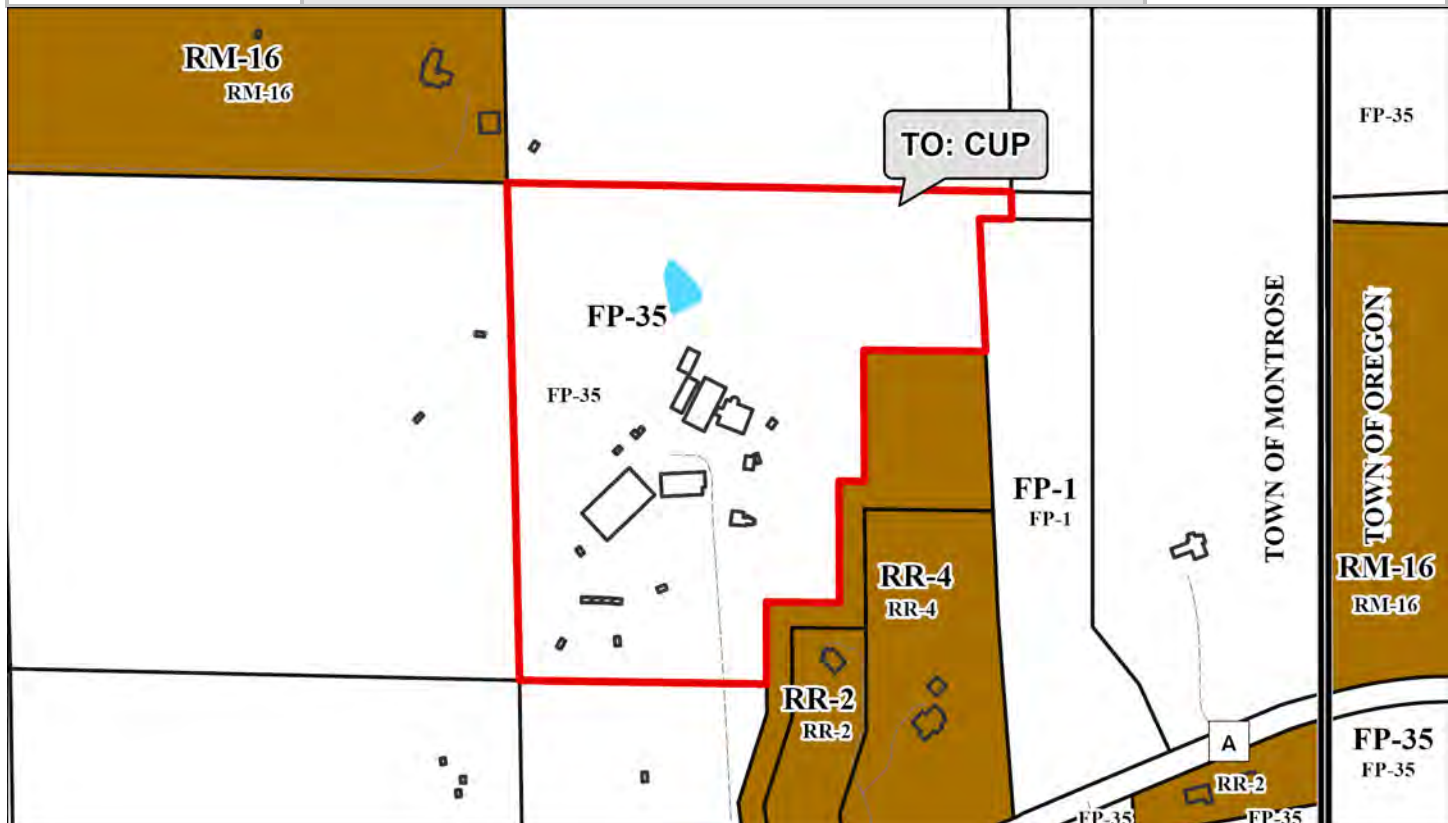


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> January 27, 2026 Report updated for the May 5th ZLR meeting		Conditional Use 02690
	<u>Zoning Amendment Requested:</u> TO CUP: Secondary farm residences to house employees of the farm operation / horse boarding facility		<u>Town, Section:</u> MONTROSE, Section 13
	<u>Size:</u> 20 Acres	<u>Survey Required:</u>	<u>Applicant:</u> DAVID and PATRICIA JUDD
	<u>Reason for the request:</u> Secondary farm residences to house employees of the farm operation / horse boarding facility		<u>Address:</u> 6412 COUNTY HWY A



DESCRIPTION: The Judds request a conditional use permit (CUP) to enable multiple secondary farm residences on the property, for employees of the farm / horse boarding operation. The Judds operate Green Meadows, a horse boarding operation with approximately 100 horses at this location. This petition was submitted as a means of addressing a zoning violation. A barn building was previously converted to have two apartments above the barn, which are used as living space for family and employees. In the FP-35 zoning district, secondary residences are only allowed as “farm residences” and subject to specific criteria.

