



PREPARED FOR THE PLAN COMMISSION

Project Address: 3447 North Star Road, Town of Cottage Grove
Application Type: Certified Survey Map (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [61673](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Steve Banovetz; 714 Weald Bridge Road; Cottage Grove.

Surveyor: Chris Adams, Williamson Surveying & Associates, LLC; 104A W. Main Street; Waunakee.

Requested Action: Approval of a Certified Survey Map (CSM) to create two lots from land addressed as 3447 North Star Road, Town of Cottage Grove, in the City of Madison’s Extraterritorial Jurisdiction.

Proposal Summary: The applicant proposes to create two commercial lots from the 9.65-acre subject site. The CSM will be recorded as soon as all regulatory approvals have been granted.

Applicable Regulations & Standards: The subdivision process is outlined in Section 16.23(5)(b) of the Subdivision Regulations. In particular, the Plan Commission shall determine that the proposed subdivision complies with each of the following criteria for approval in the extraterritorial plat approval jurisdiction:

1. The proposed subdivision or land division shall be compatible with adjacent development patterns and shall maintain the general land development pattern of the area in question. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features.
2. The proposed subdivision or land division and the resulting development shall not demonstrably adversely affect the City’s ability to provide public services, install public improvements or accomplish future annexations. The Plan Commission may consider annexation agreements with the property owner in order to comply with this requirement. The Plan Commission may also consider whether the City and Town(s) have reached an agreement on necessary public improvements and public services facilities required to serve the development.

Review Required By: Plan Commission.

Review Schedule: The State’s subdivision statute, Wis. Stats. Ch. 236, requires that action be taken on a Certified Survey Map within 90 days of submittal unless an extension is agreed to by the subdivider. If no action is taken within 90 days and no extension granted, the CSM is deemed approved. The application was accepted for review by the City circa July 29, 2020. Therefore, the 90-day review period for this CSM will end circa October 29, 2020.

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the criteria for extraterritorial land division are not met and **place on file without prejudice/reject** this request. If the Plan Commission finds that the criteria for approval are met, staff recommends that any approval be subject to input at the public hearing and the comments and conditions from reviewing agencies beginning on page 4 of this report.

Background Information

Parcel Location: Approximately 9.65 acres of land located on the west side of North Star Road, approximately a half-mile north of US Highways 12 and 18; Town of Cottage Grove.

Existing Conditions and Land Use: Undeveloped land, zoned GC (General Commercial District) per Dane County zoning.

Surrounding Land Uses and Zoning (all in the Town of Cottage Grove and subject to [new] Dane County zoning):

North: Agricultural land, zoned FP-35 (General Farmland Preservation District, 35-acre minimum); ; Capital Underground, zoned HC (Heavy Commercial District);

South: Agricultural land and buildings, zoned AT-35 (Agriculture Transition District, 35-acre minimum);

West: Single-family residence along CTH N and agricultural land, zoned AT-35;

East: Agricultural land across North Star Road, zoned FP-35.

Environmental Corridor Status: The subject site is not located in the Central Urban Service Area; there are no mapped environmental corridors affecting the site. There are no "Resource Protection Corridors" mapped by Dane County on the subject parcels.

Public Utilities and Services:

Water: Property is not served by municipal water.

Sewer: Property is not served by public sewer.

Fire protection: Cottage Grove Fire Department.

Emergency medical services: Deer-Grove EMS.

Police services: Dane County Sheriff's Department (South-East Precinct).

School District: Stoughton Area School District.

Previous Approval

On February 25, 2019, the City of Madison Plan Commission approved two (2) one-lot Certified Survey Maps to create two lots on land located adjacent to 3385 North Star Road, Town of Cottage Grove, in the City's Extraterritorial Jurisdiction. The property owners involved, Larry Skaar and Steve Banovetz, were seeking approval of individual CSMs to complete a sale of land from Mr. Skaar to Mr. Banovetz on February 13, 2018, which split approximately 22.8 acres of land into two parcels, including the subject 9.65-acre parcel. CSM 15119 was recorded on May 6, 2019, which created the 9.65-acre subject site.

