

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
APRIL 3, 2012 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Easement Abrogation 6562 Davane Lane	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Motion <input type="checkbox"/> Discussion Only	Tom Dabareiner, AICP Community Development Director

SYNOPSIS

A resolution for easement abrogation has been prepared for the property located at 6562 Davane Lane.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 identified *Exceptional Municipal Services*.

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the April 3, 2012 Village Council meeting. Staff recommends approval on the April 10, 2012 Active Agenda.

BACKGROUND

The applicant is requesting abrogation of the conservation easement located on the property at 6562 Davane Lane. The subject property is part of the 14-lot Green Acres Subdivision approved in 2004. During the subdivision review in 2004, a wetland report study identified a non-critical wetland located on the proposed Lot Two of the subdivision, commonly known as 6562 Davane Lane. As such, a conservation easement was placed over the entire Lot Two.

Subsequently, staff discovered that the stormwater facilities in the adjacent Berrywood Estates Subdivision immediately to the west were malfunctioning and resulting in the flooding on the subject property. In 2005 the developer of the Green Acres Subdivision repaired the malfunctioning stormwater facilities. As a result, the wetlands are no longer present on the subject property and the conservation easement is no longer needed. The new owner of the Green Acres Subdivision wishes to construct a new home on the subject property and is therefore requesting abrogation of the existing easement.

The Village has determined that the existing conservation easement is no longer needed and vacating the easement will not adversely affect the Village.

ATTACHMENTS

Resolution

Plat of Abrogation dated August 10, 2011, last revised February 7, 2012

RESOLUTION NO. _____

**A RESOLUTION ABROGATING A CERTAIN LOT IN
THE VILLAGE OF DOWNERS GROVE -6562 DAVANE LANE**

WHEREAS, it has been determined by the Council of the Village of Downers Grove in DuPage County, Illinois, that it is in the public interest to abrogate a certain easement in said Village hereinafter more particularly described; and

WHEREAS, the Village Council, after due investigation and consideration, has determined that there is no evidence of significant Village use of this conservation easement;

WHEREAS, the Village Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the abrogation of said conservation easement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

SECTION 1. That Lot 2 in Section 20, Township 38 North, Range 11 East of the Third Principal Meridian, in DuPage County, Illinois as depicted on the Plat of Abrogation of a portion of the Green Acres Subdivision of Downers Grove Conservation Easement, dated February 7, 2012 (attached hereto), and legally described as follows:

LOT 2 IN GREEN ACRES OF DOWNERS GROVE SUBDIVISION, IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 2004, AS DOCUMENT R2004-144920 AND CERTIFICATES OF CORRECTION RECORDED MAY 27, 2005 AS DOCUMENT R2005-110474 AND RECORDED FEBRUARY 2, 2006 AS DOCUMENT 2006-021295 IN DUPAGE COUNTY, ILLINOIS

Commonly known as (a portion of) 6562 Davane Lane; PIN09-20-212-013

(hereinafter referred to as the "Abrogated Conservation Easement"), are hereby abrogated and closed, and that it is hereby declared that the same is no longer required for public use and that the public interest will be served by such abrogation.

SECTION 2. That the Mayor and Clerk of the Village of Downers Grove are hereby authorized

to sign the plat of abrogation of the abrogated easement described herein.

SECTION 3. That a certified copy of this resolution and an accurate map of the abrogated easement shall be filed for record by the Clerk of the Village of Downers Grove in the Office of the Recorder of Deeds, DuPage County, Illinois at the expense of the Owner of Record.

SECTION 4. That all resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed.

SECTION 5. That this resolution shall be in full force and effect from and after its passage and publication in pamphlet form as provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk

PLAT OF ABROGATION OF A PORTION OF THE GREEN ACRES OF DOWNERS GROVE CONSERVATION EASEMENT

IN SECTION 20, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE
THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS

OWNER'S CERTIFICATE

WE, GREENSCAPE HOMES, LLC, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF RECORD OF THE PROPERTY DESCRIBED HEREON, AND THAT WE HAVE CAUSED THE SAME TO BE ABROGATED AS SHOWN ON THE PLAT HEREON DRAWN.

DATED THIS _____ DAY OF _____, 2012.

