



TO: Village of Waukesha Plan Commission
CC: Brian Fischer, Brandon Bledsoe, Chris Genellie, John Macy
FROM: Shaun Mularkey, Planning Consultant
RPT DATE: February 4, 2021
MTG DATE: February 11, 2021
APRVL DATE: April 11, 2021 (90 days from date of application) Approved February 11, 2021
FOTH FILE: 20W022.01/37
RE: Esitec LLC – Certified Survey Map Request

BACKGROUND:

1. Petitioner/Agent: Dean Danner (dba Esitec LLC)
2. Property Owner: Esitec LLC
3. Location/Address: W269 S23680 Genesee Rd and 1915 MacArthur Rd, Waukesha, WI 53188
4. Taxkey Number: WAKT 1332999 & WAKC 1329009
5. Area: 14.04 acres (12.90 to meander line)
6. Existing Zoning: *Village:* I-2 General Industrial; *Shoreland/Floodland:* M-2 General Industrial District, EC Environmental Corridor Overlay, Wetland Overlay, HG High Groundwater Overlay, Floodplain Overlay
7. Future Land Use: Commercial & Environmental Corridor

OVERVIEW:

The Petitioner is requesting approval of a Certified Survey Map (CSM) to create one (1) lot and two (2) outlots from an existing outlot (Outlot 1 of CSM 10610) and properties along MacArthur Rd in the City of Waukesha. Lot 1 is proposed as 1.11 acres and includes Lots 8, 9 and 10 of the Westmoreland Industrial Park in the City of Waukesha. Outlot 1 will be 4.78 acres (4.67 acres to the Fox River meander line) and Outlot 2 will be 6.71 acres (5.68 acres to the meander line).

The existing outlot was created in 2008 via CSM in conjunction with the lot directly west along Genesee Rd. The outlot is currently owned by Esitec LLC, which also owns Lots 8, 9 & 10 of the Westmoreland Industrial Park in the City of Waukesha.

The purpose of the land division is to sell Outlot 2 to the property owner (Burrie) directly north of it in the City of Waukesha. Outlot 2 is entirely within either floodplain, wetland, or environmental corridor and is not developable. Outlot 1 would remain in the ownership of Lot 1 – the Petitioner. Lot 1 includes the extension of the parking lot from the Esitec property to the north and an approximately 775 SF accessory building, and will include land within both the City of Waukesha and the Village of Waukesha.

The outlots are intended to remain undeveloped. They are shown in the Village Plan as a combination of *Commercial* and *Environmental Corridor*, and the Petitioner has requested that the Village of Waukesha include them in the next Planned Land Use Map update as *Recreational* and *Environmental Corridor* in order to rezone them in the future for private recreational use, including use by the Boy Scouts.

The Petitioner requested approval of a CSM at the September 10, 2020 meeting, but withdrew the Petition in order to make substantial changes which included:

- Switching the new lots that were proposed to outlots;

- Including the south parking area in a lot; and
- Clean up of the CSM per planner and engineer comments.

The Plan Commission and Board stated that they were not willing to grant a waiver to allow the creation of any lots that did not have direct access onto a public road as required by the Village Land Division Ordinance.

PLANNER COMMENTS:

1. **Zoning.** I-2 (Village) and M-2 (Shoreland/Floodland) have a minimum lot area of 1 acre and a minimum lot width of 150'. The proposed land division is consistent with zoning.
2. **Access.** The existing outlot does not front a public road, but there is an existing driveway easement to the benefit of the outlot through the Esitec property on MacArthur Rd. The existing CSM also includes notes stating:
 - *Ingress and egress to Outlot 1 of this Certified Survey Map via a 30' Wide "Joint Driveway Access Agreement" per Document No. 358424*
 - *Outlot 1 of this Certified Survey Map may not be sold separately from the property identified as Lots 8, 9 and 10, Westmoreland Industrial Plat, identified as City of Waukesha tax key WAKC1329009.*
 - *The Creation of Outlot 1 as a parcel not abutting a public road was approved by the Waukesha County Park and Planning Commission on September 4, 2008.*

Proposed Outlot 1 will maintain access through proposed Lot 1, while proposed Lot 2 would have no established access. Sec 20-180(3) of the Village of Waukesha Code of Ordinances requires that every lot front or abut for a distance of at least 66 feet on a public street or at least 45 feet on all proposed cul-de-sac bulbs. Outlots do not require frontage on a public road.

Notes on Sheet 9 of the CSM have outdated references from the original CSM and require a few corrections and additions:

- Note 4 should be updated to state that Outlot 1 may not be sold separately from Lot 1.
 - Note 5 should be removed.
 - Note 6 should be removed with approval from Waukesha County (see discussion under Item 4 further below).
 - A note(s) should be added requiring a deed restriction be recorded ~~for each of the lots and outlots to ensure Outlot 1 is not sold separately from Lot 1 and so that~~ Outlot 2 is not sold separately from Lot 7 of the Westmoreland Industrial Park.
3. **Outlot 2 Structures.** A small portion (~3,500 SF) of proposed Outlot 2 appears to be used as part of the operation on Lot 7 of the Westmoreland Industrial Park to the north including some small structures and equipment and gravel drive. The use of the outlot as part of the operation/industrial development is not permitted. All structures shall be removed from the outlot prior to signature of the CSM by the Village.
 4. **No Further Division.** The existing CSM also includes a note stating that, *"Outlot 1 may not be further divided without approval of the Waukesha County Park and Planning Commission."* Waukesha County no longer has approval authority over land divisions within the Shoreland/Floodland areas with the Village, however, Waukesha County could still enforce this note unless waived. The Petitioner should provide a written statement from Waukesha County waiving review, otherwise the CSM must be reviewed by the County.
 5. **Certified Survey Map.** The CSM should be revised to:
 - Include additional separate legal descriptions for the portion of Lot 1 within the Village and City.

- Update wetland/floodplain/primary environmental corridor preservation restrictions on Sheet 6 to reference the Village of Waukesha instead of Waukesha County.
- Update notes on Sheet 9 per above comments.
- Add signature block for City of Waukesha Approval.
- Correct reference to “Town” of Waukesha on Sheet 9.
- Correct the Village President’s title under the Village Board Approval section on Sheet 9

ENGINEER COMMENTS:

Chris Genellie, Village Engineer has provided separate correspondence regarding the review of the Certified Survey Map.

STAFF RECOMMENDATION:

Depending on confirmation by the Village of Waukesha Plan Commission of the above described comments, the Village of Waukesha Plan Commission may take the following action:

The Village of Waukesha Plan Commission recommends to the Village of Waukesha Board **Approval** of the Certified Survey Map Request for Dean Danner (dba Esitec LLC) for the properties at W269 S23680 Genesee Rd and 1915 MacArthur Rd, Waukesha, WI 53188, subject to the following conditions:

1. The Petitioner shall satisfy all comments, conditions, and concerns of the Village Plan Commission, Village Board, Village Engineer, and Village Planner with regard to the Certified Survey Map prior to signing by the Village of Waukesha.
2. The Petitioner shall obtain approval of the Certified Survey Map from the City of Waukesha.
3. The Petitioner and/or Property Owner shall, on demand, reimburse the Village of Waukesha for all costs and expenses of any type incurred by the Village in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Village for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Village of Waukesha by the Subject Property Owner and/or Agent, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees or forfeitures owed to the Village of Waukesha must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Village of Waukesha, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village of Waukesha, including possible cause for termination of the conditional approval.