



Legislation Text

File #: 80795, **Version:** 1

Fiscal Note

No City appropriation required.

Title

Authorizing the execution of a release of a platted 40-foot No Building Area Restriction on 4115 Maple Grove Drive (District 7).

Body

PREAMBLE

The proposed resolution requests the release of 40-foot “No Building Area” imposed on land currently known as Lot 2 of Certified Survey Map 16222, which is addressed 4115 Maple Grove Drive.

The No Building Area was first applied to the subject property with the final plat of Nesbitt Valley in 2001. The No Building Area was established on the plat adjacent to a separate 40-foot Planting Strip that extends north from the right of way of Nesbitt Road. Together, the 40-foot No Building Area and 40-foot Planting Strip effectively create an 80-foot building setback line parallel to Nesbitt Road affecting the subject property.

The final plat of Nesbitt Valley includes a note stating that “Upon final platting of Outlots 5 and/or 6 as developable lots, the City of Madison Common Council may reduce in width the 40 foot no-build/no-improvement zone based upon the approval of an exemplary berming, landscaping and building siting plan at the time of approval of the final plat.” The subject site is comprised of portions of Outlots 5 and 6 of said plat.

The owner of the subject property has recently been in discussions with City staff regarding the development of the site with a three-story, 20-unit multi-family dwelling. In order to more fully develop the site, the owner is requesting that the 40-foot No Building Area on the subject site be released, leaving just the 40-foot Planting Strip. The owner has presented a landscaping plan for the lot that shows how the property would be planted following construction of the planned multi-family dwelling. Staff from Planning Division has reviewed the landscaping plan and believe that it meets the criteria established by the plat note, and that the 40 feet of the effective 80-foot building setback can be released. If approved, a release document will be recorded with the Dane County Register of Deeds.

WHEREAS, the final plat of *Nesbitt Valley* was approved by the Common Council as Resolution 53661 (ID 30114) on September 4, 2001 and recorded at the Dane County Register of Deeds on November 8, 2001 as Document No. 3397969 in Volume 57-186A of Plats on Pages 774-777; and

WHEREAS, said final plat establishes a 40-foot “No Building Area” adjacent to and immediately north of a separate “Planting Strip” extending 40 feet north from the north right of way line of Nesbitt Road, effectively creating an 80-foot building setback line from Nesbitt Road; and

WHEREAS, the parcel of land addressed as 4115 Maple Grove Drive (the “Parcel”) is comprised, in part, of said Outlots 5 and 6 of the final plat, and thus is subject to the 40-foot No Building Area and 40-foot Planting Strip established by the plat; and

WHEREAS, Certified Survey Map 16222 (the “CSM”) was recorded on February 17, 2023 with the Register of Deeds as Document No. 5886783 in Volume 120 of Certified Survey Maps on Pages 89-94 following approval by the Common Council on September 6, 2022 of Resolution 22-00614 (ID 72771), creating the Parcel as Lot 2, and showing the 40-foot No Building Area and 40-foot Planting Strip created by the Nesbitt Valley plat on its face; and

WHEREAS, said final plat states that “Upon final platting of Outlots 5 and/or 6 as developable lots, the City of Madison Common Council may reduce in width the 40 foot no-build/ no-improvement zone based upon the approval of an exemplary berming, landscaping and building siting plan at the time of approval of the final plat”; and

WHEREAS, the owner of the Parcel has approached the City regarding the development of CSM Lot 2 with multi-family housing and has requested the release of the 40-foot No Building Area to more fully develop the Parcel; and

WHEREAS, City of Madison Planning Division has reviewed the site plan and landscaping plan for the Parcel and believes that they meet the “exemplary” threshold established by the Nesbitt Valley plat and recommends the release of the 40-foot No Building Area; and

WHEREAS, the 40-foot No Building Area and 40-foot Planting Strip are restrictions for public benefit as allowed by Section 236.293 of the Wisconsin Statutes, which states that such restrictions may be released or waived in writing by the public body or public utility having the right of enforcement.

NOW, THEREFORE, BE IT RESOLVED that in accordance with Section 236.293 of the Wisconsin Statutes, the Mayor and the City Clerk are hereby authorized to execute a release of the 40-foot No Building Area as set forth by CSM 16222 and established over portions of Outlots 5 and 6 of the final plat of Nesbitt Valley. The recordable release document shall be in a format reviewed and approved by the City of Madison Attorney’s Office prior to final execution and recording with the Dane County Register of Deeds.

BE IT FURTHER RESOLVED that the Director of the City of Madison Planning Division (the “Director”) or their designee shall determine whether the site plan for the Parcel is exemplary consistent with the language on the final plat of Nesbitt Valley and approve the site plan prior to issuance of building permits for the Parcel.

BE IT FURTHER RESOLVED that the 40-foot Planting Strip set forth on the CSM and established on said final plat shall remain in full force and effect, and shall be landscaped pursuant to a plan to be approved by the Director prior to issuance of building permits for the Parcel.