PRESIDENT _____ VICE-PRESIDENT _____

NOTARY'S CERTIFICATE

I, _____, A NOTARY PUBLIC, IN AND FOR SAID COUNTY, IN THE STATE AFTER SAID, DO HEREBY CERTIFY THAT _____ ARE PERSONALLY KNOWN BY ME TO BE THE SAME PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT AS SUCH OWNERS, APPEARED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THAT THEY SIGNED AND DELIVERED THE SAID INSTRUMENT AS THEIR OWN FREE AND VOLUNTARY ACT, FOR THE USES AND PURPOSES THEREIN SET FORTH.

GIVEN UNDER MY HAND AND NOTARIAL SEAL, THIS _____ DAY OF _____, 2012.

NOTARY PUBLIC _____

DOWNERS GROVE PUBLIC WORKS CERTIFICATE (FOR ABROGATION OF EASEMENT)

ABROGATION OF THE EASEMENTS DESIGNATED TO BE ABROGATED HEREON APPROVED AND ACCEPTED THIS _____ DAY OF _____, 2012.

BY: _____ TITLE: _____

VILLAGE ENGINEER'S CERTIFICATE (FOR ABROGATION OF EASEMENT)

ABROGATION OF THE EASEMENTS DESIGNATED TO BE ABROGATED HEREON APPROVED AND ACCEPTED THIS _____ DAY OF _____, 2012.

BY: _____ TITLE: _____

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MAYOR: _____ VILLAGE CLERK: _____

DUPAGE COUNTY'S CERTIFICATE (FOR ABROGATION OF EASEMENT)

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BY: _____ TITLE: _____

RECORDATION OF PLAT CERTIFICATE

I, KEITH E. BOLLINGER, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-003592, HEREBY AUTHORIZE THE PLAT OFFICER OF THE VILLAGE OF DOWNERS GROVE AND/OR ITS DESIGNATED AGENTS TO RECORD THIS PLAT OF SUBDIVISION WITH THE OFFICE OF THE DUPAGE COUNTY RECORDER OR DEEDS.

