

Agenda Item Number: B143-14

Department Source: Public Works

To: City Council

From: City Manager & Staff

Council Meeting Date: May 19, 2014

Re: Authorizing a Right of Use Permit with Kim and Steve Stonecipher-Fisher and R. Anthony Development Group for Access to City Drainage Easement on Lot 131 of Westcliff Plat 1

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Right of Use Permit

Supporting documentation includes: Letter to Council, Diagrams (construction, route, etc.)

Executive Summary

Authorizing the City Manager to execute a right of use permit with Kim and Steve Stonecipher-Fisher and R. Anthony Development Group, LLC to construct, operate, and maintain a retaining wall, within a portion of the drainage easement on lot 131 of Westcliff Plat 1.

Discussion

Kim and Steve Stonecipher-Fisher and R. Anthony Development Group have requested to construct and maintain a driveway retaining wall, within a portion of the drainage easement on lot 131 of Westcliff Plat 1 (see attached diagram). The driveway retaining wall encroaches 6 ft onto the easement, and runs generally parallel to the property line and extends for a distance of approximately 18 ft. Staff has reviewed the location of the retaining wall, and has no issues.

The right of use permit stipulates the responsibilities and duties of Kim and Steve Stonecipher-Fisher and R. Anthony Development Group, and is similar to other right of use permits granted for this type of project.

Fiscal Impact

Short-Term Impact: None

Long-Term Impact: None

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Not Applicable

Strategic Plan Impact: Not Applicable

Comprehensive Plan Impact: Not Applicable

City of Columbia

701 East Broadway, Columbia, Missouri 65201

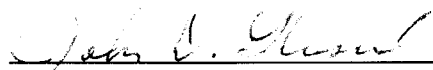


Suggested Council Action

Authorize the City Manager to execute a right of use permit with Kim and Steve Stonecipher-Fisher and R. Anthony Development Group, LLC to construct, operate, and maintain a retaining wall, within a portion of the drainage easement on lot 131 of Westcliff Plat 1.

Legislative History

None



Department Approved



City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 143-14

AN ORDINANCE

authorizing the City Manager to execute a right of use permit with Kim and Steve Stonecipher-Fisher for construction, improvement, operation and maintenance of a retaining wall built within a portion of the drainage easement on Lot 131 of Westcliff Plat 1 located on the north side of Surrey Court; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a right of use permit with Kim and Steve Stonecipher-Fisher for construction, improvement, operation and maintenance of a retaining wall built within a portion of the drainage easement on Lot 131 of Westcliff Plat 1 located on the north side of Surrey Court. The form and content of the permit shall be substantially in the same form as set forth in "Exhibit A" attached hereto and made a part hereof.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2014.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

RIGHT OF USE PERMIT

KNOW ALL MEN BY THESE PRESENT that on this 5 day of May, 2014 the City of Columbia, a municipal corporation, in consideration of the sum of ten dollars (\$10.00) and other considerations to it paid, does hereby permit **Kim and Steve Stonecipher-Fisher**, their heirs and/or assigns (hereinafter referred to as "Permittee") to enter upon the following described lands owned by the City of Columbia and located within the drainage easement of lot 131 of Westcliff Plat 1, Columbia, County of Boone, State of Missouri, and more particularly described as follows, to wit:

The drainage easement of lot 131 of Westcliff Plat 1, located within the limits of the City of Columbia, further described by the exhibit(s) attached to this right of use permit.

This permit is subject to the following conditions and stipulations:

1. This permit is for the exclusive purpose of construction, improvement, operation, and maintenance of a retaining wall built in the drainage easement of lot 131 of Westcliff Plat 1.
2. This permit does not grant Permittee or any of its officers, agents or employees the right to cut, break, excavate or damage the drainage easement at lot 131 of Westcliff Plat 1 without City consent
3. Permittee will be responsible for the costs of any future repairs, maintenance or replacements which is the result from Permittee's use under this Right of Use Permit.
4. Prior to exercising its right granted herein, the Permittee shall present its construction plans or diagrams locating the proposed retaining wall to the City Public Works Department and City Water and Light Department and any existing utility company using facilities located within the limits of the Permit.
5. Prior to exercising its right granted hereunder, Permittee agrees to obtain all necessary permits required by the City of Columbia pertaining to the work being done in the drainage easement.
6. If the retaining wall is ever abandoned, all rights herein granted shall cease and terminate and Permittee shall have no further right of interest therein except that, upon abandonment, Permittee remains responsible for all of Permittee's facilities and structures left in place and any costs to remove them or store them or to otherwise clean up easement.
7. If at any time during construction, repair, modification or relocation of the retaining wall, or any utility existing in the easement at the time this permit is granted, is necessary which would require the relocation of the retaining wall, the Permittee shall relocate the retaining wall at their own expense.
8. The Permittee agrees by exercising its rights under this permit that if the retaining wall becomes damaged in anyway, whether negligently or intentionally by the construction, repair, modification or relocation of any utility existing in the easement at the time this permit is granted it will repair or replace the retaining wall at their own cost and hold the City of Columbia harmless for any of the costs associated with the repair or replacement or any other costs associated with the damage to the facilities.
9. This permit shall remain in effect until canceled by the City of Columbia, which shall be obligated to notify Permittee six (6) months in advance of the cancellation.

IN WITNESS WHEREOF, the said Party of the First Part has caused these presents to be signed by its officers the day and year first written above.

City of Columbia, Missouri

By: _____

Mike Matthes
City Manager

Attest:

By: _____

Sheela Amin
City Clerk

Approved as to form:

By: _____

Nancy Thompson
City Counselor

(Owner's Name) *Kim and Steve Stonecipher -*
Hisher

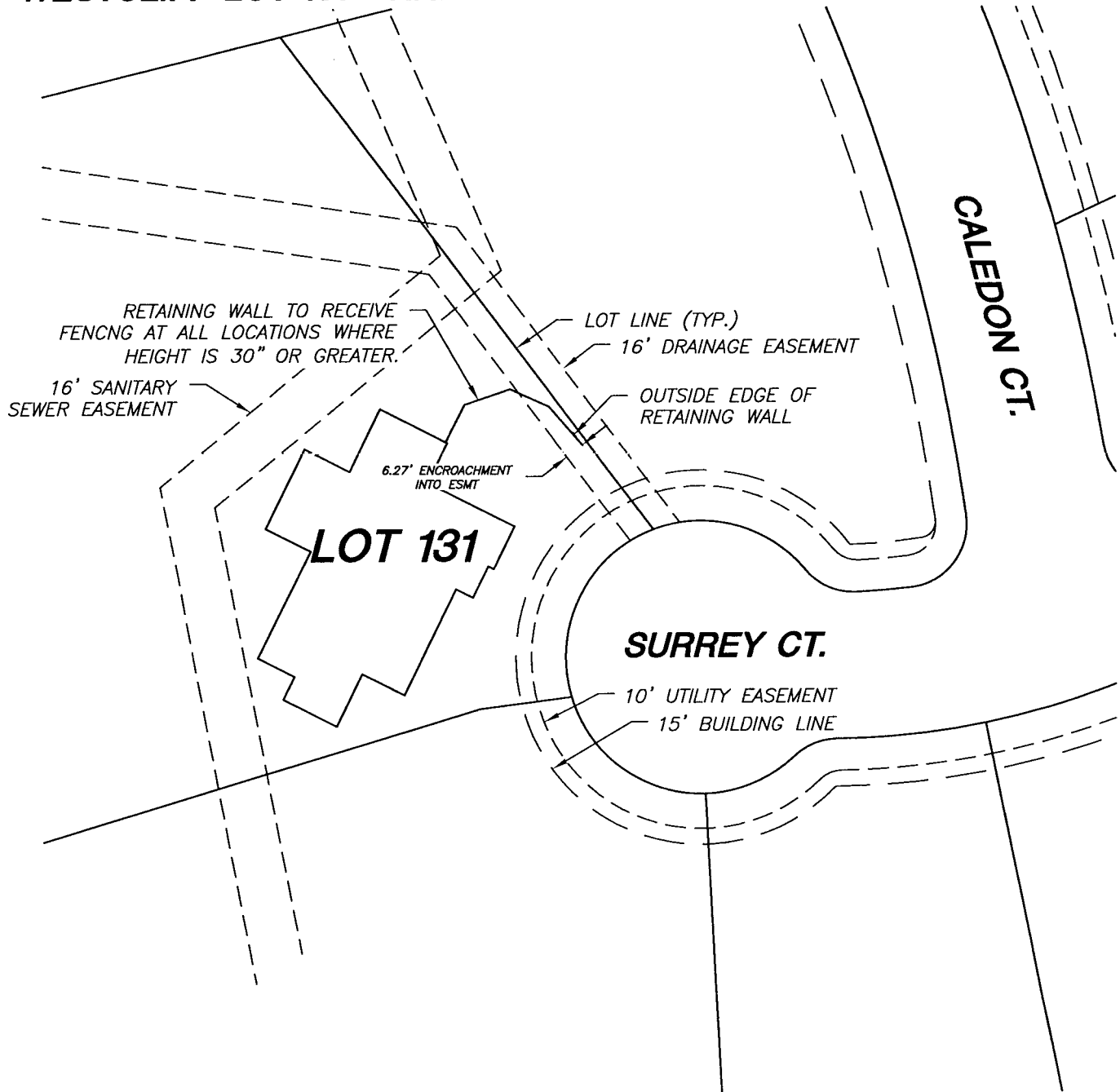
Re [Signature] for R. Anthony Development
By: *Group, LLC - Contractor*
(Signature of Owner's Rep)

