



DATE: November 1, 2021

MEMO TO: Terry Wilke, Chair
Planning Committee

Agenda Item# 10.6

FROM: Randall L. Seebach
Director of Planning and Land Preservation

RECOMMENDATION: Recommend approval of a Resolution to sell a 1,248 square-foot parcel (the "Property") adjacent to Wilmot Woods Forest Preserve, located in Libertyville Township, to Oscar Rivera and Colleen Clark Pragalz, for \$62.40, to resolve an existing encroachment on District property to be acquired from the Village of Libertyville.

STRATEGIC DIRECTION SUPPORTED: Organizational Sustainability

FINANCIAL DATA: The approximate sale price of the Property is \$62.40, and the funds will be credited to account number 31312000-402000 Sales of Fixed Assets.

BACKGROUND: The survey prepared for the District's acquisition of the Village of Libertyville parcel identified a small encroachment onto the North parcel in which a portion of a garage, concrete slab and fence from a neighboring owner extended onto the Property.

The owners of the property from which the encroachment extends purchased their property in 2018, at which point, based upon a review of historical air photos, the encroachment already existed.

The District's common practice is to require all encroachments to be removed, but since (i) this encroachment predates both the District's and the neighboring owner's possession, (ii) the potential costs to the District to resolve the encroachment (for staff time, survey costs and legal fees) are likely to be significant, and (iii) a statutory avenue for resolving the encroachment exists, at the direction of the Planning Committee, District staff investigated other options. The Downstate Forest Preserve District Act permits the sale of a parcel of land that is part of a new acquisition if:

- the sale price of the subject parcel is at least its fair market value,
- a resolution is passed by the affirmative vote of at least 2/3 of all Board members, and
- the resolution to sell a portion of a new acquisition is passed within 30 days after the District acquires the larger parcel (the District will close on the larger Village of Libertyville prior to the Board meeting at which the Board would consider the attached Resolution).

A contract to sell the Property to the neighboring owners has been negotiated by District staff and signed by the owner. Pursuant to the contract, the neighboring owners will pay \$62.40 for the Property. That price reflects fair market value and is based on an appraisal prepared by an MAI appraiser. The Property is located within the floodway.

REVIEW BY OTHERS: Executive Director, Chief Operations Officer, Director of Finance, Corporate Counsel.

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

**BOARD OF COMMISSIONERS
LAKE COUNTY FOREST PRESERVE DISTRICT
REGULAR NOVEMBER MEETING
NOVEMBER 9, 2021**

MISTER PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **PLANNING COMMITTEE** presents herewith “A Resolution to Sell a 1,248 Square-Foot Parcel adjacent to Wilmot Woods Forest Preserve (Rivera-Pragalz Parcel),” and requests its approval.

PLANNING COMMITTEE:

Date: 11-1-2021 Roll Call Vote: Ayes: 9 Nays: 0
 Voice Vote Majority Ayes; Nays: _____

**LAKE COUNTY FOREST PRESERVE DISTRICT
LAKE COUNTY, ILLINOIS**

**A RESOLUTION TO SELL A 1,248 SQUARE-FOOT PARCEL ADJACENT TO
WILMOT WOODS FOREST PRESERVE (RIVERA-PRAGALZ PARCEL)**

WHEREAS, on November 2, 2021, the Lake County Forest Preserve District (the "District") acquired certain property from the Village of Libertyville (the "Subject Property"); and

WHEREAS, there currently exists (and existed prior to the District's acquisition of the Subject Property) an encroachment on to a 1,248-square-foot-portion of the Subject Property (the "Encroached Area") from a neighboring private residential property owned by Oscar Rivera and Colleen Clark Pragalz (the "Purchasers"); and

WHEREAS, an appraisal of the Subject Property determined that its fair market value is \$0.05 per square foot; and

WHEREAS, the Planning Committee (the "Committee") of the District has recommended that, under the unique circumstances present, the most expeditious and least costly way to resolve the pre-existing encroachment is for the District to sell the Encroached Area to the Purchasers; and

WHEREAS, Section 6 of the Downstate Forest Preserve District Act (70 ILCS 805/6) provides that the District may purchase a parcel of land and sell a portion thereof for not less than its fair market value, pursuant to a resolution of the District Board of Commissioners passed within 30 days after acquisition by the District of the larger parcel; and