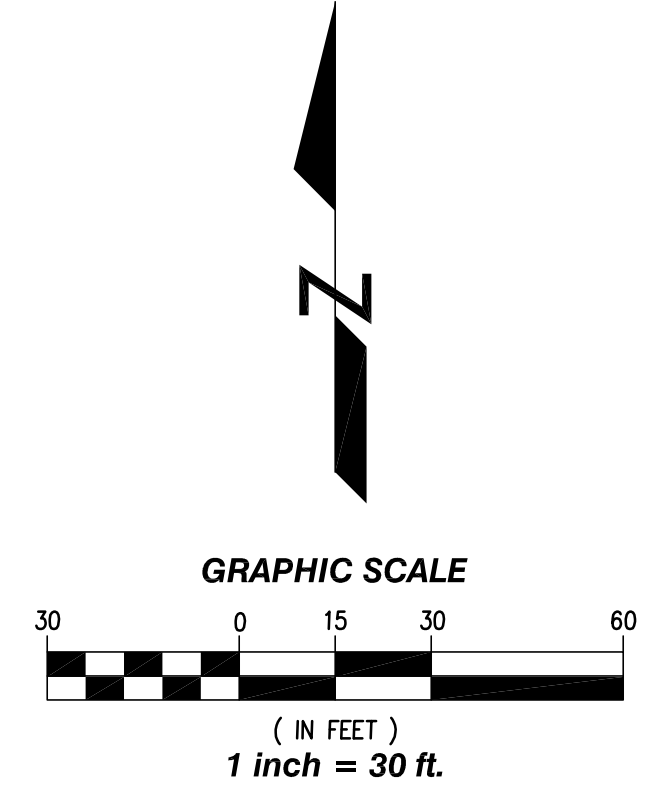
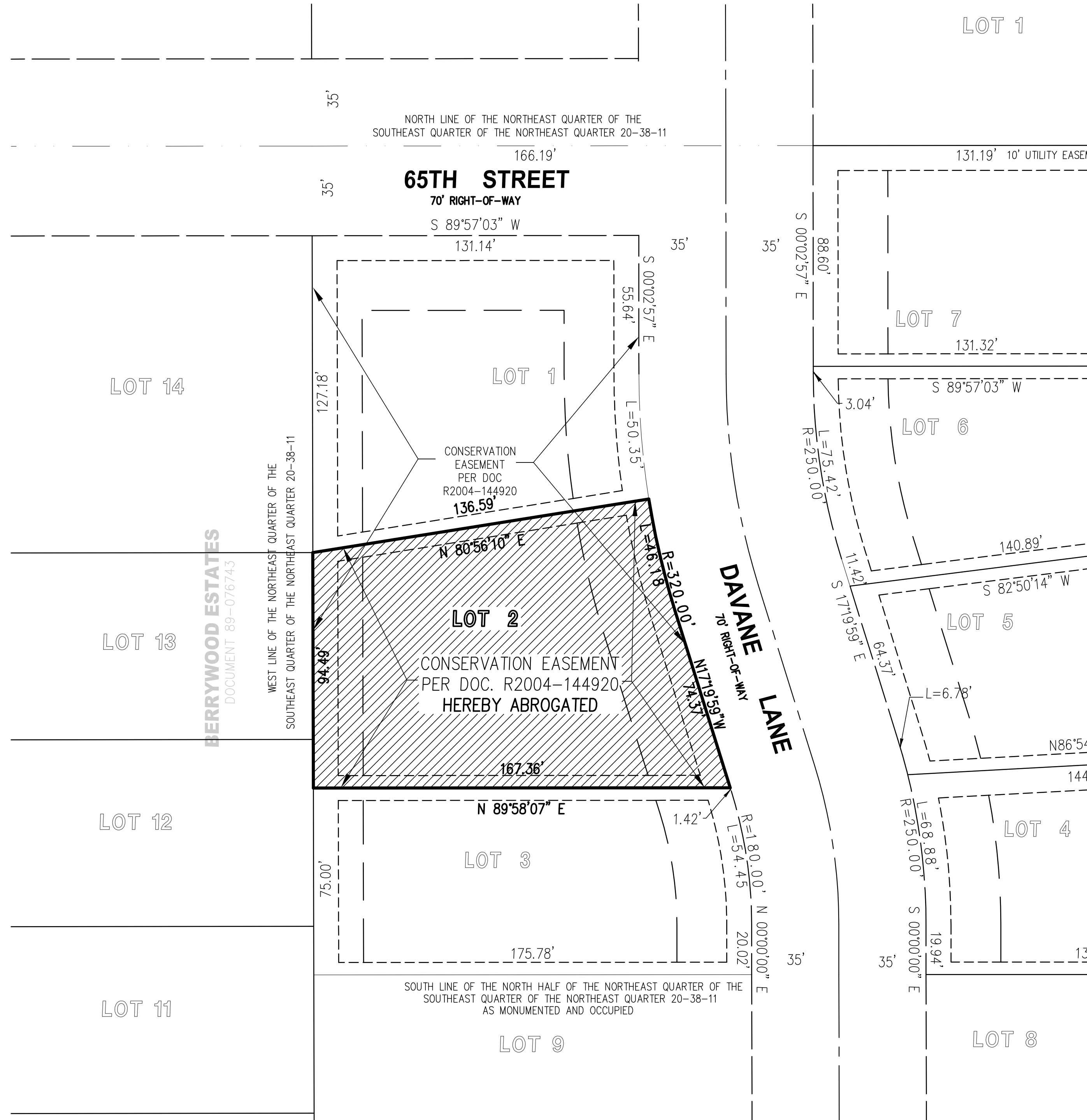
GIVEN UNDER MY HAND AND SEAL AT PLAINFIELD, ILLINOIS, THIS _____ DAY OF _____, 2012.

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 035-003592
MY LICENSE EXPIRES 11/30/2012
PROFESSIONAL DESIGN FIRM 184-003041

COUNTY RECORDER'S CERTIFICATE

THIS PLAT WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF DUPAGE COUNTY, ILLINOIS ON THE _____ DAY OF _____, 2012 AT _____ O'CLOCK _____ M. AS DOCUMENT NUMBER _____

COUNTY RECORDER _____



LEGAL DESCRIPTION OF SUBJECT PROPERTY & LEGAL DESCRIPTION OF THE CONSERVATION EASEMENT HEREBY ABROGATED

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SURVEYOR'S NOTES

1. DIMENSIONS SHOWN THUS: 50.25' ARE FEET AND DECIMAL PARTS THEREOF. ANGULAR DATA SHOWN THUS: 90°00'00" INDICATES DEGREES, MINUTES AND SECONDS.

