

MEMORANDUM

To: Dane County Zoning and Land Regulation Committee

From: Christopher Badtke, PLS

Date: September 26, 2018

Project No.: 74-0395.00

Re: Two Lot Certified Survey Map in Section 35, Town 8 North, Range 10 East, Town of Burke

Lot 2 of Certified Survey Map (CSM) 13825 is proposed to be divided by a two lot CSM. Lot 2 of CSM 13825 currently does not have any frontage on a public street as required by Chapter 75 of the Dane County Ordinances. Lot 2 does have access to a public street, Felland Road, via an access easement over Outlot 2 of adjacent CSM 13607, which is currently owned by the City of Madison Water Utility.

When CSM 13825 was recorded, Lot 2 was granted a waiver from Chapter 75 of the Dane County Ordinances regarding the street frontage requirement. This waiver was requested by the City of Madison and Tom and Diana Nelson to be able to formalize the sale of lands from the Nelsons to the City of Madison. The City of Madison Water Utility purchased 3.4 acres of land dividing the Nelson's property and creating the current Lot 2 of CSM 13825 which is landlocked creating the hardship for the Nelson's property. Included is a letter dated March 7, 2012 that describes what transpired in 2012 when CSMs 13607 and 13825 were recorded.

Without approval of a waiver granted by the Dane County Zoning and Land Regulation Committee allowing for access to the proposed CSM, the owners of Lot 2 will not be able to pursue this land division. This current land division is requested so that the Nelson's will be able to create two buildable home sites in the Town of Burke that are greater than five acres in size to conform to the current A-1 zoning.

If waiver is granted, access to Felland Road from the proposed two lot CSM will be provided via the access easement that was granted by Document Number 5099105. This access easement covers Outlot 2 of CSM 13607 that is adjacent to the North line of the proposed 2 Lot CSM. Approval of a waiver would provide both Lots of the proposed CSM access to Felland Road via access easement recorded in Document Number 5099105.

Attachments: Document Number 5099105, CSM 13607, and Letter From City of Madison Dated March 7, 2012.

ACCESS EASEMENT AGREEMENT

The **City of Madison**, a Wisconsin municipal corporation (the "City"), being the owner of the property hereinafter described, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, does grant, set over and convey to **Thomas H. Nelson and Diana M. Nelson**, (collectively, the "Grantee"), their successors and assigns, a non-exclusive easement (the "Easement") for shared access purposes over, upon and across the "Easement Area" as hereinafter described.

WITNESSETH:

WHEREAS, the Grantee is the owner in fee simple of certain real property (the "**Grantee's Parcel**") located at 4927 Felland Road in part of the SE ¼ of the NW ¼ of Section 35, Township 8 North, Range 10 East, Towne of Burke, Dane County, Wisconsin, more particularly described as follows:

Lot Three (3) of Certified Survey Map No. 1472 recorded in the Dane County Register of Deeds Office in Volume 6 of Certified Survey Maps, Page 165, as Document No. 1402463 in the Town of Burke, Dane County, Wisconsin, EXCEPTING THEREFROM that part set forth in Deed recorded December 8, 1999 as Document No. 3177246 and subject to easement in Document No. 5042786.

WHEREAS, the City is the owner in fee simple of certain real property (the "**City's Parcels**") adjacent to the Grantee's Parcel and located at 1220 and 1224 Felland Road, in the City of Madison, Dane County, Wisconsin, more particularly described as follows:

Outlot One (1) and Outlot Two (2) of Certified Survey Map No. 13607 recorded in the Dane County Register of Deeds Office in Volume 89 of Certified Survey Maps, Page 121, as Document No. 5032555 in the City of Madison, Dane County, Wisconsin.

