



Report to the Plan Commission

June 18, 2012

Legistar I.D. #26696
3370 Burke Road, Town of Burke
Extraterritorial Preliminary Plat

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

Requested Action: Approval of a preliminary plat creating 9 future commercial lots, 1 lot for an existing single-family residence, and 1 lot for future other development on property generally addressed as 3370 Burke Road in the Town of Burke.

Applicable Regulations & Standards: The process for subdivisions located within the corporate limits of the City of Madison or within the Extraterritorial Plat Approval Jurisdiction is outlined in Section 16.23 of the Subdivision Regulations. In addition, the subject site is located within the Boundary Adjustment Area-Madison (BAA-M) designated in the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan dated January 5, 2007.

Summary Recommendation: The Planning Division recommends that the Plan Commission forward the preliminary plat of Wood Ger Development, to the Common Council with a recommendation of **approval** subject to input at the public hearing and the conditions of approval from reviewing agencies beginning on page 6 of this report.

Background Information

Applicant & Property Owner: Gerald Wood, JAD Land Development, LLC; 3370 Burke Road; Sun Prairie.

Surveyor: Mark Pynnonen, Birrenkott Surveying, Inc.; PO Box 237; 1677 N. Bristol Street; Sun Prairie.

Proposal: The applicant is requesting approval of a preliminary plat that calls for the future creation of 9 lots for commercial development, 1 lot for an existing single-family residence, and 1 lot for other unspecified development. The applicant wishes to commence construction of the subdivision as soon as all regulatory approvals have been granted.

Parcel Location: An approximately 52-acre parcel located at the northeastern corner of Burke Road and Reiner Road; Sun Prairie School District.

Existing Conditions: Approximately three-quarters of the subject site is currently undeveloped agricultural land. The southeastern quadrant of the site along Burke Road is developed with two single-family residences, the western of which is surrounded by a series of accessory buildings of varying size that are used for a cattle shipping business and an auto sports business. On July 21, 2011, the Dane County Board rezoned approximately 23.31 acres of the 52-acre site from County A-1 (Agricultural District) and A-B (Agricultural Business District) to C-2 (Commercial District).

Surrounding Land Uses and Dane County Zoning:

North: Rural Masonry Co. and American Transmission Co. substation along Reiner Road, and Midwest Veterinary Supply and multi-tenant commercial buildings along Maly Road, all zoned C-2 (Commercial District);

South: Single-family residences and undeveloped land, zoned A-1 (Agricultural District);

East: Undeveloped land, zoned A-1;

West: Undeveloped land, two single-family residences and Burke Truck & Equipment, zoned A-1, R-1A and R-1 (Residence Districts) and C-2; Burke Town Hall and Park.

Adopted Land Use Plan: The subject site is located within Peripheral Planning Area C as defined in the Comprehensive Plan. Planning Area C is a "Group 1" planning area recommended as a potential location for relatively near-term City expansion and future urban development once a detailed neighborhood development plan is adopted to guide urban development in this area.

A large portion of Peripheral Planning Area C was included in the limits of the Northeast Neighborhoods Development Plan, which provides recommendations for land use and design, open space preservation, transportation, urban services delivery, development phasing and plan implementation for an area generally bounded by Interstate 94 on the south, Interstate 39-90-94, the Village of Autumn Lake subdivision and a Wisconsin Department of Transportation railroad corridor on the west, Nelson Road on the north, and Thorson Road and CTH T on the east. Due to the large size of the planning area, it was divided into two phases, with the recommendations for the portion of the planning area located south of Burke Road included in a Phase 1 plan adopted in October 2009. The plan for the portion of the planning area located north of Burke Road – including the subject site – has not been adopted at this time.

Environmental Corridor Status: The subject site is not located in the Central Urban Service Area and is not located in a mapped environmental corridor. Corridor map G5 identifies an area of wetlands extending from the southwestern corner of the subject property to the northeast, and two forks of an intermittent stream generally extending east to west across the site.

Public Utilities and Services:

Water: Property is not served by municipal water;

Sewer: Property is not served by public sewer;

Fire protection: Town of Sun Prairie Fire Department;

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

Police services: Dane County Sheriff's Department;

School District: Sun Prairie School District.

The proposed development will initially be served by well and septic. At the present time, the subject site is over a quarter-mile north of the nearest City limits, three-quarters of a mile from the nearest City sewer facilities (in the Village of Autumn Lakes subdivision), and 1 1/4 miles from the nearest City water facilities (to the south along Reiner Road).

