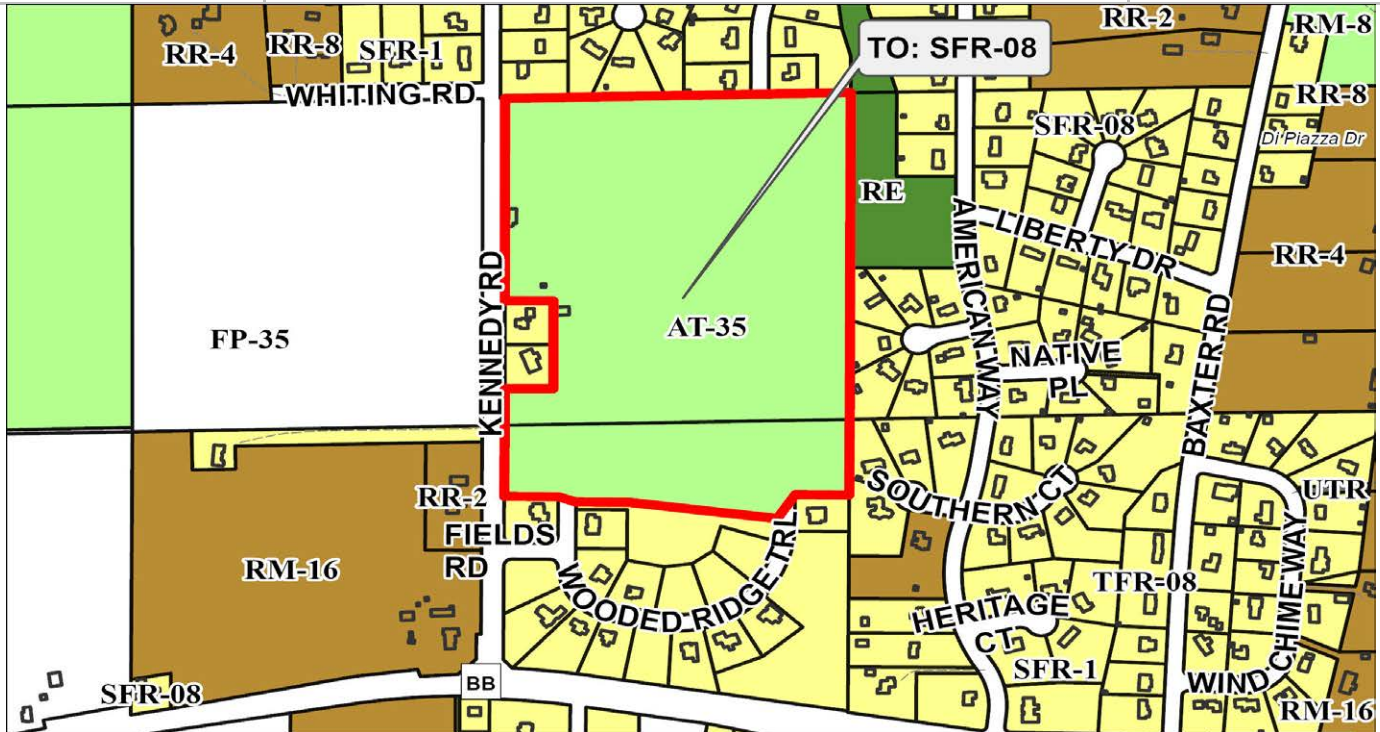


Staff Report  Zoning and Land Regulation Committee	Public Hearing: May 28, 2024	Petition 12048
	Report updated for the June 18, 2024 ZLR meeting	
	<u>Zoning Amendment Requested:</u> AT-35 Agriculture Transition District TO SFR-08 Single Family Residential District	<u>Town/Section:</u> COTTAGE GROVE, Section 3
	<u>Size:</u> 47.6 Acres <u>Subdivision Plat Required:</u> Yes	<u>Applicant</u> KENNEDY HILLS LLC <u>Address:</u> EAST OF 4500 KENNEDY ROAD



DESCRIPTION: The applicant would like to obtain zoning in order to start construction on Phase II & III of the Kennedy Hills Subdivision. Zoning for the Phase I of the subdivision was approved in 2019 under rezoning petition 11283. Residential Development Units (RDU) will need to be acquired by the landowner and transferred to this location in order for additional development to occur under the Town Comprehensive Plan policies.

