



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2914
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www.ci.mequon.wi.us

Office of the City Clerk

BOARD OF APPEALS
Thursday, October 3, 2024
6:00 PM
Christine Nuernberg Hall

Agenda

- 1) Call to Order, Roll Call**
- 2) Approve meeting minutes of August 1, 2024**
- 3) Hear evidence concerning; debate, deliberate and decide the request of:**
 - a. Applicant: Ralph Morello
 - Owner: The Ralph Morello and Judith Morello Revocable Trust
 - Appeal: Opportunity will be afforded to all interested in being heard concerning the petition by The Ralph Morello and Judith A. Morello Revocable Trust requesting the retraction of the Planning Commission's requirement of July 22, 2024, regarding the widening of the driveway for the property located at 10050 North Range Line Road.
- 4) Adjourn**

Dated: October 3, 2024

/s/ Kathleen Massey, Chair

.....
Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the City Clerk's Office at 262-236-2914, Monday through Friday, 8:00 AM – 4:30 PM



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BOARD OF APPEALS
Thursday, August 1, 2024
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order

Chairman Massey called the meeting to order at 6:00 PM.

Present:

Chair Massey
Board Member Helfer
Board Member Hildebrand
Board Member Larson
Board Member Wawrzyn
Board Member Stern – **Excused**
Board Member Flanagan – **Excused**

Also present: City Attorney Brian Sajdak, City Clerk Caroline Fochs, Director of Community Development Tollefson, Associate Planner Hoier and interested public.

2) Approve meeting minutes of May 2, 2024

RESULT: **Approved by Voice Acclamation [4:1]**
MOVED BY: Chair Massey
SECONDED BY: Board Member Larson

AYES:	Massey, Helfer, Hildebrand, Larson
ABSTAIN:	Wawrzyn

3) Hear evidence concerning; debate, deliberate and decide the request of:

Applicant: Scott Starr
Owner: Scott Starr
Appeal: Opportunity will be afforded to all interested in being heard concerning the request by Scott Starr to appeal the denial of a building permit application for the construction of a second accessory structure at 2220 Sunnydale Lane.

Hearing no objection, Chairman Massey opened the public hearing, stated the administrative appeal and the process.

Attachment: BOA Starr-8.1.24_minutes FORMAT Draft (9645 : BOA minutes)

All parties appearing before the Board of Appeals were sworn.

Scott Starr 2220 W Sunnydale Lane, Mequon, WI 53092

Evan Hoier 11333 N Cedarburg Road, Mequon, WI 53092

Kim Tollefson 11333 N Cedarburg Road, Mequon, WI 53092

Brian Parrish 11333 N Cedarburg Road, Mequon, WI 53092

Chairman Massey began by explaining the guidelines for the Board of Appeals as well as the process for the Board of Appeals meeting.

City Attorney Sajdak clarified that the agenda item was not regarding the denial of a building permit but a variance request for the code. This clarification was meant to ensure that the Board was ready to proceed knowing proper notice had been given and the applicant also understood this distinction. The Board, the City, nor the applicant had any objection with proceeding.

Associate Planner Hoier said homeowner Starr applied for a permit for an additional accessory building on May 1, 2024 to be used as a yoga/meditation studio on the property at 2220 West Sunnydale Lane. Code allows for one additional structure; however, Starr said a second structure was necessary for medical reasons. The City cannot take into account any medical, physical or financial personal circumstances rather must look at whether there is a unique physical hardship of the land.

It was determined that there was not a physical hardship that would allow for this variance in the code. A permit for the second structure was never issued. The homeowner had applied and presented to Architectural Review Board but they do not review zoning.

Mr. Starr stated that March 2024 was the first contact regarding the project and understood that the guidelines would be for a structure to be under 400 square feet and 20' from property line. The Architectural Review Board said it was good once windows were added; therefore, Mr. Starr began the process and ordered materials and poured concrete. At that time, he received a call from Associate Planner Hoier saying Starr needed a permit for a second structure but that permit would be denied as they already had a pool shed on the property. The site plan, survey and drawings were documents the City had for review.

The Board of Appeals and the homeowner discussed what other options had been considered before this plan; such as adding square footage to home or taking down the pool shed. The homeowners didn't want to disrupt the look/feel/style of the home with an addition. The homeowner preferred a separate space that wasn't part of the house as it would be clean and quiet. The Board and homeowner discussed other options including using a different internal space, making the pool shed a dual-space or using space within the garage for storage. The Homeowner had considered other options but wanted it to be a separate and quiet space outside of the home as they have the land that could accommodate that.

City Attorney Sajdak discussed the legal guidelines of the ADA which allows for reasonable accommodations and can have an impact on zoning decisions. Even when there is a disability, you still have to consider the code and reasonableness of what options exist.

Alderman Parrish stated that he understands each decision made must consider precedent. Boards can deal with unique situations and need to work with the members of the community. He asked the Board to recognize the hardship of this homeowner's needs due to a health-related request as well as the fact that the neighbors were contacted and had not disputed it.

Motion to close the public hearing for Scott Starr.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Chair Massey
SECONDED BY: Board Member Hildebrand

AYES: Helfer, Hildebrand, Larson, Massey, Wawrzyn

Chair Massey stated that this Board must look at the ordinances and codes as they are written. While the Board can relate to the difficulty faced by the homeowner, they can only review the request and determine if this variance can be granted based on hardship due to the property not the needs of the individual/homeowner.

When reviewing this case, it must be considered that the code clearly states that only one accessory structure is allowed. Homeowner Starr said he is willing to take down the existing pool shed to move forward with the new structure which would better meet their current needs.

Motion to deny the variance.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Board Member Wawrzyn
SECONDED BY: Chair Massey

AYES: Helfer, Hildebrand, Larson, Massey, Wawrzyn

4) Adjourn

Motion to adjourn at 7:10 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Helfer
SECONDED BY: Board Member Hildebrand

AYES: Helfer, Hildebrand, Larson, Massey, Wawrzyn

Respectfully Submitted,
Beth Kong
Deputy Clerk



11333 N. Cedarburg Road
 Mequon, WI 53092-1930
 Phone: 262-242-3100
 Fax: 262-242-9655

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Office of Community Development

TO: Board of Appeals
FROM: Cole McCraw, Assistant City Engineer
DATE: October 3, 2024
SUBJECT: Ralph Morello and Judith A. Morello Revocable Trust regarding the property located at 10050 North Range Line Road

Background:

The appellant is appealing the decision of the Planning Commission dated July 22, 2024, related to the conditions of certified survey map (CSM) approval for the property located at 10050 North Range Line Road. The appellant intends to divide the property into two lots. The appellant resides in the existing single-family home on the property.

In May 2024, the appellant also appeared at Planning Commission for a consultation on the CSM. One key point of the discussion was access. The application showed two concepts for access - one created a new access point connecting through a private property to Range Line Terrace to the south. The other concept utilized the existing driveway. Staff recommended the connection to Range Line Terrace, but Planning Commission recommended utilizing the existing driveway and commented that widening would be preferred. This application was for Planning Commission consultation, so no action was taken.

The CSM was brought to Planning Commission for approval in accordance with Section 58-635(4) of the City of Mequon Code of Ordinances -Processing Procedure for Minor Land Divisions, which states the following:

(4) Final certified survey map approval. The planning commission shall approve, reject or conditionally approve the certified survey map based on compliance with city ordinance requirements, the city comprehensive plan, statutory requirements and after review of the proposed developments impact on the city's streets, sewerage system, drainage system and environmental resources. If the proposed development impact(s) is interpreted by the planning commission to be significant, the planning commission may reject the certified survey map or require appropriate and necessary mitigation of the impact. The final certified survey shall dedicate the necessary road right-of-way as a condition of land division approval.