Project Review

The applicant is requesting approval of a preliminary plat to allow a 52-acre parcel of land located in the Town of Burke at the northeastern corner of Burke and Reiner roads to be subdivided into 9 lots for future commercial development, 1 lot for an existing single-family residence, and 1 lot for other unspecified development. The subject site is located both within the City's extraterritorial jurisdiction and in Boundary Adjustment Area-Madison (BAA-M) as designated in the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan dated January 5, 2007.

Proposed Subdivision: The subject property is mostly undeveloped with the exception of a series of buildings located in the southeastern quadrant of the site along Burke Road, including two single-family residences and a series of accessory buildings that surround the western of the two residences. A letter of intent submitted with the preliminary plat application indicates that the grouping of buildings surrounding the western residence contain a cattle shipping business and an automotive part business. The 52-acre subject property was previously subject to a declaration of condominium in July 2003, which created 11 units under the name "JAD Condominium". As a condition of approval of the proposed preliminary plat, the applicant will be required to remove the condominium over the property prior to a final plat of the proposed subdivision being approved.

As noted in the preceding section, approximately 23.31 acres of the 52-acre site were rezoned by the Dane County Board from County A-1 (Agricultural District) and A-B (Agricultural Business District) to C-2 (Commercial District), subject to conditions, including execution of a deed restriction limiting the use of the rezoned parcels, removal of the condominium, and the approval and recording of a subdivision plat. A copy of the County rezoning ordinance is attached as part of the Plan Commission materials for this preliminary plat.

The subject site is characterized by a number of significant topographical features, including a large area of delineated wetlands that extend through the center of the site from the southwestern corner toward the northeastern corner generally north of the two residences and the group of accessory buildings. Additionally, an intermittent stream crosses the site from east to west, with two forks identified at the eastern property line. The rolling terrain of the property also includes areas of steep slope on the portion of the site north of the stream and wetlands corridor. Approximately 14 acres at the southwestern corner of the site are also subject to a US Department of Agriculture conservation easement declared in 1989, in part for the conservation of the low-lying wetland area present. The site is largely devoid of any significant tree cover save for narrow tree lines present along portions of the northern and eastern property lines.

Additionally, the western edge of the site contains four support poles for a 168-kilovolt overhead transmission line located in a 40-foot wide easement that generally parallels Reiner Road through this area, while a high-pressure gas pipeline located in a 50-foot wide easement extends north-south across the eastern edge of the property.

The site is generally bounded on the north by a number of commercial uses including a contracting business and an American Transmission Company substation located north of the property along Reiner Road. Further to the north, a series of commercial buildings including a veterinary supplies business and self-storage facility are situated along Maly Road, a narrow north-south Town road that extends 1,000 feet south from Nelson Road to the edge of the property housing the contractors business. Nearby uses also include a truck sales and equipment business and Burke Town Hall and Park, which are located west of the site across Reiner Road. Lands to the east of the site are currently agricultural, while properties to the south across Burke Road include a variety of single-family residential and agricultural land uses. The Burke Conservancy Estates town subdivision is located southeast of the site on the south side of Burke Road east of Thorson Road.

The preliminary plat proposes the creation of 8 lots for future commercial development to be located on either side of Maly Road, which is proposed to extend into the site from Reiner Road as a 66-foot wide public road. Upon entering the site, proposed Maly Road will be located parallel to and 325 feet south of the northern edge of the property before curving to the north to align with the existing section of Maly Road located further to the north. The 8 lots proposed along Maly Road will be zoned County C-2 and will range in size from 1.73 acres to 2.35 acres.

Lot 9 of the proposed subdivision will comprise the portion of the property on which the 1989 USDA conservation easement was declared, with no use of this lot proposed according to the letter of intent. The current County A-1 zoning of the property was not changed with the 2011 rezoning of the property approved by the County. To the east, the western of the two single-family residences located along the Burke Road frontage and the 6 accessory buildings that surround it will be located on proposed Lot 11, which was rezoned from A-B zoning to C-2 with the 2011 County rezoning. The remainder of the site, including the eastern single-family residence located on the property, will be platted as Lot 10, which is proposed to surround proposed Lot 11 and form a triangle shaped in part by the eastern edges of proposed Lots 4 and 5 and the inter-cardinal eastern line of the overall property. The portion of Lot 10 located north of the eastern residence will contain the wetlands not governed by the conservation easement. Proposed Lot 10 will be maintained as a residential lot in A-1 zoning according to the applicant.

