

PLANNING DIVISION STAFF REPORT

December 12, 2016



PREPARED FOR THE PLAN COMMISSION

Project Address: 711-719 Jenifer Street
Application Type: Certified Survey Map Referral
Legistar File ID # [44999](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Madison Lodge 410, Benevolent Protective Order of Elks; 711 Jenifer Street; Madison; David Johnson, representative.

Surveyor: Paul Spetz, Isthmus Surveying, LLC; 450 N. Baldwin Street; Madison.

Requested Action: Approval of a Certified Survey Map (CSM) creating two lots at 711-719 Jenifer Street.

Proposal Summary: The applicant, hereinafter referred to by their colloquial name, the Elks, own a one-story lodge with partially exposed lower level at 711 Jenifer Street and a single-family residence next door at 719 Jenifer. The division of the two parcels is intended to allow the Elks to sell the house on a smaller parcel while consolidating all of the platted lots underneath the lodge into one lot. No redevelopment of either parcel is proposed at this time. 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 October 26, 2016, with a corresponding 90-day review period for this CSM scheduled to expire circa January 25, 2017.

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 711-719 Jenifer Street subject to input at the public hearing and the conditions from reviewing agencies beginning on page 4 of this report.

Background Information

Parcel Location: Approximately 1.41 acres of land located on the southerly side of Jenifer Street and Williamson Street east of S. Blount Street; Aldermanic District 6 (Rummel); Third Lake Ridge Historic District; Madison Metropolitan School District.

Existing Conditions and Land Use: The Elks Lodge at 711 Jenifer Street is a one-story masonry building with an approximately 9,675 square-foot footprint according to the dimensions available on the CSM. The lodge includes an indeterminate amount of finished floor area on a lower level that faces Lake Monona. The existing 1.01-acre parcel is otherwise improved with a surface parking lot on the westerly and northerly sides of the building, and a pier that extends out into the lake. The lodge parcel is zoned TSS (Traditional Shopping Street District). The 719 Jenifer parcel is developed with a two-story, three-bedroom single-family residence built in 1868 according to City records, which occupies a 8,085 square-foot (0.19-acre) parcel (per City records). The residence is zoned TR-V1 (Traditional Residential–Varied 1 District).

Surrounding Land Use and Zoning:

North: Kerr-McGee Triangle Park, zoned TR-V1 (Traditional Residential–Varied 1 District); commercial buildings on Williamson Street, zoned TSS (Traditional Shopping Street District), TE (Traditional Employment District) and PD;

South: Lake Monona;

East: Single-, two- and multi-family residences along Jenifer Street, zoned TR-V1, TR-V2 (Traditional Residential–Varied 2 District) and PD;

West: Fauerbach Condominiums across S. Blount Street, zoned PD.

Adopted Land Use Plan: The Comprehensive Plan recommends that both sites be developed with Medium-Density Residential uses.

The subject site is also located within the boundaries of the 1994 Marquette-Schenk-Atwood Neighborhood Plan, which contains no specific land use recommendations for the south side of the 700-block of Williamson Street but generally encourages the continuation of residential uses in that block and the existing residential blocks to its south. The plan includes a reference to the 1988 Land Use Plan, which recommended the Elks Lodge parcel for Commercial-Residential uses.

Zoning Summary: The zoning conformity of the lots created by the proposed land division will be reviewed in the following sections.

Environmental Corridor Status: The subject site is not located in a mapped environmental corridor. However, the edge of the parcels adjacent to Lake Monona is located in floodplain consistent with the ordinary high water mark.

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

Project Description

The Madison Elks Lodge 410 is the owner of two parcels comprised of 1.41 acres of land (per the submitted CSM) located at 711 and 719 Jenifer Street in the Third Lake Ridge Historic District.

The first of those two parcels is developed with a one-story masonry building located in the southeasterly corner of a 1.01-acre parcel according to City records. The footprint of the building is approximately 9,675 square feet (96.1 by 102.6 feet) and includes a finished floor area on a lower level that faces Lake Monona, which provides the appearance of a full two-story building from the lake. The rest of the parcel is improved with a surface parking lot on the westerly and northerly sides of the building, and a pier that extends out into the lake. The lodge parcel is zoned TSS (Traditional Shopping Street District) and includes approximately 298 feet of lake frontage according to the City Assessor. The 719 Jenifer parcel is developed with a two-story, three-bedroom single-family residence built in 1868 according to City records, which occupies an 8,085 square-foot parcel per City records. The residence is zoned TR-V1 (Traditional Residential–Varied 1 District) and has approximately 17 feet of lake frontage. The residence had additional lake frontage until earlier this year, when a quitclaim deed was recorded between the Elks and the owner of 723 and 725 Jenifer Street to resolve an adverse possession claim made by the latter regarding encroachments over a triangularly shaped area at the southeasterly corner of the 719 Jenifer parcel.