WHEREAS, the District's Department of Planning and Land Preservation has negotiated a purchase and sale agreement with the Purchasers pursuant to which the Purchasers would purchase the Encroached Area from the District (the "Purchase and Sale Agreement") for \$62.40 (1,248 square feet multiplied by \$0.05 equals \$62.40), and the Purchasers have executed the Purchase and Sale Agreement; and

WHEREAS, the Purchasers have delivered to the District (subject to the District Board's approval of this Resolution) (i) the deed (executed by Purchasers) accepting the conveyance of the Encroached Area, (ii) the full purchase price of the Encroached Area, and (iii) reimbursement for the survey of the Encroached Area; and

WHEREAS, the Committee has recommended that the District approve the Purchase and Sale Agreement and sell the Encroached Area; and

WHEREAS, it is in the best interests and serves the purposes of the District to enter into the Purchase and Sale Agreement and sell the Encroached Area; and

WHEREAS, the Board of Commissioners finds that (i) the Encroached Area is unsuitable for District purposes, (ii) divestiture of the Encroached Area would resolve the pre-existing encroachment and prevent the expenditure of significant District resources for staff time, survey costs, and legal fees, and (iii) it is in the best interests of the District to approve the Purchase Agreement and sell the Encroached Area to the Purchasers; and

WHEREAS, the Subject Property (without the Encroached Area) will be part of the District's Wilmot Woods Forest Preserve;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois THAT:

Section 1: Recitals. The recitals set forth above are incorporated as a part of this Resolution by this reference.

Section 2: Approval of Purchase and Sale Agreement. The Purchase and Sale Agreement is hereby approved. The District shall sell the Encroached Area to the Purchasers, upon the terms and conditions of the Purchase and Sale Agreement and such other terms and conditions as shall be approved by the District, for \$62.40. The President, Secretary and Executive Director of the District (and the Executive Director's designees) are hereby authorized and directed (i) to execute and attest to, on behalf of the District, the Purchase and Sale Agreement and all other documents that are necessary to complete the divestiture of the Encroached Area provided that any documents have first been approved by the District's Corporate Counsel and (ii) to take such other actions as may be necessary to complete the sale of the Encroached Area.

Section 3: Authority to Accept Payment from Purchasers. The Treasurer of the District is hereby authorized to accept payment for the Encroached Area, pursuant to the terms and conditions of the Purchase Agreement.

Section 4: Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this ____ day of _____, 2021

AYES:

NAYS:

APPROVED this ____ day of _____, 2021

Angelo D. Kyle, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____

Real Estate Purchase and Sale Agreement

This Real Estate Purchase and Sale Agreement (this "Contract") is made effective and entered into as of September 14, 2021 (the "Effective Date") by and between **Lake County Forest Preserve District**, a body politic and corporate organized and existing under the Illinois Downstate Forest Preserve District Act, 70 ILCS 805/0.001 et seq. ("Seller"), and **Oscar Rivera and Colleen Clark Pragalz** (collectively, "Purchaser"; Seller and Purchaser are the "Parties" and each is a "Party"). For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

1. Recitals.

a. Seller has entered into that certain Real Estate Purchase and Sale Agreement dated April 28, 2020 (the "Village Agreement") with the Village of Libertyville (the "Village") to purchase approximately 31.7 acres of land that is generally depicted on **Exhibit A** attached hereto (the "Village Property").

b. Purchaser owns the property commonly known as 16043 W. Des Plaines Dr., Libertyville, Illinois 60048 ("Purchaser's Parcel"). Purchaser's Parcel abuts the Village Property. Purchaser's Parcel, and its location relative to the Village Property, are generally depicted on **Exhibit A** attached hereto.

c. During its due diligence activities related to the Village Property, Seller discovered that certain improvements that service or benefit Purchaser's Parcel (including without limitation a garage, a concrete slab, and a fence) encroach onto the Village Property, as identified by the excerpt of a plat of survey of the Village Property, attached as **Exhibit B** (the "Encroachment").

d. Seller does not want to acquire and hold the Village Property unless and until the Encroachment is resolved. Seller and Purchaser both desire to resolve the Encroachment through this Agreement, under which, after Seller acquires the Village Property, Seller would convey to Purchaser, and Purchaser would accept, the portion of the Village Property upon which the Encroachment is located and which is generally depicted as the "Property" on **Exhibit C** (the "Property").

e. After its acquisition of the Village Property, Seller will be authorized to make such conveyance pursuant to Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6, which provides that Seller "may purchase, but not condemn, a parcel of land and sell a portion thereof for not less than fair market value pursuant to resolution of the Board. Such resolution shall be passed by the affirmative vote of at least 2/3 of all members of the board within 30 days after acquisition by the district of such parcel."

