



Report to the Plan Commission

March 4, 2009

Legistar I.D. #13433 & 13840

9305-9437 Elderberry Road

Rezoning, Demolition Permit, Prelim. & Final Plats

Report Prepared By:
Timothy M. Parks, Planner
Planning Division

Requested Action: Approval of a request to rezone approximately 38.8 acres located at 9305-9347 Elderberry Road from R2T (Single-Family Residence District) and Planned Unit Development, General Development Plan (PUD-GDP) to R2T and PUD-GDP; approval of a demolition permit to allow three single-family residences to be razed, and; approval of a preliminary and final plat creating 104 residential lots and 2 outlots for stormwater management.

Applicable Regulations & Standards: Section 28.12 (9) provides the process for zoning map amendments; Section 28.07 (6) of the Zoning Ordinance provides the requirements and framework for Planned Unit Developments. Section 28.04 (22) provides the guidelines and regulations for the approval of demolition permits. The subdivision process is outlined in Section 16.23 (5)(b) of the Subdivision Regulations.

Summary Recommendation: The Planning Division recommends that the Plan Commission forward Zoning Map Amendments 3417-3418 and the preliminary and final plats of Woodstone 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

Applicant & Property Owner: Dan Heffron, Pheasant Ridge, LLC; 2000 Prairie Street; Prairie du Sac.

Agent: Jason Valerius, MSA Professional Services; 2901 International Lane; Madison.

Surveyor: James R. Grothman; 625 E. Slifer Street; Portage

Proposal: The applicant proposes to subdivide the property into 88 single-family lots, zoned R2T (Single-Family Residence District), 13 lots for two-family residential development and 3 lots for multi-family development, zoned PUD-GDP and 2 outlots for stormwater management. The applicant wishes to begin construction of the first phase in Spring 2009, with completion of the overall development in Fall 2013.

Parcel Location: Approximately 38.8 acres of land located a half-mile west of Pleasant View Road on the south side of Elderberry Road, Aldermanic District 9; Middleton-Cross Plains School District.

Existing Conditions: The subject site is largely undeveloped with the exception of three single-family residences, a shed and a barn located on the northern third of the overall property.

Surrounding Land Use and Zoning:

North: Sauk Heights Subdivision, zoned R2 (Single-Family Residence District) and undeveloped lands, zoned Temp. A (Agriculture District);

South: Undeveloped lands in the Town of Middleton; Blackhawk Church Town Center, zoned PUD-GDP to the southwest of the site in the City of Madison;

East: Undeveloped lands in the City of Madison, zoned Temp. A, and in the Town of Middleton;

West: Single-family residence on a large lot and undeveloped lands, zoned Temp. A.

Adopted Land Use Plan: The Elderberry Neighborhood Development Plan identifies the subject site for low-density residential uses. The neighborhood plan originally showed low to medium-density residential uses along the north side of a planned east-west collector street to be located on the adjacent property south of the site. However, the platting of the Blackhawk Church Town Center development southwest of the subject site pulled the east-west collector further north than planned, thereby conceivably placing the low to medium-density residential lands on the subject site, which now abuts the future collector.

Environmental Corridor Status: The majority of the subject site is not located within a mapped environmental corridor with the exception of a small area located midway along the eastern property line, where an "isolated resource feature" is shown. Though the corridor map does not include the reason for identifying this feature, staff believes it relates to a low-lying area on the adjacent University of Wisconsin agricultural research property, which is not detailed on corridor maps at this time, as they are not currently in the Central Urban Service Area.

Public Utilities and Services: The subject property is located within the Central Urban Service Area. The proposed development will eventually be served by a full range of urban services pending the extension of sanitary sewer to the site across the undeveloped lands to the east of the site.

Zoning Summary: See the 'Project Review' section below.

