

## SPECIAL BOARD MEETING 9/6/2017

### PACKET CONTENTS

- AGENDA
- MEMORANDUM FROM DIRECTOR WHITMER
- MEMORANDUM FROM ATTORNEY RITZMAN and DRAFT RESOLUTION
- REQUEST FROM AIRHART CONSTRUCTION (dated 8/8/17)
- REQUEST FROM CITY OF WARRENVILLE (dated 8/23/17)

PLEASE NOTE: John Frerich of Walter E. Deuchler Associates, Inc. is reviewing Airhart's revised stormwater management plans. His report will be forwarded by email as soon as it is available.

ADDITIONAL INFO ABOUT THE PROPOSED DEVELOPMENT can be found on the City's website at: <http://www.warrenville.il.us/index.aspx?NID=646>



28 W 751 Stafford Place • Warrenville, IL 60555 • 630/393-1171 • Fax 630/393-1688

**WARRENVILLE PUBLIC LIBRARY DISTRICT**  
**Special Meeting of the Board of Trustees**  
**Wednesday, September 6, 2017, 7:00 p.m.**  
Location: Library Meeting Room

**AGENDA**

**Visitors are welcome to all meetings of the Board of Trustees. Anyone who wishes to address the Board during Public Comments must fill out a sign up sheet prior to the start of the meeting. Speakers are limited to three (3) minutes. The Board requests that a group appoint one (1) speaker to present the views of the entire group. Speakers will state name and address before addressing the Board. While the Board appreciates all questions and comments, they will not respond at the meeting, but may choose to do so at a later time.**

1. Call to order
2. Roll Call (Trustees DuRocher, Lezon, Picha, Richardson, Ruzicka, Stull, Warren)
3. Approval of the agenda (**ACTION**)  
*Trustees may request to remove any items from the consent or regular agenda at this time. Discussion only items may also be added to the regular agenda at this time.*
4. Presentations
5. Public comments
6. Correspondence
  - a. Report from Walter E. Duechler Associates, Inc. on Stormwater Plan for Proposed Residential Development on Former Musselman Property
7. Unfinished Business
  - a. Consider Requests for Cooperation from Airhart Builders and City of Warrenville Related to Proposed Residential Development on Civic Center Redevelopment Site #1 (CCRS #1) and Adopt Resolution Confirming Library District's Cooperation with City and Airhart Construction (**ACTION**)
    - Sidewalk Relocation/Transition (Airhart)
    - Fence Removal (Airhart)
    - Fire Hydrant Placement, Tree Removal/Replacement (Airhart)
    - Grading (Airhart)
    - Public Street Right of Way or Utility Easement for Parking Lot Landscape Island (City)
    - Disconnection of Library-owned Streetlights (City)
    - Abrogation of 30-foot Building Setback Line Along Stafford Place and Rockwell Street frontages of CCRS #1 (City)
8. Items for information and/or discussion (No Action)
9. Adjournment (**ACTION**)

Date: September 1, 2017  
To: Library Board of Trustees  
From: Sandy Whitmer, Library Director  
Re: Requests for Cooperation from City of Warrenville and Airhart Developers

This memo is intended to communicate my recommendations regarding the requests made by the City and Airhart Developers for the Library's cooperation with regard to the development of the Civic Center Redevelopment Site #1 (CCRS #1), formerly known as the Musselman Property. These recommendations are made with particular attention to the Library District's interests taking into consideration past Board actions and the positive working relationship that the District has shared with the City during my tenure as Library Director.

I have reviewed these requests with the City, the Developer and the Library's attorney and believe that these requests are reasonable and should be approved once appropriate agreements are in place.

The requests from Airhart and the City are included separately.

## 1. Stormwater Management

The stormwater management review from Walter E. Deuchler Associates, Inc. was originally expected September 1. The engineer is currently reviewing the developer's revised submittals as they may address some concerns found by our engineer. When received, the report will be forwarded separately. Revised submittals were triggered by recommendations from the City. The City's engineers and staff requested adjustments to the original submittals to ensure water follows an appropriate route and does not impact any adjacent properties, including the Library. The Developer has communicated an intention to comply. I am confident that the City and Developer will work with the Library should our engineering team find additional areas of concern.

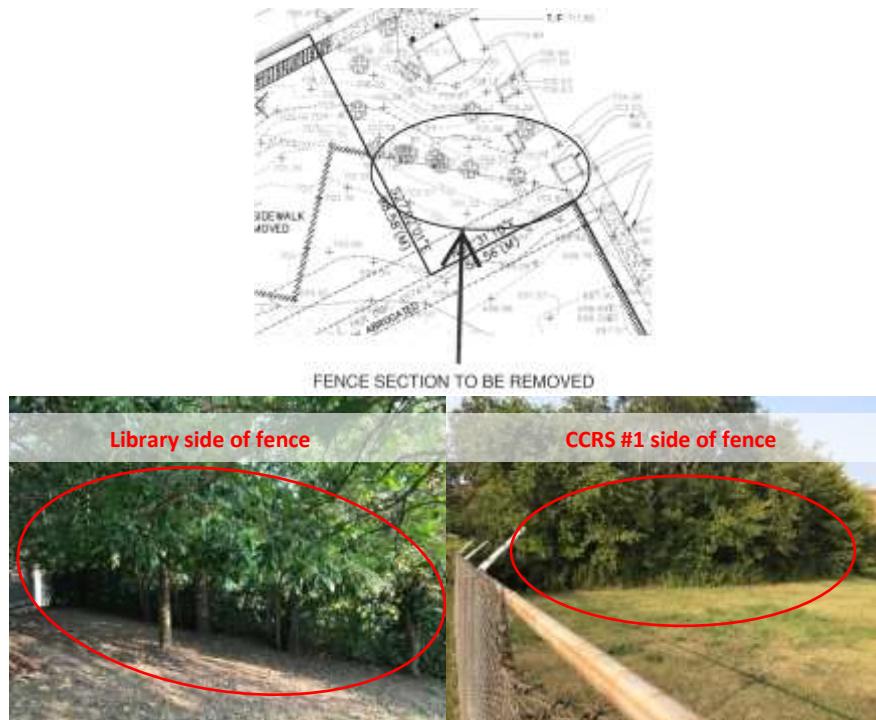
## 2. Sidewalk Relocation/Transition (Airhart)

The City has recommended a 6' sidewalk width (originally 5'). I recommend the Library consent to Airhart's request AND request that Airhart remove the entire sidewalk in front of the Library parking spaces and replace with a "carriage walk" that adjoins the curb. This will provide consistent and safe access from vehicles to the walkway.



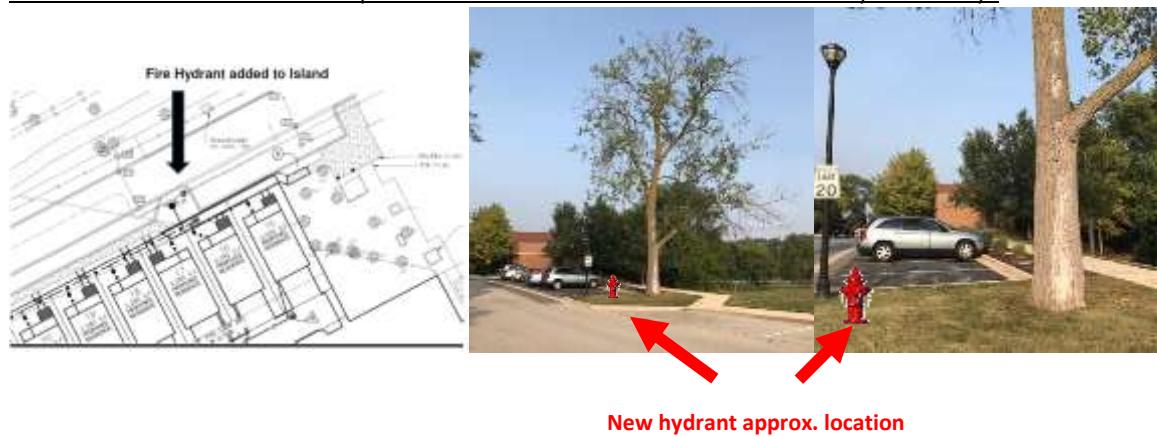
### 3. Fence Removal (Airhart)

Airhart is willing to remove the section of chain link fence on the Library property at the time they remove the chain link fence on the development property. I recommend that Airhart be allowed to remove the fence.



