

**RESOLUTION NO. 2023-88
(8-8-2023)**

**RESOLUTION AUTHORIZING THE VILLAGE OF CALEDONIA TO EXECUTE A
STORM WATER DRAINAGE EASEMENT AGREEMENT WITH
SCOTT & CHERYL L. BROOKS – 10126 CADDY LANE**

WHEREAS, in the year 2000, the Town of Caledonia as a condition of approval of constructing a single-family home on a lot at 10126 Caddy Lane, required a Storm Water Drainage Easement Agreement be granted over the drainage way that bisects the property.

WHEREAS, the original Storm Water Drainage Easement Agreement was executed by the owners (at the time) but was not recorded.

WHEREAS, the single-family home at 10126 Caddy Lane, recently burned and is in the process of being rebuilt.

WHEREAS, the Village of Caledonia as a condition of approval for reconstructing the single-family home at 10126 Caddy Lane, a Storm Water Drainage Easement Agreement is required to be granted over the drainage way that bisects the property.

WHEREAS, the Owners, Scott & Cheryl L Brooks have executed said Storm Water Drainage Easement Agreement.


WHEREAS, the Caledonia Utility District has authorized the President & Secretary of the Caledonia Utility District to execute the Storm Water Drainage Easement Agreement at their August 2, 2023 meeting.


WHEREAS, the President and Clerk of the Village need to execute the Storm Water Drainage Easement Agreement in order to allow it to be recorded.

NOW, THEREFORE, BE IT RESOLVED by the Caledonia Village Board that the execution of the Storm Water Drainage Easement Agreement as set forth in Exhibit A, which is attached hereto and incorporated herein by reference, is approved and that the Village President and Village Clerk are authorized to execute said Storm Water Drainage Easement Agreement.

Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 8 day of August, 2023.

VILLAGE OF CALEDONIA

By: 
Thomas Weatherston, Village President

Attest: 
Joslyn Hoeffert, Village Clerk

Document Number

**Storm Water Drainage Easement
Agreement:
Scott & Cheryl L. Brooks**

Name and Return Address
**Mr. Anthony A. Bunkelman P.E.
Village of Caledonia
Engineering Department
5043 Chester Lane
Racine, Wisconsin 53402**

104-04-22-04-232-000
Parcel Identification Number (PIN)

STORM WATER DRAINAGE EASEMENT AGREEMENT:
SCOTT BROOKS and CHERYL L. BROOKS

This Storm Water Drainage Easement Agreement ("Agreement") is made the 19th day of July, 2023, by and between **SCOTT BROOKS** and **CHERYL L. BROOKS**, being husband and wife, residing at 10126 Caddy Lane, Caledonia, Wisconsin 53108, referred to in this Agreement as "Owner", and the **VILLAGE OF CALEDONIA**, Racine County, Wisconsin, and the **VILLAGE OF CALEDONIA UTILITY DISTRICT**, a utility district of the Village of Caledonia, Racine County, Wisconsin. The Village of Caledonia and Village of Caledonia Utility District are collectively referred to in this Agreement as the "Grantees".

RECITALS

A. The Owner is the fee simple holder of certain real property in the Village of Caledonia, Racine County, State of Wisconsin, as more particularly described and depicted in the topographic Boundary Survey prepared by Surveying Associates, Inc. and Wisconsin Registered Land Surveyor stamped dated 5-5-23 attached hereto as Exhibit A, and hereby incorporated herein by reference. Said real property is referred to in this Agreement as the "Property".

B. As a part of the approval by the Grantees of the development of the Property, the Grantees have required the Owner to construct, at Owner's own cost and expense, a storm water drainage plan within the area of the Property described and depicted on Exhibit B attached hereto and incorporated herein. Said storm water drainage plan is hereinafter referred to in this Agreement as the "Plan". The Grantees have further required as part of said approval that the Owner enter into an agreement with Grantees setting forth the Owner's responsibility to maintain the Plan and provide Grantees with an access easement.

