



## Report to the Plan Commission

July 15, 2009

Legistar I.D. #15411  
4246 Daentl Road, Town of Burke  
Extraterritorial Certified Survey Map

Report Prepared By:  
Timothy M. Parks, Planner  
Planning Division

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**Requested Action:** Consideration of a three-lot Certified Survey Map (CSM) of approximately 12 acres of property generally located at 4246 Daentl Road, in the southeast quarter of the southeast quarter of Section 5 and northeast quarter of the northeast quarter of Section 8, Township 8 N, Range 10 E, Town of Burke, Dane County, Wisconsin in the City of Madison's Extraterritorial Jurisdiction.

**Applicable Regulations & Standards:** Section 16.23, Land Subdivision Regulations, Madison General Ordinances provides the requirements for land divisions located within the corporate limits of the City of Madison or within the Extraterritorial Plat Approval Jurisdiction.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission **approve** the subject Certified Survey Map subject to input at the public hearing and the conditions from reviewing agencies beginning on page 5 of this report.

### Background Information

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**Applicant & Property Owner:** George Vetesnik, Vetesnik Enterprises, LLC; 27475 US Highway 14; Richland Center.

**Surveyor:** Hans Justeson, JSD Professional Services, Inc.; 161 Horizon Drive, Suite 101; Verona.

**Proposal:** The property owner is requesting approval of a Certified Survey Map to create a lot for a recently constructed retail business in Dane County C-2 Commercial zoning and two lots to the north and south of the commercial lot that are currently and will remain undeveloped, including one lot consisting entirely of wetlands. The applicant wishes to record the Certified Survey Map as soon as all regulatory approvals have been granted.

**Review Schedule:** The proposed Certified Survey Map application was submitted to the City on June 3, 2009. The State's subdivision statute, WS 236, requires that action be taken on a CSM within 90 days of submittal unless a written extension is granted by the applicant. The 90-day review period for this CSM will end on September 3, 2009. If no action is taken within 90 days and no extension granted, the CSM is deemed approved.

**Parcel Location:** An approximately 12-acre property at 4246 Daentl Road, Town of Burke; DeForest School District. The site is generally located in the southwesterly quadrant of the Interstate 39-90-94/ US Highway 51 interchange.

**Existing Conditions:** The center of the site is developed with the approximately 21,000 square-foot Mad City Power Sports boats, motorcycles, and power sports equipment sale and repair establishment and detached 2,800 square-foot shop building. The remainder of the property to the north and south of the commercial buildings is undeveloped with the exception of an advertising sign located northeast of the main commercial building along the Interstate frontage. Token Creek runs through the northern third of the subject site. A gravel parking area is located on the subject site north of the creek, which may be removed as a condition of the County's approval of the Mad City Power Sports applications.

**Surrounding Land Use and Dane County Zoning:** The subject property is bordered on the north and east by the Interstate 39-90-94/ US Highway 51 interchange. The land located south of the site is zoned C-2 and is currently undeveloped. The majority of the land west of the site across Daentl Road is largely undeveloped agricultural land in A-1 Agricultural zoning, with the exception of a number of single-family lots located directly west of the northern tip of the subject site in the Creekside residential subdivision, which is also zoned A-1.

**Basis for Referral:** Criteria for non-agricultural land division.

**Environmental Corridor Status:** This developed portion of the site is located within the Central Urban Service Area and there are no mapped environmental corridors on the property. The corridor map (attached) shows Token Creek extending through the northern third of the site, with a pond located approximately midway between the commercial buildings and creek. The site south of Token creek is shown as being within a 100-year floodplain, while the corridor map reflects the presence of wetlands in the southeasterly corner of the property as well as between the pond and Interstate 39-90-94 right of way.

**Public Utilities and Services:**

Water: Property is served by the Village of DeForest extraterritorial water service area.

Sewer: Property is served by the Token Creek Sanitary Sewer District.

Fire protection: Sun Prairie Fire Department

Emergency medical services: Burke-Blooming Grove-Maple Bluff EMS

Police services: Dane County Sheriff's Department – District N2.

