

PREPARED FOR THE PLAN COMMISSION



Project Address: 4313 Buckley Road, Town of Burke
Application Type: Certified Survey Map (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [87655](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicants & Property Owners: John F. and Elizabeth M. Becker; 4313 Buckley Road; DeForest.

Contact Person: Robert Procter, Axley Brynerson, LLP; 2 E Mifflin Street, Suite 200; Madison.

Surveyor: Dan Paulson, Paulson and Associates; 136 W Holum Street; DeForest.

Requested Action: Approval of a Certified Survey Map (CSM) to create one residential lot from land generally addressed as 4313 Buckley Road in the Town of Burke, in the City of Madison's Extraterritorial Jurisdiction.

Proposal Summary: The applicants and property owners are requesting to create a 9.5-acre residential lot from two parcels (0810-081-8500-5 and 0810-081-9000-8), which total 60.9 acres of land. The letter of intent suggests that the remaining 51.4 acres of land will remain agricultural following creation of the proposed lot. 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(4) 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. A completed application was accepted for review by the City on March 17, 2025. Therefore, the 90-day review period for this CSM will end circa June 16, 2025.

Summary Recommendation: The Planning Division recommends that the Plan Commission find the approval criteria met and **approve** this Certified Survey Map subject to input at the public hearing and the comments and conditions from reviewing agencies beginning on **page 6** of this report.

Background Information

Parcel Location: Approximately 60.9 acres located on the west side of Daentl Road, a quarter mile west of N Stoughton Road (US Highway 51). Buckley Road extends west from Daentl Road and runs through the northern of the two subject parcels (0810-081-8500-5).

Existing Conditions and Land Use: The subject site is developed with a single-family residence and accessory building located on the south side of Buckley Road. The remainder of the site is undeveloped agricultural land. Token Creek extends across the portion of 0810-081-8500-5 located north of Buckley Road; a second perennial stream extends southwesterly beginning at N Stoughton Road and across 0810-081-9000-8 and parcels to the west before joining Token Creek.

Surrounding Land Uses and Zoning (all in the Town of Burke and subject to Dane County zoning): Lands to the east are primarily zoned HC (Heavy Commercial) fronting N Stoughton Road and include highway-oriented land uses including Mad City Power Sports, TA Truck Service (a truck stop), and a personal indoor storage facility. The remaining land surrounding the subject parcels is undeveloped save for a scattering of single-family residences and accessory buildings. The Cherokee Marsh State Fishery Area is located at the western end of Buckley Road. Lands to the west of the site are zoned RM-16 (Rural Mixed-Use District) and NR-C (Natural Resource and Recreation District), while land to the north is subject to extraterritorial zoning administered by the Village of DeForest.

Environmental Corridor Status: The subject site is not located in the Central Urban Service Area (CUSA), which abuts portions of the eastern property line of the two subject parcels. Land immediately east of the site in the CUSA is included in a mapped environmental corridor. All of 0810-081-9000-8 is located in a "Resource Protection Corridor" mapped by Dane County, as is approximately half of 0810-081-8500-5, including all of that parcel located north of Buckley Road.

Public Utilities and Services:

Water: Property is not served by municipal water. [Note: This site is located within the DeForest Extraterritorial Water Service Area and would not be subject to service by the Madison Water Utility.]

Sewer: Property is not served by public sewer.

Fire protection: City of Madison Fire Department.

Emergency medical services: City of Madison Fire Department.

Police services: Dane County Sheriff's Department (Northeast Precinct).

School District: DeForest Area School District.

Project Description

The applicants and property owners, John and Elizabeth Becker, are requesting approval of a Certified Survey Map (CSM) in the Town of Burke to create one residential lot from portions of two parcels (0810-081-8500-5 and 0810-

081-9000-8), which contain 60.9 acres of land overall. The address 4313 Buckley Road is assigned to 0810-081-8500-5 and is the address of a one-story single-family residence located on the south side of Buckley Road.

