
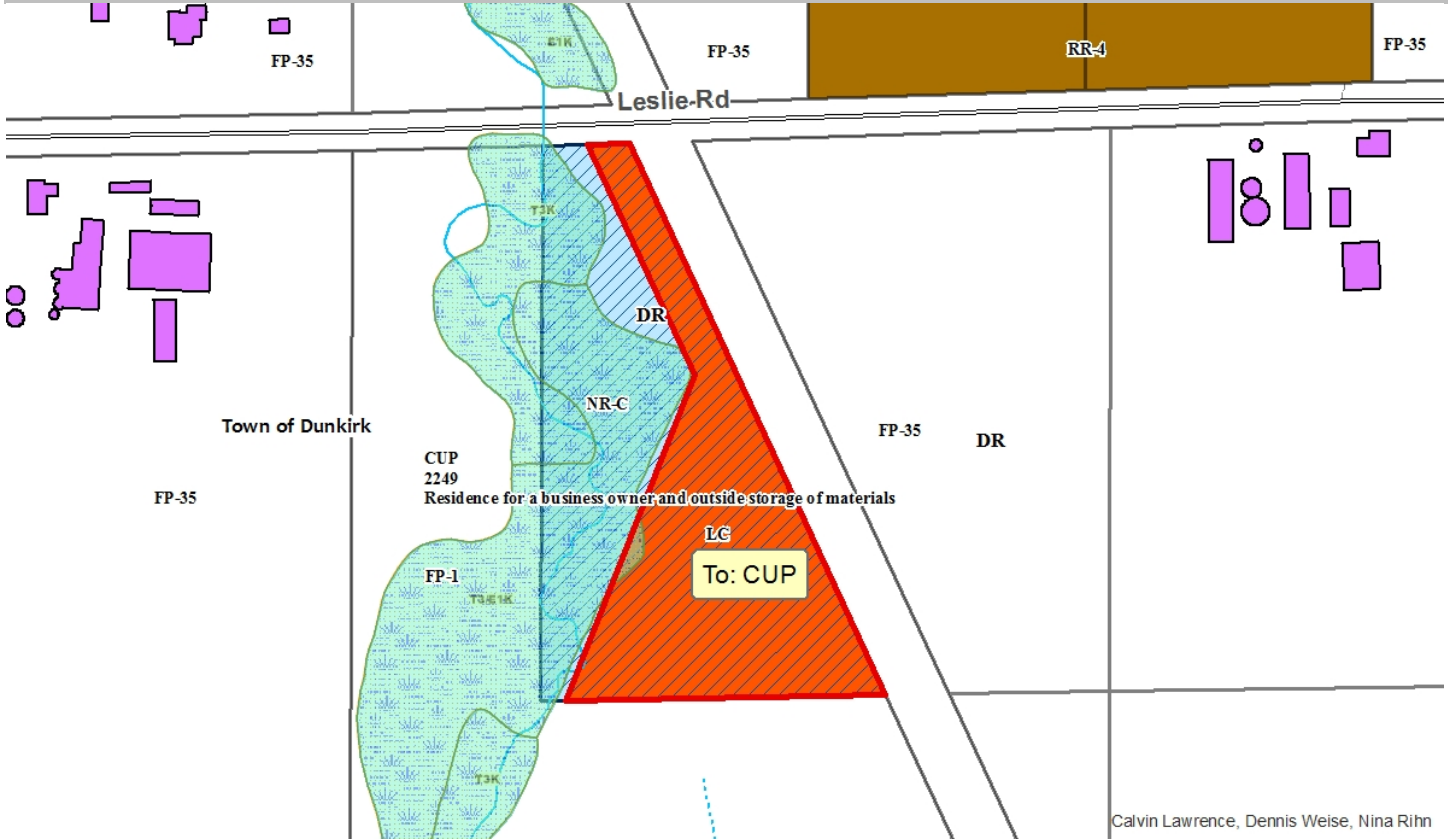


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> August 22, 2023	Conditional Use 02601
	<i>Zoning Amendment Requested:</i> TO CUP: Caretakers residence and limited outdoor storage	<i>Town/Section:</i> DUNKIRK, Section 23
	<i>Size:</i> 4.7 Acres	<i>Survey Required:</i>
	<i>Reason for the request:</i> Caretakers residence and limited outdoor storage	<i>Applicant:</i> BRIAN AND JULIE OLSON <i>Address:</i> 2091 LESLIE ROAD



