



PREPARED FOR THE PLAN COMMISSION

Project Address: 3313-3315 Nelson Road, Town of Burke
Application Type: Certified Survey Map (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [69788](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Robert P. and Kathryn D. Shanahan; 3315 Nelson Road; Sun Prairie.

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

Requested Action: Approval of a Certified Survey Map (CSM) to reconfigure two residential lots at 3313 and 3315 Nelson Road, Town of Burke, in the City of Madison’s Extraterritorial Jurisdiction.

Proposal Summary: The subject site is comprised of two lots created by the final plat of “Windswept” in 2015, which will be reconfigured by the proposed CSM to create a lot for a new residence. 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. The application was accepted for review on February 7, 2022. Therefore, the 90-day review period for this CSM will end circa May 8, 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 two lots to be reconfigured contain 3.57 acres of land located on the south side of Nelson Road, approximately a half-mile east of Reiner Road in the Town of Burke.

Existing Conditions and Land Use: The subject site is comprised of Lots 3 and 4 of the Windswept subdivision, with a single-family residence located at the southern end of Lot 4. Access to the properties are provided by a shared private drive located in a panhandle of Lot 3, which connects that lot at the rear of the plat to Nelson Road. Lot 3 is zoned SFR-1 (Single-Family Residential District), while Lot 4 is zoned RR-2 (Rural Residential District).

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

North: Single-family residence, accessory buildings, and agricultural land across Nelson Road, zoned AT-35 (Agricultural Transition District, 35-Acre Minimum);

South: Undeveloped land, zoned RM-16 (Rural Mixed-Use District);

West: Undeveloped land, zoned RM-16;

East: Single-family residences fronting Nelson Road and in the Sunnyburke Heights subdivision, zoned various RR and SFR residential zoning districts.

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 no "Resource Protection Corridors" affecting the subject property.

Public Utilities and Services:

Water: Property is not served by municipal water;

Sewer: Property is not served by public sewer;

Fire protection: Town of 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.

Previous Approvals

On August 5, 2014, the City of Madison Common Council conditionally approved the preliminary plat of *Windswept* to create three single-family lots and three agricultural lots on land generally addressed as 3315 Nelson Road, Town of Burke. The Common Council approved the final plat on December 2, 2014, and it was recorded on December 8, 2015.

Project Description

The applicant and property owners are requesting approval of a Certified Survey Map (CSM) to reconfigure two platted lots created by the Windswept extraterritorial subdivision in 2015. Lot 3 of the plat is an L-shaped, 1.6-acre parcel connected to Nelson Road by a 66-foot "panhandle" that contains a driveway shared with Lots 1-4 of the plat; the shared driveway is governed by an easement recorded with the subdivision. Lot 4 is a conventional 1.97-acre parcel located west of the shared driveway on Lot 3, with approximately 228 feet of frontage along Nelson Road. A single-family residence is located near the southern line of Lot 4; a single-family residence shown

on Lot 3 at the time the Windswept plat was recorded has since been razed based on the existing conditions reflected on the proposed CSM.

The applicants propose to shift the common line between Lots 3 and 4 approximately 177 feet north to create a 1.01-acre parcel adjacent to Nelson Road (Lot 1). The parcel containing the existing house will increase to 2.56 acres, with a shorter panhandle connecting the parcel to Nelson Road (proposed Lot 2). The applicants indicate that Lot 1 will be sold for a single-family residence to be constructed. No changes to the shared driveway and utility easement is proposed with the proposed re-division.

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 February 2, 2022. Dane County previously approved the related rezonings to place proposed Lot 1 in the RR-1 Rural Residential (1-Acre) District and Lot 2 in the RR (Rural Residential-2 Acre) District on January 6, 2022.

