



Dane County Planning & Development

Room 116, City-County Building, Madison, Wisconsin 53703-3342

Land Division Review
608/266-9086

August 18, 2009

Birrenkott Surveying, Inc.
P.O. Box 237
Sun Prairie, Wisconsin 53590

Re: CERTIFIED SURVEY MAP (Goff)
NE1/4 S7 T7N R11E
Town of Cottage Grove
Dane County

Gentlepeople:

Zoning Petition # 10058 has been approved by the Dane County Board of Supervisors. Accordingly, the above-described preliminary certified survey map proposal is hereby conditionally approved as follows:

1. Zoning Petition # 10058 is to become effective (1 day following publication in the Wisconsin State Journal).
2. A Town of Cottage Grove approval certificate is to be included and executed.
3. A City of Madison approval certificate is to be included and executed (extraterritorial jurisdiction).
4. The document is to be completed in accordance with S.236.34, Wisconsin Statutes.
5. The document is to comply with S.236.20(3)(b), Wisconsin Statutes (center of Section does not satisfy this provision).
6. An owners certificate in accordance with S.236.21(2), Wisconsin Statutes is to be included.
7. The owners certificate is to include "we also certify that this certified survey map is required by S.75.17(1)(a), Dane County Code of Ordinances to be submitted to the Dane County Zoning and Land Regulation Committee for approval."
8. All owners of record are to be included in the owners certificate (County records indicate that Daniel Goff is an owner). Spouses signatures and middle initials are required to provide valid certificates.
9. The required certificates are to be executed.

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10. The net lot area calculations are to be specified in square feet.
11. A notation is to be affixed to the document "refer to building site information contained in the Dane County Soil Survey."
12. The spelling of "septic" is to be corrected.
13. The highway right-of-way width from right-of-way centerline is to be clearly dimensioned.
14. A notation is to be affixed to the document "County Trunk Highway BB is a controlled access highway pursuant to Chapter 79, Dane County Code of Ordinances."
15. Dane County Highway Department approval is to be obtained.
16. The deed restriction, required with Zoning Petition # 10058, is to be of record.
17. Town of Cottage Grove approval of the amended Zoning Petition # 10058 is to be obtained and properly communicated to the Dane County Clerk.
18. Distances between existing structures and lot boundaries are to be specified.
19. A notation is to be affixed to the document "the Dane County Board of Adjustment, at its meeting of July 23, 2009, approve Application # 3572."
20. Public Health Madison & Dane County, Environmental Health Division approval is to be obtained.
21. The recordable document is to be submitted for review and approval.
22. Dane County Surveyor approval is to be obtained.

When the above conditions have been fully satisfied, the original document may be submitted to which the Dane County approving signature will be affixed. Please contact the writer with questions regarding this matter.

Sincerely,


Norbert Scribner, Dane County Land Division Review

cc: Daniel Goff
Clerk, Town of Cottage Grove
City of Madison Planning Department (extraterritorial jurisdiction)
Public Health Madison & Dane County, Environmental Health Division
Dane County Highway Department
Dane County Surveyor

Enclosure:

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DANE COUNTY DEPARTMENT of PUBLIC WORKS, HIGHWAY and TRANSPORTATION

County Executive
Kathleen M. Falk

2302 Fish Hatchery Road ♦ Madison, Wisconsin 53713-2495
Voice and TDD Phone: (608) 266-4261 ♦ FAX: (608) 266-4269

Commissioner/Director
Gerald J. Mandli

April 22, 2009

Attn: Norb Scribner
Dane County Zoning and Natural Resources Committee
Room 116
City-County Building
Madison, WI 53704

RECEIVED

APR 22 2009

File No: 09-11

Surveyor: Birrenkott

DANE COUNTY PLANNING & DEVELOPMENT

The following survey of lands was received and examined by this department:

Section: 7 , Town of Cottage Grove

Owner/Development: Goff

Comments: CTH BB is a controlled access highway. Owners property to the east, remaining lands does not have access. Far eastern access needs to be made joint with new lot 2. An access easement needs to be provided. A permit will be required for any changes in use of existing access locations. No right of way designated to comment upon.

