



## Report to the Plan Commission

November 19, 2012

**Legistar I.D. #28255**  
**4781 Norton Lane, Town of Sun Prairie**  
**Extraterritorial Certified Survey Map**

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

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**Requested Action:** Consideration of a two-lot Certified Survey Map (CSM) of the Miller property located at 4781 Norton Lane, Town of Sun Prairie, in the City of Madison's Extraterritorial Jurisdiction. [The application indicates Norton Drive; County maps indicate that the road is Norton Lane.]

**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 4 of this report.

### Background Information

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**Applicant & Property Owner:** Kevin & Bonnie Miller; PO Box 7144; Madison.

**Agent:** John Klement; 6936 N. Braeburn Lane; Glendale.

**Surveyor:** Chris Adams, Williamson Surveying & Associates, LLC; 104A W. Main Street; Waunakee.

**Proposal:** The applicant proposes to subdivide the existing approximately 15.1-acre parcel into 2 lots. 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 originally submitted to the City on March 30, 2012 as a two-lot CSM creating 1 residential lot and 1 commercial lot and without the required approval by Dane County and the Town of Sun Prairie. Dane County approved the current two-lot residential CSM on October 30, 2012. Therefore, the 90-day review period for this CSM will end circa January 30, 2013.

**Parcel Location:** A 15.1-acre parcel located on the west side of Norton Lane, approximately 800 feet south of CTH TT and adjacent to Interstate 94; Sun Prairie Area School District.

**Existing Conditions:** The subject site is developed with a single-family residence in the northeastern corner of the property and a 10,400-square-foot metal building located in the southeastern corner of the property within 100 feet of the southern property lined formed by Interstate 94. The property is primarily zoned County RH-3 (Rural Homes District) except for the portion of the property surrounding the shed, which is zoned LC-1 (Limited Commercial District).

**Surrounding Land Uses:** Properties between the northern boundary of the subject site and CTH TT are developed with single-family residences on a variety of town lots in County Residence and Rural

Homes zoning districts. The lots located east of the site along the east side of Norton Lane include single-family homes in County R-1 (Single-Family Residence District) and A-1EX (Exclusive Agriculture District) zoning and a series of lots zoned C-2 (Commercial District) in the Larue Fields commercial/industrial subdivision. Properties to the west of the site are predominantly agricultural in character and zoned A-1EX or RH-3.

**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 H6).

**Public Utilities and Services:**

Water: Property is not served by municipal water

Sewer: Property is not served by public sewer

Fire protection: Sun Prairie Volunteer Fire Department

Emergency medical services: Marshall Area Emergency Medical Services

Police services: Dane County Sheriff's Department

School District: Sun Prairie Area School District

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**Project Review, Analysis & Conclusion**

**Proposed Land Division:** The property owners, Kevin & Bonnie Miller, are requesting approval of a two-lot extraterritorial Certified Survey Map to subdivide their approximately 15.1-acre parcel located on west side of Norton Lane, approximately 800 feet south of CTH TT and adjacent to Interstate 94 in the Town of Sun Prairie. The subject site is currently developed with a single-family residence in the northeastern corner of the property and a 10,400-square-foot metal storage building located in the southeastern corner of the property within 100 feet of the southern property lined, which includes a large surface parking area to the rear (west). Norton Lane (shown on the CSM as Norton Drive) is an approximately 1,000-foot long town right of way that extends south from CTH TT and ends at the interstate right of way, with the road surface ending at the driveway leading to the building and parking area on the southern half of the property. The site is generally located at the same grade as Interstate 94 adjacent, with a line of conifers located along the southern boundary of the property. Additional tree cover exists to the south of the site in the highway right of way.

Land uses surrounding the site vary, with other single-family residential properties located both to the north along Vang Road and along the east side of Norton Lane. The east side of Norton Lane is also developed with the westernmost edges of the Larue Field commercial subdivision, which is primarily located behind the lots fronting Norton Lane on Larue Field Lane. The Larue Field development is zoned C-2 in the County and is accessed from an intersection with CTH TT.

After initially proposing to subdivide the property into two lots to generally coincide with the RH-3 (Rural Homes District) and LC-1 (Limited Commercial District) zoning of the property, the applicants have revised their request to seek approval of the two residential lots shown on the attached CSM. The existing residence will be located on a 4-acre parcel shown as Lot 2 of the CSM. The remaining 11.1 acres of the property and the existing storage building will be located on proposed Lot 1, which will parallel the property frontage along Interstate 94. Both proposed lots were recently rezoned to the RH-2 and RH-3 residential districts.

