



PREPARED FOR THE PLAN COMMISSION

Project Address: 310 Clemons Avenue and 301 Riverside Drive
Application Type: Certified Survey Map Referral
Legistar File ID # [42320](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Bethany Free Evangelical Church; 301 Riverside Drive; Madison, and David and Jerry Anne Carlson; 310 Clemons Avenue; Madison.

Surveyor: Mark Pynnonen, Birrenkott Surveying, Inc.; 1677 N. Bristol Street; Sun Prairie.

Requested Action: Approval of a two-lot Certified Survey Map (CSM) re-creating 2 lots at 310 Clemons Avenue and 301 Riverside Drive.

Proposal Summary: The applicants and property owners are seeking approval of a Certified Survey Map (CSM) to formally re-divide 2 existing parcels containing 36,422 square feet of land (0.84 acres), which are developed with Bethany Free Evangelical Church located at 301 Riverside Drive and a single-family residence located at 310 Clemons Avenue. The applicants wish to record the CSM 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.

Review Required By: Plan Commission. A resolution of the Common Council approving the CSM is also required.

Review Schedule: The State’s subdivision statute, Wis. Stats. 236, requires that a CSM be approved, conditionally approved, or rejected (with stated reasons) within 90 days of submittal unless the time is extended by agreement with the applicant. If no action is taken within 90 days and no extension granted, the CSM is deemed approved. The proposed CSM application was submitted to the City on March 23, 2016, with a corresponding 90-day review period scheduled to expire circa June 23, 2016.

Summary Recommendation: The Planning Division recommends that the Plan Commission find the standards for land divisions met with this request and **approve** a Certified Survey Map of property located at 310 Clemons Avenue and 301 Riverside Drive subject to input at the public hearing and the conditions from reviewing agencies beginning on page 5 of this report.

Background Information

Parcel Location: A 0.84-acre parcel located on the east side of Winnebago Street and the Capital City Path between Riverside Drive and Clemons Avenue; Aldermanic District 6 (Rummel); Madison Metropolitan School District.

Existing Conditions and Land Use: Bethany Free Evangelical Church located at 301 Riverside Drive and a single-family residence located at 310 Clemons Avenue, zoned TR-C4 (Traditional Residential–Consistent 4 District).

Surrounding Land Use and Zoning:

North: Single-family residences, zoned TR-C4 (Traditional Residential–Consistent 4 District);

South: Yahara Parkway;

East: Single- and two-family residences, zoned TR-C4;

West: Single- and two-family residences, zoned TR-C4; Capital City Path and Winnebago Street.

Adopted Land Use Plan: The Comprehensive Plan recommends that the subject site and other nearby properties extending north of the Union Pacific Railroad between Stoughton Road and Interstate 39-90 be developed with Low-Density Residential uses.

Zoning Summary: The following bulk requirements apply in TR-C4 (Traditional Residential–Consistent 4) zoning:

Requirements	Required: Single-Family Detached	Proposed (Lot 1)
Lot Area (sq. ft.)	4,000	4,856
Lot Width	40'	Greater than 40'
Front Yard Setback	20'	16.9'
Maximum Front Yard Setback	30' or up to 20% greater than block average	16.9'
Side Yard Setback	One-story: 5'; Two-story: 6'	5.3' east side; 8.8' west side
Reverse Corner Side Yard Setback	12'	N/A
Rear Yard Setback	Lesser of 30% lot depth or 30'	18.23' (See Zoning Conditions)
Usable Open Space	750 sq. ft. per d. u.	750 sq. ft. + (See Zoning Conditions)
Maximum Lot Coverage	65%	Less than 65% (See Zoning Conditions)
Maximum Building Height	2 stories/ 35'	2 stories
Requirements	Required: Nonresidential	Proposed (Lot 2)
Lot Area (sq. ft.)	4,800 sq. ft.	31,566 sq. ft.
Lot Width	40'	Greater than 40'
Front Yard Setback	20'	23.3'
Maximum Front Yard Setback	N/A	N/A
Side Yard Setback	One-story: 5'; Two-story or more: 6'	11.5' south side; 19.5' north side
Reverse Corner Side Yard Setback	20'	N/A
Rear Yard Setback	Equal to bldg. height but at least 30'	57.3'
Usable Open Space	N/A	N/A
Maximum Lot Coverage	65%	See Zoning Conditions
Maximum Building Coverage	50%	Less than 50%
Maximum Building Height	35'	Existing building
Site Design	Required	Proposed
Number Parking Stalls	Place of worship: 1 per 10 seats or 15 lineal feet of seating area in the main worship space. If no fixed seats, 1 per 70 sq. ft. of floor area in main worship space (TBD)	35