Previous Approvals

The subject site was attached to the City from the Town of Middleton on September 18, 2007. On May 20, 2008 meeting, the Common Council approved a request to rezone approximately 38.8 acres located at 9305-9347 Elderberry Road from Temp. A (Agriculture District) to R2T (Single-Family Residence District) and Planned Unit Development, General Development Plan (PUD-GDP); approval of a demolition permit to allow three single-family residences to be razed, and; approval of a preliminary and final plat creating 104 residential lots and 2 outlots for stormwater management.

The 2008 approval included 47 conditions to be satisfied prior to the recording of the final plat and general development plan, including a requirement that the Plan Commission approve a final inclusionary dwelling unit plan, gap analysis, and waiver upon recommendation from the Community Development Block Grant Office.

Project Review

The applicant is requesting approval of essentially the same zoning map amendment and subdivision applications as were approved for the subject site on May 20, 2008, including the approval to demolish

three single-family residences located on the northern third of the property, which is located along the south side of Elderberry Road approximately a half-mile west of Pleasant View Road. The primary purpose of the current applications is to have the Woodstone subdivision approved without the requirements of the inclusionary zoning ordinance, which applied to the 2008 approval but would not apply to this approval as a result of the sunseting of that ordinance on January 2, 2009.

Access to the Woodstone subdivision will be provided by the southerly extension of Little Bear Drive and Fargo Trail across Elderberry Road from the Sauk Heights residential development to the north. Fargo Trail will extend south through the entire development to connect to a future easterly extension of Wilrich Road, which was platted in the Blackhawk Church Town Center development to the southwest, but has not yet been constructed. The plat also proposes to dedicate a small portion of Bear Claw Way in the southwestern quadrant of the site to correspond to the platting of that road north from Mineral Point Road with the Blackhawk project. Bear Claw Way, which will feature a roundabout at the intersection of Wilrich Road, is shown in the Elderberry Neighborhood Development Plan as a north-south collector road, which winds southwesterly from Old Sauk Road through the Sauk Heights development before turning more southerly across two large land holdings generally located north and west of the subject site.

The 88 R2T single-family lots proposed will occupy most of the northern three-quarters of the subdivision north of proposed Cobalt Street, where a total of 99 residential lots are proposed. The other 11 lots proposed north of Cobalt Street will be zoned PUD-GDP, and will each be developed with two-family residences following approval of a specific implementation plan for those lots prior to construction. The layout for the single- and two-family sections of the subdivision call for lots to primarily front onto two other east-west streets in addition to Cobalt Street, including a median-divided boulevard proposed through a portion of the center of the development, which is shown as Stoneywood Boulevard. Sixteen lots will also front onto the south side of Elderberry Road similar to eight lots fronting Elderberry in the adjacent Sauk Heights development. Lots in the R2T area will continue to meet the 5,000 square-foot minimum lot area required in the R2T zoning district. In general, the largest R2T lots will occupy the two blocks abutting Elderberry Road and a proposed outlot for public stormwater detention located along the eastern property line. The R2T lots proposed in the area bounded by extended Fargo Trail and Little Bear Drive, Cobalt Street and Spirit Street are proposed as alley-loaded lots fronting onto the east-west streets. The two alleys proposed to serve these lots will be dedicated to the City but may include privately maintained streetlights as noted on the final plat.

The 11 PUD-GDP twin-home lots proposed north of Cobalt Street will be located on corner lots and will range in area from 10,301 square feet to 18,839 square feet. The general development plan generally calls for one unit in each building to face each of the intersecting streets forming the lot, with side- or rear-loaded garages. Between Cobalt Street and extended Wilrich Road, the developer is proposing construction of an additional 80 units in PUD-GDP zoning. The general development plan calls for two lots, Lots 12 and 103, to be developed with 9 two-family condominium buildings facing the south side of Cobalt Street with setbacks similar to the twin-homes lots located to the north in the subdivision. South of these two-family homes, a total of 32 townhouse condominium units will be constructed on Lots 11 and 104 in 4 five-unit buildings fronting Wilrich Road and 2 six-unit buildings fronting onto Fargo Trail. The remaining 30 units will be located in an apartment building that will be located on Lot 10, a 1.5-acre parcel located at the corner of Wilrich Road and future extended Bear Claw Way. Final details of each of the residential components in the PUD, including specific site plans, floorplans and building elevations, will be provided on subsequent applications for specific implementation plan approval prior to the issuance of building permits.

