
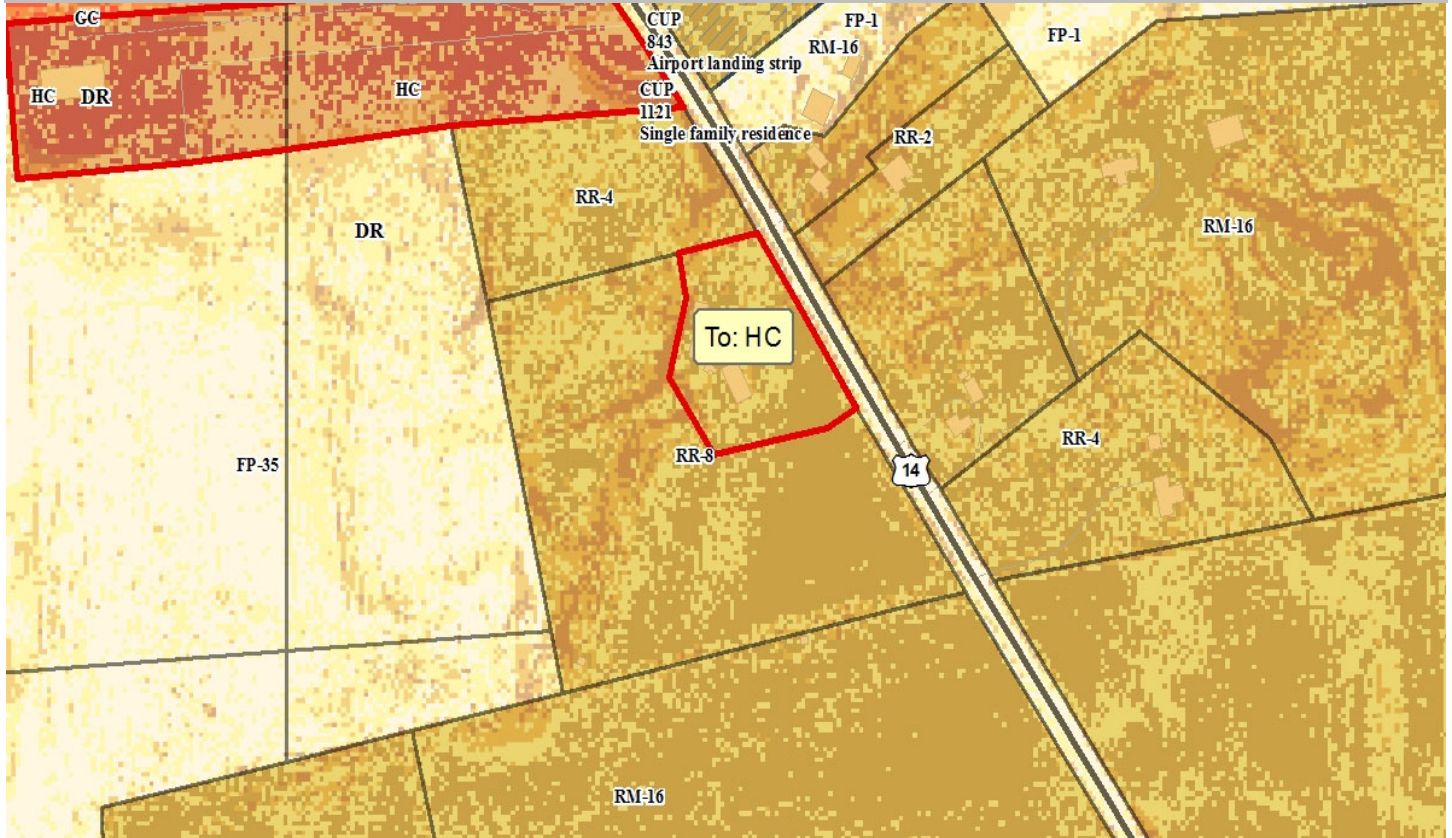


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> December 13, 2022	Petition 11913	
	<i>Zoning Amendment Requested:</i> RR-8 Rural Residential District TO HC Heavy Commercial District	<i>Town/Section:</i> RUTLAND, Section 7	
	<i>Size:</i> 2.76 Acres	<i>Survey Required:</i> Yes	<i>Applicant:</i> NORSMAN INVESTMENTS LLC
	<i>Reason for the request:</i> CREATE A 2.8-ACRE COMMERCIAL LOT FOR A MATERIAL STORAGE BUSINESS		<i>Address:</i> 1161 US HIGHWAY 14



