
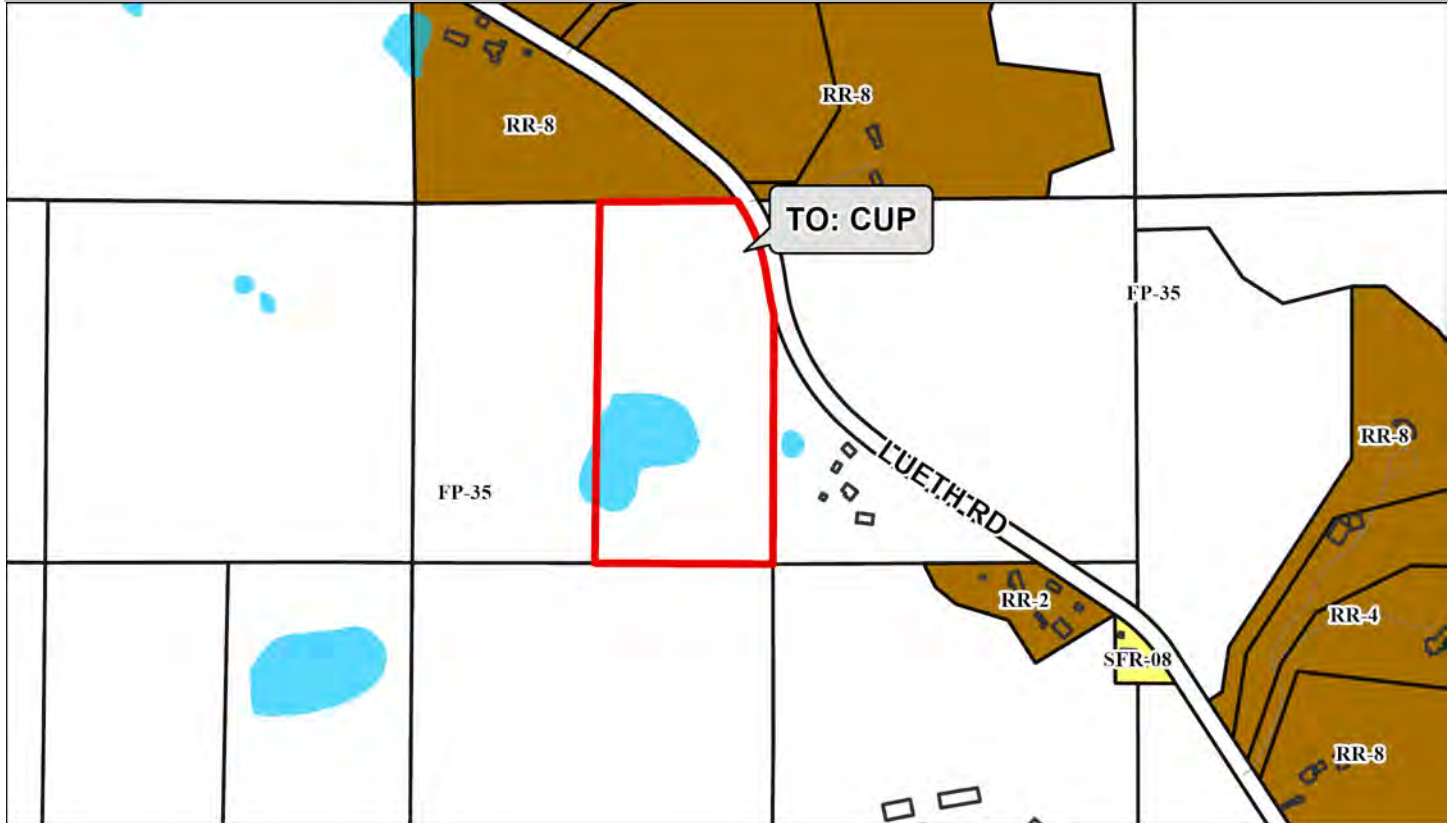


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> May 5, 2026		Conditional Use 02700
	<u>Zoning Amendment Requested:</u> TO CUP: Farm residence		<u>Town, Section:</u> ROXBURY, Section 13
	<u>Size:</u> 20 Acres	<u>Survey Required:</u>	
	<u>Reason for the request:</u> Farm residence		<u>Applicant:</u> ALLAN G & LORA S BREUNIG REV LIVING TR
			<u>Address:</u> NORTH OF 8099 LUETH RD



DESCRIPTION: Dexter and Tessa Breunig request a conditional use permit (CUP) to build a farm residence on the existing Breunig farm, as part of a generational transfer keeping the farm in the family. The applicants are acquiring a “40” from Dexter’s father, plus a small piece of adjacent land where the driveway access will be. The goal is to support the current farming operation and minimize the amount of acreage taken out of agricultural production. No land would be rezoned, all of the farm land will remain in FP-35 Farmland Preservation zoning.

OBSERVATIONS/ FACTUAL INFORMATION: The subject property is in agricultural use and the CUP would comprise 20 acres of land, to cover where the residence would be built. The neighboring land uses are agricultural on most sides, with a few rural residential properties to the north and down the road to the east.

