

STATE OF ILLINOIS)
)
COUNTY OF DUPAGE)
)
CITY OF NAPERVILLE)

PETITION TO THE NAPERVILLE CITY COUNCIL
FOR A PLATTED SETBACK DEVIATION

THE UNDERSIGNED Petitioner, Mathieson House, LLC, D/B/A M House (“Petitioner”) respectfully petitions the City of Naperville to (i) approve a Platted Setback Deviation for the property legally described in **Exhibit A** (the “Property”); and (ii) grant such other relief from the Code as may be deemed necessary and appropriate to develop the Property consistent with the plans submitted herewith.

BACKGROUND INFORMATION

1. Christina Kollintzas and Sotirios Pavlis (“Owners”) are the record owners of the Property, commonly known as 730 Douglas Avenue, Naperville, IL 60540, consisting of approximately 0.16 acres of land.

2. Owners intend to demolish the existing residence on the Property and redevelop the Property with a new single-family residence.

3. M House is the custom builder designing and constructing the proposed new single-family residence.

4. The Property consists of Lot 35 in Laird’s Addition to Naperville (the “Subdivision”), which plat was recorded October 10, 1928 as document 267356 (the “Plat”) and is attached hereto as **Exhibit B**.

5. The Plat depicts a thirty-five (35) foot setback requirement in the front yard of the Property.

6. The Property is zoned R1B Medium Density Single-Family Residence District, which requires a front yard setback of no less than thirty feet (30').

7. The proposed residence meets the R1B front yard setback requirement.

8. The 35' platted setback has not been consistently adhered to and enforced for the homes located in the Subdivision.

9. The Petitioner seeks a deviation from the front yard platted setback line to redevelop the Property and utilize the front yard consistent with current zoning ordinances and the character of surrounding properties.

10. The Petitioner's proposed development is consistent with the existing land use, surrounding residential uses, the City's Comprehensive Plan, and will allow the Petitioner to utilize the Property in a manner that is compatible with the surrounding environment and to its highest and best use.

**A DEVIATION FROM THE SUBDIVISION REGULATIONS OF THE PLATTED
SETBACK REQUIREMENT**

In support of Petitioner's request for a Platted Setback Deviation from thirty-five (35) feet, the Petitioner sets forth the following findings of fact:

(a) The Petitioner has shown that strict adherence to the provisions of this Title would cause unnecessary hardship due to conditions which are unique to the site and not caused by the Owner or Petitioner; and

Strict adherence to the historic platted setback line would require Petitioner to situate any structures no less than thirty-five feet from the front property line. Generally speaking, the Code permits single-family residences to have a front yard setback not to exceed thirty (30) feet. Requiring Petitioner to adhere to a 35' front yard setback would (i) inhibit the usability of the Property; and (ii) require placement of the residence behind the existing location of structures on

adjacent properties. This situation was not created by the Petitioner but is a product of historic plat requirements dating back to 1928.

The 35' platted setback has not been consistently adhered to and enforced for the homes located in the Subdivision (for example, see homes at 123 N. Fremont St., 127 N. Fremont St., and 716 Douglas Ave.) Further, the property located at 214 N Laird St. was granted a platted setback deviation by the City pursuant to Ordinance No. 21-112. In the ordinance for 214 N Laird St., the City specifically acknowledged the 35' platted setback has not been consistently adhered to. For the foregoing reasons, strict adherence to the provisions of this Title would cause unnecessary hardship due to unique conditions (95-year-old platted setback) not caused by Petitioner.

(b) The requested Subdivision Deviation is not contrary to the intent and purpose of the provisions of this title.


The requested subdivision deviation is not contrary to the intent and purpose of the provisions of this title. The underlying purpose of a setback requirement is to (i) ensure proper light and air to surrounding properties; and (ii) create a degree of consistency in a neighborhood. Here, in the event that a deviation from the platted thirty-five (35) foot rear yard setback is approved, Petitioner will still be restricted by the requirements set forth in the R1B zoning district as it relates to the setback of each home and any attached accessory structures, which Petitioner wholly complies with. The applicable side and rear yard requirements established by the underlying zoning will ensure that adequate light and air is preserved for adjacent homeowners. As evidenced by the previous approval granted at 214 N Laird Street, existing homes in the Subdivision do not respect the thirty-five (35) foot platted setback. There is no uniformly respected building line along these properties under the Plat such that granting the deviation would be contrary to the intent and purposes of the zoning ordinance.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests the

Naperville City Council take the necessary steps to approve a Platted Setback Deviation at the Property; and (ii) grant such other relief from the Code as may be deemed necessary and appropriate to develop the Property consistent with the plans submitted herewith.

