
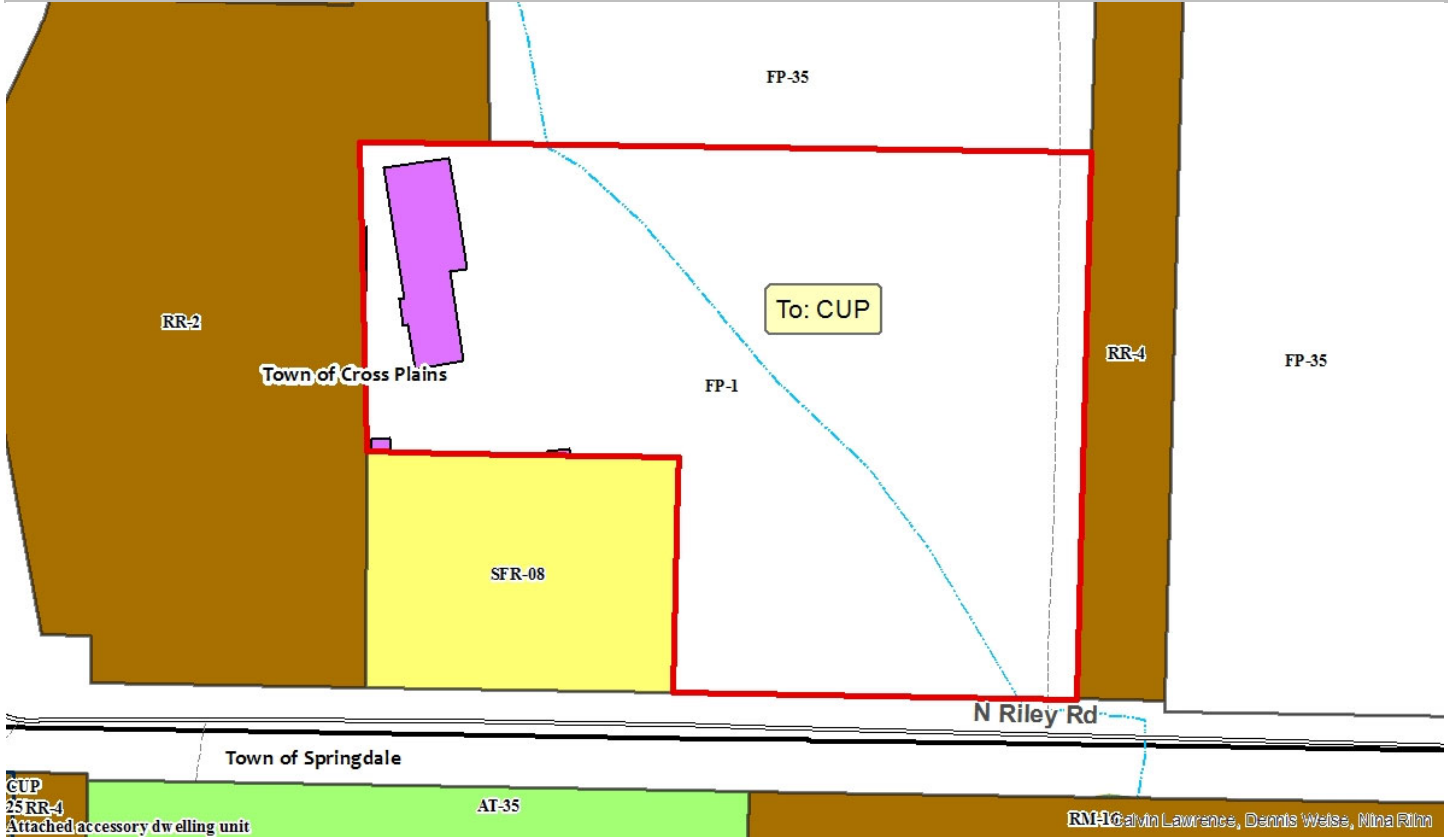


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> August 22, 2023	Conditional Use 02600
	<i>Zoning Amendment Requested:</i> TO CUP: Livestock on a parcel less than 5 acres	<i>Town/Section:</i> CROSS PLAINS, Section 35
	<i>Size:</i> 3.7 Acres	<i>Survey Required:</i>
<i>Reason for the request:</i> Livestock on a parcel less than 5 acres		<i>Address:</i> 8250 N RILEY RD



