



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 3315 Nelson Road, Town of Burke  
**Application Type:** Final Plat in the Extraterritorial Jurisdiction  
**Legistar File ID #** [35553](#)  
**Prepared By:** Timothy M. Parks, Planning Division  
Report includes comments from other City agencies, as noted

## Summary

**Applicant & Property Owner:** James & Deborah Duckart; 2916 Pebble Valley Court; Sun Prairie.

**Surveyor:** Dan Birrenkott, Birrenkott Survey, Inc.; 1677 N. Bristol Street; Sun Prairie.

**Requested Action:** Approval of a final plat creating 3 single-family lots and 3 agricultural lots.

**Proposal Summary:** The applicants are requesting approval of a final plat to create 3 lots for 3 existing single-family residences located at 3311, 3313 and 3315 Nelson Road, and 3 lots for their remaining agricultural land. The applicant wishes to record the final plat as soon as all regulatory approvals have been granted.

**Applicable Regulations & Standards:** The process for subdivisions located within the corporate limits of the City of Madison or within the Extraterritorial Plat Approval Jurisdiction is outlined in Section 16.23 of the Subdivision Regulations. Section 16.23(3)(c) requires that any land division or subdivision in the extraterritorial jurisdiction comply 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.

In addition, the subject site is located within the Boundary Adjustment Area–Madison (BAA-M) designated in the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan dated January 5, 2007.

**Review Required By:** Plan Commission and Common Council.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission forward the final plat of Windswept, to the Common Council with a recommendation of **approval** subject to input at the public hearing and the conditions of approval from reviewing agencies beginning on page 4 of this report.

## Background Information

**Parcel Location:** An 18.8-acre parcel located approximately 2,000 feet east of Reiner Road on the south side of Nelson Road.

**Existing Conditions and Land Use:** The site is developed with 3 existing single-family residences located on the eastern third of the subject site. The rest of the property is used for agricultural purposes and includes 7 sheds of varying size scattered across the property. The westernmost 50 feet of the property is subject to a natural gas pipeline easement.

### **Surrounding Land Use and Zoning:**

North: Undeveloped land, zoned A-1 (Agricultural District);

South: Undeveloped land and quarry, zoned A-1;

West: Midwest Veterinary Supply and general warehousing along Maly Road, zoned C-2 (Commercial District);

East: Single-family residences fronting Nelson Road zoned A-1 and in the Sunnyburke Heights subdivision, zoned R-2 (Residence District).

**Adopted Land Use Plan:** The subject site is located within Peripheral Planning Area C as defined in the Comprehensive Plan. Planning Area C is a “Group 1” planning area recommended as a potential location for relatively near-term City expansion and future urban development once a detailed neighborhood development plan is adopted to guide urban development in this area.

A large portion of Peripheral Planning Area C was included in the limits of the Northeast Neighborhoods Development Plan, which provides recommendations for land use and design, open space preservation, transportation, urban services delivery, development phasing and plan implementation for an area generally bounded by Interstate 94 on the south, Interstate 39-90-94, the Village of Autumn Lake subdivision and a Wisconsin Department of Transportation railroad corridor on the west, Nelson Road on the north, and Thorson Road and CTH T on the east. Due to the large size of the planning area, it was divided into two phases, with the recommendations for the portion of the planning area located south of Burke Road included in a Phase 1 plan adopted in October 2009. The plan for the portion of the planning area located north of Burke Road – including the subject site – has not been adopted at this time.

**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 G4 identifies a small area of steep slopes in excess of 12%.

### **Public Utilities and Services:**

Water: Property is not served by municipal water;

Sewer: Property is not served by public sewer;

Fire protection: Town of Sun Prairie Fire Department;

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

Police services: Dane County Sheriff’s Department;

School District: Sun Prairie School District.

The 3 residences are currently served by well and septic. At the present time, the subject site is approximately a half-mile east of the nearest City limits and three-quarters of a mile from the nearest City water and sewer facilities (west of the site on Nelson Road, just east of Felland Road).

## Previous Approval

On August 5, 2014, the Common Council conditionally approved the preliminary plat of Windswept to create 3 single-family lots and 3 agricultural lots on land generally addressed as 3315 Nelson Road, Town of Burke.

