to be made are insufficient to make the foregoing payments in full, the trustee shall notify the respective executor of the amount of insufficiency and request payment. Notwithstanding the preceding three sentences:

- (a) The trustee shall pay from the disclaimed assets the amount by which the death

taxes of the deceased spouse are increased by reason of a disclaimer of any portion of the gift to the Survivor's Trust; and

(b) The trustee shall pay from the disclaimed assets all generation-skipping transfer taxes on direct skips occurring at the death of one of us as a result of a disclaimer if that deceased person is considered the transferor.

10.3 Apportionment and Reimbursement for Death Taxes and Expenses. Neither of us waives any rights the trustee has under Code §§2206, 2207, 2207A, and 2207B or any similar statutes of any state (or any comparable provisions in effect at our respective deaths), and we authorize the trustee to take such actions as are necessary to obtain reimbursement under such Code sections and statutes, including withholding distributions. We waive all other rights to reimbursement and apportionment.

10.4 Tax Elections. The trustee may make elections under tax laws and employee benefit plans and may make allocations of any available GST exemption as the trustee deems advisable. No adjustment shall be made between principal and income or in the relative interests of the beneficiaries to compensate for any such election or allocation.

Article 11 Definitions

11.1 Balance of the Trust Estate. The "balance of the trust estate" means the trust estate (including assets received from the deceased spouse's probate estate or any other source) reduced by:

(a) Any payments of the deceased spouse's expenses, debts, and death taxes required to be paid from such property; and

(b) Any gifts of specific assets and any pecuniary gifts made at the deceased spouse's death.

11.2 Child and Descendant.

(a) Child. A "child" of a person means only (1) a child born to the person or to the person's spouse while they are lawfully married; (2) a natural child of the person born while the parents are not lawfully married if the parents subsequently become lawfully married, but only for purposes of any allocation or distribution made after that marriage; (3) a child lawfully adopted by the person prior to that child's attaining age 21; or (4) a natural child of that person if that person is a female.

(b) Descendant. A child of a person is a "descendant" of that person and of all ancestors of that person. A person's descendants include all such descendants whenever born. "Our descendants" refers only to descendants of our marriage. Except when distribution or allocation is directed to descendants per stirpes, the word "descendants" includes descendants of every degree whether or not a parent or more remote ancestor of a descendant is also living.

(c) Child in Gestation. A child in gestation on the date any allocation or distribution is to be made shall be deemed to be living on that date if the child is subsequently born alive and lives for at least 90 days.

11.3 Code. References to sections of the "Code" refer to the Internal Revenue Code of 1986, as amended from time to time, and include corresponding provisions of subsequent federal tax laws.

11.4 Death Taxes. "Death taxes" includes all estate, transfer, inheritance, and other

succession taxes (including penalties and interest) imposed by reason of death. "Death taxes" shall not include generation-skipping transfer taxes imposed on any generation-skipping transfers other than direct skips made at the decedent's death of which the decedent is the transferor.

11.5 Education. "Education" means a preschool, grade school, middle school, high school, college, university, and professional or postgraduate education, any vocational studies or training, reasonable related living expenses, and reasonable travel expenses to and from the educational institution.

11.6 Incapacity. A person (other than either one of us) shall be considered incapacitated if under a legal disability or unable to give prompt and intelligent consideration to financial affairs. The existence of the inability may be determined by a physician, and any person may rely on written notice of the determination. A person already acting as trustee shall cease to act on incapacity.

11.7 Income Beneficiary. An "income beneficiary" means a person to whom or for whose benefit income of any trust is or may be currently distributed.

11.8 Per Stirpes. Whenever assets are to be allocated for or distributed to the descendants of a person "per stirpes," those assets shall be divided into equal shares, one such share for each then living child of that person and one such share for each deceased child of that person who has a descendant then living. Any such deceased child's share shall then be allocated for or distributed to that child's descendants per stirpes in accordance with the preceding sentence and this sentence.

11.9 Qualified Corporation. A "qualified corporation" means any bank, trust company,

or other corporate entity that is authorized to act as a trustee and that is not a related or subordinate party under Code §672(c) as to any beneficiary under this instrument.

11.10 Spouse. The “spouse” of any person, other than either of us, means the individual legally married to, and not legally separated from, that person on the date of the distribution then in question or on the date of the prior death of that person.

11.11 Tangible Personal Property. “Tangible personal property” means all personal and household effects, jewelry, automobiles, collections, and other tangible personal property that the deceased spouse owns at the time of death or that is then included as part of the deceased spouse’s separate property or share of marital property (including insurance thereon but excluding business use property, precious metals, and unset gems).