OBSERVATIONS / FACTUAL INFORMATION: The property is a roughly 200-acre farm in active agricultural and horse stable use. The neighboring lands are primarily in agricultural use with Farmland Preservation zoning, including other properties with horses. There is a handful of Rural Residential lots in the area, the nearest ones being owned by family members, and some Rural Mixed Use properties. There are approximately 7 homes within 1,000 feet of the CUP area.

HIGHWAY ACCESS: Dane County Highway comments that CTH A is not a controlled access highway. Access Permit # 11A004 is for a Residential Multi Family Access. This serves 3 single family residences and all surrounding agricultural lands. Any change of use, reconstruction, or modifications of the existing access requires a permit from the Highway Department. No new additional access will be permitted on CTH A due to conditional use permit. No significant increase of traffic expected due to conditional use permit. For questions contact

RESOURCE PROTECTION: There are no sensitive environmental resources on or within 300 feet of the subject property.

COMPREHENSIVE PLAN: This petition 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, and policies related to accessory farm residence for farm workers. The proposal would correct a violation and bring the property into compliance with the plan. The proposal does not use density units, in line with the Town of Montrose's policy that CUPs are temporary in nature.

For questions about the town plan, contact Senior Planner Bridgit Van Belleghem at (608) 225-2043 or VanBelleghem.Bridgit@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 applicants state that the apartment units are located above the barn, on the northwest corner of the farm building cluster, in the center of a 35-acre parcel. They say that the units provide housing for family and staff who are integral to the stable operation. They note that family and barn staff are responsible for turn-in and turn-out, feedings, cleaning stalls, and general maintenance activities, and they also participate in crop farming.

Staff has asked the applicants to confirm that the dwellings meet residential building code, or to confirm how they will be made to meet code if this CUP is to be approved. At the time of writing, the owners are working with the town building inspector and staff is awaiting more information.

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 neighborhood is comprised of two residences across County Highway A to the south, and three family residences up the hill to the east of the site. The remaining properties surrounding the site are owned by the applicant and used for pasture and crop cultivation. Staff observes there are other properties with horses and stables in the surrounding area.

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 surrounding property is pasture for horses and agricultural land, and that the two units will not impede its future development for farming or farm development.

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 with Farmland Preservation zoning; there are also a few rural residential and rural mixed-use properties. The conversion of an existing building to create living quarters for the stable operation does not seem to affect the ability of the surrounding properties to be improved or developed.

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

The utilities, access roads, drainage, and other improvements needed for the proposed use are already in place. The applicants state that the units have utilities, although the units were built without permits. The owners are applying for a building permit. They state that the driveway access and septic are existing and adequate.

The property is served by a private onsite wastewater system (POWTS) that consists of 3 septic tanks that drain to another tank and mound drain field in the south (one tank for the 2 apartments, one for the main horse barn,

and one for the Judd residence, see POWTS review enclosed in meeting packet). The mound system encroaches over at least one adjacent lot that was once part of the farm and is still owned by a family member (the lot is unimproved, and has vehicular access through other lands to the east). The applicants were asked to provide verification that the POWTS serving the apartments complies with sanitary codes, or provide information on how it will be brought into compliance. They have been working with the sanitarian at Public Health since October. The sanitarian recommended that, because sizing the septic according to the number of residential bedrooms would require upsizing the tank, that a meter could be installed to measure the actual wastewater use as a means of verifying adequate septic size. She also recommended an off-lot easement for the septic system be recorded, before anything changes with the properties. (see Recommendations below)

The farm and horse boarding facility, which includes the Judds' residence, uses a shared driveway that also provides access to 3 residential lots along County Highway A. This proposal does not require physical changes to the driveway, though it adds to the traffic on this access point (a single-family residence typically generates 10 vehicle trips per day to and from a site).

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 states that there will be no change to traffic flow. This is because the units already exist (see item above). Off street parking is provided for the property in parking areas near the buildings.

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-35 zoning district. Farm residences are allowable as a conditional use in the district.

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).*

- a. The use and its location in the Farmland Preservation Zoning District are consistent with the purposes of the district.*
- 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.*
- 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.*
- 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.*
- e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.*

The FP-35 district is intended for a wide range of agricultural and agricultural accessory uses, including activities compatible with agricultural use, with the stated purpose of preserving productive farms. The construction of secondary residences for use by farm family members and employees is consistent with this purpose. The homes are located in a part of the farm that is already developed. The location would not affect the existing farm land or surrounding farms; if anything, it should have a positive effect by helping to sustain the farm operation.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential concerns associated with farm residences most likely involve the loss of farmland, and the potential for conflicts between residential and agricultural uses, as suggested by the standards above. The application addresses these potential concerns, 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 other special requirements for farm residences. This includes specific information that must be included in the application (details on the farm operation lands, size, crops, employees, and proof of farm income) as well as 3 conditions that are required (see conditions #13-15 below).

