



## Report to the Plan Commission

February 7, 2011

**Legistar I.D. #21243**

**3897 Milwaukee Street, Town of Blooming Grove  
Extraterritorial Certified Survey Map**

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

**Requested Action:** Consideration of a one-lot Certified Survey Map (CSM) of the Voit property located at 3450 Milwaukee Street, Town of Blooming Grove, Dane County, Wisconsin within the City of Madison's Extraterritorial Jurisdiction. The proposed land division will create a 56.3-acre remnant parcel.

**Applicable Regulations & Standards:** Section 16.23, Land Subdivision Regulations, Madison General Ordinances provides the requirements for land divisions located within the corporate limits of the City of Madison or within the Extraterritorial Plat Approval Jurisdiction.

**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 6 of this report.

### Background Information

**Applicant & Property Owner:** Thomas Voit, Voit Family Trust; 3450 Milwaukee Street; Madison.

**Surveyor:** Al Kaukl, Badger Surveying & Mapping Service, LLC; 525 W. Prairie Street; Columbus.

**Proposal:** The applicant proposes to create a 4.1-acre commercial lot by Certified Survey Map from an existing approximately 60.4-acre property, leaving a 56.3-acre remnant. The applicant wishes to record the Certified Survey Map as soon as all regulatory approvals have been granted.

**Review Schedule:** The State's subdivision statute, WS 236, requires that action be taken on a Certified Survey Map within 90 days of submittal unless a written extension is granted by the applicant. If no action is taken within 90 days and no extension granted, the CSM is deemed approved. The proposed CSM application was submitted to the City on December 15, 2010 without the required approval by Dane County. Dane County approval of the CSM occurred on January 11, 2011. Therefore, the 90-day review period for this CSM will end on April 11, 2011.

**Parcel Location:** An approximately 60.4-acre parcel generally located on the north side of Milwaukee Street east of N. Fair Oaks Avenue; Madison Metropolitan School District.

**Existing Conditions:** The lot to be created by the proposed land division is developed with a one-story commercial building housing an automobile repair and service business in County C-2 Commercial zoning. The southern portion of the site east of Starkweather Creek and closer to Milwaukee Street includes vacant agricultural land, various accessory buildings and an asphalt batch plant in County A-1EX Exclusive Agricultural zoning. The northern portion of the site includes a quarry and two ponds. Starkweather Creek extends north-south across the western portion of the property. Two residential buildings owned by the property owner are located on separate parcels from the subject site along the Milwaukee Street frontage and are not part of the proposed land division.

**Surrounding Land Use:** The overall site is generally bounded on the west and south by a variety of mostly low-density residential uses located in the City of Madison and the Town of Blooming Grove. The two properties to the north of the proposed lot on the east side of N. Fair Oaks Avenue are developed with an auto repair and sales business and storage warehouses. Lands to the east of the site are non-residential in nature and include undeveloped land in City M1 Limited Manufacturing zoning and Swiss Colony and the East Transfer Point in C3L Commercial Service and Distribution zoning.

**Basis for Referral:** Criteria for non-agricultural land division.

**Environmental Corridor Status:** The subject site is located in the Central Urban Service Area. The northern two-thirds of the overall property east of and including Starkweather Creek is located in a mapped environmental corridor. The mapped area includes both ponds and large adjacent areas of floodplain as well as the creek and various tributaries. The land comprising the proposed commercial lot to be created by the subject CSM is located on the edge and for the most part is generally located outside of the mapped corridor.