DESCRIPTION: The Laufenbergs request approval of a conditional use permit (CUP) for livestock on a parcel less than five acres in size, in order to allow boarding of up to 4 horses on this 3.7-acre lot. Horses were previously boarded on the property; boarding was discontinued in recent years but the horse stable remains on site. The owners are in the process of selling the property. To facilitate the land sale they are seeking approval to board a small number of horses, consistent with their historic use of the property and the existing improvements. No new construction is proposed.

OBSERVATIONS: The property is located on N Riley Road, a dead end road west of County Highway J and east of the Sugar River. The property is zoned FP-1 Farmland Preservation and contains a few buildings including a 6,300 square-foot horse stable and arena, accessory storage buildings, as well as fenced outdoor pastures. FP-1 zoning only allows livestock on parcels of five acres or less when authorized under a conditional use permit. If this CUP for livestock is approved, large animal boarding is a land use permitted by right (subject to any limits imposed by the CUP). The site is surrounded by rural residential and agricultural properties with a mix of RR Rural Residential, RM Rural Mixed Use and AT-35 Agricultural Transition zoning. The nearest residences to the property are 175 feet and 395 feet away to the west.

RESOURCE PROTECTION: Almost the entire property is within the shoreland zone due to an intermittent stream that crosses the lot from northwest to southeast. No new development is proposed. No concerns; however see suggested conditions below pertaining to manure management.

COMPREHENSIVE PLAN: The site lies within an Agricultural Preservation Area under the *Town of Cross Plains / Dane County Comprehensive Plan*. Within such areas, the plan supports commercial development that “supports existing agricultural activities, provides supplemental income for farm families or provides agricultural-related services.” A small horse boarding facility is consistent with these objectives. The plan also requires that “commercial development must not result in environmental degradation, inappropriate traffic volumes or conflict with farming operations.” Reasonable conditions to ensure compliance with NR 151 agricultural runoff standards and to limit the number of customers and/or cars on the site would suffice to meet the adopted plan standards. *(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 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 the existing facilities would safely contain trained horses on an appropriate amount of land without the environmental impacts of noise pollution, changes to the existing views, or exposure to chemicals used in crop production. They state that best practices would be followed for manure management, soil erosion, and invasive species.

The applicants’ intent is to have boarding for up to 4 horses, which may also involve recreational riding and horsemanship lessons or equine therapy sessions. They estimate minimal traffic, noting that horse owners typically visit 2-4 times per week and riding lessons might take place one day per week for just a few hours. Additionally, an occasional truck or horse trailer might come to the property when horses are arriving, departing, or need to be transported for medical purposes. There is ample paved driveway and parking areas for boarders and students to park when they come to spend time with their horses. There would be no hazardous, toxic or explosive materials stored on site.

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 permitting horses back on the property will allow its highest and best use as it had been done in the past, and that horses are quiet and add to the rural character of the area. They note there are several similar horse operations in the area. No new outdoor lighting is proposed.

The surrounding properties consist of residential lots over 3 acres in size, hobby farms, Sugar River shoreland, and agricultural crop cultivation. To mitigate noise or other disturbances to the neighborhood, applicants propose to control erosion by rotating pastures, limiting time the horses will be outdoors, and conducting riding lessons indoor arena. Operating hours would be 8:00am and 6:00pm for visitors. The outbuildings provide storage space for the feed, hay, and equipment associated with keeping horses. Manure management will be determined 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.

Applicants requested the ability to install a small (30”x24” or smaller) on-illuminated directional sign near the driveway entrance. A sign could not be permitted under the signage regulations in the zoning code for the FP-1 district, which does not allow signage.

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 the proposed use will not impede the surrounding neighborhood and there is ample parking for visitors.

