



PREPARED FOR THE PLAN COMMISSION

Project Address: Adjacent to 3385 North Star Road, Town of Cottage Grove
Application Type: Certified Survey Maps (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [54400](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Skaar CSM:

Applicant & Property Owner: Larry Skaar; 4374 Secretariat Court; Cottage Grove.

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

Banovetz CSM:

Applicant & Property Owner: Steve Banovetz; 714 Weald Bridge Road; Cottage Grove.

Surveyor: Chris Adams, Williamson Surveying & Associates, LLC; 104A W. Main Street; Waunakee.

Requested Action: Approval of two (2) one-lot Certified Survey Maps (CSM) to create two lots on land located adjacent to 3385 North Star Road, Town of Cottage Grove, in the City of Madison’s Extraterritorial Jurisdiction.

Proposal Summary: The property owners are seeking approval of individual CSMs to complete a sale of land from Mr. Skaar to Mr. Banovetz on February 13, 2018, which split approximately 22.8 acres of land into two parcels. The CSMs will be recorded 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. In particular, the Plan Commission shall determine that the proposed subdivision complies with each of the following criteria for approval in the extraterritorial plat approval jurisdiction:

1. The proposed subdivision or land division shall be compatible with adjacent development patterns and shall maintain the general land development pattern of the area in question. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features.
2. The proposed subdivision or land division and the resulting development shall not demonstrably adversely affect the City’s ability to provide public services, install public improvements or accomplish future annexations. The Plan Commission may consider annexation agreements with the property owner in order to comply with this requirement. The Plan Commission may also consider whether the City and Town(s) have reached an agreement on necessary public improvements and public services facilities required to serve the development.

Review Required By: Plan Commission.

Review Schedule: The State’s subdivision statute, Wis. Stats. Ch. 236, requires that action be taken on a Certified Survey Map within 90 days of submittal unless an extension is agreed to by the subdivider. If no action is taken within 90 days and no extension granted, the CSM is deemed approved. The CSM application was submitted to the City for review on or around January 9, 2019. Therefore, the 90-day review period for this CSM will end circa April 9, 2019.

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the criteria for extraterritorial land division are not met and **place on file without prejudice/reject** the Skaar and Banovetz Certified Survey Maps. An analysis of the land division and consistency with the criteria may be found in later sections of this report.

If the Plan Commission finds that the criteria for approval are met, staff recommends that any approval be 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: Approximately 22.8 acres of land located on the west side of North Star Road, approximately a half-mile north of US Highways 12 and 18; Town of Cottage Grove.

Existing Conditions and Land Use: The subject parcels are undeveloped in RM-16 (Rural Mixed-Use District, 16-acre minimum) per Dane County zoning.

Surrounding Land Uses and Zoning (all in the Town of Cottage Grove and subject to [new] Dane County zoning):

North: Agricultural land, zoned FP-35 (General Farmland Preservation District, 35-acre minimum);

South: Agricultural land and buildings, zoned AT-35 (Agriculture Transition District, 35-acre minimum);

West: Single-family residence along CTH N and agricultural land, zoned AT-35;

East: Agricultural land across North Star Road, zoned FP-35.

Environmental Corridor Status: The subject site is not located in the Central Urban Service Area; there are no mapped environmental corridors affecting the site. There are no "Resource Protection Corridors" mapped by Dane County on the subject parcels.

Public Utilities and Services:

Water: Property is not served by municipal water.

Sewer: Property is not served by public sewer.

Fire protection: Cottage Grove Fire Department.

Emergency medical services: Deer-Grove EMS.

Police services: Dane County Sheriff's Department (SouthEast Precinct).

School District: Stoughton Area School District.

Project Description

The property owners, Mr. Larry Skaar and Mr. Steve Banovetz, are seeking approval of individual Certified Survey Maps to complete a sale of land from Mr. Skaar to Mr. Banovetz, which occurred by deed on February 13, 2018 without prior land division approval. The sale split an approximately 22.8-acre L-shaped parcel of land into two parcels: a 10-acre parcel with 326 feet of frontage along North Star Road purchased by Banovetz, and the remaining 12.8 acres retained by Skaar as an 834-foot wide and 667-foot deep parcel. The Banovetz parcel is Lot

of the CSM prepared by Williamson Surveying; the Skaar parcel is Lot 1 of the CSM prepared by Birrenkott Surveying. Both parcels are undeveloped agricultural land designated as RM-16 (Rural Mixed-Use District) under the newly adopted Dane County Zoning Ordinance; previously, both had recently been rezoned to the former C-2 commercial district by request for business development purposes.

Mr. Skaar is also the owner of four contiguous parcels located north of the subject sites, which are located on the north and west sides of North Star Road, which continues an additional half-mile east and north of the site before ending at Little Door Creek. The City's Subdivision Regulations allow the remaining land to not be shown as part of the CSM because the remnant exceeds 40 acres. A scaled drawing from record information has been provided with the CSM to depict the remnant property as required in lieu of it being part of the land division, which also depicts other Skaar-owned lands near the site.