[Signature]
SPENCER HASKAMP

SPENCER HASKAMP
Notary Public - Notary Seal
State of Missouri
County of Boone
My Commission Expires July 11, 2015
Commission #11116674

X:\Project\ROBERT ANTHONY DEVELOPMENT GROUP\WESTCLIFF LOT 131\RADG13-01 WESTCLIFF LOT 131\DRAWINGS\RADG13-01.dwg EXHIBITS

WESTCLIFF LOT 131 - RIGHT-OF-USE FOR RETAINING WALL

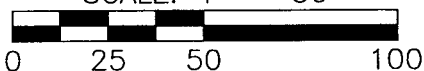


A TRACT OF LAND LOCATED IN SECTION 20, TOWNSHIP 48 NORTH, RANGE 13 WEST BEING PART OF LOT 131 OF WESTCLIFF SUBDIVISION AS RECORDED IN PLAT BOOK 38, PAGE 88 OF THE RECORDS OF BOONE COUNTY MISSOURI AND FURTHER DESCRIBED AS FOLLOWS:

A STRIP OF LAND, 8 FEET IN WIDTH, ALONG THE NORTHEAST BOUNDARY OF LOT 131, STARTING AT THE EASTERNMOST CORNER OF LOT 131 AND EXTENDING 64 FEET TO THE NORTHWEST, ALONG THE NORTHEAST BOUNDARY OF LOT 131.



SCALE: 1" = 50'





SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Letter to Council, Diagrams (construction, route, etc.)

April 27, 2014

Mr. John Glasscock
City of Columbia, Missouri
Director of Public Works

Re: Right of Use Permit at 1900 Surrey Court, Columbia, MO 65203

Mr. Glasscock,

The purpose of this letter is to request a Right of Use Permit for a driveway retaining wall that is located in a storm water easement. The legal description of the property is Lot 131 Westcliff Subdivision Plat 1, Recorded in Plat Book 38, Page 88, Columbia, Boone County, Missouri. The street address is as shown above.

The easement in question is a 16' storm water easement of which 8' resides on this lot and 8' resides on the adjacent lot. The length of the easement from the front of the lot to the rear of the easement is approximately 110'. The driveway retaining wall encroaches 6' onto the easement. The retaining wall runs generally parallel to the the property line and extends for a distance of approximately 18'.

The owners of the property understand and agree that if there is ever a need to repair or replace the storm drain that is located in the easement, and damage to the driveway retaining wall will be the responsibility of the property owner and the City of Columbia, MO bears no responsibility for repairs.

Thank you for considering this request.

