



PREPARED FOR THE PLAN COMMISSION

Project Address: 1904 Wheeler Road
Application Type: Certified Survey Map Referral
Legistar File ID # [50106](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Dennis Tiziani, Cherokee Park, Inc.; 5000 N. Sherman Avenue; Madison.

Surveyor: Mark Pynnonen, Birrenkott Surveying, Inc.; 1677 N. Bristol Street; Sun Prairie.

Requested Actions: Approval of a Certified Survey Map (CSM) to create one lot for existing golf club-related uses and one lot for public parkland at 1904 Wheeler Road.

Proposal Summary: On January 16, 2018, the Common Council adopted Resolution 18-00089 (ID [49975](#)) to amend the adopted 2018 Parks Division Capital Budget and authorize the execution of a Purchase and Sale Agreement between the City of Madison and property owner, Cherokee Park, Inc., to acquire 31.23 acres of the existing 45.3-acre parcel for a southerly addition to Cherokee Marsh–North Unit conservation park. Cherokee Country Club’s golf driving range and tennis courts would remain on a separate 13.52-acre lot. The property owner wishes 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.

Review Required By: 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 Certified Survey Maps 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 plat is deemed approved. The CSM application was submitted to the City on January 3, 2018. Therefore, the 90-day review period for this subdivision request will end circa April 3, 2018.

Summary Recommendation: The Planning Division recommends that the Plan Commission forward the two-lot Certified Survey Map to divide 1904 Wheeler Road to the Common Council with recommendations of **approval** subject to input at the public hearing and the conditions from reviewing agencies beginning on page 5 of this report.

Background Information

Parcel Location: An approximately 45.3-acre parcel primarily located on the north side of Wheeler Road, between N. Sherman Avenue on the west and Packers Avenue/ CTH CV on the east, with a smaller 3.0-acre section with frontage on N. Sherman north of St. Peter’s Catholic Church; Aldermanic District 18 (Kemble); DeForest Area School District.

Existing Conditions and Land Use: The westerly quarter of the property is developed with the driving range and tennis courts for Cherokee Country Club; the remaining property to the east is in active tillage. The entire property is zoned A (Agricultural District).

Surrounding Land Uses and Zoning:

North: City of Madison’s Cherokee Marsh–North Unit conservation park in the Town of Burke;

South: Undeveloped land across Wheeler Road; single-family residences and County-owned former schoolhouse on Packers Avenue in the Town of Burke;

West: St. Peter’s Catholic Church, zoned SR-C1 (Suburban Residential–Consistent 1 District); Cherokee Garden Condominium Homes, zoned SR-V2 (Suburban Residential–Varied 2 District); Cherokee Country Club clubhouse and golf course across N. Sherman Avenue in the Town of Westport;

East: Single-family residences along Dennis Drive and undeveloped land in the Town of Burke; undeveloped land along Packers Avenue/ CTH CV in the City of Madison, zoned A (Agricultural District).

Adopted Land Use Plans: The Cherokee Special Area Plan recommends that most of the subject parcel and properties to the east of the site be developed with low-density residential uses and low/medium-density residential uses, with the northern edge of the parcel and conservation park to the north recommended for park, drainage and open space uses. A node of neighborhood mixed-use development is recommended on the north side of the Wheeler Road-Packers Avenue intersection at the southeastern corner of the site. The neighboring church property on the west side of the site is recommended for institutional uses. The recommendations from the special area plan are also recommended by the 2006 Comprehensive Plan.

Zoning Summary: The proposed lots are zoned A, which will be reviewed in the following sections of this report. Critical zoning items pertinent to the site include areas of wetland on the site and on the park property to the north, as well as floodplain on the park property.

Environmental Corridor Status: The northern portion of the property recommended in the Cherokee Special Area Plan for park, drainage and open space is located in a mapped environmental corridor.