The Planning Commission referred to requirements from the Mequon Standard Specifications for Land Development (SSLD) regarding private driveways and roadways found in section 3.2.9 of the SSLD:

3.2.9 Private Driveways and Roadways

- A. Private driveways can serve a maximum of four (4) lots and extend up to 500 feet in length.
- B. Private roadways can serve a maximum of ten (10) lots and extend up to 1,000 feet in length.
- C. A private roadway and shared private driveway shall have a minimum pavement width of 18 feet with two- (2) foot aggregate shoulders. A three- (3) foot clear zone, as defined by the State of Wisconsin, Department of Transportation's (WisDOT) Facility Development Manual (FDM), is required.

The appellant also requested a waiver to the the Mequon Standard Specifications for Land Development (SSLD) Sections 3.2.9.A. and 3.2.9.C. The Planning Commission conditionally approved the CSM with 13 conditions on July 22, 2024, including a waiver to SSLD 3.2.9.A. A waiver to 3.2.9.C. was not granted.

The SSLD is referenced in Section 58-605 of the City of Mequon Code of Ordinances - Streets and Access Drives.

Sec. 58-605. - Streets and access drives.

- (a) All streets shall be constructed in accordance with the publication "City of Mequon Standard Specifications for Land Development, Seventh Edition, December 2002, or any amendment or revision thereof approved by the common council. The planning commission may waive or modify these specifications if, in its judgment, it is not adverse to the public health, safety and welfare.

Appeal:

The appellant alleges error by the Planning Commission of the following conditions of the certified survey map approval July 22, 2024:

Appellant: I am requesting the deletion of conditions (Items 12 & 13) in the letter to the [appellant] ... dated July 23, 2024.

Planning Commission Condition Item 12: *A waiver to Section 3.2.9.A, and denial of a waiver request to Section 3.2.C. of the SSLD. This will require the existing east-west portion of the driveway to be widened to 18 feet to serve the created lot(s).*

Planning Commission Condition Item 13: *The requirement for the widening of the road shall only be enacted upon the development of a structure on Lot 2.*

Appellant claims that the existing parcels of the proposed CSM has been granted easement rights to use the existing driveway for access purposes, recorded by the Ozaukee Register of Deeds Document #322971 in November 1980 and Document #464842 in May 1992. See attached titled "Declaration of Easements" and "Access and Utility Agreement and Easement."

The Planning Commission action (conditional approval Item 12) gave a waiver to Section 3.2.9.A. which allows the applicant to construct a private driveway rather than a private roadway. Item 12 also denied a waiver request to Section 3.2.C. enforcing the required private driveway width, but only required the east-west portion of the driveway to be widened.

Item 13 only applies to the execution timeline for requirements in Item 12. This condition was applied to give flexibility to the appellant. Item 13 should not be independently removed.

The existing easement documents give the lots legal access through the driveway. The easement document does not define the driveway specifications. The new application for land division allows the Planning Commission to apply current Ordinances and standards in approval of the application. Due to the new land division, the shared

driveway will serve 6 total lots. The condition was, therefore, not applied in error.

Applicant also claims the following hardships:

A private roadway requires a minimum width of 26 feet. Our current 930 ft. long, 14 ft. wide paved driveway, due to its alignment and profile, will have to be removed to accommodate the new roadway. At a minimum this will entail a major grading project, tree removals and replacement of 3 existing culverts. It will not be possible for the 4 properties that currently use the existing private driveway to access their homes during this lengthy construction period.

The Planning Commission waived the requirements for a private roadway as previously mentioned, therefore, the private driveway will need to conform to SSLD Section 3.2.9.C requiring 18 feet of pavement with two-foot aggregate shoulders. The Planning Commission may apply conditions to approvals in accordance with City Ordinances. The driveway width requirements are enforced for public safety for driveway users and to improve emergency response. The requirement is to ensure that emergency vehicles have adequate access for both ingress and egress in case of emergency.

Regarding access during construction, the project can be phased to allow access at all times. Entire roadways are reconstructed while maintaining access, and this driveway widening can be completed in the same manner.

Recommendation:

Based on the analysis above, staff recommends **denial** of any and all appeals to the conditions of CSM approval by the Planning Commission dated July 22, 2024.

Attachments:

20240821_Application Morello (PDF)
 Planning Commission Minutes May 20 2024(PDF)
 Planning Commission Minutes July 22 2024 (PDF)
 Morello CSM Overview (PDF)

BOARD OF APPEALS ADMINISTRATIVE APPEAL APPLICATION

CITY OF MEQUON, WISCONSIN

Applicant: RALPH MORELLO Address: 10050 N. RANGELINE RD
City/zip: MEQUON 53092

Owner: RALPH MORELLO and JUDITH A. MORELLO Address: SAME AS ABOVE
REVOCABLE TRUST City/zip: _____

Contact Person/Name: RALPH MORELLO

Phone Number: 262-893-7148 Email: rmorello@drinkbeer.com

TO THE BOARD OF APPEALS:

The above hereby requests an appeal to a decision made by:

MEQUON PLANNING COMMISSION 7/22/2024
(please list the City Department or Board/Commission/Committee whose decision you are appealing)

APPLICANT MUST PROVIDE:

Application form

\$250 filing fee

1 copy each of the following documents

1. Copy of denial letter if any, or a description of the denial
2. Letter explaining the reason for the appeal

FOR OFFICE USE ONLY	
Receiving Officer: <u>Caroline Jahn</u>	Received Date: <u>8-19-24</u>
Parcel #: <u>15-031-071500</u>	Hearing Date: <u>10-03-2024</u>
Zoning District: <u>R-2</u>	Receipt #: <u>004001-0048</u>
Alderman & District #: <u>7 Peter Bratt</u>	Published: <u>9-19-24</u>

- c: Notice of scheduled hearing to DISTRICT ALDERPERSON, OWNER(S) OF RECORD as listed in the Office of the Assessor and all parcels in the City of Mequon as per state statute and City of Mequon Communication Policy.



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 Mequon, Wisconsin 53092
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Department of Community Development

July 23, 2024

Ralph Morello and
 Judith A. Morello Revocable Trust
 10050 N. Range Line Road
 Mequon, WI 53092

Re: Certified Survey Map

Dear Ralph and Judith,

At their July 22, 2024, meeting, the Planning Commission took the following action regarding the certified survey map approval request to allow for a 2-lot land division for the property located at 10050 N. Range Line Road.

Approval of the 2-lot land division, subject to the following conditions:

1. No certified survey map shall be recorded after 180 days from the date of the Planning Commission approval.
2. The applicant shall provide staff with the original CSM documentation.
3. Existing easements shown on the face of the CSM shall include document numbers for reference.
4. All lots shall include easements for access, sanitary sewer and water main.
5. New and existing easements shall have associated easement declaration documents. A new access point would require a shared access easement. All easement documents are subject to review by the City attorney.
6. Engineering Division technical review and approval of the CSM is required.
7. Sewer connection is required and must conform to City ordinances, regional authorities and the SSLD.
8. Water connection shall conform to the Mequon Water Utility Water Connection Policy.
9. An additional driveway or existing driveway modifications may trigger runoff control requirements. For any home/driveway construction that exceeds 5,000 square feet of impervious area, each individual lot will be required to provide a green infrastructure plan meeting MMSD requirements. Alternatively, the developer could plan for a regional stormwater facility that meets City ordinances and MMSD Chapter 13. The green infrastructure improvements also require a Stormwater Maintenance and Easement Agreement, subject to City Attorney review and approval, and a drainage financial guarantee. Occupancy will not be granted until the green infrastructure measures are installed and certified.
10. Approval of a storm water management plan for the site in conformance to City ordinances and MMSD Chapter 13 if ½-acre of impervious surface is added, including execution of a Storm Water Management Maintenance and Easement Agreement with maintenance provisions for all proposed Best Management Practices (BMPs). Where applicable, the agreement should include maintenance of yard drains and sump pump discharge.

