



## Report to the Plan Commission

May 16, 2011

**Legistar I.D. #22435**

**9861 Blackhawk Road, Town of Middleton**

**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 of the Walser property located at 9861 Blackhawk Road, Town of Middleton, Dane County, Wisconsin within 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:** Ann Walser; 9861 Blackhawk Road; Middleton; Kent Walser, representative.

**Surveyor:** Chris Adams, Williamson Surveying and Associates, LLC; 104A W. Main Street; Waunakee.

**Proposal:** The applicant proposes to subdivide the existing 5-acre parcel into 2 single-family residential lots. The applicant wishes 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 April 5, 2011 without the required approvals by the Town of Middleton or Dane County. The Town approved the CSM on April 18; Dane County approved the CSM on April 26. Therefore, the 90-day review period for this CSM will end on July 26, 2011.

**Parcel Location:** A 5-acre parcel located on the south side of Blackhawk Road, approximately a mile west of N. Pleasant View Road; Middleton-Cross Plains School District.

**Existing Conditions:** The subject site is developed with a single-family residence and detached garage located in the southwestern corner of the property, which is zoned County A-1 Agriculture.

**Surrounding Land Use:** Properties to the north and west of the site along both sides of Blackhawk Road are developed with single-family residences on lots of varying size in the Town of Middleton. The nearby lots in the Town are zoned County A-1 Agriculture. Lands located directly south and east of the subject site are developed with single-family residences in the Blackhawk subdivision in City of Madison R1 Single-Family Residence zoning.

The property located adjacent to the southwestern corner of the subject site is owned by the Middleton-Cross Plains School District and was attached to the City in 2007. The school district requested rezoning of the property from Temp. A (Agriculture District) to R1 and approval of the plat of Pope Farms Estates to create 12 single-family residential lots, 2 lots for future public schools and 3 outlots for stormwater management and public open space. The Common Council approved those requests on June 2, 2009; however, implementation of the subdivision was postponed by the school district after a referendum to construct the first of the two schools envisioned for the site failed in April 2009.

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

**Environmental Corridor Status:** The subject site is located in the Central Urban Service Area and is not located in a mapped environmental corridor. The corridor map shows the presence of areas of steep slope greater than 12% on the southern half of the property.

**Public Utilities and Services:**

Water: Property is not served by municipal water

Sewer: Property is not served by public sewer

Fire protection: Middleton Fire Department

Emergency medical services: City of Middleton EMS

Police services: Dane County Sheriff's Department

School District: Middleton-Cross Plains School District

## **Project Review, Analysis & Conclusion**

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**Proposed Land Division:** The applicant and property owner, Ann Walser and her son, Kent Walser, are requesting approval of a two-lot extraterritorial Certified Survey Map to divide a 5.0-acre parcel located on the south side of Blackhawk Road in the Town of Middleton. The subject site is developed with a single-family residence and detached garage located in the southwestern corner of the property at the top of a ridge that falls to the north and east. The site is also characterized by mature trees located around the perimeter and along a driveway that extends due south from Blackhawk Road through the center of the site.

The CSM proposes to create an L-shaped, 3.19-acre parcel, shown as Lot 2, for the existing residence and detached garage that will include approximately 135 feet of frontage along Blackhawk Road before opening into a 330-foot lot across the southern boundary of the site. Lot 1 of the CSM is proposed to be 195 feet wide along the road and 335 feet deep (1.5 acres) and will be developed with a new residence to be built by Kent Walser according to a letter of intent submitted with the application. A joint driveway easement is proposed to provide access to the two proposed lots over the existing driveway.

The Walser property is bounded on the south and west by single-family residences in the Blackhawk subdivision, which is located in the City and zoned R1 (Single-Family Residence District). The current western terminus of Meadow Mist Road abuts the eastern property line of the subject site. City water and sanitary sewer services serving the adjacent residences are stubbed in the Meadow Mist right of way just east of the boundary of the site.

A concept plan showing how the subject site could be further subdivided into lots similar to those in the adjacent Blackhawk subdivision was included with the application to create the two proposed lots. The letter of intent for the CSM indicates that Walser estate intends to attach the 5-acre property to the City in the future and to either further subdivide the property or sell the property for a third-party to undertake

urban development. The concept plan included with the current land division proposal calls for Meadow Mist Road to be extended west and north through the 5-acre property in a 60-foot wide right of way to intersect Blackhawk Road and for 11 residential lots to be located on either side of the extended road. The existing Walser residence located in the southwestern corner of the property as well as a future residence conceptually located near the center of proposed Lot 1 of the CSM could be accommodated as part of the further subdivision of the subject site with urban lots. A note included on the CSM states that no improvements will be constructed in the joint driveway easement to be created with the land division.

The proposed subdivision of the subject site was determined by City staff to meet the provision in the 2003 intergovernmental agreement and cooperative plan between the City of Madison and Town of Middleton that allows the owner of a 5-acre or larger parcel of property in existence as of March 28, 2002 to subdivide their property into only 2 parcels for residential purposes without requiring attachment to the City or extension of water and sewer service to serve the new development (Sec. 13.02(e)). The same provision requires that any subsequent division of the 2 lots created under this exemption would be subject to the development provision of the cooperative plans, which would require immediate attachment and the extension of City services.

