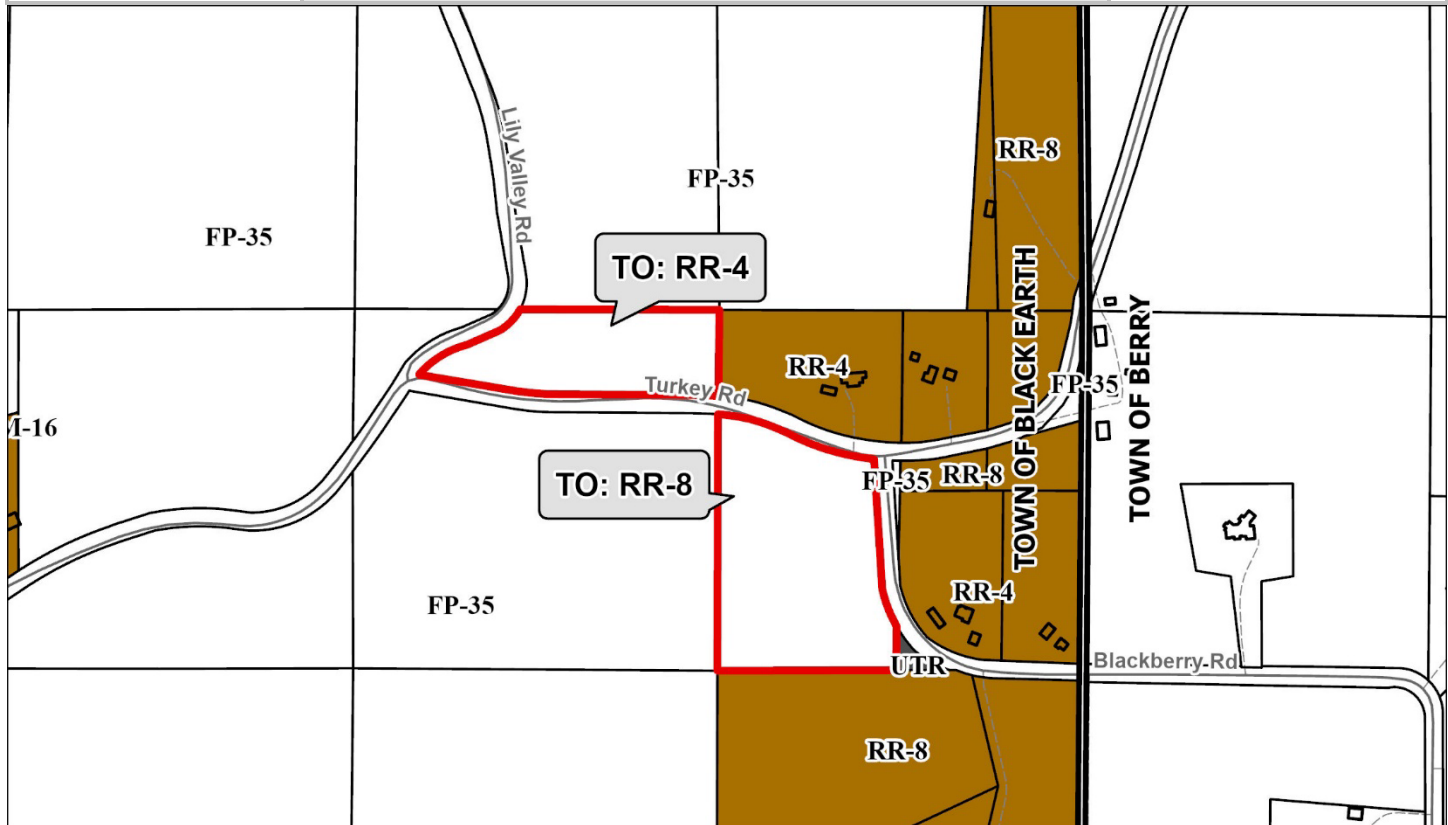


Staff Report  Zoning & Land Regulation Committee	Public Hearing: June 23, 2026 Report updated for the July 14th ZLR meeting		Petition 12283
	Zoning Amendment Requested: FP-35 Farmland Preservation District TO RR-4 Rural Residential District and RR-8 Rural Residential District		Town, Section: BLACK EARTH, Section 25
	Size: 6.22,11.8 Acres	Survey Required: Yes	Applicant: GV BLACKBERRY LLC
	Reason for the request: Creating two residential lots		Address: WEST AND SOUTH OF 9554 TURKEY RD