**Approval of CSM by Town of Sun Prairie and Dane County:** Section 16.23(3)(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 Dane County Zoning & Land Regulation Committee conditionally approved the proposed land division as outlined in the attached letter dated October 30, 2012 from Dan Everson, Land Division Review, Dane County Department of Planning and Development. Earlier on October 18, 2012, the Dane County Board approved the rezoning of the eastern 5.7 acres of the subject property from RH-3 (Rural Homes District) and LC-1 (Limited Commercial District) to RH-2 (Rural Homes District) and RH-3 to facilitate the proposed land division.

The proposed land division and rezoning were approved by the Town of Sun Prairie on September 24, 2012. As part of its review of the rezoning and CSM, the Town required that Lot 1 of the final CSM include a non-objection acknowledgement that the owner and their successors of that lot will not object to any of the legally permitted uses that occur on the adjoining property. The CSM is also required to include provisions for a driveway to serve the property.

**City of Madison Land Use Plan:** The subject property is located a half-mile east of the easternmost limits of the Northeast Neighborhoods Development Plan. The Comprehensive Plan identifies lands generally located east of the Sprecher Neighborhood Development Plan, southeast of the Northeast Neighborhoods Development Plan and west of the Village of Cottage Grove – including the subject site – in Peripheral Planning Area F (Group 2). Planning Area F notes the existence of a significant amount of unsewered residential development in this planning area and acknowledges that the long-term future of the area will likely not be agricultural. The Comprehensive Plan suggests that additional residential development may be appropriate in the portions of the planning area, with an increased housing variety recommended. Portions of the planning area may also be suitable for neighborhood mixed-use nodes if future residential densities are supportive. However, some of Planning Area F is also recommended for a potential permanent open space zone to separate Madison from the Village of Cottage Grove. Additional neighborhood planning will be required to determine the future uses in this area, and any future planning by the City may depend on the establishment of an agreement between the City of Madison and the Village of Cottage Grove.

**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 generally believes that the Plan Commission can find the above criteria met with the proposed land division. Staff does not believe that the lots proposed with this land division would be incompatible with the development pattern present along Norton Lane, which as noted earlier in this

report includes a variety of single-family home sites of varying size and shape and a commercial subdivision. Staff also does not believe that the land division will have an adverse impact on potential future urban development activities in this area.

Section 16.23(3)(d) of the City's Subdivision Regulations require that subdivisions or land divisions proposed adjacent to limited access state or federal highways comply with State Trans. 405 highway noise abatement provisions. Trans. 405 requires that any residential or institutional structures located within identified highway-impact noise contours be constructed to limit highway noise on the building's interior to 52 decibels, and that any outdoor recreational space serving a residential or institutional use be located outside of the 67-decibel noise contour for the highway, in this case Interstate 94. A highway noise study was not submitted with this land division request. The Plan Commission may require one as a condition should this request be approved, though Planning staff recommends that the Commission consider whether a highway noise study is necessary given the character of the site and the nature of the proposed land division, which essentially creates lots that follow the building pattern on the property. Regardless of whether a study is required, the staff recommends that notes be placed on the Certified Survey Map acknowledging the existing and future presence of highway noise and vibration and the need to soundproof any new residences that could be built in place of existing structures.

## **Recommendation and Proposed Conditions of Approval**

Major/Non-Standard Conditions are shaded

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

The Planning Division recommends that the Plan Commission **approve** the Certified Survey Map dividing 4781 Norton Lane, Town of Sun Prairie into two lots, subject to input at the public hearing and the following conditions of approval:

1. The final Certified Survey Map (CSM) shall be revised to correctly identify Norton Lane in accordance with Dane County mapping.
2. That the CSM be revised per Planning Division approval prior to recording as follows:
  - a.) that a vehicular access restriction be added for Lot 1 along the northern right of way line of Interstate 94. The restriction shall be shown graphically on the face of the CSM and as a note acknowledging that no vehicular access shall be granted for those lots;
  - b.) the residence on Lot 2 shall be identified accordingly on Sheet 1 of 5;
  - c.) that a building envelope be identified for Lot 1; this envelope shall be located on the portion of Lot 1 located between Lot 2 and Interstate 94 with the goal of preserving the western portion of Lot 1 for future development;
  - d.) that a note be placed on the CSM stating that any future residential buildings constructed on these lots will be designed so that highway-generated interior noise levels will not exceed 52 decibels;
  - e.) include the following note on the CSM:

*"The owners and occupants of existing and future residences on lots contained on this Certified Survey Map acknowledge the presence of high levels of noise and vibration resulting from adjacent Interstate 94 and shall hold harmless from damages the Wisconsin Department of Transportation and any municipality in whose jurisdiction these lots are located from any impacts on the use, enjoyment or value of these properties resulting from existing or future highway traffic volumes."*

3. The CSM shall be revised to dedicate a 12-foot wide utility easement adjacent to Norton Lane along the eastern edges of Lots 1 and 2, as requested by Alliant Energy. For more information on this condition, please contact Brand Smith at Alliant Energy, 842-1705.

The following conditions have been submitted by reviewing agencies:

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

4. The curve table elements for C3 appear to be incorrect as the long chord shown is longer than the arc. Reconcile this information on the final CSM prior to recording.
5. This CSM boundary indicates numerous recorded and measured differences from prior recorded CSM 7391, CSM 11285 and CSM 11372 that are not indicated on this CSM and shall be shown.
6. Label the appropriate horizontal datum reference for the PLSS section corner coordinates that are shown on this CSM.
7. Arrows shall be added to the certified survey map indicating the direction of drainage for each property line not fronting on a public street. In addition, the certified survey map shall include lot corner elevations, for all lot corners, to the nearest 0.25-foot. The following notes shall be added to the certified survey map.
  - a.) Arrows indicate the direction of surface drainage swale at individual property lines. Said drainage swale shall be graded with the construction of each principal structure and maintained by the lot owner unless modified with the approval of the City Engineer. Elevations given are for property corners at ground level and shall be maintained by the lot owner.
  - b.) All lots within this certified survey 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 certified survey. 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 certified survey. 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.

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. (MGO 16.23(3)(a)(2)(c) (plats) & 16.23 (5)(g)1. (CSM)

8. 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.

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

9. Prior to requesting final approval prior to recording, executed signature block certifications shall be included for all parties of interest, pursuant to MGO Section 16.23(5)(g)4 and Wis. Stats. 236.21(2)(a). The title of each certificate shall be consistent with the ownership interest reported in the most recent title report. All ownership consents and certifications for the subject lands shall conform to Wis. Stats. 236.21(2) and 236.29, i.e., by including the language "...surveyed, divided, mapped and dedicated..." The title report shows the following parties have an ownership interest in the lands within the CSM and shall be signatories on the Owner's Certificate:
  - Kevin S. Miller
  - Bonnie L. Miller
  - Miller Construction, Inc.
10. A certificate of consent by each mortgagee/vendor shall be included following the Owner(s) Certificate for each of the mortgagees/vendors listed below:
  - Anchorbank
11. The 2011 real estate taxes have been paid for the subject property. Special assessments were included in the paid amount.
12. Prior to final sign-off, any outstanding liens against the property must be satisfied, particularly regarding Dane County Circuit Court Case No. 2012FA001616.
13. The following CSM revisions shall be made:
  - a.) Include a complete and accurate legal description of the lands that are to be included in the proposed CSM. The legal description shall be reconciled with the legal description in record title. Also, there is a minor typo in the abbreviated legal header on each page of the CSM. Please correct the word "Lots" to read "Lot".
  - b.) Create and record, or show as being dedicated in the proposed CSM, easements for utility and drainage rights of way when the utility or drainage physically exists, but no document for it exists in record title.
  - c.) Record satisfactions or releases for all mortgages, liens, judgments, or other instruments that encumber the title of the subject lands, but where the purpose for such instrument has been satisfied, fulfilled or resolved.
  - d.) Please depict the "No Vehicular Access" hash marks along southern property line along Interstate 94, as shown on CSM 7391 recorded as Doc. No. 2583399.

- e.) Please place a note on the face of the CSM that the lands within the CSM boundary are subject to Private Sewage System Maintenance Agreement covenant and conditions as set forth in Doc. No. 2852941, Private Onsite Wastewater Treatment System Covenant, per Doc. No. 3710953, and Deed Restrictions as set forth in Doc. No. 3812013.
  
- f.) Research the legal description in Doc. No. 2503235 to determine if the 20' Wisconsin Bell Right-of-Way grant is located within the CSM boundary. If so, please depict the easement on the CSM.