WHEREAS, the City's Parcels were created for the City of Madison Water Utility, with Outlot One (1) reserved for the reservoir and Outlot Two (2) created for access to the reservoir; and

WHEREAS, Certified Survey Map No. 13607 also established certain easements for access and cross-access purposes over said Outlot Two (2) for the benefit of the Grantee's Parcel, and

WHEREAS, the parties desire to enter into this Access Easement Agreement to clarify the terms and conditions of said easements.



8 7 6 5 0 9 1
Tx:8601062

**KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS**

**DOCUMENT #
5099105**

09/19/2014 12:41 PM

Trans. Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 5

RETURN TO: City of Madison
Economic Development Division
P.O. Box 2983
Madison, WI 53701-2983

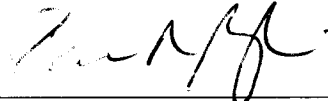
Tax Parcel Nos.: 251-0810-352-0102-9
014-0810-352-9571-0

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Grantee and the City agree as follows:

1. Grant of Easement. The City hereby grants and conveys to the Grantee, and the Grantee hereby accepts from the City, a non-exclusive easement for cross access and access purposes over, upon and across Outlot Two (2) of Certified Survey Map. No. 13607 (the "Easement Area"), as identified on attached Exhibit A.
2. Use of Easement Area.
 - a. The Grantee's use of the Easement Area shall be for private pedestrian and vehicular cross access between the northerly and southerly portions of the Grantee's Parcel, until such time that said portions are no longer under single ownership.
 - b. The Grantee's use of the Easement Area shall include private access to Felland Road specifically for the southerly portion of the Grantee's Parcel.
 - c. The Grantee agrees for itself and its agents to use the Easement Area in a manner fully complying with all laws and other legal requirements.
 - d. Neither the Grantee nor the City may unreasonably interfere with or impair the other party's rights hereunder, or (ii) erect or permit to be erected any sign, fence, wall, pole, post, structure, or other facility so as to prevent the free flow of traffic over and across the Easement Area.
 - e. The City has provided the Grantee a key to the existing gate at the eastern boundary of the Easement Area. In the event of a sale, new owners shall contact the City for a copy of the key.
 - f. The City shall relocate the existing gate to the western boundary of the Easement Area when the southerly portion of the Grantee's Parcel has approved access to a public street.
 - g. The City agrees to maintain the driveway over the Easement Area, including repairing and snow plowing.
 - h. The Grantee may not use the Easement Area for open storage or permanent parking of vehicles or equipment of any kind.
3. Reservation of Use. The City reserves the right to use and occupy the Easement Area in a manner consistent with the rights herein conveyed, provided that such use and occupancy shall not interfere with or disturb the Grantee's use of the Easement Area.
4. Limitation of Easement.
 - a. This Easement is intended for the sole use of the Grantee and the present and future owners, occupants, agents, tenants and invitees of the Grantee's Parcel in its entirety and is not intended, nor shall be construed, to create any rights in or for the benefit of the general public.

Dated this 16th day of September, 2014.

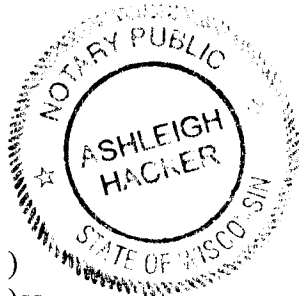
CITY OF MADISON, a Wisconsin municipal corporation

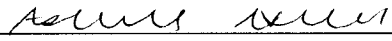
By: 
Paul R. Soglin, Mayor

By:  for
Maribeth Witzel-Behl, City Clerk

State of Wisconsin)
)ss.
County of Dane)

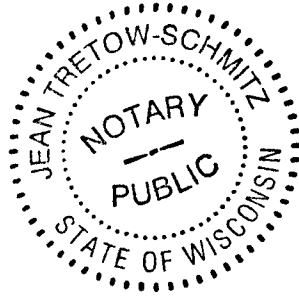
Personally came before me this 16th day of September, 2014, the above named Paul R. Soglin, Mayor of the City of Madison, and acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

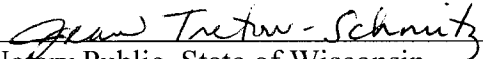



Notary Public, State of Wisconsin
Ashleigh Hacker
Print or Type Name
My Commission: exp 5/8/18

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 15th day of September, 2014, the above named Maribeth Witzel-Behl, City Clerk of the City of Madison, and acting in said capacity and known to me to be the person who executed the foregoing instrument and acknowledged the same.



