
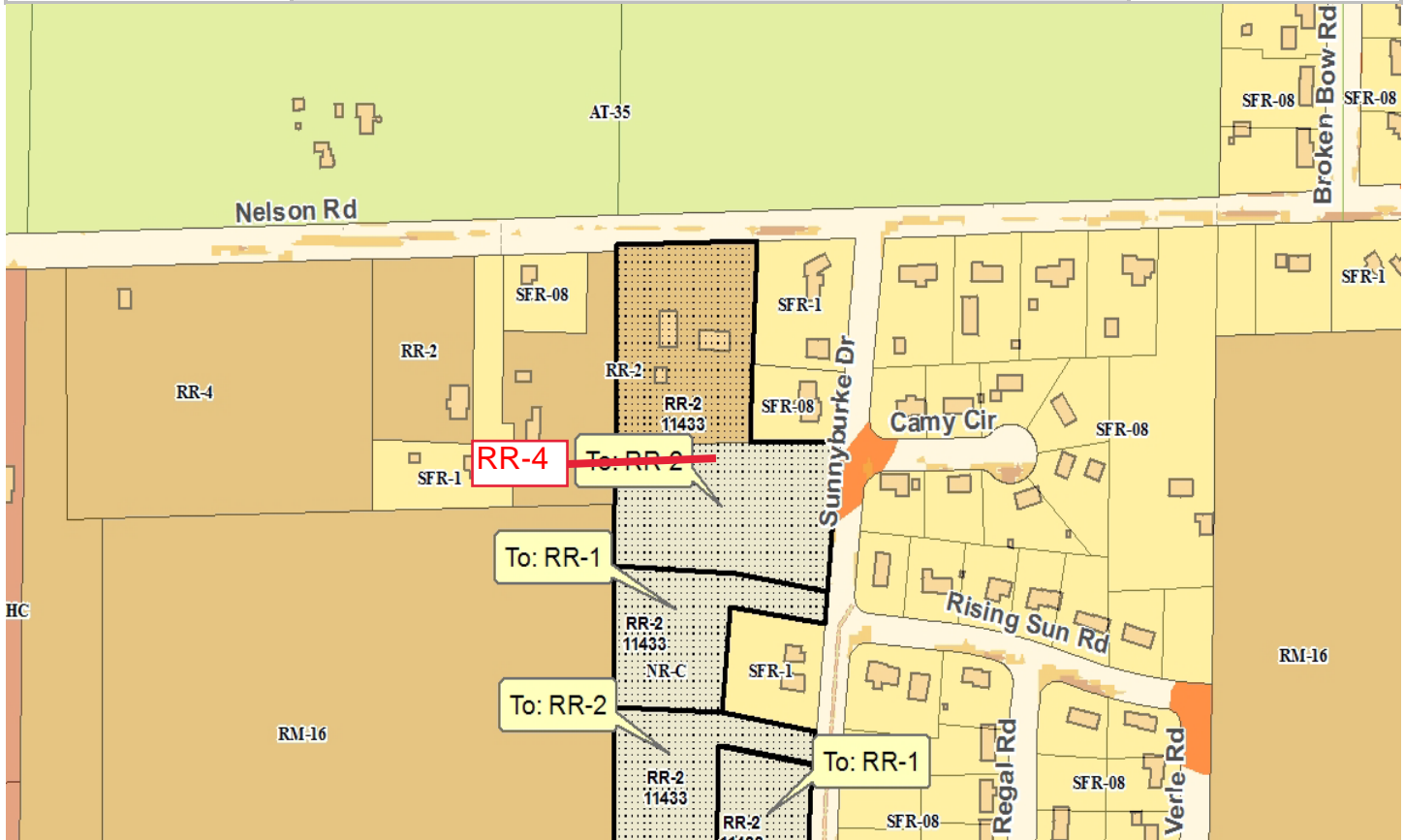


<p><b>Staff Report</b></p>  <p><b>Zoning and Land Regulation Committee</b></p> <p><b>Questions? Contact:</b> Majid Allan: 267-2536</p>	<p><i>Public Hearing:</i> <b>July 23, 2019</b></p>	<p><b>Petition 11433</b></p>	
	<p><i>Zoning Amendment Requested:</i>  <b>NR-C (Natural Resource - Conservation) District TO RR-2 (Rural Residential, 2 to 4 acres) District, NR-C (Natural Resource - Conservation) District TO RR-1 (Rural Residential, 1 to 2 acres) District</b></p>	<p><i>Town/Section:</i>  <b>BURKE, Section 24</b></p>	
	<p><i>Size:</i> <b>2.04,2.03,5.01 Acres</b></p>	<p><i>Survey Required:</i> <b>Yes</b></p>	<p><i>Applicant:</i>  <b>PETER &amp; CHELSEA SACHS</b></p>
	<p><i>Reason for the request:</i>  <b>CREATING FOUR RESIDENTIAL LOTS</b></p>		<p><i>Address:</i>  <b>3285 NELSON ROAD</b></p>



**DESCRIPTION:** The applicant wishes to subdivide one parcel into four residential lots, and change natural resource conservation zoning to residential zoning, specifically to the RR-1 and RR-2 rural residential zoning districts.

