

RESTRICTION RELEASES

PURPOSE

s. 236.293, Wis. Stats.

Restriction releases are required whenever dividing or redividing land necessitates that a restriction or easement be terminated or relocated, or when the restriction or easement is no longer in force.

On recorded subdivision plats such releases must be executed, in writing, by whomever has the right of enforcement (i.e. government bodies, public/private utilities, homeowners associations, subdivider).

The approving authorities and objecting agencies that had plat review jurisdiction for the recorded plat, and/or the public utilities or other entities having the right to service the affected area may need to release the restriction or easement.

Frequently, subdivisions redivide or replat land in a recorded plat. Before Plat Review certifies no objection to the proposed subdivision, easements and restrictions from the previous plat which are not shown on the new plat must be released in writing by the public body, public utility, or other public or private entity having the right of enforcement.

Examples of Restrictions/Easements that may be released

- Public utility/water/sewer easements
- Stormwater drainage easements
- Lot restricted to mound type septic system
- Ingress/egress easement
- Various environmental preservation easements or restrictions
- Highway setback
- Emergency access easement
- Restricted access to public street
- No building on outlot restriction

RESTRICTION RELEASES

PROCEDURE

As an example, the procedure for releasing an outlot building restriction is outlined below. Note that most releases are handled locally. Plat Review is only involved in outlot releases and mound restriction waivers; however, the procedure for releasing other types of restrictions or easements is similar.

To release a "building restriction" on an outlot,

s. 236.13 (6), Wis. Stats., provides that to be buildable, the outlot must comply with all requirements imposed by statute, administrative rule and local ordinances with respect to building sites (see example in this section).

A written request for release must be submitted to Plat Review.

The request must include:

- any required soils information;
- the name and location of the recorded plat;
- the name, address and phone number of the person requesting the release;
- the Department of Commerce review fee.

Plat Review will then:

- **Send copies to the District Wastewater Specialist and all other objecting agencies who previously reviewed the plat.** They review the request and recommend or oppose releasing the restriction.
- **Determine if the outlot complies with s.236.15 and s.236.20, Stats.,** minimum layout standards and requirements for a building site.
- **Send a letter to all interested parties officially releasing the restriction** after receiving notice from the Wastewater Specialist, and from any other objecting authorities, recommending that the restriction be released.

The written release is then incorporated into a Correction Instrument under s. 236.295, Wis. Stats. This action gives notice to the public that the restriction on the recorded plat is no longer in effect.

Per s. 236.295, Wis. Stats. the Register of Deeds adds a note to the recorded subdivision plat or Certified Survey Map that references recording data for the correction instrument.

SAMPLE OUTLOT RESTRICTION RELEASE LETTER

This letter is sent by Plat Review to the parcel owner to provide confirmation that a restriction release has been granted.



JAMES E. DOYLE
GOVERNOR
MICHAEL L. MORGAN
SECRETARY

Plat Review

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(608) 266-3200 Fax: (608) 264-6104 TTY: (608) 267-9629
E-mail: plat.review@wi.gov
<http://doa.wi.gov> search keyword = subdivision

July 31, 2001

PERMANENT FILE NO. 18243

KEVIN SCHOEN
W5711 POERTNER ROAD
NEILLSVILLE WI 54456

Subject: RESTRICTION RELEASE REQUEST
OUTLOT 8 WINDY POINT ADDITION
NE 1/4 & SW 1/4 S 36 T23N R3W
TOWN OF DEWHURST, CLARK COUNTY

Dear Mr. Schoen:

You have requested a written release to allow Outlot 8 of WINDY POINT ADDITION to be used as a building site.

S. 236.13 (6), Wis. Stats., specifies that an outlot may not be used as a building site unless it complies with all restrictions imposed by ch. 236, Stats., with respect to building sites.

The following agencies had review authority for this part of the subdivision:

- Department of Administration (formerly Dept. of Agriculture, Trade and Consumer Protection);
- Department of Commerce (formerly Dept. of Industry, Labor, and Human Relations);
- Town of Dewhurst; and
- Clark County

Therefore, in order for Outlot 8 to be used as a building site, it must comply with all the requirements of s. 236.15 and s. 236.20, Stats., minimum lot layout standards and requirements (lot area, lot width, public street access, etc.); Comm 83 (Subdivisions Not Served By Public Sewers) Wis. Admin. Code; and, the Town of Dewhurst and Clark County ordinances, master plans and official maps.

Department of Administration:

I have reviewed our permanent file on WINDY POINT ADDITION and find that Outlot 8 complies with s. 236.15 and s. 236.20, Stats., minimum lot layout standards and requirements.

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WINDY POINT ADDITION
Kevin Schoen
July 31, 2001

Department of Commerce:

Mr. Leroy Jansky (Wastewater Specialist), has notified us that the Department of Commerce has determined that Outlot 8 is in compliance with Comm 83.03(3), Wis. Adm. Code. He agrees that your request to use Outlot 8 as a building site is supported with information which indicates that this outlot is acceptable for development with a private onsite wastewater treatment system (POWTS) with the following conditions:

1. Any POWTS installed must be constructed in accordance with applicable requirements of Chapter Comm 83, Wis. Adm. Code, and the Clark Co. Sanitary Ordinance.
2. The release and waiver of this outlot restriction shall be incorporated into a correction instrument under s. 236.295, Wis. Stats. This should eliminate future questions regarding the restriction on the recorded final plat.
3. This certification does not include review of the design of the proposed POWTS. All applicable criteria, as contained in Comm 83, Wis. Adm. Code, must be met prior to issuance of a sanitary permit for a project at this site. In addition, all permits required by the state, county, or the local municipality shall be obtained prior to commencement of construction, installation or operation of a POWTS.

Since neither state agency having review authority object to using Outlot 8 as a building site, the Department of Administration hereby releases the restriction on using Outlot 8 of WINDY POINT ADDITION for building purposes.

We also recommend that this release, along with Town and County approval certificates, be incorporated into a Correction Instrument pursuant to s. 236.295, Wis. Stats. This should eliminate future questions regarding the use of Outlot 8 as a building site.

I hope this leads to a satisfactory resolution of this matter. If there are any questions concerning this review, please contact our office, at the number listed below. For questions regarding the private sewerage system review, please contact Leroy Jansky at (715) 726-2544.

Sincerely,

Renee' Powers, Supervisor
Plat Review
Phone: (608) 266-3200

cc: Clerk, Town of Dewhurst
Clark County Zoning
Department of Commerce