2. **Property.** Seller agrees to sell to Purchaser, and Purchaser agrees to buy from Seller, the Property. The legal description of the Property will be determined through the Survey (defined in Section 4 below). Purchaser acknowledges that it has had opportunity to inspect and review the Property and agrees that it will accept the Property in its "as is condition", and acknowledges that

Seller makes no covenant, representation, or warranty concerning the Property, its condition, or its title.

3. Purchase Price. The purchase price for the Property is the product of the square footage of the Property (as determined by the Survey) multiplied by \$0.05 per square foot (the "Purchase Price") to be delivered by Purchaser as provided in Section 5 below and to paid to Seller at Closing (as defined in Section 6).

4. Survey; Seller's Delivery of Deed and Survey to Purchaser. Within 45 days after the Effective Date, Seller shall cause to be prepared and delivered to Purchaser (i) a plat of survey of the Property, which identifies the legal description of the Property (the "Survey") and (ii) a quit-claim deed conveying the Property to Purchaser, in the form attached hereto as **Exhibit D** (the "Deed"), that (a) includes the legal description of the Property, as determined by the Survey and (b) is undated (the Parties being in agreement that the date of Deed will be the date of Closing and will be filled in by the Parties on the date of Closing). Purchaser shall reimburse Seller, in an amount equal to the lesser of (i) the cost of the Survey and (ii) Five Hundred Dollars (\$500.00) (the "Survey Reimbursement").

5. Purchaser's Delivery of Closing Deliverables to Seller; Irrevocable Offer. Within three (3) days after Seller delivers the Survey and Deed to Purchaser, Purchaser shall execute the Deed and deliver to Seller (i) the executed Deed, (ii) the Purchase Price, and (iii) the Survey Reimbursement (the "Closing Deliverables"). Purchaser acknowledges that (i) even after they have executed this Agreement, this Agreement is not effective until Seller's Board of Commissioners has approved the Board Resolution (defined in Section 6), (ii) by executing this Agreement and delivering the Closing Deliverables to Seller, Purchaser has made an offer to Seller for Purchaser to acquire the Property, (iii) such offer may be accepted by the lawful approval by the Purchaser's Board of Commissioners of the Board Resolution, and (iv) such offer by Purchaser is irrevocable until the Termination Date (as defined in Section 7). Seller shall hold the Closing Deliverables until Closing or until the termination of this Agreement.

6. Closing. The closing of Seller's conveyance of the Property to Purchaser (the "Closing") will take place after the following have occurred (i) Purchaser has delivered the Closing Deliverables to Seller, (ii) Seller has acquired the Village Property, and (iii) Seller's Board of Commissioners has approved a resolution approving the conveyance of the Property to Purchaser, in accordance with Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6 (the "Board Resolution") (collectively, the "Closing Conditions") and, assuming all Closing Conditions have occurred, the Closing will occur not later than five (5) business days after Seller's approval of the Board Resolution. The Parties shall complete the Closing by Seller executing the Deed, inserting the date of the Closing into the Deed, and sending the Deed to the Lake County Recorder of Deeds for recording. Following Closing, Seller may then deposit the Purchase Price and Survey Reimbursement. Seller shall pay any fees for the recording of the Deed.

7. Termination. If, as of the date that is ninety (90) days after the Effective Date (the "Termination Date"), either (i) Seller has not acquired the Village Property or (iii) Seller's Board of Commissioners has not approved the Board Resolution, then either Party may terminate this

Agreement by giving written notice to the other Party. After any such termination, Seller shall return the Purchaser Price and the Survey Reimbursement to Purchaser.

8. Casualty and Condemnation. The risk of loss due to fire, other casualty, or condemnation remains with Seller until Closing. If, prior to Closing, any such loss occurs, or any condemnation action is filed, then Purchaser may terminate this Contract, in which case neither Purchaser nor Seller shall have any further liability hereunder, unless Purchaser's acts or omissions related to such loss or action violate its obligations under this Contract.

9. Not a "Foreign Person". Seller represents and warrants that it is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986.

