
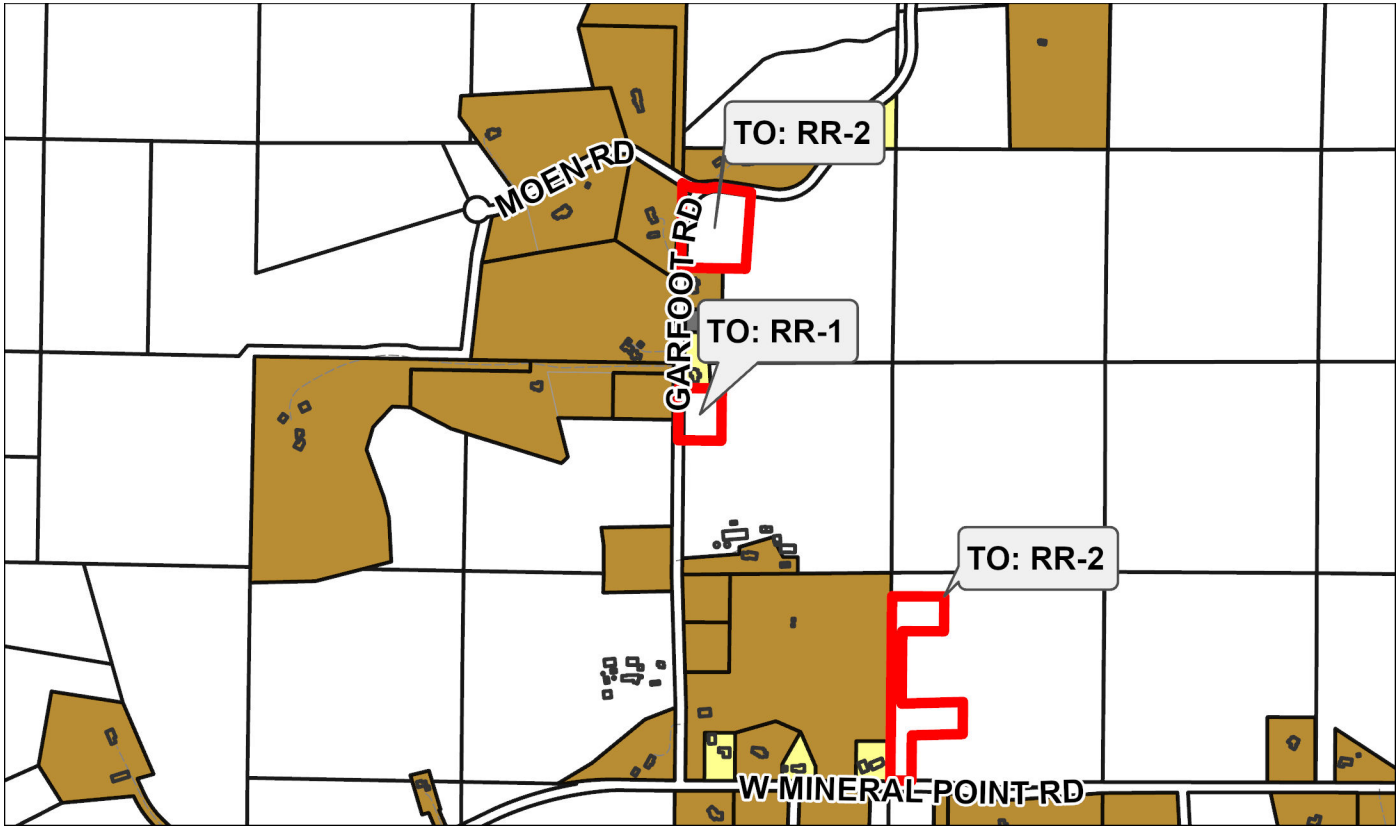


<b>Staff Report</b>    <b>Zoning &amp; Land Regulation Committee</b>	<u>Public Hearing:</u> <b>August 27, 2024</b>	<b>Petition 12061</b>	
	<u>Zoning Amendment Requested:</u> <b>FP-35 Farmland Preservation District TO RR-2 Rural Residential District and RR-1 Rural Residential District</b>	<u>Town, Section:</u> <b>CROSS PLAINS, Section 20</b>	
	<u>Size:</u> <b>10,2.02 Acres</b>	<u>Survey Required:</u> <b>Yes</b>	<u>Applicant:</u> <b>KIP R KALSCHUR</b>
	<u>Reason for the request:</u> <b>Create four new residential lots using transfer of development rights (TDR)</b>		<u>Address:</u> <b>EAST OF 9180 MINERAL POINT RD, AND GARFOOT RD SOUTH OF MOEN RD</b>



**DESCRIPTION:** Kip Kalschur proposes to create 4 new residential lots using the Transfer of Development Rights (TDR) policies found under the Town of Cross Plains Comprehensive Plan. The petition would use development rights from one of Kalschur’s parcels along West Mineral Point Road to create 2 lots along West Mineral Point Road and create another 2 lots along Garfoot Road.

