



Department of Planning & Community & Economic Development

Planning Division

Heather Stouder, Director

Madison Municipal Building, Suite 017
215 Martin Luther King Jr. Boulevard
Madison, Wisconsin 53703
Phone: (608) 266-4635
www.cityofmadison.com

****BY E-MAIL ONLY****

September 10, 2020

Brett Stoffregan
D'Onofrio Kottke & Associates
7530 Westward Way
Madison, WI 53717

RE: Approval of the preliminary and final plat of *Westgate Redevelopment Plat* for the roughly 17.7 acres of property generally addressed as 617 S Whitney Way and 160 Westgate Mall, creating five lots for the proposed planned development, and one lot for the existing HyVee Grocery Store (Hyvee, Inc./JT Klein Company). [LNDSP-2020-00002; ID 60678]

Dear Mr. Stoffregan;

At its September 1, 2020 meeting, the Common Council **approved** the preliminary and final plat of "*Westgate Redevelopment Plat*" subject to the conditions of approval in the following sections, which shall be addressed prior to final approval and recording of the final plat.

Please contact Timothy Troester of the City Engineering Division–Main Office at (608) 267-1995 if you have any questions regarding the following eleven (11) items:

1. Developer shall provide projected wastewater flows for the proposed development as a condition for development. It is anticipated that offsite sewer improvements (sewer upsizing) will likely be required. Either the developer will be required build these sewer upgrades or the City will build the improvements and assess partially cost sharing for the sewer improvements. The undersized sewer is on Dearholt Road from Odana Road south to the golf course.]
2. Applicant is made aware that this development is in a watershed that experiences significant flooding. Additional stormwater detention standards beyond those in MGO 37 at the time of application shall be required. Engineering recommends that this development have meet the redevelopment requirements of the recently adopted MGO 37.
3. Enter into a City / Developer agreement for the required infrastructure improvements. Agreement to be executed prior to sign off. Allow 4-6 weeks to obtain agreement. Contact City Engineering to schedule the development and approval of the plans and the agreement. (MGO 16.23(9)c)

4. Construct sidewalk/terrace/pavement improvements to a plan as approved by City Engineer
5. Construct public sanitary sewer, storm sewer, and drainage improvements as necessary to serve the lots within the plat/csm. (MGO 16.23(9)(d))
6. Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to Engineering sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Mark Moder (608-261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff. (MGO 16.23(9)(d)(4))
7. An Erosion Control Permit is required for this project. See Storm comments for permit specific details and requirements.
8. A Storm Water Management Report and Storm Water Management Permit is required for this project. See Storm comments for report and permit specific details and requirements.
9. A Storm Water Maintenance Agreement (SWMA) is required for this project. See Storm comments for agreement specific details and requirements.
10. This site appears to disturb over one (1) acre of land and requires a permit from the WDNR for stormwater management and erosion control. The City of Madison has been required by the WDNR to review projects for compliance with NR216 and NR-151 however a separate permit submittal is still required to the WDNR for this work. The City of Madison cannot issue our permit until concurrence is obtained from the WDNR via their NOI or WRAPP permit process. Contact Eric Rortvedt at 273-5612 of the WDNR to discuss this requirement. Information on this permit application is available on line: <http://dnr.wi.gov/Runoff/stormwater/constrformsinfo.htm>.
11. The applicant is notified that the City of Madison is an approved agent of the Department of Safety and Professional Services (DSPS) and no separate submittal to this agency or CARPC is required for this project to proceed.

Please contact Jeffrey Quamme, of the City Engineering–Mapping Section at 266-4097 if you have any questions regarding the following twelve (12) items:

12. Grant a Public Sidewalk and Bike Path Easement along Tokay Blvd as required for the proposed new public sidewalk to the City on the face of this Subdivision. Contact Jeff Quamme for required text setting forth terms and conditions.
13. This plat shall be completed and recorded with the Dane County Register of Deeds (ROD), the new parcel data created by the Assessor's Office and the parcel data available to zoning and building inspection staff prior to issuance of any building permits for new construction.
14. Provide for review, comprehensive reciprocal easements and agreements including, but not limited to vehicular/ pedestrian access, fire lanes, parking, utilities (storm sewer, sanitary sewer, water main), common areas, lighting for common areas, surface storm water drainage, underground storm water storage and storm management that are necessary to accomplish the land division and this development as proposed prior to final sign off. The document(s) shall be executed and recorded immediately subsequent to the plat recording and prior to final sign off.

