


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> June 27, 2023	Conditional Use 02593
	<i>Zoning Amendment Requested:</i> TO CUP: Limited Family Business - Contractor	<i>Town/Section:</i> DEERFIELD, Section 1
	<i>Size:</i> 3 Acres	<i>Survey Required:</i>
	<i>Reason for the request:</i> Limited Family Business - Contractor	<i>Applicant:</i> JEREMY R IRONSIDE
		<i>Address:</i> SOUTH OF 4693 DEER LAKE LANE



DESCRIPTION: Applicant Jeremy Ironside requests a conditional use permit (CUP) for a limited family business in order to operate a contractor business (Ironside Home Improvements) on a 3-acre lot with RR-2 zoning. As part of a new residential home construction project, he proposes a new 48'x80' (3,840 sf) accessory building to store tools and equipment for the business, which does home improvement work off-site.

OBSERVATIONS/ FACTUAL INFORMATION: The property is Lot 3 of certified survey map #11634 that was recorded in 2005. The lot is deed restricted from the rezoning done that year (Rezone 9184), which specifies that one house is allowed on either this lot or the adjacent lot (parcel 071201180360) to the north. There is no home on the other lot, which is also deed restricted and is zoned FP-B Farmland Preservation Business which does not allow a home to be built.

Neighboring land uses are undeveloped DNR-owned lands, agricultural crop land, rural residential, and an automotive repair shop business. The property is next to the town border, which is along Deer Lake Lane and is also the boundary between Dane and Jefferson Counties.

Ironside Home Improvements LLC is a small contractor business for home improvement/remodeling. The accessory building will store tools and equipment used for the business, including ladders, a dump trailer, cement mixer, metal break, jack hammer, extra building materials, small hand tools (in addition to personal items such as a camper and tools/equipment). The applicant would be the only employee on site, and would load and unload materials between 4:00pm and 7:00pm on weekdays, and between 8:00am and 7:00pm on weekends.

RESOURCE PROTECTION: Resource protection corridors are mapped on the property reflecting steep slopes, which appear to be man-made since 2005. Staff has no concerns.

COMPREHENSIVE PLAN: The property is located in a designated agricultural preservation area. Town policies allow for limited commercial uses, provided they are compatible with surrounding uses and the rural character of the town. Pending any concerns raised by the town during its review of the petition, or during the ZLR Public Hearing, the requested conditional use permit for a limited family business 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 the conditional use will meet this standard since the shed building will store tools and equipment while they are not being used, and all of the work done by Ironside Home Improvements will be done off-site. He also indicates there will be no noise, no additional traffic, no outdoor storage, and no signage associated with the proposed conditional use. All of the business’ construction waste will be collected in a dump trailer to be stored inside the accessory building and disposed of at the dump. No hazardous, toxic, or explosive materials are proposed to be stored, other than residential gas cans for lawn care.

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 because the building will be used for the company’s storage, as well as for residential accessory uses and small-scale farming, uses allowed by the RR-2 zoning. The application specifies the business as a small-scale operation involving one employee loading and unloading materials to and from shed building. Outdoor lighting on the shed would consist of 2 to 6 LED soft lights near the doors on a switch (not a motion sensor) for use when needed. There will be no lights on the south side of the building.

As noted above, the surrounding properties are in open space, agricultural, rural residential and business use. There is only one home within 500 feet of the property; the nearest homes are 177 and 685 feet away.

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 standard will be met because the building will be used for the company’s storage, as well as for residential accessory uses and small-scale farming, uses allowed by the RR-2 zoning.

As noted above, the surrounding properties are in open space, agricultural, rural residential and business use. The property is an existing residential development lot that already has access to the public road, and an existing access easement. No changes are proposed to the property boundary or access. Thus the proposed use would not appear to impede the development of surrounding properties.

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

The applicant states that this standard is met because these site improvements are being planned for the residence and the accessory building.

Staff notes that a zoning permit has been issued for the new home and septic system on site. A separate zoning permit will be required for the accessory building. As noted above, there is an existing driveway / driveway easement on site. No new plumbing or sanitary fixtures are proposed in the accessory building. Thus there will be adequate utilities, access roads, drainage, and other improvements for the proposed use.

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 because access will be through a private residential driveway, and all of Ironside Home Improvements' operations will take place outside of the accessory building (off-site). Applicant indicates no customer traffic, and one business truck and dump trailer (maximum combined weight of 5 tons).

The business will have adequate off-street parking and access for its sole employee using the driveway, which will be improved as part of the home and shed building construction. Deer Lake Lane has no paved cul-de-sac bulb, but has a few driveways extending off of it, including one for this property.

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-2 zoning district. The maximum height for an accessory residential building in the RR-2 district is 35 feet. A Limited Family Business is an allowable conditional use in the RR-2 district. The site plan and narrative included in the application show the proposed building will comply with the setback and other building requirements of the RR-2 district.

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. The applicant states that the building will be used for storage, will support the comprehensive plan goal of supporting small businesses, and that he will be adding to the town's tax base by being able to utilize this space for storage for both personal and small-business use.

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 limited family business (contractor) operations can most likely involve increase vehicle traffic and noise. 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(12), there are special requirements for limited family business operations:

- a) 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.

TOWN ACTION: On June 12, 2023 the Town Board approved the conditional use with no conditions, noting there was also no opposition to the proposal.

STAFF RECOMMENDATION: Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the fact that there would be only one employee, and no customer traffic, business signage, outdoor storage, or noise associated with the storage use. Staff recommends conditions only to specify the use of the property for this particular business as proposed by the current owner.

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. If it deems necessary, the Committee may also add conditions per s. 10.103(12) of the zoning code, listed above. Staff recommends approval of the CUP with the conditions listed below.

CUP 2593 Potential Conditions of Approval:

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 2593

13. The Limited Family Business activity shall be limited to indoor storage for the Ironside Home Improvements business.
14. 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.
15. 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.
16. The conditional use permit shall automatically expire on sale of the property or the business to an unrelated third party.

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