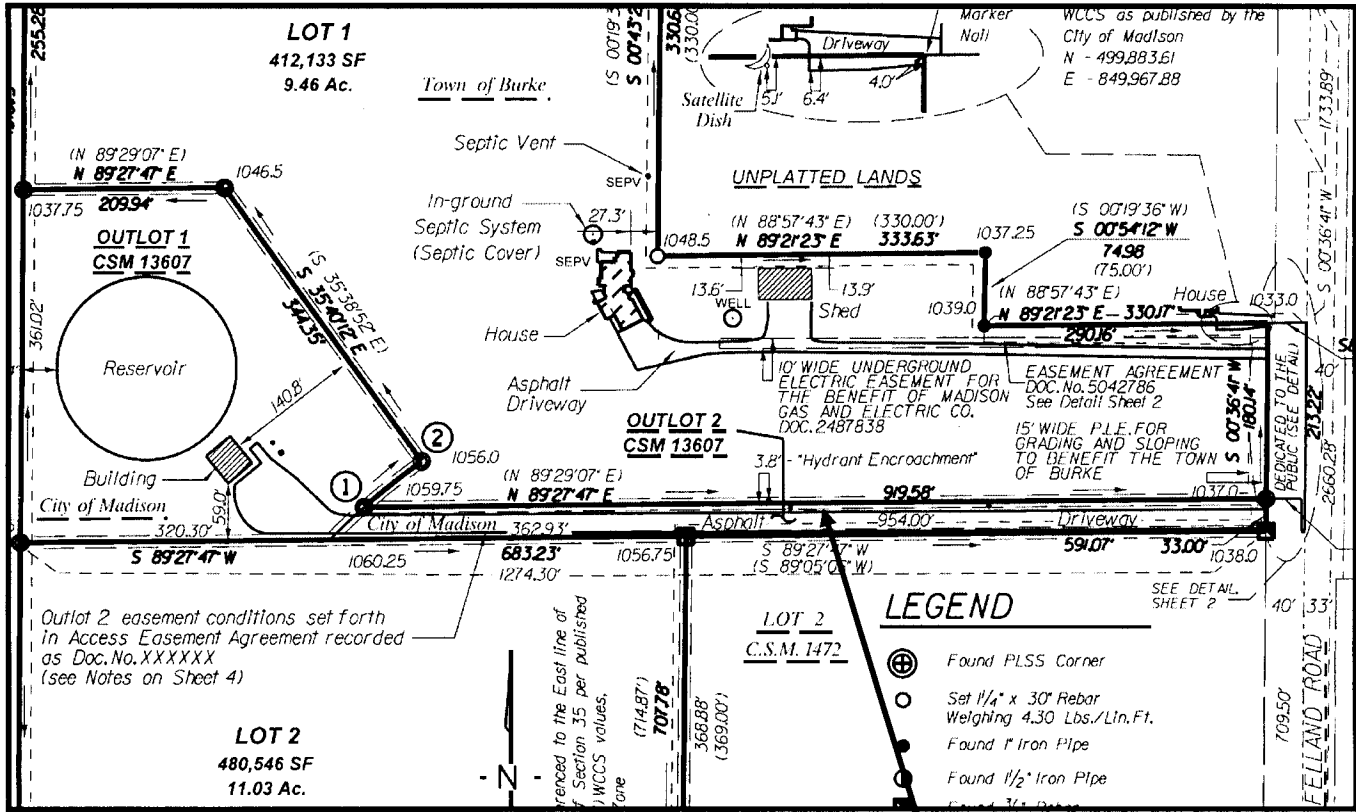

Notary Public, State of Wisconsin
Jean Tretow-Schnitz
Print or Type Name
My Commission: 10-2-2016

This document is authorized by Resolution Enactment No. RES-13-00798, File ID No. 31701, adopted by the Common Council of the City of Madison on October 15, 2013.