School District: DeForest School District

Project Review, Analysis & Conclusion

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**Proposed Land Division:** The applicant is requesting approval of an extraterritorial Certified Survey Map to create three lots from two existing parcels totaling approximately 12 acres of property located at 4246 Daentl Road in the Town of Burke. Daentl Road is a two-lane unimproved asphalt roadway that generally extends west and north from US Highway 51/ Stoughton Road to form the western boundary of the subject site before continuing further to the north and west to serve a variety of large residential and agricultural properties in the Town. The northern and eastern edges of the property are bordered by the US Highway 51 interchange from Interstate 39-90-94, while a vacant commercially zoned property forms the southern boundary of the site.

The subject site is developed with the recently constructed Mad City Power Sports boat, motorcycle and power sport sales and service center, which occupies an approximately 21,000 square-foot commercial building located near the center of the property, approximately 30-40 feet east of Daentl Road. A detached shop building is located due east of the main building, approximately 42 feet from the interstate right of way. Surface parking generally occupies the area between the two buildings, with two drive entrances from Daentl Road. The remainder of the site is generally undeveloped with the exception of a gravel parking area located near the northern tip of the three-sided property. However, a number of pertinent environmental features exist on the property, including Token Creek, which extends east-west through the northerly portion of the site just to the south of the gravel parking area. A small pond is located approximately midway between Token Creek and the commercial buildings, while two areas of wetlands exist on the property. The first wetland area occupies approximately 3.6 acres located in the southeasterly portion of the property, while the second wetland occupies a smaller area

between the pond and interstate right of way. Additionally, 2008 FEMA floodplain maps indicate that most of the property south of Token Creek is located within a 100-year floodplain.

The proposed CSM is pursuant to a condition of approval placed on the property by Dane County as part of the approval of a recent zoning map amendment. The center portion of the property where the new sales and service center was constructed was previously zoned County C-2 Commercial zoning, while the portion of the property to the north containing the pond and gravel parking area was zoned A-2 (4) Agricultural zoning. The portion of the property south of the commercial buildings was zoned A-1 Agricultural. At the request of the applicant, Dane County rezoned three distinct areas of the overall property totaling approximately 1.2 acres of land to the C-2 zoning district, including 0.8-acres of land located east of the pond so that a 50-foot tall pylon sign identifying the business could be installed that would be visible from Interstate 39-90-94 and US Highway 51. Dane County ordinances generally require that a business identification sign be located on a commercially zoned property and that it be on a parcel contiguous to the parcel containing the business. An exhibit submitted with the CSM shows that the sign would be located in a narrow strip of land between the interstate right of way and the wetland present in that portion of the site, with a 2.15-foot setback from the right of way and 1-foot setback from the edge of the wetland proposed, both of which required setback variances to be granted by the Dane County Board of Adjustment. The CSM application materials also note that the applicant will be temporarily displaying recreational/ power sports equipment near the sign in the C-2 zoned area. The other two C-2 areas recently rezoned include a portion of the parking lot for the business and a detention facility intended to serve it.

The three lots to be created by the proposed CSM reflect the recently approved County rezoning of the site. Lot 1 of the CSM will be a 3.33-acre parcel that includes the section of Token Creek that crosses the site, as well as the gravel parking area north of the creek and the pond. Lot 1 was rezoned to A-2 (2) Agricultural zoning concurrent with the applicant's C-2 rezonings to reflect that portion of the site west of the highway sign no longer containing the minimum four acres of lot area required for A-2 (4) zoning (the number in parenthesis in A-2 zoning reflects the minimum lot area required by the County that district). Lot 2 of the CSM will be an approximately 5-acre parcel now wholly zoned C-2 as part of the recently approved County rezonings, which contains the Mad City Power Sports facilities, parking, sign and detention pond. Finally, Lot 3 of the proposed CSM will be an A-1 Agricultural zoned parcel wholly comprised of delineated wetlands, with no development of that lot contemplated.

**Approval of CSM by Town of Burke and Dane County:** Section 16.23 (7)(c) of the Subdivision Regulations 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.

