



PREPARED FOR THE PLAN COMMISSION

Project Address: 5048 Thorson Road, Town of Sun Prairie
Application Type: Certified Survey Map (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [77936](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Gary V. Ziegler; 5216 Erling Avenue; McFarland.

Surveyor: Mark Pynnonen, Birrenkott Surveying, Inc.; 1677 N Bristol Street; Sun Prairie.

Requested Action: Approval of a Certified Survey Map (CSM) to create two lots from land addressed at 5048 Thorson Road, Town of Sun Prairie, in the City of Madison’s Extraterritorial Jurisdiction.

Proposal Summary: The subject site is a 24.03-acre parcel developed with a single-family residence and accessory building located in the northeastern corner of the site. The applicant proposes to create an L-shaped, 5.13 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(3)(c) 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 determined to be complete on December 5, 2023 once the Town of Sun Prairie’s approval was forwarded to the City to allow the City’s review to commence. Therefore, the 90-day review period for this CSM will end circa March 4, 2024.

Summary Recommendation: If the Plan Commission finds that the standards for approval for land divisions in the extraterritorial jurisdiction are met, 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 5 of this report.

Background Information

Parcel Location: An approximately 24.03-acre parcel located on the east side of Thorson Road, approximately 3,000 feet north of CTH T in the Town of Sun Prairie. Thorson Road is partially located on the border of the Town of Sun Prairie and Town of Burke, and the property is located where the road begins to curve entirely through Burke. A small 3,956.8 square-foot parcel of the applicant's property is located across the town line in Burke (parcel 0810-254-9940-0); however, the portion in the Town of Burke is not part of the proposed land division.

Existing Conditions and Land Use: The subject site is developed with a single-family residence and accessory building in the northeastern corner of the site at the end of a long, curved driveway from Thorson Road. Most of the rest of the site is in tillage. The property, or some portion thereof, is zoned SFR (Single-Family Residence) under the Town of Sun Prairie's zoning regulation, which at a minimum is similar to the Dane County SFR district. However, as noted in the application materials, the Town of Sun Prairie has "opted out" of Dane County zoning as allowed by Wis. Stats. 60.23(34) and is responsible for administering its own zoning regulations.

Surrounding Land Use and Zoning: Most of the surrounding properties to the north, east and west on both sides of Thorson Road are agricultural in nature. A number of single-family residences on lots of varying size are located south of the subject site on both sides of the road and in both towns. Lots in the Town of Burke, which is subject to Dane County zoning, are zoned SFR-1 (Single-Family Residential-1 District) and a variety of RR (Rural Residential) zoning districts (4, 8, 16), the numeric suffix of which identifies the minimum lot area requirement. No zoning data is available from Dane County for the Town of Sun Prairie parcels. The subject site is located directly across Thorson Road from undeveloped agricultural land in the City of Madison, zoned A (Agricultural District).

Environmental Corridor Status: The subject site is located in the Central Urban Service Area; there are no mapped environmental corridors affecting the site.

Public Utilities and Services:

Water: Property is not served by municipal water

Sewer: Property is not served by sanitary sewer

Fire protection: Sun Prairie Fire & Rescue Department

Emergency medical services: Sun Prairie Emergency Medical Services

Police services: Dane County Sheriff's Department-North Precinct

School District: Sun Prairie Area School District

Previous Approvals

On January 27, 2020, the Plan Commission found the extraterritorial criteria met and conditionally approved a request to divide a 25.1-acre parcel at 5048 Thorson Road developed with a single-family residence and accessory building to create a 40,303 square-foot lot along the Thorson Road frontage for the future construction of a single-family residence.

Wis. Stats. Section 236.25(2)(b) provides twelve (12) months to record a CSM following its last approval. The CSM was not recorded before January 31, 2021 (one year from the date of the approval letter), so the previous approval is expired. The Plan Commission re-approved the land division on August 23, 2021. Certified Survey Map 15912 was recorded on January 21, 2022. The subject site for the current land division is Lot 1 of that CSM.

Project Description

The applicant and property owner is requesting approval of a Certified Survey Map to create an L-shaped, 5.13-acre lot from his larger, 24.03-acre property located at 5048 Thorson Road in the Town of Sun Prairie.