Finally, the applicant continues to propose secondary dwelling units on 8 of the single-family lots within the subdivision. The 8 lots identified include the corner, alley-loaded lots in the center of the subdivision bounded by Spirit Street, Fargo Trail, Cobalt Street and Little Bear Drive. The R2T zoning district was amended in 2005 to allow secondary dwelling units with a maximum size of 640 square feet on the same lot as a single-family dwelling identified on a subdivision plat approved after August 1, 2004. The Planning Division believes that the 8 lots proposed for secondary dwelling units meet the minimum design standards regarding lot width, area and corner placement. The final plat will need to be revised to identify these lots as required by Section 28.03 of the Zoning Ordinance.

Other than the applicant's request to eliminate the Inclusionary Zoning requirements from his project, the only other changes to the zoning and subdivision materials proposed with the current applications are the widening of the two east-west public alleys and a public utility easement. The applicant has also modified some of the application materials to address conditions of approval outlined in the May 2008 approval letter.

Analysis

The request before the Plan Commission and Common Council is fundamentally the same project that was approved in May 2008 with the exception of the significant request to eliminate the requirement to provide inclusionary dwelling units in the subdivision. As noted before, the Inclusionary Zoning ordinance sunset on January 2, 2009. The City Attorney's Office issued a memo following the ordinance sunset that indicated any project approved after the sunset date is not subject to Inclusionary Zoning. It was further determined that any applicant with an approval granted subject to Inclusionary Zoning could submit a new zoning map amendment and/or subdivision request for their project following the sunset, with the proviso that the new application(s) would be required to follow the process for new applications. The new applications also could be subject to new or different conditions than the ones they were previously subject to based on ordinances in place at the time of the new approval.

The developer proposes a total of 160 owner-occupied dwelling units in the Woodstone project, consisting of 88 single-family units, 40 two-family units and 32 townhouse units. The applicant submitted an Inclusionary Dwelling Unit Plan (IDUP) with his 2008 application indicating his intent to comply with the inclusionary zoning provisions of the Zoning Ordinance, with 13 of the 88 single-family lots, 6 of the two-family units and 5 of the townhouse units to meet the affordability criteria. The 24 affordable units proposed satisfied the requirement that at least 15 percent of the dwelling units in the development are affordable under the Zoning Ordinance provisions. Staff determined the density of the single- and two-family component of the project located along and north of Cobalt Street to be approximately 6 units per acre based on 128 total units occupying 21.17 net acres of land. For the 32 owner-occupied units located along Wilrich Road, a density of 7.76 units an acre is proposed, based on 32 units occupying two lots containing 4.12 acres total. A condition was placed on the 2008 approval that the Plan Commission approve a final inclusionary dwelling unit plan, gap analysis, and waiver upon recommendation from the Community Development Block Grant Office prior to the recording of the final plat.

The Elderberry Neighborhood Development Plan identifies the subject site for low-density residential uses up to 8 units an acre. The neighborhood plan originally showed low- to medium-density residential uses along the north side of a planned east-west collector street to be located on the adjacent Garfoot property south of the site. The Elderberry plan proposed the low- to medium-density uses along the north side of this east-west collector street to serve as a transition between more intensive medium-density and neighborhood commercial uses closer to Mineral Point Road and the lower-density uses

further north. However, the platting of the Blackhawk Church Town Center development southwest of the subject site shifted the alignment of this east-west collector, Wilrich Road, further north than planned, thereby placing the low to medium-density residential lands on the subject site. Low- to medium-density areas in the neighborhood plan are recommended for 8-11 units an acre.

