
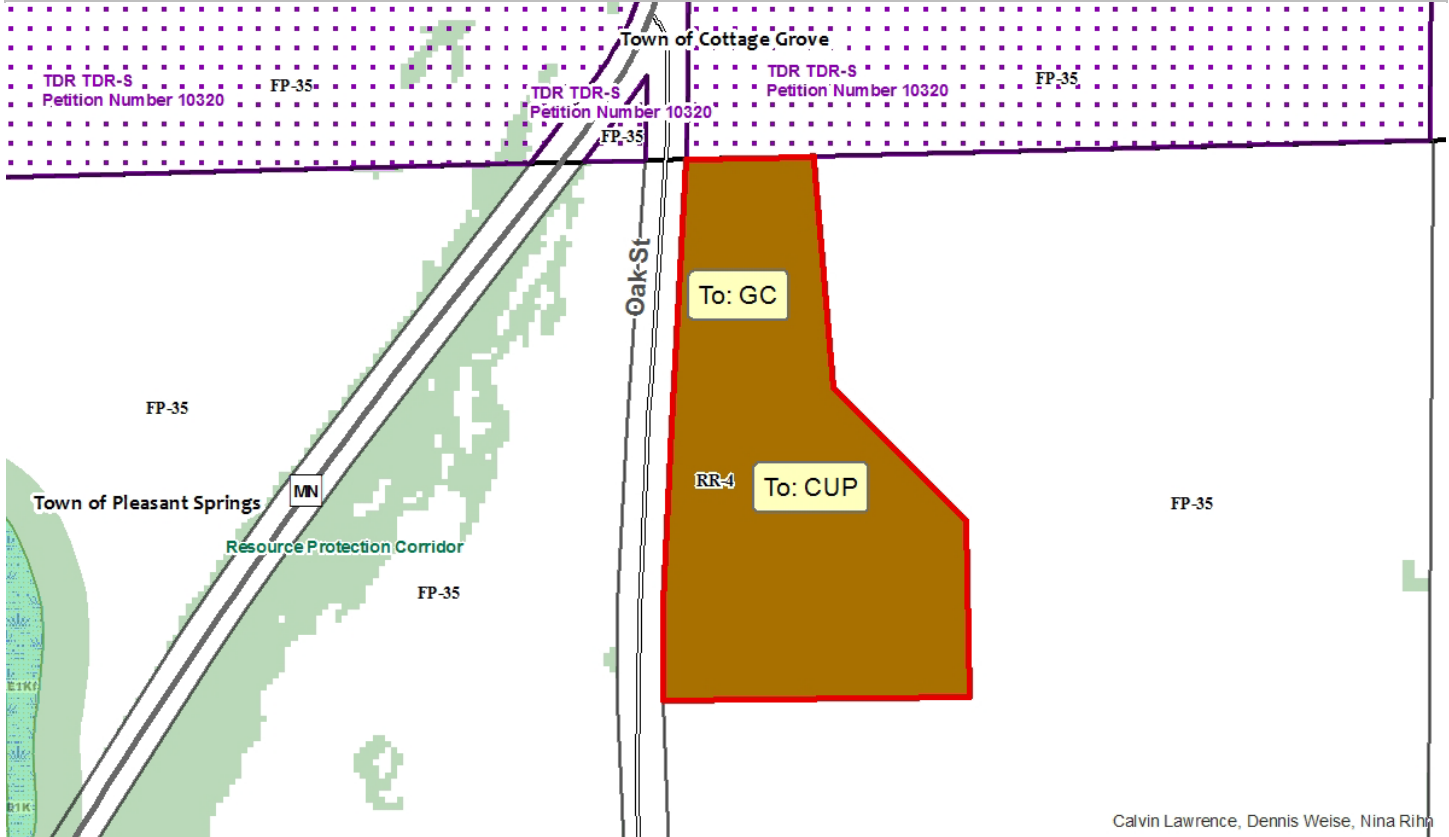


Staff Report  Zoning and Land Regulation Committee	Public Hearing: July 25, 2023 <i>Report updated for the August 22, 2023 ZLR meeting</i>	Conditional Use 02598
	Zoning Amendment Requested: TO CUP: Institutional Residential and associated accessory uses	Town/Section: PLEASANT SPRINGS, Section 4
	Size: 7.5 Acres <u>Survey Required.</u> Reason for the request: Institutional Residential and associated accessory uses	Applicant UNDER THE OAK TREES LLC Address: 3136 OAK STREET