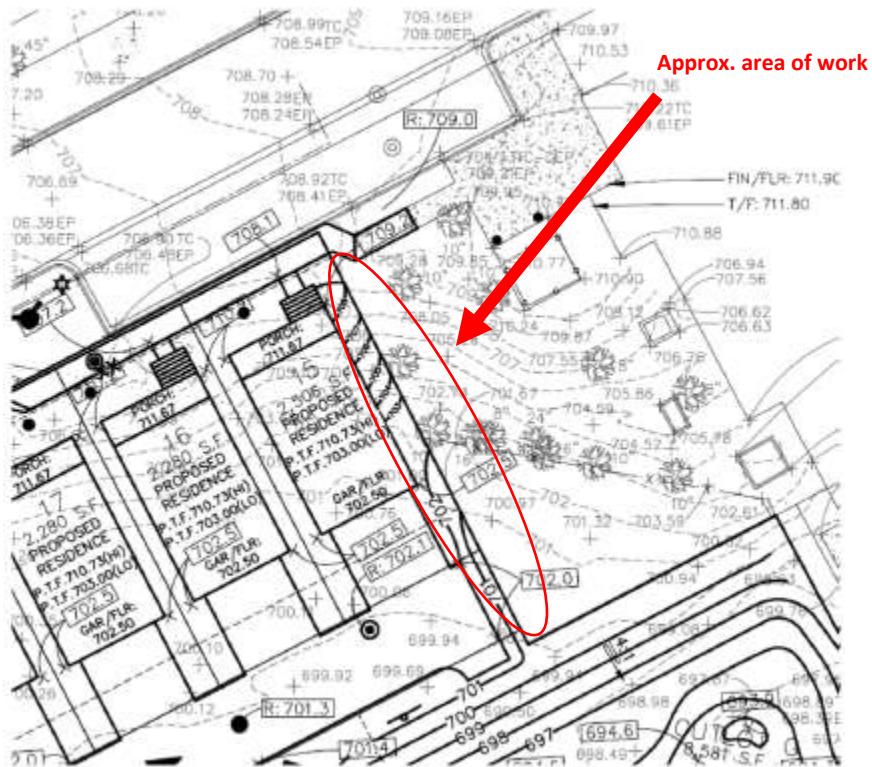
### 4. Fire Hydrant Placement, Tree Removal/Replacement (Airhart)

Airhart requests that the Library allow the placement of a fire hydrant on Library property. Airhart also requests permission to remove and replace a tree at the same location. The proposed location of the fire hydrant on the landscape island/peninsula at the west end of the Library's parking spaces on Stafford Place will not impede any future expansion of the Library building. The existing tree is not in good health and will need to be removed and replaced in the near future. I recommend that we allow Airhart to place the fire hydrant (and associated water lines) on the landscape island. I also recommend that we allow Airhart to remove and replace the tree as recommended by the City.



## 5. Grading (Airhart)

Airhart requests permission to conduct minor grading and landscape repair when the home on Lot 15 is built. I recommend allowing Airhart to proceed with this work at the appropriate time.



6. Right of Way or Utility Easement for Parking Landscape Island/Peninsula

The City suggests that the Library grant the City a Public Street ROW or Utility Easement for the landscape island/peninsula at the west end of the Library's parking spaces on Stafford Place. A utility easement permits the City/Developer to place a fire hydrant and associated water lines on the library's property and allows the City to maintain the utilities. A ROW grants the City the right to use this property and also transfers responsibility for maintenance of the property to the City. I recommend the Library grant a ROW to the City for the landscape island/peninsula. This ROW should not extend to the Library's parking spaces.



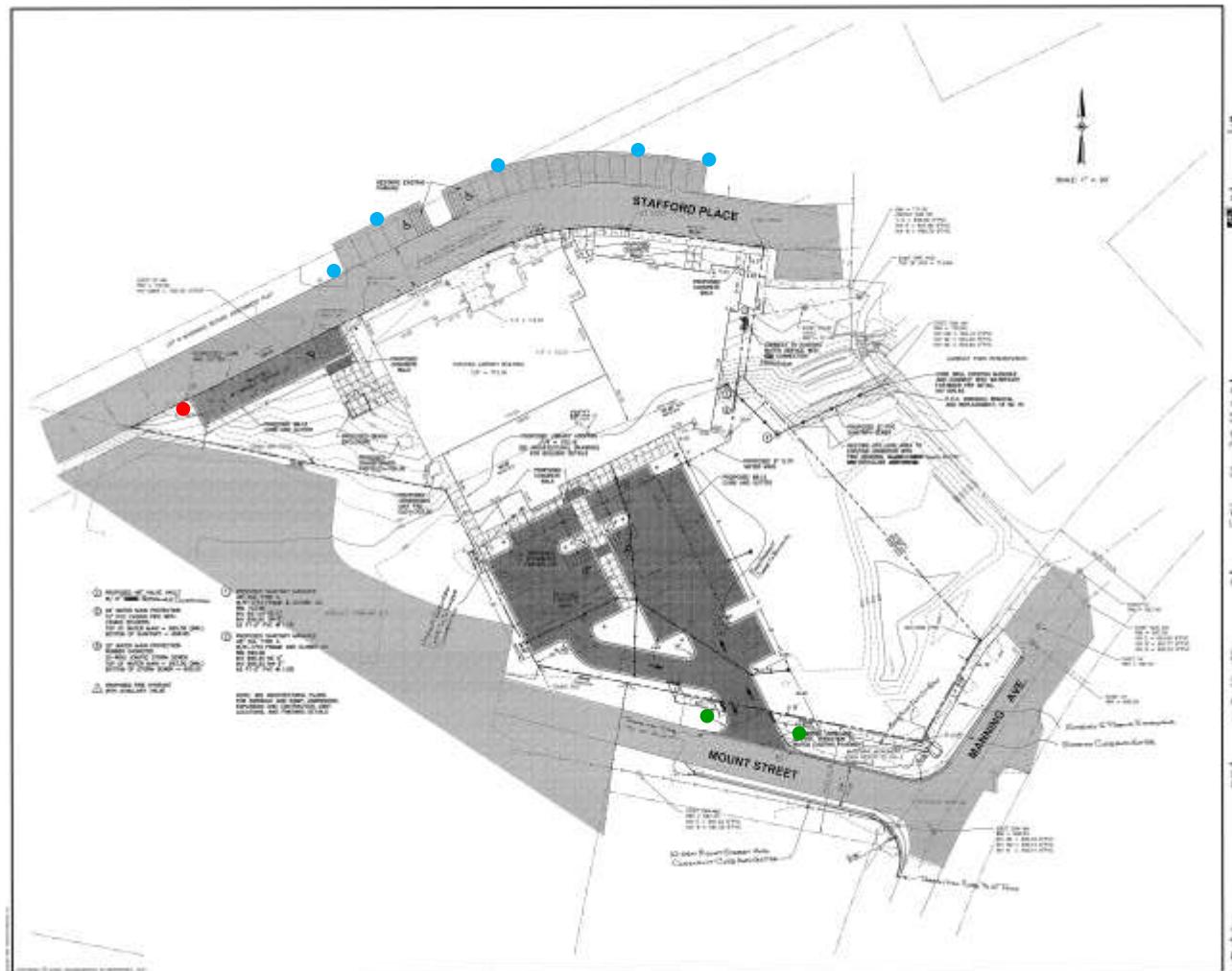
## 7. Disconnection of Library Street Lights

The City requests that three of the Library's street lights be disconnected from the Library's circuit and connected to the City's street light circuit:

- One street light on the parking island/peninsula on Stafford Place (red)
- Two street lights on the City ROW on Mount Street at the Library's parking lot driveway. These lights will be relocated to provide the best distribution of light for the minor reconfiguration of Mount Street. (green)

The Library has an Intergovernmental Agreement to maintain the bulbs and ballasts of the Library's streetlights (including the lights along the sidewalk/building on Stafford Place and the lights in the lower level parking lot). The Library is billed for time and material. Disconnecting the lights listed above from the Library's circuit will result in cost savings to the Library (maintenance and electricity).

I recommend the Library consent to this request AND request that the City disconnect five Stafford Place street lights along the Prairie Path parking spaces from the Library's circuit and connect these five lights to the City's street light circuit. These five lights are not on Library property. (blue)



8. Abrogation (elimination) of 30-foot Building Setback Line Along Stafford Place

The City requests that the Library District approve an agreement to eliminate a 30-foot setback line recorded on a 1986 plat of subdivision. All current property owners within the plat must sign off on the agreement. There are currently three property owners: City of Warrenville, Library District and Rockwell Street LLC.

The City's request letter provides details regarding the reasons for this request.

Taking into consideration the setback variances approved for the Library building in 2003 (ranging from 8 feet to 20 feet as opposed to 30 feet) and the fact that variance approvals are not within the purview of the Library District, I recommend that the Library approve the proposed agreement.