Public Utilities and Services: The overall site is served by a full range of urban services. Metro Transit provides peak-hour service along Wheeler Road and N. Sherman Avenue west of the subject site.

Project Description

The property owner, Cherokee Park, Inc., is seeking approval of a Certified Survey Map to divide an irregularly shaped 45.3-acre parcel to allow 31.23 acres of the site to be acquired by the City of Madison for an addition to Cherokee Marsh–North Unit conservation park. The subject property is primarily located on the north side of Wheeler Road between N. Sherman Avenue on the west and Packers Avenue/ CTH CV on the east, but includes an approximately 3.0-acre “panhandle” that extends west to N. Sherman Avenue between adjacent St. Peter’s Catholic Church and a section of the existing overall 916-acre conservation park.

The northwesterly portion of the 45.3-acre parcel is developed with the tennis courts and some of the driving range for Cherokee Country Club, which is located across N. Sherman Avenue from that portion of the site (the remainder of the driving range is located on the adjacent church property). A parking lot is located adjacent to the driving range, which is served by a private drive that accesses N. Sherman Avenue across the panhandle and

church properties. The remaining two-thirds of the property is in active tillage. The 45.3-acre parcel is characterized by a modest slope from Wheeler Road north toward the conservation park, with areas of existing vegetation located along the eastern property line and two groupings of trees located near the center of the site. The Parks Division has identified the 31.23 acres to be acquired as a valuable buffer to the quality sedge meadow habitat that occurs in the conservation park while reducing ecological impacts from nearby planned development. The acquisition will also provide a southern access point from Wheeler Road to the North Unit; the North Unit currently includes walking trails and two observation decks.

The City will acquire Lot 2 of the proposed CSM, while Cherokee Park, Inc. will retain Lot 1 for its country club amenities. No additional development of either lot is proposed at this time. The proposed lots will roughly split the 1,435 feet of property frontage along Wheeler Road; however moving away from Wheeler Road, the proposed line between the lots will wind north and west to a point adjacent to the eastern edge of the driving range. The southern grove of trees adjacent to Wheeler Road will form the southeastern corner of Cherokee Park's Lot 1, while the northern grove of trees will form the northwestern corner of the City's proposed Lot 2.

Analysis

The [Cherokee Special Area Plan](#) identifies the subject site as part of the "Hornung Range" planning sub-area, which provides detailed recommendations for the portion of the Cherokee area located north of Wheeler Road east of N. Sherman Avenue and west and northwest of Packers Avenue/ CTH CV. The plan recommends that most of the 45.3-acre parcel and properties to the east of the site be developed with a combination of low-density residential uses and low/medium-density residential uses on a network of local streets extending north from Wheeler Road, including the extension of two Town of Burke roads that abut the eastern edge of the site, Dennis Drive and Larry Lane. A node of neighborhood mixed-use development is recommended on the north side of the Wheeler Road-Packers Avenue intersection, a portion of which is located at the southeastern corner of the proposed park parcel. The northern edge of the property and the conservation park to the north is recommended for park, drainage and open space uses; most of the park, drainage and open space land on the subject site is recommended for development as a neighborhood park to serve future residents in the Hornung Range sub-area.

On January 16, 2018, the Common Council adopted Resolution 18-00089 (ID [49975](#)) to amend the adopted 2018 Parks Division Capital Budget and authorize the execution of a Purchase and Sale Agreement between the City of Madison and Cherokee Park, Inc. to acquire the 31.23-acre addition to Cherokee Marsh-North Unit conservation park. The Plan Commission reviewed the resolution to acquire the park addition at its January 8, 2018 meeting and recommended approval to the Finance Committee and Common Council.

The Planning Division referred the proposed land division to the Plan Commission for approval due to the unique configuration of the proposed lots and the unresolved disposition of streets that terminate at the eastern edge of the 45.3-acre parcel.