Attachment: 20240821_Application Morello (9707 : Morello CSM PC Appeal)

11. The applicant shall submit an electronic file for the proposed certified survey map in a format compatible with AutoCAD 2015 dwg or dxf in Wisconsin State Plane Coordinate system. South Zone (NAD 83).
12. A waiver to Section 3.2.9.A., and denial of a waiver request to Section 3.2.C. of the SSLD. This will require the existing east-west portion of the driveway pavement be widened to 18 feet to serve the created lot(s).
13. The requirement for the widening of the road shall only be enacted upon the development of a structure on Lot 2.

Pursuant to Section 58-41, you may appeal an order, requirement, decision, or determination made by the Planning Commission, which you believe to be an erroneous interpretation or application of the law. An appeal may be taken by the aggrieved person within 30 days of the date of this letter by filing a notice of appeal with the City Clerk on the prescribed form specifying the grounds for the appeal and paying the prescribed fee.

Sincerely,

Evan Hoier
City Planner

August 19, 2024

I am requesting the deletion of conditions (Items 12 & 13) in the letter to the Ralph Morello and Judith A. Morello Revocable Trust from the Department of Community Development Dated July 23, 2024. (Letter Attached)

Lots 1 & 2 of the proposed land division had been granted easements by prior recorded documents which included the right to use the existing driveway for access purposes.

Lot 1 of the proposed land division was granted a nonexclusive easement to use the existing driveway by Christopher L. Doerr (Owner) by a document entitled:

“Declaration of Easements”

Recorded as document # 322971, volume 457, pages 24 & 25
attached hereto.

Document was recorded on November 14, 1980, with the Ozaukee County, Register of Deeds

Lot 2 of the proposed land division was granted a nonexclusive easement to use the existing driveway by Price M. Davis and Margaret R. Davis (Grantors) by a document entitled:

“Access and Utility Agreement and Easement”

Recorded as document #464842, volume 752, pages 492, 493, 494,
495, 496. 497 & 498

attached hereto.

Document was recorded on May 22, 1992, with the Ozaukee County,
Register of Deeds

The Ralph Morello and Judith A. Morello Revocable Trust is referred
to as the Grantee in the above document.

Section 3 of the above recorded document states:

“Grantee shall have the right to use the existing driveway located on
the Access Easement.”

Exhibit “C” of the above document describes the lands covered by
this agreement. Lot two of the proposed land division is a part of the
lands described in Exhibit “C.”

No waivers were requested for Lots 1 & 2, because they had by prior
recorded documents been granted access to Range Line Rd. over
the existing private driveway.

When the parcels comprising Lot 2 of the proposed land division
were purchased, the parcels had access to Range Line Rd. over the
existing driveway. Stated in another way, access was paid for. The

planning commission with their denial of a waiver for Section 3.2.9.C (which waiver was not required) has basically revoked the paid for access.

For the above reasons stated I request that items 12 & 13 be removed as conditions for the land division and access, as recorded, be allowed over the existing private driveway for Lot 2.

Hardship Concerns:

A private roadway requires a minimum width of 26 feet. Our current 930 ft. long, 14 ft. wide paved driveway, due to its alignment and profile, will have to be removed to accommodate the new roadway. At a minimum this will entail a major grading project, tree removals and replacement of 3 existing culverts. It will not be possible for the 4 properties that currently use the existing private driveway to access their homes during this lengthy construction period.

Related Document CSM 3106. (Attached hereto).

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ralph Morello', written over a horizontal line.

Ralph Morello, Trustee

Addendum to Appeal:

My request to the plan commission was a re-division of the lands into lots 1 & 2. This is not a new land division.

Lot 1 was granted an easement recorded document #322971.

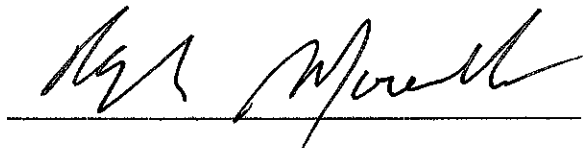
Lot 2 was granted an easement recorded document #464842.

The easements are perpetual. (they stay with the lots)

Lot 2 is the dominant parcel with access granted by the servient estate to access Range Line Rd over an existing driveway on the servient estate.

The dominant parcel cannot change the terms of the access easement. Stated another way the dominant parcel has no right to rebuild the private driveway into a private roadway.

Conditions 12 & 13 of the letter to the Ralph Morello and Judith A. Morello Revocable Trust from the Department of Community Development for approval of this land re-division refer to SSLD specifications that cannot be retroactively enforced. New ordinances cannot impair an existing agreement between private parties.



Ralph Morello, Trustee

8/26/2024

322971

VOL 457 PAGE 24

DECLARATION OF EASEMENTS

THIS DECLARATION, made this 26th day of SEPTEMBER, 1980 by CHRISTOPHER L. DOERR of Mequon, Wisconsin ("Owner").

WITNESSETH:

WHEREAS, Owner is the sole owner of certain property in the City of Mequon, Ozaukee County, Wisconsin, described in Exhibit A attached hereto; and

WHEREAS, Owner is dividing the land described in Exhibit A into four separate residential lots pursuant to a certain Development Agreement with the City of Mequon, Wisconsin; and

WHEREAS, Owner is desirous of providing easement rights for access purposes to and between the said lots and public roads and streets;

NOW, THEREFORE, Owner declares the following easements with respect to the properties described in Exhibit A:

1. Owner hereby declares and reserves nonexclusive easements and cross-easements of access and right-of-way over, upon, across and affecting that part of the property described in Exhibit A identified as "Reserved for Public Street Purposes" and more specifically described as follows:

- The South thirty (30) feet and the East thirty (30) feet of Lot 1
- The West thirty (30) feet of Lot 2
- The West thirty (30) feet of Lot 3
- The East thirty (30) feet of Lot 4

The foregoing lands are sometimes hereinafter referred to as "easement areas".

2. The easements and cross-easements declared herein are for the benefit of the respective lands described in Exhibit A and are burdens upon and affect the respective lands described in Exhibit A, and are for the sole purpose of providing access and ingress and egress across said easement areas for the benefit of Lots 1, 2, 3, and 4 as shown in Exhibit A, to and between public ways and streets.

3. The easements and cross-easements declared herein are nonexclusive and are for access purposes only, and are subject to the continuous and concurrent right of Owner and his successors and assigns to make use of the easement areas for access purposes to all or any of the lots described in Exhibit A.

4. If at any time the City of Mequon elects to construct a public road within the easement areas, the following conditions shall apply:

4.1 The City of Mequon shall have the right to levy a special assessment for roadway improvements against all lots described in Exhibit A or any future land divisions that have frontage on the easement areas or Public Street Reservations as shown on Exhibit A attached hereto.

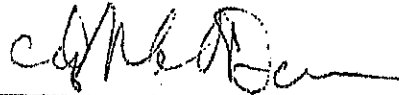
4.2 The roadway shall be constructed to comply with the standard City of Mequon specifications in force at the time of construction.