While I understand that there are concerns regarding the proposed front-yard setbacks for the development, I agree with the City's assessment that the proposed development is consistent with the goals of the Old Town/Civic Center Subarea Plan. The proposed setbacks are also consistent with the existing streetscape on Stafford Place.

MEMORANDUM

To: Board of Library Trustees

From: Roger A. Ritzman

Date: August 31, 2017

Re: Airhart Construction/Musselman Property Development

---

This Memorandum outlines requests from the City of Warrenville (City) and Airhart Construction (Airhart) for Library District consent/cooperation in connection with the proposed development of the Musselman property.

Requests from the City/Airhart:

1. Set back of 30 feet: Library District consents to eliminate (abrogate) an existing 30 foot building setback on Stafford Place;
2. The “Island” on Stafford Place (small parcel at the west end of the Library’s parking spaces on Stafford):
  - a. Transfer ownership to the City (to become part of the Stafford Place right-of-way); This transfer enables the City to install a fire hydrant;
  - b. Tree removal/replacement by the City;
  - c. Align sidewalk on Stafford with new sidewalk to be constructed by Airhart.
3. Consent to streetlight relocation (City’s expense):
  - a. Stafford;
  - b. Mount Street.
4. Consent to fence removal (at Airhart’s expense);
5. Consent to minor grading (at Airhart’s expense).

Documents to confirm:

- a. Abrogation Agreement (eliminate 30 foot set back);
- b. Agreements for temporary access for fence removal, grading, sidewalk alignment.

In the big picture, the requests seem reasonable. I do not see any detriment or disadvantage to the Library District. Purely from a practical standpoint, cooperation with the City in recognition of our past relationship as well as our future relationship seems to make sense.

I see no reason not to consent/cooperate with the requests.

If you concur, I recommend we adopt a Resolution confirming our intent.

A draft Resolution is attached for your consideration.

## **RESOLUTION # R-211**

### **RESOLUTION CONFIRMING LIBRARY DISTRICT'S COOPERATION WITH THE CITY AND AIRHART CONSTRUCTION**

Relates to requests from the City of Warrenville and Airhart Construction for the development of the Civic Center Redevelopment Site #1 (CCRS #1)

#### Recitals

1. The City of Warrenville (City) has entered into a Redevelopment Agreement with Airhart Development, LLC (Airhart) to provide for construction of a new residential development (the Project) on property commonly known as the CCRS #1.
2. In connection with the Project, the City and Airhart submitted to the Library District requests (Requests) for Library District cooperation.
3. The Requests are summarized as follows:
  1. Set back of 30 feet: Library District consents to eliminate (abrogate) an existing 30 foot building setback on Stafford Place;
  2. The “Island” on Stafford Place (small parcel at the west end of the Library’s parking spaces on Stafford):
    - a. Transfer ownership to the City (to become part of the Stafford Place right-of-way); This transfer enables the City to install a fire hydrant;
    - b. Tree removal/replacement by the City;
    - c. Align sidewalk on Stafford with new sidewalk to be constructed by Airhart.
  3. Consent to streetlight relocation (City’s expense):
    - a. Stafford;
    - b. Mount Street.
  4. Consent to fence removal (at Airhart’s expense);
  5. Consent to minor grading (at Airhart’s expense).
4. The Library District, in the spirit of cooperation with the City and Airhart, is willing to cooperate with respect to the Requests.

Resolved

NOW, THEREFORE, it is resolved by the Library District as follows:

- A. The Library District will cooperate with the Requests.
- B. Documentation confirming the Library District's cooperation will be submitted to the Library District by the City and/or Airhart for Library District consideration.
- C. The President and Secretary of the Board of Library Trustees and the Library Director, with advice from the Library District's Attorney, are authorized to execute documents and take any action reasonably necessary consistent with this Resolution.

Adopted September 6, 2017.

AYES:\_\_\_\_\_

NAYS:\_\_\_\_\_

ABSENT:\_\_\_\_\_

ABSTAIN:\_\_\_\_\_

---

\_\_\_\_\_  
Jerri Picha, President  
Board of Library Trustees  
Warrenville Public Library District

ATTEST:

---

Heather Stull, Secretary  
Board of Library Trustees  
Warrenville Public Library District

# AIRHART CONSTRUCTION

*"Building a better tomorrow"*

Ms. Sandy Whitmer  
Library Director  
Warrenville Public Library District  
28W751 Stafford Place  
Warrenville, IL 60555

August 8<sup>th</sup>, 2017

## **Re: Civic Center Redevelopment Site/Stafford Place**

Dear Sandy,

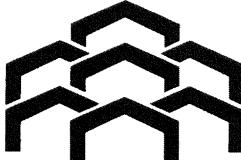
Thank you for meeting with City of Warrenville Community and Economic Development Director Ron Mentzer and I in July regarding Stafford Place. As you know we have applied for the Stafford Place residential development and had our first Public Hearing. At this point we are working through review comments from the City of Warrenville and will be back in front of the Plan Commission on August 24<sup>th</sup>.

When we met we discussed a few items that have come up during our design engineering of the site. After the review from the City of Warrenville I thought it appropriate to contact you regarding a few items affecting our common property lines and requests that the Warrenville Fire Protection District and City of Warrenville are making and will ultimately require Warrenville Library District cooperation to address. Some of the items are to simply let you know our plans, others are because Airhart Development will need permission to temporarily access and perform certain work on Library District property.

Sidewalk – There is a sidewalk that runs along the south side of Stafford Place and along the south side of your perpendicular parking spaces to the west of your building. In this location there is no public ROW. In order to create connectivity of this sidewalk that typically would be in the public ROW the City of Warrenville is requiring us to record an easement for the sidewalk on our property. While we are willing to do this to ensure pedestrian access, we need to move this sidewalk north to the edge of the curb along the Library District's perpendicular parking spaces. We believe this is good planning to allow for individuals using those parking spaces to access the sidewalk and continue to the Library without having to walk through the street or through the landscape beds.

Airhart is requesting that the Library District provide us permission to access the section of your property immediately east and adjacent to the section of sidewalk we are proposing to relocate on our property to install a new sidewalk transition/connection between our relocated sidewalk and your existing sidewalk. This transition is illustrated on the final engineering drawings we previously submitted to the City for this project and I understand City Community and Economic Director Mentzer provided to you. We will repair any landscape damage upon completion of construction.

Fence – There is a chain link fence that runs through the open area of your property located west of your building. This property was transferred to you by the City of Warrenville when the property swap between the City and Library District was finalized. This fence continues around most of our property as well. We plan to remove the chain link fence on our property. We are willing to remove the fence on your property at the same time. There will be no cost to the Library District for this work.



**BUILDER OF CONTEMPORARY & TRADITIONAL HOMES SINCE 1964**

500 E. Roosevelt Road, West Chicago, IL 60185

[www.airhartconstruction.com](http://www.airhartconstruction.com)

(630) 293-3000

Airhart is requesting the Library District confirm its desire for us to remove this fence and that you provide us permission to access the Library District's property to do this work. We will repair any landscape damage upon completion of construction.

Fire hydrant - The Fire Department and City of Warrenville are requesting as a part of the improvements that we install a fire hydrant in the "island" located at the west end of your perpendicular parking spaces along the south side of Stafford Place and west of your building. As you know these parking spaces and this island are currently located on Library District property and not within the public right-of-way (ROW) for Stafford Place. However, because of the island's location, it is the ideal place to locate a fire hydrant to serve both the west portion of the library as well as the homes we are building. As a part of running the water main and fire hydrant we would also need to remove the existing Poplar tree on this island and replace with a City of Warrenville approved parkway tree.

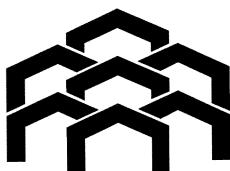
Based on recent communications with City of Warrenville staff, it is my understanding that they will be submitting a separate written request to the Library District recommending this island area be dedicated as part of the public ROW for Stafford Place. In doing so, the future maintenance of this island would become the responsibility of the City rather than on the Library District. However, Airhart understands that the dedication of this island would ultimately be a decision between the Library District and the City C City.

In case this island area remains part of the Library District's property, Airhart is requesting the Library District (i) grant a Public Utility Easement in this location that would cover the new water main, fire hydrant, and water services proposed on it, and (ii) grant Airhart permission to remove the existing tree and replace it with a City of Warrenville approved parkway tree.

Grading - Our proposed Lot 15 borders the Library's western property line. The side of the new home proposed on this lot would be setback a minimum of five feet from our shared property line in accordance with the requirements of the underlying zoning district. We have done our best to design our project grading to stay off your property. However, it is likely that Airhart will still have to perform some very minor grading and landscape repair on this edge of the Library District's property. This will not affect the flow of storm water which will continue to flow from the Library District's property onto our property.

