



## Report to the Plan Commission

December 19, 2011

**Legistar I.D. #24825**  
**3010 Shady Oak Lane, Town of Verona**  
**Extraterritorial Certified Survey Map**

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

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**Requested Action:** Consideration of a two-lot Certified Survey Map (CSM) of the Keryluk-Wee property located at 3010 Shady Oak Lane, Town of Verona, 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** 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

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**Applicant & Property Owner:** Kenneth Keryluk & Melissa Wee; 3010 Shady Oak Lane; Verona.

**Surveyor:** Thom Grenlie; 400 S. Nine Mound Road; Verona.

**Proposal:** The applicants propose to subdivide the existing 40-acre parcel into two lots. The applicants wish to record the Certified Survey Map as soon as all regulatory approvals have been granted.

**Review Schedule:** The State's subdivision statute, WS 236, requires that action be taken on a Certified Survey Map within 90 days of submittal unless a written extension is granted by the applicant. If no action is taken within 90 days and no extension granted, the CSM is deemed approved. The proposed CSM application was submitted to the City on November 9, 2011. Therefore, the 90-day review period for this CSM will end circa February 9, 2012.

**Parcel Location:** A 40-acre parcel located on the northeasterly side of Shady Oak Lane, approximately a half-mile north of McKee Road (CTH PD); Verona Area School District.

**Existing Conditions:** The subject site is developed with a two-story single-family residence and a detached accessory building located on the southern third of the property. The site is zoned County A-1EX Exclusive Agriculture and RH-1 Rural Home District.

**Surrounding Land Uses:** The north side of Shady Oak Lane northwest of the subject site is developed with single-family residences on large lots, while properties south, southwest and east of the subject site are primarily large, undeveloped agricultural tracts.

**Environmental Corridor Status:** The subject site is not located in the Central Urban Service Area and is not located in a mapped environmental corridor. Corridor map A11 shows areas of steep slope greater than 12% primarily on the southern portion of the property just off of Shady Oak Lane, and woodlands present on most of the property. Three ponds are also identified on the corridor map on the northern half of the 40-acre site.

**Public Utilities and Services:**

Water: Property is not served by municipal water.

Sewer: Property is not served by municipal sewer.

Fire protection: Verona Fire Department

Emergency medical services: Fitch-Rona EMS

Police services: Dane County Sheriff's Department

School District: Verona Area School District

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**Project Review, Analysis & Conclusion**

**Proposed Land Division:** The property owners, Kenneth Keryluk and Melissa Wee, are requesting approval of a two-lot extraterritorial Certified Survey Map to divide their 40-acre parcel located on the northeasterly side of Shady Oak Lane in the Town of Verona. The subject site is developed with a two-story single-family residence located approximately 500 feet northeast of Shady Oak Lane in the southwestern quadrant of the irregularly shaped parcel, and a large detached accessory building located 400 feet northeast of the house closer to the center of the property. The remainder of the property is undeveloped and characterized by heavy tree cover. Access to the property is provided by an asphalt driveway that extends into the site along the southerly property line and around to the north side of the residence. A gravel drive extends off of the asphalt drive to provide access to the accessory building and two ponds located on the northern half of the site. The subject site has approximately 73 feet of frontage on Shady Oak Lane and is characterized by slopes that fall to the southwest and northeast from a ridge that crosses the southwestern quadrant of the site, with the slopes steepest on the southwest side.

Shady Oak Lane extends between McKee Road (CTH PD) on the south and Mid Town Road on the north. The site is situated on the northeast side of the road. Properties generally west of the site along the northeasterly side of Shady Oak Lane are largely characterized by a mix of single-family residences on large tracts of land, while properties to the south and west along the road consist of undeveloped agricultural tracts with farmhouses and related accessory buildings continuing south toward McKee Road.

The CSM proposes to create a 3.4-acre lot for the existing residence, which is shown as Lot 1, with the remaining approximately 36.6 acres of the property including the detached accessory building to be located on proposed Lot 2. The property owners indicate that the purpose of the land division is for refinancing and estate planning purposes. No additional development is proposed at this time. As proposed, Lot 1 will be landlocked in part due to the very limited road frontage the 40-acre property has, which makes providing road frontage for both proposed lots difficult. The property is zoned County A-1EX Exclusive Agriculture with the exception of an area of RH-1 Rural Home District zoning, which was recently enlarged from a small area surrounding the residence to encompass proposed Lot 1.