The Town of Burke approved the rezoning requests and proposed land division on May 6, 2009. Dane County conditionally approved the rezoning requests related to this project on June 4, 2009 with conditions requiring that no buildings be constructed on proposed Lot 1 south of Token Creek, that the use of proposed Lot 2 east of the pond be restricted to the approved sign and temporary display of recreational vehicles and that all of Lot 2 be restricted in use (see attached July 2, 2009 approval letter from Roger Lane, Dane County Zoning Administrator). Dane County conditionally approved the proposed land division as outlined in a letter dated July 3, 2009 from Norbert Scribner, Land Division Review, Dane County Department of Planning and Development.

**City of Madison Land Use Plan & Intergovernmental Agreement:** The property is located outside of the areas currently covered by an adopted City of Madison neighborhood development plan. The Comprehensive Plan identifies the southwesterly quadrant of the Interstate 39-90-94/ US Highway 51 interchange, including the subject property, in Planning Area B (Group 1). Planning Area B was

included in a Group 1 peripheral planning area largely due the availability of City of Madison utilities and services south of the peripheral area in the Hanson Road and Rattman neighborhoods. The portion of Area B located west of US Highway 51, however, was not included in the final boundaries of the 2008 Pumpkin Hollow Neighborhood Development Plan project area, which is generally bounded by Hanson Road on the south, Rattman Road on the east, State Highway 19 on the north and US Highway 51 and Interstate 39-90-94 on the west. The Comprehensive Plan generally recommends that the subject site for park and open space uses owing to the presence of Token Creek, wetlands and floodplain on this property and in the area to the west. The open space recommendation for this site and the surrounding properties generally west of US Highway 51 extend as far back as the 1990 Peripheral Area Development Plan.

The subject site is also located at the likely future northern edge of the City of Madison based on the City's 2007 cooperative agreement and plan with the Town of Burke, Village of DeForest and City of Sun Prairie (see attached map from Burke agreement). Lands immediately west of the site across Daentl Road and to the north will fall under the jurisdiction of the Village of DeForest. The site is located in a protected area of the Town and will not be automatically attached to the City of Madison until October 27, 2036. Any attachment to the City before that date requires the approval of the Town.

Development in the Town of Burke during the transition period between adoption of the cooperative plan and ultimate dissolution of the Town is regulated by the intergovernmental agreement. Development is considered in the agreement to be 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 City of Madison did not approve the development on the subject site. However, the zoning of the developed portion of the property was already C-2, and the recent relatively small additions to that zoning have not demonstrably increased the ability of the site to be developed.

City Zoning staff, however, has indicated that they do not believe that the 50-foot pylon sign approved for the site will conform to the City's Street Graphics Ordinance, as required by cooperative plan. Signs are an item specifically regulated under the City's cooperative plan with the Town of Burke, which states:

*"In the BAA-M territory which will eventually be attached to Madison, all new or replacement signs, billboards or street graphics ("signs") not part of any development shall comply with the restrictions of the Madison Street Graphics Ordinance, Chapter 31, Madison General Ordinances and with the applicable Dane County sign regulations. In the event of a conflict between the Madison and Dane County sign regulations, the more restrictive regulatory provision shall apply. The Town agrees to adopt an ordinance to condition any electrical or other permits that it issues for new signs or related property improvements upon Madison approval that the proposed sign complies with the Madison Street Graphics Ordinance." [Section 11 B (2) the Intergovernmental Agreement with the Town of Burke]*

**Land Division Criteria:** The Subdivision Regulations provide two criteria for consideration of land divisions in the City's extraterritorial plat approval jurisdiction:

*Agricultural Land Division Criteria:* The Plan Commission may grant approval of a land division subdividing portions of agricultural lands provided that the Commission shall determine that the proposed land division will assist and assure the continuation of the agricultural use.