Therefore, Airhart is requesting permission to access the Library District's property to perform minor regrading when the home is built per City of Warrenville approved grading plans for this home..

I am available to answer any questions and provide any additional material you may require or attend any meetings to further discuss these issues. We look forward to becoming your neighbor and the future



**AIRHART CONSTRUCTION**  
*"Building a better tomorrow"*  
[www.airhartconstruction.com](http://www.airhartconstruction.com)  
(630) 293-3000

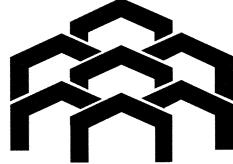
residents of the Stafford Place neighborhood enjoying the fantastic Library Districts facilities. I will look forward to your response.

Sincerely,

  
Court Airhart  
Airhart Development  
President

Attachments: Fence, Grading, Fire Hydrant, Sidewalk exhibits

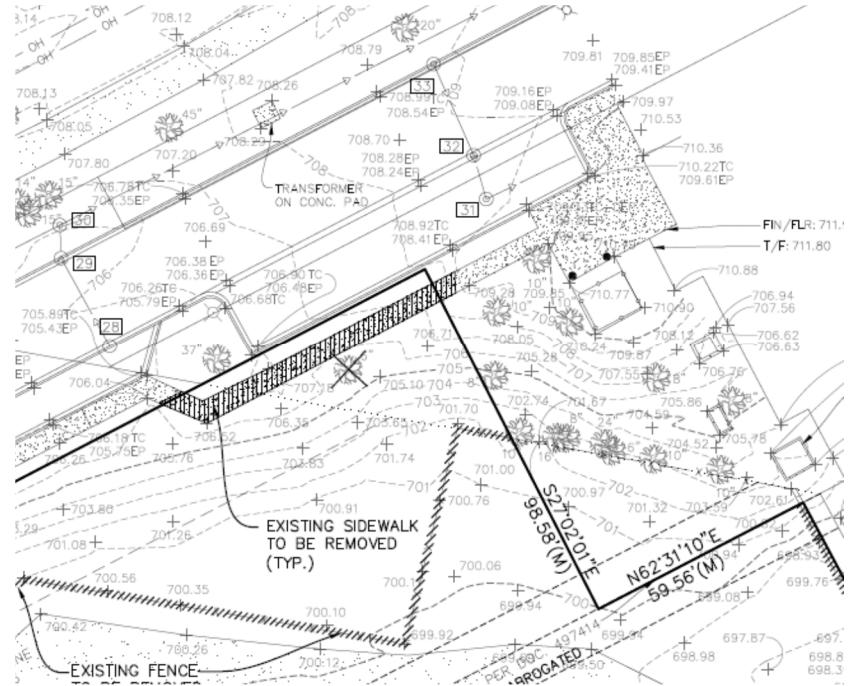
CC: Ron Mentzer, City of Warrenville Community and Economic Development Director



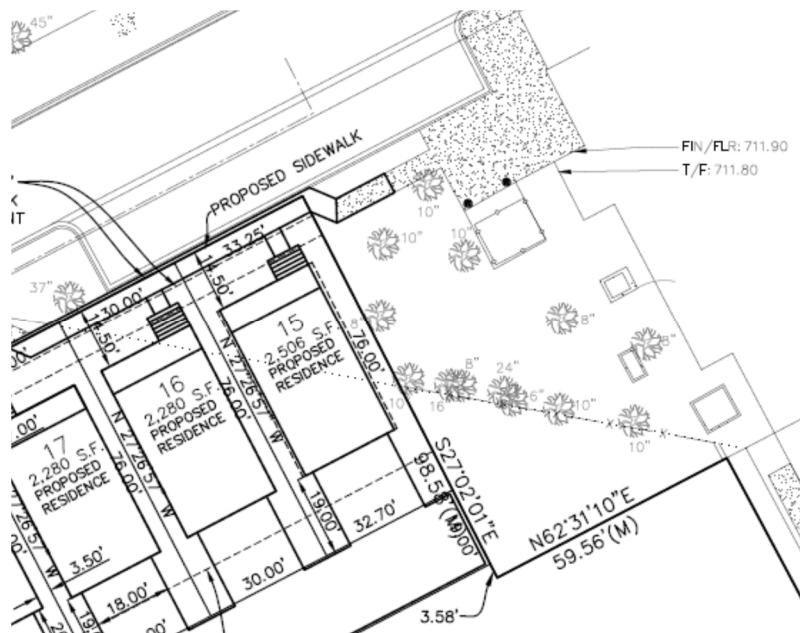
**AIRHART CONSTRUCTION**  
*"Building a better tomorrow"*  
[www.airhartconstruction.com](http://www.airhartconstruction.com)  
(630) 293-3000