**Public Utilities and Services for Proposed Lot 1:**

Water: Property is served by municipal water

Sewer: Property is served by public sewer (Waunona Sanitary District)

Fire protection: Blooming Grove Fire Department

Emergency medical services: Blooming Grove-Burke-Maple Bluff EMS

Police services: Dane County Sheriff's Department

School District: Madison Metropolitan School District

## **Project Review, Analysis & Conclusion**

---

**Proposed Land Division:** The subject site is an approximately 60.4-acre parcel generally located on the north side of Milwaukee Street east of N. Fair Oaks Avenue in the Town of Blooming Grove. The overall property houses a myriad of land uses, including a one-story standing-seam metal building adjacent to N. Fair Oaks Avenue that is developed with an auto sales and repair business, a quarry, an asphalt batch plant and various accessory buildings. Starkweather Creek extends north to south through the western half of the property. The Voit Family Trust is requesting approval of a Certified Survey Map (CSM) to separate the approximately 4.1 acres located west of the creek containing the auto sales and repair business from the larger approximately 60-acre property for the purposes of selling that land to the current tenant. [The address of the business is 219 N. Fair Oaks Avenue.]

The Voit property is surrounded on the west and south by a variety of mostly low-density residential uses located in both the City and Town. The two properties located north of the proposed lot on the east side of N. Fair Oaks Avenue are developed with another auto repair and sales business and by mini-storage warehouses. Lands east of the site are non-residential in nature and include undeveloped land in the City, zoned M1 (Limited Manufacturing District) and by Swiss Colony and the Metro Transit East Transfer Point, which are zoned C3L (Commercial Service and Distribution District).

The remaining 56.3 acres of property east of the creek will continue to be owned by the Voit Family Trust as an un-subdivided remnant parcel. The 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. The proposed remnant will continue to surround two existing residential

parcels located on the north side of Milwaukee Street, which are owned by the Voit family but are not part of this land division.

**Approval of CSM by Town of Blooming Grove and Dane County:** Section 16.23(7)(c) of the Subdivision Regulations 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.

The majority of the 60.4-acre subject property is zoned County A-1EX (Exclusive Agricultural District), including a portion of the proposed 4.1-acre lot occupied by the auto sales and repair business. The remainder of proposed Lot 1 is zoned County C-2, which is an intensive commercial district that allows a variety of retail and services uses as well as a number of warehousing, storage and transportation uses and a limited number of light manufacturing and processing uses. A County zoning map amendment was recently approved to rezone all of proposed Lot 1 to the C-2 district to give that parcel zoning commensurate with its historic and established commercial uses. During the rezoning process, the City worked cooperatively with the Voit family and surveyor, the Town of Blooming Grove and Dane County to restrict the use of the proposed lot to the existing auto-related uses and a limited list of commercial uses the City feels would be appropriate along N. Fair Oaks Avenue, which City staff considers a gateway corridor. The proposed list of uses, which also excludes billboards, is attached for the Plan Commission's reference.

The Dane County Zoning & Land Regulation Committee conditionally approved the proposed land division as outlined in the attached letter dated January 11, 2011 from Dan Everson, Land Division Review, Dane County Department of Planning and Development. The land division approval was contingent on the rezoning petition being approved by the County Board, which occurred on January 20, 2011. The rezoning of the proposed lot to C-2 was conditioned upon, among other things, the land use restrictions requested by the City, which will be enforced through deed restrictions to be executed prior to final approval of the rezoning and this proposed CSM.

The proposed one-lot CSM was approved by the Town of Blooming Grove on November 9, 2010; the Town recommended adoption of the rezoning of the same on December 14, 2010.

**City of Madison Land Use Plan:** The property is located outside of the areas currently covered by an adopted City of Madison neighborhood plan. The Comprehensive Plan recommends the proposed commercial lot and the two adjacent commercial properties to the north on the east side of N. Fair Oaks Avenue for General Commercial uses, while the balance of the site east of Starkweather Creek is recommended for Park, Open Space and Drainage uses generally commensurate with the portion of the Voit property located in the mapped environmental corridor. The mapped area includes two ponds and adjacent floodplain as well as the creek and two tributaries. The remaining lands closer to Milwaukee Street are recommended in the Comprehensive Plan for Low-Density Residential uses.

