
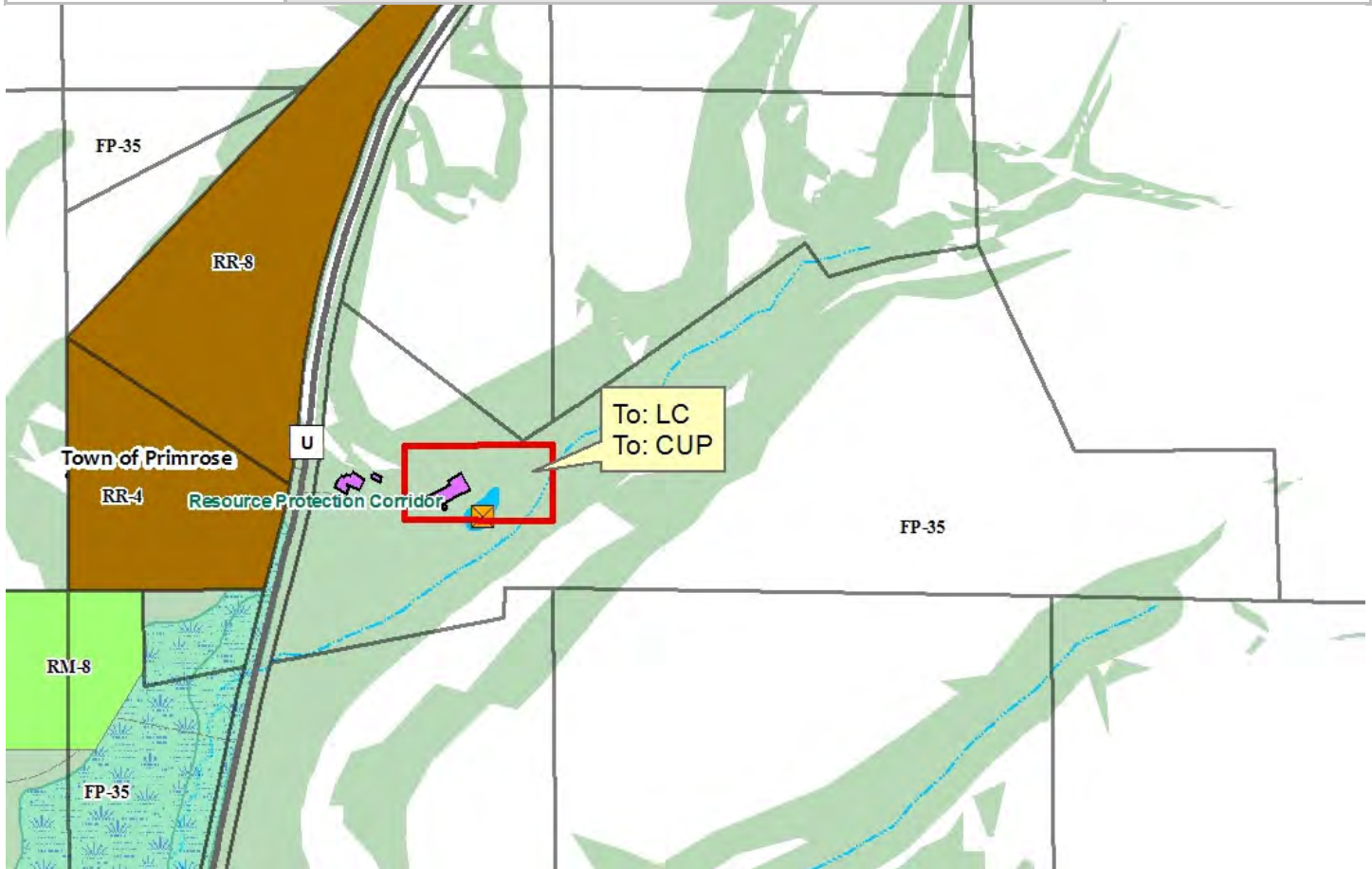


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> June 27, 2023	Conditional Use 02596
	<i>Zoning Amendment Requested:</i> TO CUP: Outdoor storage and storage of more than 12 vehicles/pieces of equipment	<i>Town/Section:</i> PRIMROSE, Section 34
	<i>Size:</i> 2.45 Acres	<i>Survey Required:</i>
	<i>Reason for the request:</i> Outdoor storage and storage of more than 12 vehicles/pieces of equipment	<i>Applicant:</i> ALEXANDER GOWAN ELKINS <i>Address:</i> 204 COUNTY HIGHWAY U



DESCRIPTION: Alexander Elkins requests a conditional use permit for outdoor storage for more than 12 vehicles or pieces of equipment on a portion of his property in order to operate a small-scale outboard motor repair business. A rezone petition for LC zoning on a 2.4-acre area has also been submitted concurrent with this petition (see proposed [Rezone 11955](#)). If approved, this CUP and the associated rezone would resolve an existing zoning code violation and bring the property into compliance.