# **SIDEWALK ADJUSTMENT EXHIBIT**

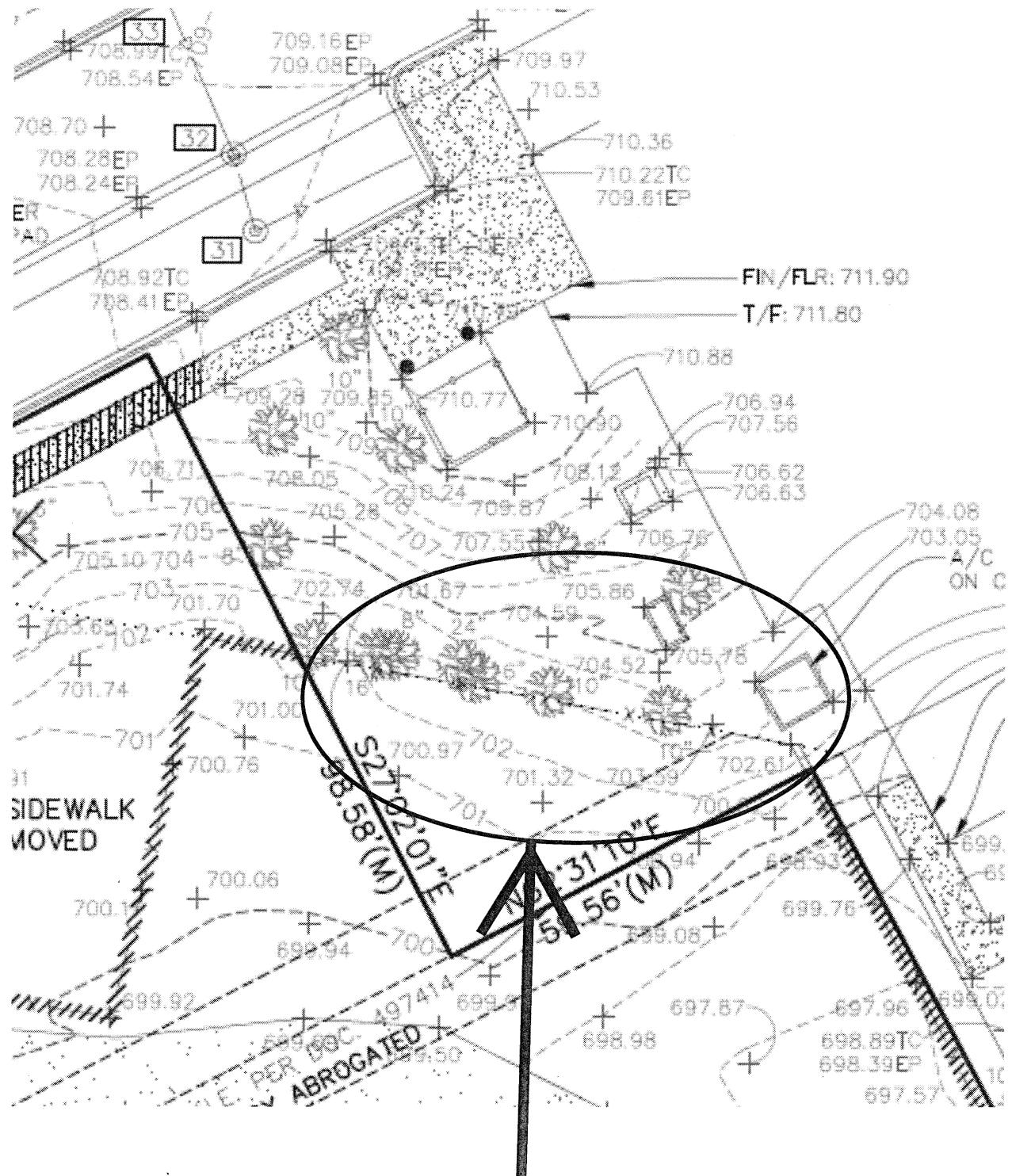
## Existing Sidewalk



## **Proposed Sidewalk**



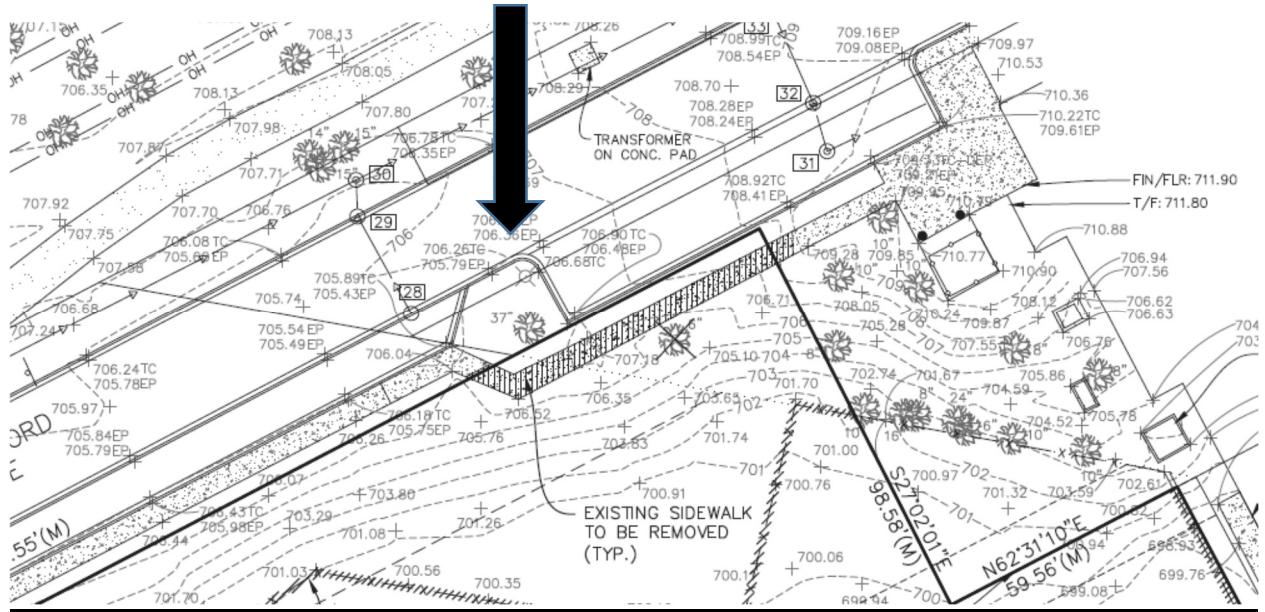
## FENCE REMOVAL EXHIBIT



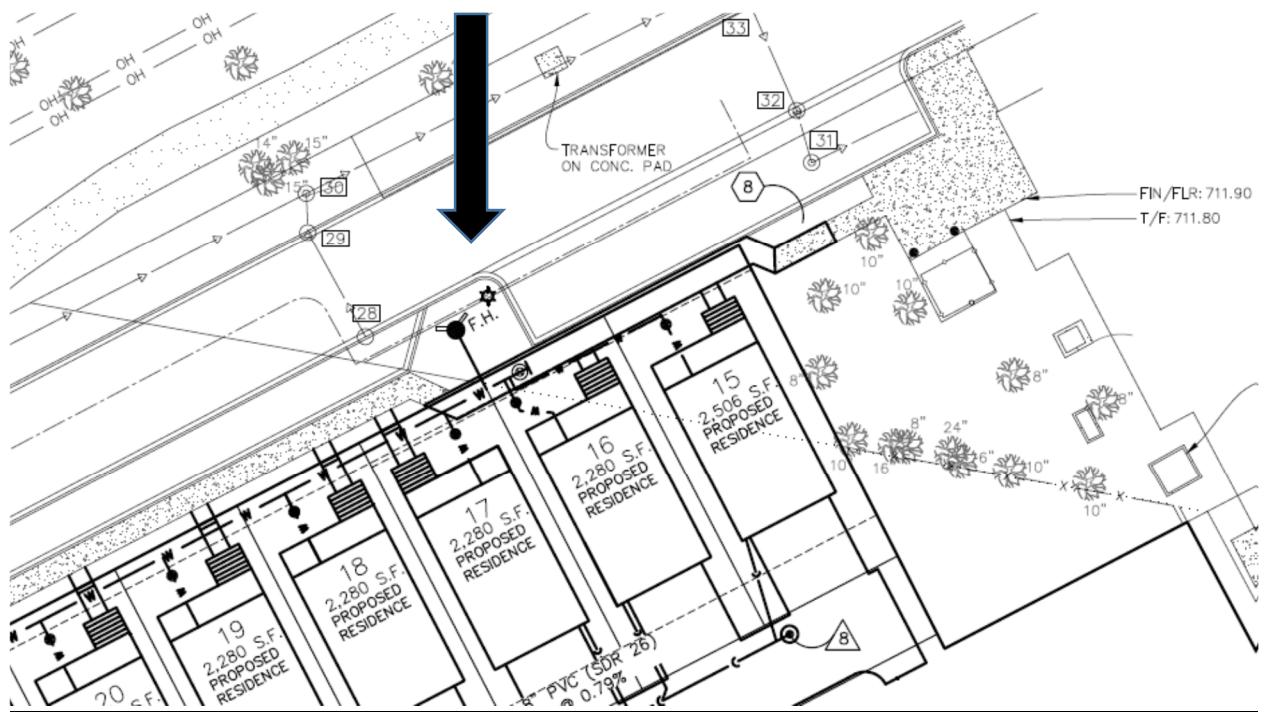
FENCE SECTION TO BE REMOVED

# FIRE HYDRANT EXHIBIT

## **Existing Condition**

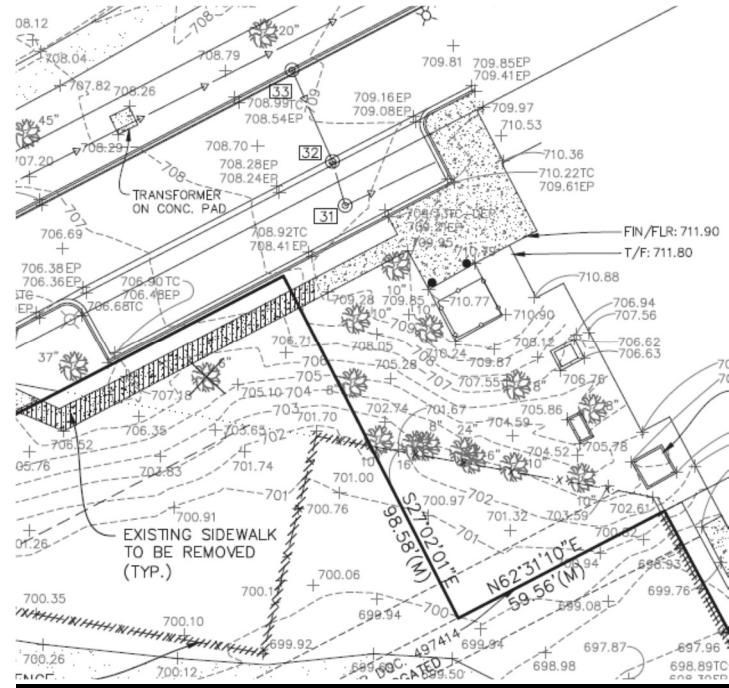


## **Fire Hydrant added to Island**

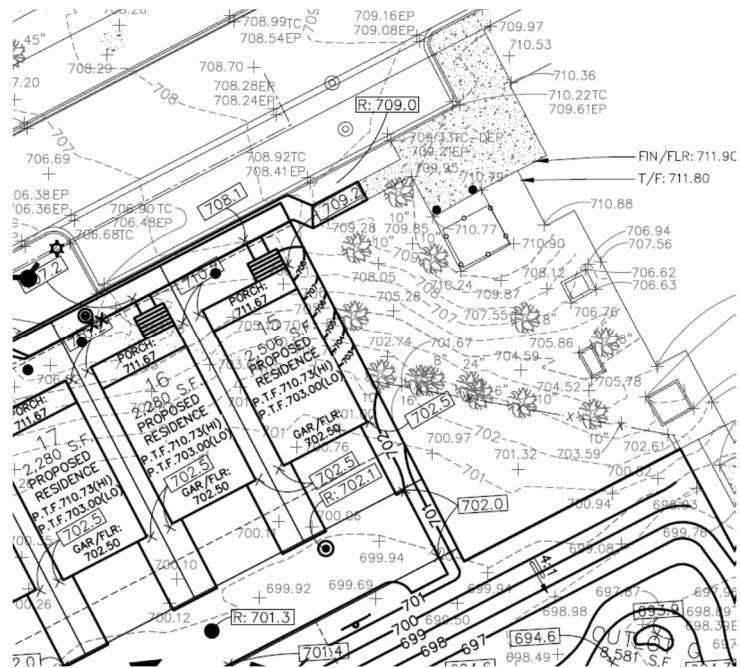


# **GRADING EXHIBIT**

## **Existing Condition**



## **House and Grading**



# City of Warrenville

---

August 23, 2017

3S258 Manning Avenue • Warrenville, IL 60555  
630/393-9050 • FAX 630/393-5758

Sandra Whitmer, Director  
Warrenville Public Library District  
28W751 Stafford Place  
Warrenville, IL 60555