Respectfully submitted this 17th day of April, 2024.

Petitioner:

By: 

Rosanova & Whitaker, Ltd.
Attorney for the Petitioner

EXHIBIT A
LEGAL DESCRIPTION

LOT 35 IN LAIRD'S ADDITION TO NAPERVILLE, A SUBDIVISION IN THE WEST HALF OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 10, 1928, AS DOCUMENT 267356 IN DUPAGE COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 730 DOUGLAS AVENUE, NAPERVILLE, IL 60540

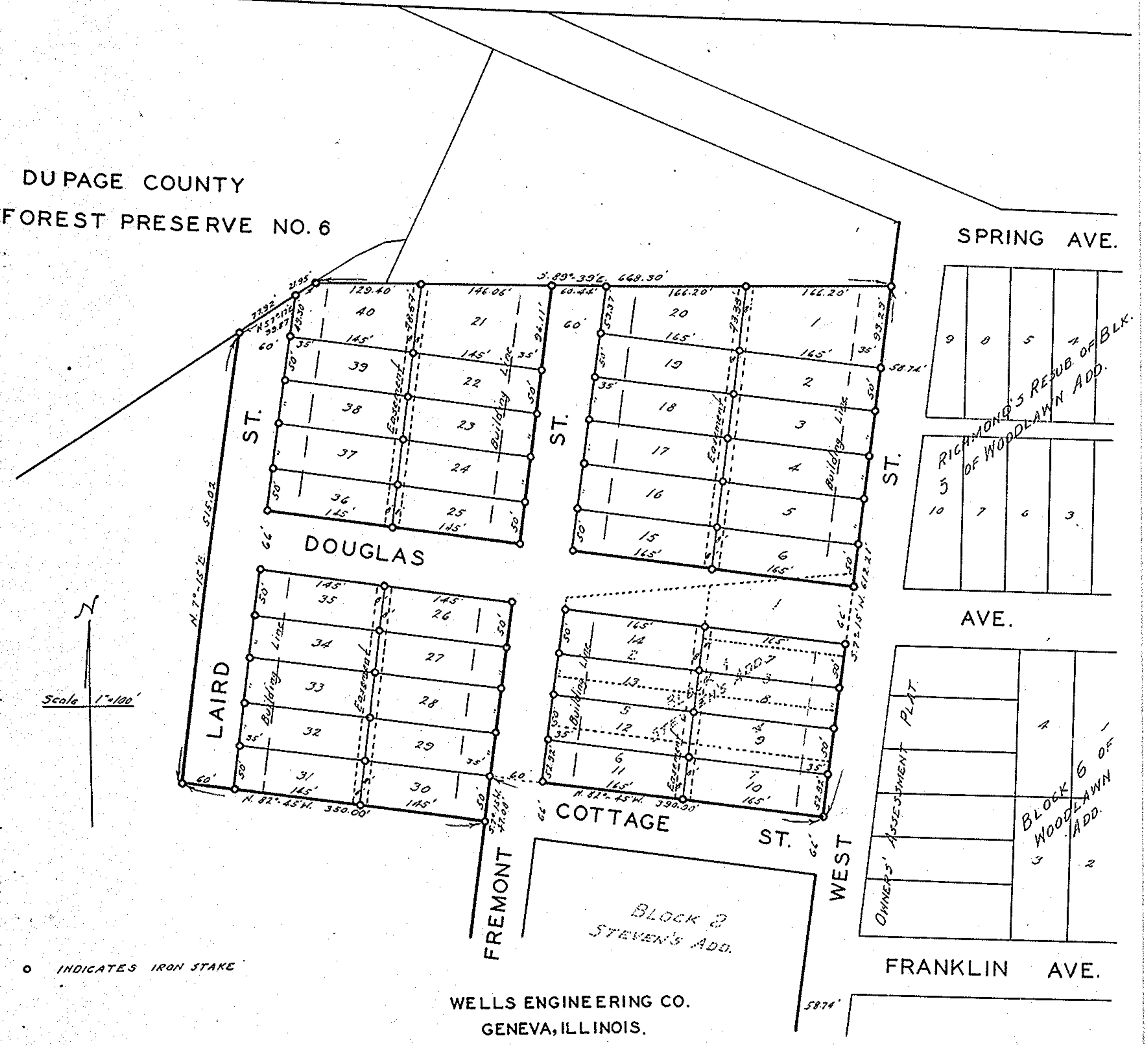
PIN: 07-13-104-001

EXHIBIT B
PLAT OF SUBDIVISION

LAIRD'S ADDITION
NAPERVILLE-DUPAGE COUNTY
ILLINOIS

CHICAGO BURLINGTON AND QUINCY RAILROAD

DUPAGE COUNTY
 FOREST PRESERVE NO. 6



INDICATES IRON STAKE

STATE OF ILLINOIS) ss. This is to certify that the Wells Engineering Company has surveyed, subdivided and platted that part of the west half of Section 12 Town
 County of Kane)
 Ship 38 North, Range 9 East of the Third Principal Meridian, described by beginning at the southeast corner of Lot 7 in Block 1 of Stevens
 Addition to the Town of Naperville, thence North 27° 45' East along the south line of said block and said line extended 330.0 feet, thence South 72° 15' East 42.00
 feet, thence North 22° 45' West 230.0 feet, thence North 71° 05' East 515.92 feet, thence North 52° 17' East 39.87 feet, thence South 52° 35' East 222.30 feet to the
 west line of West Street, thence South 71° 05' East along said line 212.21 feet to the place of beginning, and including in the above described land all of Block 1 in
 said Stevens Addition, as shown by the annexed plat which is a correct representation of said survey and subdivision.
 All distances in feet and decimal parts thereof.
