



AGENDA ITEM #9E/9F/9G

**AGENDA ITEM EXECUTIVE SUMMARY
Village Board Meeting
7/24/2023**

Item Title: 22W049 Irving Park Road Pre-Annexation Renewal

Staff Contact: Caron Bricks, AICP, Community Development Manager

OLD BUSINESS

VILLAGE BOARD ACTION:

1. Open the public hearing for the pre-annexation of 22W049 Irving Park Road, Roselle, Illinois.
2. Close the public hearing for the pre-annexation of 22W049 Irving Park Road, Roselle, Illinois.
3. Pass an ordinance approving and authorizing the execution of an amendment to the pre-annexation agreement for the property commonly referred to 22W049 Irving Park Road, Roselle, Illinois.

Executive Summary:

The public hearing notice for the pre-annexation of 22W049 Irving Park Road was published in the *Daily Herald on July 8, 2023*. The subject property entered into a pre-annexation agreement with the Village in 2003 in order to connect the single-family residence to the Village’s water and sewer mains. The 20-year period of the agreement has since expired and the current property owner desires to enter into a new agreement to continue to receive Village water.

The terms of the agreement are generally the same. As the property does not have a sidewalk and is located on Irving Park Road (jurisdiction of IDOT), the property owner will pay for 50% of the estimated value of construction of a sidewalk across the frontage of the property upon annexation. The new agreement will expire in 2043.

Implications:

Is this item budgeted? N/A

Estimated cost: N/A

Any other implications to be considered? N/A

Strategic Priority:

N/A

Attachments:

Public Hearing Notice
Ordinance

**NOTICE OF A
PUBLIC HEARING
PRE-ANNEXATION
AGREEMENT**

NOTICE IS HEREBY GIVEN that on the 24th day of July, 2023, at the hour of 7:00 p.m. the Board of Trustees of the Village of Roselle will conduct a public hearing during the course of the regularly scheduled meeting of the Village Board of the Roselle Village Hall, 31 S. Prospect Street, Roselle, Illinois, 60172, Second Floor, Council Chambers, for the purpose of renewing a pre-annexation agreement for the property commonly referred to as 22W049 Irving Park Road, Roselle, Illinois and legally described as:

Lot 19 in Block 3 in Branigan's Medinah Hills Unit Three, being a subdivision of part of Sections 2 and 11, Township 40 North, Range 10, East of the Third Principal Meridian, according to the plat thereof, recorded November 16, 1953 as Document No. 701129 and Certificate of Correction filed November 25, 1953 as Document No. 701985, in DuPage County, Illinois. (PIN 02-11-202-009).

Specifically, the Village will renew the agreement for an additional 20 years. A copy of the proposed amendment to the respective pre-annexation agreements are on file with the Village Clerk. You are further notified that the proposed pre-annexation agreement may be changed, altered, modified, amended or redrafted in its entirety after the public hearing. All persons present shall be given an opportunity to be heard.

Published in Daily Herald
July 8, 2023 (4602501)

CERTIFICATE OF PUBLICATION
Paddock Publications, Inc.

DuPage County
Daily Herald

Corporation organized and existing under and by virtue of the laws of the State of Illinois, DOES HEREBY CERTIFY that it is the publisher of the **DuPage County DAILY HERALD**. That said **DuPage County DAILY HERALD** is a secular newspaper, published in Naperville, DuPage County, State of Illinois, and has been in general circulation daily throughout DuPage County, continuously for more than 50 weeks prior to the first Publication of the attached notice, and a newspaper as defined by 715 ILCS 5/5.

I further certify that the **DuPage County DAILY HERALD** is a newspaper as defined in "an Act to revise the law in relation to notices" as amended in 1992 Illinois Compiled Statutes, Chapter 715, Act 5, Section 1 and 5. That a notice of which the annexed printed slip is a true copy, was published 07/08/2023 in said **DuPage County DAILY HERALD**. This notice was also placed on a statewide public notice website as required by 5 ILCS 5/2.1.

