

**ORDINANCE NO. F-1989**

**AN ORDINANCE AUTHORIZING APPROVAL OF AN EXTENSION OF TIME ON THE  
VALIDITY OF AND AMENDING ORDINANCE NO. F-1125 – “AN ORDINANCE AMENDING  
THE WHEATON ZONING MAP BY REZONING CERTAIN REAL ESTATE AND GRANTING  
A SPECIAL USE PERMIT FOR PLANNED UNIT DEVELOPMENT ON REAL ESTATE  
COMMONLY LOCATED ON THE SOUTH SIDE OF WIESBROOK ROAD AT LEABROOK  
LANE - NOZZEL, INC. & COMMONWEALTH EDISON COMPANY”**

**WHEREAS**, on January 17, 2006 the Mayor and City Council approved Ordinance No. F-1125 (Original Ordinance) which granted a rezoning and issuance of a special use permit for a Planned Unit Development in order to allow for the development of four single family homes on four residential zoning lots and the continued existence of a Commonwealth Edison utility substation on a separate additional lot, all on certain property legally described herein and commonly known as the south side of Wiesbrook Road at Leabrook Lane, Wheaton, Illinois 60189; and

**WHEREAS**, on July 7, 2014 the Mayor and City Council approved Ordinance No. F-1798 (Amended Ordinance) which granted a one-year extension on the validity of the Original Ordinance until July 7, 2015; and

**WHEREAS**, following the enactment of the Original Ordinance and Amended Ordinance, an application has been made requesting approval of an extension of time and revised preliminary plat of subdivision; and the City has determined that the requested amendment is a minor amendment and may be implemented without public hearing, pursuant to the provisions of Section 5.10.6 of the Wheaton Zoning Ordinance; and

**WHEREAS**, Article 4.4 of the City of Wheaton Zoning Ordinance provides that upon written application and for good cause shown, the corporate authorities may, in their sole discretion, grant extensions of time not to exceed one year each.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, that:

Section 1: Section 2 of the Original Ordinance is hereby amended to approve the revised preliminary plat of subdivision entitled “*Amber Court Subdivision*”, prepared by *WBK Engineering, LLC*, dated December 14, 2016.

Section 2: Section 2(1) of the Original Ordinance is hereby deleted in in entirety and replaced with the following:

“1. The owner of the Subject Property shall provide public pedestrian and non-motorized bicycle access to and egress from the Illinois Prairie Path adjacent to the planned unit development on a 10 foot wide concrete path located within a minimum 15 foot wide public access easement along the western portion of the Subject Property and connecting it to the right-of-way to be dedicated for the public street, in the location identified on the Preliminary Plat. Said access easement shall be located within a outlot owned and maintained by the homeowner’s association of the planned unit development and shall be effectuated pursuant to applicable provisions contained on the final plat of subdivision for the Subject Property as hereafter approved by the City.”

Section 3: Approval is granted to allow the Original Ordinance and Amended Ordinance to be valid until October 17, 2017.

Section 4: In all other respects, the terms and provisions of the Original Ordinance and Amended Ordinance are ratified and remain in full force and effect.

Section 5: All ordinances and parts of ordinances in conflict with these provisions are hereby repealed.

Section 6: This ordinance shall become effective after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Michael Gresk  
Mayor

ATTEST:



Shawna Bennett Hagen  
City Clerk

Roll Call Vote

Ayes: Councilwoman Fitch  
Councilman Prendiville  
Councilman Rutledge  
Mayor Gresk  
Councilman Saline  
Councilman Scalzo  
Councilman Suess

Nays: None

Absent: None

Motion Carried Unanimously

Passed: December 19, 2016  
Published: December 20, 2016

EXHIBIT "A"

LOTS 1 AND 2 IN COMMONWEALTH EDISON COMPANY DCW 340 ASSESSMENT PLAT  
OF THAT PART OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 19, TOWNSHIP 39 NORTH, RANGE  
10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF  
RECORDED AUGUST 13, 2002 AS DOCUMENT R2002-208303 IN DUPAGE COUNTY,  
ILLINOIS.

P.I.N. 05-19-405-009; -010

The subject property is commonly known as the south side of Wiesbrook Road at Leabrook Lane,  
Wheaton, Illinois 60189.



