



**Project Address:** 3370 Burke Road, Town of Burke

**Application Type:** Final Plat in the Extraterritorial Jurisdiction

**Legistar File ID #** [29710](#)

**Requested Action:** Approval of the final plat of Wood Ger Development creating 9 commercial lots, 1 lot for an existing single-family residence, and 1 lot for other future development on property generally addressed as 3370 Burke Road in the Town of Burke.

**Prepared By:** Timothy M. Parks, Planning Division  
Report includes comments from other City agencies, as noted

**Addendum**

In recommending approval of the final plat to the Plan Commission for its May 20, 2013 meeting, Planning staff recommended that the City’s approval of the final plat be conditioned upon the changes required as part of the July 2012 approval of the preliminary plat being made and approved by Planning and City Engineering staff prior to final approval of the plat for recording. Those changes included changing the layout of the subdivision to place the eastern of the two single-family residences (on Lot 10) onto a smaller parcel generally located east of proposed Lot 11, with the remainder of Lot 10 as it is now shown combined with proposed Lot 9. The preliminary plat approval also called for the revised Lot 9, which would include the lands subject to the USDA conservation easement, to be designated as an outlot for wetland and open space purposes, and could be dedicated to the public upon the request of the Burke Town Board or the City of Madison Common Council.

The applicant requested referral of the Plan Commission’s consideration of the final plat to allow discussions to occur with City staff on the final plat staff report. Since the May 20 referral, Planning staff has met with the applicant, Gerry Woods, and his representatives to discuss the required plat revisions and proposed conditions of approval. Following those discussions, the project team revised the final plat to address many of the requested revisions in July 2012 and May 2013. The house at the southeastern corner of the site has been placed onto its own lot (Lot 9 on the attached revised final plat) and 2 outlots are proposed for the stream and wetland corridor that cross the site. Outlot 1 consists of the lands subject to the USDA conservation easement, while Outlot 2 consists of the remainder. The lot revisions are consistent with the conditions recommended with the preliminary plat in July 2012 and recommended for the proposed final plat in May 2013.

The applicant has also proposed the following note in response to condition #1 of the May 20 staff report:

*“Upon the order of the Burke Town Board (until such time as Outlots 1 and 2 are within the City of Madison), or upon the order of the City of Madison Common Council (at such time as Outlots 1 and 2 are within the City of Madison), the owner of said Outlots 1 and 2 at such time shall grant to the Town of Burke or to the City of Madison, as the case may be, a perpetual easement for stormwater drainage and management purposes along, and 35 feet on either side of, the centerline of the main drainageway which traverses said Outlots 1 and 2 from the northeast to the southwest as shown on the plat map, subject to any required consent at the time of such easement grant, if any, that is needed from the U.S. Fish and Wildlife Service, with respect to Outlot 1. The aforesaid easement shall be exclusive once granted by the owner of said Outlots to the Town or City, as the case may be, but the owner of said Outlots, and its successors in interest, shall be permitted to continue normal agricultural activities within such easement area or to use such easement area for stormwater drainage and management purposes,*

*conservation, or landscaping uses, so long as such activities comply with all applicable laws, ordinances and regulations and do not interfere with the use of such easement for the stormwater drainage and management purposes of the Town or the City, as applicable. The Town of Burke or the City of Madison, as the case may be, shall have a right to enter the easement area at any time after the grant of the easement for purposes of inspecting, maintaining and improving the easement area for stormwater drainage and management purposes, if either of them so elect, in their sole discretion."*

The proposed language above reflects Mr. Woods' desire to continue his agricultural use of the property while acknowledging the public need for this land for stormwater management purposes. City staff does not object to the current or potential future use of some of the proposed stormwater management outlots for agricultural purposes. However, staff does not feel the proposed plat note is sufficient to serve the public's future need for stormwater management in this area consistent with the original preliminary plat condition in July 2012, in particular the restriction to 35 feet on either side of the intermittent stream.

Staff recommends the note be revised as follows, which it believes will better serve the public's needs for some or all of the proposed outlot land for stormwater management as originally identified through its review of the preliminary plat:

*Upon the order of the Burke Town Board (until such time as Outlots 1 and 2 are within the City of Madison), or upon the order of the City of Madison Common Council thereafter, the owner of Outlots 1 and 2 shall grant to the public a perpetual easement for stormwater drainage and management purposes across Outlots 1 and 2 subject to any required consent at the time of such easement grant needed from the U.S. Fish and Wildlife Service with respect to Outlot 1. The grant of the easement when so ordered shall be made at no cost to the municipality issuing the order (the Town or City), and the grantor of the easement shall have no right to remuneration from the grantee for the loss of use or enjoyment of the easement. The owner(s) of said Outlots, and their successors in interest, shall be permitted to continue normal agricultural activities within such easement area or to use such easement area for stormwater drainage and management purposes, conservation, or landscaping uses so long as such activities comply with all applicable laws, ordinances and regulations and do not interfere with the use of such easement for the stormwater drainage and management purposes by the Town or the City, as applicable. The municipality with jurisdiction over the easement shall have the right to enter the easement area at any time after the grant of the easement for purposes of inspecting, maintaining and improving the easement area for stormwater drainage and management purposes.*

With the above-recommended staff note regarding the outlots, the Planning Division believes that the Plan Commission find the final plat of Wood Ger Development located at 3370 Burke Road, Town of Burke, in the City's extraterritorial plat approval jurisdiction consistent with the approved preliminary plat and forward the final plat to the Common Council with a recommendation of **approval** subject to input at the public hearing and conditions #2-25 of the attached May 20, 2013 staff report. Condition #1 of that report is modified by the attached plat revisions and proposed staff note above.