
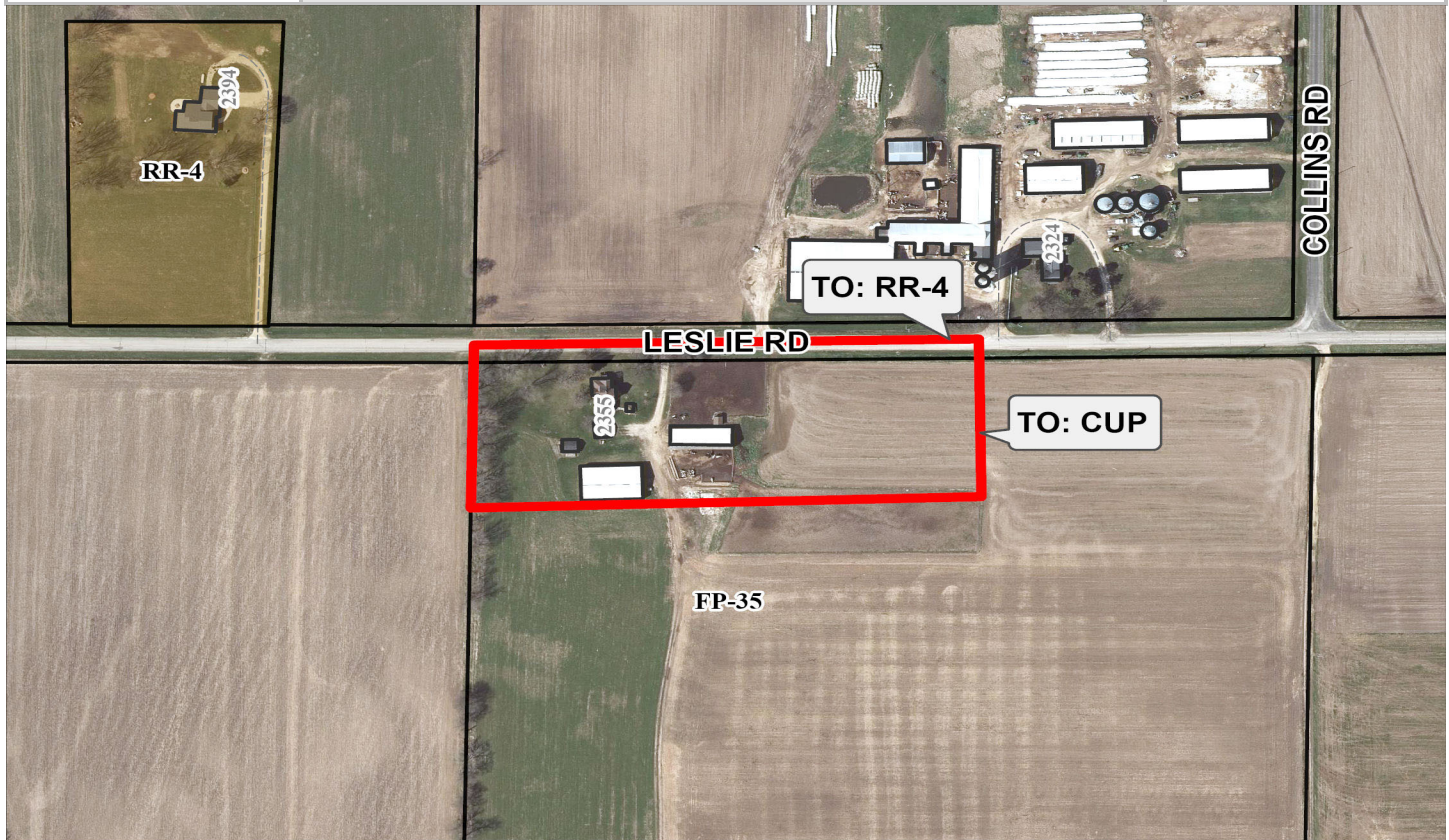


<b>Staff Report</b>    <b>Zoning and Land Regulation Committee</b>	<i>Public Hearing:</i> <b>September 26, 2023</b>	<b>Conditional Use 02602</b>
	<i>Zoning Amendment Requested:</i> <b>TO CUP: C.U.P. FOR MORE THAN ONE ANIMAL UNIT PER ACRE (CONTINUED USE UP TO 55 HEAD OF LIVESTOCK)</b>	<i>Town/Section:</i> <b>DUNKIRK, Section 22</b>
	<i>Size:</i> <b>5.2 Acres</b>	<i>Survey Required.</i>
	<i>Reason for the request:</i> <b>C.U.P. FOR MORE THAN ONE ANIMAL UNIT PER ACRE (CONTINUED USE UP TO 55 HEAD OF LIVESTOCK)</b>	<i>Applicant</i> <b>D&amp;J ALME PARTNERSHIP</b>  <i>Address:</i> <b>2355 LESLIE ROAD</b>



**DESCRIPTION:** The D&J Alme Partnership (Luann Alme) requests a conditional use permit (CUP) for livestock more than one animal unit per acre, in order to have up to 55 head of young cattle on a proposed 5-acre lot. The owners have historically used the existing dairy barn located east of the driveway for this purpose, in association with the family’s dairy farm operation located across Leslie Road.

The Almes are in the process of separating the existing farmstead from the farm, to create the new lot for their daughter and son-in-law. A separate rezone petition has been submitted ([Rezone Petition 11975](#)) in order to facilitate the creation of the lot.

**OBSERVATIONS:** The property is located on the south side of Leslie Road, roughly one mile east of the Yahara River and County Highway N and roughly one mile west of rail line operated by Wisconsin & Southern Railroad. The site is surrounded by agricultural lands with FP-35 farmland preservation zoning, and there are a handful of large lots with a mix of rural residential and agricultural zoning within one mile. The RR-4 zoning district allows animal use exceeding one animal unit per acre, with approval of a conditional use permit.

**RESOURCE PROTECTION:** No sensitive environmental features are located on or within 300’ of the subject property.

**COMPREHENSIVE PLAN:** The subject property is located in the Agricultural Preservation area of the Town of Dunkirk Comprehensive Plan. Comprehensive plan policies support farming and maintaining agriculture as an integral part of the town's economy. Given that the Alme family has historically utilized the existing dairy barn included within the proposed RR-4 and CUP boundary for housing their livestock, maintaining this use as part of the larger farm operation would be consistent with relevant plan policies in support of agriculture. The applicants would need to comply with any applicable manure management regulations administered by the Dane County Land and Water Resources Department.

(For questions about the town plan, contact Senior Planner Majid Allan at (608) 267-2536 or [allan@countyofdane.com](mailto:allan@countyofdane.com))

