

RESOLUTION R-2020-48

A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(55 Somerset Circle)

BE IT AND IT IS HEREBY RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is hereby authorized to sign, and the City Clerk is directed to attest to the Construction, Use, and Indemnification Agreement dated September 9th, 2017, between the City of Wheaton and Jim Sanderson, Joan Sanderson, and Scott Sanderson for 55 Somerset Circle, Wheaton, Illinois, attached hereto as Exhibit B.

ADOPTED this 1st day of June 2020.



Philip J. Suess
Mayor

ATTEST:



Sean Bennett
City Clerk

Roll Call Vote

Ayes:	Councilman Barbier Councilwoman Bray-Parker Councilwoman Fitch Mayor Suess Councilwoman Robbins Councilman Rutledge Councilman Zaruba
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Nays:	None
Absent:	None

Motion Carried Unanimously

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CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT
RIGHT-OF-WAY (Somerset Circle)
Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 14 day of May, 2020, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Tim Sanderson, Joan Sanderson ("Owner").
Scott Sanderson

WITNESSETH

WHEREAS, the City is in possession of a right-of-way within the City limits of the City of Wheaton, Illinois, and legally described herein; and

Tim Sanderson, Joan Sanderson, Scott Sanderson
WHEREAS, Scott Sanderson (hereinafter "Owner"), the owner of the premises located at 55 Somerset Circle, Wheaton, Illinois, which property is legally described herein and is contiguous to a portion of the right-of-way; and

WHEREAS, the Owners would like to use a portion of the City's right-of-way for the purpose of constructing and maintaining a lawn irrigation system; and

WHEREAS, the Owners acknowledges that this Agreement is not an easement and does not vest them with any property rights or claims to any portion of said right-of-way.

NOW, THEREFORE, BE IT AND HEREBY AGREED by the City Council of the City of Wheaton, an Illinois municipal corporation, and the Owner as follows:

1.) The foregoing recitals are incorporated herein as representing the intent of the undersigned and as substantive representations and covenants.

Tim Sanderson, Joan Sanderson, Scott Sanderson
2.) Scott Sanderson are the owners of property located at 55 Somerset Circle, Wheaton, Illinois, legally described on Exhibit A attached hereto and made a part hereof.

3.) The Owners, for a consideration of Ten Dollars (\$10.00) and other good and valuable consideration as stated herein, are hereby authorized to use a portion of the right-of-way more specifically identified as that portion of the right-of-way 55 Somerset Circle
Tim Sanderson, Joan Sanderson, Scott Sanderson for construction of and use of a lawn

irrigation system as depicted on Exhibit B attached hereto and made a part hereof. The installation and use of the lawn irrigation system shall conform to all applicable ordinances of the City. Those ordinances are material terms and conditions of this Agreement.

4.) The City retains the right to enter said right-of-way for any purpose to perform any work including but not limited to constructing and maintaining the City utility systems (watermain, storm and sanitary sewers) and other infrastructure. If the City performs any work within said right-of-way which causes damage to the lawn irrigation system, the Owners shall be responsible to repair the lawn irrigation system at their sole cost and expense. The Owner hereby acknowledges and agrees that City its, employees and agents shall have no liability to the Owner for any damage, removal or other casualty to the lawn irrigation system caused by the City, its employees or agent regardless of the cause.

5.) The City may terminate and cancel this Agreement together with all rights and privileges granted hereunder, by notifying the Owners in writing at least fourteen (14) days prior to termination.

6.) Upon termination of this Agreement, the City may destroy, demolish, or remove any improvements placed upon the right-of-way by the Owners without liability.

7.) To the greatest extent permitted under Illinois law, Owners shall defend, indemnify and hold the City harmless from any and all claims, actions, causes of action, costs, judgments, injuries, property damage, expenses (including reasonable attorney's and expert's fees) which arise or may be caused by the negligence of the Owners, or Owners' agents, as a result of the design, construction, maintenance, use or abandonment of the lawn irrigation system described herein.

8.) This Agreement is not an easement. Should a court of competent jurisdiction construe it as an easement it shall be a temporary easement which shall expire 14 days after such construction.

9.) The provisions set forth in this Agreement and exhibit represent the entire Agreement between the parties and shall precede all prior agreements, contracts, understandings, promises and representations, oral or written, as it is the intent of the parties to provide for a complete integration within the terms of this Agreement. This Agreement may be modified only by a further written Agreement between the parties, and no modification shall be effective unless properly approved and signed by each party.

10.) This Agreement shall be recorded in the Office of the Record of Deeds, DuPage County, Illinois, at the expense of the Owners.

11.) The Owners obligations under this Agreement shall be joint and several.

12.) This Agreement shall be binding on the Owners, their successors, heirs and assigns.

