

January 30, 2015

Mayor Pradel and Members of the City Council – Hand Delivered
City of Naperville
400 S. Eagle Street
Naperville, IL 60540

RECEIVED
JAN 30 2015
NAPERVILLE CITY CLERK

Re: Plat of Consolidation for the Property commonly known as 319 Claremont Court,
Naperville, IL

PZC Case # 14-1-033 Mayor Estate (Continued from July 9, 2014)

Dear Mayor Pradel and Members of the City Council:

The above-referenced Plat of Consolidation (“Plat”) was submitted to the City of Naperville on March 11, 2014. The petition also requested a variance for the height of a proposed fence. The Plan Commission unanimously recommended the Plat at its July 23, 2014 meeting. The City Staff also supported, as a matter of right and without reservation, the approval of the Plat, and stated that all City requirements had been met.

It is hereby requested that the Plat be approved on an Administrative Basis or through the City Council Action on or before the scheduled Council meeting of February 17, 2015. The request for a fence variance is being withdrawn at this time.

The Staff has insisted that a private easement be added to the Plat because a proposed easement was attached as an Exhibit to Ordinance 03-214, which approved Jefferson Estates. The proposed easement attached to the Ordinance 03-214, approved December 3, 2003, is not signed by the legal titleholder of the property burdened by the easement. At the time Ordinance 03-214 was approved, Charleston Classic Homes, Inc. did not own the property which became Jefferson Estates pursuant to the Final Plat of Subdivision, and did not become the owner until June 4, 2004. Ordinance 03-214 was not recorded until June 25, 2004. The property which was depicted on the proposed easement was specifically excluded from Jefferson Estates Final Plat of Subdivision. Charleston Classic Homes conveyed the property depicted on the proposed easement to the Roman Catholic Diocese (“Diocese”) on June 4, 2004, immediately prior to recording the terms of the written private easement and prior to the Jefferson Estates Subdivision being created. The Diocese did not sign the proposed easement attached to Ordinance 03-214, the subsequent private easement or the Final Plat of Subdivision for Jefferson Estates. The Diocese did not accept the burdens placed on its property by the terms of the proposed easement or subsequent private easement. The proposed easement attached to Ordinance 03-214 was never executed by an owner of the property, and the attachment of the unsigned easement to Ordinance 03-214, which was recorded after the

February 20, 2015

Allison Laff – Hand Delivered
City of Naperville Zoning Administrator
City of Naperville
400 S. Eagle Street
Naperville, IL 60540

Re: Plat of Consolidation for the Property Commonly known as 319 Claremont Court,
Naperville, IL

PZC Case # 14-1-033 Mayor Estate (Continued from July 9, 2014)

Dear Ms. Laff:

I wrote to Mayor Pradel and Members of the City Council on January 30, 2015 regarding my proposed Plat of Consolidation (“Plat”). In response, I received an email from you on February 4, regarding the consideration of my Plat.

It is inaccurate that I, or my legal counsel, reached any agreement regarding my application for Subdivision Plat approval, as it relates to delineating a private easement. Had there been an agreement, it would certainly have been included in modified application documents and presented at the PZC meeting of July 23, 2014.

I respectfully submit for your consideration, that the Administrative “determination” is not founded or supported by Naperville ordinance OR Illinois statute. The City Ordinance, Section 7-2-1 (copy enclosed) does NOT reference easements, existing or otherwise, but references the statute, 765 ILCS 205 (copy enclosed), which requires utility easements to be shown on plats, but make no reference to private easements. All content required by TED (3 memorandum revisions) had been shown prior to submission to and approval by PZC. My proposed Plat of Consolidation also shows, however, and grants the public utility easements to the City that were not properly granted to the City previously.

The Administrative “determination” that the Plat does not comport with City Ordinance No. 03-214 (applicable pages enclosed), is also NOT supported by the documentation of record. Ordinance No. 03-214 approved a certain Easement Plat and directed the City Clerk to record it. The Developer of Jefferson Estates never signed the Easement Plat, and the City Clerk never recorded it. Therefore, the purported easements set forth on the Easement Plat were never validated, or contemplated by the Ordinance. Further, a September 18, 2013 City of Naperville Memorandum from William Novack and Pat Lord (copy enclosed) states, “the private easement was not considered by Council and was not included with the City approvals.”

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The Memo also states that the plat of consolidation submitted to the City meets all of the requirements of Section 7-2-8; Administrative Plat Procedures of the Naperville Municipal Code and that the proposed consolidation plat will not alter any easements existing on the subject properties.

The City has no interest in the lack of a private easement, regardless of its validity, on my Church Parcel and it was never intended to run to or be enforceable by the City, as exhibited by TED's permit approval for the portion of the berm that has been removed.

Not showing the berm/landscape easement on my proposed Plat of Consolidation does NOT affect anyone else's legal rights. Those who may believe the easement was lawfully created by the Grant suffer no detriment, because my Plat of Consolidation does not purport to remove or release any such easement. Those who claim it is a valid private easement will still have any claim they might now have under said Grant.

In closing, I wish to remind you that my proposed Plat of Consolidation was submitted to the City of Naperville on March 11, 2014. The Plan Commission approved the Plat at its July 23, 2014 meeting. The City Staff also recommended approval of the Plat and stated that all City requirements had been met. I have previously withdrawn my request for a fence variance.

Therefore, it is requested that my Plat be approved either on an Administrative Basis or through City Council Action on March 17, 2015.

Very truly yours,



Michael Mayor
319 Claremont Court
Naperville, IL 60540
630-842-5284
mayor1068@aol.com

cc: Mayor Pradel and Members of the City Council
Doug A. Krieger, City Manager
Jill Pelka-Wilger, City Attorney
Pam LeFeber, City Clerk

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MANAGER'S MEMORANDUM / COUNCIL WORK REQUEST REPORT

Prepared for: **Naperville City Council**
By: **City Manager's Office**
09/20/2013

A. MANAGER'S MEMORANDUM

- | | | | |
|----|------------------------|--|-------------|
| 1. | Source: Public Works | Subject: Emerald Ash Borer Program Update | Action: FYI |
| 2. | Source: Communications | Subject: Washington Street Resurfacing Project – Alley Closure | Action: FYI |
| 3. | Source: CMO | Subject: Naperville Heritage Society FY14 SECA Request | Action: FYI |

B. COUNCIL WORK REQUEST REPORT

- | | | | |
|----|-----------------|--|-------------|
| 1. | Source: CMO | Subject: Open Work Requests | Action: FYI |
| 2. | Source: TED | Subject: CWR 13-018: Jefferson Estates | Action: FYI |
| 3. | Source: TED | Subject: CWR 13-019: Jefferson Estates | Action: FYI |
| 4. | Source: Finance | Subject: CWR-13-020: Finance Department Expenditures | Action: FYI |

**CITY OF NAPERVILLE
MEMORANDUM**

DATE: September 18, 2013
TO: Doug Krieger, City Manager
FROM: William Novack, Director - TED Business Group
Pat Lord, Senior Assistant City Attorney
RE: CWR 13-018: Jefferson Estates

PURPOSE:

The purpose of this memorandum is to respond to CWR 13-018 regarding the removal of a portion of the landscape berm adjacent to the Jefferson Estates subdivision.