OBSERVATIONS/ FACTUAL INFORMATION: Elkins owns a total of 94 acres, including lands to the north and east of the subject property. The proposed zoning area meets the requirements of the LC zoning district, being at least 20,000 square feet and less than 5 acres in area. LC zoning is intended for small commercial uses that are often similar to agricultural uses and are suitable to rural areas. LC zoning allows for outdoor storage and the storage of more than 12 total vehicles or pieces of construction equipment as a conditional use.

The proposed repair work would be done indoors, with the boats and equipment stored outdoors in a half-acre area behind the barn and up to three boats in front of the barn or near the driveway where they are staged for pickup. Motors would occasionally be tested outdoors before they are returned to their owners. The applicant states that most boats must be stored outside due to their size and number; they will not fit in the old dairy barn that is 3,675 sf in size.

RESOURCE PROTECTION: There are resource protection corridors mapped on the property due to navigable water buffers and town-derived productive farm soils. Staff has no concerns since no new construction is proposed and no business operations or storage will be within these areas.

COMPREHENSIVE PLAN: The proposed use is in an Agricultural Preservation Area under the *Town of Primrose / Dane County Comprehensive Plan*. The plan supports “limited small, home- or farm-based businesses that provide a service to town residents and can supplement town residents’ income.” The plan also includes siting guidelines for all nonfarm uses, including:

- “Agricultural lands, woodlands and other natural resources are to be protected. Site plans should minimize the break-up of contiguous tracts of agricultural land, woodlands or environmentally sensitive land.”
- “Natural vegetation should be left in place to screen new buildings. Where natural vegetation is not present, screening by plantings, berms, or other features may be required to mitigate the impact...”

(For questions about the town plan, contact Senior Planner Brian Standing at (608) 267-4115 or standing@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 the relevant facts including the applicant’s testimony with regards to meeting the standards.

Standards and Findings of Fact

- 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 increase in traffic will be very small because they typically see 0-2 people/vehicles per day and they require all people to make an appointment so that multiple people do not show up at once. He does not provide his address on any advertisement and will not have any business signage or associated lighting on site. The proposed hours of operation would be 8:00am to 9:00pm, with customer access by appointment only.

- 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 proposed use is about 250-300 feet from CTH U and at least 600 feet from the closest neighbors, with trees and part of a hill in between. Very limited noise is produced from occasional testing outboards outdoors or from any other activities, and repair work is done inside.

Visual screening is not required under s. 10.102(12) or s. 10.270 since the LC zoning does not abut residential-zoned land and because the proposed LC area is not within 100 feet of any residence. However, the applicant addresses screening in the written narrative and site plan, which indicate the storage will be screened by the location away from the road, the site terrain, and existing vegetation along the pond and around the property.

- 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 Town of Primrose rules prevent any buildings from being built within 500 feet of an existing building and the proposed activity is almost entirely out of sight of any existing or potential new buildings.

The proposed outdoor storage use would not appear to impede the development of surrounding properties, since those lands are used and zoned for agricultural preservation and rural residential use, and the proposal would use the existing building and driveway.

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

The applicant states that the site is a former dairy farm so it has all the roads, drainage etc. that they will need for vehicles with boats/trailers. There are no new utilities, access roads, drainage, or other improvements needed for the proposed use.

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 and access is provided for the property by two driveways; the proposed conditional use would use the southern driveway and the existing parking area located in front of the barn. The applicant states that the driveway off of CTH U accommodated milk trucks and tractors with wagons, so vehicles with boats can easily enter and exit. Staff notes that the site appears to have sufficient parking for the current and proposed uses.

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

Applicant states that there are already several non-farm business CUPs within the district so he believes the proposed activity is allowable. The Town of Primrose confirmed this with their approval.

Staff notes that the proposed use conforms to the applicable regulations of the LC zoning district. Outdoor storage and the storage of more than 12 total vehicles and pieces of equipment are allowable conditional uses in the LC zoning district. LC zoning is intended for small commercial uses that are often similar to agricultural uses and are suitable to rural areas. The proposed CUP may only be approved if the land is first rezoned to the LC Limited Commercial district, as the applicant has requested in a separate petition.

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, as confirmed by the town's approval as well as the proposed conditions related to storage in shoreland/wetland buffers.

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, since the proposed conditional use would be located within the LC zoning district.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances that pertain to outdoor storage operations most likely involve visual screening, site access, and lighting. 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, there are no special requirements for outdoor storage.