DESCRIPTION: Applicants David Norsman and Lisa Tway wish to divide their 14.5-acre property to create a 2.8-acre commercial site with HC Heavy Commercial zoning. The proposed business would be a personal storage and warehouse facility consisting of existing and new buildings including the following:

- The existing 40’x80’ pole barn and 30’x30’ garage
- A new 5,200 square foot outdoor fenced storage area in the rear/west yard
- A new corn crib structure
- Two new 40’x80’ pole buildings
- Two new structures, 30’x80’ and 30’x60’ respectively, which would be either new buildings OR clusters of shipping container storage units

The proposal would leave an 11.6-acre lot with the current RR-8 zoning for residential and small-scale farming use.

OBSERVATIONS: The proposed lots meet HC and RR-8 district requirements. The HC district is generally intended for retail, service, light industrial, lodging, and office uses where primary commercial activity may be indoors or outdoors, the commercial uses are of relatively large scale and intensity, and uses are appropriate to a highly developed area. Unless otherwise restricted, HC zoning allows personal storage facilities (min-warehouses), outdoor storage, indoor

storage and repair, and contractor businesses as permitted uses. RR-8 zoning allows single-family residences, residential accessory buildings, and small-scale farming as permitted uses.

The property contains no waterways, wetlands, or floodplain. Steep slopes are present along a ridge line that roughly coincides with wooded areas and the western edge of the proposed HC lot. Prime agricultural soils are present on much of the property, including the low-lying area that is currently cropped and over half of the proposed HC lot; however most of this area is already developed.

The owners have already worked with WDOT on access to State Highway 14; they have rebuilt the driveway to relocate it further south and build it to commercial standards. The site plan does not show delineated parking stalls, and the main driveway would need to be widened slightly to 24' wide in order to meet zoning code requirements. However, parking is proposed on the gravel and concrete paved areas in front of the buildings, as well as within the new pole barn buildings which would have drive-through access. Staff believes there is sufficient area on site to provide the required parking and circulation space; this would be verified prior to issuing zoning permits for any construction. The applicants anticipate traffic will be 2 to 20 vehicles per day, entering and exiting the site at various times and noting the seasonal nature of the storage business.

Screening is not required per the commercial district standards in s.10.270 of zoning code. The code requires screening for commercial uses within 100' of any residence. The proposed HC site is at least 150' away from homes adjacent to the north and across Highway 14. However, the town may require landscaping under its policies (see Town Plan section).

Lighting is proposed consisting of existing on-building lighting and an existing light pole with down-case light fixture. Zoning requires that lighting be directed downward and away from adjacent properties and public rights-of-way, and be designed to minimize ambient light spill.

Business signage is proposed as a 5'x8' (40 SF) ground sign. This conforms to the size limits per the zoning code, though a county sign permit will also be needed. WDOT has also placed limits on signage including that it be placed within 50' of the business, driveway or parking lot.

The land division is subject to the Village of Oregon's extraterritorial jurisdiction review.

TOWN PLAN: The property is designated as commercial on the future land use map of the town's comprehensive plan. The town plan does not provide a listing of goals, objectives, and policies for each of the planning areas designated on the future land use map. Instead, applicable policies are provided under various "goals" (see attachment listing applicable policies). The plan specifies the following overarching vision for commercial development:

"Commercial development is limited and controlled, and is located near municipal services resulting in an increased tax base that does not impact the town's rural character."

Policy #3 under "Goal 10" (Economic Development) specifies particular criteria in order to obtain zoning approval, stating the following:

3. To limit any non-agricultural commercial or recreational use to small, rural-oriented businesses which provide services needed by residents of the town. Such uses must meet the following criteria prior to zoning approval:

- a. Be consistent with agricultural policies for farmland preservation.*
- b. Have access to a state or county highway.*
- c. Shall not adversely affect the traffic capacity and safety of the highway.*
- d. Provide a buffer between the commercial use and any adjacent non-commercial use.*
- e. Not endanger the environment or groundwater of the area*

It is worth noting that policy #4 under the same goal (economic development) permits, "...development of small to medium-sized businesses in designated areas." Other relevant policies include avoiding linear/strip development; promoting compact development; providing appropriate buffering between incompatible land uses; limiting light pollution; providing adequate screening; ensuring traffic safety; and protecting farmland and sensitive resources.