*Non-Agricultural Land Division Criteria:* In the case of nonagricultural lands, the Plan Commission may recommend approval of a subdivision to the Common Council or may grant approval of a land division

provided that the Plan Commission shall determine that the proposed subdivision or land division complies with each of the following four criteria:

- a. The proposed subdivision or land division shall be compatible with adjacent land uses and shall maintain the general land use pattern of the area in question.
- b. The proposed subdivision or land division shall result in a development pattern that is compatible with surrounding developments and land uses. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features.
- c. 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.
- d. The proposed subdivision or land division shall comply with one of the following:
  - i. The proposed subdivision or land division shall represent infilling of vacant land. Infilling is defined as a subdivision or land division which will accommodate the development of vacant land located such that surrounding existing land uses render the land impractical for any but similar uses.
  - ii. The proposed subdivision or land division shall provide permanent open space lands for use by the general public in conformance with the adopted Parks and Open Space Plan for Dane County, Wisconsin, the City of Madison adopted Parks and Open Space Plan or the City's other adopted Master Plan elements, including the Peripheral Area Development Plan. The permanent open space lands shall be accessible and open for use by the general public. The open space lands shall be exclusive from, and in addition to, lands required for dedication to comply with applicable public parks and open space dedication requirements and shall be provided at a ratio of two acres of permanent open space lands for every one-acre of developed lands, including street rights of way. For the purpose of this provision, wetlands, flood plain lands, steep slopes, or other lands which are not developable because of sensitive environmental features shall not be counted as permanent open space lands in calculating the ratio of permanent open space lands provided versus developed lands. Steep slopes shall include lands which have grades of twenty percent (20%) or more.

The request before the Plan Commission should be reviewed using the non-agricultural land division criteria. In reviewing the applicant's proposal, the Planning Division notes that the shape of proposed Lot 2 is irregular and laid out essentially to accommodate a business identification sign intended to be visible from the adjacent highways, but believes that the standards for a non-agricultural land division could potentially be met with this three-lot CSM subject to conditions of approval that limit the future use of the site not already developed under County C-2 zoning. While the proposed CSM divides two existing parcels into a total of three lots, only one of the proposed lots is actually developable, and most of that proposed lot has already been developed under the C-2 County zoning that pre-existed the most recent rezoning requests. The other two lots are not developable due to the presence of substantial environmental constraints, including Token Creek, wetlands and the pond. Staff recommends that a restrictive covenant be required as a condition of approval that prohibits development of any permanent

or temporary structures on Lots 1 and 3 without the prior approval of the City of Madison and that both lots generally be restricted to open space and agricultural uses.

Note: Notwithstanding the proposed land division, the City believes that signage for this property is required to comply with the more restrictive sign code as stated above, either the City's or Dane County's. However, consideration of signage otherwise related to this property and its conformance to the City's ordinance in relation to the intergovernmental agreement is not under the Plan Commission's purview with this land division.

## Recommendations and Proposed Conditions of Approval

Major/Non-Standard Conditions are shaded

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### **Planning Division Recommendation** (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission **approve** the Certified Survey Map of 4246 Daentl Road, Town of Burke subject to input at the public hearing and the following conditions:

1. That Lot 3 of the proposed Certified Survey Map be revised to include a note that states that the lot is undevelopable due to the presence of delineated wetlands. Any use or development of that parcel for other than open space shall require the approval of the City of Madison.
2. That the applicant executes a restrictive covenant as part of the recording of this CSM in a form approved by the Planning Division, which states the following:
  - 2a.) that no permanent or temporary structures shall be constructed on the portion of Lot 1 located north of Token Creek unless the lot is both further subdivided and the proposed use approved by the City of Madison;
  - 2b.) that no permanent or temporary structures shall be constructed on the portion of Lot 1 located south of Token Creek and that use of that portion of the property shall be restricted to open space and agriculture. Any use or development of that parcel for other than open space or agriculture shall require the approval of the City of Madison;
  - 2c.) that Lot 3 is undevelopable due to the presence of delineated wetlands. Any use or development of that parcel for other than open space shall require the approval of the City of Madison.

The above restrictions shall also be noted on the face of the Certified Survey Map.

The following conditions have been submitted by City of Madison reviewing agencies:

### **City Engineering Division** (Contact Janet Dailey, 261-9688)

3. The dimension shown along the south line of proposed Lot 3 appears to be in error. Revise as necessary.
4. This property is subject to future attachment to the City of Madison per the Burke-DeForest-Sun Prairie-Madison Cooperative Plan. Therefore the City requests the surveyor add the Dane County of Register of Deeds recording information to this CSM for all I-39/90/94 highway acquisitions affecting this CSM boundary per the corresponding WisDOT Highway Right-of-Way Project reference as shown.

