
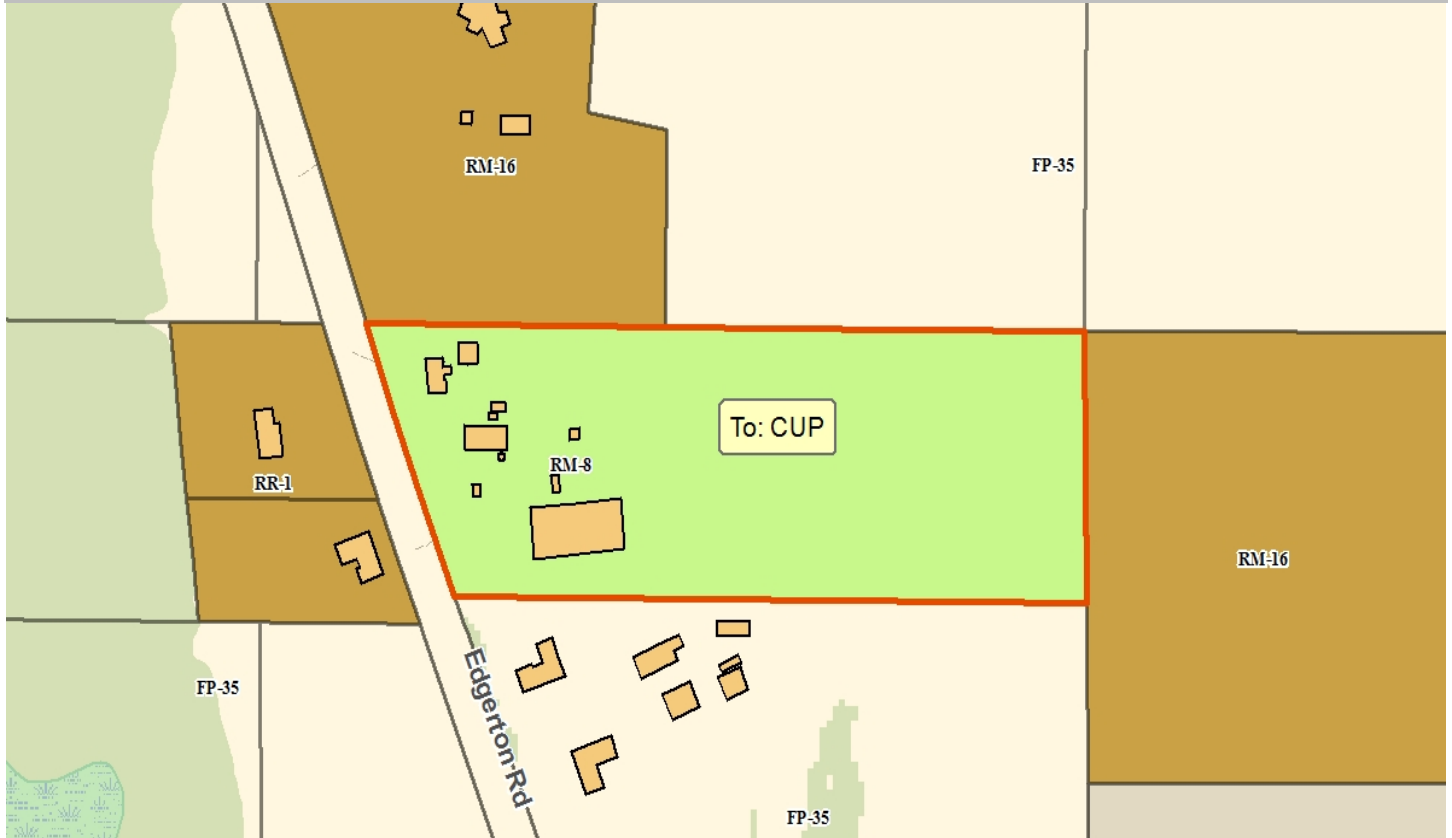


Staff Report  Zoning and Land Regulation Committee	Public Hearing: January 24, 2023		CUP 02580
	Zoning Amendment Requested: TO CUP: Large animal (horse) boarding		Town/Section: ALBION, Section 34
	Size: 9.7 Acres	Survey Required: <i>No</i>	Applicant TODD M LEKAN / ALLISON GRAF
	Reason for the request: Large animal (horse) boarding		Address: 272 EDGERTON ROAD