TOWN ACTION: The Town Board has recommended approval of the request to allow two secondary residences above a horse barn at 6412 County Road A in Section 13 contingent on:

- 1) Should the Judd's Green Meadows Stables go out of business, be sold to new owners, or undergo a name change;
- 2) Should these two apartments not meet county public health regulations for septic mound capacity, holding tank requirements, or any sanitary sewer related concerns; and
- 3) Should these residences not pass building and zoning inspections of electric, plumbing, heating, water and related services; then this CUP would become invalid and the apartments would need to be vacated if no new CUP was obtained.

ZLR PUBLIC HEARING: On January 27th, the ZLR Committee held a public hearing on the proposed land use. Staff were looking for confirmation that the septic system is adequate to support the residences, and that the building is in compliance with the building code. ZLR postponed action to allow the applicant more time to respond to the concerns.

STAFF RECOMMENDATION (updated): Since the public hearing, the applicants have been working toward septic- and building-code compliance for the dwelling units. The units were identified in September when a complaint was submitted, and staff contacted the landowners about the need to apply for a CUP to continue to use the units.

- In October, the Public Health Sanitarian provided guidance on different ways to verify the adequacy of the septic system. The current system serves multiple buildings (the barn with apartments, the stables, and the Judds' residence) and would be inadequate based on applying current-day formulas based (# of boarders, 2-people-per-bedroom or per unit), so alternate methods were recommended. The Judds could install a water meter at the pump tank to measure actual system use over time. Additionally, an off-lot easement is recommended for the septic mound system because the land was subdivided since its installation and it currently spans multiple properties. The Sanitarian noted that no issues or complaints have been received or reported with the 3-year maintenance services since the system was installed 2003.
- The owners took some steps over the winter to identify what would be needed to bring the dwelling units up to code. In January, the Town Building Inspector toured the property and indicated that the Judds needed to install one window, fire proof one wall, and bring an interior banister up to code.
- Months had passed with no communication from the landowners about how they intend to address the Sanitarian's comments, or their schedule for addressing the code compliance of the apartments. Staff informed the applicants that, due to no progress being made on the outstanding tasks, the CUP would be brought back to the ZLR Committee for action on April 14th with a recommendation for denial.
- New information was provided prior to the ZLR meeting date – on April 13th the applicants provided the Building Inspector's sign-off that the apartment units meet building code, and they confirmed that a water meter has been installed to measure actual wastewater flows from the apartments.
- The April 14th ZLR meeting was cancelled due to weather. Since then, the Judds' agent Melissa Huggins has been working with the Sanitarian on how to measure the waste water flows to verify the adequacy of the septic system capacity. She plans to work with the Judds to measure peak-time wastewater flows from the apartments and the horse barn on a weekly basis, for at least 30 days of "peak season" use. That will enable the Sanitarian to determine whether the system needs to be up-sized or not. In addition, the Judds have agreed to record an off-lot easement for the septic system because it encroaches over adjacent properties.

ZLR DECISION: Staff believes that, as of today, the applicant has provided some evidence to address the CUP standards. Whether this is sufficient to approve the CUP is a decision for the ZLR Committee. The ZLR Committee must make findings of fact regarding whether the proposed use meets the 8 CUP standards. If the Committee requires additional information on which to base a decision, they could request specific information. The information the Zoning Division has at the time of writing includes the information outlined above, the town's conditional approval, and the fact that the applicants are actively coordinating with the Sanitarian.

If the Committee sees fit to approve CUP 2690, potential conditions are listed below for consideration. The conditions include the general conditions from the Chapter 10 zoning code that apply to all CUPs, and other conditions specific to the proposed land use – including the town's conditions and a potential 1-year deadline to achieve full code compliance.

CUP 2690 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.

Unique Conditions for this CUP:

13. This conditional use permit for Green Meadows Stables shall expire upon the sale of the property to an unrelated third party or new owners, discontinuation of the horse boarding facility, or the operation undergoes a name change. Continued use of a farm residence after sale to an unrelated third party shall require approval of a new conditional use permit. Upon expiration, the living quarters (bathroom, kitchen, water lines, and drain waste vent/DWV) shall be removed from the building.
14. The Zoning Committee may revoke any Conditional Use Permit it finds in violation of this section. Continued use of residence with a revoked conditional use permit shall require approval of a rezone petition to a zoning district that allows nonfarm residential use.
15. The Zoning Committee shall require the recording of a deed notice document with the Register of Deeds on the subject property notifying current and future owners of the provisions of conditions #13 and #14 above.
16. The dwelling units approved as part of this CUP shall be brought into compliance with applicable residential building code and sanitary code within one year (May 5, 2027). Failure to demonstrate such code compliance will result in this CUP being rendered null and void, and the removal of the dwelling units will be required.
17. Under this CUP, occupancy of the two farm residences is limited to the following:
 - a. A person who is both the owner and farm operator of the farm.
 - b. A parent or child of the owner and farm operator of the farm.
 - c. An individual who earns more than 50 percent of his or her gross income from the farm.

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