BY *Danula Baltz*
Designee of the Publisher of the Daily Herald

Control # 4602501



THE VILLAGE OF ROSELLE
DUPAGE AND COOK COUNTIES, ILLINOIS

ORDINANCE
NUMBER _____

**AN ORDINANCE
APPROVING AND AUTHORIZING
THE EXECUTION OF
A PRE-ANNEXATION AGREEMENT FOR
THE PROPERTY COMMONLY REFERRED TO AS
22W049 IRVING PARK ROAD, ROSELLE, ILLINOIS**

DAVID PILESKI, Mayor
AMANDA HAUSMAN, Village Clerk

TOM DELLA PENNA
WAYNE D. DOMKE
DENA FORSYTHE
CHERYL LENISA
TOM PIORKOWSKI
LEE TREJO

Village Board

Published in pamphlet form by authority of the
Mayor and the Board of Trustees of the Village of Roselle
on this the 24th day of July, 2023

ORDINANCE NO. _____

**AN ORDINANCE
APPROVING AND AUTHORIZING
THE EXECUTION OF
A PRE-ANNEXATION AGREEMENT FOR
THE PROPERTY COMMONLY REFERRED TO AS
22W049 IRVING PARK ROAD, ROSELLE, ILLINOIS**

WHEREAS, the Village of Roselle (hereinafter referred to as the "Village") is a municipal corporation organized pursuant to the laws of the State of Illinois possessing certain powers and perform certain functions pertaining to its local government and affairs as provided for by and through the Illinois Municipal Code and Illinois Statute;

WHEREAS, Raymond Schmidt (hereinafter referred to as the "Owner") is the owner of record of the real estate commonly referred to as 22W049 Irving Park Road, Roselle, Illinois (hereinafter referred to as the "Subject Property");

WHEREAS, on or about June 16, 2003 the Village and Owner entered into a pre-annexation agreement pertaining to the Subject Property providing for the annexation of the Subject Property into the corporate limits of the Village of Roselle;

WHEREAS, the pre-annexation agreement entered into on or about June 16, 2003 recently expired and the Owner has submitted a written petition requesting that the pre-annexation agreement be renewed/extended for an additional twenty year term (hereinafter referred to as the "Petition") a copy of which is attached hereto and made a part hereof as Exhibit A;

WHEREAS, there has been presented to the Corporate Authorities of the Village of Roselle, DuPage and Cook Counties, Illinois, a proposed Pre-Annexation Agreement (hereinafter referred to as "Agreement") by and between the Owner and the Village pertaining to the Subject Property, pursuant to the provisions of Section 11, Division 15.1 of the Illinois Municipal Code;

WHEREAS, the Village published a notice of public hearing a copy of which is attached hereto and made a part hereof as Exhibit E in a newspaper of general circulation on July 8, 2023 in accordance with State Statute;

WHEREAS, a public hearing upon the Pre-Annexation Agreement has been held on July 24, 2023 by the Corporate Authorities of the Village, after proper public notice pursuant to the provisions of statute; and

WHEREAS, the Corporate Authorities of the Village, after carefully considering the testimony and evidence presented at said public hearing and after making further careful investigation of the matters set forth in the proposed Pre-Annexation Agreement, have determined that it is in the best interest of the Village of Roselle to enter into said Agreement with the Owner of record of the Subject Property.

NOW, THEREFORE, BE IT ORDAINED, in open meeting assembled, by the Village President and Board of Trustees of the Village of Roselle, DuPage and Cook Counties, Illinois, as follows:

Section One – Recitals

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preamble to the ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this ordinance as legislative findings.

Section Two – Approval of Pre-Annexation Agreement

The Corporate Authorities of the Village of Roselle hereby approves the Pre-Annexation Agreement substantially in the form attached hereto and made a part hereof as Exhibit B. That the location of the Subject Property, legally described in Exhibit C is illustrated on a plat of survey a copy of which is attached hereto and made a part hereof as Exhibit D.

Section Three – Authorization and Direction

The Village President is hereby authorized to execute, and the Village Clerk is hereby authorized to attest the Pre-Annexation Agreement, substantially in the form of such agreement attached hereto as Exhibit B, with such changes therein as shall be approved by the Village Attorney and the officials of the Village executing the same, their execution thereof to constitute exclusive evidence of their approval to any and all changes or revisions therein from and after the execution and delivery of such agreement.

Section Four - Other Actions Authorized

The officers, employees and/or agents of the Village shall take all actions necessary or reasonably required to carry out and give effect to the intent of this ordinance and otherwise to consummate the transactions contemplated herein and shall take all actions necessary in conformity therewith including, without limitation, the execution and delivery of all documents required to be delivered in connection with the transaction contemplated herein.

