
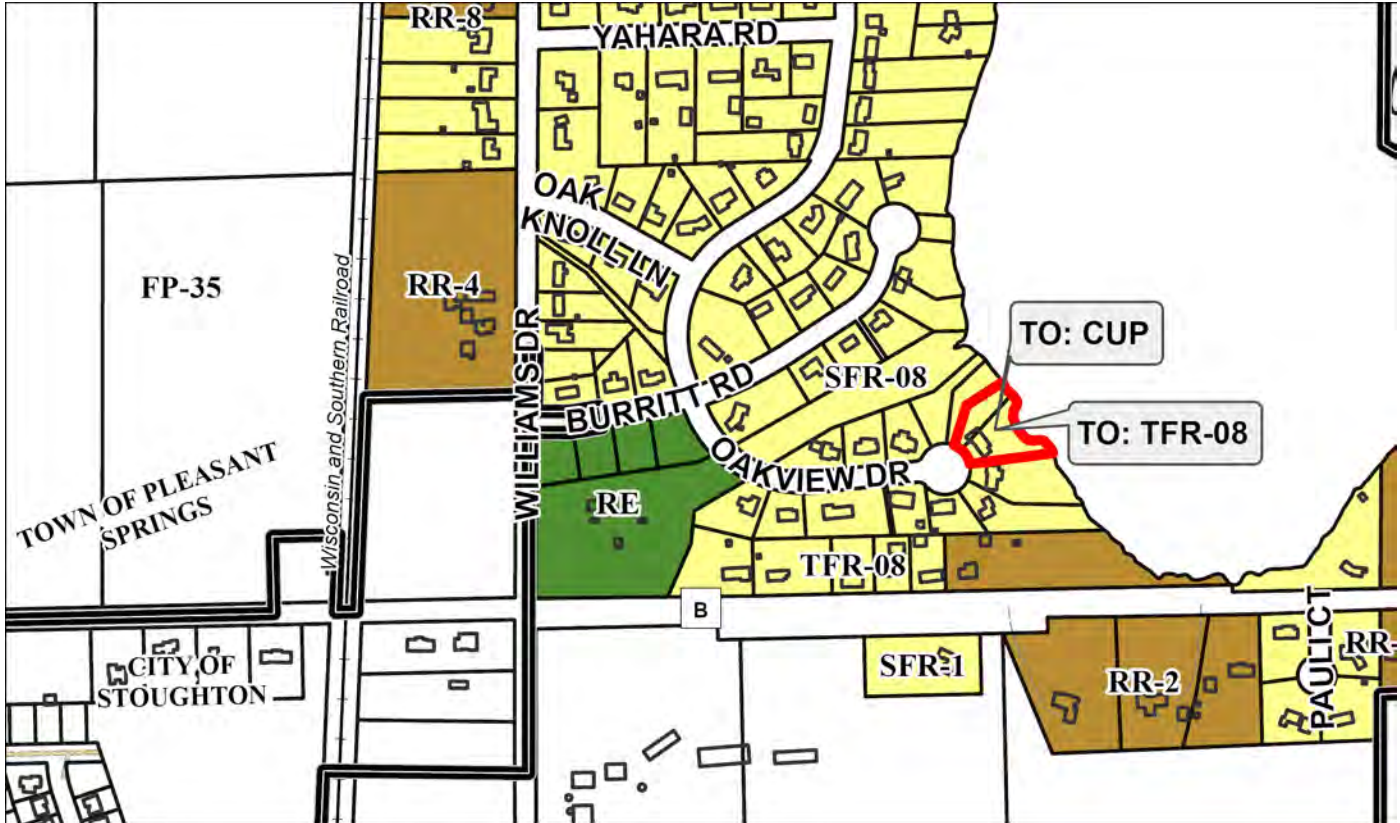


<p>Staff Report</p>  <p>Zoning & Land Regulation Committee</p>	<p><u>Public Hearing:</u> August 27, 2024</p>	<p>Conditional Use 02631</p>
	<p><u>Zoning Amendment Requested:</u> TO CUP: Detached accessory dwelling unit (ADU)</p>	<p><u>Town, Section:</u> PLEASANT SPRINGS, Section 32</p>
	<p><u>Size:</u> 0.9 Acres</p>	<p><u>Survey Required:</u></p>
	<p><u>Reason for the request:</u> Detached accessory dwelling unit (ADU)</p>	<p><u>Applicant:</u> LORA OLIVERI AND TOREY BYERS</p> <p><u>Address:</u> 1722 OAKVIEW DR</p>



DESCRIPTION: Torey Byers and Lora Oliveri request a Conditional Use Permit (CUP) in order to construct a detached accessory dwelling unit (ADU) for a family member to live on their residential property located at the end of Oakview Drive. The accessory building would be at most 16'x40' (640 square feet) in size, would be located north of the existing residence, and would be served by the same utilities and access drive that already exist on site.

This petition was submitted along with a related rezone petition (rezone Petition #12080) to rezone the lot to TFR-08 which would enable a detached ADU. The current SFR-08 zoning only allows for attached ADUs, not a unit detached from the house. The rezone is being reviewed separately but would be required in order for CUP 2631 to be approved.

