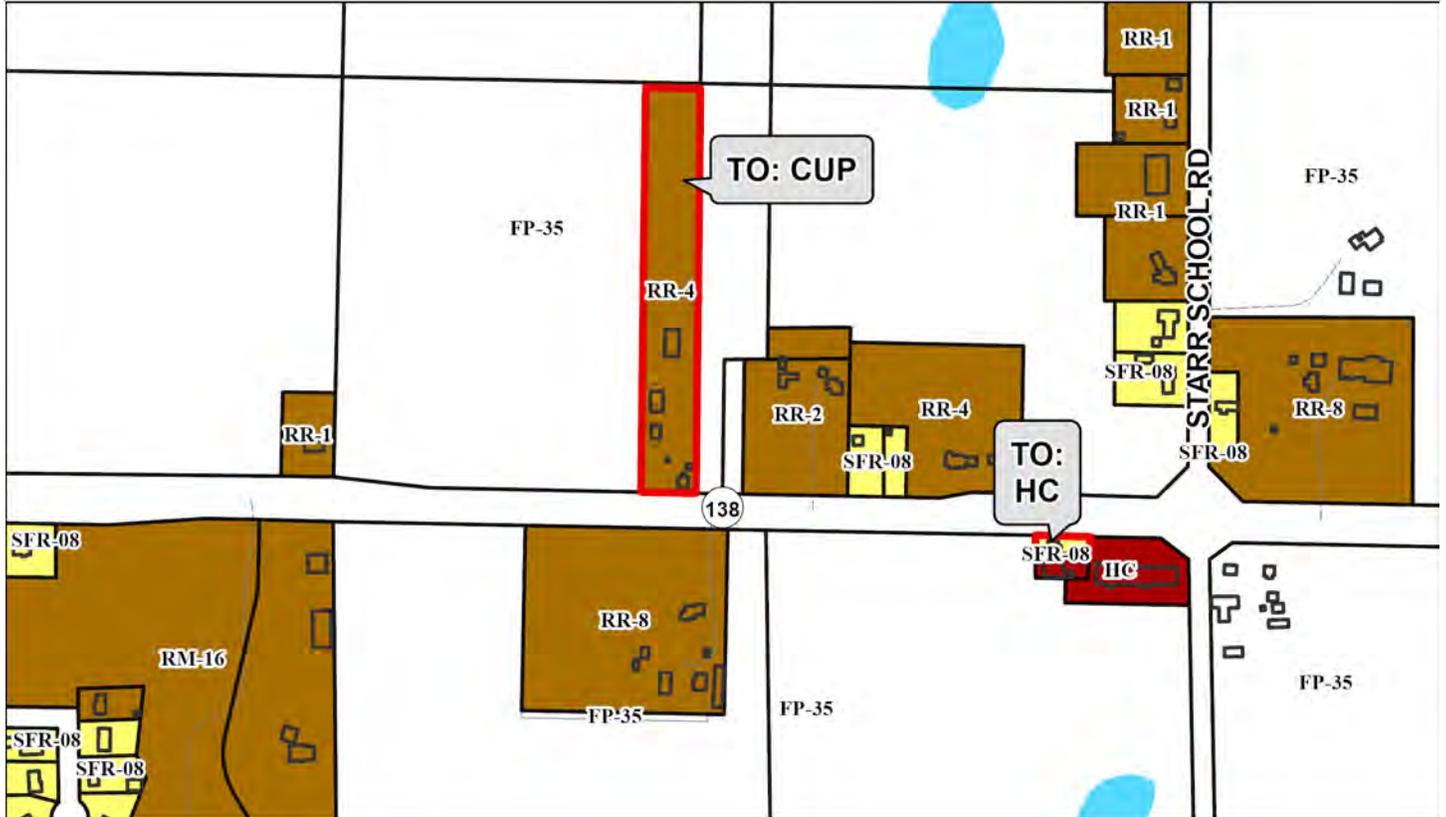


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| Staff Report  Zoning & Land Regulation Committee | <u>Public Hearing:</u> February 24, 2026 | Conditional Use 02694 | |
| | <u>Zoning Amendment Requested:</u> TO CUP: Limited Family Business - excavating contractor | <u>Town, Section:</u> RUTLAND, Section 2 | |
| | <u>Size:</u> 5 Acres | <u>Survey Required:</u> | <u>Applicant:</u> JAKE ANTOS |
| | <u>Reason for the request:</u> Limited Family Business - excavating contractor | | <u>Address:</u> 3514 STATE HIGHWAY 138 |



DESCRIPTION: Jake Antos requests a conditional use permit (CUP) for a Limited Family Business, to operate an excavating contractor business from his residential property.

