
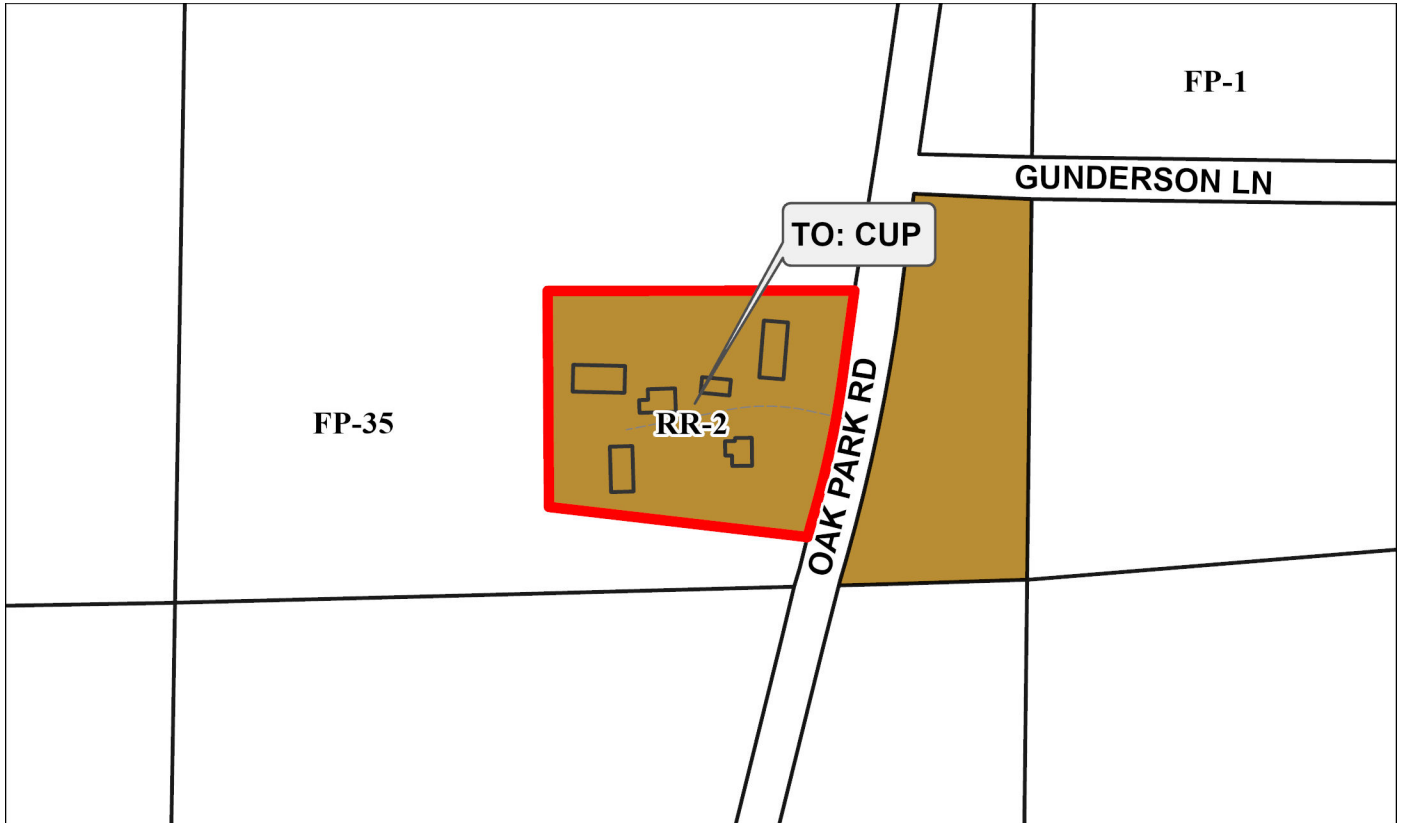


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> August 27, 2024	Conditional Use 02630
	<u>Zoning Amendment Requested:</u> TO CUP: Limited Family Business (woodworking)	<u>Town, Section:</u> DEERFIELD, Section 8
	<u>Size:</u> 3.7 Acres	<u>Survey Required:</u>
	<u>Reason for the request:</u> Limited Family Business (woodworking)	
		<u>Applicant:</u> RICHARD BARTUSKA AND KELLI MORSCHAUSER
		<u>Address:</u> 4435 OAK PARK RD



DESCRIPTION: Richard Bartuska requests a conditional use permit (CUP) for a limited family business, in order to operate a one-man woodworking business within 3 accessory buildings on his rural residential property. The business, Drumlin Woodworks, provides high-end furniture and cabinets using logs from local sources. Lumber is processed using a bandsaw sawmill, wood drying kiln, and other woodworking equipment, and the products are sold off-site.

