



PREPARED FOR THE PLAN COMMISSION

Project Address: 5978 Portage Road, Town of Burke
Application Type: Certified Survey Map (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [74900](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Hoel-Orvick Family Trust; 6101 Portage Road; DeForest.

Surveyor: Dan Paulson, Paulson & Associates, LLC; 136 W Holum Street; DeForest.

Requested Action: Approval of a Certified Survey Map (CSM) to create one lot for a single-family residence at 5978 Portage Road, Town of Burke, in the City of Madison’s Extraterritorial Jurisdiction.

Proposal Summary: The applicant and property owner owns three adjacent parcels totaling 78.8 acres located on the east side of Portage Road opposite Anderson Road in the Town of Burke. A single-family residence, garage, barn, and corn crib occupy the westernmost parcel adjacent to Portage Road, while the two other parcels in common ownership are used for agriculture. The proposed CSM will create an approximately 2.56-acre lot for the residence and accessory buildings, while the remaining land will comprise an unplatted parcel. 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. A completed application was received by the City on December 19, 2022. Therefore, the 90-day review period for this CSM will end circa March 18, 2023.

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: The Hoel-Orvick Family Trust owns three parcels totaling 78.8 acres located on the east side of Portage Road at Anderson Road in the Town of Burke.

Existing Conditions and Land Use: The subject site is developed with a two-story single-family residence, garage, barn, and corn crib on the westernmost parcel adjacent to Portage Road. The remainder of the property is in tillage. The property is zoned RM-16 (Rural Mixed-Use District), with the exception of the proposed lot, which was recently rezoned to the RR-2 (Rural Residential) District.

Surrounding Land Uses and Zoning: The surrounding land is predominantly agricultural in nature at this time, with the exception of a scattering of single-family residences and Token Creek County Park, the southeastern corner of which is located across Portage Road from the subject property. Lands south of the site and Anderson Road are located in the City of Madison, while the lands generally north of Anderson Road, including the subject site and Token Creek Park are located in the Town of Burke.

Environmental Corridor Status: The subject site is not located in the Central Urban Service Area and is not located in a mapped environmental corridor. (The properties in the City of Madison immediately south of the site are located in the CUSA.) There are no “Resource Protection Corridor” areas located on the property.

Public Utilities and Services:

Water: Property is not served by municipal water;

Sewer: Property is not served by public sewer;

Fire protection: Sun Prairie Fire Department;

Emergency Medical Services: City of Madison Fire Department;

Police services: Dane County Sheriff's Department – North Precinct;

School District: DeForest Area School District.

Project Description

The applicant and property owner is requesting approval of an extraterritorial Certified Survey Map (CSM) to create a 2.56-acre lot for a single-family residence and agricultural accessory buildings from a larger 78.8 property located on the east side of Portage Road north of Anderson Road in the Town of Burke. The overall property is comprised of three parcels, (from west to east) 0810-102-9101-0, 0810-1029000-2, 0810-102-9500-7, with the residence and accessory buildings located on the westernmost of the three, which is addressed 5978 Portage Road. The portion of 5978 not occupied with buildings and all of the other two parcels are in active tillage. The proposed lot will have approximately 325 feet of frontage along Portage Road and 342 feet of depth from the road right of way. The southern proposed lot line will be located approximately 330 feet north of the southernmost line of the overall Hoel-Orvick ownership.

The remaining property following creation of the proposed lot is not shown on the CSM. As a condition of approval, a scaled map based on recorded information shall be included with the final Certified Survey Map that shows the remaining Hoel-Orvick Family Trust's contiguous ownership parcels, with perimeter dimensions of the excluded lands in excess of 40 acres from which the proposed Lot 1 is being created.

Analysis and Conclusion

Approval of CSM by the Town of Burke 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 November 21, 2022. The Dane County Board previously approved rezoning the proposed lot from RM-16 (Rural Mixed-Use District to RR-2 (Rural Residential District) on November 3, 2022.

The Town of Burke Board approved the proposed land division and related rezoning at its September 21, 2022 meeting.

City of Madison Land Use Plans: The subject site is located within the boundaries of the 2008 [Pumpkin Hollow Neighborhood Development Plan](#), which recommends that the subject site be developed in the future with a variety of uses generally north of the easterly extension of Anderson Road across Portage Road. From west to east, the Land Use and Street Plan shows parkland, land for stormwater management, land for a future public school (the site is in the DeForest Area School District), and low-density residential development in the Housing Mix 1 and Housing Mix 2 categories.

Town of Burke Cooperative Plan: The proposed division of the subject site in the Town of Burke requires Plan Commission approval as both a land division in the City's extraterritorial jurisdiction, and as "development" as defined in the 2007 [Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan](#). Under the cooperative plan, the terms "develop" or "development" refer to the division of land, or construction of more than one principal structure on a parcel of land, or rezoning a parcel from a residential or agricultural classification to a non-residential classification. An exemption in the cooperative plan that would allow a land division of a five-acre or large parcel into two lots for the purposes of constructing a single-family residence on each lot without City approval is not applicable in the case of the proposed CSM, as only one lot is being formally created with the proposed land division, and the remaining land will be used for agriculture.

