

PLANNING DIVISION STAFF REPORT

January 25, 2021



PREPARED FOR THE PLAN COMMISSION

Project Address: 53 West Towne Mall and 522 S Gammon Road (District 9 – Ald. Skidmore)

Application Type: Certified Survey Map

Legistar File ID # [63213](#)

Prepared By: Chris Wells, Planning Division

Reviewed By: Kevin Firchow, AICP, Principal Planner

On November 18, 2020, a Certified Survey Map (CSM) application was submitted on behalf of Seritage SRC Finance, LLC for a two-lot subdivision to create two commercial lots at 53 West Towne Mall and 522 S Gammon Road. The CSM request is related to the development of a one-story restaurant, which would be owned and operated separately from the existing development at 53 West Towne Mall.

Approval of land divisions or combinations by CSM is governed by MGO §16.23(5)(g), which includes the process by which City agencies comment on CSMs and how the Plan Commission or the Secretary of the Plan Commission or his/her designee approve the request. The Secretary of the Plan Commission or her/his designee shall within forty-five (45) days of the filing of the complete application approve, approve conditionally or refer it to the Plan Commission for its consideration. Failure of the Secretary or her/his designee to act upon the proposed land division application within forty-five (45) days shall be deemed a rejection subject to review before the Plan Commission under subsection (3)(c). The Plan Commission shall act on the land division within ninety (90) days of the filing of the complete application, unless the time is extended by agreement with the applicant. The subdivider shall be notified in writing of any conditions of approval or the reasons for rejection. The CSM was not acted on by the Secretary within forty-five (45) days, and therefore the request is before the Plan Commission for approval.

The Planning Division recommends that the Plan Commission forward the CSM (Resolution ID 63213) to the Common Council with a recommendation of **approval**, subject to the comments and conditions below.

Engineering Division (Contact Timothy Troester, at (608) 267-1995)

1. 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))
2. A minimum of two (2) working days prior to requesting City Engineering signoff on the plat/csm contact either Tim Troester (West) at 261-1995 (ttroester@cityofmadison.com) or Brenda Stanley (East) at 608-261-9127 (bstanley@cityofmadison.com) to obtain the final stormwater utility charges that are due and payable prior to sub-division of the properties. The stormwater utility charges (as all utility charges) are due for the previous months of service and must be cleared prior to the land division (and subsequent obsolesces of the existing parcel). (POLICY)
3. Based on WDNR BRRS record #02-13-188156 SEARS AUTO CENTER, the property may contain residual contamination. If contamination is encountered, follow all WDNR and DSPS regulations for proper handling and disposal.

Engineering Division – Mapping Section (Contact Jeffrey Quamme, (608) 266-4097)

4. Grant a 10 foot wide Temporary Grading and Sloping Easement to the City of Madison for the construction of future West Towne Path adjacent to the required Public Sidewalk and Bike Path Easement. The Temporary Easement shall terminate upon the completion of construction of all path improvements.
 5. Grant a Public Sidewalk and Bike Path Easement to the City of Madison on the face of this Certified Survey Map generally along the south lot line of Lot 1 for the West Towne Path as required by City Engineer. The configuration shall be provided by City of Madison Engineering staff.
 6. Provide for review the comprehensive reciprocal easements and agreements including, but not limited to, access, parking, utilities, common areas, storm management and surface drainage that are necessary to accomplish the site development between Lot 1 and Lot 2 of this CSM. The rights are necessary in order to serve Lot 2 over, under and across Lot 1 for Lot 2 to provide access around Lot 1, access the common facilities provided by the overall Mall Reciprocal Easement Agreement (and its amendments) and access the public sanitary and water facilities within Lot 1 as well. The draft documents shall be provided prior to final sign off. The document(s) shall be executed and recorded subsequent to the CSM recording and prior to building permit issuance for any development of proposed Lot 2. A note shall be placed on the CSM that there will be a reciprocal easement recorded between Lot 1 and 2 by a separate instrument.
 7. Provide a draft of a assignment and assumption of the existing Easement, Restriction and Operating Agreement (REA) addressing the need for Lot 2 to be subject to and benefit from the existing REA (Doc No.1239177 with amendments / supplements). Both lots are dependent upon the benefits provided by this agreement for proper development. The document shall be recorded after the CSM has been recorded and will be required prior to final site plan or early start permit issuance for the proposed development of Lot 2.
 8. This Certified Survey Map 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 shall be required prior to issuance of building permits for new construction or early start within proposed Lot 2.
9. Label and note the portion(s) of a public watermain easement per Doc No 1370667 that will be amended by a separate recorded document due to the proposed future development of Lot 2.
 10. On sheet 4, add a note to the easement area of 1286931 within the Traffic Signal and Utility Easement per Doc 5527207 that the Gas Main easement is subject to a Consent to Occupy Easement per Document No. 5526003.
 11. Revise the label for the Ring Road Access Easement label to read: Ring Road Access Easement per Document No 1239177 as modified by Document No 2124846.
 12. Remove the reference to Limited Highway Easement Doc 1237110 in the notes. It has expired and there is not any need to further reference it.
 13. Remove references to Right of Entry Documents per Doc No's 5526004 and 5526005 as they are temporary and expire upon the completion of construction on Gammon Road.
 14. Add to the notes on sheet 6 that this CSM is subject to a Declaration of Conditions, Covenants and Restrictions for Maintenance of Stormwater Management Measures per Doc No 5325181.

