



## Report to the Plan Commission

January 10, 2011

**Legistar I.D. #20951**

**3897 Vilas Hope Road, Town of Cottage Grove**

**Extraterritorial Certified Survey Map**

Report Prepared By:

Timothy M. Parks, Planner

Planning Division

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**Requested Action:** Consideration of a four-lot Certified Survey Map (CSM) of the Schlueter property located at 3897 Vilas Hope Road, Town of Cottage Grove, Dane County, Wisconsin within the City of Madison's Extraterritorial Jurisdiction.

**Applicable Regulations & Standards:** Section 16.23, Land Subdivision Regulations, Madison General Ordinances provides the requirements for land divisions located within the corporate limits of the City of Madison or within the Extraterritorial Plat Approval Jurisdiction.

**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 6 of this report.

### Background Information

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**Applicant & Property Owner:** Melroy Schlueter, Schlueter Living Trust; 3897 Vilas Hope Road; Cottage Grove.

**Surveyor:** Eric W. Sandsnes, Royal Oak Engineering, Inc.; 5610 Medical Circle, Suite 6; Madison.

**Proposal:** The applicant proposes to create 2 residential lots and 2 agricultural lots by Certified Survey Map from three existing parcels totaling approximately 58.6-acres of land. The applicant wishes to record the Certified Survey Map as soon as all regulatory approvals have been granted.

**Review Schedule:** The State's subdivision statute, WS 236, requires that action be taken on a Certified Survey Map within 90 days of submittal unless a written extension is granted by 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 November 3, 2010 without the required approval by Dane County. Dane County approval of the CSM occurred on December 28, 2010. Therefore, the 90-day review period for this CSM will end on March 28, 2011.

**Parcel Location:** An approximately 58.6-acre parcel generally located on the north and west sides of Vilas Hope Road approximately 0.3-miles northeast of CTH AB; Monona Grove School District.

**Existing Conditions:** The subject site is currently developed with a single-family residence on a 0.85-acre lot zoned County R-1 (Residence District). The remainder of the 58.6-acre subject parcel includes an abandoned farmhouse, 2 detached garages, a barn and 4 sheds of varying size located east of the first house on land that is otherwise primarily in active tillage in County A-1EX (Exclusive Agriculture District).

**Surrounding Land Use and Dane County Zoning:** The subject site is primarily surrounded to the west, east and north by agricultural parcels in A-1EX (Exclusive Agriculture District) zoning. Lands to the south of the site south and east of Vilas Hope Road include a number of single-family residences on parcels of varying size in a variety of Dane County zoning districts, and a small warehouse facility in

County C-2 (Heavy Commercial District) zoning, which is located opposite the southeastern corner of the site.

**Basis for Referral:** Criteria for agricultural land division.

**Environmental Corridor Status:** This property is not within the Central Urban Service Area and there are no mapped environmental corridors in this area. The corridor map (H9) that includes the subject site identifies woodlands (80% canopy) and areas of steep slope exceeding 12% grade extending north to south through the center of the property.

**Public Utilities and Services:**

- Water: Property is not served by municipal water
- Sewer: Property is not served by municipal sewer
- Fire protection: Cottage Grove Fire Department
- Emergency medical services: Deer-Grove EMS
- Police services: Dane County Sheriff's Department
- School District: Monona Grove School District

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**Project Review, Analysis & Conclusion**

**Proposed Land Division:** The applicant is requesting approval of a Certified Survey Map (CSM) to subdivide three existing parcels into four lots. The subject site is located on the north and west sides of Vilas Hope Road approximately 0.3 miles northeast of CTH AB in the Town of Cottage Grove and totals approximately 58.6 acres of land area. The property is developed with a single-family residence on a 0.85-acre lot zoned County R-1 (Residence District), and with an abandoned farmhouse, 2 detached garages, a barn and 4 sheds of varying size located east of the first house on land that is otherwise primarily in active tillage in County A-1EX (Exclusive Agriculture District) zoning.