Project Description

The applicant is requesting approval of a Certified Survey Map (CSM) to divide a 9.65-acre parcel located on the west side of North Star Road in the Town of Cottage Grove into two lots. The site is located approximately a half-mile north of US Highways 12 and 18 and quarter-mile east of CTH N. The lot is zoned GC (General Commercial District) by Dane County zoning and is undeveloped at this time.

Lot 1 of the proposed CSM will be a flag-shaped 6.0-acre parcel that will include the western 678 feet of the 1,290-foot deep parcel. Lot 1 will be connected to North Star Road by an approximately 66-foot wide panhandle along the southern property line. Lot 2 will be a 260-foot wide and 612-foot deep parcel (3.65 acres) comprising most of the eastern half of the existing parcel.

Approval of CSM by the Town of Cottage Grove and Dane County: Section 236.10 (b) of the Wisconsin State Statutes requires that subdivisions in the City's Extraterritorial Plat Approval Jurisdiction receive approval from the town of record and Dane County prior to consideration of the request by the Plan Commission.

Dane County granted conditional approval of the Certified Survey Map as outlined in a letter from Dan Everson, Land Division Review, Dane County Department of Planning and Development dated June 23, 2020. The Town of Cottage Grove Board approved the proposed land division at its July 6, 2020 meeting. Both approvals are attached.

Analysis and Conclusion

City of Madison Land Use Plan: The property is located outside of the areas currently covered by an adopted City of Madison neighborhood development plan. The 2018 Comprehensive Plan identifies lands generally located east of the City's Yahara Hills Neighborhood Development Plan and south of the Village of Cottage Grove—including the subject site—in Planning Area F (Group 2) on the Peripheral Planning Areas map (page 28).

Per the Comprehensive Plan, Group 2 Peripheral Planning Areas are recommended for continued agricultural and open space uses. Urban development is not anticipated within this Plan's twenty-year planning period. However, if regional growth continues at the currently projected pace, some portions of the Group 2 areas may be suitable for urban development after 2040, and are located where City of Madison services could potentially be extended. Even if urban development eventually reaches these areas, some of the land in Group 2 may be appropriate for consideration as permanent agricultural use areas, in addition to any lands that would be reserved for park and open space uses. Additional neighborhood planning will be required to determine the future uses in Area F, which does not have a defined geography, and it is possible that Area F will ultimately be planned for in multiple sub-area plans defined in future updates to the Comprehensive Plan. Any future planning by the City may also depend on the establishment of an agreement(s) between the City and Town and Village of Cottage Grove.

Land Division Criteria: The centerline of North Star Road is the easternmost edge of the City's current extraterritorial plat approval jurisdiction in this area by virtue of the map adopted by resolution in 2002 and as reflected in the 2006 and 2018 Comprehensive Plans. In order to approve a subdivision or land division in the City's extraterritorial jurisdiction, the Plan Commission shall find that the request is compatible with adjacent development patterns and shall maintain the general land development pattern of the area in question. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features. The proposed subdivision or land division and the resulting development shall also not demonstrably adversely affect the City's ability to provide public services, install public improvements or accomplish future annexations.

In reviewing the proposed land division, the Planning Division does not believe that the resulting lots reflect the general land development pattern along North Star Road, which features a number of large parcels located on both sides of North Star north and south of the subject site. In fact, the only lots of similar size to the ones proposed are the lots created by the adjacent one-lot CSMs approved and recorded last year to memorialize the illegal land division that occurred in 2018 (see 'Previous Approvals'), and a two-acre residential parcel located

south of the subject lands on the east side of North Star Road and outside of the City’s extraterritorial jurisdiction. Further, there are no other lots with limited frontage like the 66-foot wide Lot 1 proposed.

