
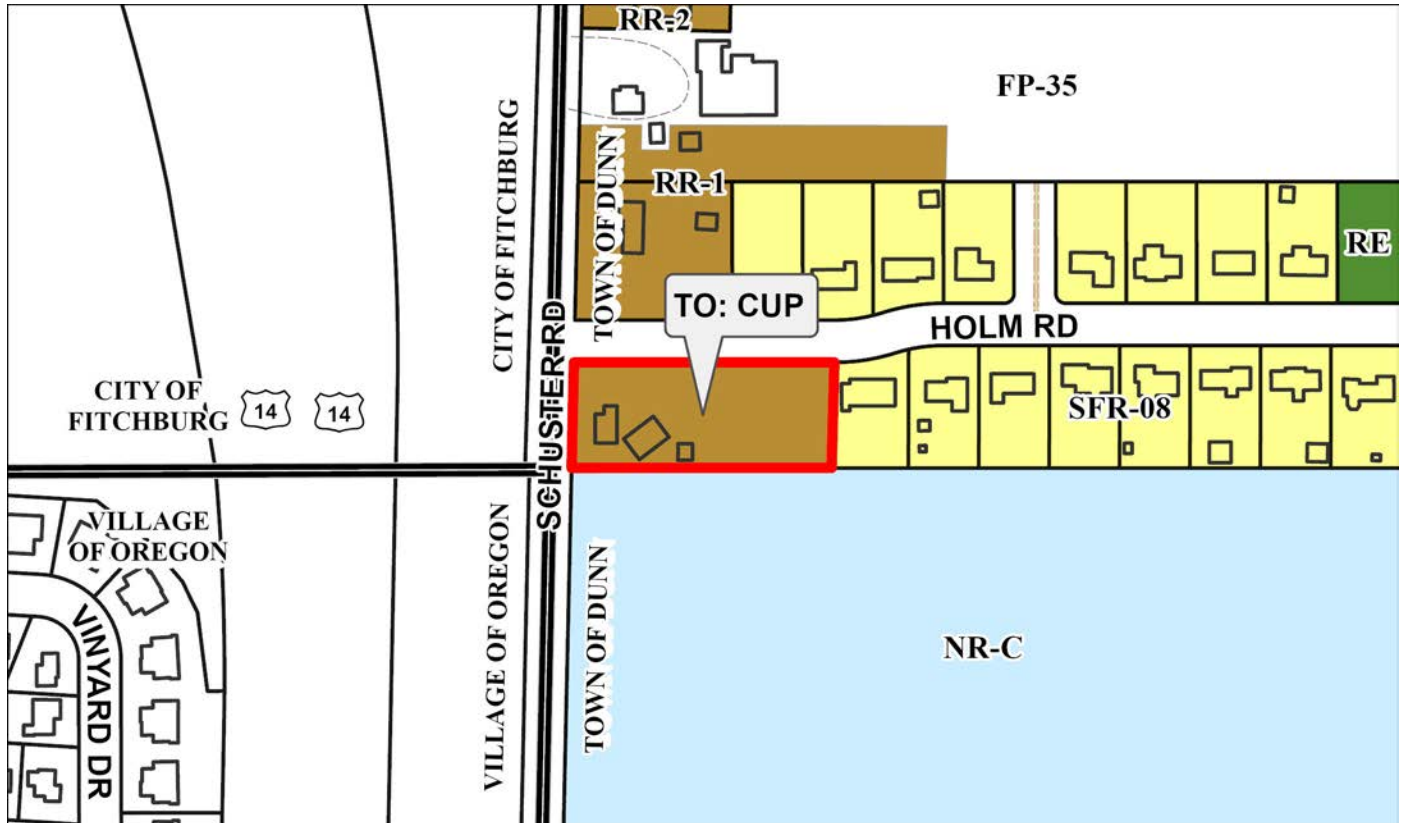


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> June 18, 2024	Conditional Use 02617	
	<u>Zoning Amendment Requested:</u> TO CUP: Limited Family Business - Contractor		<u>Town, Section:</u> DUNN, Section 31
	<u>Size:</u> 1.5 Acres	<u>Survey Required:</u>	<u>Applicant:</u> MATT KIRT
	<u>Reason for the request:</u> Conditional Use Permit for a Limited Family Business (Contractor)		<u>Address:</u> 1794 SCHUSTER ROAD



DESCRIPTION: Matt Kirt requests a conditional use permit for a limited family business in order to store a limited amount of trucks, trailers and pallets for his contractor business which does its work off-site. The equipment would be stored indoors within two accessory buildings. Kirt’s business does decorative concrete work; he works out of a home office and has two employees who would visit the site twice daily. There would also be limited mechanical work indoors to maintain the equipment.

OBSERVATIONS: The property is a 1.5 acre parcel that is in residential use and zoned RR-1 Rural Residential. It is located on border with both the City of Fitchburg and the Village of Oregon to the west across Schuster Road, which runs next to US Hwy 14. The neighboring land uses are residential to the east and north (in the Town of Dunn), and agricultural / open space to the south (DNR-owned lands in the town). To the west is land in Fitchburg and Oregon currently in agricultural use but which may be developable. This property previously had a different conditional use (CUP #92 from 1976) for auto repair, which is no longer active.

