
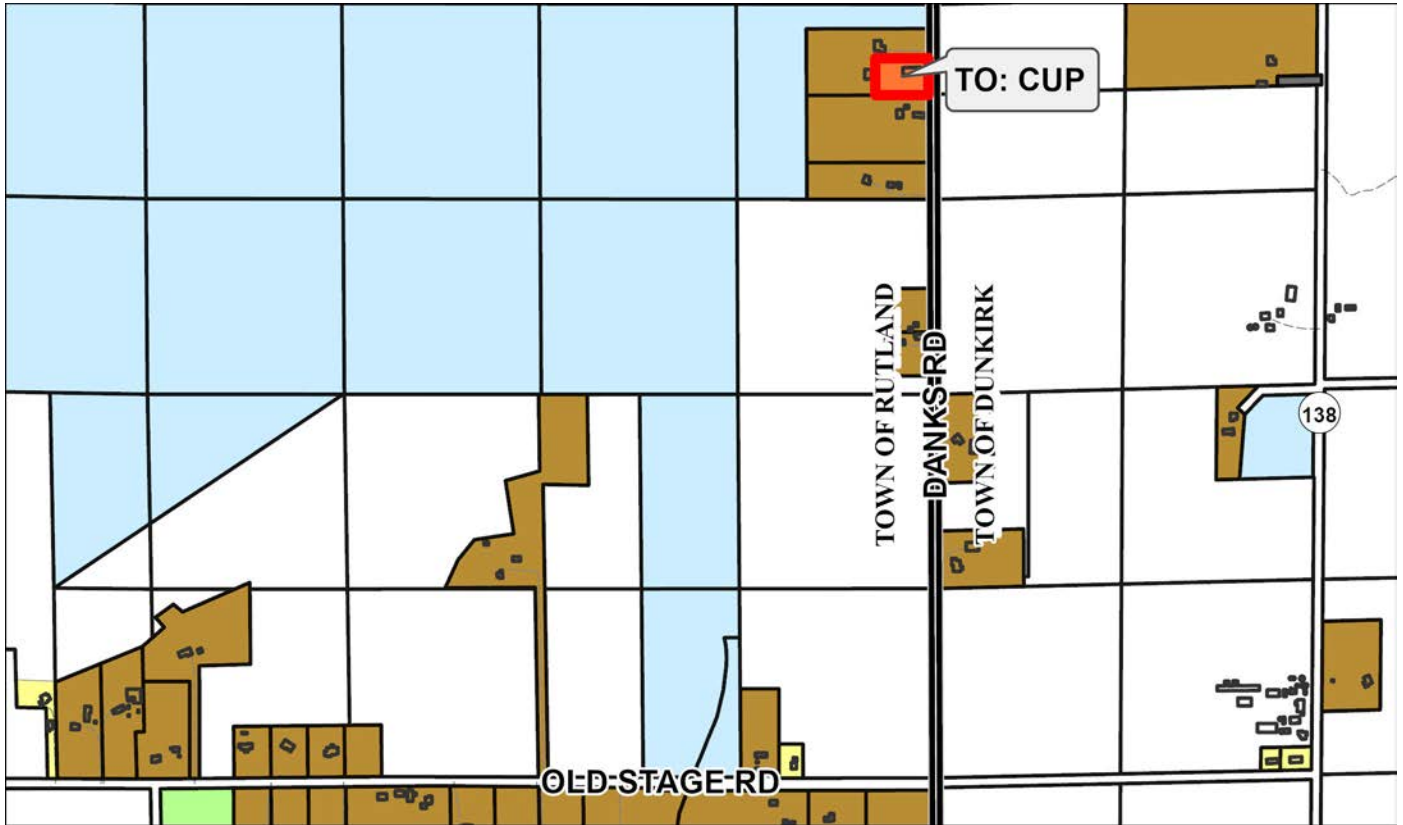


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| <b>Staff Report</b><br><br><b>Zoning &amp; Land Regulation Committee</b> | <u>Public Hearing:</u> <b>October 22, 2024</b>   | <b>Conditional Use 02639</b>                        |   |
|   | <u>Zoning Amendment Requested:</u><br><b>TO CUP: CUP FOR CARETAKER'S RESIDENCE IN AN EXISTING BUILDING</b> | <u>Town, Section:</u><br><b>RUTLAND, Section 25</b> |   |
|   | <u>Size:</u> <b>2.07 Acres</b>   | <u>Survey Required:</u>                             | <u>Applicant:</u><br><b>BADFISH ACRES LLC</b> |
|   | <u>Reason for the request:</u><br><b>CUP FOR CARETAKER'S RESIDENCE IN AN EXISTING BUILDING</b>             |   | <u>Address:</u><br><b>363 DANKS RD</b>        |



**DESCRIPTION:** Applicant Dean Tangeman requests a CUP for a caretaker’s residence at the 2-acre property he recently acquired. The property is zoned LC Limited Commercial, and contains an existing 5,400-square foot shed building that currently houses some of his tree care business operations. He would like to build a new home for himself within the existing building, approximately 15’ x 42’ or 630 square feet in size.

