
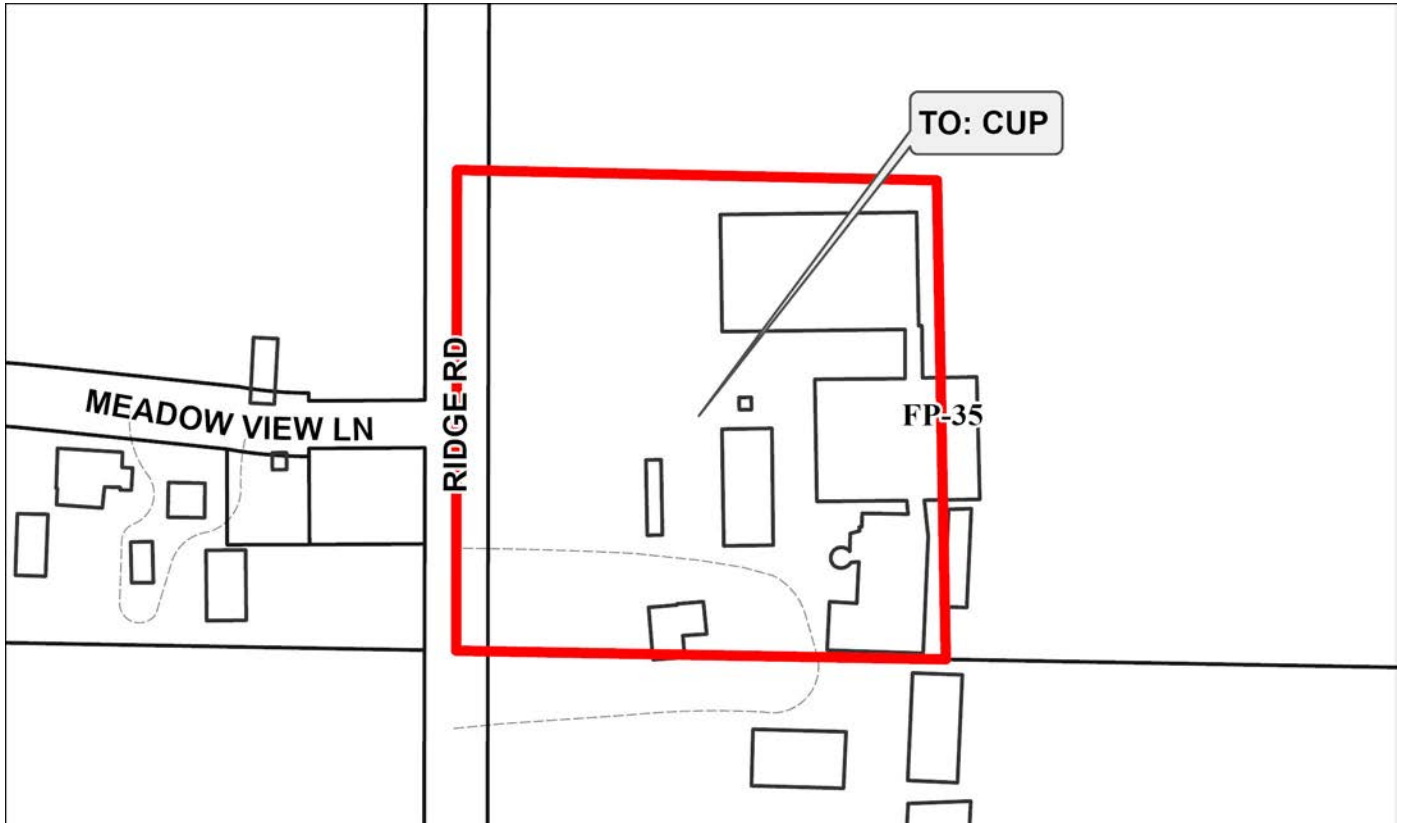


<p><b>Staff Report</b></p>  <p><b>Zoning &amp; Land Regulation Committee</b></p>	<p><u>Public Hearing:</u> <b>October 22, 2024</b></p>	<p><b>Conditional Use 02638</b></p>
	<p><u>Zoning Amendment Requested:</u>  <b>TO CUP: Secondary farm residence (CUP renewal)</b></p>	<p><u>Town, Section:</u>  <b>COTTAGE GROVE, Section 1</b></p>
	<p><u>Size:</u> <b>5.7 Acres</b></p>	<p><u>Survey Required:</u></p>
	<p><u>Reason for the request:</u>  <b>Secondary farm residence (CUP renewal)</b></p>	<p><u>Applicant:</u>  <b>SILVIN F &amp; ROSEMARY C KURT REV TR</b></p> <p><u>Address:</u>  <b>4558 RIDGE ROAD</b></p>



**DESCRIPTION:** Silvin Kurt requests a conditional use permit (CUP) for a secondary farm residence. The request is really to renew the permit for an existing residence, since the initial [CUP #2478](#) approved in 2019 expires after 5 years based on the conditions of that permit. The residence is used by Silvin’s grandson Tyler who works on the farm. According to the applicants, the Kurt farm is the only dairy farm operating today in the Town of Cottage Grove.

