

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 4d

Title:	Consideration of a request to amend the Natural Area Easement at 2905 Glenbriar Drive
Presenter:	Rita Tungare

Meeting: Planning & Development Committee

Date: June 10, 2019

Proposed Cost: \$ N/A

Budgeted Amount: \$

Not Budgeted: **Executive Summary** *(if not budgeted please explain):*

Mr. Emir Abinion, resident of 2905 Glenbriar Drive is requesting written approval from the City to construct a 5 foot high fence within the “Natural Area Easement” in their rear yard.

The subject property is part of the Woods of Fox Glen subdivision. The rear yards of lots within the subdivision have a Natural Area Easement as designated on the plat of subdivision. The Natural Area Easement restricts the removal of “living trees, shrubs, grade, grub, excavate, fill or construction of a structure of any kind on or within the area designated on the attached plat as “Natural Area Easements” except as may be approved in writing by the City of St Charles.

The rear yard of 2905 Glenbriar Drive has a 40 foot “Natural Area Easement” which currently has grass turf and wooded tree area. The proposed fence would encroach into the Natural Area Easement. Staff has advised Mr. Abinion that in order to construct the fence within the easement, it would be appropriate to request an amendment to the natural area easement.

As supplemental information, staff requested Mr. Abinion to provide input from the Homeowner’s Association and also an evaluation from a certified arborist. These are included in the packet. Mr. Abinion will be present at the meeting to respond to questions regarding his request.

Staff periodically receives requests for structures within the Natural Area Easement, similar to the request for 2905 Glenbriar Drive. We would also like to solicit input from the Committee if staff should gauge interest from the Homeowner’s Association regarding initiating changes to the Natural Area Easement for the entire subdivision to allow structures. The Easement was established in 1988 and it is likely that the purpose and form of the easement may have changed since then.

Attachments *(please list):*

- >Request from Mr. Abinion to permit fence in Natural Area Easement
- >Fence design
- >Natural Area Easement Provisions
- >Plat of Survey
- >Email from President of HOA
- >Review from Arborist
- >Photos

Recommendation/Suggested Action *(briefly explain):*

Consider the request to amend the Natural Area easement for 2905 Glenbriar Drive. If the Committee recommends approval of the request, the applicant will prepare a revised plat of survey with the modified easement, which will be presented to City Council for final approval.

Emir C Abinon
2905 Glenbriar Drive
St. Charles, IL 60174
708-977-0944

May 1, 2019

VIA Email: bvann@stcharlesil.gov

RE: FENCE APPROVAL AND PERMIT ON 2905 GLENBRIAR DR HOME

Mr. Bob Vann
Building and Code Enforcement Division Manager
City of St. Charles IL

Bob,

In my submittal for fencing on my property located at 2905 Glenbriar Dr., please accept this request for additional consideration. I understand the potential issues on placement of fence with regards to the 40-ft. Natural Easement on the back of my property. Unfortunately, there are unique characteristics regarding my property that causes hardship on managing placement of fence for safety and security purposes on my property.

Attached please find my Plat of Survey and the Pool Design and Placement documents. Please notice in the Plat of Survey that originally the home was built well behind the 50' Building Line in front. On the west-side of the home, it seems to have been built more than 30' behind the build line. This really places hardship on the usability of the backyard. Please also notice the document Pool Design and Placement and notice that we placed the pool as close to the house as possible to accommodate the 40' Natural Easement on the back of property. This made for a more compact area than we hoped for. Notice the pool placement with respect to the back easement.

However, the one thing that makes for difficulties is placement of the fence. It creates hardship for proper fencing and extremely limits the usability of our yard. Please look at the remaining pictures attached to notice that the 40' easement is the only grass area between the pool and the back of property and really the proper placement of the fence for safety and security. The pictures also show that the area we are proposing is only sparsely covered by smaller trees on my property and the fencing will not interfere with the property grading and no trees will need to be taken down or harmed. By making an exception and allowing the proposed placement, it will allow for safety and security and alleviate the hardship caused by the uniqueness of my property.

The 40' Natural Easement purpose is stated below per the city ordinance:

8.30.010 – Purpose

“The purpose of this Chapter is to maintain existing trees within the City to the greatest extent possible, while allowing for reasonable development of private property. Trees are assets to the community in many ways, including contributing to its character and scenic beauty, clean air, reducing noise, preventing erosion of topsoil, reducing the rate of storm water runoff, providing nesting areas for birds and habitat for other wildlife, conserving energy, and providing shade and windbreaks. The health and general welfare of the community, as well as its tax base, are enhanced when trees are preserved.”