IN WITNESS WHEREOF, the Corporate authorities and the Owners have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials and the Corporate seal attached here all on the date and year first above written.

John Land
Owner

Janice
Owner

Scary Seal

Subscribed and sworn to before me this 14th day of May, 2020.

Tara D. Mason Notary Public

(Notary Seal)



Philip J. Buera
Mayor, City of Wheaton

Attested by:

Shawn Bennett-Hagan
City Clerk

EXHIBIT A

Legal Description:

Lot 21 in Loretto Club, being a subdivision in part of the northeast quarter of Section 29, Township 39 North, Range 10 East of the principal median, according to the plat thereof recorded August 3, 2017 as document number R2017-079153, in DuPage County, Illinois.

55 Somerset Cir Wheaton, IL 60187
address

P.I.N. 05-29-201-044

EXHIBIT 3

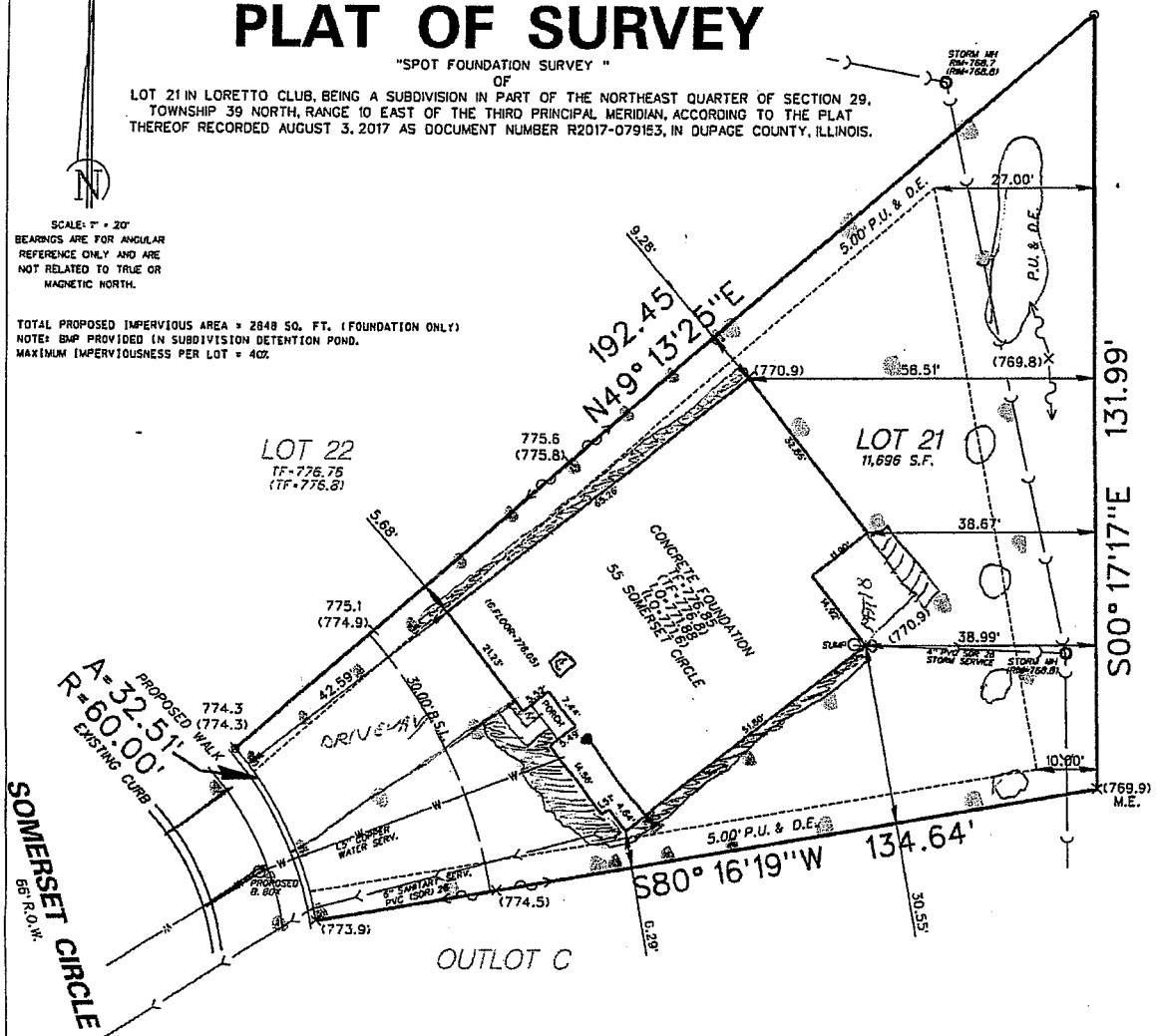
PLAT OF SURVEY

"SPOT FOUNDATION SURVEY "

OF
LOT 21 IN LORETTO CLUB, BEING A SUBDIVISION IN PART OF THE NORTHEAST QUARTER OF SECTION 29,
TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT
THEREOF RECORDED AUGUST 3, 2017 AS DOCUMENT NUMBER R2017-079153, IN DUPAGE COUNTY, ILLINOIS.

