
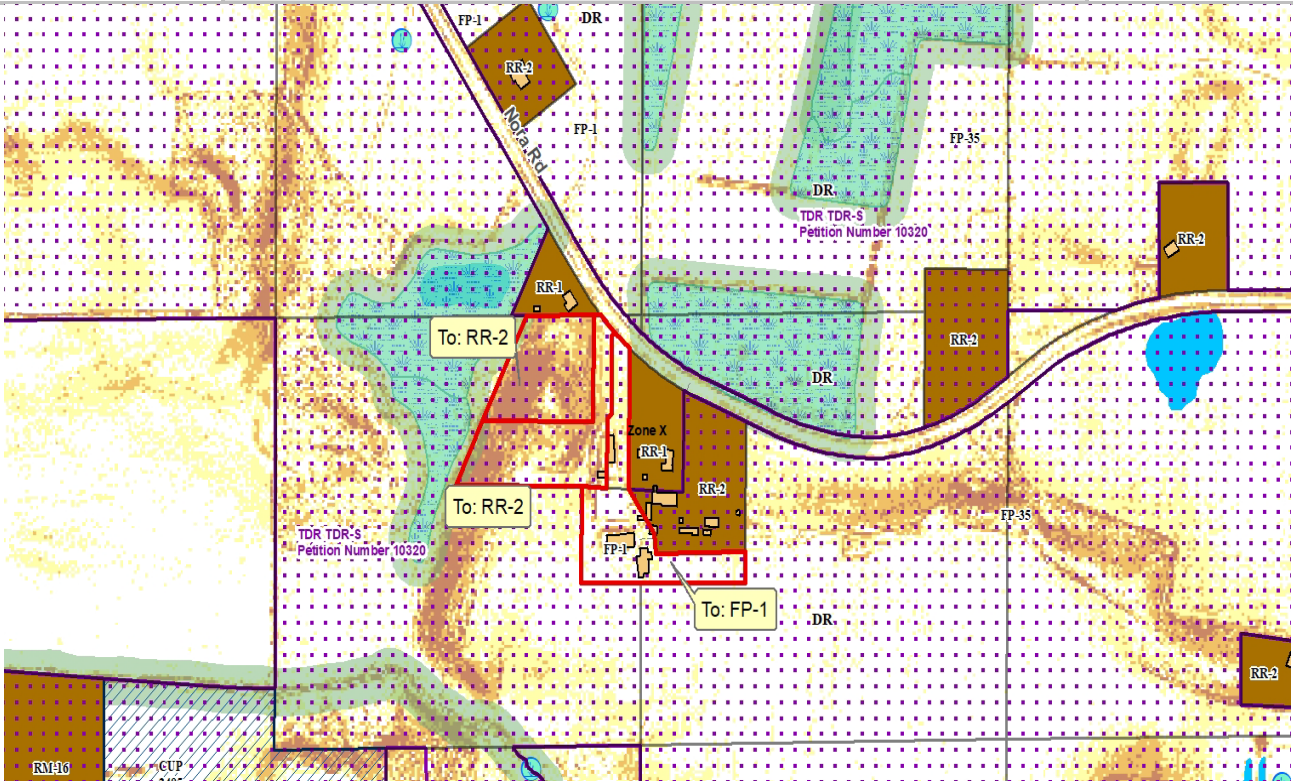


<p>Staff Report updated 9-14-2021 Pamela Andros</p>  <p>Zoning and Land Regulation Committee</p>	<p><i>Public Hearing:</i> June 22, 2021</p>		<p>Petition 11710</p>
	<p><i>Zoning Amendment Requested:</i> FP-35 Farmland Preservation District TO RR-2 Rural Residential District</p>		<p><i>Town/Section:</i> COTTAGE GROVE, Section 27</p>
	<p><i>Size:</i> 2.46,2.83,3.14 Acres</p>	<p><i>Survey Required:</i> No</p>	<p><i>Applicant:</i> VINEY ACRES LLC</p>
	<p><i>Reason for the request:</i> Creating 2 residential lots, and reconfiguring existing FP-1 lot.</p>		<p><i>Address:</i> WEST OF 2173 NORA ROAD</p>



DESCRIPTION: The initial proposal for this petition was to create a total of 3 new residential lots and 1 agricultural lot. The applicant has revised the proposal and now wishes to create 2 residential lots and 1 farmland preservation lot, for a total of 3 lots.