RE: CITY REQUESTS FOR LIBRARY COOPERATION/ASSISTANCE INVOLVING  
REDEVELOPMENT OF CIVIC CENTER REDEVELOPMENT SITE #1

Dear Ms. Whitmer:

As a follow up to our July 5, 2017, meeting with Court Airhart of Airhart Development (“Airhart”) and the August 2, 2017, City/Library District Task Force meeting, this letter outlines the City of Warrenville’s (“City”) requests for the Warrenville Public Library District’s (“Library”) cooperation and assistance on the following items related to Airhart’s proposed Stafford Place residential redevelopment of Civic Center Redevelopment Site #1 (CCRS #1):

- 1. Approval to eliminate the existing 30-foot building setback line along the Stafford Place and Rockwell Street frontages of CCRS #1 by approving/executing the Abrogation of Building Setback Lines for Musselman’s Plat of Subdivision, attached as Exhibit A.**

Said building setback line was established in 1986, in conjunction with the recording of the Musselman’s Plat of Resubdivision. The Library currently owns a portion of the land that was covered by such Plat. A reduced copy of this Plat is attached for reference as Exhibit B.

When this plat was recorded, all of the property covered by it was zoned M-1 Light Manufacturing and occupied by industrial, warehousing, and light manufacturing uses consistent with the City’s 1984 Comprehensive Land Use Plan. The 30-foot building setback line was consistent with the requirements of the property’s underlying M-1 Zoning District.

In 2007, after a year-long public input process, the Warrenville City Council unanimously approved the Old Town/Civic Center (OT/CC) Subarea Plan as an amendment to the City’s 1984 Comprehensive Land Use Plan. The OT/CC Subarea Plan designated the remaining portion of the Musselman property not already purchased by the Library for moderately dense, attractively designed, townhomes that would be oriented closer to the perimeter streets and have rear-loaded garages. A copy of the OT/CC Subarea Plan for CCRS #1 is attached for reference as Exhibit C.

Sandra Whitmer, Director

August 23, 2017

Page 2

While the 30-foot building setback line along Stafford Place and Rockwell might have made sense in 1986, when CCRS #1 was zoned and being used for industrial, manufacturing, and warehousing, it is not consistent with the residential use setbacks advocated for on the City's current OT/CC Subarea Plan or the Library building's existing eight to 20-foot building setback from the Stafford Place property line. The proposed revised Airhart plan (see attached Exhibit D) is consistent with the attached OT/CC Subarea Plan for the property. It includes a 19.5-foot minimum building setback line and a 13.5-foot minimum porch setback line for the Cottage Homes proposed along Stafford Place (Lots 15-25), a 16-foot minimum building setback line and a ten-foot minimum porch setback line for the Cottage Homes proposed along Rockwell Street (Lots 26 and 27), and a ten-foot minimum building/porch setback line along the Rockwell Street frontage of the traditional single-family lot (Lot 1) at the northeast corner of Ray Street and Rockwell Street.

Since the Library now owns a portion of the property that was covered under the Musselman's Plat of Resubdivision, the title company the City retained to provide title insurance for the sale of CCRS #1 to Airhart has indicated Library approval would be required to properly abrogate the above-described 30-foot building setback line. The City's redevelopment attorney has prepared the attached Abrogation of Building Setback Lines for Musselman's Plat of Subdivision Agreement to memorialize the Library's conditional approval of the elimination of the above-described 30-foot building setback line. Under the structure of the proposed Agreement, the Library's approval would be tied to the City's approval of Airhart's Stafford Place project, as reflected in the various project documents that have been submitted to the City and shared with the Library.

- 2. Approval to either (i) dedicate the parking lot landscape "island" it owns along the south side of Stafford Place and west of the Library building as public street right of way (ROW), or (ii) dedicate a public utility easement over the area of the island it owns.**

As illustrated on attached Exhibit E, the majority of this island area is currently owned by the Library.

The City has requested Airhart install a new City fire hydrant on this island as part of the development of the Stafford Place project. A fire hydrant at this location would improve fire protection for the Library building, satisfy fire protection requirements for the proposed Stafford Place project, and address an outstanding Warrenville Fire Protection District request. However, unless the island area is either dedicated as ROW or a new public utility easement is dedicated over the island area owned by the Library, neither the City nor Airhart can legally install a fire hydrant on it.

City staff prefers and recommends the island area be dedicated as public ROW, versus the dedication of a public utility easement over the Library's portion of it. As public ROW, the City would be responsible, and legally able, to maintain the concrete curbing around the island and all improvements within it as City property, and in a consistent manner.

Sandra Whitmer, Director

August 23, 2017

Page 3

**3. Approval to disconnect the existing Library-owned streetlights on the above-described island and in the Mount Street ROW from the Library's electrical system so they can be connected to the City's streetlight system.**

As part of the Stafford Place project, the City has requested Airhart install a new decorative City streetlight system along the proposed new public road within the Stafford Place project and along the Stafford Place/Rockwell Street frontages of CCRS #1. As part of that work, City staff would seek Library District cooperation to:

- Replace the existing Library owned decorative streetlight located along Stafford Place at the northeast corner of the Stafford Place project with a new City standard decorative streetlight that would be interconnected into the City's streetlight system.
- Adjust the location of the two existing library streetlights located in the Mount Street ROW at the northeast and northwest corners of the Library's lower level parking lot drive and Mount Street to accommodate the extension of Mount Street through the Stafford Place Project and improve the illumination of the revised configuration of this intersection.

As proposed by staff, all three of these streetlights would ultimately be owned by the City, and the maintenance and street lighting electrical costs would become the City's responsibility.

If approved by the Library, the Library's existing Stafford Place light fixture would be carefully removed and returned to the Library for use as a replacement of any of its other existing fixtures that are damaged in the future.

On behalf of the City, I want to thank the Library for its continued cooperation and support for the redevelopment and reuse of CCRS #1. Please let me know if you require any clarification or additional information regarding the three City requests outlined in this letter.

Respectfully,



Ronald Mentzer

Director of Community and Economic Development

cc: David Brummel, Mayor  
John Coakley, City Administrator  
City Council

Attachments

## EXHIBIT A

This instrument was prepared by  
and after recording return to:

Bruce K. Huvard  
Cohen, Salk & Huvard, P.C.  
630 Dundee Road, Suite 120  
Northbrook, IL 60062

PINS:  
04-35-107-021  
04-35-107-022  
04-35-107-042  
04-35-107-044  
04-35-107-048  
04-35-107-050  
04-35-106-008

For Recorder's Office Use Only

### ABROGATION OF BUILDING SETBACK LINES FOR MUSSELMAN'S PLAT OF SUBDIVISION

This Abrogation of Building Setback Lines (the "Agreement") is made as of the \_\_\_ day of \_\_\_\_\_, 2017, between the **CITY OF WARRENVILLE**, DuPage County, Illinois, an Illinois municipal corporation and home rule unit of local government (the "City"), **WARRENVILLE PUBLIC LIBRARY DISTRICT**, a public library district and unit of local government in the State of Illinois (the "Library") and **ROCKWELL STREET LLC**, an Illinois limited liability company ("Rockwell"). The City, the Library and Rockwell are sometimes individually referred to as a "Party" and collectively as the "Parties".

