

Staff Report



Zoning & Land Regulation Committee

Public Hearing: January 28, 2025

Report updated for the March 25<sup>th</sup> ZLR Committee meeting

Petition 12131

Zoning Amendment Requested:

FP-35 Farmland Preservation District TO ~~RM-8 Rural Mixed Use District~~  
RR-4 Rural Residential District, and RR-2 Rural Residential District

Town, Section:

PERRY, Section 2

Size: 21.24,3.0 Acres

Survey Required: Yes

Applicant:

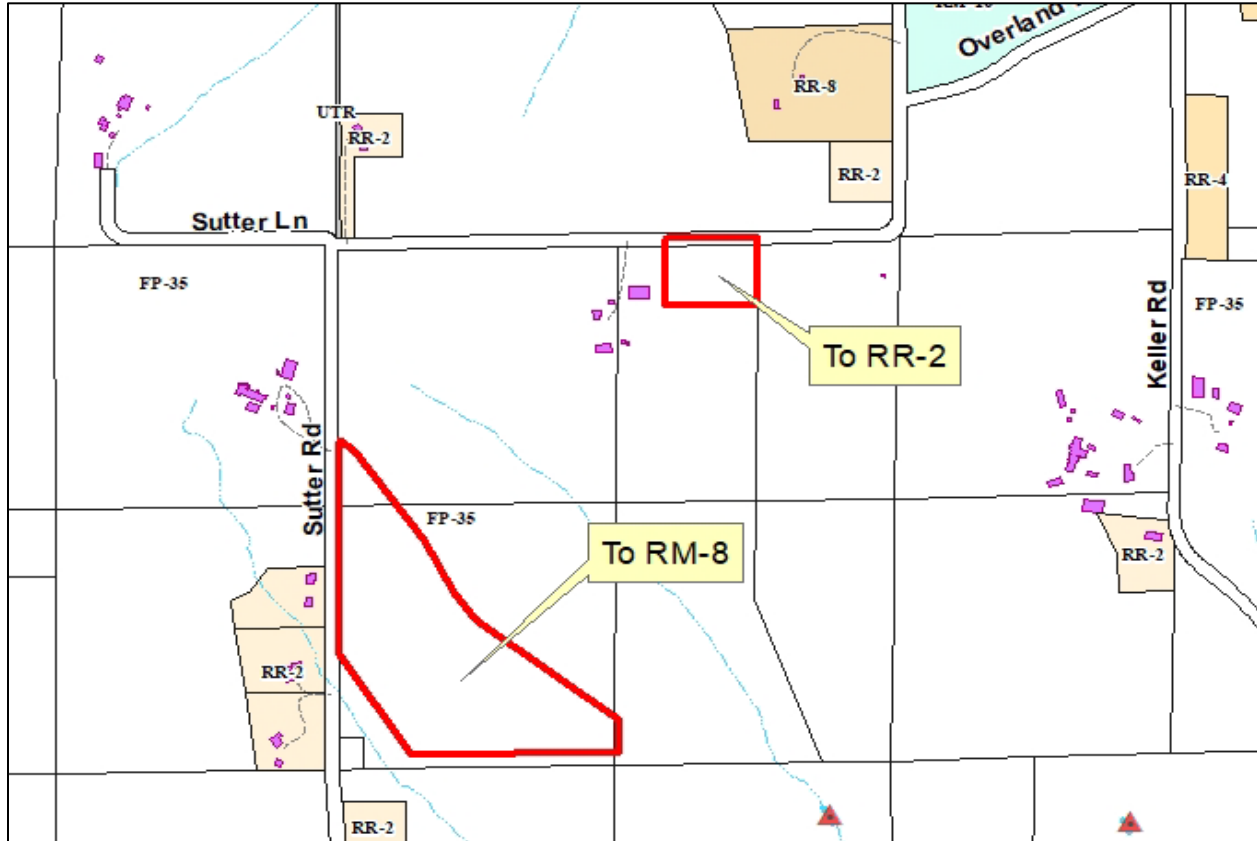
DIANE E ERB

Reason for the request:

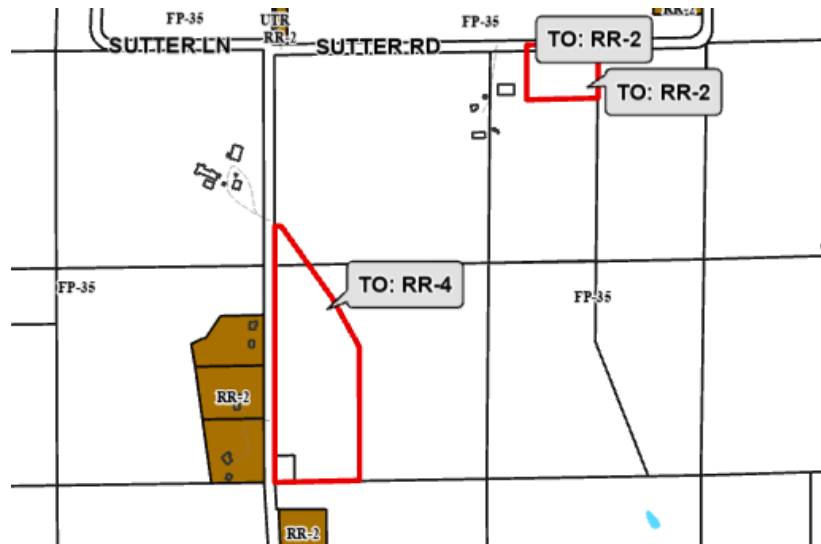
Create three residential lots

Address:

NORTH OF 1378  
SUTTER RD



**DESCRIPTION:** Applicant Diane Erb would like to create 3 residential lots on her farm, with RR-2 and RR-4 ~~RM-8~~ zoning. Erb proposes one 3-acre lot along the east-west stretch of Sutter Road in the north end of the property, and two larger lots in the southwest end of the property where Sutter Road runs north-south. **Update:** The original petition was amended based on the Town's feedback, to reconfigure the southern lots and request RR-4 zoning. See below:



**OBSERVATIONS:** The proposed lots meet county ordinance requirements for the proposed zoning districts, including lot size and public road frontage. The two southern lots are located on an area with steep slope topography. The RR-4 ~~RM-8~~ zoning proposed there would allow both residential use and small-scale farming (continued agricultural use) if the landowner desires to continue to farm it.

**COMPREHENSIVE PLAN:** The property is within a Farmland Preservation Area under the *Town of Perry / Dane County Comprehensive Plan* and the *Dane County Farmland Preservation Plan*. Residential development, including all existing residences, is capped at one unit per 35 acres owned as of 1979. If Petition 12131 is approved, it will **exhaust** the development potential for this property. The balance of the property should be deed restricted to prevent further development. For questions about the town plan, contact Senior Planner Brian Standing at (608) 267-4115 or [Standing.Brian@danecounty.gov](mailto:Standing.Brian@danecounty.gov).

**RESOURCE PROTECTION:** There is an intermittent stream in the southwest corner of the farm, which would be located within proposed Lot 2 in the south end CSM. Proposed Lot 2 would contain sufficient buildable area outside of the 75-foot buffer from the stream. Staff has no concerns.

**JANUARY 28<sup>TH</sup> ZLR HEARING:** In January the ZLR Committee held a public hearing on the proposed rezoning. No one registered or spoke in opposition to the proposal. The Committee postponed action to allow more time for town action.

**TOWN ACTION:** On January 14, 2025 the Town Board approved of the 3-acre lot in the north end for RR-2 zoning. However, the board did not approve of the southerly lots' configuration. On March 11, 2025 the Town Board recommended approval of the southerly lots as revised, with RR-4 zoning. (See Town Action Report)

**STAFF UPDATE:** The Town of Perry's Land Use Committee postponed action on the petition at its meeting in January due to concerns about the configuration of the two lots proposed in the south end. Since that time, the applicants have worked with the town and modified the petition as noted above. The changes reduce the size of the two proposed lots, include the stream within the boundary of Lot 2, and would eliminate a small un-platted parcel (tax parcel 0506-024-9240-2) that currently exists in the far southwest corner of the Erb property.

Because there were no objections to the proposal at the public hearing, and the town has recommended the rezone with the changes made, staff recommends approval of the petition with one condition:

1. A deed restriction shall be recorded on tax parcels 050602480602, 050602495605, 050602490002 and 050602485009 stating the following:
  - a. Further residential/nonfarm development is prohibited on the remaining FP-35 zoned land. The housing density rights for the original E. J. Sutter farm have been exhausted per the Town Comprehensive Plan density policies.

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.