**Approval of CSM by Town of Verona and Dane County:** Section 16.23(3)(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 Dane County Zoning & Land Regulation Committee conditionally approved an earlier one-lot version of the proposed land division that created just one lot for the residence as outlined in the letter dated November 1, 2011 from Dan Everson, Land Division Review, Dane County Department of Planning and Development and the map attached thereto. The rezoning of proposed Lot 1 to the RH-1

Rural Home zoning was approved by the County Board on November 3, 2011. The Town of Verona approved the rezoning and one-lot CSM for the residence on October 4, 2011.

However, the earlier one-lot CSM creating a lot for the residence and an unmapped 36.6-acre parcel is not permitted under the City's Subdivision Regulations, which require that any lot 40 acres or less in area created by a subdivision be shown on the final plat or CSM. Therefore, the CSM was revised prior to submittal to the City to include a lot for the remaining 36.6 acres of the subject property.

Following City approval of the proposed two-lot CSM, the Town and County will be required to re-approve the land division prior to its recording.

**City of Madison Land Use Plan:** The property is located within the boundaries of the proposed Shady Wood Neighborhood Development Plan planning area, which encompasses the eastern half of a high-priority peripheral planning area identified in the Comprehensive Plan for the northern tier of the Town of Verona. Planning Area A (Group 1) was identified as a high priority for more detailed neighborhood planning in order to further define the City of Madison's near and long-term interests in serving future urban development and expansion in the area, and for refining plans for a recommended open space corridor and Ice Age Trail connection to traverse the area located generally east of the large-lot development along Shady Oak Lane. The Shady Wood planning area is bounded by Shady Oak Lane on the west, Midtown Road on the north, S. Pleasant View Road (CTH M) on the east and McKee Road (CTH PD) on the south and includes the subject site.

As drafted, the neighborhood plan recommends the southern half of the subject site for low-density residential development consistent with the existing residential character of the properties along the northeasterly side of Shady Oak Lane. The northern portion of the property is recommended for open space conservation and is crossed by the potential future Ice Age Trail corridor, which crosses the planning area generally from the southeast to the northwest.

On July 21, 2009, the City of Madison Common Council adopted Development Phasing Area A of the Shady Wood Neighborhood Development Plan, which is one of three development phasing areas identified in the draft plan. The Common Council referred action on the balance of the neighborhood development plan in order to allow more time to consider the concerns expressed by some of the Phasing Area B and C property owners (including the applicants for this CSM) regarding the recommendations for their properties. Staff anticipates resuming discussions on the Phasing Area B and C plan recommendations in 2012 with a goal of completing the plan next year. The subject site is located in Phasing Area C of the draft plan.

**Land Division Criteria:** The Plan Commission shall determine that the proposed land division complies with each of the following criteria:

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.

The Planning Division generally believes that the Plan Commission can find the above criteria met with the proposed two-lot land division. Staff believes that the proposed lot for the existing residence is generally in keeping with the other residential lots present further to the west on the more developed section of Shady Oak Lane.

In addition to the inclusion of the second lot (Lot 2) to the proposed CSM in order for the proposal to conform to the City's Subdivision Regulations, the configuration of the proposed land division changed at the request of City Planning staff. As approved by the Town and County, the lot for the existing residence extended southwesterly to Shady Oak Lane, which landlocked the remaining 35-plus acres of the property to the north. However, Planning staff was concerned that isolating the portion of the subject site that could potentially be developed in the future might have a negative impact on the ability for the draft recommendations of the Shady Wood Neighborhood Development Plan to be implemented in the future once the plan is adopted, including the recommendations that the undeveloped northern half of the property be preserved as open space and as a potential corridor for the extension of the Ice Age Trail through the neighborhood. Given the apparent size and age of the existing residence on Lot 1, it seems unlikely to staff that any future development on Lot 2 would call for the demolition of the house. Likelier, any future development would likely incorporate the existing residence in some fashion. By including the residence on a separate lot with access to Shady Oak Lane via an easement, staff believes that it can be found that the proposed land division will not adversely affect the City's ability to provide public services, install public improvements or accomplish future annexations in this area.

In the interim, the two proposed lots will share a driveway with Lot 2 via an easement that will be declared prior to the final approval and recording of the CSM. To ensure that Lot 1 has sufficient access to Shady Oak Lane in the future, staff recommends a provision be added to the forthcoming joint driveway/ easement that ensures that access to Lot 1 will be provided as part of any further subdivision of Lot 2.