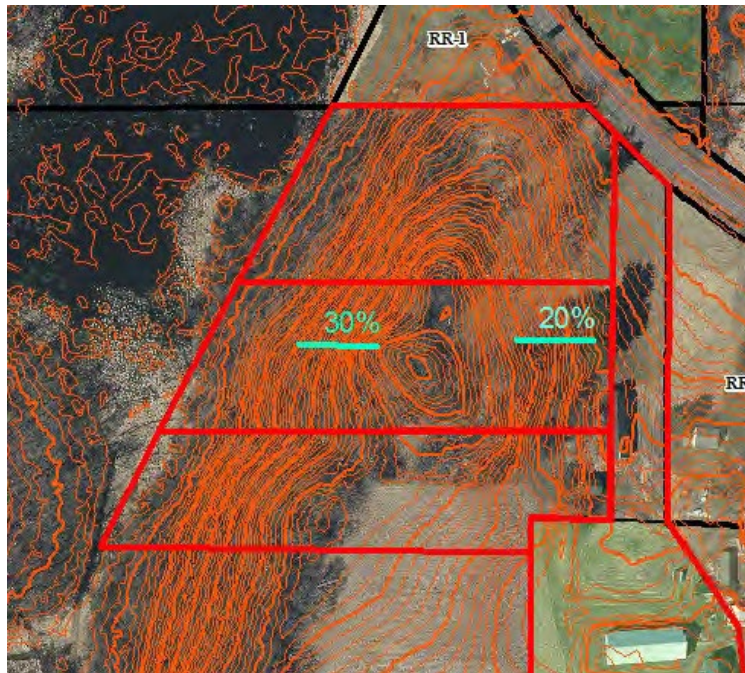
OBSERVATIONS: The subject property is surrounded by wetlands, woodlands, and single family and agricultural uses. A mineral extraction site (CUP 2405) is located southwest of the property. Steep slopes exist on portions of the two residential lots being created. See map on page 2, below.

TOWN PLAN: The subject property falls within two land use areas identified in the town Comprehensive Plan - the *Agricultural Preservation* land use area and the *Resource Protection Corridor*.

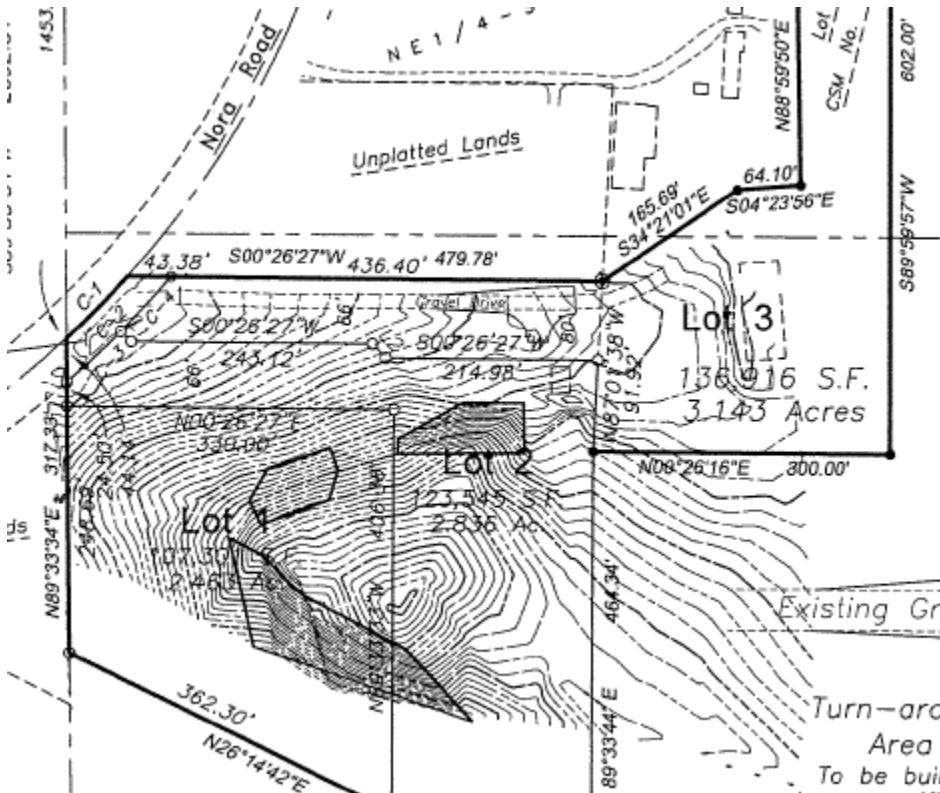
In the *Agricultural Preservation* area, residential development is allowed at a density of 1 residential dwelling unit (DRU) per 35 acres owned as of May 15, 1982. The plan also contains a transfer of development rights (TDR) policy that allows an owner to transfer RDUs at a 1:1 ratio within the *Agricultural Preservation* area. The applicant has the RDUs required for the number of residential lots being proposed.