**OBSERVATIONS/ FACTUAL INFORMATION:** The surrounding properties consist of two rural residential lots with homes adjacent to the north/south/west, DNR-owned open space land to the west, and farmland across Danks Road in the town of Dunkirk. The subject property is Lot 2 of CSM #9026 from 1998. LC zoning was established here in 1996 as a “spot zone” over this 2-acre portion of the property, which at the time was an 8-acre lot containing the house to the north. The rezone was done to rectify a zoning violation at the time that involved a different owner and contractor business. In 1998, the property was split into two lots and the residential lot was sold; the residential lot has had multiple owners since then, and Tangeman bought the LC lot in 2023.

The LC zoning district’s permitted uses include contractor, landscaping or building trade operations; Indoor storage and repair; incidental parking for employees; offices; and storage of up to 12 total vehicles and pieces of construction equipment. LC zoning lists a caretaker’s residence as a conditional use. A “caretaker’s residence” is defined as *a dwelling on a nonresidential property occupied by the person who oversees the nonresidential property 24 hours a day, and his or her family.*

When it was zoned LC in 1998, the property was deed restricted to limit the commercial use. Register of Deeds document #2805555 limits the property to having one employee, and all unlicensed vehicles must be stored indoors.

There is currently a zoning violation on the property for outdoor storage of brush and other wood debris associated with the owner's tree care business. Outdoor storage is listed as a conditional use in the LC district. Resolving the violation will require cessation of the outdoor storage, or an application for and approval of a separate CUP for outdoor storage of materials.

**RESOURCE PROTECTION:** There are no sensitive environmental features on or within 300 feet of the subject property.

**COMPREHENSIVE PLAN:** The property is located in the town's agricultural preservation area. The proposed CUP to allow a caretaker's residence appears reasonably consistent with town plan policies. As noted above, there is an outstanding zoning violation on the property associated with outdoor storage of debris. The violation should be resolved before any action is taken on the CUP request for a caretaker residence.

For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or [Allan.Majid@danecounty.gov](mailto: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 the conditional use will be a caretaker's quarters, which will assist to maintain the property.

The application does not indicate future driveway plans, but a small gravel driveway already exists onto Danks Road. Mr. Tangeman intends to improve the driveway with gravel in order to provide one turnaround for the south-facing overhead door and one for the east-facing overhead door. The town has a driveway ordinance, which allows gravel and sets a minimum width of 24 feet. There appears to be adequate space on site for driveway improvements, though the driveway would need to be approved by the town. It may also require an erosion control permit from Dane County Land and Water Resources because it would involve land disturbance on a commercial property.

In order to obtain zoning and building permits, the applicant will need to verify that the structure meets applicable building and fire safety codes for both the residential and commercial spaces.

**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 it will only increase the value of the property as the building and site will be improved.

Staff agrees that the addition of a home on this limited-commercial property should not negatively impact the neighborhood. If anything, the effect should be positive as there will be on-site supervision by the owner.

**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 no additional traffic is anticipated. He will be living there in the caretaker's quarters. 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 surrounding properties are already zoned and used for agricultural, rural residential, or state-owned open space purposes.

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

The applicant states that all roads, driveway and parking are already in place. As noted above, there is an existing driveway access which is proposed to be further improved with the new construction of the 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.**

Off street parking is currently provided for the property by the shed building and driveway. The applicant anticipates no additional traffic with this CUP.

Staff notes that a residence typically sees 10 vehicle trips to and from the home each day. The owner is currently running a tree service from the property, which includes pruning, removals, planting, stump grinding, and consulting. Tangeman is the owner/operator and has one full time employee who parks there during the day and drives a company truck to the job site. Employee traffic occurs between 7am and 4:30pm, Monday thru Friday with occasional weekend work.

**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 LC zoning district. A caretaker's residence is an allowable conditional use in the district.

While technically outside the purview of this CUP, Zoning code section 10.102 requires commercially-zoned properties to have visual screening from adjacent residential properties. There are two residential properties adjacent to this lot, one to the south and another on the north and west sides. The owner is planning to add vegetative screening to the south and west sides to shield the commercial activities from these residences.

**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:** Unlike commercial land uses, a caretaker's residence does not typically have many potential nuisances associated with it. The applicant's CUP 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 for caretaker residences. Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee.

**TOWN ACTION:** The Town Board has approved the CUP with no special conditions.

**STAFF RECOMMENDATION:** Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the information provided for the home construction, the CUP standards addressed in the application, and is reflected in the town's approval.

At this time staff recommends the ZLR Committee postpone action on this CUP, until the wood storage violation is resolved. Pending resolution of the zoning violation, and any concerns expressed at the ZLR Public Hearing, Staff would recommend approval of the CUP with the conditions listed below (the standard CUP conditions in the ordinance). We recommend 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.

**CUP 2639 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 (none).
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.

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