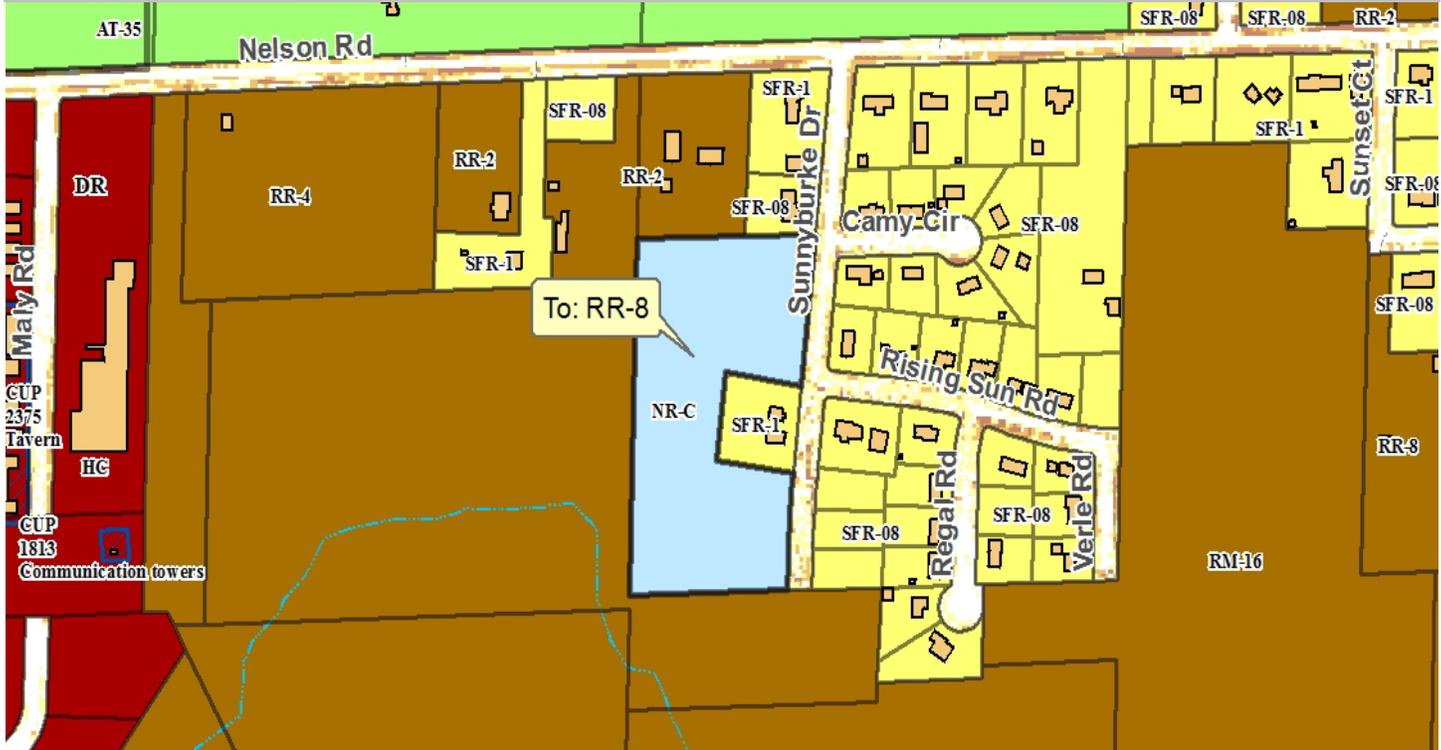


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> April 27, 2021	Petition 11671	
	<i>Zoning Amendment Requested:</i> NR-C Natural Resource Conservation District TO RR-8 Rural Residential District, RR-2 Rural Residential District TO RR-2 Rural Residential District	<i>Town/Section:</i> BURKE, Section 24	
	<i>Size:</i> 8.066,2.78 Acres	<i>Survey Required:</i> Yes	<i>Applicant:</i> PETER SACHS
	<i>Reason for the request:</i> Dividing an existing lot into 2 residential lots		<i>Address:</i> 3285 NELSON ROAD



DESCRIPTION: Applicant proposes to rezone the ~8 acre tax parcel to RR-8 to allow construction of a single family residence.

