

<b>Staff Report</b> <b>REVISED 5-20-2020</b>    <b>Zoning and Land Regulation Committee</b>	<b>Public Hearing: May 12, 2020</b>	<b>Petition 11530</b>	
	<b>Zoning Amendment Requested:</b> <b>FP-35 (General Farmland Preservation) District TO RR-2 (Rural Residential, 2 to 4 acres) District, FP-35 (General Farmland Preservation) District TO LC (Limited Commercial District)</b>		<b>Town/Section:</b> <b>OREGON, Section 5</b>
	<b>Size: 3.98,4.87 Acres</b>	<b>Survey Required. Yes</b>	<b>Applicant</b> <b>PETERSON TR, PHILIP L &amp; CAROL L</b>
	<b>Reason for the request:</b> <b>Creating a residential lot and a lot for a landscaping business</b>		<b>Address:</b> <b>LANDS WEST OF 5900 CTH D</b>



**DESCRIPTION:** Landowner seeks to rezone approximately nine acres from the FP-35 zoning district to create a 3.98-acre RR-2 lot for a new home, and a 4.87-acre lot in the LC (limited commercial) zoning district to allow for reuse of existing agricultural buildings as part of a landscaping operation.

**OBSERVATIONS:** The proposed RR-2 lot is currently vacant and will share an existing driveway with the proposed LC lot. The proposed landscaping operation, to be operated by the prospective buyer (Madison Commercial Landscapes, Inc.) will also be subject to pending CUP 2495, which is on the May 12, 2020 ZLR Committee agenda.

**TOWN PLAN:** The property is within a Rural Preservation Area in the *Town of Oregon / Dane County Comprehensive Plan* and in a Farmland Preservation Area in the *Dane County Farmland Preservation Plan*. Density caps apply. If Petition 11530 is approved, there will be 8 homesites remaining on the property.

**RESOURCE PROTECTION:** An intermittent stream corridor crosses the southern portion of the proposed RR-2 lot, near the right-of-way of County Trunk Highway D. Because this site will share an existing driveway with the proposed LC lot, no new construction is anticipated in the immediate stream corridor. If the stream is determined to be navigable, shoreland erosion control will be required for any land disturbance within 300 feet of the streams ordinary highwater mark.

**DANE COUNTY HIGHWAY DEPT:** County Highway D is not a controlled access highway. No new access points will be permitted. Existing access will need to serve the residential lot or joint use. The commercial access point shall be improved to a Type C intersection.

**STAFF:** Recommend approval with the following conditions:

Conditions of approval to apply to both the proposed RR-2 and the proposed LC parcels:

1. Within 90 days of the effective date of this petition, the landowner shall record the following with the register of deeds:
  - a. A shared driveway agreement and access easement, consistent with all requirements of s. 75.19(8)(f), Dane County Code, to allow the RR-2 and LC lot to share the same driveway, and;
  - b. A 2-lot Certified Survey Map, with all easements depicted, as approved by the Zoning Division.
2. The west driveway shall be improved, at the applicant's expense, to meet Type C intersection standards, as specified by the Dane County Highway and Transportation Department. The applicant must obtain all necessary permits from the Dane County Highway and Transportation Department.

Conditions of approval to apply to the proposed LC parcel:

Within 90 days of the effective date of this petition, the landowner shall record a deed restriction with the register of deeds that includes all of the following limitations:

1. Outdoor lighting shall be limited to no more than 6 lights, with lights directed downward, as shown on the submitted site plan.
2. Burning of debris shall be prohibited on the property.
3. Signs on the property shall be limited to one freestanding sign that will be unlit and in accordance with Dane County Sign Ordinances.
4. Hours of operation shall be limited to 6:30am -7:00pm Monday to Friday; 8:00am – 12:00pm (noon) Saturday. Winter hours will be dependent on weather.
5. Business employees shall be limited to no more than 13 employees, including 10 operational employees and an additional 3 on-site office staff.
6. Permanent fuel storage shall be prohibited on the property. Two mobile fuel transfer tanks shall be permitted. Mobile tanks must meet all spill containment standards required by the Division of Environmental Health.
7. Loudspeakers are prohibited on the property.
8. Employee parking shall be located on the west side of the shop as depicted on the submitted site plan.
9. On-site equipment and vehicles shall be equipped with squawker/white sound reversing alarms to reduce potential noise-nuisance.
10. No retail sales or other on-site transactions with final customers permitted.
11. Vegetative screening, to meet all requirements of s. 10.101(12) shall be maintained along the eastern and western boundaries of the LC parcel.
12. No tri-axel, quad-axel equipment shall be permitted in the operation of the LC use.
13. Operator will comply with all weight restrictions on town roads imposed by the Town of Oregon.

**TOWN:** The Town Board approved the petition conditions upon CUP #2495 requirements being met. Note that the recommended staff conditions above incorporate those conditions that are applicable to the LC zoning petition.

**May 12<sup>th</sup> ZLR Committee meeting:** The Committee postponed action due to public opposition. The neighbors expressed concerns regarding traffic on Sun Valley Parkway and Storytown Road; visual impact of the commercial activity; noise and dust generation; installation of screening; loss of property values; back-up alarms of equipment; and peace and quiet in the neighborhood.

Staff analysis:

Traffic

In most circumstances, vehicles used in the contractor use will access and leave the site along County Highway D. The driveway access intersection with CTH D will be improved to safely handle additional traffic. Under some circumstances, travel along Storytown Road and/or Sun Valley Parkway may be necessary. However, the size of equipment will be limited (see additional conditions 12 and 13 above), and the Town of Oregon has the ability to set maximum vehicle weights appropriate to each road. This should adequately address traffic concerns in the immediate neighborhood.

#### Visual impact/screening

Vegetative screening, to meet the standards of the Dane County Zoning Ordinance will be required along the eastern and western borders of the LC-zoned parcel, per the revised site plan (See Condition 11 above.)

#### Noise and back-up alarms

Vehicles operating on the site will use equipment to reduce noise from back-up alarms (see Condition 9 above), and no outdoor loudspeakers will be permitted (see Condition 7 above).

#### Dust generation

The operation will reuse existing concrete, blacktop and gravel areas for movement and parking of vehicles and equipment, per the site plan for CUP 2495. No construction, earthmoving or other ongoing land disturbances on-site will take place. As a result, dust generation is anticipated to be minimal.

#### Loss of property values

The LC zoning district is designed and intended to allow only those uses that are similar in impact to those associated with working farms in agricultural areas. LC zoning has become common in unincorporated towns throughout the county, including in areas with a mix of agriculture and rural residential uses. Dane County Zoning has received few complaints from neighbors of other LC –zoned parcels, particularly when operating under appropriate conditions. To the best of staff's knowledge, there have been no documented reductions in assessed or appraised values of rural residential properties near other LC-zoned parcels. The Dane County real estate market remains strong, and demand for rural residential properties in places like the Town of Oregon remains high enough that proximity to such uses does not appear to significantly reduce market prices. In addition, the specific conditions proposed for this petition and conditional use permit, if adopted, should sufficiently mitigate the direct and indirect impacts to surrounding properties to protect current property values.

*Questions? Contact Brian Standing [standing@countyofdane.com](mailto:standing@countyofdane.com) or 608-267-4115*