The area surrounding the subject site to the west, east and north is characterized by agricultural parcels in A-1EX zoning in the towns of Cottage Grove and Blooming Grove. Lands to the south of the site south and east of Vilas Hope Road are primarily developed with a number of single-family residences on parcels of varying size in a variety of Dane County residential zoning districts. A C-2 zoned (Heavy Commercial District) warehouse facility is located opposite the southeastern corner of the site at the curve in Vilas Hope Road.

The proposed land division and related County rezoning of the subject property proposes to create 2 residential lots and 2 agricultural lots. Lot 1 of the proposed CSM will be a 35.1-acre lot that will remain zoned A-1EX and will include the western two-thirds of the tillable land present on the site as well as most of a steep, heavily wooded hillside that extends south to north through the center of the overall subject site. The proposed lot includes a 33-foot wide panhandle extending east from the majority of the lot to connect to the north-south section of Vilas Hope Road. The applicant indicates the 33-foot wide strip will be used to provide access from the road for farm equipment serving the eastern portion of the proposed lot.

The CSM calls for the existing standalone R-1 zoned single-family parcel to be roughly doubled in size to 1.57 acres in R-1a zoning, which has a one-acre minimum required lot area compared to the 20,000 square feet required in R-1 zoning. Lot 3 of the proposed CSM will be a new 2-acre single-family lot, which will replace the home site currently developed with the farmhouse, which will be demolished following construction of the new house. No new residence will be constructed on proposed Lot 1. Lot 3

will be zoned RH-1 (Rural Homes District) in the County; the land where the existing farmhouse is located will be part of Lot 1 in the A-1EX zoning, which generally does not permit new non-farm-related home construction. Lots 1 and 3 of the proposed CSM will be sold to a new owner following approval of the land division.

The remaining 18.06 acres of the subject site will be designated as Lot 4 of the CSM, which will be retained by the currently property owner for agricultural use in A-4 (Agriculture District) zoning. The surveyor indicates that this lot will be deed restricted to restrict the building of any residential or habitable [structures] on the 18-acre lot. The CSM also includes a note stating that all 4 lots will not be further subdivided without approval of the City of Madison [Plan] Commission.

[Note: The August 17, 2010 letter of intent submitted to the Dane County Planning Department by the surveyor and included in the Plan Commission's materials references an earlier proposal for a three-lot CSM of the subject property. The basis for the current four-lot CSM is outlined in an e-mail to City of Madison Planning staff dated December 9, 2010.]

**Approval of CSM by Town of Cottage Grove and Dane County:** Section 16.23 (7)(c) of the Subdivision Regulations 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.

The Dane County Board approved the rezoning of the subject site to A-1EX, A-4, R-1a and RH-1 on December 16, 2010 following the approval of the rezoning and land division by the Town of Cottage Grove on September 7, 2010. The rezoning approval was conditioned as follows:

- Completion of the subject CSM within 180 days;
- Payment of the State of Wisconsin and Dane County rezoning conversion fees
- A condition that the existing farm home on Lot 1 be removed from the property no more than 90 days after the construction of the new residence within the RH-1 zoning boundary (Lot 3);
- A deed restriction on the balance of the A-1EX zoned land owned by the applicant prohibiting residential development.

On December 14, 2010, the County's Zoning & Land Regulation Committee approval a variance to allow Lot 1 to maintain less than the minimum frontage of 66 feet along the north-south portion of Vilas Hope Road (33 feet is proposed) to facilitate the possible development of a public right of way that could service additional lots.

The County Zoning & Land Regulation Committee also conditionally approved the proposed land division as outlined in the attached letter dated December 28, 2010 from Dan Everson, Land Division Review, Dane County Department of Planning and Development.

**City of Madison Land Use Plan:** The Comprehensive Plan identifies lands generally bounded by Interstate 39-90 and CTH AB on the west, Siggelkow Road on the south, Door Creek on the east and Cottage Grove Road on the north, including the subject site, in Planning Area D (Group 1). The Comprehensive Plan indicates that Area D is a logical area for urban expansion given the growth occurring north and west of that planning area in the City's Sprecher, Cottage Grove and Marsh Road neighborhood planning areas. The Plan notes that portions of the planning area are already in the City, and that the area is well served by existing and planned roadways, and City of Madison and Madison Metropolitan Sewerage District utilities and facilities are located on the edges of the planning area, which can be extended into the area to serve future urban development.

