
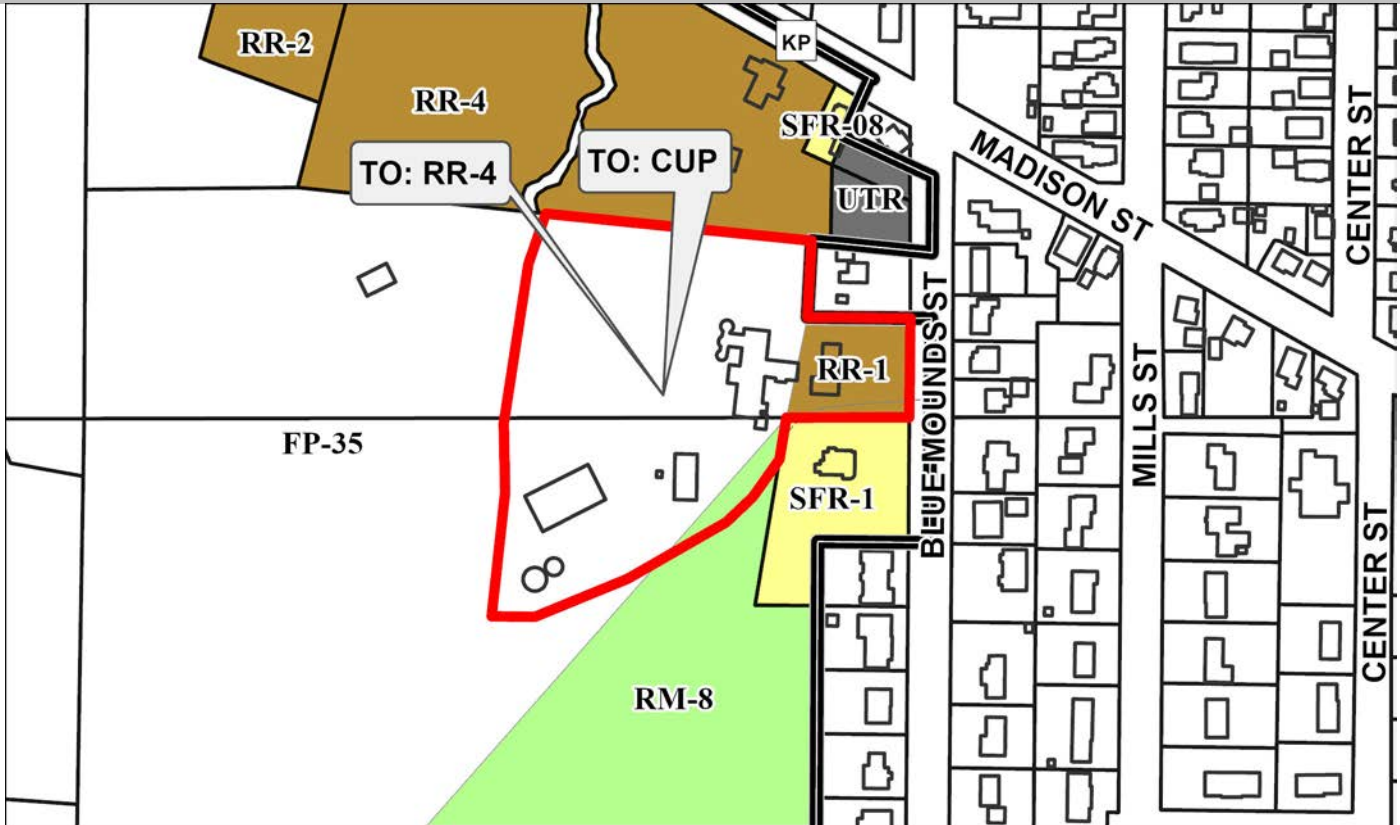


<b>Staff Report</b>    <b>Zoning &amp; Land Regulation Committee</b>	<u>Public Hearing:</u> <b>November 19, 2024</b>		<b>Conditional Use 02644</b>
	<u>Zoning Amendment Requested:</u> <b>TO CUP: Animal use exceeding one animal unit per acre</b>		<u>Town, Section:</u> <b>BLACK EARTH, Section 26</b>
	<u>Size:</u> <b>5.85 Acres</b>	<u>Survey Required:</u>	<u>Applicant:</u> <b>VILLAGE EDGE LLC</b>
	<u>Reason for the request:</u> <b>Animal use exceeding one animal unit per acre</b>		<u>Address:</u> <b>NORTH OF 1704 BLUE MOUNDS STREET</b>



**DESCRIPTION:** Barb Parrell of Village Edge LLC requests a conditional use permit (CUP) for animal/livestock use exceeding one animal unit per acre (up to 50 animals) on a 5.8-acre lot. The farm is an existing beef cattle operation. The cattle are primarily kept out to pasture on the FP-35 farm land, but they are brought to the barn in this area to be fed.

The CUP petition was submitted concurrently with a separate rezone request ([Rezone Petition 12117](#)), which would create a new lot with RR-4 zoning for the existing farm buildings and a future home site. In order for this CUP to be approved, the rezone petition would first need to be approved to establish the RR-4 zoning.

**OBSERVATIONS/ FACTUAL INFORMATION:** The property is currently in agricultural use and is part of an expansive farm. The neighboring land uses are residential to the north and south, agricultural to the west, and urban residential to the east (in the Village of Black Earth). The property is located on the border between the Town of Black Earth and the Village of Black Earth.