DESCRIPTION: Under the Oak Trees LLC requests a conditional use permit (CUP) for Institutional Residential use and associated accessory uses on a 7.5-acre lot, to operate a long-term transitional residential housing facility and restoration program for women who have been sexually trafficked and/or exploited. The applicants wish to redevelop the site into a residential facility that includes a mix of living space and program space for up to 18 women and children participants. The operator is a registered non-profit that would provide 24/7 support and oversight with up to 4 live-in staff or “house parents”; there would be 2 to 6 staff members on site at all times.

This type of land use – a restoration or rehabilitation center – must be classified as “institutional residential”, a land use that is only listed in the MFR, GC, HC, and HAM-M zoning districts. A related rezone petition has been submitted requesting GC General Commercial zoning (see [Rezone Petition 11961](#)). Approval of rezone petition #11961 would be necessary in order to approve this CUP.

The property currently contains a house and garage, which would be demolished as part of this project. New buildings proposed to be constructed include 2 private homes, a commons building with office and program space, a 3-car garage, a small chapel, a 46’x46’ horse barn (for equine therapy using 2 horses and 1 donkey), and 3 future tiny homes. Other planned site improvements include new driveway and parking areas, stormwater management and septic facilities, a

horse pasture, play area, and landscaping. The existing vegetation surrounding the lot would be maintained and would serve as a buffer for privacy and visual screening.

OBSERVATIONS / FACTUAL INFORMATION: The property abuts the border between the Town of Pleasant Springs and the Town of Cottage Grove. The land to the north (in the Town of Cottage Grove) is zoned FP-35 and is a TDR Sending Area; with that zoning this area is not expected to see future development. The land surrounding the property to the east, south and west (in the Town of Pleasant Springs) is zoned FP-35 and under common ownership. Other lands nearby include farmland (zoned FP-35), Jim’s Country Fireplace and Paradise Pond Shop (zoned GC), a handful of rural residences (zoned RR), and landscaping and construction companies (zoned HC). The property is within one mile of two quarry sites which are located to the north across US Highway 12&18.

The proposal contains a unique mix of land uses, all intended as key components of a program focused on therapy, education, and life skill building:

- The “institutional residential” use (the principal use of the property) would include the two 5-bedroom residential homes, the 3 potential future tiny homes, and the commons building. “Institutional residential” is defined in the Zoning Ordinance, and distinguished from other similar terms, as follows:
 - *(a) A congregate residential use that provides some level of human, health or social service to non-transient residents, in addition to basic housing.*
 - *(b) Institutional residential uses include, but are not limited to: group homes, convents, monasteries, nursing homes, convalescent homes, rehabilitation centers, assisted living facilities, congregate care facilities and retirement communities.*
 - *(c) Institutional residential uses do not include: community living arrangements, day care centers, duplexes, multifamily residences, rooming houses, adult family homes, foster homes or treatment foster homes.*
- The applicants indicate that the tiny homes are desired as “stepping stones” for women to transition from full community living to more independent living; however these homes are not required for their programming, if they were to be excluded from any approval.
- The chapel building and horse barn would be accessory/ancillary uses to the primary institutional residential land use.
- The applicants propose a deed restriction to limit the use of the land to the proposed institutional residential use, limit the number of livestock on site to the 3 proposed animals, and limit any other land uses to the uses normally allowed under the RR-4 zoning district (the property’s current zoning). The deed restriction would tie the allowable uses to Conditional Use Permit 2598, if approved. Staff believes that a simpler approach to the deed restriction would be adequate to specify the proposed institutional residential use and related uses. This deed restriction would enable the community to enforce the land uses and control the future use of the property in the event that the ownership or operation were to change. See staff recommendations below for CUP conditions; specific recommendations for the deed restriction are handled as part of Rezone 11961.