Drafted by the City of Madison Office of Real Estate Services Real Estate Project No. 10381

EXHIBIT A

Easement Area



NOT TO SCALE

**EASEMENT AREA
OVER OUTLOT 2**

CERTIFIED SURVEY MAP NO. 13607

PART OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35,
TOWNSHIP 08 NORTH, RANGE 10 EAST, CITY OF MADISON, DANE COUNTY,
WISCONSIN, BEING PART OF LOT 3 OF CERTIFIED SURVEY MAP NO. 1472.

SURVEYORS CERTIFICATE:

I, JAMEY L. REID, PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY:

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES
AND THE SUBDIVISION REGULATIONS OF THE CITY OF MADISON.

THAT I HAVE SURVEYED, DIVIDED, MAPPED AND DEDICATED A PART OF THE SOUTHEAST ONE-QUARTER OF THE
NORTHWEST ONE-QUARTER OF SECTION 35, TOWNSHIP 08 NORTH, RANGE 10 EAST, CITY OF MADISON, DANE
COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ONE-QUARTER CORNER OF SAID SECTION 35; THENCE S 00°36'41"W ALONG THE EAST LINE
OF THE NORTHWEST QUARTER OF SAID SECTION 35, 1914.03 FEET; THENCE S 89°27'47" W, 3.74 FEET TO THE POINT
OF BEGINNING; THENCE S 00°43'23" W, 33.00 FEET; THENCE S 89°27'47" W ALONG THE NORTH LINE OF LOT 2
OF CERTIFIED SURVEY MAP NO. 1472 1310.51 FEET TO THE WEST LINE OF LOT 3 OF CERTIFIED SURVEY MAP
NO. 1472; THENCE N 00°26'39" E ALONG THE WEST LINE OF SAID LOT 3 361.02 FEET; THENCE N 89°27'47" E,
209.94 FEET; THENCE S 35°40'12" E, 344.35 FEET; THENCE 75.00 FEET ALONG THE ARC OF A CURVE CONCAVE
SOUTHEASTERLY HAVING A RADIUS OF 700.00 FEET AND WHOSE CHORD BEARS S 51°15'39" W, 74.96 FEET;
THENCE N 89°27'47" E, 955.85 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 148,697 SQUARE FEET OR 3.41 ACRES.

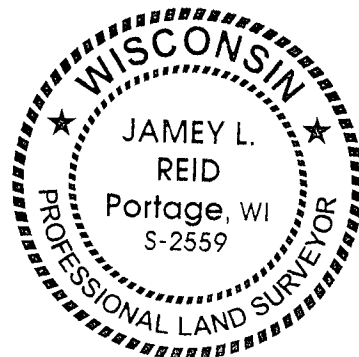
THAT I HAVE MADE THIS SURVEY, LAND DIVISION AND CERTIFIED SURVEY MAP AT THE DIRECTION OF
THE CITY OF MADISON WATER UTILITY, OWNERS OF SAID LANDS.

THAT SUCH CERTIFIED SURVEY MAP IS A CORRECT REPRESENTATION OF THE EXTERIOR BOUNDARIES OF THE LAND
SURVEYED AND THE SUBDIVISION THEREOF MADE.

Jamey L. Reid 9-6-13
JAMEY L. REID,
R.L.S. NO. 2559

DATED THIS 6TH DAY OF SEPTEMBER, 2013.

