

PLANNING DIVISION STAFF REPORT

May 6, 2024

PREPARED FOR THE PLAN COMMISSION



Project Address: 6910 E Buckeye Road

Application Type: Conditional Use

Legistar File ID # [82732](#)

Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted.

Summary

Applicant & Property Owner: Thomas D. Flynn, Action Pro Window Cleaning, Inc.; 6910 E Buckeye Road; Madison.

Requested Action: Consideration of a conditional use in the A (Agricultural) District for a home occupation with an outside employee.

Proposal Summary: The applicant operates a window washing, pressure washing, and gutter cleaning business from the single-family residence located on the property and wishes to employ someone to handle administrative tasks for the business. The employee does not live on-site, which is only allowable by conditional use approval.

Applicable Regulations & Standards: Table 28G-1 in Section 28.091(1) of the Zoning Code identifies home occupations as a permitted or conditional use in the A (Agricultural) zoning district subject to the supplemental regulations in Section 28.151. Section 28.183 provides the process and standards for the approval of conditional use permits.

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission may find the standards met and **approve** a conditional use to allow an outside employee for a home occupation at 6910 E Buckeye Road subject to input at the public hearing, the recommended condition in the Zoning Administrator's memo dated May 6, 2024, and the conditions from reviewing agencies beginning on page 4 of this report.

Background Information

Parcel Location: The subject site is a 21.02-acre parcel located on the easterly side of E Buckeye Road (CTH AB) at Fankhauser Road; Alder District 16 (Currie); McFarland Area School District.

Existing Conditions and Land Use: Single-family residence and accessory buildings, zoned A (Agricultural District).

Surrounding Land Uses and Zoning: The area surrounding the subject site features primarily undeveloped open space and agricultural lands in A (Agricultural District) and CN (Conservancy District) zoning. Grace Evangelical Church is located south of the site on the westerly side of E Buckeye Road. A group of nonconforming commercial and light industrial buildings that predate the attachment of the site and surrounding properties to the City from the Town of Blooming Grove on December 28, 2015 is located approximately 1,000 feet west of the site on the southerly side of E Buckeye Road.

Adopted Land Use Plans: The 2017 [Yahara Hills Neighborhood Development Plan](#) recommends most of the subject site for other open space and stormwater management uses with the exception of a small area located

where the western property line meets E Buckeye Road, which is recommended for Residential Housing (HM) 2. The 2023 Comprehensive Plan similarly recommends most of the property for Park and Open Space (P) with the exception of the same area where the western property line meets E Buckeye Road, which is recommended for Low-Medium Residential (LMR).

Zoning Summary: The site is zoned A (Agricultural District) and all improvements are existing. No new construction is proposed at this time.

Other Critical Zoning Items:	
Yes:	Wetland, Floodplain, Utility Easements
No:	Urban Design, Barrier Free, Landmarks, Waterfront Development, Adjacent to Park, Wellhead Protection
Prepared by: Jacob Moskowitz, Assistant Zoning Administrator	

Environmental Corridor Status: The subject site is not located within the Central Urban Service Area (CUSA). Therefore, there are no mapped environmental corridors on the subject site at this time.

Public Utilities and Services: The site is located outside the CUSA and is served by a private well and septic system. A sanitary sewer force main owned and maintained by the Village of Cottage Grove extends along the E Buckeye Road frontage, which is not accessible for use by the adjoining properties.

Project Description

The applicant, Thomas D. Flynn is requesting approval of a conditional use for an outside employee for a home occupation in a one-story single-family residence located at 6910 E Buckeye Road (CTH AB). Mr. Flynn runs Action Pro Window Cleaning, Inc. from an office in the residence on the property and desires to employ someone other than immediate family residing on the premises or occupants of the dwelling to handle administrative duties. An employee not living on the subject property requires Plan Commission approval of a conditional use. The site is zoned A (Agricultural District).

In addition to the residence, which is located near where the western property line meets E Buckeye Road, the property is developed with a series of accessory buildings of varying size, which surround the residence on three sides. Most of the 21-acre parcel is undeveloped. The letter of intent indicates that equipment related to the window washing, pressure washing, and gutter cleaning business will not be stored on site. The letter of intent also clarifies that work crews for the business will not meet on the property.

Supplemental Regulations

Section 28.151 of the Zoning Code includes the following supplemental regulations for a Home Occupation:

- The occupation shall be conducted within a dwelling and not in an accessory building, unless authorized by the Plan Commission as a conditional use.
- The occupation shall be clearly incidental and secondary to the principal use of the dwelling for dwelling purposes so as to protect the integrity and residential character of neighborhoods.
- Only members of the immediate family residing on the premises or occupants of the dwelling may be employed, unless authorized by the Plan Commission as a conditional use.