DESCRIPTION: Applicant Allison Graf requests approval of a conditional use permit (CUP) to operate a large animal boarding facility for up to 25 horses. Ace Equestrian has been operating on the site since 2020, and horse boarding activities may have been occurring on the property prior to that time. The County received a complaint in May of 2022, after which time Graf submitted a CUP application to bring the operation into compliance with zoning. The operation involves the boarding of horses, primarily “rescue” horses, partnership programs with area schools for education and therapy programs, as well as horse training and riding lessons. The applicant lives in the residence on the property, and intends to purchase the land; however, at this time the purchase is still pending and the closing date is unknown.

OBSERVATIONS / FACTUAL INFORMATION: The 10-acre property is located on the east side of Edgerton Road, 260 feet north of the City of Edgerton municipal boundary. The property is zoned RM-8 Rural Mixed Use and contains several buildings including a single-family residence, an old dairy barn, a horse arena, a handful of small accessory structures, and fenced outdoor pastures. No new construction is proposed in conjunction with this CUP.

The site is surrounded by rural residential and agricultural properties with RM-16, RR-1, and FP-35 zoning. The nearest residences are located roughly 60 feet and 200 feet to the south, 95 and 185 feet to the west across Edgerton Road, and 400 feet to the north.

The property is characterized by a steep slope that rises mid-way through the site, with the grade rising from a low point along Edgerton Road up 40 to 50 feet higher in the east end.

RESOURCE PROTECTION: There are no sensitive environmental features on or within 300 feet of the property. Resource protection corridors are mapped in the vicinity of the steep slope that divides the site.

TOWN PLAN: The property is located in the town's agricultural preservation planning area. Town plan policies generally support agricultural accessory uses, recreation, or small home-based businesses providing services to area residents provided such uses are compatible with nearby existing uses and the rural character of the town. If necessary, town policies support screening or other manner of buffering incompatible land uses. Given the presence of existing tree cover and distance to neighboring residences, screening does not appear necessary. Pending any concerns raised by the town in the course of its review, or by neighboring residents at the public hearing, the proposal appears reasonably consistent with town plan policies. (For questions about the town plan, contact Senior Planner Majid Allan at (608) 267-2536 or 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 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 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 application indicates that all horses will be secured inside fenced areas with latched gates, that manure will be managed under a credited nutrient management plan that complies with NR 151 regulations, and states the amount and timing of traffic to and from the site. The applicant estimates a maximum of 15 vehicles coming to and from the site during a typical week day, and up to 20 vehicles during a typical weekend day or special event day. Horse trailer loading/unloading is to occur less than weekly.

Applicant states that noise may be generated by small tractors, a 4-wheeler, and horses during the normal operating hours (i.e. daylight hours), and that noise will be kept to a minimum as loud noise startles the horses and is not conducive to training or riding.

Applicant states that no significant odor should be generated due to the small amount of animals and the manure management plan, which has since been approved (see below). For human sanitary facilities, the operation includes a port-a-potty that is serviced weekly.

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 application states that livestock is permitted on all of the surrounding properties based on their current zoning, and thus the proposed operation is in harmony with the surrounding properties. It also states that the horses are kept toward the middle of the property and that fly larvae is minimized by fly predators and free-range chickens.

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 application describes how horse boarding and training and riding lessons is consistent with the Town Comprehensive Plan which shows this area planned for agricultural preservation uses.

Applicant proposes one ground sign near the driveway. One ground sign is allowed under the Zoning Code based on the property's zoning. Any business signage requires a sign permit from Dane County.

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 sufficient to meet the needs of the horse boarding operation, and that the site grading and landscaping provide sufficient erosion control and drainage.

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 describes how traffic into and out of the site uses a 30-foot wide entrance with good lines of sight and a circular driveway within the property allows for loading and unloading without requiring vehicles to back onto Edgerton Road. The parking on site is sufficient to meet the requirements of Zoning Code s. 10.102(8), as it provides space for at least 10 vehicles plus room for at least one horse trailer to park and maneuver.

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 RM-8 zoning district. Approval of the proposed CUP would bring the current operation into compliance with zoning.

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

Applicant states that the Town and County plans designate this and the surrounding properties as Agricultural Preservation Areas, and that in these areas agriculture related businesses are permitted. She states that the operation is consistent with the plans because horses require agricultural land to live on. See Town Plan section above for staff comments.