C. The Grantees have requested that the Owner grant a permanent easement (referred to in this Agreement as the "Storm Water Drainage Easement") over that portion of the Property described in attached Exhibit B, hereinafter referred to in this Agreement as the "Storm Water Drainage Easement Area". The location of the Storm Water Drainage Easement Area with respect to the Property is as shown and described in Exhibit B.

D. The Grantees have requested that the Owner grant a permanent access easement (referred to in this Agreement as the "Ingress/Egress Easement") over the Owner's Property, that will grant to the Grantees, and their employees, officials, commissioners, contractors, consultants, and agents, pedestrian and/or vehicular ingress and egress to and from Caddy Lane and the Storm Water Drainage Easement Area.

E. The Storm Water Drainage Easement Area and the Ingress/Egress Easement Area area collectively referred to in this Agreement as the "Utility Easement Area".

F. As used in this Agreement, the term "Drainage Facilities" shall mean the Plan, the Storm Water Drainage Easement Area, the Ingress/Egress Easement Area, the drainage swales, drainage ditches, pipelines, laterals, culverts, storm sewers and any other structures or improvements that are constructed or installed upon the Utility Easement Area from time to time by the Owner or Grantees, or any other person or entity, or their contractors, successors and assigns, for the conveyance of surface and storm water over, across, under and through the Property.

AGREEMENT

For \$1.00 and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Construction, Use, Operation, Cleaning, Maintenance, Altering, Repairs and Replacements of the Drainage Facilities. The Owner agrees to construct, use, operate, clean, maintain, alter, repair and replace the Drainage Facilities, including, without limitation, mowing, control of weed and algae growth, repair of erosion, and the removal of trees, brush, vegetation and silt, and all other obstacles to the flow of surface water to and from the Drainage Facilities, so that the Drainage Facilities function properly and to their design capacity for the storage and conveyance of storm water and so that there are no obstructions interfering with the location, construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Drainage Facilities. Said obligations shall include the obligation to construct, use, operate, clean, maintain, alter, repair and replace the Drainage Facilities both during the construction thereof and thereafter and in conformity with this Agreement and the Ordinances of the Village of Caledonia and any restrictive covenants applicable to the Property. The Owner shall prevent the Drainage Facilities from becoming a nuisance.

2. Failure to Construct, Clean, Maintain, Alter, Repair and Replace Drainage Facilities. The Grantees shall have the right, but not the responsibility, to enter upon the Property in order to perform construction, cleaning, maintenance, alterations, repairs and replacements of the Drainage Facilities if the Owner fails to do so after receiving a written request from the Grantees. The Owner shall be given at least ten business days after the date of said written request to perform whatever construction, cleaning, maintenance, alterations, repairs and replacements are deemed reasonable and necessary by the Grantees as stated in said notice. Provided, however, that in the event the Grantees determine that emergency action should be performed, then the Grantees may enter upon the Property immediately and perform said emergency action. The Owner shall reimburse Grantees for all costs incurred by the Grantees in performing said construction, cleaning, maintenance, alterations, repairs, replacements and emergency action, including, without limitation, any construction, engineering, legal and administrative costs with respect to the same, upon receiving an invoice for said costs. If Owner fails to pay said costs, then said costs may be assessed upon the Property by the Grantees as a special charge as provided in Wisconsin Statutes Sections 66.0627 and 66.0703, and Owner consents to said assessments and waives notice and hearing with respect to the levying of said assessments in accordance with Wisconsin Statutes Section 66.0703 and/or 66.0627.

3. Alteration or Changes of Drainage Facilities. The Owner shall not make or construct any alteration or change of the Drainage Facilities, including, without limitation, any alteration or change in the grade, elevations, size, shape, capacity, rate of inflow or rate of outflow of the Drainage Facilities, unless the Grantees approve the alteration or change in writing prior to the making or construction of said alteration or change.