Analysis

Approval of CSM by the Town of Cottage Grove and Dane County: Section 236.10 (b) of the Wisconsin State Statutes requires that subdivisions in the City's Extraterritorial Plat Approval Jurisdiction receive approval from the town of record and Dane County prior to consideration of the request by the Plan Commission.

Despite the sale by deed occurring without prior approval of a land division by CSM to create the lots, Dane County is allowing the two one-lot Certified Survey Maps to proceed. Dane County granted conditional approval of the Skaar CSM as outlined in a letter from Dan Everson, Land Division Review, Dane County Department of Planning and Development dated December 26, 2018. The Banovetz CSM was conditionally approved by Mr. Everson in a letter dated December 21, 2018. Both approval letters are attached.

The Town of Cottage Grove Board recommended approval of the Skaar CSM at the December 17, 2018 Town Board meeting. The Banovetz CSM was approved at the November 1, 2018 Town Board meeting. Minutes of both meetings are attached.

City of Madison Land Use Plan: The property is located outside of the areas currently covered by an adopted City of Madison neighborhood development plan. The 2018 [Comprehensive Plan](#) identifies lands generally located east of the City's [Yahara Hills Neighborhood Development Plan](#) and south of the Village of Cottage Grove—including the subject site—in Planning Area F (Group 2) on the Peripheral Planning Areas map (page 28).

Per the [Comprehensive Plan](#), Group 2 Peripheral Planning Areas are recommended for continued agricultural and open space uses. Urban development is not anticipated within this Plan's twenty-year planning period. However, if regional growth continues at the currently projected pace, some portions of the Group 2 areas may be suitable for urban development after 2040, and are located where City of Madison services could potentially be extended. Even if urban development eventually reaches these areas, some of the land in Group 2 may be appropriate for consideration as permanent agricultural use areas, in addition to any lands that would be reserved for park and open space uses. Additional neighborhood planning will be required to determine the future uses in Area F, which does not have a defined geography, and it is possible that Area F will ultimately be planned for in multiple sub-area plans defined in future updates to the [Comprehensive Plan](#). Any future planning by the City may also depend on the establishment of an agreement(s) between the City and Town and Village of Cottage Grove.

Land Division Criteria: The centerline of North Star Road is the easternmost edge of the City's extraterritorial plat approval jurisdiction in this area by virtue of the map adopted by resolution in 2002 and reflected in the 2006 and 2018 Comprehensive Plans. In order to approve a subdivision or land division in the City's extraterritorial jurisdiction, the Plan Commission shall find that the request is compatible with adjacent development patterns and shall maintain the general land development pattern of the area in question. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features. The proposed subdivision or land division and the resulting development shall also not demonstrably adversely affect the City's ability to provide public services, install public improvements or accomplish future annexations.

In reviewing the land division represented by the two adjacent one-lot CSMs, staff does not believe that the resulting lots reflect the general land development pattern along North Star Road, which features a number of large parcels located on both sides of North Star north and south of the subject site. Only one other parcel along North Star appears to be similar in character, a two-acre residential parcel located south of the subject lands on the east side of North Star Road and outside of the City's extraterritorial jurisdiction. Staff believes that maintaining "the general land development pattern of the area in question" relies on the pre-existence of lots of a similar character to the ones proposed by the subdivision or land division, rather than the creation of a pattern. In this case, the creation of the ten-acre parcel for Banovetz from the remaining Skaar-owned land appears to create a land development pattern along North Star Road that does not otherwise exist as represented by lot width, depth and area. While other parcels a half-mile to the west along CTH N may be similar in character to the proposed lots along North Star Road, staff feels that the development pattern along North Star should be the more salient consideration due to the distance and differing character of the roadways.

Conclusion

The Planning Division believes that the Plan Commission should not find that the proposed land division meets the criteria for approval. The proposed lots created by the one-lot Certified Survey Maps will create, rather than maintain, the general land development pattern along North Star Road in this portion of the Town of Cottage Grove. While staff is not concerned that the two proposed lots will have a negative impact on the City of Madison's ability to extend services to this area over the next 30 years, we feel that it is important to severely limit the creation of many smaller lots in an area such as this one so far in advance of a plan for how urban growth with full services may occur. As smaller parcels such as the ones proposed are created, the City's options for planned urban growth may become more limited.

However, if the Plan Commission can find that the proposed land division meets the criteria for extraterritorial approval, staff recommends that the proposed lots be formally created by one Certified Survey Map (signed by both owners and their mortgagees), as would have been required prior to the February 2018 sale from Mr. Skaar to Mr. Banovetz.

Recommendation

The Planning Division recommends that the Plan Commission find that the criteria for extraterritorial land division are not met and **place on file without prejudice/reject** the Skaar and Banovetz Certified Survey Maps of land located on the west side of North Star Road in the Town of Cottage Grove.