Buckley Road is a narrow two-way town road that extends west from Daentl Road and provides access to a half-dozen private parcels of varying sizes and publicly owned parcels associated with Cherokee Marsh, including the Wisconsin Department of Natural Resources' Cherokee Marsh State Fishery Area located at the western end of the road. An east-west section of Buckley Road extends through the 0810-081-8500-5 parcel before turning north-south along its western property line before returning to an east-west alignment for the rest of its length. Daentl Road forms a portion of the eastern edge of 0810-081-8500-5 before it turns east-west to intersect N Stoughton Road (US Highway 51), which is located a quarter mile east of the subject parcels. The southern parcel comprising the subject site, 0810-081-9000-8, is landlocked.

The portion of 0810-081-8500-5 surrounding the residence and an adjacent accessory building south of Buckley Road is currently farmed. The portion of that parcel laying north of Buckley Road is undeveloped; Token Creek winds across that portion of the property, with delineated wetlands comprising the rest of the northern parcel. Further south, parcel 0810-081-9000-8 is characterized by wooded wetlands associated with a second perennial stream that flows generally from northeast to southwest across the southern 20 acres. The southern stream is a tributary of Token Creek, eventually flowing west to join the main creek over a mile west of the subject site before Token Creek ends into the Yahara River.

Proposed Lot 1 will be a 9.5-acre parcel to be developed in the future with a single-family residence. Lot 1 will include an approximately 229-foot by 300-foot area at its northern end, with 830 feet of frontage along Daentl Road before the road turns east toward N Stoughton Road. The eastern line of Lot 1 will continue south another approximately 668 feet to the southeastern corner of 0810-081-9000-8 before turning west 300 feet along the southern edge of the overall property. The western line of the proposed lot will include five courses of varying length and bearing before returning to the southwestern corner of the 229- by 300-foot area. At the direction of Dane County Planning staff and as a condition of the rezoning of Lot 1 by the County Board, the CSM identifies a 100-foot square envelope within the northernmost knob of the proposed lot within which a future building is allowed to be constructed.

Approval of CSM by the Town of Burke and Dane County: Section 236.10(1)(b) of Wisconsin Statutes requires that subdivisions in the City's Extraterritorial Plat Approval Jurisdiction receive approval from the town of record and 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 January 10, 2025. To facilitate the proposed land division, the portion of the subject site comprising proposed Lot 1 was rezoned from RM-16 (Rural Mixed-Use District) to the RR-8 (Rural Residential) zoning district by the Dane County Board on December 17, 2024.

The Town of Burke approved the zoning change and proposed land division on November 20, 2024.

Analysis and Conclusion

City of Madison Land Use Plans: The property is located within the boundaries of the [Northeast Area Plan](#), which was adopted by the City of Madison Common Council on September 10, 2024 to guide development of the existing and future City of Madison generally bounded by Interstate 39/90/94 on the east, State Trunk Highway 30 and Aberg Avenue on the south, Packers Avenue and the Canadian Pacific rail corridor on the west, and City's future boundary with the Village of DeForest on the north. The plan includes land use, utility, transportation, park and open space, and development recommendations for a nearly 12 square-mile area and is one of the first two plans adopted under the City's new area planning framework established in 2022.

The area plan recommends the subject site and nearby properties west of Daentl Road for Parks and Open Space (P), while the lands east of Daentl on both sides of N Stoughton Road are recommended for General Commercial (GC). The Parks and Open Space (P) category includes public parks, conservation areas, recreation areas, private recreation uses (such as golf courses), cemeteries, stormwater management facilities, greenways, urban agriculture, community gardens, major public trails, and other natural features and lands with a park-like character that are recommended for preservation.

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. The cooperative plan includes an exception that allows for the one-time division of a five-acre or larger parcel into two lots for the purposes of constructing a single-family residence on each parcel without being considered development and without the approval of, in this case, the City of Madison. A stipulation in the cooperative plan requires that properties that qualify for this land division exemption had to exist as of March 1, 2006, and that the property be zoned "to a single-family residential district." A "parcel" is defined as the contiguous lands within the control of a single owner, as is the case with parcels 0810-081-8500-5 and 0810-081-9000-8.