Finally, the approval of this two-lot land division will require the Plan Commission to grant a waiver to the requirement in Section 16.23(8)(d)2 that every lot in a subdivision or land division shall front or abut on a public street unless the lot is located in an approved Planned Commercial Site or a Planned Development zoning district, and which is served by a reciprocal agreements or easements for land use, access, etc. Section 16.23(10) allows the Plan Commission to waive or vary the subdivision design provisions in Section 16.23(8) if the proposed subdivision is located outside the corporate limits or if extraordinary hardship would result from the literal application of those provisions. In this case, the Planning Division believes the 40-acre parcel's existing limited road frontage renders it very difficult to provide meaningful frontage for both lots, and given the limited nature of the land division request, feels that the recommended condition to create shared access between both lots is sufficient and warrants the granting of the waiver.

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## **Recommendation 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 dividing 3010 Shady Oak Lane, Town of Verona into two lots, subject to input at the public hearing and the following conditions of approval:

1. The applicants shall execute a restrictive covenant over Lot 2 of the CSM in a form approved by the Planning Division prior to final City approval of the CSM for recording. The restrictive covenant shall require written approval of the City of Madison Planning Division of the location of any new or expanded principal or accessory buildings located on Lot 2, and City of Madison Plan Commission approval of any further subdivision of Lot 2.
2. That the applicants receive approval of a revised two-lot land division from the Town of Verona and Dane County prior to the City of Madison signature on the final CSM. Proof of Town and County approval shall be in the form of written correspondence from both entities noting said approvals. Should the configuration of the land division approved by the Town and County differ from the land division approved by the City, the Director of the Planning Division shall approve the final CSM if the land division concept is compatible with the concept approved by the City Plan Commission.
3. The applicants shall create a joint driveway easement/ agreement to benefit both proposed lots, with the final easement/ agreement to be approved by the Planning Division and executed by the owners prior to final approval of the CSM for recording. The joint driveway/ easement shall include a provision ensuring that access to Lot 1 will be provided as part of any further subdivision of Lot 2.

The following conditions have been submitted by reviewing agencies:

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

4. Place a note on the CSM stating the following: "Lot 1 and Lot 2 acknowledge they are dependent on each other for cross drainage."
5. Remove the reference to 12-foot drainage easements on page 2 and remove paragraph B of the drainage notes on page 3. NOTE: City Office of Real Estate Services comments requested the inclusion of language referring to "dedication" within the Owner's Certificate relating to these easements. With City Engineering suggesting the removal of these easements, this language is not required in the owner's Certificate unless there is intent to dedicate the portion of Shady Oak Lane to the public.
6. Include the land tie to the PLSS corner at the SW Corner Sec. 4-6-8. Based on dimensions shown on this CSM, this distance omitted from this CSM computes to 947.36 feet. This matches the tie for prior CSM 12342, yet differs from the 948.14-foot dimension for the same common line on CSM 13174. Make any necessary corrections to all recorded documents.

