

PLANNING DIVISION STAFF REPORT

August 29, 2022

PREPARED FOR THE PLAN COMMISSION



Project Address: 3706 Nakoma Road
Application Type: Certified Survey Map (CSM) Referral
Legistar File ID # [72637](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant& Property Owner: David Gordon, 3706 Nakoma Road, LLC; 7633 Ganser Way, Suite 101; Madison.

Surveyor: Michelle Burse, Burse Surveying and Engineering, Inc.; 2801 International Lane, Suite 101; Madison.

Requested Action: Approval of a Certified Survey Map (CSM) of property owned by 3706 Nakoma Road, LLC located at 3706 Nakoma Road.

Proposal Summary: The subject parcel is comprised of two platted lots developed with a two-story single-family residence on the easterly portion of the property adjacent to Nakoma Road. The applicant and property owner is requesting approval of a CSM to reconfigure the two underlying lots to create a larger lot for a future residence to be constructed on the Council Crest side of the property. 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) of the Subdivision Regulations. Regarding the review of land divisions and Certified Survey Maps in Section 16.23(5)(g), the Secretary of the Plan Commission or her/his designee shall within 45 days of the filing of the complete application approve, approve conditionally, or refer the CSM to the Plan Commission for its consideration. The Plan Commission shall act on the land division within 90 days of the filing of the complete application, unless the time is extended by agreement with the applicant. The Secretary of the Plan Commission has referred consideration of the CSM to reconfigure the underlying lots to the Plan Commission as allowed by Section 16.23(5)(g)4.

If the proposed CSM is approved by the Plan Commission, a resolution approving the survey and accepting the dedications contained therein will be presented to the Common Council for approval.

Review Required By: Plan Commission and Common Council.

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. The application was accepted for review on June 27, 2022. Therefore, the 90-day review period for this CSM will end circa September 25, 2022.

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 5 of this report.

Background Information

Parcel Location: The subject site is a 27,477 square-foot (0.63-acre) parcel that extends between Nakoma Road and Council Crest on the south side of Spring Trail.

Existing Conditions and Land Use: The subject site is comprised of Lots 1 and 14 of Replat A of Blocks 1, 2, 11, and Other Land of Nakoma, with a single-family residence and detached garage located on the eastern portion of the parcel closest to Nakoma Road. The residence is the Old Spring Tavern/Old Spring Hotel, which is a designated City of Madison landmark. The site is zoned TR-C1 (Traditional Residential–Consistent 1 District).

Surrounding Land Uses and Zoning: The subject parcel is surrounded on the north, west, and south by single-family residences, zoned TR-C1 (Traditional Residential–Consistent 1 District), and by the University of Wisconsin–Madison Arboretum to the east across Nakoma Road, zoned CN (Conservancy District).

Adopted Land Use Plans: The 2018 [Comprehensive Plan](#) recommends the subject site and surrounding properties generally west of the Arboretum for Low Residential (LR). The Arboretum is identified as Park and Open Space (P). There are no adopted neighborhood or sub-area plans that include the subject site or surrounding area.

Zoning Summary: The property is zoned TR-C1 (Traditional Residential–Consistent 1 District).

Requirements	Required	Proposed
Lot Area (sq. ft. per unit)	6,000	Will comply
Lot Width	50'	Will comply
Minimum Front Yard Setback	20'	40.8' (from Nakoma Road) (Existing)
Maximum Front Yard Setback	30' or up to 20% greater than block average	
Side Yard Setback	One-story: 6' Two-story: 7'	37.3' South North will comply
Rear Yard	Lesser of 30% lot depth or 35'	Existing house will comply
Maximum Lot Coverage	50%	Existing house will comply
Usable Open Space	1,000 sq. ft. per lot	Existing house will comply
Maximum Building Height	2 stories/ 35'	Existing house will comply
Building Forms	Single-Family Detached Building	Existing house will comply
Note: The future residence to be constructed on Lot 2 will be required to comply with the above bulk requirements of the TR-C1 district at the time of permitting,		
Other Critical Zoning Items		
Yes:	Barrier Free, Utility Easements	
No:	Urban Design, Floodplain, Wellhead Protection, Landmarks, Waterfront Development, Adjacent to Park	
Prepared by: Planning and Zoning staff		

Environmental Corridor Status: The subject property is not located in a mapped environmental corridor. The nearby Arboretum across Nakoma Road is located in a mapped corridor.