DIVISION OF HIGHWAY

Pamela J. Dunphy Assistant Commissioner

NOTE: These minutes reflect the notes of the recorder and are subject to correction and approval at a subsequent meeting of the Committee.

**DANE COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE JULY 23, 2009 MEETING**

MEMBERS PRESENT: Alan Colvin, Carlton Hamre, Al Long, Steven Schulz, Sue Studz.

OTHERS PRESENT: Zoning Administrator Roger Lane, Assistant Zoning Administrator Kris Schutte

I. CALL TO ORDER:

Chair Schulz called the meeting to order at 6:30 p.m. in Room 309 of the City-County Building and made an announcement regarding rules and procedures followed by the Board.

II. APPROVAL OF MINUTES

Motion by Schulz/Studz to approve the minutes of the June 25, 2009 Public Hearing of the Dane County Board of Adjustment. **Motion carried**, 3 – 0 (Hamre and Colvin abstained).

Motion by Studz/Colvin to approve the minutes of the July 9, 2009 Site Inspections of the Dane County Board of Adjustment. **Motion carried**, 3 – 0 (Hamre and Long abstained).

III. PUBLIC HEARING FOR JULY 23, 2009 APPEALS

Motion Schulz/Studz to deviate from the Board's Rules and Procedures and not have a role call vote for a decision unless it is requested by the applicant. **Motion carried**, 5 – 0.

1. Appeal 3572. Appeal by Daniel Goff (Birrenkott Surveying, Inc, agent) for variances from minimum required side yard and minimum required lot width at the building setback line in the Shoreland district as provided by Sections 10.14(6), 10.11(7), 11.03(1) and 10.05(4), Dane County Code of Ordinances, to permit proposed land division by Certified Survey Map at 3023 County Highway BB (Cottage Grove Road), being Lot 1, CSM 11911 in the SW 1/4 NE 1/4, Section 7, Town of Cottage Grove.

COMMUNICATIONS:

06/12/2009 Town of Cottage Grove Acknowledgment.

07/08/2009 Email from Town of Cottage Grove Clerk Kim Banigan including Town Board Minutes for 06/15/2009 showing request for a variance was approved by a vote of 4 -- 1.

07/20/2009 Email from Scott Podboy, R.S., Lead Sanitarian, Public Health Madison and Dane County, Environmental Health division, stating the house and shop share a septic system, and a "POWTS [Private On-Site Wastewater Treatment] covenant" has been recorded for this property requiring separate septic systems when either of the dwellings are sold to separate owners or the dwellings are no longer located on the same parcel.

07/20/2009 Email from Pam Dunphy, PE, Assistant Commissioner, Dane County Highway Department: "CTH BB is a controlled access highway. Any change in use of existing accesses requires a permit. No new access would be permitted."

VARIANCES REQUESTED: Purpose: Allow land division by Certified Survey Map

Side Yard Variance:

Minimum side yard required in C-2 Commercial district: 10 feet.

Proposed side yard for existing shed 8.2 feet.

VARIANCE NEEDED: 1.8 feet.

Lot Width Variance

Minimum lot width at building setback line required in Shoreland district: 100 feet.

Proposed lot widths for two new Certified Survey Map lots: Lot 1: 113.3 feet and Lot 2: 101.4 feet, both at building setback line

VARIANCE NEEDED: NONE

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IN FAVOR: Dan Birrenkott, Birrenkott Surveying, Inc., Sun Prairie, WI, agent

ZONING ADMINISTRATOR'S COMMENT: Zoning Administrator Roger Lane had no concerns.

OPPOSED: None

Motion: Studz/Hamre to grant variance of 1.8 feet from the minimum 10 foot side yard required in the C-2 Commercial district, to permit land division by Certified Survey Map (CSM), as proposed.