Section 16.23(8)(d)4. of the Subdivision Regulations generally requires that side lot lines be as nearly as possible at right angles to straight street lines or radial to curved street lines on which the lots face. Staff does not feel that the jagged, winding line proposed between Lots 1 and 2 is consistent with this requirement. However, when in the judgment of the Plan Commission it would be inappropriate to apply literally provisions of Subsection (8) of the Subdivision Regulations because extraordinary hardship would result, it may waive or vary such provisions so that substantial justice may be done and the public interest secured per MGO Section 16.23(10).

In this case, staff feels that the unique conservation mission of proposed Lot 2 and the existing topographical characteristics of the parcel justify the atypical configuration of the proposed lots. Despite the jagged line proposed, Planning staff believes that development of Lot 1 with uses consistent with the Cherokee Special Area Plan is possible should it be proposed in the future, although the exact configuration of any such future development will likely deviate somewhat from the layout contemplated in the adopted plan.

As noted earlier in this section, two public roads extend or are planned to extend to the eastern line of the subject parcel. At the northeastern corner, Dennis Drive is a 66-foot wide right of way in the Town of Burke that extends as a partially improved road that ends in a temporary cul-de-sac approximately 25 feet east of the proposed park lot. Approximately 650 feet south of Dennis Drive and 380 feet due north of the Wheeler Road-Packers Avenue intersection, Larry Lane (not depicted on the draft CSM) is platted to extend southwesterly onto the subject site from its current terminus south of Dennis Drive.

The CSM submitted for review does not contemplate the extension of either road onto proposed Lot 2. In general, the Subdivision Regulations require that the street layout in any new subdivision conform to the arrangement, width and location indicated on the Official Map, master plan, or component neighborhood development plan, such as the Cherokee Special Area Plan. Cul-de-sacs shall not be used in any street layout, unless the topography or other unique physical feature of a development makes cul-de-sacs the only, or most logical, street layout. Where cul-de-sacs are determined to be necessary, a sidewalk, connecting path or multi-use path shall be provided to connect to another public right of way unless topography or other unique physical features make this connection impossible.

In order to resolve the western ends of Dennis Drive and Larry Lane, the Planning Division and City Engineering Division propose that 30 feet of right of way be dedicated with this CSM along the eastern line of proposed Lot 2 for a future public street that would extend from the northern right of way line of Dennis Drive to the southern right of way line of platted Larry Lane. The resulting north-south street segment is consistent with the location of a north-south street proposed along the eastern property line in the Cherokee Special Area Plan, which was intended to serve development of the Hornung Range sub-area. The 30-foot wide strip would be expanded onto the adjacent undeveloped parcel in the Town of Burke at such time that property was proposed for development, likely resulting in a minimum 60-foot wide local street right of way. Construction of the street would occur concurrent with the adjacent future development.

In the alternative, the applicant may petition the Plan Commission to allow cul-de-sacs at the western ends of both streets if the Commission can find that topography or other unique physical feature makes the cul-de-sacs the only, or most logical, street layout.

Conclusion

Cherokee Park, Inc. is requesting approval of a CSM to divide a mostly undeveloped 45.3-acre parcel located at 1904 Wheeler Road into two lots, with the intent of selling the 31.23-acre Lot 2 to the City of Madison to expand the adjacent Cherokee Marsh–North Unit conservation park. The configuration of the proposed lots is atypical; however, staff feels that the jagged, winding line between the proposed lots reflects the unique characteristics of the property and merits an exception to the requirements for side lot lines in the Subdivision Regulations.

The proposed CSM also does not propose a resolution for the western end of two public streets planned to extend onto the subject site. Final approval of the CSM may not be granted unless an acceptable terminus for those streets is addressed through this land division. However, staff believes that the CSM may be approved with a

condition that the western portion of a future north-south street right of way be dedicated to create a connection between the two east-west streets. Construction of the street would occur with the future development of the adjacent property. In the event that such a street connection is infeasible, the Plan Commission shall require cul-de-sacs at the western ends of both streets if the Commission can find that topography or other unique physical feature makes the cul-de-sacs the only, or most logical, street layout.