**OBSERVATIONS:** The property along West Mineral Point Road contains a legal non-conforming mineral extraction site. The site was registered in 1969 but has not been used as a quarry since. The applicant is proposing to terminate the quarry provision in exchange for additional density rights.

The proposed lot at the corner of Garfoot and Moen Road contains steep slope topography (>20%) on the west side. Any development will need to be directed to the east side of the property. The proposed lots meet the dimensional requirements of the zoning districts and appear to meet the siting criteria found under the Town Plan.

**COMPREHENSIVE PLAN:** Property is within a Farmland Preservation Area under the [Town of Cross Plains / Dane County Comprehensive Plan](#). Residential development is capped at a density of one unit per 35 acres owned as of December 26, 1981. However, the 40-acre property along Mineral Point Road is home to a registered legal non-conforming mineral extraction site (non-active).

Under the Town Plan, transfer of development rights (TDR) program, such sites qualify as “Group 1 Super Sending Areas,” if the landowner vacates mineral extraction registration and deed restricts the property against future mineral extraction use. To create an incentive to vacate mineral extraction rights, the town plan allocates Group 1 Super Sending Areas four times the normal number of development rights. In this particular case, the sending area property is eligible for a total of four development rights, which may either be used on the sending area property or may be transferred to an appropriate parcel in the TDR-R district. If Petition 12061 is approved, the balance of the PIN 0707-203-9500-4 remaining in FP-35 zoning should:

- be placed in the TDR-S overlay zoning district;
- have a [TDR Conservation Easement](#) recorded on the property prohibiting future development and deed restricted to prohibit any future mineral extraction use.

#### Receiving Area Property

Proposed lots along Garfoot Road were part of a 209-acre farm owned by Gary and Marjorie Laufenberg in 1981. Under the town/county density policy, this farm was originally eligible for a total of 6 potential homesites, all of which have been used. The proposed building sites meet the criteria for a TDR Receiving Area under the *Town of Cross Plains/Dane County Comprehensive Plan*. The proposed lots should:

- be placed in the TDR-R overlay district, and
- have [deed notices](#) recorded that detail the TDR-S sending area property, and the number of rights transferred.

For questions about the town plan, contact Senior Planner Brian Standing at [standing.brian@danecounty.gov](mailto:standing.brian@danecounty.gov) .

**RESOURCE PROTECTION:** The GIS information indicates that there is the potential of an intermittent stream located approximately 200 feet from the eastern side of the proposed lots along Garfoot Road. If the intermittent stream is found to be navigable, the eastern 100 feet of the proposed lots will be subject to Shoreland Regulations. There is ample room on the proposed lots to avoid the shoreland area.

**TOWN ACTION:** On July 11, 2024 the Town Board recommended approval of the rezone, noting that there is a conservation easement that identifies mineral extraction rights on the site.

**JULY 23<sup>rd</sup> ZLR PUBLIC HEARING:** The ZLR Committee postponed action due to public opposition. The public express concerns regarding population growth, traffic, driveway location, and negative impacts to Garfoot Creek.

**STAFF UPDATE:** During the public hearing, several concerns were raised by the general public. Below are Staff’s comments regarding these concerns.

#### **Population**

Per the US Census Bureau, the average household in the Town of Cross Plains contains 2.9 person. If the proposal is approved, 12 persons would added to the area.

#### **Increase in Traffic**

The Dane County Highway Department uses 10 vehicle trips per day for single-family residences when designing roads. The proposed development would add 40 vehicles trips per day. This would not have a significant impact on the existing road infrastructure.

#### **Driveway location**

Zoning Division Staff contacted the Town regarding driveway access concerns for the most northerly lot. Although the driveway permit has not been officially issued, the Town feels confident that there is an acceptable driveway access point along the east-west section of Garfoot Road. A site inspection was conducted by County Staff, the site may need to be graded in order to accommodate a driveway due to the property sloping away from the road.

#### **Impact on Garfoot Creek**

The property is located in a valley that produces the head waters of Garfoot Creek. A site inspection revealed that the proposed lot is adjacent to a grass swale that showed no evidence of a navigable stream (no bed and bank). Although the residential development will contribute some additional storm water to the system, the development will add a permanent ground cover which would reduce the amount of sediment runoff. The impact to the creek due to its proximity is negligible.

**STAFF RECOMMENDATION:** Staff recommends approval of the petition subject to the following conditions:

1. A conservation easement shall be recorded on the land under parcel number 0707-203-9500-4 to prohibit further residential development.
2. A deed restriction shall be recorded on the land under parcel number 0707-203-9500-4 to terminate the status of the legal non-conforming mineral extraction site.
3. The land under parcel number 0707-203-9500-4 shall be identified as a TDR-S sending area.
4. The proposed lots along Garfoot Road (Lots 3 & 4) shall be identified as TDR-R receiving areas.
5. A deed notice shall be placed on the proposed lots along Garfoot Road (Lots 3 & 4) to identify that the lots were created through the TDR process.

Please contact Roger Lane at (608) 266-9078 or [lane.roger@danecounty.gov](mailto:lane.roger@danecounty.gov) if you have questions about this petition or staff report.