OBSERVATIONS / FACTUAL INFORMATION: The property is a rural residential lot roughly 4 acres in size, that contains a house and several accessory buildings. The surrounding lands are in agricultural uses on all sides and zoned for Farmland Preservation except for one vacant CSM lot across the road that is zoned RR-2 and is in agricultural use. All of the agricultural land around the property is also deed restricted to prohibit development. The nearest homes are 1,000 feet away in all directions. A limited family business is an allowable conditional use in the RR-2 zoning district.

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

COMPREHENSIVE PLAN: The property is located in the town's agricultural preservation area. Town plan policies allow for small scale home-based businesses that are compatible with the town's rural atmosphere and surrounding land uses. 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.

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 traffic and noise generated would be consistent with rural agricultural use presently in the area, that no additional lighting would be added to the current driveway lighting, and that the property is about 900 feet away from the nearest residence. Staff notes there is about 1,000 feet between the buildings on this site and the nearest house, and the applicant proposes very little retail customer traffic to and from the site. There would be some logs (up to 50) stored in the back yard behind the rear buildings (see site plan). Some amount of log storage would not be unusual for a rural residence without a business use; however such storage could be limited by CUP conditions.

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 property and buildings would be maintained preserving the rural character of the neighborhood, and the properties on all sides are agricultural fields without residences or buildings, so there would be no impact to the current use of those properties. In addition, the proposed business activity would be at the rear of the property, approximately 400 feet from the road, and much of that will take place inside existing buildings.

He states that noise would be contained within the existing building, except for occasional noise from the portable sawmill located just outside the Quonset shed located in the rear yard. The sawmill would operate 3-8 days per month and the noise would be consistent with the sound and volume of lawn care equipment or off-road vehicles. Sawdust would be collected with the equipment and either repurposed or disposed of.

The hours of operation would be 8:00am to 5:00pm Monday through Friday, with some possible weekend daytime hours. Customers (typically a single customer) would visit the site by appointment during business hours. The amount and frequency of customer traffic is expected to be limited due to the business being a one-person operation, which naturally limits the amount of product that can be produced.

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.*

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*. The applicant states that the surrounding properties are FP-35 zoned cropland, so there is little opportunity for development and the any rural development or improvement meeting the conditions of FP-35 zoning or conditional uses would not be impeded or impacted by the granting of this CUP. The RR-2 zoned lot across the road is approximately 400 feet away from the proposed CUP site and is not expected to be impacted. As noted above, the farm lands are also deed restricted to prohibit non-farm development.

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

The applicant states that the existing utilities and driveway are adequate to support the business; there would be no change and no other improvements necessary.

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 limited traffic is anticipated, consistent with agricultural traffic presently in the area, that the current driveway and parking are adequate, and there are no expected traffic conflicts. He also notes that materials will be dropped off and picked up at a scheduled time so traffic would be infrequent, at most a few times per day.

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

The proposed use, and existing buildings conform to the applicable regulations of the RR-2 zoning district. A limited family business is an allowable conditional use in the zoning district. The applicant notes the business will use existing buildings without exterior modifications so will maintain their agricultural look and original purpose.

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. The applicant notes the requested CUP is a type of business that would typically be found in a rural landscape.

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 most likely involve noise, traffic, and storage of vehicles/equipment/materials. 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(12), 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.*

TOWN ACTION: The Town Board approved the Conditional Use Permit with no conditions.

STAFF RECOMMENDATION: Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the information outlined above regarding the specifics of the operation and surrounding lands, and the inherent limitations on limited family business uses in the zoning code.

Based on the provisions noted above for limited family businesses in s. 10.103 of the zoning code, the town may opt to limit the number and types of machinery the owner may have on site, limit the quantity of logs stored, prohibit sanitary

fixtures in the accessory buildings, and/or have the CUP expire upon sale of the property or business. We recommend setting specific operating hours for weekend days, for clarity and ease of enforcement into the future.

Pending any comments at the public hearing, 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.

At this time we recommend postponement to allow time for town action, per the ZLR Committee's adopted rules and procedures. Potential conditions of approval are listed below for consideration only at this time. Once the town has made a decision on the application, this report and recommended conditions will be updated for the ZLR Committee.

CUP 2630 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 # 2630:

13. 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.
14. Hours of operation shall be 8:00am to 5:00pm Monday through Friday.
15. There shall be no more than 50 logs stored outside in the location as designed on the operation plan.
16. Sanitary fixtures in the accessory buildings are prohibited.

17. This permit 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 if you have questions about this petition or staff report.