## Project Description

The applicants are requesting approval of a final plat of their approximately 18.8-acre property to create 3 single-family lots and 3 agricultural lots. The property is located in the Town of Burke on the south side of Nelson Road, approximately 2,000 feet east of Reiner Road and is developed with 3 single-family residences of varying size on the eastern third of the Nelson Road frontage and 7 sheds of varying size scattered across the site. Most of the property west of the residences is used for agricultural purposes. The westernmost 50 feet of the property is subject to an easement for a natural gas pipeline.

The proposed subdivision calls for each of the residences to occupy their own lot, shown as Lots 1, 3 and 4 of the final plat. Those lots are zoned R-1 (Residence District), R-1a (Residence District) and RH-1 (Rural Homes District), respectively. Lots 2, 5 and 6 of the plat will be agricultural lots and are zoned A-1 (Agriculture District). Lot 6 of the plat includes an existing southerly prolongation of the overall property as well as 90 feet of frontage along Nelson Road, which is a modest deviation from the approved preliminary plat, which showed 66 feet of frontage for Lot 6. The surveyor indicates that Lot 6 was widened to create room for a driveway to serve that lot outside the 50-foot wide gas pipeline easement. A 66-foot wide access and utility easement centered on the existing asphalt driveway on the eastern portion of the site is proposed for the benefit of Lots 1-4.

**Approval of the Final Plat by the Town of Burke and Dane County:** Section 236.10 (b) of the Wisconsin State Statutes requires that subdivisions in the City's Extraterritorial Plat Approval Jurisdiction receive approval from the town of record and Dane County prior to consideration of the request by the Plan Commission.

Dane County granted conditional approval of the proposed final plat as outlined in a letter dated November 12, 2014 from Dan Everson, Land Division Review, Dane County Department of Planning and Development. The Burke Town Board conditionally approved the proposed final plat on November 19, 2014 (see the attached correspondence).

## Analysis & Conclusion

During its review of the preliminary plat of the Windswept subdivision, Planning staff carefully considered the size, configuration and zoning of the proposed lots and determined that the subdivision represented the best layout possible for the property given the existing development pattern present on the site and the need for each proposed lot to have frontage on a public road per County ordinances. As part of its recommendation on the preliminary plat, Planning staff compared the layout of the plat to working concepts for the future street network in Phase 2 of the Northeast Neighborhoods planning area and determined that the layout of Lots 5 and 6 would not have a negative impact on the future planning and urban development of this area, although it acknowledged that Lots 1-4 are likely to remain in their proposed configuration for the foreseeable future, and

that their future development potential is likely limited. However, the ability to connect those lots to future public utilities once they are available appears feasible, all of which allowed staff to find that the extraterritorial criteria could be met for the Windswept subdivision.

In closing, the Planning Division believes that the proposed final plat of Windswept is in substantial conformance to the approved preliminary plat despite the minor revision to widen Lot 6 an additional 24 feet compared to the configuration shown previously. The modest adjustment to the lot configuration should not impact its conformance with the extraterritorial plat approval criteria.

## Recommendation

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

The Planning Division recommends that the Plan Commission find the final plat of Windswept, located at 3315 Nelson Road in the Town of Burke, in conformance with the approved preliminary plat, and forward the final plat to the Common Council with a recommendation of **approval** subject to input at the public hearing and the following conditions:

### **Recommended Conditions of Approval** Major/Non-Standard Conditions are Shaded

1. Prior to recording of a final plat of this subdivision, the applicant shall execute a restrictive covenant over the proposed lots in a form approved by the Planning Division. The restrictive covenant shall require the written approval of the Planning Division Director of the location of any new or expanded principal or accessory buildings. The purpose of this restriction is to ensure that the placement of such buildings does not impact the City's ability to provide public services, install public improvements, extend planned streets, or accomplish future attachments.