OBSERVATIONS: The proposal is for the continuation of the Kennedy Hills subdivision. Mostly all of the lots in Phase I have been developed. The property is bordered by residential development on the north, east, and south sides. The land to west, across Kennedy Road, is currently cropped. The land is under 1/4 mile (1300') from the eastern edge of the Village of Cottage Grove boundary.

COMPREHENSIVE PLAN: The subject property is within a Neighborhood Development Area under the [Town of Cottage Grove / Dane County Comprehensive Plan](#). Residential development is allowed on lots ranging from 20,000 square feet to 1 acre in area. The Comprehensive plan identifies this property as a TDR receiving area where residential development may occur in accordance with the terms of the town's TDR program. Residential Density Units (RDUs) acquired from a sending area can be transferred to this area resulting in a development ratio of 8:1. Meaning, a transfer of one RDU from a designated TDR sending area will allow eight residential lots to be platted and developed in the TDR receiving area.

Town policies for Neighborhood Development Areas also provide that tax parcels within ¼ mile of the corporate limits of the Village of Cottage Grove are not subject to the TDR program requirements. [Per policy #3:](#)

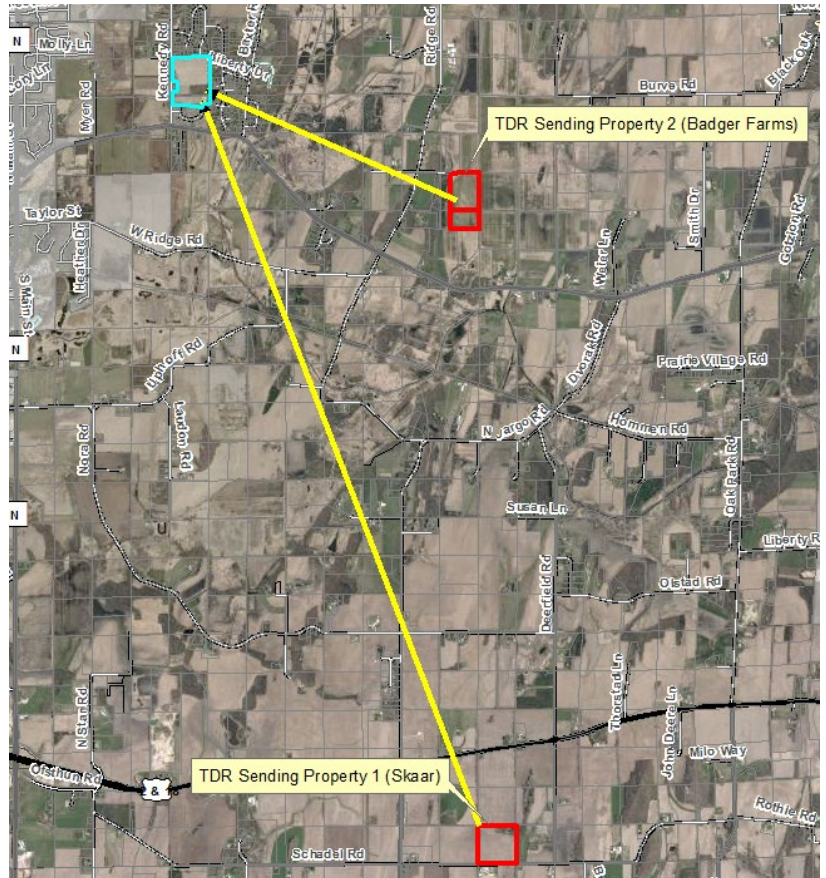
3. For each Residential Density Unit (RDU) transferred from a TDR Sending Area to a Neighborhood Development Area, the developer is able to develop eight housing units above the number of housing units (RDUs) allocated to the May 15, 1982 parcel, provided that the developer meets all other applicable regulations and policies. However, if any part of a tax parcel in the Neighborhood Development Area is within ¼ mile from the Village of Cottage Grove boundary as of July 5, 2022, transferred RDUs are not required to obtain Town approval of a residential development that is above the number of housing units (RDUs) allocated to that May 15, 1982 tax parcel. The Town and County may need to rezone such parcels away from the TDR-R Receiving Area Overlay Zoning District to the extent they are already zoned in that manner.