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

Related Approval

Section 16.23(3)(a)4 requires for land divisions and subdivision plats of landmark sites and properties in historic districts, that no land shall be divided or combined without the approval of the Landmarks Commission under MGO Section 41.18(4) of the Historic Preservation ordinance.

On July 11, 2022, the Landmarks Commission approved a Certificate of Appropriateness for the proposed lot reconfiguration with conditions that the landmark designation remain on the newly configured lots and the applicant submit an archaeological monitoring report for an excavation of the buildable area on proposed Lot 2. The Landmarks Commission found that the proposed lot sizes are compatible with adjacent lot sizes and retaining the landmark designation on the western lot will ensure preservation of the historic structure on the eastern lot by allowing for review of potential adverse impacts of the new construction on the historic structure. The legislative file (ID 72243) for the Landmarks Commission's consideration of the request may be found [here](#). The recording of the July 11 meeting is available [here](#).

Project Description

The applicant and property owner is requesting approval of a Certified Survey Map (CSM) to reconfigure two underlying platted lots that comprise the 0.63-acre parcel located at 3706 Nakoma Road.

The subject parcel is comprised of Lots 1 and 14 of Block 11 of the Replat A of Blocks 1, 2, 11, and Other Land of Nakoma, which was recorded on July 1, 1926. The replat created 32 single-family lots from much of the original Blocks 1, 2, and 11 of the 1916 plat of Nakoma, Blocks 1-11, including most of the existing single-family parcels located in the triangular area bounded by Nakoma Road, Odana Road, and Huron Hill. In all, the 3706 parcel contains approximately 180 feet of frontage along Nakoma Road, roughly 75 feet of frontage along Council Crest, and 215 feet of frontage along Spring Trail.

The subject site is developed with a two-story single-family residence, the former Old Spring Tavern/Old Spring Hotel, which is a designated City of Madison landmark. The residence is a former tavern built in 1856 as a stagecoach stop, which later became a hotel before transitioning into a single-family residence around 1895. The property was designated a landmark in 1972. In addition to the residence, the property is developed with a detached two-car garage. Both the residence and garage have exposed lower levels facing east due to the grade of the site, which drops approximately 25 feet from west to east between Council Crest to Nakoma Road. Adjacent to the subject site, Spring Trail is platted as a 40-foot wide right of way between Council Crest and Nakoma. However, the actual street only extends approximately 170 feet west from Nakoma Road to provide access to the subject site and residences north of Spring Trail at 3614 and 3622 Nakoma Road before the 20-foot wide pavement ends in a dead end (the sidewalks on both sides of the street extend the full block up to Council Crest).

The Replat A of Blocks 1, 2, 11, and Other Land of Nakoma subdivided the land occupied by the landmark residence as well as established the current configurations of Council Crest and Spring Trail. Staff estimates that Lot 1 was platted with approximately 21,120 square feet of area, while Lot 14 was platted with approximately 6,320 square feet of area in a pie-shaped layout (the recorded plat does not include lot areas on its face). The existing residence is located entirely on Lot 1 of the Replat, while Lot 14 has historically been vacant.

The proposed CSM reconfigures the two underlying lots into lots of 16,694 square feet and 10,783 square feet, Lots 1 and 2, respectively. The landmark residence and garage will be located on Lot 1 of the CSM adjacent to

Nakoma Road, while proposed Lot 2 adjacent to Council Crest will be vacant pending future construction of a residence on that parcel once the CSM is approved and recorded.

Analysis & Conclusion

The subdivision process is outlined in Section 16.23(5) of the Subdivision Regulations, with the process for land divisions and Certified Survey Maps outlined in Section 16.23(5)(g).

Procedurally, a CSM shall be reviewed by the Department of Planning and Community and Economic Development, and other City agencies as determined by the Director of Planning and Community and Economic Development for comment concerning matters within their jurisdiction, for conformity with the provisions of the ordinances and for the possible effect of the proposed division on any plans as set forth in the Comprehensive Plan, the Official Map, or neighborhood unit development studies. The comments from agencies are to be submitted to the secretary of the Plan Commission. The Secretary of the Plan Commission or her/his designee shall within 45 days of the filing of the complete application approve, approve conditionally, or refer the CSM to the Plan Commission for its consideration. The Plan Commission shall act on the land division within 90 days of the filing of the complete application, unless the time is extended by agreement with the applicant. If the proposed CSM is approved by the Plan Commission or its Secretary, a resolution approving the survey and accepting the dedications contained therein shall be presented to the Common Council for approval.