The Planning Division noted in its 2008 report that the Woodstone development was being permitted to develop at densities not otherwise recommended in the adopted Elderberry Neighborhood Development Plan by virtue of the low- to medium-density residential uses recommended along the Wilrich Road east-west collector street being shifted to the north onto the applicant's property. Despite the modified street alignment and resulting density reallocation in the Woodstone development, staff believed then and believes now that the goals and objectives of the Elderberry Neighborhood Development Plan can be achieved with the applicant's project. Staff also notes that it is not uncommon for the exact street alignments and related land use patterns recommended in a neighborhood development plan to be adjusted slightly during the course of plan implementation.

The Urban Design Commission reviewed the original general development plan on April 23, 2008 and recommended final approval. Staff reviewed the proposed general development plan and determined that nothing of consequence is changing with the current proposal that would warrant additional review by the Urban Design Commission prior the current applications proceeding. The 2008 UDC comments on the PUD will be carried forward with the current zoning map amendment application.

Conclusion

The Planning Division feels that the proposed Woodstone subdivision will continue to satisfy the lot design standards in the Zoning Ordinance and Subdivision Regulations and that it is consistent with the adopted Elderberry Neighborhood Development Plan. Staff believes that the current applications merit approval for the same reasons that the project was previously approved in 2008. This includes the inclusion of a diversity of housing types throughout the development and the proposed use of more flexible planned unit development zoning to allow the non single-family elements of the project to better blend with the R2T single-family units to create a more cohesive development.

Recommendations and Proposed Conditions of Approval

Major/Non-Standard Conditions are shaded

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

The Planning Division recommends that the Plan Commission forward Zoning Map Amendments ID 3417-3418, rezoning 9305-9437 Elderberry Road from R2T (Single-Family Residence District) and PUD-GDP to R2T and PUD-GDP, and the preliminary and final plats of Woodstone to the Common Council with recommendations of **approval**, subject to input at the public hearing and the following conditions:

1. That the final plat be revised per Planning Division approval prior to final approval for recording as follows:
 - 1a.) identify the lots proposed for secondary dwelling units on the face of the final plat and include the following note: "All secondary dwelling units shall be subject to the requirements contained in Section 28 of the Madison General Ordinances."

- 1b.) show a 30-foot building setback line for all lots abutting Elderberry Road.
2. That the general development plan be revised per Planning Division approval as follows:
 - 2a.) provide a dimensioned building envelope for each two-family site located north of Cobalt Street that depicts the yards proposed with the zoning text;
 - 2b.) provide for the unified use and programming of the open space shown on Lots 10-12 and 103-104 as part of the specific implementation plan(s) for those projects.

The following conditions have been submitted by reviewing agencies:

City Engineering Division (Contact Janet Dailey, 261-9688)

3. This development will require offsite sanitary sewer through the University of Wisconsin owned farmland for which Impact Fees will be due (Elderberry Neighborhood Sewer Improvement Impact Fee).
4. The developer shall provide evidence that they have met with or otherwise advised the downstream landowner of the proposed storm water management plan and its discharge onto said owner's land. If a meeting is established, City Engineering requests participation.
5. The temporary easement locations and respective geometry proposed at the public street ends along the east side of the plat shall be approved by the City Engineer and Traffic Engineer. Include approved termination language in the plat notes to prevent the need to release these easement encumbrances in the future.
6. Any additional public easements, within or adjacent to this proposed plat, necessary to develop the public infrastructure for the same, shall be created by the plat or by separate conveyance for lands outside the plat. The owner/developer is required to negotiate necessary off-plat public land interests. If negotiations are not successful, the City of Madison can assist with condemnation of these necessary rights at the sole cost to the owner/developer with an expected 6-8 month condemnation time schedule.
7. Lots 11, 12 and 104 may not be developable until adjacent lands are platted. The City of Madison typically requires all frontages of lots to be improved prior to sale. Because only one half the street is dedicated adjacent to these lots, fully improving the street is impossible. If the lots are allowed to be developed and sold, special deed restrictions may be required in order to protect the new owner.
8. Stoneywood Boulevard is a short local street and is proposed to be 92 feet wide. The developer is proposing to construct a grass median. The developer shall be required to secure the private maintenance of this section of grass median or shall revise the street width to the standard width of 60 feet.
9. The developer shall enter into a City/Developer agreement for the installation of public improvements required to serve this plat. The developer shall be required to provide deposits to cover City labor and materials and surety to cover the cost of construction. The developer shall meet with the City Engineer to schedule preparation of the plans and the agreement. The City Engineer will not sign off on this plat without the agreement executed by the developer.
10. Two weeks prior to recording the final plat, a soil boring report prepared by a Professional Engineer, shall be submitted to the City Engineering Division indicating a ground water table and rock