OBSERVATIONS: The property is a five-acre lot with RR-4 Rural Residential zoning. The neighboring land uses are agricultural on most sides, with a handful of residential lots including one across the highway to the south. There are approximately 6 homes within 1,000 feet of the property (3 within 500 feet).

A limited family business is listed as an allowable conditional use in RR zoning districts, if certain criteria are met. This includes the applicant living on the premises, operating from an accessory building, and a limit of one (or one full time equivalent) employee who is not a member of the family living on site. Antos lives on the property and operates the business, which is currently a one-man operation that provides excavation services to off-site customers. Antos has been improving the property and buildings since living there, and would like to use the accessory buildings on site to store equipment and materials for the business. He hopes to hire one full time and one part-time employee in the next year. Operating hours are Monday through Saturday, 6:30am to 6:30pm, with occasional hours on Sundays. The town is aware of the business; obtaining this use permit would allow him to continue to operate legally from the site.

RESOURCE PROTECTION: There are no sensitive environmental resources on or within 300 feet of the property. No new construction is proposed for the business/conditional use.

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. Comprehensive plan policies for this area allow limited family businesses, “...if

compatible with neighboring uses and the rural character of the town.” The two closest neighboring residences are over 400 feet away, with both homes buffered by mature stands of trees. Given the scale and nature of the use, existing natural buffer, and applicable limitations under section [10.103\(12\)](#), the requested conditional use appears reasonably consistent with town/county comprehensive plan policies. Note that one of the standard conditions on a limited family business CUP provides that the permit is nullified upon sale of the property to an unrelated 3rd party.

Pending any concerns raised by the town in the course of its review, or by members of the public or the ZLR committee at the public hearing, staff recommends approval with both the [standard conditions of approval](#), as well as those that apply to limited family businesses under [10.103\(12\)](#).

For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or Allan.Majid@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 proposed operations plan. The applicant states that they maintain an organized and cleanly site and also reside on the property. They enter and exit in the mornings when highway traffic is light and return at the end of the work day to return all equipment to the site.

The buildings that would be used for the business storage are located more than 150 feet away from the highway right-of-way, and there is an existing line of trees along the eastern lot line that provides some visual screening. The town would limit the amount of outdoor parking and require additional screening (see below).

Applicants state there is no outdoor lighting on the accessory buildings, only one on the house. They would like to have one ground sign near the road (as shown on site plan). By ordinance (s. 10.804(12)), a sign permit is required and allows one ground sign—a driveway entrance sign—limited to 16 square feet in size and up to 8 feet in height.

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 use of the auxiliary buildings on site is strictly for storage of equipment and materials for upcoming jobs, and that they are quiet and respectful of neighbors during early morning / late evening hours so as to not disrupt their home life. Staff notes this is typical for limited family business proposals.

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 the business will not impede any normal or orderly development as they are surrounded by corn fields on three sides that they believe are part of farmland preservation.

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 most of the surrounding properties are in agricultural use and zoned for Farmland Preservation, and there is a handful of residential lots within 1,000 feet. Being in an area planned for farmland preservation, there is limited potential for additional development on the surrounding lands; however, this proposed use is not expected to impact the future use of these lands.

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

The applicant states that no improvements are needed for the proposed use. There is adequate driveway space to allow equipment in and out. Staff concurs that the utilities, access roads, drainage, and other improvements needed for the proposed use are already in place. No sanitary fixtures are proposed within the accessory buildings as part of this conditional 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 is provided for the property by the driveway. The applicant states that the existing driveway allows for proper ingress/egress. The site plan shows the location where they propose to park a limited number of vehicles. The permit conditions recommended by the town would limit the owners to parking up to 2 large flat-bed trailers and 1 dump truck.