The property is located outside of the areas currently covered by an adopted City of Madison neighborhood development plan. The Comprehensive Plan recommends that further planning for Planning Area D will occur in one or more neighborhood development plans. The Generalized Future Land Use Plan that includes the subject site primarily recommends that the northern portion of Planning Area D roughly bounded by Femrite Drive on the south, Meier Road on the west, Cottage Grove Road on the north and Door Creek on the east be planned for traditional neighborhood development. Area D also identifies the potential for small-scale agricultural and conservations uses, and recommends preservation of significant topographical features located in the planning area, including drumlins and wetlands.

**Land Division Criteria:** The Subdivision Regulations provide two criteria for consideration of land divisions in the City's extraterritorial plat approval jurisdiction:

*Agricultural Land Division Criteria:* The Plan Commission may grant approval of a land division subdividing portions of agricultural lands provided that the Commission shall determine that the proposed land division will assist and assure the continuation of the agricultural use.

*Non-Agricultural Land Division Criteria:* In the case of nonagricultural lands, the Plan Commission may recommend approval of a subdivision to the Common Council or may grant approval of a land division provided that the Plan Commission shall determine that the proposed subdivision or land division complies with each of the following four criteria:

- a. The proposed subdivision or land division shall be compatible with adjacent land uses and shall maintain the general land use pattern of the area in question.
- b. The proposed subdivision or land division shall result in a development pattern that is compatible with surrounding developments and land uses. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features.
- c. 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.
- d. The proposed subdivision or land division shall comply with one of the following:
  - i. The proposed subdivision or land division shall represent infilling of vacant land. Infilling is defined as a subdivision or land division which will accommodate the development of vacant land located such that surrounding existing land uses render the land impractical for any but similar uses.
  - ii. The proposed subdivision or land division shall provide permanent open space lands for use by the general public in conformance with the adopted Parks and Open Space Plan for Dane County, Wisconsin, the City of Madison adopted Parks and Open Space Plan or the City's other adopted Master Plan elements, including the Peripheral Area Development Plan. The permanent open space lands shall be accessible and open for use by the general public. The open space lands shall be

exclusive from, and in addition to, lands required for dedication to comply with applicable public parks and open space dedication requirements and shall be provided at a ratio of two acres of permanent open space lands for every one-acre of developed lands, including street rights of way. For the purpose of this provision, wetlands, flood plain lands, steep slopes, or other lands which are not developable because of sensitive environmental features shall not be counted as permanent open space lands in calculating the ratio of permanent open space lands provided versus developed lands. Steep slopes shall include lands which have grades of twenty percent (20%) or more.

The Plan Commission may grant approval of a land division subdividing portions of agricultural lands provided that the Commission shall determine that the proposed land division will assist and assure the continuation of the agricultural use. Although the proposed land division reflects a different lot pattern than is customarily seen with an agricultural land division where often one typically residential lot is divided from a larger farmstead, the Planning Division believes that the subject request marginally meets the criteria for consideration as an agricultural land division.

The proposed CSM proposes to re-divide one existing residential lot and two existing agricultural parcels into four total lots, with the net impact of the subdivision being a second residential lot to be owned by the future owner of the larger of the two agricultural lots to be created. It could be argued that there will not be a net increase in development of the subject site because the second residential lot will house a residence that will replace an existing residence, which will be demolished and is located on a proposed lot that will be zoned and deed restricted to prohibit additional residential construction. The surveyor indicates that the creation of the second residential lot and its County zoning of RH-1 is the result of a lender requirement that that new home site have "suitable zoning for a single-family residence".

Under the A-1EX zoning of the two existing agricultural parcels and Lot 1 of the proposed CSM, a residence for a farm owner and operator is a conditional use subject to, in part, a finding that substantial income totaling a minimum of \$10,400 gross farm income per year for the past three years is derived from the farming operation on the farm where the residential use is proposed. No such requirement applies in the RH-1 Rural Homes District, which the applicant suggests meets the lender's stipulations.