10. Brokers. Purchaser and Seller each represent to the other that no broker has been the procuring cause of or has otherwise represented it in this transaction. Each party agrees to indemnify and hold the other party harmless from any breach by it of the foregoing representation.

11. Notices. All notices required herein shall be in writing and sent by personal delivery, by commercial overnight air courier, or by email (if confirmed by delivery in person or by overnight air courier) to the following addresses (or to such other or additional parties and addresses as either Seller or Purchaser may subsequently designate by notice):

If to Seller: Lake County Forest Preserve District
1899 West Winchester Road
Libertyville, IL 60048
Attn.: Ken Jones
Email: kjones@lcfpd.org

With a copy to: Burke, Warren, MacKay & Serritella P.C.
330 N. Wabash Avenue, 21st Floor
Chicago, Illinois 60611
Attn.: Matthew Norton, Esq.
Email: mnorton@burkelaw.com

If to Purchaser: Oscar Rivera and Colleen Clark Pragalz
16043 W. Des Plaines Dr.
Libertyville, Illinois 60048
Email: riverao2003@yahoo.com

With a copy to: Karen M. Patterson, P.C.
2400 Ravine Way, Suite 200
Glenview, IL 60025
Attn.: Karen M. Patterson, Esq.
Email: Karen@glenviewlaw.net

This section will not invalidate a notice that is actually and timely received.

[Signature Page Follows]

The undersigned acknowledge that, after this Agreement is approved in accordance with applicable laws, this Agreement will become effective as of the Effective Date.

Purchaser:


Oscar Rivera


Colleen Clark Pragatz

Attest:
By: Erin DeAnda
Name: Erin DeAnda
Title: _____

^{OR}
~~CP~~ **SELLER:**
~~Purchaser:~~
Lake County Forest Preserve District

By: _____
Name: Angelo D. Kyle
Title: President

Attest:
By: _____
Name: Julie Gragnani
Title: Board Secretary

Exhibit A

General Depiction of Village Property and Purchaser's Parcel

Exhibit A

Legend

- /// Forest Preserve Property
- ▨ Village Property
- Purchaser's Parcel



Lake County Forest Preserve District
Land Preservation and Special Projects
1899 W Winchester Rd
Libertyville, Illinois 60048
847-958-3351

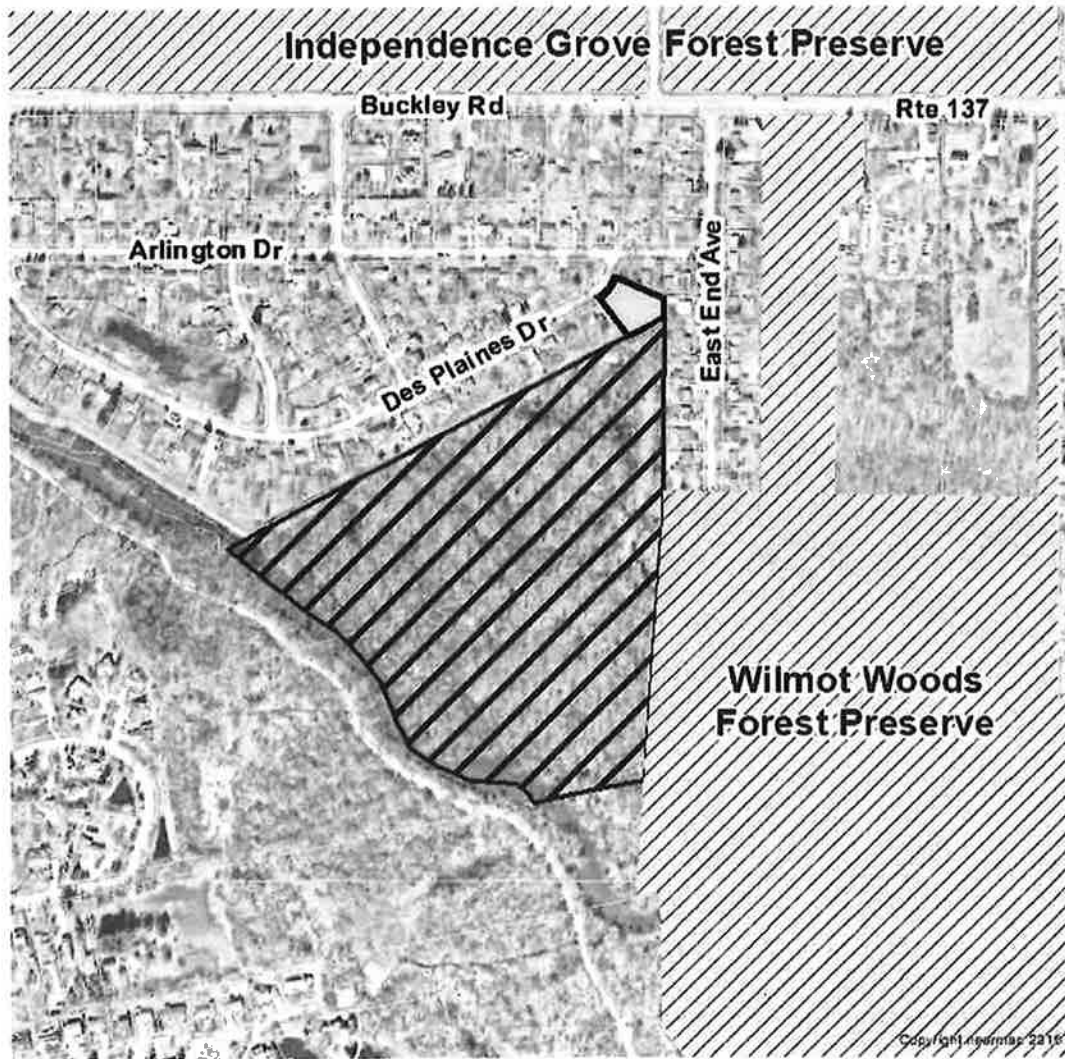
Courtesy Copy Only.
Property boundaries indicated are provided
for general location purposes. Wetland
and flood limits shown are approximate and
should not be used to determine setbacks for
structure or as a basis for purchasing property.