4.3 The special assessment rate shall be based on the total of all costs incurred from surveying, design, plan preparation, construction, and all other incidental costs that may be required to complete the entire roadway installation.

5. Until such time as the easement areas are dedicated as a public roadway, the owners of Lots 1, 2, 3, and 4 shall share equally all costs of maintenance, repair, reconstruction, snow and ice removal and improvements as may be necessary with respect to all or any of the easement areas. The determination of the owner of Lot 1 shall be conclusive and binding with respect to maintenance and repair work to be performed and sums to be expended therefor.

6. The easements and cross-easements here declared and reserved shall become effective and operative upon the conveyance by Owner of any lot shown in Exhibit A. Thereupon, the easements and cross-easements here declared and reserved shall be continuing covenants running with the land and shall be binding upon and inure to the benefit of the Owner and his successors and assigns, and all parties hereafter having any interest in the properties and lands described in Exhibit A attached hereto.

IN WITNESS WHEREOF, this Declaration has been executed by Owner as of the day and year first set forth above.



Christopher L. Doerr

STATE OF WISCONSIN)
 : SS
 OZAUKEE COUNTY)

Personally came before me this 26TH day of SEPTEMBER, 1980, the above named Christopher L. Doerr, to me known to be the person who executed the foregoing instrument and acknowledged the same.



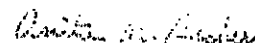

Notary Public, Ozaukee County,
Wisconsin.
My Commission: is permanent

This instrument was drafted by

David L. Petersen
Quarles & Brady
780 North Water Street
Milwaukee WI 53202

RECORDED

NOV 14 3 45 PM '80


REGISTER OF DEEDS
OZAUKEE COUNTY, WISC.

ADDUNDUM TO DECLARATION OF EASEMENTS

WITNESSETH:

O'Brien

RECORDED

FEB 20 2 15 PM '81

UNITED STATES
REGISTER OF DEEDS
OZAUKEE COUNTY, WISC.

I acknowledged the same.

[Signature]

Notary Public, Ozaukee County, WI.

My Commission Expires July 17, 1983

EXHIBIT A

322973

CITY OF MEQUON APPROVAL

VOL 6 PAGE 264

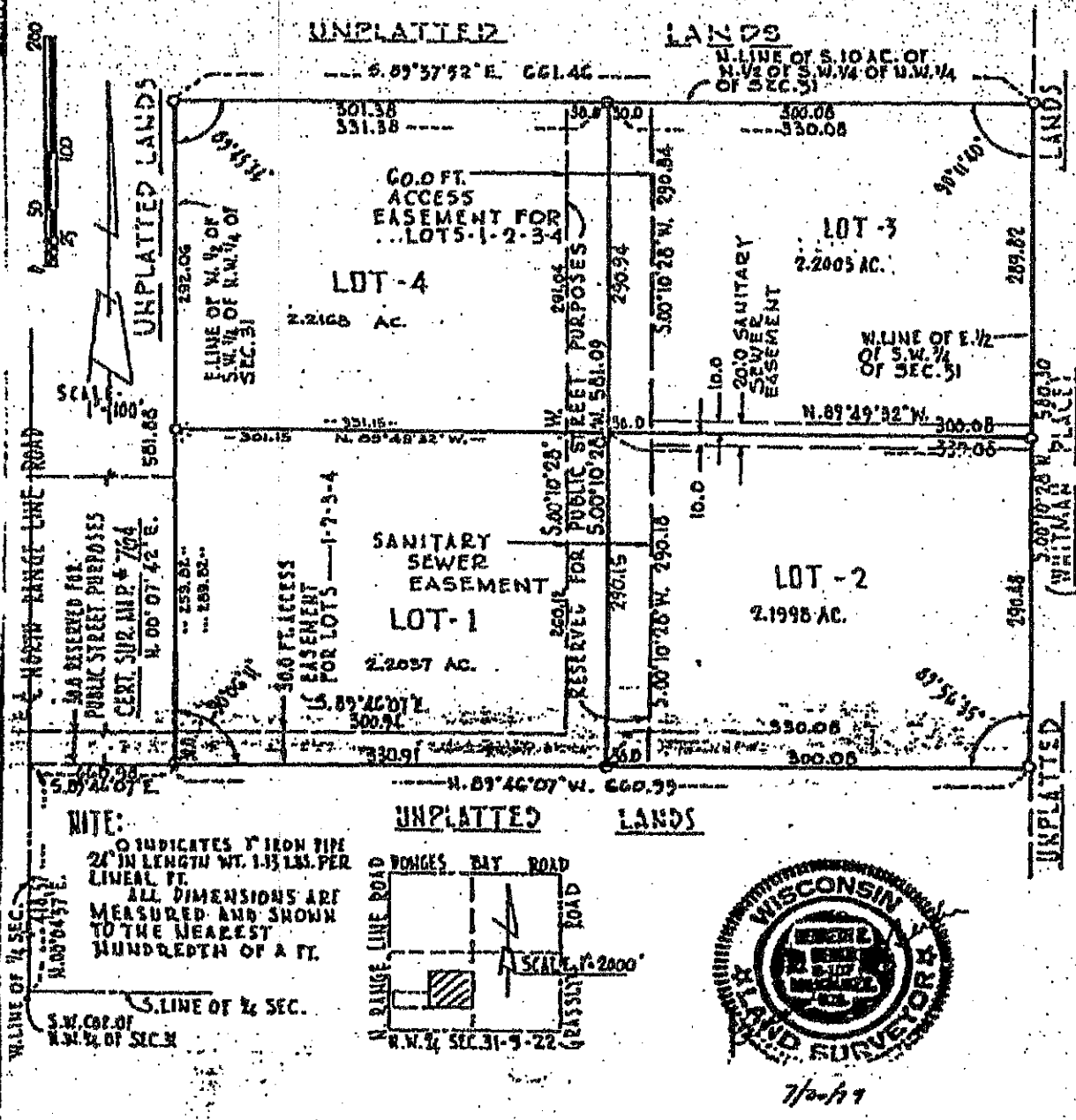
Certificate that this map has been approved

as a "plat" pursuant to the provisions of
the Subdivision Ordinance of the City of
Mequon, by action of the City Planning Commission.

SHEET 1 OF 3 SHEETS

1289

Transmission taken on 1/3/74

BEING A DIVISION OF PARCEL 2 OF CERTIFIED SURVEY MAP NO. 764, BEING A PART OF THE SW 1/4
OF THE NW 1/4 OF SECTION 31, T 9 N, R 22 E, IN THE CITY OF MEQUON, OZAUKEE COUNTY,
WISCONSIN.Date 1/3/74 Secretary
Chairman

VOL 460 PAGE 282

(Exhibit A cont.)

VOL 6 PAGE 265

SHEET 2 OF 3 SHEETS

CERTIFIED SURVEY MAP NO. 1289

BEING A DIVISION OF PARCEL 2 OF CERTIFIED SURVEY MAP NO. 764, BEING A PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 31, T 9 N, R 22 E, IN THE CITY OF MEQUON, OZAUKEE COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE
STATE OF WISCONSIN
MILWAUKEE COUNTY (SS)

I, KENNETH E BECKE, surveyor, do hereby certify and say:

THAT I have surveyed, divided and mapped a division of Parcel 2 of Certified Survey Map No. 764, being a part of the SW 1/4 of the NW 1/4 of Section 31, T 9 N, R 22 E, in the City of Mequon, Ozaukee County, Wisconsin, which is bounded and described as follows:

Commencing at the Southwest corner of said 1/4 Section; thence North 00°04'55" East along the West line of said 1/4 Section 418.57 ft. to a point; thence South 89°46'07" East 660.98 ft. to the point of beginning of the land to be described; running thence North 00° 07' 42" East along the East line of the West 1/2 of the SW 1/4 of said 1/4 Section 581.88 ft. to a point on the North line of the South 10 acres of the North 1/2 of the SW 1/4 of said 1/4 Section; thence South 89° 37' 52" East along the North line of the South 10 acres of the North 1/2 of the SW 1/4 of said 1/4 Section 661.46 ft. to a point on the West line of the East 1/2 of said 1/4 Section; thence South 00° 10' 28" West along the West line of the East 1/2 of said 1/4 Section 580.30 ft. to a point; thence North 89° 46' 07" West and parallel to the South line of said 1/4 Section 660.98 ft. to the point of beginning.
Reserving a 30.00 ft. and a 60.00 ft. strip of land for public street purposes.

