

3/7/2022

To: Dane County – Zoning & Land Regulation Committee

Item: Dane County Rezone Petition DCPREZ-2021-11797

Applicant's Response:

It seems the attached 11797 Staff Report shows the incorrect land split proposal. Initially two CSM options were submitted to Dane County (Option 1: Easement crossing one lot; Option 2: easement crossing 2 lots). After further discussions with the surveyor and the Town of Verona, the second option was submitted to the Town's Plan Commission and the Town Board. This option provides better shaped lots and maximizes the overall buildable area for each lot. Each lot will be at least 1.5 acres and access to each lot will be granted through a shared driveway as per the requirements of the Town of Verona Comprehensive Plan ("TVCP") and Chapter 75 of the Dane County Ordinance. Therefore, it appears that the staff review/report was based on the wrong land split option.

In addition to the incorrect CSM, comments provided by Dane County are erroneous and conflict with the TVCP. The staff report relies on only two comments for its recommendation. The following comments (in italics) were provided in the report:

OBSERVATIONS: Three of the four proposed lots would have no road frontage, as required under Section 75.19(6), Dane County Code. The landowner provided a shared access driveway agreement on February 2, 2022. Based on approximate driveway easement locations and required setbacks, proposed Lot 1 would have a buildable area of less than 20,000 square feet, which may make it difficult to locate a home, a septic system and a replacement drainfield. Narrow widths of proposed Lots 1 and 2 may limit available building area, given required zoning setbacks.

Applicant Response: SFR-1 setbacks are used to establish the buildable area for a Single-Family Residence (SFR). For septic systems the setback rules follow Chapter SPS 383 - Private Onsite Wastewater Treatment Systems, where the location of a septic system can be as close as 2' from the lot line (see Table 383.43-1). A typical Septic System (4 BR) would require about 3,500 sf on average. Considering just the buildable area with an average building footprint of 4,000 sf (large ranch house), there is space for **at least 4 septic systems** on Lot 1. The Town of Middleton allows lot sizes as small as **0.7 acres (SFR-08)** with the same requirement of locating 2 septic fields. In this case, Lot 1 is approximately 1 acre without considering the 66' shared driveway. Therefore, there is more than sufficient area to locate a home, a septic system, and a replacement drainfield on Lot 1.

TOWN PLAN: The property is within an Urban Residential planning area in the Town of Verona / Dane County Comprehensive Plan. Residential development is supported up to a density of one unit per 1.5 acres, provided design and other criteria are met. The Transportation section of the adopted plan includes the following policy: "The Town will ensure that all new requests for land divisions along existing Town roads include public road right-of-way dedication to the current standard of sixty-six (66) foot roadway width."

Applicant Response: Access to the Town Road (Manhattan Dr.) will be granted via shared driveway easement (as submitted on 2/2/2022) that complies with the current standard of 66 feet of roadway width. This is a common practice for multiple lots whether existing or new in the Town of Verona. Indeed, multiple lots within the same neighborhood as my property are served by a shared driveway. There are also **several approved shared driveways** after the adoption of the TVCP in 2018. Some examples of approved shared driveways are 6411 Sunset Dr. (Sunset Llama Condominium) and 6466 Sunset Dr. (Olsen Condominium), 2110 Davis Hills Dr., and more.

Furthermore, based on the TVCP, the Town has an express policy to promote shared driveways to achieve traffic safety and rural character goals (see TVCP Chapter 4.3, bullet 17). Also, the Town's policy is to encourage clustered residential subdivisions that will prevent or minimize conversion of agricultural or open space land (see TVCP Chapter 12, Goal 2). This property is adjacent to an existing cluster of residential development and meets the goals and policies of the TVCP.

Based on the foregoing it appears that we (me and my family) are **not held to the same standards** as other applicants/residents of the Town (see more responses to the Town's comments in the appendix of this letter). The proposed rezone and CSM meet the requirements of the TVCP and there are no issues with the proposed setbacks for the lots. The proposed lot sizes and configuration are consistent with the existing residential development in the neighborhood and fulfill the goals and policies set forth by the Town. I do not believe that there is any basis for denying the proposed rezone petition.

Respectfully,

A handwritten signature in black ink, appearing to read "Norbert Repka", written over a horizontal line.

Norbert Repka, PhD.

Appendix

Town of Verona staff response to request for clarification on denial of petition 11797 (3/1/22)

Mr. Repka came before the PC twice, the Town Board twice and his application was denied twice. He also met with myself and our PC Chair at least three times as well prior to the second proposal submission and chose not to incorporate any feedback beyond increasing the lot size of two lots to 1.5 acres. The Town indicated on several occasions that we would support three lots, but it appears Mr. Repka is not interested in that configuration.

Applicant Response: Yes, we have met several times, me creating a new proposal every time to take into account proposed comments. Initially wanted to donate the driveway to the town (denied), added a shared septic system to control the location of future development and minimize water run-off (denied due to the use of exception), with finally adjusting the lot size to 1.5 acres (in order to not use the exception from the plan) and simply comply with ALL requirements of the TVCP.

His proposal was rejected because 2/4 lots do not conform to the preferred lot width to length ratio of 1:2.

Applicant Response: This is an arbitrary, made-up comment by the town. I am not aware of any document specifying a lot ratio. Currently, the new proposal has a ratio of 1:4. If I would split it into 3 lots (as suggested above) the ratio would be even worse >> i.e, 1:8

The driveway access agreement was not presented, which is required for approval, and will likely be complicated. Three of the four lots proposed will not have frontage. The easement itself is placed over two lots but provides access to four.

Applicant Response: At the last Town's Plan Commission meeting I have mentioned that my lawyer was still working on it. The final Shared Driveway Easement Agreement was submitted to Dane County on 2/2/2022

The proposal presented to the ZLR was not significantly different from the proposal rejected previously by the Town.

Applicant Response: We have met several times me creating a new proposal every time to take into account proposed comments >> see my response to this in the first comment

The CSM was incomplete – legal description of driveway access easement and utility easements were missing, as was the requested note that no access from LOT 1 would be permitted onto Manhattan Drive.

Applicant Response: This is incorrect. ALL requests were added as per Town's Checklist shared by the Town's planner (I have personally requested the checklist). The comment about "no access" the planner is referring to was not applicable to the last option that was submitted to the Town.

Further, due to the topography of lots 1 and 2, all water without significant intervention, would be directed toward the neighbor to the north. Mr. Repka, to date, has not consulted with that neighbor regarding his proposal, which was a request of the Town.

Applicant Response: We discussed this at the Town meeting. My neighbor's (Mr. Bill Keen) water problems are because his house sits near a wetland/floodplain (see image below). Also, the ditch that should channel water away is not kept clean by the Town. By the way, I offered my help using my tractor to clean it.