**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 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 applicants indicate that they are not proposing any new construction and only continuing to use the existing barn structure (located east of the driveway) to house livestock. The surrounding property is owned by D&J Alme Partnership and will continue to be zoned FP-35 and used as it is now, as agricultural land and the site is more than 1,000 feet from any other property/homes owned by others.

The applicants' intent is to have up to 50 or 55 young heifers on site while they are young, and cycle them back and forth between this site and the dairy farm across the road on a monthly basis.

**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 applicants state that there will be no change to the existing use of the property or barn structure.

As noted above, the surrounding properties consist of agricultural lands with FP-35 farmland preservation zoning, and there are a handful of large lots with a mix of rural mixed use and rural residential zoning. The only home within 1,000 feet of the site is the Alme's residence located to the northwest at 2394 Leslie Road. The applicants have indicated that cattle will only be kept on this property for as long as the family members continue to work on the dairy farm. Manure will continue to be managed as it has been, on the Alme family's surrounding farm lands. Staff is working to verify the manure is handled in accordance with guidelines provided by Dane County Land and Water Resources staff, who work with landowners to ensure manure is handled to avoid impacts to the soil and water runoff.

**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 applicants state that this standard will be met because there will be no improvements necessary to continue the current use, and the current driveway and electric utilities will stay in place.

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*. As noted above, the area consists of agricultural and rural residential properties with a mix of FP-35 Farmland Preservation, RR Rural Residential, and RM Rural Mixed Use zoning. These zoning districts allow for livestock use, and though the RR-zoned lots are limited to one animal unit per acre they are located over 1,000 feet away.