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 rural residential and agricultural properties with a mix of RR Rural Residential, RM Rural Mixed Use and AT-35 Agricultural Transition zoning. These other zoning districts allow for livestock, though the RR-zoned lots are limited to one animal unit per acre.

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

The applicants state that the current setup of the property accommodates the proposed use, and that they have operated a similar operation since the 1970s. Staff notes that the existing driveway and site improvements appear sufficient to meet the needs of a 4-horse boarding and riding lesson 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 due to the amount of anticipated traffic, the current facility and roadway would accommodate the conditional use since it has been sufficient in the past. They estimate up to 3-4 part time employees; the boarders and riding students would visit the site between 8:00am to 6:00pm. The site contains a 3-car garage and a driveway at least 340 feet long, with places to turn around without requiring vehicles to back onto the road. The parking on site is sufficient to meet the requirements of Zoning Code s. 10.102(8), as there is space for at least four vehicles plus room for at least one horse trailer to access the site.

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-1 zoning district. The buildings on site are an existing condition. Approval of the proposed CUP would allow horse boarding at a similar scale that was previously done on the property.

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 based on historical precedence of a pre-existing horse boarding facility. Staff notes that the Town and County plan designates this and the surrounding properties as Agricultural Preservation areas, and that a small horse boarding facility 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).*

In addition to the requirements of s. 10.101(7)(d), the zoning committee must find that the following standards are met before approving any conditional use permit in any Farmland Preservation zoning district.

a. *The use and its location in the Farmland Preservation Zoning District are consistent with the purposes of the district.*

Applicants state this is met since horses have been there since the 1970s and the facilities already exist. Staff notes the FP-1 district is intended for a modest range of agriculture and agricultural accessory uses, at scales consistent with the size of the parcel and compatible with neighboring land uses. FP-1 accommodates uses that are associated with production and harvesting of crops, livestock, animal products or plant materials.

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.*

Applicants state there are similar existing horse boarding facilities in the vicinity. Staff believes the proposed location within the FP-1 zoning district is reasonable and appropriate given the surrounding land uses and zoning, the prior use of the site for horses, the existing buildings and site improvements.

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.*

Application states that the new owner plans to use the existing buildings, structures and land for their intended use and in the same manner.

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.*

Applicants state that horse boarding does not utilize pesticides, mineral extraction, herbicides or chemicals that would impair future use. As noted above, the area consists of rural residential and agricultural properties with zoning that allows for livestock and compatible land uses. The surrounding parcels are expected to continue in their current use without any substantial impairment due to this proposed CUP.

e. *Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.*

Applicant states there are no plans for construction.

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 addressed in the application how those potential nuisances would be handled; most of this is described in the section above.

Under Dane County Zoning Ordinance section 10.103(6) and 10.103(7), there are special requirements for large animal boarding operations that are intended to address the potential conflicts with the land use activity. 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:

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 indoor and outdoor exercise space including the horse arena and the fenced pasture areas throughout the property.

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.*

The town has approved up to 4 horses and/or steers, which approximates the “one animal unit per acre” limit typically used on rural residential parcels in Dane County. 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.*

Land and Water Resources staff was consulted regarding the manure management requirements. The town limited its CUP approval to 4 horses since the lot is 3.7 acres, so the livestock use would be just over one animal unit per acre (the standard allowance in rural residential zoning districts). The Laufenbergs have yet to sell the property; however because the proposed use would be close to one animal unit per acre, staff would support a condition of CUP approval requiring future compliance with manure management plan requirements. 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.

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 July 18, 2023, the Town approved the conditional use petition with the following condition:

1. Restriction to up 4 horses and/or steers

STAFF RECOMMENDATION: 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. 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 8 required standards for CUP approval. This includes: the maximum limit of 4

animals on site, the existing 6,300 SF horse barn/arena building and other storage buildings, and the existing driveway and parking areas. These aspects of the proposal, with the conditions outlined below, would help ensure compatibility with the surrounding neighborhoods and the FP-1 zoning district. Staff also notes that the public comments received to date have all been from neighbors in support.

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

Possible CUP 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 2600

13. Horse boarding operations shall be limited to a maximum of 4 horses and/or steers 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, if applicable.