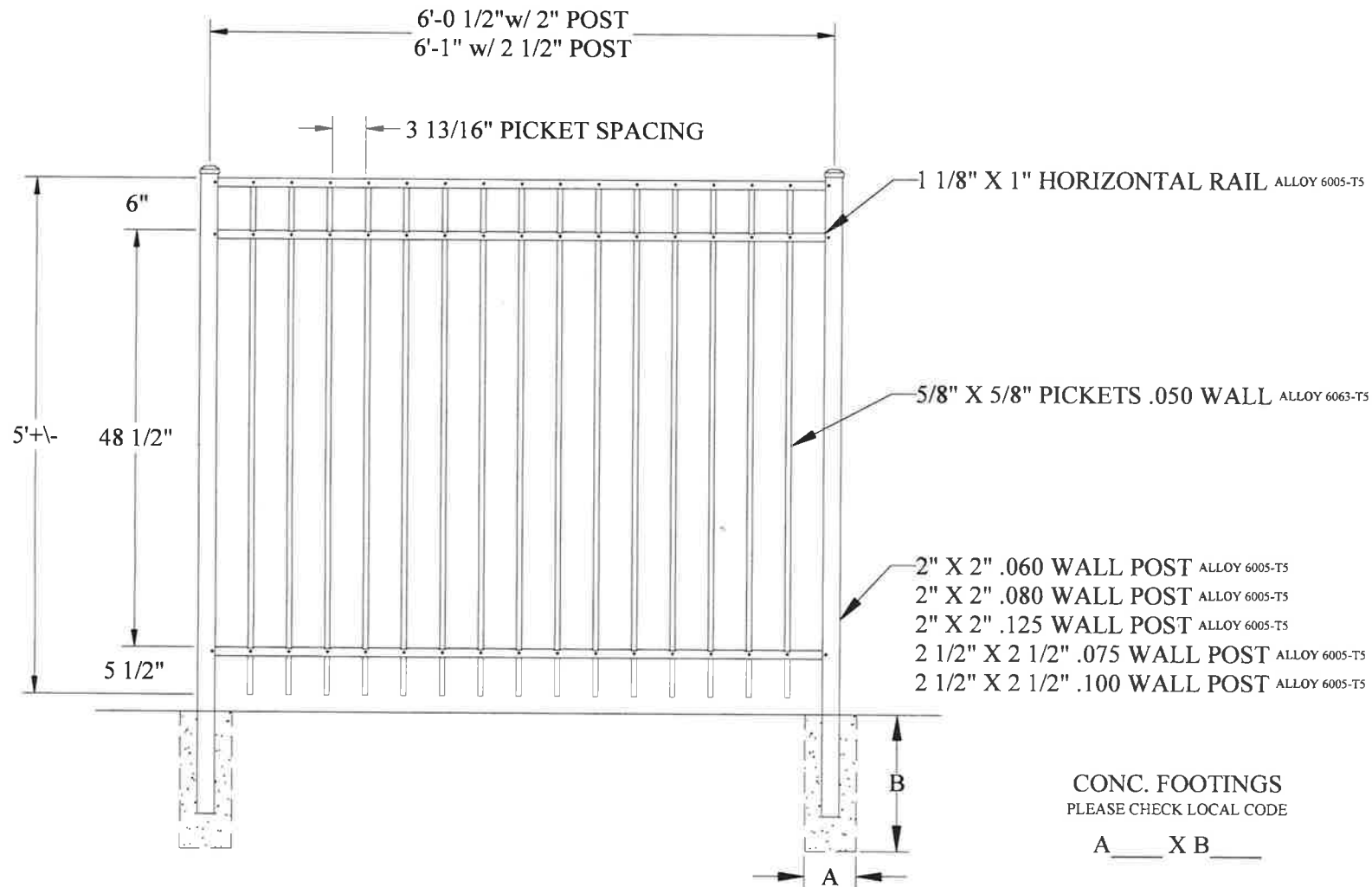
Our proposed fence placement will not violate nor go against the Purpose as stated. The fencing company will take extra consideration in making sure that the easement is disturbed as little as possible and kept as natural as possible in the spirit of the purpose and reasoning for the easement. The purpose should not however cause undue hardship to me as the home owner nor prevent me from creating a safe and secure environment for my yard.

