
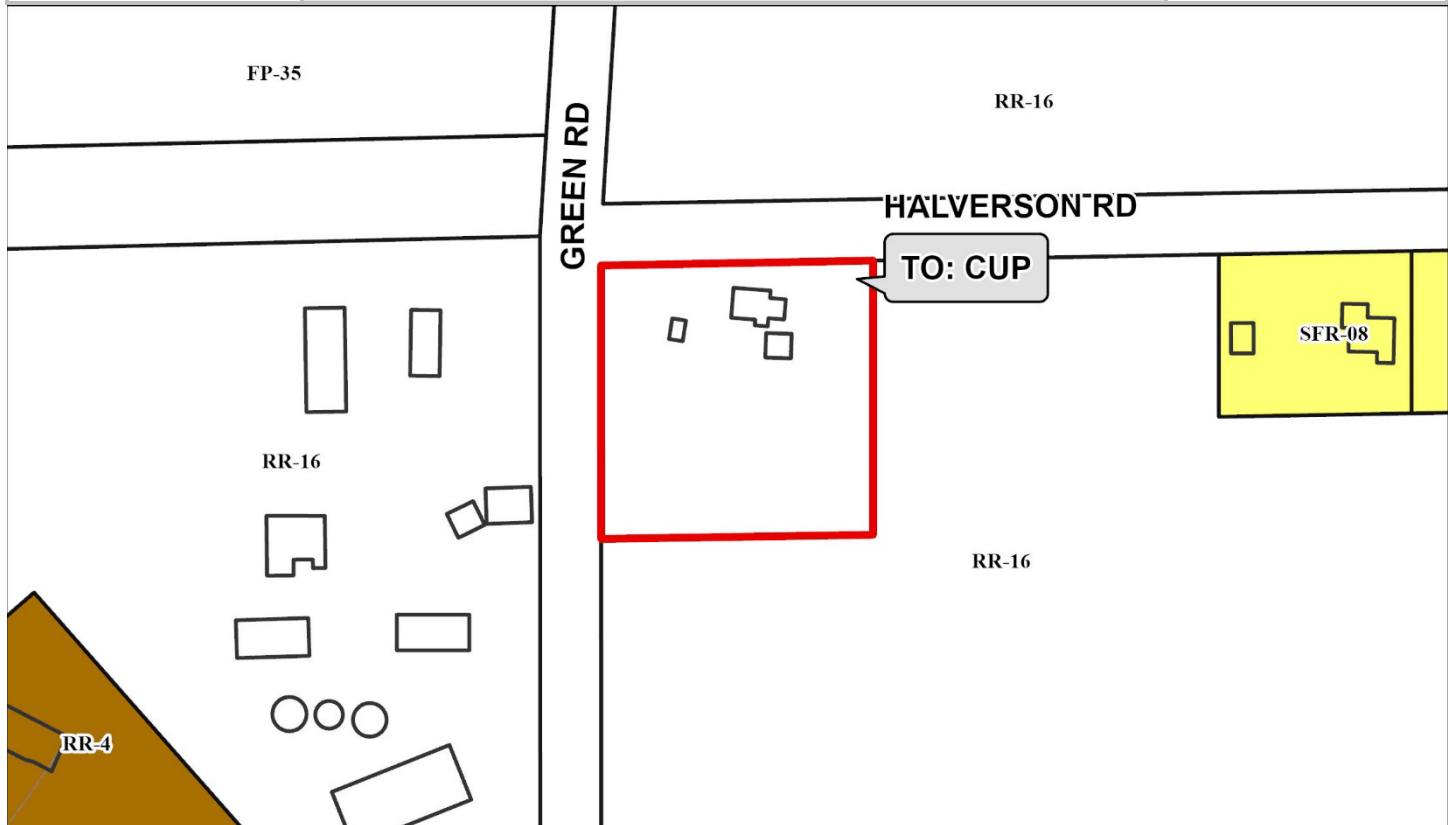


<b>Staff Report</b>  <b>Zoning &amp; Land Regulation Committee</b>	<u>Public Hearing:</u> <b>August 26, 2025</b>		<b>Conditional Use 02671</b>
	<u>Zoning Amendment Requested:</u> <b>TO CUP: Limited Family Business - concrete contractor</b>		<u>Town, Section:</u> <b>DUNN, Section 34</b>
	<u>Size:</u> <b>2 Acres</b>	<u>Survey Required:</u>	<u>Applicant:</u> <b>JOSEPH MAHSEM</b>
	<u>Reason for the request:</u> <b>Limited Family Business - concrete contractor</b>		<u>Address:</u> <b>3813 HALVERSON ROAD</b>



**DESCRIPTION:** Applicant Joe Mahsem requests a Conditional Use Permit for a limited family business (concrete business) at 3813 Halverson Road, the property that was his grandmother Audrey Rodgers’ home. Mr. Mahsem operates a small contractor business; this CUP petition was filed to address a zoning violation (see May 6, 2025 Zoning Violation letter).

