



Village of Winnetka

Village Council Regular Meeting

January 9, 2024 at 7:00 PM
Village Hall
510 Green Bay Road

AGENDA

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Quorum**
 - a. January 16, 2024 Study Session
 - b. January 23, 2024 Regular Meeting
4. **Public Comments**
5. **Reports**
6. **Establishment of Consent Agenda**
7. **Approval of Consent Agenda**
 - a. Approval of Village Council Minutes
 - i. December 5, 2023 Regular Meeting
 - ii. December 19, 2023 Regular Meeting
 - b. Approval of Warrant List Dated December 15, 2023 - December 28, 2023
 - c. Ordinance No. MC-13-2023: Amending the Text of the Winnetka Zoning Ordinance Regarding Residential Uses in the C-2 General Retail Commercial Zoning District (Adoption)
 - d. Ordinance No. M-21-2023: Granting Special Use Permits, a Variation from the Winnetka Zoning Ordinance, and a Certificate of Appropriateness for the Construction of a New Multifamily Residential Building Within the C-2 General Retail Commercial Zoning District (Adoption)
 - e. Resolution No. R-1-2024: Awarding a Contract to Christy Webber Landscapes for the Commercial District Floral Program 2024-2026 (Adoption)
 - f. Resolution No. R-2-2024: Waiving Competitive Bidding and Approving a Contract with Great Lakes Urban Forestry Management for Forestry Professional Services in 2024 (Adoption)

NOTICE

All agenda materials are available at [villageofwinnetka.org](https://www.villageofwinnetka.org) (Governance > Agendas & Minutes); the Reference Desk at the Winnetka Library; or in the Manager's Office at Village Hall (2nd floor).

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities, contact the Village ADA Coordinator, 510 Green Bay Road, Winnetka, Illinois 60093, 847-716-3543; T.D.D. 847-501-6041.

8. Ordinances and Resolutions

- a. Ordinance No. MC-2-2024: Amending Titles 9 and 10 of the Winnetka Village Code Regarding Unscheduled Bus Stops (Introduction/Adoption)
- b. Ordinance No. M-17-2023: Granting a Variation from the Winnetka Zoning Ordinance to Allow the Construction of a Pickleball Court for an Existing Residence Within the R-2 Single Family Residential District (889 Sheridan Road) (Adoption)
- c. Ordinance No. MC-1-2024: Amending the Winnetka Zoning Ordinance to Establish Bluff Regulations for Development in the Steep Slope Area Along Lake Michigan (Public Hearing & Introduction)

9. Old Business

10. New Business

11. Appointments

- a. Appointment of Design Review Board Member
- b. Appointment of Plan Commission Member
- c. Appointment of Plan Commission Member
- d. Appointment of Zoning Board of Appeals Member

12. Closed Session

13. Adjournment

**MINUTES
WINNETKA VILLAGE COUNCIL
REGULAR MEETING
December 5, 2023**

(Approved: xx)

A record of a legally convened regular meeting of the Council of the Village of Winnetka, which was held at the Council Chambers on Tuesday, December 5, 2023, at 7:00 PM.

- 1) Call to Order. President Chris Rintz called the meeting to order at 7:01 PM. Village Manager Rob Bahan called the roll. Present: Trustees Kirk Albinson, Tina Dalman, Robert Dearborn, Kim Handler, and Bridget Orsic. Absent: Trustee Rob Apatoff. Also present: Assistant Village Manager Kristin Kazenas, Village Attorney Peter Friedman, Community Development Director Schoon and approximately 11 persons in the audience.
- 2) Pledge of Allegiance. Trustee Orsic led the group in the Pledge of Allegiance.
- 3) Quorum.
 - a) December 12, 2023 Study Session All of the Council members present said they expect to attend with the exception of Trustee Dearborn.
 - b) December 19, 2023 Regular Meeting All of the Council members present said they expect to attend with the exception of Trustee Dalman.
 - c) January 2, 2024 Regular Meeting This meeting will be cancelled due to lack of quorum.
 - d) January 9, 2024 Study Session All of the Council members present said they expected to attend.
 - e) January 16, 2024 Regular Meeting All of the Council members present said they expected to attend.
- 4) Public Comment.
 - a) Ted Wynnychenko, addresses the Council regarding the Bertling pathway vacation process. President Rintz stated that no Village public meetings are held in private unless there is a legal exemption under the Open Meetings Act.
 - b) Liz Kunkle, addresses the Council as a private citizen, not in her role as a part of Go Green Winnetka, or as a member of the EFC, regarding the Cook County United Against Hate press release issued by the City of Highland Park and requested that Winnetka join the statement. Manager Bahan noted that this was a timing issue, and the Village has jointed the statement which can be found on the Village website.
- 5) Reports:
 - a) Trustees. No report.
 - b) Attorney. No report.
 - c) Manager. Village Manager Bahan reports that Tala Coffee Roasters had a soft opening at the end of last week. A ribbon cutting will be planned as soon as the final touches are completed.

- d) Village President. President Rintz reported on the tree lighting, and noted many residents attended even though it was raining. He also wished a Happy Hannukah to all those that celebrate.

6) Establishment of the Consent Agenda.

Trustee Handler seconded by Trustee Orsic moved to approve the Establishment of the Consent Agenda. By voice vote, the motion carried.

7) Approval of the Consent Agenda

- a) Approval of the Warrant List dated November 17, 2023 – November 30, 2023 in the amount of \$2,439,769.21
- b) FY 2024 Village Budget
- i) Resolution No. R-98-2023: Adopting the Annual Budget for the Fiscal Year Beginning January 1, 2024 and Ending December 31, 2024 9Adoption)
 - ii) Resolution No. R-99-2023: Amending General, Building, and Miscellaneous Service Fees (Adoption)
 - iii) Resolution No. R-100-2023: Establishing Rates and Fees Related to Utility Services (Adoption)
 - iv) Ordinance No. MC-11-2023: Amending Title 15 of the Winnetka Village Code Concerning Building Permit Fees and Bonds (Adoption)
- c) Property Tax Levy and Abatement Ordinances
- i) Ordinance No. M-14-2023: 2023 Tax Levy (Adoption)
 - ii) Ordinance No. M-16-2023: Abating the Tax Heretofore Levied for the Year 2023 to Pay the Principal of and Interest on Taxable General Obligation Refunding Bonds, Series 2020, of the Village of Winnetka, Cook County, Illinois (Adoption)
- d) Resolution No. R-101-2023: Waiving Competitive Bidding and Approving the Purchase of Police Dash Cameras from Axon Enterprises, Inc. (Adoption)
- e) Resolution No. R-102-2023: Approving Change Order No. 2 with A. Lamp Concrete Contractors, Inc. for the 2023 Street Rehabilitation and Public Improvement Project (Adoption)
- f) Resolution No. R-103-2023: Approving Funding Authorizations and Change Order No. 1 to the Contract with Maple Cable Construction Inc. for Directional Boring Work (Adoption)
- g) Resolution No. R-104-2023: Approving a Second Amendment to a Lease Agreement Between the Village of Winnetka and the United States Postal Service (Adoption)
- h) Resolution No. R-105-2023: Approving a Collective Bargaining Agreement Between the Village of Winnetka and the Winnetka Police Association, Metropolitan Alliance of Police, Winnetka Chapter #54 (Adoption)

Trustee Handler seconded by Trustee Dalman, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Albinson, Apatoff, Dalman, Dearborn, Handler, and Orsic. Nays: None. Absent: Trustee Apatoff.

8) Ordinances and Resolutions.

- a) Ordinance No. MC-12-2023: Amending Title 16 of the Winnetka Village Code and Chapters 17.30 and 17.50 of the Winnetka Zoning Ordinance Regarding Lot Consolidation (Introduction)

A public hearing on the ordinance was properly noticed.

The public hearing opened at 7:15 pm.

Community Development Director Schoon reviewed proposed amendments to the Village Code and zoning ordinance regarding special use permits related to multiple-lot consolidations.

Public Comments

Attorney Hal Francke represents multiple lakefront owners and provided written comments regarding the proposed ordinance.

Ted Wynnnychenko comments that the Ordinance provides a reasonable framework.

Trustee Dalman commented that this Ordinance provides tools for a heightened review of lot consolidations in a legally appropriate way. Trustee Orsic commented that this Ordinance is not overly burdensome, rather a good framework. Trustee Handler noted that not all property owners of multiple adjacent lots are interested in consolidation

The public hearing was closed at 7:35 pm.

Trustee Orsic, seconded by Trustee Dalman, moved to introduce Ordinance No. MC-12-2023. By voice vote, the motion carried unanimously.

- b) Ordinance No. M-17-2023: Granting a Variation from the Winnetka Zoning Ordinance to Allow the Construction of a Pickleball Court for an Existing Residence Within the R-2 Single Family Residential District (Introduction)

Community Development Director David Schoon presented a request from the applicant to allow the construction of a pickleball court at 889 Sheridan Road. Gary Frank and the applicant, Joe Papanicholas, were present and indicated that the neighbors are aware and not opposed to the project.

Public Comments

Ted Wynnnychenko commented that proposed location was 13 feet from the public roadway owned by the Village, which has been closed by the Village since coal is no longer delivered to the Water & Electric plant. He stated he was not opposed to the pickleball court, rather that the roadway is closed and not accessible to the public.

Trustee Dearborn expressed concern regarding noise and the precedent setting nature of allowing the pickleball court. Trustee Dalman commented that she is not opposed to the variation and that the Village does not regulate basketball courts, or outdoor ice rinks which also generate noise. Village Manager Bahan noted that any noise complaints are handled by Village nuisance ordinances. Trustee Handler commented that in her opinion, this does not meet the standards for a variance, it is not essential, alters the character of the community, and creates a health/nuisance issue. Trustee Orsic noted that none of the neighbors are opposed, and there is no rule against pickleball courts. Trustee Albinson does not have concerns about pickleball, but questions whether the location of the court is in the best location and if there could be a compromise that would require less of a variance.

Gary reviewed the plans and the grading of the north side of the parcel is steeply sloped, requiring the removal of trees, and installation of retaining walls. Closer to the eastern

edge, would require removal of multiple 100 year old trees. While alternate locations were considered, the applicant believes that the proposed location is the best option. Council discussed alternate plans such as slightly rotating the court. President Rintz suggesting moving to introduce, allowing the applicant to revise the plans and bring a revised proposal to Council before adoption. The Village Attorney affirmed that any variance stands on its own, and does not set a precedent.

Trustee Albinson, seconded by Trustee Dalman, moved to introduce Ordinance No. M-17-2023, provided that the applicant moves the court as far north as possible. By voice vote, the motion carried unanimously.

- c) Ordinance No. M-18-2023: Granting a Variation from the Winnetka Zoning Ordinance to Allow the Construction of an Addition to an Existing Residence within the R-2 Single Family Residential District (717 Park Avenue) (Introduction/Adoption)

Community Development Director Schoon presented a request from the applicant seeking approval for construction of an addition to an existing residence. There was no public comment regarding this application.

Trustee Handler, seconded by Trustee Dearborn, moved waive introduction of Ordinance No. M-18-2023. By voice vote, the motion carried unanimously.

Trustee Orsic seconded by Trustee Handler, moved to adopt Ordinance No, M-18-2023. By roll call vote, the motion carried. Ayes: Trustees Albinson, Apatoff, Dalman, Dearborn, Handler, and Orsic. Nays: None. Absent: Trustee Apatoff.

- d) Ordinance No. M-19-2023: Granting Variations from the Winnetka Zoning Ordinance to Allow the Construction of Additions to an Existing Residence Within the R-5 Single Family Residential District (Introduction/Adoption)

Community Development Director Schoon presented a request from the applicant seeking approval for construction of several additions to an existing residence, in addition to window replacement and modifications. There was no public comment regarding this application.

Trustee Orsic, seconded by Trustee Handler, moved waive introduction of Ordinance No. M-19-2023. By voice vote, the motion carried unanimously.

Trustee Orsic seconded by Trustee Handler, moved to adopt Ordinance No, M-19-2023. By roll call vote, the motion carried. Ayes: Trustees Albinson, Apatoff, Dalman, Dearborn, Handler, and Orsic. Nays: None. Absent: Trustee Apatoff.

9) Old Business. None.

10) New Business. None.

11) Appointments: None.

12) Closed Session: None.

13) Adjournment. President Rintz asks for call to adjourn. Trustee Dearborn, seconded by Trustee Dalman, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 8:34 PM.

Recording Secretary

**MINUTES
WINNETKA VILLAGE COUNCIL
REGULAR MEETING
December 19, 2023**

(Approved: xx)

A record of a legally convened regular meeting of the Council of the Village of Winnetka, which was held at the Council Chambers on Tuesday, December 19, 2023, at 7:00 PM.

- 1) Call to Order. President Pro-tem Robert Dearborn called the meeting to order at 7:01 PM. Village Manager Rob Bahan called the roll. Present: Trustees Rob Apatoff, Kirk Albinson, Robert Dearborn, Kim Handler, and Bridget Orsic. Absent: President Chris Rintz and Trustee Tina Dalman. Also present: Assistant Village Manager Kristin Kazenas, Village Attorney Peter Friedman, Community Development Director Schoon, Assistant Community Development Director Ann Klaassen, and Water & Electric Director Brian Keys and approximately 11 persons in the audience.
- 2) Pledge of Allegiance. Trustee Dearborn led the group in the Pledge of Allegiance.
- 3) Quorum.
 - a) January 2, 2024 Regular Meeting This meeting will be cancelled due to lack of quorum.
 - b) January 9, 2024 Regular Meeting All of the Council members present said they expected to attend.
 - c) January 16, 2024 Study Session All of the Council members present said they expected to attend, with the exception of Trustee Dearborn.
 - d) January 23, 2024 Regular Meeting All of the Council members present said they expected to attend.
- 4) Public Comment:
 - a) Katie Stevens addresses the Council regarding the Winnetka Park District concept plan for Elder Lane Park and Centennial Park.
 - b) Irene Smith addresses the Council regarding the Winnetka Park District concept plan for Elder Lane Park and Centennial Park.
 - c) John Edwardson addresses the Council regarding the proposed steep slope regulations.
 - d) Colleen Root addresses the Council as a Park District Commissioner, noting that she is not speaking on behalf of the Park District Board, regarding the privatization of public land and the concept plan for Elder Lane Park and Centennial Park.
 - e) Mary Garrison addresses the Council regarding Winnetka's unique characteristics and open space.
 - f) Bill Jackson addresses the Council regarding the proposed steep slope regulations.
- 5) Reports:
 - a) Trustees. Trustee Apatoff reported that he attended the Chamber of Commerce meeting and summarized year end economic development statistics.

- b) Attorney. No report.
- c) Manager. No report.
- d) Village President. No report.
- 6) Establishment of the Consent Agenda.

Trustee Handler seconded by Trustee Apatoff moved to approve the Establishment of the Consent Agenda. By voice vote, the motion carried.
- 7) Approval of the Consent Agenda
 - a) Approval of Village Council Minutes
 - i. November 3, 2023 Budget Review Minutes
 - ii. November 14, 2023 Study Session & Special Meeting
 - iii. November 21, 2023 Regular Meeting
 - iv. December 12, 2023 Special Meeting
 - b) Approval of Warrant List Dated December 1, 2023 – December 14, 2023 in the amount of \$1,745,347.74.
 - c) Resolution No. R-106-2023: Approving the Purchase of a Backhoe Loader (Adoption)
 - d) Resolution No. R-107-2023: Approving Change Order No. 3 with A. Lamp Concrete Contractors, Inc. for the 2023 Street Rehabilitation and Public Improvement Project (Adoption)
 - e) Resolution No. R-108-2023: Extending the Authorization for the Delivery and Carry-Out of Cocktails within the Village (Adoption)
 - f) Resolution No. R-109-2023: Approving Closed Session Minutes, Determining the Need to Keep Minutes of Certain Closed Meetings of the Village Council Confidential, and Authorizing the Destruction of Verbatim Recordings of Certain Closed Meetings of the Village (Adoption)
 - g) Approval of Amended Village Council Meeting Schedule for 2024

Trustee Albinson seconded by Trustee Orsic, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Albinson, Apatoff, Dearborn, Handler, and Orsic. Nays: None. Absent: Trustee Dalman.
- 8) Ordinances and Resolutions.
 - a) Ordinance No. MC-12-2023: Amending Title 16 of the Winnetka Village Code and Chapters 17.30 and 17.50 of the Winnetka Zoning Ordinance Regarding Lot Consolidation (Adoption)

There was no additional public comment or discussion regarding this item.
Trustee Handler, seconded by Trustee Orsic, moved to adopt Ordinance No. MC-12-2023. By roll call vote, the motion carried. Ayes: Trustees Albinson, Apatoff, Dearborn, Handler, and Orsic. Nays: None. Absent: Trustee Dalman.

- b) Ordinance No. M-17-2023: Granting a Variation from the Winnetka Zoning Ordinance to Allow the Construction of a Pickleball Court for an Existing Residence Within the R-2 Single Family Residential District (Adoption)

The applicant has requested that this item be considered in January 2024. Without objection, therefore, this item was deferred.

- c) Ordinance No. M-20-2023: Authorizing the Disposition of Surplus Personal Property Owned by the Village of Winnetka (Introduction/Adoption)

Water & Electric Director Brian Keys presented a request from the Village's operating departments to dispose of material and equipment that have reached the end of their useful lives, are inoperable, or are no longer useful to the Village.

Trustee Orsic, seconded by Trustee Apatoff, moved waive introduction of Ordinance No. M-20-2023. By voice vote, the motion carried unanimously.

Village Attorney Friedman clarified that the Ordinance would be updated to reflect that introduction was waived, and that adoption would be in 2023, not 2024. Additionally, in Section 2, the Ordinance should reference the 2024 calendar year.

Trustee Orsic seconded by Trustee Apatoff, moved to adopt Ordinance No. M-20-2023, as updated. By roll call vote, the motion carried. Ayes: Trustees Albinson, Apatoff, Dearborn, Handler, and Orsic. Nays: None. Absent: Trustee Dalman.

- d) Ordinance No. MC-13-2023: Amending the Text of the Winnetka Zoning Ordinance Regarding Residential Uses in the C-2 General Retail Commercial Zoning District (Introduction) and Ordinance No. M-21-2023 – 808 Oak Street – Special Uses & Variation (Introduction)

Assistant Community Development Director Ann Klaassen presented a request amending the Zoning Ordinance to allow a special use permit for a four-story multifamily building with ground floor parking in the residential uses in the C-2 general retail commercial zoning district.

Architect Paul Konstant reviewed the design and site limitations. Council discussed the design and elevation renderings.

There was no public comment regarding this application.

Trustee Handler, seconded by Trustee Apatoff, moved to introduce Ordinance No. MC-13-2023. By voice vote, the motion carried unanimously.

Trustee Albinson, seconded by Trustee Apatoff, moved to introduce Ordinance No. MC-13-2023. By voice vote, the motion carried unanimously.

- e) Ordinance No. M-22-2023: Granting a Special Use Permit for the Operation of an Event Planning Business within the C-2 Commercial Overlay District of the Village (962 Green Bay Road) (Introduction/Adoption)

Assistant Community Development Director Ann Klaassen presented a request from the applicant seeking approval of a special use permit to allow the existing event planning business office to remain on the property.

Council discussed the special use permit and questioned how the applicant was allowed to occupy the space before the special use was approved. The applicant was in attendance and indicated that the landlord did not disclose that a special use permit process was required.

There was no public comment regarding this application.

Trustee Handler, seconded by Trustee Apatoff, moved to waive introduction of Ordinance No. M-22-2023. By voice vote, the motion carried unanimously.

Trustee Handler seconded by Trustee Orsic, moved to adopt Ordinance No. M-22-2023. By roll call vote, the motion carried. Ayes: Trustees Albinson, Apatoff, Dearborn, Handler, and Orsic. Nays: None. Absent: Trustee Dalman.

9) Old Business. None.

10) New Business. None.

11) Appointments:

a) Appoint Scott Myers to a full term on the Board of Fire & Police Commissioners – his term will expire on December 19, 2026.

Trustee Handler, seconded by Trustee Orsic, moved to appoint Scott Myers to a full term on the Board of Fire & Police Commissioners. His term will expire on December 19, 2026. By voice vote, the motion carried.

b) Appoint Christopher Enck as the Landmark Preservation Commission representative to the Plan Commission – his current term on the LPC expires on May 18, 2024.

Trustee Albinson, seconded by Trustee Apatoff, moved to appoint Christopher Enck as the Landmark Preservation Commission representative to the Plan Commission. His current term on the LPC will expire on May 18, 2024. By voice vote, the motion carried.

c) Appoint Jonathan Alt as the Plan Commission representative to the Plan Development Commission – his current term on the PC expires on May 18, 2024.

Trustee Albinson, seconded by Trustee Orsic, moved to appoint Jonathan Alt as the Plan Commission representative to the Plan Development Commission. His current term on the PC will expire on May 18, 2024. By voice vote, the motion carried.

12) Closed Session: None.

13) Adjournment. President Pro-tem asks for call to adjourn. Trustee Apatoff, seconded by Trustee Albinson, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 8:16 PM.

Recording Secretary



Agenda Item Executive Summary

TITLE: Approval of Warrant List Dated December 15, 2023 - December 28, 2023

PRESENTER: Robert M. Bahan

AGENDA DATE: January 9, 2024

CONSENT: Yes

ITEM TYPE: Consent Agenda

ITEM HISTORY:

None.

EXECUTIVE SUMMARY:

The Warrant List Dated December 15, 2023 - December 28, 2023.

RECOMMENDATION:

Consider Approving the Warrant List Dated December 15, 2023 - December 28, 2023.

ATTACHMENTS:

None



Agenda Item Executive Summary

TITLE: Ordinance No. MC-13-2023: Amending the Text of the Winnetka Zoning Ordinance Regarding Residential Uses in the C-2 General Retail Commercial Zoning District (Adoption)

PRESENTER: Ann Klaassen

AGENDA DATE: January 9, 2024

CONSENT: Yes

ITEM TYPE: Ordinances and Resolutions

ITEM HISTORY:

8-1-2023: Village Council considered a request by 808 Oak Street, LLC (the “Applicant”) to amend the Zoning Ordinance to allow in the C-2 General Retail Commercial Zoning District residential uses on the ground floor that are less than 50 feet from the front street line.

12-19-2023: Village Council approved introduction of Ordinances No. MC-13-2023 and M-21-2023.

EXECUTIVE SUMMARY:

On January 9, 2024, the Village Council is scheduled to consider adoption of:

- Ordinance No. MC-13-2023, An Ordinance Amending the Text of the Winnetka Zoning Ordinance Regarding Residential Uses in the C-2 General Retail Commercial Zoning District (**Attachment 1**); and
- Ordinance No. M-21-2023, An Ordinance Granting Special Use Permits, a Variation from the Winnetka Zoning Ordinance, and a Certificate of Appropriateness for the Construction of a New Multifamily Residential Building within the C-2 General Retail Commercial Zoning District (808 Oak Street) (**Attachment 2**).

The ordinances are in response to applications submitted by the Applicant, as the prospective buyer of the property located at 808 Oak Street (the “Subject Property”). The Applicant proposes construction of a new four-story multifamily building with ground floor parking and three condominium units above on the Subject Property. The Subject Property is owned by Bartnell Ltd., who has authorized the Applicant to submit applications requesting approval of the following:

1. Approval of a **Text Amendment** to the Zoning Ordinance to allow residential uses in the C-2 General Retail Commercial Zoning District (the “C-2 District”), on the ground floor that are less than 50 feet from the front street line, as a special use;
2. Approval of the following **Special Use Permit** to allow:
 1. A residential use in the C-2 District, on the ground floor and less than 50 feet from the front street line; and
 2. Off-street parking at street level on the Subject Property; and

3. Approval of a **zoning variation** to allow a front yard setback of 30.33 feet, whereas the maximum front yard setback shall be no more than 3 feet, a variation of 27.33 feet.

At the December 19, 2023, meeting, the Village Council heard from the Applicant regarding its request. No members of the public spoke at the December meeting. The Council discussed the proposed development and approved a motion to introduce Ordinances No. MC-13-2023 and M-21-2023.

RECOMMENDATION:

The Council is scheduled to consider adoption of Ordinances No. MC-13-2023 and M-21-2023.

ATTACHMENTS:

1. Ordinance No. MC-13-2023: Amending the Text of the Zoning Ordinance Regarding Residential Uses in the C-2 General Retail Commercial District
2. Ordinance No. M-21-2023: Granting Special Use Permits, a Variation, and a Certificate of Appropriateness for a New Multifamily Building

**AN ORDINANCE AMENDING THE TEXT OF THE WINNETKA ZONING
ORDINANCE REGARDING RESIDENTIAL USES IN THE C-2 GENERAL RETAIL
COMMERCIAL ZONING DISTRICT**

WHEREAS, the Village of Winnetka is an Illinois home rule municipality in accordance with Article VII, Section 6 of the 1970 Constitution of the State of Illinois and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, 808 Oak Street LLC, an Illinois limited liability company ("***Applicant***"), is the prospective buyer of the parcel of real property commonly known as 808 Oak Street in Winnetka, Illinois, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Ordinance ("***Subject Property***"); and

WHEREAS, the Subject Property is located within the C-2 General Retail Commercial Zoning District of the Village ("***C-2 District***") measures approximately 0.14 acres in size, and is currently vacant; and

WHEREAS, the Applicant desires to redevelop the Subject Property and construct a new, four-story multi-family building, which building is proposed to include: (i) ground-floor parking; and (ii) three single-level, three-bedroom residential units on the second, third and fourth floor of the proposed building (collectively, the "***Proposed Improvements***"); and

WHEREAS, pursuant to Section 17.46.010 and the Winnetka Zoning Ordinance ("***Zoning Ordinance***"), a residential dwelling unit or its accessory functions on the ground floor that is less than 50 feet from the front street line is not permitted in the C-2 District; and

WHEREAS, to permit construction of the Proposed Improvements, pursuant to Section 17.72.040 the Applicant filed an application for a text amendment to Sections 17.46.010 and 17.44.030 to allow residential uses in the C-2 District, on the ground floor that are less than 50 feet from the front street line, as a special use ("***Proposed Text Amendment***"); and

WHEREAS, pursuant to Section 17.72.040 of the Zoning Ordinance, the Village gave proper notice of a public hearing by the Zoning Board of Appeals to consider the Proposed Text Amendment by publication in the *Winnetka Talk* on October 26, 2023; and

WHEREAS, pursuant to Section 17.72.040 of the Zoning Ordinance, on November 13, 2023, after due notice thereof, the Zoning Board of Appeals held a public hearing to consider the Proposed Text Amendment, and by a vote of six in favor and zero opposed, recommended that the Village Council approve the Proposed Text Amendment; and

WHEREAS, pursuant to Section 17.72.040 of the Zoning Ordinance, the Village gave proper notice of a public hearing by the Plan Commission to consider the Proposed Text Amendment by publication in the *Winnetka Talk* on November 9, 2023; and

WHEREAS, on November 29, 2023, after due notice thereof, the Plan Commission conducted a public hearing on the Proposed Text Amendment by a vote of three in favor and one opposed, recommended that the Village Council approve the Proposed Text Amendment; and

WHEREAS, pursuant to its home rule powers and all other applicable law and authorities, the Village Council finds and determines that it is in the best interests of the Village and its residents to adopt the Proposed Text Amendment, as set forth in this Ordinance;

NOW, THEREFORE, the Council of the Village of Winnetka ordains as follows:

SECTION 1. RECITALS. The recitals above are incorporated into this Section as the findings of the Village Council, as if fully set forth in this Section.

SECTION 2: AMENDMENT TO SECTION 17.46.010 OF THE ZONING ORDINANCE. Section 17.46.010, titled “Table of uses,” of the Village Zoning Ordinance is amended to read as follows:

<i>Table of Uses</i>	<i>C-1 Neighborhood Commercial</i>	<i>C-2 General Retail</i>	<i>C-2 Commercial Overlay</i>
P = Permitted uses SU = Special uses NO = Not permitted			
A. RESIDENTIAL USES			
Dwelling unit above the ground floor in a commercial building	P	P	P
Dwelling unit at the ground floor, less than 50 feet from front street line (<u>See Section 17.44.030.B.5 for additional standards for the C-2 District</u>)	SU	NO <u>SU</u>	NO
Dwelling unit at the ground floor, 50 feet or more from front street line	SU	SU	SU

SECTION 3: AMENDMENT TO SECTION 17.44.030 DEVELOPMENT STANDARDS OF THE ZONING ORDINANCE. Section 17.44.030, titled “Development standards,” of the Village Zoning Ordinance is amended to add a new subsection (5) which new subsection 17.44.030 will read as follows:

“Section 17.44.030 Development Standards

- A. General Development Standards. The development standards for all uses in the C-2 General Retail Commercial District shall be as provided in Chapter 17.46 of this code.

- B. Additional Development Standards for Certain Special uses. In addition to complying with all other applicable standards, the following special uses shall also be subject to the specific criteria set forth herein.

* * *

5. **Dwelling Units at the Ground Floor, less than 50 feet from the front street line, in the C-2 General Retail Commercial District.**
The lot for such a use shall be no wider than 35 feet.”

SECTION 4. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance are to remain in full force and effect, and are to be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 5. PUBLICATION. The Village Clerk is hereby directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

SECTION 6. EFFECTIVE DATE. This Ordinance will be in full force and effect upon its passage, approval, and publication in the manner provided by law.

[SIGNATURE PAGE FOLLOWS]

PASSED this 9 day of January, 2024, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of _____, 2024.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the
President and Board of Trustees
of the Village of Winnetka,
Illinois, this _ day of _____,
2024.

Introduced: December 19, 2023

Passed and Approved: _____, 2024

AN ORDINANCE GRANTING SPECIAL USE PERMITS, A VARIATION FROM THE WINNETKA ZONING ORDINANCE, AND A CERTIFICATE OF APPROPRIATENESS FOR THE CONSTRUCTION OF A NEW MULTIFAMILY RESIDENTIAL BUILDING WITHIN THE C-2 GENERAL RETAIL COMMERCIAL ZONING DISTRICT (808 OAK STREET)

WHEREAS, 808 Oak Street LLC, an Illinois limited liability company ("***Applicant***"), is the prospective buyer of the parcel of real property commonly known as 808 Oak Street in Winnetka, Illinois, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Ordinance ("***Subject Property***"); and

WHEREAS, the Subject Property is located within the C-2 General Retail Commercial Zoning District of the Village ("***C-2 District***") measures approximately 0.14 acres in size, and is currently vacant; and

WHEREAS, the Applicant desires to construct on the Subject Property a new, four-story multi-family building, which building is proposed to include: (i) ground-floor parking; and (ii) three single-level, three-bedroom residential units on the second, third and fourth floor of the proposed building (collectively, the "***Proposed Improvements***"); and

WHEREAS, pursuant to Section 17.46.110.G of the Zoning Ordinance, a parking lot at street level is not permitted within the C-2 District without a special use permit; and

WHEREAS, pursuant to Section 17.46.030 of the Zoning Ordinance, the Subject Property front yard setback shall be no more than three feet; and

WHEREAS, to permit construction of the Proposed Improvements, the Applicant filed an application for: (i) a special use permit pursuant to Section 17.46.010 and Chapter 17.56 of the Zoning Ordinance to allow construction of a residential building in the C-2 District, on the ground floor and less than 50 feet from the front street line; (ii) a special use permit pursuant to Sections 17.46.110.G and Chapter 17.56 of the Zoning Ordinance to allow the construction and operation of a street-level parking lot within the C-2 District (collectively, the "***Special Use Permits***"); (iii) a variation from Section 17.46.030 of the Zoning Ordinance to permit a front yard setback of 30.33 feet ("***Variation***"); and (iv) a certificate of appropriateness pursuant to Section 15.40.010 of the Village Code ("***Certificate of Appropriateness***") (collectively, the "***Requested Relief***"); and

WHEREAS, on September 21 and October 16, 2023, after due notice thereof, the Winnetka Design Review Board ("***Design Review Board***") conducted public hearings to consider the Certificate of Appropriateness for the Proposed Improvements; and

WHEREAS, on October 16, 2023, the Design Review Board, by a vote of four in favor and zero opposed, recommended the Village Council approve the Certificate of Appropriateness; and

WHEREAS, on November 13, 2023, after due notice thereof, the Zoning Board of Appeals conducted a public hearing on the proposed Special Use Permits and Variation and, by a vote of six in favor and zero opposed, recommended that the Village Council approve the Special Use Permits and Variation; and

WHEREAS, on November 29, 2023, after due notice thereof, the Plan Commission conducted a public hearing on the proposed Special Use Permits, and, by a vote of three in favor and one opposed, recommended that the Village Council approve the Special Use Permits; and

WHEREAS, the Village Council has determined that: (i) the Variation is in harmony with the general purpose and intent of the Zoning Ordinance and is in accordance with general or specific rules set forth in Chapter 17.60 of the Zoning Ordinance; and (ii) there are practical difficulties or particular hardships in the way of carrying out the strict letter of the provisions or regulations of the Zoning Ordinance from which the Variation has been sought; and

WHEREAS, the Village Council has determined that approval of the proposed Special Use Permits satisfies the standards for the approval of special use permits within the C-2 District set forth in Chapter 17.56 of the Zoning Ordinance; and

WHEREAS, the Village Council has determined that approval of the Requested Relief for the construction and operation of the Proposed Improvements on the Subject Property within the C-2 District is in the best interest of the Village and its residents;

NOW, THEREFORE, the Council of the Village of Winnetka do ordain as follows:

SECTION 1: RECITALS. The foregoing recitals are hereby incorporated into this section as the findings of the Village Council, as if fully set forth herein.

SECTION 2: APPROVAL OF SPECIAL USE PERMITS. Subject to, and contingent upon, the terms and conditions set forth in Section 5 of this Ordinance, the Special Use Permits are hereby granted, (i) pursuant to Section 17.46.010 and Chapter 17.56 of the Zoning Ordinance, and the home rule powers of the Village, to allow construction of a residential building in the C-2 District, on the ground floor and less than 50 feet from the front street line and (ii) pursuant to Chapter 17.56 and Section 17.46.110.G of the Zoning Ordinance and the home rule powers of the Village, to allow the construction and operation of a street-level parking lot by Applicant on the Subject Property within the C-2 District.

SECTION 3: APPROVAL OF VARIATION. Subject to, and contingent upon, the terms and conditions set forth in Section 5 of this Ordinance, the Variation from Section 17.46.030 of the Zoning Ordinance to allow the construction of the Proposed Improvements on the Subject Property are hereby granted, in accordance with and pursuant to Chapter 17.60 of the Zoning Ordinance and the home rule powers of the Village.

SECTION 4: APPROVAL OF CERTIFICATE OF APPROPRIATENESS. Subject to, and contingent upon, the terms and conditions set forth in Section 5 of this Ordinance, the Certificate of Appropriateness is granted for the Subject Property, pursuant to Section 15.40.010 of the Village Code and the home rule powers of the Village.

SECTION 5: CONDITIONS. The approvals granted by Sections 2, 3, and 4 of this Ordinance are subject to, and contingent upon, compliance by the Applicant with the following conditions:

- A. Commencement of Construction. The Applicant must commence the construction of the Proposed Improvements no later than 12 months after the effective date of this Ordinance.
- B. Compliance with Regulations. Except to the extent specifically provided otherwise in this Ordinance, the development, use, and maintenance of the Proposed Improvements and the Subject Property must comply at all times with all applicable Village codes and ordinances, as they have been or may be amended over time.
- C. Reimbursement of Village Costs. In addition to any other costs, payments, fees, charges, contributions, or dedications required under applicable Village codes, ordinances, resolutions, rules, or regulations, the Applicant must pay to the Village, promptly upon presentation of a written demand or demands therefor, all fees, costs, and expenses incurred or accrued in connection with the review, negotiation, preparation, consideration, and review of this Ordinance. Payment of all such fees, costs, and expenses for which demand has been made shall be made by a certified or cashier's check. Further, the Applicant must pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.
- D. Compliance with Plans. The development, use, and maintenance of the Proposed Improvements on the Subject Property must be in strict accordance with the following documents and plans, except for minor changes and site work approved by the Director of Community Development or the Director of Engineering (within their respective permitting authority) in accordance with all applicable Village codes, ordinances, and standards:
 - 1. The Proposed Site Plan prepared by Konstant Architecture & Planning, consisting of one sheet, and with a latest revision date of September 15, 2023, attached to and, by this reference made a part of this Ordinance as **Exhibit B**;
 - 2. The Proposed Floor Plans prepared by Konstant Architecture & Planning, consisting of five sheets, and with a latest revision date of September 15, 2023, attached to and, by this reference made a part of this Ordinance as **Exhibit C**; and
 - 3. The Proposed Elevations prepared by Konstant Architecture & Planning, consisting of four sheets, and with a latest revision date of September 15, 2023, attached to and, by this reference made a part of this Ordinance as **Exhibit D**.

SECTION 6: RECORDATION; BINDING EFFECT. A copy of this Ordinance will be recorded with the Cook County Clerk Recording Division. This Ordinance and the privileges, obligations, and provisions contained herein inure solely to the benefit of, and are binding upon, the Applicant and each of its heirs, representatives, successors, and assigns.

SECTION 7: FAILURE TO COMPLY. Upon the failure or refusal of the Applicant to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, in addition to all other remedies available to the Village, the approvals granted in Sections 2, 3, and 4 of this Ordinance will, at the sole discretion of the Village Council, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village Council may not so revoke the approvals granted in Sections 2, 3, and 4 of this Ordinance unless it first provides the Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village Council. In the event of revocation, the development and use of the Subject Property will be governed solely by the regulations of the applicable zoning district and the applicable provisions of the Zoning Ordinance, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

SECTION 8: AMENDMENTS. Any amendment to this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance for amending or granting variations.

SECTION 9: SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 10: EFFECTIVE DATE.

A. This Ordinance will be effective only upon the occurrence of all of the following events:

1. Passage by the Village Council in the manner required by law;
2. Publication in pamphlet form in the manner required by law; and
3. The filing by the Applicant with the Village Clerk of an Unconditional Agreement and Consent in the form of **Exhibit E** attached to and, by this reference, made a part of this Ordinance to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance; and

B. In the event that the Applicant does not file with the Village Clerk a fully executed copy of the unconditional agreement and consent described in Section 10.A.3 of this Ordinance

within 60 days after the date of passage of this Ordinance by the Village Council, the Village Council shall have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

C. The approvals granted in Section 2, 3, and 4 of this Ordinance shall not take effect until the Applicant provides the Village Community Development Director of evidence, in the form of a written title report issued by an Illinois title insurance company, that fee simple title to all of the Subject Property has been conveyed by the Owner to the Applicant.

[SIGNATURE PAGE FOLLOWS]

PASSED this 9 day of January, 2024, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of _____, 2024.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the
President and Board of Trustees
of the Village of Winnetka,
Illinois, this _ day of _____,
2024.