#### R E C I T A L S

WHEREAS, Musselman's Plat of Resubdivision, recorded March 10, 1986 as document R86-21786 in DuPage County, Illinois (the "Musselman's Plat") created three lots of record, designated therein as Lot 1, Lot 2 and Lot 3 (sometimes collectively referred to as the "Lots"), legally described in Exhibit A attached hereto and made a part hereof;

WHEREAS, Rockwell is the sole owner of record of Lot 1;

WHEREAS, the City is the sole owner of record of Lot 2;

WHEREAS, the City is the sole owner of record of Lot 3, except the parts thereof owned by the Library pursuant to certain assessment plats, including the part exchanged and conveyed to Library by the City pursuant to that certain Warrenville Assessment Plat Number Two City of Warrenville, Illinois, recorded August 21, 2015, as document R15-093606 in DuPage County, Illinois;

WHEREAS, the City has acquired ownership of Lot 2 and the portion of Lot 3 described above and other adjoining land, constituting approximately 4.25 acres in total (the “Site”) and, pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois (65 ILCS 5/11-74.4-1, et. seq.), has entered into a certain Redevelopment Agreement with Airhart Development, LLC, an Illinois limited liability company (the “Developer”), to provide for the construction of a new residential development (the “Project”) on the Site;

WHEREAS, the Musselman’s Plat established building setback lines of 30 feet from the northwesterly, west and south lines of Lot 2 and along the northwesterly, far east, most easterly south and most westerly east lines of Lot 3 (collectively, the Building Setback Lines”);

WHEREAS, the Project will include the construction of 13 Cottage Homes fronting on Stafford Place and Rockwell Street and a traditional single family home at the northwest corner of Rockwell Street and Ray Street. The Cottage Homes on lots 15-25 will maintain a 19.5-foot minimum building setback and a 13.5-foot minimum front porch setback from the Stafford Place property line. The Cottage Homes on lots 26 and 27 will maintain a 16-foot minimum building and a 10-foot minimum front porch setback from the Rockwell Street property line. The traditional single family home on Lot 1 will maintain a minimum 10-foot building and front porch setback from the Rockwell Street property line. For the purpose of this agreement, the above described minimum building and porch setbacks are collectively considered the “New Setbacks”;

WHEREAS, as a condition of approving the Project, the City will require the recording of a Plat of Subdivision for Stafford Place, in substantially the form attached as Exhibit B hereto and made a part hereof (the “Stafford Place Subdivision Plat”);

WHEREAS, the City will further condition the approval of the Project on the implementation in all material respects of the requirements contained in the planned unit development submittals listed in Exhibit C attached hereto and made a part hereof (collectively, the “Project Documents”);

WHEREAS, the City has requested that Rockwell and the Library consent to the abrogation of the Building Setback Lines, and the Library and Rockwell are willing to give such consent on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual agreements and undertakings of the Parties and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged by the Parties, it is agreed as follows:

1. Recitals. The foregoing recitals are incorporated into and by this reference made a part of this Agreement. All defined terms in the recitals shall have the meanings given therein.

2. City Duties. The City covenants and agrees with Rockwell and the Library that the City will not grant its approval of development and use of the Site for the Project unless such approval is consistent with the intent and purposes of the Project Documents, as may be

amended, provided that any such amendments will not reduce or eliminate the New Setbacks or amend the height or bulk standards set forth in the Project Documents.

3. Abrogation. As of the recording of this Agreement in the recorder's office for DuPage County, Illinois, the Building Setback Lines are hereby abrogated and are of no further force and effect. The Parties release any and all right, title and interest that they may have had in and to such Building Setback Lines. The Library and Rockwell acknowledge and agree that the recording of the Stafford Place Subdivision Plat in the recorder's office of DuPage County, Illinois, will confirm the abrogation of the Building Setback Lines, but the Library and Rockwell agree that their joinder in the Stafford Place Subdivision Plat is not required to effectuate the abrogation of the Building Setback Lines provided herein.

4. Enforcement. After adopting an ordinance granting rezoning and approval of the Stafford Place Subdivision (the "Final Ordinance"), and before the recording thereof in the recorder's office of DuPage County, the City will provide copies thereof to Rockwell and the Library. If the City fails to comply with its covenants and agreements set forth in Section 2 above, then the Parties agree that damages are not an adequate remedy, and each Party hereto is entitled to injunctive relief for the purpose of enforcing the terms of this Agreement. It is expressly agreed that no breach of this Agreement shall entitle any Party or any subsequent holder of any interest in any portion of the Lots or their grantees, mortgagees, heirs, successors, personal representatives and assigns to cancel, rescind or otherwise to terminate this Agreement, but each Party shall retain any other rights or remedies which it may have hereunder by reason of any breach of this Agreement.

5. General Provisions.

(a) Successors and Assigns. The benefits, burdens and obligations set forth in this Agreement shall be binding upon and inure to the benefit of each Party and its respective successors and assigns.

(b) No Third Party Beneficiaries. The Parties expressly agree that they do not intend for any person not a party to this Agreement to be a beneficiary of this Agreement.

(c) Priority. This Agreement shall be senior, prior and superior to all leases, conveyances, transfers, assignments, contracts, mortgages, deeds of trust and other encumbrances and documents recorded or entered into affecting any estate or interest in any part of the Lots. Any Person foreclosing any mortgage, deed of trust, lien or encumbrance, and any Person acquiring title to or any interest or estate in any part of such real estate as a result thereof shall acquire and hold such title, interest or estate expressly subject to the provisions of this Agreement.

(d) No Punitive Damages. No party hereto shall have any claim or right to assert a claim under this Agreement for any punitive, exemplary, indirect or consequential damages, and all such claims, rights and damages are hereby waived and disclaimed.

(e) Modification. This Agreement may not be modified except by a written

instrument duly executed and acknowledged by the City and the fee simple owners of all Lots and duly recorded in the recorder's office of DuPage County, Illinois.

(f) Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Lots to the general public or for the general public or for any public purposes whatsoever.

(g) Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois.

(h) Limitation on Liability. No personal recourse or liability of any kind shall be had for payment of any claim based on this Agreement or upon any representation, obligation or covenant in this Agreement against any past, present or future elected or appointed official of the City or Library.

(i) WAIVER OF TRIAL BY JURY; FORUM. EACH PARTY BY AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT WAIVES TRIAL BY JURY IN THE EVENT OF ANY LEGAL PROCEEDING BROUGHT BY DECLARANT ANOTHER PARTY IN CONNECTION WITH THIS AGREEMENT. IN THE EVENT OF A DISPUTE UNDER THIS AGREEMENT, THE PARTIES AGREE THAT JURISDICTION AND VENUE SHALL SOLELY LIE IN THE CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS, AND WAIVES ANY RIGHT TO HAVE ANY PROCEEDING TRANSFERRED FROM SUCH COURTS ON THE GROUND OF IMPROPER VENUE OR INCONVENIENT FORUM.

**IN WITNESS WHEREOF**, the parties to this Agreement have executed this Agreement as of the date first above written.

**CITY OF WARRENVILLE**

By: \_\_\_\_\_  
Name: David Brummel  
Title: Mayor

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: Emily Larson  
Title: City Clerk

Date: \_\_\_\_\_

**WARRENVILLE PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
Name: Jerri Picha  
Title: Library Board President

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: Heather Stull  
Title: Secretary

Date: \_\_\_\_\_

## **ROCKWELL STREET LLC**

By: \_\_\_\_\_  
Name: Deborah L. Gerhardstein  
Title: Manager

### **ACKNOWLEDGMENTS**

STATE OF ILLINOIS        )  
                            ) SS  
COUNTY OF DUPAGE      )

On \_\_\_\_\_, 2017, David Brummel, as Mayor, and Emily Larson, as City Clerk, of the City of Warrenville, an Illinois municipal corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act and as the free and voluntary act of the City of Warrenville, for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

Notary Public

STATE OF ILLINOIS        )  
                            ) SS  
COUNTY OF DUPAGE      )

On \_\_\_\_\_, 2017, \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the President and Secretary of the Library Board of Trustees of the Warrenville Public Library District, and the same persons whose names are subscribed to the foregoing instrument, appeared before me in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act and as the free and voluntary act of the Warrenville Public Library District, for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

Notary Public

STATE OF ILLINOIS              )  
                                    )  
COUNTY OF DUPAGE              ) SS

On \_\_\_\_\_, 2017, Deborah L. Gerhardstein, personally known to me to be the Manager of Rockwell Street LLC, an Illinois limited liability company, and the same person whose name is subscribed to the foregoing instrument, appeared before me in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2017.

---

Notary Public

**EXHIBIT A**

**Legal Description of Lots**

LOTS 1, 2 AND 3 IN MUSSELMAN'S PLAT OF RESUBDIVISION, BEING A RESUBDIVISION OF VACATED RAILROAD AVENUE, VACATED ROCKWELL STREET, AND VACATED MOUNT STREET ALONG WITH PORTIONS OF WARRENVILLE PARK SUBDIVISION WARRENVILLE WINDOW COMPANY'S ASSESSMENT PLAT, RAY'S SUBDIVISION AND MOUNT'S SUBDIVISION OF PORTIONS OF SECTIONS 34 AND 35, TOWNSHIP 39 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID MUSSELMAN'S PLAT OF RESUBDIVISION RECORDED MARCH 10, 1986 AS DOCUMENT R86-21786, IN DUPAGE COUNTY, ILLINOIS

**EXHIBIT B**

**Stafford Place Subdivision Plat**

**EXHIBIT C**

**List of Project Documents**

## MUSSELMAN'S PLAT OF RESUBDIVISION

PASTORAL RESIDENCE PLANS RELATING TO THIS RESUBDIVISION.