15. The location of the main common access areas between all lots created by this plat shall be shown and dimensioned on this Plat. Place a note that additional terms and conditions shall be set forth in a separately recorded document. This will be accomplished with either an amendment to Document No. 5529388, a new document or a mixture thereof and shall be recorded immediately subsequent to the final plat recording.
 16. Coordinate with City of Madison Real Estate either the release or modification of the Encroachment Agreement to specify the responsible encumbered lands / owner upon the recording of the final plat.
 17. Add to Note 1 that the Stormwater Management Agreement per Doc No. 4840999 shall be modified / replaced upon the recording of the final plat prior to redevelopment of any lot therein.
 18. The private utility easements that will not be released shall be shown and dimensioned on the plat. Surveyor shall have any easement that does not encumber any lots within the plat removed from the final title report.
 19. 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 monument condition reports (with current tie sheet attached) for all monuments, including center of sections of record, used in this survey, to Jeff Quamme, City Engineering (jrquamme@cityofmadison.com)
 20. Prior to Engineering final sign-off by main office for Plats or Certified Survey Maps (CSM), the final Plat or CSM in pdf format must be submitted by email transmittal to Engineering Land Records Coordinator Jeff Quamme (jrquamme@cityofmadison.com) for final technical review and approval. This submittal must occur a minimum of two working days prior to final Engineering Division sign-off.
 21. Label the width of Tokay Boulevard. Show and dimension the west line of the NW 1/4 of the SE 1/4 of Section
 22. Correct the page number for the recorded plat of Westgate to 23 where incorrect. Show building ties to buildings that are to remain in place.
 23. Submit to Jeff Quamme, prior to Engineering sign-off of the subject plat, 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 plat:
 - Right-of-Way lines (public and private)
 - Lot lines
 - Lot numbers
 - Lot/Plat dimensions
 - Street names
 - Easement lines (i.e. all shown on the plat including wetland & floodplain boundaries.)
- NOTE: This Transmittal is a separate requirement from the required Engineering Streets Section for design purposes. The Developer/Surveyor shall submit new updated final plat, electronic data for any changes subsequent to any submittal.

Please contact Sean Malloy of the Traffic Engineering Division at 266-5987 if you have any questions regarding the following three (3) items:

24. The applicant shall dedicate Right of Way or grant a Public Sidewalk Easement for and be responsible for the construction of a five (5)-foot wide sidewalk, eight (8)-foot terrace, and additional one (1) foot for maintenance along Tokay Boulevard.
25. The applicant shall alter their existing southernmost S. Whitney Way driveway to be restricted to Right In/Right Out/Left In access only in coordination with S. Whitney Way improvements
26. The applicant shall be responsible for the installation of a traffic island on S. Whitney Way at their existing southernmost driveway in order to secure Right In/Right Out/Left In access only though a developer's agreement with City Engineering.

Please contact Bill Sullivan of the Madison Fire Department at 261-9658 if you have any questions regarding the following item:

27. Provide fire access in accordance with MGO 34 & the IFC. Building 5 appears to need additional fire access. Or provide additional fire safety features within the building to mitigate the risk to the occupants.

Please contact Sarah Lerner of the Parks Division at (608) 261-4281 if you have questions regarding the following four (4) items:

28. Park Impact Fees (comprised of the Park Infrastructure Impact Fee, per MGO Sec. 20.08(2)), and Park-Land Impact Fees, per MGO Sec. 16.23(8)(f) and 20.08(2) will be required for all new residential development associated with this project. This development is within the West Park-Infrastructure Impact Fee district. Please reference ID# 20021 when contacting Parks about this project.
29. Prior to sign off on the final plat the applicant shall execute a declaration of conditions and covenants along with an impact fee schedule for the park impact fees for this development. This document will be recorded at the Register of Deeds. The applicant shall be responsible for all recording fees.
30. The Parks Division shall be required to sign off on this plat.
31. The following note should be included on the subdivision: "LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO IMPACT FEES THAT ARE DUE AND PAYABLE AT THE TIME BUILDING PERMIT(S) ARE ISSUED."

Please contact Wayne Buckley of the Forestry Division at 266-4892 if you have questions regarding the following eight (8) items:

32. An existing inventory of street trees located within the right of way shall be included on the landscape, site, demo, and utility plans. The inventory shall include the following: location, size (diameter at 4 1/2 feet), and species of existing street trees. The inventory should also note if a street tree is proposed to be removed and the reason for removal.

