



PREPARED FOR THE PLAN COMMISSION

Project Address: 4246 Daentl Road, Town of Verona
Application Type: Cooperative Plan Development Approval
Legistar File ID # [45528](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: George Vetesnik, Vetesnik Enterprises, LLC/ Mad City Power Sports; 4246 Daentl Road; DeForest.

Contact Person: Rachel Holloway, JSD Professional Services, Inc.; 161 Horizon Drive, Suite 101; Verona.

Requested Action: Approval of a request to rezone property and modify restrictive covenants for 4246 Daentl Road, Town of Burke, to allow additional outdoor display of recreational equipment for MadCity Power Sports in satisfaction of the development review provisions in the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan.

Proposal Summary: The applicant will be seeking zoning approval from Dane County to increase the commercial zoning of his property to allow additional outdoor display space for his power sports equipment business, which is located in the Town of Burke. Prior to seeking those approvals from Dane County and the Town of Burke, the applicant is pursuing the development approvals required by the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan. The applicant wishes to use the additional display space as soon as all regulatory approvals have been granted.

Review Required By: Plan Commission. Following a City approval of this request, the applicant will finalize the necessary approvals from the Town of Burke and Dane County Board, which are conditioned on or pending based on the outcome of the Plan Commission decision on this request.

Summary Recommendation: The Planning Division recommends that the Plan Commission **approve** the request to rezone property and modify the restrictive covenant for 4246 Daentl Road, Town of Burke, to allow additional outdoor display of recreational equipment for MadCity Powersports in satisfaction of the development review provisions in the 2007 Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan 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: An overall approximately 12-acre property at 4246 Daentl Road, Town of Burke; DeForest School District. The site is generally located in the southwesterly quadrant of the Interstate 39-90-94/ US Highway 51 interchange.

Existing Conditions and Land Use: The site is comprised of three lots created by Certified Survey Map (CSM) in 2009. The center of the site is developed with the approximately 21,000 square-foot Mad City Power Sports boats, motorcycles, and power sports equipment sale and repair establishment, a detached 2,800 square-foot shop building, and overhead advertising sign located on Lot 2 of the CSM in County C-2 Commercial zoning. The remainder of the property to the north and south of the commercial buildings on Lot 2, Lots 1 and 3,

respectively, is undeveloped. Lot 1 is zoned County A-2(2) (Agriculture District), while Lot 3 is zoned A-1 (Agriculture). Token Creek runs through Lot 1.

Surrounding Land Use and Dane County Zoning: The subject property is bordered on the north and east by the Interstate 39-90-94/ US Highway 51 interchange, with Token Creek County Park located east of the interstate corridor. The land located south of the site is zoned C-2 and is currently undeveloped. The majority of the land southwest of the site across Daentl Road is largely undeveloped agricultural land in County A-1 Agriculture zoning. Lands northwest of the site across Daentl Road are developed with a number of single-family residences located in the Creekside residential subdivision, which is located in the Town of Burke but subject to extraterritorial zoning by the Village of DeForest, which has zoned that area RN-2 (Residential Neighborhood-Single-Family Residence).

Adopted Land Use Plans: The property is located outside of the areas currently covered by an adopted City of Madison neighborhood development plan.

The Comprehensive Plan identifies the southwesterly quadrant of the Interstate 39-90-94/ US Highway 51 interchange, including the subject property, in Planning Area B (Group 1). Planning Area B was included in a Group 1 peripheral planning area largely due the availability of City of Madison utilities and services south of the peripheral area in the Hanson Road and Rattman neighborhoods. The portion of Area B located west of US Highway 51, however, was not included in the final boundaries of the 2008 Pumpkin Hollow Neighborhood Development Plan project area, which is generally bounded by Hanson Road on the south, Rattman Road on the east, State Highway 19 on the north and US Highway 51 and Interstate 39-90-94 on the west. The Comprehensive Plan generally identifies most of the 12-acre overall site for Park and Open Space uses owing to the presence of Token Creek, wetlands and floodplain on this property and in the area to the west. The open space recommendation applicable to this site and the surrounding properties generally west of US Highway 51 extend as far back as the 1990 Peripheral Area Development Plan. However, the portion of the site to be rezoned with this request is located outside of the boundaries of the Generalized Future Land Use Maps.

Environmental Corridor Status: The site is located within the Central Urban Service Area. There are mapped environmental corridors on the property north and south of the existing buildings. The mapped area north of the buildings encompasses approximately two-thirds of Lot 1 and extends north across Token Creek approximately 40 feet and includes the pond located approximately midway between the commercial buildings and creek. All of Lot 3 is located within a mapped corridor due to the 100-year floodplain and wetlands present in that portion of the site pond and in the Interstate 39-90-94 right of way.

Public Utilities and Services: The property is served by the Village of DeForest Extraterritorial Water Service Area and the Token Creek Sanitary Sewer District.

Previous Approval

On July 20, 2009, the Madison Plan Commission approved the three-lot Certified Survey Map of property generally located at 4246 Daentl Road in the Town of Burke subject to conditions that included the applicant recording a restrictive covenant limiting the use of the subject property. CSM 12830 was recorded on January 5, 2010.