The layout of the proposed Wood Ger Development plat closely follows the JAD Condominium, which similarly called for commercial lots on either side of an extension of Maly Road, a unit for the land governed by the conservation easement, and a unit for the businesses located along the Burke Road frontage. A copy of the condominium plat is attached to this report for reference. As noted above, the condominium will be required to be removed if the preliminary plat is approved.

Approval of the Preliminary Plat by the Town of Burke 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.

The Burke Town Board conditionally approved the proposed preliminary plat as outlined in the attached approving resolution on February 15, 2012. Dane County granted conditional approval of the proposed preliminary plat as outlined in a letter dated March 21, 2012 from Dan Everson, Land Division Review, Dane County Department of Planning and Development.

Analysis & Conclusion

City of Madison Land Use Plan: The subject site is located within Peripheral Planning Area C as defined in the Comprehensive Plan. Planning Area C is a "Group 1" planning area recommended as a potential location for relatively near-term City expansion and future urban development once a detailed neighborhood development plan is adopted to guide urban development in this area.

A large portion of Peripheral Planning Area C was included in the limits of the Northeast Neighborhoods Development Plan, which provides recommendations for land use and design, open space preservation, transportation, urban services delivery, development phasing and plan implementation for an area generally bounded by Interstate 94 on the south, Interstate 39-90-94, the Village of Autumn Lake subdivision and a Wisconsin Department of Transportation railroad corridor on the west, Nelson Road on the north, and Thorson Road and CTH T on the east. Due to the large size of the planning area, it was divided into two phases, with the recommendations for the portion of the planning area located south of Burke Road included in a Phase 1 plan adopted in October 2009. The plan for the portion of the planning area located north of Burke Road – including the site – has not been adopted at this time.

However, a working concept plan for the Northeast Neighborhoods planning area located north of Burke Road recommends the future development of employment and light industrial uses for the subject site similar to the land uses present on most of the land located between the northern edge of the site and Nelson Road, including the existing section of Maly Road located north of the northeastern corner of the subject site. Planning Division staff previously provided written comments to Dane County during its 2011 review of the applicant's request to rezone portions of the 52-acre site to C-2, stating that the proposed rezoning and development concept were generally consistent with these preliminary land use recommendations. A copy of staff's March 18, 2011 letter to Dane County commenting on the applicant's zoning change, including recommended land use limitations, is attached. Dane County's July 21, 2011 approval of the applicant's rezoning included land use restrictions that honored City staff's use restriction requests. A request by the City to specifically prohibit billboards on the C-2-zoned portion of the property was also included as a condition of approval. That applicant will be required to execute a restrictive covenant benefitting the City of Madison in a form approved by the Dane County Department of Planning and Development and the City's Planning Division prior to the C-2 zoning taking affect.

Land Division Criteria: The Plan Commission shall determine that the proposed land division complies with each of the following criteria:

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.

The Planning Division believes that the proposed preliminary plat of Wood Ger Development can generally meet the criteria for approval enumerated above. While the proposed development is located in a still largely undeveloped portion of the Town of Burke, Planning staff believes that the development pattern proposed with the subdivision reflects a development pattern present primarily to the north of the subject site along the existing section of Maly Road, as well as the land uses present along Reiner Road west and north the site. Those properties include commercial uses similar to those anticipated in the Wood Ger Development.

Town of Burke Cooperative Plan: The subject site is also located within the Boundary Adjustment Area-Madison (BAA-M) designated in the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan dated January 5, 2007. Under the provisions in Section 11C of the Cooperative Plan, the Town of Burke has agreed that the rezoning of a site from a residential or agricultural classification to a non-residential classification and the subdivision of property are considered "development" and are therefore subject to City approval using the City's development review ordinances and adopted plans. The full cooperative plan may be found online at the following link:

<http://www.cityofmadison.com/planning/BurkeDeFMadSPCombined010507%20adopted%20final.pdf>

In order to find the proposed development consistent with the cooperative plan, City staff recommends a condition of approval that requires the applicant to coordinate the construction of all public improvements to serve the proposed subdivision with the City in accordance with the provisions of the cooperative plan. The cooperative plan allows the City to levy special assessments for public improvements on parcels in the Town that will eventually be attached to the City. The cooperative plan also allows the City to improve certain roads and levy special assess properties in the Town for specific public improvements stated in the plan, including any streets laid out after July 1, 2006, including the section of Maly Road proposed with the Wood Ger Development subdivision. Due to the distance between the proposed development site and current City limits, City sanitary sewer and City water, attachment is not being required at this time. However, the applicant will be required as a condition of the City's approval of the preliminary plat to meet with City staff to discuss the required infrastructure improvements prior to approval of the final plat of this subdivision. Future attachment of the proposed lots and connection to water and sewer may be required in the future per the provisions of the cooperative plan once City water and sewer become available to the proposed development.

