



PREPARED FOR THE PLAN COMMISSION

Project Address: 3440 CTH N and 3475 North Star Road, Town of Cottage Grove
Application Type: Certified Survey Map (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [68443](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant: Brent Conwell, Capitol Holdings, LLC; 782 Lois Drive; Sun Prairie.

Property Owners: Larry Skaar, Skaar Pit, LLC; 3440 CTH N; Cottage Grove, and Capitol Holdings, LLC; 782 Lois Drive; Sun Prairie.

Surveyor: Bryan Stueck, Birrenkott Surveying, Inc.; 1677 N Bristol Street; Sun Prairie.

Requested Action: Approval of a Certified Survey Map (CSM) to re-divide three parcels into two lots from land addressed as 3440 CTH N and 3475 North Star Road, Town of Cottage Grove, in the City of Madison’s Extraterritorial Jurisdiction.

Proposal Summary: The property to be divided encompasses 52.81 acres of land that extends between CTH N and North Star Road and is comprised of two unplatted parcels and a lot created by CSM in 2020. The current 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 on November 15, 2021. Therefore, the 90-day review period for this CSM will end circa February 15, 2022.

Summary Recommendation: The Planning Division recommends that the Plan Commission **approve** this Certified Survey Map 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 52.81 acres of land with roughly 1,000 feet of frontage on the east side of CTH N and 834.5 feet of frontage along North Star Road, approximately 1,600-2,400 feet north of US Highways 12 & 18 in the Town of Cottage Grove.

Existing Conditions and Land Use: The majority of the subject site is undeveloped agricultural land except for a two-story residence and a series of agricultural accessory buildings located on the 3440 CTH N property and a one-story warehouse facility and yard for Capitol Underground located on the 3475 North Star Road property. The western portion of the Skaar property at 3440 was recently rezoned from AT-35 (Agricultural Transition District) to RM-16 (Rural Mixed-Use District), while the eastern approximately 10 acres was rezoned from AT-35 to HC (Heavy Commercial District) the same as the Capitol Underground lot fronting onto North Star Road.

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

North: Agricultural land, zoned FP-35 (General Farmland Preservation District, 35-acre minimum) and RM-16 (Rural Mixed-Use District);

South: Agricultural land and buildings, zoned AT-35 (Agriculture Transition District, 35-acre minimum) and RM-16; Paul Davis Restoration along CTH N and North Star Investments Condominium along North Star Road, zoned GC (General Commercial District);

West: Agricultural land and quarry across CTH N, zoned HC (Heavy Commercial District);

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 Plan Commission approved two (2) one-lot Certified Survey Maps (CSM) to create two lots on land located adjacent to 3385 North Star Road, Town of Cottage Grove. One of the resulting lots is the North Star Road parcel that is part of the current request.

Project Description

The applicant and property owners are requesting approval of a Certified Survey Map (CSM) to create two lots from three parcels that extend from CTH N east to North Star Road in the Town of Cottage Grove. The western of the three parcels is a 28.8-acre property developed with a two-story residence and various accessory buildings, with access to the parcel provided by two driveways from CTH N. The remainder of the western parcel is used for agriculture, as is a landlocked 10-acre parcel located at the center of the 52.81 acre overall site. The remaining land is a 12-acre lot with 834.5 feet of frontage along North Star Road, which is developed with a warehouse and storage yard for Capitol Underground, a utility and infrastructure contractor. The eastern parcel was created by a CSM approved in 2019 (Lot 1 of CSM 15099).

Lot 1 of the proposed CSM will contain the 28.8 acres of land fronting onto CTH N and will include the residence and accessory buildings. The remaining land will comprise Lot 2, a 22-acre parcel that will include the eastern parcel as well as the landlocked agricultural parcel. As part of the re-division of the land, Lot 1 was recently rezoned to the RM-16 Rural Mixed-Use zoning district, while the western 10 acres of proposed Lot 2 was rezoned to HC (Heavy Commercial District) to match the zoning of the 12-acre lot fronting onto North Star Road.

Analysis and Conclusion

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 September 21, 2021. Dane County previously approved the related rezonings on June 3, 2021.

The Town of Cottage Grove Board approved the rezoning and re-division at its May 3, 2021 meeting.