Section Five - Acts of Village Officials

That all past, present and future acts and doings of the officials of the Village that are in conformity with the purpose and intent of this ordinance are hereby, in all respects, ratified, approved, authorized and confirmed.

Section Six – Effective Date

This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law. Provided further, that this ordinance shall automatically become null and void without further action of the corporate authorities unless, within thirty (30) days of the passage of this ordinance, the Pre-Annexation Agreement is signed by the Owner and returned to the Village Clerk for executing and recording. Extensions to this section may be granted by the President and Board of Trustees in their sole discretion following a formal written request.

Section Seven - Publication

This ordinance shall be published in book or pamphlet form as provided by the Illinois Municipal Code.

Section Eight – Conflict Clause

All ordinances, parts of ordinances, resolutions, parts of resolutions or board actions in conflict herewith are hereby repealed to the extent of such conflict.

Section Nine – Saving Clause

If any section, paragraph, clause or provision of this ordinance is declared by a court of law to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity of any other provisions of this ordinance which are hereby declared to be separable. The application of this ordinance to the real estate herein before described (other than those portions of said real estate as to which it should have been held invalid), shall not be affected thereby.

Section Ten – Recording

This ordinance shall be entered into the minutes and upon the journals of the Board of Trustees of the Village of Roselle.

The Remainder of this Page has been Intentionally Left Blank / Roll Call Vote to follow:

DECIDED pursuant to a Roll Call Vote:

	YES	NO	ABSENT	PRESENT
Tom Della Penna				
Wayne D. Domke				
Dena Forsythe				
Cheryl Lenisa				
Tom Piorkowski				
Lee Trejo				
David Pileski				
TOTAL				

PASSED AND APPROVED by the Village of Roselle Board of Trustees on the 24th day of July, 2023:

David Pileski
Mayor

ATTEST:

Amanda Hausman
Village Clerk

STATE OF ILLINOIS)
) SS
 COUNTIES OF DUPAGE AND COOK)

CLERK’S CERTIFICATION

I, Amanda Hausman hereby certify that I am the duly appointed and qualified Village Clerk in and for the Village of Roselle, DuPage and Cook Counties, Illinois; that I am the keeper of the files, records, and seal of said Village, and that the following is a true and correct copy of Ordinance No. _____

**AN ORDINANCE
 APPROVING AND AUTHORIZING
 THE EXECUTION OF A PRE-ANNEXATION AGREEMENT FOR
 THE PROPERTY COMMONLY REFERRED TO AS
 22W049 IRVING PARK ROAD, ROSELLE, ILLINOIS**

adopted and approved by the Mayor and the Board of Trustees at an official meeting held on July 24, 2023 and that the vote on the motion for adoption was as follows:

	YES	NO	ABSENT	PRESENT
Tom Della Penna				
Wayne D. Domke				
Dena Forsythe				
Cheryl Lenisa				
Tom Piorkowski				
Lee Trejo				
David Pileski				
TOTAL				

I do further certify that the deliberations of the Board on the adoption of said ordinance were conducted openly, that the vote on the adoption of said ordinance was taken openly, that said meeting was called and held at a specified time and place convenient to the public, that notice of said meeting was duly given to all of the news media requesting such notice, that said meeting was called and held in strict compliance with the provisions of the Open Meetings Act of the State of Illinois, as amended, and with the provisions of the Village Code of the Village of Roselle, as amended, and that the Board has complied with all of the provisions of said Act and said Code and with all of the procedural rules of the Board.

I further state that this Certification is issued under my hand and the seal of the Village of Roselle as required in the Illinois Compiled Statues 65 ILCS 5/1-2-4.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Corporate Seal of said Village of Roselle, DuPage and Cook Counties, Illinois on the date set forth herein.

 Amanda Hausman, Village Clerk

(SEAL)

Exhibit A
Petition

DRAFT

Exhibit B

Pre-Annexation Agreement

DRAFT

Exhibit C

Legal Description

Lot 19 in Block 3 in Branigar's Medinah Hills Unit Three, being a subdivision of part of Sections 2 and 11, Township 40 North, Range 10, East of the Third Principal Meridian, according to the plat thereof, recorded November 16, 1953 as Document No. 701129 and Certificate of Correction filed November 25, 1953 as Document No. 701985, in DuPage County, Illinois.