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS)
)SS
COUNTY OF KENDALL)

THIS IS TO CERTIFY THAT WE, C.M. LAVOIE AND ASSOCIATES, INC., ILLINOIS PROFESSIONAL DESIGN FIRM NO. 184-003041, DO HEREBY CERTIFY THAT THE ATTACHED PLAT WAS PREPARED AT AND UNDER OUR DIRECTION FOR THE PURPOSE OF ABROGATING AN EASEMENT, AS DESCRIBED BELOW.

LOT 2 IN GREEN ACRES OF DOWNERS GROVE SUBDIVISION, BEING A SUBDIVISION IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 2004 AS DOCUMENT R2004-144920 AND CERTIFICATES OF CORRECTION RECORDED MAY 27, 2005 AS DOCUMENT R2005-110474 AND RECORDED FEBRUARY 2, 2006 AS DOCUMENT 2006-021295, IN DUPAGE COUNTY, ILLINOIS.

GIVEN UNDER MY HAND AND SEAL THIS _____ DAY OF _____, 2012.

C.M. LAVOIE AND ASSOCIATES, INC.
KEITH E. BOLLINGER, IPLS NO. 35-3592
LICENSE EXPIRES: NOVEMBER 30, 2012



DRAINAGE CERTIFICATE

I, CHRISTOPHER M. LAVOIE, A REGISTERED PROFESSIONAL ENGINEER IN ILLINOIS AND GREENSCAPE HOMES, LLC, THE OWNERS OF THE LAND DEPICTED HEREON, DO HEREBY STATE, THAT TO THE BEST OF OUR KNOWLEDGE AND BELIEF, REASONABLE PROVISIONS HAVE BEEN MADE FOR THE COLLECTION AND DIVERSION OF SUCH SURFACE WATERS AND PUBLIC AREAS OR DRAINS, WHICH THE SUBDIVIDER HAS A RIGHT TO USE, AND THAT SUCH SURFACE WATERS WILL BE PLANNED FOR IN ACCORDANCE WITH GENERALLY ACCEPTED ENGINEERING PRACTICES SO AS TO REDUCE THE LIKELIHOOD OF DAMAGE TO THE ADJOINING PROPERTY BECAUSE OF THE ABROGATION OF THIS EASEMENT. FURTHERMORE, AS ENGINEER, I HEREBY CERTIFY THAT THE PROPERTY WHICH IS THE SUBJECT OF THIS ABROGATION OR ANY PART THEREOF IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