conditions in the area. If the report indicates a ground water table or rock condition less than 9' below proposed street grades, a restriction shall be added to the final plat, as determined necessary by the City Engineer.

11. The developer shall construct Madison standard street improvements for all streets within the plat.
12. The developer shall make improvements to Elderberry Road, including curb, gutter, sidewalk, pavement and storm sewers.
13. The developer shall construct sidewalk to a plan approved by the City Engineer and complete ditching as required by the City Engineer along Wilrich Road.
14. The developer shall make improvements to Wilrich Road and Elderberry Road to facilitate ingress and egress to the plat.
15. An erosion control plan and land disturbing activity permit shall be submitted to the City Engineering Division for review and approval prior to grading or any other construction activities. The Pre-construction Meeting for Public Improvements shall not be scheduled prior to issuance of this permit. The applicant shall demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. The erosion control plan shall include Universal Soil Loss Equation (USLE) computations for the construction period. Measures shall be implemented in order to maintain a soil loss rate below 7.5-tons per acre per year.
16. The following notes shall be included on the final plat:
 - 16a.) All lots within this plat 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 plat. 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 plat. 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.
 - 16b.) The intra-block drainage easements shall be graded with the construction of each principle structure in accordance with the approved storm water drainage plan on file with the City Engineer and the Zoning Administrator, as amended in accordance with the Madison General Ordinances.
17. Prior to the issuance of building permits, the developer shall submit a master stormwater drainage plan to the City Engineering Division for review and approval which shows lot corner elevations to the nearest 0.25-foot. For purposes of the plan, it shall be assumed that grading shall be done on a straight line grade between points unless other information is provided. The proposed slope between points shall always be greater than or equal to .0075 ft/ft. If a break in grade is required between lot corners a shot shall be taken at that break in grade to provide the Engineer with enough information to interpret the plan. The Developer shall also show proposed drainage arrows on the plan to indicate the proposed direction of drainage. The master storm water drainage plan shall be submitted to City Engineering in digital format with elevations/grades/contours shown on the

recorded plat map of the development. The digital record shall be provided using the state plane coordinate system – NAD 27. No building permits shall be issued prior to City Engineering's approval of this plan.

The following note shall accompany the master storm water drainage plan:

"For purposes of this plan, it is assumed that grading shall be a straight line grade between points unless otherwise indicated. All slopes shall be 0.75% or steeper. Grade breaks between lot corners are shown by elevation or through the use of drainage arrows."

18. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to detain the 2, 10 & 100-year storm events; control 80% TSS (5 micron particle), and; provide infiltration in accordance with NR-151.
19. This site is greater than one acre and the applicant is required by State Statute to obtain a Notice of Intent Permit (NOI) from the Wisconsin Department of Natural Resources.
20. A minimum of two working days prior to requesting City Engineering signoff on the plat, the applicant shall contact Janet Dailey 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).
21. All outstanding Madison Metropolitan Sewerage District (MMSD) and City of Madison sanitary sewer connection charges are due and payable prior to Engineering sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Janet Dailey (261-9688) to obtain the final MMSD billing a minimum of two working days prior to requesting City Engineering signoff.

Traffic Engineering Division (Contact John Leach, 267-8755)

22. The developer shall put the following note on the face of the plat: "All the lots within this subdivision are subject to impact fees that are due and payable within fourteen days of the issuance of building permit(s)." Note: The development may be delayed until the Council approves the transportation impacts fees.