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

The applicants state that the current utilities and access will stay in place, the current fenced pasture will remain the same, and that there will be no increase in traffic from what occurs now. It appears the existing driveway and site improvements are sufficient to meet the needs of the dairy operation.

**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 applicants state that there will be no increase in traffic. They would have no employees other than family members. When animals are moved between farms they are moved in an enclosed trailer, and other traffic includes a tractor and feed mixer. The site contains a driveway with places to turn around without requiring vehicles to back onto the road.

**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-4 zoning district, and the proposed lot meets the requirements of the RR-4 district including lot size, lot coverage, building setbacks, and public road frontage. The buildings on site are an existing condition. 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 Alme family continues to use this site as part of its dairy farm operation.

**7. That the conditional use is consistent with the adopted town and county comprehensive plans.**

Applicants state that the conditional use is consistent with the town plan. Staff notes that the Town and County plan designates this and the surrounding properties as Agricultural Preservation areas, and that keeping cows as part of a dairy operation is consistent with the plan's stated objectives. See Comprehensive Plan section above.

**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 livestock most likely involve noise, odors, animal waste management, and in this case traffic when transporting the animals. The applicant has addressed how those potential nuisances would be handled; most of this is described in the section above.

Under Dane County Zoning Ordinance section 10.103(7), there are special requirements for animal uses in excess of one animal unit per acre, which are intended to address the potential issues with the land use. These are not required as "conditions" on the permit, unless the Town or ZLR Committee wish to impose conditions on the operation based on these. 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 be managed on the surrounding farm lands that the family owns. Specifically, they spread manure on the land north and south (D&J Alme Partnership and Melvin S. Alme Family Trust). D&J Alme Partnership has a 590 Manure Management Plan on file with Dane County Land and Water Resources.

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

A Farm Conservation Plan is only applicable if a crop farmer participates in farmland preservation program for tax credits; they must demonstrate practices such as crop rotation, for soil health preservation. The Almes have a Farm Conservation Plan on file with the FSA Office and Dane County Land and Water Resources.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. See staff recommendations below.

**TOWN ACTION:** On August 21, 2023 the Town Board approved the conditional use, with a condition that the CUP would expire if the property is sold to a non-family member.

**STAFF RECOMMENDATION:** At this time, staff believes the applicants have provided sufficient information to mitigate the potential for nuisances and demonstrate how the proposed use will meet all of the required standards for CUP approval. This includes: the existing 3,250 SF barn building, the existing driveway and parking areas, the applicant having approved manure management and Farm Conservation Plans on file, and the fact that the residential lot will be owned and lived in by family members who are integral to the surrounding dairy farm operation. These aspects of the proposal, with the suggested conditions below, would help ensure compatibility with the surrounding neighborhood and the RR-4 zoning district.

Pending any comments at the public hearing, staff recommends that the ZLR Committee makes a finding as to whether the proposed conditional use meets the applicable CUP standards. If the Committee agrees that the standards are met, staff recommends approval of the CUP with the potential conditions listed below. Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or [holloway.rachel@countyofdane.com](mailto:holloway.rachel@countyofdane.com)

**Possible CUP 2602 Conditions:**

*Standard Conditions for all Conditional Use Permits*

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operation plan and phasing plan.
2. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet current requirements of applicable sections of 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 county 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 county 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 and circulation must be provided, consistent with s. 10.102(8) of County Ordinances.
8. If 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 County Zoning Administrator or designee may enter the premises of operation in order to inspect those premises and to ascertain compliance with these conditions or 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 must post, in a prominent public place and in a form approved by the county zoning administrator, a placard with the approval of the Conditional Use Permit number, the nature of the operation, name and contact information for the operator, and contact information for the Dane County Zoning Division.
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. The holder of a conditional use permit shall be given reasonable opportunity to correct any violations prior to revocation.

*Conditions Unique to CUP 2602*

13. Livestock use on the property shall be limited to a maximum of 55 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. This conditional use permit shall expire in the event the property is sold or transferred to an unrelated third party.