Revised 10-18-13



MADISON COMMON COUNCIL CERTIFICATE:

RESOLVED THAT THIS CERTIFIED SURVEY MAP LOCATED IN THE CITY OF MADISON WAS HEREBY APPROVED
BY ENACTMENT NUMBER RES-13-00798, FILE I.D. NUMBER 31701, ADOPTED ON THE 15TH DAY OF
OCTOBER, 2013 AND THAT SAID ENACTMENT FURTHER PROVIDED FOR THE ACCEPTANCE OF THOSE LANDS
DEDICATED AND RIGHTS CONVEYED BY SAID CERTIFIED SURVEY MAP TO THE CITY OF MADISON FOR
PUBLIC USE.

DATED THIS 18th DAY OF October, 2013.

Maribeth Witzel-Behl
MARIBETH WITZEL-BEHL, CITY CLERK

CITY OF MADISON, DANE COUNTY WISCONSIN

CERTIFIED SURVEY MAP NO. 13607

PART OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 35,
TOWNSHIP 08 NORTH, RANGE 10 EAST, CITY OF MADISON, DANE COUNTY,
WISCONSIN, BEING PART OF LOT 3 OF CERTIFIED SURVEY MAP NO. 1472.

CITY OF MADISON PLAN COMMISSION CERTIFICATE:

APPROVED FOR RECORDING PER THE SECRETARY OF THE CITY OF MADISON PLAN COMMISSION.

BY:


STEVEN R. COVER, SECRETARY PLAN COMMISSION

DATE: 16 SEPT 2013

ADDITIONAL NOTES:

ALL LOTS CREATED BY THIS CERTIFIED SURVEY MAP ARE INDIVIDUALLY RESPONSIBLE FOR COMPLIANCE WITH CHAPTER 37 OF THE MADISON GENERAL ORDINANCES IN REGARDS TO STORMWATER MANAGEMENT.

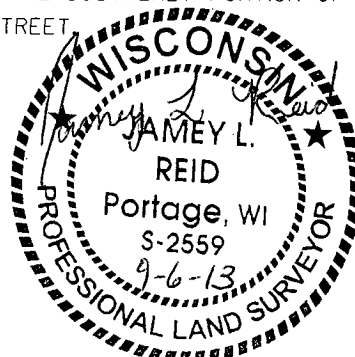
ARROWS INDICATE THE DIRECTION OF SURFACE DRAINAGE SWALE AT INDIVIDUAL PROPERTY LINES. SAID DRAINAGE SWALE SHALL BE GRADED WITH THE CONSTRUCTION OF EACH PRINCIPAL STRUCTURE AND MAINTAINED BY THE LOT OWNER UNLESS MODIFIED WITH THE APPROVAL OF THE CITY ENGINEER. ELEVATIONS GIVEN FOR PROPERTY CORNERS AT GROUND LEVEL AND SHALL BE MAINTAINED BY THE LOT OWNER.

ALL LOTS WITHIN THIS SURVEY ARE SUBJECT TO A PUBLIC EASEMENT FOR DRAINAGE PURPOSES WHICH SHALL BE A MINIMUM OF 6-FEET IN WIDTH MEASURED FROM THE PROPERTY LINE TO THE INTERIOR OF EACH LOT EXCEPT THAT THE EASEMENT SHALL BE 12-FEET IN WIDTH ON THE PERIMETER OF THE CERTIFIED SURVEY MAP. EASEMENTS SHALL NOT BE REQUIRED ON PROPERTY LINES SHARED WITH GREEN WAYS OR PUBLIC STREETS. NO STRUCTURES MAY BE CONSTRUCTED WITHIN SAID EASEMENT AND NO OTHER OBSTRUCTIONS TO DRAINAGE, INCLUDING LANDSCAPING ARE PERMITTED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY ENGINEER.

