

PREPARED FOR THE PLAN COMMISSION



Project Address: 3180 Burke Road, Town of Burke
Application Type: Certified Survey Map (CSM) in the Extraterritorial Jurisdiction
Legistar File ID # [82120](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Sandra L. Jensen; 2538 Leopold Way; Sun Prairie; Stacey Jensen, representative.

Surveyor: Chris Casson, Birrenkott Surveying, Inc.; 1677 N Bristol Street; Sun Prairie.

Requested Action: Approval of a Certified Survey Map (CSM) to create two lots from land located at 3180 Burke Road, Town of Burke, in the City of Madison's Extraterritorial Jurisdiction.

Proposal Summary: The applicant proposes to create two lots from the approximately 19.0-acre subject site. 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 February 12, 2024. Therefore, the 90-day review period for this CSM will end circa May 12, 2024.

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 5 of this report.

Background Information

Parcel Location: Approximately 19.0-acre lot located on the north side of Burke Road opposite Nature Drive and approximately midway between Thorson Road and Bailey Road; Town of Burke.

Existing Conditions and Land Use: The subject site is developed with a one-story single-family residence in Dane County RR-8 (Rural Residential District) zoning.

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

North: Single-family residences and agricultural land south of Nelson Road, zoned RR-8 (Rural Residential District); RM-16 (Rural Mixed-Use District), and SFR-08 (Single-Family Residential Districts);

South: Single-family residences in the Burke Conservancy Estates subdivision across Burke Road, zoned SFR-08 and SFR-1 (Single-Family Residential Districts);

West: Single-family residences and agricultural land, zoned RR-2 (Rural Residential District) and RM-16;

East: Single-family residences and agricultural land in the Town of Sun Prairie (not subject to Dane County zoning).

Environmental Corridor Status: The subject site is not located in the Central Urban Service Area; there are no mapped environmental corridors affecting the site. There are no “Resource Protection Corridors” mapped by Dane County on the subject parcels.

Public Utilities and Services:

Water: Property is not served by municipal water.

Sewer: Property is not served by public sewer.

Fire protection: City of Madison Fire Department (per recent agreement with Town of Burke).

Emergency medical services: City of Madison Fire Department.

Police services: Dane County Sheriff’s Department (North Precinct).

School District: Sun Prairie Area School District.

Previous Request

On January 24, 2023, the Plan Commission found that an extraterritorial land division to create three lots at 3180 Burke Road in the Town of Burke did not meet the criteria for approval in MGO Section 16.23(3)(a) of the City’s Subdivision Regulations and placed the request on file without prejudice. See ID [74357](#) for more information on earlier proposal.

Project Description

The applicant and property owner, Sandra L. Jensen, is requesting approval of a Certified Survey Map (CSM) to divide an approximately 19-acre parcel located on the north side of Burke Road approximately midway between Thorson Road and Bailey Road in the Town of Burke into two lots. The site is also located across Burke Road from Nature Drive, which provides access to the Burke Conservancy Estates subdivision to the south.

The subject property contains approximately 605 feet of frontage along Burke Road and is primarily agricultural in character save for a single-family residence located on the western edge of the property's road frontage. The subject site is among of series of parcels located along this section of Burke Road owned by members of the Jensen family. The lot to be divided was created by CSM 15092 on April 4, 2019 using a provision in the 2007 Town of Burke, Village of Deforest, City of Sun Prairie and City of Madison Cooperative Plan that allows the one-time division of a five-acre or larger parcel into not more than two lots for the purposes of constructing a single-family residence on each resulting lot 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. The property that was divided in 2019 was previously part of a 2008 CSM, CSM 12581, which reconfigured existing Jensen family parcels and was considered by the City to be a lot line adjustment that was not reviewed by the City of Madison as development pursuant to the cooperative plan or as a full extraterritorial land division. The 2008 CSM was determined to not preclude the ability for the Jensen family to use the exemption, which they did with the subsequent 2019 land division. Copies of the earlier CSMs are attached to ID [82120](#) for reference.

The land division currently proposed calls for a single 1.157-acre (50,400 square-foot) lot to be created along the Burke Road frontage. Lot 2 will be approximately 175.9 feet wide and 286.6 feet deep and be located east of the existing residence on the property, which will be located on proposed Lot 1. The remaining 17.8 acres of the subject site will comprise Lot 1. The eastern edge of Lot 2 roughly aligns with the western edge of right of way of Nature Drive south of Burke Road.

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 February 12, 2024. To facilitate the proposed land division, the proposed lot was rezoned to the RR-1 (Rural Residential) zoning district by the Dane County Board on January 18, 2024. The remaining land remains in RM-16 (Rural Mixed-Use District) zoning.

The Town of Burke approved the proposed two-lot land division and related zoning change on September 20, 2023.