Introduced: December 19, 2023

Passed and Approved: _____, 2024

EXHIBIT A

LEGAL DESCRIPTION OF SUBJECT PROPERTY

LOT 2 IN BARTNELL'S RESUBDIVISION BEING A SUBDIVISION OF THE EAST
½ OF THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 42 NORTH, RANGE 13,
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

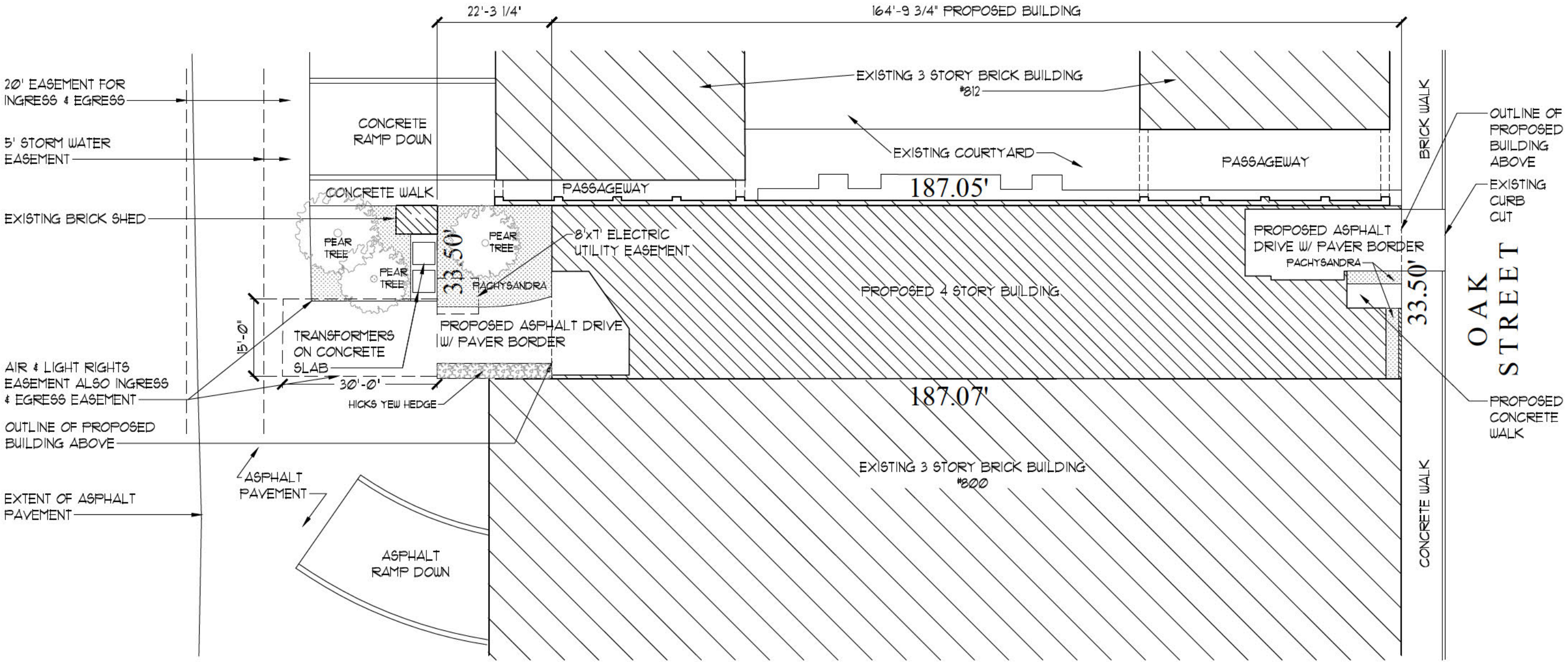
Commonly known as 808 Oak Street, Winnetka, Illinois.

PIN: 05-20-217-002-0000

EXHIBIT B

PROPOSED SITE PLAN

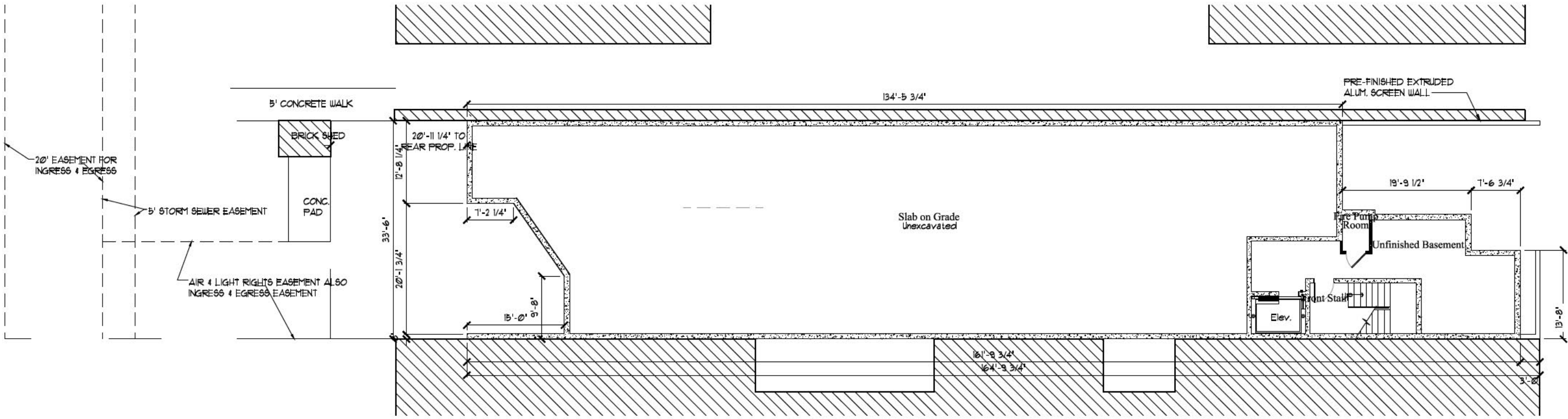
(SEE ATTACHED EXHIBIT B)



Proposed Site Plan
1"=20'-0"

Konstant Architecture & Planning
5300 Golf Road Skokie, Illinois 60077 847.967.6115
808 Oak Street
Winnetka, IL

EXHIBIT C
PROPOSED FLOOR PLANS
(SEE ATTACHED EXHIBIT C)



WALL TYPES:

DESCRIPTION

- W-1 EXTERIOR STAIR WALL (2 HR FIRE RATED & LOAD BEARING):
10' THICK PRECAST INSULATED COMPOSITE LOAD BEARING WALL PANELS (1.5" R-13.5 PHENOLIC INSULATION)

W-2 EXTERIOR NORTH STAIR WALL:
10' THICK PRECAST INSULATED COMPOSITE LOAD BEARING WALL PANELS (R-13.5) WITH 'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING DECOUPLED FROM THE STRUCTURE WITH ATTACHMENT OVER SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE

W-3 EXTERIOR UNIT WALL (2 HR FIRE RATED & LOAD BEARING):
8" THICK PRECAST LOAD BEARING WALL PANELS WITH INTERIOR BUILD-OUT: 5/8" THICK GYPSUM BOARD ON 3 5/8" METAL STUD FRAMING, 16" O.C. WITH R-20 CLOSED CELL SPRAY FOAM INSULATION IN STUD CAVITIES

W-4 INTERIOR STAIR WALL:
8" THICK PRECAST LOAD BEARING WALL PANELS WITH INTERIOR BUILD-OUT: 5/8" THICK GYPSUM BOARD ON 1 5/8" METAL STUD FRAMING, 16" O.C.

W-5 8" THICK PRECAST LOAD BEARING WALL PANELS WITH 'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING DECOUPLED FROM THE STRUCTURE WITH ATTACHMENT OVER SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE
- W-6 EXTERIOR UNIT WALL (NON-FIRE RATED):
'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING DECOUPLED FROM STRUCTURE WITH ATTACHMENT BRACKETS OVER SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE ON 5/8" THICK EXTERIOR GYPSUM BOARD

W-7 INTERIOR STAIR AND ELEVATOR SHAFT WALL (2 HR FIRE RATED):
(2) LAYERS 5/8" THICK GYPSUM BOARD EACH SIDE OF 3 5/8", 25 GA. METAL STUD FRAMING, 16" O.C. WITH 3 1/2" MINERAL WOOL INSULATION IN STUD CAVITIES

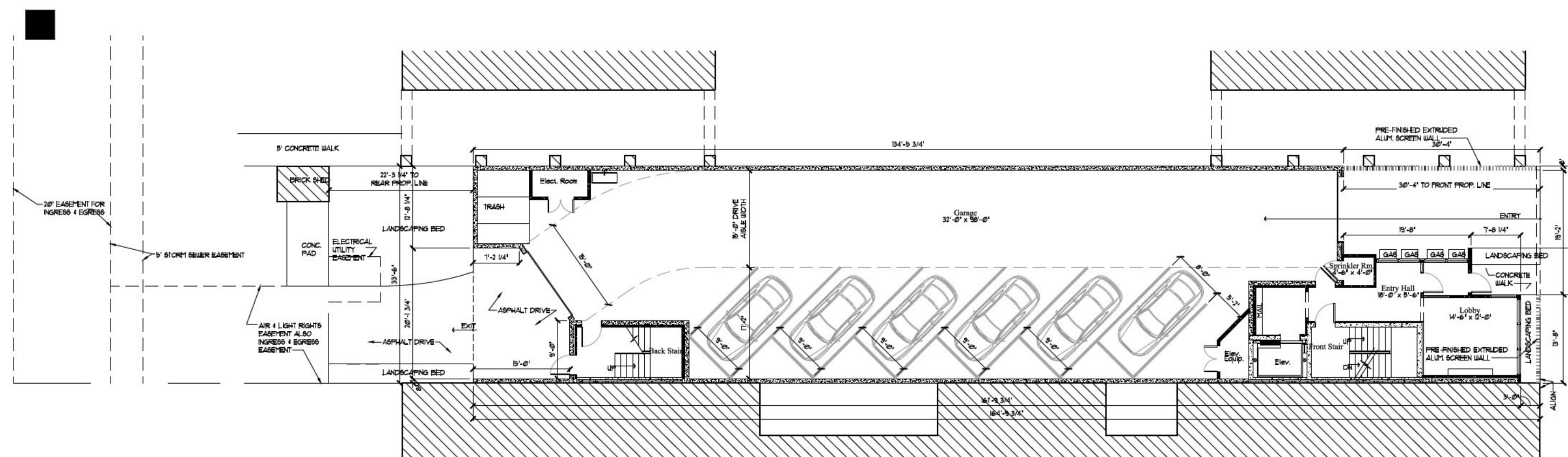
W-8 TYPICAL INTERIOR PARTITION:
5/8" THICK GYPSUM BOARD EACH FACE OF 3 5/8", 25 GA. METAL STUDS, 16" O.C.

W-9: TYPICAL INTERIOR PARTITION WITH ACOUSTICAL INSULATION:

W-10 INTERIOR MECHANICAL ROOM PARTITION (1 HR FIRE RATED):
5/8" THICK GYPSUM BOARD EACH FACE OF 3 5/8", 25 GA. METAL STUDS, 16" O.C. WITH 3 1/2" MINERAL WOOL INSULATION IN STUD CAVITIES

W-11 PREFINISHED THERMAL BROKEN ALUMINUM DOOR, WINDOW, AND WALL SYSTEMS WITH LOW E INSULATED GLASS AS MANUFACTURED BY 'ELVIAL'

Basement Plan
1/16" = 1'-0"

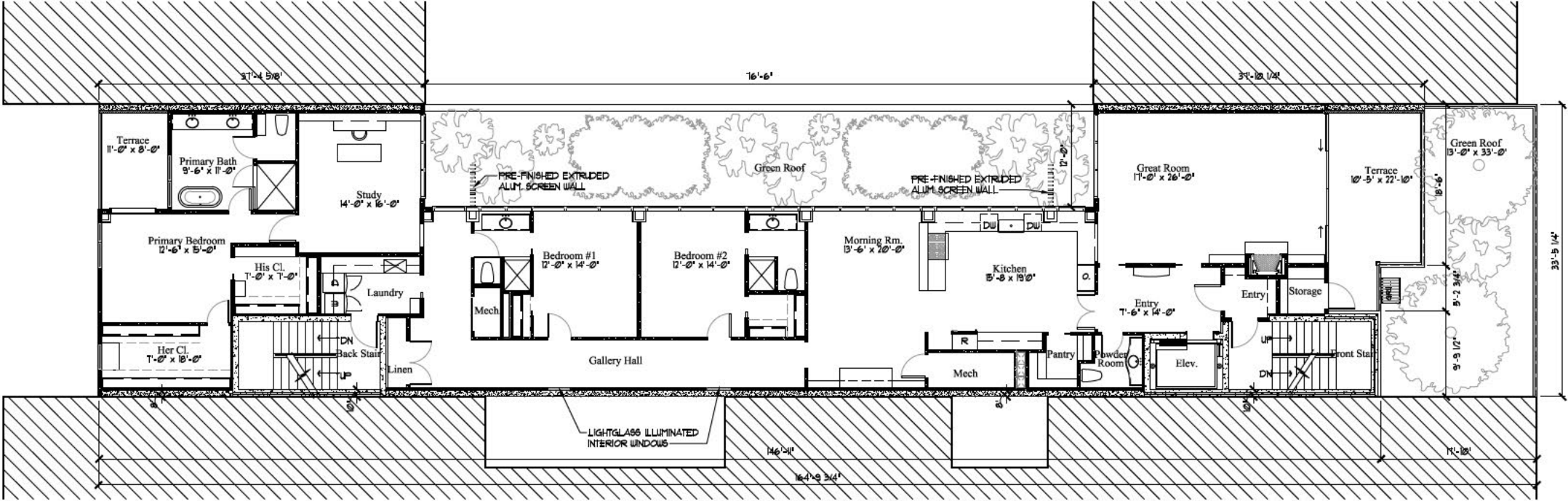


WALL TYPES:

DESCRIPTION

- | | |
|---|---|
| <p>W-1 EXTERIOR STAIR WALL (2 HR FIRE RATED & LOAD BEARING)-
10' THICK PRECAST INSULATED COMPOSITE LOAD BEARING
WALL PANELS (15T" R-13.5 PHENOLIC INSULATION)</p> <p>W-2 EXTERIOR NORTH STAIR WALL:
10' THICK PRECAST INSULATED COMPOSITE LOAD BEARING
WALL PANELS (R-13.5) WITH 'RIEDER' 13mm GLASS FIBER REINFORCED
CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING
DECOUPLED FROM THE STRUCTURE WITH ATTACHMENT OVER
SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE</p> <p>W-3 EXTERIOR UNIT WALL (2 HR FIRE RATED & LOAD BEARING):
8" THICK PRECAST LOAD BEARING WALL PANELS
WITH INTERIOR BUILD-OUT: 5/8" THICK GYPSUM BOARD
ON 3 5/8" METAL STUD FRAMING, 16" O.C. WITH
R-20 CLOSED CELL SPRAY FOAM INSULATION IN STUD CAVITIES</p> <p>W-4 INTERIOR STAIR WALL:
8" THICK PRECAST LOAD BEARING WALL PANELS
WITH INTERIOR BUILD-OUT: 5/8" THICK GYPSUM BOARD
ON 1 5/8" METAL STUD FRAMING, 16" O.C.</p> <p>W-5 8" THICK PRECAST LOAD BEARING WALL PANELS WITH
'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT
WALL PANELS ON METAL FRAMING DECOUPLED FROM THE STRUCTURE
WITH ATTACHMENT OVER SELF-ADHERED (WRB) AND AIR
BARRIER MEMBRANE</p> | <p>W-6 EXTERIOR UNIT WALL (NON-FIRE RATED):
'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT
WALL PANELS ON METAL FRAMING DECOUPLED FROM STRUCTURE WITH
ATTACHMENT BRACKETS OVER SELF-ADHERED (WRB) AND AIR
BARRIER MEMBRANE ON 5/8" THICK EXTERIOR GYPSUM BOARD</p> <p>W-7 INTERIOR STAIR AND ELEVATOR SHAFT WALL (2 HR FIRE RATED):
(2) LAYERS 5/8" THICK GYPSUM BOARD EACH SIDE OF 3 5/8", 25 GA.
METAL STUD FRAMING, 16" O.C. WITH 3 1/2" MINERAL WOOL INSULATION IN
STUD CAVITIES</p> <p>W-8 TYPICAL INTERIOR PARTITION:
5/8" THICK GYPSUM BOARD EACH FACE OF 3 5/8", 25 GA. METAL STUDS,
16" O.C.</p> <p>W-9: TYPICAL INTERIOR PARTITION WITH ACOUSTICAL INSULATION:</p> <p>W-10 INTERIOR MECHANICAL ROOM PARTITION (1 HR FIRE RATED):
5/8" THICK GYPSUM BOARD EACH FACE OF 3 5/8", 25 GA. METAL STUDS,
16" O.C. WITH 3 1/2" MINERAL WOOL INSULATION IN STUD CAVITIES</p> <p>W-11 PREFINISHED THERMAL BROKEN ALUMINUM DOOR, WINDOW, AND WALL
SYSTEMS WITH LOW E INSULATED GLASS AS MANUFACTURED BY
'ELVIAL'</p> |
|---|---|

Ground Level Floor Plan
1/16" = 1'-0"



WALL TYPES:

DESCRIPTION

- W-1 EXTERIOR STAIR WALL (2 HR FIRE RATED & LOAD BEARING):
10' THICK PRECAST INSULATED COMPOSITE LOAD BEARING WALL PANELS (15T" R-13.5 PHENOLIC INSULATION)

W-2 EXTERIOR NORTH STAIR WALL:
10' THICK PRECAST INSULATED COMPOSITE LOAD BEARING WALL PANELS (R-13.5) WITH 'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING DECOUPLED FROM THE STRUCTURE WITH ATTACHMENT OVER SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE

W-3 EXTERIOR UNIT WALL (2 HR FIRE RATED & LOAD BEARING):
8" THICK PRECAST LOAD BEARING WALL PANELS WITH INTERIOR BUILD-OUT: 5/8" THICK GYPSUM BOARD ON 3 5/8" METAL STUD FRAMING, 16" O.C. WITH R-20 CLOSED CELL SPRAY FOAM INSULATION IN STUD CAVITIES

W-4 INTERIOR STAIR WALL:
8" THICK PRECAST LOAD BEARING WALL PANELS WITH INTERIOR BUILD-OUT: 5/8" THICK GYPSUM BOARD ON 1 5/8" METAL STUD FRAMING, 16" O.C.

W-5 8" THICK PRECAST LOAD BEARING WALL PANELS WITH 'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING DECOUPLED FROM THE STRUCTURE WITH ATTACHMENT OVER SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE
- W-6 EXTERIOR UNIT WALL (NON-FIRE RATED):
'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING DECOUPLED FROM STRUCTURE WITH ATTACHMENT BRACKETS OVER SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE ON 5/8" THICK EXTERIOR GYPSUM BOARD

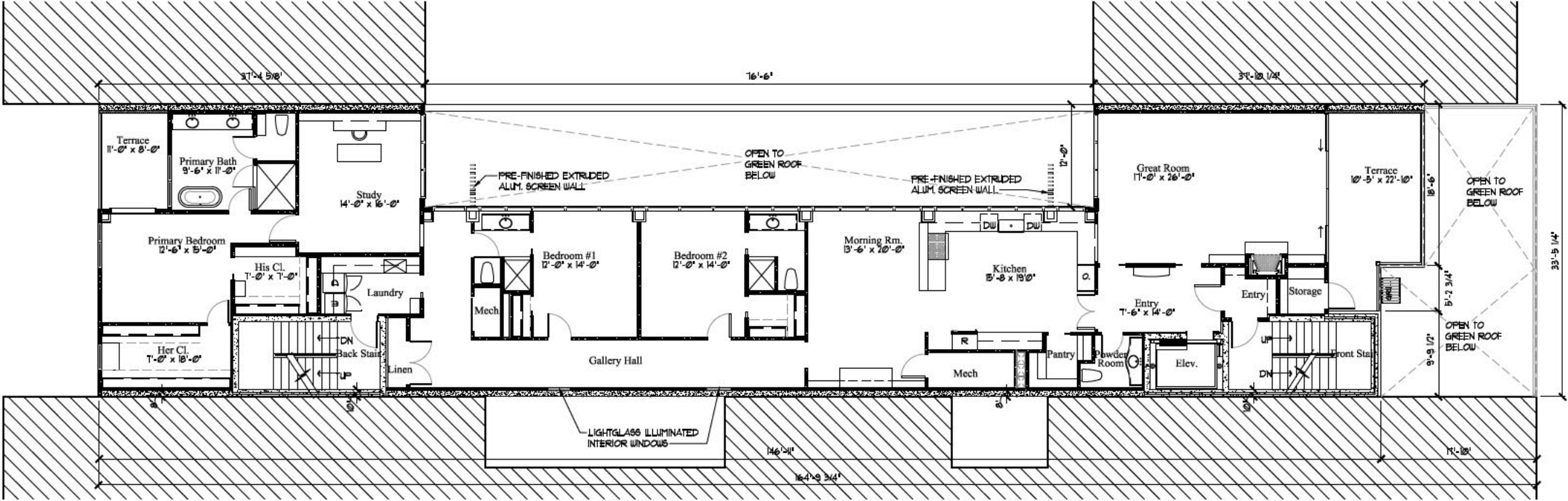
W-7 INTERIOR STAIR AND ELEVATOR SHAFT WALL (2 HR FIRE RATED):
(2) LAYERS 5/8" THICK GYPSUM BOARD EACH SIDE OF 3 5/8", 25 GA. METAL STUD FRAMING, 16" O.C. WITH 3 1/2" MINERAL WOOL INSULATION IN STUD CAVITIES

W-8 TYPICAL INTERIOR PARTITION:
5/8" THICK GYPSUM BOARD EACH FACE OF 3 5/8", 25 GA. METAL STUDS, 16" O.C.

W-9: TYPICAL INTERIOR PARTITION WITH ACOUSTICAL INSULATION:

W-10 INTERIOR MECHANICAL ROOM PARTITION (1 HR FIRE RATED):
5/8" THICK GYPSUM BOARD EACH FACE OF 3 5/8", 25 GA. METAL STUDS, 16" O.C. WITH 3 1/2" MINERAL WOOL INSULATION IN STUD CAVITIES

W-11 PREFINISHED THERMAL BROKEN ALUMINUM DOOR, WINDOW, AND WALL SYSTEMS WITH LOW E INSULATED GLASS AS MANUFACTURED BY 'ELVIAL'



WALL TYPES:

DESCRIPTION

- W-1 EXTERIOR STAIR WALL (2 HR FIRE RATED & LOAD BEARING):
10' THICK PRECAST INSULATED COMPOSITE LOAD BEARING WALL PANELS (15T" R-13.5 PHENOLIC INSULATION)
- W-2 EXTERIOR NORTH STAIR WALL:
10' THICK PRECAST INSULATED COMPOSITE LOAD BEARING WALL PANELS (R-13.5) WITH 'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING DECOUPLED FROM THE STRUCTURE WITH ATTACHMENT OVER SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE
- W-3 EXTERIOR UNIT WALL (2 HR FIRE RATED & LOAD BEARING):
8" THICK PRECAST LOAD BEARING WALL PANELS WITH INTERIOR BUILD-OUT: 5/8" THICK GYPSUM BOARD ON 3 5/8" METAL STUD FRAMING, 16" O.C. WITH R-20 CLOSED CELL SPRAY FOAM INSULATION IN STUD CAVITIES
- W-4 INTERIOR STAIR WALL:
8" THICK PRECAST LOAD BEARING WALL PANELS WITH INTERIOR BUILD-OUT: 5/8" THICK GYPSUM BOARD ON 1 5/8" METAL STUD FRAMING, 16" O.C.
- W-5 8" THICK PRECAST LOAD BEARING WALL PANELS WITH 'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING DECOUPLED FROM THE STRUCTURE WITH ATTACHMENT OVER SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE

- W-6 EXTERIOR UNIT WALL (NON-FIRE RATED):
'RIEDER' 13mm GLASS FIBER REINFORCED CONCRETE CLOSED JOINT WALL PANELS ON METAL FRAMING DECOUPLED FROM STRUCTURE WITH ATTACHMENT BRACKETS OVER SELF-ADHERED (WRB) AND AIR BARRIER MEMBRANE ON 5/8" THICK EXTERIOR GYPSUM BOARD
- W-7 INTERIOR STAIR AND ELEVATOR SHAFT WALL (2 HR FIRE RATED):
(2) LAYERS 5/8" THICK GYPSUM BOARD EACH SIDE OF 3 5/8", 25 GA. METAL STUD FRAMING, 16" O.C. WITH 3 1/2" MINERAL WOOL INSULATION IN STUD CAVITIES
- W-8 TYPICAL INTERIOR PARTITION:
5/8" THICK GYPSUM BOARD EACH FACE OF 3 5/8", 25 GA. METAL STUDS, 16" O.C.
- W-9: TYPICAL INTERIOR PARTITION WITH ACOUSTICAL INSULATION:
- W-10 INTERIOR MECHANICAL ROOM PARTITION (1 HR FIRE RATED):
5/8" THICK GYPSUM BOARD EACH FACE OF 3 5/8", 25 GA. METAL STUDS, 16" O.C. WITH 3 1/2" MINERAL WOOL INSULATION IN STUD CAVITIES
- W-11 PREFINISHED THERMAL BROKEN ALUMINUM DOOR, WINDOW, AND WALL SYSTEMS WITH LOW E INSULATED GLASS AS MANUFACTURED BY 'ELVIAL'

Third and Fourth Floor Plan
1/16" = 1'-0"

Konstant Architecture Planning
5300 Golf Road Skokie, Illinois 60077 847-967-6115
808 Oak Street
Winnetka, IL

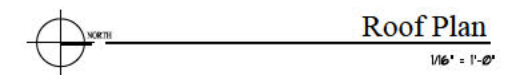


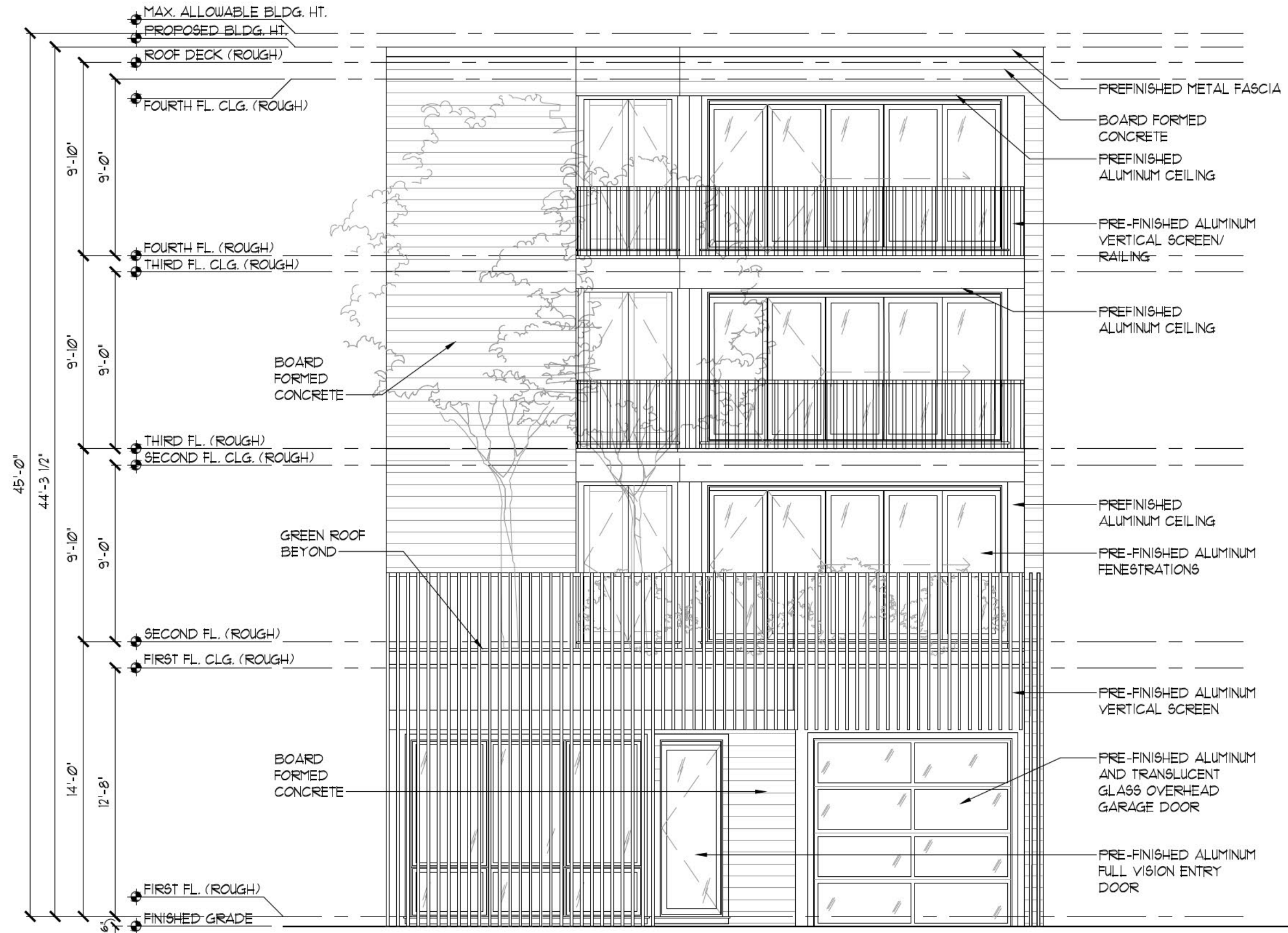
EXHIBIT D

PROPOSED ELEVATIONS

(SEE ATTACHED EXHIBIT D)

EXHIBIT D

Date: 09.15.23



North Elevation

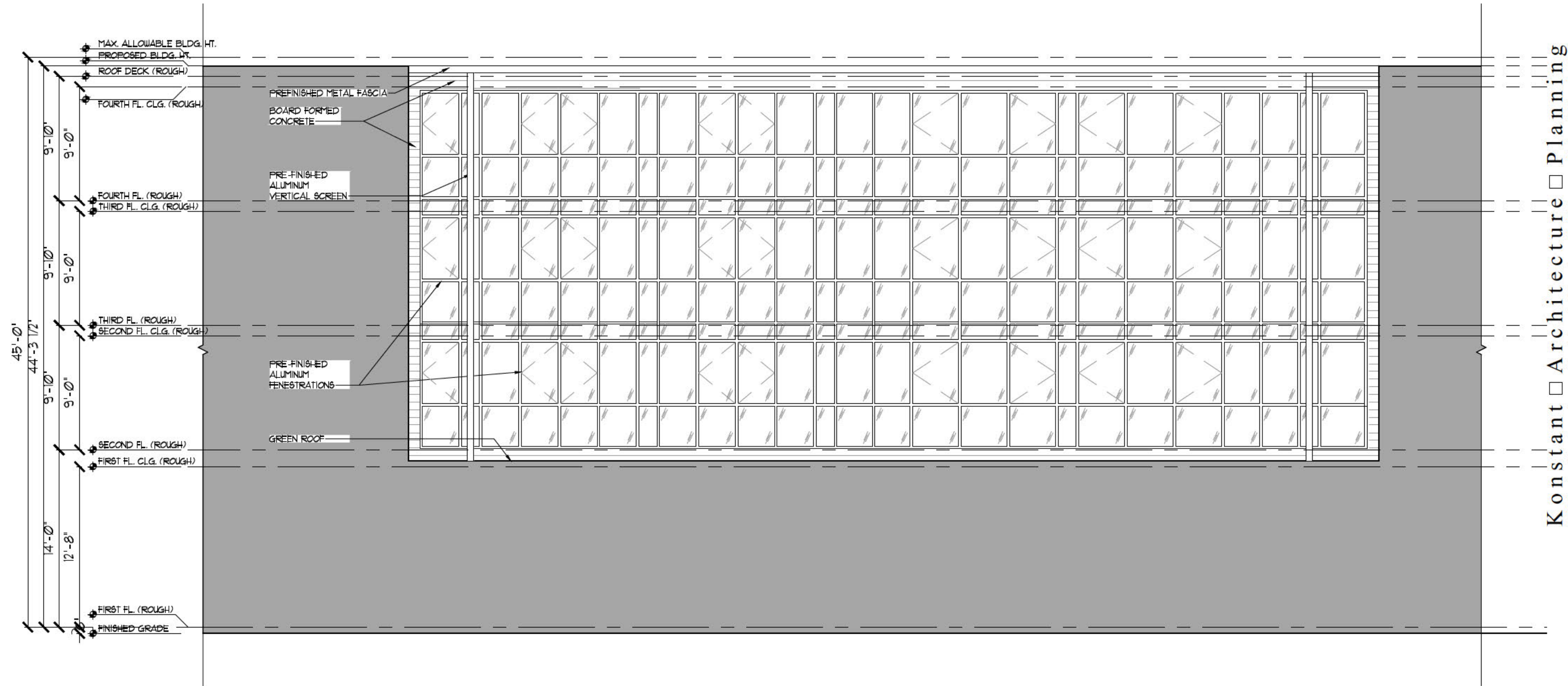
3/16"=1'-0"

Konstant Architecture Planning
5300 Golf Road Skokie Illinois 60077 847-967-6115
808 Oak Street
Winnetka, IL



South Elevation

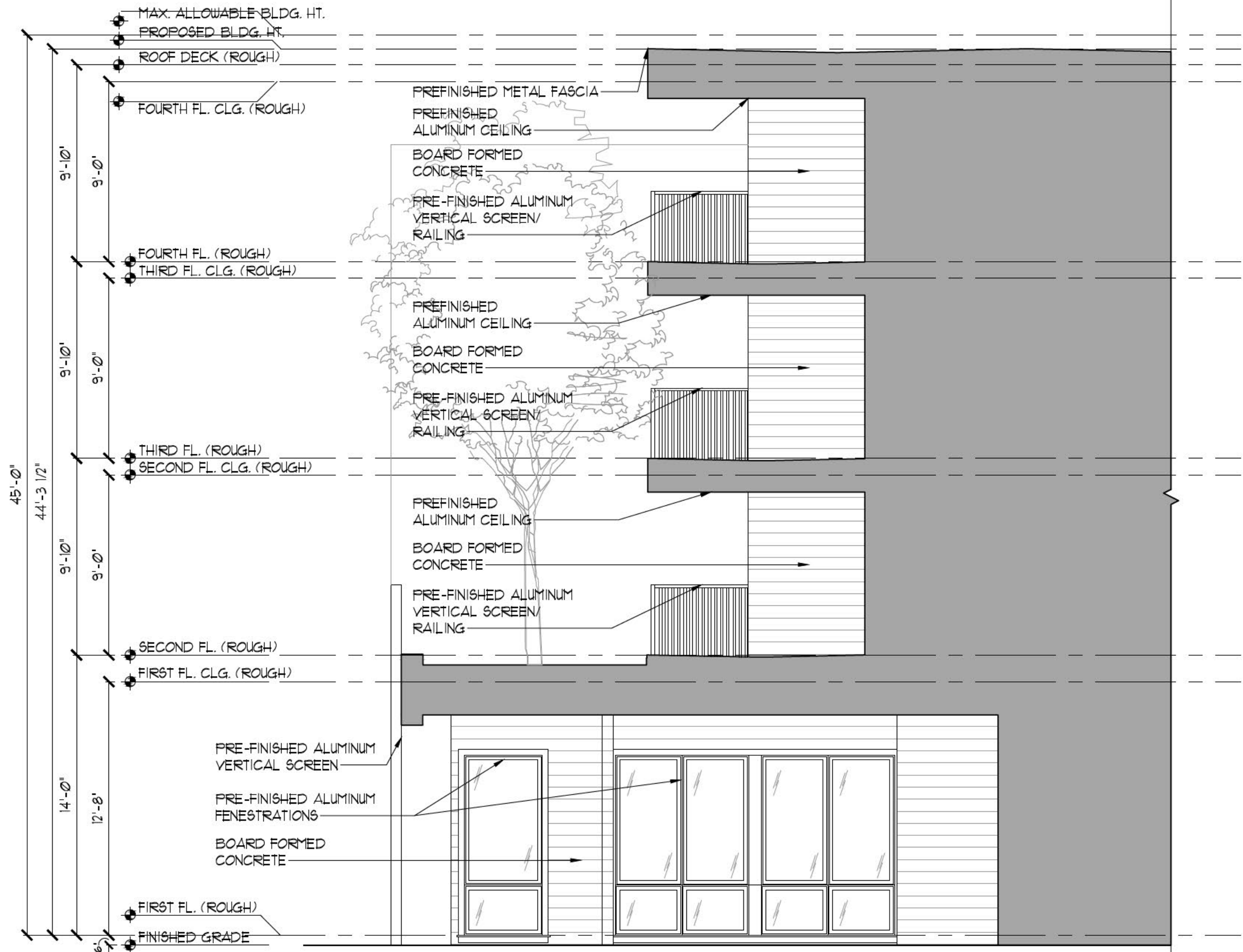
3/16"=1'-0"



Konstant Architecture Planning
5300 Golf Road Skokie Illinois 60077 847-967-6115
808 Oak Street
Winnetka, IL

West Courtyard Elevation

1/8"=1'-0"



West Entry Elevation

3/16"=1'-0"

Date: 09.15.23

Konstant Architecture Planning
5300 Golf Road Skokie, Illinois 60077 847-967-6115
808 Oak Street
Winnetka, IL

EXHIBIT E

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Winnetka, Illinois ("*Village*");

WHEREAS, 808 Oak Street LLC, an Illinois limited liability company ("*Applicant*"), is the prospective buyer of the parcel of real property commonly known as 808 Oak Street in Winnetka, Illinois, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Ordinance ("*Subject Property*"); and

WHEREAS, the Subject Property is located within the C-2 General Retail Commercial Zoning District of the Village ("*C-2 District*") measuring approximately 0.14 acres in size and is currently vacant ("*Existing Building*"); and

WHEREAS, the Applicant desires to redevelop the Subject Property and construct a new, four-story multi-family building, which building is proposed to include: (i) ground-floor parking; and (ii) three single-level, three-bedroom residential units on the second, third and fourth floor of the proposed building (collectively, the "*Proposed Improvements*"); and

WHEREAS, to permit construction of the Proposed Improvements, the Applicant filed an application for: (i) a special use permit pursuant to Section 17.46.010 and Chapter 17.56 of the Zoning Ordinance to allow construction of a residential building in the C-2 District, on the ground floor and less than 50 feet from the front street line; (ii) a special use permit pursuant to Sections 17.46.110.G and Chapter 17.56 of the Zoning Ordinance to allow the construction and operation of a street-level parking lot within the C-2 District (collectively, the "*Special Use Permits*"); (iii) a variation from Section 17.46.030 of the Zoning Ordinance to permit a front yard setback of 30.33 feet ("*Variation*"); and (iv) a certificate of appropriateness pursuant to Section 15.40.010 of the Village Code ("*Certificate of Appropriateness*") (collectively, the "*Requested Relief*"); and

WHEREAS, Ordinance No. M-21-2023, adopted by the Village Council on _____, 2024 ("*Ordinance*"), grants the Requested Relief; and

WHEREAS, Section 10 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Applicant has filed, within 60 days following the passage of the Ordinance, its unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Applicant does hereby agree and covenant as follows:

1. The Applicant hereby unconditionally agrees to accept, consent to, and abide by each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.
2. The Applicant acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the

revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.

3. The Applicant acknowledges and agrees that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's grant of the Requested Relief for the Subject Property or its adoption of the Ordinance, and that the Village's approvals are not, and will not be, in any way, deemed to insure the Applicant against damage or injury of any kind and at any time.

4. The Applicant hereby agrees to hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village's adoption of the Ordinance granting the Requested Relief for the Subject Property.