PLAT EVERY FIFTH FOR RECORDING BY  
CITY OF WHEATON  
102 W. WESTWOOD,  
WHEATON, ILLINOIS 60178

# PRELIMINARY PLAT OF SUBDIVISION AMBER COURT SUBDIVISION

BEING A SUBDIVISION OF PART OF THE THE SOUTHEAST QUARTER OF SECTION 19 AND THE  
PART OF THE NORTHEAST QUARTER OF SECTION 20, ALL IN TOWNSHIP 39 NORTH, RANGE 10  
EAST OF THE THIRD PRINCIPAL MERIDIAN, DUPage COUNTY, IL

## STORMWATER MANAGEMENT EASEMENT PROVISIONS

ALL EASEMENTS INDICATED AS STORMWATER MANAGEMENT EASEMENTS ARE  
PERMANENT EASEMENTS RESERVED FOR AND GRANTED TO THE CITY OF  
WHEATON AND ITS SUCCESSORS AND ASSIGNS ON A NON-EXCLUSIVE BASIS  
NO BURDEN SHALL BE PLACED ON SAD EASEMENT BUT THE SAME MAY BE  
USED FOR STORMWATER MANAGEMENT PURPOSES. THE SAD EASEMENT SHALL NOT  
STORAGE FREE FLOW OF STORMWATER OR OTHERWISE VIOLATE APPLICABLE  
STORMWATER LAWS, CODES, ORDINANCES AND REGULATIONS. EACH OWNER  
SHALL BE EQUALLY RESPONSIBLE FOR MAINTAINING SUCH STORMWATER  
MANAGEMENT FACILITY AND ITS APPURTENANCES AS REQUIRED BY THE  
MAINTENANCE SCHEDULES OUTLINED IN THE STORMWATER MANAGEMENT  
REPORT AND SHALL NOT DESTROY OR MODIFY GRADES OR SLOPES, OR VARY  
DESIGN OR FUNCTION IN ANY MANNER WHICH VIOLATES APPLICABLE  
STORMWATER LAWS, ORDINANCES, CODES AND REGULATIONS, OR THE  
CITY OF WHEATON STORMWATER MANAGEMENT REPORT. NO WRITTEN  
APPROVAL FROM THE CITY OF WHEATON OR THE COUNTY AS THE LAW MAY  
REQUIRE.

IN THE EVENT ANY OWNER FAILS TO MAINTAIN ANY SUCH  
EASEMENT/STORMWATER MANAGEMENT FACILITY, THE CITY OF WHEATON  
MAY, BUT IS NOT REQUIRED TO, TAKE ACTION TO CURE THE DEFECTS OUTLAWING THE  
OWNER AND DEFEAT OF THE EASEMENT AND THAT THE OWNER SHALL NOT  
HAVE CURED SAD DEFECT, SHALL HAVE THE RIGHT, BUT NOT THE  
OBLIGATION, TO PERFORM OR HAVE PERFORMED ON ITS BEHALF, ANY  
MAINTENANCE OR RECONSTRUCTION WORK NECESSARY UPON THE STORMWATER  
MANAGEMENT FACILITY AND ITS APPURTENANCES REQUIRED AS NECESSARY  
TO INSURE ACCURATE STORMWATER STORAGE FREE FLOW OF WATER, EROSION  
CONTROL AND LIFE MAINTENANCE TO ELIMINATE STANDBY WATER WITHIN  
THE EASEMENT AREA, COMPLYING WITH APPLICABLE STORMWATER LAWS,  
CODES, ORDINANCES AND REGULATIONS. THE OWNER SHALL BE CHARGED FOR THE COSTS  
TO ITS ORIGINAL DESIGN PARAMETERS AND FUNCTIONS. AS AN ALTERNATIVE  
TO PERFORMING THE WORK AS DESCRIBED HEREIN, THE CITY RETAINS ANY  
AND ALL REMEDIES PROVIDED IN LAW AND OR EQUITY TO ENFORCE THE  
OWNER'S OBLIGATIONS.

IN THE EVENT ANY CITY OF WHEATON AGENTS PERFORMS OR HAS  
PERFORMED ANY MAINTENANCE WORK, REPAIRS OR RECONSTRUCTION WORK  
AS DESCRIBED HEREIN TO OR UPON ANY SAD FACILITY OR EASEMENT AREA  
THE CITY, TOGETHER WITH AN ADDITIONAL SUM TENTH PERCENT OF SAD  
COSTS, SHALL BE OBLIGATED TO THE OWNER OF EACH SAD EASEMENT  
SUBDIVISION, ITS SUCCESSORS AND ASSIGNS, AND SHALL ALSO CONSTITUTE  
A LIEN AGAINST THE EASEMENT PROPERTY. THE CITY SHALL HAVE THE RIGHT  
TO FORECLOSE THE LIEN ON EACH LOT IN THE PROPERTY UPON FAILURE  
OF THE OWNER TO PAY THE AMOUNT DUE WITHIN FORTY-FIVE (45) DAYS  
OF THE CITY'S WRITTEN NOTICE OF LIEN TO THE OWNER. THIS LIEN MAY BE ENFORCED  
BY ANY ACTION BROUGHT BY OR ON BEHALF OF THE CITY IN  
THE ENFORCEMENT OF THE OWNER(S) OBLIGATIONS AS SET FORTH SHALL BE  
REINFORCED TO THE CITY BY THE OWNER(S).

