

Staff Report



Zoning & Land
Regulation
Committee

Public Hearing: February 24, 2026

Report updated for the July 14th ZLR Committee meeting

Zoning Amendment Requested:

~~FP-35 Farmland Preservation District TO FP-1 Farmland Preservation District, RR-4 Rural Residential District, AND RR-16 Rural Residential District~~

FP-35 Farmland Preservation District TO RR-8 Rural Residential District AND RR-16 Rural Residential District

Size: 13.03,13.56,32.58 Acres

Survey Required: Yes

Reason for the request:

creating ~~one agricultural lot and~~ 3 residential lots (one for existing residence)

Petition 12249

Town, Section:

VERMONT, Section 2

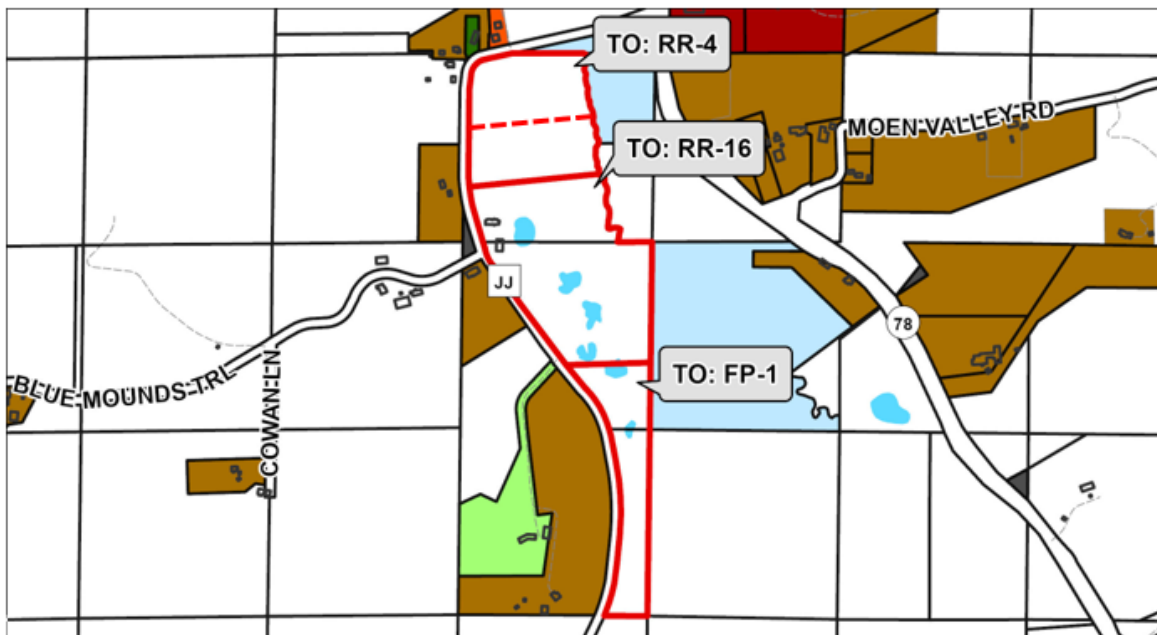
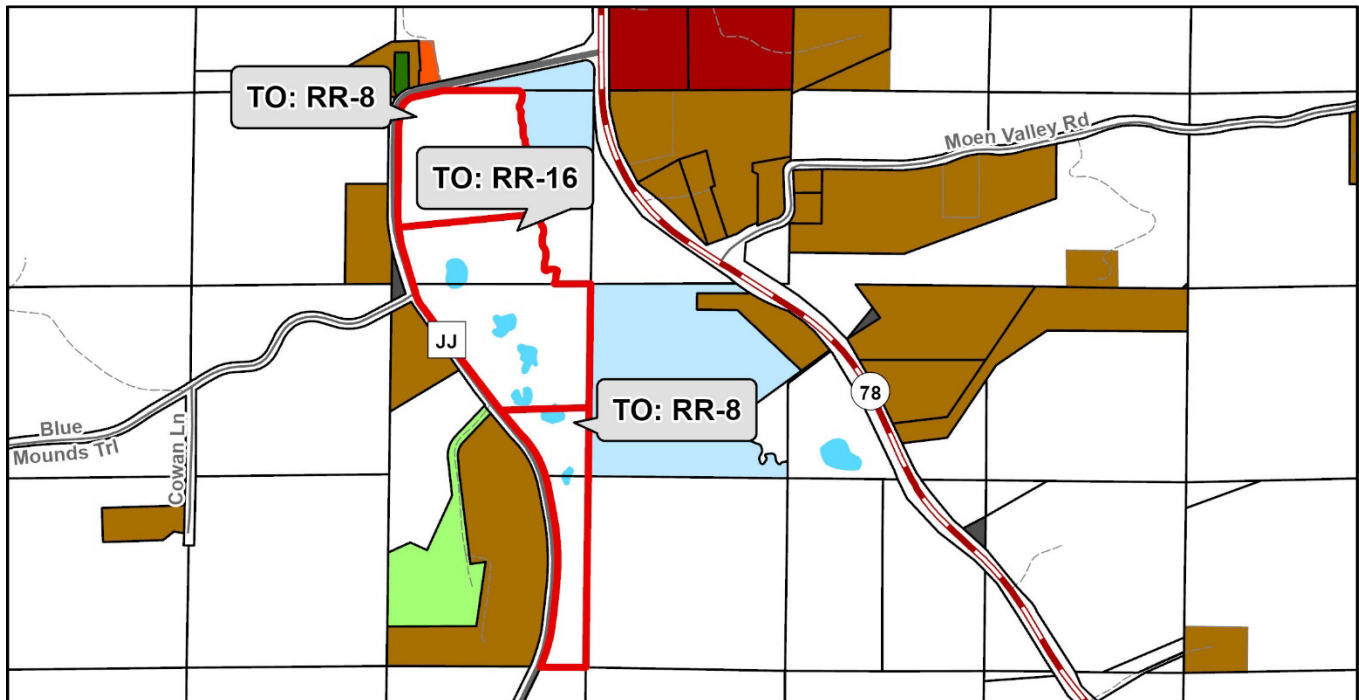
Applicant:

STEVEN N AND JAN COWAN

Address:

**4616 COUNTY HWY JJ
(north of 4416 CTH JJ)**

See amended proposed zoning map below vs. original proposal at bottom:



DESCRIPTION: The Cowans propose a rezoning in order to create three residential lots and one agricultural lot with a 4-lot certified survey map (CSM). Two new residential lots would be zoned RR-4, one lot would be zoned RR-16 and contain the existing farmstead, and the fourth lot would contain the remaining ag land with FP-1 zoning. [Note: The proposal has been amended, to propose a 3-lot CSM with RR-8, RR-16, and RR-8 zoning, and no agricultural lot. The lot numbers referenced herein reflect the original 4-lot CSM, to match other documents provided by the applicants.]

OBSERVATIONS: The proposed lots meet county zoning requirements for the proposed zoning districts. This includes lot size, public road frontage, and shoreland requirements. However, the property backs up to Vermont Creek on the east, and contains wetlands and floodplain which impact the developable area. See Resource Protection comments below.

The property is subject to the Village of Black Earth's extraterritorial jurisdiction (ETJ) for the land division review, being within 1.5 miles of the village border. The property is located less than ¼ mile from an active rock quarry site to the NE.

HIGHWAY ACCESS: CTH JJ is not a controlled access highway, but is under Dane County Highway Department jurisdiction. Access permits have been obtained, to serve single-family residences and the surrounding agricultural lands, based on the amended lot layout. Any change of use, reconstruction, or modifications of the existing accesses will require a new permit from the Highway Department. No new additional access will be permitted on CTH JJ. Highway Department will also have additional comments separately as part of the CSM review. For questions contact Kevin Eslick 608-283-1486 / eslick.kevin@danecounty.gov.

COMPREHENSIVE PLAN: This land is in the town's farmland 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 residential development. Note extensive wetland resources in the resource protection corridor to the east reduce site suitability for development. If approved this rezone will exhaust all development units of the original farm. For questions about the town plan, contact Senior Planner Bridgit Van Belleghem at (608) 225-2043 or VanBelleghem.Bridgit@danecounty.gov.