Project Description

The applicant is requesting Plan Commission approval to expand the Dane County commercial zoning of his property located at 4246 Daentl Road in the Town of Burke. City of Madison approval is required because the request constitutes "development" as defined in 2007 Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan.

The subject site is comprised of three parcels totaling 12 acres of land located on the east side of Daentl Road, a two-lane unimproved asphalt roadway that generally extends west and north from US Highway 51/ N. Stoughton Road to form the western boundary of the subject site before continuing further to the north and west to serve a variety of large residential and agricultural properties in the Town of Burke. The northern and eastern edges of the property are bordered by the US Highway 51 interchange from Interstate 39-90-94, while a vacant commercially zoned property forms the southernmost edge of the property. The center of the site is developed with the approximately 21,000 square-foot Mad City Powersports boat, motorcycle and power sport sales and service center and detached shop building. Surface parking generally surrounds the main building, with two drive entrances from Daentl Road. Most of the remaining land is unimproved. However, a number of pertinent environmental features exist on the 12-acre site, including Token Creek, which extends east-west through the northerly portion of the site just to the south of the gravel parking area. A small pond is located approximately midway between Token Creek and the commercial buildings, while two areas of wetlands exist on the property. The first wetland area occupies approximately 3 acres located in the southeasterly portion of the property, while the second wetland occupies a smaller area between the pond and interstate right of way. Additionally, FEMA floodplain maps indicate that most of the property south of Token Creek is located within a 100-year floodplain, save for the area surrounding the commercial buildings at the center of the property.

The 2009 CSM approval referenced in the preceding section was required as a condition of approval placed on the property by Dane County as part of a County zoning approval to allow completion of the sales and service center. Most of Lot 2 as created by the CSM recorded in 2010 was previously zoned C-2 Commercial zoning. The applicant received County approval to expand that zoning north to include a panhandle on which a 50-foot tall pylon sign identifying the business was installed. The 2009 zoning approval also added C-2 land to include all of the asphalt parking lot, as well as an area near the sign for temporarily displaying recreational/ power sports equipment. Lot 1 of the earlier CSM was rezoned A-2(2) Agriculture zoning (the number in parenthesis in A-2 zoning reflects the minimum lot area required by the County that district), and includes the gravel lot north of Token Creek, the creek crossing of the site, and a pond. Lot 3, which is almost entirely covered by wetland, was zoned A-1 with the 2009 request.

Approval of the 2009 rezoning and CSM were subject to a restrictive covenant that subjected the subject site to the following restrictions:

1. That no permanent or temporary buildings shall be constructed on the portion of Lot 1 located north of Token Creek unless the lot is both further subdivided and the proposed use approved by the City of Madison.
2. That no permanent or temporary buildings shall be constructed on the portion of Lot 1 located south of Token Creek and that use of that portion of the property shall be restricted to open space and agriculture. Any use or development of that parcel of other than open space or agriculture shall require the approval of the City of Madison.

3. That Lot 3 is undevelopable due to the presence of delineated wetlands. Any use or development of that parcel for other than open space shall require the approval of the City of Madison.

The recorded covenant may be released or modified only by written agreement executed by the Property Owner and the City of Madison and recorded at the Dane County Register of Deeds.

The applicant is seeking to zone the portion of Lot 1 located north of Token Creek from A-2(2) to C-2 to allow the gravel lot at the northernmost tip of the property to be used for the display of commercial goods related to the business on Lot 2. The letter of intent indicates that the 10,890 square feet of Lot 1 not located in the mapped environmental corridor would be commercially zoned to allow for the display of motorized and non-motorized vehicles, portable storage sheds, and similar goods. As noted in the letter, the applicant received a zoning violation from Dane County for displaying these goods in a zoning district that does not permit that activity, hence the need to rezone to C-2. A plan for how this area will be used was not provided for review.

Analysis and Conclusion

The subject site is also located at the likely future northern edge of the City of Madison based on the City's 2007 intergovernmental agreement and cooperative plan with the Town of Burke, Village of DeForest and City of Sun Prairie. Pursuant to the agreement and plan, the subject site and lands to the south and east will attach to the City of Madison, while lands immediately west of the site across Daentl Road and to the north will attach to the Village of DeForest, which has since adopted extraterritorial zoning for those areas. The site is located in a protected area of the Town and will not be automatically attached to the City until October 27, 2036. Any attachment to the City before that date requires the approval of the Town.

Development in the Town of Burke during the transition period between adoption of the cooperative plan ("plan") and ultimate dissolution of the Town is regulated by the plan. "Develop/ment" as defined in the plan is the division of land, or construction of more than one principal structure on a parcel of land, or **rezoning of a parcel from a residential or agricultural classification to a non-residential classification** (emphasis added). Per Section 11.B. of the plan, "[a]ny development in the Town shall, in addition to Town requirements, be subject to approval by DeForest, Madison or Sun Prairie; depending upon which municipality the subject territory will eventually be attached to, in accordance with the respective Village or City Development Requirements...The Town shall not grant any development approvals inconsistent with this paragraph." The "Madison Development Requirements" include all adopted neighborhood development plans, land use or comprehensive plans, the Subdivision Regulations, Impact Fee Ordinance (Chapter 20, MGO), Zoning Code, and the Public Stormwater System/ Erosion Control Ordinance (Chapter 37, MGO).