THAT I have made such survey, land division and map by the direction of CHRISTOPHER DOERR and KATHLEEN J DOERR, his wife.

THAT I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes and the land division ordinances of the City of Mequon in surveying, dividing and mapping the same under Ordinance No. 59-56.

Date

7/30/79

Kenneth E Becke, Surveyor S 107

OWNER'S CERTIFICATE

AS OWNERS, we hereby certify that we caused the land described above to be surveyed, divided, mapped and dedicated as represented on this map in accordance with the provisions of Ordinance No. 59-56 of the City of Mequon, Wisconsin.

WITNESS our hands and seals this 1st day of August, 1979.

In the Presence of:

Christopher Doerr

Kathleen J Doerr

Christopher Doerr

Kathleen J Doerr



VOL 480 PAGE 283

(Exhibit A cont.)

VOL 6 PAGE 266

SHEET 3 OF 3 SHEETS

CERTIFIED SURVEY MAP NO. 1289

BEING A DIVISION OF PARCEL 2 OF CERTIFIED SURVEY MAP NO. 764, BEING A PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 31, T 9 N, R 22 E, IN THE CITY OF MEQUON, OZAUKEE COUNTY, WISCONSIN.

STATE OF WISCONSIN)
 ss
 MILWAUKEE COUNTY (

PERSONALLY came before me this day the above named CHRISTOPHER DOERR and KATHLEEN J. DOERR, his wife, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Theresa L. B... (SEAL)

Notary Public, State of Wisconsin
 My Commission Expires 5/17/11
 My Commission is Permanent

RECORDED

NOV 14 3 45 PM '09

Unita ...
 REGISTER OF DEEDS
 OZAUKEE COUNTY, WISC.



7/30/09

THIS INSTRUMENT WAS DRAFTED BY
 KENNETH E. BEKE, SURVEYOR

Attachment: 20240821_Application Morello (9707 : Morello CSM PC Appeal)

464842

VOL 752 PAGE 492

**ACCESS AND UTILITY AGREEMENT
AND
EASEMENT**

THIS AGREEMENT, made and effective as of the 18 day of May, 1992, by and between PRICE M. DAVIS and MARGARET R. DAVIS, husband and wife (hereinafter referred to as "Grantors"), and WILLIAM R. ARPE (hereinafter referred to as "Grantee").

WITNESSETH:

WHEREAS, Grantors have granted to Grantee an Option to Purchase (the "Option") that certain real property situated in the City of Mequon, County of Ozaukee, State of Wisconsin, more particularly described on Exhibit A attached hereto and made a part hereof (the "Option Property");

WHEREAS, Grantors have retained title to real property adjoining the Option Property, situated in the City of Mequon, County of Ozaukee, State of Wisconsin, more particularly described on Exhibit B attached hereto and made a part hereof (the "Retained Property");

WHEREAS, Grantee already holds title to the real property immediately south of the Option Property, situated in the City of Mequon, County of Ozaukee, State of Wisconsin, more particularly described on Exhibit C attached hereto and made a part hereof (the "Adjoining Property").

WHEREAS, one of the terms and conditions of the Option requires that Grantors grant to Grantee an easement for utilities and for ingress and egress across and under the Retained Property and the Option Property; and

WHEREAS, another term and condition of the Option requires that Grantors convey to Grantee the right to use an easement for access to Range Line Road for the benefit of the Option Property and the Adjoining Property.

NOW, THEREFORE, in consideration of the Option and also in consideration of the terms, conditions, covenants and mutual agreements hereinafter set forth, the parties hereto agree as follows:

1. Grant of Access Easement and Right-of-Way. Grantors hereby grant to Grantee a perpetual, non-exclusive easement and right-of-way (the "Access Easement"), without charge, upon, in and under the southerly thirty (30) feet of the Option Property and the Retained Property, for the full and free right and authority for Grantee and all of his guests and invitees of the Option Property and the Adjoining Property, to construct, use and maintain a driveway for the ingress and egress of motor vehicles and pedestrians.

2. Grant of Utility Easements.

(a) Grantors hereby grant to Grantee a perpetual, non-exclusive easement, without charge, upon, in, over and under the southerly thirty (30) feet of the Option Property and the Retained Property for the full and free right for Grantee to construct, operate, use, maintain and repair (including reconstruction) sewer, gas, electric, cable, telephone and any other type of utility.

(b) The utility easements granted in subparagraph 2(a) above shall be referred to herein as the "Utility Easements." Grantors and Grantee agree to execute any additional agreements that may be necessary, including, without limitation, agreements with third party utilities, in order to evidence the Utility Easements; provided any such additional agreements shall not conflict with the terms and conditions of this Agreement.

3. Use of Existing Driveway. Grantee shall have the right to use the existing driveway located on the Access Easement, without charge, except for the maintenance costs referred to in paragraph 4 below. Grantors and Grantee agree to execute any additional agreements that may be necessary in order to evidence the Access Easement; provided any such additional agreements shall not conflict with the terms and conditions of this Agreement. Unless otherwise provided, the driveway across the Access Easement is referred to herein as the "Driveway." Grantee agrees that in no event may the Driveway be used by more than three (3) additional lots divided from the Adjoining Property.

4. Maintenance. Grantors shall not be responsible for any costs or obligations incurred in connection with maintaining the Driveway, the Access Easement or the Utility Easements, including, without limitation, repair, reconstruction, snow and ice removal and improvements as may be necessary.

5. Right of Access. Grantors hereby authorize Grantee and his employees, contractors, subcontractors and agents, to enter upon the southerly thirty (30) feet of the Retained Property and the Option Property for the purposes of the constructing, operating, using, maintaining and repairing (including reconstructing) of the Driveway and the Utilities for and incidental to the easements granted hereunder. Grantee agrees that he shall repair and restore the Option Property and the Retained Property to substantially the same condition as existed immediately prior to any activity by Grantee on the Option Property or the Retained Property permitted pursuant to this Agreement. Further, Grantee shall indemnify, defend and hold Grantors harmless from any and all claims, whether from Grantee or third parties, for personal injury, property damage, obstruction of use of the Driveway or costs or fees for services rendered, including reasonable attorneys fees, which result from Grantee's activities permitted pursuant to this Agreement. Grantors further authorize Grantee to post a sign within the southerly thirty (30) feet of the Retained Property and

adjacent to the Driveway and North Range Line Road so as to be clearly visible to traffic on North Range Line Road, advertising the Option Property and/or the Adjoining Property as being for sale.

6. Term. The term of this Agreement and the easements granted hereunder shall be perpetual.

7. Restrictions. Grantee agrees that no residence shall be located closer than 75 feet from the east lot line of the Retained Property and that no driveway entrance shall be located less than 100 feet from the east lot line of the Retained Property.