The existing boundary between the two parcels effectively runs perpendicular to the lake edge north towards Jenifer Street and parallel to and 7.7 feet from the easterly side wall of the lodge building. A small shed for the lodge is located adjacent to the southeasterly corner of the lodge across the existing parcel boundary. Also encroaching from the lodge parcel onto the residential parcel is an emergency egress open stair from the first/main floor of the lodge, which projects easterly from the side wall across the current parcel line.

The Elks wish to divide the two parcels, which are comprised of a series of whole and partial platted lots, into two lots for the individual buildings. Lot 1 of the proposed CSM will contain the lodge, parking, lakeside greenspace and 1.29 acres of the combined area, including land located in the current rear yard of the residence at 719. Lot 2 would consist of the remaining 5,227.2 square feet (0.12 acres) of the combined land and be occupied by the single-family residence, which the Elks have indicated they wish to sell to a third party with the intent of the house being maintained as a private residence. The proposed configuration of the proposed common lot line is at least partially informed by a Building Code requirement that the egress stair for the lodge shall remain on the parcel it serves. Because of the scale of that building feature, it is required to comply with Zoning Code requirements for, in this case, the side yard setback from the proposed lot line, which is five (5) feet in the TSS zoning district. Following the proposed land division, all but 5.1 feet of the current lake frontage owned by the Elks will be on Lot 1 containing the lodge.

Analysis & Conclusion

The proposed division of the Elks properties at 711 and 719 Jenifer Street will result in two uniquely configured lots, which the Planning Division did not feel could be approved administratively. The proposed lot configuration before the Plan Commission is the result of extensive discussions about the proposed land division at the Landmarks Commission earlier this year. As noted previously, both parcels are located in the Third Lake Ridge Historic District. Per Section 41.18(4) of the Historic Preservation Ordinance, the Landmarks Commission is required to 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 is required to “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.”

As originally proposed by the applicant and presented to the Landmarks Commission on August 22, 2016, the two parcels would be divided into more uniformly shaped parcels, with the residence at 719 Jenifer placed onto a mostly rectangular 4,000 square-foot lot corresponding to the minimum lot area required for a single-family

residence in the TR-V1 zoning district. The remaining land would be consolidated into one L-shaped lot for the lodge, including the entire combined Lake Monona frontage of the two historic parcels.

However, the Landmarks Commission received considerable correspondence and testimony from parties concerned, in particular, that the lack of lake frontage proposed for the residential lot was inconsistent with the historic lot pattern present in this portion of the Third Lake Ridge District. Information provided to the Landmarks Commission and included in the Plan Commission materials show that all of the existing parcels in the 700-block of Jenifer Street have historically contained varying amounts of lake frontage. Following a referral and redesign of the proposed lots to include the currently proposed 5.1 feet of lake frontage for Lot 2, the Landmarks Commission granted a Certificate of Appropriateness for the land division at its September 19, 2016 meeting. In granting the approval for the current lot configuration, the Landmarks Commission noted that the proposed CSM “maintains the historic lot pattern of the historic district and to note that the proposed 5-foot width of lake access is a minimum width that the Commission would consider.” The information relating to the Landmarks Commission consideration of this request is included in the Plan Commission materials for this item.

As a result of the configuration ultimately found acceptable by the Landmarks Commission, the proposed land division proposes an atypical lot layout compared to the vast majority of lots created regularly through the City’s subdivision process, including many created by administratively approved land divisions. However, when a nonconventional lot configuration is proposed, the Plan Commission must grant approval of the land division. In this case, Section 16.23(8)(d)4. of the Subdivision Regulations require that side lot lines be “as near as possible to straight street lines.” The existing line between the two Elks parcels is consistent with this requirement. Staff feels that the proposed line between Lots 1 and 2, however, is not consistent with this requirement due to the need for the line to jog around the existing egress stairs while abiding by the side yard setback requirements for the lodge.

Section 16.23 (10) of the Subdivision Regulations, entitled Variances, states the following: “When in the judgment of the Plan Commission it would be inappropriate to apply literally provisions of Subsection (8) of this ordinance...because extraordinary hardship would result, it may waive or vary such provisions so that substantial justice may be done and the public interest secured.” The Planning Division believes that the Plan Commission may approve the atypical lot configuration proposed due to the need to maintain lake frontage for both lots consistent with the historic lot/ parcel pattern in the 700-block of Jenifer Street while allowing the Elks to consolidate all of the lodge improvements entirely on the same parcel.

