

PREPARED FOR THE PLAN COMMISSION



Project Address: 3393 Burke Road, Town of Burke
Application Type: Certified Survey Map (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [72075](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant& Property Owner: Manjesh Agrawal, Agrawal Living Trust; 3393 Burke Road; Sun Prairie.

Surveyor: David Riesop, Wisconsin Mapping, LLC; 306 W Quarry Street; Deerfield.

Requested Action: Approval of a Certified Survey Map (CSM) to create two lots at 3393 Burke Road, Town of Burke, in the City of Madison's Extraterritorial Jurisdiction.

Proposal Summary: The subject site is developed with a one-story single-family residence and place of worship. The applicants propose to create a lot for each building. The CSM will be recorded as soon as all regulatory approvals have been granted.

Applicable Regulations & Standards: The subdivision process is outlined in Section 16.23(5)(b) of the Subdivision Regulations. In particular, the Plan Commission shall determine that the proposed subdivision complies with each of the following criteria for approval in the extraterritorial plat approval jurisdiction:

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.

Review Required By: Plan Commission.

Review Schedule: The State's subdivision statute, Wis. Stats. Ch. 236, requires that action be taken on a Certified Survey Map within 90 days of submittal unless an extension is agreed to by the subdivider. If no action is taken within 90 days and no extension granted, the CSM is deemed approved. Application materials were first submitted to the City in June 2022, but the submittal was not completed until August 2, 2022. Therefore, the 90-day review period for this CSM will end circa November 1, 2022.

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

Parcel Location: The subject site is a 1.66-acre parcel located on the south side of Burke Road, approximately 500 east of Reiner Road in the Town of Burke.

Existing Conditions and Land Use: The subject site is developed with a one-story metal building that houses the Mandir of Madison Hindu temple on the western half of the parcel, with a one-story single-family residence and shed on the eastern half. The parcel is zoned SFR-08 (Single-Family Residential (Small Lots) District).

Surrounding Land Uses and Zoning (all in the Town of Burke and subject to Dane County zoning):

North: Undeveloped agricultural land across Burke Road, zoned RR-8 (Rural Residential District, 8-Acre Minimum); Pathfinder Chassis, zoned HC (Heavy Commercial District);

South: Single-family residences on Sandy Lee Court, zoned RR-2 (Rural Residential District, 2-Acre Minimum);

West: Undeveloped agricultural land, zoned RR-2;

East: Single-family residences along Burke Road, zoned RR-2.

Environmental Corridor Status: The subject site is not located in the Central Urban Service Area and is not located in a mapped environmental corridor. There are small "Resource Protection Corridor" areas located on the property south and east of the existing buildings. Larger resource protection corridor areas are located nearby on the undeveloped parcels north and west of the subject site, which are related to an intermittent stream located to the north across Burke Road.

Public Utilities and Services:

Water: Property is not served by municipal water;

Sewer: Property is not served by public sewer;

Fire protection: Sun Prairie Fire Department;

Emergency medical services: City of Madison Fire Department;

Police services: Dane County Sheriff's Department;

School District: Sun Prairie School District.

Project Description

The applicant and property owner is requesting approval of an extraterritorial Certified Survey Map (CSM) to divide a 1.66-acre parcel in the Town of Burke located on the south side of Burke Road, 550 feet of Reiner Road, into two lots. The western half of the property is developed with a one-story building that houses the Mandir of Madison temple, while the eastern half of the property is developed with a one-story single-family residence and shed. The buildings share a gravel driveway and parking area located between the temple and residence. The land division will split the property into nearly equal halves, with the temple to occupy a 0.78-acre Lot 1 of the CSM, while the residence and shed will occupy a 0.88-acre Lot 2.

Analysis and Conclusion

Approval of CSM 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.

Dane County granted conditional approval of the Certified Survey Map as outlined in a letter from Dan Everson, Land Division Review, Dane County Department of Planning and Development dated June 14, 2022.

The Town of Burke Board approved the proposed land division at its April 19, 2022 meeting.

City of Madison Land Use Plans: The property is located outside of the areas currently covered by an adopted City of Madison neighborhood development plan.