The property is an irregularly shaped parcel with approximately 260 feet of frontage along the portion of Thorson Road located in the Town of Sun Prairie. Thorson Road from the subject site south straddles the border between the Town of Sun Prairie (T8N, R11E) and Town of Burke (T8N, R10E), and begins to curve to the northwest at the property, where it continues through the eastern extents of the Town of Burke north to Burke Road. (The property directly across Thorson Road from the subject site is located in the City of Madison as the result of a 2001 annexation of approximately 723 acres of land from the Town of Burke.) The subject property mostly extends behind a handful of residential lots that front onto Thorson Road, including the lot created by the CSM approved initially in 2020 and recorded in 2022. The 24.03-acre subject parcel includes a residence and accessory building in the northeastern corner connected to the road by a long, curved driveway. The remainder of the site is otherwise in tillage. The northwesterly line of the property is formed by a natural gas pipeline that generally runs north-south through the area. The applicant also owns a 3,956 square-foot parcel adjacent to the subject site but located across the town line in Burke (parcel 0810-254-9940-0); the smaller parcel is not part of the proposed land division.

The applicant is requesting to further divide the property containing the residence to create an L-shaped 5.13-acre lot (Lot 2), which will encompass most of the property located south of the driveway that provides access to the residence in the northeastern corner of the overall property. Most of proposed Lot 2 will be situated behind/east of three smaller residential lots located along the Thorson Road frontage save for a 66.7-foot wide panhandle that will connect the lot to the public road. The remaining 18.9 acres of the property will comprise Lot 1, which will include all of the land north of the driveway as well as a segment that will extend east of proposed Lot 2. The driveway serving the existing residence will straddle the proposed lot line. A 5.0-acre conservation easement for the town's benefit created with the earlier CSM will encumber the southernmost leg of proposed Lot 1.

Approval of CSM by the Town of Sun Prairie 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, unless the town has opted out of county zoning authority per Wis. Stats. Section 60.23(34), in which case the county no longer has review authority per Wis. Stats. Section 236.34(2). The Town of Sun Prairie adopted its own zoning code in 2018.

The Town of Sun Prairie approved the proposed land division as noted in the attached board minutes dated November 27, 2023.

Analysis and Conclusion

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 or area plan.

The recently adopted amendments to the Peripheral Planning Areas Map in the Comprehensive Plan identifies lands generally east of the Reiner Neighborhood Development Plan (2023) and Northeast Neighborhoods Development Plan (2009) areas as part of Peripheral Planning Area B (PPA-B). The land in PPA-B is currently within

the Town of Sun Prairie and may be appropriate for City expansion after development progresses in the Reiner and Northeast planning areas.

The subject site is located across from the eastern edge of the Northeast Neighborhoods Development Plan, which recommends that the land west of Thorson Road be developed as Residential Housing Mix 1 (HM1). In that plan, HM1 is predominantly a single-family residential district generally recommended for development up to eight (8) units per acre. The development concept in the plan shows a conventional low-density development pattern west of Thorson Road, including a network of local streets extending west from Thorson Road, which is recommended as a major collector by the neighborhood development plan. The concept plan for the Northeast planning area includes a local street intersecting Thorson Road in the general area proposed Lot 2 of this land division, as well as Lot 2 of the previous land division, CSM 15912.

Whereas the Planning Division did not object to the earlier land division, which created a lot that is similarly configured to two neighboring lots to its south on the east side of Thorson Road, staff is concerned that further division of the subject site to create a mostly landlocked parcel could impact the City's future growth into this part of the Town of Sun Prairie. As noted on page 1 of this report and in Section 16.23(3)(c) of the Subdivision Regulations, a land division in the extraterritorial plat approval jurisdiction shall be compatible with adjacent development patterns and shall maintain the general land development pattern of the area in question given consideration of lot sizes, traffic generation, access, noise and visual features. The proposed 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. Planning staff questions whether the lots proposed by the land division are compatible with the adjacent development pattern and is concerned that the additional lot set back from Thorson Road and any future construction on it could negatively impact future annexations and the City's ability to provide public services and install public improvements, including any extension of the street network planned west of Thorson Road to the east across the 24.03-acre subject site.

