



PREPARED FOR THE PLAN COMMISSION

Project Address: Adjacent to 3101 US Highways 12 and 18, Town of Cottage Grove
Application Type: Certified Survey Map (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [60169](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Larry Skaar; 4373 Secretariat Court; Cottage Grove.

Surveyor: Bryan Stueck, Birrenkott Surveying, Inc.; 1677 N Bristol Street; Sun Prairie.

Requested Action: Approval of a Certified Survey Map (CSM) to create one lot from land located adjacent to 3101 US Highways 12 and 18 in the Town of Cottage Grove, in the City of Madison’s Extraterritorial Jurisdiction.

Proposal Summary: The applicant is the owner of approximately 94 acres of contiguous unplatted land generally located east of CTH AB and south of US Highways 12 and 18 in the Town of Cottage Grove. The proposed CSM calls for 12.43 acres of the applicant’s contiguous land to be created as a lot for the purposes of conveying that land to the owner of two contiguous parcels containing approximately 41 acres, thereby effecting a lot line adjustment and creating contiguous ownership parcels of approximately 81.5 acres and 53.5 acres, more or less, between the two owners. The CSM 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 application was submitted to the City of Madison circa April 1, 2020. Therefore, the 90-day review period for this CSM will end circa July 1, 2020.

Summary Recommendation: The Planning Division recommends that the Plan Commission **approve** this Certified Survey Map 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: The lands involved in the proposed land division and lot line adjustment comprise approximately 135 acres of land generally located on the east side of CTH AB and south side of US Highways 12 and 18 in the Town of Cottage Grove.

Existing Conditions and Land Use: Most of the land involved in the land division and lot line adjustment is undeveloped agricultural land. The applicant's land is zoned AT-35 (Agriculture Transition District—35 acre or larger). The proposed purchaser of the lot to be created by the CSM, C & L Investment Partnership, owns a single-family residence addressed as 3101 US Highways 12 and 18, which is zoned RR-8 (Rural Residential District—8-16 acres). Further west, adjacent to the CTH AB-US Highways 12-18 intersection, C & L owns an undeveloped parcel zoned HC (Heavy Commercial District).

Surrounding Land Use and Zoning: CTH AB is the boundary between the City of Madison and the Town of Cottage Grove, with the City's Yahara Hills Golf Course located just to the west of the subject land on the west side of CTH AB. US Highways 12 and 18 form the northern boundary of the subject request. A branch of Door Creek forms the easterly edge of the applicant's lands. Most of the surrounding properties to the east and south are agricultural in nature or otherwise undeveloped. A small grouping of single-family residences on lots of varying size are located near the center of the roughly 135-acre subject area on the northerly side of Hope Hollow Trail, which are zoned SFR-08 (Single-Family Residential—Small Lot District) and RR-2 (Rural Residential District – 2-4 acres).

Environmental Corridor Status: The subject site is not located in the Central Urban Service Area, so there are no mapped environmental corridors affecting the site. Dane County identifies Door Creek and its adjacent wetlands and floodplain in a resource protection corridor

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 Emergency Medical Services

Police services: Dane County Sheriff's Department

School District: Monona Grove School District

Project Description

The applicant, Larry Skaar, is the owner of approximately 94 acres of contiguous unplatted land generally located east of CTH AB and south of US Highways 12 and 18 in the Town of Cottage Grove. The proposed CSM calls for 12.43 acres of the applicant's contiguous land to be created as a lot for the purposes of conveying that land to the owner of two contiguous parcels containing approximately 41 acres, C & L Investment Partnership. C & L is the owner of parcels addressed as 3486 CTH AB and 3101 US Highways 12 and 18.

The lands involved in the proposed land division and lot line adjustment comprise approximately 135 acres of land generally located on the east side of CTH AB and south side of US Highways 12 and 18 in the Town of Cottage Grove. Most of the land involved in the land division and lot line adjustment is undeveloped agricultural land with the exception of a single-family residence addressed as 3101 US Highways 12 and 18. A branch of Door Creek

forms the easterly edge of the applicant's lands. Most of the surrounding properties to the east and south are agricultural in nature or otherwise undeveloped.

Proposed Lot 1 will be a landlocked 12.43-acre parcel located northeast of a series of single-family residential lots located on the north side of Hope Hollow Trail, a short cul-de-sac road that extends approximately 800 feet from CTH AB. The uniquely shaped lot will extend approximately 1,500 feet north-south and vary in width from east to west from roughly 350 feet along the southerly line adjacent to the rear of the single-family lots fronting Hope Hollow Trail, to approximately 185 feet along the northerly line adjacent to the US Highways 12 and 18 right of way. Following creation of Lot 1 and the planned transfer of it from Mr. Skaar to C & L Investment Partnership, the contiguous ownership parcels will be approximately 81.5 acres and 53.5 acres, more or less, respectively, between the two owners.