RESOURCE PROTECTION: There are environmental corridors mapped on the property reflecting areas with steep slopes. There are no sensitive environmental features present on site. No concerns based on the proposal.

COMPREHENSIVE PLAN: The property is located in the town’s agricultural preservation area immediately adjacent to the Rural Mixed Use planning area. Both planning areas include similar goals, objectives, and policies to accommodate small-scale or family run rural businesses compatible with the rural atmosphere of the town and adjoining land uses. The property abuts the Town of Cottage to the north, which has designated the area surrounding County Highway N as a commercial development area.

Town comprehensive plan policies do explicitly address institutional residential uses. The plan does indicate that any commercial rezoning should be carefully reviewed and that conditional zoning be utilized to ensure uses are limited in scope and design to be compatible with the rural atmosphere and neighboring uses. Staff have recommended that such conditions be imposed on related rezone petition 11961 which seeks to establish GC (General Commercial) zoning on

the property. Pending any concerns raised by the town in the course of its review, or at the ZLR public hearing, the proposal appears reasonably consistent with comprehensive plan policies.

(For questions about the town 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 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 proposed operations plan. The applicant states that their program requires a quiet, beautiful, tranquil rural setting, and that this aligns with the rural residential nature of the neighborhood. They note the property is 300’ from County Highway MN, so vehicular disruption to residential neighbors will not be an issue. They note there are other GC zoned properties in the area, the proposal would not take farmland out of service, and there are no residential lots abutting the property.

Staff notes the facility would house up to 18 women and children participants, and up to 4 live-in staff or “house parents”. The application states that any outdoor activities would be typical residential type activities such as gardening, playing games, walking paths, and horse riding. The operator is a registered non-profit that would provide 24/7 support and oversight, with 2 to 6 staff members present on site at all times.

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 proposed use aligns with a mixed residential commercial neighborhood, that they intend to create a peaceful rural residential property that is conducive to healing, and the primary use would be long-term transitional homes with some “light commercial” use as staff and service providers offer therapy, education and training to residents. In addition, they note that traffic would be routed to County Highway MN to the north, and that the existing forest buffers on all sides of the property would be maintained or improved.

Staff notes that the property is approximately 300’ away from County Highway MN to the north and 750’ away from County Highway N to the east, both of which are relatively busy traffic corridors. The proposed use would be limited in scope to 22 live-in residents, including 18 participants who would live on site for one to 1.5 years while enrolled in the program. The applicants indicate that the commons building would be distinct from the residential spaces, as it would be used for programs and services for the women in order to encourage “healthy real-life rhythms” as well as providing breakroom space for staff. Residents would prepare meals in their own homes, not in the common building. No signage is proposed, and any outdoor lighting will be residential style (bollards, landscaping ground lights, and wall sconces, no commercial parking lot lights).

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.*

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. The applicants state that the proposed use will not impact or limit adjacent development or improvement of the surrounding properties. They note the use is consistent with the existing rural residential character of the area, as well as other commercially-zoned properties in the vicinity.

Staff notes that the adjacent surrounding lands are zoned FP-35 Farmland Preservation, which would prohibit new non-farm development. The proposed use would not remove any additional land from agricultural use and, being a residential principal use with related supportive services, the operation of the facility on this site would not appear to impact the development or improvement of surrounding lands.

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

The applicant states that the property will be serviced by the existing standard electric, gas and phone services. The plan utilizes the existing water well. A new septic system, and new stormwater management and erosion control plans will be designed in accordance with Dane County and local permit requirements.

Staff notes the applicants are already working with an engineering firm to design the site plan and associated improvements. The standard CUP conditions would require permits and inspections from various agencies for the site development, including erosion control and stormwater management, the modifications to the well and septic systems, as well as the demolition and construction of all structures (see suggested conditions below).

