



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 2 W. Gorham Street  
**Application Type:** Certified Survey Map Referral  
**Legistar File ID #** [40173](#)  
**Prepared By:** Timothy M. Parks, Planning Division  
Report includes comments from other City agencies, as noted

## Summary

**Applicant & Property Owner:** Gorman Properties, LLC & Quisling Clinic Apartment Homes, LLC; 200 N. Main Street; Oregon; Rachel Snethen & Ben Marshall, representatives.

**Surveyor:** Brett Stoffregan, D’Onofrio Kottke & Associates, Inc.; 7530 Westward Way; Madison.

**Requested Action:** Approval of a two-lot Certified Survey Map (CSM) creating 2 lots at 2 W. Gorham Street.

**Proposal Summary:** The applicant is requesting approval of a CSM to create 2 fee simple lots from the parcel developed with the Quisling Clinic Apartments and Hart House, which are addressed 2 W. Gorham Street and 412 Wisconsin Avenue, respectively. The two buildings, which effectively share a common wall, are currently subject to a condominium, which shall be removed prior to recording of an approved CSM. The applicant indicates that the land division is needed to satisfy a lender as part of a planned refinancing of the property. Presently, the lender on one of the condominium units, which are owned by the applicant, is dissatisfied with the condominium arrangement and has requested fee simple lots instead. 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. Section 16.23(3)(a)4 states: "For land divisions and subdivision plats of landmark sites and properties in Historic Districts, no land shall be divided or combined without the approval of the Landmarks Commission under Sec. 41.18(4)."

MGO Section 41.18(4) of the Historic Preservation Ordinance requires that the Landmarks Commission grant a Certificate of Appropriateness for any land divisions, subdivisions or lot combinations of properties in historic districts. In granting a Certificate, the Landmarks Commission shall find that the proposed lot sizes do not adversely impact the historic character or significance of a landmark, are not incompatible with adjacent lot sizes, or maintain the general lot size pattern of the historic district.

**Review Required By:** Landmarks Commission (Certificate of Appropriateness), 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 September 16, 2015, with a corresponding 90-day review period for this CSM originally scheduled to expire circa December 16, 2015. However, the applicant granted written approval for an extension for the proposed land division once a "fatal" flaw was discovered in the original layout of the two-lot CSM. A revised CSM was filed with the City on November 2, 2015, which allows for the longer review period.

**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 2 W. Gorham Street (and 412 Wisconsin Avenue) 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 0.86-acre parcel located at the northwesterly corner of W. Gorham Street and Wisconsin Avenue; Aldermanic District 2 (Zellers); Mansion Hill Historic District; Madison Metropolitan School District.

**Existing Conditions and Land Use:** Quisling Clinic Apartments contain 60 dwelling units; the adjacent Hart House is classified as a single-family residence with 3 bedrooms and 1 bath. The parcel also includes a 60-stall parking lot and is zoned DR-1 (Downtown Residential–1 District).

**Surrounding Land Use and Zoning:**

North: Lodging house and multi-family residences, zoned DR-1 (Downtown Residential–1 District);

South: Bethel Lutheran Church, Steensland House, zoned UMX (Urban Mixed-Use District);

East: Office building, lodging house, multi-family residences, zoned DR-1;

West: Office building and single-family residence, zoned DR-1.

**Adopted Land Use Plan:** The 2012 Downtown Plan includes the subject site and surrounding properties located north of Johnson Street centered on Wisconsin Avenue in the “Mansion Hill” District. The Plan recommends that the subject site and nearby properties north of Gorham Street be developed with predominantly residential uses in up to five-story buildings; properties to the south of Gorham are recommended for Downtown Mixed-Use as described in the Plan. Objective 4.10 of the Plan notes that Mansion Hill’s historic character is a major asset and establishing a “complete historic district experience” of restored buildings, distinctive streetscape amenities, and a limited amount of new residential development that preserves and reflects these historic attributes should be pursued. The large historic homes provide a diversity of housing opportunities. Encourage sustainable rehabilitation of existing housing stock and period architecture and owner occupancy. Large office-employment uses should be limited to existing development, and any redevelopment or infill of these sites should encourage residential as the predominant use.