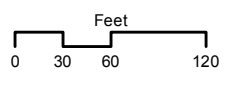
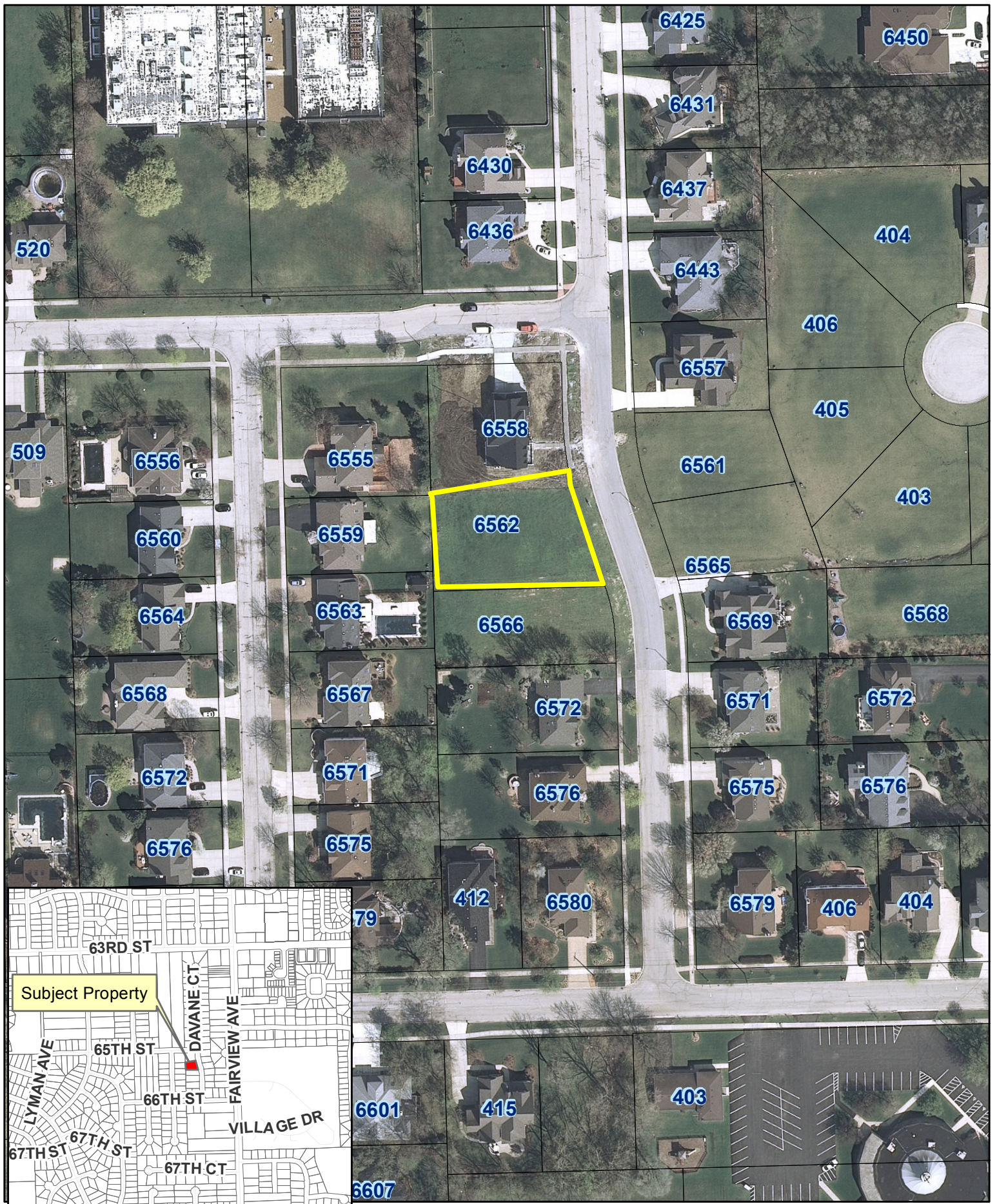
DATED THIS _____ DAY OF _____, 2012

ILLINOIS REGISTERED PROFESSIONAL ENGINEER
ILLINOIS PROFESSIONAL DESIGN FIRM NO.: 184-003041
REGISTRATION EXPIRES: NOVEMBER 30, 2013

PRESIDENT _____ VICE-PRESIDENT _____

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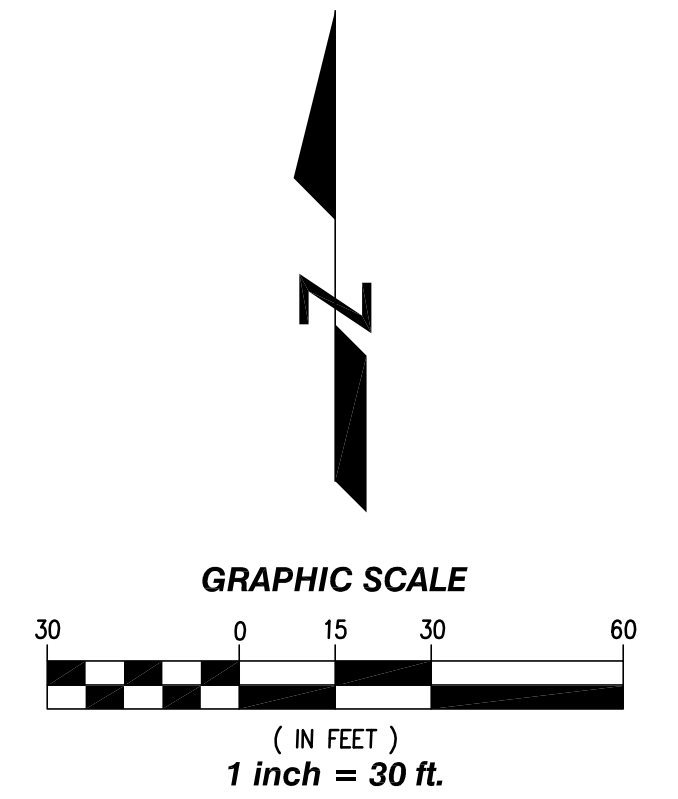
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6562 Davane Lane