**OBSERVATIONS:** The area proposed for the conditional use contains two acres of a larger (27-acre) farm property. The neighboring land uses are agricultural on all sides, with a mixture of Rural Residential and Farmland Preservation zoning. There are also a handful of residential lots with residential zoning, all located at least 400 feet from the proposed conditional use area with the exception of the farmstead residence across Green Road.

The business has 2 seasonal employees for doing concrete work, foundations, and snow removal at client locations. They operate Monday through Friday from 7am-5pm. The applicant seeks to store materials for his business in two accessory buildings. One is a 64’x32’ shed building that was built in 2023; the other is a 15’x20’ shed west of the house. The proposed site and operations plans were revised slightly in early August, based on early review comments from the Town of Dunn and the applicant’s conversations with the Town. The changes added the building additions to ensure all storage will be indoors, added the planned driveway extensions, and expanded the CUP boundary slightly to provide room for these building and driveway improvements (see petition).

**COMPREHENSIVE PLAN:** The property is located in the town’s agricultural preservation area. Town plan policies indicate that the town will review conditional use permit requests in light of the following factors:

- Consistency with the Town Comprehensive Plan

- Whether the use is complementary with adjoining properties.
- Compatibility with existing or permitted use on adjacent lands.
- Impacts of noise, dust, lights, odor, contamination, parking, traffic, and other changes related to the use on public safety and rural character of the Town.
- The productivity of the lands involved.
- The location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted.
- The need for public services created by the proposed use.
- The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.
- The effect of the proposed use on water or air pollution, soil erosion and rare or irreplaceable natural resources.

The plan also lists conditional uses which, based on their nature and “well-known or anticipated impacts”, the town believes could be reasonably consistent with applicable plan policies. The plan lists limited family businesses as a potentially consistent conditional use in the RR-16 district. The plan further lists potential conditions of approval to address issues such as outdoor storage, number of employees, hours of operation, signage, parking noise, and lighting, among others. Staff’s understanding is that the applicant will store all items and materials associated with the contractor business within structures so as to shield them from public view, which is noted as one of the conditions required in the event a conditional use is proposed within 500’ of a neighboring residence (the home at 1825 Green Rd is located ~250’ away and the home at 1810 Green Rd is ~420’ away).

Pending receipt of the town action report and imposition of any town-recommended conditions, it appears the conditional use is reasonably consistent with comprehensive plan policies. 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).

**RESOURCE PROTECTION:** There are no sensitive environmental features on or within 300 feet of the property.

**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 determine whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a CUP. 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 detriment to the land or public, that the business is performed off-site at customers’ locations, that the request is only for storage of equipment which is well-maintained, registered, and used daily. He states that anticipated noise will consist of loading/unloading of machinery onto/off of trailers to take to and from job sites, and that this will be done during daytime hours so will not disrupt the neighbors. No odor, dust, run off, or pollution to be associated with the conditional use.

The applicant has been in contact with staff at the Land and Water Resources Department (LWRD) to confirm the need for an erosion control permit. If a permit is required for the site and building work, this is covered by the standard conditions in the Chapter 10 zoning ordinance (see condition #4 below).

***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 daily operations will run from 7am to 5pm Monday through Friday, and will not affect the property in the surrounding neighborhood.

There are approximately 13 homes within 1,000 feet of the proposed CUP area, of which 3 are closer than 500 feet away. The applicant owns the land surrounding the CUP area at least 375' feet to the east and south, which is leased crop land. Outdoor lighting consists of two outdoor lights on either end of the large shed building, pointed downward as required by the zoning ordinance. No signage is proposed.

**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 conditional use will not impede or bother his neighbors and the surrounding property. 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 are in agricultural (cropland) use or are residential lots, as noted above.

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

The applicant states that the existing building and new driveway are adequate to support the business. However, in the course of reviewing the proposal and discussing with the Town of Dunn he determined that additional storage building space is needed and has proposed to add "lean-to" additions on both sides of the large shed, and one on the smaller existing shed. This will ensure that all materials and equipment for the business will be kept indoors. To provide better access to the storage buildings, the site plan anticipates gravel driveway extensions (see updated site plan in the application).