DESCRIPTION: Applicants Brian and Julie Olson request a conditional use permit to build a single-family residence (a “caretaker’s residence”) on a 4.75-acre property in the LC Limited Commercial zoning district. In addition, the CUP includes outdoor storage for up to 12 vehicles or pieces of equipment, which is associated with the owner’s small excavating business, Bulldog Excavating LLC.

OBSERVATIONS: The Olsons own 8.8 acres including this parcel and the one adjacent to the west which is all wetland. The property is located less than one mile west of Tower Drive and two miles east of County Highway N and the Yahara River. The land was rezoned to LC-1 in April 2014 via rezone petition #10704 when the former owners split the property into the conservancy and LC lots. The property abuts a publicly owned rail line operated by Wisconsin & Southern Railroad; there is an existing easement for the railroad shown on the site plan.

In the LC zoning district, a contractor operation, and the storage of up to 12 vehicles and pieces of equipment, are permitted by right. This covers the Bulldog Excavating business and its *indoor* storage. Both a caretaker’s residence and *outdoor* storage are allowable uses in the LC district only with approval of a conditional use permit. For this reason the “existing equipment storage” area is included as part of this CUP. The application indicates the business currently has 5 pieces of equipment on site.

RESOURCE PROTECTION: Resource protection corridors are mapped on the property, reflecting a perennial stream located to the west and the associated floodplain and wetland. Floodplain (Zone A, with no established base flood elevation) and DNR-mapped wetlands are present on the far western edge of the lot; the proposed building area is well outside of these areas. Shoreland zoning applies within 300' of the stream. Any ground disturbing activity within the shoreland zoning district requires a shoreland erosion control permit, which has already been approved. Zoning staff issued the shoreland zoning review letter in June with conditions that requires a CUP for the residence; the shoreland zoning permit will not be issued until a new CUP is approved.

COMPREHENSIVE PLAN: The property is located within an Agricultural Preservation Area where the density of nonfarm development is limited to one density unit ("split") per 40 acres of land owned as of July 1, 1979. The property was previously divided from a larger farm unit in 2006 and already counts as one of the allowable density units. The proposed conditional use permit for a residence is consistent with comprehensive plan policies. (For questions about the comprehensive plan, contact Senior Planner Majid Allan at (608) 267-2536 or allan@countyofdane.com)

CONDITIONAL USE PERMIT DECISION MAKING: "Conditional uses" are those land uses which, because of unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a conditional use permit. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, and a summary of relevant facts including the applicant's testimony with regards to meeting the standards.

1. *That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

The applicant states that the proposed residence will meet this standard because it will not be dissimilar to other rural non-farm residences and farmstead locations within the town. The only related site improvements to be constructed will be a new stormwater management basin, which is under review by Dane County Land and Water Resources staff. In addition, the existing business and the proposed residence will be served by solid waste and recycling collection services. No hazardous, toxic or explosive materials will be stored on site.

2. *That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.*

Applicant states that this standard will be met because the proposed residence will be located approximately 800 feet from Leslie Road. In addition, the existing maintenance and storage buildings and the existing outdoor storage area are not readily visible from the road or from nearby farmsteads in the immediate neighborhood. The application notes there are existing yard lights at the maintenance building and one light along the entry driveway to illuminate a driveway culvert crossing location. New lighting for the residence will be typical and conventional residential lights; the applicants note the home will be screened from neighbors by the established woodlands and landform along the railroad. No new signage is proposed.