Analysis and Conclusion

City of Madison Land Use Plans: The property is located within the boundaries of the [Reiner Neighborhood Development Plan](#), which was adopted by the City of Madison Common Council on June 20, 2023 to guide future development of the existing and future City of Madison generally bounded by Feland Road and the Wisconsin & Southern railroad to the west and north, the Town of Burke line to the east, and Thorson Road on the south. The plan includes land use, utility, transportation, park and open space, and development phasing recommendations for the 1,476-acre planning area.

The neighborhood development plan recommends that the subject site be developed in Residential Housing Mix (HM) 2 strip and secondarily identifies the property and parcels to the west as a site for a potential Sun Prairie Area School District facility. In general, HM2 includes smaller-lot single-family development as well as other housing types compatible with single-family homes, including duplexes, four-unit dwellings, townhouses, and

small-scale multi-family buildings containing less than 20 units. Individual developments in HM2 should range from 12-20 dwelling units per net acre, and buildings should be up to three stories in height. The adopted plan recommends the extension of Nature Drive north of Burke Road to serve future urban development on the subject site.

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.

The subject site is not located within a Protected Area as defined by the cooperative plan (the Burke Conservancy Estates and the lands immediately north of the subject site are located in Protected Areas). 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. In the case of the proposed land division, City water and sewer service are not currently proximate to the site or surrounding area, and the nearest properties in the City are located approximately three-quarters of a mile southwest of the site along Reiner Road south of Burke 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: 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 find the standards and criteria for approval are met to allow the proposed 1.157-acre lot to be created from the 19-acre subject site.

Unlike the three-lot proposal placed on file in January 2023, where Planning staff was concerned those lots were inconsistent with the general land development pattern along this portion of Burke Road and that the land division would negatively impact the City's ability to extend services to this area in the future and accomplish attachments in direct contradiction to the extraterritorial approval criteria, staff feels that the one additional lot proposed with the two-lot CSM is more consistent with the development pattern and will have much less impact on the ability to accomplish intermediate attachments or extend services. The proposed land division leaves more of the site for future development while allowing for the property owner to create an additional lot for a family member. Lot 2 is also configured to accommodate the future extension of Nature Drive north of Burke Road as recommended in the Reiner Neighborhood Development Plan. While the applicant has indicated a desire to keep the existing residence with the larger acreage at this time, staff feels that Lot 1 is appropriately configured to allow the portion of the lot with the residence to be split from the rest of the land by subsequent land division, likely by extending the north line of Lot 2 to the west if desired in the future.

Recommendation

The Planning Division recommends that the Plan Commission find the approval criteria met and **approve** the two-lot Certified Survey Map of 3180 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

Planning Division (Contact Timothy M. Parks, (608) 261-9632)

1. Detail the location of the existing building (setbacks, etc.) and note the location of the well serving the property.

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

2. A minimum of two (2) working days prior to requesting City Engineering Division sign-off on the CSM, contact either Tim Troester (West) at (608) 261-1995 (ttroester@cityofmadison.com) or Brenda Stanley (East) at (608) 261-9127 (bstanley@cityofmadison.com) to obtain the final stormwater utility charges that are due and payable prior to subdivision of the properties. The Stormwater Utility charges (as all utility charges) are due for the previous months of service and must be cleared prior to the land division (and subsequent obsolesces of the existing parcel).
3. Add the following note to the CSM: " Each lot shall be individually responsible for compliance with Madison Ordinance Chapter 37 requirements."
4. Add the following note to the CSM: " No change in grades shall be allowed without the approval of the City Engineer."

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

5. Provide supporting documents for title report as required..
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 monument condition reports for all monuments, including center of sections of record, used in this survey, to Jeff Quamme, City Engineering (jrquamme@cityofmadison.com). 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 and shall be attached to a signed and sealed monument condition report.
7. 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 more information. Show the Sandsnes tie sheet/ city control coordinates on the section corners shown. if different values were measured at corners list or datum was use for this CSM show coordinates measured. Additionally, per AE 7.05(11), list the datum and adjustment used for this survey.
8. 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. Transmit to Julius Smith (jsmith4@cityofmadison.com).

9. Label Lot 1 of CSM 15092 with 'CSM 15092'.
10. Show the "recorded as" distance along the South line of Lot 2 of CSM 15092 (604.35').
11. Tie the building to the property boundary.
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)

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)

13. The subject parcels are located beyond Madison Water Utility's existing 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)

14. 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.

15. 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.
16. 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..."
17. 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 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).
18. 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.
19. Per 236.21(3) Wis. Stats. and 16.23(5)(g)(1) Madison General Ordinances, the property owner shall pay all real estate taxes that are accrued or delinquent for the subject property prior to CSM recording.
20. 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(5)(g)1.
21. Pursuant to MGO 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 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. ORES reserves the right to impose additional conditions of approval in the event the title update contains changes that warrant revisions to the CSM.
22. 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.
23. 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.
24. For properties not connected to municipal utility services, consider whether or not well abandonment ref. NR-141 needs to be addressed.