Pursuant to the terms of the cooperative plan, the development of lands outside of the Protected Areas identified in the plan may require the development to provide a full range of urban services, including public water and sewer service, and to attach to the City of Madison, in the sole discretion of the City. The subject site is not located in a protected area as defined in the cooperative plan. However, City water and sewer service are not currently proximate to the site or surrounding area, and while the City limits abut the southern boundary of the subject property, City staff does not recommend that the property be attached to the City as a condition of this CSM approval given the de minimis nature of the request, which merely seeks to create a lot for an existing residence from land already comprised of three tax parcels.

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. While there is not proliferation of single-family residential lots in the vicinity of the proposed lot, the scattering present tend to be of a character similar to the one proposed – smaller residential lots of varying size and configuration that have been separated from larger agricultural parcels. The proposed division of the property should not result in a demonstrably different development pattern in the area than what already exists. Staff also does not anticipate that the creation of the proposed lots will negatively affect the City’s ability to accomplish attachments or extend urban services into this area in the future. Finally, staff does not believe that the proposed parcel configuration will negatively affect the ability for the overall property to be developed in the future consistent with the land uses and street pattern recommended in the Pumpkin Hollow Neighborhood Development Plan.

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** a Certified Survey Map of property located at 5978 Portage Road, Town of Burke, 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 (Timothy M. Parks, (608) 261-9632)

1. A scaled map based on recorded information shall be included with the final Certified Survey Map that shows the remaining Hoel-Orvick Family Trust’s contiguous ownership parcels, with perimeter dimensions of the excluded lands in excess of 40 acres from which proposed Lot 1 is being created.
2. The applicant shall dedicate 45 feet of right of way from the centerline of Portage Road with this CSM consistent with the future 90-foot wide total right of way recommended in the Pumpkin Hollow Neighborhood Development Plan. The dedicated right of way shall be labeled “Dedicated to the Public for Road Purposes.”

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 Julius Smith, (608) 264-9276)

3. 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.

4. In accordance with Section s. 236.18(8), Wisconsin Statutes, the applicant shall reference City of Madison WCCS Dane Zone, 1997 Coordinates on all PLS corners on the Certified Survey Map in areas where this control exists. The surveyor shall identify any deviation from City Master Control with recorded and measured designations. Visit the Dane County Surveyor's Office for current tie sheets and control data that has been provided by the City of Madison. See Sandsness City Tie sheets.
5. Prior to Engineering Division final sign-off by main office for Certified Survey Maps, the CSM shall be submitted in PDF format by email transmittal to Engineering Land Records Coordinator Julius Smith (jsmith4@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.
6. Per Madison General Ordinance MGO 16.23(5)(g)(1): "...the certified survey map shall show the entire ownership with a survey for the parcel or parcels being separated and a scaled drawing from recorded information for the parcel remaining." Provide an additional sheet showing a scaled drawing depicting the location and area adjacent to the entire owned 80 acres.
7. Correct 33.02' sub-distance to 33.00' along Northerly line of Lot 1.
8. Correct overall South line of Lot 1 from 372.98' to 375.00'.
9. If Portage Road is not being dedicated with this CSM, it should be shown as underlined.
10. Correct the bearing in the final call of the written legal description to S 89° 56' 01" W.
11. Correct the overall square-footage of Lot 1 to 122,243 and 111,485 excluding the right of way.
12. For the Basis of Bearings, correct the word 'lint' to 'line'. Also the assumed bearing matches that of WCCS Dane Coordinates with in 0°00'02" it appears this site was measured in some form of County Coordinates - WCCS or WisCRS Dane. Relation to County Coordinates is a requirement of approval. Therefore North reference should be related to the Coordinate System used, its adjustment NAD83(91),(97)or (2011) and then stated to be measured to bear and not assumed.
13. The applicant shall submit to Julius Smith, 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 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 Jenny Frese (608) 267-8719)

14. 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.
15. Prior to CSM approval sign-off, an executed and notarized or authenticated certificate of consent for all mortgagees/vendors shall be included following the Owner’s Certificate(s). 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 CSM approval sign-off.
16. If any portion of the lands within the CSM boundary are subject to an Option to Purchase or other Option interest, recorded or unrecorded, include a Certificate of Consent for the option holder and have it executed prior to CSM sign-off if said ownership interest meets the criteria set forth by Wis. Stats. Sec. 236.34 and Sec. 236.21(2)(a).
17. 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.
18. Update the Plan Commission certificate as follows:

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

By: _____
Matthew Wachter, Secretary of the Plan Commission

Date: _____

19. 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.
20. 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.
21. Pursuant to Madison City Ordinance Section 16.23(5)(g)(4), the owner shall furnish an updated title report via to the Office of Real Estate Services, as well as the survey firm preparing the proposed CSM. The report shall search the period subsequent to the initial title report submitted with the CSM application and include all associated documents that have been recorded since the initial title report. The updated title report shall only include the area of the proposed CSM; any parcels and documents that do not impact the area of this CSM shall be removed from the updated 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.