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 existing driveway will be replaced with a new larger driveway with appropriate parking and a turn-around loop. The horse barn would be served by a new driveway, which would be connected to an existing field access at the south end of the site.

The site plan provides adequate parking, loading and circulation for the proposed conditional use; the only comment is that the driveway entrance onto Oak Street will need to be 24' wide where it would accommodate 2-way traffic by ordinance. The proposal would use separate driveways for the residential and common buildings versus the horse barn, which would help minimize conflicts with different types of vehicles. The modified driveway access onto Oak Street would be subject to approval by the Town of Pleasant Springs, as it is a town road.

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

The proposed use conforms to the applicable regulations of the proposed GC zoning district. In the GC district, institutional residential uses are allowed only with approval of a conditional use permit.

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

As noted above, the proposal appears reasonably consistent with the Town and County Comprehensive Plans. Staff recommends that conditions be utilized on any zoning approvals, to ensure that the uses on the property are limited in scope and designed to be compatible with the rural atmosphere and neighboring uses.

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 that pertain to institutional residential land uses might be most likely to involve traffic and noise. The applicant's CUP application addresses how these potential nuisances would be mitigated, as noted above.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Town of Pleasant Springs and the Zoning and Land Regulation (ZLR) Committee. Dane County Zoning Ordinance section 10.103 does not specify any special requirements or additional review standards for institutional residential uses, beyond the general standards for granting a CUP.

JULY 25, 2023 ZLR MEETING: On July 25th, the ZLR Committee held a public hearing on the proposal and postponed action due to no town action at that time.

TOWN ACTION: On August 15, 2023 the Town approved the CUP on a 3-2 vote with 21 conditions, which are listed in the town action report and also listed below in the “Staff Recommendation” section.

STAFF RECOMMENDATION (updated): Staff recommends that the ZLR Committee considers whether the proposal meets each of the CUP standards. 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.

Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the stated intent of the program to provide a quiet and tranquil setting for the purpose of therapeutic healing, a limit of 18 participant-residents and 4 full-time live-in staff, a limit on livestock to 3 equine animals, a deed restriction to restrict the use of the property to the proposed uses into the future, a site plan that meets the requirements of the Zoning Ordinance, a proposal to maintain vegetative buffer around the property, the proposed driveway improvements to accommodate the vehicular traffic, and the conditions imposed as part of the Town of Pleasant Springs’ approval. In addition, staff finds relevant the site’s proximity to County Highway MN, the surrounding land uses providing an agricultural buffer around the site, and the broader neighborhood containing a mix of agricultural, residential, and commercial land uses.

If, after hearing testimony at the public hearing, the Committee finds that the proposal meets the CUP standards, staff would recommend approval with the 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 Conditions for CUP 2598:

Standard Conditions that apply to all conditional uses

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
2. 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.
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 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 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 must be provided, consistent with s. 10.102(8).
8. 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.
9. 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.

10. The owner must post, in a prominent public place and in a form approved by the zoning administrator, a placard with the approved 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 a reasonable opportunity to correct any violations prior to revocation.

Conditions Specific to CUP 2598

13. The institutional residential activity shall be limited to the Under the Oak Trees LLC organization.
14. Livestock on site shall be limited to 3 animal units, as stated in the CUP application for the purpose of equine assisted therapy, an ancillary use to the principal institutional residential use.
15. No goods or services may be sold from the property.
16. This CUP will be reviewed by the Pleasant Springs Planning Commission annually for the purpose of remaining in compliance of the conditions.
17. Applicant must supply the town of Pleasant Springs Clerk the name and phone number of a 24-hour contact in case there is a problem at the property.
18. The use of the parcel must be only in accordance with the stated purpose on the application
19. Institutional residency on site shall be limited to a total of 18 women and their children taking part in the Under the Oaks program and 4 adult live-in house parents.
20. The conditional use permit shall automatically expire upon transfer of the property.
21. This conditional use permit shall not be effective until the property is rezoned to GC General Commercial via rezone petition #11961 becoming effective.