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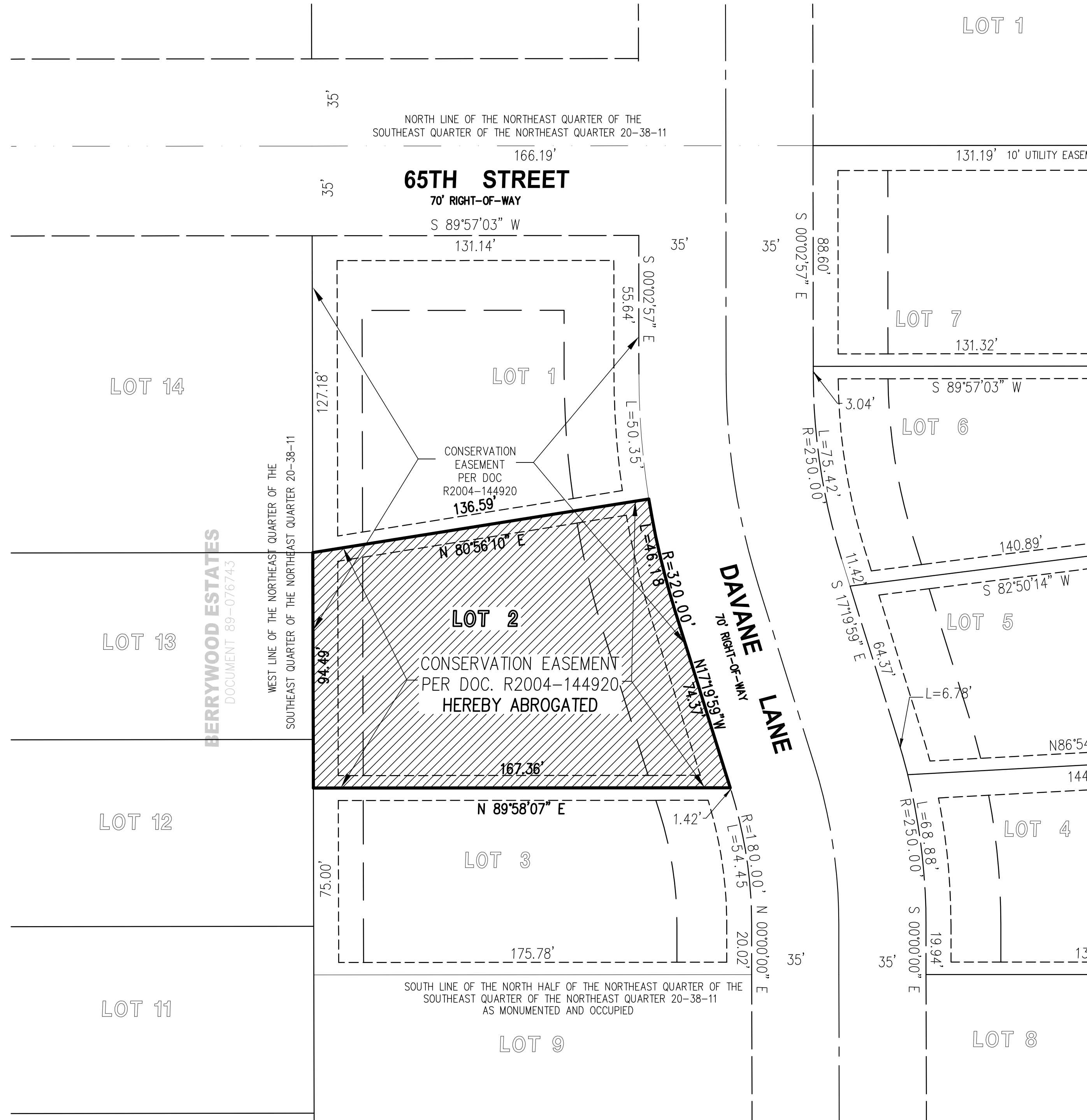
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PRESIDENT _____ VICE-PRESIDENT _____