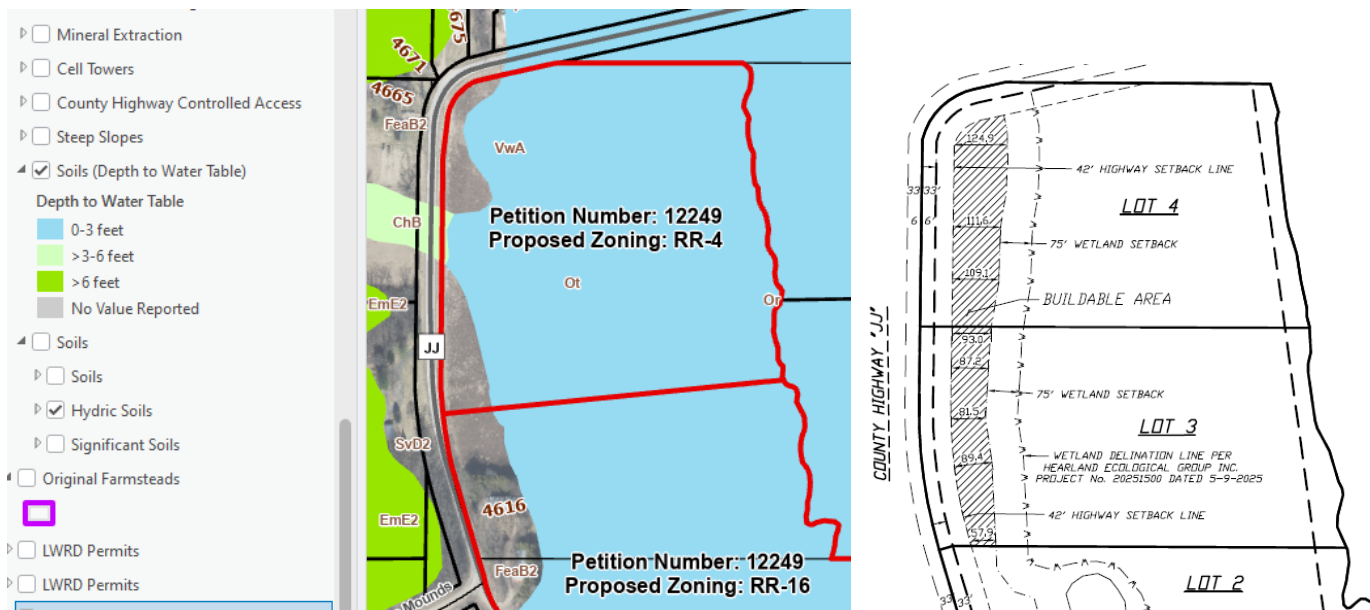
RESOURCE PROTECTION: The majority of land included within this petition is within a resource protection area containing environmentally sensitive features including Vermont Creek which flows from south to north forming the eastern property boundary. Lands adjacent to this property is owned and managed by the Wisconsin Department of Natural Resources as the Black Earth Creek East Fishery Area. Vermont Creek is bounded by an expansive Zone A regulatory floodplain. Zone A floodplains are unstudied and therefore do not have a determined base flood elevation. Any development within the mapped floodplain is subject to floodplain development standards. The riparian zone of Vermont Creek also contains an extensive wetland area.

The applicant has provided a wetland delineation which confirms that the required 75-foot wetland setback is the limiting factor for development on this property. While the property contains shoreland and floodplain zoning, the wetland zoning establishes that only a small narrow building envelope exists on the west site of the property.

Although development would not be permitted within the shoreland or floodplain portion of the property due to the required wetland setback, Staff still has concerns with the developability of the proposed lots.

- The relatively small, and narrow, building envelopes compared to the proposed lot size will constrain development. While the building envelopes take advantage of the slight upland portion of the land, the grades are slight and the entire property has a shallow depth to groundwater due to the proximity of the wetlands.
- The applicant has not provided any information on soil suitability for septic systems. While structures must adhere to the 75-foot wetland setback, a septic system is permitted to be within the setback, but not within the mapped wetland.
- In addition to a soil test being needed to understand how sewage treatment will be handled, it can be useful to help establish a minimum basement elevation for new homes on Lots 3 and 4.

The proposed building envelopes are outside of the shoreland zone (beyond 300 feet from Vermont Creek) and therefore will not be regulated for impervious surface limits. Regardless of proximity, it is important to note that all impervious surfaces will drain directly to the resource. This could result in modification of existing drainage patterns that impact the wetland and shoreland resource.



TOWN ACTION: The Town Board recommended approval of the petition, with no conditions. The Town also approved of the moving of one residential lot to the south end.

ZLR PUBLIC HEARING: On February 24th the ZLR Committee held a public hearing on the petition, and postponed action due to the concerns raised by staff and by the public. Public comments included concerns about potential impacts to the creek due to new impervious surface in this area, and other concerns. Staff recommended postponement until more information on the soils and proposed basement floor elevation were received.

STAFF RECOMMENDATION (updated): When taking in the application, staff noted that the landowner would need to obtain a Dane County Highway access permit prior to rezoning, and that the basement floor elevation needs to be established due to the high water table. The highway permit has been obtained, and has been updated for the southern lot's proposed residential use.

Since the public hearing, the applicants have provided information on soil suitability, including:

- Geotechnical report from SES – soils analysis and recommendation to set the lowest floor elevation at 834 feet, which is at least 3 feet above the highest anticipated groundwater (which they estimate at 830 feet based on a limited-term water level assessments, they note longer-term measurements could provide better data). The report contains other helpful recommendations for future home construction, including but not limited to a “deep foundation system” and surface grading adjustments to provide protection from surface water flows from the nearby culvert under CTH JJ, if needed.
- Email and soil report from soil tester Rick Herro – Indicating that Lots 1 and 4 (of original preliminary CSM) have suitable soils for mound septic systems, subject to an interpretive special approval from the State (DSPS Wastewater Specialist Travis Wagner will visit the site and review the plans for state approval, when sanitary permits are being obtained for construction).

The information provided verifies the proposed lots can have homes built and can be served by septic systems. Staff recommends approval of rezone petition 12249 with the following conditions:

1. The lowest floor elevation shall be at or above 834 feet above average sea level (based on the SES Geotechnical Report dated 6/23/2026).

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