The subject site was identified in the 2006 intergovernmental agreement and cooperative plan between the City and Town of Blooming Grove as the "Cooperative Development Property". The cooperative plan includes provisions for the formation of a joint planning committee with representatives from the City and Town, which would be charged with establishing zoning and related development regulations to guide development of the Voit property while it remains in the Town. The zoning regulations for the property would be adopted by the City and Town and would be enforced by the City. The cooperative plan holds that the zoning would be consistent with the Town's and the City's comprehensive plans, which generally call for the development of residential single family and multi-family uses, and some limited amount of mixed uses including neighborhood commercial uses, and associated improvements

including roads, utilities, parkland, multipurpose trails, wetlands, other open spaces, ponds, and other governmental uses. Any new construction of principal structures or development of the Cooperative Development Property would require the review and approval of both the Town and the City and would include provisions for the City to extend public water and sewer services to the site in advance of attachment in order to support development approved by the City and the Town. Under the cooperative plan, "development" is defined as the division of land, construction of more than one principal structure on a parcel of land, or rezoning of a parcel from a residential or agricultural classification to a non-residential classification.

The request before the Plan Commission represents a division of land, with the proposed lot also being rezoned to a non-residential classification through a separate process. As such, the joint planning provisions of the cooperative plan could have been triggered. However, given the nature of the proposed land division, the City does not feel it necessary to initiate the joint planning process, as the new lot is already developed and that portion of the Cooperative Development Property is physically separated by Starkweather Creek from the majority of the important future development site.

**Land Division Criteria:** The Subdivision Regulations provide two criteria for consideration of land divisions in the City's extraterritorial plat approval jurisdiction:

*Agricultural Land Division Criteria:* The Plan Commission may grant approval of a land division subdividing portions of agricultural lands provided that the Commission shall determine that the proposed land division will assist and assure the continuation of the agricultural use.

*Non-Agricultural Land Division Criteria:* In the case of nonagricultural lands, the Plan Commission may recommend approval of a subdivision to the Common Council or may grant approval of a land division provided that the Plan Commission shall determine that the proposed subdivision or land division complies with each of the following four criteria:

- a. The proposed subdivision or land division shall be compatible with adjacent land uses and shall maintain the general land use pattern of the area in question.
- b. The proposed subdivision or land division shall result in a development pattern that is compatible with surrounding developments and land uses. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features.
- c. 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.
- d. The proposed subdivision or land division shall comply with one of the following:
  - i. The proposed subdivision or land division shall represent infilling of vacant land. Infilling is defined as a subdivision or land division which will accommodate the development of vacant land located such that surrounding existing land uses render the land impractical for any but similar uses.

- ii. The proposed subdivision or land division shall provide permanent open space lands for use by the general public in conformance with the adopted Parks and Open Space Plan for Dane County, Wisconsin, the City of Madison adopted Parks and Open Space Plan or the City's other adopted Master Plan elements, including the Peripheral Area Development Plan. The permanent open space lands shall be accessible and open for use by the general public. The open space lands shall be exclusive from, and in addition to, lands required for dedication to comply with applicable public parks and open space dedication requirements and shall be provided at a ratio of two acres of permanent open space lands for every one-acre of developed lands, including street rights of way. For the purpose of this provision, wetlands, flood plain lands, steep slopes, or other lands which are not developable because of sensitive environmental features shall not be counted as permanent open space lands in calculating the ratio of permanent open space lands provided versus developed lands. Steep slopes shall include lands which have grades of twenty percent (20%) or more.

While the 56.3-acre remnant parcel that will remain following the creation of the 4.1-acre lot west of the creek will continue to be zoned A-1EX Exclusive Agricultural zoning and a portion of the remnant is characterized by Dane County as agricultural in character, the Planning Division believes that the use of the proposed lot as well as some of the other uses present on the site do not fit with the intent of the agricultural land division criteria. Those criteria allow the Plan Commission to grant approval of a land division subdividing portions of agricultural lands provided that the Commission can determine that the land division will assist and assure the continuation of the agricultural use. Therefore, the non-agricultural criteria should be applied.