The other residential lot included with the proposed land division does not, in staff's opinion, reflect an increase in development intensity because the lot and residence on it already exist, and it is merely being enlarged.

One concern Planning staff has about the land division as proposed is the proposed arrangement of Lot 3, which will have both a unique five-sided configuration for the main portion of the lot, a zigzag tentacle that will extend from the majority of the proposed lot to the east-west portion of Vilas Hope Road, and is otherwise surrounded by the exclusive agricultural-zoned Lot 1. Such a lot configuration is generally undesirable, as it could potentially impact the future development of these lots and possibly also the other lots to be created by this CSM, which are located in an area near the current City limits that could see urban development commence within the next 5-10 years following development of a neighborhood development plan, which could occur in the next 3-5 years. The proposed lot arrangement could also affect the ability to prepare a well thought-out development plan for the area and site, and hinder the layout of local streets and the extension of public sanitary sewer and water.

However, staff believes that the proposed lot configuration may be acceptable subject to a condition of approval requiring that a deed restriction be executed prior to final City approval of the CSM, which

would require that Lots 1 and 3 of the CSM be held in common ownership (as currently proposed and previously shown on the original three-lot CSM proposal (attached)). The restriction would also require that subsequent sales of Lots 1 and 3 be to the same owner and that any change in ownership of individual lots or sales to different ownerships require prior written approval by the City of Madison. Such a restriction would have the effect in staff's opinion of diminishing the potential impact of the proposed lot lines for Lots 1 and 3.

Additionally, staff recommends that a deed restriction similar to the one required by Dane County be imposed on Lots 1 and 4, which prohibits the construction of principal residences on those lots. The restriction would also require City approval prior to the construction of any new permanent structures on those lots to ensure that the placement of such buildings would not be detrimental to future urban development.

### **Recommendations and Proposed Conditions of Approval**

Major/Non-Standard Conditions are shaded

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

The Planning Division recommends that the Plan Commission **approve** the Certified Survey Map of 3897 Vilas Hope Road, Town of Cottage Grove creating four lots subject to input at the public hearing and the following conditions:

1. The applicant shall execute a deed restriction over Lots 1 and 3 of the CSM in a form approved by the Planning Division prior to final City approval of the CSM. Said deed restriction shall require that Lots 1 and 3 be held in common ownership, that subsequent sales of Lots 1 and 3 be to the same owner, and that any change in ownership of individual lots or sales to different ownerships require prior written approval by the City of Madison. The restriction shall further state that no additional principal structures shall be constructed on Lot 3 unless it is further subdivided and approved by the City of Madison. This restriction shall run with Lots 1 and 3 so long as the lots are subject to Dane County zoning, and shall not be modified or released without the written approval of the City.
2. The applicant shall execute a deed restriction over Lots 1 and 4 of the CSM in a form approved by the Planning Division prior to final City approval of the CSM that prohibits the construction of principal residences on those lots and requires City approval prior to the construction of any new permanent structures on those lots to ensure that the placement of such buildings would not be detrimental to future urban development. This restriction shall run with Lots 1 and 4 so long as the lots are subject to Dane County zoning, and shall not be modified or released without the written approval of the City.
3. Revise the note on page 2 of the CSM to read "City of Madison Plan Commission."

#### **City Engineering Division** (Contact Janet Dailey, 261-9688)

4. The title work provided does not appear to include Schlueter Living Trust ownership interest for any portion of Lot 2, CSM 2395; clarify and/or revise as necessary.

5. The property line for proposed Lot 2, which is coterminous with the easterly right of way line for Vilas Hope Road, is difficult to follow; a detail of this particular area is recommended.
6. Identify all underlying platted lot lines within the boundary of the proposed CSM.
7. 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 Division. 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 or CSM. Note: Land tie to two PLS corners required.
8. Prior to City Engineering final sign-off by the main office of the CSM, the final CSM shall be submitted to the Engineering Division Surveyor/ Land Records Coordinator for final technical review and approval. This submittal shall occur a minimum of two working days prior to final Engineering Division signoff. Electronic mail submittal of the final CSM in PDF form is preferred. Transmit to [epederson@cityofmadison.com](mailto:epederson@cityofmadison.com).