If you would like to discuss this further and any questions, please do not hesitate in contacting me. Hoping this will merit your kind consideration on the matter.

Respectfully submitted,

Emir C Abinion

Emir C Abinion



NOTE: DRAWING NOT TO SCALE. ALL SECTIONS COME FULLY ASSEMBLED.

This drawing is the property of Elite Fence Products, Inc. It is not to be reproduced, copied, or traced in whole or part without written permission. See product specifications for installation requirements.

EFF-20
RESIDENTIAL

5' HIGH 3-RAIL
ALUMINUM FENCE PANEL
2-21-16 V.1.0 | KS | KS | STD DRAWING

CONTRACTOR: _____
PROJECT: _____

COLOR: _____
DATE: _____



50925 RICHARD W. BLVD
CHESTERFIELD TOWNSHIP, MI 48051
WWW.ELITEFENCE.COM
1-800-783-1331

AFORSAID, DO HEREBY CERTIFY THAT Henderson T. Harrison AND Janice H. Harrison, PERSONALLY KNOWN TO ME TO BE THE SAME PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, APPEARED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THAT THEY SIGNED AND DELIVERED THE ANNEXED PLAT AS THEIR OWN FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES THEREIN SET FORTH.

GIVEN UNDER MY HAND AND NOTARIAL SEAL THIS 1st DAY OF June, A.D., 1988, AT St Charles, ILLINOIS.



Francis Kenney
NOTARY PUBLIC

NATURAL AREA EASEMENT PROVISIONS

NO OWNER OF A RECORD LOT SHALL REMOVE LIVING TREES OR SHRUBS, GRADE, GRUB, EXCAVATE, FILL OR CONSTRUCT ANY STRUCTURE OF ANY KIND ON OR WITHIN THE AREA DESIGNATED ON THE ATTACHED PLAT AS "NATURAL AREA EASEMENT" EXCEPT AS MAY BE APPROVED IN WRITING BY THE CITY OF ST. CHARLES.

EACH OWNER OF RECORD LOT SHALL RESTORE, OR CAUSE TO BE RESTORED, ANY NATURAL AREA WITHIN SUCH "NATURAL AREA EASEMENT" DISTURBED BY SUCH LOT OWNERS DEVELOPMENT OF THE LOT, ALL IN ACCORDANCE WITH PLANS APPROVED BY THE CITY OF ST. CHARLES.

THE CITY SHALL HAVE THE RIGHT TO ENTER UPON ANY SUCH RECORD LOT TO ENFORCE THESE PROVISIONS AND SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO ENJOIN IN A COURT OF LAW ANY ACTIVITY ON, OR USE OF, THE LAND WITHIN THE "NATURAL AREA EASEMENT" WHICH IS INCONSISTENT HEREWITH.