In reviewing the proposed land division against the non-agricultural criteria, the Planning Division believes that the Plan Commission can find those criteria met. The proposed lot is currently physically separated from the remainder of the applicant's land holdings by Starkweather Creek and staff considers the creation of a surveyed lot as a formality. The creation of the proposed lot represents a logical land division recognizing the creek as a physical boundary on its eastern side. The overall 60.4-acre Voit property has long been considered an important future development parcel on the City's east side, as noted by the significance it receives in the 2006 City of Madison-Town of Blooming Grove cooperative plan. However, the Planning Division does not believe that the proposed land division will negatively impact the ability for the City and Town to plan for the Voit property, or any future development that may occur east of Starkweather Creek. The proposed land division will maintain the general land use pattern of the area in question, and should not negatively impact the City's ability to provide public services, install public improvements or accomplish future annexations.

## **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 **approve** the Certified Survey Map of 3450 Milwaukee Street, Town of Blooming Grove creating one commercial lot and a 56.3-acre remnant parcel subject to input at the public hearing and the following conditions:

1. That the deed restrictions requested by the City as part of the Dane County rezoning process be executed by the property owner and recorded prior to final City approval of the CSM for recording.

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

2. Revise this CSM to provide for a 75-foot setback from Starkweather Creek (from the edge of water).
  3. In addition to the dimensions that were provided on this CSM between the creek meander line and centerline, provide dimensions between the existing stream shore and the meander lines as established and created by this Certified Survey Map in accordance with Wis. Stats. Sec. 236.15(1)(d).
  4. Revise this CSM to include land area calculations to the nearest square foot to the existing stream shore.
  5. Revise this CSM to correct the typographical error contained within the Range reference for the East ¼ Corner PLSS as shown on Page 1 of 4.
6. All outstanding Madison Metropolitan Sewerage District (MMSD) and City of Madison sanitary sewer connection charges are due and payable prior to City Engineering Division sign-off, unless otherwise collected with a Developer's/ Subdivision Contract. Please contact Janet Dailey (261-9688) to obtain the final MMSD billing a minimum of 2 working days prior to requesting City Engineering signoff of the CSM.
  7. City of Madison Environmental Projects Staff have reviewed the subject site and determined that a Phase I ESA will not be required of the applicant. If there are any changes in the approved land dedications, the applicant shall notify Brynn Bemis (267-1986) to determine if a Phase I ESA will be required.
  8. Prior to City Engineering final sign-off by the main office of the CSM, the final CSM shall be submitted to the Engineering Division Surveyor/ Land Records Coordinator for final technical review and approval. This submittal shall occur a minimum of 2 working days prior to final City Engineering Division signoff. Electronic mail submittal of the final CSM in PDF form is preferred. Transmit to [epederson@cityofmadison.com](mailto:epederson@cityofmadison.com).

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

9. The CSM shall be revised to provide a 20-foot wide public ped-bike easement along Starkweather Creek and the CSM's overall western and northern property lines at an exact location to be determined after meeting with the City Traffic Engineer, City Engineer and Parks Superintendent.
10. The applicant shall execute and return declarations of conditions and covenants for streetlights and traffic signals prior to sign off.

**Zoning Administrator** (Contact Pat Anderson, 266-5978)

11. Show designated flood plain area and flood way on the CSM. Any construction within a floodplain shall meet flood proofing protection measures and such design shall be certified by a registered professional engineer or architect per Section 28.04(20)(b) of the Madison General Ordinances.
12. Provide a 75-foot protective buffer from the normal high water mark of Starkweather Creek and any wetlands pursuant to MGO Section 37.09(3)(h) and the Wisconsin Administrative code (NR 103.04).
13. Shoreland development shall comply with MGO Section 28.04(19). The cutting of trees and shrubbery shall be limited in the strip of land 35 feet inland from the normal waterline of the Starkweather Creek. Not more than 30% of the water frontage of the lot shall be cleared of trees and shrubbery. (Note: Within the waterfront setback requirements, tree and shrub cutting shall be limited to consideration of the effect on water quality, protection and scenic beauty, erosion control and reduction of the effluents and nutrients from the shoreland.)