Article 12 Spouse’s Occupancy of Residential Property in Trust

The provisions of this Article shall apply if any interest in property that was used by us as a residence at the time of the death of the first of us to die (“the residence”) is allocated to the Survivor’s Trust. “Residence” includes a house or condominium (or the beneficial interest in a land trust that holds title to a house or condominium), cooperative apartment, or nursing home or retirement community arrangement, and any fractional interest therein.

12.1 Retention and Use of Residence. The trustee is authorized to retain the residence for the surviving spouse’s life notwithstanding that the residence may constitute a large part or all of the principal of the trust and may lack the diversification or productivity ordinarily considered prudent for trust investments. The surviving spouse may continue to use and occupy the residence rent free, provided that the surviving spouse pays all taxes, assessments, insurance premiums, ordinary repair bills, and other expenses of protecting and maintaining the residence.

Notwithstanding the preceding sentence, if any expense payable by the surviving spouse pursuant to the preceding sentence would be chargeable against the principal of a trust, the trustee shall distribute to the surviving spouse as much of the principal of the trust as is necessary to reimburse the surviving spouse for payment of that expense or, if requested to do so by the surviving spouse, the trustee shall pay that expense directly from the principal of the trust. As long as the surviving spouse pays expenses as required by the preceding two sentences of this paragraph, the trustee shall not sell the residence except as provided in the following paragraph.

12.2 Sale and Purchase of Residence. Upon the surviving spouse's written request, the trustee shall sell all or any part of the residence for its fair market value and shall retain the proceeds of the sale as principal. Upon the surviving spouse's written request, the trustee shall purchase or construct any new residence the surviving spouse shall request out of the proceeds of any sale under this paragraph and shall thereafter hold the new residence as "the residence" subject to the provisions of this Article. The surviving spouse may at any time purchase the residence from the trustee for its fair market value, determined as of the date the surviving spouse delivers to the trustee a written purchase offer.

12.3 Trustee's Liability. No trustee shall be accountable for any loss sustained by reason of any action taken or omitted pursuant to this Article, and the powers granted under this Article shall be exercised only in a fiduciary capacity.

Article 13 Captions and Context of Terms

Captions shall have no impact or meaning as to the terms of this instrument. Singular and plural and masculine, feminine, and neuter shall be interchangeable as required or permitted in the context of this instrument.

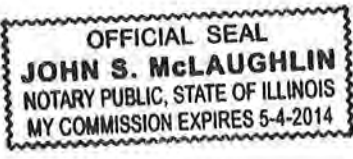
[SIGNATURE PAGE FOLLOWS]

Signed and agreed on February 1, 2012.

[Signature]
ERIC BROUSSEAU,
individually

[Signature]
KATHLEEN BROUSSEAU,
individually

STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)



On February 1st, 2012, ERIC BROUSSEAU personally appeared before me

and acknowledged that this instrument was executed as that person's free act and deed.

[Signature]
Notary Public

STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)



On February 1st, 2012, KATHLEEN BROUSSEAU personally appeared before me

and acknowledged that this instrument was executed as that person's free act and deed.