THE ABOVE EASEMENT PROVISIONS SHALL ALSO APPLY TO THE PERPETUAL  
MAINTENANCE OF ALL REQUIRED NATIVE PLANTING / EROSION  
CONTROL DESIGN IMPROVEMENTS AND ALL DETERIORATED FACILITIES AND  
IMPLEMENTATION AS OUTLINED IN THE STORMWATER MANAGEMENT  
REPORT DATED 12/10/2013 AS AMENDED AND AMENDED AND  
PLANS DATED 12/10/2013 AS APPROVED AND  
AMENDED. THE OWNER SHALL KEEP AN INSPECTION AND MAINTENANCE LOG  
ON THE PREMISES OF THE STORMWATER MANAGEMENT FACILITY AND BMP  
DEVICE WHICH THEY SHALL MAKE AVAILABLE TO THE CITY OF WHEATON  
UPON REQUEST.

THE ABOVE PROVISIONS SHALL RUN WITH THE LAND AND BE BINDING ON ALL  
SUCCESSORS, ASSIGNS, AND GRANTEEES.

## COMMONWEALTH EDISON EASEMENT

COMMONWEALTH EDISON COMPANY, AN ILLINOIS CORPORATION, THE  
CLOUDS, WHICH ARE AN ASSOCIATED COMPANY REFERRED TO AS  
"GRANTEE", HEREBY RELEASES AND WAIVES ALL RIGHTS UNDER AND BY  
WITNESS OF THE HOMESTEAD EXEMPTION LAWS OF THE STATE OF ILLINOIS, A  
PERPETUAL AND EXCLUSIVE RIGHT AND EASEMENT TO INSTALL, CONSTRUCT,  
ERECT, OPERATE, MAINTAIN, USE, REPAIR, MODIFY, EXPAND, RELOCATE,  
REBUILD, ENLARGE, RENEW AND REMOVE OVERHEAD AND UNDERGROUND  
ELECTRICAL AND COMMUNICATION TRANSMISSION AND DISTRIBUTION LINES,  
CIRCUITS OF ONE OR MORE CIRCUITS, MASTS, TOWERS, BIRDS-NESTS, POLES,  
CABLES, CONDUITS, COOLING OIL, GAS OR OTHER CONDENSING MEDIUM, WIH  
PIPES, DUCTS AND PLUMPS, UNDERGROUND COUNTERPOSE ANCHORS,  
UNDERGROUND CABLES, CONDUITS, TOWERS, MASTS, BIRDS-NESTS, POLES,  
AND NECESSARY FURTHER CONDUCTORS AND APPURTENANCES ATTACHED  
THERETO OR ACCORDING TO THE NUMBER OF SAD ABOVE ENUMERATED  
FACILITIES, OVER, UNDER, UPON OR ACROSS THE EASEMENT PARCEL, AS  
HEREINFTER PROVIDED AND AS THE OWNER OF THE SAD PARCEL MAY CUT  
DOWN, TRIM OR DRAWEZ CROFT, THE GROWTH OF ALL TREES AND  
BUSHES GROWING UPON OR OVER SAD PARCEL, AND TO CLEAR DESTRUCTIONS  
FROM THE EASEMENT PARCEL, AND TO REPAIR, REPAIR AND REPAIR  
FACILITIES TO AND OVER SAD PARCEL, AT ANY AND ALL TIMES, FOR SUCH  
PURPOSES, INCLUDING PATROLING THE LINES, AND REPAIRING, REMOVING  
RENUMBERING OR ADDING TO THE NUMBER OF SAD ENUMERATED FACILITIES.

WBK engineering	CLIENT	DSGN	RWH	TITLE
WBK ENGINEERING, LLC 116 WEST MAIN STREET, SUITE 201 ST. CHARLES, ILLINOIS 60174 (630) 443-7755	DAVID WEEKLEY HOMES 1920 THOREAU NORTH DRIVE SCHAUMBURG, IL 60173	DYN	RWD	AMBER COURT SUBDIVISION
		CHG	DER	
				SCALE
				NO. DATE NATURE OF REVISION
2 OF 2				FINAL PLAT OF SUBDIVISION
PROJECT NO. 40017				
DATE: 12/10/13				
DRAWING NO. 2224-A				