3. *That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*

Applicant states that the proposed uses will not impede the continued use of the site in compliance with the LC zoning, nor impede the use of other adjoining properties in the FP-1, FP-35 and NR-C zoning districts, as well as the railroad. As noted above, the site is surrounded by rural farms and farmsteads.

4. *That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.*

Applicant states that the proposed residence is adequately served by an existing well, private on-site wastewater treatment system, and driveway improvements. Staff notes the septic system has capacity to serve a 3-bedroom home.

5. *That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.*

Applicant states that the proposed residence and existing business operations will continue to use the existing driveway and turnaround area that was installed in 2014. They state the driveway is adequate to serve any residential and business traffic, since Bulldog Excavating is a small owner/operator business and the driveway will continue to be maintained in compliance with town and county standards.

The proposed residence will not generate significant increase in traffic volumes on Leslie Road; a single family home is typically estimated to generate 10 vehicle trips per day to and from the site.

6. *That the conditional use shall conform to all applicable regulations of the district in which it is located.*

The applicant states, and staff confirms, that the proposed uses conform to the applicable regulations of the LC zoning district. The maintenance and storage buildings are well under the 10,000 square foot area limit.

7. *That the conditional use is consistent with the adopted town and county comprehensive plans.*

Applicant states that the proposal is consistent because the town comprehensive plan allows for limited commercial use in the agricultural preservation area, and the land was zoned to LC approximately 10 years ago. Limited non-farm rural residential uses are also allowed under the plan. Staff finds the proposal consistent, see comprehensive plan comments above.

8. *If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s. 10.220(1).*

This standard is not applicable since the land is not in a farmland preservation zoning district.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: Unlike commercial land uses, a caretaker's residence does not typically have many potential nuisances associated with it. The application addresses the compatibility of the proposed residence with the surrounding uses.

Under Dane County Zoning Ordinance section 10.103, there are no special requirements or conditions that must be applied to a caretaker's residence. Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the ZLR Committee. In addition to the standard conditions required for all conditional use permits (see Staff Recommendation below), the Town Board and ZLR Committee may impose any other conditions deemed necessary to meet the eight CUP standards. Such conditions may include limits on building size; limits on the number of people, vehicles or animals on the premises; and requirements for screening or setbacks to minimize disturbance to neighboring properties, among other things.

TOWN ACTION: On August 7, 2023 the Town Board approved the conditional use permit with no special conditions.

STAFF RECOMMENDATION: At this time, staff believes the applicants have provided sufficient information to demonstrate how the proposed uses will meet all of the 8 required standards for CUP approval. This includes the fact that the residential use is compatible with the surrounding rural farmstead uses, the limited amount of outdoor storage located over 900 feet away from the public road, and that fact that the Town of Dunkirk has determined that the proposal satisfies the CUP requirements.

Pending any comments at the public hearing, staff recommends that the ZLR Committee makes a finding as to whether the proposed conditional use meets the applicable CUP standards. If the Committee agrees that the standards are met, staff recommends approval of the CUP with the potential conditions listed below. Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@countyofdane.com

Possible CUP 2601 Conditions of Approval:

Standard Conditions for all Conditional Use Permits

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operation plan and phasing plan.
2. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet current requirements of applicable sections of Wisconsin Commercial Building Code or Uniform Dwelling Code.
3. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the county zoning administrator upon request.
4. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the county zoning administrator upon request.
5. Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought, at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46 Dane County Code.
6. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
7. Off-street parking and circulation must be provided, consistent with s. 10.102(8) of County Ordinances.
8. If Dane County Highway Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be borne by the landowner. Costs borne by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
9. The County Zoning Administrator or designee may enter the premises of operation in order to inspect those premises and to ascertain compliance with these conditions or investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
10. The owner must post, in a prominent public place and in a form approved by the county zoning administrator, a placard with the approval of the Conditional Use Permit number, the nature of the operation, name and contact information for the operator, and contact information for the Dane County Zoning Division.
11. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
12. Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit. The holder of a conditional use permit shall be given reasonable opportunity to correct any violations prior to revocation.