Finding of Fact:

- 1) Daniel Goff owns Lot 1, CSM 11911, a 1.57 acre parcel that was zoned A-2(1) Agricultural with a Conditional Use Permit (CUP) for Limited Family Business in 2006. A two-story house was located on the property at the time of the 2006 rezone. After the rezoning and CUP became effective, the new owner obtained permits for a 40 foot x 40 foot one-story building and a 24 foot x 30 foot shed, both for Limited Family Business use (resale shop).
- 2) Goff's Rezone Petition 10058 is pending, to rezone and divide Lot 1, CSM 11911 into a westerly 33,670 square foot (SF) R-1 Residential lot, including the house, and an easterly 34,735 SF C-2 Commercial lot including the shed and one-story building. The petition was approved 06/23/2009 by the Zoning & Land Regulation (ZLR) Committee, subject to County Board and Executive action, with Conditions requiring recording of a CSM and a Deed Restriction (DR) limiting the use of the property to "sales of new and used motor vehicles." On 07/16/2009, the County Board referred the petition back to the ZLR Committee's July meeting. If approved, it must be signed by the County Executive, re-approved by the Town, and the CSM and DR must be recorded to make the rezone effective.
- 3) Goff proposes to use the larger building as a "shop" building for his classic car business, with storage in the smaller building, according to the application. No new construction is proposed.
- 4) The house, which is for sale, meets all setbacks except existing non-conforming setback from the County Highway right-of-way. The shed and one-story building meet all setbacks. All structures meet the minimum 75 foot setback from Ordinary High Water Mark and maximum lot coverage.
- 5) The distance between the existing house and shed is 18.3 feet. The minimum side yard is 10 feet for both the R-1 Residential and C-2 Commercial districts. The proposed *new* lot line would be located to provide the 10 foot side yard for the house, leaving an 8.2 foot side yard for the shed.
- 6) Dane County records show an intermittent stream (secondary tributary to Door Creek) flowing across the southerly portion of the Goff property, but no Floodplain or Wetlands on Goff's land.
- 7) No variance is needed from the minimum 100 foot lot width at the building setback line required in the Shoreland district, as shown on the most current preliminary Certified Survey Map.
- 8) Birrenkott explained that Goff will record a "Common Ownership Private Onsite Wastewater Treatment System Easement" to address the sanitarian's comment about the POWTS covenant, and provided a sample document and septic system plan.
- 9) Birrenkott explained it was not feasible to move the shed or alter the attached garage due to physical features of the buildings, both constructed by a former owner.

Conclusions:

- 1) Unnecessary Hardship: It would be unnecessarily burdensome to require moving or reducing the size of existing buildings. The hardship is not self-imposed, since the reasonable change of use by a subsequent owner could not be foreseen.
- 2) Unique Limitations of the Property: The lot is small; placement of buildings did not anticipate a change of use that meets Town approval.
- 3) No Harm to Public Interests: Applicant has addressed all public agency comments. The residential building side yard setback is maintained. Minimal relief is needed.

Motion carried: 5 – 0.

2. Appeal 3571. Special Exception Permit, returning from the June 25, 2009 Public Hearing, by Steven & Wendy Fahlgren (Scott Taylor, Taylor Conservation LLC, agent) for Special Exception Permit for an alternate cutting plan/restoration plan for shore cover in the Shoreland district, as provided by Sections 11.04(3) and 10.26(6)(b), Dane County Code of Ordinances, at 4918 Easy Street in the SE 1/4 SW 1/4, Section 36, Town of Vienna.

The house and shop or retail building on this site share a mound POWTS which is located just south of the shop building. The owners at the time, Cheryl and Tim Nelson recorded a POWTS covenant which states: " A separate POWTS will be required for each dwelling at such time when either of the dwellings are sold to separate owners or the dwellings are no longer located on the same parcel."