Staff believes that maintaining “the general land development pattern of the area in question” relies on the pre-existence of lots of a similar character to the ones proposed by the subdivision or land division, rather than the creation of a pattern. The proposed two-lot division appears to create a land development pattern along North Star Road that does not otherwise exist as represented by lot width, depth, and area. While other parcels to the west along CTH N may be similar in character to the proposed lots along North Star Road, staff feels that the development pattern along North Star should be the more salient consideration due to the distance and differing character of the roadways.

Additionally, staff believes that the continued creation of smaller development lots from larger parcels such as the ones proposed adversely affects the City’s ability to provide public services, install public improvements, and accomplish future annexations counter to extraterritorial approval criteria 2.

Conclusion

The Planning Division believes that the Plan Commission should not find that the proposed land division meets the criteria for approval. The proposed lots create, rather than maintain, the general land development pattern along North Star Road in this portion of the Town of Cottage Grove. The 66-foot wide, flag-shaped Lot 1 is particularly inconsistent with any nearby lot pattern in staff’s opinion. Staff is also concerned that the further division of land on North Star Road will negatively impact the City of Madison’s ability to extend services to this area in the future and accomplish future annexations in direct contradiction to the extraterritorial approval criteria.

Recommendation

The Planning Division recommends that the Plan Commission find that the criteria for extraterritorial land division are not met and **place on file without prejudice/reject** the proposed Certified Survey Map of land located at 3447 North Star Road, Town of Cottage Grove.

If the Plan Commission finds that the criteria for approval are met, staff recommends that any approval be subject to input at the public hearing and the following conditions:

Recommended Conditions of Approval Major/Non-Standard Conditions are Shaded

City Engineering Division (Contact Brenda Stanley, 261-9127)

1. There are wetland indicators present on or adjacent to this property. A wetland delineation or determination will need to be provided and if wetlands are present. The limits of the wetlands and any required setbacks shall be shown on the CSM.
2. A minimum of two (2) working days prior to requesting City Engineering Division sign-off on the CSM, contact either Tim Troester (West) at 261-1995 (ttroester@cityofmadison.com) or Brenda Stanley (East) at 261-9127 (bstanley@cityofmadison.com) to obtain the final stormwater utility charges that are due and payable prior to subdivision of the properties. The stormwater utility charges (as all utility charges) are due for the previous

months of service and must be cleared prior to the land division (and subsequent obsolesces of the existing parcel).

City Engineering Division – Mapping Section (Contact Jeff Quamme, 266-4097)

3. Add a note that this CSM is subject to a Deed Restriction per Document No. 5485569.
4. Add a note that this CSM is subject to a Agreement for Stormwater Measures per Document No.5513141.
5. The CSM bearing systems is on the Dane County Coordinate System. Provide measured coordinate values on the Section Corners.
6. Correct the Secretary of the Plan Commission to Matthew Wachter.
7. Prior to City Engineering final sign-off by main office for Certified Survey Maps (CSM), the final CSM must be submitted to Engineering Division Surveyor/ Land Records Coordinator for final technical review and approval. This submittal must occur a minimum of two working days prior to final Engineering Division sign-off. E-mail submittal of the **final** CSM in PDF form is preferred. Transmit to jrquamme@cityofmadison.com.
8. The applicant shall submit to Jeff Quamme, prior to final Engineering sign-off of the subject CSM, one (1) digital CADD drawing in a format compatible with AutoCAD. The digital CADD file(s) shall be referenced to the Dane County Coordinate System and shall contain, at minimum, the list of items stated below, each on a separate layer/level name. The line work shall be void of gaps and overlaps and match the final recorded CSM: right of way lines (public and private); lot lines; lot numbers; lot/plat dimensions; street names, and; easement lines (including wetland and floodplain boundaries).

*This transmittal is a separate requirement than the required submittals to Engineering Streets Section for design purposes. The Developer/Surveyor shall submit new updated final plat, electronic data and a written notification to Engineering Mapping for any changes to the plat which occur subsequent to any submittal.