Accessible Stalls	Yes	2, Existing
Loading	None	None
Number Bike Parking Stalls	Place of worship: 1 per 50 seats or 75 lineal feet of seating area or 1 per 350 feet of floor area in main worship space (TBD)	3
Landscaping	None	Existing landscaping
Lighting	None	Existing lighting
Building Forms	None	Existing building
Other Critical Zoning Items		
Yes:	Utility Easements	
No:	Landmarks, Urban Design, Wellhead Protection, Floodplain, Waterfront Development, Adjacent to Parkland	
<i>Prepared by: Zoning & Planning staff</i>		

Environmental Corridor Status: The development site is not located in a mapped environmental corridor.

Public Utilities and Services: The site is served by a full range of urban services.

Project Description

The applicants and property owners are seeking approval of a Certified Survey Map (CSM) to formally re-divide 2 existing parcels generally located east of Winnebago Street and the Capital City Path at Riverside Drive. The northerly edge of the subject site is formed by Clemons Avenue, a residential street that parallels Riverside Drive and ends in a cul-de-sac just past Helena Street and before the Capital City Path. The overall site contains 36,422 square feet of land (0.84 acres).

The first parcel, addressed as 301 Riverside Drive, is developed with Bethany Evangelical Free Church, which occupies the western half of the 28,248 square-foot property and is oriented towards the Winnebago Street-Riverside Drive intersection. The eastern half of the parcel is improved with a 35-stall surface parking lot for the church accessed from a driveway from Riverside Drive. The second parcel is a 40-foot wide and 120-foot deep lot (Lot 20, Block 1, Riverside Park) addressed as 310 Clemons Avenue, which is developed with a two-story single-family residence. According to available records, Bethany Free Evangelical Church owned the residence and sold it to its current owner, who is pastor of the church, in 1994. At the time of the sale, the church received zoning site plan approval from the City to allow parking for the church to occupy most of the rear yard of the residence subject to an easement, with a wood rail fence separating the church parking from the house and yard. The same easement agreement allows the residence to maintain a portion of its driveway and a landscaped area on the church parcel.

The proposed two-lot CSM calls for a portion of the church parcel located west of the 310 Clemons Avenue residence and north of the edge of the church parking lot to be added to the residential lot, and for the rear 17.6 feet of the residential lot to be conveyed to the church. The proposed configuration will result in the house residing on a 4,856 square-foot lot (Lot 1), which will have 89.8 feet of frontage along Clemons Avenue before gradually tapering down to 40 feet of width at the relocated rear line of that property. Lot 2 will be a 31,566 square-foot parcel comprised of the remaining land.

Following the proposed re-division, a portion of the church parking lot will remain in the rear yard of the residence pursuant to the existing easement that governs that off-site parking and related zoning approval. However, the easement language that allows the residential driveway and landscaping on the church parcel will be released as a result of the proposed lot configuration. The owner of the residence indicates that the reconfiguration of the property will bring the boundaries of that parcel into greater alignment with its historic use and allow a potential buyer of the house to construct a garage in the westerly side yard once the CSM is recorded.

Analysis & Conclusion

Plan Commission approval of the proposed Certified Survey Map is required for two reasons. First, as noted in the Summary section of this report, the proposed land division was submitted on March 23, 2016. Per Section 16.23(5)(g)4 of the Subdivision Regulations, the Secretary of the Plan Commission has 45 days from the filing of a complete application to approve, conditionally approve, or refer a land division to the Plan Commission for consideration. The Plan Commission has up to the 90 days from application stipulated by statute to act on the land division, or it is deemed approved. In the case of the proposed CSM, the version originally submitted by the applicants contained fatal zoning flaws that prevented the request from being approved. To avoid having to formally reject the CSM for these reasons, Planning and Zoning staff worked with the applicant to address the zoning issues within the active 90-day window, which resulted in the two-lot CSM that is currently before the Plan Commission for approval. However, the discussions on the revisions to the proposed lots exceeded the 45-day window for administrative approval, hence requiring that the Plan Commission consider the request instead.