NOTE: IN THE EVENT OF A CITY OF MADISON PLAN COMMISSION AND/OR COMMON COUNCIL APPROVED RE-DIVISION OF A PREVIOUSLY SUBDIVIDED PROPERTY, THE UNDERLYING PUBLIC EASEMENTS FOR DRAINAGE PURPOSES ARE RELEASED AND REPLACED BY THOSE REQUIRED AND CREATED BY THE CURRENT APPROVED SUBDIVISION.

CROSS ACCESS EASEMENT: A PRIVATE CROSS ACCESS EASEMENT IS GRANTED TO THE OWNER OF ADJACENT LOT 3 CERTIFIED SURVEY MAP NO. 1472 FOR THE RIGHT TO USE OUTLOT 2 FOR PEDESTRIAN AND VEHICULAR ACCESS BETWEEN THE NORTHERLY AND SOUTHERLY PORTIONS OF LOT 3 CERTIFIED SURVEY MAP NO. 1472.

ACCESS EASEMENT: A PRIVATE ACCESS EASEMENT IS GRANTED TO THE OWNER OF THE SOUTHERLY PORTION OF LOT 3 CERTIFIED SURVEY MAP NO. 1472 FOR THE RIGHT TO ACCESS FELLAND ROAD OVER OUTLOT 2. THIS RIGHT SHALL RUN WITH THE LAND AND SHALL TERMINATE ONLY WHEN THE SOUTHERLY PORTION OF LOT 3 CERTIFIED SURVEY MAP NO. 1472 HAS APPROVED ACCESS TO A PUBLIC STREET.



CERTIFIED SURVEY MAP NO. 13607

PART OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35,
TOWNSHIP 08 NORTH, RANGE 10 EAST, CITY OF MADISON, DANE COUNTY,
WISCONSIN, BEING PART OF LOT 3 OF CERTIFIED SURVEY MAP NO. 1472.

OWNER'S CERTIFICATE:

THE CITY OF MADISON, A MUNICIPAL CORPORATION DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN, AS OWNER, DOES HERBY CERTIFY THAT SAID MUNICIPAL CORPORATION CAUSED THE LAND DESCRIBED ON THIS CERTIFIED SURVEY MAP TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED AS REPRESENTED ON THIS CERTIFIED SURVEY MAP. SAID MUNICIPAL CORPORATION FURTHER CERTIFIES THAT THIS CERTIFIED SURVEY MAP IS REQUIRED BY WIS. STATS. S. 236.34 TO BE SUBMITTED TO THE CITY OF MADISON FOR APPROVAL.

IN WITNESS WHEREOF, THE SAID CITY OF MADISON HAS CAUSED THESE PRESENTS TO BE SIGNED BELOW BY ITS MAYOR AND CITY CLERK AND ITS CORPORATE SEAL TO BE HEREUNTO AFFIXED ON THIS 18th DAY OF October, 2013.

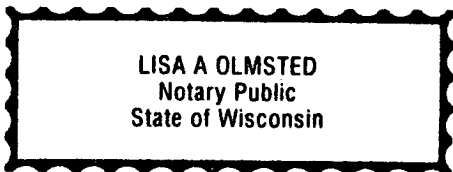
BY: Paul R. Soqlin
PAUL R. SOGLIN, MAYOR

CITY OF MADISON

BY: Maribeth Witzel-Behl
MARIBETH WITZEL-BEHL, CITY CLERK

STATE OF WISCONSIN)
)SS.
COUNTY OF DANE)

PERSONALLY CAME BEFORE ME THIS 18th DAY OF October, 2013, THE ABOVE-NAMED PAUL R. SOGLIN, MAYOR OF THE CITY OF MADISON, ACTING IN SAID CAPACITY AND KNOWN BY ME TO BE THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME.