However, the applicants are not pursuing approval using the exception in the plan and have instead submitted the proposed CSM to the Plan Commission for approval. The creation of the proposed lot has been discussed off and on over the last few years, including a failed attempt in 2021 to obtain a rezoning from Dane County from RM-16 to RR-8 over concerns about flooding on the property. During its review of the earlier rezoning, City staff commented that the RM-16 zoning district did not constitute a single-family residential district as stipulated by the *Town of Burke* cooperative plan due to the other uses allowed in it, and that the creation of the proposed lot could not be allowed using the two-lot exception unless the remaining 51.4 acres were either rezoned to a single-family residential district or the property was subjected to a restrictive covenant that would limit the use of the property to only those uses allowed in a County single-family residential district.

Since the denial of the 2021 zoning application, the applicants have secured the necessary approvals and filled the northerly portion of the 9.5-acre proposed where the building envelope is shown to an elevation of 867 using six feet of fill, which places the envelope above the 100-year floodplain (1% flood annual chance). At the direction of

Dane County Planning staff, the County Board approved the rezoning of proposed Lot 1 to RR-8 with a condition that the CSM include a note that the lowest floor level of the future residence (including any basement) be constructed to an elevation of 862 feet, which is 2 feet above the 100-year flood elevation. The County's approval also requires an acknowledgement be included on the CSM that the proposed lot may be subject to flooding.

The subject site is located within a Protected Area as defined by the cooperative plan and may not be attached to the City of Madison without the approval of the Town of Burke Board prior to the final attachment of the Town to DeForest, Madison, and Sun Prairie on October 27, 2036.

Land Division Criteria: Any subdivision or land division in the extraterritorial jurisdiction 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. Also, 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.

In reviewing the proposed land division, the Planning Division believes that the Plan Commission may approve the creation of the 9.5-acre residential lot from the larger 60.9-acre property despite the many unique circumstances that surround the proposed lot.

The decision by the Plan Commission on whether to approve the land division rests less with the unique configuration of the proposed lot and its compatibility with its surroundings and more with whether the remaining 51.4 acres of the applicants' land shall be rezoned to a single-family residential district or be subject to a restrictive covenant limiting its use in a manner similar to single-family zoning or not. The *Town of Burke* cooperative plan asserts that a second lot can be created from 0810-081-8500-5 and 0810-081-9000-8 because they are over five acres in area combined and were in existence on March 1, 2006, as stipulated by the plan. The applicants are effectively seeking approval from the Plan Commission of the 9.5-acre lot without the need to subject the rest of their property to a restrictive covenant to keep it in RM-16 zoning.

While compatibility of the lot with a development pattern, consideration of the suitability of the land for development using the standards and criteria in the Subdivision Regulations, and the land divisions impact on the City's ability to provide public services, install public improvements or accomplish future attachments would all be factors in most any other extraterritorial land division request, the cooperative plan has precluded those considerations in this case. The Planning Division would require the restrictive covenant outlined above solely out of obligation to the terms of the cooperative plan vis a vis the zoning of the property for the purposes of using the two-lot exception to the development provisions therein and not to achieve any other objective related to the environmental features present across at least half of the 60.9 acres. To those ends, City staff feel that Dane County has done an admirable job ensuring that the proposed lot and future residence are as sensitive to their surroundings and protected from flooding as possible through their approval of the rezoning to facilitate the land division. The Planning Division believes that it is okay for the Plan Commission to approve the lot as proposed.

The City's Subdivision Regulations require that any lot or outlot 40 acres or less in area be created by a final plat or CSM. In the case of CSMs, when the act of land division results in a parcel over 40 acres in area, the CSM shall show the entire ownership with a survey for the parcel or parcels being separated and a scaled drawing from recorded information for the parcel remaining in lieu of creating a lot. As a condition of approval, staff is

requesting that the remaining 51.4 acres of land be shown on the final CSM as a scaled drawing from recorded information in relation to proposed Lot 1.