33. All proposed street tree removals within the right of way shall be reviewed by City Forestry before the Plan Commission meeting. Street tree removals require approval and a tree removal permit issued by City Forestry. Any street tree removals requested after the development plan is approved by the Plan Commission or the Board of Public Works and City Forestry will require a minimum of a 72-hour review period which shall include the notification of the Alderperson within who's district is affected by the street tree removal(s) prior to a tree removal permit being issued. Add as a note on the plan set.
34. City Forestry will issue a street tree removal permit for (X) tree(s) (dbh) diameter (variety) tree due to (reason) at (location). Please contact Wayne Buckley - wbuckley@cityofmadison.com or 608-266-4816 to obtain the street tree removal permit. Add as a note on the plan set.
35. As defined by the Section 107.13 of City of Madison Standard Specifications for Public Works Construction: No excavation is permitted within 5 feet of the trunk of the street tree or when cutting roots over 3 inches in diameter. If excavation is necessary, the Contractor shall contact Madison City Forestry (266-4816) prior to excavation. City of Madison Forestry personnel shall assess the impact to the tree and to its root system prior to work commencing. Tree protection specifications can be found on the following website: <https://www.cityofmadison.com/business/pw/specs.cfm> Add as a note on the plan set.
36. Contractor shall take precautions during construction to not disfigure, scar, or impair the health of any street tree. Contractor shall operate equipment in a manner as to not damage the branches of the street tree(s). This may require using smaller equipment and loading and unloading materials in a designated space away from trees on the construction site. Any damage or injury to existing street trees (either above or below ground) shall be reported immediately to City Forestry at 266-4816. Penalties and remediation shall be required. Add as a note on the plan set.
37. On this project, street tree protection zone fencing is required. The fencing shall be erected before the demolition, grading or construction begins. The fence shall include the entire width of terrace and, extend at least 5 feet on both sides of the outside edge of the tree trunk. Do not remove the fencing to allow for deliveries or equipment access through the tree protection zone. Add as a note on the plan set.
38. Street tree pruning shall be coordinated with Madison Forestry at a minimum of two weeks prior to the start of construction for this project. All pruning shall follow the American National Standards Institute (ANSI) A300 - Part 1 Standards for pruning. Add as a note on the plan set.
39. Additional street trees are needed for this project. Tree planting specifications can be found in section 209 of City of Madison Standard Specifications for Public Works Construction - All street tree planting locations and tree species within the right of way shall be determined by City Forestry. A landscape plan (in PDF format) shall be submitted to Wayne Buckley - wbuckley@cityofmadison.com, 608-266-4892 for approval of planting locations and tree species. All available street tree planting locations shall be planted within the project boundaries. Add following note to plan: At least one week prior to street tree planting, Contractor shall contact City Forestry at (608) 266-4816 to schedule inspection and approval of nursery tree stock and review planting specifications with the landscaper.

Please contact Jeff Belshaw of the Madison Water Utility at 261-9835 if you have any questions regarding the following item:

40. Upon development, a separate water service lateral and water meter will be required to serve each parcel. The water laterals shall be directly connected to the public water main with the shut-off valve located in the public right-of-way (per PSC 185.52 (2)). A water lateral is not required if the parcel remains undeveloped.

Please contact Andy Miller of the Office of Real Estate Services at (608) 261-9983 if you have any questions regarding the following eight (8) items:

41. OWNER'S CERTIFICATION -- Prior to approval sign-off by the Office of Real Estate Services ("ORES"), all parties having an interest in the property, pursuant to Wis. Stats 236.21(2)(a), shall execute the Owner's Certificate on the plat. Certificates shall be prepared with the ownership interests consistent with the most recent title report. Signatories shall provide documentation that proves legal authority to sign the Owner's Certificate.

When possible, the executed original hard stock recordable plat 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 plat containing electronic signatures shall be provided to ORES to obtain approval sign-off.

42. MORTGAGEE/VENDOR CERTIFICATION -- A certificate of consent for all mortgagees/vendors shall be included following the Owner's Certificate(s) and executed prior to plat approval sign-off. If the plat is signed electronically, a PDF of the plat containing electronic signatures shall be provided to ORES to obtain approval sign-off.

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 plat boundary, a copy of a recorded satisfaction or release document for said instrument shall be provided prior to plat approval sign-off.

43. CERTIFICATE AND CONSENT REQUIREMENTS

- a. A Consent of Lessee certificate shall be included on the plat for any tenancy in excess of one year, recorded or unrecorded, and executed by said tenant prior to agency plat approval sign-off.
- b. If any portion of the lands within the plat boundary are subject to an Option to Purchase or other Option interest please include a Certificate of Consent for the option holder and executed prior to approval sign-off.