BACKGROUND:

Councilman Krause requested information related to the landscape requirements that were approved for the Jefferson Estates subdivision, along with the subdivision's final approval from the City Council packet. Included as part of this work request is the staff response to issues discussed at the September 3, 2013 City Council meeting.

DISCUSSION:

Grading Permit for Removal of a Portion of the Landscape Berm

Attached is a copy of the City Council packets for the approval of the preliminary and final plats of subdivision for Jefferson Estates along with an executed copy of Ordinance 03-214 that approved the final subdivision plat, plat of easement and the development plans for Jefferson Estates. Further, the private party easement agreement was not considered by Council and was not included with the City approvals.

The Plat of Easement was for grading and landscaping, which were depicted on the final engineering plans. After the City Council approved the plat of easement, the developer never recorded the plat. Instead, the developer had a Grant of Grading and Landscape Easement document prepared and recorded that established the grading and landscape easement to the benefit of the homeowner's association and included the plat of easement as an exhibit. The City of Naperville was not a signature of, or even aware of this document until shortly before the grading permit was issued by the City.

This easement document was brought to our attention when we were reviewing the grading plan submitted by Mr. Mike Mayor, the resident who had purchased the adjacent property from the Catholic Church. Staff reviewed the document and noted that it was a private benefit easement that ran to the benefit of the Homeowner's Association (HOA). We instructed Mr. Mayor that he needed the consent of the HOA before we could issue the grading permit.

Mr. Mayor had been pursuing the purchase of a portion of the Catholic Church's property adjacent to his property for a few years. Mr. Mayor's initial request to the City was approval to

Doug Krieger
Re: CWR13-018: Jefferson Estates
September 18, 2013
Page 2

remove a portion of the berm and landscaping adjacent to his house. He never planned to remove any of the berm adjacent to his neighbor's properties. Indeed, he never did remove any portion of the berm and landscaping adjacent to his neighbor's properties.

The HOA was established several years ago, but the developer still has majority control due to the number of vacant lots remaining in the subdivision. A meeting of the homeowners was held in the field, so Mr. Mayor could describe and show what he wanted to do, and a straw poll of the homeowners was taken. The developer reported to the City that the majority of the homeowners supported Mr. Mayor's request, and that the City had the support of the HOA to issue the permit. The developer did request that Mr. Mayor replace any trees that were removed with the project at Mr. Mayor's cost. With the consent of the HOA and a grading plan that met City requirements, we issued a grading permit for the project on July 30, 2013.

The portion of the berm adjacent to Mr. Mayor's house was removed shortly thereafter. During the grading process, seven trees were impacted. Four of the trees were immediately transplanted to other areas on the berm, and Mr. Mayor has been watering them and they appear to be in good condition. The other three trees were not healthy enough to be transplanted, so Mr. Mayor will replace them with three new trees that will be planted on the berm this fall. In addition, Mr. Mayor will plant eight new trees on the Catholic Church's property adjacent to his new western property line, as per his purchase agreement with the church.

Request for Plat of Consolidation

The petitioner owns two adjacent parcels, one from his original home in Jefferson Estates and the other from his purchase of a portion of the church property. He has had a plat of consolidation prepared and submitted to the City, to consolidate his two parcels into one lot of record. This plat meets all of the requirements of Section 7-2-8: Administrative Plat Procedures of the Naperville Municipal Code, which provides for review and approval by the Zoning Administrator without going through the PZC or City Council process. Upon the determination that the plat is in technical compliance with the Municipal Code requirements, the City is obligated to approve the requested consolidation. It is important to note that the proposed consolidation plat will not alter any easements existing on the subject properties.

Future Improvements to the Property

Staff did sit down with Mr. Mayor to go over the necessary processes and to discuss his short and long term plans for improvements to the property. He has one short term and one long term improvement. For the short term, Mr. Mayor wishes to install a fence around the perimeter of his property. He had a fence around his Jefferson Estates lot due to a swimming pool in his back yard, and he desires to modify it to go around his entire property, after consolidation has occurred.

Mr. Mayor also indicated that in the longer term, he desires to install a sport court. We advised him that a sport court is considered a permanent structure, and if it encroaches into the grading and landscape easement, he would either have to have the easement vacated or the terms of the easement amended, subject to City Council approval. If he builds a smaller sport court that does not encroach into the easement, the vacation would not be necessary and he would only have to comply with the sport court requirements of the Municipal Code.

Doug Krieger
Re: CWR13-018: Jefferson Estates
September 18, 2013
Page 3

We highly recommended that Mr. Mayor meet with his neighbors to discuss his planned improvements and listen to their concerns and do what he could to address them. We have also met with the two residents who spoke at the September 3 City Council meeting and updated them on everything included in this memo.

RECOMMENDATION:

Please share this information with the Mayor and City Council through the Manager's Memorandum of September 20, 2013.

adopted May 21, 2002; Ord. No. 06-217, adopted September 19, 2006; Ord. No. 07-04, adopted January 2, 2007; Ord. No. 07-234, adopted November 6, 2007, and Ord. No. 08-150, adopted August 19, 2008.

7-2-1: - SUBDIVISION PLAT REQUIREMENTS:



1. The petitioner shall submit a preliminary or final plat which shall show, at a minimum, on its face the following information:

1.1. All content as required by 765 ILCS 205/Plat Act as amended.

1.2. All content as required by the Transportation, Engineering and Development Business Group, as stipulated on a checklist provided by the City, as may be amended from time to time.

1.3. If a land donation is contemplated to comply with the required school or park donation, the location, acreage, and specific use of the area proposed to meet said donation shall be designated on the plat.