5. The Applicant hereby agrees to pay all expenses incurred by the Village in defending itself with regard to any and all of the claims mentioned in this Unconditional Agreement and Consent. These expenses will include all out-of-pocket expenses, such as attorneys' and experts' fees, and will also include the reasonable value of any services rendered by any employees of the Village.

Dated: _____, 2024

ATTEST:

808 OAK STREET, LLC

By: _____

By: _____

Its: _____

Its: _____



Agenda Item Executive Summary

TITLE: Resolution No. R-1-2024: Awarding a Contract to Christy Webber Landscapes for the Commercial District Floral Program 2024-2026 (Adoption)

PRESENTER: Andrew Lueck

AGENDA DATE: January 9, 2024

CONSENT: Yes

ITEM TYPE: Consent Agenda

ITEM HISTORY:

The FY 2024 budget includes \$75,000 in account 100.35.26-545 for the commercial district floral program.

EXECUTIVE SUMMARY:

On October 4, 2023, the Village held a bid opening for the 2024-2026 Commercial District Floral Program request for bids. The contract includes installation and maintenance of summer hanging baskets, summer ground planters and winter ground planters.

Summer floral will be installed in the following locations:

- 21 ground-level planters in the Hubbard Woods business district
- 54 streetscape planters throughout the Downtown commercial district and at 93 Green Bay Road
- 96 hanging baskets at 48 sites throughout the Downtown commercial district, Hubbard Woods commercial district and Indian Hill commercial district

Winter decor will be installed in all ground-level and streetscape planters in the above locations.

Two firms responded to the request:

Christy Webber Landscapes - \$67,067 total cost

Yellowstone Landscape Group - \$93,300 total cost

Christy Webber Landscapes completed work under the previous floral program contract from 2019-2023 in a satisfactory manner. Based on proposed costs and previous contract completion, staff recommends awarding the contract for the 2024-2026 Commercial District Floral Program to Christy Webber Landscapes with a mutual option to extend the contract into 2027 and 2028.

RECOMMENDATION:

Consider adopting Resolution No. R-1-2024, awarding a contract to Christy Webber Landscapes to complete the 2024-2026 Business District Floral Program for an amount not to exceed \$67,067, with a mutual option to extend the contract into 2027 and 2028.

ATTACHMENTS:

1. Resolution No. R-1-2024: Awarding a Contract to Christy Webber Landscapes for the Commercial District Floral Program 2024-2026
2. 2024-2026 Floral Program Bid Tabulation

**A RESOLUTION AWARDING A CONTRACT TO
CHRISTY WEBBER LANDSCAPES FOR THE
COMMERCIAL DISTRICT FLORAL PROGRAM 2024-2026**

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution authorizes the Village of Winnetka (“**Village**”) to contract with individuals, associations, and corporations in any manner not prohibited by law or ordinance; and

WHEREAS, the Village has appropriated funds for the Village’s Commercial District Floral Program for 2024-2026 (“**Work**”); and

WHEREAS, the Village requested bids for the performance of the Work; and

WHEREAS, the Village received bids for the Work from two bidders; and

WHEREAS, pursuant to Chapter 4.12 of the Village Code and the Village’s purchasing manual, the Village Council has determined that Christy Webber Landscapes (“**Contractor**”) is the lowest responsible bidder for the Work; and

WHEREAS, the Village Council desires to enter into a contract with Contractor for Contractor to perform the Work in an amount not to exceed \$67,067.00 per year (“**Contract**”); and

WHEREAS, the Contract provides the Village two options to extend the term of the Contract for additional one-year terms upon the terms set forth on the Contract; and

WHEREAS, the Village Council has determined that it is in the best interests of the Village and its residents to award the Contract to Contractor;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Winnetka, Cook County, Illinois, as follows:

SECTION 1: RECITALS. The Village Council adopts the foregoing recitals as its findings, as if fully set forth herein.

SECTION 2: APPROVAL OF CONTRACT. The Village Council hereby approves the Contract in substantially the form attached as **Exhibit A**, and in a final form approved by the Village Attorney.

SECTION 3: AUTHORIZATION TO EXECUTE CONTRACT. The Village Council hereby authorizes and directs the Village President and the Village Clerk to execute and attest, respectively, on behalf of the Village, the final Contract.

SECTION 4: AUTHORIZATION TO EXERCISE OPTION TO EXTEND CONTRACT. The Village Council hereby authorizes the Village Manager to exercise, on behalf of the Village, the renewal options of the Contract (“**Extensions**”) for 2027 and 2028 if: (a) the

Village Manager determines, in their discretion, that the Extensions are favorable to the Village; and (b) the Extensions are substantially similar to the extensions set forth in the Contract. This Resolution is not to be deemed or interpreted as obligating the Village Manager to execute the Extension.

SECTION 5: EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its passage and approval according to law.

ADOPTED this 2nd day of January 2024, pursuant to the following roll call vote:

AYES: _____
NAYS: _____
ABSENT: _____
ABSTAIN: _____

Signed

Village President

Countersigned:

Village Clerk

EXHIBIT A
CONTRACT

January 9, 2024

R-1-2024

VILLAGE OF WINNETKA

RFB #023-021

CONTRACT FOR

COMMERCIAL DISTRICT FLORAL PROGRAM (2024-2026)

Full Name of Bidder Christy Webber & Company d/b/a Christy Webber Landscapes ("Bidder")
Principal Office Address 2900 W. Ferdinand St. Chicago, IL 60612
Local Office Address same
Contact Person Ben Ubben Telephone Number 773-533-0477 X1238

TO: Village of Winnetka ("Owner")
510 Green Bay Road
Winnetka, IL 60093
Attention: Finance Director

Bidder warrants and represents that Bidder has carefully examined the Work Site described below and its environs and has reviewed and understood all documents included, referred to, or mentioned in this bound set of documents, including Addenda Nos. 1 [if none, write "NONE"], which are securely stapled to the end of this Contract.

1. Work Proposal

A. Contract and Work. If this Contract is accepted, Bidder proposes and agrees that Bidder shall, at its sole cost and expense, provide, perform, and complete, in the manner specified and described, and upon the terms and conditions set forth, in this Contract and Owner's written notification of acceptance in the form included in this bound set of documents, all of the following, all of which is herein referred to as the "Work":

1. Labor, Equipment, Materials and Supplies. Provide, perform, and complete, in the manner specified and described in this Contract/Proposal, all necessary work, labor, services, transportation, equipment, materials, supplies, information, data, and other means and items necessary for the **Commercial District Planting at the locations throughout the Village specified in Attachments A, B, C, and D** (the "Work Site");
2. Permits. Procure and furnish all permits, licenses, and other governmental approvals and authorizations necessary in connection therewith;
3. Bonds and Insurance. Procure and furnish all bonds and all insurance certificates specified in this Contract;
4. Taxes. Pay all applicable federal, state, and local taxes;
5. Miscellaneous. Do all other things required of Bidder by this Contract; and
6. Quality. Provide, perform, and complete all of the foregoing in a proper and workmanlike manner, consistent with highest standards of professional and construction practices, in full compliance with, and as required by or pursuant, to this Contract, and with the greatest economy, efficiency, and expedition consistent therewith, with only new, undamaged, and first quality equipment, materials, and supplies.

B. Performance Standards. If this Contract is accepted, Bidder proposes and agrees that all Work shall be fully provided, performed, and completed in accordance with the **specifications and special conditions attached hereto and by this reference made a part of this Contract (Attachments A, B, C, and D)**. No provision of any referenced standard, specification, manual or code shall change the duties and responsibilities of Owner or Bidder from those set forth in this Contract. Whenever any equipment, materials, or supplies are specified or described in this Contract by using the name or other identifying feature of a proprietary product or the name or other identifying feature of a particular manufacturer or vendor, the specific item mentioned shall be understood as establishing the type, function, and quality desired. Other manufacturers' or vendors' products may be accepted, provided that the products proposed are equivalent in substance and function to those named as determined by Owner in its sole and absolute discretion.

C. Responsibility for Damage or Loss. If this Contract is accepted, Bidder proposes and agrees that Bidder shall be responsible and liable for, and shall promptly and without charge to Owner repair or replace, damage done to, and any loss or injury suffered by, Owner, the Work, the Work Site, or other property or persons as a result of the Work.

D. Inspection/Testing/Rejection. Owner shall have the right to inspect all or any part of the Work and to reject all or any part of the Work that is, in Owner's judgment, defective or damaged or that in any way fails to conform strictly to the requirements of this Contract and Owner, without limiting its other rights or remedies, may require correction or replacement at Bidder's cost, perform or have performed all Work necessary to complete or correct all or any part of the Work that is defective, damaged, or nonconforming and charge Bidder with any excess cost incurred thereby, or cancel all or any part of any order or this Contract. Work so rejected may be returned or held at Bidder's expense and risk.

2. Contract Price Proposal

If this Contract is accepted, Bidder proposes, and agrees, that Bidder shall take in full payment for all Work and other matters set forth under Section 1 above, including overhead and profit; taxes, contributions, and premiums; and compensation to all subcontractors and suppliers, the compensation set forth below.

A. Schedule of Prices. For providing, performing, and completing all Work, the ***Village will not pay more than the lump sum annual price per contract year as outlined in Attachment A.***

B. Basis for Determining Prices. It is expressly understood and agreed that:

1. All prices stated in the Schedule of Prices are firm and shall not be subject to escalation or change;
2. Owner is not subject to state or local sales, use, and excise taxes, that no such taxes are included in the Schedule of Prices, and that all claim or right to claim any additional compensation by reason of the payment of any such tax is hereby waived and released;
3. All other applicable federal, state, and local taxes of every kind and nature applicable to the Work are included in the Schedule of Prices; *and*
4. Any items of Work not specifically listed or referred to in the Schedule of Prices, or not specifically included for payment under any Unit Price Item, shall be deemed incidental to the Contract Price, shall not be measured for payment, and shall not be paid for separately except as incidental to the Contract Price, including without limitation extraordinary equipment repair, the cost of transportation, packing, cartage, and containers, the cost of preparing schedules and submittals, the cost or rental of small tools or buildings, the cost of utilities and sanitary conveniences, and any portion of the time of Bidder, its superintendents, or its office and engineering staff.

C. Time of Payment. It is expressly understood and agreed that all payments shall be made in accordance with the following schedule:

Invoice to Village upon Work completion on a monthly basis. Payment upon acceptance by Village.

All payments may be subject to deduction or set off by reason of any failure of Bidder to perform under this Contract/Proposal.

3. Contract Time

If this Contract is accepted, Bidder proposes and agrees that Bidder shall commence the Work within 10 days after Owner's acceptance of the Contract provided Bidder shall have furnished to Owner all bonds and all insurance certificates specified in this Contract (the "Commencement Date"). If this Contract is accepted, Bidder proposes and agrees that Bidder shall perform the Work diligently and continuously and shall complete the Work ***between 5/1/2024 and 10/31/2024 for Year 1 of the Contract, between 5/1/2025 and 10/31/2025 for Year 2 of the Contract, and between 5/1/2026 and 10/31/2026 for Year 3 of the Contract. At the Village's sole discretion, the contract may be extended for two additional years with work being completed between 5/1/2027 and 10/31/2027 for Year 4 and between 5/1/2028 and 10/31/2028 for Year 5. If Bidder fails to enter pricing for Year 4 and Year 5 in Attachment A, Year 3 pricing will prevail for the two optional years.***

4. Financial Assurance

A. Bonds. Bidder shall furnish a performance and payment bond annually, totaling 100% of the contract

amount for each specific year no less than fourteen (14) days prior to the annual Contract start date.

B. Insurance. If this Contract is accepted, Bidder proposes and agrees that Bidder shall provide certificates of insurance evidencing the minimum insurance coverage and limits set forth below within 10 days after Owner's acceptance of this Contract. Such insurance shall be in form, and from companies, acceptable to Owner and shall name Owner, including its Council members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives, as an Additional Insured. The insurance coverage and limits set forth below shall be deemed to be minimum coverage and limits and shall not be construed in any way as a limitation on Bidder's duty to carry adequate insurance or on Bidder's liability for losses or damages under this Contract. The minimum insurance coverage and limits that shall be maintained at all times while providing, performing, or completing the Work are as follows:

1. Workers' Compensation and Employer's Liability

Limits shall not be less than:

Worker's Compensation: Statutory

Employer's Liability: \$500,000 each accident-injury; \$500,000 each employee-disease; \$500,000 disease-policy.

Such insurance shall evidence that coverage applies to the State of Illinois and provide a waiver of subrogation in favor of Owner.

2. Commercial Motor Vehicle Liability

Limits for vehicles owned, non-owned or rented shall not be less than:

\$1,000,000 Bodily Injury and Property Damage Combined Single Limit

3. Commercial General Liability

Limits shall not be less than:

\$1,000,000 Bodily Injury and Property Damage Combined Single Limit.

Coverage is to be written on an "occurrence" basis.

Coverage to include:

- Premises Operations
- Products/Completed Operations
- Independent Contractors
- Personal Injury (with Employment Exclusion deleted)
- Broad Form Property Damage Endorsement
- "X," "C," and "U"
- Contractual Liability

Contractual Liability coverage shall specifically include the indemnification set forth below.

4. Umbrella Liability

Limits shall not be less than:

\$2,000,000 Bodily Injury and Property Damage Combined Single Limit.

This Coverage shall apply in excess of the limits stated in 1, 2, and 3 above.

C. Indemnification. If this Contract is accepted, Bidder proposes and agrees that Bidder shall indemnify, save harmless, and defend Owner against all damages, liability, claims, losses, and expenses (including attorneys' fees) that may arise, or be alleged to have arisen, out of or in connection with Bidder's performance of, or failure to perform, the Work or any part thereof, or any failure to meet the representations and warranties set forth in Section 6 of this Contract.

D. Penalties. If this Contract is accepted, Bidder proposes and agrees that Bidder shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Bidder's performance of, or failure to perform, the Work or any part thereof.

5. Firm Contract

All prices and other terms stated in this Contract are firm and shall not be subject to withdrawal, escalation, or change provided Owner accepts this Contract within 45 days after the date the bidder's contract proposal is opened.

6. Bidder's Representations and Warranties

To induce Owner to accept this Contract, Bidder hereby represents and warrants as follows:

A. The Work. The Work, and all of its components, (1) shall be of merchantable quality; (2) shall be free from any latent or patent defects and flaws in workmanship, materials, and design; (3) shall strictly conform to the requirements of this Contract, including without limitation the performance standards set forth in Section 1B of this Contract; and (4) shall be fit, sufficient, and suitable for the purposes expressed in, or reasonably inferred from, this Contract and the warranties expressed herein shall be in addition to any other warranties expressed or implied by law, which are hereby reserved unto Owner. Bidder, promptly and without charge, shall correct any failure to fulfill the above warranty at any time within **one** year after final payment or such longer period as may be prescribed in the performance standards set forth in Section 1B of this Contract or by law. The above warranty shall be extended automatically to cover all repaired and replacement parts and labor provided or performed under such warranty and Bidder's obligation to correct Work shall be extended for a period of two years from the date of such repair or replacement. The time period established in this Section 6A relates only to the specific obligation of Bidder to correct Work and shall not be construed to establish a period of limitation with respect to other obligations that Bidder has under this Contract.

B. Compliance with Laws. The Work, and all of its components, shall be provided, performed, and completed in compliance with, and Bidder agrees to be bound by, all applicable federal, state, and local laws, orders, rules, and regulations, as they may be modified or amended from time to time, including without limitation the Illinois Prevailing Wage Act, 820 ILCS 130/0.01 et seq. and any other prevailing wage laws; any statutes requiring preference to laborers of specified classes; the Illinois Steel Products Procurement Act, 30 ILCS

565/1 et seq.; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification; and any statutes regarding safety or the performance of the Work.

C. Prevailing Wage Act. **Not applicable to this Contract.**

D. Not Barred. Bidder is not barred by law from contracting with Owner or with any other unit of state or local government as a result of (i) a violation of either Section 33E-3 or Section 33E-4 of Article 33 of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq.; or (ii) a violation of the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) (the "Patriot Act") or other statutes, orders, rules, and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001. Bidder is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and Bidder is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation.

E. Qualified. Bidder has the requisite experience, ability, capital, facilities, plant, organization, and staff to enable Bidder to perform the Work successfully and promptly and to commence and complete the Work within the Contract Price and Contract Time set forth above.

7. Acknowledgements

In submitting this Contract, Bidder acknowledges and agrees that:

A. Reliance. Owner is relying on all warranties, representations, and statements made by Bidder in this Contract.

B. Reservation of Rights. Owner reserves the right to reject any and all proposals, reserves the right to reject the low price proposal, and reserves such other rights as are set forth in the Instructions to Bidders.

C. Acceptance. If this Contract is accepted, Bidder shall be bound by each and every term, condition, or provision contained in this Contract and in Owner's written notification of acceptance in the form included in this bound set of documents.

D. Remedies. Each of the rights and remedies reserved to Owner in this Contract shall be cumulative and additional to any other or further remedies provided in law or equity or in this Contract.

E. Time. Time is of the essence for this Contract and, except where stated otherwise, references in this Contract to days shall be construed to refer to calendar days.

F. No Waiver. No examination, inspection, investigation, test, measurement, review, determination, decision, certificate, or approval by Owner, whether before or after Owner's acceptance of this Contract; nor any information or data supplied by Owner, whether before or after Owner's acceptance of this Contract; nor any order by Owner for the payment of

money; nor any payment for, or use, possession, or acceptance of, the whole or any part of the Work by Owner; nor any extension of time granted by Owner; nor any delay by Owner in exercising any right under this Contract; nor any other act or omission of Owner shall constitute or be deemed to be an acceptance of any defective, damaged, or nonconforming Work, nor operate to waive or otherwise diminish the effect of any representation or warranty made by Bidder; or of any requirement or provision of this Contract; or of any remedy, power, or right of Owner.

G. Severability. The provisions of this Contract/ Proposal shall be interpreted when possible to sustain their legality and enforceability as a whole. In the event any provision of this Contract shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Contract shall be in any way affected thereby.

H. Amendments. No modification, addition, deletion, revision, alteration, or other change to this Contract shall be effective unless and until such change is reduced to writing and executed and delivered by Owner and Bidder, except that Owner has the right, by written order executed by Owner, to make changes in the Work ("Change Order"). If any Change Order causes an increase or decrease in the amount of the Work, then an equitable adjustment in the Contract Price or Contract Time may be made. No decrease in the amount of the Work caused by any Change Order shall entitle Bidder to make any claim for damages, anticipated profits, or other compensation.

I. Assignment. Neither this Contract, nor any interest herein, shall be assigned or subcontracted, in whole or in part, by Bidder except upon the prior written consent of Owner.

J. Governing Law. This Contract, and the rights of the parties under this Contract shall be interpreted according to the internal laws, but not the conflict of law rules, of the State of Illinois. Every provision of law required by law to be inserted into this Contract/Proposal shall be deemed to be inserted herein.

The remainder of this page is intentionally left blank.

Dated: October 2, 2023.

Bidder's Status: ☒ Illinois Corporation () N/A Partnership () N/A Individual Proprietor
(State) (State)

Bidder's Name: Christy Webber & Company

Doing Business As (if different): d/b/a Christy Webber Landscapes

Signature of Bidder or Authorized Agent: 

(corporate seal) Printed Name: Christy Webber
(if corporation) Title/Position: President

Bidder's Business Address: 2900 W. Ferdinand St.
Chicago, IL 60612

Bidder's Business Telephone: 773-533-0477 Facsimile: 773-533-0771

If a corporation or partnership, list all officers or partners:

NAME	TITLE	ADDRESS
Christy Webber	President	2900 W. Ferdinand St.
Roger Post	Secretary/VP	Chicago, IL 60612

ATTACHMENT A - SPECIFICATIONS

A. General Conditions

1) PROJECT DESCRIPTION AND SCOPE OF WORK:

The intent of this bid is to contract with a qualified Landscaping Contractor to provide installation and maintenance of approximately 96 hanging flower baskets, 54 streetscape planter pots and 21 ground planter pots for the summer months along with 54 streetscape planter pots and 10 ground planter pots for the winter months located throughout the three Village of Winnetka business districts (see attached exhibit, "Summer 2024 Commercial District Planters" and "Winter 2024 Commercial District Planters"). Please note that the exhibit indicates a total of 48 hanging basket locations, with each location containing two hanging baskets for a total of 96 individual hanging baskets. The scope of services includes planting, germination to pre-placement specifications, maintenance, watering and removal of plant materials for all hanging flower baskets and ground-level planter pots as described herein.

Summer Hanging Baskets and Ground Planters

For the summer months, approximately 96 hanging flower baskets, 54 streetscape planter pots & 21 ground planter pots located throughout the three Village of Winnetka business districts (see attached exhibit, "Summer 2024 Commercial District Planters"). Please note that the exhibit indicates a total of 48 hanging basket locations, with each location containing two hanging baskets for a total of 96 individual hanging baskets.

Winter Ground Planters

For the winter months, approximately 54 streetscape planter pots and 10 ground planter pots located throughout the three Village of Winnetka business districts.

Price bid shall encompass all services specified herein, and with the exception of specific material costs referenced in these bid documents, no extra charge for labor, services, equipment and etc. will be accepted by the Village. The Village has no obligation to purchase optional items/services under this contract. The village reserves the right to adjust the type and quantity of planters serviced. Maintenance for the addition or deletion of six baskets or pots planters shall be considered incidental to the contract. Pricing for further additions or deletions will be negotiated with the Contractor based on the unit pricing provided in this bid.

There are three commercial districts within the Village where work will be performed (see attached exhibit orientation of location):

1. Hubbard Woods business district,
2. Central business district
3. Indian Hill business district.

Hubbard Woods Business District

Project area: Green Bay road from approximately Scott Ave. south to Chatfield Rd.

Inventory:

- 28 hanging baskets located on 14 poles.
- 11 ground level planter pots on downtown sidewalks.
- 2 multi-season ground-level planter pots

Central Business District (East and West Elm street Business District)

Project area: Green Bay road from approximately Pine street south to Willow Rd, Elm street from approximately Birch street east to Arborvitae road, Chestnut street from Spruce street south to Oak street and Lincoln avenue from approximately Pine south to Oak street.

Inventory:

- 44 hanging baskets located on 22 poles
- 47 streetscape ground planter pots
- 8 multi-season ground-level planter pots located at the Elm Street and Oak street bridges (6) and Winnetka Village Hall (2).

Indian Hill Business District

Project area: Green Bay road from approximately Sunset Rd. south to village border (approximately Roger Ave.)

Inventory:

- 24 hanging baskets located on 12 poles
- 7 streetscape planter pots (to be installed prior to spring 2024)

Winter inventory shall consist of a total of 54 streetscape planter pots and 10 ground planters (8 in the Central business district and 2 in the Hubbard Woods business district). At the end of the summer season, 11 of the ground planters at the Hubbard Woods business district shall be removed.

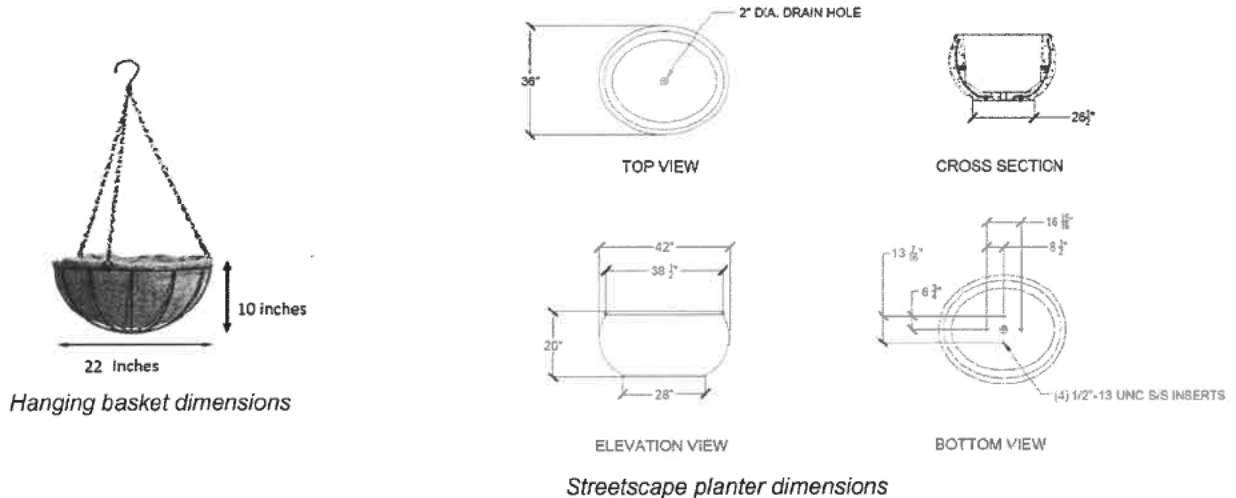
Planter Dimensions

Approximate dimensions of planters included in the contract are below.

Hubbard Woods Ground-level planter pots: 36 inches (Height) X 36 inches (Depth) X 36 inches (Width)

Streetscape ground-level planter pots: Interior dimensions 20 inches (Height) X 26.5 inches (Width)

Hanging baskets: 10 inches (Height) X 22 inches (Width)



2) HANGING BASKET & CONTAINER PREPARATIONS:

- In the spring, the contractor shall pick up the hanging baskets, ground-level pots, and material from Public Works Yards located at 1390 Willow Rd. The Contractor shall confirm that the baskets, pots and materials are in good repair. Each basket shall be assembled with drainage filters and ensuring that all drainage holes are cleared. Should additional drainage be required or desired additional drainage holes will be included and incidental to the installation.
- The contractor may pick up hanging basket liners in winter if contractor desires to utilize liners for growing of plants.
- The 21 Ground-level planting pots and 54 streetscape planter pots will be located on site for the beginning of the 2024 planting season only. In future seasons the ground-level pots shall be available for pick-up from Public Works Yards located at 1390 Willow Rd.
- The Public Works yard is available for staging material and planting the hanging baskets. The contractor shall notify the street supervisor at least 2 working days in advance to allow time for space to be cleared for preparation work. The contractor is responsible for watering any material staged at the yard.
- The contractor shall assemble each basket or pot using a soil-less mix of peat, bark, and perlite and/or vermiculite with a ratio of 5:3:2. The mix shall be placed in the container to the very top of the pot or container as the mix will settle. One cup of a complete slow-release organic fertilizer, such as Nutricote will also be added. Containers will periodically require additional fertilizer.
- A map of the Commercial Districts indicating the container locations has been included in this contract (see attached exhibit).
- The Village supervisor as assigned shall approve screens, potting mix, and plant material prior to planting. The contractor shall plant each basket or pot with plant materials as specified per the approved floral design specification as provided in the addendum. The plants should be healthy, vigorous, and free of pests or unhealthy tissue. **The plants shall be nursery nurtured after planted to attain full, well-rooted, plants large enough to be clearly visible in the hanging baskets even when first installed.**
- Summer baskets & containers must be installed between May 15th and the Friday before Memorial Day weekend. Winter containers must be installed before November 15th of each year.
- Water all baskets & containers immediately after plants are installed.
- When necessary, install basket brackets to replace those missing on poles. Brackets are provided by the Village and will not exceed 10 replacements per year.

HANGING BASKET & CONTAINER MAINTENANCE: Inspections, watering, and general maintenance, shall take place a minimum of every other day. Drought-stressed, diseased, or infested plants are unacceptable.

Inspection – Watering, General maintenance, and IPM:

- The Contactor shall inspect all hanging baskets and containers for watering needs, IPM management (pests and disease), and general maintenance needs every other day (3-4 times per week). The Contractor shall identify and monitor pest and disease levels and determine action required to maintain the good appearance, health, and top performance of all plant material. The Contractor shall diagnose all signs or symptoms of disease and pests prior to recommending any chemical control measures.
- Problems shall be reported to the Village immediately.

- Inspection for IPM shall be considered incidental to HANGING BASKET & CONTAINER MAINTENANCE. The recommendations for action by the Contractor shall be reviewed by the Village supervisor for approval/rejection. Only written and approved corrective activities shall be paid for under the INTEGRATED PEST MANAGEMENT pay item.
- Report any hazards (car accidents, loose brackets, etc.), graffiti, or other issues to the Village supervisor immediately.

Watering:

- Water all baskets to the point of runoff. Thoroughly water all containers. Water shall be applied at a low pressure so as not to damage plant material. Water slowly into the basket and completely soak the roots.
- Apply water as close to soil as possible without washing out planting mix. Keep water off plant leaves as much as possible to minimize fungus problems.
- Watering shall be required every other day. However, during heat waves of temperatures >90 degrees, severe droughts, or if plants are wilting – watering every day may be required.
- Watering is still required if the Village has a rainfall event. If heavy rains occur, approval must be secured to delay or cancel a scheduled watering.
- Water is available from the Village of Winnetka Public Works Facility at 1390 Willow Road between 7 am and 3:30 pm Monday - Friday. Water utilized for the contract will be billed to the contractor at a rate of \$12.35 per 1,000 gallons. Contractor will be required to record and report number of gallons used weekly.

General Maintenance:

- Pruning and shaping work shall take place a minimum of 3 times per season.
- Pest and disease control practices shall take place a minimum of 3 times per season.
- Prune any dead flowers or stems & browned leaves and remove any weeds.
- Prune or pinch back fast-growing flowers so they do not overtake the other plants. Pruning may be required in late summer if plants begin to wilt.
- Use a well-balanced fertilizer once per month.
- Clean containers by rinsing them off with a hose once per month. Scrub off any stains or other residue as necessary. Contact the Village supervisor prior to using any solvents or cleaners other than mild detergent.
- Remove any litter, cigarette butts, and other trash from container twice per week.
- The hanging baskets & containers shall be maintained well into the month of October as weather allows.
- A Weekly Maintenance Report form must be completed for all the work that took place during the week (included in this specification). Maintenance can be submitted weekly via email or mail.

Removal of hanging baskets & clean up:

- In October, contact the Village supervisor to schedule the removal of the summer hanging baskets and ground planters. In April, contact the Village supervisor to schedule the removal of the winter ground planters.
- The contractor is responsible for removing the baskets from the poles, disposing of the spent flowers and potting mix, cleaning, and stacking the baskets neatly on pallets, and supplying and wrapping plastic wrap around the pots. The spent plant material and potting mix may be disposed of free of charge at the Public Works yard.
- The contractor is responsible for removing the spent flowers and at least 1/3 of the potting mix from the containers and disposing of debris. The spent plant material and potting mix may be disposed of free of charge at the Public Works yard.

Material Specifications:

As specified per the approved floral design specification as provided in the addendum.

- All plant materials shall be as specified per the approved design specification as provided in the addendum. The Village of Winnetka has the right to modify the species planting list as deemed necessary.
- The annuals provided shall be full size and disease and pest free. They shall be inspected prior to installation by the village supervisor. If they are not of sufficient size and quality, the Village shall have the right to reject any unacceptable plant material.
- If the specified annuals are not available, appropriate replacements will be allowed, but not without prior written approval of the Village of Winnetka.
- Substitutions may be necessary due to nursery availability or due to poor plant performance in a previous year. The Contractor and Village design team shall agree on all substitutions prior to planting. Substitutions shall be of similar size and cost. They may include, but are not limited to:

4 ½" pot: Angelonia, Bacopa, Begonia – including Dragon wing varieties, Caladium, Calibrachoa, Celosia, Coleus, Cleome, Dichondra, Dusty Miller, Geranium, Gomphrena, Helichrysum, Impatiens- including New Guinea, Nemesia, Ipomoea, Ivy, Kalanchoe, Lantana, Lobelia, Lysimachia, , Marigold, Pennisetum, Petunia – including Wave varieties, Salvia, Scaevola, Setcreasea, Verbena, Vinca Vine

6" pot: Agastache, Angelonia, Begonia – including Dragonwing varieties, Caladium, Canna, Coleus, Geranium, Lamium, Lantana, Pennisetum, Pentas

1 gal: Alocasia, Canna, Coccolasia, Cordyline, Dracaena, Fern, Fountain grass, Fuschia, Heuchera, Hibiscus, Hosta, Phormium, Strobilanthes. Other perennials utilized as annuals (ornamental grasses, etc.).

INTEGRATED PEST MANAGEMENT (IPM):

- This work shall consist of furnishing all materials, equipment and labor necessary to apply insecticide, herbicide, anti-desiccant, or to utilize other methods necessary to keep plants in a healthy and attractive condition. IPM shall be practiced to minimize the

need for chemical applications.

- o Pest control recommendations shall be made and must be approved prior to action or application by the Contractor. Insecticides, fungicides and other materials shall be used in strict accordance with the manufacturer's recommendations. No phytotoxic materials shall be used. All spraying shall be performed when the areas are clear of pedestrians and automobiles, when winds are less than 5 mph and temperatures below 80 degrees F.
- o All treated areas shall be posted in accordance with the law.
- o All chemicals shall be applied by an Illinois Licensed Pesticide Operator or Applicator.
- o Any damage done to plants or structures by the Contractor shall be repaired or replaced at the Contractor's expense to the satisfaction of the village supervisor. Damage includes, but is not limited to the application of incorrect types or mixtures of chemicals, or other actions that result in the death or decline of plant material or discoloration or damage to surrounding surfaces.
- o Contractor shall furnish all materials, including insecticides, fungicides, anti-desiccants, chemicals or other means, equipment and labor necessary to perform the IPM work.
- o Under no circumstances, will IPM work be paid for if the work results from lack of watering or maintenance per the contract.

3) PRICING AND PAYMENT:

Pricing provided by the contractor shall be set for the term of the three (3) year contract.

- a) **CONTRACT ITEM #1:** FURNISH & INSTALL ANNUALS, FURNISH POTTING MIX, and MAINTENANCE as specified above shall be bid at a LUMP SUM annual price per contract year.
 - a. Price shall include but not limited to all manpower, equipment, procurement and applications described herein, including but not limited to plant care, pruning, clean-up, fertilizer, amendments, removal and legal disposal of debris and plant material, soil moisture monitoring, integrated pest management inspection, labor necessary to complete work, and materials to complete the work specified herein. The completion and submittal of the Weekly Maintenance Record (**Attachment C**) shall be considered mandatory and incidental to this pay item.
 - b. Traffic Control and Protection shall not be paid for separately but shall be considered incidental to this pay item. Arrow boards and safety cones shall be used whenever a crew is working in or around the areas prescribed regardless of the type of work being performed.
- b) **CONTRACT ITEM #2:** Additional MAINTENANCE services not specified above shall be bid at a MAN HOUR rate per contract year.

ENTER CONTRACT PRICING BELOW

The Village of Winnetka is soliciting pricing for three (3) different hanging basket and ground planter concepts.
Of the 3 concepts below, one (1) will be chosen.

Summer Commercial District Hanging Baskets and Planters

Concept 1



Ground Level/Streetscape Planters Species List:

- Begonia – Pink Dragon Wing
- Lantana – Bandana Cherry Sunrise
- Purple Fountain Grass
- Magenta Petunia
- Coleus – Kong Jr. Scarlet
- Angelonia – Raspberry
- Sunpatien – Shell Pink
- Emerald Lace Sweet Potato Vine

Hanging Baskets Species List:

- Begonia – Pink Dragon Wing
- Lantana – Bandana Cherry Sunrise
- Magenta Petunia
- Emerald Lace Sweet Potato Vine

Concept 2



Ground Level/Streetscape Planters Species List:

- Begonia Whopper Bronze Rose
- Coleus Campfire
- Angelonia Sherry Red
- Petunia Trailing White
- Vinca Vine Variegated
- Lysimachia Goldilocks

Hanging Baskets Species List

- Begonia Whopper Bronze Rose
- Petunia Shockwave Yellow
- Lysimachia Goldilocks

Concept 3



Ground Level/Streetscape Planters Species List:

- Blue Fortune Agastache
- Blue Petunia
- Sun Prairie Black Eyed Susan
- Fountain Grass
- Variegated English Ivy
- White Gaura

Hanging Baskets Species List

- Blue Petunia
- Surfinia Patio Yellow Petunia
- Variegated English Ivy

Winter Commercial District Planters



Winter Planters Species List:

- Silver Fir
- Fraser Fir
- Incense Cedar
- Magnolia Tips
- Pine Cones – White Tipped
- Winterberry Stems
- Cardinal Dogwood – Medium Branches
- Eucalyptus Silver Bells

Bid Items:

Summer Commercial District Hanging Baskets and Planters			
	Concept 1	Concept 2	Concept 3
Price per Ground Level Planter	\$ 115.00	\$ 115.00	\$ 115.00
Price for 21 Ground Level Planters	\$ 2,415.00	\$ 2,415.00	\$ 2,415.00
Price per Streetscape Planter	\$ 157.00	\$ 157.00	\$ 157.00
Price for 54 Streetscape Planters	\$ 8,478.00	\$ 8,478.00	\$ 8,478.00
Price per Hanging Basket	\$ 102.00	\$ 102.00	\$ 102.00
Price for 96 Hanging Baskets	\$ 9,792.00	\$ 9,792.00	\$ 9,792.00
Planter & Hanging Basket Maintenance/Month	\$ 4,940.00	\$ 4,940.00	\$ 4,940.00

Winter Commercial District Planters	
Price per Streetscape Winter Planter	\$ 308.00
Price for 54 Streetscape Winter Planters	\$ 16,632.00
Price per Ground-level Winter Planter	\$ 289.00
Price for 10 Winter Planters	\$ 2,890.00
Winter Planter Maintenance/Month	\$ 540.00

Additional Labor Rates (for unscheduled maintenance and repairs)	
Additional General Maintenance Rate per Person	\$ 50.00 /Hour

B. Special Conditions

1) DIRECTOR OF ENGINEERING RESPONSIBILITY AND AUTHORITY:

All work shall be done under the general supervision of the Village Director of Engineering, or designated inspector. The Director of Engineering shall decide any and all questions which may arise as to the quality and acceptability of material furnished, Work performed, rate of progress of Work, interpretation of Drawings and Specifications and all questions as to the acceptable fulfillment of the Contract on the part of the Contractor.

2) DIRECTOR OF ENGINEERING DECISIONS:

All claims of the Contractor, including requests for change orders, whether by addition to or subtraction from the Contract and/or payments thereunder, shall be presented to the Village Director of Engineering who shall render a decision in writing within a reasonable time. No such decision shall have any effect unless it be in writing and signed by the Director of Engineering

3) SUSPENSION OF WORK:

The Director of Public Works shall have the authority to suspend the Work, wholly or in part, for such periods as the Director of Engineering may deem necessary, due to unsuitable weather, or such other conditions as are considered unfavorable for prosecution of the Work, or failure on the part of the Contractor to carry out the provisions of the Contract or to supply materials meeting the requirements of the Specifications. The Contractor shall not suspend operations without the Director of Engineering permission.

4) INSPECTION OF WORK:

All materials and each part or detail of the Work shall be subject at all times to inspection by the Director of Engineering or his designated inspector, and the Contractor will be held strictly to the true intent of the Specifications in regard to quality of materials, Workmanship, and the diligent execution of the Contract.

5) EXAMINATION OF COMPLETED WORK:

All completed work will be inspected and accepted by the Director of Engineering. No completed Work will be covered up without inspection by the Director of Engineering or his designated inspector. Any Work so covered up shall be uncovered and restored by the Contractor wholly at their expense. No claim for extra payment will be considered and no extra payment will be made on this account.

