

**VILLAGE OF VERNON HILLS
RESOLUTION 2020-033**

**A RESOLUTION AUTHORIZING THE VILLAGE PRESIDENT TO EXECUTE A
REIMBURSABLE OBLIGATION AGREEMENT WITH PULTE HOME COMPANY,
LLC FOR THE MILWAUKEE AVENUE PEDESTRIAN CROSSING OF THE EJ&E
RAILROAD**

WHEREAS, the VILLAGE OF VERNON HILLS, Lake County, Illinois (the “Village”) is a home rule municipality, pursuant to Article 7, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, Pulte Home Company, LLC (“Pulte”) is the developer of the former Cuneo property at the southwest corner of Milwaukee Avenue and the EJ&E Railroad named, “The Residences at Cuneo”; and

WHEREAS, Pulte Home Company, LLC is obligated to cause the Milwaukee Avenue sidewalk to be extended across the adjacent railroad; and

WHEREAS, the Canadian National Railroad has received a Judge’s Order to extend said Pedestrian Crossing; and

WHEREAS, the Village desires to enter into a Reimbursable Obligation Agreement with Pulte Home Company, LLC attached hereto as Exhibit “A” (the “Agreement”); and

WHEREAS, said Agreement obligates Pulte to pay for the costs and expenses of the pedestrian crossing; and

WHEREAS, the Village is authorized to enter into the Agreement pursuant to its home rule authority, and the President and the Board of Trustees find that entering into the attached Agreement is in the best interests of the Village and its residents.

**NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD
OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS:**

SECTION 1: Incorporation. That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Resolution.

SECTION 2: Approval and Execution. That the President and Board of Trustees of the Village authorize the execution of, and approve entering into, the Agreement, and authorize and direct the Village President and the Village Clerk, or their designees, to execute and deliver the Agreement, along with all other instruments and documents that are necessary to fulfill the Village’s obligations under the Agreement. The President and Board of Trustees of the Village authorize and direct the Village staff to take all actions that are necessary to comply with all of the applicable obligations of the Village under the Agreement.

SECTION 3: Severability. That if any Section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

SECTION 4: Repeal. That all resolutions, motions or parts thereof in conflict with this Resolution shall be and the same are hereby repealed.

SECTION 5: Effectiveness. That this Resolution shall be in full force and effect upon its adoption and approval according to law.

Dated this 8th day of December, 2020

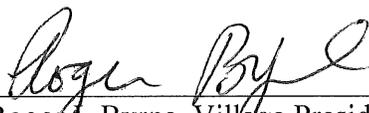
Adopted by roll call vote as follows:

AYES: 7 – Byrne, Schultz, Oppenheim, Takaoka, Marquardt, Forster, Koch

NAYS: 0 - None

ABSENT AND NOT VOTING: 0 - None

Adopted this 8th day of December 2020, by the President and Board of Trustees of the Village of Vernon Hills, Illinois.

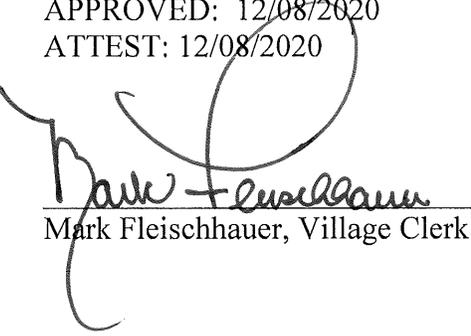


Roger L. Byrne, Village President

PASSED: 12/08/2020

APPROVED: 12/08/2020

ATTEST: 12/08/2020



Mark Fleischhauer, Village Clerk

EXHIBIT A1

REIMBURSEMENT OBLIGATION AGREEMENT

Pdf. 20201202103124908

EXHIBIT A2

CN License Agreement - Exhibit A - WC Crossing Location

EXHIBIT B1

CN License Agreement - Exhibit C - 2018-010 ICC Petition for Crosswalk Rte 21 WC RR

EXHIBIT B2

CN License Agreement - Exhibit C - Order 515410

EXHIBIT C

CN License Agreement - Exhibit B - SIDEWALK-RR

EXHIBIT D

CN License Agreement - Exhibit D - Easement PULVH RR PE TE-Exhibits 031419

REIMBURSEMENT OBLIGATION AGREEMENT

By and between
VILLAGE OF VERNON HILLS AND PULTE HOME COMPANY, LLC

Re: **MILWAUKEE AVENUE PEDESTRIAN CROSSING**

THIS REIMBURSEMENT OBLIGATION AGREEMENT ("**Agreement**") is made as of the 8th day of December 2020~~2019~~, by and between **PULTE HOME COMPANY, LLC**, a Michigan limited liability company, whose address is 1900 E. Golf Road, Suite 300, Schaumburg, IL 60173, hereinafter called ("**Pulte**"), party of the first part, and **VILLAGE OF VERNON HILLS**, an Illinois municipal corporation, whose address is 209 Evergreen Dr, Vernon Hills, Illinois 60061, hereinafter called ("**Village**"), party of the second part, for valuable consideration, the receipt and sufficiency of which is acknowledged by the parties by the execution of this Agreement, including the covenants and agreements hereinafter recited.

RECITALS

1. Pulte is in the process of developing a community commonly known as The Residences at Cuneo (the "**Community**"). As part of its land use approvals for the Community granted by the Village, Pulte is required to construct and install an eight (8') foot wide multi-use path located on the geographic west side of Milwaukee Avenue located in the Village. As shown on **Exhibit "A"**, attached to this Agreement and made a part hereof ("**Pedestrian Path**").
2. In order to extend the Pedestrian Path across the railroad tracks owned and operated by **WISCONSIN CENTRAL LTD.**, a Delaware corporation, whose address is 17641 S. Ashland Avenue, Homewood, Illinois 60403, herein called "**Licensor**", the Village will enter or has entered into a "**License Agreement**", attached hereto and made a part hereof as **Exhibit "B"**, with Licensor to permit the extension of the Pedestrian Path across the railroad track in accordance with the License Agreement, to be constructed by Licensor or Licensor's contractors in accordance with the License Agreement, at the Village's sole cost and expense.
3. Pulte hereby agrees to pay for the costs and expenses of the Pedestrian Crossing for the portion to be constructed by Licensor or Licensor's contractors within the railroad right-of-way ("**Pedestrian Crossing**"), or to reimburse the Village for such costs and expenses of the Pedestrian Crossing that the Village may incur under the terms of the License Agreement.

Now, therefore, the parties agree as follows:

1. Pursuant to the terms of the License Agreement, the Village agrees to enter into a License Agreement with Licensor which includes the obligation to pay all expenses

(hereafter "**Costs**") related to the construction and installation of the following Pedestrian Crossing improvements as follows:

- a. pedestrian gates, which shall raise and lower with the operation of the roadway gates; and
- b. rubber surface panels, which shall be installed along the tracks.