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 711-719 Jenifer Street subject to input at the public hearing, final approval by the City’s Preservation Planner for consistency with the Landmark Commission approval, and the following conditions submitted by reviewing agencies:

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

City Engineering Division (Contact Brenda Stanley, 261-9127)

1. All outstanding Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to Engineering sign-off, unless otherwise collected with a Developer's/ Subdivision Contract. Contact Mark

Moder (261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff

2. A minimum of two (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).
3. Arrows shall be added to the certified survey map indicating the direction of drainage for each property line not fronting on a public street. In addition, the certified survey map shall include lot corner elevations, for all lot corners, to the nearest 0.25-foot. The following notes shall be added to the certified survey map: A) Arrows indicate the direction of surface drainage swale at individual property lines. Said drainage swale shall be graded with the construction of each principal structure and maintained by the lot owner unless modified with the approval of the City Engineer. Elevations given are for property corners at ground level and shall be maintained by the lot owner. B) All lots within this certified survey are subject to public easements for drainage purposes which shall be a minimum of 6 feet in width measured from the property line to the interior of each lot except that the easements shall be 12 feet in width on the perimeter of the certified survey. For purposes of two (2) or more lots combined for a single development site, or where two (2) or more lots have a shared driveway agreement, the public easement for drainage purposes shall be a minimum of six (6) feet in width and shall be measured only from the exterior property lines of the combined lots that create a single development site, or have a shared driveway agreement, except that the easement shall be twelve (12) feet in width along the perimeter of the certified survey. Easements shall not be required on property lines shared with greenways or public streets. No buildings, driveways, or retaining walls shall be placed in any easement for drainage purposes. Fences may be placed in the easement only if they do not impede the anticipated flow of water. Note: In the event of a City of Madison Plan Commission and/or Common Council approved re-division of a previously subdivided property, the underlying public easements for drainage purposes are released and replaced by those required and created by the current approved subdivision. Information to Surveyor's: In addition to notes such as this, WI State Plat Review now enforces the requirement that easements or other reference lines/areas be graphically shown, dimensioned and tied when they represent fixed locations. They will accept a "typical detail" when the easement or restriction can be effectively described and retraced from the typical detail.

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

4. It appears as though a concrete retaining wall for the parking lot on this site encroaches into the S Blount St. right-of-way per a previous survey filed at the Dane County Surveyor's Office as map no. 2006-00694. The surveyor shall confirm if there is an encroachment. If the wall does encroach, the applicant shall make an application with the City of Madison for a privilege in streets administered by the City of Madison Office of Real Estate Services. An approval of the Certified Survey Map does not constitute or guarantee approval of any encroachments within a public right of way.
5. Add a notation for the Exception per Document No. 838456 that was conveyed from the SW 1/2 of Lot 2, Block 127. Also add the document number to the call for the award of damages in the legal description.
6. Document No. 1681803 permits the Elks Club to place and maintain a flagpole in the public right of way. A flagpole no longer exists at this location. The applicant shall contact the Office of Real Estate Services to coordinate the termination of this agreement.

7. The headers on each sheet and for the metes and bounds description shall acknowledge that this CSM is also within Government Lot 5.
8. Correct the distance in the second course after the point of beginning to be 73.10 feet, not 68.37 feet.
9. Provide the widths of the right of ways of Jenifer Street and S. Blount Street.
10. Provide the 10-foot dimension from the Block Corner of Block 127 to the west corner of this Certified Survey Map.
11. 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.
12. 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 did not provide comments for this request.

Zoning Administrator (Contact Jenny Kirchgatter, 266-4429)

This agency submitted a response with no comments or conditions of approval for this request.

Fire Department (Contact Bill Sullivan, 261-9658)

This agency submitted a response with no comments or conditions of approval for this request.

Water Utility (Contact Dennis Cawley, 261-9243)

This agency submitted a response with no comments or conditions of approval for this request.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency submitted a response with no comments or conditions of approval 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 (Heidi Radlinger, 266-6558)

13. 2015 real estate taxes are paid for the subject property. Per 236.21(3) Wis. Stats. and MGO Section 16.23(5)(g)(1), 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.
14. There are special assessments reported on both subject parcels. All special assessments shall be paid in full prior to signoff.
15. 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.
16. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish an updated title report to Heidi Radlinger in City's Office of Real Estate Services (hradlinger@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 (September 4, 2015) 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.
17. The owner shall email the document number of the recorded CSM to Heidi Radlinger as soon as the recording information is available.