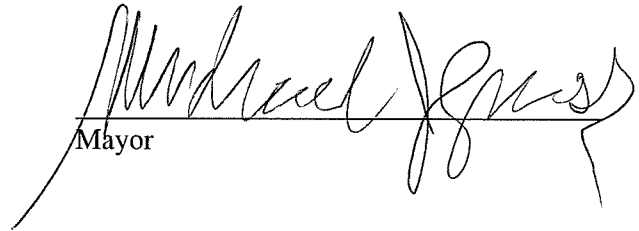


**RESOLUTION R-19-11**

**RESOLUTION AUTHORIZING THE EXECUTION  
OF A CERTAIN CONSTRUCTION, USE, AND  
INDEMNIFICATION AGREEMENT  
(908 Countryside Drive)**

**BE IT AND IT IS HEREBY RESOLVED** by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is authorized to sign a certain Construction, Use and Indemnification Agreement dated April 5, 2011, between the City of Wheaton and Howard and Anita Stoller of 908 Countryside Drive, Wheaton, Illinois; and the City Clerk is authorized to attest to the signature of the Mayor.

**ADOPTED** this 18<sup>th</sup> day of April, 2011.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

ROLL CALL VOTE

Ayes:	Councilman Prendiville Mayor Gresk Councilman Rutledge Councilman Scalzo Councilwoman Corry Councilman Mouhelis
Nays:	None
Absent:	Councilman Suess

Motion Carried Unanimously



**CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT  
RIGHT-OF-WAY ( 908 Countryside Drive )**  
Street Name

APR 11 2011

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 5<sup>th</sup> day of April, 2011, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Howard + Anita Stoller ("Owner").

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

WHEREAS, Howard + Anita Stoller (hereinafter "Owner"), the owner of the premises located at 908 Countryside Drive, 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.

2.) Howard + Anita Stoller are the owners of property located at 908 Countryside Drive, 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 \_\_\_\_\_

\_\_\_\_\_ 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.

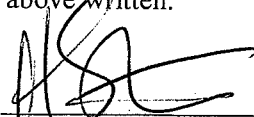
9.) The provisions set forth in this Agreement and exhibit represent the entire Agreement between the parties and shall precede all prior agreements, contracts, understandings, promises and representations, oral or written, as it is the intent of the parties to provide for a complete integration within 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.

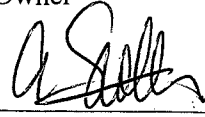
10.) This Agreement shall be recorded in the Office of the Record of Deeds, DuPage County, Illinois, at the expense of the Owners.

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

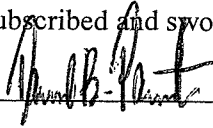
12.) This Agreement shall be binding on the Owners, their successors, heirs and assigns.

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.

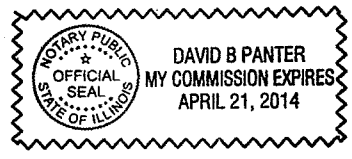
  
\_\_\_\_\_  
Owner

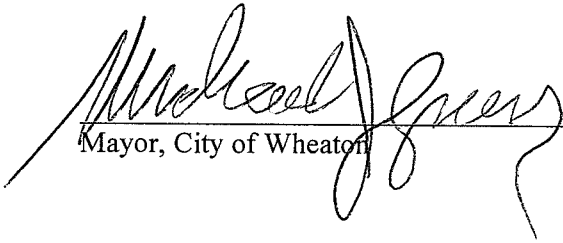
  
\_\_\_\_\_  
Owner

Subscribed and sworn to before me this 5<sup>th</sup> day of April, 20 11.

  
\_\_\_\_\_  
Notary Public

(Notary Seal)



  
\_\_\_\_\_  
Mayor, City of Wheaton

Attested by:  
  
\_\_\_\_\_  
City Clerk

EXHIBIT A

Legal Description:

Lot 126 (Except the East 5 Feet) And The East 4 Feet Of Lot 127 In Durable Construction Company's Hawthorne Ranchland Addition To Wheaton, Being A Subdivision In The West Half Of The Northeast Quarter Of Section 9, And Of Lot 4 In Bauger's Assessment Plat No. 2 In The East Half Of The Northeast Quarter Of Section 9, All In Township 39 North, Range 10, East Of The Third Principal Meridian, According To The Plat Of Said Durable Construction Company's Hawthorne Ranchland Addition To Wheaton, Recorded June 21, 1954 As Document 720773, In DuPage County, Illinois.