The Pedestrian Crossing, including the pedestrian gates and the rubber surface panels described in this Section 1, and the locations of the Pedestrian Crossing are depicted on **Exhibit "C"** attached hereto and made a part hereof.

2. The Village shall have the option of either requiring Pulte to pay such Costs directly to Licensor, or to advance such Costs on Pulte's behalf subject to Pulte's obligation to reimburse the Village. If the Village opts to have Pulte pay such Costs to Licensor directly, Pulte shall do so in a timely fashion. If the Village opts to advance the Costs on Pulte's behalf, then the Village shall submit its request for reimbursement to Pulte in writing and shall include any invoices, statements, bills or other documentation submitted to the Village by the Licensor as proof of the amount demanded. Pulte shall reimburse the Village within thirty (30) days of its request. Pulte agrees to warrant the Pedestrian Path, and all work and/or improvements in connection therewith that Pulte is responsible for constructing and installing, for a period of two (2) years (hereafter "**Warranty Period**") from the date such improvements are completed. Pulte **does not** agree to warrant, repair, replace or maintain any work completed by Licensor or Licensor's contractors as part of the Pedestrian Crossing. If there is a portion of the Pedestrian Crossing work to be completed by Pulte, then Pulte agrees to warrant, repair, replace or maintain such work within the Warranty Period.
3. Notwithstanding the foregoing, Pulte, its successor and assigns, shall not be responsible for any maintenance, repair or replacement of or the costs associated with any portions of the Pedestrian Crossing that Pulte is responsible for constructing and installing under this Agreement beyond the Warranty Period.
4. Under a separate agreement concerning off-site improvements (hereafter "**Off-Site Improvements**"), Pulte will install the sidewalk, ADA detectable warning strips and asphalt approach leading to the location of the Pedestrian Crossing as shown on **Exhibit "C"**. Pulte agrees to warrant, repair, replace and maintain the Off-Site Improvements during the Warranty Period. For clarity sake, this Agreement does not amend, supersede or replace any agreement or land use approvals granted regarding the Pedestrian Path or the Off-Site Improvements, but is meant only to address Pulte's obligation to either pay Licensor or reimburse the Village for the Costs related to the Licensor's construction of the Pedestrian Crossing.
5. Any notice, including the request for reimbursement described herein, required or permitted to be given under this Agreement shall be in writing and deemed to have

been given when deposited in a United States Post Office, registered or certified mail, postage prepaid, return receipt requested and addressed as follows:

If to Village : Village Manager
Village of Vernon Hills
290 Evergreen Dr.
Vernon Hills, Illinois 60061

And to

James V. Ferolo
Village Attorney
Klein, Thorpe and Jenkins LTD
20 North Wacker Dr. Ste. 1660
Chicago, IL 60606-2903

~~Keith L. Hunt
Village Attorney
Hunt & Associates, PC
55 West Monroe Street
Suite 3600
Chicago, IL 60603~~

If to Pulte : Pulte Home Company LLC
1900 E. Golf Road, Suite 300
Schaumburg, IL 60173
Attn: Kristina Dalman

6. This Agreement and its validity, enforcement and interpretation shall be governed by the law of the state of Illinois (without regard to any conflict of laws, principles) and applicable United States federal law. All disputes arising under or in connection with this Declaration shall be resolved and disposed of by the federal and state courts located in Lake County, Illinois.

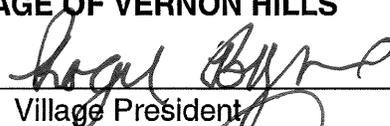
IN WITNESS WHEREOF, the parties hereto have mutually executed this Agreement as indicated below, effective, however, as of the day and year first above written.

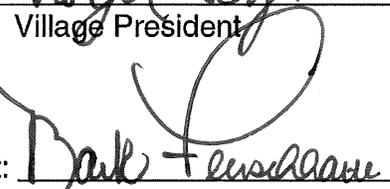
SIGNATURE PAGES FOLLOW

DATED: 12/8/2020, ~~2019~~

VILLAGE:

VILLAGE OF VERNON HILLS

By: 
Village President

Attest: 
Village Clerk

DATED: March 13, 2019

PULTE:

PULTE HOME COMPANY, LLC, a Michigan
limited liability company

By: 
Name: Marc Lewison
Title: Vice President of Finance

EXHIBIT A

PEDESTRIAN PATH ALONG MILWAUKEE AVENUE

SEE ATTACHED

EXHIBIT B

LICENSE AGREEMENT

SEE ATTACHED

EXHIBIT C

DEPICTION OF PEDESTRIAN CROSSING AND OFF-SITE IMPROVEMENTS

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

THE VILLAGE OF VERNON HILLS, ILLINOIS,)	
a Municipal Corporation and body politic)	
and corporate in Lake County, Illinois)	
)	
Petitioner,)	
)	
v.)	No.
)	
WISCONSIN CENTRAL LIMITED,)	
and THE ILLINOIS DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Respondents.)	
)	

Petition for an Order of the Illinois Commerce Commission authorizing the installation of an at-grade pedestrian crosswalk with Wisconsin Central Limited railroad tracks at the tracks' intersection with Milwaukee Avenue (State Route 21) within Lake County, Illinois

**PETITION FOR AN ORDER AUTHORIZING THE INSTALLATION OF
AN AT-GRADE PEDESTRIAN CROSSWALK WITH RAILROAD TRACKS**

The Village of Vernon Hills of Lake County, Illinois, a Municipal Corporation, (hereinafter referred to as "Vernon Hills"), petitions the Illinois Commerce Commission (hereinafter referred to as "Commission") to enter an Order pursuant to Section 18c-7401 of the Illinois Commercial Transportation Law (625 ILCS 5/18c-7401) to authorize the installation and maintenance of a pedestrian crosswalk on the West side of Milwaukee Avenue (State Route 21) at its intersection with the tracks of the Wisconsin Central Limited (hereinafter referred to as "Wisconsin Central, Ltd."). In support of its Petition, Vernon Hills states as follows:

1. Vernon Hills is a unit of local government, a municipal corporation, and body politic and corporate organized and existing under the laws of the State of Illinois with its principal offices in Lake County, Illinois.

2. Wisconsin Central Ltd. is a railroad company authorized to operate as a common carrier by rail in the State of Illinois and is a rail carrier within the meaning of the Illinois Commercial Transportation Law. Wisconsin Central Ltd. operates trains over one mainline track that runs by compass direction generally in a northeasterly-southwesterly direction through Vernon Hills.

3. The Respondent Illinois Department of Transportation (hereinafter "IDOT"), whose address is 2300 South Dirksen Parkway, Springfield, Illinois 62764, is a State agency created pursuant to 20 ILCS 2705/2705-1 et. seq.