15. The Title Report shall be updated and add the Water Main Easement per Doc No 1370667 and the Electric Easement per Doc No 1272585
16. Add text to the existing building on Lot 2 that it is to be demolished. Also remove the painted parking stalls from the map to reduce clutter and increase readability of the text and other land title information.
17. 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)
18. 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.
19. Conditions of approval noted herein are not intended to be construed as a review determining full compliance with City of Madison Ordinances and State of Wisconsin Statutes. The licensed professional preparing the land division is fully responsible for full compliance with all Ordinances and Statutes regulating this proposed land division.
20. The second course of the tie for the legal description per the Surveyor's Certificate needs to be revised to be North and West, not North and East.
21. Provide the recorded as bearings and distances of the exterior boundary of the CSM as required by statute. Also all curve data shall have the central angle added as required by statute.
22. All public easements encumbering this CSM that benefit benefitting the Public or City of Madison shall be fully dimensioned allowing accurate retracement using dimensions provided on this CSM.
23. Revise the label for the Easement per Doc No 1286931 to: 10' Wide Gas Main Easement to MG&E. Also add WP&L to the label for the Electric Easement per Doc No 1272585
24. 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:
 - a) Right-of-Way lines (public and private)
 - b) Lot lines
 - c) Lot numbers
 - d) Lot/Plat dimensions
 - e) Street names
 - f) 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.

Traffic Engineering Division (Contact Sean Malloy, (608) 266-5987)

25. The applicant shall install, or provide an executed copy of a cross-access agreement.

Fire Review (Contact William Sullivan, (608) 886-4691)

26. Provide easements as necessary to accommodate required fire apparatus access lanes.

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

27. 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.

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

29. 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.

30. 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...”

31. If any portion of the lands within the CSM boundary are subject to an Option to Purchase or other Option interest please include a Certificate of Consent for the option holder.

32. 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.

33. As of December 29, 2020, the 2020 real estate taxes are not paid for the subject property. Per 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 CSM recording. Receipts from the City of Madison Treasurer are to be provided before or at the time of sign-off.

34. As of December 29, 2020, there are special assessments reported for the subject property. 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 pursuant to Madison General Ordinance Section 16.23(5)(g)1.

35. Pursuant to Madison City Ordinance Section 16.23(5)(g)(4), the owner shall furnish an updated title report to Andy Miller in the ORES (acmiller@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 dated November 2, 2020, 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. 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.
36. 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. If documents included in the November 2, 2020, title report do not apply to the area within the proposed CSM, have them removed from the updated title report.
37. 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. If existing improvements are to be removed or demolished, label as such.
38. If all parties of interest agree that certain easements from prior plats or CSM's of record are no longer necessary, the release documents for said easements shall be recorded prior to CSM approval sign-off, with the recording information for the release included as a Note on the proposed CSM.