Residential development siting standards. The maximum size residential lot identified in the town plan is 2 acres, but allows some flexibility. In this case, creating large enough building areas/building envelopes while avoiding sensitive natural features including steep slopes, necessitated lots larger than 2 acres in size.

RESOURCE PROTECTION: Portions of the subject property is within the *Resource Protection Corridor*, as identified in the town plan. There are steep slopes on the property ranging from 20 – 30%. The town plan restricts development as follows:



“Prohibit building development in the Resource Protection Corridor, and driveways on slopes greater than 20%, except as may be allowed via variance or special exception processes in the associated ordinances” (page 27 of town plan).



Proposed "no build" areas (slopes > 20%)

COUNTY HIGHWAYS: There is an estimated 30 trips per day resulting from this rezone.

STAFF UPDATE: Staff had concerns about the original proposal. The application was amended to address those concerns, namely land division and steep slopes. The concerns regarding land division were the number of lots being created, and lack of road frontage. Staff is recommending that approval be conditioned on an “exception” to the road frontage requirement as provided for in section 75.19(8) of the county subdivision ordinance. To address concerns about steep slopes, the applicant provided a new map (dated August 18th) showing the steep slopes and buildable areas, so that construction will be limited to appropriate areas.

The town has approved the petition with two conditions. One of the conditions is to require a deed restriction on 70 acres of the owner’s property prohibiting development. However, as indicated on the attached density study, the property will remain eligible for 1 RDU (“split”) if this petition is approved. The applicable town/county plan policies require the use of deed restrictions when a property is exhausted of all possible RDUs, or when RDUs are being transferred under the Transfer of Development Rights (TDR) program. Since neither of these situations is occurring, staff advises against requiring a deed restriction.

Another town condition states, “*Lot 3 should maintain the same deed restriction as the current lot is under...*”. This is in reference to the proposed FP-1 lot, which currently exists in a slightly different configuration (does not have frontage out to Nora Road). There is no existing deed restriction on proposed lot 3, and staff confirmed with the town of Cottage Grove that the reference in the town action report was in error.

Staff recommends approval *without* the town condition requiring a deed restriction on 70 acres, and *without* the “restriction” on proposed 3, for the aforementioned reasons. Staff has discussed this with the town and applicant and they understand the reasoning behind these recommendations.

Staff recommends approval of the petition with the following conditions. Note that condition #2 addresses the town requirement for a driveway easement agreement, and condition #3 addresses concerns related to avoiding development on the steep slope topography.