**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 residential garage, the large shed building, and two separate driveways to serve these buildings. The applicant states that the impact to traffic will be minimal, as they leave and arrive back 1-2 times per day. He states that 2 cars come in the morning with part-time employees, 2 passenger trucks (one with a trailer) go out and back in daily, 1 light commercial vehicle (a class 6 dump truck) leaves and returns ~3 times per week. All vehicles are under 15,000 pounds.

**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 RR-16 zoning district. A limited family business is an allowable conditional use in the RR-16 zoning 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).***

Not applicable.

**POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE:** The potential nuisances that pertain to limited family business operations are most likely to involve noise, traffic, and storage of vehicles/equipment/materials. Traffic and noise are not expected to be an issue with this CUP due to the limited size of the operation and the fact that it is primarily a storage use. Material storage and the potential visual impacts are a concern; however, the applicant's (revised) 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 Town and the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are other special requirements for limited family business operations:

- a) *A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning while at the same time protecting the interests of adjacent property owners. Applicants for this conditional use permit should recognize that rezoning or relocation of the business may be necessary or may become necessary if the business is expanded. No limited family or rural business shall conflict with the purposes of the zoning district in which it is located.*

- b) The use shall employ no more than one or one full-time equivalent, employee who is not a member of the family residing on the premises.*
- c) Using applicable conditional use permit standards, the committee shall determine the percentage of the property that may be devoted to the business.*
- d) The conditional use permit holder may be restricted to a service-oriented business and thus prohibited from manufacturing or assembling products or selling products on the premises or any combination thereof.*
- e) The conditional use permit may restrict the number and types of machinery and equipment the permit holder may be allowed to bring on the premises.*
- f) Structures used in the business shall be considered to be residential accessory buildings and shall meet all requirements for such buildings. The design and size of the structures is subject to conditions set forth in the conditional use permit.*
- g) Sanitary fixtures to serve the limited family business use may be installed, but must be removed upon expiration of the conditional use permit or abandonment of the limited family business.*
- h) The conditional use permit shall automatically expire on sale of the property or the business to an unrelated third party.*

The proposal meets these requirements, and some are included as recommended permit conditions (see below).

**TOWN ACTION:** The Town Board has recommended approval with 12 conditions.

**STAFF RECOMMENDATION:** Staff recommends that the ZLR Committee determine if the applicant has provided sufficient evidence to address the CUP standards. If the Committee requires additional information on which to base a decision, they could request more information at the public hearing.

Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the fact that all materials and equipment would be stored indoors, that there are no weekend operations, and only two part-time employees (see sections above).

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.

***CUP 2671 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 # 2671:*

13. Hours of business operation shall be limited to 7:00 am to 5:00 pm, Monday through Friday.
14. No employees may perform regular work on the property. The number of employees shall be limited to no more than two (2) part-time employees or one (1) full-time employee. Occasional visits by employees are permitted provided that such visits are infrequent and of short duration.
15. No new exterior lighting for the business may be placed on the existing outbuilding or elsewhere on the property, except for up to two downward-facing, shielded lights may be installed at the entrance and exit of the proposed new outbuilding. Any existing lights on the building are allowed as long as they do not shine directly on neighboring residences and are downward facing.
16. In addition to the standard residential service provided by the Town's contracted trash and recycling vendor, trash and recycling collection for the business shall be limited to one 3-yard dumpster.
17. All business-related vehicles, equipment, and materials must be stored indoors within the existing outbuilding shown in the two-acre CUP area, and/or within the proposed new outbuilding, which must also be located within the two-acre CUP area. All activities related to the limited family business must also be conducted indoors.
18. Vehicle and equipment storage for the business cannot exceed more than two passenger cars, three passenger trucks, one class 6 dump truck, one skid steer, and two trailers.
19. No sanitary fixtures or human habitation is allowed in the outbuilding shown on the site plan or within the proposed new outbuilding.
20. Noise related to the limited family business is limited to 60 dBA measured at the property line. For a period of a total of 10 minutes per day, decibel levels may reach 100 dBA between 9 am to 5 pm.
21. Customers or clients are not allowed to come to the property for activities related to the limited family business.
22. Should any hazardous, flammable, or explosive materials be stored on the property, it must be kept indoors and in full compliance with Occupational Safety and Health Administration (OSHA) and National Fire Protection Association (NFPA) standards. Industrial or manufacturing uses are not permitted on the property. All water discharged to the ground must consist solely of stormwater, and any hazardous, toxic, or explosive materials must be disposed of offsite.
23. No business signage is allowed.
24. The CUP shall automatically expire on sale of the property or the business 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.