The Secretary of the Plan Commission has referred consideration of the CSM to reconfigure the underlying lots to the Plan Commission as allowed by Section 16.23(5)(g)4. The Planning Division has reviewed the proposed CSM and believes that it meets the applicable criteria for approval. The size, shape and orientation of the proposed lots is appropriate for the location and for the type of development and use contemplated, and staff has no information to suggest that the resulting lots will not be aesthetically pleasing building sites or a proper architectural setting for the building contemplated on Lot 2. The proposed lot dimensions conform to the requirements of the Zoning Code, which requires a minimum of 50-foot wide and 6,000 square-foot lots in the existing TR-C1 zoning district, and the lots appear to have sufficient width to permit adequate building setbacks from side streets as well as provide the required rear yard between the existing residence and proposed lot line. Staff does not believe that the proposed CSM will negatively effect any plans as set forth in the Comprehensive Plan or Official Map, and there is no neighborhood unit development study or plan for the site or its surroundings that would suggest the proposed lots should not be approved. The resulting lots appear to meet the lot design requirements in the Subdivision Regulations and Zoning Code at least as well as the existing platted lots that are being reconfigured with this request.

Staff is aware of concerns among some in the community about the proposed re-division of the underlying lots that comprise the 3706 Nakoma Road parcel. While the Plan Commission should consider any input offered at the public hearing when considering this request, staff will note that failure to approve the proposed CSM will not necessarily prevent the construction of a second residence on the subject in some form or another. First, the Zoning Code generally stipulates that in any zoning district where residential uses are allowed, a single-family dwelling may be established on a lot of record existing on the effective date of this ordinance, regardless of the size of the lot, provided that all other requirements of the applicable zoning district are complied with. In this instance, a single-family residence could be constructed on Lot 14 as platted in 1926, provided that residence complies with the bulk requirements in the TR-C1 district.

Likewise, State statute allows the owners of adjoining property to exchange parcels of land if additional lots are not created and the resulting lots are not reduced below the minimum sizes required by the Subdivision

Regulations, the Zoning Code, or other applicable laws or ordinances. Under this scenario, the applicant and owner could reconfigure the existing lots without a CSM once Lots 1 and 14 were in separate ownership. The parcels resulting from such a "lot line adjustment" would be issued permits for new construction if the proposed buildings met the applicable bulk requirements and the new construction abided by any easements that affected the parcel(s).

Conclusion

The applicant and property owner is requesting approval of a Certified Survey Map (CSM) to reconfigure two platted lots that comprise the 0.63-acre parcel located at 3706 Nakoma Road, Lots 1 and 14 of Block 11 of the 1926 Replat A of Blocks 1, 2, 11, and Other Land of Nakoma. The resulting lots created by the CSM effectively increase the area available for the construction of a single-family residence on the Council Crest side of the property by approximately 4,463 square feet while leaving a 16,694 square-foot lot on which the landmark Old Spring Tavern/Old Spring Hotel will remain.

The Planning Division recommends that the Plan Commission approve the proposed CSM subject to the conditions in the following section and that the Common Council approve the CSM and accepting the dedications contained therein. The lots resulting from the reconfiguration of the underlying lots appear to comply with the applicable lot design requirements and the criteria for approval of CSMs in the Subdivision Regulations and Zoning Code, and the re-division of the landmark property has been conditionally approved by the Landmarks Commission.

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** the two-lot Certified Survey Map of property located at 3706 Nakoma Road subject to input at the public hearing and the following conditions:

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

Planning Division (Contact Tim Parks, (608) 261-9632)

1. The legal description shall include the area of the described lands in square feet and acreage.

City Engineering Division (Contact Tim Troester, (608) 267-1995)

2. Each lot on the proposed CSM is required to have a separate sewer lateral. The applicant shall either install a sewer lateral to newly created lot or include note on the CSM that a sewer lateral service will be required to obtain a building permit to improve the lot.
3. Lot 1 will accept drainage from Lot 2. A drainage easement noting this shall be placed on the face of the CSM.
4. Madison Metropolitan Sewerage District (MMSD) connection charges are due and payable prior to City Engineering Division sign-off, unless otherwise collected with a Developer's/ Subdivision Contract. Contact Mark Moder (261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff.