TITLE \_\_\_\_\_ DOCUMENT NO. \_\_\_\_\_

WABASHA PARK SUBDIVISION 82348

217509

217443

497624

68566

89446

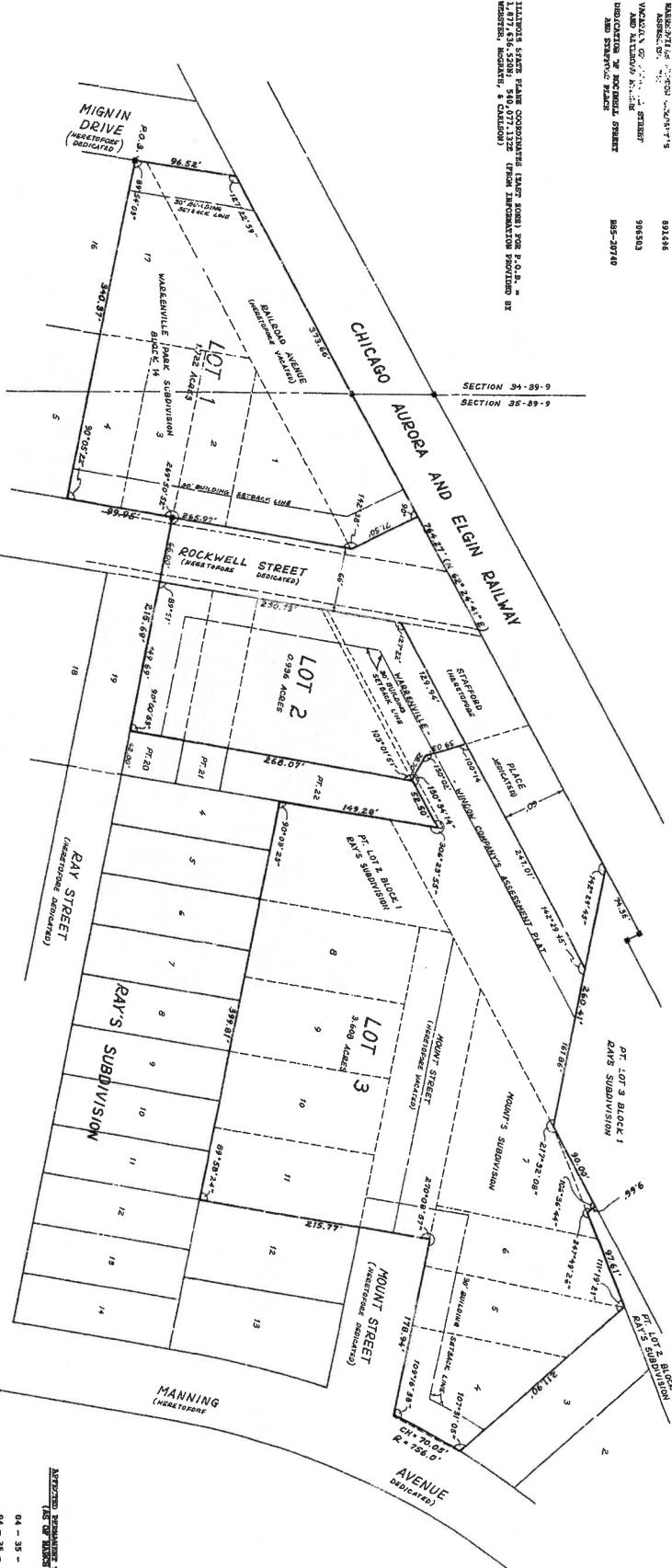
916583

888-3740

INDICATING THE HOMERELLA STREET

AND SCENIC PLACE

PRIOR TO A RESUBDIVISION OF CHICAGO RAILROAD AREAS,  
 VACATED RAILROAD AREAS, AND VACATED ROAD AREAS ALONG WITH  
 REMAINING PARK SUBDIVISIONS, WABASHA PARK  
 COMPANY IS SUBDIVIDING PARK 10, SUBDIVISION, AND PARK 11,  
 SUBDIVISION OF PARKS ON SECTION 34 AND 35, FORMERLY 35  
 SECTION, BLOOM 9, OUT OF THE CHICAGO RAILROAD AREAS, WABASHA  
 TOWNSHIP, COUNTY OF KANKAKEE, STATE OF ILLINOIS.





## EXHIBIT C

SITE DATA	
Total Townhomes	36
Total Single-Family	3
<u>Total Units</u>	<u>39</u>
Site Size	+/- 4.0 Acres
Gross Density	9.75 D.U./Acre



City of Warrenville, Illinois  
**Muselman Site RFP**

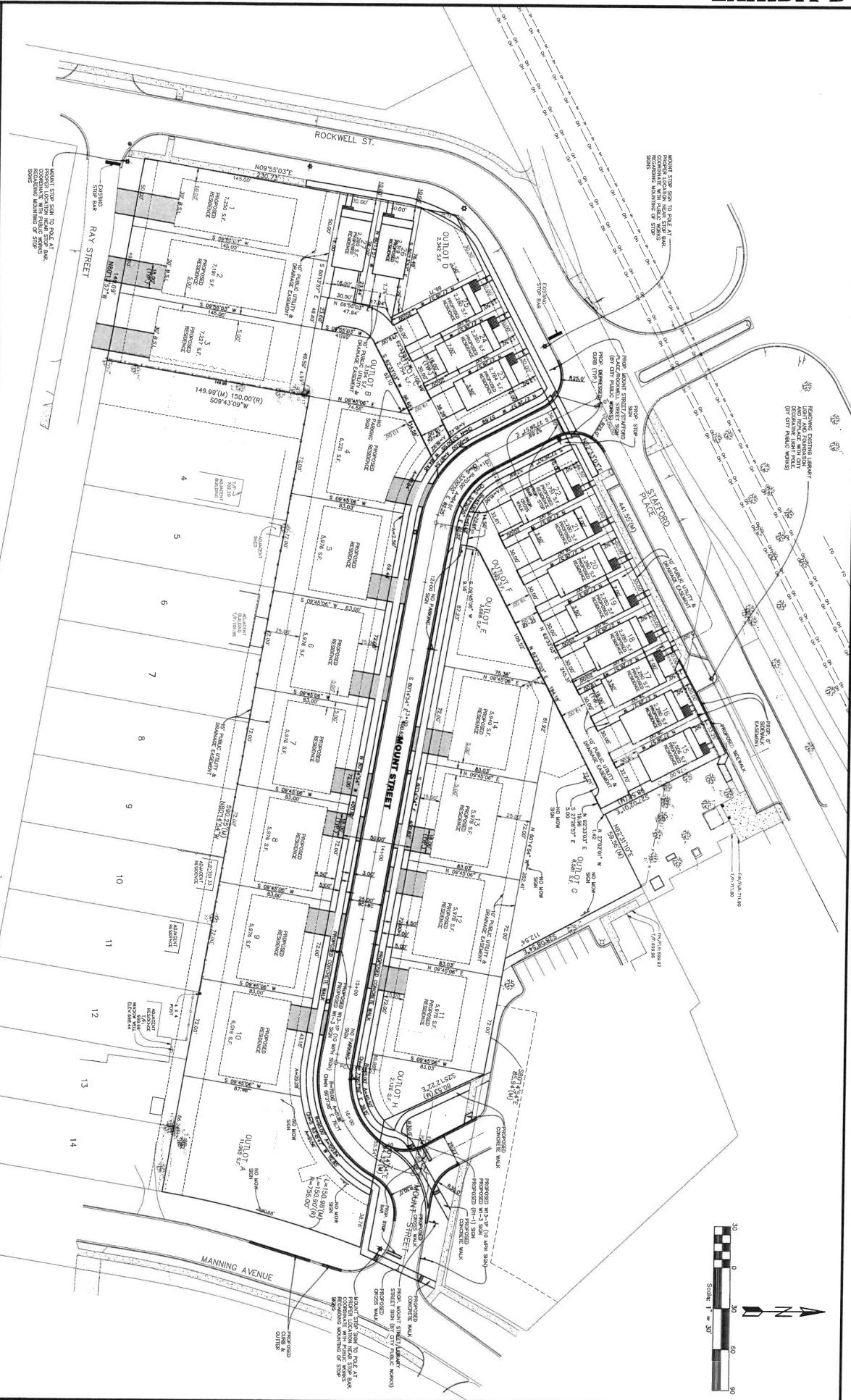
Site Concept B

**LAKOTA**

THE LAKOTA GROUP INC

0'    30'    60'  
October 16, 2007

## **EXHIBIT D**



**AIRHART DEVELOPMENT, LLC**

## **EXHIBIT E**