Secondly, staff believes that the somewhat irregular lot configuration proposed by the CSM exceeds what is customarily approved at the administrative level. In particular, the alignment of the proposed common side lot line between Lots 1 and 2 does not reflect a condition that staff feels can be approved without Plan Commission review. Section 16.23(8)(d) of the Subdivision Regulations includes the design standards for lots, and includes a provision (4 (excerpt)) that *"side lot lines shall be as nearly as possible at right angles to straight street lines or radial to curved street lines on which the lots face."* In this case, the common side lot line between Lots 1 and 2 consists of three segments, including one that parallels the rear and a portion of the front property lines.

Section 16.23 (10) of the Subdivision Regulations, entitled Variances, states the following:

"When in the judgment of the Plan Commission it would be inappropriate to apply literally provisions of Subsection (8) of this ordinance...because extraordinary hardship would result, it may waive or vary such provisions so that substantial justice may be done and the public interest secured."

In reviewing the proposed reconfiguration of the existing parcels, staff recommends that the land division be approved, including with the exception/ variance for the side lot line between Lots 1 and 2. While not a lot configuration that would likely be supported by staff for undeveloped property, the Planning Division believes that the proposed lots reflect the historic use of the parcels consistent with the intent of design standard 1, which requires that (excerpt) *"The size, shape and orientation of the lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated."* Due to the existing condition and historic use of the properties, staff believes that the Plan Commission can find that the proposed lot configuration is appropriate.

Recommendation

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

The Planning Division recommends that the Plan Commission find the standards for land divisions met with this request and **approve** a Certified Survey Map of property located at 310 Clemons Avenue and 301 Riverside Drive subject to input at the public hearing and the following conditions submitted by reviewing agencies:

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

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

1. A minimum of 2 working days prior to requesting City Engineering signoff on the plat, the applicant shall contact Tim Troester (267-1995) or Brenda Stanley (261-9127) 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. All charges shall be cleared prior to the land division (and subsequent obsolesces of the existing parcel).

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

2. The Parking Lot Easement per Document Nos. 2624591 and 2731775 along with the Easement for Lawn and driveway purposes, with this CSM lot line adjustment, are not necessary and should be released just prior to recording the CSM.
3. Show and label on the map the 15-foot wide Public Water Main Easement retained by the vacation of Helena Street per Document No. 1452826.
4. Denote along the right of way of Winnebago Street and denote No Vehicular Access to Winnebago Street, see Document No. 1452826.
5. Correct the Date of the tie sheet for the North 1/4 corner. The most recent was revised Jan. 5, 2016 by Carl Sandsnes when the true corner coordinates were revised.
6. Add language to the first line of the legal description after vacated part of Helena Street "as recorded in Document No. 1452826."
7. In accordance with Section s.236.34(1m)(c), which states that a CSM shall be prepared in accordance with the plat requirements stated per s.236.20(2)(c) & (f), Wisconsin Statutes, the applicant must show the type, location and width of any and all easements on the Plat or CSM. Clearly identify the difference between existing easements (cite Register of Deeds recording data) and easements which are being conveyed by the CSM. Identify the owner and/or benefiting interest of all easements. Include any and all language required to properly and legally create any easement by the CSM.
8. In accordance with Section s. 236.18(8), Wisconsin Statutes, the applicant shall reference City of Madison WCCS Dane Zone 1997Coordinates on all PLS corners on the plat in areas where this control exists. The surveyor shall identify any deviation from City Master Control with recorded and measured designations. The City has established WCCS, Dane Zone Coordinates on all PLS corners within its corporate

boundary. Visit the City Engineering Division website for current tie sheets and control data (http://gis.ci.madison.wi.us/Madison_PLSS/PLSS_TieSheets.html). If a surveyor encounters an area without a published WCCS Dane Zone 1997 value, contact the City Engineering Division for this information.