4. There is an existing at-grade rail crossing of Milwaukee Avenue at its intersection with the tracks of Wisconsin Central Ltd. (designated as AAR/DOT Number 260490K, Railroad Mile Post 62.20) as depicted in the "Wisconsin Central Railroad Crossing Exhibit" marked as "Exhibit A" attached hereto and made a part hereof. This existing at-grade crossing is protected by flashing warning lights and gates.

5. In conjunction with these planned improvements, Vernon Hills requests that, in order to promote public safety and convenience, this existing railroad at-grade crossing at Milwaukee Avenue be altered by the installation of an eight-foot (8') wide pedestrian crosswalk with pedestrian gates on the West side of Milwaukee Avenue as shown on the "Wisconsin Central Railroad Crossing Exhibit" marked as "Exhibit A" attached hereto and made a part hereof (hereinafter referred to as the "pedestrian crosswalk"). The area surrounding this existing at-grade crossing is predominately commercial in nature to the North, and residential to the South. A pedestrian crosswalk does not currently exist at this at-grade crossing. There is a sidewalk on the West side of Milwaukee Avenue that ends just north of the Wisconsin Central Ltd. right-of-way.

6. Vernon Hills requests pursuant to the provisions of 92 Ill.Admin.Code Sections 1535.203 and 1535.206 that Wisconsin Central Ltd. maintain the pedestrian crosswalk surface and any pedestrian gates or other additional warning or safety devices determined necessary by the Commission to protect public safety.

7. Vernon Hills agrees to maintain the surface of that part of the pedestrian crosswalk installed within Wisconsin Central Ltd. right-of-way beyond the end of the railroad crossing surface, which ends approximately 24 inches from each rail.

8. Vernon Hills agrees to post and maintain standard pedestrian warning signs as determined necessary by the Commission for the pedestrian crosswalk.

9. There is no anticipated Wisconsin Central Ltd. right-of-way required for the pedestrian crosswalk. An Installation Easement may be required per Final Design.

10. Respondents Wisconsin Central, Ltd. and IDOT, as well as Commission Staff, support the pedestrian crosswalk and this Petition.

11. The pedestrian crosswalk will be installed, subject to the approval of the Commission, and maintained in conformance with the requirements of Section 18c-7401 of the Illinois Commercial Transportation Law, 92 Ill.Admin.Code Sections 1535.203 and 1535.206, and all other applicable rulings, standards, rules and regulations.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service of the foregoing Petition was made by enclosing a true and accurate copy thereof in a sealed envelope addressed to:

Paul Chojenski
Manager – Public Works
Canadian National Railway
17641 Ashland Avenue
Homewood, Illinois 60430-1339

Thomas J, Healy, Counsel – Regulatory
CN/IC/Wisconsin Central Ltd.
17641 S. Ashland Avenue
Homewood, Illinois 60430
Tom.healy@cn.ca

Office of Chief Legal Counsel
Illinois Department of Transportation
2300 South Dirksen Parkway, Suite 311
Springfield, Illinois 62764

Brian Vercruysse, P.E.
Senior Rail Safety Specialist
Rail Safety Section
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

and by depositing same with proper postage thereon, in the U.S. Mail from the office of the undersigned, this 8th day of March, 2018.

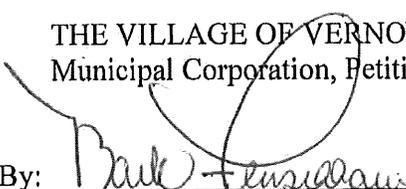
12. Vernon Hills agrees to accept service by electronic means as provided for in 83 Ill.Admin.Code Section 200.1050.

WHEREFORE, Vernon Hills requests the Commission to enter an Order pursuant to Section 18c-7401 of the Illinois Commercial Transportation Law (625 ILCS 5/18c-7401) as follows:

1. finding that the Commission has jurisdiction over Vernon Hills, Wisconsin Central Ltd. and IDOT, and the subject matter of this Petition;
2. finding that the installation and maintenance of an eight-foot (8') wide pedestrian crosswalk on the West side of Milwaukee Avenue at its intersection with the tracks of Wisconsin Central Ltd. (designated as AAR/DOT Number 260490K, Railroad Mile Post 62.20) requested by Vernon Hills are necessary to promote and preserve public safety and convenience;
3. granting a temporary easement, if required, for the installation and maintenance of the eight-foot (8') wide pedestrian crosswalk on the West side of Milwaukee Avenue at its intersection with the tracks of the Wisconsin Central Ltd. (designated as AAR/DOT Number 260490K, Railroad Mile Post 62.20) substantially as shown on the plan attached hereto as "Exhibit A" upon such terms and conditions as may be reasonably necessary;
4. directing Wisconsin Central Ltd. and IDOT to assist Vernon Hills to the extent required to complete installation of the Milwaukee Avenue pedestrian crosswalk within a reasonable period of time as determined by the Commission;
5. directing Wisconsin Central Ltd. pursuant to the provisions of 92 Ill.Admin.Code Sections 1535.203 and 1535.206 to maintain the pedestrian crosswalk surface and any pedestrian gates or other additional warning or safety devices determined necessary by the Commission to protect public safety; and
6. such other and further relief as the Commission deems appropriate.

Respectfully submitted,

THE VILLAGE OF VERNON HILLS, a
Municipal Corporation, Petitioner

By: 

Village of Vernon Hills
290 Evergreen Drive
Vernon Hills, Illinois 60061
(847) 367-3700
(847) 367-0880 (facsimile)

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Village of Vernon Hills, Illinois, :
A Municipal Corporation and body politic :
And corporate in Lake County, Illinois, :
Petitioner, : T18-0040

v.

Wisconsin Central Ltd. and The Illinois Department of Transportation, :
Respondents. :

Petition for an Order of the Illinois Commerce Commission authorizing the :
installation of an at-grade pedestrian crosswalk with Wisconsin Central :
Ltd. railroad tracks at the tracks' intersection with Milwaukee Avenue :
(State Route 21) within Lake County, Illinois. :

ORDER

By the Commission:

On March 27, 2018, the Village of Vernon Hills (Village or Petitioner) filed the
above-captioned verified Petition with the Illinois Commerce Commission (Commission)
naming as Respondents Wisconsin Central Ltd. (WC or Wisconsin Central) and the
Illinois Department of Transportation (IDOT), seeking authority to install an at-grade
pedestrian sidewalk up to and across the railroad track of Wisconsin Central Ltd. on the
west side of Milwaukee Avenue (State Route 21) where the road and track cross in
Vernon Hills, Lake County, Illinois.

Pursuant to notice, a hearing on the Petition was held on December 19, 2019
before a duly authorized Administrative Law Judge of the Commission at the
Commission's offices in Springfield and Chicago, Illinois via video conference with the
parties. Appearances were entered on behalf of Petitioner, WC, and IDOT and by Staff
of the Railroad Section of the Transportation Division of the Commission (Staff). At the
conclusion of the hearing, the case was marked "Heard and Taken."