6) CHARACTER OF WORKERS:

The Contractor shall at all times be responsible for the conduct and discipline of his employees and/or subcontractors or persons employed by subcontractors. All workers must have sufficient knowledge, skill and experience to perform properly the Work assigned to them. Any foreman or worker employed by the Contractor or subcontractor who, in the opinion of the Director of Engineering, does not perform the Work in a skillful manner or appears to be incompetent or to act in a disorderly or intemperate manner shall, at the written request of the Director of Engineering, be discharged immediately and shall not be employed again in any portion of the Work without the approval of the Director of Engineering.

7) CLEANING UP:

The Contractor shall remove from the Village's property, and from all public and private property, all temporary structures, rubbish, and waste materials resulting from their operations or caused by their employees, and shall remove all surplus materials leaving the site smooth, clean and true to line and grade.

Upon completion of the Work, the Contractor shall restore the Village's property, and any other public and private property affected by the Work.

8) WARNING SIGNS AND BARRICADES:

The Contractor shall take all necessary precautions for the protection of the Work site and of the safety of the public, and shall provide all signs, barricades warning lights, flagmen and such other protection or warning devices as may be warranted under the circumstances. Warning signs shall be of such size, shape, placement and illumination so as to provide reasonable advance warning, at all times of day and night, of where the construction, barricades or detours exist. All barricades, signs, and obstructions shall be protected and illuminated at night by amber warning lights which shall burn from sunset to sunrise.

9) PUBLIC SAFETY AND CONVENIENCE:

The Contractor shall at all times so conduct the Work as to insure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the Work, and to insure the protection of persons and property in a manner satisfactory to the Director of Engineering. No road or street shall be closed to the public except with the permission of the Director of Engineering and proper governmental authority. Fire hydrants on or adjacent to the Work shall be kept accessible for fire-fighting equipment at all times.

10) LIQUIDATED AND GENERAL DAMAGES:

Contractor is responsible for the provision and maintenance of all plant material as specified herein, and for the replacement of any plant material that dies or is damaged by the contractor during the term of this contract. Failure to replace such plant material may be cause for the Contractor to assume the responsibility of compensating the Village for the materials and labor costs associated with replacement. Insufficient watering, weeding and/or pruning, improper maintenance of plant material, failure to identify and notify the Village of pest infestation, and damage caused by Contractor personnel or equipment are all cause for enactment of liquidated damages. Contractor shall also be responsible and financially liable for any damage caused by Contractor's employees and/or equipment to any and all public or private properties. The Village reserves the right to withhold payment, in whole or in part to remedy.

Arrow boards and safety cones shall be used whenever a crew is working in or around the areas prescribed regardless of the type of work being performed. Crews shall follow the Illinois Department of Transportation (IDOT) Standard 701801 when working behind the curb line. Failure to utilize these requirements may result in liquidated damages in the amount of \$500 per occurrence.

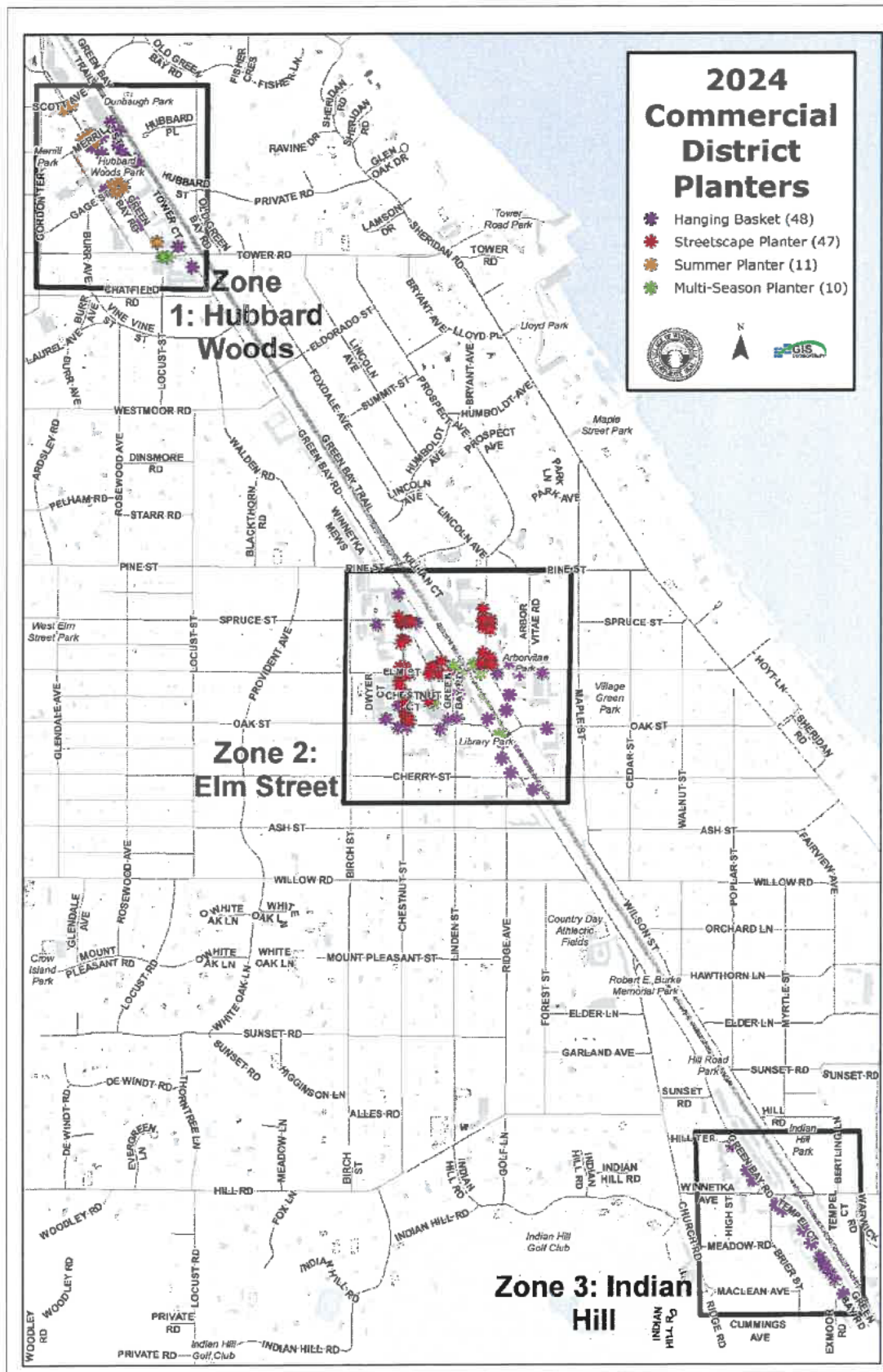
11) ADJUSTED SCOPE:

The floral program consists of approximately 96 hanging flower baskets, 54 streetscape planter pots and 21 ground planter pots for the summer months along with 54 streetscape planter pots and 10 ground planter pots for the winter months. The Village reserves the right to adjust the type and quantity of planters serviced. Maintenance for the addition or deletion of six baskets or pots planters shall be considered incidental to the contract. Pricing for further additions or deletions will be negotiated with the Contractor.

12) REFERENCES:

In order to allow the Village an opportunity to evaluate the experience of your firm as it relates to this project, please complete the enclosed "References" form (**Attachment D**). Provide references of organizations, which have utilized similar services. A minimum of three (3) references is requested; however a bidder may list more than three. Failure to include references may result in bid disqualification.

ATTACHMENT B – MAP OF COMMERCIAL DISTRICTS

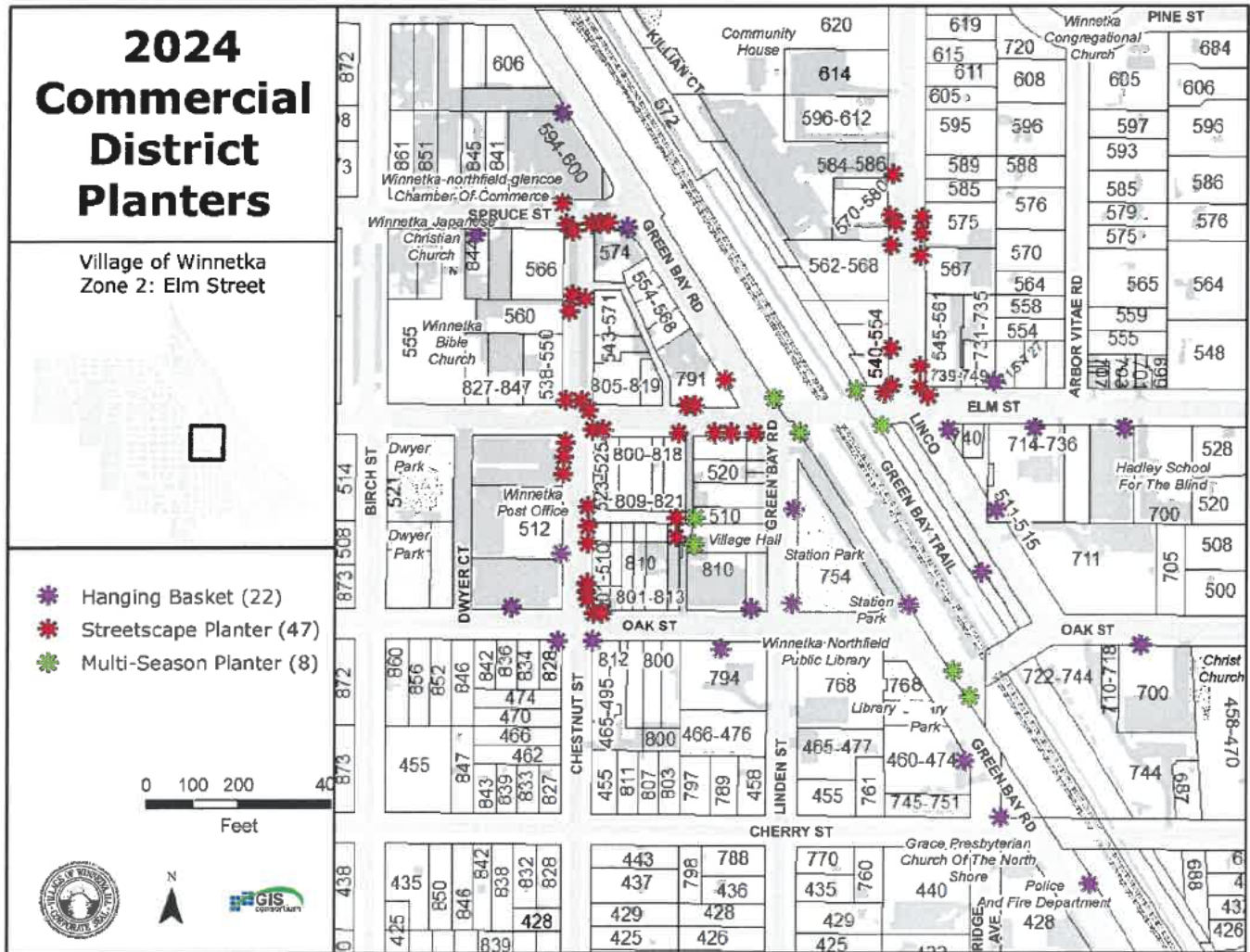


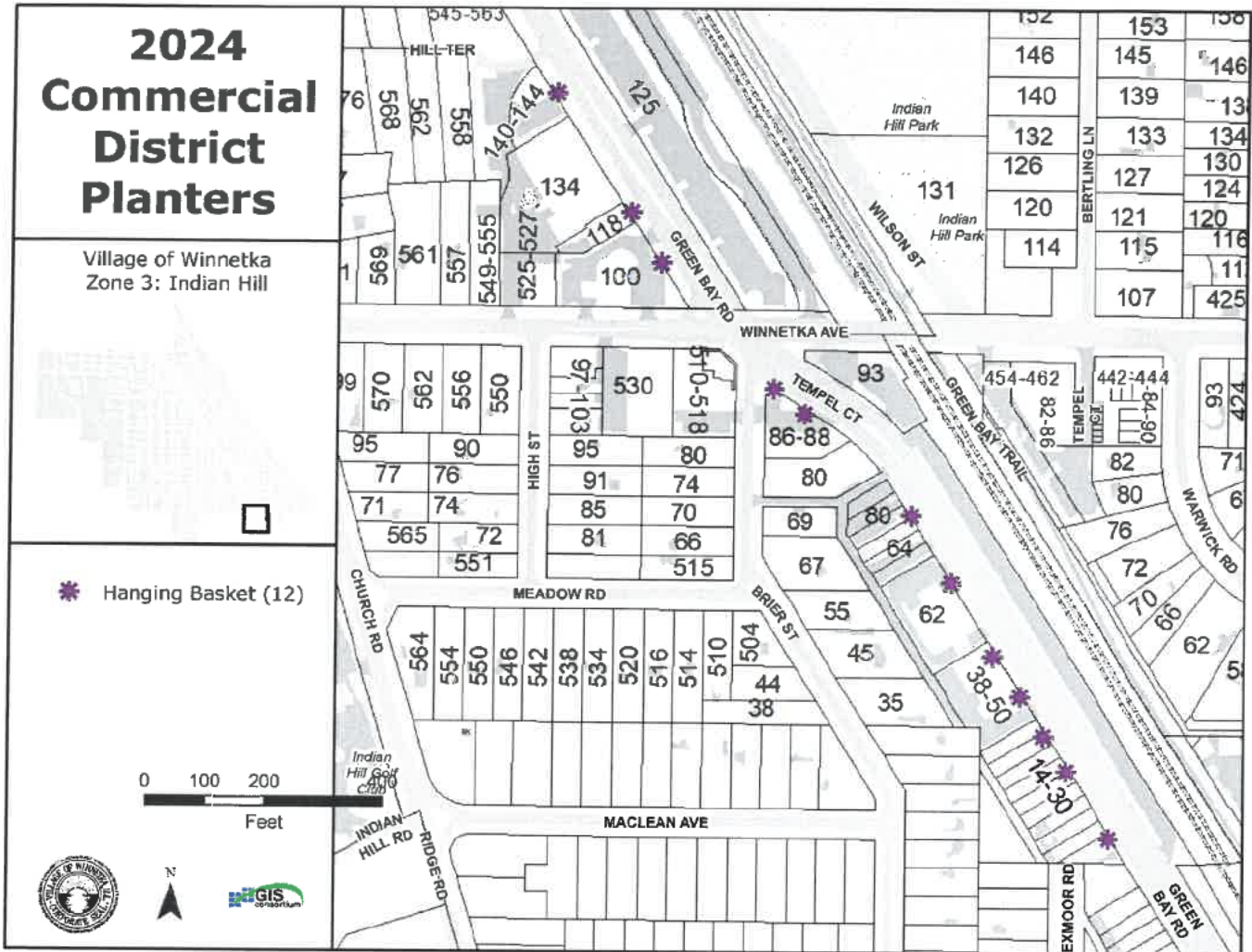
2024 Commercial District Planters

Village of Winnetka
Zone 1: Hubbard Woods

- Hanging Basket (14)
- Summer Planter (11)
- Multi-Season Planter (2)

0 100 200 400
Feet





ATTACHMENT C – WEEKLY MAINTAENANCE REPORT

HANGING BASKET WEEKLY MAINTENANCE REPORT

CONTRACTOR: _____

TELEPHONE #: _____ **FAX #:** _____

DATE: _____ **WEATHER:** _____

WORKED PERFORMED AT: (Location/Address)

WORK COMPLETED: (Check all that apply)

- ☐ Watering Gallons used: _____
- ☐ IPM inspection
- ☐ Deadheading (list specie) _____
- ☐ General Pruning (list specie) _____
- ☐ Litter cleanup
- ☐ Weeding
- ☐ Fertilizing: (Please attach a sheet listing the plants fertilized with the amount and type used)
- ☐ Other: Please specify

MAINTENANCE STATUS & NEEDS: (per IPM inspection)

- ☐ Pest Identified & Action Required _____
- ☐ Fertilizing: _____
- ☐ Pruning: _____
- ☐ Other: _____

Observations/Remarks: _____

Contractor Representative

Village Representative

SIGNATURE: _____

DATE: _____

ATTACHMENT D – REFERENCES

REFERENCES for VILLAGE OF WINNETKA

Please list below current business references for which you have performed work similar to that required by this proposal. *Please provide this information for each partner in a Joint Venture, and for all Subcontractors.*

Facility: Village of Winnetka
Address: 510 Green Bay Road
City, State, Zip Code: Winnetka, IL 60093
Telephone Number: 847-716-3504
Contact Person: Nick Mostardo
Dates of Service: 2019-present

Facility: Village of Skokie
Address: 5127 Oakton Street
City, State, Zip Code: Skokie, IL 60077
Telephone Number: 847-933-8240
Contact Person: Michael Aleksic
Dates of Service: 2019-present

Facility: City of Evanston
Address: 2100 Ridge Road
City, State, Zip Code: Evanston, IL 30201
Telephone Number: 847-866-2935
Contact Person: Tammi Nunez
Dates of Service: 2022-present

Complete this form and submit it with Form of Proposal.

Offeror's Name: Christy Webber Signature: 

ACCEPTANCE

The Contract attached hereto and by this reference incorporated herein and made a part hereof is hereby accepted by the order of the Village of Winnetka ("Owner") as of _____, 20____.

This Acceptance, together with the Contract attached hereto, constitutes the entire and only agreement between the parties relating to the accomplishment of the Work and the compensation therefor and supersedes and merges any other prior or contemporaneous discussions, agreements, or understandings, whether written or oral, and shall prevail over any contradictory or inconsistent terms or conditions contained in any purchase order, acceptance, acknowledgement, invoice, or other standard form used by the parties in the performance of the Contract. Any such contradictory or inconsistent terms or conditions shall be deemed objected to by Owner without further notice of objection and shall be of no effect nor in any circumstances binding upon Owner unless accepted by Owner in a written document plainly labeled "Amendment to Contract." Acceptance or rejection by Owner of any such contradictory or inconsistent terms or conditions shall not constitute acceptance of any other contradictory or inconsistent terms or conditions.

VILLAGE OF WINNETKA

Signature: _____

Printed name: _____

Title: _____

Summer Commercial District Hanging Baskets and Planters	Yellowstone			Christy Webber		
	Concept 1	Concept 2	Concept 3	Concept 1	Concept 2	Concept 3
Price per Ground Level Planter	\$425	\$450	\$430	\$115	\$115	\$115
Price for 21 Ground Level Planters	\$8,925	\$9,450	\$9,030	\$2,415	\$2,415	\$2,415
Price per Streetscape Planter	\$425	\$450	\$430	\$157	\$157	\$157
Price for 54 Streetscape Planters	\$22,950	\$24,300	\$23,220	\$8,478	\$8,478	\$8,478
Price per Hanging Basket	\$175	\$175	\$175	\$102	\$102	\$102
Price for 96 Hanging Baskets	\$16,800	\$16,800	\$16,800	\$9,792	\$9,792	\$9,792
Planter & Hanging Basket Maintenance/Month	\$4,125	\$4,125	\$4,125	\$4,940	\$4,940	\$4,940

Winter Commercial District Planters	Yellowstone	Christy Webber
Price per Streetscape Winter Planter	\$350	\$308
Price for 54 Streetscape Winter Planters	\$18,900	\$16,632
Price per Ground Level Winter Planter	\$350	\$289
Price for 10 Ground Level Winter Planters	\$3,500	\$2,890
Winter Planter Maintenance per Month	\$400	\$540

Additional Labor Rates (for unscheduled meintenance & repairs)	Yellowstone	Christy Webber
Additional General Maintenance Rate per Person	\$65	\$50

Totals	Yellowstone	Christy Webber
Summer Baskets & Planters	\$48,675	\$20,685
Summer Maintenance	\$20,625	\$24,700
Winter Planters	\$22,400	\$19,522
Winter Planter Maintenance	\$1,600	\$2,160
Annual Total	\$93,300	\$67,067



Agenda Item Executive Summary

TITLE: Resolution No. R-2-2024: Waiving Competitive Bidding and Approving a Contract with Great Lakes Urban Forestry Management for Forestry Professional Services in 2024 (Adoption)

PRESENTER: Andrew Lueck

AGENDA DATE: January 9, 2024

CONSENT: Yes

ITEM TYPE: Consent Agenda

ITEM HISTORY:

The FY 2024 Village budget contains \$60,000 for Forestry Consulting Services (Landscaping Maintenance and Seasonal Support) in account 100.35.26-545.

EXECUTIVE SUMMARY:

Funds were budgeted for Forestry consulting services beginning in 2023 due to an increased workload taken on by Forestry staff in preceding years. The Village distributed a request for proposals for Forestry Consulting Services in early 2023. One firm, Graf Tree Care (dba Great Lakes Urban Forestry Management), submitted a proposal at a cost of \$95 per hour. The Village entered into a contract with the firm for 2023 for an amount not to exceed \$50,000.

Having a Forestry consultant under contract in 2023 allowed for improved Forestry efficiencies and improved tree management in the Village. Specific duties completed by the consultant in 2023 included tree preservation monitoring, tree ordinance enforcement, tree risk and management assessments on Village-owned trees, permit and plan reviews and updating the Village tree inventory, among other related tasks. The consultant reviewed approximately 100 plans and 125 tree removal permits and updated approximately 3,000 trees in the Village's tree inventory.

As in 2023, the consultant will mainly work during the peak season for Forestry activities, between April and October in 2024. An hourly cost of \$95 will allow for approximately 526 consulting hours to be completed in 2024 within the budgeted amount of \$60,000. That will allow for the consultant to be in the Village an average of two days per week between April and October, with remaining hours to be worked as needed by the end of 2024.

RECOMMENDATION:

Consider adopting Resolution No. R-2-2024, awarding a contract to Great Lakes Urban Forestry Management for Forestry Consulting Services in an amount not to exceed \$60,000.

ATTACHMENTS:

1. Resolution No. R-2-2024: Waiving Competitive Bidding and Approving a Contract with Great Lakes Urban Forestry Management for Forestry Services

**A RESOLUTION WAIVING COMPETITIVE BIDDING AND APPROVING A
CONTRACT WITH GREAT LAKES URBAN FORESTRY MANAGEMENT FOR
FORESTRY PROFESSIONAL SERVICES IN 2024**

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution authorizes the Village of Winnetka (“*Village*”) to contract with individuals, associations, and corporations in any manner not prohibited by law or ordinance; and

WHEREAS, in March 2023, the Village entered into a contract with Great Lakes Urban Forestry Management (“*Consultant*”) for forestry professional services, which includes, but is not limited to: tree preservation monitoring, tree ordinance enforcement, tree risk and management assessments on Village-owned trees, permit and plan reviews, and updating the Village tree inventory (collectively, “*Work*”); and

WHEREAS, the Consultant has done a satisfactory job performing the Work and the Village Council desires to enter into a new contract with Consultant for 2024; and

WHEREAS, the Village has budgeted \$60,000.00 for the Work to be performed in 2024; and

WHEREAS, Village staff has recommended that the Village Council (i) waive competitive bidding for the Work pursuant to Chapter 4.12.010.C of the Village Code, Section IV.3.D of the Village’s Purchasing Manual, and the Village’s home rule authority; and (ii) enter into a contract with Consultant for Consultant to provide the Work in an amount not to exceed \$60,000.00 (“*Contract*”); and

WHEREAS, the Village Council has determined that it is in the best interests of the Village to (i) waive competitive bidding for the Work; and (ii) enter into a Contract with Consultant for Consultant to provide the Work;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Winnetka, Cook County, Illinois, as follows:

SECTION 1: RECITALS. The Village Council hereby adopts the foregoing recitals as its findings, as if fully set forth herein.

SECTION 2: WAIVER OF COMPETITIVE BIDDING. Pursuant to Sections 4.12.010.A and 4.12.010.C of the Village Code, Section IV.3.D of the Village’s Purchasing Manual, and the Village’s home rule authority, the Village Council waives the requirement of competitive bidding for the procurement of the Work.

SECTION 3: APPROVAL OF CONTRACT. The Village Council approves a Contract with Consultant for the Work in substantially the form attached to this Resolution as **Exhibit A** and in a final form approved by the Village Attorney.

SECTION 4: AUTHORIZATION TO EXECUTE CONTRACT. The Village Council authorizes and directs the Village President and the Village Clerk to execute and attest, respectively, on behalf of the Village, the final Contract after receipt by the Village Manager of two executed copies of the final Contract from the Consultant; provided, however, that if the Village Manager does not receive two executed copies of the final Contract from the Consultant within 60 days after the date of adoption of this Resolution, then this authority to execute and seal the Contract will, at the option of the Village Council, be null and void.

SECTION 5: EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its passage and approval according to law.

ADOPTED this 2nd day of January 2024, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

Signed

Village President

Countersigned:

Village Clerk

EXHIBIT A
CONTRACT



1485 Louis Bork Drive, Unit #113
Batavia, IL 60510
630-762-2400 Fax 630/578-1304
www.glurbanforestry.com

October 31, 2023

Village of Winnetka
1390 Willow Road
Winnetka, IL 60093
Attn: Andrew Lueck
Re: Letter of Intent – 2024 Forestry Consultant

Andrew-

The team at Great Lakes Urban Forestry and myself would like to thank you for your business this past year as your Forestry Consultant. It was great to meet and work with your team, from you to Obaid, Alana, Jim, Anita, and everyone else, we have really enjoyed working with your staff and residents.

We understand you have choices when it comes to professional services such as Forestry Consulting. That said, we feel like our team of consultants really has a well-developed local perspective for the Village and its residents and policies after having worked alongside your team this past year. To that end, and not to be too forward, but if you were happy with our services this past year, and might be going out to bid next year again, if there were a possibility to have a continuation or extension of contract for next year, we would certainly be interested in doing so, and would commit to holding our current pricing, with possibly just a standard CPI increase in our hourly rate. While this may sound self-serving, it may actually serve the Village best, since the “getting to know you” period would have been covered already, and we could step in quickly next year and get started at full speed helping the Village through its busy permitting, construction monitoring, and plan review season. We have no expectations here, and are not trying to put any thumbs on any scales, but thought we would mention this briefly as we wind our 2023 contract down to a close.

Great Lakes Urban Forestry Management thanks you once again for your engagement this past year, and we look forward to hopefully working with you as part of your team to achieve your management objectives in 2024 and beyond.

Regards-



Stephen Lane
Lead Urban Forestry Consultant
Great Lakes Urban Forestry Management
224-433-1124
steve@graftreecare.com





Agenda Item Executive Summary

TITLE: Ordinance No. MC-2-2024: Amending Titles 9 and 10 of the Winnetka Village Code Regarding Unscheduled Bus Stops (Introduction/Adoption)

PRESENTER: Peter Friedman

AGENDA DATE: January 9, 2024

CONSENT: No

ITEM TYPE: Ordinances and Resolutions

ITEM HISTORY:

None.

EXECUTIVE SUMMARY:

There has been recent increase in unscheduled, unannounced one-way bus traffic impacting Northern Illinois which has resulted in dangerous, inhumane conditions for passengers, and potential public nuisance and public safety concerns. In response, Council will consider introduction and possible adoption of Ordinance MC-2-2024 - Amending Titles 9 and 10 of the Winnetka Village Code Regarding Unscheduled Bus Stops.

This proposed Ordinance will apply to all one-way intercity buses, defined as any bus used for one-way transportation of 10 or more passengers originating from location outside of the Village that is not a regularly scheduled service. Intercity buses will be required to apply for advance approval from the Village Manager, or his designee at least five days prior to arrival. In the approval application, the owner, operator, or driver of an intercity bus must provide detailed information regarding the owner, operator, and driver, the entity or individuals who have financed the transportation, the bus, the number of passengers, the proposed drop off location, the responsible individuals who will be present to meet and receive the passengers, and the plan for how the disembarking passengers will be cared for, housed, and fed. In addition, the Ordinance allows for a limit of 1 approved intercity bus application per day, and penalties for non-compliance of \$750 per passenger and impoundment of the bus.

Staff is aware of at least 36 Illinois municipalities that have adopted or are considering adopting similar Ordinances regulating unscheduled one-way intercity buses including Buffalo Grove, Chicago, Highwood, Lake Bluff, Libertyville, Long Grove, North Chicago, South Barrington, and Waukegan.

RECOMMENDATION:

Consider introduction and possible adoption of Ordinance No. MC-2-2024 - Amending Titles 9 and 10 of the Winnetka Village Code Regarding Unscheduled Bus Stops.

ATTACHMENTS:

1. Ordinance No. MC-2-2024 - Amending Titles 9 and 10 of the Winnetka Village Code Regarding Unscheduled Bus Stops

**AN ORDINANCE AMENDING TITLES 9 AND 10 OF THE WINNETKA VILLAGE
CODE REGARDING UNSCHEDULED BUS STOPS**

WHEREAS, the Village of Winnetka (“**Village**”) is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs; and

WHEREAS, pursuant to Section 11-1-1 of the Illinois Municipal Code, 65 ILCS 5/11-1-1, municipalities are granted the authority to pass and enforce all necessary police ordinances; and

WHEREAS, pursuant to Section 11-42-6 of the Illinois Municipal Code, 65 ILCS 5/11-42-6, municipalities have the authority to license, tax and regulate operators of buses using Village streets; and

WHEREAS, pursuant to Section 11-60-2 of the Illinois Municipal Code, 65 ILCS 5/11-60-2, municipalities have the authority to define, prevent, and abate nuisances; and

WHEREAS, the Village Council finds and determines that the unscheduled, unannounced, one-way routing and dropping off of passengers arriving in the Village from outside the Village’s corporate boundaries, without pre-arranged provisions such as food, shelter, or other resources by bus or other transportation providers (“**Unscheduled Stops**”), constitutes inhumane conditions, creates a dangerous condition for the individuals being dropped off in the Village, and otherwise creates a nuisance and a threat to public safety; and the Village Council further finds and determines that Unscheduled Stops, without pre-arranged provisions for passengers, may have deadly consequences when the weather conditions are adverse; and

WHEREAS, the Village Council further finds and determines that the health and safety of the passengers disembarking at Unscheduled Stops in the Village is jeopardized when there are no prior arrangements for housing, food, shelter, and other resources; and

WHEREAS, Unscheduled Stops, without advance notice to prepare for passenger arrivals, create a drain on the Village’s resources and operations, including, without limitation, the Village’s Police and Fire Departments; and

WHEREAS, the Village Council desires to amend Title 10 of the Winnetka Municipal Code, as amended (“**Village Code**”), to regulate Unscheduled Stops from buses and other transportation providers; and

WHEREAS, the Village Council has determined that amending the provisions of the Village Code as set forth in this Ordinance and pursuant to the Village’s home rule authority is in the best interests of the Village;

NOW, THEREFORE, the Council of the Village of Winnetka does ordain as follows:

Additions are bold and double-underlined; ~~deletions are struck through~~

SECTION 1: RECITALS. The recitals in this Ordinance are incorporated into this Section as the findings of the Village Council.

SECTION 2: AMENDMENT TO TITLE 10 OF THE VILLAGE CODE. Title 10, titled “Vehicles and Traffic,” of the Village Code is hereby amended to add a new Chapter 10.36, titled “Unscheduled stops” to read as follows:

“CHAPTER 10.36 UNSCHEDULED STOPS

Section 10.36.010 Definitions.

For the purposes of this Chapter, the following words or phrases have the meanings ascribed to them in this Section 10.36.010, except when the context otherwise indicates. All words or phrases not defined in this Section have the meanings ascribed to them in the Illinois Vehicle Code, 625 ILCS 5/1-100 et seq.

INTERCITY BUS: Any bus used for the one-way transportation of 10 or more passengers originating from a location outside of the Village that is not a regularly scheduled service.

REGULARLY SCHEDULED SERVICE: Bus service involving passengers disembarking in the Village on a predictable and recurring basis either (i) following a schedule that is published in advance and available to the general public, and provides service in exchange for paying a fare; or (ii) provided by a business to the business’s workers engaged in commuting to or from work.

UNSCHEDULED STOP: The stopping or standing of an intercity bus within the Village for the purpose of unloading or the disembarking of passengers without prior approval of the Village as required by Section 10.36.020 of the Village Code.

Section 10.36.020 Intercity bus stops.

- A. Prohibited. Unscheduled bus stops of intercity buses are declared to be a nuisance and are prohibited in the Village.**
- B. Intercity buses may stop to allow passengers to disembark in the Village only if they comply with all of the following conditions and restrictions:**
 - 1. Permitted Hours.**
 - a. Intercity buses may only stop or stand to allow passengers to disembark within the Village between the hours of 10:00 a.m. and 4:00 p.m., Monday through Friday, but not on any federal, state, or Village holidays;**

Additions are bold and double-underlined; deletions are struck through

- b. No intercity bus may allow passengers to disembark except within 30 minutes before or after the time designated in an application that has been approved pursuant to Section 10.36.020(B)(4) of this Code.
2. Permitted Location. Intercity buses may only stop or stand to allow passengers to disembark within the Village at the Indian Hill Metra Station parking lot, located at 125 Green Bay Road, Winnetka, Illinois, or such other location as may be approved by the Village Manager or the Village Manager's designee in their sole discretion.
3. Coordination of Disembarking Passengers. The intercity bus must be met by individuals responsible for coordinating the transportation of the passengers from the stop location in the Village to their final destination(s).
4. Advance Approval. The owner, operator, or driver of an intercity bus must obtain advance written approval of the Village prior to making a stop and allowing passengers to disembark within the Village. In order to obtain advanced approval of a stop, the owner, operator, or driver of the intercity bus must submit an application to the Village Manager or the Village Manager's designee at least five days before the date of the proposed stop. The application must include the following information:
- a. The full name, full address, and telephone numbers, including mobile telephone numbers of the owner, operator, and driver of the intercity bus;
- b. The full name, full address, and telephone numbers, including mobile telephone numbers of any entity or individuals that have either directed, paid for, or financed the transport of persons who will disembark in the Village;
- c. The make, model, state registration/plate number, fleet number, and vehicle identification number (VIN) of the vehicle that will be providing the service;
- d. The quantity of persons who are proposed to disembark in the Village;

Additions are bold and double-underlined; deletions are struck through

- e. The name, address, or location in the Village where the applicant proposes to allow passengers to disembark;
- f. The full names, addresses, telephone numbers, including mobile telephone numbers, and electronic mail addresses of all entities or individuals who will be present to meet and receive the passengers disembarking in the Village;
- g. A detailed, written plan signed by the entity or individuals agreeing to be responsible for providing the plan, identifying how the disembarking passengers will be cared for, housed, and fed upon disembarking in the Village;
- h. Any additional information that the Village Manager or the Village Manager's designee may require; and
- i. An affirmation by the applicant that the information provided in the application is true and correct. Such affirmation must be attested to by a person authorized to administer oaths or witness affirmations within the state or territory.

5. Review of Application. Upon receipt of the application for an intercity bus stop submitted pursuant to this Chapter, the Village Manager or the Village Manager's designee will undertake a review of the information contained in the application to verify its truth and authenticity. If the application is incomplete, the Village Manager or the Village Manager's designee will, in writing, advise the applicant of the additional items needed to complete the application. No later than three days after receiving a completed application, the Village Manager or the Village Manager's designee will inform the applicant, in writing, that the application is approved or denied for the proposed location of disembarkation in the Village.

6. The Village Manager or the Village Manager's designee may limit the number of applications that are approved for an intercity bus disembarkation to one on any particular day. Applications will be processed on a first-come, first-served basis, and the approval will be issued to the earliest filed complete and qualifying application.

Additions are bold and double-underlined; deletions are struck through

7. **Proof of Application and Approval. The driver of an intercity bus approved pursuant to Section 10.36.020(B)(4) to stop in the Village must have in their possession a physical or electronic copy of an approved application and present it for inspection at the place of disembarkation, upon request by any employee or designee of the Village.**

Section 10.36.030 Revocation of application.

The approval of an application pursuant to Section 10.36.020(B)(4) may be revoked by the Village Manager or the Village Manager's designee upon the Manager's or designee's determination that the application contains any false or misleading information.

Section 10.36.040 Penalty: Impoundment.

- A. **Penalty. Any person, firm, or corporation that operates a bus in violation of any provision of this Chapter 10.36 will be fined in an amount of \$750.00 per passenger on the bus, plus any costs incurred by the Village.**
- B. **Impoundment. Village police officers are hereby authorized to seize and impound any intercity bus that is used in the commission or furtherance of a violation of this Chapter 10.36. Seizures and impoundments under this Section 10.36.040 will be conducted in accordance with the procedures set forth in Section 10.08.090(B)(2) and (3), and 10.08.090(C)-(F)."**

SECTION 3: AMENDMENT TO SECTION 9.16.020 OF THE VILLAGE CODE.

Section 9.16.020, titled "Public nuisances defined," of Chapter 9.16, titled "Nuisances," of Title 9, titled "Public Peace, Morals and Welfare," of the Village Code is amended to read as follows:

"Section 9.16.020 Public nuisances defined.

* * *

- D. Public Nuisances Affecting Peace and Safety. The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection A of this section:

* * *

23. **Unscheduled bus stops of intercity buses, in violation of Section 10.36.020 of this Code."**

Additions are bold and double-underlined; ~~deletions are struck through~~

SECTION 4: SEVERABILITY. If any provision of this Ordinance or part of this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance will remain in full force and effect, and will be interpreted, applied, and enforced to achieve, as near as may be possible, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 5: EFFECTIVE DATE. This Ordinance will be in full force and effect upon its passage and approval in the manner provided by law.

PASSED this ____ of _____, 2024, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of _____, 2024.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the
President and Board of Trustees of
the Village of Winnetka, Illinois,
this ____ day of _____,
2024.

Introduced: _____, 2024

Passed and Approved: _____, 2024

Additions are bold and double-underlined; ~~deletions are struck through~~



Agenda Item Executive Summary

TITLE: Ordinance No. M-17-2023: Granting a Variation from the Winnetka Zoning Ordinance to Allow the Construction of a Pickleball Court for an Existing Residence Within the R-2 Single Family Residential District (889 Sheridan Road) (Adoption)

PRESENTER: David Schoon

AGENDA DATE: January 9, 2024

CONSENT: No

ITEM TYPE: Ordinances and Resolutions

ITEM HISTORY:

12-5-2023: Village Council approved introduction of Ordinance No. M-17-2023, Granting a Variation from the Winnetka Zoning Ordinance to Allow the Construction of a Pickleball Court (889 Sheridan Road)

12-19-2023: At the request of the Applicant, the item was continued to the January 9, 2024, Council meeting.

EXECUTIVE SUMMARY:

On January 9, 2024, the Village Council is scheduled to consider adoption of Ordinance No. M-17-2023, an Ordinance Granting a Variation from the Winnetka Zoning Ordinance to Allow Construction of a Pickleball Court for an Existing Residence within the R-2 Single Family Residential Zoning District (**Attachment 1**). The Ordinance is in response to an application submitted by First Nations Bank Trust #1933 (the "Applicant") as the owner of the property located at 889 Sheridan Road (the "Subject Property").

The Applicant is requesting approval of a zoning variation to allow construction of a pickleball court within the minimum required corner yard setback of 50 feet from the south property line along Tower Road on the Subject Property.

At the December 5, 2023, meeting, the Village Council heard from the Applicant regarding its request. After hearing from the Applicant, the Council discussed the application and approved a motion to introduce Ordinance No. M-17-2023 with the condition that the court be relocated as much as possible out of the required corner yard setback. In response to the Council's comments, the Applicant has provided the attached narrative along with two options explored by the Applicant for the revised location of the pickleball court (**Attachment 2**). The Applicant's narrative explains why it prefers Option 1, which represents the largest increase in the setback. In Option 1, the proposed pickleball court would provide a corner yard setback of 21 feet, compared to the 13 feet originally proposed by the Applicant.