Recommendation

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

The Planning Division recommends that the Plan Commission forward the two-lot Certified Survey Map to divide 1904 Wheeler Road to the Common Council with recommendations of **approval** subject to input at the public hearing and the following conditions:

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

Planning Division

1. The CSM shall be revised to dedicate 30 feet of right of way for a future public street to extend along the eastern line of proposed Lot 2 from the northern right of way line of Dennis Drive to the southern right of way line of platted Larry Lane according to a design approved by the Planning Division and City Engineering Division. The resulting north-south street segment is consistent with the location of a street proposed along the eastern property line in the Cherokee Special Area Plan. In the alternative, the applicant may petition that the Plan Commission allow cul-de-sacs at the western ends of both streets if the Commission can find that topography or other unique physical feature makes the cul-de-sacs the only, or most logical, street layout.
2. The CSM shall be revised to show all existing buildings, structures, watercourses, drainage ditches and other features as required by the Subdivision Regulations, including the driving range tee boxes and shelter structure, tennis courts, parking area, and driveway from N. Sherman Avenue.
3. Note: Following recording of the CSM, Planning staff will submit a zoning map amendment to zone the proposed park lot to the CN (Conservancy) district.

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

4. A portion of this project comes under the jurisdiction of the US Army Corp. of Engineers and WDNR for wetland or floodplain issues. A permit for those matters shall be required prior to construction on any of the lots currently within the jurisdictional floodplain.
5. A wetland delineation shall be required prior to recording this CSM. Submit the delineation to City Engineering, attention Greg Fries. This delineation shall be shown on the CSM
6. All outstanding Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to City Engineering Division 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 sign-off.

7. A minimum of two (2) working days prior to requesting City Engineering Division signoff on the CSM the applicant shall contact either Tim Troester at 261-1995 (ttroester@cityofmadison.com) or Brenda Stanley at 261-9127 (bstanley@cityofmadison.com) to obtain the final stormwater utility charges that are due and payable prior to sub-division 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).
8. The following note shall be added to the Certified Survey Map: "All lots created by this certified survey map are individually responsible for compliance with Chapter 37 of the Madison General Ordinances in regard to storm water management at the time they develop."
9. The construction of this project will require that the applicant shall enter into a City/ Developer agreement for the required infrastructure improvements. The applicant shall contact City Engineering to schedule the development of the plans and the agreement. The City Engineer will not sign off on this project without the agreement executed by the developer. Note: Obtaining a developer's agreement generally takes approximately 4-6 weeks, minimum. The applicant may enter into a future phase agreement to install public improvements to Lot 1.
10. The applicant shall execute a waiver of notice and hearing on the assessments for the improvement of Wheeler Road in accordance with Section 66.0703(7)(b) Wisconsin Statutes and MGO Section 4.09.
11. The applicant shall construct sidewalk to a plan approved by the City along Lot 1.

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

12. The existing right of ways of N. Sherman Avenue and Wheeler Road within this CSM shall be dedicated to the public. Also, an additional 7 feet of width shall be dedicated for public street along the north side of Wheeler Road.
13. The applicant shall dedicate a 30-foot wide strip of right of way along the eastern lot line of Lot 2 between Dennis Drive and Larry Lane.
14. The applicant shall dedicate a Permanent Limited Easement for grading and sloping 15 feet wide along newly dedicated right of way between Dennis Drive and Larry Lane.
15. Larry Lane and the Outlots of CSM 12603 along the east side of this CSM shall be shown. Also the configuration of the Wheeler and Packers Avenue right of ways shall be correctly shown at the southeasterly corner of this CSM.
16. The adjoining plat and dedicated streets of The Turn and CSM 2225 shall be shown and noted west of this CSM.
17. All roads are to be dedicated to the public. Remove all "Gross" lot areas from the map.
18. Dimension the centerline of the MMSD Sanitary Sewer Easement per Document Nos. 1275733 and 1275734. Additionally, add centered on the centerline of those MMSD easements, a 30-foot wide Public Sanitary Sewer Easement in favor of the City of Madison and the Madison Metropolitan Sewerage District.