**OBSERVATIONS:** The existing use includes a single-family home and residential outbuilding fronting onto Nelson Road. The land south of the house is undeveloped and in a natural resource conservation zoning district. There are three neighboring single-family homes along Sunnyburke Drive. An extension of Sunnyburke Drive is platted but not yet built. All three of the proposed new residential lots are shown with frontage onto this platted road.

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”. See attached wetland determination report.

**TOWN PLAN (UPDATED):** On July 15, 2020, the town of Burke adopted an amendment to its comprehensive plan to change the *Future Land Use Map* designation of the subject property from *Natural Area* to *Rural Residential*. Proposed

County Board 2020 OA-011 would incorporate the amended *Town of Burke Comprehensive Plan* into the *Dane County Comprehensive Plan*.

Per the [town plan](#):

### **Rural Residential**

*Description:* The rural residential land use category is intended to accommodate large-lot and estate single-family residential development with rural character. These areas include the majority of the existing residential neighborhoods in the Town. Residential net densities in this land use district should range from approximately one to two dwelling units per acre. New single-family residential should possess a similar character and density of the surrounding neighborhoods.

Pursuant to a cooperative planning agreement, the entire town of Burke will ultimately be annexed into the cities of Madison and Sun Prairie and the Village of DeForest, with the final dissolution of the town occurring on October 27, 2036.

This property is in the *Madison Boundary Adjustment Area (BAA)* as identified in the *Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan*. Because this proposal involves creating greater than 1 residential lot, it is considered "Development" as defined in the Cooperative Plan. Development requires full review by the City of Madison.

As referenced in the town plan chapter of Intergovernmental Cooperation, "*All development within the BAA of each respective municipality should comply with the development requirements of that municipality which include, but are not limited to, the municipality's adopted Comprehensive Plan, neighborhood development plans, and other detailed land use plans.*" The proposed 4 lot Certified Survey Map is also subject to city review / approval under the city's extra-territorial plat review jurisdiction.

City of Madison staff have submitted a letter objecting to the proposal, noting that the proposed lot layout is not compatible with adjacent development patterns and would impede the city's ability to provide public services and install improvements as the surrounding area develops. See attached letter.

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

**JULY 23, 2019 ZLR PUBLIC HEARING:** The ZLR Committee postponed the petition due to no town action, unresolved issues identified by staff, and opposition by neighborhood residents and city of Madison planning staff. Six neighborhood residents spoke in opposition to the petition at the 7/23/19 ZLR public hearing. The neighbors noted that the property is at a low point in the neighborhood.

Concerns included the following:

- Proposal inconsistent with town/county comprehensive plan (property designated as "Natural Area")
- Property is in a low lying area and development could exacerbate existing drainage problems in the neighborhood
- City of Madison opposition based on proposed lot layout being inconsistent with existing pattern of development and will impede future extension of city infrastructure improvements

**STAFF UPDATE:** As noted above, the town recently adopted an amendment to its plan to change the designation of property from "Natural Area" to "Rural Residential". Staff's initial review of the proposal found it to be inconsistent with the adopted comprehensive plan. Proposed 2020 OA-011 would incorporate the amended town of Burke plan into the *Dane County Comprehensive Plan*. The revised designation resolves the plan consistency issue.

As required by the cooperative planning agreement, the proposal is subject to review / approval by the city of Madison.

Below is a brief summary of actions taken since the public hearing to address the various concerns.

### **Drainage**

The applicant commissioned a stormwater engineering study by Quam engineering to determine if development of the lots and extension of Sunnyburke Drive would result in drainage / flooding problems based on a modeling of 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 lots would not result in exacerbating existing drainage concerns following the modeled events, provided the existing low / excavated area on proposed lot 1 is preserved as a drainage easement and "maintained". Staff is unaware if any modeling was done to address the potential impact more severe, or cumulative rainfall events could have on the drainage network and property. See updated CSM showing drainage easement area and town engineer memo.

It is unclear what specific maintenance requirements can/should apply to the drainage easement area. While referenced in the town engineer's review, there was no drainage way maintenance requirement included in the town's conditional approval.

### **City of Madison Review/Approval**

As noted above, the proposed development is subject to city of Madison review and approval. City of Madison staff submitted a letter stating their opposition to the proposal and urging the county to reject the rezoning. The city has not formally reviewed the proposal and has indicated they will not do so unless/until zoning is approved and a CSM submitted to them as part of their extra-territorial plat review process. No changes have been made to the proposed lot layout in response to city objections outlined in the July 10, 2019 memo by city staff.

### **Plan Consistency**

County actions on rezonings and land divisions are required by both state statute and county ordinance to be consistent with the comprehensive plan. As indicated, the town adopted an amendment to the plan to address this issue. Since the property is now designated as "Rural Residential", staff finds the proposal reasonably consistent with the amended comprehensive plan.

### **STAFF RECOMMENDATION**

Pending committee action on proposed 2020 OA-011, staff recommends approval of petition #11433 with the town required conditions and the following staff condition.

1. A maintenance agreement for the drainageway easement / pond on proposed lot 1 shall be recorded with the Register of Deeds. The maintenance agreement shall be submitted for review and approval by the town engineer prior to recording.

**TOWN:** The town approved the rezoning petition with the following conditions:

- 1) Obtaining approval of the rezone from Dane County and satisfaction of any conditions thereof; and
- 2) Meeting the conditions of and recording of the CSM