1.4. Any other information, as required by the Director of Transportation, Engineering and Development ("Director"), as necessary to process the requested subdivision plat.

2. All documents, plats, supporting data, etc., and revisions thereof shall be dated and properly titled.

(Ord. No. 13-129, § 8, 11-5-2013)

7-2-2: - SUBDIVISION PLAT PROCEDURES:



1. Initiation Of A Petition: A preliminary plat or final plat of subdivision may be proposed by an person who is the owner, lessee, or contract purchaser of the subject property. In any instance where the petitioner is a person other than the owner, the petition shall also be signed by the owner or an authorized representative of the owner.

2. Petitions: The petitioner shall file the required petition forms, as provided by the City, and the proposed preliminary and/or final plat and all supporting documents required by the City, with the Transportation, Engineering and Development Business Group.

2.1. The preliminary and final plat may be combined, filed and approved simultaneously if all requirements hereof are met. If the preliminary plat and final plat are filed separately, the petition for the final plat approval shall be made not later than two (2) years after the preliminary plat approval has been granted. If after two (2) years from the date of the preliminary plat approval no submission of a final plat in conformance with the procedures contained herein has occurred, the preliminary plat shall automatically lapse and become null and void without further action from the City.

2.2.



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(example: HB0001)

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PROPERTY (765 ILCS 205/) Plat Act.

Search By Keyword

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(765 ILCS 205/0.01) (from Ch. 109, par. 0.01)

Sec. 0.01. Short title. This Act may be cited as the Plat Act.

(Source: P.A. 86-1324.)

[Advanced Search](#)



(765 ILCS 205/1) (from Ch. 109, par. 1)

Sec. 1. (a) Except as otherwise provided in subparagraph (b) of this Section whenever the owner of land subdivides it into 2 or more parts, any of which is less than 5 acres, he must have it surveyed and a subdivision plat thereof made by an Illinois Registered Land Surveyor, which plat must particularly describe and set forth all public streets, alleys, ways for public service facilities, ways for utility services and community antenna television systems, parks, playgrounds, school grounds or other public grounds, and all the tracts, parcels, lots or blocks, and numbering all such lots, blocks or parcels by progressive numbers, giving their precise dimensions. There shall be submitted simultaneously with the subdivision plat, a study or studies which shall show topographically and by profile the elevation of the land prior to the commencement of any change in elevations

as a part of any phase of subdividing, and additionally, if it is contemplated that such elevations, or the flow of surface water from such land, will be changed as a result of any portion of such subdivision development, then such study or studies shall also show such proposed changes in the elevations and the flow of surface water from such land. The topographical and profile studies required hereunder may be prepared as a subsidiary study or studies separate from, but of the same scale and size as the subdivision plat, and shall be prepared in such a manner as will permit the topographical study or studies to be used as overlays to the subdivision plat. The plat must show all angular and linear data along the exterior boundaries of the tract of land divided or subdivided, the names of all public streets and the width, course and extent of all public streets, alleys and ways for public service facilities. References must also be made upon the plat to known and permanent monuments from which future survey may be made and the surveyor must, at the time of making his survey, set in such manner that they will not be moved by frost, good and sufficient monuments marking the external boundaries of the tract to be divided or subdivided and must designate upon the plat the points where they may be found. These monuments must be placed at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line and at all angle points along a meander line, the points to be not less than 20 feet back from the normal water elevation of a lake or from the bank of a stream, except that when such corners or points fall within a street, or proposed future street, the monuments must be placed in the right of way line of the street. All internal boundaries, corners and points must be monumented in the field by like monuments as defined above. These monuments 2 of which must be of stone or reinforced concrete and must be set at

the opposite extremities of the property platted, placed at all block corners, at each end of all curves, at the points where a curve changes its radius, and at all angle points in any line. All lots must be monumented in the field with 2 or more monuments.

The monuments must be furnished by the person for whom the survey is made and must be such that they will not be moved by frost. If any city, village or town has adopted an official plan, or part thereof, in the manner prescribed by law, the plat of land situated within the area affected thereby must conform to the official plan, or part thereof.

(b) Except as provided in subsection (c) of this Section, the provisions of this Act do not apply and no subdivision plat is required in any of the following instances:

1. The division or subdivision of land into parcels or tracts of 5 acres or more in size which does not involve any new streets or easements of access;

2. The division of lots or blocks of less than 1 acre in any recorded subdivision which does not involve any new streets or easements of access;

3. The sale or exchange of parcels of land between owners of adjoining and contiguous land;

4. The conveyance of parcels of land or interests therein for use as a right of way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access;

5. The conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access;

6. The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;

7. Conveyances made to correct descriptions in prior conveyances.

8. The sale or exchange of parcels or tracts of land following the division into no more than 2 parts of a particular parcel or tract of land existing on July 17, 1959 and not involving any new streets or easements of access.

9. The sale of a single lot of less than 5 acres from a larger tract when a survey is made by an Illinois Registered Land Surveyor; provided, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract on October 1, 1973, and provided also that this exemption does not invalidate any local requirements applicable to the subdivision of land.

10. The preparation of a plat for wind energy devices under Section 10-620 of the Property Tax Code.

Nothing contained within the provisions of this Act shall prevent or preclude individual counties from establishing standards, ordinances, or specifications which reduce the acreage minimum to less than 5 acres, but not less than 2 acres, or supplementing the requirements contained herein when a survey is made by an Illinois Registered Land Surveyor and a plat thereof is recorded, under powers granted to them.

(c) However, if a plat is made by an Illinois Registered Surveyor of any parcel or tract of land otherwise exempt from the plat provisions of this Act pursuant to subsection (b) of this Section, such plat shall be recorded. It shall not be the responsibility of a recorder of deeds to determine whether the plat has been made or recorded under this subsection (c) prior to accepting a deed for recording.

(Source: P.A. 95-644, eff. 10-12-07.)

(765 ILCS 205/1.01) (from Ch. 109, par. 1.01)

Sec. 1.01. No area of land or any part

13

P.L.N: 07-13-317-020
07-14-417-003
07-14-417-006



J.P. "RICK" CARNEY
DUPAGE COUNTY RECORDER
JUN 25 2004 11:19 AM
PLAT 07-14-417-006
014 PAGES R2004-171706

PREPARED BY:

CITY OF NAPERVILLE
LEGAL DEPARTMENT
630/420-4170

RETURNS TO:

CITY OF NAPERVILLE
CITY CLERK'S OFFICE
P.O. BOX 3020
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60566-7020

Portions of this document
are illegible at time of
scanning.