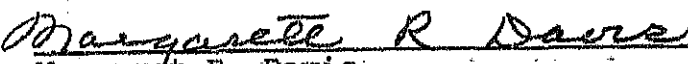
8. Binding Effect. The easements granted herein shall run with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, legal representatives and assigns, including, but without limitation, all subsequent owners of the Option Property and the Retained Property and all persons claiming under them. This Agreement shall not operate to convey to Grantee the fee to any part of the Option Property or the Retained Property, or to Grantors, after the exercise of the Option, the fee to any part of the Option Property.

9. Notices. Notices and demand required or permitted to be given hereunder shall be given by certified mail, return receipt requested, addressed to the parties to their principal residence or at such other address previously specified in writing to the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

GRANTORS:


Price M. Davis


Margaret R. Davis

STATE OF WISCONSIN)

MILWAUKEE COUNTY)

Personally came before me, this 17 day of May, 1992, the above-named PRICE M. DAVIS and MARGARET R. DAVIS, to me known to be the persons who executed the foregoing instrument and acknowledged the same.


Notary Public, State of Wisconsin
My commission: exp. 12/31/94

[signatures continue on next page]

GRANTEE:

William R. Arpe
William R. ArpeSTATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me, this 18 day of May, 1992, the above-named WILLIAM R. ARPE, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Barbara Ann Beeno
Notary Public, State of Wisconsin
My commission: exp 5/23/93

This Instrument was Drafted by:

Daniel J. Minahan, Esq.

Return Recorded Copy To:

Daniel J. Minahan, Esq.
Davis & Kuelthau, S.C. #22
111 East Kilbourn Avenue, #1400
Milwaukee, Wisconsin 53202

RECORDED

1992 MAY 22 PM 2:10

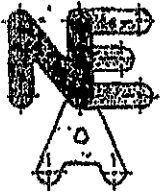
Ronald H. Vaigt
REGISTER OF DEEDS
MILWAUKEE COUNTY, WI

EM-2Davis.djm/plw

EXHIBIT A

EAST 203 FEET OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 764, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL 1; THENCE S 89°37'32" E ALONG THE NORTH LINE OF SAID PARCEL 1 408.20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S 89°37'32" E ALONG THE NORTH LINE OF SAID PARCEL 1 203.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 1; THENCE S 00°07'42" W ALONG THE EAST LINE OF SAID PARCEL 1 253.11 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE S 89°46'07" W ALONG THE SOUTH LINE OF SAID PARCEL 1 203.00 FEET; THENCE N 00°07'42" E 253.62 FEET TO THE POINT OF BEGINNING, BEING A PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 31, TOWN 9 NORTH, RANGE 22 EAST, IN THE CITY OF MEQUON, OZAUKEE COUNTY, WISCONSIN.

jjj-ex-arpe.mdj



Nienow Engineering Associates, Inc.
Consulting Civil Engineers and Surveyors
7161 N. Port Washington Road
Milwaukee, WI 53217
Tel. 414-351-1620
FAX # 414-351-1623

EXHIBIT B

LEGAL DESCRIPTION

PREPARED FOR: BILL ARPE

THAT PART OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 764, BEING A PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 31, TOWN 9 NORTH, RANGE 22 EAST, IN THE CITY OF MEQUON, OZAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL 1, THENCE
S 89°37'32" E ALONG THE NORTH LINE OF SAID PARCEL 1, 408.20 FEET;
THENCE S 00°07'42" W 253.62 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 1; THENCE N 89°46'07" W 407.99 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF N. RANGE LINE ROAD; THENCE
N 00°04'55" E ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID ROAD 254.76 FEET TO THE POINT OF BEGINNING.

PREPARED BY: MARK D. NESGOOD R.L.S.
DATED THIS 14TH DAY OF MAY, 1992

EXHIBIT C

Tax Parcel No: 15-031-07-003-00

That part of the West One-half ($W\frac{1}{2}$) of the Northwest One-quarter ($NW\frac{1}{4}$) of Section numbered Thirty-one (31), in Township numbered Nine (9) North, Range numbered Twenty-two (22) East, in the City of Mequon, bounded and described as follows: Commencing at a point in the West line 165 feet North of the Southwest corner of said $\frac{1}{4}$ Section; thence East on a line which is parallel to the South line of said $\frac{1}{4}$ Section, 1324.23 feet to a point in the East line of the West $\frac{1}{2}$ of said $\frac{1}{4}$ Section; thence North along the East line of the West $\frac{1}{2}$ of said $\frac{1}{4}$ Section 253.57 feet to a point; thence West on a line which is parallel to the South line of said $\frac{1}{4}$ Section, 1325.14 feet to a point in the West line of said $\frac{1}{4}$ Section; thence South along the West line of said $\frac{1}{4}$ Section 253.57 feet to the place of beginning, EXCEPT the West 469.24 feet thereof.