Signed and Dated: 4/30/14

Kim Stonecipher-Fisher

 4/30/14

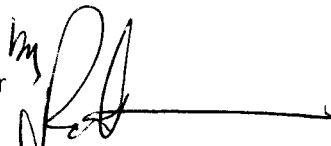
Notary: Amanda J. Henselman

Steve Stonecipher-Fisher

 4/30/14

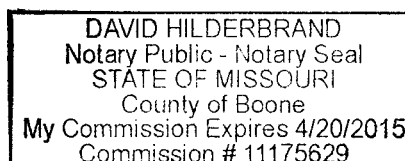
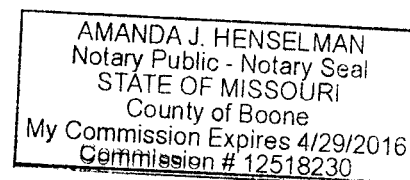
Notary: Amanda J. Henselman

Robert. A. Wolverton, Contractor
R. Anthony Development Group

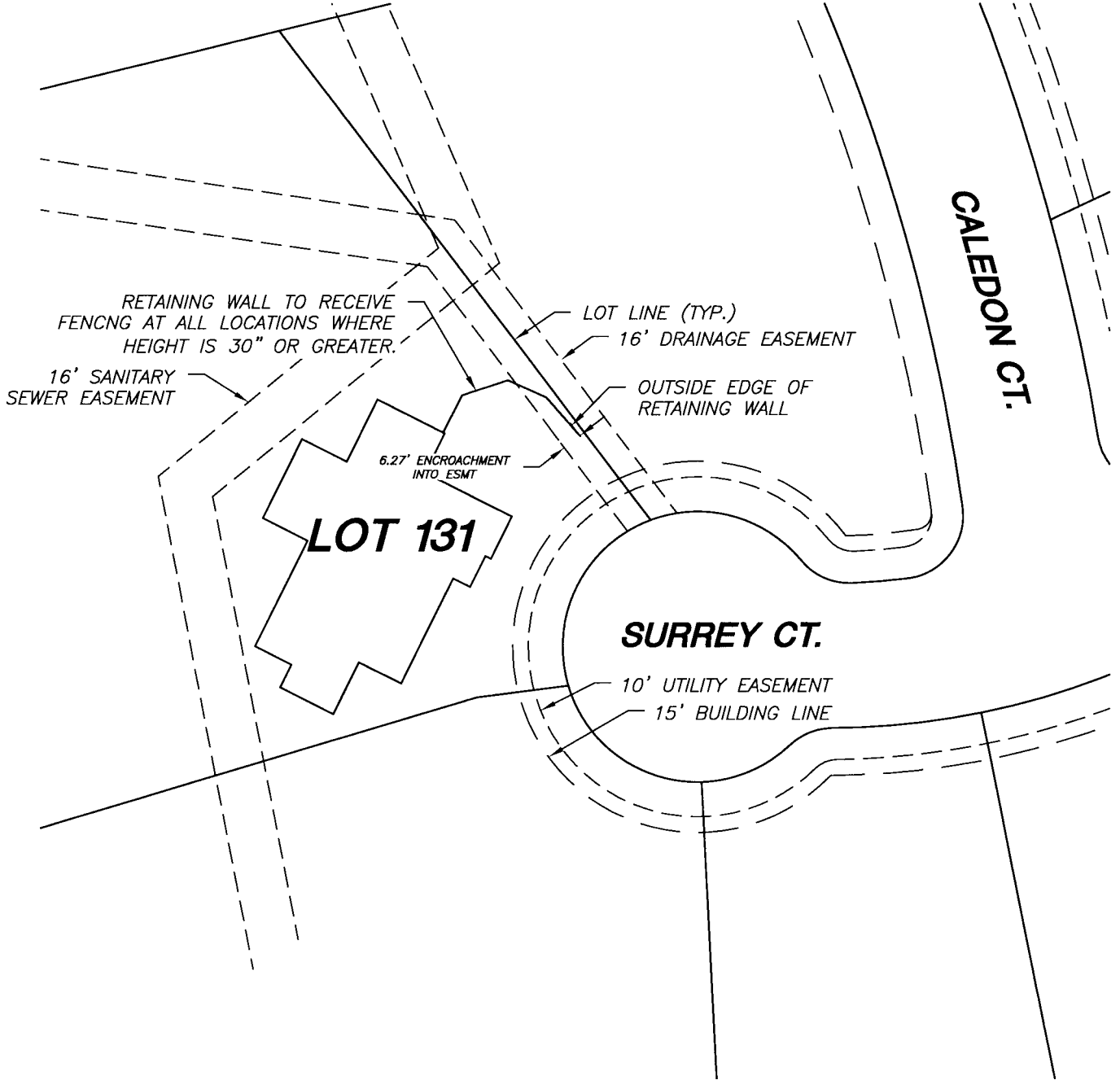


Notary:





WESTCLIFF LOT 131 - RIGHT-OF-USE FOR RETAINING WALL

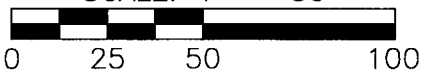


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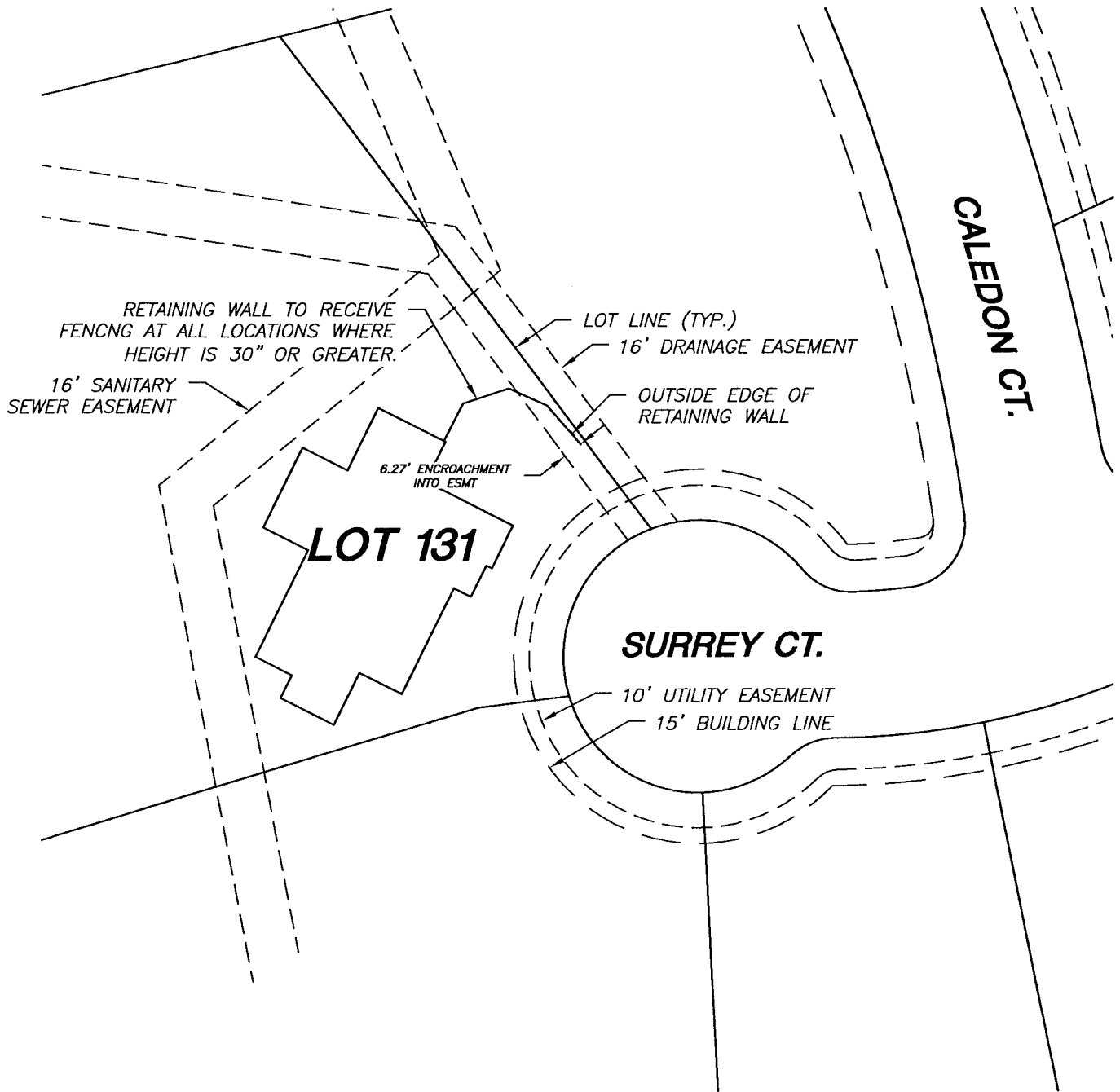
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SCALE: 1" = 50'



WESTCLIFF LOT 131 - RIGHT-OF-USE FOR RETAINING WALL



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