TOWN ACTION: On May 15th the Town Board recommended approval of the conditional use permit with the following conditions:

- 1) The Limited Commercial activity shall be limited to a small family business operating to repair boats, recreational vehicles and equipment like chain saws, lawn mowers etc.
- 2) The outdoor storage of boats will be in the 2.4 acre area rezoned to Limited Commercial as shown in Exhibit A. Test running motors can be done outside the LC zone when necessary due to their size or their needing higher water pressure to test run onsite. The majority of boats will be stored behind the barn. No boats, equipment, supplies or other materials shall be stored within 75-feet of the ordinary high water mark of the intermittent stream, nor within 75 feet of the wetland boundary.
- 3) The conditional use permit is not transferrable upon sale of the business or the property to non-family members.

- 4) The limited commercial business shall be limited to a maximum of the equivalent of 2 full-time employees in addition to the owner, Alex Elkins.
- 5) Hours of business operation shall be: 8am - 9pm Monday - Sunday. After 8 pm on Monday - Saturday and on Sundays, motors that can be test run in water tanks will be run in water tanks to reduce overall noise.
- 6) The amount of motor work, noise, customer drop-offs and traffic as described in CUP application 02596 shall be permitted as part of the business operation.
- 7) No signs shall be allowed in association with the business conditional use permit on the property.
- 8) Permanent outside lighting is not permitted. (Flashlights etc. are OK for temporary use to complete repairs)
- 9) All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
- 10) Natural tree and brush screening of the view of LC parcel will be maintained behind the barn as described in CUP application 02596.
- 11) Any new buildings must meet Township of Primrose current standards at the time of construction.
- 12) Gas, oil, and other toxic or hazardous waste must be stored in secured containers and disposed of properly at the Dane County Clean Sweep site or comparable sites, and or facilities that burn the oil or gas. Records of disposal of waste must be submitted to Town Board.
- 13) An Emergency Response plan shall be submitted to the Town within 30 days of CUP approval (fire extinguishers etc.).

STAFF RECOMMENDATION: Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes detailed information on where the repair and storage activities would take place, information on existing vegetation and site terrain that will serve to screen the storage area for the business activity from view from surrounding properties, the limited number of employees, and the fact that there would be no signage or lighting associated with the storage.

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 applicable CUP standards. If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff. Staff recommends approval with the conditions listed below.

CUP 2596 Potential Conditions of Approval:

Standard Conditions that apply to all conditional uses

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 must post, in a prominent public place and in a form approved by the zoning administrator, a placard with the approved 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 a reasonable opportunity to correct any violations prior to revocation.

Conditions Specific to CUP 2596

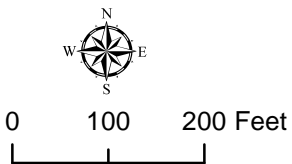
13. The Limited Commercial activity shall be limited to a small family business operating to repair boats, recreational vehicles and equipment like chain saws, lawn mowers etc.
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15. The conditional use permit is not transferrable upon sale of the business or the property to non-family members.
16. The limited commercial business shall be limited to a maximum of the equivalent of 2 full-time employees in addition to the owner, Alex Elkins.
17. Hours of business operation shall be: 8am - 9pm Monday - Sunday. After 8 pm on Monday - Saturday and on Sundays, motors that can be test run in water tanks will be run in water tanks to reduce overall noise.
18. The amount of motor work, noise, customer drop-offs and traffic as described in CUP application 02596 shall be permitted as part of the business operation.
19. No signs shall be allowed in association with the business conditional use permit on the property.
20. Permanent outside lighting is not permitted. (Flashlights etc. are OK for temporary use to complete repairs)
21. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
22. Natural tree and brush screening of the view of LC parcel will be maintained behind the barn as described in CUP application 02596.
23. Any new buildings must meet Township of Primrose current standards at the time of construction.
24. Gas, oil, and other toxic or hazardous waste must be stored in secured containers and disposed of properly at the Dane County Clean Sweep site or comparable sites, and or facilities that burn the oil or gas. Records of disposal of waste must be submitted to Town Board.
25. An Emergency Response plan shall be submitted to the Town within 30 days of CUP approval (fire extinguishers etc.).
26. This CUP shall become effective upon Rezone Petition 11955, to rezone the land to LC Limited Commercial, becoming effective.

Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@countyofdane.com

EXHIBIT A



Rezone to LC Limited Commercial and CUP for outdoor storage



Legal Description: The east 400 feet of the north 200 feet of the south 385 feet of the southeast 1/4 of the northwest 1/4 of Section 34, Town 5 North, Range 7 East, Town of Primrose, Dane County, WI Contains 2.45 acres

**Elkins Proposed
Rezone and
CUP**