



Legislation Text

File #: 16249, **Version:** 1

Fiscal Note

\$500.00 Administrative Fee into Account No. GN01-78230 and \$2600.00 Easement Fee to be deposited into Account No. ESTM-78231-561000.

Title

Authorizing the execution of a Permanent Limited Easement for Private Driveway Purposes to Read Properties LLC, across a portion of Outlot 25, First Addition to Linden Park, aka City Stormwater Utility Parcel 533, located at 818 Moonlight Trail.

Body

WHEREAS, Read Properties LLC, is the owner of an improved residential property located on Lot 33, Pine Hill Farm Plat, addressed at 9322 Winter Frost Place (the "Owner"); and

WHEREAS, the Owner had proposed a joint driveway access point off of Winter Frost Place via a joint driveway easement with the adjacent property, to the west, located at 9326 Winter Frost Place; and

WHEREAS, the owner of the adjacent property located at 9326 Winter Frost Place has built a single driveway off of Winter Frost Place, prior to the consummation of a joint driveway easement, and in doing so limited the accessibility to the Owner's property via said proposed joint driveway; and

WHEREAS, the Owner has requested a driveway easement across an adjacent City-owned property known as Outlot 25, City Stormwater Utility Parcel 533, located at 818 Moonlight Trail, and said driveway easement would provide access to the rear of the Owner's garage, as depicted on Attached Exhibit A;

WHEREAS, the City Engineering Division has reviewed and conditionally approve of the Easement.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and the City Clerk are hereby authorized to execute a Permanent Limited Easement for Private Driveway Purposes with Read Properties LLC, owner of Lot 33, Pine Hill Farm Plat, across the City-owned property located at 818 Moonlight Trail, for the Easement described as follows:

A permanent limited easement for private driveway purposes being part of Lot 33, Pine Hill Farm Plat, a subdivision plat recorded December 7, 2005, in Volume 58-096A of Plats on Page 494-498 as Document No. 4140764, being located in part of the Southwest $\frac{1}{4}$ of Section 31, Township 07 North, Range 08 East, City of Madison, Dane County, Wisconsin, more particularly described as follows:

Beginning at the southwesterly most corner of said Outlot 25, said point also lying on the northerly right-of-way line of Winter Frost Place. Thence North 01 degree 23 minutes 16 seconds East along the west line of said Outlot 25, 37.00 feet; thence North 89 degrees 32 minutes 33 seconds East, 11.00 feet; thence South 01 degree 23 minutes 16 seconds West, 37.00 feet to the southerly line of aforementioned Outlot 25 and a point on the northerly right-of-way line of aforementioned Winter Frost Place; thence South 89 degrees 32 minutes 33 seconds West along said southerly line of Outlot 25 and the northerly right-of-way line of Winter Frost Place, 11.00 feet to the point of beginning. Containing 407 square feet, more or less.

The area of the Easement is depicted on attached Exhibit A.

NOW, THEREFORE, BE IT FURTHER RESOLVED that Permanent Limited Easement for Private Driveway Purposes is hereby granted subject to the following conditions:

- The Owner shall construct and maintain the driveway pursuant to City of Madison Engineering specifications for standard Type A pavement (8 inch thick concrete), as depicted on Attached Exhibit A.
- The Owner shall use a contractor, for the driveway construction, that is prequalified by City Engineering Division and shall obtain a driveway permit from City Engineering.
- The Owner shall be responsible for all costs related to the construction, maintenance and potential removal of the private driveway.
- The Owner shall be liable to and agrees to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Owner or its officers, officials, agents, employees, assigns, guests, invitees, or subcontractors, in the performance, use and occupancy of this Easement, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or employees.
- Additionally, the Owner shall carry commercial general liability insurance covering as insured the Owner and naming the City as an additional insured, with no less than the following limits of liability: bodily injury, death and property damage of \$1,000,000 in the aggregate. This policy shall also be endorsed for contractual liability in the same amount. As evidence of this coverage, the Owner shall furnish the City a certificate of insurance on a form provided by the City.
- The Owner agrees that the use of the private driveway access, across the City-owned property at 818 Moonlight Trail, shall be restricted to single family residential use for the Owner's property located at 9322 Winter Frost Place.
- If approved by the City, the Owner shall be responsible for an easement cost payment in the amount of \$2600.00, made payable to the City of Madison Treasurer, and deposited into City Engineering Project Account No. ESTM-78231-561000.
- The Owner shall permit access across the driveway easement area by City maintenance crews and City contractors, for maintenance of the City Engineering retention pond located in Outlot 25, First Addition to Linden Park aka City Stormwater Utility Parcel 533.
- The Owner shall be responsible for Storm Water Utility charges associated with the driveway easement area.
- The Owner shall be responsible for any future assessments for street frontage and driveway apron associated with the driveway easement area.
- The Owner shall not park within the driveway easement area in a fashion that would restrict access by City maintenance crews.
- No landscaping or other site improvements, other than the driveway itself, are allowed within the driveway easement area.

- The driveway easement is is subject to any and all preexisting public utility easements per the First Addition to Linden Park Plat.