If the Plan Commission finds that the criteria for approval are met, staff recommends that any approval be subject to input at the public hearing and the following conditions:

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

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

1. The division of the 22.8 acres into the two lots proposed shall be conducted on one Certified Survey Map consistent with Wis. Stats. Chapter 236 and Section 16.23 of Madison General Ordinances.

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

2. A Phase 1 environmental site assessment (Phase 1 ESA), compliant with ASTM E1527-13, is required land dedicated to the public. The applicant shall provide one (1) digital copy to Brynn Bemis (267-1986, bbemis@cityofmadison.com) for review. Staff review of this Phase 1 ESA will determine if a Phase 2 ESA is also required.
3. A navigable stream is located on this parcel. Identify the limits of the stream and centerline of the channel and show on the CSM. This shall be done in conjunction with the WDNR. Applicant shall provide an easement a minimum of 50 feet from each side of the channels of the ordinary high water marks as determined by the WDNR. The easement shall be dedicated to the public for stormwater purposes.
4. A wetland delineation will be required. Show wetlands and all required setbacks on the CSM. Provide a copy of the wetland delineation.

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

5. Both CSMs are showing a North Star Road right of way that deviates from the County Highway Road Book for Cottage Grove, where a three-rod road was laid out centered on the Section Line. Also, the easterly right of way as shown on each survey do not match. Both surveys shall provide the required labeled overall widths of the right of ways and widths to the exterior boundary line and centerline (add to the map), including widths at any bend points. Also, provide necessary notation on how the right of ways were determined.
6. The Banovetz CSM shall show all record boundary data as required by statute.
7. The Banovetz CSM shall show the East Quarter Corner of Section 28 and an overall quarter line bearing and distance as required by statute.
8. The Banovetz CSM shall remove note 1. A title report has been provided as part of this review.
9. The Skaar CSM shall add a City of Madison Plan Commission approval certificate.
10. Both CSMs bearing systems are on the Dane County Coordinate System. Provide measured coordinate values on the Section Corners.

11. Prior to City Engineering final sign-off by main office for Certified Survey Maps (CSM), the final CSM must be submitted to Engineering Division Surveyor/ Land Records Coordinator for final technical review and approval. This submittal must occur a minimum of two working days prior to final Engineering Division sign-off. Electronic mail submittal of the **final** CSM in PDF form is preferred. Transmit to jrquamme@cityofmadison.com

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. 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 submitted a response with no comments or conditions for this request.

Zoning Administrator (Contact Pat Anderson, 266-5978)

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

Fire Department (Contact Bill Sullivan, 261-9658)

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

Water Utility (Contact Adam Wiederhoeft, 266-9121)

This property is outside the Madison Water Utility service area.

Office of Real Estate Services (Lance Vest, 245-5794)

13. Update the Owners Certificate notary block to 2019 (018-0711-284-9940-0). Signature block certifications 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.

14. 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. Include Mortgagee Certificates for Landmark Services Cooperative and Verity Business Solutions, LLC per Document Nos. 5393459 and 5393460 (018-0711-284-9940-0).
15. City of Madison Plan Commission Certificate: Change "Planning" to "Plan" (018-0711-284-9720-2). Pursuant to MGO Section 16.23(7)(d)3 and Wis. Stats. 236.21(2) (a), all CSMs that are subject to the review and approval of the City of Madison shall contain the following certificate of approval:

"Approved for recording per the Secretary of the City of Madison Plan Commission.

By: _____ Date: _____
Natalie Erdman, Secretary of the Plan Commission"

16. Register of Deeds Certificate: Update the certificate to 2019 (018-0711-284-9940-0). Please include a space for the Register to hand write the recording info on the date of recording, to appear similar to the following:

Office of the Register of Deeds
Dane County, Wisconsin
Received for recording on _____, 20__ at ___ o'clock __ M, and
recorded in Vol. ___ of CSMs on page(s) _____, Document No. _____.

Kristi Chlebowski, Register of Deeds

17. As of February 14, 2019, the 2018 real estate taxes are paid for the subject property and there are no special assessments. Per 236.21(3) Wis. Stats. and MGO Section 16.23(5)(g)(1), the property owner shall pay all real estate taxes and 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.
18. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish updated title reports to Lance Vest in City's Office of Real Estate Services (lvest@cityofmadison.com), as well as the survey firms preparing the proposed CSMs. The report shall search the period subsequent to the date of the initial title report (November 27 and December 21, 2018) 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.
19. The owner shall email the document number of the recorded CSM to Lance Vest in the City's Office of Real Estate Services as soon as the recording information is available.
20. The following revisions shall be made to the CSM prior to final approval and recording: Depict and dimension all existing improvements including, but not limited to: buildings, drives, parking lots, encroachments, wells, septic systems, etc. located within the CSM boundary.