The Peripheral Planning Areas Map in the 2018 Comprehensive Plan identifies lands generally east of the Nelson Neighborhood Development Plan, Felland Neighborhood Development Plan, and Northeast Neighborhoods Development Plan areas as part of Planning Area B (Group 1). The western part of Planning Area B is in the Town of Burke and will be attached to the City of Madison under the Burke Cooperative Plan. The lands in Burke in Planning Area B are located within the boundaries of the forthcoming Reiner Neighborhood Development Plan, which will include detailed land use, transportation, utility, and implementation recommendations for the area bounded by Felland Road on the west, the Wisconsin-Southern Railroad on the north, the Burke-Sun Prairie town line on the east, and the northern line of the City's Northeast Neighborhoods planning area on the south. The Planning Division anticipates completion and adoption of the Reiner Neighborhood Development Plan by the Plan Commission and Common Council before the end of 2022.

Town of Burke Cooperative Plan: The proposed division of the subject site in the Town of Burke requires Plan Commission approval as both a land division in the City's extraterritorial jurisdiction, and as "development" as defined in the 2007 Town of Burke, Village of Deforest, City of Sun Prairie and City of Madison Cooperative Plan. Under the cooperative plan, the terms "develop" or "development" refer to the division of land, or construction of more than one principal structure on a parcel of land, or rezoning a parcel from a residential or agricultural classification to a non-residential classification. Because the existing parcel is under five acres in area and includes a non-residential building and use, it is not eligible for an exemption in the cooperative plan that would allow the land division into two lots without City approval.

Pursuant to the terms of the cooperative plan, the development of lands outside of the Protected Areas identified in the plan may require the development to provide a full range of urban services, including public water and sewer service, and to attach to the City of Madison, in the sole discretion of the City. The subject site is not located in a protected area as defined in the cooperative plan. However, City water and sewer service are not currently proximate to the site or surrounding area, and the nearest property in the City is nearly 1,000 feet south of the site on the east side of Reiner Road. As a result, City staff does not recommend that the property be attached to the City as a condition of this CSM approval.

Land Division Criteria: In order to approve a subdivision or land division in the City's extraterritorial jurisdiction, the Plan Commission shall find that the request is 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. The proposed subdivision or land division and the

resulting development shall also not demonstrably adversely affect the City's ability to provide public services, install public improvements or accomplish future annexations.

In reviewing the proposed CSM, the Planning Division believes that the Plan Commission may find that the approval criteria are met. The proposed division of the developed property into roughly equal lots should not result in a demonstrably different development pattern in the area than what already exists. Staff also does not anticipate that the creation of the proposed lots will negatively affect the City's ability to accomplish attachments or extend urban services into this area in the future.

Recommendation

The Planning Division believes that the Plan Commission can find the approval criteria met with the proposed land division and recommends that the Plan Commission **approve** the two-lot Certified Survey Map of property located at 3393 Burke Road, Town of Burke, in the City's extraterritorial plat approval jurisdiction subject to input at the public hearing and the following conditions:

Recommended Conditions of Approval

Major/Non-Standard Conditions are Shaded

City Engineering Division (Contact Brenda Stanley, (608) 261-9127)

This agency submitted a response with no comments or conditions for this request.

City Engineering Division – Mapping Section (Contact Jeff Quamme, (608) 266-4097)

1. Add the following note: "Lot 2 shall have its own separate access to Burke Road. There shall not be a shared driveway between the two lots on this CSM."
2. Add a note that this CSM is subject to Well Agreement and Easements per Document Nos. 2174197 and 2177780.
3. Add a note that this CSM is subject to Private Onsite Treatment System Covenant per Document No. 5051987 and Aerobic Treatment Unit Allowing an Under Sized Absorption System Agreement per Document No. 5066023.
4. Add to the Surveyor's Certificate that the CSM also complies with the City of Madison Subdivision Ordinance.
5. The description under the Surveyor's Certificate shall include the Volume, page and Document number.
6. 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 Jeff Quamme (jrquamme@cityofmadison.com), City Engineering.
7. Prior to Engineering Division final sign-off by main office for Certified Survey Maps, the CSM shall be submitted in PDF format by email transmittal to Engineering Land Records Coordinator Jeff Quamme (jrquamme@cityofmadison.com) for final technical review and approval. This submittal must occur a minimum of two working days prior to final Engineering Division sign-off.

8. The applicant shall submit to Jeff Quamme, prior to final Engineering sign-off of the subject CSM, one (1) digital CADD drawing in a format compatible with AutoCAD. The digital CADD file(s) shall be referenced to the Dane County Coordinate System and shall contain, at minimum, the list of items stated below, each on a separate layer/level name. The line work shall be void of gaps and overlaps and match the final recorded CSM: right of way lines (public and private); lot lines; lot numbers; lot/plat dimensions; street names, and; easement lines (including wetland and floodplain boundaries).

