

## COUNCIL WORKSHOP ITEM

**ITEM:** Utility Easement Abrogation for property located at 624 Maple Avenue,  
Downers Grove  
**DATE:** August 29, 2001  
**PREPARED BY:** Kenneth J. Rathje, Director  
Department of Planning Services  
**PURPOSE:** Abrogation of Utility Easement

### DISCUSSION:

The petitioner is seeking the Village's Approval to abrogate a utility easement which had been dedicated to the Village but has never been used. The owners of the subject property desire the easement to be abrogated as the existing house is sited over the easement and they are concerned about potential long term implications because of the encroachment.

As noted in the accompanying report, the Village has been provided with other easements which have been improved with storm sewers.

### ATTACHMENTS:

1. Staff Report, dated August 29, 2001
2. Letter from petitioner's attorney, dated August 8, 2001
3. Copy of Plat of Survey showing existing easements, dated June 14, 2001
4. Copy of Plat of Abrogation, dated July 19, 2001

### RECOMMENDATION:

Approval by resolution, authorizing the Mayor and Village Clerk to sign the plat of abrogation.

## DEPARTMENTAL CORRESPONDENCE

**TO:** Riccardo, Ginex, Village Manager  
**FROM:** Kenneth J. Rathje, Director Planning Services  
**DATE:** August 29, 2001  
**RE:** Request for Abrogation of Easement – 624 Maple Avenue

I have received a request from James F. Russ, Jr., as attorney for Mr. and Mrs. Thomas Skul, the owners of the property located at 624 Maple Avenue to abrogate a 16 foot wide unused drainage easement that was dedicated to the Village under Document #836648 on March 25, 1957. The attorney's client and the Village Staff have researched the history of the easement and have learned the following:

A building permit was issued for the existing house in its present location on March 6, 1957.

A resubdivision plat that involved the subject property, which created the easement in question, was recorded on March 25, 1957. According to the building inspection records, the footing inspection had been made on March 15, 1957, which is fully ten days before the easement was established by the recording of the above referenced document.

The previous owner(s) of the subject property granted a 20 foot wide drainage easement to the Village of Downers Grove under Document #890067 which was recorded on August 8, 1958. It appears, based upon the location of this easement, that it was meant to replace the easement over which the house had been constructed. According to the information provided by David Conley of the Public Works Department, the subsequent easements had been utilized by the Village for drainage improvements; however, the easement that the owners are asking to be abrogated has never been used.

It appears most likely that the 1957 easement which is the subject of the requested abrogation has not been used as it had been recorded only after the house was already under construction, and the presence of the house precluded any reasonable use of the easement.

The owners' attorney has advised the Planning Staff that he would appreciate if this matter would be presented to the Village Council in the near future. The owners desire to resolve what they view to be a cloud over the value of the house that straddles the 16 foot wide easement which may be resolved with the abrogation of the easement in question. The owners have caused the preparation of a Plat of Abrogation, which requires acceptance by the Village Council with the signing of the plat by the Mayor and the Village Clerk.

Please advise me if there is any additional information that you may required from either the owners or the Staff.

KJR:amd

Attachments

XC: Dan Blondin

Jack. Bajor, Jr.

Dave Conley

# WIEDEL, HUDZIK & RUSS

A Partnership of Professional Corporations  
Attorneys & Counselors  
4915 Main Street  
P.O. Box 578  
Downers Grove, Illinois 60515

Michael C. Wiedel, P.C.  
Richard F. Hudzik, P.C.  
James F. Russ, Jr., P.C.