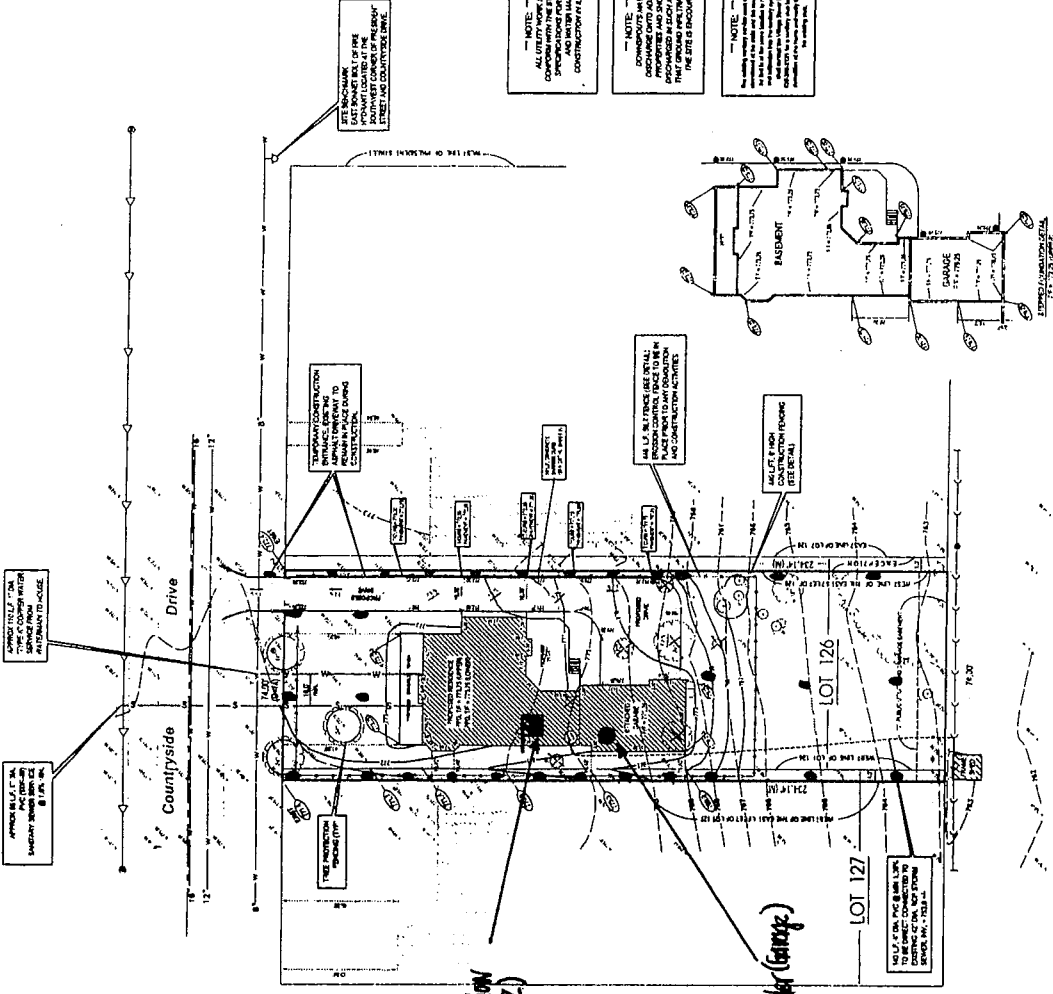
908 Countryside Drive  
address

Wheaton, IL 60187

P.I.N. 0509214051

# SITE PLAN AND TOPOGRAPHIC SURVEY

LOT 126 SUBJECT THE EAST 6 FEET AND THE EAST 4 FEET OF LOT 127 IN DURABLE CONSTRUCTION COMPANY'S HAWTHORNE RANCHLAND ADDITION TO WHEATON, BEING A SUBDIVISION IN THE WEST HALF OF SECTION 8, TOWNSHIP 33 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN GARAGE COUNTY, ILLINOIS. SAID DOUBLE CONSTRUCTION COMPANY'S HAWTHORNE RANCHLAND ADDITION TO WHEATON, RECORDED JUNE 21, 1984 AS DOCUMENT 70713, IN GARAGE COUNTY, ILLINOIS.



NO.	TYPE	DIAMETER	REMOVE	KEEP	PROTECT
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					

**PROTECTION OF PUBLIC TREES**  
Tree protection shall include avoiding damage to the ground line, trunk, and root system, and the table at the root system in which damage shall be avoided shall be the PROTECTED ROOT ZONE (PRZ). The site at the PRZ is to be determined as follows:  
Tree Diameter at D.B.H. Radius at PRZ  
0 - 4.0 inches 2.0 feet  
4.1 - 8.0 inches 3.0 feet  
8.1 - 12.0 inches 4.0 feet  
12.1 - 18.0 inches 6.0 feet  
18.1 - 24.0 inches 8.0 feet  
24.1 - 30.0 inches 10.0 feet  
30.1 - 36.0 inches 12.0 feet  
36.1 - 42.0 inches 14.0 feet  
42.1 - 48.0 inches 16.0 feet  
48.1 - 54.0 inches 18.0 feet  
54.1 - 60.0 inches 20.0 feet  
60.1 - 66.0 inches 22.0 feet  
66.1 - 72.0 inches 24.0 feet  
72.1 - 78.0 inches 26.0 feet  
78.1 - 84.0 inches 28.0 feet  
84.1 - 90.0 inches 30.0 feet  
90.1 - 96.0 inches 32.0 feet  
96.1 - 102.0 inches 34.0 feet  
102.1 - 108.0 inches 36.0 feet  
108.1 - 114.0 inches 38.0 feet  
114.1 - 120.0 inches 40.0 feet  
120.1 - 126.0 inches 42.0 feet  
126.1 - 132.0 inches 44.0 feet  
132.1 - 138.0 inches 46.0 feet  
138.1 - 144.0 inches 48.0 feet  
144.1 - 150.0 inches 50.0 feet