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www.downers.us

FIVE
↳ Green Acres
subdivision

November 20, 2006

**COMMUNITY RESPONSE
CENTER**

630.434.CALL (2255)

CIVIC CENTER

801 Burlington Avenue
Downers Grove
Illinois 60515-4776
630.434.5500
TDD 630.434.5511
FAX 630.434.5571

**FIRE DEPARTMENT
ADMINISTRATION**

6701 Main Street
Downers Grove
Illinois 60516-3426
630.434.5980
FAX 630.434.5998

POLICE DEPARTMENT

825 Burlington Avenue
Downers Grove
Illinois 60515-4783
630.434.5600
FAX 630.434.5690

**PUBLIC WORKS
DEPARTMENT**

5101 Walnut Avenue
Downers Grove
Illinois 60515-4074
630.434.5460
FAX 630.434.5495

**DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

842 Curtiss Street
Downers Grove
Illinois 60515-4761
630.434.5595
FAX 630.434.5599

Mr. Anthony Charlton, P.E., Director
Department of Stormwater Management
County of DuPage
421 N County Farm Road
Wheaton, IL 60187

RE: Rosol Development - Green Acres Subdivision
Downers Grove, IL
Wetland fees

Dear Mr. Charlton:

Please find enclosed a copy of a letter from Jedd Anderson of Christopher B. Burke Engineering, Ltd. providing additional information to support our previous request for consideration of a wetland mitigation fee refund for the former wetland area on Lots 1 and 2 of the Green Acres Subdivision. In this letter Mr. Anderson provides information to help support the change in hydrology that serves as the basis for the previous determination that the subject area no longer meets the minimum criteria to be classified as a "regulatory wetland." Based on this additional information, the Village continues to recommend County consideration for the return of funds paid previously by the developer in the amount of \$93,212.80.

Please do not hesitate to contact me at (630) 434-5490 if you require additional information.

Sincerely,
THE VILLAGE OF DOWNERS GROVE

Jonathan C. Hall, P.E.
Development Engineering Manager / Stormwater Administrator

- c: Cara Pavlicek, Village Manager
- David Fieldman, Deputy Village Manager
- David Barber, P.E., Director of Public Works
- Michael Millette, P.E. Asst. Director of Public Works - Engineering
- Clayton Heffter, Stormwater Permitting Manager, County of DuPage
- Larry Rosol, Rosol Construction





CHRISTOPHER B. BURKE ENGINEERING, LTD.
9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX(847) 823-0520

November 13, 2006

Village of Downers Grove
Public Works Department
5101 Walnut Avenue
Downers Grove, IL 60515

Attn: David Barber

Subject: Rosol Construction Site, Request of Fee in Lieu Fund Payment Refund
CBBEL project no. 01-528 B220

Dear Mr. Barber,

This letter is intended to provide documentation to support my previous letter dated April 28, 2006 concerning the possible wetland area on Lots 1 and 2 of the Green Acres Subdivision.

As stated in my previous letter:

"While in the field we noted that the 'wetland' does still possess some wetland vegetation. We identified a predominance of *Carex stricta*, a wetland plant, in an area covering about 200 square feet. Within the *Carex stricta* (the lowest point in the "wetland") a hole was dug to evaluate the soil and hydrologic conditions. The soils were noted to be hydric, as would be expected because those characteristics would not disappear quickly. We evaluated the soil to determine if it was moist or saturated. It was not, and we found no evidence, throughout the whole 'wetland' area, of surface ponding, in spite of several recent rainfalls."

As noted above, a hole was dug in the lowest point of the questionable area. This hole was dug greater than 30" deep. This hole was left open for approximately 15 minutes to see if water collected in the hole or if moisture appeared on the soil-ped faces. After 15 minutes no wetness, saturation or water was noted. It was my opinion, knowing what had occurred to the surrounding area, that the hydrology of the area had been significantly altered and the area no longer met the required hydrology criterion. It was my opinion that the *Carex* present was remnant vegetation and would likely cease to persist given time.