PUBLIC UTILITY EASEMENT PROVISIONS

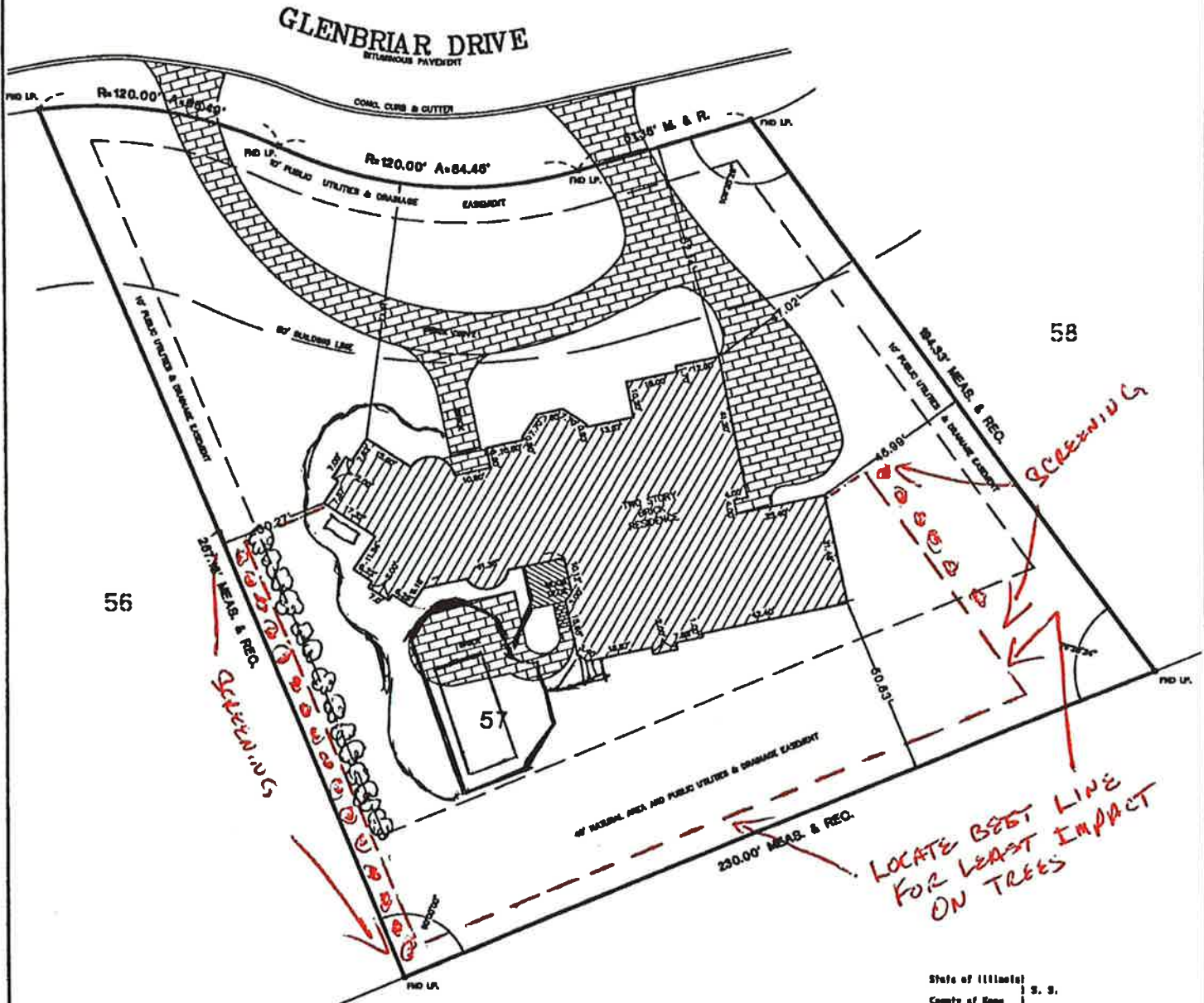
A PERMANENT NON-EXCLUSIVE EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF ST. CHARLES, KANE AND DU PAGE COUNTIES, ILLINOIS, AND TO ALL PUBLIC UTILITY COMPANIES OF ANY KIND OPERATING UNDER FRANCHISE GRANTING THEM EASEMENT RIGHTS FROM THE CITY OF ST. CHARLES, ILLINOIS, INCLUDING BUT NOT LIMITED TO, ILLINOIS BELL TELEPHONE COMPANY AND NORTHERN ILLINOIS GAS COMPANY AND TO THEIR SUCCESSORS AND ASSIGNS IN, UPON, ACROSS, OVER, UNDER AND THROUGH THE AREAS SHOWN BY DASHED LINES AS EASEMENTS FOR PUBLIC UTILITIES AND DRAINAGE ON THE PLAT OF SUBDIVISION HEREON DRAWN OR WHERE NOTED IN THE ABOVE LEGEND FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, INSPECTING, OPERATING, REPLACING, RENEWING, ALTERING, ENLARGING, REMOVING, REPAIRING, CLEANING AND MAINTAINING ELECTRICAL, CABLE TELEVISION, COMMUNICATION, GAS, TELEPHONE OR OTHER UTILITY LINES OR APPURTENANCES, SANITARY AND STORM SEWERS, DRAINAGE WAYS, STORM WATER DETENTION AND RETENTION, WATER MAINS AND ANY AND ALL MANHOLES, HYDRANTS, PIPES, CONNECTIONS, CATCH BASINS, BUFFALO BOXES, AND WITHOUT LIMITATION, SUCH OTHER INSTALLATIONS AS MAY BE REQUIRED TO FURNISH PUBLIC UTILITY SERVICE TO ADJACENT AREAS, AND SUCH APPURTENANCES AND ADDITIONS THERETO AS SAID CITY AND UTILITIES MAY DEEM NECESSARY TOGETHER WITH THE RIGHT OF ACCESS WITHIN SUCH AREA PLATTED HEREON FOR THE NECESSARY PERSONNEL AND EQUIPMENT TO DO ANY OR ALL OF THE ABOVE WORK. THE RIGHT IS ALSO HEREBY GRANTED TO SAID CITY AND UTILITIES TO CUT DOWN, TRIM OR REMOVE ANY TREES, SHRUBS, OR OTHER PLANTS THAT INTERFERE WITH THE OPERATION OF OR ACCESS TO SAID SEWERS, OR, WITHOUT LIMITATION, UTILITY INSTALLATIONS IN, ON, UPON, OR ACROSS, UNDER OR THROUGH SAID EASEMENTS. NO PERMANENT BUILDINGS OR TREES SHALL BE PLACED ON SAID EASEMENTS, BUT SAME MAY BE USED FOR GARDENS, SHRUBS, LANDSCAPING, AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE AFORESAID USES AND RIGHTS. WHERE AN EASEMENT IS USED FOR STORM OR SANITARY SEWERS, OTHER UTILITY INSTALLATIONS SHALL BE SUBJECT TO THE PRIOR APPROVAL OF SAID CITY OF ST. CHARLES SO AS NOT TO INTERFERE WITH THE GRAVITY FLOW IN SAID SEWER OR SEWERS. ENCLOSURES SHALL NOT BE ERECTED UPON SAID EASEMENTS EXCEPT WHERE SPECIFICALLY PERMITTED BY WRITTEN AUTHORITY OF THE CITY OF ST. CHARLES.