[Signature]
Notary Public

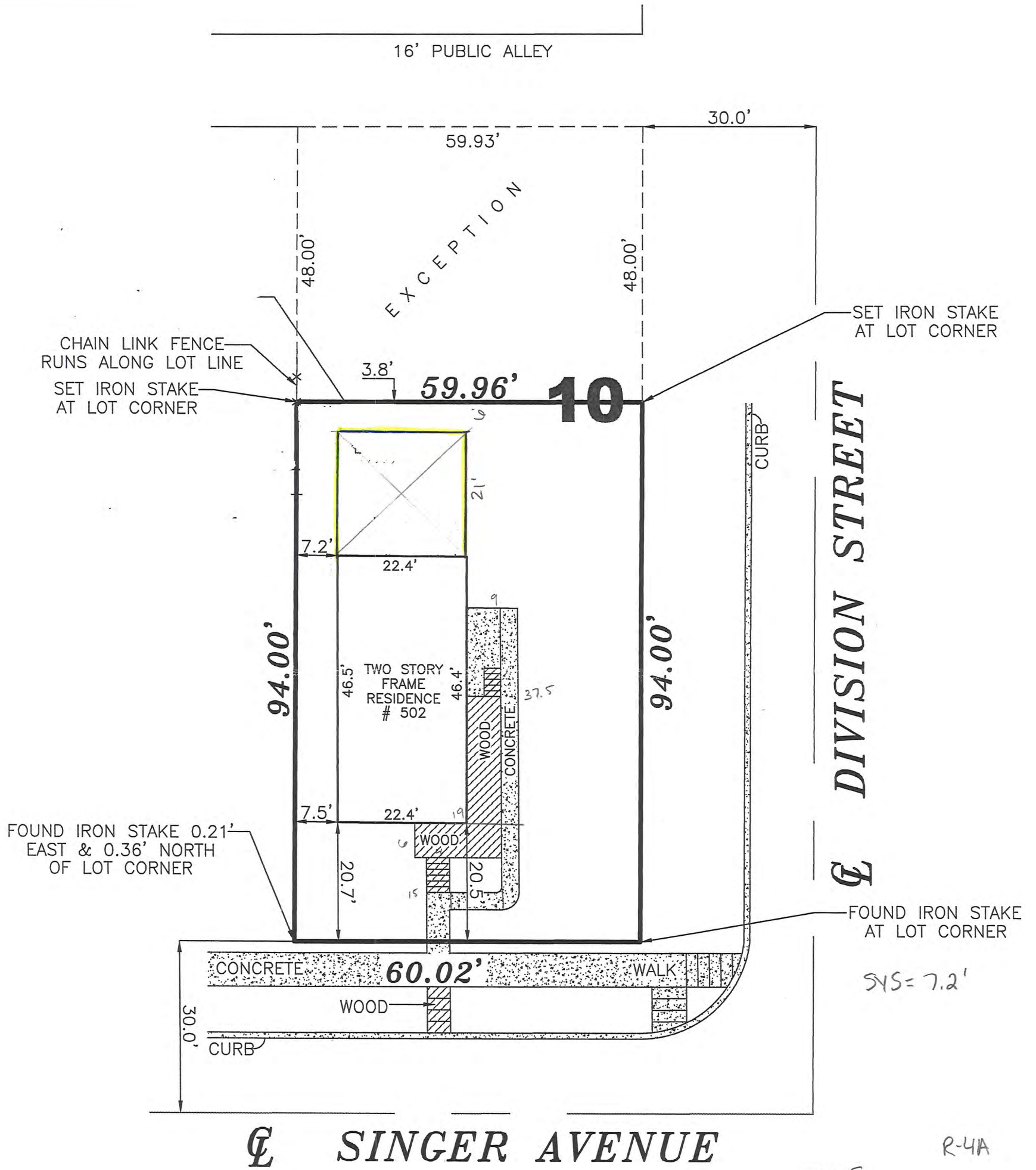
This document was prepared by: Timothy J. Somen, McFadden & Dillon, P.C., 120 S. LaSalle Street, Suite 1335, Chicago, Illinois 60603 (312) 201-8300

PLAT OF SURVEY

OF

LOT 10 EXCEPT THE WEST 48 FEET THEREOF IN BLOCK 2 IN NORTON AND WARNER'S SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE SOUTH 30 FEET THEREOF HERETOFORE DEDICATED FOR THE NORTH 1/2 OF EUREKA AVENUE) IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS: 502 SINGER AVENUE



CLIENT: JOHN KLUNK

JNT

LAND SURVEYING SERVICES INC.

15935 S. BELL ROAD. (708) 645-1136
HOMER GLEN, IL. 60491 Fax (708) 645-1138

No Improvements should be made on the basis of this plat alone. Field monumentation of critical points should be established prior to commencement of any and all construction. For building line and other restrictions not shown hereon refer to your deed, abstract, title policy contracts and local building and zoning ordinance.

AREA OF SURVEY = 5639 SQ.FT.

3665 ϕ MAX

1041.5 house

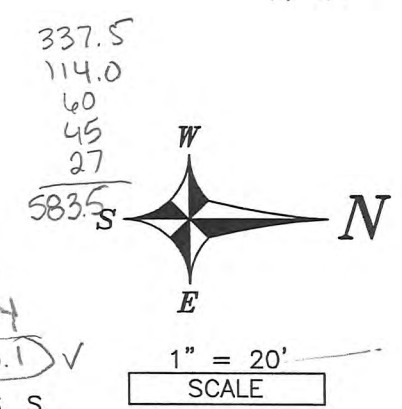
470 garage

150 driveway

583.5

2245.1 \checkmark

STATE OF ILLINOIS } S. S.
COUNTY OF WILL }



JNT LAND SURVEYING SERVICES INCORPORATED HEREBY CERTIFIES THAT IT HAS SURVEYED THE TRACT OF LAND ABOVE DESCRIBED, AND THAT THE HEREON DRAWN PLAT IS A CORRECT REPRESENTATION THEREOF.

Dated this 17TH Day of OCTOBER, 2005.

IPLS No. 3354



Residential
Commercial
ALTA

PLAT OF SURVEY

Studnicka and Associates, Ltd.