23. The final plat's right of way will need to reviewed and approved prior to final signoff.

24. The street improvements may require traffic calming features to be determined by the City Traffic Engineer.

25. The applicant shall execute and return the attached declaration of conditions and covenants for streetlights and traffic signals prior to sign off. The applicant will need to provide a deposit for their reasonable and proportionate share of traffic signal costs.

26. The applicant shall show a detail drawing of the 12-foot utility easement dimensions and lot lines on the face of the plat. Utility easements shall be provided as follows:

Between Lots	Between Lots	Between Lots
Westerly 6' of Lot 1	44 & 45	Easterly 6' of Lot 80
4 & 5	57 & 58	83 & 84

8 & 9	60 & 61	92 & 93
13 & 14	64 & 65	96 & 99
18 & 19	66 & 67	101 & 102
22 & 23	69 & 70	
24 & 25	71 & 72	
28 & 29	73 & 74	
35 & 36	76 & 77	
40 & 41	Easterly 6' of Lot 79	

27. The developer will need to demonstrate/provide how private streetlights will be installed and maintained in the public alleys. The plat shall provide the following note on the face of the plat: "The City will not install lighting in the alleys, but the developer or property owners may request the City to approve a private light(s) in the alley right-of-way. Such private light(s) to be operated and maintained by private interests."

28. The applicant shall add to the Zoning Text "Maintenance of Traffic" Measures section with the following:

MAINTENANCE OF TRAFFIC MEASURES

Several streets within the GDP and plat include special traffic islands and traffic calming measures within the public right-of-way. The _____ (Association) shall be responsible, at the Association's sole cost and expense, for the maintenance and upkeep of such physical traffic measures. Such maintenance and upkeep shall be performed at the discretion of the Association except to the extent required by the City of Madison and shall include landscaping. If the landscaping is not maintained, the City will give notice to the _____ (Association) that it is not being maintained. If the Association does not respond to the notice within 60 days, the physical traffic measures will be topped with an asphalt pavement.

The _____ (Association) and persons involved with the maintenance and upkeep of the special traffic measures shall indemnify and hold harmless the City of Madison and its Boards and Commission and their officers, agent and employees from and against all claims, demands, loss of liability of any kind or nature for any possible injury incurred during maintenance and upkeep.

29. Public signing and marking related to the development may be required by the City Traffic Engineer for which the developer shall be financially responsible.

Zoning Administrator (Contact Pat Anderson, 266-5978)

30. In the zoning text, include the definition of family and information regarding the conventional zoning districts.

31. Provide a grading plan of the plat to show that usable open space requirements can be met on the lots per the comparable zoning district requirements. Usable open space shall be in a compact area of not less than 800 square feet and having no dimensions less than 10 feet and having a slope no greater than 10 percent. Front yards do not count toward usable open space.

32. All existing structure shall be removed before final approval of the final plat.

33. Provide a reuse/recycling plan, to be reviewed and approved by the City's Recycling Coordinator, George Dreckmann, prior to any demolition permits being issued.

Parks Division (Contact Tom Maglio, 266-6518)

34. The developer shall pay park development fees of \$343,491.50 for the single family and duplex lots north of Cobalt Street, and must pay additional fees in the future for the multi-family units proposed south of Cobalt Street. The developer must select a method for payment of park fees for the lots north of Cobalt Street before signoff on the final plat.

Park Dedication required for the single-family and duplex units north of Cobalt Street= 110 units at 1,100 square feet per unit = 121,000 square feet. The Fee in Lieu of Dedication is based on current property values up to \$2.01 per square foot for 2009 = \$243,210. Park development fees = (110sf/dp units X \$911.65 per unit) = \$100,281.50.

Fire Department (Contact Scott Strassburg, 261-9843)
This agency did not submit comments for this request.

Water Utility (Contact Dennis Cawley, 261-9243)

35. All public water mains and water service laterals shall be installed by a standard City subdivision contract. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility. The Water Utility will not need to sign off on the final plans, but will need a copy of the approved plans.

Metro Transit (Contact Tim Sobota, 261-4289)
This agency did not submit a response for this request.