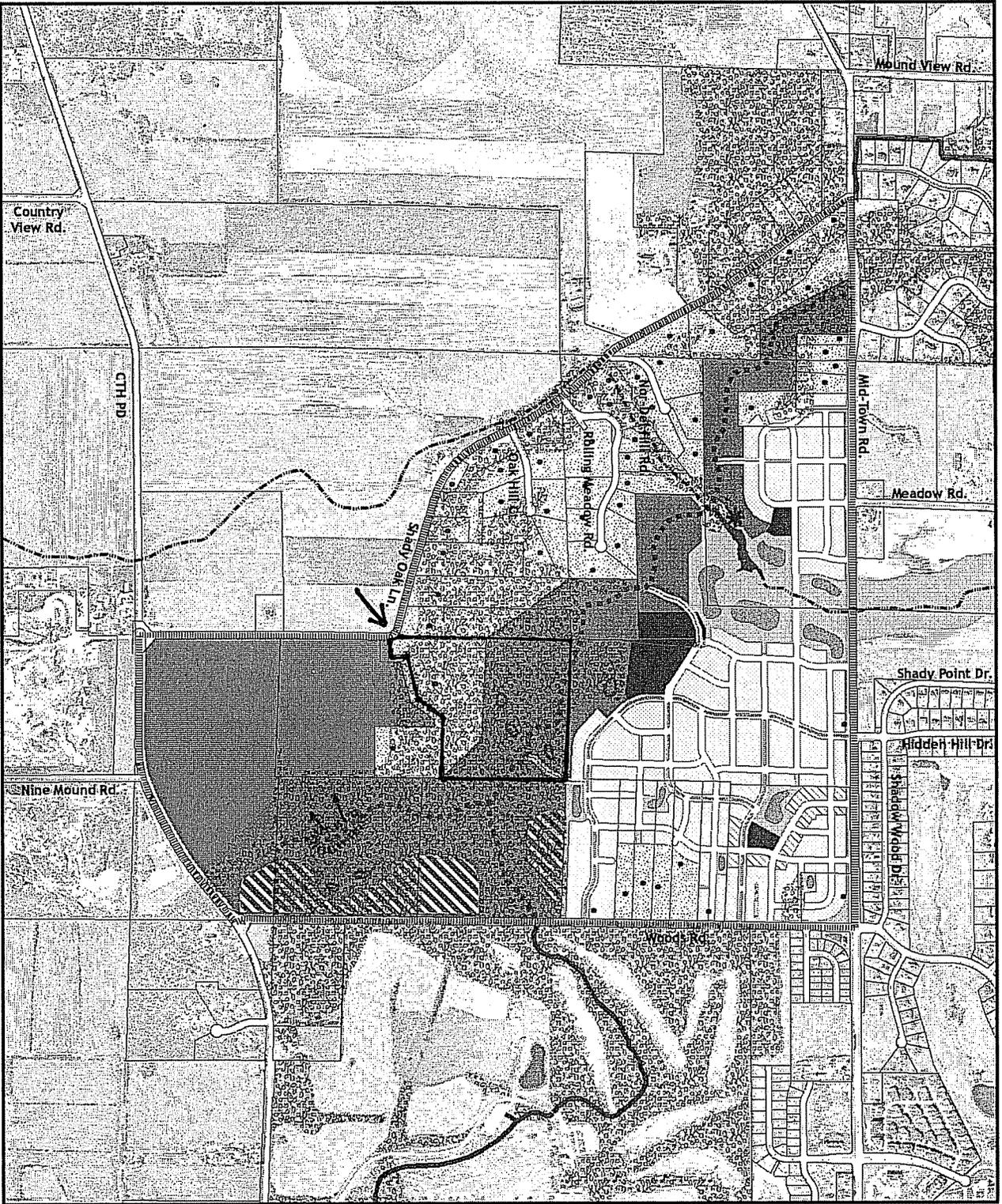
### **Office of Real Estate Services** (Contact Jennifer Frese, 267-8719)

7. The Owner's Certificate on the proposed plat shall be executed by all parties having an ownership interest in the property. For parties other than sole proprietorships, the signatories shall provide to

the City, prior to approval, documentation, which proves that, said signatories have legal authority to sign the Owner's Certificate. The title report shows the following parties have an ownership interest of record in the property and said parties shall be signatories on the Owner's Certificate:

- Kenneth S. Keryluk and Melissa E. Wee, husband and wife as survivorship marital property
8. All real estate taxes, stormwater management charges, and special assessments due against the properties involved in this final plat shall be paid in full (with copies of receipts for recent payments not reflected in City records) prior to final signoff of the CSM for recording. As of December 6, 2011, the 2010 real estate taxes are known and paid in full for the subject property. The 2011 tax bills are typically released in mid-December. **If the 2011 tax bill becomes available prior to CSM approval sign-off, they will also need to be paid in full.** Special assessments for trash pickup are paid in full.
  9. If applicable, a certificate of consent by the mortgagee/vendor shall be included following the Owner(s)' Certificate for each of the mortgagees/vendors recorded against this property (State Bank of Cross Plains (2 mortgages)).
  10. Please depict, name and identify all existing easements by document number in record title on the proposed CSM. They include, but are not limited to, the following: Doc. #3040030; Doc. #4380178.
  11. Record satisfactions or releases for all mortgages, liens, judgments, or other instruments that encumber the title of the subject lands, but where the purpose for such instrument has been satisfied, fulfilled, or resolved: Judgments exist against the property owners, as docketed on March 14, 2008 in Dane County Circuit Court, Case Number 2002CV002655.

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**Map 6:**  
**Shady Wood**  
**Neighborhood Development Plan**  
 March 2009

**Recommended Land Use**

- Housing Mix 1
- Higher Densities within Housing Mix 1
- Existing Housing Mix 1
- Park
- Open Space Conservation Area
- Stormwater Management and Other Minor Open Space
- Potential Conservation Development
- Future Planning Area

**Street Right-of-Way**

- Existing Ice-Age Trail
- Conceptual Ice-Age Trail
- Conceptual Trail Access Connection
- Existing Dwelling Unit
- Undeveloped Kettle or Depression
- Conceptual Stormwater Detention Location
- Lower Badger Mill Creek
- Richardson's Cave
- View Opportunity from Terminal Meander
- Woodland