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 horse boarding most likely involve vehicle traffic, noise, odors, and animal waste management. The applicant has submitted as part of their application on how those potential nuisances are handled; most of this is described in the section 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. Common topics include but are not limited to, hours of operation, screening, site access, and manure management.

Under Dane County Zoning Ordinance section 10.103(6) and 10.103(7), there are special requirements for large animal boarding operations to address many of the potential conflicts with the land use activity. In addition to conditions required for all CUPs, the Town Board and zoning committee shall impose, at a minimum, the following conditions on any approved CUP for horse boarding:

1. *Use shall be enclosed by a fence or other suitable enclosure to prevent animals from leaving the site.*

The site contains fenced enclosures with gates for outdoor horse areas.

2. *Each animal shall be provided with adequate exercise space*

The site plan contains outdoor exercise space including fenced pasture areas and trails throughout the 10-acre property. Measurement using GIS maps show more than 73,000 square feet / 1.7 acres of fenced outdoor pasture space, in addition to the building space available for horse activities.

3. *The committee and town board will impose limits on the total number of animals that may be present at any one time, as appropriate to the site and neighboring land uses.*

Applicant is requesting up to 25 horses. See recommended conditions of approval.

4. *Operations exceeding one animal unit per acre must comply with the standards of s. 10.103(7).*

a. *Applicant must submit and maintain a site-specific manure management plan.*

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

The applicant has received approval from Land and Water Resources Department for the manure management plan, see LWRD letter dated January 4, 2023. A Farm Conservation Plan is not applicable to this property as it is not a crop farm.

TOWN ACTION: Pending as of January 24th. The petition was postponed at the January 3rd Town Board meeting due to concerns raised with manure management and water runoff.

STAFF RECOMMENDATION: As noted above, the applicant has provided a manure management plan as part of this CUP petition and it has been approved by the Dane County Land and Water Resources Department. No new development is proposed on site, and the site is not currently in violation of erosion control or stormwater management ordinances. The applicant or land owner may opt to make improvements to on-site drainage, as deemed necessary.

In January, Staff recommended that the ZLR Committee postpone action on the petition due to no town action.

STAFF UPDATE: On February 7, 2023, the Town Board recommended approval of the CUP with conditions listed below.

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.

CUP 2580 Potential Conditions of Approval:

1. Any conditions required for specific uses listed under s.10.103 of County Ordinances;
2. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operation plan and phasing plan;
3. 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;
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 county 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 county 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 and circulation must be provided, consistent with s. 10.102(8) of County Ordinances;
9. 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;
10. 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;
11. 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;

12. 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;
13. 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;
14. Horse boarding operations shall be limited to a maximum of 25 horses at any one time. The number of employees shall be limited to a maximum of 5.
15. Horse boarding and training facility operating hours shall be daylight hours, which vary seasonally.
16. The CUP is granted for Ace Equestrian, with Allison Graf as the operator. The CUP shall expire upon the sale of the property to a new owner (not including the impending sale of the land to Allison Graf).
17. 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 Conservation.
18. Outdoor lighting shall be directed downward and away from adjacent properties and public rights-of-way, and be designed to minimize ambient light spill.
19. The parking and circulation plan shall comply with the Zoning Ordinance requirements of section 10.102(8).
20. Any business signage shall require a sign permit and shall comply with all applicable Town of Albion and Dane County Zoning Ordinance sign regulations.
21. Upon approval of the CUP, the 4 adjacent neighbors will be notified by the Town of Albion that they have the option to voluntarily test for nitrates, nitrites, coliform and e-coli. Any such testing shall be completed within 90 days of the approval of the CUP. The cost of the testing will be paid by the CUP applicant and the tests will be kept on file with the Town of Albion.
22. The owner or applicant will work with the Town of Albion on identifying and fixing the water runoff issues coming from the property's main driveway and creating issues on the town road. If services of an engineer are required, it will be at the cost of the owner or applicant. Cost of any repair shall be the sole responsibility of the applicant unless otherwise agreed to by the Town of Albion.
23. The CUP shall expire automatically if Ace Equestrian or a successor entity owned by Allison Graf ceases to do business or is no longer registered as a business in good standing with the Wisconsin DFI.

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