The ordinance has been amended to reflect the proposed pickleball court would provide a setback of 21 feet, whereas a minimum of 50 feet is required, a variation of 29 feet (58%).

RECOMMENDATION:

Council will consider adoption of Ordinance No. M-17-2023; Granting a Variation from the Winnetka Zoning Ordinance to Allow the Construction of a Pickleball Court for an Existing Residence Within the R-2 Single Family Residential District.

ATTACHMENTS:

1. Ordinance No. M-17-2023: Granting a Variation to Allow the Construction of a Pickleball Court (889 Sheridan)
2. December 12, 2023, Letter and Site Plan Options Provided by Applicant

**AN ORDINANCE GRANTING A VARIATION FROM THE
WINNETKA ZONING ORDINANCE TO ALLOW THE CONSTRUCTION
OF A PICKLEBALL COURT FOR AN EXISTING RESIDENCE WITHIN
THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT
(889 Sheridan Road)**

WHEREAS, First Nations Bank Trust #1933 (*“Applicant”*) is the record title owner of the parcel of real property commonly known as 889 Sheridan Road in Winnetka, Illinois, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Ordinance (*“Subject Property”*); and

WHEREAS, the Subject Property is approximately 1.42 acres in area and located within the R-2 Single Family Residential District of the Village (*“R-2 District”*) and is improved with a single-family residence; and

WHEREAS, the Applicant desires to construct a pickleball court on the Subject Property (*“Proposed Pickleball Court”*); and

WHEREAS, pursuant to Section 17.30.050 of the Winnetka Zoning Ordinance (*“Zoning Ordinance”*), the minimum required corner yard setback for the Subject Property is 50 feet; and

WHEREAS, to construct the Proposed Pickleball Court on the Subject Property, the Applicant filed an application for a variation from Section 17.30.050 to allow a corner yard setback of 13 feet from the south property line along Tower Road (*“Variation”*); and

WHEREAS, on November 13, 2023, after due notice thereof, the Zoning Board of Appeals (*“ZBA”*) conducted a public hearing on the Variation and, by a vote of four members in favor and two opposed, recommended that the Council of the Village of Winnetka (*“Village Council”*) approve the Variation; and

WHEREAS, on December 5, 2023, the Village Council considered the Variation, and requested that the Applicant relocate the Proposed Pickleball Court as much as possible out of the required corner yard; and

WHEREAS, the Applicant adjusted the location of the Proposed Pickleball Court on the Subject Property and thus amending its application for a variation from Section 17.30.050 to allow a corner yard setback of 21 feet from the south property line along Tower Road (*“Amended Variation”*); and

WHEREAS, pursuant to Section 17.60.050 of the Zoning Ordinance, the Village Council has determined that: (i) the Amended Variation is in harmony with the general purpose and intent of the Zoning Ordinance and is in accordance with general or specific rules set forth in Chapter 17.60 of the Zoning Ordinance; and (ii) there are practical difficulties or particular hardships in the way of carrying

out the strict letter of the provision or regulation of the Zoning Ordinance from which the Variation has been sought; and

WHEREAS, the Village Council has determined that approval of the Amended Variation for the Subject Property within the R-2 District is in the best interest of the Village and its residents;

NOW, THEREFORE, the Council of the Village of Winnetka do ordain as follows:

SECTION 1: RECITALS. The foregoing recitals are hereby incorporated into this section as the findings of the Village Council, as if fully set forth herein.

SECTION 2: APPROVAL OF VARIATION. Subject to, and contingent upon, the terms, conditions, restrictions, and provisions set forth in Section 3 of this Ordinance, the Amended Variation from Section 17.30.050 of the Zoning Ordinance to allow the construction of the Proposed Pickleball Court on the Subject Property is hereby granted, in accordance with and pursuant to Chapter 17.60 of the Zoning Ordinance and the home rule powers of the Village.

SECTION 3: CONDITIONS. The Amended Variation granted by Section 2 of this Ordinance is subject to, and contingent upon, compliance by the Applicant with the following conditions:

- A. **Commencement of Construction.** The Applicant must commence the construction of the Proposed Pickleball Court no later than 12 months after the effective date of this Ordinance.
- B. **Compliance with Regulations.** Except to the extent specifically provided otherwise in this Ordinance, the development, use, and maintenance of the Proposed Pickleball Court and Subject Property must comply at all times with all applicable Village codes and ordinances, as they have been or may be amended over time.
- C. **Reimbursement of Village Costs.** In addition to any other costs, payments, fees, charges, contributions, or dedications required under applicable Village codes, ordinances, resolutions, rules, or regulations, the Applicant must pay to the Village, promptly upon presentation of a written demand or demands therefor, of all fees, costs, and expenses incurred or accrued in connection with the review, negotiation, preparation, consideration, and review of this Ordinance. Payment of all such fees, costs, and expenses for which demand has been made shall be made by a certified or cashier's check. Further, the Applicant must pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.
- D. **Compliance with Plans.** The development, use, and maintenance of the Proposed Pickleball Court on the Subject Property must be in strict accordance with the plans prepared by Cage Civil Engineering, consisting of one sheet, with a latest revision date of December 12, 2023, and H. Gary Frank Architects AIA. LTD, consisting of one sheet, with a latest revision date of October 11, 2023, copies of which are attached

to, and by this reference, made part of this Ordinance as **Exhibit B (“Plans”)**, except for minor changes and site work approved by the Director of Community Development or the Director of Engineering (within their respective permitting authority) in accordance with all applicable Village codes, ordinances, and standards.

SECTION 4: RECORDATION: BINDING EFFECT. A copy of this Ordinance will be recorded with the Cook County Clerk Recording Division. This Ordinance and the privileges, obligations, and provisions contained herein inure solely to the benefit of, and are binding upon, the Applicant and each of its heirs, representatives, successors, and assigns.

SECTION 5: FAILURE TO COMPLY. Upon the failure or refusal of the Applicant to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, in addition to all other remedies available to the Village, the approvals granted in Section 2 of this Ordinance will, at the sole discretion of the Village Council, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village Council may not so revoke the approvals granted in Section 2 of this Ordinance unless it first provides the Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village Council. In the event of revocation, the development and use of the Subject Property will be governed solely by the regulations of the applicable zoning district and the applicable provisions of the Zoning Ordinance, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

SECTION 6: AMENDMENTS. Any amendment to this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance for amending or granting variations.

SECTION 7: SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 8: EFFECTIVE DATE.

A. This Ordinance will be effective only upon the occurrence of all of the following events:

1. Passage by the Village Council in the manner required by law;
2. Publication in pamphlet form in the manner required by law; and
3. The filing by the Applicant with the Village Clerk of an Unconditional Agreement and Consent in the form of **Exhibit C** attached to and, by this reference, made a part of this Ordinance to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to

indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.

B. In the event that the Applicant does not file with the Village Clerk a fully executed copy of the unconditional agreement and consent described in Section 8.A.3 of this Ordinance within 60 days after the date of passage of this Ordinance by the Village Council, the Village Council shall have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

PASSED this 9th day of January, 2024, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of _____, 2024.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the
President and Board of Trustees
of the Village of Winnetka,
Illinois, this _ day of _____,
2024.

Introduced: December 5, 2023

Passed and Approved: _____, 2024

EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT PROPERTY

All that part of Lots 1 to 3 of Chandler's Subdivision, being a Subdivision of Block 15 of Hubbard Estate Subdivision, in the Northeast Fractional Quarter of Section 17, Township 42 North, Range 13, East of the Third Principal Meridian, as per Plat thereof recorded as document number 5849038, bounded and described as follows, to wit: Beginning at a point in the Easterly line of Sheridan Road (being the Westerly line of said Chandler's Subdivision) 30 Feet Southerly from (measured at right angles to) the Northerly line of said Chandler's Subdivision; running thence Northeasterly in a straight line to a point 36 Feet Southeasterly from (measured at right angles to) the said Northerly line of said Chandler's Subdivision at a point 180 Feet (as measured along said Northerly line of said Chandler's Subdivision) from the Easterly line of Sheridan Road; thence Northeasterly in a straight line to a point 51 Feet from (measured at right angles to) the said Northerly line of said Chandler's Subdivision at a point 255 Feet (as measured along said Northerly line of said Chandler's Subdivision) from the Easterly line of Sheridan Road; thence Northeasterly in a straight line to a point 55 feet from (measured at right angles to) the said Northerly line of said Chandler's Subdivision, at a point 357.5 Feet (measured along said Northerly line of said Chandler's Subdivision) from the Easterly line of Sheridan Road; thence Southeasterly in a straight line to a point on the Northerly line of said Lot 2 of said Chandler's Subdivision 370 feet (as measured along said Northerly line of said Lot 2) from the Easterly line of Sheridan Road; thence Southeasterly in a straight line to a point 3 Feet due North of a point in the North line of North Avenue (being the South line of said Chandler's Subdivision) said point in North Avenue being 468 Feet East (measured along the North line of said North Avenue) of the Northeast corner of Sheridan Road and North Avenue; thence South in a straight line a distance of 3 Feet to the North line of North Avenue; thence West along said North line of North Avenue a distance of 468 Feet to the point of intersection of North line of North Avenue with the Northeasterly line of Sheridan Road; thence Northwesterly along the Northeasterly line of Sheridan Road to the place of beginning, all in Cook County, Illinois.

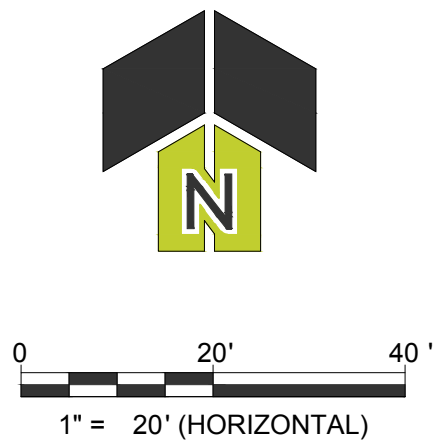
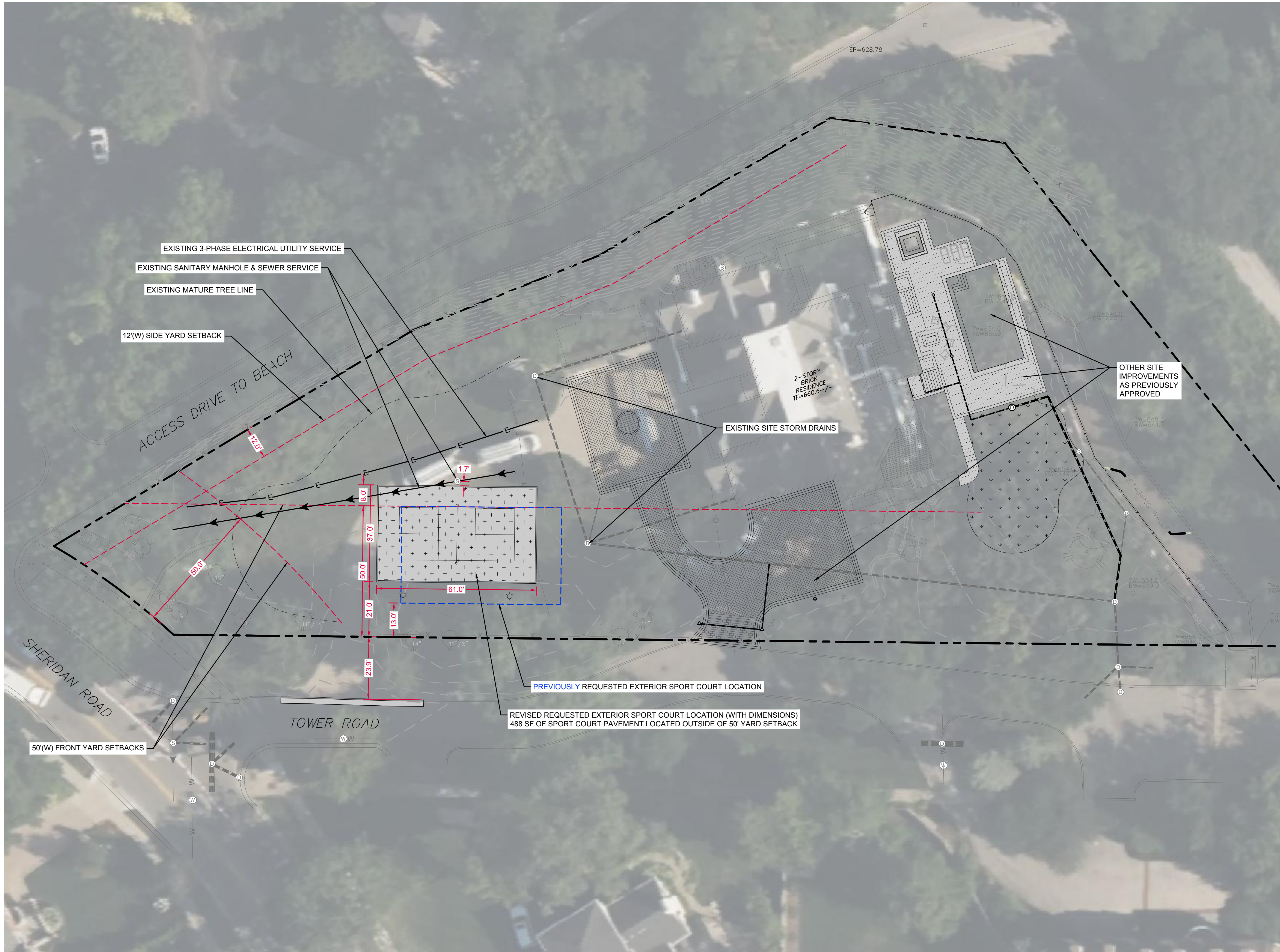
Commonly known as 889 Sheridan Road, Winnetka, Illinois.

PIN: 05-17-203-041-0000

EXHIBIT B

PLANS

(SEE ATTACHED EXHIBIT B)



2200 CABOT DRIVE
SUITE 325
LISLE, IL 60532
P: 630.598.0007
WWW.CAGECIVIL.COM



REVISIONS

THIS PERSON AND THESE DRAWINGS ARE THE PROPERTY OF CAGE ENGINEERING, INC. NO PART OF THIS WORK MAY BE REPRODUCED WITHOUT PRIOR WRITTEN PERMISSION FROM CAGE ENGINEERING, INC.

889 SHERIDAN ROAD
WINNETKA, IL

PROJ NO: 220082
ENG: MPS/AJB
DATE: 12/07/2023

SHEET TITLE
SPORT COURT
SETBACK
EXHIBIT
(OPTION 1)

SHEET NUMBER
EX-1
1 OF 2



EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Winnetka, Illinois ("***Village***"):

WHEREAS, First Nations Bank Trust #1933 ("***Applicant***") is the record title owner of the parcel of real property commonly known as 889 Sheridan Road in Winnetka, Illinois ("***Subject Property***"); and

WHEREAS, the Subject Property is approximately 1.42 acres in area and located within the R-2 Single Family Residential District of the Village ("***R-2 District***") and is improved with a single-family residence; and

WHEREAS, the Applicant desires to construct a pickleball court on the Subject Property ("***Proposed Pickleball Court***"); and

WHEREAS, to construct the Proposed Pickleball Court on the Subject Property, the Applicant filed an application for a variation from Section 17.30.050 to allow a corner yard setback of 21 feet from the south property line along Tower Road ("***Variation***"); and

WHEREAS, on December 5, 2023, the Village Council considered the Variation, and requested that the Applicant relocate the Proposed Pickleball Court as much as possible out of the required corner yard; and

WHEREAS, the Applicant adjusted the location of the Proposed Pickleball Court on the Subject Property and thus amending its application for a variation from Section 17.30.050 to allow a corner yard setback of 21 feet from the south property line along Tower Road ("***Amended Variation***"); and

WHEREAS, Ordinance No. M-17-2023, adopted by the Village Council on January __, 2024 ("***Ordinance***"), grants the Amended Variation; and

WHEREAS, Section 8 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Applicant has filed, within 60 days following the passage of the Ordinance, its unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Applicant does hereby agree and covenant as follows:

1. The Applicant hereby unconditionally agrees to accept, consent to, and abide by each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.
2. The Applicant acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the

revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.

3. The Applicant acknowledges and agrees that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's grant of the Amended Variation for the Subject Property or its adoption of the Ordinance, and that the Village's approvals do not, and will not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time.

4. The Applicant hereby agrees to hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village's adoption of the Ordinance granting the Amended Variation for the Subject Property.

5. The Applicant hereby agrees to pay all expenses incurred by the Village in defending itself with regard to any and all of the claims mentioned in this Unconditional Agreement and Consent. These expenses will include all out-of-pocket expenses, such as attorneys' and experts' fees, and will also include the reasonable value of any services rendered by any employees of the Village.

Dated: _____, 2024

ATTEST:

FIRST NATIONS BANK TRUST #1933

By: _____



December 12, 2023

Ann Klaassen
Assistant Director
Village of Winnetka
Community Development Department
510 Green Bay Road
Winnetka, IL 60093

RE: Draft Ordinance No. M-17-2023
889 Sheridan Road Pickleball Court
Revised Court Location Narrative

Ann,

Pursuant to discussions held during the Regular Meeting of the Village Council on December 5, 2023, CAGE Engineering, Inc. (CAGE) is reaching out to you regarding the requested zoning variation which would allow for the construction of a new pickleball court within the required 50-foot corner yard setback of the property located at 889 Sheridan Road. As was requested by several members of the Village Council during the meeting, we have investigated potential alternate locations that would result in the new court surface being located outside of the required setback to the extents practicable, with the revised location being achieved by some combination of translating and rotating the court to the north as necessary to increase the distance between the court and the Tower Road public right-of-way. It is noted that the originally-proposed location of the court – which was previously presented to both the Village Council and the Plan Commission – provided a minimum setback of 13 feet to the Tower Road right-of-way line and resulted in the entirety of the 37-foot-wide by 61-foot-long court being located within the required 50-foot setback.

Attached to this narrative are two (2) exhibits demonstrating alternative locations for the court that have been prepared, which can be briefly described as follows:

- Option 1: The court has been shifted to the north by a distance of 8 feet – thereby increasing the minimum setback provided to 21 feet – and to the west by approximately 10 feet. The westward shift is to allow for the center of the court to be aligned with the existing sanitary manhole structure in the yard, which provides the greatest distance from the structure to the playing area for safety purposes while minimizing the separation from the court to the manhole structure at approximately 24 inches. This orientation provides the greatest overall distance from the court to the Tower Road right-of-way line, and results in approximately 21% of the court surface being located outside of the 50-foot corner yard setback. When considering the additional distance (approximately 24 feet) from the property line to the Tower Road curblin, the court would be set back approximately 45 feet from the public roadway.

- Option 2: The court has been shifted to the north by a distance of 2 feet – thereby increasing the minimum setback provided to 15 feet – and rotated by approximately 15 degrees counterclockwise. The 15-degree angle is such that the court would be aligned parallel/perpendicular to the existing vehicular driveway to the east, and the 2-foot northward shift results in approximately 24 inches of separation between the manhole structure and the court surface. This orientation results in approximately 26% of the court surface being located outside of the 50-foot corner yard setback. When considering the additional distance (approximately 24 feet) from the property line to the Tower Road curbline, the court would be set back approximately 39' from the public roadway.

While the property owner is accepting of either option moving forward, Option 1 would be preferable due to the increased minimum setback from the property line, thereby providing a greater buffer from the court to the public right-of-way that would provide increased screening and reduce the effect of potential noise that would be generated by use of the court. Given the unique topographic constraints of the site which are preventative to the court being placed in a location that would be fully compliant with the zoning ordinance (as has previously been discussed length, but generally consists of the existing steep grade and dense landscape screening extending further into the property than the required setback along the north property line, maintaining a safe distance from the court to the existing heavily-trafficked Tower Beach access road, and conflicts with existing electric and sanitary utility structures in the center of the yard), it is the opinion of the applicant that the proposed location of the court is ideal for the property and surrounding neighborhood in question and meets the necessary standards for the requested variation.

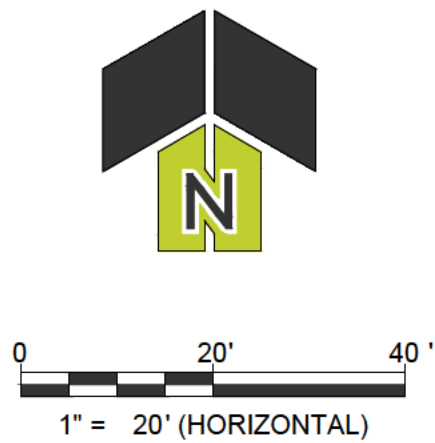
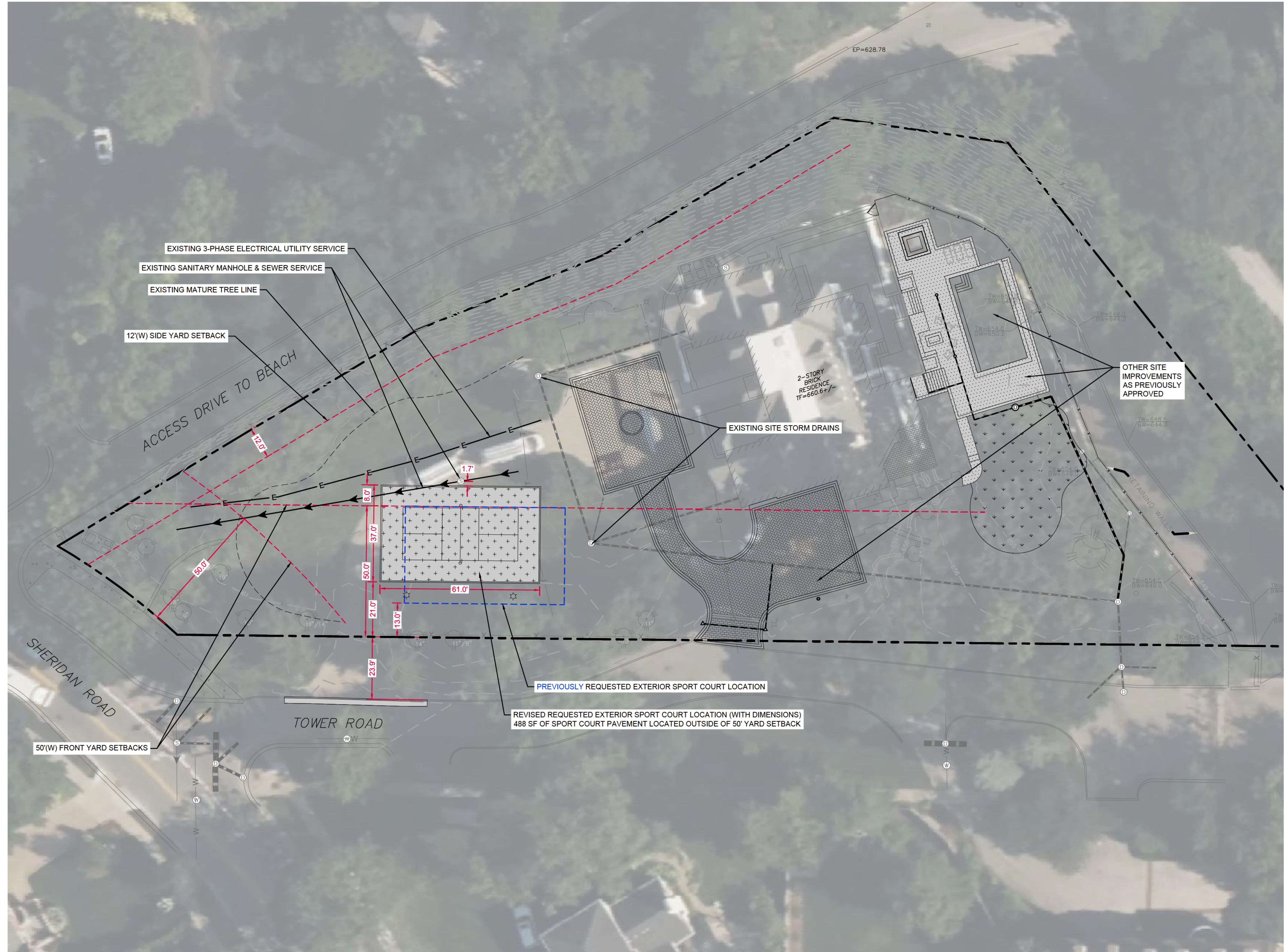
We appreciate the Village's continued assistance regarding this matter. Should you have any questions or comments regarding this matter, please do not hesitate to contact me either via telephone at (847) 849-7726 or via email at abruder@cagecivil.com.

Sincerely,
CAGE ENGINEERING, INC.



Aaron J. Bruder, PE
Director of Engineering – Illinois

CC: Joe Papanicholas
Gary Frank



2200 CABOT DRIVE
SUITE 325
LISLE, IL 60532
P: 630.598.0007
WWW.CAGECIVIL.COM



REVISIONS

THIS DESIGN AND THESE DRAWINGS ARE THE PROPERTY OF CAGE ENGINEERING, INC. NO PART OF THIS WORK MAY BE REPRODUCED WITHOUT PRIOR WRITTEN PERMISSION FROM CAGE ENGINEERING, INC.

889 SHERIDAN ROAD
WINNETKA, IL

PROJ NO: 220082
ENG: MPS/AJB
DATE: 12/07/2023

SHEET TITLE
SPORT COURT
SETBACK
EXHIBIT
(OPTION 1)

SHEET NUMBER
EX-1
1 OF 2



REVISIONS

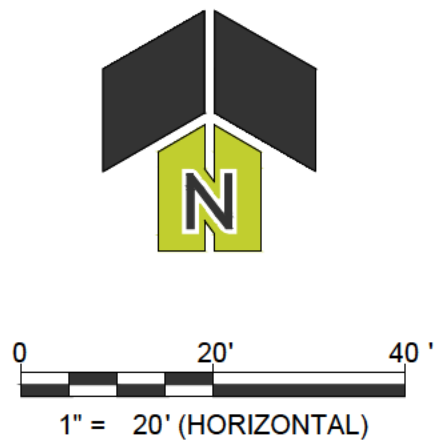
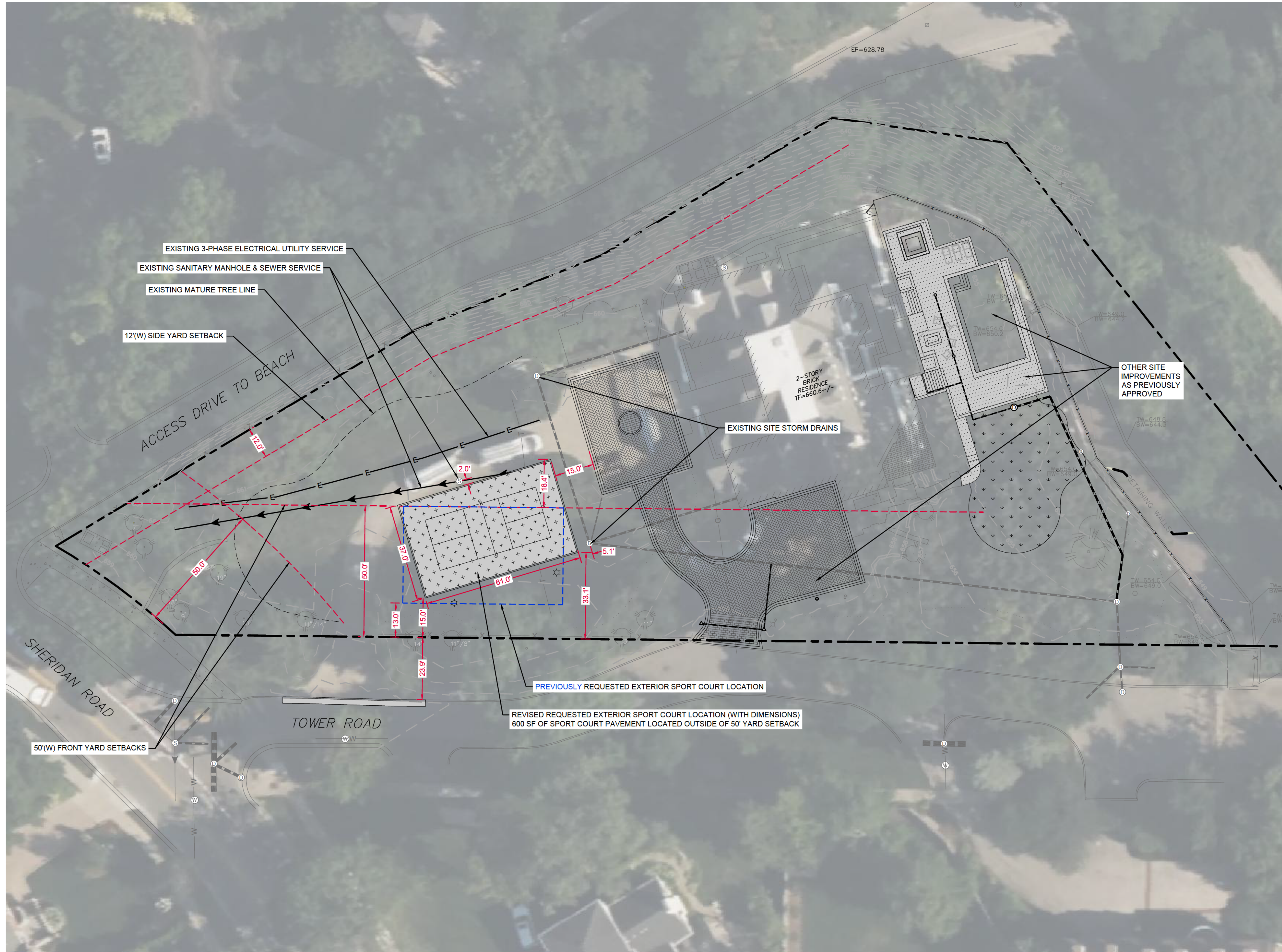
THIS DESIGN AND THESE DRAWINGS ARE THE PROPERTY OF CAGE ENGINEERING, INC. NO PART OF THIS WORK MAY BE REPRODUCED WITHOUT PRIOR WRITTEN PERMISSION FROM CAGE ENGINEERING, INC.

889 SHERIDAN ROAD
889 SHERIDAN ROAD
WINNETKA, IL

PROJ NO: 220082
ENG: MPS/AJB
DATE: 12/07/2023

SHEET TITLE
SPORT COURT
SETBACK
EXHIBIT
(OPTION 2)

SHEET NUMBER
EX-2
2 OF 2





Agenda Item Executive Summary

TITLE: Ordinance No. MC-1-2024: Amending the Winnetka Zoning Ordinance to Establish Bluff Regulations for Development in the Steep Slope Area Along Lake Michigan (Public Hearing & Introduction)

PRESENTER: David Schoon

AGENDA DATE: January 9, 2024

CONSENT: No

ITEM TYPE: Ordinances and Resolutions

ITEM HISTORY:

- 1/10/2023: Village Council held a study session regarding lakefront development regulations.
- 1/31/2023: Village Council held a study session regarding lakefront development regulations.
- 3/7/2023: Village Council introduced Ordinance No. MC-05-2023, an ordinance that establishes more clearly the nature and extent of Village permit requirements for construction of structures in and adjacent to Lake Michigan.
- 3/21/2023: Village Council adopted Ordinance No. MC-05-2023.
- 7/6/2023: Village Council held public hearings and introduced the following ordinances:
 - MC-07-2023, an ordinance creating the Lakefront Preservation Overlay District;
 - M-09-2023, an ordinance rezoning property along Lake Michigan in the Lakefront Preservation Overlay District;
 - MC-08-2023, an ordinance establishing a study and permit abeyance period for construction in the steep slope area along Lake Michigan; and
 - MC-09-2023, an ordinance amending the Zoning Ordinance regarding amendments to special uses.
- 7/18/2023: Village Council adopted ordinances no. MC-07-2023, M-09-2023, MC-08-2023, and MC-09-2023.
- 9/12/2023: Village Council held a study session regarding zoning and development regulations related to properties located on or near the bluffs of Lake Michigan.
- 11/14/2023: Village Council held a study session regarding bluff steep slope regulations and the creation of large lot through the consolidation process.
- 12/5/2023: Village Council introduced Ordinance No. MC-12-2023, an ordinance amending the Zoning Ordinance and Subdivision Ordinance regarding large lot consolidations.
- 12/19/2023: Village Council adopted Ordinance No. MC-12-2023.

EXECUTIVE SUMMARY:

INTRODUCTION

On Tuesday, January 9, 2024, the Village Council is scheduled to hold a public hearing on and consider introduction of Ordinance No. MC-1-2024, an Ordinance Amending the Winnetka Zoning Ordinance to Establish Bluff Regulations for Development in the Steep Slope Area Along Lake Michigan. (**Attachment 1**)

The Village President and the Village Council have initiated an application to consider amending Title 17, “Zoning” of the Winnetka Code of Ordinances (“Zoning Ordinance”) concerning establishing bluff regulations for development in the steep slope area along Lake Michigan and to amend the definitions for the lot line and the front yard setback along Lake Michigan (“Code Amendments”).

The hearing was properly noticed in the *Winnetka Talk* on December 21, 2023. A courtesy mail notice was sent to owners of property with lakefront and to property owners within 250 feet of these properties. As of the date of this memo, the Village has received one written comment from the public (**Attachment 4**).

BACKGROUND

On Tuesday, November 14, 2023, the Village Council held a study session continuing its discussion from its September 12, 2023, study session regarding zoning and development regulations related to properties located on or near the bluffs of Lake Michigan (“lakefront properties”) as well as additional regulations regarding the consolidation of lots into one large lot. At the study session, the Council reviewed the following draft ordinances:

- An Ordinance Amending Title 16 of the Winnetka Village Code and Chapters 17.30 and 17.50 of the Winnetka Zoning Ordinance Regarding Lot Consolidations; and
- An Ordinance Amending the Winnetka Zoning Ordinance to Establish Bluff Regulations for Development in the Steep Slope Area Along Lake Michigan.

Staff had prepared these ordinances based on the majority consensus of the Council, as summarized by the Village Manager at the September 19, 2023, Council meeting.

At the November 14, 2023, study session, the Council directed staff to schedule a public hearing on the lot consolidation ordinance for its December 5, 2023, meeting. The Council held the public hearing and introduced the ordinance on December 5, 2023, and then adopted the ordinance on December 19, 2023.

Regarding the bluff steep slope ordinance, the Council requested additional information and refinements to the draft ordinance. Those items include the following and are addressed in this memo:

1. Revise the draft ordinance to remove the phrase “unless it is necessary for slope stabilization” from each of the subpoints of Sections 17.82.030 and 17.82.040. This item has been addressed in the attached revised draft ordinance (**Attachment 1**). Also attached is a document comparing the November 14 version of the proposed ordinance with the current proposed ordinance. (**Attachment 2**)
2. Establish more specific parameters in terms of the size of a boat house that could be located within the steep slope zone.

3. Provide additional information regarding how the provision of a boat ramp would not interfere with the public trust doctrine and the practical aspects of walking along the water's edge of Lake Michigan.
4. Provide additional information regarding the use of the Ordinary High-Water Mark (OHWM) as the lot line along Lake Michigan **for zoning purposes**.

The last three items are addressed in the remainder of this memo. Also, since the November study session, Council members have received questions of concern regarding what happens to existing structures that would be located within the steep slope zone. This memo also addresses this issue.

PARAMETERS FOR THE SIZE OF ALLOWED BOAT HOUSES WITHIN THE STEEP SLOPE ZONE

In the draft ordinance presented to the Village Council in November, the language stated the following regarding boat houses that would be allowed within the steep slope zone:

1. Boat houses, provided the boat house does not exceed one story and has a maximum height of 15 feet where it is cut into the bluff. The width of the boat house must be limited to accommodate storage of no more than two boats with limited additional space for auxiliary storage, toilet/showers, etc. Additionally, any boat house, regardless of size, must use exceptional engineering, including stormwater management and vegetation, so that such boat house will not jeopardize slope stability, and the Director has determined that the boat house structure as proposed will not adversely impact the stability of the property or adjacent property.

Following its review of this standard, the Council requested that staff provide a revised standard with more specific parameters for the size of allowed boat houses within the steep slope zone. In determining the appropriate size, the Council stated the parameters should look at accommodating what lakefront property owners currently have in terms of boat houses while balancing the goal of protecting steep slopes and their stability.

Staff has been able to identify 17 structures that contain either an independent boat house, a boat house as part of a larger accessory structure, or a boat house that is part of a principal structure. A boat house could be used to store motorized or non-motorized watercraft as well as other beach-related items.

Based upon our review of a few building plans but predominantly of plats of surveys, as-built surveys, and zoning calculations, staff learned the following regarding boat houses/watercraft storage facilities along the lake. It should be noted that some of these boat houses are connected to a principal structure and others are part of a larger accessory structure that also contained beach house elements. (An accessory beach house would be a structure that could not be a dwelling unit. A dwelling unit is a structure that contains all three of the following elements "independent and permanent cooking, sanitary (restroom), and sleeping facilities.")

The smallest boat house we identified is 15'x20' or 300 square feet, while the largest boat house is 35'x46' or 1,610 square feet. The following table summarizes the average, median, minimum, and maximum square footage figures for the boat houses.

Existing Boat houses in Winnetka

Average	853 sf
Median	832 sf
Minimum	300 sf
Maximum	1,610 sf

When looking at **individual dimensions, the width and depth**, the following tables summarize the average, median, minimum, and maximum dimensions for the boat houses.

Existing Boat houses in Winnetka

	Width Along Lake		Depth From Lake
Average	26'	Average	33'
Median	26'	Median	32'
Minimum	15'	Minimum	15'
Maximum	45'	Maximum	63'

Based upon the average dimension figures, an average boat house in Winnetka would be 26' x 33', or 858 square feet. It should be noted that these boat houses also typically accommodate not only the storage of a boat, but they may also accommodate the storage of a personal watercraft (Jet Ski/WaveRunner), non-motorized watercraft (canoes, kayaks, paddle boards), or other beach-related items.

Staff also explored what might be the minimum boat house size to accommodate only the storage of a single motorized boat. It would not be uncommon for a lakefront owner to own a boat that is 28' long. To transport a boat of that size across the beach from a boat house to the water, and then back, the lakefront property owners would need a device. One brand of such device is the Beachlauncher. **Figure 1** below consists of photos of such equipment. Of this brand there are different sizes of the device to accommodate boats of different lengths, e.g., 21', 23', and 28'-long.



Figure 1 - Beachlauncher Device

In speaking with a dealer who sells this brand of device, he recommends that to accommodate a 28'-long boat stored on a Beachlauncher, the boat house should have a door opening that is 12 feet wide and 12 feet tall, and the boat house should be 33-35' deep. To provide space to walk along the sides of the boat, we assume a minimum of 2 ½ feet. Based upon the above information the boat house would need to be 17 feet wide by 35 feet deep, for a total square footage of 595 square feet. To accommodate two Beachlaunchers of this size in a boat house and to provide two feet between each Beachlauncher, the dimensions of the boat house would need to be 36 feet wide by 35 deep, or 1,260 square feet.

In summary, the following are potential parameters for limiting the size of a boathouse.