COMPREHENSIVE PLAN: The property is located in the town’s agricultural preservation area. The town’s comprehensive plan [identifies conditional uses](#) for each zoning category that, based on the nature and known or anticipated impacts of such uses, the town believes could be reasonably consistent with applicable comprehensive plan policies. For the RR-1 district, limited family businesses are listed as a use that could be potentially consistent with the goals, objectives, and policies of the comprehensive plan. The plan also identifies possible conditions of approval for CUPs based on different impacts and the distance from the proposed use to neighboring residences. These include things like hours of operation, noise, dust, etc.

Given that the proposed limited family business primarily entails the indoor storage of equipment used off-site in the operation of the owner's contractor business, few if any significant impacts are anticipated. Pending any concerns raised at the ZLR public hearing, or by the town in the course of its review, the proposed conditional use appears 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.

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 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 the business is operated off site, the request is to store minimal equipment and vehicles on site which will be well-maintained, registered, and used daily. He does not expect any detriments to the land or the public. No hazardous, toxic, or explosive materials are proposed to be stored for the business. One 3-yard dumpster would be used to contain business-related waste materials.

Staff discussed with the applicant and he understands that the vehicles and equipment must be stored indoors. Otherwise the property is expected to be used in a manner consistent with a typical residence, which may include outdoor storage of items such as a personal trailer, home maintenance equipment, and a few pallets.

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 he regularly operates from 8:00am to 5:00pm Monday through Friday, and this activity will not affect the surrounding property. He does not expect any additional noise to result from the storage and visits to his home by the two part-time employees. No additional lighting or signage is proposed, and the property would continue to be the applicant's primary residence.

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 house is located in the perfect position to allow the use and not bother any surrounding property. The application notes the surrounding properties' uses include a bus garage, commercial farming, a plumbing service, and RV sales.

This property and most of the surrounding properties are already developed for residential use, including some business activity. Other adjacent lands are agricultural or open space use, or town roads and a U.S. highway. The proposed use would not appear to impede the development of surrounding properties.

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

The applicant states that no changes are needed to the property. The utilities, access roads, drainage, and other improvements needed for the proposed use are already in place and sufficient.

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 the impact to traffic will be limited; they only leave and arrive once daily, ensuring no additional congestion. The property contains a driveway over 100 feet long.

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-1 zoning district. A limited family business is an allowable conditional use in the 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 (contractor) operations can most likely involve increase vehicle traffic and noise. The applicant's CUP application addresses how these potential nuisances are handled, as noted above.

Conditions of approval specific to this CUP can be developed after public input and deliberation by the Town and the ZLR Committee. Under Dane County Zoning Ordinance section 10.103(12), there are special requirements for limited family business operations:

- a) 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.

TOWN ACTION: On May 13, 2024 the Town Board approved the CUP with 13 conditions (see recommended conditions #12-24 below).

STAFF RECOMMENDATION: Staff believes the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the fact that there are only two part-time employees, no customer traffic or business signage, and no noise associated with the storage use. The town's approval also reflects this.

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.

Staff recommends that (1) the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards, and (2) we recommend approval with the conditions listed below.

CUP 2617 Potential Conditions of Approval:

Standard Conditions that apply to all conditional uses from s.10.101(7):

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
2. 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.
3. 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.
4. 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.
5. 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.
6. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
7. Off-street parking must be provided, consistent with s. 10.102(8).
8. 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.
9. 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.
10. 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.
11. 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. The holder of a conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation.

Conditions Specific to CUP 2617:

12. Hours of business operation shall be limited to 8:00 am to 5:00 pm, Monday through Friday.
13. No employees may conduct work at the property. The number of employees at the property is limited to no more than two part-time employees. Employees that visit the property shall be limited to infrequent visits of short duration to pick up a truck or trailer that is taken to the job site.
14. No new lighting for the business may be placed on the buildings or on the property. The existing motion lights on the outbuildings are allowed, so long as they do not shine directly on neighboring residences.
15. Trash and recycling collection and bins for the business shall be limited to a 1 to 3 yard dumpster, in addition to the service that is provided by the Town's contracted trash and recycling vendor.
16. Business-related vehicles, equipment, and materials must be stored indoors (within the two accessory buildings depicted on the applicant's site plan, or within replacement accessory buildings). Activities related to the limited family business must be conducted indoors (within the two accessory buildings depicted on the applicant's site plan, or within replacement accessory buildings).
17. Vehicle and equipment storage for the business cannot exceed more than 2 passenger trucks, 2 dump trailers, 1 box truck, 2 box trailers, 1 flat deck trailer, and one skid steer.

18. Work related to the concrete business cannot be conducted at the property. Occasional light mechanical work on, and cleaning and maintenance of, the passenger trucks, trailers, skid steer, or business equipment is allowed, but must take place indoors.
19. No sanitary fixtures or human habitation is allowed in the accessory buildings.
20. Noise related to 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, they must be stored indoors and according to Occupational Safety and Health Administration (OSHA) and National Fire Protection Association (NFPA) standards. There may be no industrial or manufacturing uses on the property. Any water discharge to the ground must be composed entirely of storm water. Hazardous, toxic, or explosive materials must be disposed of offsite.
23. No business signage is allowed.
24. The CUP shall automatically expire on the 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 if you have questions about this petition or staff report.