Staff also recommends that, as a condition of the development, access restrictions be placed on the final plat for Lots 1, 8 and 9 from Reiner Road, and that a landscaped buffer be established adjacent to Reiner Road, with a planting plan to be approved by the Planning Division as a condition of recording the final plat.

City Engineering Division and Planning Division staff also recommend that the proposed layout of the subdivision be revised to place the eastern of the two single-family residences (on proposed Lot 10) onto a smaller parcel generally located east of proposed Lot 11, with the remainder of Lot 10 as it is now shown combined with proposed Lot 9. Planning staff would further recommend that this revised Lot 9, which would include the lands subject to the USDA conservation easement, be designated as an outlot for wetland and open space purposes. In the future, this outlot could be dedicated to the public upon the request of the Burke Town Board or the City of Madison Common Council.

Staff Recommendations, Conditions of Approval & General Ordinance Requirements

Major/Non-Standard Conditions are shaded

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

The Planning Division recommends that the Plan Commission forward the preliminary plat of Wood Ger Development to the Common Council with a recommendation of **approval**, subject to input at the public hearing and the following conditions from the Planning Division and reviewing agencies:

1. That the 20-foot landscaped buffer shown on Lots 1 and 8 the preliminary plat be revised to be a 40-foot building line and landscaped buffer coterminous with the edge of the existing American Transmission Company easement that parallels Reiner Road. The following note shall be included on the final plat: "The 40-foot building setback line and landscaped buffer strip is reserved for the planting and maintenance of trees or shrubs by the owner; the building of buildings hereon is prohibited. Maintenance of the buffer strip is the responsibility of the lot owner."
2. As part of the approval of the final plat of this subdivision, the applicant shall submit a detailed plan for the landscaped buffer for approval by the Planning Division prior to the recording of the final plat. The plan shall include any proposed grading (including sections of any proposed berms) within the 40-foot area, and a detailed landscaping plan with the size and species to be planted.

3. That an automobile access restriction be established on the final plat along Reiner Road for the entire frontage of proposed Lots 1, 8 and 9.
4. That as part of the final plat of the Wood Ger Development subdivision, Lot 10 be revised to combine the portions of that parcel north of the residence containing wetlands and the intermittent stream(s), and to the extent possible, the wetland setback, with a revised Lot 9, and that said revised and expanded Lot 9 be designated as an outlot for wetland and open space purposes. Upon the order of the Madison Common Council or Burke Town Board, this outlot shall be dedicated to the public for said non-development purposes at no cost to the public body adopting such an order.
5. That the applicant record a condominium removal for the entire JAD Condominium with the Dane County Register of Deeds prior to submitting the final plat of Wood Ger Development to the City of Madison for approval. A copy of the recorded removal shall be submitted with the final plat.

The following conditions have been submitted by reviewing agencies:

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

6. This Town of Burke property falls within the boundaries of the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan. Per the cooperative plan, this property at some time will be attached to the City of Madison. This will occur either upon petition for attachment by the owner(s), or upon final attachment of Town properties on October 27, 2036 per the cooperative plan. The applicant shall coordinate the construction of all public improvements to serve the proposed subdivision with the City in accordance with said cooperative plan. The applicant shall meet with City staff to discuss the required infrastructure improvements prior to approval of the final plat of this subdivision.
7. Lands north of this proposed development contain an existing dead end north-south Town of Burke public road (Maly Road) south off of Nelson Road. Coordinate the final approved name to be shown on the final plat for the portion of public right-of-way. The street name is currently proposed to be dedicated as Maly Road. City of Madison General Ordinances may require that a new street name be designated for the east-west portion connecting to Reiner Road.
8. An existing home is located on proposed Lot 10, which shares an existing access traverses proposed Lot 11. The plat shall either create private ingress-egress easement rights across Lot 11 benefitting Lot 10, or a driveway for the eastern residence shall be located entirely upon Lot 10.
9. In accordance with Section 236.20(2)(c) & (f), Wisconsin Statutes, clearly dimension and locate the easement for the existing ANR Gas Pipeline (formerly Michigan-Wisconsin Pipe Line Company) per Doc No 1161465 on the subdivision plat. If the original easement did not contain a retracable legal description, indicate how the easement location has been shown on this subdivision plat (i.e. based on a field surveyed location as marked in the field by ANR staff, visual evidence, etc.).
10. This plat drains to an enclosed depression and as such, additional stormwater treatment measures should be considered and downstream property owners should be made aware of potential flooding.
11. Portions of Lots 9 and 10 are subject to existing wetlands and intermittent stream encumbrances across portions of those proposed lots. The physical location of these public stormwater areas shall be better defined and dimensioned on the plat. These areas may be dedicated to the public in fee title for stormwater management purposes due to these existing stormwater areas making these