C & L Investment Partnership has indicated to City and Dane County staff that the intent of the acquisition of 12.43 acres from Mr. Skaar is intended to maintain enough land for future development. The Wisconsin Department of Transportation released preliminary plans earlier this year to construct a grade-separated interchange at US Highways 12 and 18 and CTH AB, which if constructed, calls for the alignment of CTH AB to shift considerably to the east away from its current historic alignment, which follows the Blooming Grove-Cottage Grove town line and crosses 12 and 18 at an at-grade, two-way stop-controlled intersection. The preliminary plans call for CTH AB to cross over 12 and 18, and for a full diamond interchange to be constructed, which may include roundabouts where the pairs of ramps intersect CTH AB, with a third roundabout proposed where a new southern frontage road would be built west of CTH AB in the City to provide access to Yahara Hills Golf Course, HoChunk Gaming Madison, and other business located south of US Highways 12 and 18 closer to Interstate 39 and 90. The preliminary plan, which could begin construction as early as 2022, is attached for reference. If implemented, all of C & L's 3486 CTH AB parcel would be acquired for right of way, while some of the 3101 US Highways 12 and 18 parcel would also be acquired. C & L Investment Partnership has indicated that it intends to combine the 12.43-acre proposed lot with approximately 11.5 acres of 3101 to create a roughly 24-acre lot for future development.

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.

Dane County granted conditional approval of the Certified Survey Map as outlined in a letter from Dan Everson, Land Division Review, Dane County Department of Planning and Development dated March 6, 2020. Dane County previously approved a rezoning of proposed Lot 1 from AT-35 (Agriculture Transition District) to UTR (Utility-Transportation-Right of Way District) on February 20, 2020. UTR is intended in Dane County zoning to serve as a limited-use temporary zoning district for parcels pending the submittal of more detailed development plans, at which time the UTR zoning would be changed to another district to serve the planned development or use.

C & L Investment Partnership had originally hoped to expand the existing HC (Heavy Commercial District) zoning of their 3486 CTH AB parcel onto the additional land, but opted to request RM-16 (Rural Mixed-Use District) for proposed Lot 1 and their existing residential parcel at 3101 US Highways 12 and 18. However, Dane County indicated that it would not approve the HC zoning expansion without a development plan warranting the higher-intensity district, and further encouraged the more restrictive UTR district to facilitate the proposed land division, with the potential for a subsequent rezoning to a more intensive district once detailed plans for the site could be presented.

The Town of Cottage Grove approved the proposed land division and related rezoning to UTR at its February 3, 2020 meeting.

Analysis and Conclusion

City of Madison Land Use Plans: The subject site and surrounding properties in the City of Madison, Town of Cottage Grove, and Town of Blooming Grove are located within the boundaries of the Yahara Hills Neighborhood Development Plan. The City of Madison adopted the Yahara Hills Neighborhood Development Plan in 2017 to provide land use, utility, and transportation-related recommendations for the southern portion of Peripheral Planning Area D of the 2006 Comprehensive Plan.

The Yahara Hills Neighborhood Development Plan shows the future grade-separated interchange for CTH AB and US Highways 12 and 18, including the realignment of CTH AB east of its historic alignment onto the C & L Investment Partnership property closest to CTH AB. East of the realigned road, the neighborhood development plan recommends employment uses, with the remainder of the 135 subject acres proposed for “other open space and stormwater management” or located in the “agriculture/rural” zone. Urban services are not generally available to agriculture/rural zones and are not expected to be for the foreseeable future. Additional non-farm land divisions and non-farm commercial and industrial development are generally not recommended in the agriculture/rural district. The recommended net density for new development in this zone is one dwelling unit per 35 acres. Staff anticipates that the land recommended for employment can be served by urban services, with that land shown in Phase B on the Utilities and Development Phasing Plan and potentially served by a sanitary sewer force main located in the US Highways 12 and 18 right of way. The remaining subject lands, and lands to the east and south closer to and across the nearby branch of Door Creek, cannot be served by urban services during the duration of the plan, with those properties included in Phase D, the last phase of implementation in the neighborhood development plan.

In general, the Planning Division believes that the proposed land division to effect the lot line adjustment between Mr. Skaar and the C & L Investment Partnership property will not adversely impact implementation of the recommendations for the subject parcels included in the Yahara Hills Neighborhood Development Plan. While not directly a part of the proposed land division, the preliminary plan by the Wisconsin Department of Transportation to implement a grade-separated interchange for CTH AB and US Highways 12 and 18 and the likely land acquisition required to construct that improvement play a significant role in the proposed lot line adjustment. The creation of a parcel east of that future right of way for development consistent with the neighborhood development plan is generally acceptable to staff, although staff would strongly encourage that the future development occur in the City of Madison following annexation from the Town of Cottage Grove.

Land Division Criteria: Any subdivision or land division in the extraterritorial jurisdiction 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. Also, 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 Planning Division believes that the extraterritorial criteria can generally be met to create the proposed 12.43-acre lot for the purposes of effecting the proposed transfer between Mr. Skaar and the C & L Investment Partnership. The creation of a landlocked parcel such as proposed Lot 1 in isolation would likely not be approved.

However, the creation of the lot for the purposes of adding it to an existing adjacent large ownership parcel is generally acceptable from staff's perspective.