Prepared using information from:
Lake County Department of Information
& Technology: GIS/Mapping Division
18 North County Street
Waukegan, Illinois 60085-4357
847-377-2373



2021 Aerial Photo

Map Prepared 6 September 2021



Copyright 2021

Exhibit B

Excerpt of Plat of Survey of Village Property Showing Encroachment

Survey Close-up

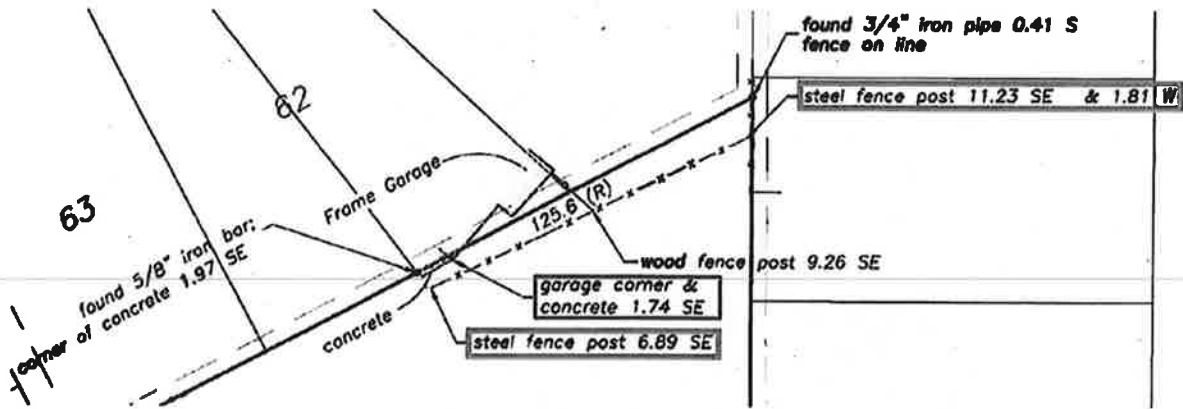


Exhibit C

General Depiction of Property

Exhibit C

Lake County Forest Preserve District
Land Preservation and Special Projects
1899 W Winchester Rd
Libertyville, Illinois 60048
847-968-3351



Legend

- Village Property
- Purchaser's Parcel
- Property



Courtesy Copy Only.
Property boundaries indicated are provided
for general location purposes. Wetland
and flood limits shown are approximate and
should not be used to determine setbacks for
structure or as a basis for purchasing property.