VOL 22 PAGE 82

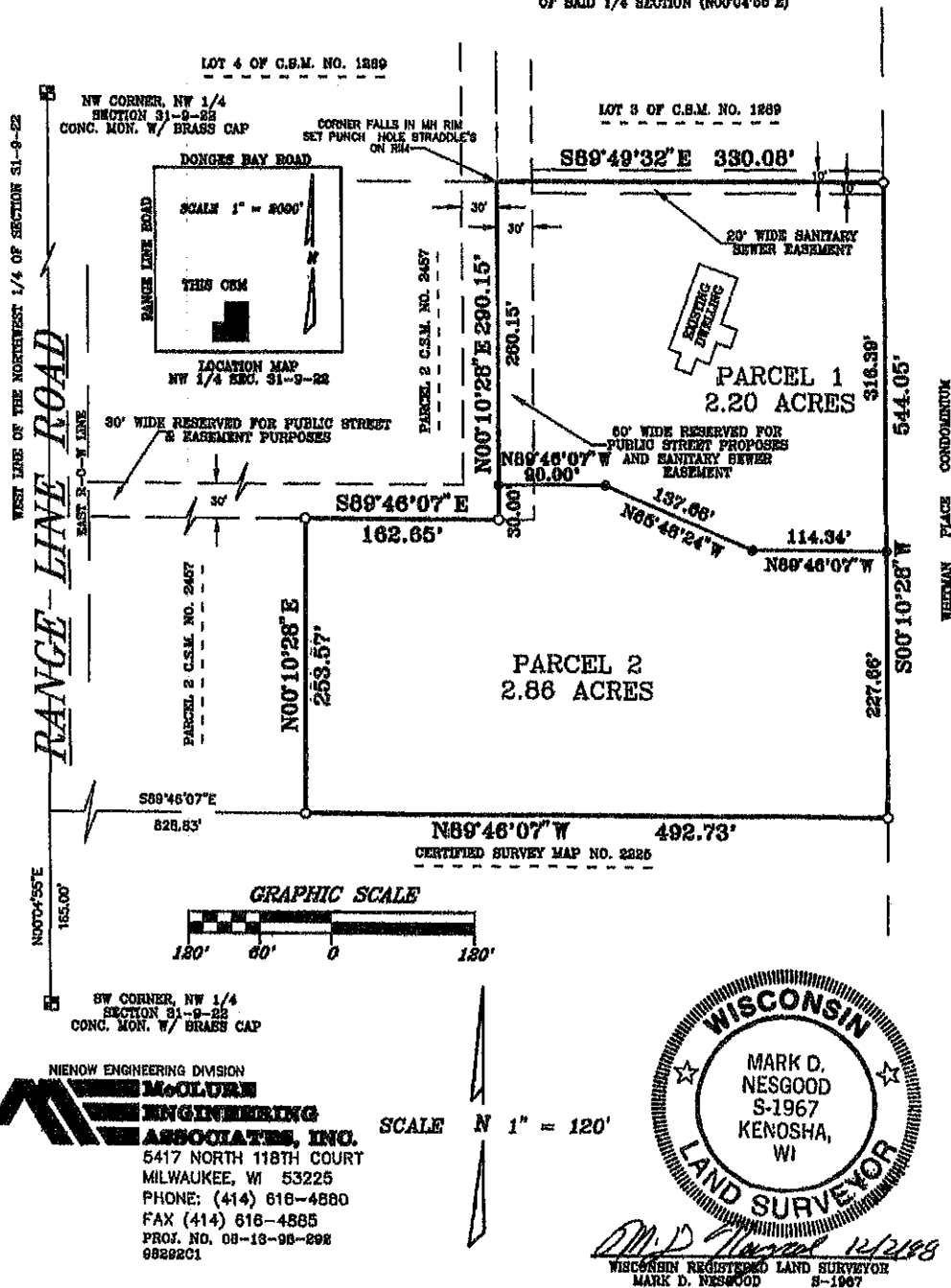
CERTIFIED SURVEY MAP NO. _____

BEING A REDIVISION OF PARCELS 1 AND 2 OF CERTIFIED SURVEY MAP NO. 2939,
BEING A PART OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 31,
TOWN 9 NORTH, RANGE 22 EAST, IN THE CITY OF MEQUON, OZAUKEE COUNTY,
WISCONSIN.

- Q - DENOTES 1" IRON PIPE - FOUND
 @ - DENOTES 1" IRON PIPE WEIGHING 1.19 LBS
 PER LINEAL FOOT 24" IN LENGTH - SET

ALL DIMENSION ARE MEASURED AND SHOWN
TO THE NEAREST HUNDREDTH OF A FOOT.

BEARING BASED ON AND ARE COMPARABLE
WITH CERTIFIED SURVEY MAP NO., 2457,
ASSUMED BEARING ON THE WEST LINE
OF SAID 1/4 SECTION (N00°04'55"E)



Attachment: 20240821_Application Morello (9707 : Morello CSM PC Appeal)

3106

VOL 22 PAGE 83

CERTIFIED SURVEY MAP NO. _____

BEING A REDIVISION OF PARCELS 1 AND 2 OF CERTIFIED SURVEY MAP NO. 2939,
BEING A PART OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 31,
TOWN 9 NORTH, RANGE 22 EAST, IN THE CITY OF MEQUON, OZAUKEE COUNTY,
WISCONSIN.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)
MILWAUKEE COUNTY)

I, Mark D. Nesgood, Registered Land Surveyor, do hereby certify that I have surveyed, divided and mapped a Redivision of Parcels 1 and 2 of Certified Survey Map No. 2939, Being a Part of the Southeast 1/4 of the Northwest 1/4 of Section 31, Town 9 North, Range 22 East, in the City of Mequon, Ozaukee County, Wisconsin, bounded and described as follows:

Commencing at the Southwest corner of said 1/4 Section; thence N00°04'55"E along the West line of said 1/4 Section 165.00 feet; thence S89°46'07"E 828.83 feet to the point of beginning, said point also being the Southwest corner of said Parcel 2 of said Certified Survey Map; thence N00°10'28"E 253.57 feet; thence S89°46'07"E 162.65 feet; thence N00°10'28"E 290.15 feet; thence S89°49'32"E 330.08 feet; thence S00°10'28"W 544.05 feet; thence N89°46'07"W 492.73 feet to the point of beginning.

That I have made such survey and land division by the direction of Alvin K. Krug, Kathryn J. Krug his wife and William R. Arpe, owners of said land.

That such map is a correct representation of all exterior boundaries of the land surveyed and the land division thereof make.

That I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes, and Chapter 3 of the City of Mequon Code of Ordinances in surveying, dividing and mapping the same.

Dated this 2ND day of DECEMBER, 19 98.



Mark D. Nesgood

Wisconsin Registered Land Surveyor
Mark D. Nesgood S-1967

3106

VOL 22 PAGE 85

CERTIFIED SURVEY MAP NO. _____

BEING A REDIVISION OF PARCELS 1 AND 2 OF CERTIFIED SURVEY MAP NO. 2939,
BEING A PART OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 31,
TOWN 9 NORTH, RANGE 22 EAST, IN THE CITY OF MEQUON, OZAUKEE COUNTY,
WISCONSIN.

OWNER'S CERTIFICATE

STATE OF WISCONSIN)
MILWAUKEE COUNTY)

I, William R. Arpe, do hereby certify that I have caused the land described on this plat to be surveyed, divided and mapped as represented on this plat in accordance with the regulations of the City of Mequon and Chapter 236 of the Wisconsin Statutes.

Witness the hand and seal of said owners this 4th day of December, 19 98.

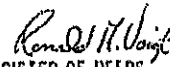
In the presence of :


William R. Arpe

RECORDED

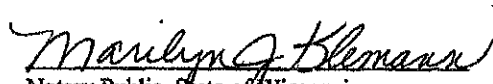
1998 DEC 11 AM 10:50

STATE OF WISCONSIN)
COUNTY OF MILWAUKEE)


REGISTER OF DEEDS
OZAUKEE COUNTY, WI

Personally came before me this 4th day of December, 19 98, the above named William R. Arpe, to me known to be the person who executed the foregoing instrument and acknowledged the same.




Notary Public, State of Wisconsin
My commission expires 03/17/02

THIS INSTRUMENT WAS DRAFTED BY MARK D. NESGOOD

SHEET 40F4

CONCEPT APPROVAL	☐
PRELIM. APPROVAL	☐
FINAL APPROVAL	☒
NOV 2 1998	
MEQUON PLAN COMMISSION	
TABLED ☐	DENIED ☐

Packet Pg. 30



RESULT:	APPROVED WITH CONDITIONS [8 TO 0]
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	Stephanie Hawley, Commissioner
AYES:	Nerbun, Strzelczyk, Barnes, Choren, Gentges, Hawley, Schaefer, Urbani
RECUSED:	Stoker

4) Regular Business

- a) Ralph and Judith Morello. The applicant is seeking land division consultation for the properties located at 10050 N. Range Line Road, the parcel immediately to the south and 2516 Range Line Terrace.

Public Comment

Laura Rees - 2425 W. Range Line Terrace - does not support this proposal.

Lynn Rix - 2516 W Range Line Terrace - owner of the property to be purchased.

Craig Swan - 2413 W. Range Line Terrace - he represents his street and is opposed to Option B. He believes the proposal conflicts with established Range Line covenants. He is concerned about the existing wetlands and soils. He is worried about the integrity of the neighborhood.

Jan Spero - 2507 W. Range Line Terrace - opposes the proposal. She believes that if a road is put in place that the cul du sac no longer remain in its current state.

Mary Fran Cahill - 2504 W. Range Line Terrace - opposes this proposal as the driveway will be very close to her home.

Michael Rees - 2425 Range Line Terrace - opposes both options.

Robert Madritsch - 2519 W. Range Line Terrace - opposes and stated that this is burdensome to the surrounding neighbors as it was not known that a road could be put in this area. He believes a road would upset the existing wetlands.

John Bonnell - 10056 N. Range Line Road - is opposed and does not wish to speak.

Susie Bratz - 11054 N. Range Line Road - represents herself and surrounding neighbors. She does not want the uniqueness of the neighborhood, the beautiful green spaces, nature, tranquility and privacy, to change by a road being installed. She also has concerns about flooding and drainage.