44. TAX INCREMENTAL DISTRICT -- This plat boundary abuts TID 46, a Tax Incremental Financing District. Discussions with Joe Gromacki, the City of Madison's tax increment financing coordinator, may be necessary before recording the plat if a TIF application is required. Mr. Gromacki can be reached at 608-267-8724 or jgromacki@cityofmadison.com. Please inform Andy Miller in the City's Office of Real Estate Services (acmiller@cityofmadison.com) if a TIF Loan has been authorized for the project.

45. REAL ESTATE TAXES -- As of July 17, 2020, the 2019 real estate taxes are not paid for the subject property. Under 236.21(3) Wis. Stats. and 16.23(5)(g)(1) Madison General Ordinances, the property owner shall pay all real estate taxes that are accrued or delinquent for the subject property prior to Plat recording. Receipts for payment shall be provided to ORES in advance of plat approval sign-off.
46. SPECIAL ASSESSMENTS -- As of July 17, 2020, there are no special assessments reported for the parcels within the plat boundary. Pursuant to Madison City Ordinance Section 16.23(5)(e)1 and Wis. Stats. 236.21(3), all special assessments, including accrued interest in the case of delinquencies, shall be paid by the owner prior to plat approval sign off. Receipts for payment shall be provided to ORES in advance of plat approval sign-off.
47. TITLE REPORT UPDATE -- Pursuant to Madison City Ordinance Section 16.23(5)(g)(4), the owner shall furnish an updated title report to ORES via email to Andy Miller (acmiller@cityofmadison.com), as well as the surveyor preparing the plat, covering the period between the date of the initial title report (04/9/2020) and the date when sign-off approval is requested.

A title commitment may be provided, but will only be considered as supplementary information to the title report update. The surveyor shall update the plat with the most recent information available in the title report update. ORES reserves the right to impose additional conditions of approval in the event the title update contains changes that warrant revisions to the plat.

48. OTHER REQUIREMENTS

- a. Accurately reflect the contents of the title report in the proposed plat.
- b. Depict, name, and identify by document number on the proposed plat all existing easements and right-of-way grants cited in record title.
- c. Coordinate with ORES to update Encroachment Agreement Doc. No. 3100743
- d. Include on the proposed plat a complete and accurate legal description of the lands that are to be included in the proposed plat. The legal description shall be reconciled with the legal description of said lands in record title
- e. Depict and dimension all existing improvements including, but not limited to: buildings, drives, parking lots, encroachments, wells, septic systems, etc. associated with the lands described for the proposed plat
- f. Create and record, or show as being dedicated in the proposed plat, easements for utility and drainage rights of way when the utility or drainage physically exists, but no document for it exists in record title
- g. Record satisfactions or releases for all recorded instruments that encumber or benefit the subject lands, if all interested parties agree that the purpose for such instrument is no longer necessary or relevant for the purposes of the land division.
- h. Initiate requests to all applicable utilities to record releases of their interests in utility easements in underlying plats or CSM's, if this proposed plat is a re-division of existing plats or CSM's with utility easements that will no longer be applicable; and, prior to requesting sign-off, place a note in the proposed plat citing the recording data for the City's recorded release of same

- i. Include the following sentence with the dedicated utility easements depiction in the plat
Legend: Utility Easements as herein set forth are for the use of public bodies, as well as private utilities having the right to serve the area.

Specific questions regarding the comments or conditions contained in this letter should be directed to the commenting agency.

In order to commence the process for obtaining the necessary City signatures on the final plat, the applicant shall e-mail the revised plat, updated title report, and any other materials required by reviewing agencies to the reviewing planner. The reviewing planner will share the updated materials with the relevant commenting City agencies for them to verify that their conditions have been satisfied and that the secretary or designee may sign the Plan Commission approval certificate. Once the Plan Commission certificate is executed, the Planning Division will transmit the final plat to the City Clerk's Office for execution of the Common Council certificate.

Once all of the necessary City signatures have been affixed to the final plat, the instrument will be returned electronically to the applicant by the Planning Division for printing and recording at the Dane County Register of Deeds Office. For information on recording procedures and fees, please contact the Register of Deeds at 266-4141.

Any appeal regarding the plat, including the conditions of approval related thereto, must be filed with the Circuit Court within thirty (30) days from the date of this letter.

If you have any questions or if you may be of any further assistance, please do not hesitate to contact my office at (608) 261-9135.

Sincerely,



Chris Wells
Planner

cc: Timothy Troester, City Engineering Division
Sean Malloy, Traffic Engineering Division
Sarah Lerner, Parks Division
Jeff Belshaw, Water Utility

Jeff Quamme, City Engineering Division–Mapping Section
Bill Sullivan, Fire Department
Wayne Buckley, Forestry Division