The Town of Burke Board approved the rezoning and re-division at its December 15, 2021 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. Sanitary sewer service for the planning area would likely be provided by extensions of interceptors located in the Felland and Northeast neighborhoods. Completion of the Reiner Neighborhood Development Plan has been postponed until the City Engineering Division can complete a detailed watershed study for the area, which is pending, after which, detailed land use, transportation, utility, and implementation recommendations will be developed and presented for Plan Commission and Common Council approval.

Town of Burke Cooperative Plan: The proposed re-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 two existing lots are under common ownership, the proposed reconfiguration is not eligible for a lot line adjustment between (separate, distinct) owners of adjacent parcels; therefore, City approval of the proposed land division is required.

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 three-quarters of a mile west of the site along Nelson Road east of Felland 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 CSM effectively represents a lot line adjustment between the two existing lots and will not result in a demonstrably different development pattern in the area than what already exists. While the reconfigured lot will facilitate future construction of a single-family residence, staff will note that there is ostensibly no net impact from that future house because there were single-family residences on each existing lot when the Windswept plat was approved, one of which was razed subsequent to recording of the plat. Staff also feels that the lot configuration proposed results in a more conventional lot pattern compared to the existing lots. Finally, staff does not anticipate that the proposed re-division of the subject parcels into the two proposed lots will negatively affect the City’s ability to accomplish annexations 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 3313-3315 Nelson 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. Determine which private sewage system maintenance agreement encumbers this CSM and place an appropriate note (Document Nos. 2698796 and 2629430).
2. Add notes 7, 8 and 13 to the CSM from the plat of Windswept and identifying the plat as the instrument that granted the restrictions.

3. 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.
4. In accordance with Section s. 236.18(8), Wisconsin Statutes, the applicant shall reference City of Madison WCCS Dane Zone, 1997 Coordinates on all PLS corners on the Certified Survey Map in areas where this control exists. The surveyor shall identify any deviation from City Master Control with recorded and measured designations. Visit the Dane County Surveyor's Office for current tie sheets and control data that has been provided by the City of Madison.
5. 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.
6. Correct the Secretary of the City of Madison Plan Commission to Matthew Wachter. Remove the Common Council certificate.
7. Add the City of Madison to the Surveyor's Certificate and the Owner's Certificate as required by state statute.
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 annexation 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 Melissa Hermann (mhermann@cityofmadison.com)

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.
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).
11. 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.
12. 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...”
13. If any portion of the lands within the CSM boundary are subject to an Option to Purchase or other Option interest include a Certificate of Consent for the option holder.
14. 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.
15. Update 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

16. As of March 11, 2022, \$770.94 is owed in real estate taxes 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.
17. As of March 11, 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.
18. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish an updated title report to Melissa Hermann mhermann@cityofmadison.com, as well as the survey firm preparing the proposed CSM. The report shall search the period subsequent to the date of the initial title report submitted with the CSM application and include all associated documents that have been recorded since the initial title report. The surveyor shall update the CSM with the most recent information reported in the title update. Staff reserves the right to impose additional conditions of approval in the event the title update contains changes that warrant revisions to the CSM.

19. The owner shall email the document number of the recorded CSM to Melissa Hermann in the City's Office of Real Estate Services as soon as the recording information is available.

20. The following revisions shall be made to the CSM prior to final approval and recording:
 - a) Depict, name, and identify by document number all existing easements cited in record title and the updated title report.
 - b) 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 of said lands in record title.
 - c) 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.
 - d) For properties not connected to municipal utility services, consider whether or not well abandonment ref. NR-141 needs to be addressed.
 - e) Depict and dimension public easements for utilities and storm water drainage rights-of-way to be dedicated on the proposed CSM where necessary.
 - f) If all parties of interest agree that certain easements from prior plats or CSMs of record are no longer necessary, the release documents for said easements shall be recorded prior to CSM approval sign-off, with the recording information for the release included as a Note on the proposed CSM.
 - g) Liens or judgments levied against the lands within the CSM boundary shall be satisfied, with proof of satisfaction provided prior to CSM approval sign-off.