

Staff Report



**Zoning and
Land Regulation
Committee**

Public Hearing: **June 27, 2023**

**Conditional Use
02595**

Zoning Amendment Requested:

TO CUP: Updating the operations plan of the daycare center to construct an accessory building

Town/Section:

DUNKIRK, Section 9

Size: **10.23 Acres**

Survey Required.

Applicant

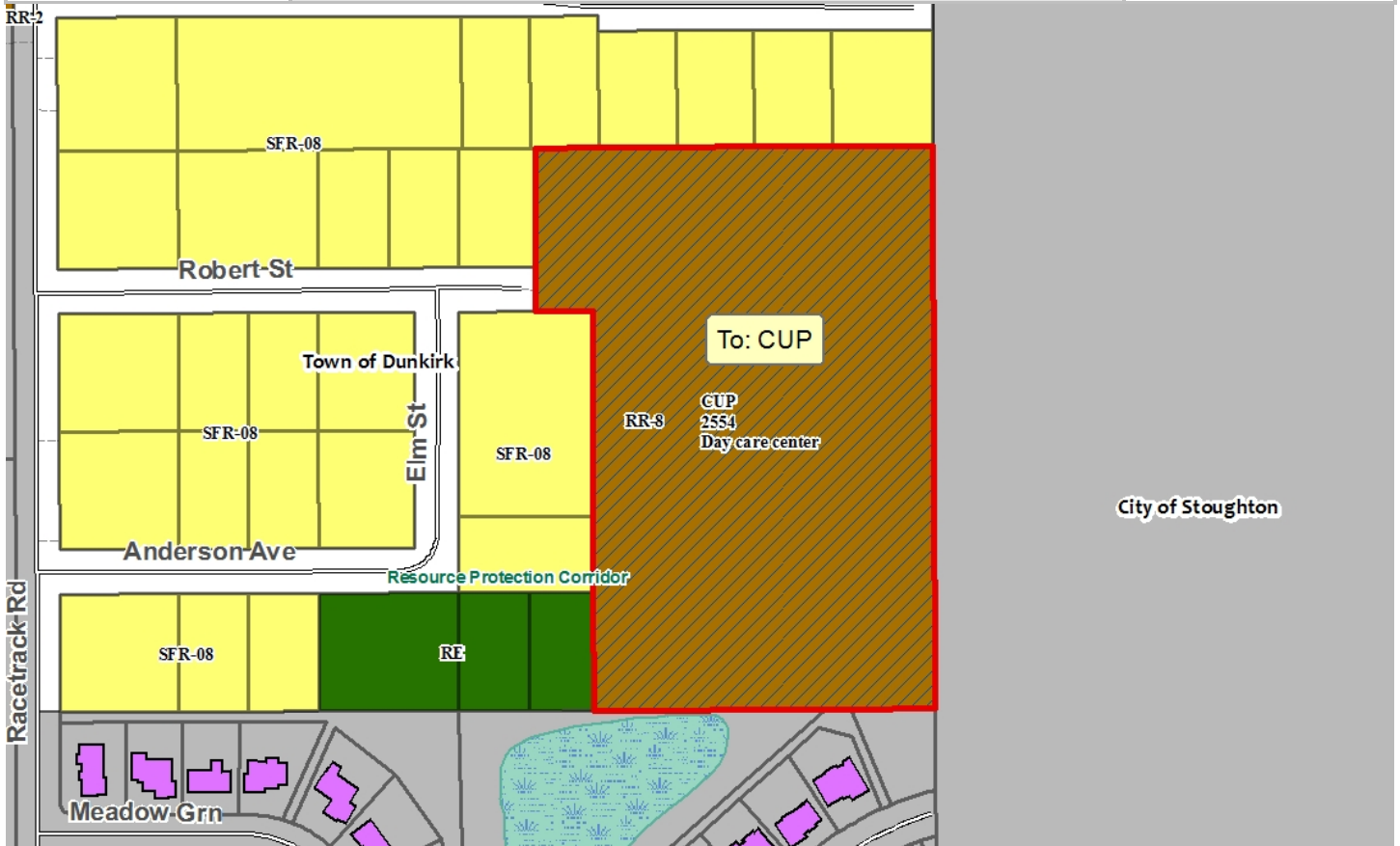
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Reason for the request:

Updating the operations plan of the daycare center to construct an accessory building

Address:

2402 ROBERT STREET



DESCRIPTION: Applicant Kate Dennis wishes to update the plan for the existing Fort Little Green Youth Camp in order to construct a new garage, access drive, and parking area at the existing daycare center facility. This conditional use permit (CUP) is requested to update the current CUP and operations plan under [CUP 2554](#) which was approved in 2022. Fort Little Green has been in operation since 2012, when the original CUP 2184 was approved.

OBSERVATIONS/ FACTUAL INFORMATION: The 10-acre property is a certified survey map lot located on the east end of Robert Street, along the town border with the City of Stoughton. The site is surrounded by residential and agricultural properties. Residential lots to the north and west in the Town of Dunkirk have SFR-08 zoning, a residential subdivision to the south and farmland to the east are in the city’s jurisdiction. The property is characterized by level terrain on most of the lot that drops down in the south end on a wooded slope.