Pippa Mackett - 10052 N. Range Line Road - opposes but does not wish to speak.

Planner Hoier stated this is a consultation and no formal action will be taken this evening. He explained that the proposed lots are compliant for the zoning. Proposed lot #4 is 2 feet too narrow for the average lot width and an adjustment will need to be made.

Asst. Eng. McCraw explained that there are currently 5 lots (4 homes) accessed from the private driveway. The existing driveway is too narrow and does not meet the required widths. The applicant did request waivers to both sections of the specifications that dictate the required width for a shared driveway and the one that indicates it would need to meet private roadway standards, which do require a cul du sac. The two options presented and reviewed by staff:

- Option A. Access from Range Line Terrace using the existing private driveway (no width increase) and no waivers.
- Option B. Access through vacant lot to create a private driveway off of Range Line Terrace, waiver needed.

Staff recommends Option B as it does meet the technical specifications and there are no issues with providing additional access to the existing driveway (which is non-compliant with the specifications) but there are some wetland issues on the other Range Line Terrace property, and it would add a connection to an established subdivision. There are stormwater conditions added and grading plans are required to be reviewed as part of the city building permit approval process.

The decision regarding access is a waiver related to the specifications stated in condition #8, on packet page 82. It states that the applicant needs to either serve the created lots through the access point, as in Option B; or the Planning Commission needs to grant a waiver to those sections of the specifications. He also noted that staff wants the Commission to clarify whether they want the additional width added to the existing driveway should a waiver be granted for Option A to the access point.

Asst. Dir. Zader stated the property owner has certain rights and the applicant is looking for feedback from the Commission on the proposed options.

There was discussion among the Commission regarding the various options. There was consensus that Option B is not favorable and there is not current information whether that option is legal.

Once the two additional parcels are added, this would trigger the existing private driveway to become a private road and need to be widened. Mayor Nerbun stated that road would only need to be widened west of the 4 individual homes.

The applicant, Ralph Morello, stated that there was previous approvals from the Planning Commission that 6 lots could be accessed by the private driveway and easements were filed for 7 lots. He stated that he has recorded documents for all these previous approvals.

Mayor Nerbun stated he feels that the widening of the driveway should be minimized to the area in front of the 4 houses only. There was support from the Commission regarding the minimized widening.

RESULT: **APPROVED WITH AMENDMENTS [7 TO 0]**
MOVER: Nancy Urbani, Commissioner
SECONDER: Dan Gentges, Commissioner
AYES: Nerbun, Parrish, Barnes, Choren, Gentges, Schaefer, Urbani
ABSENT: Hawley, Stoker

2) Consent / Public Hearing

- a) Mohammad Imseitef. The applicant is seeking conditional use grant approval for an automotive service facility for the property located at 10650 N. Baehr Road, Suite A-B

Action

Commissioner Schaefer made a motion to open a public hearing.

Commissioner Urbani seconded the motion.

A voice vote was taken; vote passed (7-0)

No public comment.

Action

Commissioner Schaefer made a motion to close the public hearing.

Commissioner Urbani seconded the motion.

A voice vote was taken; vote passed (7-0)

Action

Commissioner Choren made a motion to approve the conditional use grant.

Commissioner Schaefer seconded the motion.

A voice vote was taken; vote passed (7-0)

RESULT: **APPROVED [7 TO 0]**
MOVER: Martin Choren, Commissioner
SECONDER: Rebecca Schaefer, Commissioner
AYES: Nerbun, Parrish, Barnes, Choren, Gentges, Schaefer, Urbani
ABSENT: Hawley, Stoker

3) Consent

- a) Ralph Morello and Judith A. Morella Revocable Trust. The applicant is seeking certified survey map approval to allow for a 2-lot land division for the property located at 10050 N. Range Line Road.

Mayor Nerbun stated agenda item 3(a) is taken off the consent agenda for discussion.

Planner Evan Hoier stated that this is a 2-lot land division. There was a consultation in May discussing access and private driveway options. Lot 1 will be 2.2 acres and Lot 2 will be 3.275 acres; both are compliant with the requirements of the zoning district. Staff approves per the

conditions in the staff report.

The applicant, Ralph Morello, read a prepared statement requesting approval for both waivers he is requesting. He is contesting staff report condition #12 regarding the requirement to widen the roadway. He believes that at the previous meeting Ald. Strzelczyk stated that the land division would be grandfathered in.

Public Comment

Gary Quirk - 10052 N. Range Line Road - opposed and represents the 3 neighboring property owners. He stated that all the property owners collectively pay for the maintenance of the shared driveway and it is the only access to their properties. He asked the Commission to consider the impact on the surrounding properties and not just the applicants' property.

Susie Brotz - 10054 N. Range Line Road - clarified there is not a cul-du-sac located in their neighborhood.

There was feedback from the Commission that the item be tabled as there seems to be several legal questions that the neighbors need to work out. The video tape from the previous meeting can be reviewed per the request of the applicant to clarify what Ald. Strzelczyk said regarding this item as the Commission does not remember the statement about being grandfathered in being made.

Action

Commissioner Schaefer made a motion to approve per staff conditions with the amendment that Lot 2 would have a deed restriction shown on the plat to indicate the road shall be widened at the time development occurs, per city standards.

Commissioner Barnes seconded the motion.

A roll call vote was taken; vote passed (7-0)

RESULT:	APPROVED WITH CONDITIONS [7 TO 0]
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Bruce Barnes, Commissioner
AYES:	Nerbun, Parrish, Barnes, Choren, Gentges, Schaefer, Urbani
ABSENT:	Hawley, Stoker

- b) Stantec for Minahan Children, LLC. The applicant is seeking minor request approval to allow for fill or excavation exceeding 1,000 C.Y. for the property located at 5700 W. Bonniwell Road.

Action

Commissioner Schaefer made a motion to approve consent agenda item 3(b).

Commissioner Choren seconded the motion.

A voice vote was taken; vote passed (7-0)

Morello CSM Overview



9/25/2024, 9:43:36 AM

Parcels

Road Reservation

Road Right-of-Way

Condominium

Gap

Overlap

Tax Parcel

Historical Parcel Lines

Local Roads

Local

Private

Ramp

Service Drive

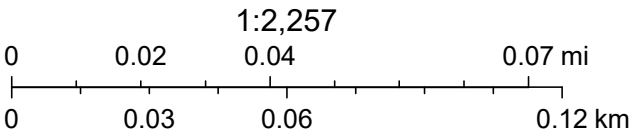
Highways

Interstate

State Highway

County Highway

Railroad Centerline



Attachment: Morello CSM Overview (9707 : Morello CSM PC Appeal)

Addendum 2

Appeal of Plan Commission decision 7/22/2024.

Lot 2 of my land redivision has a perpetual easement with the servient property located to its west for access and utilities (Document 464842). In this private easement agreement, there is a contract clause that states, "Grantee shall have the right to use the existing driveway located on the Access Easement."

Article I, Sec. 12, Wisconsin Constitution states, "This prohibition, called the "contract clause," is generally interpreted to prohibit the government from retroactively interfering with matters that are governed by private contracts."

Also, the Legislative Reference Bureau has developed a nonstatutory provision to avoid the application of the contract clause to existing contracts made or modified after the legislation takes effect.

Conclusion:

The plan commission's condition that the private driveway is required to be widened is based on an ordinance enacted years after this private easement agreement was entered into. Therefore, this ordinance cannot be retroactively applied and conditions 12 and 13 need to be removed as requirements for the land redivision requested.



Ralph Morello, Trustee

9-18-2024