**Zoning Summary:** The following bulk requirements apply in DR-1 (Downtown Residential–1 District):

	<b>Required</b>	<b>Proposed</b>
Lot Area (sq. ft.)	3,000 sq. ft per lot	Both proposed lots will exceed
Lot Width (Lots w/ multi-family dwellings, non-residential, mixed)	40’	Both proposed lots will exceed
Front yard setback	15’	See ‘Analysis’
Side yard setback	5’	See ‘Analysis’
Rear yard	Lesser of 20% lot depth or 30’	See ‘Analysis’
Maximum lot coverage	75%	See ‘Analysis’
Usable open space (sq. ft. per unit)	40 sq. ft.	See ‘Analysis’

Other Critical Zoning Items	
Yes:	Utility Easements, Landmarks (local district)
No:	Urban Design, Wellhead Protection, Floodplain, Waterfront Development, Adjacent to Parkland
<i>Prepared by: Zoning &amp; Planning staff</i>	

**Environmental Corridor Status:** The development site is not located in a mapped environmental corridor (see CARPC Map E8).

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

## Previous Approvals

On October 5, 1998, the Plan Commission approved a conditional use in the R6H (General Residence District) [1966 Zoning Code] to allow the former Quisling Clinic to be converted into 72 apartments and the former Hart House to be converted into a four-bedroom single-family residence. The Landmarks Commission granted a preliminary Certificate of Appropriateness for these conversions on August 31, 1998.

On May 17, 1999 and November 15, 1999, the Plan Commission approved major alterations to the approved conditional use for the Quisling Clinic and Hart House to allow the clinic building to be converted into 60 apartments following a finding by the US Department of the Interior that the earlier 72-unit version of the project would not be eligible for historic renovation tax credits.

On December 21, 1999, Quisling Clinic Condominium was recorded with the Dane County Register of Deeds.

## Project Description

The applicant and property owners of the addresses 2 W. Gorham Street and 412 Wisconsin Avenue, Gorman Properties, LLC and Quisling Clinic Apartment Homes, LLC, are one and the same. The property is colloquially known as 2 W. Gorham Street, which is currently subject to the declaration of condominium for the Quisling Clinic Condominium dated December 21, 1999. The condominium was declared as part of the renovation of the aforementioned clinic and Hart House into 60 apartments and a single-family residence, respectively. A copy of the condominium plat, which was not approved by the City of Madison, is attached for reference. [City review of condominium instruments per MGO Section 16.24 did not commence until May 2008.] Parking for the five-story apartment building and single-family residence is provided by a 60-stall lot that extends along the northerly and westerly property lines, with driveways from both W. Gorham Street and Wisconsin Avenue. Forty-six (46) of the units were designated as affordable units under the Section 42 tax credit program.

The applicant proposes to remove the condominium and divide the 0.86-acre site by Certified Survey Map to create 2 fee simple lots. In discussions with City staff preceding the submittal of a formal Subdivision Application, the applicant indicated that the impetus for the land division is the need to satisfy a lender as part of a planned refinancing of the property. Presently, the lender on one of the condominium units is dissatisfied with the condominium arrangement and has requested fee simple lots instead.

The CSM proposes to place each building on its own lot. Lot 1 of the CSM will be an approximately 104-foot wide lot fronting onto Wisconsin Avenue that will taper to 30.5 feet of width at the rear, westerly property line. The 9,942 square-foot proposed lot will include the Hart House, approximately 25 of the parking stalls and the trash enclosure that serves the complex. Lot 2 of the CSM will measure 27,590 square feet in area and include the

entire W. Gorham Street frontage, the remaining frontage along Wisconsin Avenue, the 60-unit apartment building and remaining surface parking. No physical alterations to existing buildings or site improvements are proposed coincident with the land division according to the applicant.