This provision is similar to provisions in the City's intergovernmental agreements with the towns of Middleton and Blooming Grove. However, reviews such as the one pending before the Plan Commission for the subject site are extremely rare. It was felt that the Plan Commission was the appropriate body to consider the development request proposed, as it was the body that reviewed and conditioned the CSM for the subject 12 acres in 2009.

The City of Madison did not approve the 21,000 square-foot Mad City Powersports sales and service center on Lot 2 prior to its construction. However, the zoning of the property where those buildings were constructed was already zoned C-2, with the exception of a small strip of C-2 added in 2009 to include the land on which the overhead business identification sign is located. City staff did not object to the small additions to the C-2 zoning in 2009, which was not believed to significantly increase the ability for the site to be developed.

As the trigger for the City's current review is the proposal to rezone the 10,890 square feet at the northernmost tip of Lot 1 to C-2, staff recommends that the Plan Commission's focus be on only that portion of the larger 12-acre site. While the request relates to the business located on Lot 2, no changes to Lot 2 and the existing buildings are proposed, and staff does not feel that conditions on that portion of the owner's land would be appropriate.

Like in 2009, staff is not concerned that the 10,890 square-foot area to be zoned C-2 for outdoor display will facilitate significant future development at the northernmost tip of Lot 1. However, staff believes that the area to be rezoned and proposed display area for the powersports equipment dealership shall comply with the Madison General Ordinances as it pertains to site landscaping requirements that would be applied to the site per the City's Zoning Code if it were in the City, and any stormwater management and erosion control measures that would be applied to the space per MGO Chapter 37, Public Stormwater System Including Erosion Control Ordinance. Compliance with these requirements shall be established in an amended restrictive covenant required as part of this approval. The amended restrictive covenant shall continue to restrict the portion of Lot 1 located north of Token Creek to allow no construction of any permanent or temporary buildings unless approved by the City of Madison, and further, shall limit the use of the rezoned land to only the display of recreation equipment and small storage buildings as approved by the City. Planning staff recommends that a site plan be recorded with the amended covenant that shows the general placement of the recreational equipment and storage buildings, as well as any landscaping or erosion control provisions required as a condition of this approval. Final approval of the site plan and amended covenant shall be required prior to this area being used as proposed.

Recommendation

The Planning Division recommends that the Plan Commission **approve** the request to rezone property and modify the restrictive covenant for 4246 Daentl Road, Town of Burke, to allow additional outdoor display of recreational equipment for MadCity Powersports in satisfaction of the development review provisions in the 2007 Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan subject to input at the public hearing and the following conditions:

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

1. The applicant shall submit an amendment to the restrictive covenant with the City of Madison, recorded as Document No. 4623768 on January 5, 2010, for approval by the Planning Division prior to recording at the Dane County Register of Deeds. The amended covenant shall address the following: That the portion of Lot 1 located north of Token Creek shall be restricted to allow no construction of any permanent or temporary buildings unless approved by the City of Madison, and further, shall limit the use of said land to the display of recreational equipment and storage buildings as approved by the City. A site plan for the display area showing the general placement of the recreational equipment and storage buildings shall be submitted for approval by the Planning Division and recorded with the amended restrictive covenant.
2. The applicant shall comply with Section 28.142 of Madison General Ordinances, Landscaping and Screening Requirements. Submit a landscape plan and landscape worksheet stamped by the registered landscape architect for the area to be rezoned with this request. Compliance with the approved landscaping plan shall be established in the amended restrictive covenant required as part of this approval.

3. Per Wisconsin Admin. Code NR-151.125, the applicant shall show no proposed impervious (including gravel) use within 50 feet on either side of the normal high water level of Token Creek. This area is the protective area setback for Token Creek. The protective setback shall be shown on the site plan required in condition #1 above.
 4. The applicant shall comply with MGO Chapter 37, the Public Stormwater System Including Erosion Control Ordinance, for the area to be rezoned with this request, as required by the City Engineer. For more information on this requirement, please contact Brenda Stanley of the City Engineering Division at 261-9127. Compliance with this condition and any implementation required by the City Engineer shall be established in the amended restrictive covenant required as part of this approval.
 5. The applicant is advised to contact the American Transmission Company. The existing 50-foot wide Electrical Transmission Easement per Document No. 1739386 requires written approval prior to any erection of structures or other objects, permanent or temporary within the easement area that traverses this area. For more information on this requirement, please contact Jeff Quamme of the City Engineering Division at 266-4097.
 6. Prior to final sign-off, the applicant shall submit the plan to the Wisconsin Department of Transportation for review. For more information on this requirement, please contact Eric Halvorson of the City's Traffic Engineering Division at 266-6527.
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7. The applicant shall submit one contiguous plan for approval showing proposed conditions and one contiguous plan showing existing conditions. The plan drawing shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including 2 feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
 8. All parking facility design shall conform to the standards in MGO Section 10.08(6).