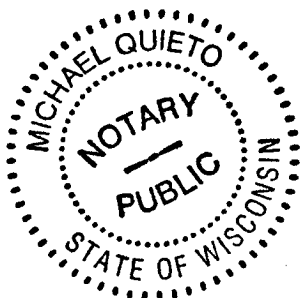
Lisa A. Olmsted
NOTARY PUBLIC, STATE OF WISCONSIN

Lisa A. Olmsted
(PRINT OR TYPE NAME)

MY COMMISSION EXPIRES: 9/6/15

STATE OF WISCONSIN)
)SS.
COUNTY OF DANE)

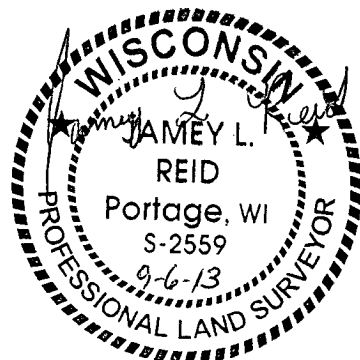
PERSONALLY CAME BEFORE ME THIS 18th DAY OF October, 2013, THE ABOVE-NAMED MARIBETH WITZEL-BEHL, CITY CLERK OF THE CITY OF MADISON, ACTING IN SAID CAPACITY AND KNOWN BY ME TO BE THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME.



Michael Quieto
NOTARY PUBLIC, STATE OF WISCONSIN

Michael Quieto
(PRINT OR TYPE NAME)

MY COMMISSION EXPIRES: 3-13-2016





Department of Planning & Community & Economic Development

Economic Development Division

Website: www.cityofmadison.com

- Office of Business Resources
- Office of Economic Revitalization
- Office of Real Estate Services

Madison Municipal Building, Suite 312
215 Martin Luther King, Jr. Boulevard
P.O. Box 2983
Madison, WI 53701-2983
FAX 608 261-6126
PH 608 266 4222

March 7, 2012

Dan Everson
Assistant Zoning Administrator
Dane County Planning & Development
Room 116, City-County Building
210 Martin Luther King Jr. Blvd.
Madison, Wisconsin 53703-3342

RE: Waiver Request – 4927 Felland Road, Town of Burke

Dear Mr. Everson;

On behalf of Tom & Diana Nelson and the Madison Water Utility, the City of Madison is requesting a waiver from the requirement in Section 75.19(6)(b) of the Dane County Land Division & Subdivision Regulations that every lot or parcel front or abut a public street and contain a minimum frontage of 66 feet.

The Nelson's and Water Utility share ownership of approximately 24 acres of land with 211 feet of frontage along the west side of Felland Road. The site was owned entirely by the Nelson's until 1999, when the Madison Water Utility purchased 3.4 acres in the center of the property for the purposes of siting the water reservoir structure located along a portion of the western property line. The Water Utility parcel includes a five-sided, 2.7-acre tract surrounding the reservoir, and a 33-foot wide strip that extends east to provide access to Felland Road. The reservoir site and access strip were annexed to the City from the Town of Burke on February 21, 2006. The remaining 20.5-acre Nelson property is divided into 9.5 acres including a single-family residence located north of the Water Utility property, and 11 acres of undeveloped land to the south. The southern portion of the Nelson ownership is landlocked and does not have frontage along a public road. Both Nelson parcels remain in the Town of Burke.

The City and Nelson's have been working since 2006 to complete a Certified Survey Map to formalize the previous sale to the Water Utility in 1999. The City, Town of Burke, and Dane County previously approved a CSM for the 24 acres, but the approved CSM was not executed and offered for recording within the timeframe allowed under Sec. 236, Wis. Stats. The City is seeking re-approval of the land division to formalize the 1999 transaction and requests a waiver from Section 75.19(6)(b) to proceed.

If you have any questions about this request, please do not hesitate to contact my office at 267-8719.

Sincerely,

Jennifer Frese
Real Estate Agent

cc: Al Larson, Madison Water Utility
Eric Pederson, City Engineering Division
Tim Parks, Planning Division