
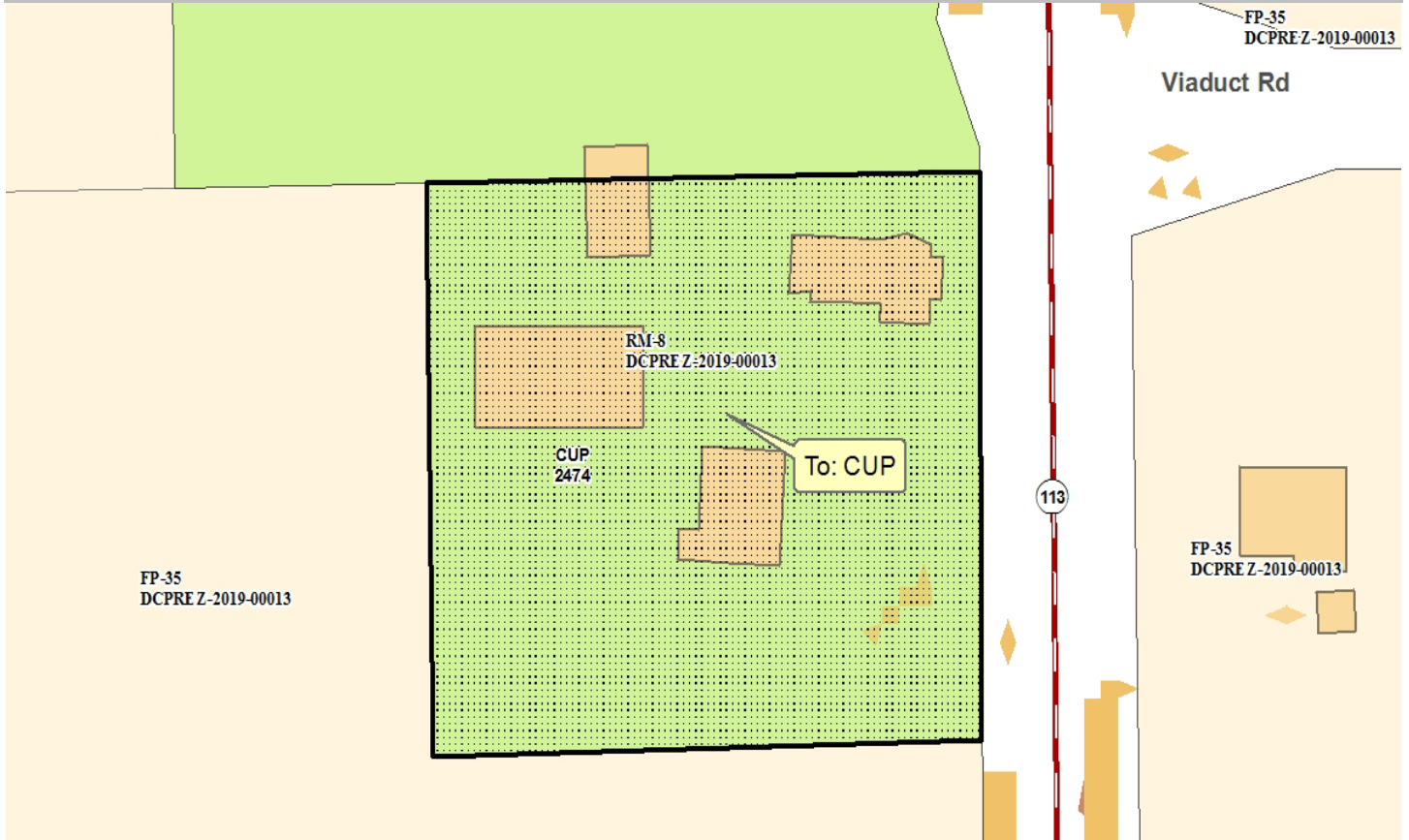


<b>Staff Report</b>    <b>Zoning and Land Regulation Committee</b>	Public Hearing: <b>August 27, 2019</b>		<b>CUP 02474</b>
	Zoning Amendment Requested: <b>Conditional Use Permit (CUP) for a Limited Family Business</b>		Town/Section: <b>DANE, Section 10</b>
	Size: <b>2.2 Acres</b>	Survey Required: <b>NO</b>	Applicant: <b>DANIEL S SCHMITT</b>
	Reason for the request: <b>Limited Family Business for truck maintenance/hauling operation associated with a family farm</b>		Address: <b>7699 STATE HIGHWAY 113</b>



**DESCRIPTION:** The application has been submitted due to a complaint being lodge on the property noting commercial activity occurring in an agriculturally zoned area. The applicant has submitted a Conditional Use Permit application to allow for a limited family business to operate on the property. The business primarily involves truck maintenance and product hauling as part of the family farm, however, the trucks are also being used for other purposes.