**OBSERVATIONS/ FACTUAL INFORMATION:** The CUP area would cover a 5-acre portion of the 143-acre Kurt Dairy farm. The property is currently zoned FP-35, and contains a primary residence and several agricultural buildings.

**RESOURCE PROTECTION:** There are no sensitive environmental features near the residence, and no development is proposed. Staff has no concerns.

**COMPREHENSIVE PLAN:** The property is located in the town’s agricultural area. No change in land use is being proposed and the requested renewal of the existing farm residence CUP is consistent with comprehensive plan policies. Pending any concerns raised by the town in the course of its review, or by the public at the ZLR Public Hearing, staff recommends approval of the CUP with conditions similar to those applicable to CUP 2478. For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or [Allan.Majid@danecounty.gov](mailto:Allan.Majid@danecounty.gov).

**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 home has its own septic drainfield from a previous mobile home, and the system has been kept up according to county specs every three years. In addition, the applicants have an updated nutrient management plan on file for handling manure from the cattle. The dairy operation includes the Kurt family land as well as other rented lands.

**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 the property and neighboring land is all farmland. Staff notes that the home is located on a part of the farm that is already developed with other buildings and site improvements. The home is not expected to affect the surrounding farms and is at least 1,200 feet away from any other residence.

**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 is an existing land use, no changes are requested.

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*. This property and the surrounding properties are already used for farmland and farm residences; no impacts are expected.

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

The applicant states that the house already has all the necessary utilities and no improvements are needed.

**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.**

Off street parking is provided for the property by the existing driveway.

**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 FP-35 zoning district. A farm residence is an allowable conditional use in this 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.

**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).**

- a. *The use and its location in the Farmland Preservation Zoning District are consistent with the purposes of the district.*
- b. *The use and its location in the Farmland Preservation Zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.*
- c. *The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.*
- d. *The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.*
- e. *Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.*

The FP-35 district is intended for a wide range of agricultural and agricultural accessory uses, including activities compatible with agricultural use, with the stated purpose of preserving productive farms. The construction of a second residence for use by the farm operators is consistent with this purpose. The home is located in a part of the farm that is already developed and not used for farming; its location would not affect the existing farm land or surrounding farms, except it may have a positive effect by helping to sustain the farm operation.

**POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE:** The most likely concerns with farm residences are the conversion of farm land and the potential conflicts between residential and ag land uses, as suggested by the standards above. Under Dane County Zoning Ordinance section 10.103, there are special requirements for farm residences (see below). Section 10.103(11)(b) specifies the following permit conditions for any farm residence:

- 1. Any approved conditional use permit for a farm residence shall expire on the sale of the property to an unrelated third party. Continued use of a farm residence after sale to an unrelated third party shall require approval of a new conditional use permit.*
- 2. The Zoning Committee may revoke any Conditional Use Permit it finds in violation of this section. Continued use of residence with a revoked conditional use permit shall require approval of a rezone petition to a zoning district that allows nonfarm residential use.*
- 3. The Zoning Committee shall require the recording of a notice document with the Register of Deeds on the subject property notifying current and future owners of the provisions of paragraph 1. And 2. of this section.*

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee.

**TOWN ACTION:** On September 3, 2024 the Town Board approved the CUP, noting that it is approved for as long as the secondary farm residence is occupied by a farm employee.

**STAFF RECOMMENDATION:** Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the application and site information noted above, and is also reflected in the town's approval and conditions. The town's new approval removes the expiration date for this permit, extending it as long as any employee of the farm lives there.

Pending any comments at the public hearing, Staff recommends that (1) the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards above, and (2) we recommend approval with the conditions below.

If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff at the public hearing.

***CUP 2638 Potential Conditions of Approval:***

*Standard Conditions for all Conditional Use Permits from 10.101(7):*

1. Any conditions required for specific uses listed under s. 10.103 (see below).
2. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
3. 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.
4. 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.
5. 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.

6. 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.
7. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
8. Off-street parking must be provided, consistent with s. 10.102(8).
9. 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.
10. 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.
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.

*Conditions specific to CUP # 2638:*

13. Any approved conditional use permit for a farm residence shall expire on the sale of the property to an unrelated third party. Continued use of a farm residence after sale to an unrelated third party shall require approval of a new conditional use permit.
14. The Zoning Committee may revoke any Conditional Use Permit it finds in violation of this section. Continued use of residence with a revoked conditional use permit shall require approval of a rezone petition to a zoning district that allows nonfarm residential use.
15. The Zoning Committee shall require the recording of a notice document with the Register of Deeds on the subject property notifying current and future owners of the provisions of conditions #13 and #14 above.

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