Telephone 630/969-2300  
Fax 630/969-1342

August 8, 2001

Mr. Kenneth J. Rathje  
Village Planner  
Village of Downers Grove  
801 Burlington  
Downers Grove, IL 60515-4776

Dear Mr. Rathje:

Enclosed, please find a Plat of Abrogation for a Village of Downers Grove easement with regard to property located at 624 Maple Avenue, Downers Grove, IL. In reviewing the records, from the County and the Village of Downers Grove, it appears that when this property was subdivided in 1959, the Village of Downers Grove obtained a storm water easement. In further investigating this easement, it has been determined that the easement was never used by the Village of Downers Grove and, in fact, has been abandoned and several other easements have been provided to the Village of Downers Grove along the eastern portion of this property. At this point in time, Mr. and Mrs. Thomas Skul have purchased this property with the easement which currently runs under the eastern portion of their residence. As a result of the investigation, we have undertaken with regard to this easement, it has been determined that there is currently nothing constructed within this easement, nor does the Village ever intend to use this easement for any purpose. In that regard, we would request that the Village Downers Grove abrogate this easement and execute the necessary documents to obtain the abrogation.

Once you have had an opportunity to review this matter, please contact me.

Sincerely,

WIEDEL, HUDZIK & RUSS

  
James F. Russ, Jr.

