



## PREPARED FOR THE PLAN COMMISSION

**Project Address:** 9601 Elderberry Road  
**Application Type:** Revised Preliminary Plat and Final Plat  
**Legistar File ID #** [32920](#)  
**Prepared By:** Timothy M. Parks, Planning Division  
Report includes comments from other City agencies, as noted.  
**Reviewed By:** Michael Waidelich, Principal Planner

## Summary

**Applicant & Property Owner:** Ziegler at Elderberry, LLC c/o Bob Zoelle, United Financial Group, Inc.; 660 W. Ridgeview Drive; Appleton.

**Surveyor:** Josh Pudelko, Trio Engineering; 17700 W. Capitol Drive; Brookfield.

**Requested Action:** Approval of a revised preliminary plat proposing 7 lots for future residential development with up to 390 dwelling units, 1 outlot for future development, and 1 outlot for public stormwater management, and approval of a final plat creating 2 lots for residential development and the outlot for public stormwater management.

**Proposal Summary:** The applicant is requesting approval of a revised preliminary plat to subdivide the subject site into 7 lots for future residential development. At the time the property was rezoned in 2013, the applicant indicated that those lots would be developed with up to 390 dwelling units in a variety of single-family attached and multi-family dwelling buildings. The preliminary plat includes an outlot in the southwestern corner of the site identified for future development and an outlot to be dedicated to the City for stormwater management. Construction of the first phase of the "Paragon Place" development is scheduled to commence later this year.

**Applicable Regulations & Standards:** The subdivision process is outlined in Section 16.23(5)(b) of the Subdivision Regulations.

**Review Required By:** Plan Commission and Common Council.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission forward the revised overall preliminary plat and first final plat of Paragon Place to the Common Council with a recommendation of **approval**, subject to input at the public hearing and the conditions from reviewing agencies beginning on page 4 of this report.

## Background Information

**Parcel Location:** The subject site is a 40-acre parcel located on the south side of Elderberry Road, approximately three-quarters of a mile west of N. Pleasant View Road; Aldermanic District 9 (Skidmore); Middleton-Cross Plains Area School District. The southeastern corner of the site is located a quarter-mile north of Mineral Point Road.

**Existing Conditions and Land Use:** Undeveloped land zoned A (Agricultural District), TR-U1 (Traditional Residential–Urban 1 District), SR-V2 (Suburban Residential–Varied 2 District) and TR-V2 (Traditional Residential–Varied 2 District) pursuant to a 2013 zoning approval.

### **Surrounding Land Use and Zoning:**

North: Undeveloped land in the Town of Middleton; single-family residences in the Sauk Heights subdivision, zoned SR-C2 (Suburban Residential–Consistent 2 District);

South: Blackhawk Church and Blackhawk Church Town Center, zoned PD-GDP and PD-SIP;

East: Existing and future single-family residences in the Woodstone subdivision, zoned TR-C3 (Traditional Residential–Consistent 3 District);

West: Undeveloped land in the Town of Middleton.

**Adopted Land Use Plan:** The Elderberry Neighborhood Development Plan recommends that the subject site be developed with a variety of mostly residential land uses at a variety of densities. The southeastern corner of the site is recommended for medium-density and mixed-density residential uses between 12-16 units an acre, with a ring of low- to medium-density residential uses (8-11 units an acre) surrounding. The remainder of the southern edge of the site closest to Blackhawk Church Town Center is recommended for office-employment uses with a residential transition zone. The northeastern corner of the subject site and a portion of the Elderberry Road frontage are also recommended for low- to medium-density residential uses. The remainder of the site is recommended for low-density residential uses up to 8 units an acre.

**Zoning Summary:** See the ‘Project Review’ section below. Zoning staff indicates that there are no “Critical Zoning Items” affecting the subject site. Future development of the proposed lots will require subsequent Plan Commission approval of conditional uses for multi-family dwellings or residential building complexes.

**Environmental Corridor Status:** The property is not located within a mapped environmental corridor (Map A8).

**Public Utilities and Services:** The site is located in the Central Urban service Area and will be served by a full range of urban services as it develops, with the exception of Metro Transit service, which does not currently provide service west of Junction Road.