Planning staff acknowledges that development of the land to the immediate west of the subject site in the Reiner and Northeast planning areas and any continuation of that urban development pattern east of Thorson Road is likely to be an indeterminate number of years into the future given that the utilities to serve such development are still located a considerable distance from the site. However, staff feels that it is important to preserve large developable parcels whenever possible and allow land divisions only if they reflect an existing development pattern and will not demonstrably impact future development.

However, should the Plan Commission feel that the proposed land division is not inconsistent with the adjacent development pattern and that it would not negatively impact the City of Madison's ability to extend services to this area and accomplish annexations in the future considering the likely length of time before extension of urban services and development occurs to the west, it may find the extraterritorial approval standards met and approve the land division subject to the conditions in the following section of the report.

Recommendation

If the Plan Commission finds that the standards for approval for land divisions in the extraterritorial jurisdiction are met, the Planning Division recommends that the Plan Commission **approve** the proposed Certified Survey Map to divide 5048 Thorson Road in the Town of Sun Prairie 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 has reviewed this request and recommended no conditions of approval.

City Engineering Division – Mapping Section (Contact Julius Smith, (608) 264-9276)

1. Cite the document numbers for all easements. There were numerous easements granted in the recent prior CSM. They are being referred as “per CSM No. 15912.” This should state “per CSM No. 15912, recorded as Document No. 5806813.” Additionally these items have already been created and the creation of rights language can be removed, unless the town is requiring further areas to be added to these easements.
2. Coordinate and request from the utility companies serving this area the easements required to serve this development. Those easements shall be properly shown, dimensioned and labeled on the final CSM.
3. Provide for review, comprehensive reciprocal easements and agreements including, but not limited to, the access drive that are necessary to accomplish the land division or site development as proposed prior to final sign off. The document(s) shall be executed and recorded immediately subsequent to the CSM recording. The existing bituminous pavement drive to access the structure on Lot 1 is partially located on Lot 2. Any and all users of Lot 1 do not have full rights to a path that is used to provide current access to structures located on Lot 1 only those users for access for conservation and stormwater drainage.
4. Provide a recent 60-year report of title as required in application. The title work submitted was from 2019 and does not even reflect the most current CSM. Full review cannot be completed as provided. Additional notes and revisions may be needed as an accurate report of title is provided.
5. The call for N01° 04'06" E and the recorded as should be moved northerly to the 196.54' section of the west side of Lot 1 that is actually along the unlabeled West line of the town 08-11 or the Southwest Quarter of Section 30.
6. Show the proper bearing for the easterly right-of-way of Thorson Road N01° 04 38 W for the 86.82' section along the west side of Lots 1 and 2.
7. Thorson Road has been previously dedicated. It should not be shown without underling with dashes or dots per Wis. Stats. Ch..236. Additionally, the new widths should be defined on the map in this area and labeled 33 feet and 40 feet and 73 feet and back to 33 feet – 33 feet and 66 feet.
8. Show the overall distance of the long segment of the westerly line of Lot 2, 453.00 feet, and make this one bearing, not two different 180° bearings.
9. 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 shall submit copies of required tie sheets or monument condition reports (with current tie sheet attached) for all monuments, including center of sections of record, used in this survey, to Jule Smith, City Engineering (jsmith4@cityofmadison.com)

10. 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 CSM 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. *Also note the coordinate system used with the zone along with the Datum and Adjustment.
11. Prior to City Engineering final sign-off by main office for Certified Survey Maps (CSM), the final CSM must be submitted to Engineering Land Records Coordinator Jule Smith (jsmith4@cityofmadison.com). 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.
12. The applicant shall submit to Julius Smith 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)

13. The applicant shall dedicate 40 feet of right of way along their frontage of Thorson Road as measured from the street centerline.

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

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

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

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

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

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

Forestry Section (Contact Jeffrey Heinecke, (608) 266-4890)

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

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

14. 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 (Melissa Hermann, mhermann@cityofmadison.com)

15. 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 final sign-off.
16. 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).
17. 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.
18. 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...”
19. 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).
20. 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.
21. Pursuant to MGO Section 16.23, the owner shall furnish an updated title report to Melissa Hermann in City’s Office of Real Estate Services (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. 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.
22. The owner shall email the document number of the recorded CSM to ORES via email to Melissa Hermann (mhermann@cityofmadison.com) when the recording information is available
23. 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 CSM's 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.