PST Case #479

ORDINANCE NO. 03 - 214

**AN ORDINANCE APPROVING THE FINAL
PLAT OF SUBDIVISION, PLAT OF EASEMENT AND THE
DEVELOPMENT PLANS FOR JEFFERSON ESTATES**

WHEREAS, Charleston Classic Homes, Inc., the petitioner, is the contract purchaser of the of the real property described in Exhibit A and depicted on Exhibit B ("Subject Property"), which is also described as being located on the south side of Jefferson Avenue and north of the Calvary Temple School; and
VACANT

WHEREAS, the petitioner is requesting approval of a Final Plat of Subdivision to allow for the development of 37 single-family lots and an outlet for stormwater management; and

WHEREAS, the Final Plat of Subdivision is in substantial conformance with the Preliminary Plat of Subdivision for Jefferson Estates approved by the City Council on December 17, 2002; and

WHEREAS, the City Council has determined that the Final Plat of Subdivision, the Plat of Easement, and Development Plan for Jefferson Estates should be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority, as follows:

SECTION 1: The provisions of the preambles are incorporated herein by reference.

SECTION 2: The Final Plat of Subdivision for Jefferson Estates, prepared by Roake Associates identified as Job No. 533.02, dated 8/13/03, last revised 10/17/03 attached hereto and incorporated herein by reference as Exhibit B, is hereby approved.

SECTION 3: The following documents are incorporated into and made a part of this Ordinance and are hereafter collectively referred to as the "Jefferson Estates Final Development Plans" all of which are incorporated by reference:

- a. Final Plat of Subdivision for Jefferson Estates, prepared by Roake Associates identified as Job No. 533.02, dated 8/13/03, last revised 10/17/03 attached hereto and incorporated herein by reference as Exhibit C.
- b. Plat of Easement for Jefferson Estates, prepared by Roake Associates identified as Job No. 533.02, dated 8/4/03 last revised 9/10/03 attached hereto and incorporated herein by reference as Exhibit D.
- c. Final Engineering Plans for Jefferson Estates, prepared by Roake Associates identified as Job No. 533.02, dated 5/12/03, last revised 9/25/03, is incorporated herein by reference.
- d. Phase I Environmental prepared by TSC (Testing Service Corporation) identified as Job No. L-55,265, dated 6/20/02, attached hereto and incorporated herein by reference.
- e. Owner's Acknowledgement and Acceptance for Jefferson Estates, dated 10/29/03

SECTION 4: The City Clerk is directed to record the Final Plat of Subdivision, Easement Plat, and the Jefferson Estates Development Plan approved by this Ordinance.
NOT ATTACHED *NOT ATTACHED*

SECTION 5: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this 2nd day of December, 2003.

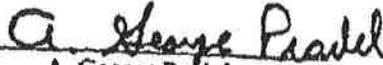
AYES: FIORE, FURSTENAU, KRAUSE, MACRANE, ROSANOVA, SENGER, PRADEL, BOYAJIAN, ELLINGSON

NAYS: NONE

ABSENT: NONE

APPROVED this 3rd day of December, 2003.

ATTEST:


A. George Pradel
Mayor

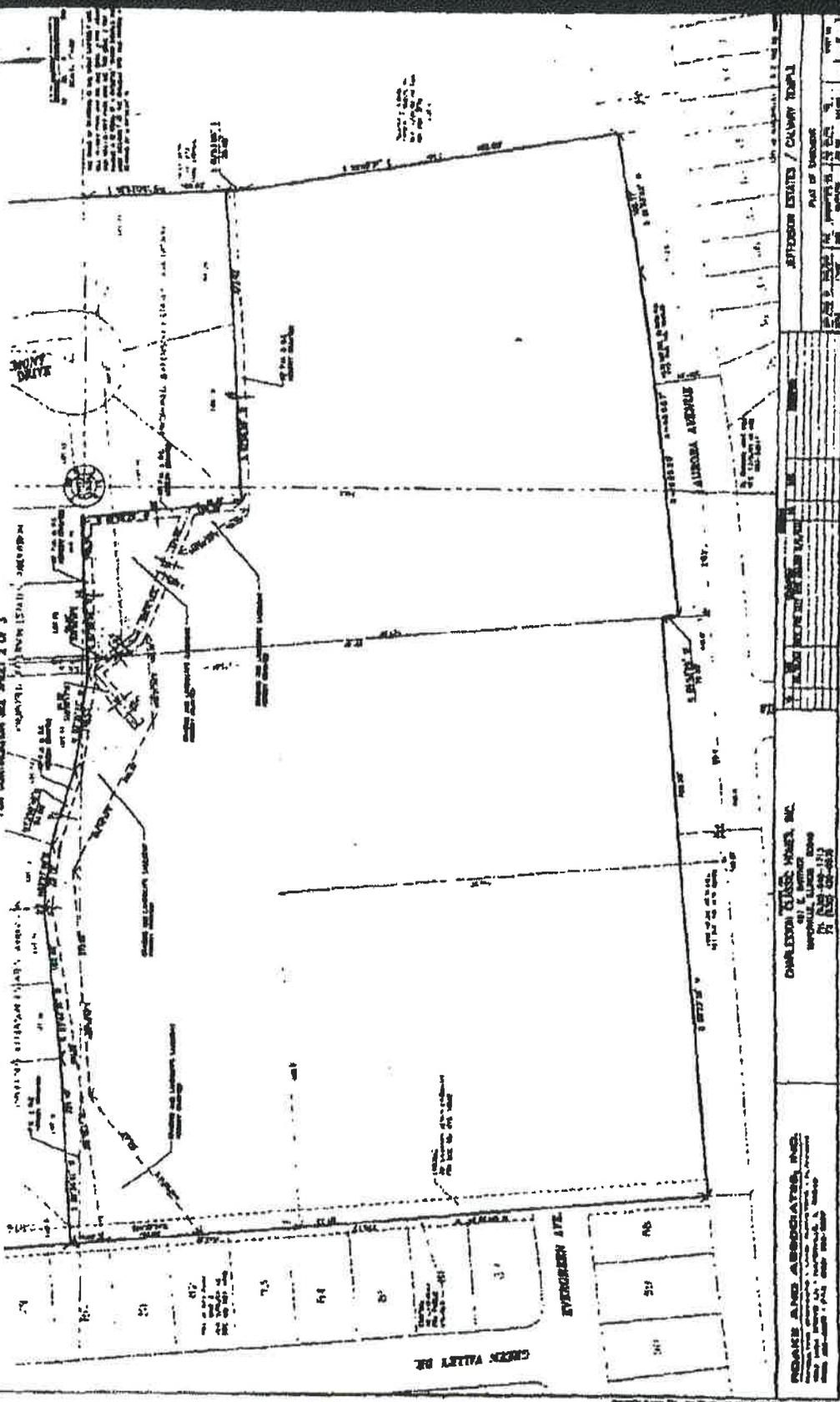

Suzanne L. Gagner, CMC
City Clerk

THIS DOCUMENT IS UNOFFICIAL. IT IS NOT A COPY OF THE ORIGINAL RECORD. IT IS FOR INFORMATION ONLY.