## **Previous Approval**

On May 21, 2013, the Common Council conditionally approved request to rezone 33.2 acres of property located at 9601 Elderberry Road from A (Agricultural District) to TR-U1 (Traditional Residential–Urban 1 District), SR-V2 (Suburban Residential–Varied 2 District) and TR-V2 (Traditional Residential–Varied 2 District) and the preliminary plat of Highlands Community, containing 6 lots for future residential development with up to 390 dwelling units, 1 lot for unspecified future development, and 2 outlots for stormwater management. A portion of the 40-acre site was not rezoned and remains zoned A.

## **Project Description**

The applicant is seeking approval of a revised preliminary plat of the former “Highlands Community,” now “Paragon Place” subdivision, which includes 7 lots for the future construction of up to 390 dwelling units in a variety of residential buildings, and a final plat creating 2 lots and an outlot for public stormwater management.

Access to the proposed Paragon Place subdivision will be provided from Elderberry Road and from the extension of Bear Claw Way across the eastern portion of the site. Currently, Bear Claw Way is partially platted to the southeastern corner of the subject site along the eastern edge of the Blackhawk Church Town Center

development. A smaller section of Bear Claw Way was dedicated with the Woodstone subdivision, though only one block of the roadway has been constructed between Mineral Point Road and Brader Way to date. The preliminary plat also calls for the dedication of the northern half of Wilrich Street, which was partially platted in the adjacent Blackhawk Church development and is planned in the Elderberry Neighborhood Development Plan as a future east-west collector street, and the extension of Spirit Street west from its current terminus in Woodstone. The 7 lots for future residential development proposed on the preliminary plat will largely be formed by this grid of streets. The final plat includes the dedication of Bear Claw Way through the site, which in conjunction with a City project, may facilitate construction of that north-south collector street between Elderberry Road and Mineral Point Road in 2014.

The lots proposed on the final plat include Lot 2, which corresponds to Lot 6 of the preliminary plat, and Lot 1, which corresponds to Lots 1, 2, 5 and 7 of the preliminary plat. Further subdivision of Lot 1 to create the 4 preliminary plat lots and the dedication of Street "A", the remaining block of Street "C" and the extension of Spirit Street will be required to complete the implementation of the revised preliminary plat. Additionally, because the plat will create remnant parcels under 40 acres in area, the areas shown as "Platable lands owned by subdivider" in the northeastern and southwestern corners of the 40-acre site shall be made outlots for future development with the subject final plat.

## Analysis & Conclusion

The Planning Division believes that the overall revised preliminary plat and first final plat of Paragon Place is consistent with the street layout recommendations contained in the Elderberry Neighborhood Development Plan as well as the development concept approved for the Highlands Community subdivision in 2013.

The 2013 preliminary plat approval was conditioned upon a revised preliminary plat being submitted with the first final plat that required the applicant to explore the connection of Street "A" to Veritas Drive across the future development outlot in the southwestern corner of the site and the extension of Street "C" from Street "B" to at least Spirit Street. The revised preliminary plat accomplishes the second of these plat revisions but does not show the alignment of Street "A" with Veritas Drive. Staff now believes that the exploration of the connection of Street "A" to Veritas Drive can be revisited at such time as Outlot 2 of the revised preliminary plat is further subdivided into a developable lot, which will likely not occur until that corner of the subject site can be served by sanitary sewer from the southwest. The final alignment of Veritas Drive may also be influenced by the street pattern created as other properties nearby develop, which may cause a different alignment for the extension of Veritas Drive to be pursued than a connection with Street "A".

## Recommendation

### Planning Division Recommendation (Contact Timothy M. Parks, (608) 261-9632)

The Planning Division recommends that the Plan Commission forward the revised overall preliminary plat and first final plat of Paragon Place to the Common Council with a recommendation of **approval** subject to input at the public hearing and the following conditions:

**Recommended Conditions of Approval**

Major/Non-Standard Conditions are Shaded

1. That a 30-foot building setback line be established along Elderberry Road on Lots 2 and 3 of the preliminary plat at the time of final plat approval, as would be consistent with the same restriction to the east on the adjacent Woodstone plat.
2. In order to be consistent with the proposed preliminary plat, Lot 1 of the final plat be relabeled as an outlot for future development; further subdivision of this outlot shall follow the lot and street pattern for this portion of the site shown on the revised preliminary plat (including preliminary plat Lots 1, 2, 5 and 7, Street "A", the remaining block of Street "C" and the extension of Spirit Street).
3. That at such time as Outlot 2 of the preliminary plat is further subdivided, the applicant shall work with the Planning Division to explore the connection of Street "A" to Veritas Drive. If it is determined that the connection of Street "A" to Veritas Drive is the most favorable alignment for implementing the recommendations of the Elderberry Neighborhood Development Plan, the further subdivision of Outlot 2 to create a developable lot shall be conditioned on the dedication and construction of said connection.

**The following conditions of approval have been submitted by reviewing agencies:**

**City Engineering Division** (Contact Janet Dailey, (608) 261-9688)

4. The final plat comprises only a portion of the preliminary plat. The remnant parcels shown on the final plat shall be platted as outlots to include all of the property in the final plat. The remnant parcels shown will have areas of less than 40 acres. All parcels created as a result of any new land division are required, by ordinance, to be included in a land division/subdivision. The outlots shall be restricted from development until the time they are further divided by a City of Madison approved and recorded land division/subdivision. Revise all affected portions of the final plat document accordingly.
5. The label for the Stormwater Drainage Easement over Lot 6 of the preliminary plat and Lot 2 of the final plat shall be relabeled to "Public Stormwater Drainage Easement". Additional easement language shall be placed on the face of the plat for the easement area. Contact Jeff Quamme of the City Engineering Division (jrquamme@cityofmadison.com) to receive the appropriate easement terms/conditions language for inclusion on this subdivision plat.
6. Outlot 1 of the preliminary and final plats shall be relabeled "Dedicated to the Public for Storm Sewer and Storm Water Management Purposes".
7. The description of the section corner monuments differ between the preliminary and final plats. Please correct on the respective documents where appropriate.
8. The final plat shall label, as required by statute, all of the "recorded as" date as shown on the preliminary plat.
9. Prior to final sign-off, the updated title work shall provide proof of ownership of the lands by Ziegler at Elderberry LLC as per the Owner's Certificate on the final plat.

10. Prior to City Engineering Division sign-off for final plat, the applicant shall coordinate with the Public Bodies and Private Public Utilities serving this plat as to the location and width of all easements required to adequately serve the plat. All of the easements shall be properly shown and noted on the face of the final plat. Contact Jeff Quamme of the City Engineering Division (jrquamme@cityofmadison.com) to receive the appropriate easement terms/conditions language for inclusion on this subdivision plat.
  11. The final plat shall provide a legend to satisfy lot monumentation requirements of the Wisconsin Statutes.
  12. The applicant shall coordinate the final stormwater management design with the design of the final phases of the adjacent Woodstone plat.
  13. This development is dependent on off-site sanitary sewer being built to the intersection of Cobalt Street and Bear Claw Way, which is planned to be constructed with the final phases of the Woodstone development.
  14. The developer shall construct sidewalk, curb and gutter, asphalt pavement, asphalt tapers, shoulders, ditching, and storm sewer on Elderberry Road, in accordance with the plans approved by the City Engineer and City Traffic Engineer.
  15. The developer shall coordinate the necessary right of way dedication on Elderberry Road and on Bear Claw Way as determined by the City Engineering, Traffic Engineering and the Planning divisions.
  16. The developer shall be responsible for the construction of Wilrich Street to allow for a minimum of half of a street and the necessary utilities necessary to serve Lot 1 of the final plat.
  17. The City may construct Bear Claw Way from Cobalt Street to the south in the summer of 2014 as an assessable public works project.
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18. 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.
  19. 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.
  20. This development is subject to impact fees for the Elderberry Neighborhood Sanitary Sewer Improvement 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 plat/CSM: "Lots/ buildings within this subdivision are subject to impact fees that are due and payable at the time building permit(s) are issued."
  21. The developer shall construct Madison Standard street and sidewalk improvements for all streets within the plat.