City of Madison Land Use Plans: 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: 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 CSM, the Planning Division believes that the Plan Commission may find that the approval criteria are met. The proposed CSM effectively represents a lot line adjustment between the two property owners and will not result in a demonstrably different development pattern in the area than what already exists. Likewise, staff does not anticipate that the proposed re-division of the subject parcels into the two proposed lots will negatively affect the City's ability to accomplish annexations or extend urban services into this area in the future.

Recommendation

The Planning Division believes that the Plan Commission can find the approval criteria met with the proposed land division and recommends that the Plan Commission **approve** the two-lot Certified Survey Map of property located at 3440 CTH N and 3475 North Star Road, Town of Cottage Grove, in the City's extraterritorial plat approval jurisdiction subject to input at the public hearing and the following conditions:

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

Planning Division (Contact Timothy M. Parks (608) 261-9632)

1. Revise the CSM to reflect the improvements located on proposed Lot 2 (Lot 1, CSM 15099), including the warehouse and open-air storage yard.

City Engineering Division (Contact Brenda Stanley, (608) 261-9127)

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

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

2. Wisconsin Administrative Code A-E 7.08 identifies when Public Land System (PLS) tie sheets must be filed with the Dane County Surveyor's office. The Developer's Surveyor and/or Applicant must submit copies of required tie sheets or condition reports for all monuments, including center of sections of record, used in this survey, to Jeff Quamme (jrquamme@cityofmadison.com), City Engineering.
3. Include reference to previously recorded bearing (S00°47'38"W) for the west right of way line of North Star Road prior Birrenkott CSM 15099. Include all other existing recorded and measured bearings (i.e. prior recorded bearings along the south line of Lot 1, CSM 15099) in previous title/land records/CSM/subdivision plats.
4. Correct what appears to be typographical error in 12900.00 feet call in the legal description on sheet 2 of 4 to indicate the correct distance of 1290.00 feet.

5. Remove Natalie Erdman from City of Madison Approval Certificate (found on sheet 4 of 4) as she is former Plan Commission Secretary. Include reference to current secretary, Matthew Wachter.
6. Update road name spelling to N. Star Road. North is a prefix and shall be abbreviated.
7. 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 (608) 266-5987)

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

Zoning Administrator (Contact Jenny Kirchgatter, (608) 266-4429)

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

Fire Department (Contact Bill Sullivan, (608) 261-9658)

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

Water Utility (Contact Jeff Belshaw (608) 261-9835)

This property is currently outside the Madison Water Utility service area. Note that future annexation to the City may require connection to the City water system, if/when water service becomes available per MGO 13.07.

Office of Real Estate Services Andy Miller (608) 261-9983)

8. Signature block certifications 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 at the time of execution. The title of each certificate shall be consistent with the ownership interest 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.
9. If applicable, a certificate of consent for all mortgagees shall be included following the Owner's Certificate and executed prior to CSM approval sign-off.
10. All ownership consents and certifications for the subject lands shall conform to Wis. Stats. 236.21(2) and 236.29 by including the language "...surveyed, divided, mapped and dedicated..."

11. 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.
12. 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.
13. In the City of Madison Approval Certificate on Sheet 4, update the Secretary of the Plan Commission to Matthew Wachter.
14. As of December 30, 2021, the 2021 real estate taxes are not paid for the subject property. Per 236.21(3) Wis. Stats., the property owner shall pay all real estate taxes 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.
15. As of December 30, 2021, "specials" are included in the real estate taxes currently due. All known special assessments are due and payable prior to CSM approval sign-off. If special assessments are levied against the property during the review period and prior to CSM approval sign-off, they shall be paid in full prior to CSM sign-off.
16. 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 (acmillar@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 (September 17 and 20, 2021) 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. Staff reserves the right to impose additional conditions of approval in the event the title update contains changes that warrant revisions to the CSM.
17. 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.
18. The following revisions shall be made to the CSM prior to final approval and recording:
 - a.) Depict, dimension, name, note and/or identify by document number all relevant easements, declarations, plans, conditions, agreements, and other documents cited in record title and the updated title report, and include relevant notes from plats or CSMs of record.
 - b.) Include a complete and accurate legal description of the lands that are to be included in the proposed CSM. The legal description shall be reconciled with the legal description of said lands in record title.
 - c.) Depict and dimension all existing improvements including, but not limited to: buildings, drives, parking lots, encroachments, wells, septic systems, etc. located within the CSM boundary.
 - d.) For properties not connected to municipal utility services, consider whether or not well abandonment ref. NR-141 needs to be addressed.