



Legistar I.D. #28255

4781 Norton Lane, Town of Sun Prairie

Extraterritorial Certified Survey Map

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

Requested Action: Consideration of a two-lot Certified Survey Map (CSM) of the Miller property located at 4781 Norton Lane, Town of Sun Prairie, in the City of Madison's Extraterritorial Jurisdiction. [The application indicates Norton Drive; County maps indicate that the road is Norton Lane.]

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.

Addendum: This matter was referred by the Plan Commission on November 19, 2012 at the request of the applicant. The purpose of the referral was to allow the applicant and City staff to discuss certain aspects of the November 19 staff report and some of the recommended conditions of approval.

The November 19, 2012 staff report (attached) included the following paragraph:

"Section 16.23(3)(d) of the City's Subdivision Regulations require that subdivisions or land divisions proposed adjacent to limited access state or federal highways comply with State Trans. 405 highway noise abatement provisions. Trans. 405 requires that any residential or institutional structures located within identified highway-impact noise contours be constructed to limit highway noise on the building's interior to 52 decibels, and that any outdoor recreational space serving a residential or institutional use be located outside of the 67-decibel noise contour for the highway, in this case Interstate 94. A highway noise study was not submitted with this land division request. The Plan Commission may require one as a condition should this request be approved, though Planning staff recommends that the Commission consider whether a highway noise study is necessary given the character of the site and the nature of the proposed land division, which essentially creates lots that follow the building pattern on the property. Regardless of whether a study is required, the staff recommends that notes be placed on the Certified Survey Map acknowledging the existing and future presence of highway noise and vibration and the need to soundproof any new residences that could be built in place of existing structures."

The applicant expressed concerns to staff just prior to the November 19 Plan Commission hearing about his and his client's ability to comply with the highway noise land use provisions in MGO Section 16.23(3)(d). Subsequent to the November 19 referral, Planning staff discussed the applicability of these provisions to the proposed CSM request with the City Attorney's Office. During that discussion, it was determined that the provisions of Section 16.23(3)(d) do not apply to the proposed land division for the reasons that follow.

MGO Section 16.23(3)(b), entitled "Land Divisions" states that "No person, firm or corporation shall divide any land located within the corporate limits of the City of Madison or within the extraterritorial plat approval jurisdiction thereof which shall result in a land division as defined herein without filing for approval by the secretary of the City Plan Commission and recording a Certified Survey Map meeting all of the applicable requirements of Sec. 16.23 of the Madison General Ordinances and Wis. Stat. 236.34, and Wisconsin Admin. Code ch. Trans 405", the last of which applies to the siting of noise barriers by the State of Wisconsin. Trans 405 requires that prior to any proposed noise barrier project

being considered for construction, the local unit of government where the barrier will be constructed is required to provide documentation of its land use controls that apply to land adjacent to freeways or expressways that “would reasonably eliminate the need for State-funded noise barriers in highway rights of way adjacent to future developments”. The “land use controls” the City of Madison uses to regulate development adjacent to state and federal expressways and freeways are the highway noise land use provisions in MGO Section 16.23(3)(d).

Section 16.23(3)(d)1.a. states that the highway noise land use provisions apply to any unplatted lands which [are] adjacent to any existing state or federal expressway or freeway and for which a preliminary plat approval was not granted prior to November 6, 1990. Section 16.23(3)(d)1.b. states “[p]rior to approval of any *preliminary plat*, *final plat* [emphasis added] or commencement of construction of any structure, every application for approval” shall include information and data supporting the claim that the appropriate requirements in Trans 405 and the Federal Highway Administration’s Procedures for Abatement of Highway Traffic Noise and Construction Noise are met and any other information which the Department of Planning and Community and Economic Development may require, as certified by the Department of Transportation certifying that hourly traffic sound levels Leq(h) as hereinafter indicated, are within permissible levels or that appropriate sound attenuation measures are incorporated into the design and construction of any structures to satisfy the highway-related noise provisions in the Subdivision Regulations.

The property to be divided with the proposed CSM is Lot 1 of CSM 7391 (attached), which was recorded on March 15, 1994 following approval by Dane County and the Village of Cottage Grove. Lots created by a CSM are conferred the same status as lots created by a final plat, and because the CSM that created the subject property was approved after November 6, 1990 but not under the jurisdiction of the City’s Subdivision Regulations and the highway noise land use provisions, City staff has concluded that the proposed CSM is not subject to those highway noise provisions.

In order to comply with the provisions in MGO Section 16.23(3)(b) regarding Trans 405, the Planning Division recommends that the proposed CSM include a note that acknowledges the potential impacts from noise and vibration from Interstate 94 and future State responsibility for the construction a noise barrier adjacent to this property.

Finally, Planning staff also recommends that the building envelope condition recommended in the earlier report be revised as stated in the following section of this addendum. The revised wording is intended to provide greater flexibility in the siting of a future residence on Lot 1 while ensuring that the new residence is not located within 200 feet of the right of way of Interstate 94 per a Dane County condition of approval for this CSM. It is City staff’s intention to ensure that any new residence on Lot 1 not be located in such a fashion as to negatively impact the possible future extension of Vang Road from its current terminus at the northern property line to serve additional development of the subject site.

Recommendation and Proposed Conditions of Approval

Major/Non-Standard Conditions are shaded

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

The Planning Division recommends that the Plan Commission **approve** the Certified Survey Map dividing 4781 Norton Lane, Town of Sun Prairie into two lots, subject to input at the public hearing, the revised Planning Division conditions of approval that follow, and the conditions of approval

recommended by the City Engineering Division and Office of Real Estate Services in the November 19, 2012 staff report, which is attached.

1. That the CSM be revised per Planning Division approval prior to final approval and recording as follows:
 - a.) correctly identify Norton Lane in accordance with Dane County mapping;
 - b.) that a vehicular access restriction be added for Lot 1 along the northern right of way line of Interstate 94. The restriction shall be shown graphically on the face of the CSM and as a note acknowledging that no vehicular access shall be granted for those lots;
 - c.) the residence on Lot 2 shall be identified accordingly on Sheet 1 of 5;
 - d.) that a building envelope be identified for any future single-family residence on Lot 1;
 - e.) that a note be placed on the CSM stating that any future residential buildings constructed on these lots will be designed so that highway-generated interior noise levels will not exceed 52 decibels;
 - f.) include the following note on the CSM:
“The owners and occupants of existing and future residences on lots contained on this Certified Survey Map acknowledge the presence of high levels of noise and vibration resulting from adjacent Interstate 94 and shall hold harmless from damages the Wisconsin Department of Transportation and any municipality in whose jurisdiction these lots are located from any impacts on the use, enjoyment or value of these properties resulting from existing or future highway traffic volumes. Said owners and occupants hereby acknowledge that the State of Wisconsin may not be responsible for providing a noise barrier for Interstate 94 adjacent to Lot 1 of this Certified Survey Map due to the provisions set forth in Wisconsin Admin. Code ch. Trans 405.”
2. The CSM shall be revised to dedicate a 12-foot wide utility easement adjacent to Norton Lane along the eastern edges of Lots 1 and 2, as requested by Alliant Energy. For more information on this condition, please contact Brand Smith at Alliant Energy, (608) 842-1705.