## Analysis & Conclusion

As designed, both proposed lots will meet the minimum standards for lot width and area in the DR-1 district. However, individually, the proposed lots will not meet the DR-1 district bulk/ area requirements, including the side and rear yard provisions and maximum lot coverage allowed. Instead, while the property is being divided to create fee simple lots, those lots are still considered one interconnected “zoning lot,” which is defined in Section 28.211 of the Zoning Code as “a planned multi-use site or a lot or lots that comprise a single tract of land located within a single block which, at the time of filing for a building permit, is to be used, developed or built upon as a unit.” Approval of this CSM also creates a “planned-multi use site”. As defined in the Zoning Code and Subdivision Regulations, a planned multi-use site is “a specified area of land comprising one or more contiguous ownership parcels or building sites for multiple uses and which area is limited by a reciprocal land use agreement or plan of building placement, a reciprocal use off-street parking system, a cross access easement or a reciprocal use ingress and egress system for buildings, loading and parking.” Approval of a planned multi-use site requires that the necessary reciprocal land use, access, and shared parking agreements to formalize the relationship between the applicable lots are recorded with the Dane County Register of Deeds following approval by the City Engineer, Traffic Engineer, and Director of the Department of Planning and Community & Economic Development.

In essence, the proposed lots will remain interconnected until they are legally separated by dissolution of the zoning lot and planned multi-use site, at which time both lots would have to demonstrate individual compliance with the applicable requirements of the DR-1 zoning district. In the meantime, zoning compliance for the two lots will be based on them continuing to function as a single physical unit in a manner similar to how they currently function as a two-unit condominium. As a result, while the proposed land division proposes an atypical lot layout compared to the vast majority of lots created regularly through the City’s subdivision process, the Planning Division believes that it can meet the standards for approval for Certified Survey Maps.

Regarding the division of the property in the Mansion Hill Historic District, the City’s Preservation Planner, Amy Scanlon, and the Landmarks Commission found that land division results in lots that would be more compatible with adjacent lot sizes and create sizes that are more compatible with the general lot size pattern in the district. The Landmarks Commission granted a Certificate of Appropriateness for the proposed land division at its November 16, 2015 meeting (see attached reports).

However, as noted in Ms. Scanlon report to the Landmarks Commission and the comments and conditions in the following section from the Fire Department, the proposed line between Lots 1 and 2 on the CSM require that the walls adjacent to the proposed line must meet applicable building and fire codes. Compliance with those codes, which typically dictate the proximity of a building to a property line vis-à-vis the number and protection of wall openings (doors, windows, utility penetrations, etc.), can include building alterations or no-build easements on the adjacent property. The submission materials indicate that there are no exterior alterations proposed to the existing buildings and suggest that the code requirements can be addressed through the use of easements. A no-build easement is not currently shown on the Certified Survey Map documents. Ms. Scanlon notes that any exterior alterations will require a Certificate of Appropriateness from the Landmarks Commission.

## 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 2 W. Gorham Street (and 412 Wisconsin Avenue) 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

##### Planning Division

1. The applicant is proposing to create a Planned Multi-Use Site as defined in the Zoning Code and Subdivision Regulations. Prior to final staff approval of the CSM for recording, the applicant shall receive approval of the reciprocal land use agreements, reciprocal access easements and shared parking agreements sufficient to govern the proposed lots. Any new or amended agreement(s) and easement(s) necessary for this land division shall be recorded with the Dane County Register of Deeds following approval by the City Engineer, Traffic Engineer, and Director of the Department of Planning and Community & Economic Development and prior to recording of the CSM.
2. The City's Preservation Planner shall sign the CSM Approval Certification form indicating compliance with the Landmarks Commission Certificate of Appropriateness for the land division prior to final approval for recording by the Secretary of the Plan Commission or her designee.
3. That the Quisling Clinic Condominium be removed and the removal noted on the final CSM prior to final approval of the CSM for recording.