So the owner will need to figure out what he is going to do to provide a POWTS for each of the new parcels before he creates them. The covenant was rec'd. by Dane Co. Reg. of Deeds 6/27/06 and is binding on current and future owners.

Scott Podboy, R.S. Lead Sanitarian 242-6493
Public Health Madison & Dane County, Environmental Health

7/22/2009

DANE COUNTY ORDINANCE AMENDMENT NO: 10058

Internal Tracking Number: RFCU2552

Amending Section 10.03 relating to Zoning Districts in the Town of Cottage Grove.

The Dane County Board of Supervisors does ordain as follows: That the Zoning District Maps of the Town of Cottage Grove be amended to include in the R-1 Residential and C-2 Commercial district(s) following described land:

PETITION NUMBER: 10058

Part of Section 07, Town of Cottage Grove described as follows:

LOT 1: A-2(1) TO R-1

Part of Lot 1, Certified Survey Map No. 11911, located in the Southwest 1/4 of the Northeast 1/4 of Section 7, T7N, R11E, Town of Cottage Grove, Dane County, Wisconsin being more particularly described as follows: beginning at the Northwest corner of said Lot 1; thence along the Southerly right of way line of County Trunk Highway BB along a curve to the right having a radius of 7590.00 feet and a chord bearing and distance of N84°02'01"E, 66.28 feet; thence continuing along said Southerly right of way line N88°22'28"E, 53.52 feet; thence S01°37'32"E, 67.41 feet; thence S22°03'50"W, 14.11 feet; thence S07°09'19"E, 239.69 feet to the South line of said Lot 1; thence along said South line S87°51'31"W, 106.55 feet to the Southwest corner of said Lot 1; thence along the West line of said Lot 1, N07°09'19"W, 316.32 feet to the said Northwest corner of Lot 1 and the point of beginning. The above described parcel contains 34,626 square feet or 0.794 acres.

LOT 2: A-2(1) TO C-2

Part of Lot 1, Certified Survey Map No. 11911, located in the Southwest 1/4 of the Northeast 1/4 of Section 7, T7N, R11E, Town of Cottage Grove, Dane County, Wisconsin being more particularly described as follows: commencing at the Northwest corner of said Lot 1; thence along the Southerly right of way line of County Trunk Highway BB along a curve to the right having a radius of 7590.00 feet and a chord bearing and distance of N84°02'01"E, 66.28 feet; thence continuing along said Southerly right of way line N88°22'28"E, 53.52 feet to the point of beginning. thence continuing along said Southerly right of way line N88°22'28"E, 46.87 feet; thence continuing along said Southerly right of way line N87°37'23"E, 48.02 feet to the Northeast corner of said Lot 1; thence along the East line of said Lot 1, S07°08'04"E, 320.04 feet to the Southeast corner of said Lot 1; thence along the South line of said Lot 1, S87°51'31"W, 108.19 feet; thence N07°09'19"W, 239.69 feet; thence N22°03'50"W, 14.11 feet; thence N01°37'32"W, 67.41 feet to the said Southerly right of way line of County Trunk Highway BB and the point of beginning. The above described parcel contains 33,780 square feet or 0.775 acres.

CONDITIONAL ZONING

Conditional zoning is hereby imposed pursuant to Section 10.255(3)(a)2.(b) of the Dane County Code of Ordinances. The rezoned area shall be subject to the following conditions.

(continued on page 2)

The Dane County Board of Supervisors does ordain that this amendment, based upon Their findings, to be consistent with the provisions of Wisconsin State Statute 91.77 (1)(a),(b),(c).

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DEED RESTRICTION REQUIRED

This amendment will be effective if within 180 days of its adoption by Dane County the owner or owners of the land record the following restriction(s) on said land:

1. The C-2 Zoning District parcel shall be deed restricted to limit the land uses to sales of new and used vehicles:

Said restriction(s) shall run in favor of Dane County and the pertinent Town Board(s) as well as the owners of land within 300 feet of the site. **Failure to record the restriction(s) will cause the rezone to be null and void.** A copy of the recorded document shall be submitted to Dane County Zoning.

