
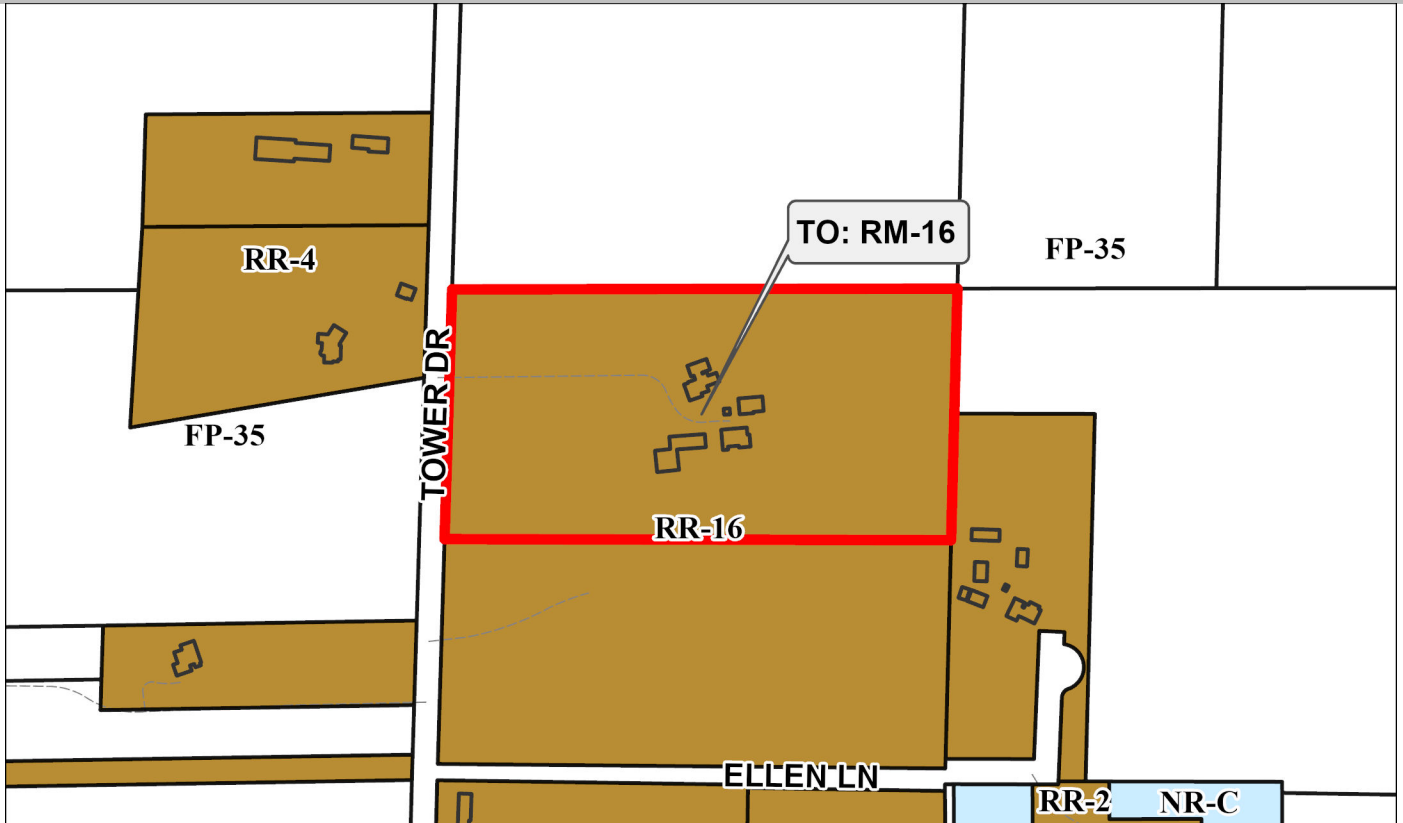


<b>Staff Report</b>    <b>Zoning and Land Regulation Committee</b>	<i>Public Hearing:</i> <b>January 23, 2024</b> <b>Report updated for the July 9, 2024 ZLR meeting</b>	<b>Petition 11997</b>
	<i>Zoning Amendment Requested:</i> <b>RR-16 Rural Residential District TO RM-16 Rural Mixed-Use District</b>	<i>Town/Section:</i> <b>PLEASANT SPRINGS, Section 24</b>
	<i>Size:</i> <b>20 Acres</b>	<i>Survey Required:</i> <b>No</b>
	<i>Reason for the request:</i> <b>change zoning district to allow an expanded set of land uses for future buyers</b>	<i>Applicant:</i> <b>GREG DUCKERT IRREV TRUST</b>  <i>Address:</i> <b>2296 TOWER ROAD</b>



**DESCRIPTION:** Applicant Greg Duckert would like to rezone a 20-acre certified survey map lot from RR-16 to RM-16 Rural Mixed Use, to enable a wider range of land uses to help facilitate the sale of the property. The property hosts an assortment of buildings that have been improved over the years to include an indoor basketball court, an indoor pool, and a living space/guesthouse with a kitchen, bathroom and bedroom. There are several buyers that are interested in the property and who want to use the accessory buildings as remodeled; however, the pool building was found to be in violation of the zoning ordinance (see Site Buildings Map exhibit).