DESCRIPTION: Applicant proposes to create two residential lots, 6.2 acres and 11.8 acres in size, with RR-4 and RR-8 zoning respectively. A two-lot certified survey map (CSM) would be recorded.

OBSERVATIONS: The proposed lots meet county ordinance requirements for lot size and public road frontage. Town slope limitations may reduce the building envelope. RR zoning districts limit livestock use to one animal unit per acre. To exceed this limit would require approval of a conditional use permit. The eastern lot could have access onto either Turkey Road or Blackberry Road, subject to the Town’s approval as these are town roads.

There is a small remnant of land across Blackberry Road, roughly a ~5400 square foot part of tax parcel 080625181600, that must be dealt with because after the CSM is recorded this remnant will be a separate property under 35 acres and thus cannot remain zoned FP-35. It is at the far east end of the applicant’s ownership. Staff advised the options are to dedicate it as town road right-of-way, or rezone it to UTR. The applicant does not wish to dedicate it as ROW so it will be left unplatted and described with a plat of survey so that it could potentially be acquired by neighbors in the future.

The property is subject to the Village of Black Earth’s extraterritorial jurisdiction for the land division review.

COMPREHENSIVE PLAN: This petition is in the town’s agricultural preservation planning area and is subject to the land use policies related to that designation. This proposal is consistent with the goals, objectives of policies related to residential development. The Town of Black Earth has a 1 home per 35 acres density policy, the proposal is consistent with the density policy (see Density Study). Splits would remain available on the original farm. For questions about the town plan, contact Senior Planner Curt Kodl at (608) 266-4183 or Kodl.Curt@danecounty.gov.

RESOURCE PROTECTION: There are no sensitive environmental resources on the subject property. An intermittent stream to the west was deemed non-navigable, so no shoreland zoning applies to the proposed lots. Steep slopes and the apparent drainage pattern/gully should be a consideration of planning and development on the southern lot.

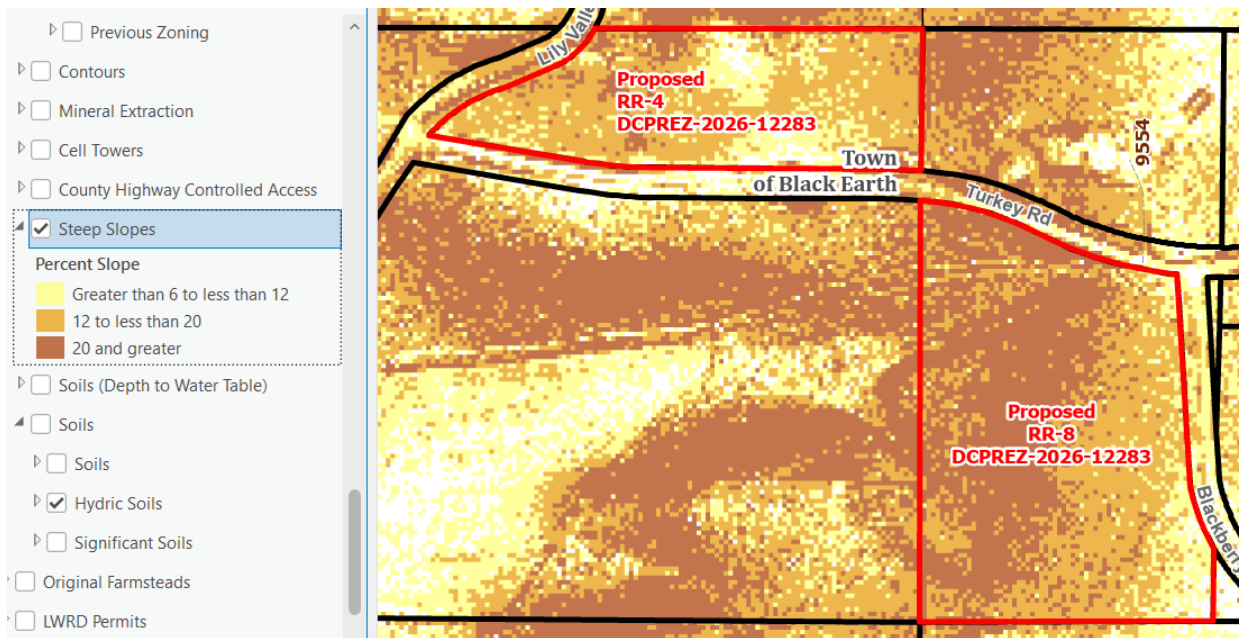
TOWN ACTION: The Plan Commission and Town Board approved the petition, amending the zoning district to RR-8 for the 11.8-acre lot, rather than RM-8 as initially proposed.