Traffic Engineering Division (Contact Sean Malloy (266-5987)

This agency submitted a response with no comments or conditions for this request.

Zoning Administrator (Contact Jenny Kirchgatter, 266-4429)

This agency submitted a response with no comments or conditions for this request.

Fire Department (Contact Bill Sullivan, 261-9658)

This agency submitted a response with no comments or conditions for this request.

Water Utility (Contact Adam Wiederhoeft, 266-9121)

9. The subject parcels are located beyond the Madison Water Utility's existing service area. Note that future attachment to the City may require connection to the City water system if/when water service becomes available per MGO Section 13.07.

Office of Real Estate Services (Andy Miller, 261-9983)

10. Prior to approval sign-off by the Office of Real Estate Services (“ORES”), the Owner’s Certificate(s) on the CSM shall be executed by all parties of interest having the legal authority to do so, pursuant to Wis. Stats. 236.21(2)(a). Said parties shall provide documentation of legal signing authority to the notary or authentication attorney at the time of execution. The title of each certificate shall be consistent with the ownership interest(s) reported in the most recent title report. When possible, the executed original hard stock recordable CSM shall be presented at the time of ORES approval sign-off. If not, the City and the Register of Deeds are now accepting electronic signatures. A PDF of the CSM containing electronic signatures shall be provided to ORES to obtain approval sign-off.
11. A certificate of consent for all mortgagees shall be included following the Owner’s Certificate and executed prior to CSM approval sign-off. If the CSM is signed electronically, a PDF of the CSM containing electronic signatures shall be provided to ORES to obtain approval sign-off.
12. If a mortgage or other financial instrument is reported in record title, but has been satisfied or no longer encumbers the lands or ownership within the CSM boundary, a copy of a recorded satisfaction or release document for said instrument shall be provided prior to final sign-off.
13. If any portion of the lands within the CSM boundary are subject to an Option to Purchase or other Option interest include a Certificate of Consent for the option holder.
14. A Consent of Lessee certificate shall be included on the CSM for all tenant interests in excess of one year, recorded or unrecorded, and executed prior to CSM sign-off.
15. Pursuant to Madison City Ordinance Section 16.23(7)(d)3 and Wis. Stats. 236.21(2) (a), all CSM’s that are subject to the review and approval of the City of Madison shall contain the following certificate of approval:

Approved for recording per the Secretary of the City of Madison Plan Commission.

By: _____ Date: _____
Matthew Wachter, Secretary of the Plan Commission

16. As of September 4, 2020, 2019 real estate taxes and special assessments are paid in full for the subject property. Per 236.21(3) Wis. Stats. the property owner shall pay all real estate taxes and special assessments that are accrued or delinquent for the subject property prior to CSM recording. This includes property tax bills for the prior year that are distributed at the beginning of the year.
17. All special assessments are due and payable prior to CSM approval sign-off. If special assessments are levied against the property prior to CSM approval sign-off, they shall be paid in full.
18. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish an updated title report to Andy Miller in City’s Office of Real Estate Services (acmilller@cityofmadison.com), as well as the survey firm preparing the proposed CSM. The report shall search the period subsequent to the date of the initial title report (July 10, 2020) submitted with the CSM application and include all associated documents that have been recorded since the initial title report. A title commitment may be provided, but will be considered only as supplementary information to the title report update. The surveyor shall update the CSM with the most recent information

reported in the title update. ORES reserves the right to impose additional conditions of approval in the event the title update contains changes that warrant revisions to the CSM.

19. The owner shall email the document number of the recorded CSM to Andy Miller in the City's Office of Real Estate Services as soon as the recording information is available.
20. Add notes that the CSM is subject to Document Nos. 5485569 and 5513141.
21. For properties not connected to municipal utility services, consider whether well abandonment ref. NR-141 needs to be addressed.