PLAT OF EASEMENT

FOR CONTINUATION SEE SHEET 2 OF 3

- 1. ALL RIGHTS RESERVED TO THE GRANTOR
- 2. THIS PLAT IS FILED FOR RECORDING IN THE PUBLIC RECORDS OF DUPAGE COUNTY, ILLINOIS, IN ACCORDANCE WITH SECTION 18-1.1 OF THE ILLINOIS EASEMENT ACT.
- 3. THE GRANTOR HEREBY WARRANTS THAT THE EASEMENT DESCRIBED HEREIN IS VALID AND ENFORCEABLE UNDER THE LAWS OF THE STATE OF ILLINOIS.
- 4. THE GRANTOR HEREBY WARRANTS THAT THE EASEMENT DESCRIBED HEREIN DOES NOT VIOLATE ANY APPLICABLE ZONING ORDINANCES OR OTHER LAWS OF THE STATE OF ILLINOIS.



NO.	DESCRIPTION	ACRES	OWNER
1	ALBION AVENUE	0.00	ALBION AVENUE
2	EYEBROW AVE	0.00	EYEBROW AVE
3	MOUNTAIN DRIVE	0.00	MOUNTAIN DRIVE
4	ALBION AVENUE	0.00	ALBION AVENUE
5	EYEBROW AVE	0.00	EYEBROW AVE
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59	EYEBROW AVE	0.00	EYEBROW AVE
60	MOUNTAIN DRIVE	0.00	MOUNTAIN DRIVE
61	ALBION AVENUE	0.00	ALBION AVENUE
62	EYEBROW AVE	0.00	EYEBROW AVE
63	MOUNTAIN DRIVE	0.00	MOUNTAIN DRIVE
64	ALBION AVENUE	0.00	ALBION AVENUE
65	EYEBROW AVE	0.00	EYEBROW AVE
66	MOUNTAIN DRIVE	0.00	MOUNTAIN DRIVE
67	ALBION AVENUE	0.00	ALBION AVENUE
68	EYEBROW AVE	0.00	EYEBROW AVE
69	MOUNTAIN DRIVE	0.00	MOUNTAIN DRIVE
70	ALBION AVENUE	0.00	ALBION AVENUE
71	EYEBROW AVE	0.00	EYEBROW AVE
72	MOUNTAIN DRIVE	0.00	MOUNTAIN DRIVE
73	ALBION AVENUE	0.00	ALBION AVENUE
74	EYEBROW AVE	0.00	EYEBROW AVE
75	MOUNTAIN DRIVE	0.00	MOUNTAIN DRIVE
76	ALBION AVENUE	0.00	ALBION AVENUE
77	EYEBROW AVE	0.00	EYEBROW AVE
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85	ALBION AVENUE	0.00	ALBION AVENUE
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94	ALBION AVENUE	0.00	ALBION AVENUE
95	EYEBROW AVE	0.00	EYEBROW AVE
96	MOUNTAIN DRIVE	0.00	MOUNTAIN DRIVE
97	ALBION AVENUE	0.00	ALBION AVENUE
98	EYEBROW AVE	0.00	EYEBROW AVE
99	MOUNTAIN DRIVE	0.00	MOUNTAIN DRIVE
100	ALBION AVENUE	0.00	ALBION AVENUE