PIN 02-11-202-009

DRAFT

Exhibit D
Plat of Survey

DRAFT

Exhibit E
Public Notice

DRAFT

PRE-ANNEXATION AGREEMENT

THIS PRE-ANNEXATION AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into on this the 24th day of July, 2023 by and between the Village of Roselle, an Illinois municipal corporation whose principal place of business is located at 31 S. Prospect Street, Roselle, Illinois 60172 (hereinafter referred to as "Village") and Raymond Schmidt (hereinafter referred to as the "Owner") who owns 22W049 Irving Park Road, Roselle, Illinois 60172.

Recitals

WHEREAS, the Owner controls the real estate located at 22W049 Irving Park Road, Roselle, Illinois, as illustrated on a plat of survey, marked as Exhibit A, which is attached hereto and made a part hereof this Agreement (said real estate will hereinafter be referred to as "Property" which is legally described in Exhibit B which is attached hereto and made a part hereof);

WHEREAS, the Property is not contiguous to the corporate limits, but the Village has concluded that entering into this pre-annexation agreement of the Property under the terms and conditions of this Agreement will enable the Village to control development of the area, permit the sound planning and development of the Village, and otherwise enhance and promote the health, safety and general welfare of the Village;

WHEREAS, pursuant to the provisions of the Roselle Village Code and applicable provisions of the Illinois Compiled Statutes and Illinois Constitution, a proposed Petition for Pre-Annexation in substance and form of the same as this Agreement was submitted to the President and Board of Trustees of the Village of Roselle, and a public hearing was held on July 24, 2023 thereon pursuant to the notices provided by ordinance and statute; and

WHEREAS, the Property is developed as a single-family detached dwelling on a parcel of land that is not less than 100 feet wide and is greater than 16,000 square feet in area, which is classified as an R-1 Single Family Residence District in the Roselle Zoning Code.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto hereby agree as follows:

Section One – Recitals

That the recitals hereinbefore stated as contained in the preamble to this Agreement are full, true and correct and are hereby, by reference, incorporated herein and made a part hereof as if set forth herein.

Section Two – Legal Conformance with the Law

This Agreement is made pursuant to and in accordance with the provisions of the Village of Roselle Code of Ordinances (hereinafter referred to as the "Roselle Village Code"), the applicable provisions of the Illinois Compiled Statutes and the Illinois Constitution.

Section Three – Petition to Annex

The Owner has filed with the Village of Roselle Village Clerk a proper petition pursuant to the provisions of the Illinois Municipal Code (65 ILCS 5/7-1 -8) conditioned on the execution of

this Agreement, to annex the Property to the Village. This Agreement in its entirety, together with the aforesaid Petition for Pre-Annexation, shall be null, void, and of no effect unless the Property is validly zoned and classified under the Village's Zoning Ordinance as hereinafter set forth and amended.

Section Four – Annexation Ordinance

Once the Property becomes contiguous to the Corporate Limits of the Village of Roselle, the Village, at its sole discretion, may thereafter enact an ordinance annexing the Property to the Village. Prior to annexation, the Owner shall have a Plat of Annexation prepared at the Owners' sole expense.

Section Five - Rezoning

Upon annexation, the Property shall cease being zoned by DuPage County as R-3 Single Family Residence and shall be classified R-1 Single Family Residence in conformance with the Roselle Zoning Code.

Section Six – Development/Construction Standards

Any future development of or construction on the Property shall be in full conformance with the Roselle Zoning Ordinance, Subdivision Control Ordinance, Building Code and other ordinances, codes, rules and regulations of the Village pertaining to the development of the Property to be annexed, except as may be specifically amended pursuant to the terms of this Agreement, as may be amended from time to time.

Section Seven – Variations in Local Codes

Unless stated in the annexation or rezoning ordinances pertaining to the Property, there shall be no specific variations from the Village's ordinances, rules and codes which have been requested or which are permitted with respect to the development / construction of the Property. The Owner may subsequently apply for specific variations from the Village's ordinances, rules and codes without amending this Agreement, provided, however, such applications shall satisfy all standards related to variations.

Section Eight – Utilities and Public Improvements

As a condition of this Agreement, the Owner is requesting connection to and service from the following Village utilities and public improvements. The Owner understands that any connection to these Village utilities and public improvements shall be done in accordance with Village engineering standards and the Village Code and such extension and all costs related thereto shall be the responsibility of the Owner and/or the Owners' contractor:

- a) Water Facilities. The Owner has previously connected to the Village water main and further agrees to remain connected to said water main for the duration of this agreement and upon annexation of said property into the Village.
- b) Sanitary Sewer Facilities. The Owner has previously connected to the Village sanitary sewer and further agrees to remain connected to said sanitary sewer for the duration of this agreement and upon annexation of said property into the Village.