9. 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 Eric Pederson, City Engineering. If a new tie sheet is not required under A-E 7.08, Engineering requests a copy of the latest tie sheet on record with Dane County Surveyor's office. The applicant shall identify monument types on all PLS corners included on the Plat. Note: Land tie to two PLS corners required.
10. The applicant shall submit to Jeff Quamme, prior to final Engineering sign-off of the subject plat, one (1) digital CADD drawing and one (1) signed copy of the final plat to the Mapping/GIS Section of the Engineering Division either as hard copy or Adobe PDF format. The digital CADD file shall be submitted in the WisDOT County Coordinate System, Dane County Zone datum in either Auto CAD Version compatible with MicroStation Version V8i, MicroStation Version V8i or older or Universal DXF Formats. The digital CADD file(s) shall contain the minimum of the items stated below, each on a separate layer name/level number. All line work shall be void of gaps and overlaps that would cause any parcel, street or easement to not properly close. All line work orientation and geometrics shall match the dimensioning as labeled on the final recorded plat: right of way lines (public and private); lot lines; lot numbers; lot/plat dimensions; street names, and; easement lines (i.e. street, sanitary, storm (including wetland & floodplain boundaries) water, pedestrian/bike/walkway, or any public and/or private interest easement except local service for Cable TV, gas, electric and fiber optics).

*This transmittal is a separate requirement than the required submittals to Engineering Streets Section for design purposes.

*New electronic final plat transmittals and notification of changes which occur to the final plat during the time the Engineering Division signs off and receives the digital copies of said plat and the recording thereof, are the responsibility of the Developer/Surveyor.

Traffic Engineering Division (Contact Eric Halvorson, 266-6527)

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

Fire Department (Contact Bill Sullivan, 261-9658)

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

Water Utility (Contact Dennis Cawley, 261-9243)

11. Note: All operating private wells shall be identified and permitted by the Water Utility and all unused private wells shall be abandoned in accordance with MGO Section 13.21.

Zoning Administrator (Contact Jenny Kirchgatter, 266-4429)

12. The rear yard setback for a single-family residence in the TR-C4 district is the lesser of 30% of lot depth or 30 feet. Show that Lot 1 meets the minimum rear yard setback.

13. Provide calculations showing that Lot 1 meets the lot coverage and useable open space requirements for the TR-C4 district.
14. Before the Certified Survey Map can be approved for recording, the applicant shall obtain site plan approval per Section 28.186 of the Zoning Code for Bethany Evangelical Free Church at 301 Riverside Drive. [Author's note: This site plan will be similar to the site plan approved by the City in November 1994 and will reflect the site improvements in relation to the proposed lot lines created by the subject CSM.]
15. Provide a lot coverage calculation for Lot 2.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not provide comments for this request.

Parks Division (Contact Janet Schmidt, 261-9688)

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

Office of Real Estate Services (Heidi Radlinger, 266-6558)

16. The 2015 real estate taxes are paid for the subject property. As of the date of this letter there are no special assessments reported. If special assessments are levied against the property, they shall be paid in full prior to CSM recording as required by MGO Section 16.23(5)(g)4.
17. Please coordinate with Tim Troester (267-1995) or Brenda Stanley (261-9127) in the City Engineering Division to obtain any outstanding storm water management fees from the Madison Water Utility. Receipts for the payment of the prorated fee shall be presented prior to CSM approval sign-off.
18. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish an updated title report to Heidi Radlinger in the City's Office of Real Estate Services (hradlinger@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 (February 24, 2016) submitted with the CSM application and include all associated documents that have been recorded since the initial title report. The surveyor shall update the CSM with the most recent information reported in the title update.
19. The CSM shall be revised as follows prior to final sign-off and recording:
 - a.) Liens or judgments levied against the lands within the CSM boundary shall be satisfied, with proof of satisfaction provided prior to CSM approval sign-off. Satisfactions or releases for all mortgages, liens, judgments, or other instruments that no longer encumber the lands or ownership within the CSM boundary shall be recorded prior to CSM approval sign-off.
 - b.) Depict easements retained by Document No. 1452826.