4. Indemnification. Owner shall, and hereby does, indemnify and hold harmless the Grantees, and their employees, officials, commissioners, contractors, consultants, and agents from and against any claims, actions, judgments, damages, costs, and expenses (including, but not limited to, reasonable actual attorney fees) and/or liability of any nature whatsoever, that may arise, directly or indirectly, as a result of (i) the existence, construction, use, operation,

cleaning, maintaining, alteration, repair, and/or replacement of the Drainage Facilities, and/or (ii) any property damage and/or bodily injury (including death) that may arise or occur as a result of the foregoing and/or at such locations.

5. Insurance. Owner shall, at Owner's own cost and expense, and prior to the construction of the Drainage Facilities, obtain and maintain a policy of general liability insurance, from a Wisconsin-licensed insurance carrier, that (i) has coverage and policy limits satisfactory to the Grantees, and (ii) has the Grantees named as additional insureds. Such insurance shall be kept and maintained by the Owner throughout the entire term of this Agreement.

6. Grant of Easement. The Owner hereby grants to the Grantees, and to the Grantees' employees, officials, commissioners, contractors, consultants, agents, successors, and assigns, the Ingress/Egress Easement over, across, under, and through the Owner's Property, to and from Caddy Lane and the Storm Water Drainage Easement Area, for the purposes of (i) performing its duties, responsibilities, and easement rights imposed upon and/or granted to the Grantees under this Agreement, and/or (ii) inspecting, monitoring, and/or testing the Drainage Facilities and/or the Utility Easement Area, and (iii) for conveying and/or storing surface and storm waters in, over, across, under, and/or through the Utility Easement Area and the Drainage Facilities.

7. Removal of Obstructions. Owner hereby grants to the Grantees, and to Grantees' employees, officials, commissioners, contractors, consultants, and agents the right to:

- (a) Cut down and remove or trim all trees, bushes or other vegetation existing within the Storm Water Drainage Easement Area, and to cut down and remove or trim all trees, bushes and other vegetation located outside of the Storm Water Drainage Easement Area that interfere with (i) the construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Drainage Facilities within the Storm Water Drainage Easement Area, or (ii) ingress and egress to the Storm Water Drainage Easement Area and Caddy Lane.
- (b) Remove any fences, structures or improvements located within the Storm Water Drainage Easement Area to the extent necessary to (i) carry out the construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Drainage Facilities within the Storm Water Drainage Easement Area, or (ii) maintain ingress and egress to the Storm Water Drainage Easement Area and Caddy Lane.

8. Further Owner Requirements.

(a) No fences, structures or improvements will be erected, and no trees, bushes or other vegetation will be planted, within the Storm Water Drainage Easement Area without the written consent of the Grantees; and

(b) The elevation of the existing ground surface within the Storm Water Drainage Easement Area will not be altered without the written consent of the Grantees.

(c) Owner shall comply with (i) the provisions and requirements of the Site Grading & Drainage Improvements Plan for the Property, prepared by Survey Associates, Inc., dated and Wisconsin Registered Land Surveyor Stamped 5-25-23, as may be approved and/or amended from time to time by the Grantees.

9. Restoration of Surface. The Grantees shall reasonably restore the surface of the Property disturbed by the Grantees' (i) construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Drainage Facilities within the Storm Water Drainage Easement Area or (ii) ingress and egress to the Storm Water Drainage Easement Area. Said restoration shall be to the condition that existed prior to the Grantees' entry on the Property; provided, however that the Grantees shall only be required to (i) restore any disturbed areas of soil with grass seed, and (ii) restore any disturbed paved portion or gravel portion of the Property with similar materials.

10. Non-Use. Non-use or limited use of the rights granted to the Grantees in this Agreement shall not prevent the Grantees from the later use of said rights to the fullest extent authorized in this Agreement.

11. Covenants Run With Land. All of the terms and conditions in this Agreement, including the benefits and burdens, shall run with the land that is the Property and shall be binding upon, inure to the benefit of, and be enforceable by the Owner and the Grantees and their respective successors and assigns.