**RESOURCE PROTECTION:** The subject property contains FEMA floodplain and DNR mapped wetlands, generally located behind the largest cluster of farm buildings (see map included in the rezone petition). Vermont Creek and constructed drainageways are located on the farmland immediately to the west. No new construction is proposed at this time. Any future development on site would be subject to shoreland-wetland zoning permitting, if applicable depending on the location of any proposed building.

There are existing crossings over Vermont Creek for the cattle to use, with culverts to keep the animals' feet dry and avoid animal waste entering the creek. In the event of a flood condition, the animals have shed/barn space and food on both sides of the creek so they would be okay regardless of which side of the creek they are on.

**COMPREHENSIVE PLAN:** The property is located in the town's farmland preservation planning district. The Town plan promotes existing and future agricultural activities. The owner intends to keep the balance of the farm available for the nutrient management plan already on file with Dane County. For questions about the town plan, contact Senior Planner Curt Kodl at (608) 266-4183 or [Kodl.Curt@danecounty.gov](mailto:Kodl.Curt@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 there will be no change to the existing use.

Staff notes that the applicants would need to comply with any applicable manure management regulations administered by the Dane County Land and Water Resources Department. This helps ensure that manure is handled so as to avoid impacts to the soil and water runoff. As noted above, they have an approved nutrient management plan and intend to keep the balance of the farm available for the plan already on file.

**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 there will be no change to the existing use.

This property and most of the surrounding properties in the town are already zoned for agricultural and rural residential use. Surrounding properties in the village of Black Earth are urban residential lots.

**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 the use will not impede the normal and orderly development of surrounding properties. 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 most of the surrounding properties in the town are already zoned and used for agricultural or rural residential purposes. Surrounding properties in the village of Black Earth are urban residential lots. The continued use of this property for livestock is not expected to impede the development or improvement of surrounding lands in keeping with their current zoning.

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

The applicant states that the utilities, access roads, drainage, and other site improvements needed for the proposed use are already existing. The site has existing driveways across the creek for cattle to use, and fencing along the creek to keep cattle from crossing the creek at uncontrolled locations.

**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.**

The applicant states that there will be no changes. The property is already served by a driveway onto Blue Mounds Street, which is an access shared with the applicant's home at 1704 Blue Mounds Street.

**6. That the conditional use shall conform to all applicable regulations of the district in which it is located.**

The proposed use, and the proposed lot, conforms to the applicable regulations of the RR-4 zoning district. Livestock use beyond one animal unit per acre is an allowable conditional use in the zoning district. Approval of the proposed CUP would allow continued livestock use at a similar scale to what has previously occurred on the property, for as long as the family continues to use this site as part of its beef cattle farm operation.

**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).**

Not applicable (if rezone petition 12117 is approved).

**POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE:** The potential nuisances that pertain to livestock operations most likely involve odors and animal waste management. The applicant's CUP application addresses how these potential nuisances are handled, as noted above.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are special requirements for animal uses in excess of one animal unit per acre. These are not required as CUP "conditions", unless the Town of ZLR Committee feel it necessary to impose conditions based on a specific concern. See below for staff comments on each requirement:

**(a) Applicant must submit and maintain a site-specific manure management plan.**

The applicants indicate that manure will continue to be managed on the surrounding farm lands that they own. Village Edge LLC has a Nutrient Management Plan on file with Dane County Land and Water Resources. LWRD staff confirmed they participate in the Farmland Preservation Program so they have a certificate of compliance to show they are in compliance with the ag performance standards associated with the farmland preservation program, NR 151, and Dane County Ordinance Chapter 49.

**(b) Applicant must maintain a Farm Conservation Plan, compliant with NR 151, Subchapter II, Wisconsin Administrative Code, that is approved by the County Conservationist.**

The applicants comply with this standard, to the extent applicable. Dane County LWRD no longer issues conservation plans to farms; rather they rely on annual submittals of compliant nutrient management plans as the "conservation plan" in addition to compliance with DCCO Ch. 49 ag performance standards and prohibitions.

**TOWN ACTION:** Pending (town board meeting scheduled for November 14<sup>th</sup>).

**STAFF RECOMMENDATION:** Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the existing buildings on site, the approved nutrient management plan, the fencing to protect the creek, and the raised roads/paths over the creek to keep animals' feet dry.

Staff recommends that the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards listed above. 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.

We recommend postponement of ZLR Committee action to allow time for town action, per the committee's adopted rules and procedures. However, pending town action and any comments at the public hearing, we would recommend approval with the conditions listed below.

**CUP 2644 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 # 2644*

13. Livestock use on the property shall be limited to a maximum of 50 head of cattle at any one time.
14. Owner/Operator shall be responsible for instituting and complying with a nutrient management plan and/or animal waste disposal plan written to NR 151 standards and approved by Dane County Land and Water Resources, as applicable.
15. Owner/Operator shall maintain fencing along Vermont Creek, to keep animals from crossing the creek at undesignated (non-driveway) locations.
16. This conditional use permit shall only become effective upon Rezone Petition #12117 for RR-4 zoning becoming effective.
17. This conditional use permit shall expire in the event the property is sold or transferred to an unrelated third party.

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.