OBSERVATIONS / FACTUAL INFORMATION: The property is in residential use and is [redacted] in size. The surrounding lands are in residential use to the north, south and west, as well as town-owned open space to the north and the Yahara River to the east.

The property consists of two parcels, one full platted lot and one partial lot that was divided in the 1960s without a new certified survey map (CSM). As part of the proposed rezoning to TFR-08, they would consolidate the parcels into one lot with a new CSM, bringing the property into conformance with current day zoning and land division ordinances.

A detached accessory dwelling unit is an allowable conditional use in the TFR-08 zoning district.

RESOURCE PROTECTION: The property is subject to Shoreland and Floodplain overlay zoning restrictions, due to proximity to the Yahara River and presence of mapped floodplain on the east end of the site. Any future construction would be subject to Shoreland and Floodplain zoning permit requirements, as applicable.

Zoning staff did a preliminary review of the shoreland aspects of the property, and are of the opinion that there is a building envelope to accommodate the proposed ADU. The increase of impervious surface on the lot will require shoreland mitigation because the impervious surface ratio will exceed 15% of the lot.

The floodplain is contained within the shoreland setback, so construction will not be allowed within the floodplain. There are also wetlands/hydric soils on the property, which will likely need to be further evaluated at the time of permitting to ensure compliance with the required 75-foot setback from wetlands greater than 2 acres as well as the 75-foot shoreland setback measured from the ordinary high water mark of the river.

Due to the lot being within the shoreland district, Dane County will require a detailed plat of survey containing all of this information before we will review applications for construction permitting. The owners will also be required to have a professional engineer design their mitigation plan as well as designing erosion control during construction.

Based on property configuration, and the proposed location of the ADU structure, staff believes the accessory building could be built to meet the ordinance requirements. A more detailed review of construction plans would be done after the zoning approval and prior to the issuance of any construction permits.

COMPREHENSIVE PLAN: The property is located in the town's Lake Kegonsa and Lower Yahara River Residential planning area. Although there is no set density policy within this planning area, nor any town policies specifically addressing accessory dwelling units (ADU), there are provisions that allow the potential for infill development. There appears to be ample room for the proposed "tiny home" to be sited in such a manner as to not result in any significant impacts to neighboring property owners.

Pending any concerns raised at the ZLR Public Hearing, or by the town in the course of its review, the proposal appears reasonably consistent with comprehensive plan policies. Note that the conditions specified in section 10.103(1) will apply to this proposal. For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or allan.majid@danecounty.gov.

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 the 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 CUP application describes the proposal. The applicant states that this standard would be met because it would be an accessory tiny home 16x40' (640 square feet) in size, one level in height.

Staff is not aware of any health or safety concerns associated with ADUs that meet applicable building and sanitary codes.

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.*

The applicant states that the unit would be 4 feet off the lot line on the NW corner and 8 feet off the NE corner, 75 feet from the water line, so as to not disrupt the surroundings. They have also indicated they are open to conditions on the permit including visual screening, if that is required for the CUP to be approved.

Staff notes that there is an existing row of evergreen trees between the applicants' lot and the neighboring lot to the NW, in the front yard. The applicants could build a larger accessory storage building today under the current SFR zoning, without additional review or conditions placed upon the structure (but still subject to the same environmental setbacks and shoreland review). For context, there are 15 homes within 500 feet of the proposed ADU location. The proposed building would be up to 640 square feet in size; other accessory buildings in the neighborhood range from 200 to 1,200 square feet in size.

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.*

The applicant states that the tiny home will not decrease the value or disrupt the neighbors.

This standard pertains to whether the proposed conditional use would affect *how the surrounding properties could be developed and improved, considering what they are currently zoned for*. This property and most of the surrounding properties are already developed for residential use. The property immediately to the west is vacant but is zoned for single-family residential use. That property also consists of one platted lot and one half of a platted lot divided in the 1960s and as a result, future residential development on that property may require a CSM to consolidate parcels.

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

The utilities, access roads, drainage, and other improvements needed for the proposed use are comparable to those for a lot with only a primary residence. The applicant states that the home will be on their private well and municipal sewer. In addition, Lora Oliveri states she has contacted the sewer district, fire chief, and an electrician and verified that the ADU could be served by the existing utilities that serve their house now and that the ADU would not pose a concern for emergency responders. If a separate address is needed for the ADU for emergency service or other purposes, Dane County would assign one as part of the zoning permit process.

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.*

The applicant states that the ADU would not create any additional traffic. Off street parking is provided on site in a driveway sized for at least 4 cars, and a 2-car garage. Parking appears adequate.

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

The proposed use would conform to the applicable regulations of the TFR-08 zoning district. A detached ADU is an allowable conditional use in the TFR-08 district. In addition, specific requirements that would apply to the accessory residence based on the TFR and Shoreland zoning include:

- A minimum 4' setback from the north/side lot line, if the building is in the rear yard and at least 10' away from the principal residence, as proposed.
- A minimum 10' setback from the north/side lot line, if the building were located outside the rear yard (noted in case more detailed environmental review necessitates a location closer to the front of the lot).
- A maximum height of 12' average height (mean of roof).
- A minimum 75' setback from any wetlands greater than 2 acres in size.