**Approval of CSM by Town of Middleton 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 Dane County Zoning & Land Regulation Committee conditionally approved the proposed land division as outlined in the attached letter dated April 26, 2011 from Dan Everson, Land Division Review, Dane County Department of Planning and Development. The proposed land division will not require a change to the existing County A-1 agricultural zoning of the property, which allows single-family residences served by private sewer systems on 20,000 square-foot minimum lots.

The proposed land division was approved by the Town of Middleton on April 18, 2011. As part of it review of the proposed CSM, the Town deferred the dedication of Meadow Mist Road.

**City of Madison Land Use Plan:** The Blackhawk Neighborhood Development Plan recommends that the subject site and surrounding properties south of Blackhawk Road be developed with low-density residential uses in the City of Madison with a net density of 3-4 units per acre.

**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.

As the existing use of the subject site and use following the proposed land division will be residential uses, the non-agricultural criteria should be applied.

The Planning Division generally believes that the Plan Commission can find the non-agricultural criteria met with the proposed land division. Staff believes that the proposed land division maintains the general land use pattern present on the Town of Middleton properties located on both sides of Blackhawk Road near the site in the interim while not negatively impacting the property's ability to attach to the City and further subdivide in the future using the City water and sanitary sewer services that are available adjacent to the site.

However, to ensure that the potential for the subject property to attach and further subdivide is not affected by the current land division, Planning staff recommends that the approval of this application include conditions requiring that a 30-foot building line be established on the CSM, and that a restrictive covenant be executed in a form approved by the Planning Division prior to final approval of the CSM for recording. The building line requested by staff would extend on both proposed lots on each side of the

proposed 60-foot wide driveway easement (which is also labeled as “Potential Future Road Extension”) to prevent the construction of any permanent structures that could inhibit the future extension of Meadow Mist Road through the site.

The restrictive covenant would include provisions to govern the further subdivision of one or both lots as well as provisions to address the interim use and maintenance of the joint driveway. Staff recommends that the restrictive covenant (and if appropriate, separate joint driveway agreement) include provisions requiring cooperation between the owners of the 2 lots that will ensure that the entire 60-foot driveway easement is dedicated to the public as street right of way and constructed to City standards for public streets at such time as either lot is attached to the City and/ or further subdivided.

### **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 two-lot Certified Survey Map of 9861 Blackhawk Road, Town of Middleton, subject to input at the public hearing and the following conditions:

1. That the Certified Survey Map be revised prior to final approval by the City for recording to include a 30-foot building line to restrict construction on both sides of the 60-foot wide driveway easement/ future extended Meadow Mist Road right of way alignment and a note stating that no permanent structures shall be constructed between the building lines without written approval by the director of the City of Madison Planning Division.
2. The applicant shall execute a restrictive covenant over Lots 1 and 2 of the CSM in a form approved by the Planning Division prior to final City approval of the CSM for recording that governs the further subdivision of one or both lots as well as provisions to address the interim use and maintenance of the joint driveway. The restrictive covenant shall establish cooperation between the future owners of the 2 lots intended to ensure that the entire 60-foot driveway easement is dedicated to the public as street right of way and constructed to City standards for public streets at such time as either lot is further subdivided or when required consistent with the City Engineering Division condition (#8, below). If a separate joint driveway agreement will be used to govern the driveway, it shall also be approved by the Planning Division and include similar provisions.

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

3. The applicant shall provide a 15-foot wide public sanitary sewer easement on the CSM for any future sanitary sewer service that may be required to serve Lot 1.
4. The applicant will be required to connect to the City’s public sewer system per MGO 35.02(3)(d) upon attachment to the City.
5. The applicant will be responsible for paying outstanding Madison Metropolitan Sewerage District fees upon future connection to City sewer.

6. Correct the street names referenced on the CSM: Blackhawk Road and Meadow Mist Road.
7. It appears the CSM will be the only instrument creating the shared private driveway easement. The note pertaining to a 60-foot wide easement implies 60 feet and parallel is misleading, as the easement appears to expand in width approaching the south line of proposed Lot 1. If a separate easement containing specific terms and conditions is intended to be recorded with the Dane County Register of Deeds to complement the CSM easement, provide a copy to the City Engineering Division – Mapping Section for City records.
8. Revise the CSM to include the following note: “The City of Madison will require dedication of a 60-foot wide right of way from the west end of Meadow Mist Road to Blackhawk Road for the future extension of Meadow Mist Road. The future right of way shall be dedicated to the public at such time ordered by the City of Madison Common Council.”
9. The final location of the “Potential Future Road Extension See Note 7” shall be completely dimensioned and retraceable on this CSM. The configuration shall be revised to include 15-foot corner radii on both sides intersecting the new south Blackhawk Road right of way created by this CSM.
10. The applicant shall dedicate a 15-foot public grading and sloping easement along Blackhawk Road and a 10-foot public grading and sloping easements along both sides of the future public Meadow Mist Road alignment through this CSM.