**CONDITIONAL USE PERMIT PROCESS:** Conditional uses are those uses which, because of their unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review. The zoning ordinance includes specific requirements and standards for review and approval of conditional use permits.

In order to obtain a Conditional Use Permit, an applicant must provide **substantial evidence** to demonstrate that the application, and all requirements and conditions established by the county relating to the conditional use, are or shall be satisfied. Substantial evidence means, *“facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.”*

Prior to granting or denying a conditional use, the zoning committee shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- a. 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;
- b. 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;
- c. 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;
- d. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
- e. 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;
- f. That the conditional use shall conform to all applicable regulations of the district in which it is located.
- g. That the conditional use is consistent with the adopted town and county comprehensive plans.
- h. 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).

The zoning committee must deny a conditional use permit if it finds that the standards for approval are not met, and must approve if it finds that the standards for approval are met. The decision to approve or deny a conditional use permit must be supported by substantial evidence. Any conditions imposed must be based on substantial evidence, related to the purpose of the ordinance, reasonable, and, to the extent practicable, measurable.

#### **RELEVANT FACTS & INFORMATION**

Location, size, existing use and characteristics of subject property: The property is located in Section 10 of the Town of Dane and consists of approximately 9 acres. The majority of the property is cropped with the southerly portion used for the farmstead. There is a single family residence on-site and several agricultural outbuildings on the property. There is a livestock pen (cattle) in the center of the farmstead. The overall appears is that of a functioning farm and does not appear to be a commercial operation. The closest residence is approximately 1200 feet away from the site. The property accesses onto State Highway 113.

Current zoning and applicable district regulations: The property is currently zoned RM-8, Rural Mixed-Use. Limited family businesses are listed as a conditional use in this district.

Utilities, access, drainage, and other necessary site improvements: The business is part of an existing farmstead. The existing barns are used for truck maintenance and there is an existing driveway accessing Hwy 113. No additional improvements are necessary for the operation.

Operations Plan: Primary hours of operation will be 6am to 8:30pm. Outdoor lighting are dusk-to-dawn lights consistent with an agricultural setting. The trash removal is part of the farm operation. The hauling trucks are parking outside on the property along with the farm equipment. One of the barns is used for truck maintenance.

**TOWN PLAN:** The property is in the Agricultural Preservation Area of the Town comprehensive plan. The plan promotes home-based businesses in the farming areas that have little impact on the surrounding properties.

Staff has prepared the following list of recommended conditions based on substantial evidence and which may be applied to ensure the use meets the applicable standards for approval and the purposes of the ordinance. Please note that the conditions may need to be changed or additional conditions added to address potential nuisances that may

come to light during the public hearing. Note that the conditions below incorporate the one condition included by the Town of Dane (Condition No. 3).

1. The applicant/landowner shall comply with all of the conditions set forth in Dane County Code of Ordinances Section 10.101(7)2.a., Standard Conditions, which apply to every conditional use permit (CUP).
2. The conditional use permit shall be for a Limited Family Business for trucking and hauling business.
3. The truck maintenance shall be limited to the businesses associated with the family farm. Truck maintenance shall not be performed on business vehicles not associated with the family farm.

**TOWN:** The Town Board has approved the conditional use permit with one condition (see Condition 3 above).

**AUGUST 27<sup>th</sup> ZLR MEETING:** The Committee postponed action to a letter of public opposition. The postponement would allow time for staff to investigate the concerns raised in the letter.

**STAFF UPDATE:** County Staff conducted a site visit to the property along with reviewing the commercial activity for the businesses. The property's appearance resembles an active farming operation and does not appear to be a commercial hauling operation. The primary commercial activity involves trucking bedding, feed, and manure for the family farms. Some of the trucks are used for gravel hauling periodically, but subordinate to the overall activities. The Limited Family Business appears to be appropriate for the area.