Recommendation

The Planning Division recommends that the Plan Commission find the approval criteria met and **approve** the Certified Survey Map of 4313 Buckley 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

Planning Division

1. The Certified Survey Map shall be revised prior to final City approval to include a drawing showing the remaining 51.4 acres of land from which Lot 1 will be created as a scaled drawing from recorded information. Staff would appreciate that bearings and estimated distances be provided on the exhibit of remaining land.

2. Revise the Plan Commission certificate as follows:

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

By: _____ Date: _____
Matthew Wachter, Secretary of the Plan Commission'

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

3. The applicant shall revise the CSM to show a 75-foot setback from mapped wetlands and to show the existing FEMA floodplain limits on the property.

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

4. 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 monument condition reports for all monuments, including center of sections of record used in this survey, to Jeff Quamme, City Engineering (jrquamme@cityofmadison.com).
5. In accordance with Section s. 236.18(8), Wisconsin Statutes, the map shall reference City of Madison WCCS Dane Zone, 1997 Coordinates on the Northeast Corner of Section 8. The surveyor shall identify any deviation from City Master Control with recorded and measured designations. Visit the Dane County Surveyor's Office web site for current tie sheets and control data that has been provided by the City of Madison. Provide a measured coordinate value for the North Quarter Corner of Section 8.
6. Prior to City Engineering final sign-off by main office for Certified Survey Maps (CSM), the final CSM must be submitted to Engineering Division Surveyor/ Land Records Coordinator for final technical review and approval. This submittal must occur a minimum of two working days prior to final Engineering Division sign-off. E-mail submittal of the **final** CSM in PDF form is preferred. Please transmit to Jeff Quamme (jrquamme@cityofmadison.com).

7. Per City of Madison Subdivision Regulations, when a preliminary plat is waived with a CSM, the certified survey map shall show the entire ownership showing the proposed CSM and a scaled drawing from record information of the remnant lands owned by the subdivider. Provide a sheet with this scaled map and approximate acreage.
8. Label the reference line: Reference line for Side Road "C" per right of way plat WisDOT Project I-90-2(12)122.
9. 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 reviewed this request and has recommended no conditions of approval.

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

This agency reviewed this request and has recommended no conditions of approval.

Fire Department (Contact Matt Hamilton, (608) 266-4457)

This agency reviewed this request and has recommended no conditions of approval.

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

This agency reviewed this request and has recommended no conditions of approval.

Parks Division (Contact Kathleen Kane, (608) 261-9671)

This agency reviewed this request and has recommended no conditions of approval.

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

10. The subject parcels are located beyond Madison Water Utility's existing service area.

Parking Division (Contact Trent W. Schultz, (608) 246-5806)

11. This agency reviewed this request and has recommended no conditions of approval. A Transportation Demand Management (TDM) Plan may be required as part of future development, per MGO Section 16.03.

Office of Real Estate Services (Contact Heidi Radlinger, (608) 266-6558)

12. 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). A PDF of the CSM containing electronic signatures shall be provided to ORES to obtain approval sign-off.
13. Remove the Consent of Mortgagee certificate, as there is no mortgage of record.
14. All ownership consents and certifications for the subject lands shall conform to Wis. Stats. 236.21(2) and 236.29 by including the language ...surveyed, divided, mapped and dedicated...
15. If any portion of the lands within the CSM boundary are subject to an Option to Purchase or other Option interest please 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. Stat. Sec. 236.34 and Sec. 236.21(2)(a).
16. 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.
17. 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. Tax payoff receipts are to be provided before or at the time of sign-off.
18. 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 pursuant to MGO Section 16.23.
19. Pursuant to MGO Section 16.23(4)(f), the owner shall furnish an updated title report via email to Heidi Radlinger (hradlinger@cityofmadison.com), as well as the survey firm preparing the proposed CSM. The report shall search the period subsequent to the initial title report submitted with the CSM application (March 9, 2025) and include all associated documents that have been recorded since the initial title report.
20. The owner shall email the document number of the recorded CSM to Heidi Radlinger at the City's Office of Real Estate Services at tmilliken@cityofmadison.com as soon as the recording information is available.