- NOTE:** ALL UTILITY WORK SHALL BE COMPLETED PRIOR TO CONSTRUCTION OF THIS PROJECT.
- NOTE:** THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE ZONING ORDINANCES OF GARAGE COUNTY, ILLINOIS.
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**PROFESSIONAL ENGINEER**  
STATE OF ILLINOIS  
No. 12345  
DATE: 12/31/2023

**CLIENT:** Magnolia Custom Homes  
**PROJECT NO.:** 7018  
**DATE:** 12/31/2023

**PREPARED FOR:** Magnolia Custom Homes  
**PROJECT NO.:** 7018  
**DATE:** 12/31/2023

**DATE:** 12/31/2023  
**SCALE:** 1" = 30'



SCALE: 1" = 30'

- SOURCE BENCHMARK:**
- TO MATCH THE ELEVATION FROM THE ADJACENT OF LOT 127 TO THE ELEVATION FROM THE ADJACENT OF LOT 126, THE SURVEYOR SHALL USE THE BENCHMARK AT THE CORNER OF SECTION 8, TOWNSHIP 33 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN GARAGE COUNTY, ILLINOIS. THE BENCHMARK IS A CONCRETE PILE WITH A BRASS NAIL AT THE TOP. THE BENCHMARK IS LOCATED AT THE CORNER OF SECTION 8, TOWNSHIP 33 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN GARAGE COUNTY, ILLINOIS. THE BENCHMARK IS A CONCRETE PILE WITH A BRASS NAIL AT THE TOP. THE BENCHMARK IS LOCATED AT THE CORNER OF SECTION 8, TOWNSHIP 33 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN GARAGE COUNTY, ILLINOIS.
- LEGEND:**
- PROPOSED CONSTRUCTION
  - EXISTING CONSTRUCTION
  - PROPOSED UTILITY
  - EXISTING UTILITY
  - PROPOSED DRIVE
  - EXISTING DRIVE
  - PROPOSED SIDEWALK
  - EXISTING SIDEWALK
  - PROPOSED FENCE
  - EXISTING FENCE
  - PROPOSED LANDSCAPE
  - EXISTING LANDSCAPE
  - PROPOSED TREES
  - EXISTING TREES
  - PROPOSED BENCHMARK
  - EXISTING BENCHMARK
  - PROPOSED SURVEY POINT
  - EXISTING SURVEY POINT
  - PROPOSED PROPERTY LINE
  - EXISTING PROPERTY LINE
  - PROPOSED ADJACENT PROPERTY LINE
  - EXISTING ADJACENT PROPERTY LINE
  - PROPOSED EASEMENT
  - EXISTING EASEMENT
  - PROPOSED RIGHT-OF-WAY
  - EXISTING RIGHT-OF-WAY
  - PROPOSED ZONING
  - EXISTING ZONING
  - PROPOSED DISTRICT
  - EXISTING DISTRICT
  - PROPOSED CITY
  - EXISTING CITY
  - PROPOSED COUNTY
  - EXISTING COUNTY
  - PROPOSED STATE
  - EXISTING STATE
  - PROPOSED FEDERAL
  - EXISTING FEDERAL

1" Top of Backflow Preventer (RZ)

County Road 126

- PROPOSED CONSTRUCTION
- EXISTING CONSTRUCTION
- PROPOSED UTILITY
- EXISTING UTILITY
- PROPOSED DRIVE
- EXISTING DRIVE
- PROPOSED SIDEWALK
- EXISTING SIDEWALK
- PROPOSED FENCE
- EXISTING FENCE
- PROPOSED LANDSCAPE
- EXISTING LANDSCAPE
- PROPOSED TREES
- EXISTING TREES
- PROPOSED BENCHMARK
- EXISTING BENCHMARK
- PROPOSED SURVEY POINT
- EXISTING SURVEY POINT
- PROPOSED PROPERTY LINE
- EXISTING PROPERTY LINE
- PROPOSED ADJACENT PROPERTY LINE
- EXISTING ADJACENT PROPERTY LINE
- PROPOSED EASEMENT
- EXISTING EASEMENT
- PROPOSED RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY
- PROPOSED ZONING
- EXISTING ZONING
- PROPOSED DISTRICT
- EXISTING DISTRICT
- PROPOSED CITY
- EXISTING CITY
- PROPOSED COUNTY
- EXISTING COUNTY
- PROPOSED STATE
- EXISTING STATE
- PROPOSED FEDERAL
- EXISTING FEDERAL

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