*This transmittal is a separate requirement than the required submittals to Engineering Streets Section for design purposes. The Developer/Surveyor shall submit new updated final plat, electronic data and a written notification to Engineering Mapping for any changes to the plat which occur subsequent to any submittal.

Traffic Engineering Division (Contact Sean Malloy (608) 266-5987)

This agency submitted a response with no comments or conditions for this request.

Zoning Administrator (Contact Jenny Kirchgatter, (608) 266-4429)

This agency submitted a response with no comments or conditions for this request.

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

This agency submitted a response with no comments or conditions for this request.

Water Utility (Contact Jeff Belshaw (608) 261-9835)

This property is currently outside the Madison Water Utility service area. Note that future attachment to the City may require connection to the City water system, if/when water service becomes available per MGO Section 13.07.

Office of Real Estate Services Andy Miller (608) 261-9983)

9. Prior to approval sign-off by the Office of Real Estate Services ("ORES"), the Owner's Certificate(s) on the CSM shall be executed by all parties of interest having the legal authority to do so, pursuant to Wis. Stats. 236.21(2)(a). Said parties shall provide documentation of legal signing authority to the notary or authentication attorney at the time of execution. The title of each certificate shall be consistent with the ownership interest(s) reported in the most recent title report. When possible, the executed original hard stock recordable CSM shall be presented at the time of ORES approval sign-off. If not, the City and the Register of Deeds are now accepting electronic signatures. A PDF of the CSM containing electronic signatures shall be provided to ORES to obtain approval sign-off.
10. Prior to CSM approval sign-off, an executed and notarized or authenticated certificate of consent for all mortgagees/vendors shall be included following the Owner's Certificate(s). If a mortgage or other financial instrument is reported in record title, but has been satisfied or no longer encumbers the lands or ownership within the CSM boundary, a copy of a recorded satisfaction or release document for said instrument shall be provided prior to CSM approval sign-off.
11. If any portion of the lands within the CSM boundary are subject to an Option to Purchase or other Option interest, recorded or unrecorded, include a Certificate of Consent for the option holder and have it executed prior to CSM sign-off if said ownership interest meets the criteria set forth by Wis. Stats. Sec. 236.34 and Sec. 236.21(2)(a).

12. A Consent of Lessee certificate shall be included on the CSM for all tenant interests in excess of one year, recorded or unrecorded, and executed prior to CSM sign-off.

13. Update the Plan Commission certificate as follows:

Approved for recording per the Secretary of the City of Madison Plan Commission.

By: _____
Matthew Wachter, Secretary of the Plan Commission

Date: _____

14. As of July 28, 2022, the 2021 real estate taxes are paid for the subject property. Per 236.21(3) Wis. Stats., the property owner shall pay all real estate taxes that are accrued or delinquent for the subject property prior to CSM recording. This includes property tax bills for the prior year that are distributed at the beginning of the year.

15. As of July 28, 2022, there are no special assessments due. All known special assessments are due and payable prior to CSM approval sign-off. If special assessments are levied against the property during the review period and prior to CSM approval sign-off, they shall be paid in full prior to CSM sign-off.

16. Pursuant to Madison City Ordinance Section 16.23(5)(g)(4), the owner shall furnish an updated title report via email to Andy Miller in the ORES (acmiller@cityofmadison.com), as well as the survey firm preparing the proposed CSM. The report shall search the period subsequent to the initial title report, dated June 15, 2022, submitted with the CSM application and include all associated documents that have been recorded since the initial title report. The updated title report shall only include the area of the proposed CSM; any parcels and documents that do not impact the area of this CSM shall be removed from the updated report. A title commitment may be provided, but will be considered only as supplementary information to the title report update. The surveyor shall update the CSM with the most recent information reported in the title update. ORES reserves the right to impose additional conditions of approval in the event the title update contains changes that warrant revisions to the CSM.

17. The owner shall email the document number of the recorded CSM to Andy Miller at the City's Office of Real Estate Services at acmiller@cityofmadison.com as soon as the recording information is available.

18. The following revisions shall be made to the CSM prior to final approval and recording:

- a) Depict, dimension, name, note and/or identify by document number all relevant easements, declarations, plans, conditions, agreements, and other documents cited in record title and the updated title report, and include relevant notes from plats or CSMs of record. If documents included in the 12-23-2019 title report do not apply to the area within the proposed CSM, have them removed from the updated title report.
- b) Depict and dimension all existing improvements including, but not limited to: buildings, drives, parking lots, encroachments, wells, septic systems, etc. located within the CSM boundary.
- c) For properties not connected to municipal utility services, consider whether or not well abandonment ref. NR-141 needs to be addressed.