 Dated at Geneva, Illinois, this 28th day of September, A.D. 1928.

STATE OF ILLINOIS) ss. This is to certify that Maria C. Laird, on the owner of the land described in the surveyor's certificate hereto attached and that I have
 County of DuPage) ss. caused the same to be surveyed, subdivided and platted as shown by the annexed plat for the uses and purposes therein set forth, the said
 subdivision to be known as LAIRD'S ADDITION, NAPERVILLE, DUPAGE COUNTY, ILLINOIS, and I hereby acknowledge and adopt the same under the style and title aforesaid.
 Dated at Naperville, Illinois, this 28th day of September, A.D. 1928.

STATE OF ILLINOIS) ss. I, George M. Weiss, a Notary Public in and for the State and County aforesaid, hereby certify that Maria C. Laird, who is personally
 County of DuPage) ss. known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day in person
 and acknowledged the execution of the annexed plat and instrument as her own free and voluntary act for the uses and purposes therein
 set forth. Given under my hand and notarial seal this 28th day of September, A.D. 1928.

STATE OF ILLINOIS) ss. I, Clarence V. Hagemann, County Clerk in and for the County and State aforesaid, hereby certify that there are no redeemable tax
 County of DuPage) ss. sales or unpaid forfeited taxes against any of the land described herein.
 Dated at Wheaton, Illinois, this 28th day of September, A.D. 1928.

STATE OF ILLINOIS) ss. Approved by the City Council of the City of Naperville, Illinois, this 28th day of September, A.D. 1928.
 County of DuPage) ss. Attest: Edward Strober, City Clerk.