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 RR-4 zoning district. A limited family business is an allowable conditional use in the zoning district, with an approved CUP.

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).*

Not applicable.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances that pertain to limited family business operations are most likely to involve noise, traffic, and storage of vehicles/equipment/materials. Traffic and noise are not expected to be an issue with this CUP due to the limited size of the operation and the fact that it is primarily a storage use. Limiting outdoor equipment storage and the potential for visual impacts are a concern at the township; however, the applicant's CUP application and the town's recommended conditions both address these potential nuisances.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Town and the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are other special requirements for limited family business operations:

- a) A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning while at the same time protecting the interests of adjacent property owners. Applicants for this conditional use permit should recognize that rezoning or relocation of the business may be necessary or may become necessary if the business is expanded. No limited family or rural business shall conflict with the purposes of the zoning district in which it is located.*
- b) The use shall employ no more than one or one full-time equivalent, employee who is not a member of the family residing on the premises.*
- c) Using applicable conditional use permit standards, the committee shall determine the percentage of the property that may be devoted to the business.*
- d) The conditional use permit holder may be restricted to a service-oriented business and thus prohibited from manufacturing or assembling products or selling products on the premises or any combination thereof.*
- e) The conditional use permit may restrict the number and types of machinery and equipment the permit holder may be allowed to bring on the premises.*
- f) Structures used in the business shall be considered to be residential accessory buildings and shall meet all requirements for such buildings. The design and size of the structures is subject to conditions set forth in the conditional use permit.*
- g) Sanitary fixtures to serve the limited family business use may be installed, but must be removed upon expiration of the conditional use permit or abandonment of the limited family business.*
- h) The conditional use permit shall automatically expire on sale of the property or the business to an unrelated third party.*

The proposal meets these requirements, and some are included as recommended permit conditions (see below).

TOWN ACTION: The Town Board recommends approval of this CUP with the following limitations:

1. Trailer parking area - This area will typically have 1 or 2 large flat bed trailers parked, along with 1 dump truck. The dump truck needs to be parked there when there is no room in the shop, the 40' by 80' building in the back of the property.
2. Loading Zone is for loading trailers with equipment and not for parking equipment or storing any materials.
3. There will be no outside storage of equipment, such as excavators, rollers, skid loader attachments, skid loaders, or other earth-moving equipment.
4. Natural vegetation and/or evergreen tree planting shall screen the property line on the east, west or south side of the property.
5. If the current home structure is removed, that area is to be a grassy area. No parking or storing of equipment will be allowed in that area.
6. Hours of operation is 6:30 am -6:30 pm, with emergencies 24/7.

STAFF RECOMMENDATION: Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the information summarized above, and is also reflected in the town's approval and conditions. Staff confirmed with the town that screening is preferred on the east, west AND south sides of the property. The town did not limit signage as part of its CUP review, so would be permissible subject to the allowances and limitations of section 10.800 of the Zoning Ordinance.

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 listed above, and (2) we recommend approval with the conditions listed below. The conditions below reflect the general conditions from the Chapter 10 zoning code that apply to all CUPs, and the town's recommended conditions.

CUP 2694 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. This permit is issued to Jake Antos, doing business as Antos Excavating.
14. The number of employees on site shall be limited to no more than one (1) full-time or one full-time equivalent employee.
15. Hours of operation shall be limited to 6:30am to 6:30pm, unless in the event of an emergency.
16. The trailer parking area shown on the site and operation plan shall be limited to 2 flatbed trailers and one (1) dump truck.
17. The loading zone shown on the site plan shall be used for loading trailers with equipment; this area shall not be used for parking equipment or storing materials. There shall be no other outside storage of equipment, including but not limited to excavators, rollers, skid loader attachments, skid loaders, or other earth-moving equipment on site.
18. Natural vegetation and/or evergreen tree planting shall screen the property line on the east, west, and south sides of the property, to the satisfaction of the Town of Rutland.
19. If the current home structure is removed, this area shall be restored to a grassy surface. No parking or storing of equipment will be allowed in this area.
20. This permit is issued to Jake Antos, doing business as Antos Excavating. The CUP shall automatically expire on sale of the property or the business to an unrelated third party.

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