UTILITY EASEMENT PROVISIONS

PERMANENT NON-EXCLUSIVE EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF ST. CHARLES, KANE AND DU PAGE COUNTIES, ILLINOIS, AND TO ITS SUCCESSORS AND ASSIGNS IN, UPON, ACROSS, OVER, UNDER AND THROUGH THE AREAS SHOWN AS OUTLOTS A, B, C AND G ON THE PLAT OF SUBDIVISION HEREON DRAWN FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, INSPECTING, OPERATING, REPLACING, RENEWING, ALTERING, ENLARGING, REMOVING, REPAIRING, CLEANING AND MAINTAINING ELECTRICAL, CABLE TELEVISION, COMMUNICATION, GAS, TELEPHONE OR OTHER UTILITY LINES OR APPURTENANCES, SANITARY AND STORM SEWERS, DRAINAGE WAYS, STORM WATER DETENTION AND RETENTION, WATER MAINS AND ANY AND ALL MANHOLES, HYDRANTS, PIPES, CONNECTIONS, CATCH BASINS, BUFFALO BOXES, AND WITHOUT LIMITATION, SUCH OTHER INSTALLATIONS AS MAY BE REQUIRED TO FURNISH PUBLIC UTILITY SERVICE TO ADJACENT AREAS, AND SUCH APPURTENANCES AND ADDITIONS THERETO AS SAID CITY AND UTILITIES MAY DEEM NECESSARY TOGETHER WITH THE RIGHT OF ACCESS WITHIN SUCH AREA PLATTED HEREON FOR THE NECESSARY PERSONNEL AND EQUIPMENT TO DO ANY OR ALL OF THE ABOVE WORK. THE RIGHT IS ALSO HEREBY GRANTED TO SAID CITY AND UTILITIES TO CUT DOWN, TRIM OR REMOVE ANY TREES, SHRUBS, OR OTHER PLANTS THAT INTERFERE WITH THE OPERATION OF OR ACCESS TO SAID SEWERS, OR, WITHOUT LIMITATION, UTILITY INSTALLATIONS IN, ON, UPON, OR ACROSS, UNDER OR THROUGH SAID EASEMENTS. NO PERMANENT BUILDINGS OR TREES SHALL BE PLACED ON SAID EASEMENTS, BUT SAME MAY BE USED FOR GARDENS, SHRUBS, LANDSCAPING, AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE AFORESAID USES AND RIGHTS. WHERE AN EASEMENT IS USED FOR STORM OR SANITARY SEWERS, OTHER UTILITY INSTALLATIONS SHALL BE SUBJECT TO THE PRIOR APPROVAL OF SAID CITY OF ST. CHARLES SO AS NOT TO INTERFERE WITH THE GRAVITY FLOW IN SAID SEWER OR SEWERS. ENCLOSURES SHALL NOT BE ERECTED UPON SAID EASEMENTS EXCEPT WHERE SPECIFICALLY PERMITTED BY WRITTEN AUTHORITY OF THE CITY OF ST. CHARLES.