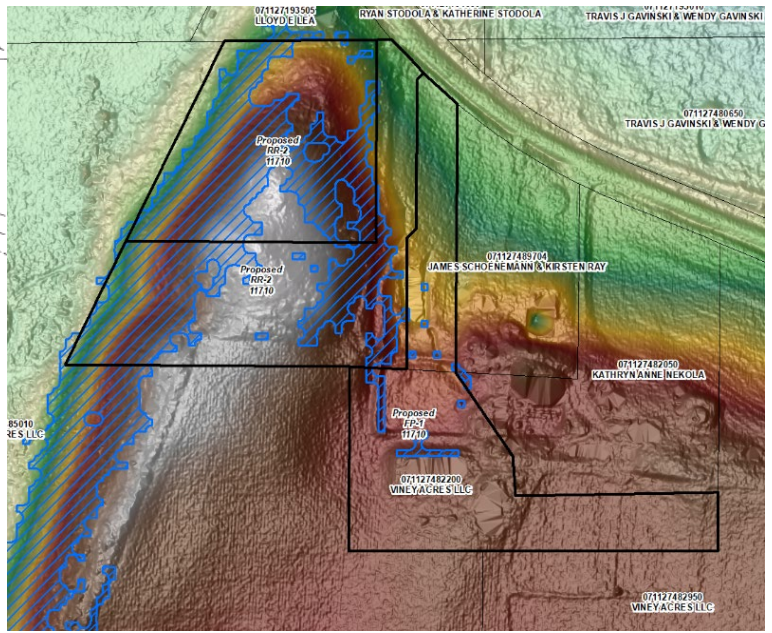
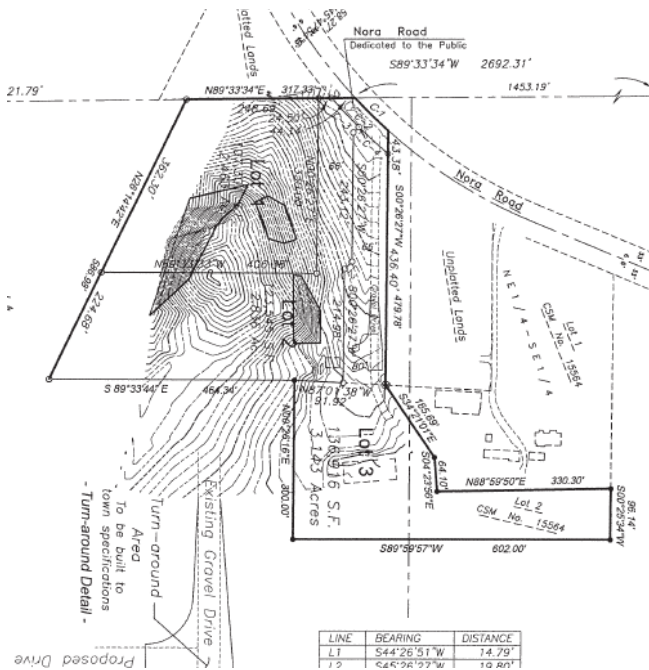
1. The shared driveway easement for lots 1 and 2 shall be shown on the proposed Certified Survey Map.
2. The owner shall record a shared driveway access easement agreement meeting the requirements specified in section 75.19(8) for proposed lots 1 and 2.
3. Owner shall record a deed restriction on proposed lots 1 and 2 of the Certified Survey map prohibiting development on slopes exceeding 20% grade, as depicted on the “buildable area” map submitted by the applicant.

TOWN: The town Planning Commission and Town Board approved petition 11710 with the following conditions (see *Town Action Report*):

1. Two 35-acre parcels will need to be deed restricted to provide the RDUs for these lots, to come from the parcels agreed upon by the Vineys and the County. (It was noted that the lots will each use one RDU, and Don Viney said there is still one more remaining on this farm)
2. Lot 3 should maintain the same deed restriction as the current lot is under, and a shared driveway agreement must be recorded for lots 1 and 2 that includes who will be responsible for the maintenance and snow removal. Mr. Viney said they are in the process of giving the residual triangle to on the other side of Nora Road to the adjacent land owner.

Questions? Contact Majid Allan at allan@countyofdane.com or 608-720-0167.

10/12 ZLR Meeting: The petition was postponed due to concerns regarding the accuracy of the identification of the steep slope areas shown on the surveyor’s map. The County’s GIS information showed a more extensive area along the west side of the property. See attached maps below. The blue hatched areas are slopes over 20% grade.



Staff Update: The majority of the proposed lots have slopes over 20% grade. In order to facilitate development on the properties in compliance with Town planning policies, staff has suggested that a 150'x150' building envelope area be designated on each lot of the certified survey map showing acceptable development locations. If found to be acceptable, Staff recommends approval with the following conditions:

1. The shared driveway easement for lots 1 and 2 shall be shown on the proposed Certified Survey Map.
2. The owner shall record a shared driveway access easement agreement meeting the requirements specified in section 75.19(8) for proposed lots 1 and 2.
3. The Certified Survey Map shall depict the 150'x150' "building envelope" as shown on the presented map. A note shall be added to the Certified Survey Map stating that, "All building constructed on Lots 1 & 2 shall be within the building envelope area as part of the conditions of approval by Dane County Zoning and Land Regulation Committee under Zoning Petition #11710".
4. The remnant property north of Nora Road (small triangle) shall be deeded to the adjacent landowner.