Recommendation

The Planning Division believes that the Plan Commission can find the approval criteria met with the proposed land division and recommends that the Plan Commission **approve** the Certified Survey Map of property located adjacent to 3101 US Highways 12 and 18, Town of Cottage Grove, in the City's extraterritorial plat approval jurisdiction 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 approval of proposed Lot 1 on this Certified Survey Map (CSM) is premised on the transfer of the lot to the adjacent parcel located at 3101 US Highways 12 and 18 (Lot 2 of CSM 8289) for the purpose of developing the two parcels jointly. The applicant shall execute a restrictive covenant on Lot 1 of the proposed CSM in a form approved by the Planning Division prior to final City approval of the CSM and recording. Said covenant shall require that Lot 1 be developed jointly with Lot 2 of CSM 8289. In the alternative, the construction of any principal or accessory buildings on Lot 1 if developed independently shall require written approval by the City of Madison Planning Division to ensure that the building(s) have adequate access and would not negatively impact the City's ability to accomplish future annexations or utility extensions consistent with the land division criteria in MGO Section 16.23. This restriction shall run with Lot 1 so long as the lot is subject to Dane County zoning, and shall not be modified or released without the written approval of the Planning Division.
2. A scaled map based on recorded information shall be included with the final CSM that includes the approximate area of the applicant's contiguous ownership parcel(s), with perimeter dimensions of the excluded lands in excess of 40 acres from which Lot 1 is being split.
3. Note: The Planning Division encourages the future development of the lands adjacent to CTH AB, including proposed Lot 1 of this CSM, occur in the City of Madison on City water and sanitary sewer service once available to the site.
4. Note: A subsequent CSM to combine proposed Lot 1 and Lot 2 of CSM 8289 (3101 US Highways 12 and 18) may be required prior to future development.

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

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

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

5. This lot does not front any accessible public right of way. Provide an easement/agreement providing an access to a legally accessible public road serving lands within this Certified Survey Map. The document(s) shall be executed and recorded at the Dane County Register of Deeds.

6. Designate and note along the right of way for US Highways 12 and 18 that "No Access" is permitted to US Highways 12 and 18 per Document No. 1024462 and State Highway Project No F 04-2(31).
7. Add a note that this CSM is subject to Deed Restriction per Document No. 4692265 and Declaration of Restrictive Covenant per Document No. 4791242.
8. Correct the spelling of Southeast in the second line of the header on sheet 1.
9. Add recorded as bearing from Document No. 2783173 to the right of way of US Highways 12 and 18.
10. 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. E-mail submittal of the **final** CSM in PDF form is preferred. Transmit to jrquamme@cityofmadison.com
11. The applicant shall submit to Jeff Quamme, prior to final Engineering sign-off of the subject CSM, one (1) digital CADD drawing in a format compatible with AutoCAD. The digital CADD file(s) shall be referenced to the Dane County Coordinate System and shall contain, at minimum, the list of items stated below, each on a separate layer/level name. The line work shall be void of gaps and overlaps and match the final recorded CSM: right of way lines (public and private); lot lines; lot numbers; lot/plat dimensions; street names, and; easement lines (including wetland and floodplain boundaries).

*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 submittal.

Traffic Engineering Division (Contact Sean Malloy (266-5987))

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

Zoning Administrator (Contact Jenny Kirchgatter, 266-4429)

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 currently outside the Madison Water Utility service area.

Office of Real Estate Services (Andy Miller, 261-9983)

12. 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). 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. All ownership consents and certifications for the subject lands shall conform to Wis.

Stats. 236.21(2) and 236.29 by including the language ...surveyed, divided, mapped and dedicated... Add an "I" to the Owner's Certificate so that it starts, "As owner, I, Larry G. Skaar, hereby certify..."

13. A certificate of consent for all mortgagees shall be included following the Owner's Certificate and executed prior to CSM approval sign-off.
14. If a mortgage or other financial instrument is reported in record title, but has been satisfied or no longer encumbers the lands or ownership within the CSM boundary, a copy of a recorded satisfaction or release document for said instrument shall be provided prior to final sign-off.
15. If any portion of the lands within the CSM boundary are subject to an Option to Purchase or other Option interest please include a Certificate of Consent for the option holder.
16. A Consent of Lessee certificate shall be included on the CSM for all tenant interests in excess of one year, recorded or unrecorded, and executed prior to CSM sign-off.
17. As of May 8, 2020, the 2019 real estate taxes are not paid for the subject property. Per 236.21(3) Wis. Stats., the property owner shall pay all real estate taxes that are accrued or delinquent for the subject property prior to CSM recording.
18. As of May 8, 2020, there are no special assessments reported. All known special assessments are due and payable prior to final CSM sign-off.
19. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish an updated title report to Andy Miller in City's Office of Real Estate Services (acmilller@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 (March 17, 2020) 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.
20. The owner shall email the document number of the recorded CSM to Andy Miller at the City's Office of Real Estate Services at acmilller@cityofmadison.com as soon as the recording information is available.
21. For properties not connected to municipal utility services, consider whether or not well abandonment ref. NR-141 needs to be addressed.