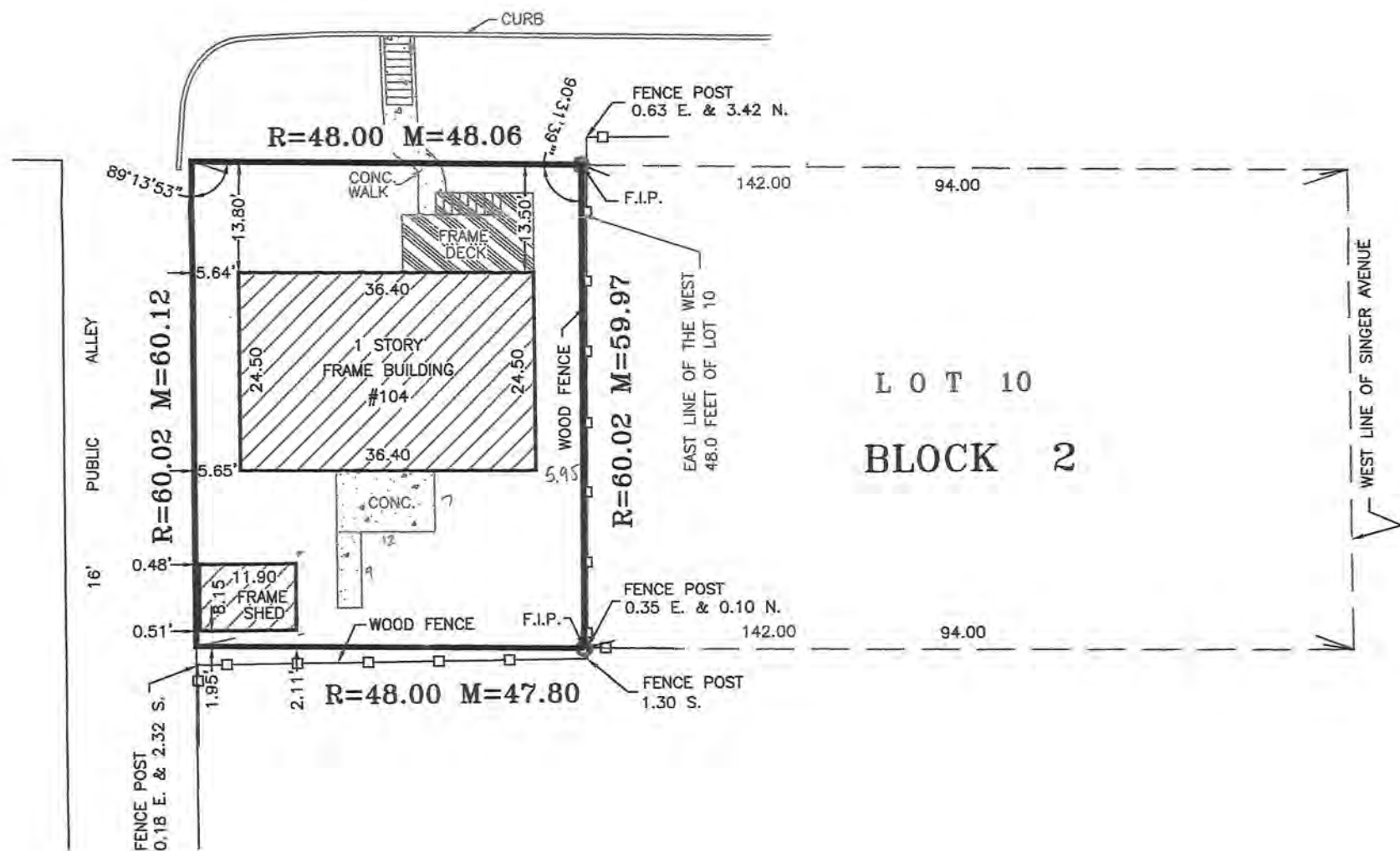
Topographical
Condominium
Site Plans

Tel. 815 485-0445
Fax 815 485-0528

17901 Haas Road
Mokena, Illinois 60448

THE WEST 48 FEET OF LOT 10 IN BLOCK 2 IN NORTON AND WARNER'S SUBDIVISION OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE SOUTH 30 FEET) IN COOK COUNTY, ILLINOIS.

E. DIVISION STREET



2880 ϕ
 1872 Δ MAX F.I.P. - FOUND IRON PIPE
 AT PROP. CORNER
 892 home patio 12x7 84
 160 porch 3x9 27
 1052
 111
 1163
 709 ϕ remaining

Scale: 1" = 20 feet
Distances are marked in feet and decimals.

Ordered by: Michelle Jacobs-Caley
Order No.: 12-2-65

Compare all points before building by same and at once report any difference.
For building lines, restrictions, or easements not shown hereon, refer to abstract, deed or ordinance.

Field work completed: 2/29/12
Drawn by: S. K.

Proofed by: T.S.

Design Firm Registration # 184-002791

STATE OF ILLINOIS }
COUNTY OF WILL } ss

Studnicka and Associates, Ltd., an Illinois Land Surveying Corporation does hereby certify that this professional service conforms to the current Illinois standards for boundary survey.

Mokena, IL, March 2, A.D. 2012

by *[Signature]*

License No. 3304 Expires 11/30/12