- 860 square feet - the average size of existing boat houses in Winnetka along the lake,
- 600 square feet – a boat house size that would accommodate only one motorized boat, the size of which one might typically find owned by a property owner along the lake, or
- 1,260 square feet – a boat house size that would accommodate two boats.

The ordinance before the Council includes the average size of existing boat houses in Winnetka along the lake – 860 square feet. This parameter was selected as being the most consistent with the Council's direction at the November study session, which was to consider a parameter that would accommodate what lakefront property owners currently have in terms of boat houses while balancing the goal of protecting steep slopes and their stability.

During the November study session there was some discussion regarding the allowed height of boat houses, which is proposed at 15 feet. This height limitation was selected, because the Zoning Code limits the height of detached garages and other similar accessory buildings in all single-family residential zoning districts to 15 feet. Height is measured from the top of the finished first floor to the highest point of a building, including items attached to the roof of the building, such as a railing. In response to the question regarding whether a boat house could have a rooftop deck, the answer is technically yes, so as long as the top of the guard railing is no more than 15 feet from the floor of the boathouse. Given the building code would require that the guardrail height be no less than 36 inches, the boathouse itself could be no more than 12 feet in height. A lakefront property owner could build a boat house of that height to accommodate the storage of certain types of motorized or non-motorized watercraft in such a boat house (e.g., kayaks, canoes, personal watercraft, etc.). However, as earlier noted, a boat house would need to be taller than 12 feet to accommodate a Beachlauncher as the door opening itself would need to be 12 feet tall. **Given an interest by Council members to allow a lakefront property owner to use the roof of a boat house as a rooftop deck, the proposed ordinance has been drafted as follows: A boat house shall be no taller than 15 feet from the top of the finished floor to the highest point of the building, including any appurtenances; provided, however, guardrails around a boat house rooftop deck may extend an additional three feet from the highest point of the building.**

IMPACTS OF BOAT RAMPS ON WALKING ALONG THE WATER'S EDGE

Given public comments expressing concerns that boat ramps inhibit the public's ability to walk along the water's edge, staff is providing the following information.

On March 21, 2023, the Village Council adopted Ordinance No. MC-05-2023, *An Ordinance Amending Various Sections of the Winnetka Village Code Relating to Lakefront Construction*. That Ordinance created a new Village Code chapter entitled Chapter 15.78, Lakefront Construction. Section 15.78.080, Criteria for Permit Approval, of that Chapter identifies the following relevant section of the criteria related to boat ramps.

Section 15.78.080, Permitting Agency Permits, states *"The applicant has received and provided to the Village all required permits for the Covered Construction from the Permitting Agencies."* This code section requires the applicant to obtain and provide approved permits from the USACE, IDNR/OWR, IEPA, etc. to obtain an approved permit from the Village. The following summarizes what the USACE and IDNR allow regarding boat ramps.

- The U.S. Army Corps of Engineers, Chicago District Lake Michigan Regional General Permit (LMRGP) allows for the installation, repair, and modification of permanent and seasonal boat

ramps. Boat ramps must not exceed 60 feet in width and be constructed of steel or other suitable material. Boat ramps constructed of asphalt are not authorized under this permit.

- The Illinois Department of Natural Resources (IDNR), Office of Water Resources (OWR) allows for the construction of a boat ramp under an individual permit. Shore perpendicular structures shall provide for pedestrian access over and/or across them at the lakeward side.

Section 15.78.080 of the newly adopted Lakefront Construction regulations, include the following two relevant paragraphs related to the installation of boat ramps (bold and underline added for emphasis):

E. No Public Safety Hazard. *The Covered Construction and any related structures will not create any public safety hazards, including, without limitation, by unreasonably obstructing or otherwise interfering with ingress or egress to adjacent public beaches or private property.*

F. Interference with Public Safety Operations. *The Covered Construction and any related structures will not block or otherwise unreasonably interfere with the ability of public safety personnel to conduct search and rescue or other public safety operations.*

Per these paragraphs of the ordinance, any structure must not create a public safety hazard or obstruct public safety operations. Also, access must be provided over and/or across them at the landward edge.

Over the past 100 years, the monthly mean Lake Michigan water levels have fluctuated over 6 feet, typically in decade long cycles of high and low water levels. In all practicality, the Winnetka shoreline is not 100% accessible to the public in moderate to above average water levels due to the position of historic shore protection constructed to prevent bluff erosion. In the future, a property owner proposing to construct a boat ramp under the newly adopted Lakefront Construction regulations will need to consider the full range of potential water levels and ensure access is provided not just at today's high-water levels but also historic low water levels. At low water levels, one would expect that a ramp will dip below the sand and terminate landward of the water line thus access is provided across the lakeward edge of the ramp. At moderate to high water levels, access could still be provided across the lakeward edge of the ramp. However, depending on factors such as the stability of the sand, location/orientation of shore protection structures, etc., the boat ramp could require steps to provide access over the ramp.

Given that current USACE and IDNR/OWR regulations and recently adopted Village lakefront construction regulations address this issue, no changes to the proposed ordinance were made regarding this issue.

USE OF OHWM AS THE LOT LINE ALONG LAKE MICHIGAN FOR ZONING PURPOSES

At the September study session, the Council requested that staff explore for **zoning purposes** a demarcation for the front lot line along Lake Michigan that is more stable than the water's edge. The Council asked staff to look at using the Ordinary High-Water Mark benchmark on Lake Michigan set by and administered by USACE and the IDNR, which is currently set at the elevation of 581.5' IGLD 85 ("581.5"). At the November study session, staff presented information regarding the use of this measurement for the OHWM as the front lot line for zoning purposes. The purpose of moving to a static measurement was to provide property owners with more predictability in terms of the size and location of allowed improvements on their property.

During the November Village Council study session, some Council members requested that staff further study whether the Village should use the OHWM benchmark as set by the USACE as the lot line along Lake Michigan (a static elevation for all lakefront properties) for zoning purposes or if the Village should use the OHWM as determined by an experienced professional for a particular property (a property-by-property dynamic elevation). Attached is a separate memo regarding this issue from

The memo lays out four potential options for demarcating the front lot line **for zoning purposes**:

1. The water's edge (current practice);
2. Static elevation (USACE's administrative OHWM benchmark of 581.5', and what is currently included in the draft ordinance);
3. Property by property dynamic elevation (lot by lot identification of OHWM); or
4. Village-wide OHWM (bi-annual identification of average OHWM for all lakefront properties).

The static 581.5' OHWM benchmark (Option 2) will be landward of the water's edge (Option 1) for most water levels including current water levels, and the distance between this OHWM and the water's edge will vary over time. The same would occur if we used a dynamic property-by-property OHWM (Option 3) or Village-wide OHWM (Option 4), though the distance between the location of the water's edge and this OHWM would be more consistent than Option 2.

The property-by-property dynamic OHWM elevation (Option 3) and the Village-wide OHWM (Option 4) will vary over time as being landward or lakeward of the 581.5' IGLD 85 OHWM benchmark (Option 2).

As shared with the Village Council in November, for some properties the 581.5' OHWM benchmark (Option 2) will be lakeward of the current water's edge, while for other properties this benchmark would be landward of the water's edge. The same would occur if we used a Village-wide OHWM (Option 4), though the distance between the location of the water's edge and this average OHWM would not be as great compared to Option 2. With the use of the property-by-property OHWM (Option 3), the OHWM would generally be near the water's edge or landward of the water's edge.

As noted in the Baird memo, to be consistent with USACE regulatory guidelines, the Village would need to resurvey the Village-wide OHWM (Option 4) at a minimum of every two years. Each survey by a qualified professional would cost the Village between \$5,000 to \$9,000.

Given a majority of the Council at the November 2023 study session voiced an interest in using the USACE's administrative OHWM benchmark of 581.5' to demarcate the front lot line for zoning purposes, the draft ordinance continues to include that demarcation.

Also, whichever option above demarcating the front lot line is ultimately chosen, instances will exist on some lakefront properties where the minimum required front yard setback will fall to the east (lakeward) of where the steep slope zone begins. The Village Council requested that staff address this potential regulation gap between the current minimum 50'-front yard setback requirement using the USACE OHWM and the proposed steep slope zone.

As summarized in the attached Baird memo, the USACE, the IDNR, and the Village Lakefront Construction regulations limit what can be constructed between the front lot line and the current minimum 50'-front yard setback requirement. However, to further address the Council's concerns, Staff has amended the proposed Front Yard Setbacks for Lakefront Properties section of the proposed ordinance. The language in **bold and double-underlined has been added** since the November study session.

7. Front Yard Setbacks for Lakefront Properties. Development on lots abutting Lake Michigan between the ordinary high water mark of Lake Michigan and the tableland as defined by Section 17.82.020 will also comply with Chapter 17.82, Steep Slope Regulations and Chapter 15.78 Lakefront Construction. **For lots abutting Lake Michigan, the required front yard setback is the**

toe of the bluff or 50 feet, whichever results in the line farthest from the ordinary high water mark.

The following two images help visualize how this would be applied if the Council would choose to use the 581.5' OHWM demarcation for the front lot line for zoning purposes. The images below include aerial photographs and topography lines from 2017. The yellow line is the OHWM of 581.5' and the red line is the 50-foot setback from the OHWM. The thin golden lines represent topography. The closer these thin golden lines are together, the steeper the slope of the land.



Figure 2 Setback Line Falls within Steep Slope Zone



Figure 3 - 50' Setback Falls Short of Steep Slope Zone

In **Figure 2**, the 50-foot setback line falls within the Steep Slope Zone, which means it is farther away from the OHWM than the toe of the bluff. The front yard setback would be the 50-foot setback line. In **Figure 3**, the 50-foot setback line falls short of the Steep Slope Zone, which means the front yard setback would be the toe of the bluff, which is landward of the 50-foot setback line.

The current draft of the bluff steep slope ordinance was also revised to make clear that the requirements and regulations therein take precedence over otherwise applicable requirements set forth elsewhere in the Village Code, including the Zoning Ordinance.

EXISTING STRUCTURES LEGAL NON-CONFORMING STATUS

Since the November study session, some Council members have received questions regarding what happens to existing structures that would be in the steep slope zone. Specifically, some residents have concerns that if the Village adopts the bluff steep slope regulations, property owners with existing structures in the steep slope zone would be required to demolish those structures. This is not the case.

A municipality has the authority to amend its zoning code. As a general rule, amendments do not apply to existing structures because property owners have a “vested right” in keeping their existing structures. In most cases, any existing structure would be subject to the Village’s non-conforming structure provisions of the Zoning Code. Therefore, the structures can remain and be maintained and altered subject to the limitations in Chapter 17.64 of the Zoning Code.

Chapter 17.64 provides that pre-existing structures that become non-conforming may remain and continue to be maintained and used so long as certain triggering events do not occur. If a non-conforming structure is destroyed or damaged so that the repair or restoration would exceed 50 percent of the cost of construction of such structure, the structure could not be repaired or reconstructed unless such repair brought the structure into conformance with the new regulations. The other general limitation is that a property owner cannot enlarge or add to an existing nonconforming building or structure so as to either create an additional nonconformity or increase the extent or degree of any existing nonconformity.

In the case of the current draft of the steep slope regulations, the steep slope regulations are actually more permissive than the Village's non-conforming structure provisions in Chapter 17.64. The lakefront regulations have been drafted to allow a property owner to rebuild or replace any structure that is currently in the steep slope zone provided that it uses the existing foundation already constructed in the steep slope zone. This is set forth in Section 17.82.040 of the proposed ordinance, which provides:

“C. Structures on the exact foundation of a previously existing structure may be rebuilt and maintained, provided that the rebuilt or remodeled structure: (i) does not extend beyond the existing foundation within the steep slope zone; and (ii) is constructed according to plans of an architect or structural engineer who certify that the existing foundation (with appropriate engineering modifications and repairs, if any) will support the rebuilt, repaired or remodeled structure without material adverse impact on the steep slope zone.”

This summary of the non-conforming structures issue is provided to the Council for its information. The proposed ordinance does not contain any changes regarding this issue since the November meeting. The Village Council could choose to make the rules related to existing structures that will become legal non-conforming structures more or less strict if it chooses.

RECOMMENDATION:

The Village Council is scheduled to hold a public hearing and to consider introduction of Ordinance No. MC-1-2024.

ATTACHMENTS:

1. MC-1-2024-Amending the Zoning Ordinance to Establish Bluff Regulations for Development in the Steep Slope Area Along Lake Michigan
2. MC-1-2024-Amending the Zoning Ordinance to Establish Bluff Regulations for Development in the Steep Slope Area Along Lake Michigan - BLACKLINE VERSION
3. Memo: Technical Guidance Regarding the OHWM and Defining the Front Lot Line, Prepared by Caleb Barth, Baird & Associates, Dated 12-12-23
4. Public Comments

ORDINANCE NO. MC-01-2024

**AN ORDINANCE AMENDING THE WINNETKA ZONING ORDINANCE TO
ESTABLISH BLUFF REGULATIONS FOR DEVELOPMENT IN THE
STEEP SLOPE AREA ALONG LAKE MICHIGAN**

WHEREAS, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the 1970 Constitution of the State of Illinois and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Village has a history of respect for the private property rights of its residents; and

WHEREAS, the Village enjoys an abundance of bluff areas that contribute to the character of the Village and play important functions in the overall drainage system serving the Village and its residents; and

WHEREAS, bluffs are a critical part of the overall ecology of the Village and may be susceptible to degradation and erosion that could threaten certain lakefront properties and adjacent properties, as well as their improvements; and

WHEREAS, the Village enacted a study and permit abeyance period (*“Permit Abeyance Period”*) to analyze the bluffs located in the Village along the lakefront; and

WHEREAS, during the Permit Abeyance Period, the Village worked with a coastal engineer, and held public meetings and hearings to develop more comprehensive amendments to the Winnetka Village Code, as amended (*“Village Code”*) and the “Winnetka Zoning Ordinance”, as amended (*“Zoning Ordinance”*) and provide related procedures to attempt to balance the rights and privileges of private property owners and the desire to ensure that construction on the bluffs and the steep slope areas of the bluffs are consistent with the Village’s goals and policies; and

WHEREAS, the Permit Abeyance Period provided Village staff time to review various regulatory approaches that would protect the bluff areas and individual property rights; and

WHEREAS, the further purposes of this Ordinance are as follows:

- To protect the natural environment and the integrity of the Lake Michigan coastal area that is a distinctive and valuable natural feature of the Lake Michigan shoreline;
- To recognize the potential for hazards that could affect health and safety to persons and property from significant bluff and shoreline development;
- To maintain the stability of the coastal bluffs and shorelines and to reduce the risks of coastal erosion, undermining, slumping, or collapse of the bluffs, and to protect the waters of Lake Michigan from unnatural sedimentation;

- To promote the recommendations of the Village of Winnetka Comprehensive Plan relative to the constraints that should be considered in developments that impact coastal areas and environments; and

WHEREAS, this Ordinance amends the Zoning Ordinance to create certain construction regulations in the steep slope zone area in the bluffs ("***Steep Slope Regulations***"); and

WHEREAS, this Ordinance also amends the Zoning Ordinance to establish a new front lot line standard for lakefront properties that can be consistently and efficiently applied over time ("***Lakefront Lot Line Regulations***"); and

WHEREAS, pursuant to Section 17.72.040 of the Zoning Ordinance, the Village Manager submitted an application for a text amendment to the Zoning Ordinance for the Steep Slope Regulations and the Lakefront Lot Line Regulations; and

WHEREAS, pursuant to Section 17.72.040 of the Zoning Ordinance, the Village gave proper notice of a public hearing by the Winnetka Village Council to consider the Steep Slope Regulations and the Lakefront Lot Line Regulations and related amendments to the Zoning Ordinance by publication in the *Winnetka Talk* on December 21, 2023, and by mail to lakefront property owners as well as property owners within 250 feet of lakefront properties; and

WHEREAS, the Village Council conducted a public hearing on January 9, 2024, regarding the Steep Slope Regulations and the Lakefront Lot Line Regulations; and

WHEREAS, pursuant to these and other applicable authorities and the Village's home rule powers, the Village Council has determined that it is necessary and in the best interests of the Village and its residents to adopt the Steep Slope Regulations and the Lakefront Lot Line Regulations as set forth in this Ordinance;

NOW, THEREFORE, the Council of the Village of Winnetka ordains as follows:

SECTION 1. RECITALS. The recitals above are incorporated into this Section as the findings of the Village Council, as if fully set forth in this Section.

SECTION 2. NEW CHAPTER 17.82 OF THE ZONING ORDINANCE. Title 17, titled "Zoning," of the Village Zoning Ordinance is amended to add a new Chapter 17.82, titled "Steep Slope Regulations," as set forth in Exhibit A attached to, and by this reference, made a part of this Ordinance.

SECTION 3. AMENDMENT TO SECTION 17.04.030 OF THE ZONING ORDINANCE. Section 17.04.030, titled "Definitions," of Chapter 17.04, titled "Introductory Provisions and Definitions," of the Village Zoning Ordinance is amended to read as follows and to be inserted in their correct alphabetical order:

"Section 17.04.030 Definitions.

* * *

F.

* * *

7. Front Base Line. "Front base line" means a line passing through the two termini of the front lot line. On through lots abutting Lake Michigan, the front base line shall be a line passing through the two termini of the front lot line opposite the ~~water's edge~~ **ordinary high water mark**, and the lot depth shall be no greater than the distance from the front base line of the lot to the ~~water's edge~~ **ordinary high water mark** of Lake Michigan.
8. Front Lot Line. "Front lot line" means the front street line. If the front street line is less than fifty (50) feet long and if the lot is at least seventy-five (75) feet wide at its widest point, then the front lot line shall be the lot line from which the front setback is measured, as determined by the Zoning Administrator. The shortest street line of a corner lot shall be the "front lot line." On through lots, both street lines shall be deemed "front lot lines," except where no setback requirement is applicable. For lots abutting Lake Michigan, the ~~water's edge~~ **ordinary high water mark** of the lake shall be deemed a "front lot line."

* * *

L.

* * *

3. Zoning Lot. "Lot" or "zoning lot" means a lot of record, or a combination of contiguous lots of record under common ownership or control, used or to be used by the owner or occupant for a single principal building, except to the extent that this title expressly permits such lot or lots to be used for more than one principal building or principal use. As used in this title, "lot" or "zoning lot" shall not include any part of a platted lot that lies beyond the ~~water's edge~~ **ordinary high water mark** of Lake Michigan or with the boundaries of any other river, lake or stream that is under the ownership and control of the state of Illinois.
4. Lot Area. "Lot area" means the area of any lot within its exterior lot lines, not including any area lying within a street. As used in this title, "lot area" shall not include any part of a platted lot that lies beyond the ~~water's edge~~ **ordinary high water mark** of Lake Michigan or within the boundaries of any other river, lake or stream that is under the ownership and control of the state of Illinois. For flag lots, the access corridor ("flagpole") shall not be included in calculating the lot area.

* * *

O.

1. **Ordinary High Water Mark. “Ordinary high water mark” means the line on the shore of Lake Michigan consistent with the U.S. Army Corps of Engineers’ administrative benchmark set at 581.5’ per the International Great Lakes Datum (IGLD) of 1985 or such future administrative benchmarks set by the U.S. Army Corps of Engineers based upon updated IGLD.**

* * *

S.

* * *

2. Street Line. “Street line” means the outermost limits of a public or private street. The water’s edge **ordinary high water mark** of Lake Michigan shall be deemed the outermost limits of that public street.

* * *

T.

* * *

4. Through Lot. “Through lot” means having two opposite lines along two more or less parallel streets, or along one street and **the ordinary high water mark** of Lake Michigan or some other body of water, and which is not a corner lot.”

* * *

SECTION 4. AMENDMENT TO SECTION 17.30.050 OF THE ZONING ORDINANCE. Section 17.30.050, titled “Front and Corner Yard Setbacks,” of Chapter 17.30, titled “Lot, Space, Bulk and Yard Regulations for Single-Family Residential Districts,” of the Village Zoning Ordinance is amended by adding a new subsection (c)(7) to Section 17.30.050, which new subsection (c)(7) shall be as follows:

“Section 17.30.050 Front and Corner Yard Setbacks.

* * *

C. Exceptions and Limitations.

* * *

- 7. Front Yard Setbacks for Lakefront Properties. Development on lots abutting Lake Michigan between the ordinary high water mark of Lake Michigan and the tableland as defined by Section 17.82.020 will also comply with Chapter 17.82, Steep Slope Regulations and Chapter 15.78 Lakefront Construction. For lots abutting Lake Michigan, the required front yard setback is the toe of the bluff or 50 feet, whichever results in the line farthest from the ordinary high water mark."**

SECTION 5: SEVERABILITY. If any provision of this Ordinance or part of this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 6. REPEAL OF CHAPTER 17.80. Upon the effective date of this Ordinance, Chapter 17.80 of the Village Code is hereby repealed.

SECTION 7. EFFECTIVE DATE. This Ordinance will be in full force and effect upon passage, approval, and publication of this Ordinance in pamphlet form in the manner provided by law.

PASSED this ____ day of ____, 2024, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of ____, 2024.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the
President and Board of Trustees
of the Village of Winnetka,
Illinois, this ____ day of ____, 2024.

Introduced: ____, 2024

Passed and Approved: ____, 2024

Exhibit A
(New Chapter 17.82 of Title 17)

“Chapter 17.82
STEEP SLOPE REGULATIONS

Section 17.82.010 Purpose.

The purpose of this Chapter is to regulate development along or near steep slope areas to protect slope stability in the Village. Lake Michigan, its coastline and beaches, and its bluffs, provide a unique natural resource to the Village and to its residents that must be preserved and protected. Bluffs are inherently fragile and subject to erosion due to glacially formed soils containing unstable sediment, rock and silt. Development and construction activity in and around bluffs could be hazardous to people and property and could accelerate the erosion process. This Chapter is not intended to regulate the aesthetic qualities of the bluffs. Instead, this Chapter is intended to protect the bluffs and ensure that construction on the bluffs of Lake Michigan within the Village do not cause environmental or ecological damage to Lake Michigan or the surrounding areas of the Village, or otherwise create harm or risk to the public health, safety, and welfare of the Village, its residents, or visitors. This Chapter provides reasonable development guidelines to provide for a controlled use of the steep slope area and related lands to protect the public health, safety and welfare of the Village. Further, the intent of this Chapter is to accomplish the following goals:

- A. Protect people and property against destruction or damage caused by bluff erosion resulting from significant development activities in or around the bluffs;
- B. Protect bluffs and adjacent land areas against destruction or damage caused by significant development activities;
- C. Encourage building and engineering techniques that increase slope stability;
- D. Reduce uncontrolled storm water runoff, soil erosion, and mud slides by minimizing grading, encouraging the perseveration of the bluff's

natural habitat and in some cases where necessary, requiring revegetation;

- E. Preserving and enhancing the bluffs in their natural state and their environment through the retention of dominant steep slopes; and
- F. Encouraging innovative site and architectural design, including restoration of graded areas to reduce the physical impact on steep slope areas.

Section 17.82.020 Definitions.

For purposes of this Chapter, the following terms are defined as follows:

“Bluff” means an elevated segment of the Lake Michigan shoreline above the beach that normally has a precipitous front that is inclining steeply on the lakeward side.

“Cantilever” means any portion of a principal structure that extends laterally beyond the foundation it supports.

“Development” means any man-made change (other than maintenance of existing structures, paved areas, or utilities) to improved or unimproved real estate, including without limitation, the construction or installation of new, or enlargement or demolition of existing, structures, paved areas or utilities; dredging, filling, drilling, mining, grading, paving, or excavation operations; and open storage of equipment or materials.

“Director” means the Village’s Director of Engineering.

“Lake Michigan” means that portion of Lake Michigan that borders the Village, to the extent of three miles beyond the corporate limits, but not beyond the limits of the State.

“Slope Impact Area” means for a lot that includes or is adjacent to a bluff, that portion of the lot lying between:

- (1) The toe of the bluff; and
- (2) The line representing the intersection of the table land (or if no such intersection, the table land extended) of such lot with a 22 degree slope (2.5H:1V ratio) extending upward from the toe of the bluff. If a lot lacks table land, the Director will utilize the horizontal projection of the street line of the lot as the table land to identify the slope impact area. The slope

impact area also includes the area of the lot where the slope of the lot is steeper than 5.7 degrees (10H:1V ratio).

“Slope Transition Area” means that portion of the slope impact area of a lot lying outside the steep slope zone.

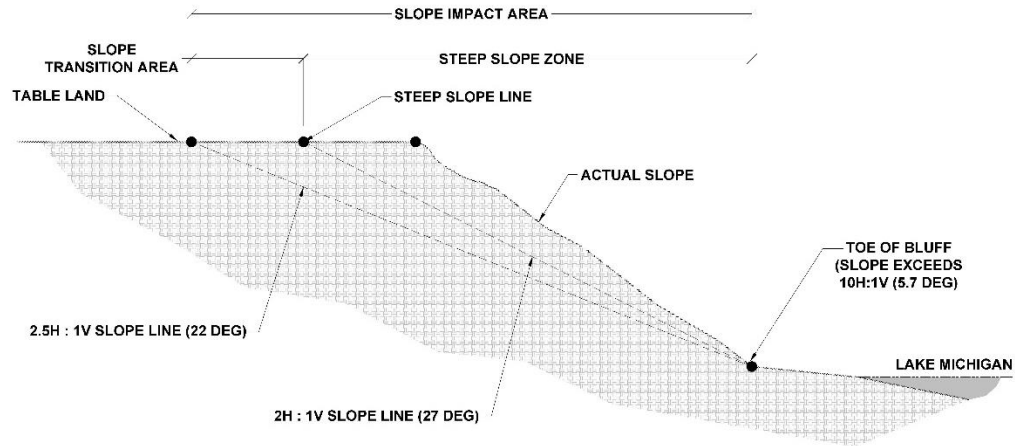
“Steep Slope Line” means a line representing the intersection of the table land (or if no such intersection, the table land extended) with a 27 degree slope (2H:1V) extended upward from the toe of a bluff. If a lot lacks table land, the Director will utilize the horizontal projection of the street line of the lot as the table land.

“Steep Slope Zone” means that portion of the slope impact area of a lot that lies between the steep slope line and the toe of the bluff.

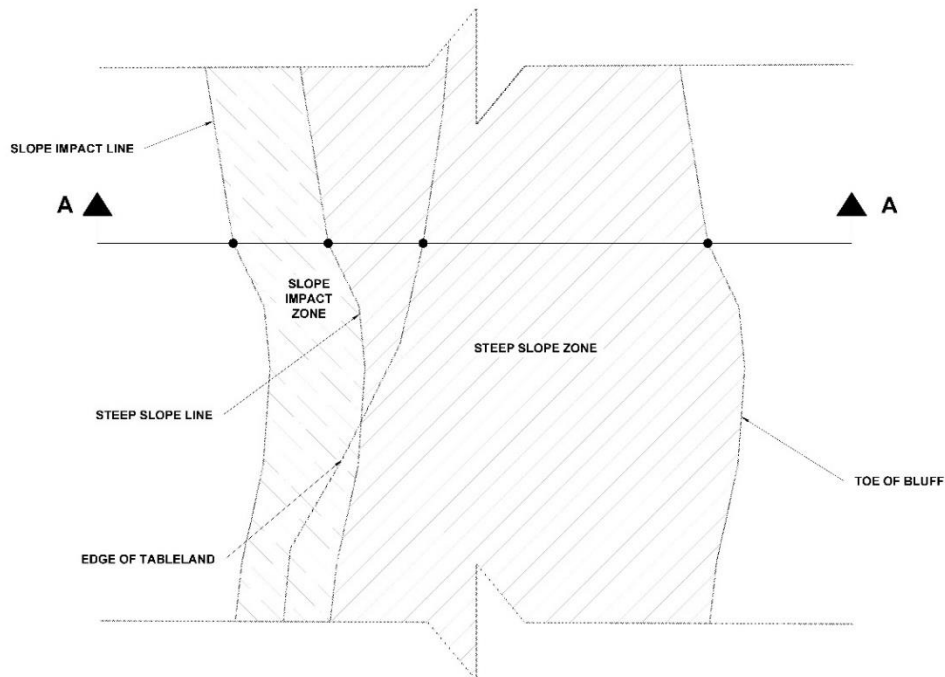
“Table Land” means land at the top of a bluff where the slope is less than a 5.7 degree slope (10H: 1V ratio).

“Toe of the Bluff” means the point in the bluff landward where the slope is less than a 5.7 degree slope (10H:1V) or where the slope reverses direction. On compound slopes where there may be more than one possible toe location, the controlling point will be whichever toe that provides the greatest slope impact area. In plan view, the toe of the bluff is depicted as a continuous line, and is referred to as the toe line.

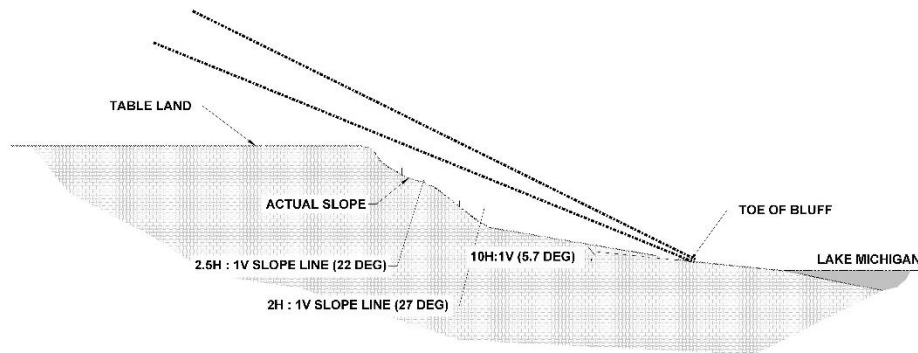
DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH SIMPLE SLOPE CROSS SECTION A-A



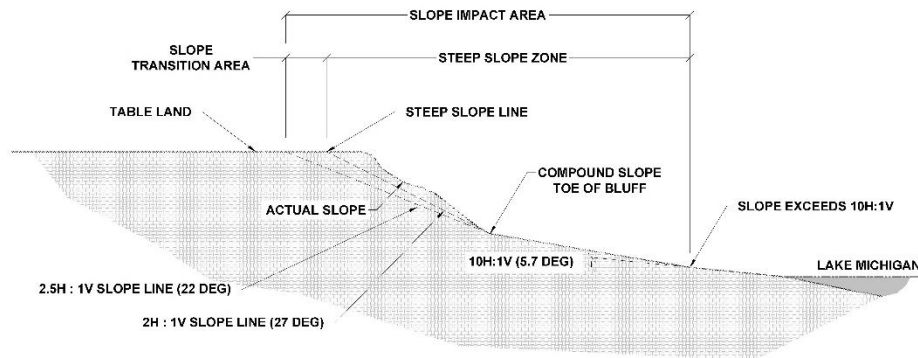
DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH SIMPLE SLOPE PLAN VIEW



DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH COMPOUND SLOPE



If the Steep Slope Line does not intersect the Table Land as illustrated above, the Steep Slope Line is moved up the slope to a point where it will intersect with the Table Land as illustrated below.



Section 17.82.030 Development in Slope Transition Area.

- A. Any development that is authorized pursuant to this code, the Zoning Ordinance, or other ordinance or regulations of the Village, may occur in the slope transition area if approved by the Director, upon review of an application in accordance with this Chapter. Further, any structure or addition that meets all applicable zoning requirements may be built in the slope transition area upon obtaining the necessary permits as set forth in Section 17.82.060 and adhering to the development standards set forth in Section 17.82.050.
- B. Retaining walls and other structures that are necessary for slope stabilization are permitted in the slope transition area if approved by the Director and are built in accordance with the following standards:
- (1) Retaining walls cannot be used to increase table land;
 - (2) Retaining walls cannot be used to create a shelf or other table area within the slope transition area; and
 - (3) Backfilling of a retaining wall is not permitted.

- 10 -

Additions are bold and double-underlined; deletions are struck through

Section 17.82.040 Development in Steep Slope Zone.

- A. **Any development that is authorized pursuant to this code, the Zoning Ordinance, or other ordinance or regulations of the Village, may occur in the steep slope zone if approved by the Director, upon review of an application in accordance with this Chapter; provided, however that only the following structures are permitted within the steep slope zone:**
- B. **Retaining walls and other structures that are necessary for slope stabilization if constructed in a manner approved by the Director and in accordance with the following standards:**
- (1) **Retaining walls cannot be used to increase table land;**
 - (2) **Retaining walls cannot be used to create a shelf or other table area within the steep slope zone; and**
 - (3) **Backfilling of a retaining wall is not permitted.**
- C. **Structures on the exact foundation of a previously existing structure may be rebuilt and maintained, provided that the rebuilt or remodeled structure: (i) does not extend beyond the existing foundation within the steep slope zone; and (ii) is constructed according to plans of an architect or structural engineer who certify that the existing foundation (with appropriate engineering modifications and repairs, if any) will support the rebuilt, repaired or remodeled structure without material adverse impact on the steep slope zone.**
- D. **Cantilevering any portion of a principal structure not exceeding four feet horizontal over a steep slope zone is permitted unless otherwise limited by code. Such cantilevering cannot block natural sunlight or alter natural stormwater drainage in a way that jeopardizes slope stability.**
- E. **Mechanical or electrical lifts, which do not obstruct the flow of light and water, and utility service lines, provided that it conforms to the provisions of this Chapter.**
- F. **Stairs can be no greater than five feet in width. Stair landings can be no larger than 50 square feet. Stair landings for the purpose of this Chapter are defined as an intermediate platform on a flight of stairs, greater than 10 square feet, constructed for the purpose of allowing a change in stair direction down the steep slope zone or to break up ten or more stair steps.**

- G. Decks can be no larger than 50 square feet unless the applicant provides exceptional engineering, including stormwater management and vegetation, so that such deck will not jeopardize slope stability.
- H. Fences, provided that all fences must comply with all applicable Village Codes, ordinances, and regulations including, without limitation Section 15.44.060.
- I. Boat houses, provided that no boat house shall exceed 860 square feet of gross floor area. A boat house shall be no taller than 15 feet from the top of the finished floor to the highest point of the building, including any appurtenances; provided, however, guardrails around a boat house rooftop deck may extend an additional three feet from the highest point of the building. Only one boat house is permitted per zoning lot. A boat house may include limited additional space for auxiliary storage, a toilet, and a shower. All boat houses, regardless of size, must use exceptional engineering, including stormwater management and vegetation, so that a boat house will not jeopardize slope stability, and the Director has determined that the structure of any boat house will not adversely impact the stability of the property or adjacent property.

Section 17.82.050 Development Standards.

- A. Any application for development in the slope impact area will be reviewed by the Director, who will consider such application in light of the standards of this section relating to landscape planning, soil mechanics engineering, hydrology, geology, environmental design, structural and coastal engineering, and architecture. The Village recognizes each slope impact area may have different characteristics and features that affect its stability and preservation. Therefore, the Director may determine that certain standards do not apply to every application. The Director will have the authority to determine if the application in its totality satisfies the purposes of this Chapter to a substantial degree without creating an economic hardship as provided in Section 17.82.090.
- B. Development standards for the slope impact area are as follows:
 - (1) Safety control of steep slopes.
 - a. The development will not jeopardize slope stability on the subject site or neighboring properties.
 - b. Except as necessary for an approved development, no filling, grading, or earth moving is permitted in a slope impact area.

- c. A fence must be erected temporarily along the top edge of the steep slope zone, during any construction or demolition activity in the steep slope zone or adjacent to the steep slope zone.
- (2) Construction techniques. All proposed structures must have foundations designed in a manner consistent with sound engineering and geological principals. Additionally, the following techniques must be used to enhance bluff stabilization:
- a. Planning the development to recognize and fit the natural topography, soils, geology, hydrology, and other existing conditions on the proposed sites;
 - b. Orienting development so that filling, grading, and earth moving, landscaping and other site preparation is kept to an absolute minimum;
 - c. Preserving and enhancing the landscape through minimized disruption of natural terrain and existing vegetation;
 - d. Minimizing disruption or alteration of natural drainage ways;
 - e. Minimizing the time during which areas are bare and exposed;
 - f. Designing and properly locating structures so that the structure's weight does not negatively impact slope stability; and
 - g. Considering the effect of undercutting at the base of a slope impact area caused by wave action, storm water flow, erosion, or channel changes.
- (3) Hydrological controls.
- a. Natural channels. Natural drainage ways must be preserved to the maximum extent possible.
 - b. Controlled runoff. Concentrated runoff from impervious surfaces will be collected and transported in a pipe or other approved manner to a municipal storm sewer

system, if available or to the toe of the bluff as determined by the Director.

- c. Water discharge into steep slope. Whenever stormwater is transported across a property for discharge into a steep slope zone, the conveyance pipe material must be installed below ground by directional boring where possible.
- d. Trenching. No pipe can be installed within a steep slope zone by excavating a trench unless such trench is approved by the Director.
- e. Pipe materials. Flexible corrugated pipes may not be used within a slope impact area unless directional boring is found to be infeasible in the sole determination of the Director.
- f. Water Quality. The Director will determine the appropriate water quality requirements for all stormwater that is discharged to Lake Michigan.
- g. Interceptor ditches. When required by the Director pursuant to sound professional engineering principles, interceptor ditches will be established above steep slopes in order that soil will not become saturated and the intercepted water will be conveyed in a pipe or other approved manner to a municipal storm sewer system, if available, or to the toe of the bluff as determined by the Director.
- h. Discharge point stabilization. Natural drainage ways will be stabilized by landscape integration and rip-rap or other means consistent with sound professional engineering practice, to a distance below drainage and culvert discharge points sufficient to convey the discharge without channel erosion and in such a manner as to dissipate the energy of the discharge as approved by the Director.
- i. Energy dissipater. All outflow from a stormwater conveyance pipe must discharge into an energy dissipater.
- j. Early completion. The overall drainage system must be completed and made operational at the earliest possible

time during construction, the schedule of which will be approved by the Director.

- k. Impact on adjacent property. The natural or usual flow of surface or subsurface water must not be altered or obstructed in any way by grade changes that may adversely affect the property of another by contributing either to pooling or collection of waters or to the concentration or intensification of surface water discharge. However, development which might otherwise be prohibited hereinabove may be allowed if such waters are properly drained by a pipe or other approved manner to a municipal storm sewer system, if available, or to the toe of the bluff as determined by the Director. All grade changes must comply with the Village Code.

(4) Vegetation and revegetation.

- a. Native vegetation will be maintained to the greatest extent possible within the slope impact area.
- b. Smallest area. At all times, the smallest practical area of raw soil will be exposed for as short a duration of time as practical.
- c. Revegetation. A mixed planting of native perennial grasses and woody species with deep root systems will be used to landscape steep slope areas disturbed by construction, demolition or earth moving. When sound engineering practices dictates and when required by the Director, temporary vegetation, or other acceptable cover shall be used to protect areas of raw soils exposed during development and to prevent erosion.
- d. Erosion control mat. Temporary erosion control matting properly staked and trenched must be provided over raw soil areas until new vegetation is established.

(5) Filling, grading, and earth moving.

- a. Minimum alterations. Filling, grading, and earth moving will be limited to the minimum required for building foundations, driveways, drainage control structures, and immediate yard areas. With the exception of restoration efforts, substantial filling, grading, and earth moving is prohibited.