The changes in hydrology which I considered consisted of the following. If you recall, it was agreed at a meeting with the County that a ditch that was supposed to have been constructed on the adjoining property to the west, could be installed as part of the Green

Acres Subdivision because it was part of the western subdivision's approved plan. This ditch, if installed, would collect all rear yard drainage from the homes located to the west of the Rosol property. At the time of this meeting with the County, all rear yard drainage, sump pump discharge, rear house roof top runoff, and pool discharge drained directly to the property being developed. At the time of my original visit to the property, it was clearly evident from the surface ponding along this common property line that this was a major source of hydrology for the area. It was agreed at that meeting that the developer would be allowed to install the ditch as permitted and then be allowed to re-evaluate the area later to see if the wetland hydrology still existed.

The developer met with the adjoining homeowners to discuss installation of the ditch. They were opposed to the construction because many of the owners had encroached into the drainage easement with sheds, a pool, fencing, etc. The Village agreed in lieu of the difficulty in working with the homeowners, to instead allow the developer to install a pipe to collect their rear yard drainage and sump pump discharge. The pipe would be installed on the developer's property. The ditch would have been on the adjoining resident's property. A pipe was installed and following inspection by the Village, it was determined that the developer had installed a perforated pipe. Following a meeting with me, the village and the developer, the developer was directed to replace the pipe with a solid pipe so as to not affect the ground water infiltration characteristics. The pipe was replaced.

Follow up visits to the site to verify construction, clearly showed that the ponding that had occurred along the west property line no longer existed. The tributary runoff from west of the property line was no longer tributary to the area.

Additionally, it was agreed at that meeting with the County, and following review of the application package, that the developer would be allowed/required to install the remaining half of 65th Street. to the north. Recall that originally only the north half of the road had been constructed. The south side of the road had no curb and gutter and much of the road runoff drained to the wetland area. At the time of my April 2006 visit, 65th Street had been constructed as permitted with curb and gutter and all stormwater that drains from the road is now collected in storm sewer and directed away from the wetland. Again, at the time of my original site visit, it was clear to me that road side runoff was an important component of this area's hydrology. The road construction eliminated that input.

Likewise, as part of the project, the developer was required, to connect the stub roads to the north and south of the site with a through road immediately to the east side of the wetland. This road was likewise constructed with curb and gutter. This road's top of curb was set flush/below the surrounding natural grade. Runoff that may have previously drained to the area in question no longer did so. Again, this runoff is collected by the storm sewer system and taken away from the wetland.

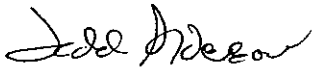
The area in question is located within two platted lots within the subdivision. The area's total watershed following installation of the pipe and roads had been effectively reduced to rainfall that falls directly on these two lots and the adjoining lot to the south.

It was my professional judgment that the cumulative effects on hydrology had significantly impacted the area's hydrology, especially since I was visiting the site within

days of rain and no surface ponding or evidence of hydrology existed on site as would be expected. It was my judgment that the *Carex* represented remnant conditions, and that it was early in the growing season, and the effect on vegetation had not fully occurred. It is common knowledge among wetland practitioners that changes in hydric soil characteristic and vegetation can take years to fully occur. But it was agreed previously among all stakeholders, including the County that the developer would be allowed to have the area re-evaluated once the approved elements were installed. It was my judgment based on my knowledge of the site history (and numerous site visits) that the site hydrology had clearly been significantly altered. During my original site visits, small pools of water routinely occurred within the area in question. Following the previously mentioned improvements, those pools, or other evidence of hydrology, were not present at a time I would have expected them to occur, and the hole dug was completely dry. Therefore, I concluded that the area in question no longer met the hydrology criterion and failed to meet the definition of a wetland.

If you have any questions, comments or concerns, please do not hesitate to call.

Sincerely,



Jedd Anderson
Vice President
Head, Environmental Resources Department

Cc: Anthony Charlton – DuPage
Jon Hall – Downers Grove