**OBSERVATIONS:** Over the years, zoning permits have been issued for the construction of residential additions and accessory buildings for this property. The primary residence contains a separate wing with additional bedrooms, bathrooms, and kitchen. The accessory buildings were approved for storage purposes. One accessory building (in the southwest) has been turned into a basketball court with a second floor loft. Another accessory building (in the southeast corner) was converted into a living space/guesthouse that includes a bedroom, bathroom, kitchen, and in-ground pool.

When the property was listed on the market, zoning staff noticed that the listing advertised a guesthouse on site. The photos contained with the [real estate listing](#) clearly identified that an accessory building was converted into a guesthouse. Zoning staff issued a notice of violation letter in October. No efforts have been made to correct this violation. A lawsuit has been filed by Corporation Counsel regarding the violation.

In December, zoning staff met with a prospective buyer and had an initial discussion about the property. She was interested in using the property as a family residence (including the guesthouse with swimming pool), installing a small-scale solar farm to generate electricity both for personal and community (grid) use, and using one of the shed buildings for educational program space for subjects in agriculture and STEM (science, technology, engineering and math).

Staff pointed out that the property is currently in violation of the zoning ordinance, and the violation would need to be corrected if any future land uses would be approved. If the plan is to install a small energy generating facility and a school, specific site plans and information would be needed as part of the application. The appropriate zoning district, and a possible conditional use permit, would both need to be evaluated upon receiving a more detailed proposal.

**COMPREHENSIVE PLAN:** The property is located in a designated agricultural preservation area. As the application indicates, the owner is requesting Rural Mixed Use zoning since the district allows a wider range of possible conditional uses, which the applicant believes may help facilitate sale of the property. Town policies specify that Rural Mixed Use zoning is an appropriate category to accommodate the potential for small-scale commercial uses, which the town may allow provided any such uses would be compatible with existing neighboring uses and other applicable policies.

No specific non-residential or agricultural uses are currently proposed, but the application materials note an intent to apply for conditional use permits for both a solar farm and STEM educational facility. Conditional uses cannot be applied for on a speculative basis, but rather must be associated with specific proposals that are supported by detailed proposal and substantial evidence demonstrating a proposed use satisfies the standards for approval of a conditional use permit.

While the request for RM-16 zoning is reasonably consistent with comprehensive plan policies, staff recommends postponement of the rezoning petition until the outstanding zoning violation is remedied. (For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or [allan@countyofdane.com](mailto:allan@countyofdane.com).)

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

**STAFF RECOMMENDATION (from January 2024):** Changing the zoning from the RR zoning district to the RM zoning district would definitely expand the list of land uses for the property. Some of the land uses listed in the RM zoning district may create opportunities for undesirable land uses in this area (Concentrated Animal Feeding Operations or CAFOs, mineral extraction, racetracks, asphalt plants). Given that the request is vague on the intended uses, there is a pending violation of the property, and Town input cannot be obtained, Staff suggests that the zoning request be postponed at this time.

**JANUARY 23, 2024 ZLR HEARING:** After the public hearing, the ZLR Committee postponed action to allow time for the petitioner to deal with the zoning violation and/or revise the petition. No one spoke in opposition to the rezoning.

Since the public hearing, the applicant addressed the violation by removing all of the plumbing and sanitary fixtures in the building other than those needed for the swimming pool. The site was inspected and the violation was closed.

**TOWN ACTION (updated July 2024):** Previously, the Town of Pleasant Springs had indicated that they would not place any zoning requests on a Town agenda for this property until the zoning violation was corrected. Staff has learned this related to other zoning requests. Since the public hearing, the town provided an action report to verify that on August 15, 2023 the Town Board recommended approval of the rezone petition subject to no further development on the property.

**STAFF RECOMMENDATION (updated July 2024):** Because the petition has a town recommendation to approve, and the zoning violation has been resolved, Staff recommends approval of the petition subject to the following condition:

1. A deed restriction shall be recorded on the lot stating the following:
  - a. No further development (residential development or land division) shall be allowed on the property.

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