- b. Erosion control. All filling, grading, and earth moving will be accomplished in a manner that will create the lowest possible potential for airborne or waterborne transportation of soil.
- c. Soil fill in steep slope zone. All fill in steep slope zone is prohibited, other than back-fill which will be determined by the Director to be necessary for slope stabilization or re-establishment of the steep slope zone as part of general maintenance.
- d. Soil fill on table land. In conformance with generally accepted engineering standards, all fill on table land will be stabilized to at least 90% of maximum dry density as determined in ASTM procedure D-1557 or equivalent.
- e. Prompt completion. All filling, grading, and earth moving will be accomplished in the shortest practical period of time, the schedule of which will be approved by the Director. All excavated material must be removed from the slope impact area and no temporary or permanent material storage will be permitted within the slope impact area. No existing natural vegetation will be destroyed, removed or disturbed prior to the commencement of development activities.

Section 17.82.060 Required Plans and Permits.

- A. Required plans. Any development or other activity in the slope impact area requiring a permit pursuant to the Village Code and applicable regulations must be accompanied by the following plans and reports. Said plans and reports must be submitted to and approved by the Director prior to issuance of any permit or commencement of the proposed development.
 - (1) All permit applications must identify the slope impact area, the slope transition area, the steep slope zone, the toe of the bluff, and the ordinary high water mark in the drawings.
 - (2) All permit applications must contain a written description of the proposed means and methods of accomplishing such work (including without limitation the sequencing and timing of work, the equipment to be used, interim protective measures, and activities to monitor potential adverse impacts on the slope impact area), which means and methods will be designed to minimize slope

damage. Upon approval of the permit by the Director, such approved written description will be the enforceable means and method of the authorized development activities.

- (3) Professional engineering. All structures within the slope impact area must be designed by a licensed structural engineer or geotechnical engineer, or both, and must bear the engineers license seal on submitted drawings and specifications satisfying good engineering practices and the standards of this Chapter, unless the Director otherwise waives this requirement in writing.
- (4) Subsoil investigation. Every application for a development permit in the slope impact area must be accompanied by a report, prepared by a licensed professional civil engineer or structural engineer, or both, trained and experienced in the practice of geotechnical engineering, which report must include the following:
 - a. Soil types and subsurface materials. A description (the result of a thorough subsurface investigation using techniques such as borings, test pits, site tests, laboratory tests, or other procedures performed to a depth sufficient to determine foundation conditions for the proposed construction) of the soil and subsurface materials found on the subject site (with particular emphasis on the area to be impacted by the proposed development) to a depth extending below any proposed excavation as well as the engineering properties of the subsurface soil materials.
 - b. Observations. A description of existing observable slide areas, scarps, tension cracks, eroded areas, leaning trees, etc.
 - c. History. A historical review of bluff stability considering owner photographs, previous reports and topographic surveys; air photos, Corps of Engineers' studies, Village of Winnetka information, etc.
 - d. Drainage. A description of surface patterns of water flow and seeps as well as indication of the presence or absence of permeable zones in underlying soils.
 - e. Stability. A geotechnical stability analysis of the slope and structure with factors of safety calculated for the existing and proposed conditions by a method that satisfies both force and moment equilibrium for long-term and short-term soil strength parameters.

- f. External influences. A description of any existing or anticipated problems from undercutting at the base of a slope impact area caused by wave action, erosion, or channel changes.
 - g. Absence of special hazards. An opinion that the soil types, soil stability, subsurface hydrology, and external influences affecting the site will not cause any significant hazards for the proposed use; or if they may cause such hazards, an opinion that such hazards can be overcome, together with a reasonably detailed description of how it is proposed to overcome them.
- (5) Grading plan. In addition to any other permit requirements, each application for a permit involving development under this Chapter must be accompanied by a grading plan, which plan will include the following:
- a. A topographic survey, showing property contours at one foot intervals for table land and five foot intervals for steep slopes, including special notes and details of the existing terrain;
 - b. Proposed filling, grading, and earth moving details, including the dimensions, elevations, and contours of any proposed filling, grading, and earth moving;
 - c. A schedule of when each stage of the project will be completed, including the estimated starting and completion dates; and
 - d. A provision requiring the placement of a temporary fence on the table land at the top edge of steep slope zone until construction is completed.
- (6) Hydrological control plan. Applications for any development permits will include a plan for intercepting and containing drainage at the site and from the structure.
- (7) Vegetation plan. A vegetation plan, subject to the tree removal provisions of this code, will be submitted with each application for a development permit, which plan will include the following:
- a. A description of proposed revegetation of disturbed areas, specifying the materials to be used;

- b. An inventory describing the existing vegetation and tree cover of the site showing those areas where the vegetation will be removed as part of the proposed development;
 - c. A maintenance and monitoring plan for native vegetation and soil erosion and sediment controls in the steep slope zone;
 - d. A written description detailing methods of slope stabilization and revegetation, together with the rationale for selecting the plant materials and planting techniques proposed to be used; and
 - e. A timetable and sequencing program for implementing the vegetative plan.
- (8) Additional submittals; waivers. The Director may require additional plans as needed for review. The Director may release an applicant from any element of the aforementioned plan submittals to the extent that the Director determines that such element(s) will not materially assist in the evaluation of the proposed action's impact on slope stability.
- B. Permit issuance; terms. Each permit application for development must comply with the Building Code, the Zoning Ordinance, and other applicable codes, ordinances, or regulations, including this Chapter. The seal of an Illinois licensed structural or geotechnical engineer, or both, will appear on all plans and specifications included as part of a permit application. Upon the Director determining that an application satisfies the requirements of this Chapter, the Director will cause a permit to be issued for development within the slope impact area. The following provisions will be incorporated into and made a part of any such permit:
- (1) Limited obligation. Compliance with the procedures of this Chapter and the issuance of any related permits will not be construed to impose any legal or other obligation upon the Village of Winnetka or its elected or appointed officials, employees, agents, attorneys, or representatives. Any permit issued pursuant to this Chapter is for the benefit of the public and not for the benefit of any individual.
 - (2) Civil claims. Compliance with the procedures of this Chapter and the issuance of related permits will not relieve the permittee and the property owner from civil liability claims.
 - (3) Endorsement. Compliance with the procedures of this Chapter and the issuance of related permits do not imply approval of the need

for, or the benefit or efficacy of, the proposed development; nor does it constitute any assertion that the proposed development will not result in damage to the property in question or to adjoining property.

- (4) Closing report. A licensed professional structural engineer or geotechnical engineer, or both, must inspect all work in the steep slope zone while in progress and, upon completion of the work, deliver to the Director a written report bearing the engineer's license seal, stating that all development is in accordance with the approved plan and specifications for the project. Such a report must be delivered prior to the Village's final inspection, acceptance, and closing of the project.
 - (5) Special terms. In connection with the issuance of a permit pursuant to this Chapter, the Director may impose special conditions as deemed necessary to ensure the effectiveness of plans for development on a property, and to protect the long-term stability of a bluff, or otherwise to notify future owners of the bluff conditions of such property.
- C. Other Regulatory Agency Plans. The Director has the discretion to determine whether review by any other agencies will be required as part of the Director's review.

Section 17.82.070 Steep Slope Stabilization.

A. General standards.

- (1) In order to provide for long-term slope stability and to prevent failure of slope stability that may adversely impact neighboring properties, all property owners whose property includes or is adjacent to a slope impact area are required to comply with the provisions of this Chapter. To the extent of any conflict between the requirements or regulations of this Chapter and any otherwise applicable requirements or regulations set forth elsewhere in the Village Code, the requirements and regulations of this Chapter will control to the extent of the conflict.
- (2) Any development within the slope impact area must comply with all requirements in accordance with this Chapter.
- (3) Private storm drainage lines conveying storm water runoff either to a public storm sewer or the toe of the bluff must be maintained by the owner thereof. Private drainage lines which leak water onto the

surface of a steep slope must be repaired within 30 days of notification by the Village.

- (4) Intentionally depositing garbage, construction debris, or landscaping materials in a slope impact area is prohibited.
- (5) Swimming pool discharge cannot be directed toward or directly discharge into a slope impact area.

B. Maintenance and upkeep.

- (1) Authorized structures in the slope impact area may be repaired, maintained and altered, but only in compliance with the Village Code and Village Zoning Ordinance.
- (2) Landscape maintenance or routine arboreal activities are permitted in the slope impact area.

C. Restoration. All governmental entities, private property owners, and all other private entities that have authorized access to bluff steep slopes and engage in the maintenance, repair, or construction of utilities or other structures within a slope impact area, or engage in any modifications to a steep slope, will adhere to the applicable provisions of the Village Code and utilize best management practices.

D. Emergency activities. Nothing in this Chapter will prevent the Village from permitting development activities on an emergency basis when deemed necessary by the Director to remediate an unstable or insecure slope that presents an immediate threat to health, safety, and welfare, or stability of an authorized structure. Emergency development activity (including installation or construction of structures) will only be permitted provided: (i) the remedial action involves the least possible disruption of the natural features of the site as possible and is in conformance with this Chapter; and (ii) the remedial action is the most reasonable action to address the emergency situation under the circumstances.

Section 17.82.080 Tree Removal in Slope Impact Area.

- A. All trees removed in the slope impact area must comply with Chapter 15.28 of the Village Code, unless the Village Arborist determines otherwise.
- B. The Village Arborist will review each tree permit in the slope impact area to determine whether the proposed tree removal will jeopardize slope stability and ensure removal is consistent with good forestry practices.

Section 17.82.090 Appeals of Director's Decisions.

- A. **Any determination of the Director under this Chapter may be appealed to the Village Manager by filing a request for review in writing within 35 days after the Director issues his or her determination. Any decision of the Village Manager may be further appealed to the Village Council by filing a request for review in writing within 35 days after the issuance of the Village Manager's decision. The decision of the Village Council will be final.**
- B. **In reviewing the determination of the Director, the Village Manager or the Village Council (as the case may be) will consider only whether the determination of the Director in applying the regulations of this Chapter imposes an unreasonable and undue economic hardship that materially limits the property owner from making reasonable use of such owner's property or otherwise imposes requirements which are unreasonably burdensome to the property owner given the benefits thereof to the Village. After receiving written submittals from the property owner and the Director (and after a hearing if the Village Manager or Village Council determines that such a hearing will be instructive), a decision on such appeal must be issued in writing no more than 60 days after the delivery of the final submittal by the owner or Director or after the close of the hearing, whichever is later.**
- C. **In considering an appeal under this section, the Village Manager or Village Council may reverse, affirm, or modify the determination of the Director, or remand the determination back to the Director for further consideration, with or without instructions.**
- D. **The Village Manager or Village Council may issue further procedural rules governing appeals under this section.**

Section 17.82.100 Variations.

Nothing in this Chapter is intended to limit the ability of an owner from seeking a variation from the otherwise applicable zoning regulations affecting the owner's property. To the extent that the regulations of this Chapter materially restrict the ability of a property to be developed or materially increase the cost of such development, the Zoning Board of Appeals may determine that the effects of this Chapter can, in appropriate circumstances, constitute a practical difficulty or unreasonable hardship.

Section 17.82.110 Exceptions.

If a development that requires a special use permit includes construction activity that does not comply with the requirements of this Chapter, the Village

Council may grant exceptions to the regulations set forth in this Chapter as part of granting the special use permit.

Section 17.82.120 Enforcement and Penalties.

- A. For any property affected by the provisions of this Chapter, the property owner, any developer, and their agents, employees, contractors, subcontractors, licensees, and invitees are each jointly and severally responsible for compliance with the terms of this Chapter.
- B. In the event any violation of any provision of this Chapter occurs, the property owner will be responsible for the violation, its correction, and for otherwise bringing the property into compliance with the terms of this Chapter. Such compliance may require restoration of the site as closely as possible to its original undisturbed condition, topography, and vegetation in order to eliminate the violation.
- C. Whoever violates any provision of this Chapter, or who interferes with the enforcement of the same, will be fined in an amount of not less than \$100 nor more than \$750 per each violation of any Section of this Chapter. Every day that a violation continues will be deemed a separate punishable violation.
- D. The Village will have the right to issue a stop work order for any work that is performed in the slope impact area either (i) without all permits that are required under this Chapter or (ii) in violation of the permits so issued.

Section 17.82.130 Corrective Measures.

In addition to the monetary penalties provided for herein, the Village may apply to a court of competent jurisdiction for an order against the parties responsible to re-establish or restore the grade, slope, stability, vegetation, or drainage systems of a slope impact area in order to eliminate or prevent an adverse impact upon any adjacent or subservient property, and for such other and further relief as may be appropriate in the circumstances.

Section 17.82.140 Administration; Fees; Conflicting Regulations.

- A. Except as otherwise provided, the Director is hereby authorized and directed to prepare any necessary or desirable forms and procedures in order to implement the provisions of this Chapter.

- B. As part of any application, and as a condition of any permit, an applicant will be required to pay all fees and charges due under this Chapter. The Village Council may from time-to-time establish and publish application, permit, and inspection fees in furtherance of the administration of this Chapter. To the extent that the Village incurs third-party expenses in connection with the administration of this Chapter with respect to a particular application, such third-party expenses will be additional fees chargeable to such application.
- C. To the extent that there are conflicting regulations in the Village's Building Code or elsewhere in the Village Code, the provisions of this Chapter will control.

Section 17.82.150 Effective Date.

Nothing in this Chapter will be applied to prevent the completion, in accordance with previously issued permits or approvals, of any development that has received all required permits and approvals prior to _____, 2024 (the effective date of this Chapter), provided that such development is completed in compliance with all such permits, approvals, and other requirements of law.”

Attachment 2

Blackline Version - Comparing Current Proposed Ordinance with Draft Ordinance
Presented at November 14, 2023 Study Session

AN ORDINANCE AMENDING THE WINNETKA ZONING ORDINANCE TO ESTABLISH BLUFF REGULATIONS FOR DEVELOPMENT IN THE STEEP SLOPE AREA ALONG LAKE MICHIGAN

WHEREAS, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the 1970 Constitution of the State of Illinois and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Village has a history of respect for the private property rights of its residents; and

WHEREAS, the Village enjoys an abundance of bluff areas that contribute to the character of the Village and play important functions in the overall drainage system serving the Village and its residents; and

WHEREAS, bluffs are a critical part of the overall ecology of the Village and may be susceptible to degradation and erosion that could threaten certain lakefront properties and adjacent properties, as well as their improvements; and

WHEREAS, the Village enacted a study and permit abeyance period (***“Permit Abeyance Period”***) to analyze the bluffs located in the Village along the lakefront; and

WHEREAS, during the Permit Abeyance Period, the Village worked with a coastal engineer, and held public meetings and hearings to develop more comprehensive amendments to the Winnetka Village Code, as amended (***“Village Code”***) and the “Winnetka Zoning Ordinance”, as amended (***“Zoning Ordinance”***) and provide related procedures to attempt to balance the rights and privileges of private property owners and the desire to ensure that construction on the bluffs and the steep slope areas of the bluffs are consistent with the Village’s goals and policies; and

WHEREAS, the Permit Abeyance Period provided Village staff time to review various regulatory approaches that would protect the bluff areas and individual property rights; and

WHEREAS, the further purposes of this Ordinance are as follows:

- To protect the natural environment and the integrity of the Lake Michigan coastal area that is a distinctive and valuable natural feature of the Lake Michigan shoreline;
- To recognize the potential for hazards that could affect health and safety to persons and property from significant bluff and shoreline development;
- To maintain the stability of the coastal bluffs and shorelines and to reduce the risks of coastal erosion, undermining, slumping, or collapse of the bluffs, and to protect the waters of Lake Michigan from unnatural sedimentation;

- To promote the recommendations of the Village of Winnetka Comprehensive Plan relative to the constraints that should be considered in developments that impact coastal areas and environments; and

WHEREAS, this Ordinance amends the Zoning Ordinance to create certain construction regulations in the steep slope zone area in the bluffs ("***Steep Slope Regulations***"); and

WHEREAS, this Ordinance also amends the Zoning Ordinance to establish a new front lot line standard for lakefront properties that can be consistently and efficiently applied over time ("***Lakefront Lot Line Regulations***"); and

WHEREAS, pursuant to Section 17.72.040 of the Zoning Ordinance, the Village Manager submitted an application for a text amendment to the Zoning Ordinance for the Steep Slope Regulations and the Lakefront Lot Line Regulations; and

WHEREAS, pursuant to Section 17.72.040 of the Zoning Ordinance, the Village gave proper notice of a public hearing by the Winnetka Village Council to consider the Steep Slope Regulations and the Lakefront Lot Line Regulations and related amendments to the Zoning Ordinance by publication in the *Winnetka Talk* on _____, 2023, and by mail to lakefront property owners as well as property owners within 250 feet of lakefront properties; and

WHEREAS, the Village Council conducted a public hearing on _____, ~~2023~~2024, regarding the Steep Slope Regulations and the Lakefront Lot Line Regulations; and

WHEREAS, pursuant to these and other applicable authorities and the Village's home rule powers, the Village Council has determined that it is necessary and in the best interests of the Village and its residents to adopt the Steep Slope Regulations and the Lakefront Lot Line Regulations as set forth in this Ordinance;

NOW, THEREFORE, the Council of the Village of Winnetka ordains as follows:

SECTION 1. RECITALS. The recitals above are incorporated into this Section as the findings of the Village Council, as if fully set forth in this Section.

SECTION 2. NEW CHAPTER 17.82 OF THE ZONING ORDINANCE. Title 17, titled "Zoning," of the Village Zoning Ordinance is amended to add a new Chapter 17.82, titled "Steep Slope Regulations," as set forth in Exhibit A attached to, and by this reference, made a part of this Ordinance.

SECTION 3. AMENDMENT TO SECTION 17.04.030 OF THE ZONING ORDINANCE. Section 17.04.030, titled "Definitions," of Chapter 17.04, titled "Introductory Provisions and Definitions," of the Village Zoning Ordinance is amended to read as follows and to be inserted in their correct alphabetical order:

"Section 17.04.030 Definitions.

* * *

F.

* * *

7. Front Base Line. "Front base line" means a line passing through the two termini of the front lot line. On through lots abutting Lake Michigan, the front base line shall be a line passing through the two termini of the front lot line opposite the ~~water's edge~~ **ordinary high water mark**, and the lot depth shall be no greater than the distance from the front base line of the lot to the ~~water's edge~~ **ordinary high water mark** of Lake Michigan.
8. Front Lot Line. "Front lot line" means the front street line. If the front street line is less than fifty (50) feet long and if the lot is at least seventy-five (75) feet wide at its widest point, then the front lot line shall be the lot line from which the front setback is measured, as determined by the Zoning Administrator. The shortest street line of a corner lot shall be the "front lot line." On through lots, both street lines shall be deemed "front lot lines," except where no setback requirement is applicable. For lots abutting Lake Michigan, the ~~water's edge~~ **ordinary high water mark** of the lake shall be deemed a "front lot line."

* * *

L.

* * *

3. Zoning Lot. "Lot" or "zoning lot" means a lot of record, or a combination of contiguous lots of record under common ownership or control, used or to be used by the owner or occupant for a single principal building, except to the extent that this title expressly permits such lot or lots to be used for more than one principal building or principal use. As used in this title, "lot" or "zoning lot" shall not include any part of a platted lot that lies beyond the ~~water's edge~~ **ordinary high water mark** of Lake Michigan or with the boundaries of any other river, lake or stream that is under the ownership and control of the state of Illinois.
4. Lot Area. "Lot area" means the area of any lot within its exterior lot lines, not including any area lying within a street. As used in this title, "lot area" shall not include any part of a platted lot that lies beyond the ~~water's edge~~ **ordinary high water mark** of Lake Michigan or within the boundaries of any other river, lake or stream that is under the ownership and control of the state of Illinois. For flag lots, the access corridor ("flagpole") shall not be included in calculating the lot area.

* * *

O.

1. **Ordinary High Water Mark. "Ordinary high water mark" means the line on the shore of Lake Michigan established from time to time consistent with the U.S. Army Corps of Engineers' administrative benchmark set at 581.5' per the International Great Lakes Datum (IGLD) of 1985 or such future administrative benchmarks set by the U.S. Army Corps of Engineers based upon updated IGLD.**

* * *

S.

* * *

2. Street Line. "Street line" means the outermost limits of a public or private street. The water's edge **ordinary high water mark** of Lake Michigan shall be deemed the outermost limits of that public street.

* * *

T.

* * *

4. Through Lot. "Through lot" means having two opposite lines along two more or less parallel streets, or along one street and **the ordinary high water mark** of Lake Michigan or some other body of water, and which is not a corner lot."

* * *

SECTION 4. AMENDMENT TO SECTION 17.30.050 OF THE ZONING ORDINANCE. Section 17.30.050, titled "Front and Corner Yard Setbacks," of Chapter 17.30, titled "Lot, Space, Bulk and Yard Regulations for Single-Family Residential Districts," of the Village Zoning Ordinance is amended by adding a new subsection (c)(7) to Section 17.30.050, which new subsection (c)(7) shall be as follows:

"Section 17.30.050 Front and Corner Yard Setbacks.

* * *

C. Exceptions and Limitations.

* * *

- 7. Front Yard Setbacks for Lakefront Properties. Development on lots abutting Lake Michigan between the ordinary high water mark of Lake Michigan and the tableland as defined by Section 17.82.020 will also comply with Chapter 17.82, Steep Slope Regulations and Chapter 15.78 Lakefront Construction.”. For lots abutting Lake Michigan, the required front yard setback is the toe of the bluff or 50 feet, whichever results in the line farthest from the ordinary high water mark.”**

SECTION 5: SEVERABILITY. If any provision of this Ordinance or part of this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 6. REPEAL OF CHAPTER 17.80. Upon the effective date of this Ordinance, Chapter 17.80 of the Village Code is hereby repealed.

SECTION 7. EFFECTIVE DATE. This Ordinance will be in full force and effect upon passage, approval, and publication of this Ordinance in pamphlet form in the manner provided by law.

PASSED this ____ day of ____, ~~2023~~2024, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of ____, ~~2023~~2024.

Signed: _____

Village President

Countersigned: _____

Village Clerk

Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this ____ day of ____, ~~2023~~2024.

Introduced: _____, ~~2023~~2024

Passed and Approved: _____, ~~2023~~2024

Exhibit A
(New Chapter 17.82 of Title 17)

“Chapter 17.82
STEEP SLOPE REGULATIONS

Section 17.82.010 Purpose.

The purpose of this Chapter is to regulate development along or near steep slope areas to protect slope stability in the Village. Lake Michigan, its coastline and beaches, and its bluffs, provide a unique natural resource to the Village and to its residents that must be preserved and protected. Bluffs are inherently fragile and subject to erosion due to glacially formed soils containing unstable sediment, rock and silt. Development and construction activity in and around bluffs could be hazardous to people and property and could accelerate the erosion process. This Chapter is not intended to regulate the aesthetic qualities of the bluffs. Instead, this Chapter is intended to protect the bluffs and ensure that construction on the bluffs of Lake Michigan within the Village do not cause environmental or ecological damage to Lake Michigan or the surrounding areas of the Village, or otherwise create harm or risk to the public health, safety, and welfare of the Village, its residents, or visitors. This Chapter provides reasonable development guidelines to provide for a controlled use of the steep slope area and related lands to protect the public health, safety and welfare of the Village. Further, the intent of this Chapter is to accomplish the following goals:

- A. Protect people and property against destruction or damage caused by bluff erosion resulting from significant development activities in or around the bluffs;
- B. Protect bluffs and adjacent land areas against destruction or damage caused by significant development activities;
- C. Encourage building and engineering techniques that increase slope stability;
- D. Reduce uncontrolled storm water runoff, soil erosion, and mud slides by minimizing grading, encouraging the perseveration of the bluff's

natural habitat and in some cases where necessary, requiring revegetation;

- E. Preserving and enhancing the bluffs in their natural state and their environment through the retention of dominant steep slopes; and
- F. Encouraging innovative site and architectural design, including restoration of graded areas to reduce the physical impact on steep slope areas.

Section 17.82.020 Definitions.

For purposes of this Chapter, the following terms are defined as follows:

“Bluff” means an elevated segment of the Lake Michigan shoreline above the beach that normally has a precipitous front that is inclining steeply on the lakeward side.

“Cantilever” means any portion of a principal structure that extends laterally beyond the foundation it supports.

“Development” means any man-made change (other than maintenance of existing structures, paved areas, or utilities) to improved or unimproved real estate, including without limitation, the construction or installation of new, or enlargement or demolition of existing, structures, paved areas or utilities; dredging, filling, drilling, mining, grading, paving, or excavation operations; and open storage of equipment or materials.

“Director” means the Village’s Director of Engineering.

“Lake Michigan” means that portion of Lake Michigan that borders the Village, to the extent of three miles beyond the corporate limits, but not beyond the limits of the State.

“Slope Impact Area” means for a lot that includes or is adjacent to a bluff, that portion of the lot lying between:

- (1) The toe of the bluff; and
- (2) The line representing the intersection of the table land (or if no such intersection, the table land extended) of such lot with a 22 degree slope (2.5H:1V ratio) extending upward from the toe of the bluff. If a lot lacks table land, the Director will utilize the horizontal projection of the street line of the lot as the table land to identify the slope impact area. The slope

impact area also includes the area of the lot where the slope of the lot is steeper than 5.7 degrees (10H;1V ratio).

“Slope Transition Area” means that portion of the slope impact area of a lot lying outside the steep slope zone.

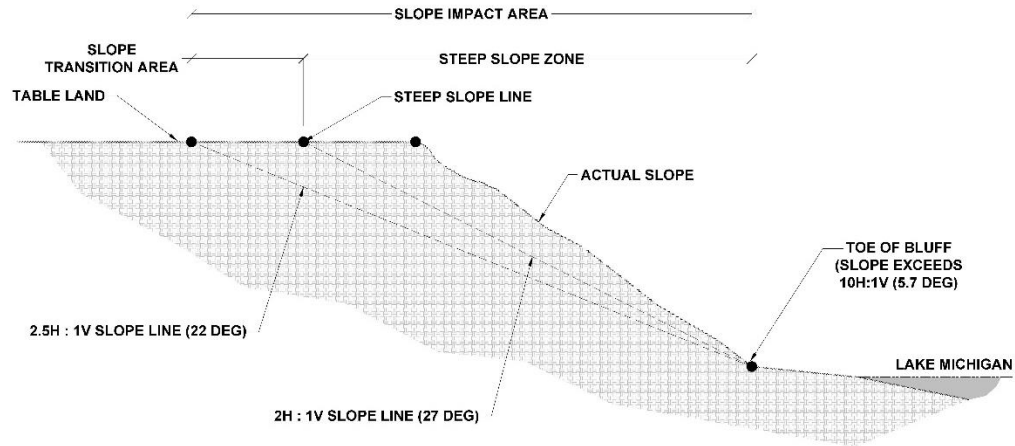
“Steep Slope Line” means a line representing the intersection of the table land (or if no such intersection, the table land extended) with a 27 degree slope (2H;1V) extended upward from the toe of a bluff. If a lot lacks table land, the Director will utilize the horizontal projection of the street line of the lot as the table land.

“Steep Slope Zone” means that portion of the slope impact area of a lot that lies between the steep slope line and the toe of the bluff.

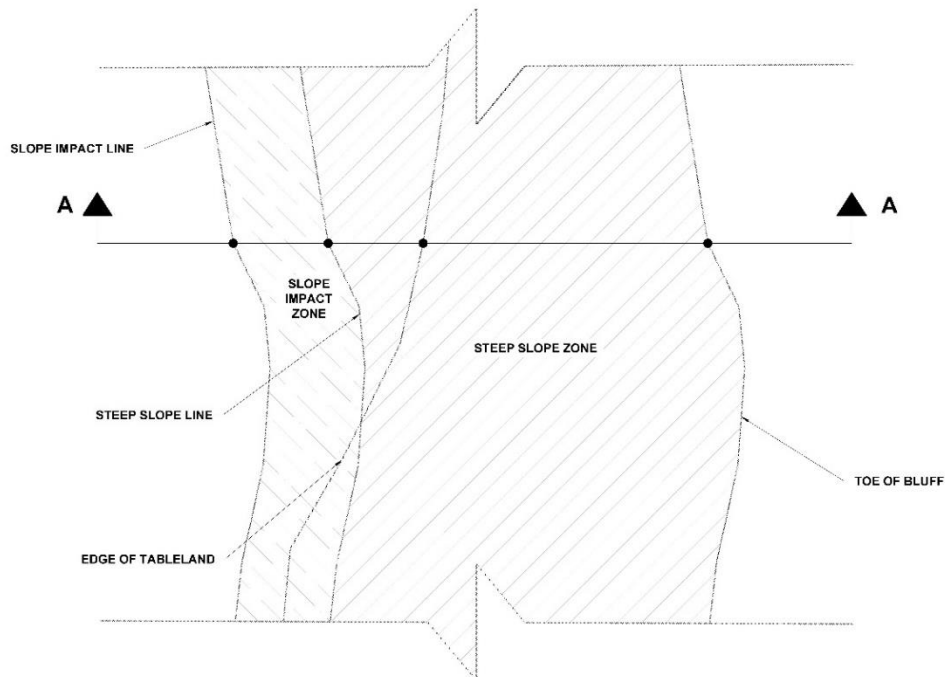
“Table Land” means land at the top of a bluff where the slope is less than a 5.7 degree slope (10H: 1V ratio).

“Toe of the Bluff” means the point in the bluff landward where the slope is less than a 5.7 degree slope (10H;1V) or where the slope reverses direction. On compound slopes where there may be more than one possible toe location, the controlling point will be whichever toe that provides the greatest slope impact area. In plan view, the toe of the bluff is depicted as a continuous line, and is referred to as the toe line.

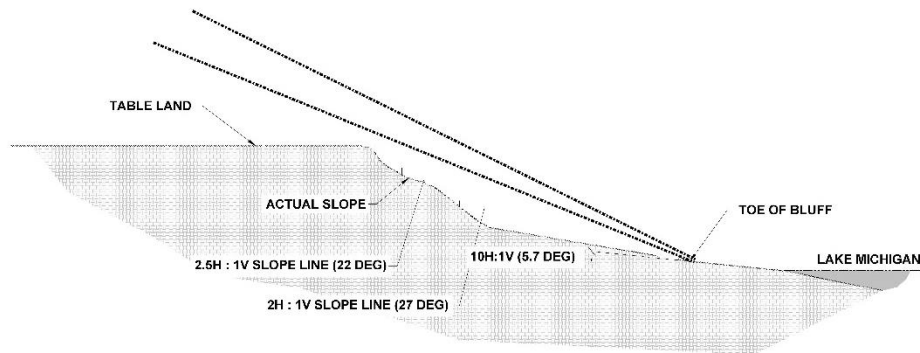
DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH SIMPLE SLOPE CROSS SECTION A-A



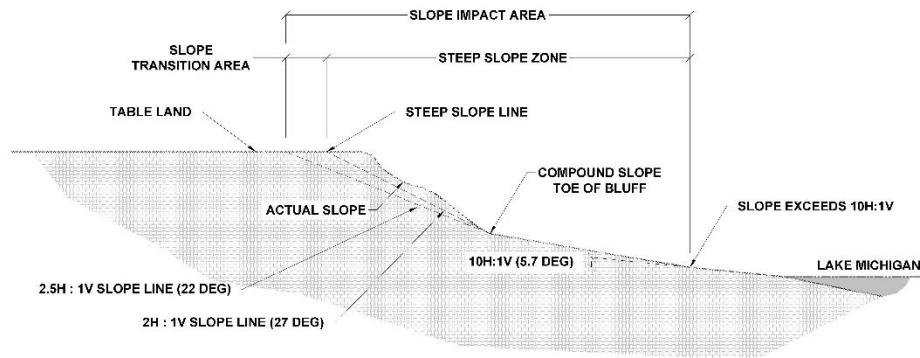
DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH SIMPLE SLOPE PLAN VIEW



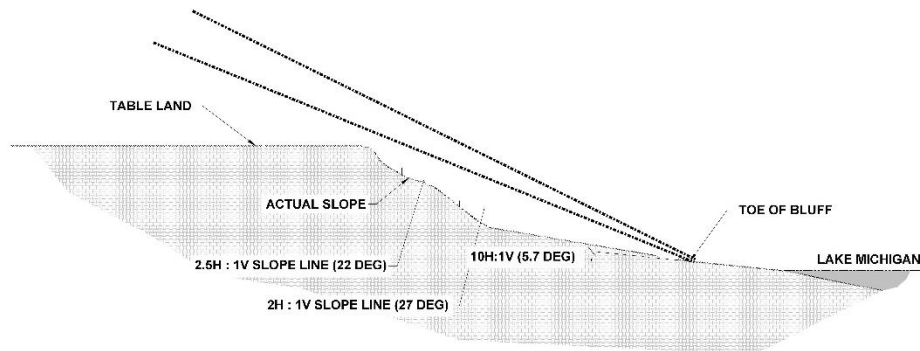
DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH COMPOUND SLOPE



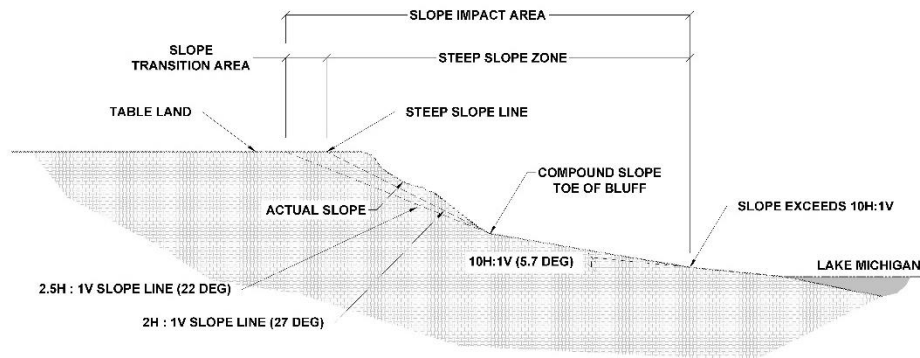
If the Steep Slope Line does not intersect the Table Land as illustrated above, the Steep Slope Line is moved up the slope to a point where it will intersect with the Table Land as illustrated below.



DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH COMPOUND SLOPE



If the Steep Slope Line does not intersect the Table Land as illustrated above, the Steep Slope Line is moved up the slope to a point where it will intersect with the Table Land as illustrated below.



Section 17.82.030 Development in Slope Transition Area.

- A. Any development that is authorized pursuant to this code, the Zoning Ordinance, or other ordinance or regulations of the Village, may occur in the slope transition area if approved by the Director, upon review of an application in accordance with this Chapter. Further, any structure or addition that meets all applicable zoning requirements may be built in the slope transition area upon obtaining the necessary permits as set forth in Section 17.82.060 and adhering to the development standards set forth in Section 17.82.050.
- B. Retaining walls and other structures that are necessary for slope stabilization are permitted in the slope transition area if approved by the Director and are built in accordance with the following standards:
- (1) Retaining walls cannot be used to increase table land, ~~unless it is necessary for slope stabilization;~~

- (2) Retaining walls cannot be used to create a shelf or other table area within the slope transition area, ~~unless it is necessary for slope stabilization~~; and
- (3) Backfilling of a retaining wall is not permitted ~~unless it is necessary for slope stabilization~~.

Section 17.82.040 Development in Steep Slope Zone.

- A. Any development that is authorized pursuant to this code, the Zoning Ordinance, or other ordinance or regulations of the Village, may occur in the steep slope zone if approved by the Director, upon review of an application in accordance with this Chapter; provided, however that only the following structures are permitted within the steep slope zone:
- B. Retaining walls and other structures that are necessary for slope stabilization if constructed in a manner approved by the Director and in accordance with the following standards:
 - (1) Retaining walls cannot be used to increase table land, ~~unless it is necessary for slope stabilization~~;
 - (2) Retaining walls cannot be used to create a shelf or other table area within the steep slope zone, ~~unless it is necessary for slope stabilization~~; and
 - (3) Backfilling of a retaining wall is not permitted ~~unless it is necessary for slope stabilization~~.
- C. Structures on the exact foundation of a previously existing structure may be rebuilt and maintained, provided that the rebuilt or remodeled structure: (i) does not extend beyond the existing foundation within the steep slope zone; and (ii) is constructed according to plans of an architect or structural engineer who certify that the existing foundation (with appropriate engineering modifications and repairs, if any) will support the rebuilt, repaired or remodeled structure without material adverse impact on the steep slope zone.
- D. Cantilevering any portion of a principal structure not exceeding four feet horizontal over a steep slope zone is permitted unless otherwise limited by code. Such cantilevering cannot block natural sunlight or alter natural stormwater drainage in a way that jeopardizes slope stability.
- E. Mechanical or electrical lifts, which do not obstruct the flow of light and water, and utility service lines, provided that it conforms to the provisions of this Chapter.

- F. Stairs can be no greater than ~~five feet~~ in width. Stair landings can be no larger than ~~50~~ square feet. Stair landings for the purpose of this Chapter are defined as an intermediate platform on a flight of stairs, greater than ~~10~~ square feet, constructed for the purpose of allowing a change in stair direction down the steep slope zone or to break up ten or more stair steps.
- G. Decks can be no larger than ~~50~~ square feet unless the applicant provides exceptional engineering, including stormwater management and vegetation, so that such deck will not jeopardize slope stability.
- H. Fences, provided that all fences must comply with all applicable Village Codes, ordinances, and regulations including, without limitation Section 15.44.060.
- I. Boat houses, provided ~~thethat no~~ boat house ~~does not~~shall exceed ~~one story and has a maximum height~~ 860 square feet ~~of 15 feet where it is cut into the bluff. The width of the gross floor area. A boat house must~~shall be limited to accommodate storage of no more than ~~two boats with~~ 15 feet from the top of the finished floor to the highest point of the building, including any appurtenances; provided, however, guardrails around a boat house rooftop deck may extend an additional three feet from the highest point of the building. Only one boat house is permitted per zoning lot. A boat house may include limited additional space for auxiliary storage, ~~a toilet/showers, etc. Additionally, any, and a shower. All boat house~~houses, regardless of size, must use exceptional engineering, including stormwater management and vegetation, so that ~~such a~~ boat house will not jeopardize slope stability, and the Director has determined that the ~~structure of any~~ boat house ~~structure as proposed~~ will not adversely impact the stability of the property or adjacent property.

Section 17.82.050 Development Standards.

- A. Any application for development in the slope impact area will be reviewed by the Director, who will consider such application in light of the standards of this section relating to landscape planning, soil mechanics engineering, hydrology, geology, environmental design, structural and coastal engineering, and architecture. The Village recognizes each slope impact area may have different characteristics and features that affect its stability and preservation. Therefore, the Director may determine that certain standards do not apply to every application. The Director will have the authority to determine if the application in its totality satisfies the purposes of this Chapter to a substantial degree without creating an economic hardship as provided in Section 17.82.090.

B. Development standards for the slope impact area are as follows:

(1) Safety control of steep slopes.

- a. The development will not jeopardize slope stability on the subject site or neighboring properties.
- b. Except as necessary for an approved development, no filling, grading, or earth moving is permitted in a slope impact area.
- c. A fence must be erected temporarily along the top edge of the steep slope zone, during any construction or demolition activity in the steep slope zone or adjacent to the steep slope zone.