portions of Lot 9 and Lot 10 unbuildable. If the applicant chooses not to dedicate these lots in fee title, an alternative platted public stormwater management easement could be shown across both lots, which would allow for public drainage to the privately owned properties.

12. It is recommended that the portion of Lot 10 with the existing house should be separated from the remainder of Lot 10 and have and should be platted as proposed Lot 12.
13. All properties within this plat are within the Felland Road Neighborhood Sanitary Sewer Impact Fee District. These properties will be subject to impact fees upon connection to the City's public sanitary sewer in the future when available.
14. When this property and development attach to the City of Madison in accordance with the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan, and City sanitary sewer becomes available, the lots within this subdivision shall be required to connect to City of Madison public sanitary sewer.
15. The applicant shall provide the City of Madison with copies of all public works improvement plans for the subdivision stamped by a Civil Engineer and as approved by the Town of Burke and/or Dane County.
16. 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 feet below proposed street grades, a restriction shall be added to the final plat, as determined necessary by the City Engineer.
17. This development is subject to impact fees for the Felland Road Neighborhood Sanitary Sewer Impact Fee District. All impact fees are due and payable at the time building permits are issued. The following note shall be put the face of the final plat: "Lots/ buildings within this subdivision are subject to impact fees that are due and payable at the time building permit(s) are issued."
18. The applicant shall dedicate a 20-foot wide Permanent Limited Easement for grading and sloping along Reiner Road, Burke Road and Maly Road on the final plat.
19. The following note shall be added to the plat. "All lots created by this plat are individually responsible for compliance with Chapter 37 of Madison General Ordinances in regard to stormwater management at the time they develop."
20. 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- and 10-year storm events; control 80% TSS (5 micron particle), provide infiltration in accordance with Chapter 37 of Madison General Ordinances (90% of predevelopment infiltration), and; provide oil & grease control from the first 1/2" of runoff from parking areas.
21. Wisconsin Administrative Code A-E 7.08 identifies when Public Land System (PLS) tie sheets must be filed with the Dane County Surveyor's office. The Developer's Surveyor and/or Applicant must submit copies of required tie sheets or condition reports for all monuments, including center of sections of record, used in this survey, to Eric Pederson, City Engineering. If a new tie sheet is not required under A-E 7.08, Engineering requests a copy of the latest tie sheet on record with Dane

County Surveyor's office. The Applicant shall identify monument types on all PLS corners included on the Plat or CSM. Note: Land tie to two PLS corners required.

Traffic Engineering Division (Contact Bryan Walker, 267-8754)

22. The applicant shall dedicate 60 feet of right of way from the centerline of Reiner Road with the final plat. The final plat shall clearly show this dedication.
23. The applicant shall dedicate 40 feet of right of way from the centerline of Burke Road with the final plat. The final plat shall clearly show this dedication.

Zoning Administrator (Contact Pat Anderson, 266-5978)

This agency did not submit a response for this request.

Parks Division (Contact Kay Rutledge, 266-4714)

This agency did not submit a response for this request.

Fire Department (Contact Bill Sullivan, 261-9658)

24. Compliance with Chapter 34, Madison General Ordinance will be required upon attachment to the City of Madison. Specifically, the following:
 - a.) All portions of the fire lanes for newly constructed public buildings and places of employment and open storage of combustible materials shall be within 500-feet of at least TWO fire hydrants. Distances are measured along the path traveled by the fire truck as the hose lays off the truck. See MGO 34.507 for additional information.
 - b.) Provide fire apparatus access as required by IFC 503 2009 edition, MGO 34.503.

Water Utility (Contact Dennis Cawley, 261-9243)

This property is located outside the Madison Water Utility service area; no conditions of approval were provided.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not submit a response for this request.