- c) Sidewalk. Where a public sidewalk does not exist along the perimeter of the Property, the Village will require Owner to pay 50% of the engineer's estimate for construction of the sidewalk in lieu of constructing said sidewalk at the time of annexation.

Section Nine – Annexation and Permit Fees

The amount of annexation permit, license, inspection, tap-on, recapture or connection fees imposed by the Village, which are applicable to or required by Village Ordinances or Resolutions are to be paid by the Owner.

Section Ten – Roselle Library District

The Property is not currently within the boundaries of the Roselle Library District, however upon annexation will then be within the boundaries of, and subject to taxation by the Roselle Library District.

Section Eleven – Fire Protection District Taxes

Pursuant to the provisions of the Illinois Municipal Code (70 ILCS 705/20) or any successor statute, the Owner shall reimburse the Village for all taxes paid by the Village to any fire protection district as a result of a disconnection resulting from this annexation.

Section Twelve – Medinah Park District

The Property is currently within the boundaries of, and subject to taxation by the Medinah Park District.

Section Thirteen – Conflict in Regulations

The provisions of this Agreement shall supersede the provisions of any ordinances, codes, or regulations of the Village which may be in conflict with the provisions of this Agreement.

Section Fourteen – Amendment of Pre-Annexation Agreement

This Agreement and any exhibits attached hereto may be amended pursuant to the provisions of the Roselle Village Code, Zoning Ordinance and Illinois Municipal Code.

Section Fifteen – Invalidity

If any provision of this Agreement, or any section, sentence, clause, phrase, or word, or the application thereof in any circumstances is held invalid, the validity of the remainder of this Agreement and the application of such provisions, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

Section Sixteen – Term of Agreement

This Agreement shall be binding upon the parties hereto, their respective successors, heirs, administrators, contract purchasers, executors, grantees and assigns for a full term of twenty (20) years from the date of this Agreement.

Section Seventeen – Recording

This Agreement shall be recorded in the Office of Recorder of Deeds of the County of DuPage at the expense of the Owner.

Section Eighteen – Approval

That this ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law, except that this Agreement shall not be effective until the Owner of the Property affix a signature to a true and correct copy of this Agreement, acknowledging that they understand the provisions of this Agreement.

Section Nineteen – Defend and Hold Harmless

The Owner agrees to defend and hold the Village harmless from any and all actions, causes of action, claims, litigation in law or chancery, attorney's fees, and costs required to defend against efforts by anyone to set aside this annexation or the terms of this Agreement.

Section Twenty – Notices

Notices or other writings which any party is required to or may wish to serve upon any other party in connection with this Agreement, shall be in writing and shall be delivered personally or sent by certified or registered mail, return receipt requested, postage prepaid, to the other parties of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have hereunder set their hands and seals on the day and year first above written.

Village of Roselle:

Owner:

David Pileski
Village President

Raymond Schmidt

Attest:

Amanda Hausman
Village Clerk

Exhibit A
Plat of Survey

DRAFT

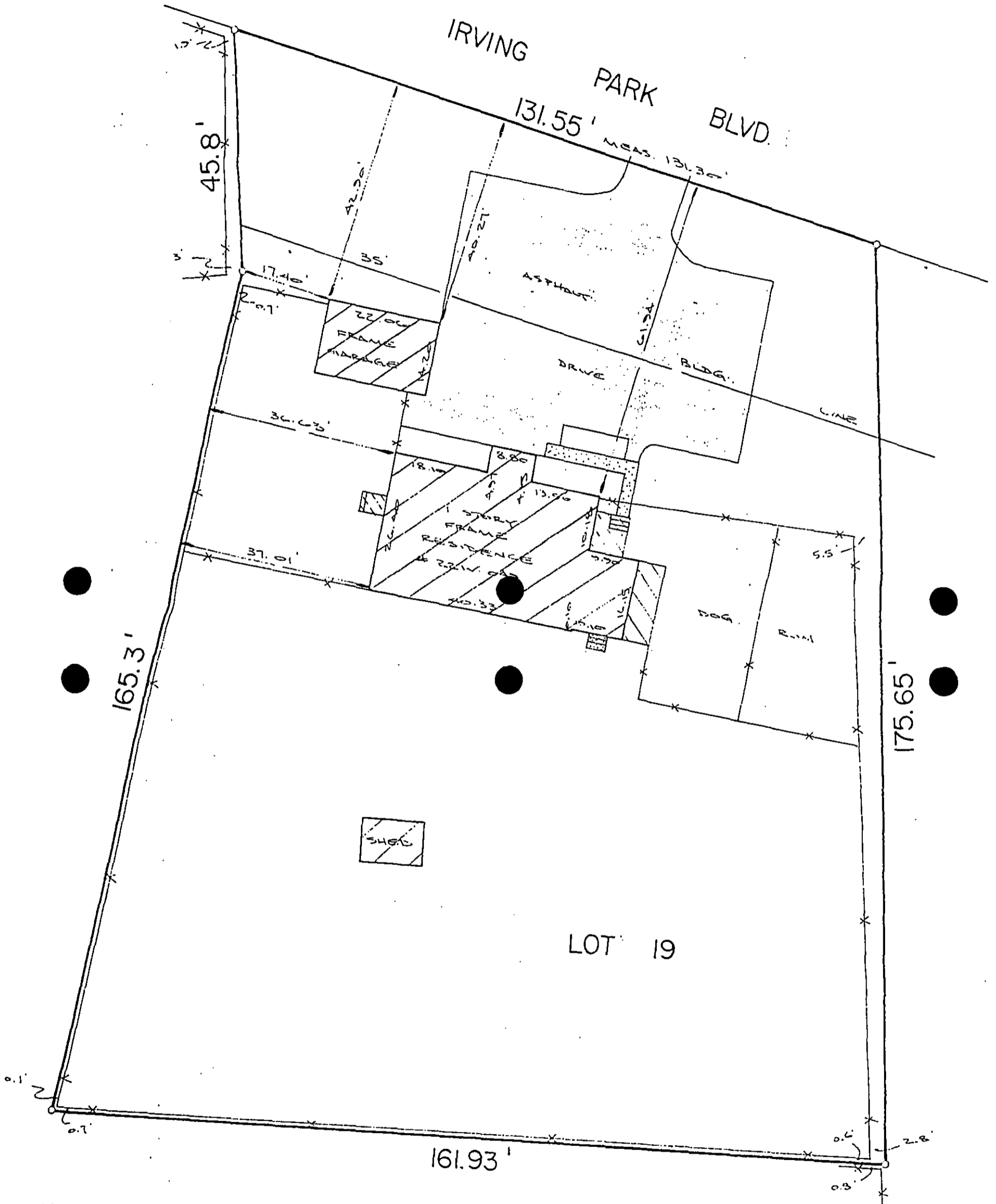
Exhibit B
Legal Description

DRAFT

Plat of Survey

EXHIBIT A

OF PROPERTY DESCRIBED AS: LOT 19 IN BLOCK 3 IN BRANTGAR'S MEDINAH HILLS UNIT THREE, BEING A SUBDIVISION OF PART OF SECTIONS 2 AND 11, TOWNSHIP 40 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 16, 1953 AS DOCUMENT NO. 701129 AND CERTIFICATE OF CORRECTION FILED NOVEMBER 25, 1953 AS DOCUMENT NO. 701985, IN DUPAGE COUNTY, ILLINOIS.



Order # 98344
 Ordered by Ray Schmidt
 Property address 22 W. 049 Irving Park Blvd.
Medinah, IL

State of Illinois)
 County of McHenry) SS

I, William M. TenBusch, an Illinois Professional Land Surveyor, do hereby certify that I have located the above shown buildings as of this 24th day of NOVEMBER, 19 98

William M. TenBusch
 Professional Land Surveyor # 2767

State of Illinois)
 County of McHenry) SS

I, William M. TenBusch, an Illinois Professional Land Surveyor, do hereby certify that I have surveyed the above described property and that this plat is a true and correct representation of said survey as of this 24th day of NOVEMBER, 19 98

William M. TenBusch
 Professional Land Surveyor # 2767

Refer to deed, title policy or local ordinance for any building lines or easements not shown. No dimension or angle shall be assumed by scale.

Plat not valid without embossed seal

- o indicates iron stake found
- indicates iron stake set
- x-x- indicates fencing
- ▨ indicates concrete