### **The following conditions of approval have been submitted by reviewing agencies:**

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

2. It is assumed the 90-foot wide leg of Lot 6 was widened from the previous 66-foot wide leg to provide adequate area for a future driveway serving a future dwelling on Lot 6 outside of the gas main easement.
3. A condition of preliminary plat approval required the following: If the lots within this plat are interdependent upon one another for stormwater runoff conveyance, and/or a private drainage system exists for the entire site, an agreement shall be provided for the rights and responsibilities of all lot owners. Said agreement shall be reviewed and placed on file by the City Engineer, referenced on the final plat, and recorded at the Dane County Register of Deeds. Note 18 on the plat does not adequately address this comment. The copy of an actual agreement shall be provided. If the lots are not interdependent on one another, provide information showing the lots within the plat are not interdependent on one another.
4. Correct the northing value of the established coordinates of the center of Section 24 to 507936.44.
5. Revise the grading and sloping easement to read: "10-FOOT WIDE PUBLIC PERMANENT LIMITED EASEMENT FOR GRADING AND SLOPING PER THIS PLAT." Also add the word "Public" to note 17.

6. Remove the note "Approximate Edge of Woods" from the legend.
7. Revise the note for the 66-foot wide access easement to read: "66' Wide Private Access and Private Utility Easement. See Note 20 for Limitations". Also revise note 20 to be a "Private" Access and "Private" Utility Easement. Additional language on the plat or a separate document recorded at the Register of Deeds is recommended to further set forth construction, maintenance and use restrictions.
8. Remove Note 22, as it is addressed in Note 11.
9. Prior the recording of the final plat, the common well easement shall be modified, amended or a new agreement drafted to address the reconfigured parcels that are to utilize any common well. The recording information of the new agreement shall be placed on the face of plat.
10. Note 6 conflicts with the existing overhead utilities that are currently serving homes within this proposed subdivision. The note shall be modified appropriately or removed to address this issue.
11. Add the City of Madison Subdivision Regulations to the Surveyor's Certification of compliance.
12. Add set iron stakes at two locations along the common lot lines of Lots 2 and 3.

13. 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. Note: Land tie to two PLS corners required.
14. 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 plat in areas where this control exists. The surveyor shall identify any deviation from City Master Control with recorded and measured designations. The City has established WCCS, Dane Zone Coordinates on all PLS corners within its corporate boundary. Visit the City Engineering Division website for current tie sheets and control data ([http://gis.ci.madison.wi.us/Madison\\_PLSS/PLSS\\_TieSheets.html](http://gis.ci.madison.wi.us/Madison_PLSS/PLSS_TieSheets.html)). If a surveyor encounters an area without a published WCCS Dane Zone 1997 value, contact the City Engineering Division for this information.

**Traffic Engineering Division** (Contact Eric Halvorson, 266-6527)

15. The applicant shall revise the plat to provide access rights to the 66-foot wide easement to Lot 1.
16. A declaration of conditions and covenants streetlight and traffic signals shall be executed and returned prior to signoff of the final plat for recording. The applicant will need to provide a deposit for their reasonable and proportionate share of traffic signal costs.
17. Public signing and marking related to the development may be required by the City Traffic Engineer for which the developer shall be financially responsible.

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

This agency did not provide comments for this request.

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

This agency submitted a response with no comments or conditions of approval for this request.

**Water Utility** (Contact Dennis Cawley, 261-9243)

This property is outside the Madison Water Utility service area.

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

This agency did not provide comments for this request.

**Parks Division** (Contact Kay Rutledge, 266-4714)

This agency did not provide comments for this request.

**Office of Real Estate Services** (Jenny Frese, 267-8719)

18. Prior to sign-off of the final plat, the Owner's Certificate shall be executed by all parties having an interest in the property, pursuant to Wis. Stats. 236.21(2)(a). Certificates shall be prepared with the ownership interests consistent with the most recent title report.
19. If mortgages are present, a certificate of consent for all mortgagees/vendors shall be included following the Owner's Certificate(s) and executed prior to final CSM sign-off.
20. Because of future annexation with the City of Madison, it is *recommended* that the owner coordinate with the Town of Burke to obtain an Environmental Site Assessment for the public dedication areas shown on the final plat.
21. Under 236.21(3) Wis. Stats. and MGO Section 16.23(5)(g)(1), the property owner shall pay all real estate taxes and special assessments that are accrued or delinquent for the subject property prior to CSM recording. As of October 3, 2014, the real estate taxes are paid for the subject property, which included special assessments.
22. The final plat shall be revised prior to final approval and recording as follows:
  - a.) When the title update is prepared, ensure the typo in the parcel number is corrected to 014-0810-243-8030-8.
  - b.) Correct the document number typo in Note 14.
  - c.) Remove the label for existing parcel 0810-243-0830-8 on proposed Lot 4.