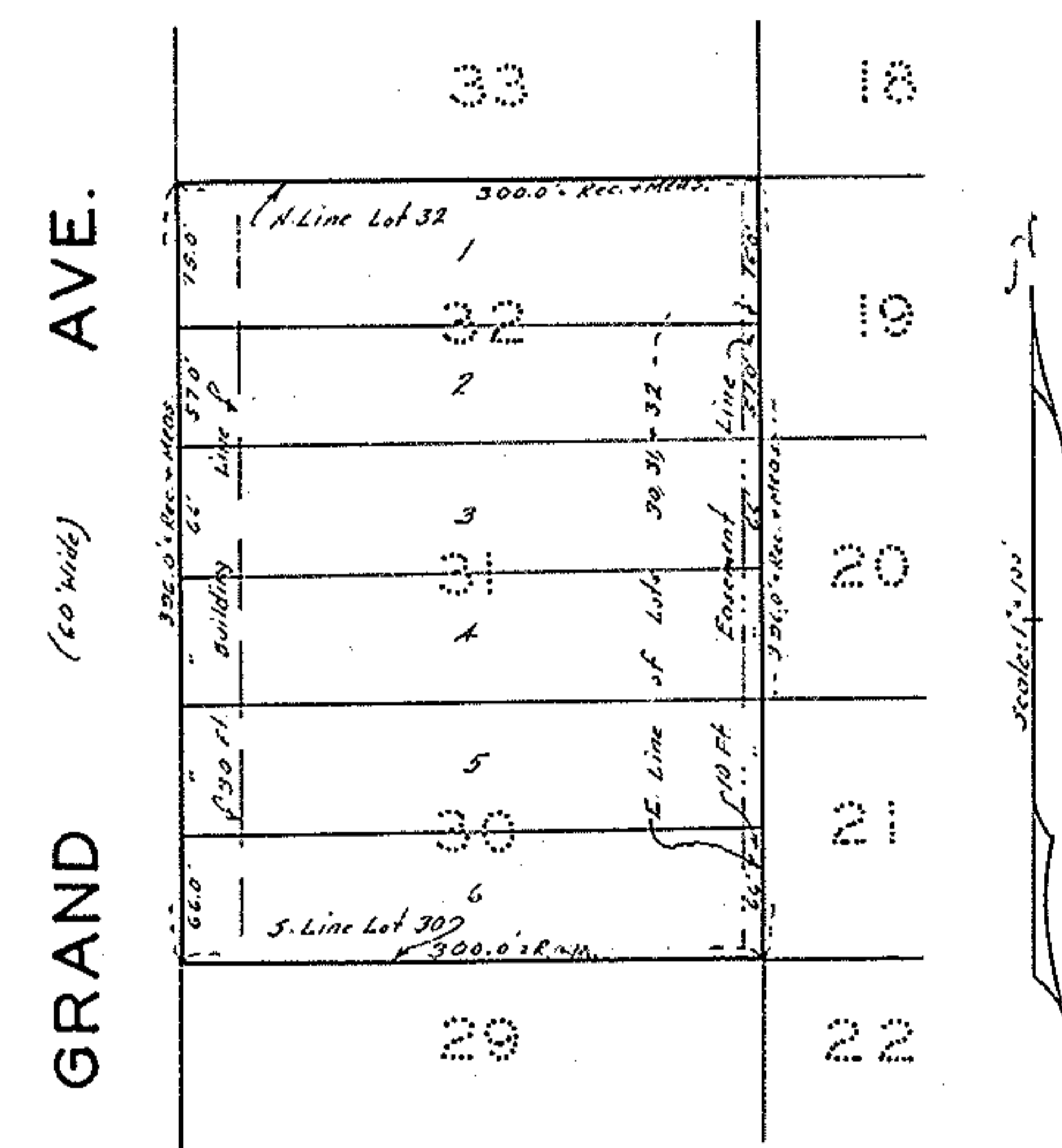
STATE OF ILLINOIS) ss. Approved by the Board of Supervisors of DuPage County aforesaid this 9th day of October, A.D. 1928.
 County of DuPage) ss. Attest: Clarence V. Hagemann, County Clerk.

STATE OF ILLINOIS) ss. 267356
 County of DuPage) ss. This instrument was filed for record in the recorder's office of DuPage County, Illinois on the 10th day of October, A.D.
 1928, at the hour of 2 o'clock P.M., and recorded in Book 13 of Page 21.

