


Staff Report  Zoning and Land Regulation Committee Questions? Contact: Majid Allan: 267-2536 allan@countyofdane.com	Public Hearing: October 27, 2020	CUP 02506	
	Zoning Amendment Requested: TO CUP: 10.103(12) Limited Family Business - Hair Salon	Town/Section: DUNKIRK, Section 31	
	Size: Acres	Survey Required.	Applicant LISA M NELSON
	Reason for the request: 10.103(12) Limited Family Business - Hair Salon		Address: 172 STATE HWY 138



DESCRIPTION: Applicant is requesting approval of a Conditional Use Permit for a Limited Family Business to allow operation of a hair salon out of a portion of a 60'x40' accessory building that would be constructed. The petition also requests sanitary fixtures within the accessory building for a bathroom and hair sink for customers.

TOWN PLAN: The property is located in the town's agricultural preservation area.

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

CONDITIONAL USE PROCESS / STANDARDS: Conditional uses are those uses which, because of their unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review. The zoning ordinance includes specific requirements and standards for review and approval of conditional use permits.

In order to obtain a Conditional Use Permit, an applicant must provide **substantial evidence** to demonstrate that the application, and all requirements and conditions established by the county relating to the conditional use, are or shall be satisfied. Substantial evidence means, *"facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion."*

Prior to granting or denying a conditional use, the zoning committee shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- a. 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;
- b. 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;
- c. 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;
- d. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
- e. 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; and
- f. That the conditional use shall conform to all applicable regulations of the district in which it is located.
- g. That the conditional use is consistent with the adopted town and county comprehensive plans. h. 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).

In addition, the following apply to Limited Family Businesses:

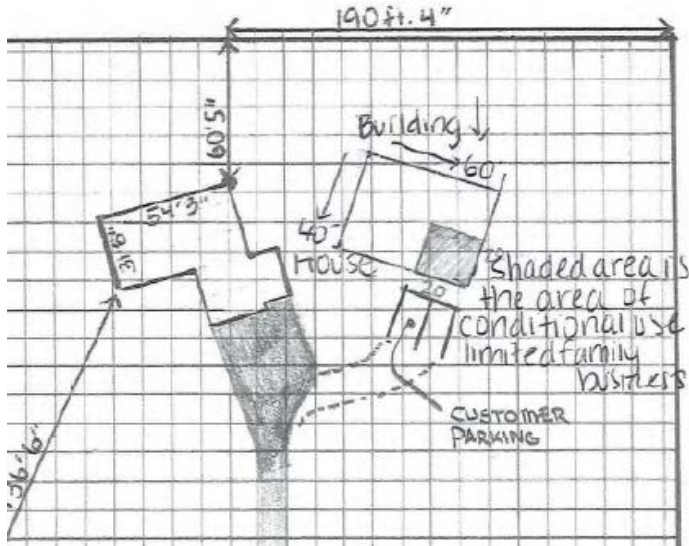
10.103(12) Limited family business.

- a) A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning while at the same time protecting the interests of adjacent property owners. Applicants for this conditional use permit should recognize that rezoning or relocation of the business may be necessary or may become necessary if the business is expanded. No limited family or rural business shall conflict with the purposes of the zoning district in which it is located.
- b) The use shall employ no more than one or one full-time equivalent, employee who is not a member of the family residing on the premises.
- c) Using applicable conditional use permit standards, the committee shall determine the percentage of the property that may be devoted to the business.
- d) The conditional use permit holder may be restricted to a service oriented business and thus prohibited from manufacturing or assembling products or selling products on the premises or any combination thereof.
- e) The conditional use permit may restrict the number and types of machinery and equipment the permit holder may be allowed to bring on the premises.
- f) Structures used in the business shall be considered to be residential accessory buildings and shall meet all requirements for such buildings. The design and size of the structures is subject to conditions set forth in the conditional use permit.
- g) Sanitary fixtures to serve the limited family business use may be installed, but must be removed upon expiration of the conditional use permit or abandonment of the limited family business.
- h) The conditional use permit shall automatically expire on sale of the property or the business to an unrelated third party.

The zoning committee must deny a conditional use permit if it finds that the standards for approval are not met, and must approve if it finds that the standards for approval are met. The decision to approve or deny a conditional use permit must be supported by substantial evidence. Any conditions imposed must be based on substantial evidence, related to the purpose of the ordinance, reasonable, and, to the extent practicable, measurable.

RELEVANT FACTS & INFORMATION: The 6 acre RR-4 (Rural Residential) property is located at 172 State Highway 138 in section 31 of the town of Dunkirk. Current land use is rural residential. Surrounding land uses are scattered rural residences and agriculture / open space. No sensitive environmental features observed.

Applicant indicates that the business plan is for the operation to take place within a roughly 400 sqft corner of the planned 2400 sqft accessory building. The business would operate M-F, 8:30am-8:30pm by appointment, cater to a small clientele, and be limited to 1 customer at a time. There would be no employees other than the owner/operator.



STAFF: The proposal appears reasonably consistent with town plan policies which allow for small, home-based businesses. Given the modest nature of the proposal and rural location, no concerns are anticipated with regard to increased traffic, noise, or other possible nuisances to neighboring properties. Staff finds that the proposal meets the 7 applicable standards for approval of a conditional use permit.

Staff recommends approval of the Conditional Use Permit, subject to the relevant standard conditions found in section 10.101(7)(d)(2) and 10.103(12).

1. This conditional use permit is for a Limited Family Business – Hair Salon.
2. Hours of operation shall be limited to 8:30am-8:30pm.
3. The use shall employ no more than one or one full-time equivalent, employee who is not a member of the family residing on the premises.
4. The business shall be located within an approximate 400-600 square foot area of the planned 2,400 square foot accessory building, as depicted on the site plan.
5. Sanitary fixtures to serve the limited family business use may be installed, but must be removed upon expiration of the conditional use permit or abandonment of the limited family business.
6. The conditional use permit shall automatically expire on sale of the property or the business to an unrelated third party.

The following are standard conditions that apply to all Conditional Use Permit applications

7. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
8. 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.
9. 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.
10. 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.

11. 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.
12. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
13. Off-street parking must be provided, consistent with s. [10.102\(8\)](#).
14. 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 born by the landowner. Costs born by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
15. 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.
16. 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.
17. 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.
18. 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.

TOWN: Approved with the 18 conditions listed above.