2021 Aerial Photo

Prepared using information from:
Lake County Department of Information
& Technology: GIS/Mapping Division
18 North County Street
Waukegan, Illinois 60085-4357
847-377-2373

Map Prepared 8 September 2021

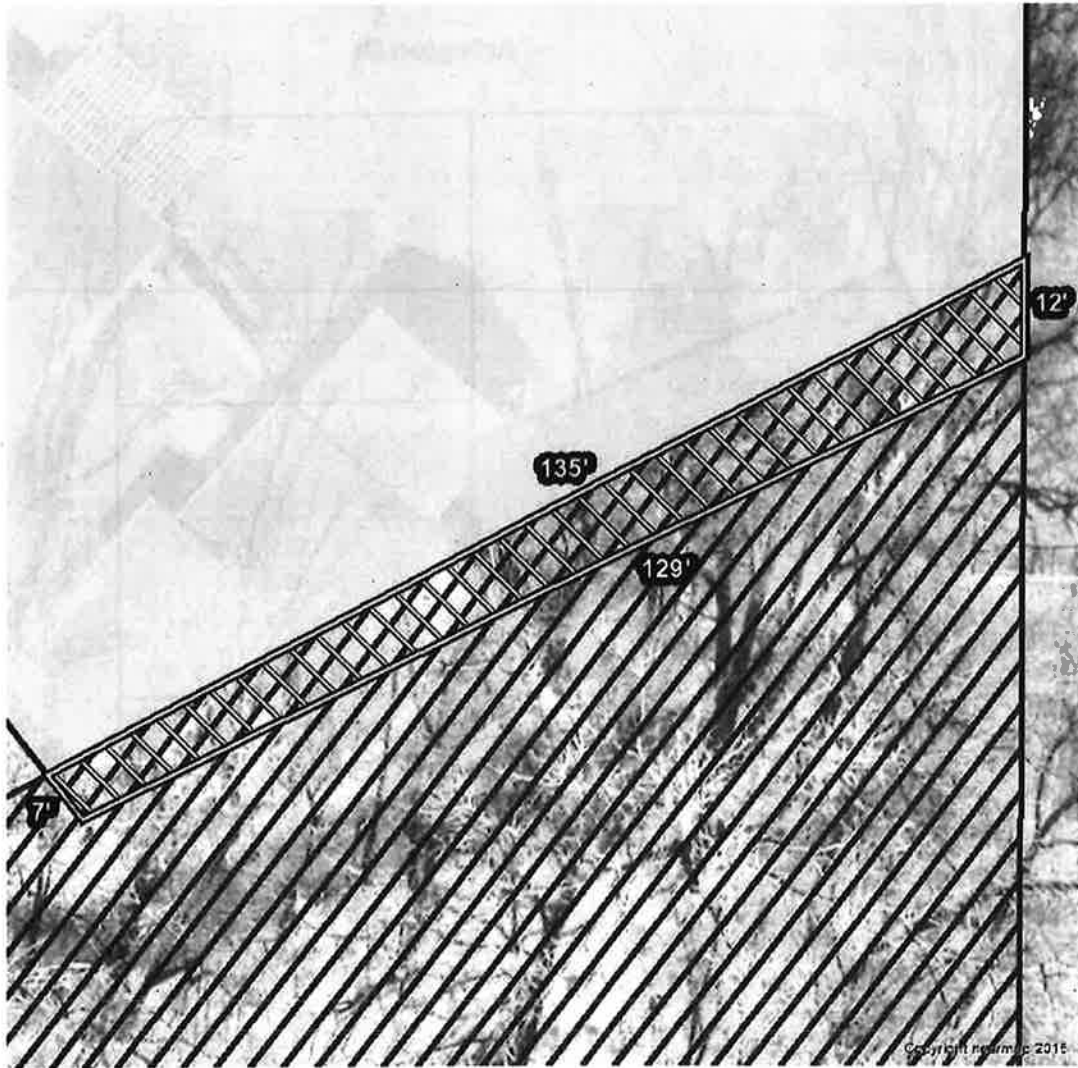


Exhibit C

Lake County Forest Preserve District
Land Preservation and Special Projects
1899 W Winchester Rd
Libertyville, Illinois 60048
847-968-3361

Legend



Property



Purchaser's Parcel



Village Property



Courtesy Copy Only.
Property boundaries indicated are provided
for general location purposes. Wetland
and flood limits shown are approximate and
should not be used to determine setbacks for
structure or as a basis for purchasing property.