RR-8 zoning allows daycare centers with approval of a conditional use permit. The current CUP for the daycare center was approved in 2022, updating the original permit. It included the existing operation and site improvements, and allowed the center to expand to 100 children during the summer months, but it excluded any site or building development because specific building plans were still being prepared at that time. The proposed 1,440 square-foot building would be used to store vehicles and equipment.

RESOURCE PROTECTION: No resource protection areas are located on the property.

COMPREHENSIVE PLAN: The property is located in a designated agricultural preservation area. It is worth noting that virtually the entire township is designated as an agricultural preservation area. The City of Stoughton Plan shows this area being part of the Southeast neighborhood planning area. The land is adjacent to the city's short-term urban growth area, which will incorporate traditional neighborhood design principles.

Town plan policies indicate the need to develop additional childcare facilities and capacity. In the chapter on Utilities and Community Facilities, the plan notes the following, "In the coming years, childcare will likely be a pressing need. While the town will not provide childcare, it should allow for this type of use in appropriate areas in the town."

Pending any concerns expressed by the town during its review of the proposal, or at the ZLR Public Hearing, the requested amendment to the existing conditional use permit appears 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 operation and site layout. Along with the new building, the proposal would provide additional space on site for vehicle movement and parking, to distribute traffic on site. No change is proposed to the operating hours, the number of children or employees, septic system, or other key aspects of the daycare operation.

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 this standard will be met, and the site plan shows how the daycare would continue to use the existing driveways. The proposed building is set back farther from property lines than what would be required by the zoning ordinance (30' from the north and 120' from the east, vs the minimum 10' required).

Zoning code does not require visual screening under s. 10.102(12), though the Town Board and ZLR Committee may require screening as a condition on any CUP where appropriate to minimize visual impacts to neighboring properties. The applicants propose a new landscaping buffer along the northern property line consisting of a new 6' tall cedar fence and a line of white spruce trees. This would provide screening from the new building, parking and driveway areas. New lighting (consisting of 4 fixtures) is proposed on the garage building. All lighting must be directed down and away from other properties to minimize ambient light spill by ordinance; this can also be a condition of approval for this proposed CUP.

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 this condition will be met. 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 proposed operation would be consistent with how the property has been used for years, with the addition of a garage and associated parking and driveway areas. This property and most of the

surrounding properties are already used and zoned for residential development. The land to the east in the City of Stoughton is in a “rural holding” agricultural zoning district.

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

The applicant states that the new building will not produce any additional trash, waste, or recyclable needs, and no new plumbing or sanitary improvements are proposed. Electrical service would be extended to the garage.

Drainage improvements are part of the proposal. Disturbance of 4,000 SF requires erosion control and stormwater management permits from Dane County Land and Water Resources. The site plan includes future stormwater management facilities to address runoff and meet ordinance requirements.

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 this standard will be met and references the site plans. Off street parking is currently provided on site and the property is served by two driveways (one from Robert Street and another from Elm Street). The proposal would provide additional space on site for vehicles by adding a new driveway loop and 17 parking stalls in the north end. This would bring the site to a total of at least 24 parking stalls, and would enable them to distribute traffic into different areas on site.

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 RR-8 zoning district. A daycare center is an allowable conditional use in the zoning district, and the proposed building and other improvements are consistent with RR-8 requirements.

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: The potential nuisances that pertain to daycare operations most likely involve noise, traffic, and safety. The applicant’s CUP application addresses how these potential nuisances are handled, as noted above.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for day care center operations.

TOWN ACTION: On June 19, 2023 the Town Board approved the CUP with no 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 proposed site and building plans that meet zoning code requirements as well as the fact that the daycare operation would be substantially the same as what is currently permitted. The applicant has also updated the “Operational Plan Details for Fort Littlegreen” narrative from the CUP approved in 2022, to be consistent with the current plan for the daycare. In addition, while the proposed new outdoor lighting is minimal, staff recommends a condition of approval to ensure that new lighting will comply with code requirements for downcast light fixtures.

Pending any comments at the public hearing, staff recommends that the ZLR Committee makes a finding of fact as to whether the proposal meets the applicable CUP standards. If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff. Staff would recommend approval with the conditions listed below.

CUP 2595 Potential Conditions of Approval:

Standard CUP Conditions

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. This includes the site plans by Danton Construction Services dated March 17, 2023.
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 2595

13. Capacity of the preschool shall be limited to 50 children during the school year. Summer enrollment shall be limited to 100 children.
14. Any future building or related site expansion shall require a new Conditional Use Permit.
15. Hours of operation of the preschool shall be limited to 7:00am to 6:00pm, Monday through Friday.
16. This Conditional Use Permit will expire upon the sale or termination of Fort Littlegreen (daycare center) by Luke or Kate Dennis.
17. No plumbing or sanitary fixtures shall be installed in the shed, which is a residential accessory building, without approval of a modified conditional use permit.
18. Outdoor lighting be directed downward and away from adjacent properties and public rights-of-way, and be designed to minimize ambient light spill.

Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@countyofdane.com