22. The developer shall note that City funds for outlot frontage are limited and will be determined at the sole discretion of the City.
23. The developer shall make improvements to Elderberry Road to facilitate ingress and egress to the plat.
24. All proposed street names shall be approved by the City Engineer. The applicant shall contact Lori Zenchenko ((608) 266-5952) with street name requests.
25. 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 Preconstruction 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.
26. The following notes shall be included on the final plat:
  - a.) 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.
  - b.) 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.

NOTE: In the event of a City of Madison Plan Commission and/or Common Council approved re-division of a previously subdivided property, the underlying public easements for drainage purposes are released and replaced by those required and created by the current approved subdivision.

Information to Surveyor's: In addition to notes such as this, WI State Plat Review now enforces the requirement that easements or other reference lines/areas be graphically shown, dimensioned and tied when they represent fixed locations. They will accept a "typical detail" when the easement or restriction can be effectively described and retraced from the typical detail.

27. 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."*

28. 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), provide infiltration in accordance with Chapter 37 of MGO, and; complete an erosion control plan and complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website as required by Chapter 37 of MGO.
29. Effective January 1, 2010, the Wisconsin Department of Commerce's authority to permit commercial sites for stormwater and erosion control has been transferred to the Wisconsin Department of Natural Resources (WDNR). As this site is greater than one acre, the applicant is required by State Statute to obtain a Water Resources Application for Project Permits (WRAPP) from the WDNR prior to beginning construction. This permit was previously known as a Notice of Intent Permit (NOI). Contact Eric Rortvedt of the WDNR at 273-5612 to discuss this requirement. The City of Madison cannot issue an erosion control and stormwater management permit until concurrence is obtained from the WDNR.
30. A minimum of 2 working days prior to requesting City Engineering signoff on the plat, the applicant shall contact Janet Dailey (261-9688) to obtain the final stormwater utility charges that are due and payable prior to subdivision 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).
31. The developer shall construct public sanitary sewer, storm sewer, and drainage improvements as necessary to serve the lots within the plat.
32. 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.
33. Note: Each unit of a future duplex building shall be served by a separate and independent sanitary sewer lateral or an ownership/maintenance agreement (recorded) shall be in place prior to [future] CSM approval.
34. The applicant shall submit, prior to plan sign-off, digital PDF files to the City Engineering Division. The digital copies shall be to scale, shall have a scale bar on the plan set, and shall contain the following items: building footprints; internal walkway areas; internal site parking areas; lot lines and right-of-way lines; street names, stormwater management facilities and; detail drawings associated with stormwater management facilities (including if applicable planting plans).

35. 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. Note: Land tie to two PLS corners required.

36. The applicant shall submit to Eric Pederson, prior to Engineering sign-off of the subject plat, two (2) digital and one (1) hard copy of the final plat to the Mapping/GIS Section of the Engineering Division. The digital copies shall be submitted in both NAD27 & WIDOT County Coordinate System, Dane County Zone datums in either Auto CAD Version 2001 or older, MicroStation Version J or older or Universal DXF Formats and contain the minimum of the following, each on a separate layer name/level number: right of way lines (public and private); lot lines; lot numbers; lot/plat dimensions; street names, and; easement lines (i.e. street, sanitary, storm (including wetland & floodplain boundaries) water, pedestrian/bike/walkway, or any public and/or private interest easement except local service for Cable TV, gas, electric and fiber optics).

\*This transmittal is a separate requirement than the required submittals to Engineering Streets Section for design purposes.

\*New electronic final plat transmittals and notification of changes which occur to the final plat during the time the Engineering Division signs off and receives the digital copies of said plat and the recording thereof, are the responsibility of the Developer/Surveyor

37. In accordance with Section s. 236.18(8), Wisconsin Statutes, the Applicant shall reference **City of Madison WCCS Dane Zone, 1997Coordinates** on all PLS corners on the Plat or Certified Survey Map in areas where this control exists. The Surveyor shall identify any deviation from City Master Control with recorded and measured designations. City of Madison has established WCCS, Dane Zone Coordinates on all PLS corners within its corporate boundary. Visit the City of Madison Engineering Division web address [http://gis.ci.madison.wi.us/Madison\\_PLSS/PLSS\\_TieSheets.html](http://gis.ci.madison.wi.us/Madison_PLSS/PLSS_TieSheets.html) for current tie sheets and control data. If a surveyor encounters an area without a published WCCS Dane Zone 1997 value, contact the City Engineering Division for this information.