- (d) A home occupation may include small offices, service establishments or homecrafts which are typically considered accessory to a dwelling unit.
- (e) A home occupation shall not involve on-site wholesaling, manufacturing or assembly, a limousine, towing or cartage business or auto service or repair for any vehicles other than those registered to residents of the property.
- (f) No mechanical equipment shall be used except that which is used for purely domestic or household purposes, unless authorized by the plan commission as a conditional use.
- (g) No products shall be kept or commodities sold, other than those made on the premises, unless authorized by the plan commission as a conditional use.
- (h) Samples may be kept but not sold on the premises.
- (i) No more than twenty-five percent (25%) of the floor area of one story of the dwelling may devoted to such home occupation.
- (j) The entrance to the space devoted to the home occupation shall be from within the building.
- (k) No structural alterations or enlargements shall be made to the dwelling for the primary purpose of conducting the home occupation.
- (l) The only exterior indication of the home occupation shall be a non-illuminated nameplate a maximum of two (2) square feet in area.
- (m) A home occupation of an individual with a disability, who is incapable of employment outside the home by reason of significant physical or mental disability, as verified by a signed physician statement verifying the disability, is exempt from the requirements of subparagraphs (g) through (k).

Analysis and Conclusion

The Planning Division believes that the Plan Commission may find the standards for conditional use approval met to allow the home occupation to employ someone who is not immediate family residing on the premises or an occupant of the dwelling. No alder or public comments have been received as of the writing of this report that would suggest that the Plan Commission could not approve the request as submitted subject to the proposed conditions. As with any conditional use, the Plan Commission retains continuing jurisdiction in the event that complaints are received about the conditional use, which could result in more restrictive conditions being applied or the conditional use revoked if deemed necessary following an investigation and public hearing.

However, the Plan Commission should consider the applicant's history of non-compliance with the Zoning Code when considering whether to grant the conditional use request.

Section 28.183(6)(b), entitled 'Conditions', states the following (*emphasis added*):

1. *Before granting a conditional use, the Plan Commission may stipulate conditions and restrictions on the establishment, location, construction, maintenance and operation of the conditional use. In doing so, the Plan Commission may consider overdue taxes and/or fees and **the applicant's history of compliance with relevant ordinances and approvals, including but not limited to, building and minimum housing code, zoning code and zoning approvals, and alcohol license provisions and approvals.***

As noted in the attached memo from Zoning Administrator Katie Bannon, the applicant has been found in violation of the Zoning Code on two occasions since purchasing the property in October 2019, including one associated with the window washing, pressure washing, and gutter cleaning business. While the applicant appears to have brought the business-related violation into compliance, a second violation related to the filling of floodway is still being prosecuted by the City. The Zoning Administrator proposes the following condition of approval:

- *If approved, the conditional use shall not be allowed to commence until a plan and action towards removal of illegally placed fill in the regulatory floodplain area has been approved and proceeds accordingly, to the satisfaction of the Zoning Administrator and in compliance with the floodplain overlay regulations in Chapter 28.*

However, unless the Plan Commission finds that the outside administrative employee for the home occupation cannot meet one or more of the applicable standards for approval enumerated in Section 28.183(6)(a) of the Zoning Code, it is advised not to deny the conditional use due to the zoning violations elsewhere on the property.

Recommendation

Planning Division Recommendation (Contact Timothy M. Parks, (608) 261-9632)

The Planning Division recommends that the Plan Commission may find the standards met and **approve** a conditional use to allow an outside employee for a home occupation at 6910 E Buckeye Road subject to input at the public hearing, the recommended condition in the Zoning Administrator's memo dated May 6, 2024, and the conditions from reviewing agencies that follow:

Recommended Conditions of Approval Major/Non-Standard Conditions are Shaded

City Engineering Division (Contact Brenda Stanley, (608) 261-9127)

This agency has reviewed this request and recommended no conditions or approval.

City Engineering Division – Mapping Section (Contact Julius Smith, (608) 264-9276)

This agency has reviewed this request and recommended no conditions or approval.

Traffic Engineering Division (Contact Sean Malloy (608) 266-5987)

This agency has reviewed this request and recommended no conditions or approval.

Fire Department (Contact Matt Hamilton, (608) 266-4457)

This agency has reviewed this request and recommended no conditions or approval.

Zoning Administrator (Contact Jacob Moskowitz, (608) 266-4560)

1. If approved, the conditional use shall not be allowed to commence until a plan and action towards removal of illegally placed fill in the regulatory floodplain area has been approved and proceeds accordingly, to the satisfaction of the Zoning Administrator and in compliance with the floodplain overlay regulations in Chapter 28.
2. This conditional use approval is for an office use only. A window washing, pressure washing, and gutter cleaning business is not an allowed home occupation. No trucks, equipment, or other items related to the

business shall be kept or stored on the property. No employees other than the home office workers shall be on site. The property shall be and remain the business owner's primary residence.

Parks Division (Contact Ann Freiwald, (608) 243-2848)

This agency has reviewed this request and recommended no conditions or approval.

Forestry Section (Contact Jeffrey Heinecke, (608) 266-4890)

This agency has reviewed this request and recommended no conditions or approval.

Water Utility (Contact Jeff Belshaw, (608) 261-9835)

3. The subject parcel is located beyond Madison Water Utility's existing service area. Note that future development of the property may require connection to the City water system, if/when water service becomes available per MGO Section 13.07.

Parking Review (Contact Trent W. Schultz, (608) 246-5806)

This agency has reviewed this request and recommended no conditions or approval.

Metro Transit (Contact Tim Sobota, (608) 261-4289)

This agency has reviewed this request and recommended no conditions or approval.