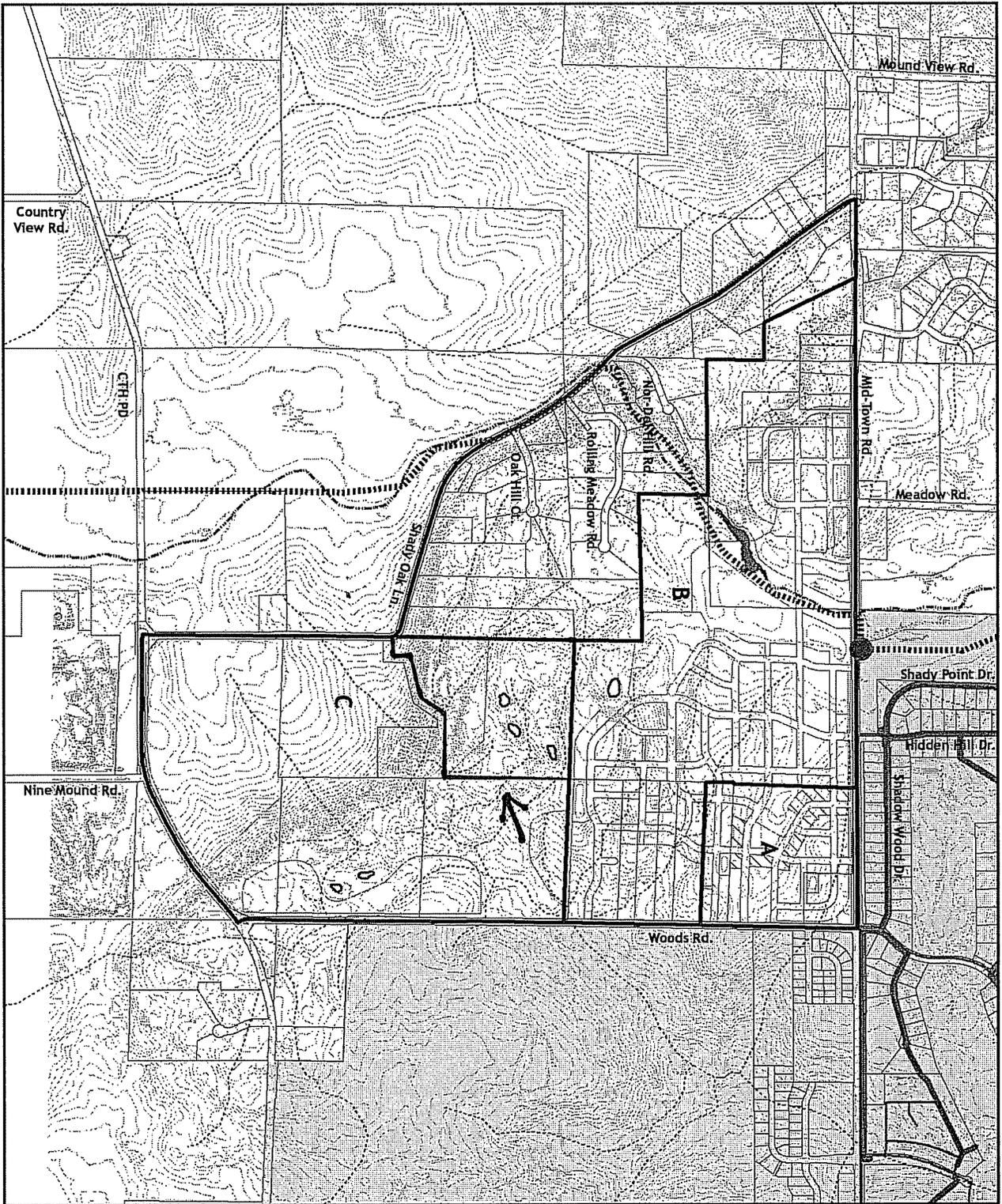
**Planning Area**

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0 500 1,000 Feet

City of Madison Planning Division

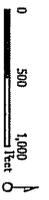
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**Map 9:  
Utilities and  
Development Phasing  
Shady Wood  
Neighborhood Development Plan  
March 2009**

- Existing Utilities
- Existing Water Main
- Existing Sanitary Sewer Main
- Proposed Utilities/Phasing Areas
- Proposed Sanitary Lift Station
- Proposed Lower Badger Mill Creek Interceptor
- Phasing Area
- Central Urban Service Area
- Ridge Line
- 4 Foot Contour

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