Once consolidated into one parcel, the lot would conform to TFR-08 zoning district requirements, including lot size, building coverage and building setbacks. The property is served by public sanitary sewer and the TFR-08 district requires a minimum lot size of 8,000 square feet for lots on public sewer.

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

As noted above, the proposal appears consistent with the Town and County Comprehensive Plans.

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).*

Not applicable.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances associated with an ADU could potentially involve additional traffic. The applicant's CUP application addresses how these potential nuisances are handled, as noted above.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103(1), there are other special requirements for accessory dwelling units:

- (a) On lots zoned for single-family residential use, no more than one accessory dwelling unit may be created per lot.*
- (b) Multiple accessory dwelling units per lot may be created only in the Multi-Family Residential (MFR), Hamlet Residential (HAM-R) or Hamlet Mixed-Use (HAM-M) districts, or within a manufactured home community permitted under s. 10.103(14).*
- (c) A detached accessory dwelling unit may be included in either an existing or new dwelling unit.*
- (d) Lots accommodating an accessory dwelling unit must meet the minimum lot size for the applicable zoning district.*
- (e) In no case shall an accessory dwelling unit exceed 800 square feet of occupiable floor area.*
- (f) No accessory dwelling unit shall have more than two bedrooms.*
- (g) Accessory dwelling units shall not be sold separately from the principal dwelling unit, nor from the property on which it sits.*
- (h) A lot or parcel of land containing an accessory dwelling unit shall be occupied by the owner of the premises. The owner may live in either the accessory dwelling unit or the principal residence.*
- (i) The orientation of the proposed accessory dwelling unit shall, to the maximum extent practical, maintain the privacy of residents in adjoining dwellings. The town board and zoning committee may, as necessary, require screening, consistent with s. 10.102(12) between a property containing an ADU and adjacent properties.*
- (j) Off-street parking shall be provided consistent with s. 10.102(8).*
- (k) Accessory dwelling units must meet applicable residential building codes and sanitary codes.*

The proposed ADU already satisfies requirements (a) through (e), (h) and (i) above. To ensure all requirements would be met, conditions could be placed on the CUP to specify a maximum floor area, a 2-bedroom limit, a prohibition on selling the unit, and requiring owner occupancy of the ADU or primary residence. The town could opt to require screening if visual impacts are deemed to be a concern for the neighbors. Most of these requirements are already specified in the Ch. 10 Zoning Ordinance.

TOWN ACTION: Pending

STAFF RECOMMENDATION: This petition is noteworthy as it is the first petition for a detached ADU that the County has processed. Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the proposed size of the unit (one level and 640 SF, less than the 800 SF maximum for ADUs under zoning rules), the location that appears to meet applicable zoning and shoreland setback requirements, and the fact that the unit would use the same utilities as the main house. However, the town may request additional information in order to render a decision. The request at this time is whether the ADU is an acceptable use on this property, at the approximate size and location specified. As noted above, more detailed survey and engineering work will be required for review before any permits would be issued for construction. Those items involve significant time and expense, and are needed to determine *the precise building size and location within the side yard*; however, such surveying and engineering may not be necessary to inform a decision on the land use/CUP. Based on a preliminary review of the site information and site plan, staff believes the ADU can be located on this site while meeting the applicable ordinance requirements. While minor adjustments could be made if necessary based on the specific site survey, the location of the ADU is not expected to change much based on such information.

Pending any comments at the public hearing, Staff recommends that the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards listed above. If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff at the public hearing.

At this time we recommend postponement to allow time for town action, per the ZLR Committee's adopted rules and procedures. Potential conditions of approval are listed below for consideration only at this time. Once the town has made a decision on the application, this report and recommended conditions will be updated for the ZLR Committee.

CUP 2631 Potential Conditions of Approval:

Standard Conditions for all Conditional Use Permits from 10.101(7):

1. Any conditions required for specific uses listed under s. 10.103 (see below).
2. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
3. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
4. 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 zoning administrator upon request.
5. 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 zoning administrator upon request.
6. 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.
7. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
8. Off-street parking must be provided, consistent with s. 10.102(8).
9. If the 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.
10. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
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.

Conditions specific to CUP # 2631:

13. The accessory dwelling unit shall not exceed 640 square feet of occupiable floor area (per the application), and shall have no more than two bedrooms.
14. The accessory dwelling unit shall not be sold separately from the principal dwelling unit, nor from the property on which it sits.
15. The lot containing the accessory dwelling unit shall be occupied by the owner of the premises. The owner must live in either the accessory dwelling unit or the principal residence.
16. The accessory dwelling unit shall be located at least four (4) feet from the north/east side lot line, in compliance with the TFR-08 zoning district building setback requirements as well as any applicable Shoreland and Floodplain zoning ordinance standards.

Please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@danecounty.gov if you have questions about this petition or staff report.