ZLR PUBLIC HEARING: On June 23rd the ZLR Committee held the public hearing on the proposed rezoning. The committee postponed action on the petition due to public opposition. Neighbors expressed concerns about development on both lots due to the steep topography, the possibility of impacts from tree clearing or livestock use, compatibility with the Town of Black Earth’s viewshed policies, and the potential for problems associated with surface water runoff. ZLR postponed action to allow the applicants time to address the concerns that were raised.

APPLICANT RESPONSE TO CONCERNS: Following the 6/23 public hearing, staff asked the applicants to provide a response to the neighbors’ concerns, and to provide an exhibit showing the proposed building envelopes (buildable areas) for both lots. The applicants submitted a response to comments (see July 7 email from the seller’s realtor Tommy Van Ess). The response provides the existing contour information, site photos, an example house plan prepared for a potential buyer of Lot 1, and comments regarding the sites’ suitability for development. They argue that both lots have adequate buildable area, including areas with flat terrain as well as sloped areas that some people desire for building homes with lower-level exposures. They state that they do not know what a potential buyer will want to do with the property in terms of buildings or keeping of livestock. Regarding the remnant land across the road, they indicated separately that they are willing to dedicate that land to the township as public road right-of-way.

The applicants’ response indicates that they do not want to restrict any parts of either lot for future construction at this time, preferring instead that the site planning for these lots be subject to the town building permit process, which will involve perc testing for septic systems and town driveway permit review. They do not see a need to restrict building envelopes as part of the rezone process, despite the concerns raised in response to the rezone proposal.

STAFF RECOMMENDATION (updated): Dane County does not have regulations related to siting on slopes or viewsheds that would apply during the zoning permit process. However, the town plan has policies that would suggest additional restrictions on the development of the lots. The town plan includes a housing policy to “Discourage new housing development in areas of agricultural land, steep and erosive slopes, and ridgetops.” Also a Conservation Design and Development Siting Standards policy that “The maximum allowable slope for building sites is 15 percent.” The maps below shows the areas mapped with steep slope topography (in dark orange/red) and the areas with less steep terrain.



In situations such as this, in the past the ZLR Committee has instructed applicants to further define a reasonable building envelope, as part of rezone approvals so that any restrictions can be made part of the CSM. Then if a future landowner has concerns and wishes to modify the building envelope, that can be done through another rezone process to give the town and county the opportunity to review the proposed buildable area.

If ZLR sees fit to approve this petition, staff would recommend the following conditions:

1. The CSM shall designate building envelopes for Lots 1 and 2 that prohibits development on lands with slopes over 15% grade.
2. The remnant piece of tax parcel 080625181600 across Blackberry Road shall be dedicated to the town as public road right-of-way.

Please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@danecounty.gov if you have questions about this petition or staff report