The applicant initially proposed a broader range of warehousing and outdoor storage activities, including both personal storage, cars, farm equipment, and recreational vehicles (e.g., boats), as well as equipment / materials for other businesses (e.g., contractor/building trades) and possibly the operation of other professional service businesses, such as small engine and/or vehicle upholstery repair. However, in response to concerns expressed by the town the application was scaled back and no longer propose any services or activities other than storage.

For the proposal to be consistent with the town comprehensive plan, limitations on the range of commercial land uses allowed on the HC zoned property should be required as a condition of approval. Given the visible location of the property along US Hwy 14, additional conditions related to landscaping / screening may be appropriate, if the Town requires it.

The property appears to be a legal, substandard parcel per the town plan's density policy. Such parcels are entitled to a single land division, provided all other county ordinance criteria are satisfied. (For questions about the town plan, contact Senior Planner Majid Allan at (608) 267-2536 or allan@countyofdane.com)

RESOURCE PROTECTION: Resource protection corridors are mapped in a few areas, reflecting the steep slopes on the property, generally within the RR-8 lot or along the shared lot line. There are no water features or wetlands on site. Land disturbance of over 4,000 SF of area requires an erosion control permit, and any increase of 20,000 SF of impervious surface on site requires a stormwater management permit from Dane County Land and Water Resources.

TOWN ACTION: On December 7, 2022, the Town Board approved the rezoning subject to the following conditions:

1. Prohibiting storage of hazardous materials excluding common fuels or lubricants such as gasoline, diesel fuel, LP (small tanks) or lubricating oils.
2. Approval of a 30 x 80 and a 30 x 60 permanent structure with no portable storage units as shown on the site plan of the revised application.
3. This petition rezones 2.756 acres from RR8 to the HC zoning district. The remaining 11.6 acres remains zoned RR8. The record should note that there are two eligible homesites on the RR zoned property (original homesite and 1 split. Note: the original home burned down so there is currently no home on the property).

DEC 13TH ZLR COMMITTEE MEETING: The Committee postponed action due to staff's concerns on the Town's conditions of approval.

STAFF UPDATE:

The Town's conditions regarding hazardous materials and remaining density rights needed clarification in order to be enforceable. Staff recommended postponement at the December 13th ZLR public hearing, due to the need to clarify these items. As noted above in the Town Plan section, only one land division is available to the current property and this proposal would use the last remaining split. This has been reviewed by the Town and found to be acceptable. Please note that a caretaker's residence could potentially be placed on the property if a conditional use permit is obtained.

A condition related to the potential storage of hazardous materials was suggested, though the classification and regulation of specific materials is generally handled under the Commercial Building Code and not as part of a zoning approval. Staff has suggested that the condition be revised to reflect commercial code requirements. The Town has agreed with the suggested language.

As noted above, a deed restriction to limit the allowable land uses and signage to those requested by the applicants would ensure greater consistency with the town plan policies. Similarly, limiting the hours of operation to those proposed by the applicants would also help ensure compatibility with surrounding rural residential uses. While the application mentions open space and agricultural land uses, those uses are not relevant to the proposed commercial site and thus do not need to be specified as part of any rezoning approval action or deed restriction.

Staff recommends approval subject to the following:

1. A certified survey map shall be recorded with the Register of Deeds for the new lots.
2. A deed restriction shall be recorded on the HC-zoned lot stating the following:
 - a. Land uses on the property shall be limited exclusively to the following:
 - i. Personal storage facilities (min-warehouses)
 - ii. Outdoor storage (as designated on site plan)
 - iii. Indoor storage and repair
 - iv. Warehousing
 - v. Caretaker's residence (with approval of a Conditional Use Permit)
 - b. Business signage shall require a sign permit and shall comply with all applicable restrictions of the Dane County Zoning Ordinance sign regulations. Billboard signs are prohibited.
3. Outdoor lighting be directed downward and away from adjacent properties and public rights-of-way, and be designed to minimize ambient light spill.
4. Limit operating hours to 6am to 9pm.
5. The parking and circulation plan shall comply with the Zoning Ordinance requirements of section 10.102(8).
6. Any materials classified as "hazardous materials" shall be stored in compliance with the Wisconsin Commercial Building Code and Wisconsin Administrative Code ATCP 93.
7. The installation of off-premise advertising signs (billboards) is prohibited.

Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@countyofdane.com