THE EVIDENCE

The Village of Vernon Hills requests authority to install a pedestrian path through
Wisconsin Central's at-grade crossing with Milwaukee Avenue in Vernon Hills due to
development on both sides of the track. The track runs east-west across the north-
south roadway. The area northwest of the crossing has been developing commercially
and the southwest area has been developing residentially, with a new development
adjacent to the track. The Village requested authority to install any warning or safety
devices determined to be necessary by Commission.

There are existing 8-foot-wide concrete sidewalks north and south of the track on the west side of Milwaukee Avenue. They each terminate approximately 45 feet from the track, just outside of the railroad right of way. The proposed path would also be 8 foot wide concrete sidewalks connected to the existing sidewalks north and south of the track and continue up to approximately 4 feet from each side of the crossing surface where the sidewalk will then be constructed of asphalt from the concrete sidewalk to the rubber panels of the crossing surface which Wisconsin Central has agreed to extended on the west side of the crossing past the alignment of the path to serve as the pedestrian path over the crossing.

An average of two freight trains operate on the track and through the crossings each day with a maximum timetable speed of 25 miles per hour. No passenger trains operate on the track. The vehicle speed limit on Milwaukee Avenue is 40 miles per hour. The Average Annual Daily Traffic count is 26,100 vehicles.

The roadway vehicle crossing of the tracks is protected by automatic flashing lights and gates, and a cantilevered warning light extending over the roadway. The cantilevered light for the southern approach has it's post on the west side of the road. Accordingly, the sidewalk will be constructed, both north and south of the track, in an alignment generally 10 feet west of the Milwaukee Avenue curb, but will curve away to a greater distance from the curb where necessary to avoid the cantilever post and the position of the counter-weights of the vehicle crossing gates when the gates are down, which will all be east of the sidewalk.

Pedestrian Gates

Commission Staff has recommended, and the Village has agreed, that pedestrian gates be installed with a light in the middle of the gate arm, and that the bell which is presently part of the western vehicular warning devices, although not required for the vehicular warning devices, be required to be maintained as a warning and protective device for persons using the pedestrians path.

The posts for the recommended pedestrian gates will be located west of the sidewalk such that the gate will lower towards Milwaukee Road and the counter-weights of the pedestrian gate will rise up at the post west of the path. They will be located the same distance from the tracks as the vehicle roadway gates and will lower and raise with the roadway gates.

Commission Rail Safety Staff Administrator Brian Vercruysse was qualified without objection as an expert in rail vehicle crossing safety and as an expert in pedestrian rail crossing safety. He testified in support of pedestrian gates with light and bell. Staff testified its recommendation of pedestrian gates is case-by-case for crossings and includes review of pedestrian generators, crossing geometry (length, skew, adjacent land use, sight lines etc.), warning time, walking and biking speeds, and consistency along corridors with concerns for distracted pedestrians, motorists, and commuters. Staff believes a physical barrier provides the most direct and

understandable warning device, especially because pedestrian distractions with earphones and ear buds, phones, or even walking in groups are prevalent. Train speeds and volumes are also reviewed, but do not serve as the primary factor when a new sidewalk or path project is petitioned or proposed for installation at a highway-rail crossing. When reviewing existing locations and the prioritization of projects and funding, speed and volume may be more pertinent factors.

Prior arguments against the use of pedestrian gates focused on stated maintenance concerns with vandalism and associated costs, as well as questions of effectiveness and comments that “they just don’t work” (something that has been said about roadway gates in the past also).

Studies completed by the University of Illinois at Chicago in 2013 and 2015 reinforced Staff’s view that pedestrian gates had the highest level of awareness of all warning signs and devices for pedestrians. The study, however, also identified that the effectiveness of any particular sign or device in reducing the risk of a collision between a pedestrian and a train is unknown. While Staff recognizes there is no statistical model to address the random nature of pedestrian-rail incidents, Staff points to the downward trend of motor vehicle–train crashes as roadway gates were prioritized. Since 1921 the Commission has provided funding for warning devices. With the establishment of the Grade Crossing Protection Fund in 1955 and recognizing the significant number of crashes and fatalities into the 1970’s, further funding was provided to install more warning devices with roadway gates. Since that time motor vehicle crashes have trended down significantly. The same cannot be said for pedestrian-rail incidents, and Staff believes the use of pedestrian gates provides the common-sense physical barrier that limits the possible decisions or questions for a pedestrian at a railroad crossing.

To address maintenance concerns with inconsistent costs charged and license agreements, Staff provided the position on maintenance due to damage or vandalism versus routine maintenance which Staff finds minimal based upon the reviews completed by the Commission’s FRA-certified Signal Inspectors and their experience working for Class I railroads as signal managers.

Specific to the Milwaukee Avenue crossing Staff noted concerns with visibility for pedestrians looking west along the tracks, as well as concern for pedestrian actions and decisions given the high warning time programmed at the crossing.

Wisconsin Central does not agree that the evidence provided supports the need for pedestrian warning devices and continues to believe that the roadway warning devices provide adequate warning to pedestrians but will defer to the Commission on this issue.

This order authorizes and directs the installation of pedestrian gates as recommended by Staff.

Responsibility for Installation and Costs

The Village has agreed to be responsible for all costs of the project.

The Village will be responsible for the installation of the sidewalk including the asphalt buffers and the costs thereof.

Wisconsin Central has agreed to be responsible for the installation of the additional rubber panels of the crossing surface needed to serve as the pedestrian crossing surface in the same alignment as the sidewalk north and south of the crossing surface. The Village will be responsible for the costs of the installation.

Wisconsin Central should be responsible for the design and installation of the pedestrian gates. The Village will be responsible for the costs thereof.

Maintenance and Costs

The Village has agreed to be responsible for the maintenance of the sidewalk up to a point two feet out from each outer rail, or to the extent of the rubber panel, whichever is greater. The Village will be responsible for the costs of such maintenance.

With the exception of clearing snow and ice from that part of the crossing surface which is in the alignment of the path over the crossing surface, Wisconsin Central should be responsible for the maintenance of the crossing surface from each rail to a point two feet from the rail or to the extent of each rubber panel of the crossing surface, whichever is greater, and the costs of such maintenance.

Responsibility for clearing snow and ice from that part of the crossing surface which is in the alignment of the path over the crossing surface is, by agreement of the Village, the responsibility of the Village and not the responsibility of Wisconsin Central; the Village and not Wisconsin Central shall be responsible for the costs of performing such clearance functions by the Village or its designee. Wisconsin Central agrees that an ordering provision allocating such maintenance and clearance responsibilities accordingly constitutes the Right of Entry for the Village or its designee to perform such maintenance and clearance responsibilities.