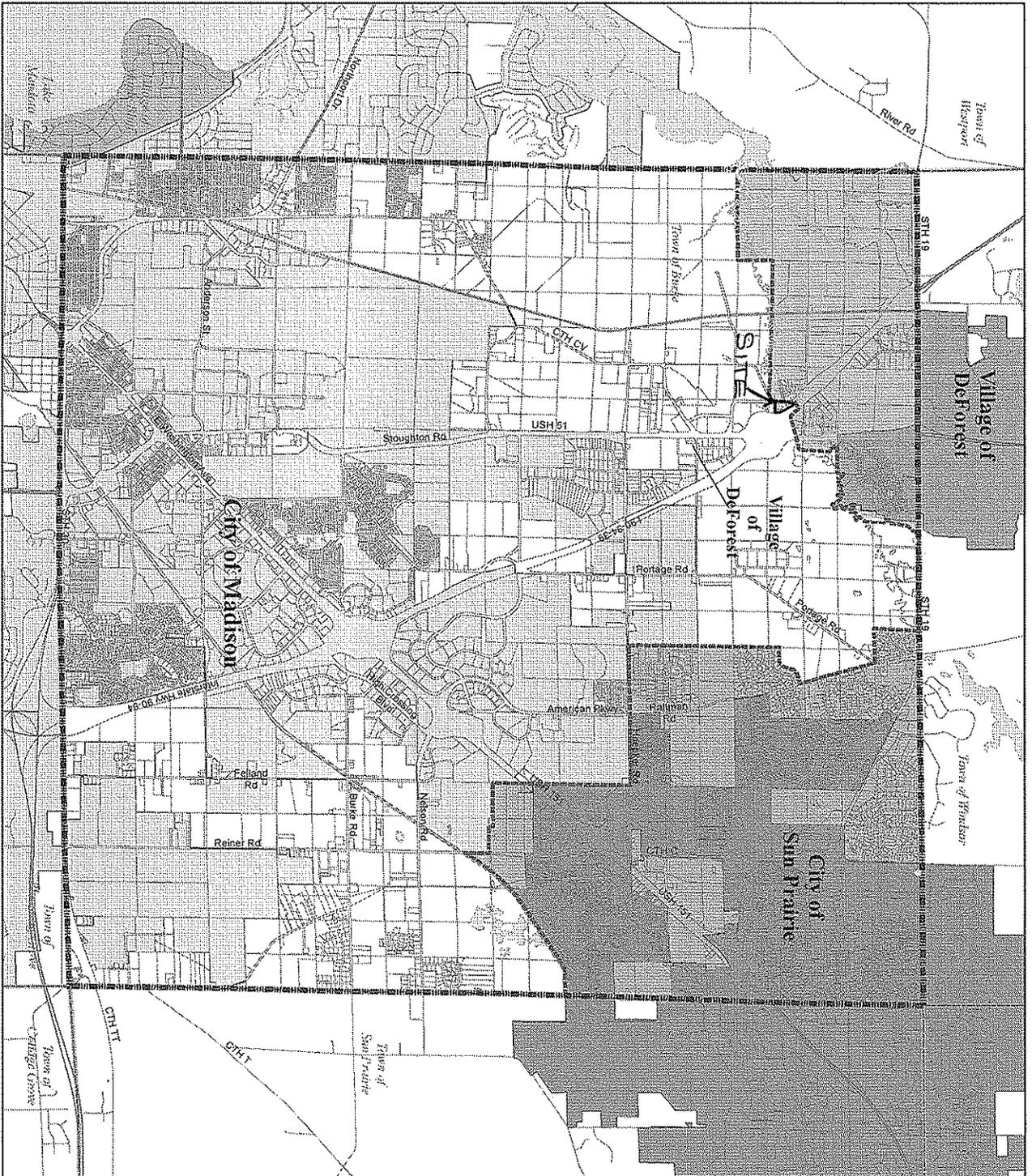
5. Confirm with Wisconsin Department of Administration and include the appropriate statutory "public interest" land/water rights for existing Token Creek.
  6. Fully dimension and monument as necessary to memorialize both the 2001 and 2009 wetland boundary field delineations contained within this site.
  7. A 75-foot wetland setback from all delineated wetlands shall be shown on the CSM.
  8. Dane County may require right of way dedication along Daentl Road. If Dane County does not, the City of Madison will require this CSM to create a 15-foot wide permanent limited easement for sloping and grading parallel with, and easterly of, the existing east right of way line of Daentl Road.
9. The applicant shall dedicate a 10-foot wide Permanent Limited Easement for grading and sloping along Daentl Road.
10. Arrows shall be added to the certified survey map indicating the direction of drainage for each property line not fronting on a public street. In addition, the certified survey map shall include lot corner elevations, for all lot corners, to the nearest 0.25-foot. The following notes shall be added to the certified survey map.
- a.) Arrows indicate the direction of surface drainage swale at individual property lines. Said drainage swale shall be graded with the construction of each principal structure and maintained by the lot owner unless modified with the approval of the City Engineer. Elevations given are for property corners at ground level and shall be maintained by the lot owner.
  - b.) All lots within this survey are subject to a public easement for drainage purposes which shall be a minimum of 6-feet in width measured from the property line to the interior of each lot except that the easement shall be 12-feet in width on the perimeter of the certified survey map. Easements shall not be required on property lines shared with green ways or public streets. No structures may be constructed within said easement and no other obstructions to drainage, including landscaping are permitted without the prior written approval of the City Engineer.
- Note: In the event of the City of Madison Plan Commission and/or Common Council approve re-division of a previously subdivided property, the underlying public easements for drainage purposes are released and replaced by those required and created by the current approved subdivision.
11. 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 Eric Pederson, City Engineering. 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. The applicant shall identify monument types on all PLS corners included on the Plat or CSM. Note: Land tie to two PLS corners required.