SCALE: 1" = 20'
BEARINGS ARE FOR ANGULAR
REFERENCE ONLY AND ARE
NOT RELATED TO TRUE OR
MAGNETIC NORTH

TOTAL PROPOSED IMPERVIOUS AREA = 2848 SQ. FT. (FOUNDATION ONLY)
NOTE: BMP PROVIDED IN SUBDIVISION DETENTION POND.
MAXIMUM IMPERVIOUSNESS PER LOT = 40%



LEGEND

- IRON PIPE SET
- 10' OFFSET STAKE TO BE SET
- PROPOSED CONTOUR
- EXISTING CONTOUR (BEFORE MASS GRADING)
- SILT FENCE
- EX XX.X EXISTING GRADE ELEVATION
- (XX.X) PROPOSED GRADE ELEVATION
- TF- XX.X) PROPOSED TOP OF FOUNDATION
- DRAINAGE DIRECTION
- OVERLAND FLOW ROUTE
- P.U.&D.E. - UTILITY & DRAINAGE EASEMENT
- B.S.L. - BUILDING SETBACK LINE
- DECIDUOUS TREE

STATE OF ILLINOIS)
COUNTY OF COOK)
SS

WE, THOMSON SURVEYING, LIMITED, ILLINOIS PROFESSIONAL DESIGN FIRM NUMBER
184-002768, DO HEREBY DECLARE THAT THE PLAT SHOWN HEREON IS A CORRECT
REPRESENTATION OF A SURVEY PREPARED AT AND UNDER MY DIRECTION. M.S.A.
GIVEN UNDER MY HAND AND SEAL THIS THE 10TH DAY OF JUNE, 1981.

GIVEN UNDER MY HAND AND SEAL THIS 2ND DAY OF
MAY A.D. 2019 AT ROSEMONT, ILLINOIS.

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT
ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.
DAVID M. SPORINA
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3394 REVISED
MY LICENSE EXPIRES NOVEMBER 30, 2020
DESIGN FIRM LICENSE EXPIRES APRIL 30, 2021 10-

NDARY SURVEY. SPOT FOUNDATION 05-01-19
NO. 3394 REVISED PER VILLAGE COMMENTS 3-29-19
0 REVISED MODEL 3-4-19
2021 REVISED MODEL 02-07-19
10-8-18 PLANS RCVD. / DEC 6 ADDED

NO GRADES HAVE CHANGED FROM THE APPROVED ENGINEERING PLANS

2000-01-02

SURVEYOR'S NOTES :

1. THIS SURVEY IS SUBJECT TO MATTERS OF TITLE WHICH MAY BE REVEALED BY A CURRENT TITLE REPORT.
2. BUILDING DIMENSIONS AND TIES SHOWN HEREON ARE MEASURED FROM OUTSIDE FACE OF CONCRETE FOUNDATION.
3. AT THE CLIENT'S REQUEST THE PROPERTY CORNERS HAVE NOT BEEN STAKED AT THIS TIME.

GENERAL NOTES

1. ALL DIMENSIONS ARE GIVEN IN FEET AND DECIMAL PARTS THEREOF.
2. ONLY THOSE BUILDING LINE SETBACKS AND EASEMENTS WHICH ARE SHOWN ON THE RECORDED PLAT OF SUBDIVISIONS ARE SHOWN ON THIS PLAT. THE BOUNDARY LINES, SURVEYOR'S POLICY AND LOCAL ORDINANCES FOR OTHER RESTRICTIONS.
3. COMPARE DEED DESCRIPTION AND SITE CONDITIONS WITH THE DATA GIVEN ON THIS PLAT AND REPORT ANY DISCREPANCIES TO THE SURVEYOR AT ONCE.
4. NO DIMENSIONS SHALL BE DERIVED FROM SCALE MEASUREMENT.
5. ELEVATIONS BASED ON CROSS CUT IN TOP OF CURB ADJACENT TO COURSE LINE ON SOUTH SIDE OF SOMERSET LANE AT DERR PATH ELEVATION=768.11 (NAD 88)

9575 W. Higgins Road
Suite 850
Rosemont, IL 60018
TEL: (847) 318-9790
FAX: (847) 318-9792
wlutz@thomsonltd.com

Thomson Surveying Ltd.
PROJECT NO. 5349H21S DATE: 9-10-18
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