It is proposed that Wisconsin Central should be responsible for maintenance of the pedestrian gates and the costs of such maintenance, except that the Village should be responsible for reimbursement of Wisconsin Central for the costs of repair when damage is caused by an entity or person other than Wisconsin Central, and is not due to normal or weather related wear and tear. Pedestrian gates for purposes of this order includes the mounting structures and wiring for the pedestrian gates.

WISCONSIN CENTRAL POSITION

Wisconsin Central objects to any requirement for pedestrian gates, and its responsibility to maintain them and pay the costs of such maintenance. Wisconsin Central does not agree that the evidence provided supports the need for pedestrian warning devices and continues to believe that the roadway warning devices provide adequate warning to pedestrians. However, Wisconsin Central states it will defer to the Commission on this issue.

Wisconsin Central is otherwise in agreement with the project and allocation of responsibilities and costs.

VILLAGE AND IDOT POSITIONS

The Village and IDOT are in agreement with the project as recited above and have all agreed upon the division of costs and responsibilities of design, installation, and maintenance.

STAFF'S POSITION

Staff has no objection to the Petition and supports the project. Staff recommends pedestrian gates with a light on the gate arm and that the western roadway bell be maintained for pedestrian warning purposes.

Staff notes that the factors upon which it bases its recommendation for pedestrian gates in this case is set out in its testimony related above.

COMMISSION ANALYSIS

The Commission agrees that installation of a pedestrian path in accordance with plans specified in evidence is in the interests of public safety and convenience and should be approved and authorized by this Order. The Commission also believes that Staff's recommendation for pedestrian gates in accordance with the plan specifications set out in the evidence is supported by the testimony of Staff, and the recommendation should be approved and authorized by this Order.

PROPOSED ORDER

All Parties and Staff waived issuance of a Proposed Order.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record, finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of

this proceeding;

- (2) The Village of Vernon Hills is a municipal corporation within the State of Illinois;
- (3) Wisconsin Central Ltd. is a rail carrier engaged in the transportation of either or both property and passengers for hire in the State of Illinois, as defined by the Illinois Commercial Transportation Law, 625 ILCS 5/18c-1104(30);
- (4) The Illinois Department of Transportation is a Department of the State of Illinois, which exists by virtue of the laws of the State of Illinois;
- (5) The recitals of fact and conclusions of law contained in the prefatory portion of this order are supported by the record and are hereby adopted as findings of fact and conclusions of law;
- (6) The Village seeks approval for the installation of sidewalks and pedestrian gates with a light on the gate arm and a separate bell at the grade crossing of Milwaukee Avenue with Wisconsin Central td. track in the Village;
- (7) The construction of such sidewalk and pedestrian gates should be approved substantially consistent with the specifications set out in the prefatory portion of this Order and exhibits admitted into evidence;
- (8) The Village should be responsible for all costs of the project;
- (9) The Village should be responsible for the installation of the sidewalk, including the asphalt buffer, and the costs thereof;
- (10) Wisconsin Central should be responsible for installation of the additional rubber panels for the crossing surface needed to align with and serve as the sidewalk through the crossing and the maintenance therefore, or to a point two feet out from each rail, whichever is greater, and the costs of such maintenance;
- (11) The Village should be responsible for maintenance of that portion of the sidewalks not to be maintained by Wisconsin Central as set out in these findings, and the costs thereof;
- (12) The Village should be responsible for snow and ice removal from the sidewalk and through that portion of the crossing in alignment with the path;
- (13) Wisconsin Central should be responsible for design and installation of the pedestrian gates with a light on the gate arm; Wisconsin Central should be

responsible for the maintenance of the pedestrian gates and the costs of such maintenance, and should also maintain and be responsible for maintenance of the bell associated with the western vehicular warning devices;

- (14) The Village should be responsible for the costs of design and installation of the pedestrian gates;
- (15) All work should be completed by August 31, 2021;
- (16) Any person making a Request for an Extension of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing and Information no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request;
- (16) Any person making a Request for an Extension of Time that exceeds 30 days must file a Petition for Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders;
- (17) Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the Project will be completed. Prior to submitting a Request for Extension of Time or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the Project within the ordered timeframe;
- (18) The Commission or its Administrative Law Judge reserves the right to deny Petitions for Supplemental Orders and Requests for Extension of Time, if the reason(s) supporting the request is (are) insufficient or where it appears the person has not made a good faith effort to complete the Project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission, that the installation of sidewalks and pedestrian gates with lights and a separate bell at the Milwaukee Avenue grade crossing of the Wisconsin Central Ltd. track in the Village of Vernon Hills, is necessary to preserve and promote the safety and convenience of the public, and is hereby authorized to be installed substantially consistent with specifications set out in the prefatory portion of this Order and exhibits admitted into evidence.

IT IS FURTHER ORDERED that the responsibilities for installation of the sidewalks and pedestrian gates with lights, and the costs thereof, as well as the future

maintenance of the sidewalks, crossing surfaces, and pedestrian gates and the bell and the costs thereof, are as delineated in the findings.

IT IS FURTHER ORDERED that all work shall be completed by August 31, 2021.

IT IS FURTHER ORDERED that the Wisconsin Central Ltd. and the Village of Vernon Hills shall at six (6) month intervals from the date of this Order until the Project has been completed, submit written reports to the Director of Processing, Transportation Division of the Commission stating the progress it has made toward completion of the work herein required. Each progress report shall include the Commission Order number, the Order date, the Project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and project manager information (name, title, mailing address, telephone number, and facsimile number) of the employee responsible for management of the project.

IT IS FURTHER ORDERED that the Wisconsin Central Ltd. and the Village shall file written notice with the Director of Processing of the date this Project is completed. This notice shall be filed within five (5) days after the completion date.

IT IS FURTHER ORDERED that the Wisconsin Central Ltd. shall file with the Transportation Bureau's Director of Processing and Information within five (5) days after the completion of the work required under this order, a United States Department of Transportation Inventory Form (#6180.71).

IT IS FURTHER ORDERED that any person making a Request for Extension of Time up to thirty (30) days to complete a project ordered by the Commission must file a request with the Director of Processing no later than fourteen (14) days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person requesting an Extension of Time which exceeds thirty (30) days must file a Petition for Supplemental Order with the Director of Processing no later than twenty-one (21) days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders.

IT IS FURTHER ORDERED that Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request for Extension or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED that the Administrative Law Judge reserves the right to deny Requests for Extension of Time and Petitions for Supplemental Orders if the reason(s) supporting the request is insufficient or where it appears the person has not

made a good faith effort to complete the project within the allotted time. Failure of the Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any supplemental order or orders as it may deem necessary.

IT IS FURTHER ORDERED that this is a final Order subject to 83 Ill. Adm. Code 200.880(d) which provides that no appeal shall be allowed unless an application for rehearing shall first have been filed and disposed of by the Commission; Administrative Review is governed by Sections 2201 through 2206 of the Illinois Commercial Transportation Law (625 ILCS 5/18c) and is subject to the Administrative Review Law to the extent made applicable in those sections.