38. In accordance with Section s.236.20(2)(c)&(f), Wisconsin Statutes, the applicant must show type, location and width of any and all easements. Clearly identify the difference between existing easements (cite Register of Deeds recording data) and easements which are being conveyed by the plat. Identify the owner and/or benefiting interest of all easements.

39. City of Madison Environmental Projects Staff have reviewed the subject site and determined that a Phase I ESA **will** be required of the applicant. The applicant shall provide 1 digital and 2 hard copies of an ASTM Phase I ESA prepared by an environmental professional. Staff review of this Phase I ESA will determine if a further investigative Phase II ESA is also required. Please submit any relevant Phase I and Phase II ESAs to Brynn Bemis (267-1986, [bbemis@cityofmadison.com](mailto:bbemis@cityofmadison.com)) for further review.

**Traffic Engineering Division** (Contact Scott Langer, (608) 266-5987)

40. The applicant shall revise the final plat to dedicate right of way for the future construction of a roundabout at Elderberry Road and Bear Claw Way as designed by the Traffic Engineering Division.



41. The applicant shall execute and return a declaration of conditions and covenants for streetlights and traffic signals prior to sign off.
42. 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, (608) 266-5978)

This agency did not provide comments for this request.

**Fire Department** (Contact Bill Sullivan, (608) 261-9658)

Note: The Madison Fire Department does not object to this proposal provided the project complies with all applicable fire codes and ordinances

**Water Utility** (Contact Dennis Cawley, (608) 261-9243)

43. Public water mains will be designed by the Madison Water Utility and shall be installed by standard City of Madison Subdivision Contract.

44. All operating private wells shall be identified and permitted by the Madison Water Utility and all unused private wells shall be abandoned in accordance with MGO Sec. 13.21.

**Metro Transit** (Contact Tim Sobota, (608) 261-4289)

This agency did not provide comments for this request.

**Parks Division** (Contact Kay Rutledge, (608) 266-4714)

45. The neighborhood plan does not show a neighborhood park in this area. Therefore, park impact fees (comprised of the Park Development Impact Fee per MGO Sec. 20.08(2) and the Parkland Impact Fee in lieu of land dedication per MGO Sec. 16.23(8)(f) and 20.08(6)) will be required for all new residential development in this subdivision. Park impact fees will be determined when subsequent plans are submitted for review and approval for each of these lots. The developer must select a method for payment of future park impact fees prior to signoff of the final plat. This development is within the Elver Park impact fee district (SI29). Please reference ID# 13117 when contacting Parks Division staff about this project.

46. Approval of plans for this project does not include any approval to prune, remove or plant trees in the public right of way. Permission for such activities must be obtained from the City Forester, 266-4816.

**Office of Real Estate Services** (Jenny Frese, 267-8719)

47. Prior to final sign-off, the Owner's Certificate(s) on the final plat shall be executed by all parties having an interest in the property, pursuant to MGO Section 16.23(5)(g)4 and Wis. Stats. 236.21(2)(a). Certificates shall be prepared with the ownership interests consistent with the most recent title report. Signatories shall provide documentation that proves legal authority to sign the Owner's Certificate.

48. Certificates of consent from all mortgagees/vendors shall be included on the final plat following the Owner's Certificate(s).
49. An Environmental Site Assessment will be required because of the public dedications.
50. Per Chapter 236.21(3) of Wis. Stats. and MGO Section 16.23(5)(g)(1), the property owner shall pay all real estate taxes and special assessments that are accrued or delinquent for the subject properties prior to final approval of the plat for recording. As of March 5, 2014, the 2013 real estate taxes are paid for the subject property and there are no special assessments reported.
51. The following revisions shall be made to the final plat prior to final approval and recording:
  - a.) Research the location of the Easement to Wisconsin Power and Light, recorded as Document No. 487866, and if it lies within the plat boundary, please label and depict it on the final plat.
  - b.) Insert a certificate for the Secretary of the Plan Commission.
  - c.) Depict easements for utility and drainage rights of way to be created by the final plat.