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

4. The two properties are interdependent on each other for drainage. An agreement allowing cross lot drainage and apportioning responsibility shall be recorded and provided to the City of Madison.
5. Prior to approval, applicant shall provide evidence that both proposed lots are served by separate, independent sanitary sewer laterals.
6. A minimum of 2 working days prior to requesting City Engineering signoff on the plat, the applicant shall contact Tim Troester (267-1995) 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)

7. A Condominium Removal Instrument will be required to be recorded removing the Quisling Clinic Condominium prior to recording the CSM. All condominium instruments (declaration, amendments, removals) are subject to review by the City of Madison prior to recording. Condominium Applications shall be made to the City of Madison Planning Division.

8. The CSM shall identify the true location of the SE corner of Section 14 on the map and provide coordinates. Provide a distance between the meander corner and true corner and provide the overall distance for the south line of the SE 1/4 of Section 14.
9. The headers of each sheet and the legal description shall also note that this CSM is in Government Lot 1 of Section 14.
10. The legal description shall have Block 80 added to the first line of the description. Also the legal description shall commence at a section corner, not a meander corner.

11. 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 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](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.

12. 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.

13. 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.

**Zoning Administrator** (Contact Jenny Kirchgatter, 266-4429)

This agency did not provide comments for this request.

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

14. Any Petition for Variances for the Building Code due to required fire separation and/or property setbacks shall be obtained and implemented prior to recording of the Certified Survey Map. Recording of the CSM prior would result in a Building Code violation.

**Water Utility** (Contact Dennis Cawley, 261-9243)

15. Note: All unused private wells shall be abandoned in accordance with MGO Sec. 13.21.

**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** (Jenny Frese, 267-8719)

16. Prior to requesting approval sign-off, executed signature block certifications shall be included for all parties of interest, pursuant to Wis. Stats. 236.21(2)(a). All signatory parties shall provide documentation that proves said signatories have legal authority to sign the Owner's Certificate. The title of each certificate shall be consistent with the ownership interest reported in the most recent title report update.

17. 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 any mortgages of record are paid off prior to CSM approval, a copy of the recorded satisfaction for said mortgage(s) shall be provided prior to sign-off.

18. A Consent of Lessee shall be included for all tenant interests in excess of one year, recorded or unrecorded, and executed prior to CSM sign-off.

19. Correct the spelling for Natalie Erdman in the City of Madison Plan Commission Certificate.

20. Under 236.21(3) Wis. Stats. and MGO Section 16.23(5)(g)(1), the property owner shall pay all real estate taxes and/ or special assessments 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.

21. 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.

22. The title report provided with the CSM application is dated January 22, 2014. Please note that the Office of Real Estate Services may require additional conditions of CSM approval after a current title report is reviewed. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish an updated title report to the City's Office of Real Estate Services, as well as the survey firm preparing the proposed CSM. The surveyor shall update the CSM with the most recent information reported in the title update.
23. The CSM shall be revised as follows prior to final sign-off and recording:
- a.) Clearly delineate and depict the two lots being created.
  - b.) Correct the typo in the word 'detial' on Sheet 1.
  - c.) A condo removal certificate shall be recorded prior to approval, with the document number inserted into Note #1a on Sheet 2 of the CSM.
  - d.) A title report update shall be ordered after the condo removal has been recorded and include parcel number 0709-144-1212-0 in the search, if appropriate.
  - e.) Create and record, or show as being dedicated on the proposed CSM, any potential public utility and/or public drainage easements that may be required to serve the lots within the CSM boundary.
  - f.) If all parties of interest agree that certain easements of record are no longer necessary to serve the property, recorded release documents for said easements shall be provided prior to CSM approval sign-off.