Prepared using information from:
Lake County Department of Information
& Technology: GIS/Mapping Division
18 North County Street
Waukegan, Illinois 60085-4357
847-377-2373

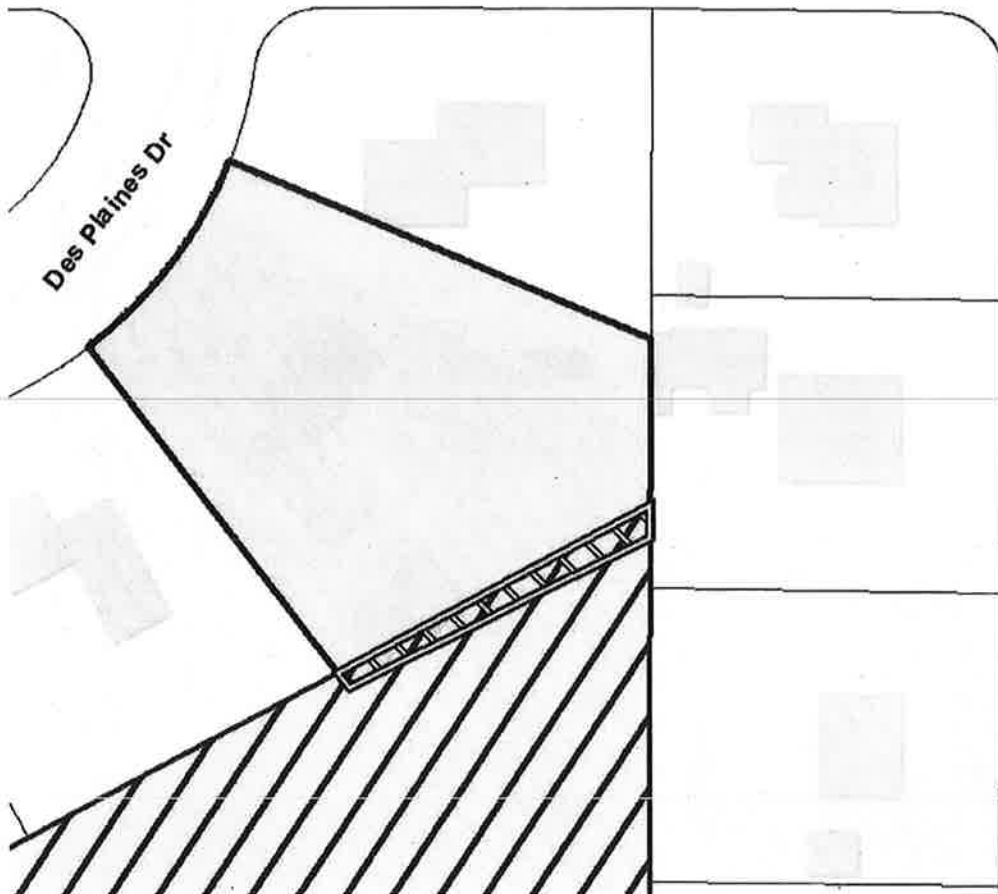
0 25 50 100 Feet

2021 Aerial Photo

Map Prepared 6 September 2021



Arlington Dr



Des Plaines Dr

East End Ave

Exhibit D
Form of Deed

QUITCLAIM DEED

AFTER RECORDING, MAIL TO:

NAME AND ADDRESS OF TAXPAYER:

Recorder's Stamp

The _____, a _____,
located at _____ ("**Grantor**"), for and in consideration of TEN
and 00/100 DOLLARS and other good and valuable considerations in hand paid,
QUITCLAIMS AND CONVEYS to _____ of
_____ ("**Grantee**"), the following described real estate
situated within the County of Lake, State of Illinois, to wit:

SEE LEGAL DESCRIPTION ATTACHED AS EXHIBIT A AND, BY THIS
REFERENCE, MADE A PART OF THIS QUITCLAIM DEED

TO HAVE AND TO HOLD the above-described property ("**Subject Property**") together
with all and singular of the rights and appurtenances thereto in any wise belonging unto said
Grantee, and Grantee's successors and assigns, forever. Grantor does hereby **QUITCLAIM** any
and all interests that it has in the Subject Property unto the Grantee, Grantee's successors and
assigns.

[Signature page follows]

Exhibit A

Legal Description of Subject Property

PIN: _____