The southern parcel (tax parcel #0711-101-8502-0) is beyond a ¼ mile of the Village boundary. As a result, only 2 RDUs are required to meet TDR program requirements.

The applicant has identified two transferrable RDUs from two different land owners within the town's agricultural preservation area. One RDU will come from the Skaar property south of US HWY 12/18 in section 36; the second from the Badger Farms LLC property north of County Highway BB in section 12. See map at right.

Drainage and stormwater management concerns have been raised by nearby property owners. The applicant has obtained a preliminary review letter from Dane County Land & Water Resources to verify that stormwater requirements can be met.

To comply with TDR Program requirements, staff recommends that appropriate documentation, including agricultural conservation easements and TDR Notice document, be required as conditions of approval. Please see Staff Recommendation section below. *(For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or allan.majid@danecounty.gov.)*



RESOURCE PROTECTION: There are no sensitive natural features on the parcel. The natural flow of storm water in this area is to the northeast.

TOWN ACTION: Approved with a condition requiring 2 RDUs to be obtained/transferred to the subject property:

“Approval was for up to 50 residential lots. Two RDUs will need to be transferred for the 12 lots on parcel 0711-101-8502-0 (ratio is one RDU for each 8 lots created). Parcel 0711-034-9001-0 will not need RDUs since it is within 1/4 mile of the Village of Cottage Grove, as per item 3. under *Relationship to the Town’s TDR Program* in Figure 8 of the Visions and Directions volume of the Town’s Comprehensive Plan.”

JUNE 18TH ZLR HEARING: On June 18th the ZLR Committee held a public hearing on the proposed rezoning and postponed action due to public opposition, per the committee’s adopted rules and procedures. Public comments were submitted noting concerns about the potential for septic systems to contaminate ground water due to the relatively small lot sizes, and the potential for private water wells / ground water levels to be diminished.

Since the public hearing, the applicants investigated these issues and contacted staff at the DNR and Public Health Department. DNR staff comments indicate that private residential water wells are unlikely to impact adjacent private

water wells. Other information gathered on nitrate contamination suggests that historical agricultural activity (fertilizing) is a primary contributor to current-day nitrate levels, compared to residential development. The applicants note that the design standards and the maintenance done on private wells and septic systems are also key factors for contamination.

STAFF RECOMMENDATION (updated): Staff recommends the petition be approved with the following conditions:

1. Up to 50 residential lots may be platted on the SFR-08 zoned land.
2. Two separate agricultural conservation easements prohibiting nonfarm development on a minimum of 35 acres shall be recorded on each of the following two identified sending properties:
 - a. Tax parcel 0711-364-9000-6 (Duane and Linda Skaar)
 - b. Tax parcels 0711-123-8000-9 and 0711-123-9500-2 (Badger Farms LLC)
3. The TDR-S (Sending Area) overlay zoning district shall be applied to tax parcels 0711-123-8000-9 and 0711-123-9500-2 (Badger Farms LLC).
4. The TDR-R (Receiving Area) overlay zoning district shall be applied to the portion of the proposed SFR-08 property corresponding to tax parcel 0711-101-8502-0.
5. Applicant shall record a Notice document on the receiving area property indicating that the SFR-08 zoned property was created as part of a transfer of development rights.

Any questions regarding this petition or the staff report can be directed to Roger Lane at (608) 266-9078 or lane.roger@danecounty.gov.