(2) Construction techniques. All proposed structures must have foundations designed in a matter consistent with sound engineering and geological principals. Additionally, the following techniques must be used to enhance bluff stabilization:

- a. Planning the development to recognize and fit the natural topography, soils, geology, hydrology, and other existing conditions on the proposed sites;
- b. Orienting development so that filling, grading, and earth moving, landscaping and other site preparation is kept to an absolute minimum;
- c. Preserving and enhancing the landscape through minimized disruption of natural terrain and existing vegetation;
- d. Minimizing disruption or alteration of natural drainage ways;
- e. Minimizing the time during which areas are bare and exposed;
- f. Designing and properly locating structures so that the structure's weight does not negatively impact slope stability; and
- g. Considering the effect of undercutting at the base of a slope impact area caused by wave action, storm water flow, erosion, or channel changes.

(3) Hydrological controls.

- a. Natural channels. Natural drainage ways must be preserved to the maximum extent possible.
- b. Controlled runoff. Concentrated runoff from impervious surfaces will be collected and transported in a pipe or other approved manner to a municipal storm sewer system, if available or to the toe of the bluff as determined by the Director.
- c. Water discharge into steep slope. Whenever stormwater is transported across a property for discharge into a steep slope zone, the conveyance pipe material must be installed below ground by directional boring where possible.
- d. Trenching. No pipe can be installed within a steep slope zone by excavating a trench unless such trench is approved by the Director.
- e. Pipe materials. Flexible corrugated pipes may not be used within a slope impact area unless directional boring is found to be infeasible in the sole determination of the Director.
- f. Water Quality. The Director will determine the appropriate water quality requirements for all stormwater that is discharged to Lake Michigan.
- g. Interceptor ditches. When required by the Director pursuant to sound professional engineering principles, interceptor ditches will be established above steep slopes in order that soil will not become saturated and the intercepted water will be conveyed in a pipe or other approved manner to a municipal storm sewer system, if available, or to the toe of the bluff as determined by the Director.
- h. Discharge point stabilization. Natural drainage ways will be stabilized by landscape integration and rip-rap or other means consistent with sound professional engineering practice, to a distance below drainage and culvert discharge points sufficient to convey the discharge without channel erosion and in such a manner

as to dissipate the energy of the discharge as approved by the Director.

- i. Energy dissipater. All outflow from a stormwater conveyance pipe must discharge into an energy dissipater.
- j. Early completion. The overall drainage system must be completed and made operational at the earliest possible time during construction, the schedule of which will be approved by the Director.
- k. Impact on adjacent property. The natural or usual flow of surface or subsurface water must not be altered or obstructed in any way by grade changes that may adversely affect the property of another by contributing either to pooling or collection of waters or to the concentration or intensification of surface water discharge. However, development which might otherwise be prohibited hereinabove may be allowed if such waters are properly drained by a pipe or other approved manner to a municipal storm sewer system, if available, or to the toe of the bluff as determined by the Director. All grade changes must comply with the Village Code.

(4) Vegetation and revegetation.

- a. Native vegetation will be maintained to the greatest extent possible within the slope impact area.
- b. Smallest area. At all times, the smallest practical area of raw soil will be exposed for as short a duration of time as practical.
- c. Revegetation. A mixed planting of native perennial grasses and woody species with deep root systems will be used to landscape steep slope areas disturbed by construction, demolition or earth moving. When sound engineering practices dictates and when required by the Director, temporary vegetation, or other acceptable cover shall be used to protect areas of raw soils exposed during development and to prevent erosion.
- d. Erosion control mat. Temporary erosion control matting properly staked and trenched must be provided over raw soil areas until new vegetation is established.

(5) Filling, grading, and earth moving.

- a. Minimum alterations. Filling, grading, and earth moving will be limited to the minimum required for building foundations, driveways, drainage control structures, and immediate yard areas. With the exception of restoration efforts, substantial filling, grading, and earth moving is prohibited.
- b. Erosion control. All filling, grading, and earth moving will be accomplished in a manner that will create the lowest possible potential for airborne or waterborne transportation of soil.
- c. Soil fill in steep slope zone. All fill in steep slope zone is prohibited, other than back-fill which will be determined by the Director to be necessary for slope stabilization or re-establishment of the steep slope zone as part of general maintenance.
- d. Soil fill on table land. In conformance with generally accepted engineering standards, all fill on table land will be stabilized to at least 90% of maximum dry density as determined in ASTM procedure D-1557 or equivalent.
- e. Prompt completion. All filling, grading, and earth moving will be accomplished in the shortest practical period of time, the schedule of which will be approved by the Director. All excavated material must be removed from the slope impact area and no temporary or permanent material storage will be permitted within the slope impact area. No existing natural vegetation will be destroyed, removed or disturbed prior to the commencement of development activities.

Section 17.82.060 Required Plans and Permits.

- A. Required plans. Any development or other activity in the slope impact area requiring a permit pursuant to the Village Code and applicable regulations must be accompanied by the following plans and reports. Said plans and reports must be submitted to and approved by the Director prior to issuance of any permit or commencement of the proposed development.

- (1) All permit applications must identify the slope impact area, the slope transition area, the steep slope zone, the toe of the bluff, and the ordinary high water mark in the drawings.
- (2) All permit applications must contain a written description of the proposed means and methods of accomplishing such work (including without limitation the sequencing and timing of work, the equipment to be used, interim protective measures, and activities to monitor potential adverse impacts on the slope impact area), which means and methods will be designed to minimize slope damage. Upon approval of the permit by the Director, such approved written description will be the enforceable means and method of the authorized development activities.
- (3) Professional engineering. All structures within the slope impact area must be designed by a licensed structural engineer or geotechnical engineer, or both, and must bear the engineers license seal on submitted drawings and specifications satisfying good engineering practices and the standards of this Chapter, unless the Director otherwise waives this requirement in writing.
- (4) Subsoil investigation. Every application for a development permit in the slope impact area must be accompanied by a report, prepared by a licensed professional civil engineer or structural engineer, or both, trained and experienced in the practice of geotechnical engineering, which report must include the following:
 - a. Soil types and subsurface materials. A description (the result of a thorough subsurface investigation using techniques such as borings, test pits, site tests, laboratory tests, or other procedures performed to a depth sufficient to determine foundation conditions for the proposed construction) of the soil and subsurface materials found on the subject site (with particular emphasis on the area to be impacted by the proposed development) to a depth extending below any proposed excavation as well as the engineering properties of the subsurface soil materials.
 - b. Observations. A description of existing observable slide areas, scarps, tension cracks, eroded areas, leaning trees, etc.
 - c. History. A historical review of bluff stability considering owner photographs, previous reports and topographic surveys; air photos, Corps of Engineers' studies, Village of Winnetka information, etc.

- d. Drainage. A description of surface patterns of water flow and seeps as well as indication of the presence or absence of permeable zones in underlying soils.
 - e. Stability. A geotechnical stability analysis of the slope and structure with factors of safety calculated for the existing and proposed conditions by a method that satisfies both force and moment equilibrium for long-term and short-term soil strength parameters.
 - f. External influences. A description of any existing or anticipated problems from undercutting at the base of a slope impact area caused by wave action, erosion, or channel changes.
 - g. Absence of special hazards. An opinion that the soil types, soil stability, subsurface hydrology, and external influences affecting the site will not cause any significant hazards for the proposed use; or if they may cause such hazards, an opinion that such hazards can be overcome, together with a reasonably detailed description of how it is proposed to overcome them.
- (5) Grading plan. In addition to any other permit requirements, each application for a permit involving development under this Chapter must be accompanied by a grading plan, which plan will include the following:
- a. A topographic survey, showing property contours at one foot intervals for table land and five foot intervals for steep slopes, including special notes and details of the existing terrain;
 - b. Proposed filling, grading, and earth moving details, including the dimensions, elevations, and contours of any proposed filling, grading, and earth moving;
 - c. A schedule of when each stage of the project will be completed, including the estimated starting and completion dates; and
 - d. A provision requiring the placement of a temporary fence on the table land at the top edge of steep slope zone until construction is completed.
- (6) Hydrological control plan. Applications for any development permits will include a plan for intercepting and containing drainage at the site and from the structure.

(7) Vegetation plan. A vegetation plan, subject to the tree removal provisions of this code, will be submitted with each application for a development permit, which plan will include the following:

- a. A description of proposed revegetation of disturbed areas, specifying the materials to be used;
- b. An inventory describing the existing vegetation and tree cover of the site showing those areas where the vegetation will be removed as part of the proposed development;
- c. A maintenance and monitoring plan for native vegetation and soil erosion and sediment controls in the steep slope zone;
- d. A written description detailing methods of slope stabilization and revegetation, together with the rationale for selecting the plant materials and planting techniques proposed to be used; and
- e. A timetable and sequencing program for implementing the vegetative plan.

(8) Additional submittals; waivers. The Director may require additional plans as needed for review. The Director may release an applicant from any element of the aforementioned plan submittals to the extent that the Director determines that such element(s) will not materially assist in the evaluation of the proposed action's impact on slope stability.

B. Permit issuance; terms. Each permit application for development must comply with the Building Code, the Zoning Ordinance, and other applicable codes, ordinances, or regulations, including this Chapter. The seal of an Illinois licensed structural or geotechnical engineer, or both, will appear on all plans and specifications included as part of a permit application. Upon the Director determining that an application satisfies the requirements of this Chapter, the Director will cause a permit to be issued for development within the slope impact area. The following provisions will be incorporated into and made a part of any such permit:

(1) Limited obligation. Compliance with the procedures of this Chapter and the issuance of any related permits will not be construed to impose any legal or other obligation upon the Village of Winnetka or its elected or appointed officials, employees, agents, attorneys, or representatives. Any permit issued pursuant to this Chapter is for the benefit of the public and not for the benefit of any individual.

- (2) Civil claims. Compliance with the procedures of this Chapter and the issuance of related permits will not relieve the permittee and the property owner from civil liability claims.
 - (3) Endorsement. Compliance with the procedures of this Chapter and the issuance of related permits do not imply approval of the need for, or the benefit or efficacy of, the proposed development; nor does it constitute any assertion that the proposed development will not result in damage to the property in question or to adjoining property.
 - (4) Closing report. A licensed professional structural engineer or geotechnical engineer, or both, must inspect all work in the steep slope zone while in progress and, upon completion of the work, deliver to the Director a written report bearing the engineer's license seal, stating that all development is in accordance with the approved plan and specifications for the project. Such a report must be delivered prior to the Village's final inspection, acceptance, and closing of the project.
 - (5) Special terms. In connection with the issuance of a permit pursuant to this Chapter, the Director may impose special conditions as deemed necessary to ensure the effectiveness of plans for development on a property, and to protect the long-term stability of a bluff, or otherwise to notify future owners of the bluff conditions of such property.
- C. Other Regulatory Agency Plans. The Director has the discretion to determine whether review by any other agencies will be required as part of the Director's review.

Section 17.82.070 Steep Slope Stabilization.

A. General standards.

- (1) In order to provide for long-term slope stability and to prevent failure of slope stability that may adversely impact neighboring properties, all property owners whose property includes or is adjacent to a slope impact area are required to comply with the provisions of this Chapter. To the extent of any conflict between the requirements or regulations of this Chapter and any otherwise applicable requirements or regulations set forth elsewhere in the Village Code, the requirements and regulations of this Chapter will control to the extent of the conflict.

- (2) Any development within the slope impact area must comply with all requirements in accordance with this Chapter.
 - (3) Private storm drainage lines conveying storm water runoff either to a public storm sewer or the toe of the bluff must be maintained by the owner thereof. Private drainage lines which leak water onto the surface of a steep slope must be repaired within 30 days of notification by the Village.
 - (4) Intentionally depositing garbage, construction debris, or landscaping materials in a slope impact area is prohibited.
 - (5) Swimming pool discharge cannot be directed toward or directly discharge into a slope impact area.
- B. Maintenance and upkeep.
- (1) Authorized structures in the slope impact area may be repaired, maintained and altered, but only in compliance with the Village Code and Village Zoning Ordinance.
 - (2) Landscape maintenance or routine arboreal activities are permitted in the slope impact area.
- C. Restoration. All governmental entities, private property owners, and all other private entities that have authorized access to bluff steep slopes and engage in the maintenance, repair, or construction of utilities or other structures within a slope impact area, or engage in any modifications to a steep slope, will adhere to the applicable provisions of the Village Code and utilize best management practices.
- D. Emergency activities. Nothing in this Chapter will prevent the Village from permitting development activities on an emergency basis when deemed necessary by the Director to remediate an unstable or insecure slope that presents an immediate threat to health, safety, and welfare, or stability of an authorized structure. Emergency development activity (including installation or construction of structures) will only be permitted provided: (i) the remedial action involves the least possible disruption of the natural features of the site as possible and is in conformance with this Chapter; and (ii) the remedial action is the most reasonable action to address the emergency situation under the circumstances.

Section 17.82.080 Tree Removal in Slope Impact Area.

- A. All trees removed in the slope impact area must comply with Chapter 15.28 of the Village Code, unless the Village Arborist determines otherwise.
- B. The Village Arborist will review each tree permit in the slope impact area to determine whether the proposed tree removal will jeopardize slope stability and ensure removal is consistent with good forestry practices.

Section 17.82.090 Appeals of Director's Decisions.

- A. Any determination of the Director under this Chapter may be appealed to the Village Manager by filing a request for review in writing within 35 days after the Director issues his or her determination. Any decision of the Village Manager may be further appealed to the Village Council by filing a request for review in writing within 35 days after the issuance of the Village Manager's decision. The decision of the Village Council will be final.
- B. In reviewing the determination of the Director, the Village Manager or the Village Council (as the case may be) will consider only whether the determination of the Director in applying the regulations of this Chapter imposes an unreasonable and undue economic hardship that materially limits the property owner from making reasonable use of such owner's property or otherwise imposes requirements which are unreasonably burdensome to the property owner given the benefits thereof to the Village. After receiving written submittals from the property owner and the Director (and after a hearing if the Village Manager or Village Council determines that such a hearing will be instructive), a decision on such appeal must be issued in writing no more than 60 days after the delivery of the final submittal by the owner or Director or after the close of the hearing, whichever is later.
- C. In considering an appeal under this section, the Village Manager or Village Council may reverse, affirm, or modify the determination of the Director, or remand the determination back to the Director for further consideration, with or without instructions.
- D. The Village Manager or Village Council may issue further procedural rules governing appeals under this section.

Section 17.82.100 Variations.

Nothing in this Chapter is intended to limit the ability of an owner from seeking a variation from the otherwise applicable zoning regulations affecting the owner's property. To the extent that the regulations of this Chapter materially restrict the ability of a property to be developed or materially

increase the cost of such development, the Zoning Board of Appeals may determine that the effects of this Chapter can, in appropriate circumstances, constitute a practical difficulty or unreasonable hardship.

Section 17.82.110 Exceptions.

If a development that requires a special use permit includes construction activity that does not comply with the requirements of this Chapter, the Village Council may grant exceptions to the regulations set forth in this Chapter as part of granting the special use permit.

Section 17.82.120 Enforcement and Penalties.

- A. For any property affected by the provisions of this Chapter, the property owner, any developer, and their agents, employees, contractors, subcontractors, licensees, and invitees are each jointly and severally responsible for compliance with the terms of this Chapter.
- B. In the event any violation of any provision of this Chapter occurs, the property owner will be responsible for the violation, its correction, and for otherwise bringing the property into compliance with the terms of this Chapter. Such compliance may require restoration of the site as closely as possible to its original undisturbed condition, topography, and vegetation in order to eliminate the violation.
- C. Whoever violates any provision of this Chapter, or who interferes with the enforcement of the same, will be fined in an amount of not less than \$100 nor more than \$750 per each violation of any Section of this Chapter. Every day that a violation continues will be deemed a separate punishable violation.
- D. The Village will have the right to issue a stop work order for any work that is performed in the slope impact area either (i) without all permits that are required under this Chapter or (ii) in violation of the permits so issued.

Section 17.82.130 Corrective Measures.

In addition to the monetary penalties provided for herein, the Village may apply to a court of competent jurisdiction for an order against the parties responsible to re-establish or restore the grade, slope, stability, vegetation, or drainage systems of a slope impact area in order to eliminate or prevent an adverse impact upon any adjacent or subservient property, and for such other and further relief as may be appropriate in the circumstances.

Section 17.82.140 Administration; Fees; Conflicting Regulations.

- A. Except as otherwise provided, the Director is hereby authorized and directed to prepare any necessary or desirable forms and procedures in order to implement the provisions of this Chapter.
- B. As part of any application, and as a condition of any permit, an applicant will be required to pay all fees and charges due under this Chapter. The Village Council may from time-to-time establish and publish application, permit, and inspection fees in furtherance of the administration of this Chapter. To the extent that the Village incurs third-party expenses in connection with the administration of this Chapter with respect to a particular application, such third-party expenses will be additional fees chargeable to such application.
- C. To the extent that there are conflicting regulations in the Village's Building Code or elsewhere in the Village Code, the provisions of this Chapter will control.

Section 17.82.150 Effective Date.

Nothing in this Chapter will be applied to prevent the completion, in accordance with previously issued permits or approvals, of any development that has received all required permits and approvals prior to _____, 2024 (the effective date of this Chapter), provided that such development is completed in compliance with all such permits, approvals, and other requirements of law.”

Memorandum

Office | 2924 Marketplace Drive, Suite 200, Madison, WI 53719, USA

Phone | +1 608 273 0592 Email | madison@baird.com

Reference # 13918.101.M5.Rev0

Status: Final

December 12, 2023

Attention: David Schoon
CC: James Bernhal
From: Caleb Barth

RE: TECHNICAL GUIDANCE REGARDING THE OHWM AND DEFINING THE FRONT LOT LINE

The Village of Winnetka (Village) has requested that W.F. Baird & Associates Ltd. (Baird) assist in providing technical guidance to the Village Council for proposed changes to the front lot line definition. The Village's Zoning Ordinance currently uses the water's edge along Lake Michigan as the front lot line. The draft ordinance revisions propose defining the federal administrative ordinary high-water mark (OHWM) benchmark, or 581.5 ft IGLD85, as the new front lot line standard along the lake. The Village specifically requested guidance on the following topics:

- Additional background information regarding the federal OHWM designation
- Comparison of the different methods of defining the front lot line
- Discussion of coastal development gaps in the Village code

Background on the International Great Lakes Datum of 1985 (IGLD 85)

All Great Lakes water levels are referenced to a common vertical datum, currently IGLD 85, by which water levels can be measured and meaningfully related to each other. The development of IGLD 85 included the use of a hydraulic corrector so that the mean water level surface at each gauging station around the lake coincided. The common vertical datum is periodically revised by the National Oceanic and Atmospheric Administration (NOAA) and the Canada-Canadian Hydrographic Services. The datum will likely be replaced in 2027 by IGLD 2020.

Background on the Federal Definition of the OHWM

The federal OHWM is a jurisdictional benchmark for the administration of the US Army Corps of Engineers (USACE) regulatory program in navigable waterways under Section 10 of the Rivers and Harbors Act (RHA) and Section 404 of the Clean Water Act (CWA) (USACE, 2023b). USACE regulations define the term OHWM for purposes of the CWA lateral jurisdiction at 33 CFR 328.3(e), which states:

“The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.”

Since establishing IGLD 85, the USACE and Illinois Department of Natural Resources (IDNR), Office of Water Resources (OWR) commonly set and administered the OHWM benchmark on Lake Michigan at a consistent elevation of 581.5 ft IGLD85.

Within the past decade, the USACE Chicago District Regulatory Branch have adjusted how the OHWM is determined for jurisdiction determinations to a case-by-case basis to more closely follow the definition in the RHA and CWA as a result of litigation. Under today's guidance, the USACE OHWM jurisdictional determination is typically required to be updated every two years for proposed developments. The OHWM is defined through the delineation of typical indicators of the OHWM observed along Lake Michigan shoreline including sediment sorting, vegetation changes, litter deposits, and slope changes.

The USACE will revert to 581.5' IGLD 85 for the OHWM jurisdictional determination when field characteristics are absent, typically in the situation where water extends up to an existing bulkhead wall and there is no beach present.

Given the cyclical nature of water levels on Lake Michigan (see Figure 1), the physical characteristics that define the OHWM per the above definition will vary with changing water levels. During low water levels like experienced during the last low water period from 1999-2013 (15 years), the OHWM could be visually identified at an elevation lower than 581.5 ft IGLD 85. During high water levels like experienced over the past nine years (2014-2023), the OHWM could be visually identified at an elevation above 581.5 ft IGLD 85. If water levels continue to drop like the current trend, the elevation of the OHWM will drop accordingly.

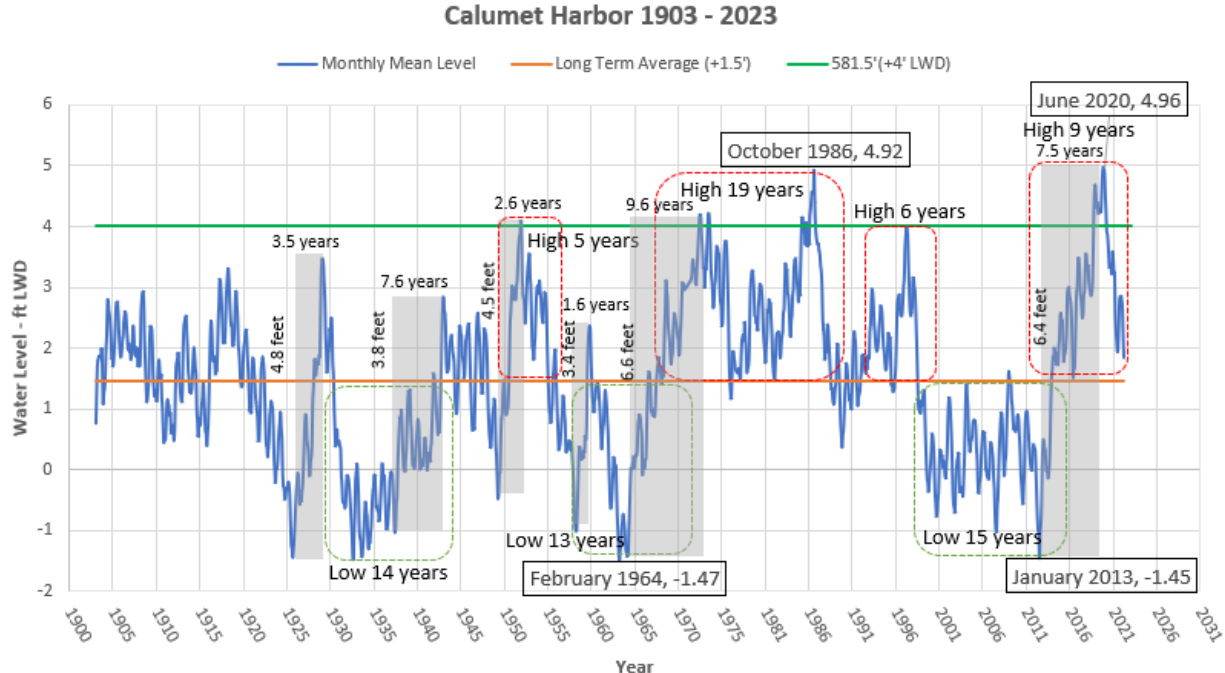


Figure 1: Lake Michigan Monthly Mean Water Levels at the Calumet Harbor, IL NOAA Gauge (1903-2023)

Comparison of the different methods of defining the front lot line

At the September 12, 2023, Village Council study session, the Council requested that Village staff explore a more stable demarcation for the lot line along Lake Michigan than the *water's edge*. At the November 14, 2023 Village Council study session, Village staff proposed using the USACE's administrative OHWM benchmark of 581.5 ft IGLD 85 as the new front lot line standard along the lake. The primary benefits being that a fixed elevation would not change as often as the *water's edge*, be more uniform, and more predictable. The Village Council requested additional information regarding if a site specific or Village-wide OHWM should be established in lieu of the USACE's administrative OHWM of 581.5 ft IGLD 85.

Options for establishing the front lot line:

- **Water's edge** – per the Village code, this is the current method of determining the front lot line. The front lot line will continue to vary significantly with changing lake levels. Over the past 100 years, the monthly mean Lake Michigan water levels have fluctuated over 6 ft, typically in decade long cycles of high and low water levels (see Figure 1). The monthly mean water level also varies approximately 1 ft seasonally each year (see Figure 2).
- **Static elevation** - the Village could change the definition of the front lot line to a static elevation, such as the USACE's administrative OHWM benchmark of 581.5 ft IGLD 85. The location of the front lot line will still change over time in response to erosion and accretion, but the changes overtime will be much less than the magnitude of the changes currently experienced by the *water's edge* definition. The elevation will only meet the criteria for the OHWM per the 33 CFR 328.3(e) definition for limited water levels since the location of the "physical characteristics" change seasonally and year to year.
- **Property-by-property dynamic elevation** - the Village could change the definition of the front lot line to a dynamic elevation, such as determining the OHWM at the time of the survey based off physical characteristics per the 33 CFR 328.3(e) definition. When physical characteristics are not present in the field, 581.5 ft IDLG 85 will be used for the OHWM. The front lot line elevation will vary site to site depending on many factors, including the shoreline slope and type of material composing the shore, and will continue to vary year-to-year with changing lake levels, accretion, and erosion. The location of the front lot line will not vary as much as the *water's edge* definition but will vary more than a static elevation. The OHWM will need to be delineated by the applicant with each proposed development on the lot. The cost of the survey would be at the applicant's expense.
- **Village-wide OHWM** - the Village could change the definition of the front lot line to a consistent Village-wide OHWM elevation considering the recent water levels and conditions. The elevation could be defined by completing a Village wide survey of the current location of the OHWM and defining an average elevation for use as the Village-wide OHWM. The OHWM will need to be resurveyed a minimum of every two years to stay consistent with USACE regulatory guidelines. When physical characteristics are not present in the field, 581.5 ft IDLG 85 will be used for the OHWM. The survey could be completed and maps could be created by experienced professionals through surveying the elevation and position of the typical indicators of the OHWM between each groin/breakwater/definable coastal feature for an estimated \$5-9k in fees for each survey.

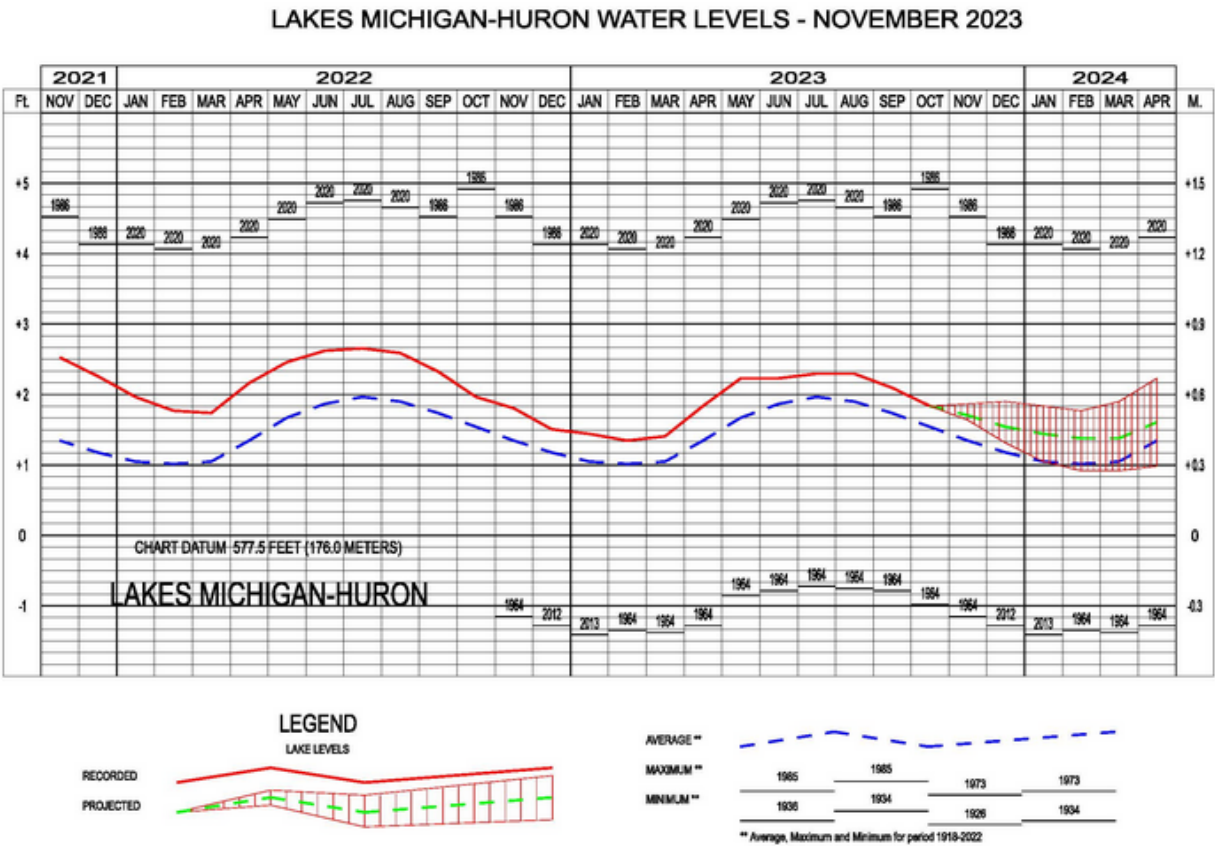


Figure 2: USACE Monthly Bulletin of Lake Michigan/Huron Water Levels (November 2023) (USACE, 2023a)

Discussion of coastal development gaps in the Village code

The location of the front lot line will impact the minimum front yard setback among other zoning standards. The definition of the front lot line will not supersede the public trust doctrine. In general, the proposed steep slope ordinance will supersede the zoning set back requirement. There are locations along the coastline where the current front yard setback as defined by the water's edge and a fixed 50-ft setback do not overlap with the steep slope zone of the proposed steep slope ordinance. Figure 3 and Figure 4 show how the regulatory jurisdictions and Village ordinances could overlap along the Lake Michigan shoreline.

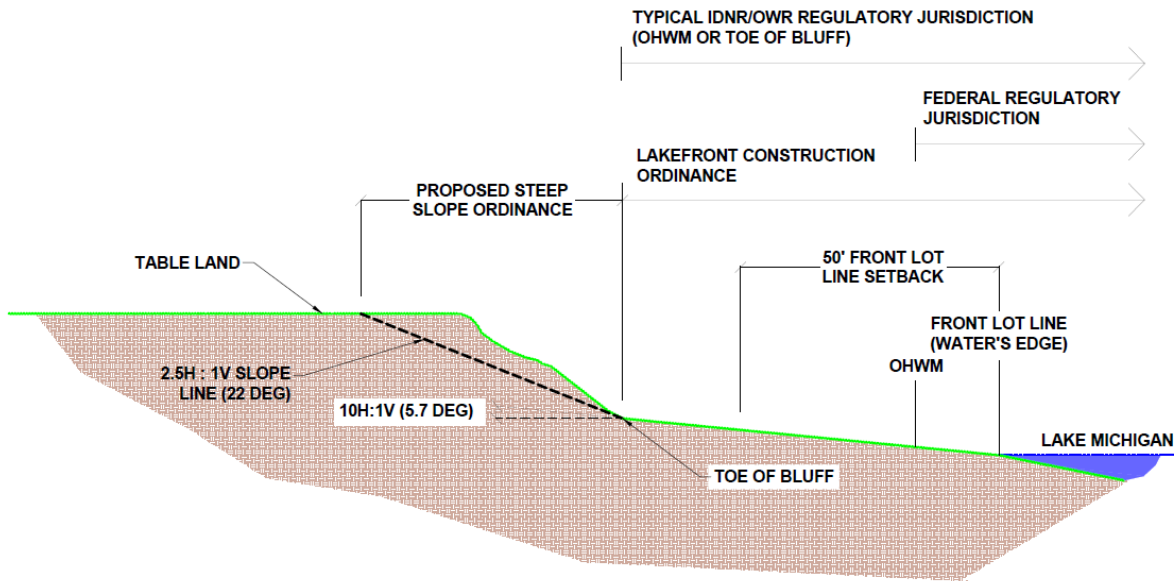


Figure 3: Example of overlapping development regulatory jurisdictions and village ordinances where the Front Lot Line Setback does not overlap with the proposed Steep Slope Ordinance

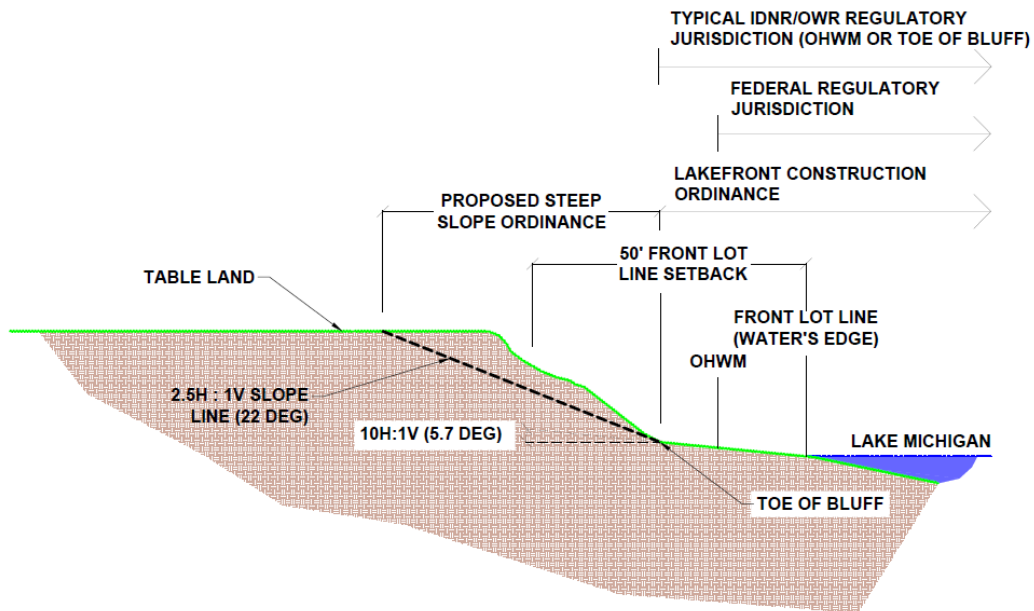


Figure 4: Example of overlapping development regulatory jurisdictions and village ordinances where the Front Lot Line Setback does overlap with the proposed Steep Slope Ordinance

Regardless of how the front line is defined, there could be a gap in the Village code between the front lot line setback and the proposed steep slope ordinance. Any gap between the proposed steep slope ordinance and the front lot line setback would typically be regulated for development at a minimum by the Village's Lakefront

Construction Ordinance and the IDNR/OWR under the Rivers Lakes and Stream Act of 1911 and the IDNR/OWR Part 3704 “Regulation of Public Water Rules”.

As a reminder from the January 10, 2023 Village Council study session presentation by the IDNR/OWR, typical allowable projects under the under the Rivers Lakes and Stream Act of 1911 and the IDNR/OWR Part 3704 “Regulation of Public Water Rules” include:

- Shore or bluff protection
- Beach nourishment
- Establishing a uniform shoreline
- Projects authorized by the General Assembly, to fill the bed of Lake Michigan (only provided to public agencies to serve public purposes)
- Dredging and open water disposal of dredge material
- Construction of Harbors (only by public agencies and with the blessing of the General Assembly)
- Boat Ramps and Permeable Piers

References

USACE, 2023a. “Monthly Bulletin of Great Lakes Water Levels.” Detroit District, U.S. Army Corps of Engineers, <https://www.lre.usace.army.mil/missions/great-lakes-information/great-lakes-water-levels/water-level-forecast/monthly-bulletin-of-great-lakes-water-levels/>. Accessed 6 Dec. 2023.

USACE, 2023b. “Ordinary High Water Mark and Low Water Datum - Description.” Detroit District, U.S. Army Corps of Engineers, www.lre.usace.army.mil/Missions/Great-Lakes-Information/Links/Ordinary-High-Water-Mark-and-Low-Water-Datum/. Accessed 6 Dec. 2023.

Attachment 4 Public Comments

Dear President Rintz and Members of the Village Council,

I am one of the lakefront homeowners (523 Hoyt Lane) who has been following your discussions regarding the steep slope regulations. I have owned my property for approximately 15 years. I am very concerned about the direction your discussions have taken. I'm sending you this letter because I will be out of town next week and unable to attend the public hearing.

I am concerned that lakefront homeowners haven't been provided enough time to evaluate and react to the Village's initial draft of the proposed ordinance. It seems the ordinance is in need of change. The lakefront homeowners should have a reasonable amount of time to consider the ordinance, review all changes and ask and receive answers to their questions.

In my case, I followed every rule and regulation in building on the bluff and Winnetka approved each one of our permits. My request is simple. I want my investment protected by the same legal entity that approved it in the first place. It seems to me my investment should be grandfathered and not subject to the new ordinance. With that said, at a minimum, homeowners who have invested significant dollars in their properties should have the right to fully protect the assets the Village approved, all the way down to and including the repair and if necessary, the replacement of the foundations of those assets.

May I suggest the Village Council take the full period of time allowed by the moratorium and if necessary, extend the moratorium for another 3 months if that's what it takes to get this right. This will allow the Council to consider the concerns of ALL lakefront homeowners. There should be at least one more study session before adoption of the ordinance with any revised ordinance being made available to the homeowners for review at least 2 weeks prior to the session. The current timetable of requiring interested parties to engage during the holiday season is unreasonable and unnecessary. No surveyor will work on the lake in December and January, so we are unable to get the survey information we need to fully understand the implications of the ordinance you are considering adopting.

The lakefront homeowners deserve due process...we have been the stewards of the bluff, fighting against erosion and contributing to the elegance of the Village of Winnetka. I followed the letter of the law when building on the bluff. For now, I am simply asking the Council to consider slowing down this process a bit. What is the rush? The moratorium is in place. No one is harmed if this process extends for an additional 3 months.

Thank you for taking my comments into account.

Very truly yours,

Gerry Corcoran
523 Hoy Lane
[REDACTED]

From: [REDACTED]
To: [Planning](#)
Subject: Resident input for Deep Slope CASE NO. 23-24-TX
Date: Thursday, January 4, 2024 3:44:07 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

President Rintz and Council Members:

I'm writing as the authorized representative of Chicago Title Land Trust 8002388000 that owns the property at 1171 Whitebridge Hill Rd in Winnetka.

We are very concerned about the haste in which the Council is moving the deep slope ordinance through without proper time for homeowners to understand and evaluate the impact of the final ordinance on their property. We have followed the meetings and what we see now is that you have moved very quickly from "we need more input from staff" to "let's get this thing done". With the information package being ready this Friday we only have a couple of days to digest and respond to some pretty technical issues that define the steep slope for each of us. This ordinance could very well impact property values by millions of dollars, depending on how it is interpreted by staff in future years.

We have not had sufficient time to hire a surveyor to determine where the lines are drawn to establish our Transition Zone. We've been told that many surveyors will not provide this service during cold winter months because of the precariousness of the steep and frozen bluffs. We seriously doubt many lakefront homeowners have this data to be able to properly respond with their concerns. Do you have topographical surveys and the related calculations that define the slope transition area for our property or any property along the lakefront? How can you even think of proceeding until you know how this ordinance is going to impact the residents?

You need to slow down! Where is the urgency to get this done coming from?

We are not able to attend the meeting Tuesday and fear that is the case for a number of lakefront homeowners, but we'd like our voices heard.

Please confirm receipt of this email and address these issues at the meeting.

Regards,
Mark Moore