JFR/brd

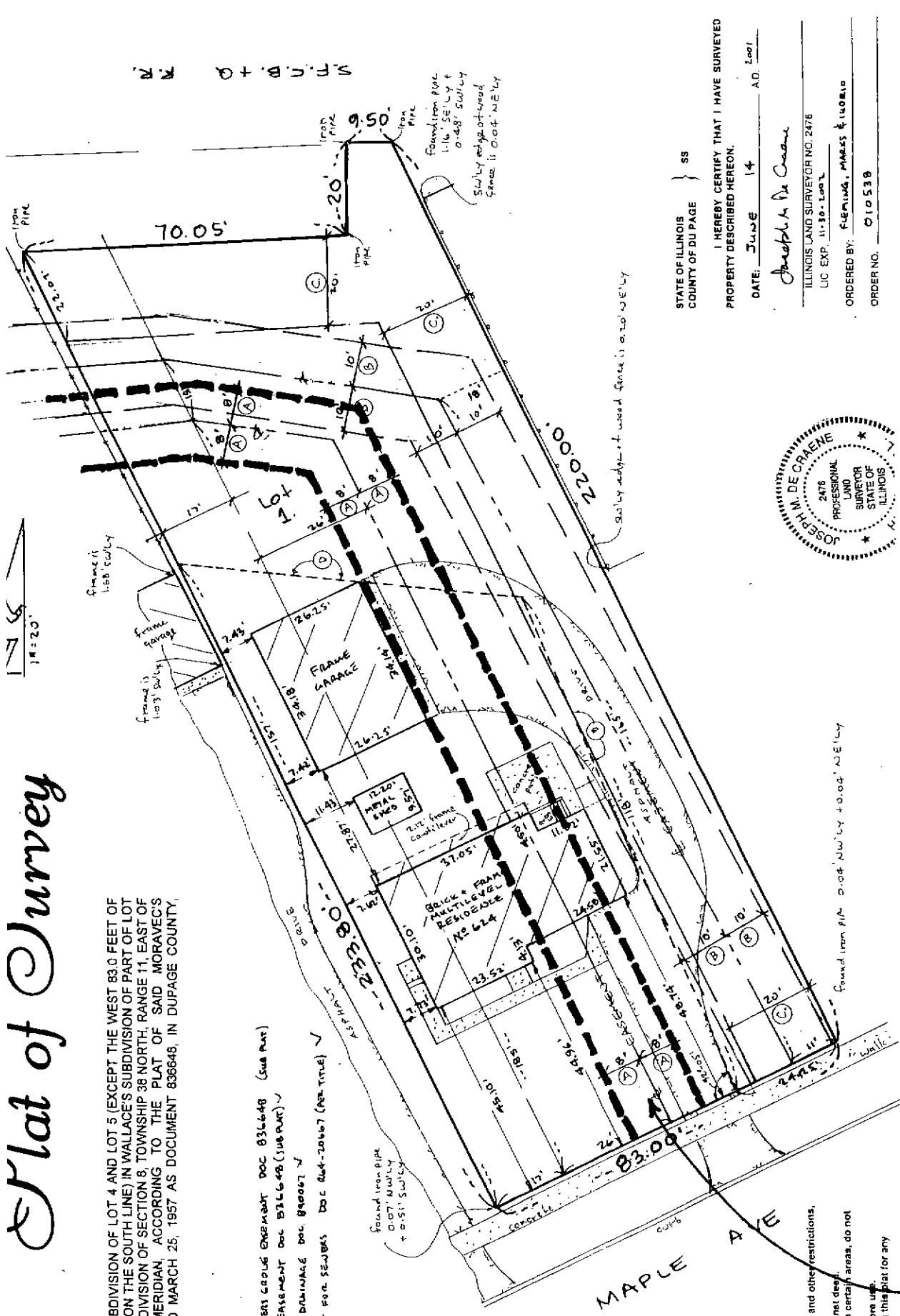
Enclosure

# Flat of Survey

LOT 1 IN MORAVEC'S RESUBDIVISION OF LOT 4 AND LOT 5 (EXCEPT THE WEST 83.0 FEET OF SAID LOT 5, AS MEASURED ON THE SOUTH LINE) IN WALLACE'S SUBDIVISION OF PART OF LOT 3 OF THE ASSESSOR'S SUBDIVISION OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID MORAVEC'S RESUBDIVISION RECORDED MARCH 25, 1957 AS DOCUMENT 836648, IN DUPAGE COUNTY, ILLINOIS.

**EASEMENT SCHEDULE**

- 1) 16 FT. VILLAGE OF DOMAINS EASEMENT DOC 836648 (SUB PART)
- 2) 20 FT. D.C. SAID DIST. EASEMENT DOC 836648 (SUB PART)
- 3) DEDICATED TO VILLAGE FOR DRAINAGE DOC. 840067
- 4) SAID LINE BE EASEMENT FOR SEWERS DOC 8402067 (PER TREE)



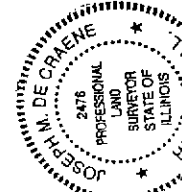
STATE OF ILLINOIS }  
COUNTY OF DU PAGE } SS

I HEREBY CERTIFY THAT I HAVE SURVEYED  
PROPERTY DESCRIBED HEREON.

DATE: JUNE 14 2001 A.D.

*Joseph M. De Craene*  
ILLINOIS LAND SURVEYOR NO. 2476  
LIC. EXP. 11-30-2001

ORDERED BY: FLEMING, MARSH & LLOYD  
ORDER NO. 010530



**NOTES:**  
Check for easements, building lines and other restrictions, if any, not shown hereon.  
Check legal description hereon against deed.  
Scale hereon may be approximate in certain areas, do not scale from plat.  
Compare all information shown before use.  
Consult with surveyor prior to using this plat for any construction purposes.

**EASEMENT TO BE ABROGATED**

# PLAT OF ABROGATION

FOR A

## VILLAGE OF DOWNERS GROVE EASEMENT

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS )  
 ) SS  
 COUNTY OF DU PAGE)

THIS IS TO STATE THAT I, THOMAS E. FAHRENBACH, ILLINOIS PROFESSIONAL LAND SURVEYOR #35-2126 HAVE PREPARED THE ANNEXED PLAT FROM EXISTING PLATS AND RECORDS FOR THE PURPOSE OF VACATION AS INDICATED HEREON

DATED THIS 19<sup>th</sup> DAY OF July A.D. 2001

*Thomas E. Fahrenbach*  
 ILLINOIS PROFESSIONAL LAND SURVEYOR #35-2126

A 16 FOOT VILLAGE OF DOWNERS GROVE EASEMENT AS DEPICTED UPON LOT 1 IN MORAVEC'S RESUBDIVISION OF LOT 4 AND LOT 5 (EXCEPT THE WEST 83.00 FEET OF SAID LOT 5 AS MEASURED ON THE SOUTH LINE) IN WALLACE'S SUBDIVISION OF PART OF LOT 5 OF THE ASSESSORS SUBDIVISION OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID MORAVEC'S RESUBDIVISION RECORDED ON MARCH 25, 1957 AS DOCUMENT NUMBER 836648, IN DUPAGE COUNTY, ILLINOIS.



BURLINGTON NORTHERN RAILWAY