RESOURCE PROTECTION: The lot is partially within the shoreland zone due to proximity to an intermittent stream and a pond onsite. The pond appears to drain into the waterway to the other side of Lueth Rd. Applicants state that construction will comply with Dane County erosion control and stormwater standards. The project requires a Shoreland Erosion Control Permit for land disturbance within 300 feet of the pond, and the residential development requires a Shoreland Zoning Permit. The applicant has already submitted development plans and obtained the necessary approvals for these permits.

COMPREHENSIVE PLAN: This petition is in the town’s Agricultural Preservation planning area and is subject to the land use policies related to that designation. This proposal is consistent with the goals, objectives of policies related to the continuation of agriculture. The Town of Roxbury has a 1 home per 35 acres density policy, the proposal is consistent

with the density policy. (See attached Density Study) Per the Town Plan: “Any new residence for a landowner or family member earning income from the farm operation shall be considered one dwelling unit for the purposes of this density policy.”

For questions about the town plan, contact Senior Planner Curt Kodl at (608) 266-4183 or Kodl.Curt@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 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 proposal. The applicants state that the proposed use would support an active ag operation on FP-35 zoned land and that it will be built in accordance with all applicable building/health/safety codes. They say the presence of the farm operator on-site enhances safety, allows for timely response to agricultural needs and emergencies, and does not create risks to public health, safety, comfort, or general welfare.

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 this standard will be met because the residence will be located within the existing or planned farmstead area, set back from property lines and roadways, and consistent with the rural agricultural character of the area. Staff notes the home is not expected to affect the surrounding farms and will at least 700 feet away from the nearest residence located at 8099 Lueth Road.

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*. This property and the surrounding properties are already used for farmland and farm residences; no impacts are expected. The applicants state that the use will not impede the normal and orderly development of surrounding land for permitted agricultural uses, and the property will remain primarily devoted to ag production. In addition, the residence will not promote non-farm development or land fragmentation.

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

The applicants state that adequate utilities and site improvements will be provided to serve the proposed residence. They will construct a private well and private onsite wastewater treatment system per Dane County requirements. Drainage patterns will be maintained or improved as needed to prevent adverse impacts. The applicants have been working proactively with county staff for months to secure the appropriate shoreland, erosion control, and stormwater management permits.

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 driveway, which is an existing field access that will be improved for residential and agricultural use. As noted above, the Breunigs are working with the neighboring land owner to acquire a small piece of land to assemble as part of the applicants’ farm.

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 FP-35 zoning district. A farm residence is an allowable conditional use in the district, if it meets the definition criteria as a “farm residence” (see below).

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).*

- a. *The use and its location in the Farmland Preservation Zoning District are consistent with the purposes of the district.*
- b. *The use and its location in the Farmland Preservation Zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.*
- c. *The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.*
- d. *The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.*
- e. *Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.*

The FP-35 district is intended for a wide range of agricultural and agricultural accessory uses, including activities compatible with agricultural use, with the stated purpose of preserving productive farms. The construction of a new residence for use by the next generation of farm operators is consistent with this purpose. Applicants state that the proposed home site would occupy approximately 6,000 square feet and the site was designed to occupy the smallest practical footprint and sited to avoid prime tillable land.

If anything, the home is expected to have a positive effect on agriculture by helping to sustain the farm operation.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The most likely concerns with farm residences are the conversion of farm land and the potential conflicts between residential and ag land uses, as suggested by the standards above. Under Dane County Zoning Ordinance section 10.103, there are special requirements for farm residences (see below). Section 10.103(11)(b) specifies the following permit conditions for any farm residence:

1. *Any approved conditional use permit for a farm residence shall expire on the sale of the property to an unrelated third party. Continued use of a farm residence after sale to an unrelated third party shall require approval of a new conditional use permit.*
2. *The Zoning Committee may revoke any Conditional Use Permit it finds in violation of this section. Continued use of residence with a revoked conditional use permit shall require approval of a rezoning petition to a zoning district that allows nonfarm residential use.*
3. *The Zoning Committee shall require the recording of a notice document with the Register of Deeds on the subject property notifying current and future owners of the provisions of paragraph 1. And 2. of this section.*

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

TOWN ACTION: Town Board recommends approval. The town board feels that this CUP goes along with the town plan and approving the CUP prevents the parcel from becoming a rural residential parcel for an extended period of time. The town board is requiring a development right split for the larger farm to be assigned to this new farm residence and recorded with the deed. This documentation of splits can be included in a deed restriction or deed notice, see below.

STAFF RECOMMENDATION: Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the application and site information noted above, and is also reflected in the town’s approval and conditions. 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.

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 2700 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 this CUP:

13. Any approved conditional use permit for a farm residence shall expire on the sale of the property to an unrelated third party. Continued use of a farm residence after sale to an unrelated third party shall require approval of a new conditional use permit.
14. The Zoning Committee may revoke any Conditional Use Permit it finds in violation of this section. Continued use of residence with a revoked conditional use permit shall require approval of a rezone petition to a zoning district that allows nonfarm residential use.
15. The farm residence permitted with this CUP is using one housing density right from the Allan V. Breunig farm.
16. The Zoning Committee shall require the recording of a notice document with the Register of Deeds on the subject property notifying current and future owners of the provisions of conditions #13, 14, and 15 above.

Please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@danecounty.gov if you have questions about this petition or staff report.