OBSERVATIONS: The existing use of the NR-C (Natural Resource Conservation) zoned property is undeveloped open space. The owners reside in the house on the adjoining tax parcel (3285 Nelson Road). There are three neighboring single-family homes along Sunnyburke Drive. An extension of Sunnyburke Drive is platted but not yet built. A previous rezoning petition ([#11433](#)) sought to create 3 new residential lots on the property. The petition was approved with conditions by the county, but the city of Madison denied the associated land division after finding it was inconsistent with the cooperative plan.

The property is relatively low lying. To address potential concerns over the possible presence of wetlands, the applicant had a wetland study conducted to determine if wetlands were present on the property. Three sample points were investigated for the presence of hydric soils and wetlands with the study concluding “no wetlands are present within the limits of the study area”.

TOWN PLAN: The property is located in the town’s Rural Residential planning area.

RESOURCE PROTECTION: No resource protection corridors located on the property.

STAFF: As noted above, a previous rezoning petition was submitted on the property seeking to create 3 new residential lots. The city of Madison found that the previous proposal did not comply with the Burke/Madison cooperative plan,

which allows for lots over 5 acres to be divided to create one additional lot. The present proposal appears to be consistent with both the town plan and the Burke/Madison cooperative plan.

During consideration of the previous rezone petition, concerns were raised by neighboring residents about the potential negative impact the development could have on drainage in the neighborhood. The applicant commissioned a stormwater study to address possible drainage concerns. The stormwater study by Quam engineering modeled different storm events and site conditions. This included a 100 year rain event, and back to back 25 year events. The study was reviewed by the town's engineer who determined that development of the property would not result in exacerbating existing drainage concerns following the modeled events, provided the existing low / excavated area on the property is preserved as a drainage easement and "maintained". The county's approval of the previous petition included a condition requiring that a maintenance agreement be developed for the drainageway easement / pond and recorded with the register of deeds.

Since the current proposal will involve development of just a single building site located on the same property as the previously identified drainageway, a maintenance agreement does not appear to be necessary.

Staff believes that the proposal is consistent with town plan policies as well as the relevant provision of the Burke/Madison cooperative plan allowing for a single land division of parcels over 5 acres in size. The city of Madison has sent in a letter confirming that the proposal is consistent with the aforementioned allowance in the cooperative plan.

STAFF UPDATE 10/12/2021: The petition was recommended for approval at the June 8th ZLR committee meeting *without* the town required conditions. The petition was subsequently re-referred by the county board at their meeting on June 24th due to concerns expressed by the town. At issue was the town requirement for a stormwater maintenance agreement to address maintenance of a drainage easement on the proposed RR-8 parcel. The town has reaffirmed its approval with conditions, including one requiring the stormwater maintenance agreement.

Staff recommends approval of the petition with town conditions. Note that a draft of the required maintenance agreement has been developed and the applicant has apparently already complied with the condition requiring payment of outstanding monies owed to the town.

If you have any questions or comments please contact Senior Planner Majid Allan at (608) 267-2536 or allan@countyofdane.com

TOWN: Approved with the following conditions:

- 1) Sachs obtaining approval of the CSM and rezone from Dane County by December 31, 2021.
- 2) Sachs executing a Stormwater Maintenance Agreement with the Town of Burke for maintenance of the "Drainage-Way Easement" shown on the CSM by December 31, 2021. The form and substance of the Stormwater Maintenance Agreement shall be acceptable to the Town Attorney and Town Engineer. The Town will record the fully-executed Stormwater Maintenance Agreement with the Dane County Register of Deeds after the CSM.
- 3) All outstanding monies owed the Town and incurred in the review and action on the CSM to be paid in full by September 30, 2021.
- 4) In the event all the conditions of approval are not fulfilled by Sachs or waived by the Town Board by the dates specified above, the approval of the CSM shall be null and void.