12. Warranty. The Owner does hereby warrant and covenant that the Owner owns the Property in fee simple and is lawfully seized and possessed of the Property; that the Owner has a good and lawful right to grant the rights granted to the Grantees hereunder; that the Property is free and clear of all liens and encumbrances, except for recorded easements and recorded covenants, that the persons executing this Agreement on behalf of the Owner are fully authorized to execute this Agreement on behalf of the Owner; and that this Agreement is the binding obligation of the Owner.

13. Term. The term of this Agreement shall continue indefinitely, in full force and effect, unless and until amended and/or terminated with the written approval of the Grantees.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

OWNER:

BY: *Scott Brooks*
Scott Brooks

BY: *Cheryl L. Brooks*
Cheryl L. Brooks

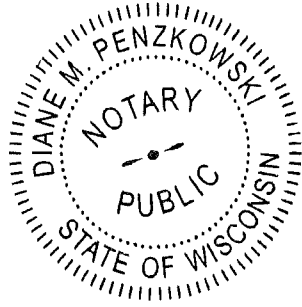
STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this 17th day of July 2023, the above-named **Scott Brooks** and **Cheryl L. Brooks**, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of said Owner.

Diane M. Penzkowski
Notary Public, State of Wisconsin

Diane M. Penzkowski

My Commission expires: 4-2-2024



VILLAGE OF CALEDONIA

BY: *Thomas R. Weatherston*
Thomas R. Weatherston, President

ATTEST: *Joslyn Hoeffert*
Joslyn Hoeffert, Clerk

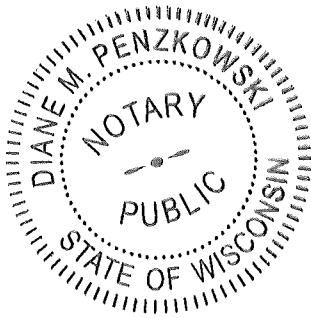
STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this 8th day of August 2023, the above-named **Thomas R. Weatherston, President** and **Joslyn Hoeffert, Clerk**, of the Village of Caledonia, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of the Village of Caledonia.

Diane M. Penzkowski
Notary Public, Racine County, WI

Diane M. Penzkowski

My Commission expires: 4-2-2024



VILLAGE OF CALEDONIA UTILITY DISTRICT

BY: *Howard Stacey*
Howard Stacey, President

ATTEST: *Robert Kaplan*
Robert Kaplan, Secretary

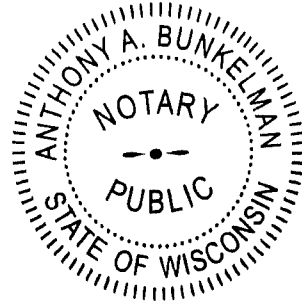
STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this 2nd day of August 2023, the above-named, **Howard Stacey, President** and **Robert Kaplan, Secretary**, of the Village of Caledonia Utility District, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of the Village of Caledonia Utility District.

Anthony A. Bunkelman
Notary Public, State of Wisconsin

Anthony A. Bunkelman

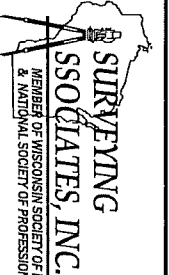
My Commission expires: July 26, 2027



This Instrument Was Drafted By: Richard W. Sehrbrock

EXHIBIT "A"

TOPOGRAPHIC BOUNDARY SURVEY



MARC C. PASSARELLI P.L.S.
2554 N. 10TH STREET
WAUKESHA, WISCONSIN 53186
(414) 257-2212 FAX: (414) 257-2443
sai@h1ttr.com

10126 CADDY LANE 104-04-22-04-232-000

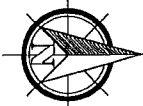
LEGAL DESCRIPTION

Lot 42, Block "B", and Outlot "A", Block "B", Caddy Vista South Second Addition, being a Subdivision of a part of the Northwest 1/4 and a part of the Northeast 1/4 of the Northwest 1/4 of Section 4, Township 4 North, Range 22 East, in the Town of Caledonia, Racine County, Wisconsin.