19. The title report is missing approximately the southern 1,000 feet of the lands within this proposed CSM. Also, MMSD sewer easements per Document Nos.1275733 and 1275734 are missing. Provide an updated title report prior to submittal for sign off.
20. The delineated wetland boundary and the required buffer shall be shown on the Certified Survey Map.
21. Provide recorded as information along the boundary of adjacent land divisions bordering the CSM.
22. A note shall be added under all of the street names labeled and to be dedicated on the CSM, "Dedicated to the Public" as required by 236.20(4)(b).
23. The land contract Vendee and Vendor Certificates shall be added per the existing land contract on part of the property within the CSM
24. 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 or Certified Survey Map in areas where this control exists. The surveyor shall identify any deviation from City Master Control with recorded and measured designations.
25. 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).

*NOTE: This transmittal is a separate requirement from the required Engineering Streets Section for design purposes. The developer/surveyor shall submit new updated final plat, electronic data and a written notification to Engineering-Mapping for any changes to the plat which occur subsequent to any original submittal of data and prior to final sign off.

Traffic Engineering Division (Contact Eric Halvorson, 266-6527)

This agency reviewed the request and has recommended no conditions of approval.

Fire Department (Contact Bill Sullivan, 261-9658)

This agency reviewed the request and has recommended no conditions of approval.

Zoning Administrator (Contact Jenny Kirchgatter, 266-4429)

This agency reviewed the request and has recommended no conditions of approval.

Water Utility (Contact Adam Wiederhoeft, 261-9121)

This agency reviewed the request and has recommended no conditions of approval.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency reviewed the request and has recommended no conditions of approval.

Parks Division (Contact Kay Rutledge, 266-4714)

This agency reviewed the request and has recommended no conditions of approval.

Office of Real Estate Services (Contact Jenny Frese, 267-8719)

26. Two signature block certifications shall be included for the existing ownership interests. Revise the certificate for Cherokee Property Development, LLC to clarify their interest as Purchaser to a Land Contract with Cherokee Park, Inc. as vendor. Both certificates shall be executed by all parties of interest having the legal authority to do so, pursuant to Wis. Stats. 236.21(2)(a). Said parties shall provide documentation of legal signing authority to the notary at the time of execution. The title of each certificate shall be consistent with the ownership interest reported in the most recent title report. The executed original hard stock recordable CSM shall be presented at the time of sign-off.
27. There are mortgages of record for this property. A certificate of consent for all mortgagees shall be included following the Owner's Certificate(s) and executed prior to CSM approval sign-off.
28. An Environmental Site Assessment is being prepared for this property and should be available for review by City staff on February 26, 2018.
29. As of February 1, 2018, the 2017 real estate taxes are not paid for the subject property. Per 236.21(3) Wis. Stats. and Madison General Ordinances 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. Receipts from the City of Madison Treasurer are to be provided before or at the time of sign-off. Payment is made to: City of Madison Treasurer; 210 Martin Luther King, Jr. Blvd.; Madison, WI 53701.
30. As of February 1, 2018, there are no special assessments reported. All known special assessments are due and payable prior to CSM approval sign-off. If special assessments are levied against the property during the review period and prior to CSM approval sign-off, they shall be paid in full pursuant to Madison General Ordinance Section 16.23(5)(g)1.
31. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish an updated title report to Jenny Frese in City's Office of Real Estate Services (jfrese@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 (December 28, 2017) submitted with the CSM application and include all associated documents that have been recorded since the initial title report. A title commitment may be provided, but will be considered only as supplementary information to the title report update. The surveyor shall update the CSM with the most recent information reported in the title update.