**Traffic Engineering Division** (Contact John Leach, 267-8755)

12. There will be access restrictions for CSM, which shall be noted on the face of the survey as follows:  
“No access shall be granted along the easterly right of way line of Interstate 39-90-94.” The applicant shall graphically show the “No Vehicular Access Restriction” on the face of the CSM.

**Zoning Administrator** (Contact Pat Anderson, 266-5978)

13. As per Section 11 B (2) the Intergovernmental Agreement with the Town of Burke: “In the BAA-M territory which will eventually be attached to Madison, all new or replacement signs, billboards or street graphics (“signs”) not part of any development shall comply with the restrictions of the Madison Street Graphics Ordinance, Chapter 31, Madison General Ordinances and with the applicable Dane County sign regulations. In the event of a conflict between the Madison and Dane County sign regulations, the more restrictive regulatory provision shall apply. The Town agrees to adopt an ordinance to condition any electrical or other permits that it issues for new signs or related property improvements upon Madison approval that the proposed sign complies with the Madison Street Graphics Ordinance.”
14. Provide a 75-foot protective buffer from the wetlands pursuant to Madison General Ordinance 37.09(3)(h) and the Wisconsin Administrative code (NR 103.04).
15. Parcels are subject to Waterfront Development Section 28.04 (19) of the MGO.