| CURVE | LENGTH | RADIUS | CHORD BEARING | CHORD LENGTH | DELTA |
|-------|---------|---------|---------------|--------------|-----------|
| C1 | 115.00' | 365.00' | S87°33'24"W | 114.55' | 18°00'24" |
| C2 | 40.00' | 365.00' | N86°24'36"W | 35.98' | 6°15'44" |
| C3 | 75.00' | 365.00' | S84°25'18"W | 74.89' | 11°44'28" |

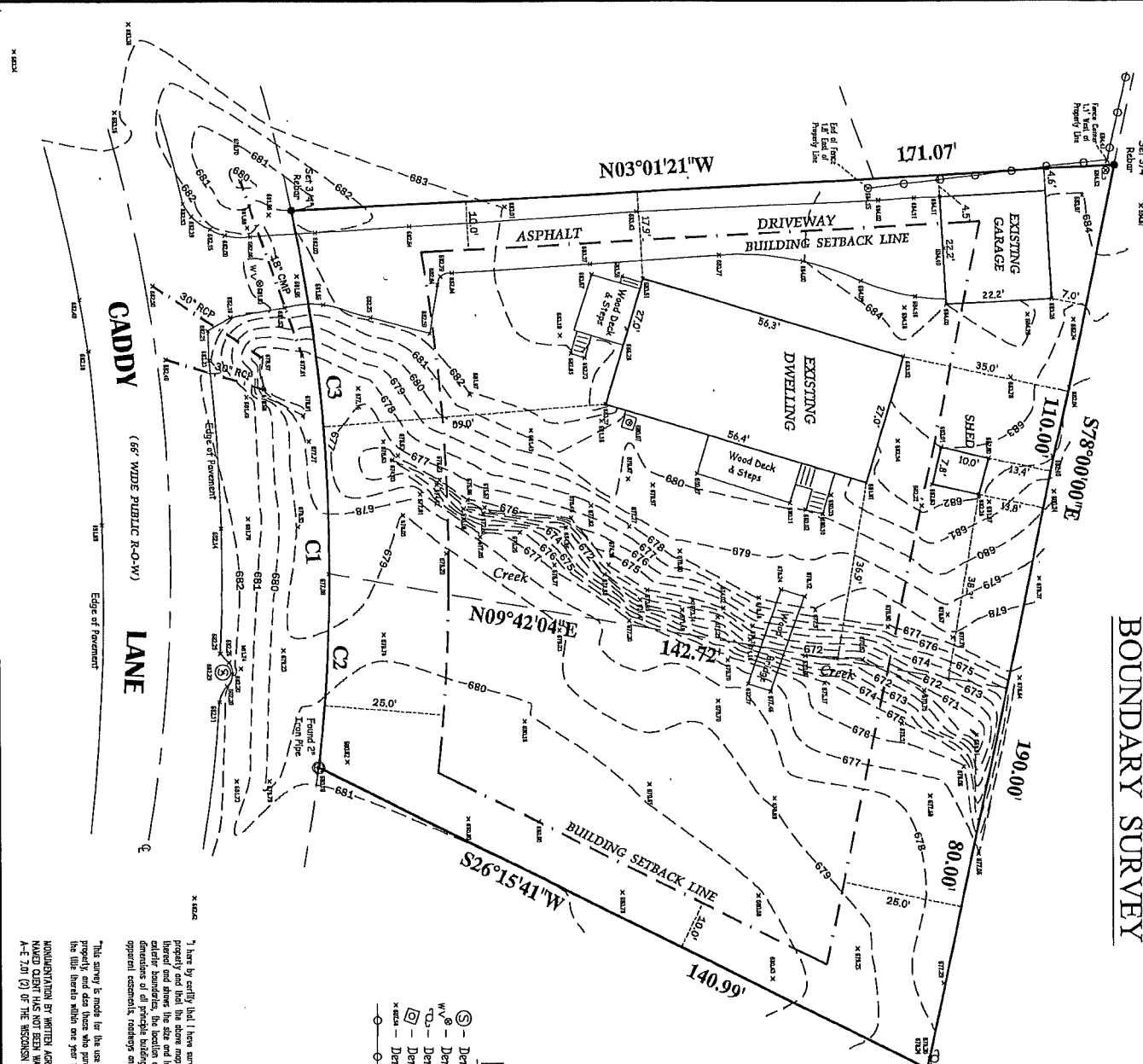
NOT TO SCALE
GRAPHIC SCALE

(IN EXHIBIT)
1 inch = 10 ft.



AREA OF PROPERTY
22,434 Sq. Ft. / 0.515 Acre

BENCHMARK FOR ELEVATIONS:
Concrete Monument with Brass Cap
Marking the Northwest Corner of the
Northwest 1/4 of Section 4-04-22
Elevation: 669.21 NAVD 1983 Datum



LEGEND

- ⊙ - Denotes Existing Sewer Manhole
- ⊗ - Denotes Existing Water Valve
- ⊕ - Denotes Existing Power Pole
- ⊖ - Denotes Existing AC Unit
- ⊙ - Denotes Existing Spot Elevation
- ⊖ - Denotes Chain Link Fence

I have by earth that I have surveyed the above described property and that the above map is a true representation thereof and shows the size and location of property, its relative bearings, the location of the visible structures and other features, the location of the spot elevations and special remarks, readings and measurements, if any.

This survey is made for the use of the present owner of the property and does not guarantee, warrant, or guarantee the title thereto when one year from date hereof.