By Order of the Commission this 21st day of January 2020.

(Signed) CARRIE ZALEWSKI
CHAIRMAN

MILWAUKEE AVENUE PATH IMPROVEMENTS
VILLAGE OF VERNON HILLS, ILLINOIS
EXHIBIT B - WISCONSIN CENTRAL RAILROAD CROSSING EXHIBIT

DATE	2/2/2018
DRAWN BY	J. H. HARRIS
CHECKED BY	J. H. HARRIS
SCALE	AS SHOWN
SHEET	2 OF 2
PULLING	



NO.	DATE	REVISION
1	11/15/17	ISSUE FOR PERMITTING
2	01/11/18	REVISED PER VILLAGE ENGINEER COMMENTS
3	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
4	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
5	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
6	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
7	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
8	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
9	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
10	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
11	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
12	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
13	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
14	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
15	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
16	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
17	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
18	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
19	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS
20	02/02/18	REVISED PER VILLAGE ENGINEER COMMENTS

PAVEMENT LEGEND

- CONCRETE SIDEWALK
- 4" C&G CRUSSED LIMESTONE AGGREGATE BASE COURSE
- BITUMINOUS PAVEMENT
- 2" HOT-MIX ASPHALT SURFACE
- 8" C&G CRUSSED LIMESTONE AGGREGATE BASE COURSE

GRAPHIC SCALE
(IN FEET)
1 Inch = 30 Ft.

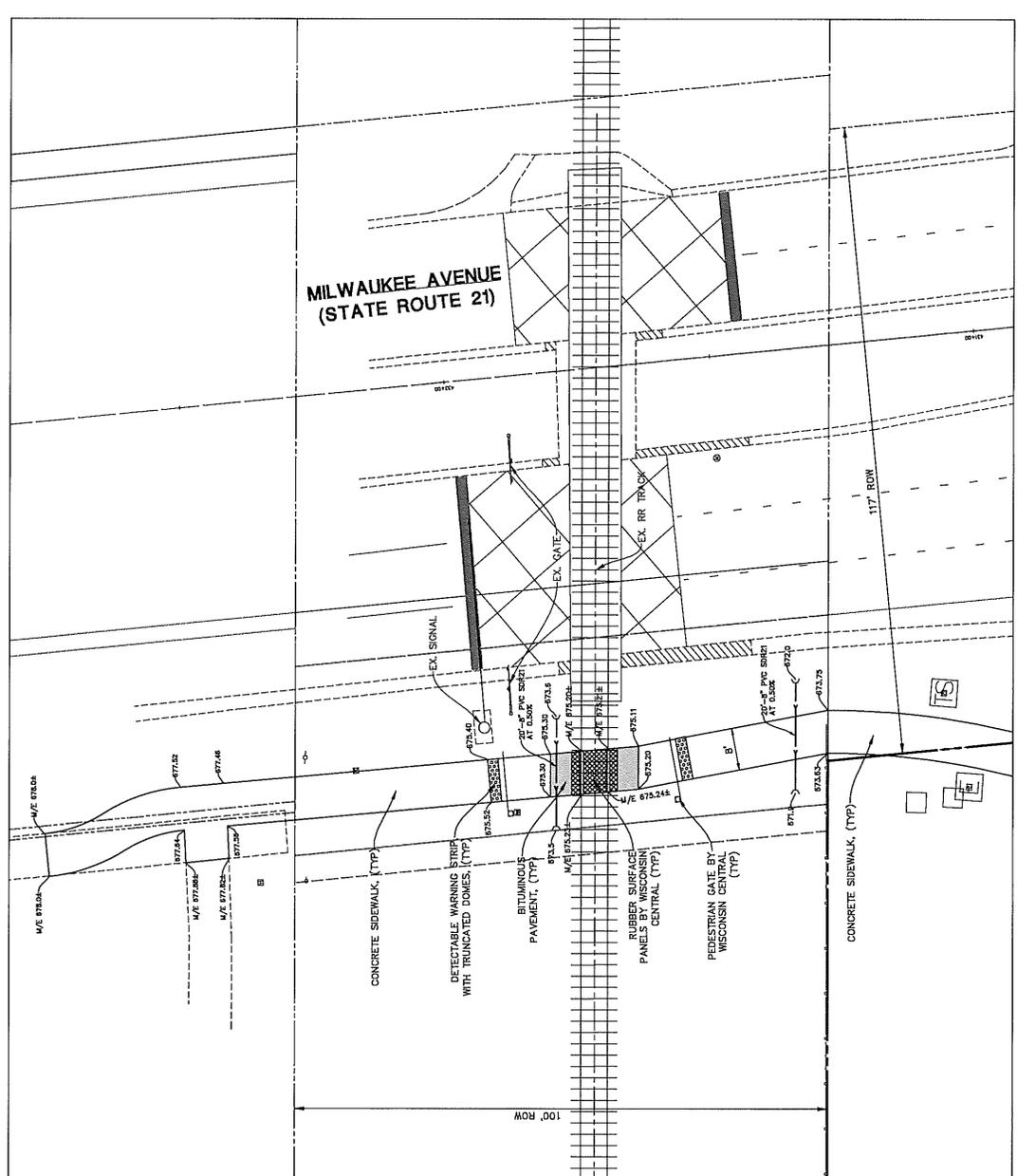


EXHIBIT A1
LEGAL DESCRIPTION FOR
A PERMANENT EASEMENT OVER
THE ELGIN, JOLIET AND EASTERN RAILWAY
VERNON HILLS, ILLINOIS

THAT PART OF THE ELGIN, JOLIET AND EASTERN RAILWAY IN SECTION 33, TOWNSHIP 44 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF OUTLOT A1 IN THE RESIDENCES AT CUNEO MANSION AND GARDENS RECORDED AS DOCUMENT 7400290, SAID CORNER BEING ON THE SOUTH RIGHT-OF-WAY LINE OF THE ELGIN, JOLIET AND EASTERN RAILWAY; THENCE SOUTH 86 DEGREES 03 MINUTES 33 SECONDS WEST, ALONG THE NORTH LINE OF SAID OUTLOT A1 AND SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 8.04 FEET TO A POINT ON A LINE BEING 85.00 FEET WEST OF AND PARALLEL WITH THE CENTER LINE OF MILWAUKEE AVENUE; THENCE NORTH 09 DEGREES 30 MINUTES 18 SECONDS WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 100.47 FEET TO A POINT ON THE SOUTH LINE OF LOT 2 IN THE SHOPPES AT GREGG'S LANDING SUBDIVISION RECORDED AS DOCUMENT 6255002, SAID LINE ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF ELGIN, JOLIET AND EASTERN RAILWAY; THENCE NORTH 86 DEGREES 03 MINUTES 33 SECONDS EAST, ALONG SAID LINE, A DISTANCE OF 35.17 FEET TO A POINT ON A LINE BEING 50.00 FEET WEST OF AND PARALLEL WITH THE CENTER LINE OF SAID MILWAUKEE AVENUE; THENCE SOUTH 09 DEGREES 30 MINUTES 18 SECONDS EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 100.47 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF ELGIN, JOLIET AND EASTERN RAILWAY; THENCE SOUTH 86 DEGREES 03 MINUTES 33 SECONDS WEST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 27.13 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,517 SQUARE FEET (0.081 ACRES), MORE OR LESS.