No building shall be erected in this addition except for residential use and private garage necessary to said residence, and no residence shall
 be erected costing less than \$500.00 for a period of ten years.
 A reservation is hereby reserved on the rear eight (8) feet of all lots for the placing and maintaining perpetually of electric light and
 telephone poles and wires, sewer and water mains and other facilities for public and quasi-public services, together with the right of access thereto for
 said purposes.
 Provided that the restrictions on the use or improvement of the real estate hereby subdivided and platted, except the easement on the
 rear eight feet of said lots, contained herein in any instrument of conveyance, shall not apply to or be binding upon any duly public or corporate
 when the property is acquired for and devoted to a public use.

HARKLESS' DIVISION

BEING A DIVISION OF LOTS 30, 31 & 32 OF
 THE PLAT OF HIGHLAND ACRES, DOWNERS GROVE,
 DUPAGE CO. ILLINOIS.



State of Illinois) ss. This is to certify that on the 30th day of September, A.D. 1928, the
 County of DuPage) ss. SELBY NELSON ENG. CO. (not in c) Surveyors in
 the County and State aforesaid have surveyed and divided
 lots 30, 31 and 32 of the PLAT OF HIGHLAND ACRES, DOWNERS
 GROVE, DUPAGE CO. ILLINOIS, as shown by the annexed plat
 which is a correct representation of said survey and division.
 All distances given in feet and decimal parts thereof.
 Wheaton, Illinois, July 30th A.D. 1928.

SELBY NELSON ENG. CO. (not in c)
 Alfred M. Nelson
 Surveyor.

State of Illinois) ss. This is to certify that Myrtle E.
 County of DuPage) ss. Harkless the owner of the land described
 above and have caused the same to be surveyed and divided
 as shown on the annexed plat for the uses and purposes
 therein set forth as aforesaid, and provided by statute, and does
 hereby acknowledge and adopt the same under the style and title
 herein shown.
 Dated this 15th day of September, A.D. 1928.

Myrtle E. Harkless
 Owner.

State of Illinois) ss. I, Howard E. Powell, a Notary Public in and for said County in the State aforesaid do hereby certify
 County of DuPage) ss. that Myrtle E. Harkless, personally known to me to be the same person whose name is subscribed to the
 foregoing instrument appeared before me this day in person and acknowledged the execution of the annexed plat for the
 uses and purposes therein set forth as her own free and voluntary act.
 Given under my hand and Notarial Seal this 15th day of September, A.D. 1928.

Howard E. Powell
 Notary Public.

State of Illinois) ss. I, Clarence V. Hagemann, County Clerk in and for the County in the State aforesaid, do
 County of DuPage) ss. hereby certify that there are no redeemable tax sales, unpaid forfeited taxes or unpaid
 forfeited special assessments against any of the real estate included on the annexed plat.
 Given under my hand and seal at Wheaton, Illinois, this 25th day of July, A.D. 1928.

Clarence V. Hagemann
 County Clerk.

State of Illinois) ss. Approved by the Village Council of the Village of Downers Grove, DuPage County, Illinois
 County of DuPage) ss. this 28th day of September, A.D. 1928.

Chas. M. Hitch
 Clerk.

State of Illinois) ss. Approved by the Plan Commission of the Village of Downers Grove, DuPage County, Illinois
 County of DuPage) ss. this 28th day of September, A.D. 1928.

Wm. E. Hanner
 Chairman.

RESTRICTIONS:-
 No residence building to be constructed on any lot in this division to cost less than \$5,500.00.
 The right is hereby reserved in favor of any public utility designated by the municipality for the placing and
 maintaining perpetually on the rear ten feet of all lots in this division, of electric light and telephone poles and wires and
 other facilities necessary for other public or quasi-public service, together with the right of access thereto for such
 purposes.

State of Illinois) ss. This instrument was filed for record in the Recorder's Office of DuPage County, aforesaid
 County of DuPage) ss. on the 26th day of September, A.D. 1928 at 8 o'clock A.M., and was recorded in Book 19 of
 Page 21, as Document No. 266493.

Lewis Ellsworth
 Recorder.

REDUCED 30%

Book 19 Page 21

Doc # 267356

Doc # 266498

Laird's Add. Map.
 For Ord. # 295.70 Amending
 zoning map see R70-6634
 For Ord. # 296.70 see R70-6778
 For Ord. # 30-101 (Amend zoning Ord # 80-5) (R70-35436-38)
 see R80-72405

Book # 19
 Page # 21