INDENTATION BY WRITTEN AGREEMENT WITH THE ABOVE NAMED CLIENT HAS NOT BEEN WAVED IN ACCORDANCE WITH A-E-7.01 (2) OF THE WISCONSIN ADMINISTRATIVE CODE.

Marc C. Passarelli
MARC C. PASSARELLI P.L.S.
MARC C. PASSARELLI P.L.S.
MARC C. PASSARELLI P.L.S.



| | | |
|---------------|------------|-------------|
| FIELD WORK BY | DATE | PROJECT NO. |
| JE/MMW | 05/09/2023 | 36503 |
| DRAWN BY | DATE | SCALE |
| MCP | 05/25/2023 | 1" = 15' |
| APPROVED BY | DATE | |
| REVIEWED BY | | SHEET NO. |
| | | 1 of 1 |

TOPOGRAPHIC BOUNDARY SURVEY

**SURVEYING
ASSOCIATES, INC.**
MEMBER OF PROFESSIONAL SOCIETY OF LAND SURVEYORS
& NATIONAL SOCIETY OF PROFESSIONAL SURVEYORS

MARC C. PASSARELLI P.L.S.
254 N. 10TH STREET
P.O. BOX 2696
WAUKESHA, WISCONSIN 53186
(414) 257-2112 FAX: (414) 257-2443
SAL@WLSA.COM

10126 Caddy Lane Caledonia WI 53108
Parcel # 104-04-22-04-232-000

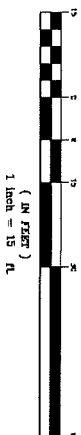
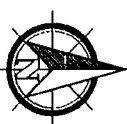
LEGAL DESCRIPTION

Lot 42, Block "B", and Outlot "A", Block "B", Caddy Vista South Second Addition, being a Subdivision of a part of the Northwest 1/4 and a part of the Northeast 1/4 of the Northwest 1/4 of Section 4, Township 4 North, Range 22 East, in the Town of Caledonia, Racine County, Wisconsin.