EXHIBIT B1



PARAGON LIBERTYVILLE
SUBDIVISION
 RECORDED MAY 30, 2013 AS
 DOCUMENT NUMBER 6997600

THE SHOPPES AT GREGG'S LANDING
SUBDIVISION
 RECORDED OCTOBER 11,
 2001 AS DOCUMENT
 NUMBER 6255002

LOT 2
 N 86°03'33" E 35.17'

ELGIN JOLIET AND EASTERN RAILWAY

N 09°30'18" W 100.47'
 S 86°03'33" W 8.04'

THE RESIDENCES AT CUNEO MANSION AND GARDENS
SUBDIVISION
 RECORDED JUNE 6, 2017
 AS DOCUMENT NUMBER
 7400290

OUTLOT A1

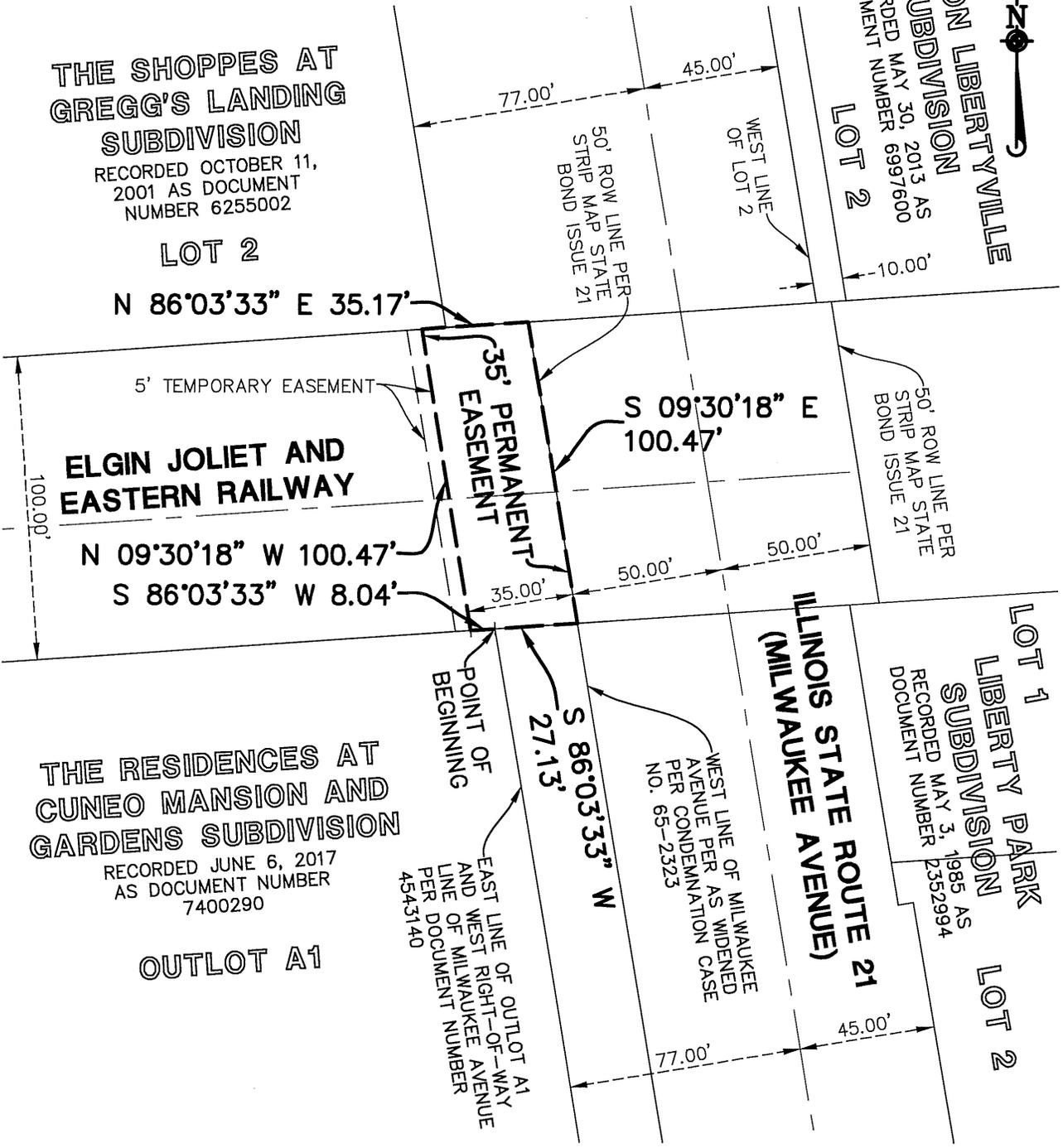
POINT OF BEGINNING
 EAST LINE OF OUTLOT A1
 AND WEST RIGHT-OF-WAY
 LINE OF MILWAUKEE AVENUE
 PER DOCUMENT NUMBER
 4543140

35' PERMANENT EASEMENT

WEST LINE OF MILWAUKEE AVENUE PER AS WIDENED PER CONDEMNATION CASE NO. 65-2323

ILLINOIS STATE ROUTE 21 (MILWAUKEE AVENUE)

LIBERTY PARK
SUBDIVISION
 RECORDED MAY 3, 1985 AS
 DOCUMENT NUMBER 2352994



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 Civil Engineers • Surveyors • Water Resources Engineers • Water & Wastewater Engineers
 Construction Managers • Environmental Scientists • Landscape Architects • Planners

THE RESIDENCES AT CUNEO MANSION	
VERNON HILLS, ILLINOIS	
PERMANENT EASEMENT	
PROJ. MGR.: <u>TJM</u>	SHEET
DRAWN BY: <u>RC</u>	EXHIBIT B1
DATE: <u>03/13/19</u>	
SCALE: <u>1"=50'</u>	
PULVH	

09:42 \\mcl-io-nas\Projects-VH\Pulvh\dwg\Surv\Final Drawings\Exhibits\Surv\PULVH_RR_PE-EXHIBIT B1.dwg Updated By: RCampean