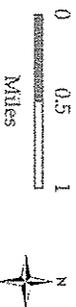


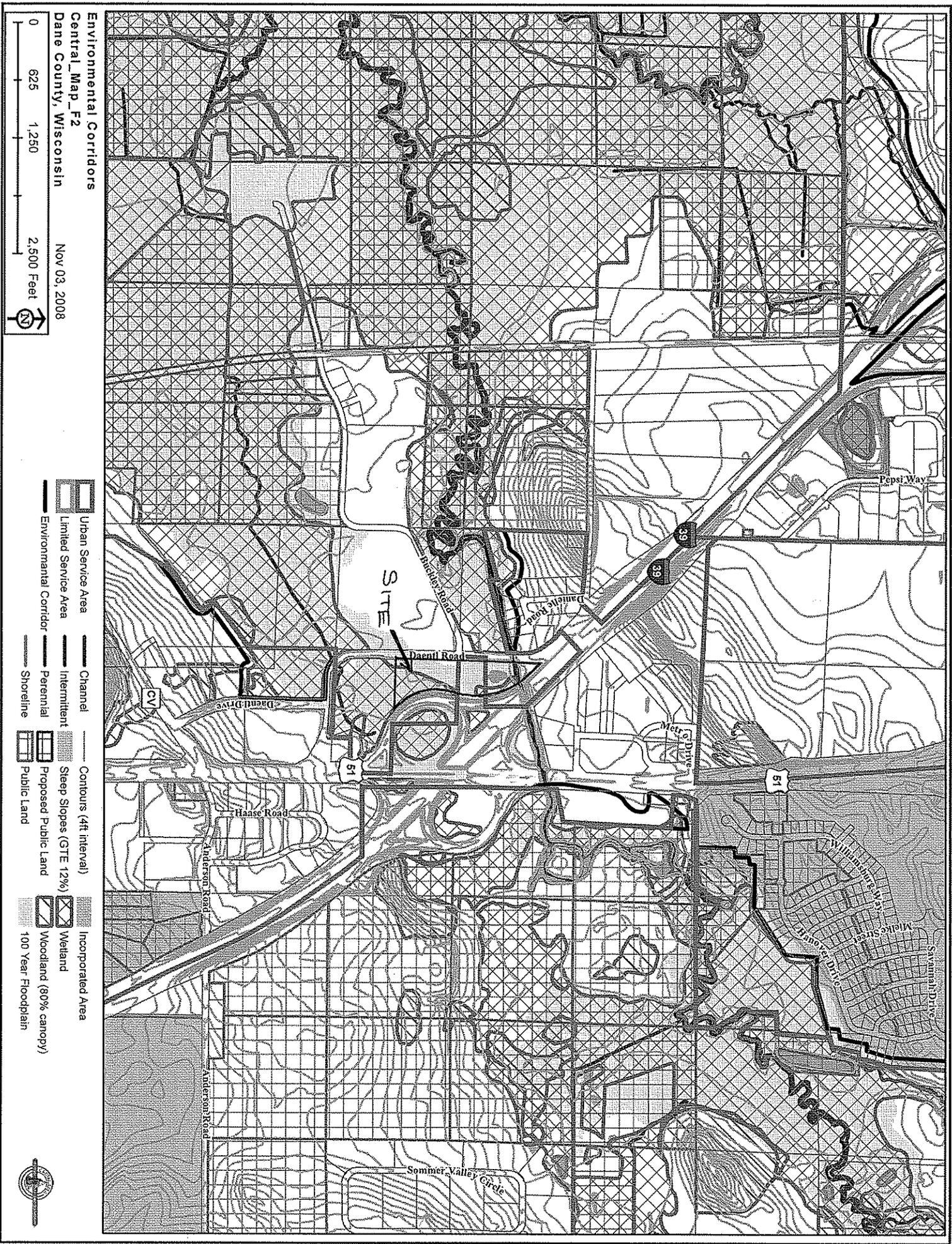
**Exhibit 3**  
**Final Boundary**  
**Adjustment Areas**  
**for DeForest, Sun Prairie**  
**and Madison**

Town of Burke  
 Village of DeForest  
 City of Sun Prairie and  
 City of Madison  
 Cooperative Plan  
 December 2006

-  Town of Burke Boundary
-  Final Boundary Line
-  City of Madison
-  Boundary Adjustment Area - Madison (BAA-M)
-  Village of DeForest
-  Boundary Adjustment Area - DeForest (BAA-D)
-  City of Sun Prairie
-  Boundary Adjustment Area - Sun Prairie (BAA-S)
-  Village of Maple Bluff

*Data Source:*  
 City of Madison Department of Planning and Development, Planning Unit





Environmental Corridors  
 Central\_Map\_F2  
 Dane County, Wisconsin

Nov 03, 2008



-  Urban Service Area
-  Limited Service Area
-  Environmental Corridor
-  Channel
-  Intermittent
-  Perennial
-  Shoreline
-  Contours (4ft interval)
-  Steep Slopes (GTE 12%)
-  Proposed Public Land
-  Public Land
-  Incorporated Area
-  Wetland
-  Woodland (80% canopy)
-  100 Year Floodplain