| CHAIN | LENGTH | RADIUS | CHORD BEARING | CHORD LENGTH | DELTA |
|-------|---------|---------|---------------|--------------|-----------|
| C1 | 110.00' | 346.00' | S87°13'27"W | 114.95' | 180°24' |
| C2 | 40.00' | 346.00' | N85°54'36"W | 39.98' | 67°15'44" |
| C3 | 75.00' | 346.00' | S84°22'18"W | 74.97' | 154°42' |

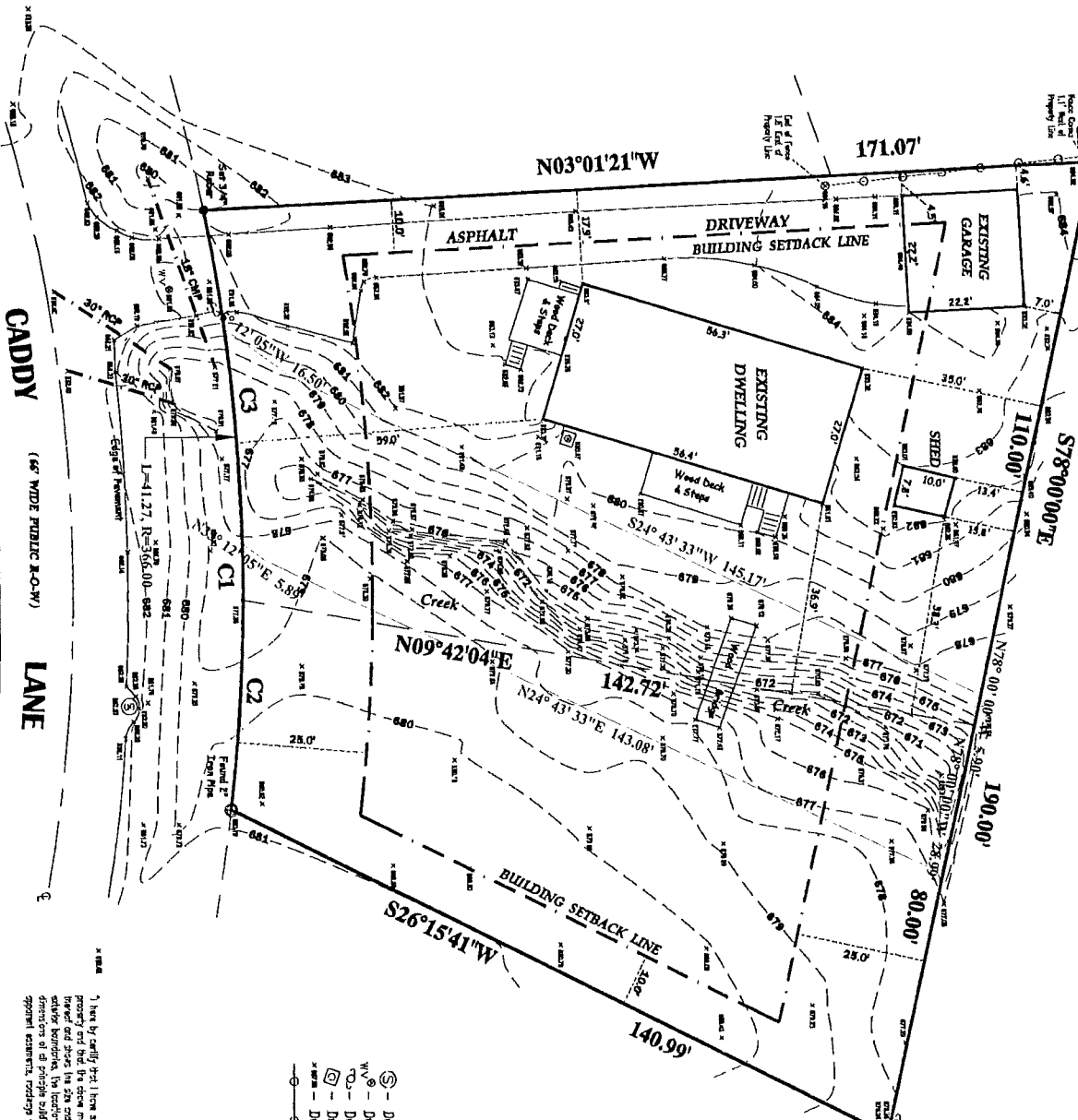
Not to Scale

GRAPHIC SCALE



AREA OF PROPERTY
22,434 Sq. Ft. / 0.515 Acre

BENCHMARK FOR ELEVATIONS:
Concrete Monument with Brass Cap
Marking the Northwest Corner of the
Northwest 1/4 of Section 4-04-22
Elevation: 689.21' NAVD 1983 Datum



LEGEND

- ⊙ - Denotes Existing Sewer Manhole
- ⊕ - Denotes Existing Meter Valve
- ⊖ - Denotes Existing Power Pole
- ⊗ - Denotes Existing AC Unit
- ⊘ - Denotes Existing Spot Elevation
- ⊙ - Denotes Chain Link Fence

This survey is made for the use of the present owners of the property, and does not constitute a warranty, representation, or guarantee of the accuracy of the survey. It is the responsibility of the client to verify the accuracy of the survey. The survey is not to be used for any other purpose without the written consent of the surveyor.

REVISIONS BY: MCTH, MGBEST, JTH, THE ABOVE
MAY BE MADE BY THE SURVEYOR OR HIS ASSISTANT
AS SHOWN ON THE ORIGINAL SURVEY MAP.

Mike Roubal
REGISTERED LAND SURVEYOR

NOTE: THIS SURVEY IS
DRAWN TO THE SCALE OF
1" = 15'

| FIELD WORK BY | DATE | PROJECT NO. |
|---------------|------------|-------------|
| JE / MMW | 05/09/2023 | 36503 |
| DRAWN BY | DATE | SCALE |
| MCP | 05/25/2023 | 1" = 15' |
| APPROVED BY | DATE | SHEET NO. |
| | | 1 of 1 |

EXHIBIT "B"

Page 2 of 2

The land affected by the grant of this easement and right-of-way is located in the Village of Caledonia, Racine County, Wisconsin, and is more particularly described as follows:

(STORM WATER DRAINAGE EASEMENT) A PARCEL OF LAND BEING PART OF LOT 42 AND OUTLOT A, BLOCK B OF THE CADDY VISTA SOUTH SECOND ADDITION, BEING A SUBDIVISION LOCATED IN THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 4 NORTH, RANGE 22 EAST, IN THE VILLAGE OF CALEDONIA, COUNTY OF RACINE, STATE OF WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID LOT #42:

Thence along a curve to the right having a radius of 366.00 and an arc length of 22.90 feet, being subtended by a chord of North 80° 20' 25" East for a distance of 22.90 feet, along the South line of said lot and the North Right of Way line of Caddy Lane to the point of beginning;

Thence along a curve to the right having a radius of 366.00 and an arc length of 41.27 feet, being subtended by a chord of North 85° 23' 18" East for a distance of 41.25 feet, along the South line of said lot and the North Right of Way line of Caddy Lane to a point;

Thence North 35° 12' 5" East for a distance of 5.89 feet to a point;

Thence North 24° 43' 33" East for a distance of 143.08 feet to a point on the North line of said Outlot A;

Thence North 78° 0' 0" West for a distance of 28.99 feet along said North line of said Outlot A to the Northeast corner of said Lot #42;

Thence North 78° 0' 0" West for a distance of 5.90 feet along said North line of said Lot #42 to a point;

Thence South 24° 43' 33" West for a distance of 145.17 feet to a point;

Thence South 35° 12' 5" West for a distance of 16.50 feet to the point of beginning.

Together with and subject to covenants, easements, and restrictions of record.

Said easement contains 0.12 acres more or less and is part of parcel # 104-04-22-04-232-000. Address # 10126 Caddy Lane. See attached Exhibit "A".