EXHIBIT D
Page 1 of 3

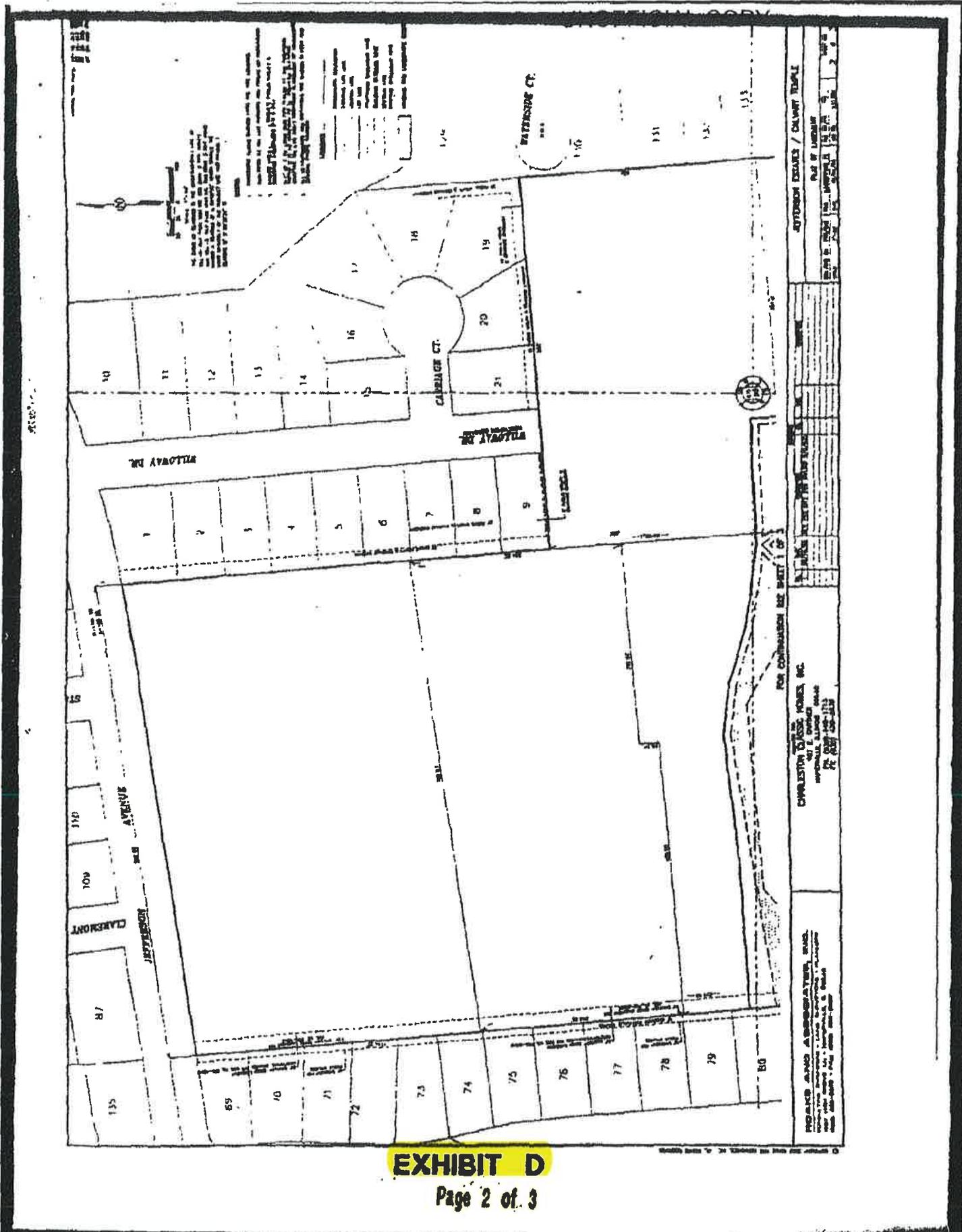


EXHIBIT D

Page 2 of 3

J.P. "RICK" CARNEY

R2004-171706

DUPAGE COUNTY RECORDER

THE STATE OF ILLINOIS
COUNTY OF DUPAGE
BEFORE ME, the undersigned authority, on this _____ day of _____, 2004, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2004.

Notary Public in and for the State of Illinois
My Commission Expires _____

Notary Public in and for the State of Illinois
My Commission Expires _____



RECORDED
INDEXED
SERIALIZED
FILED

DEED
I, _____, of the County of _____, State of _____, do hereby certify that the within and foregoing instrument is a true and correct copy of the original instrument as the same appears from the records of the County of _____, State of _____.

DEED
I, _____, of the County of _____, State of _____, do hereby certify that the within and foregoing instrument is a true and correct copy of the original instrument as the same appears from the records of the County of _____, State of _____.

DEED
I, _____, of the County of _____, State of _____, do hereby certify that the within and foregoing instrument is a true and correct copy of the original instrument as the same appears from the records of the County of _____, State of _____.

DEED
I, _____, of the County of _____, State of _____, do hereby certify that the within and foregoing instrument is a true and correct copy of the original instrument as the same appears from the records of the County of _____, State of _____.

CHARLSTON CLASSIC HOMES, INC.
407 E. DARTMOUTH
NORTON, MASSACHUSETTS 01946
PH (508) 480-1711
FAX (508) 480-0934

EXHIBIT D
Page 3 of 3

March 10, 2015

Mayor and Members of the City Council – Hand Delivered
City of Naperville
400 S. Eagle Street
Naperville, IL 60540

Re: Plat of Consolidation for the Property Commonly known as 319 Claremont Court, Naperville, IL

Dear Mayor and Members of the City Council:

I wrote to you on January 30, 2015 and Cc'd you on a response letter, hand delivered, to Allison Laff on February 20, 2015 regarding my proposed Plat of Consolidation ("Plat").

On April 18, 2013 my home flooded...like so many unfortunate people that day (photos enclosed). I was the only house that flooded in Jefferson Estates last April, which I am aware of. My nine year old heard water coming into our basement and ran down to see what was going on. He was scared and woke me up. I went down, and immediately called 911...The fire department arrived and said that with the water that high, putting that much pressure on your windows, that we all should move to higher ground immediately.

The flooding caused in excess of \$100,000.00 of damage to my Home. My homeowner's insurance claim was denied, and coverage subsequently cancelled. It was of the opinion of professional engineers that we suffered this damage because of the landscape berm on the Diocese of Joliet's parcel adjoining our lot. My family bought this adjoining parcel from the diocese of Joliet ("Church Parcel") in May of 2013. Our focus, following the flood, was to fix and to prevent future flood damage to our home. The berm prevented water to flow from my yard to a main inlet that was positioned behind the berm. This was confirmed by your TED group, and evident with their approval of the work and permit issued on July 30, 2013 (*Application Number = 13-00002798, Application Pin Number 239494, Parcel Number D-07241090050000N1510-82*).

Excluding flood damages, my family has also taken on the financial burden, in excess of \$85,000.00, to hire well respected professionals from the area; *Cemcon, Ltd., Kramer Tree Specialist, Fox Chase Landscaping, and Arthur J Lootens & Sons Excavating Contractor* to not only fix the flood problem (to my knowledge), but also to help preserve and enhance the remaining berm area –a request made by my neighbors.

The so called purpose of this Grant (Private Easement) was to berm, screen, protect, and separate Jefferson Estates from the Church Parcel that I now own. This Grant (Private Easement) did not protect my home on April 18, 2013 (see photos enclosed). Having my family add this landscape easement to the Plat, that does not run to the benefit of the City just doesn't make sense, and quite frankly not required by Law. You are asking my family to place a burden (adding the private easement) on property that we own, an easement that has already placed a BURDEN on my family on April 18, 2013, an easement that will not run to or benefit the City of Naperville, an easement that was NOT part of the Plat (that my family submitted in March 2014), a Plat that was approved by the Planning and Zoning Commission at its July 23, 2014 meeting. The City Staff also recommended approval of the Plat and stated that all City requirements had been met.

With my acquisition of the adjoining Church Parcel to become part of my back yard, there is no reason to berm, screen, protect or separate my home from the Diocese of Joliet's Property. The berm, especially, did not protect my home on April 18, 2013.

Two different Law firms hired by my family are in agreement, including the City of Naperville's former attorney, Margo Ely (City Council meeting September 3, 2013) when she states "to the extent that the city has an obligation or even a right to look at recorded covenants that are between private properties or easements and take on the responsibility to enforce easements or covenants that benefit private parties and are not part of any City approval, there's just not a precedent for that" We believe that a private landscape easement is considered a "private agreement", and that the city has no enforcement rights over private agreements. Planning and Zoning Commission members, Coyne and Frost (PZC meeting held on July 23, 2014) – "The easement is to be enforced by the owner and successor of the Jefferson Estate Parcel, not by the City". Frost "The landscape easement is a private issue".