EXHIBIT A2
LEGAL DESCRIPTION FOR
A TEMPORARY EASEMENT OVER
THE ELGIN, JOLIET AND EASTERN RAILWAY
VERNON HILLS, ILLINOIS

THAT PART OF THE ELGIN, JOLIET AND EASTERN RAILWAY IN SECTION 33, TOWNSHIP 44 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF OUTLOT A1 IN THE RESIDENCES AT CUNEO MANSION AND GARDENS RECORDED AS DOCUMENT 7400290, SAID CORNER BEING ON THE SOUTH RIGHT-OF-WAY LINE OF THE ELGIN, JOLIET AND EASTERN RAILWAY; THENCE SOUTH 86 DEGREES 03 MINUTES 33 SECONDS WEST, ALONG THE NORTH LINE OF SAID OUTLOT A1 AND SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 8.04 FEET TO A POINT ON A LINE BEING 85.00 FEET WEST OF AND PARALLEL WITH THE CENTER LINE OF MILWAUKEE AVENUE, SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE SOUTH 86 DEGREES 03 MINUTES 33 SECONDS WEST, CONTINUING ALONG THE NORTH LINE OF SAID OUTLOT A1 AND SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 5.02 FEET TO A POINT ON A LINE BEING 90.00 FEET WEST OF AND PARALLEL WITH THE CENTER LINE OF SAID MILWAUKEE AVENUE; THENCE NORTH 09 DEGREES 30 MINUTES 18 SECONDS WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 100.47 FEET TO A POINT ON THE SOUTH LINE OF LOT 2 IN THE SHOPPES AT GREGG'S LANDING SUBDIVISION RECORDED AS DOCUMENT 6255002, SAID LINE ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF ELGIN, JOLIET AND EASTERN RAILWAY; THENCE NORTH 86 DEGREES 03 MINUTES 33 SECONDS EAST, ALONG SAID LINE, A DISTANCE OF 5.02 FEET TO A POINT ON A LINE BEING 85.00 FEET WEST OF AND PARALLEL WITH THE CENTER LINE OF SAID MILWAUKEE AVENUE; THENCE SOUTH 09 DEGREES 30 MINUTES 18 SECONDS EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 100.47 FEET TO THE POINT OF BEGINNING.

CONTAINING 502 SQUARE FEET (0.011 ACRES), MORE OR LESS.

EXHIBIT B2



PARAGON LIBERTYVILLE
SUBDIVISION
 RECORDED MAY 30, 2013 AS
 DOCUMENT NUMBER 6997600

**THE SHOPPES AT
 GREGG'S LANDING
 SUBDIVISION**

RECORDED OCTOBER 11,
 2001 AS DOCUMENT
 NUMBER 6255002

LOT 2

N 86°03'33" E 5.02'

5' TEMPORARY
 EASEMENT

**ELGIN JOLIET AND
 EASTERN RAILWAY**

S 09°30'18" E
 100.47'
 N 09°30'18" W
 100.47'

S 86°03'33" W 5.02'

**THE RESIDENCES AT
 CUNEO MANSION AND
 GARDENS SUBDIVISION**

RECORDED JUNE 6, 2017
 AS DOCUMENT NUMBER
 7400290

OUTLOT A1

POINT OF
 BEGINNING
 EAST LINE OF OUTLOT A1
 AND WEST RIGHT-OF-WAY
 PER DOCUMENT NUMBER
 4543140

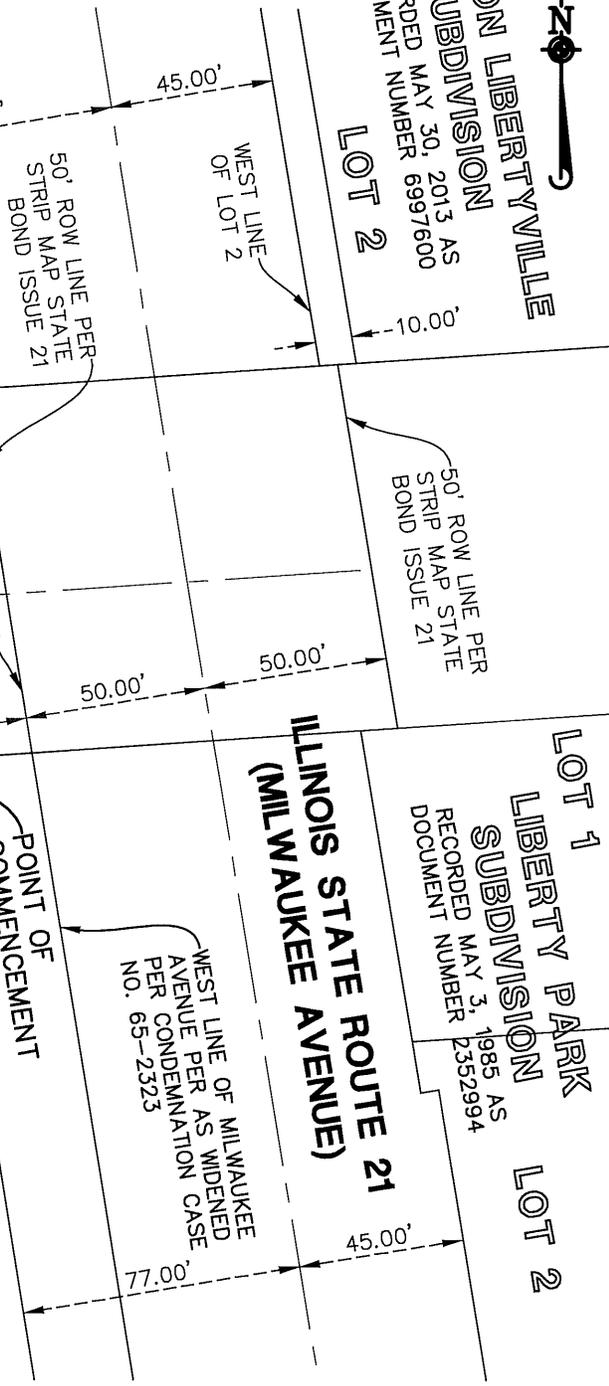
POINT OF
 COMMENCEMENT

WEST LINE OF MILWAUKEE
 AVENUE PER AS WIDENED
 PER CONDEMNATION CASE
 NO. 65-2323

**ILLINOIS STATE ROUTE 21
 (MILWAUKEE AVENUE)**

**LOT 1
 LIBERTY PARK
 SUBDIVISION
 RECORDED MAY 3, 1985 AS
 DOCUMENT NUMBER 2352994**

LOT 2



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 Civil Engineers • Surveyors • Water Resources Engineers • Water & Wastewater Engineers
 Construction Managers • Environmental Scientists • Landscape Architects • Planners

**THE RESIDENCES AT CUNEO MANSION
 VERNON HILLS, ILLINOIS
 TEMPORARY EASEMENT**

PROJ. MGR.: TJM
 DRAWN BY: RC
 DATE: 03/13/19
 SCALE: 1"=50'

SHEET
EXHIBIT B2
 PULVH