PLAT OF SURVEY

OF
LOT 57 IN WOODS OF FOX GLEN UNIT TWO, IN THE CITY OF ST. CHARLES, KANE COUNTY, ILLINOIS.



56

58

COMPARE ALL POINTS BEFORE BUILDING AND REPORT ANY DIFFERENCES AT ONCE.

FJM LAND SURVEYING
 TELEPHONE: (830) 587-8080
 FACSIMILE: (830) 587-8081
 EMAIL: FJMSURVEY@AOL.COM
 8 N 588 WILLOWROCK DRIVE
 ST. CHARLES, ILLINOIS 60178

State of Illinois)
 County of Kane) S. S.
 I, Frank J. McDaniel, an Illinois Professional Land Surveyor, No. 2256, do hereby certify that the Plat shown herein is a correct representation of a survey performed by and under my direction. This professional service conforms to the current Illinois minimum standards for a boundary survey.
 All dimensions shown in feet and decimal parts thereof.
 Given under my hand and seal in St. Charles, Illinois, this 21st day of June, A.D. 2006.

Frank J. McDaniel, P.L.S. #2256
 License Renewal/Date of Expiration = 11/30/2018

Prepared for: Mark C. Corham, Attorney at Law
 Job No. 06-7063
 Address: 2805 Glenbriar Drive, St. Charles

Sub to Plat
 FOR BUILDING RESTRICTIONS AND EASEMENTS NOT SHOWN REFER TO YOUR ABSTRACT, DEED, EASEMENTS POLICY, AND LOCAL ORDINANCES
 ○ SHED FOR SET 9-06010
 ○ SHED FOR FOUND 9-06010

Subject: Woods of Fox Glen

Date: Monday, June 3, 2019 at 1:38:57 PM Central Daylight Time

From: tracey carragher

To: Emir Abinion

CC: Robert Behan

Emir, the WFG Bod is meeting on Wednesday. While we have been in discussions for some time about this, we expect to come to resolution on Wednesday night. As respects your request for fence approval, we are very comfortable with your going forward with a fence in accordance with our covenants and by-laws. Please express this to the City, and we will will support your installation. The Board has no authority to oversee,overrule,or enforce any installations in compliance with City ordinances. In short, the Board cannot deny what the city has approved.

We are proud to have you as a neighbor, Emir, and very much appreciate your professionalism and consideration.

With Best Regards,

Tracey A Carragher

President, Woods of Fox Glen



CROWN

TREE CARE, INC.

109 Woodland Park Cir.

Gilberts, IL. 60136

P: 847-888-9916

C: 847-553-6056

rbolanos1491@sbcglobal.net

To whom it may concern,

In regard to a request by Mr. and Mrs. Abinion, of 2905 Glenbriar dr., St Charles, IL. 60174, I have inspected the trees in the area and the potential impact to the trees in the area of the proposed new fence to be installed and give my approval for the project to proceed. It is my expert opinion as a certified arborist, ISA, and IAA member that the impact would be minimal at worst. Additionally, as a proactive measure, it is my recommendation that we fertilize the surrounding trees in the area for the next two years, twice a year in the spring and in the fall, with organic chelated micro and macro nutrients administered throughout the rootzone via soil injection feeding combined with soil surface application to reduce the possibility of tree health decline in the event of any disturbance to the roots. Please feel free to contact me with any questions, comments, or concerns.

Thank you,

R. Bolanos 5/28/19

Rogelio Bolanos

Certified Arborist IL-1621-A

ISA and IAA Member











City of St. Charles, Illinois

Two East Main Street St. Charles, IL 60174-1984

Phone: 630-377-4400 Fax: 630-377-4140 - www.stcharlesil.gov

Precision GIS

RAYMOND ROGINA *Mayor*

MARK KOENEN *City Administrator*



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 Kane County, Illinois
 DuPage County, Illinois
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 North American Datum 1983
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