However, the City Staff continues to insist that a private easement ("Grant "of Grading and Landscape Easement) which included an unsigned copy of the Easement Plat, and was recorded by the Developer outside of the chain of title be added to the Plat. This Grant of Grading and Landscape Easement was never binding on the Diocese of Joliet;

1) EASEMENTS put third parties on notice as to the existence of an easement... The Church along with the City of Naperville were never aware or notified of this easement... 2) Since the Diocese of Joliet and the City were never aware of this easement, neither of their signatures are on the easement. 3) Since the easement was placing a burden on the land that Diocese of Joliet owned (land that I now own) the Bishop, along with others from the Diocese, would have had to consent in WRITING to placing a burden on its property (property that I now own).

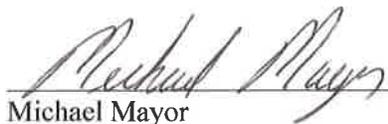
None of this was my family's fault!

The City has no interest in the lack of berm/landscape easement on my Church Parcel. The berm/landscape easement on my Church Parcel was never intended to run to the City, and was never to be enforceable by the City.

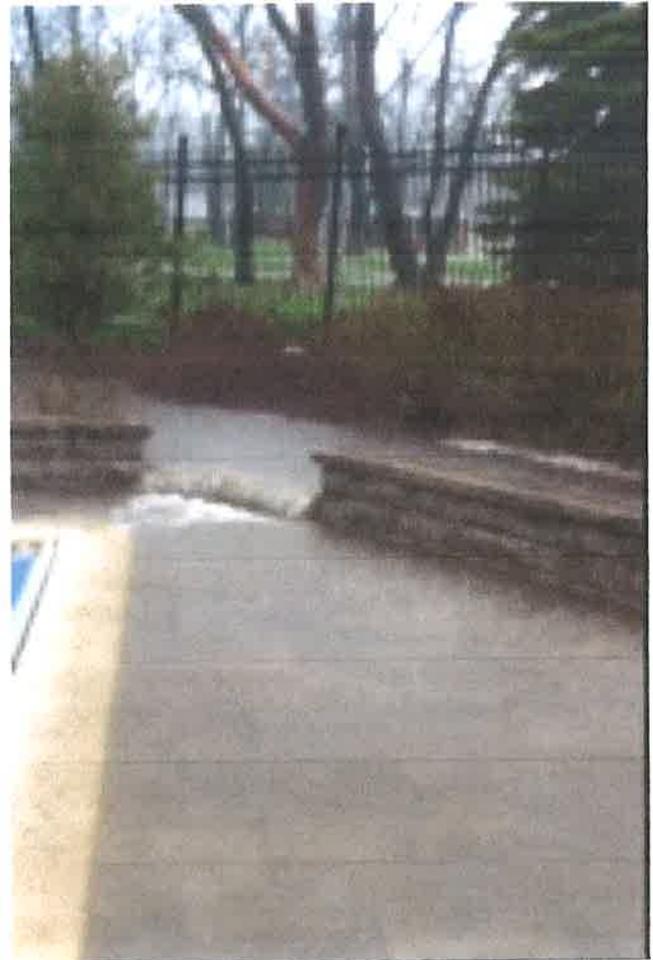
Not showing the berm/landscape easement on my proposed Plat of Consolidation does not affect anyone else's legal rights. Those who may believe the easement was lawfully created by the Grant suffer no detriment because my Plat of Consolidation does not purport to remove or release any such easement. Those who claim it is a valid private easement will still have any claim that might now have under the Grant.

Therefore, it is requested that my Plat be approved either on an Administrative Basis or through City Council Action on March 17, 2015.

Very truly yours,

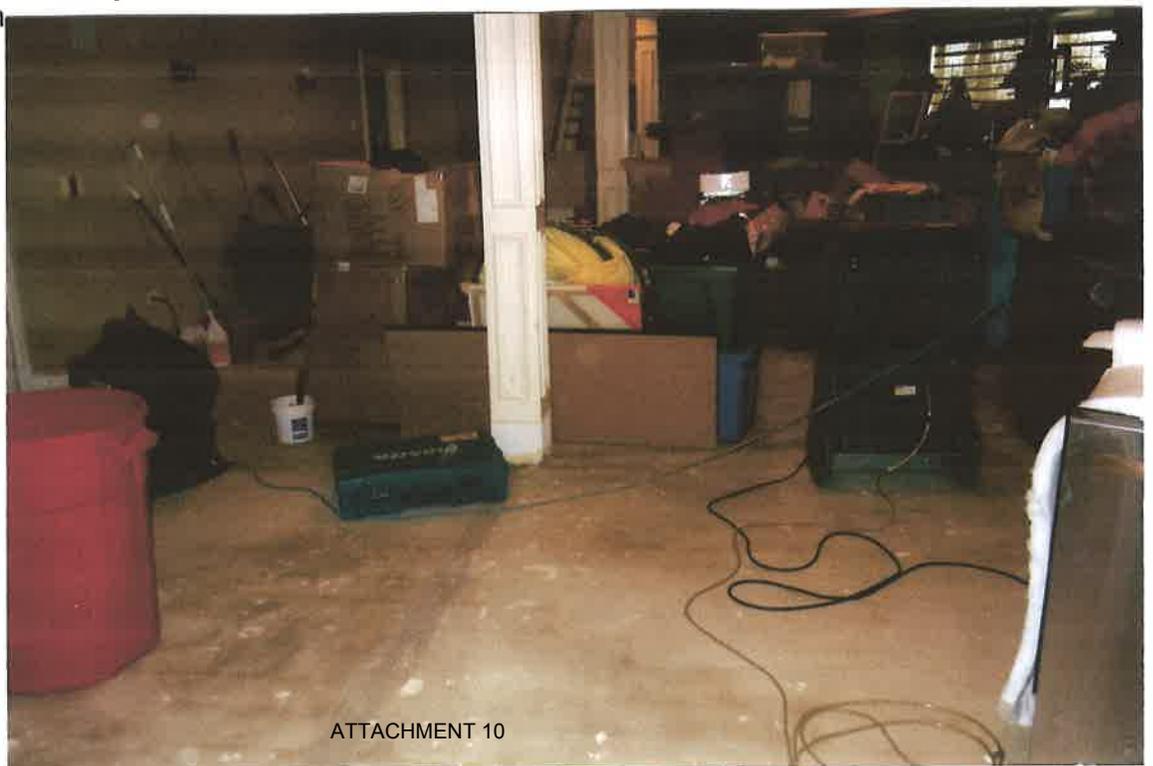

Michael Mayor

cc: Doug A. Krieger, City Manager
Jill Pelka-Wilger, City Attorney
Allison Laff, Zoning Administrator
Pam LeFeber, City Clerk



(LEFT) Looking out towards my back yard... You can't even see my pool.