CERTIFIED SURVEY REQUIRED

The above listed description/s is/are intended to describe land for which a certified survey map will be prepared for approval and recorded. This amendment will become effective, if within 180 days of its approval by Dane County, a certified survey map that describes the land to be rezoned is recorded in the office of the Dane County Register of Deeds. **Failure to record the survey will cause the rezone to be null and void.** Two copies of the recorded survey shall be submitted to Dane County Zoning.

TOWN OF COTTAGE GROVE
TOWN BOARD MEETING MINUTES
MAY 4, 2009

I. ADMINISTRATIVE

- A. The meeting was properly posted at Town Hall, American Way, Gaston Road at Brown Thrush and Hwy 12 & 18 at County Road BN. A quorum was present with Kris Hampton, Mike Fonger, Steve Anders, Mike Kindschi and Karen Kessenich in attendance. Clerk Kim Banigan, Treasurer Debbie Simonson and Highway Superintendent Jeff Smith were also present, along with those listed on the attached sign-in sheet (available in the Clerk's office).
- B. Chairman Hampton called the meeting to order at 7:00 P.M.
- C. Minutes of previous meeting(s):
1. **MOTION** by Anders/Kindschi to approve the minutes of the April 20, 2009 Town Board Meeting as printed. **MOTION CARRIED 5-0.**
 2. **MOTION** by Kindschi/Fonger to approve the minutes of the April 24, 2009 Road Inspection, with the header date corrected. **MOTION CARRIED 3-0-2** (Anders and Kessenich abstained).
- D. Finance Report and Approval of Bills:
1. **MOTION** by Anders/Kindschi to approve the payment of bills corresponding to checks #16332 through #16370, correcting the category for check #16364 to Gravel Expense. **MOTION CARRIED 5-0.**
 2. The Clerk noted that several building permit fees had not included the \$10.00 administrative fee. **MOTION** by Kessenich/Anders to send letters asking for payment of the \$10.00 administrative fee to applicants who did not pay it, along with a current application form. **MOTION CARRIED 5-0.**
 3. **MOTION** by Anders/Kindschi to approve payment of April per diems and building permit fees. **MOTION CARRIED 5-0.**
- E. Public Concerns: NONE
- F. Road Right of Way Permits: NONE.

II. NEW BUSINESS:

A. Plan Commission Recommendations:

- 1. Birrenkott Surveying, Inc., Daniel V. Birrenkott (Daniel Goff, Owner)-Parcel 0711-071-9091-0: Requesting split and rezone of 1.57 acres from A-2(1) to R-1 (.794 acres) and C-2 (.775 Acres). Residential parcel to be offered for sale, and the commercial parcel to be used for a classic car business: Kessenich questioned whether the proposed commercial use fits into the Town's comprehensive plan for rural business where the operator works exclusively at other locations. Goff stated that this location would be primarily for storage of classic cars, and that his main business location is elsewhere. **MOTION** by Kindschi/Fonger to accept the plan commission recommendation to approve splitting the parcel into two lots: Lot 1 for .794 acres to be zoned R-1, and Lot 2 for .775 acres to be zoned C-2, permitted use limited to Dane County Code of Ordinances 10.14(1)(c) Sales of new and used motor vehicles. **MOTION CARRIED 4-1** (Kessenich opposed).
2. Badger Farms LLC – Parcel 0711-131-8500-4: Requesting Conditional Use Permit for Ag Entertainment in A-1EX zoning to bring into compliance rental of the renovated barn for assemblies of persons in an agricultural setting: **MOTION** by Anders/Kindschi to accept the Plan Commission's recommendation to approve a conditional use permit in the A-1EX district as per Dane County Code of Ordinances 10.123(3)(m) Agricultural entertainment activities which are not permitted under sub. (2)(k). **MOTION CARRIED 5-0.**