5. 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).

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

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| <ol style="list-style-type: none">6. Locate the existing sanitary sewer manhole located at the south end of the public service strip on the parcel. City records indicate this manhole may be located outside of the service strip or require a larger easement area. If necessary, grant a Public Sanitary Sewer Easement to the City on the face of this Certified Survey Map. The size and location of this easement shall be determined by City Engineering. Contact Julius Smith of Engineering Mapping (jsmith4@cityofmadison.com, (608) 264-9276) for the final required language.7. Create easement for the benefit of Lot 2 for drainage over Lot 1 of the CSM. |
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8. It is not clear how the location of the five-foot Public Service Strip as shown in the easement detail was determined. It seems it was run perpendicular to the south line of Spring Trail. While the plat had little information, it seemed more likely it was intended to run into the alley to the North. Please review and locate alley if needed.
 9. Add notes about various recorded documents that affect the parcel, specifically the Nakoma Homes Company agreements and the building located on Lot 1 having a Landmark Designation.
 10. 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.
 11. 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.
 12. The line segment between Curves C3- C4 is not tangent and when reviewing the Plat, Replat A of Blocks 1, 2, 11 and Other Land Nakoma it appears that this section of council crest is a on 125' Radius curve, review this section of the parcel boundary.
 13. Show tangent bearings for all curves where lines are or curves are not tangent running in or out.
 14. Show location of the public sidewalk on the CSM.
 15. Cite the west line of the Southwest Quarter as the reference bearing and list the bearing.

16. 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 did not submit a response with comments or conditions for this request.

Parks Division (Contact Ann Freiwald, (608) 243-2848)

This agency did not submit a response with comments or conditions for this request.

Water Utility (Contact Jeff Belshaw (608) 261-9835)

17. 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.

Fire Department (Contact Bill Sullivan, (608) 261-9658)

18. Note: The Madison Fire Department recommends the installation of a residential fire sprinkler system in accordance with NFPA 13D.

Office of Real Estate Services Melissa Hermann (mhermann@cityofmadison.com)

19. 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.
20. 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).

21. 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.
22. 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..."
23. 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 and have it executed prior to CSM sign-off, if said ownership interest meets the criteria set forth by Wis. Stat. Sec. 236.34 and Sec. 236.21(2)(a)
24. 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.
25. A Madison Common Council Certificate is required when dedication of land and the conveyance of rights in land are required. For parcels located within the City of Madison, a Madison Common Council Certificate shall appear as follows:

Resolved that this certified survey map located in the City of Madison was hereby approved by Enactment Number _____, File ID Number _____, adopted on the ____ day of _____, 20__, and that said enactment further provided for the acceptance of those lands dedicated and rights conveyed by said Certified Survey Map to the City of Madison for public use.

Dated this ____ day of _____, 2022

Maribeth L. Witzel-Behl, City Clerk
City of Madison, Dane County Wisconsin

26. Update the Plan Commission certificate as follows:

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

By: _____ Date: _____
Matthew Wachter, Secretary of the Plan Commission

27. 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.
28. 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.
29. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish an updated title report to Melissa Hermann mhermann@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 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. A title commitment may be provided, but will be considered only as supplementary information to 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 CSM.

30. The following revisions shall be made to the CSM prior to final approval and recording:

- a) Depict, name, and identify by document number all existing easements cited in record title and the updated title report.
- b) Include a complete and accurate legal description of the lands that are to be included in the proposed CSM. The legal description shall be reconciled with the legal description of said lands in record title.
- c) 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.
- d) Depict and dimension public easements for utilities and storm water drainage rights-of-way to be dedicated on the proposed CSM where necessary.
- e) If all parties of interest agree that certain easements from prior plats or CSMs 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.
- f) 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.
- g) Create notes that define the purpose of and the ownership of (whether public or private) all outlots. The note for an outlot dedicated to the public shall say: "Dedicated to the public for _____ purposes."