(RIGHT) Water being held in by the south-end of the Berm





(LEFT) Water being held in by the berm



Date: 4/8/2014

Staff and Plan Review Commission
City of Naperville
400 S. Eagle Street
Naperville, IL 60540

Re: **Mayor Estate, 319 Claremont Court - application for development approval submitted 3/17/2014**

The Diocese of Joliet supports the proposed development request referenced above. It is our understanding that the request is as follows:

1. To approve a Preliminary/Final Plat of Subdivision to consolidate the Claremont Lot and the former Diocese of Joliet portion parcel into a single record.
2. ~~To grant a variance to increase the height of the fence from the maximum allowable height of 6 feet to 8.7 feet for that portion of the fence as it crosses the top of the berm.~~ *withdrawn*

The petitioner has worked hard to address our concerns throughout the design process and has in our opinion, provided a plan that protects both his property and ensures the safest location for a fence. He has gone to great lengths to ensure the final product will be visually appealing and secure from our facility. Therefore, we are in full support of the application.

I can be contacted via phone at 815-221-6195, or by email at cnye@dioceseofjoliet.org

Sincerely,

Christopher J. Nye AIA/ NCARB
Director of Buildings and Properties

Cc: Dr. Sandy Renehan, ASCA
Mr. Mayor

Date 4/30/14

Staff and Plan Review Commission
City of Naperville
400 S. Eagle St.
Naperville, IL 60540

Re: Mayor Estate, 319 Claremont Ct.—application for development approval submitted 3/17/2014

The purpose of this letter is to provide our perspective and express support for the development request listed above.

It is our understanding that the request is as follows:

- 1) To approve a Preliminary/Final Plat of Subdivision to consolidate the Claremont Lot and the former Diocese of Joliet portion parcel into a single record.
- 2) ~~To grant a variance that would allow the Mayor's current, standard 6' fence to be continued around the new boundary of the consolidated property (the variance being necessary because for a small portion of the fence line, the "berm", the standard 6' fence would exceed the property's datum point maximum by at most 2.7').~~ → (Withdrawn)

Let me start by saying that as a lifelong Naperville resident, I am in support of and understand the need for the laws and regulations that help to make the City of Naperville the lovely and safe community that it is. That said I am equally grateful that there is a process by which residents and businesses unduly and inadvertently harmed by well-intentioned legislation can seek redress. In my husband's and my opinion, the Mayor's case clearly falls into this category.

By way of background, for us, especially living next door (with a 6' fence identical to the Mayor fence save for a slight color difference) we sympathize with the plight of the Mayor family in this situation. For starters, like they do, we live directly adjacent to All Saints Catholic Academy. The field behind our home and the Mayors is a buzz with kids playing and running on weekdays and weekends alike. We love the activity. But prior to having our own fence installed, there were numerous occasions when strangers felt free to use our yard and toys. While we were at home to supervise, this was a wonderful way to meet new people. However, when we would return from the store to find scores of unattended kids on our tire swing, we knew it was time for a bit more security. A 6' fence has provided this. Additionally, because of the history of our neighborhood and its location, for years many have used what are now the Watson and Mayor yards as a cut through to go to Ribfest. People would park their cars on Jefferson and walk through our yards, then through the Meson Sabika lot and then onto the Ribfest grounds. Until the time we got our 6' fence and secured our yard, it wasn't uncommon to have Ribfest revelers sneaking through our yard at midnight on their way home. A 6' fence fixed all of this.

For these reasons, and as the homeowner's with the greatest shared property lines with the Mayors, whose overall view will arguably be most affected by the proposed request, we can see no sound reason why anyone would want to oppose approval of the Mayor family application for development. If you have not already visited the property to see for yourselves from a neighbor's perspective, we invite you into our home to do so.

As far as any concerns, (and it's our understanding that several have been expressed by a small few), none that we know of appear to be in opposition to the standards that would allow the commission to approve the development application. Indeed, in our estimation, the variance will not be detrimental to, or endanger the public health, safety and general welfare. If anything, because the Mayor's have a pool, a 6' fence around their property will improve the safety of the neighborhood (especially for those neighbors directly adjacent to the Mayor property that have young children and grandchildren). Additionally, because unattended kids from the neighborhood and school wander up the berm on occasion, a 6' fence clearly protecting them from the property and pool not only seems reasonable, it's responsible.

Approving the Mayor family application should not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Mayor's are simply asking to extend their existing, standard, common 6' fence. The fence is lovely and many neighbors are, themselves, already fully fenced. For those that might argue that an 8 foot section of 6' tall fence set 2.7' higher in the "air" (on top of the berm) than code allows for is more than they care to look at, one wonders why then, when Mr. Mayor offered to shave the berm down slightly to accommodate the fence within code why they were they opposed to it? Or, when Mr. Mayor generously offered to plant trees on either side of the fence (at his expense) to obscure the fence from their view, why did they not accept that that offer? If indeed it was because the berm provides a nice privacy to the homeowners in question, wouldn't a lovely bank of trees and a fence do an even better job? For us, we truly can't understand the motivation of the opposed parties. It simply doesn't make sense, but we trust that right will prevail once the issue is properly vetted.

Finally, we hope that commission members will agree that approval of the Mayor's application will not impede the normal and orderly development and improvement of the adjacent properties for uses permitted in the district and that approval would not be in conflict with the adopted comprehensive master plan.

In closing, we would just like to go on record that in the 6 years that the Mayor family has lived next door to us, they have exemplified what it means to be good neighbors, good people and good servants to this community. As far as his new yard, Mike has gone to great lengths to ensure the final product will be visually appealing and secure and we look forward to the project being completed quickly so that we can all begin to enjoy it.

Respectfully Submitted,

Rob and Lory Watson
323 Claremont Ct.

630-853-6658