# CONDITIONAL USE PERMIT APPLICATION

**9/12/22 Plan Commission Meeting**

## Jacob & Katherine Cervantes

**Village Planner Report** **Germantown, Wisconsin**


**Summary**

Jacob and Katherine Cervantes, property owners of a 4-acre residential parcel located at N120W13537 Freistadt Road are requesting approval of a Conditional Use Permit (CUP) to allow the keeping of up to two horses, one pot-bellied pig, and poultry/fowl for family consumption on their property in a Rs-2: Single-Family Zoning District.


**Location:** N120W13537 Freistadt Road

**Applicant/**
**Property Owner:** Jacob & Katherine Cervantes
N120W13537 Freistadt Road
Germantown, WI

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**Current Zoning:** Rs-2: Single-Family

| **Adjacent Land Uses** | | **Zoning** |
|---|---|---|
| North | Agricultural/Residential | A-2 |
| South | Natural Area | A-2 |
| East | Agricultural | A-2 |
| West | Agricultural/Residential | A-1 |

## Proposal

Jacob and Katherine Cervantes, property owners of a 4-acre residential parcel located at N120W13537 Freistadt Road are requesting approval of a Conditional Use Permit (CUP) to allow the keeping of up to two horses, one pot-bellied pig, and poultry/fowl for family consumption on their property in a Rs-2: Single-Family Zoning District.

As presented in the Cervantes' application and supporting documentation, the Cervantes intend to raise two horses, one pot-bellied pig, and up to forty (40) poultry/fowl (hens only no roosters) for non-commercial purposes. They will use the existing outbuildings on the property to house the animals. A sketch showing where the animals will be kept has been included in the application materials. Manure will be incorporated into the compost to be used for gardening.

Per Section 9.11 of the Village Code (Public Peace and Good Order), the building used for the keeping, maintaining and housing of livestock, poultry or fowl needs to be setback a minimum of 50' from any residential building and 100 feet from adjacent property lines. There are existing agricultural building on the property (or portions of the building) that meet these setback requirements.

Section 9.11 also states that "Any person shall, prior to keeping or maintaining livestock, poultry or fowl pursuant to this section, erect and maintain fences as described in Ch. 90, Wis. Stats." All fencing will require a building permit from Inspection Services and a secure, enclosed area will be required prior to housing the animals on the property.

This property is not located within a subdivision so there are not homeowner's association covenants that apply to the property.

## Staff Comments

Planning & Zoning

The Rs-2 Zoning District specifically provides for the keeping of not more than one horse more than 6 months of age per 2 acres and the raising of poultry and fowl "… for family consumption only" with a conditional use permit. "For family consumption only" has been interpreted to mean for non-commercial purposes, which is not to say eggs and/or the chickens themselves cannot be sold for financial gain on an occasional basis or in an accessory manner. However, if retail sales occur and evolve into an amount and/or on a regular basis that has the effect of changing the character of the property, the Village may require review of the operation under the Village's home-based business regulations.

Section 9.11(1)(b) states "One Philippine pot-bellied pig per single-household may be kept as a pet, but not for breeding purposes." There are no zoning-code specific provisions relating to pot-bellied pigs.

The subject property is not located in a residential subdivision and is surrounded by property of agricultural character or open space preservation. The property to the east and south is owned by the Milwaukee Metropolitan Sewerage District (MMSD) and is anticipated to remain as conservation land. This property was formerly owned by Jason Boehlke and was the site of a since-relocated illegal landscaping business.

## VILLAGE STAFF RECOMMENDATION

**APPROVE** a conditional use permit for Jacob and Katherine Cervantes to allow the keeping of up to two (2) horses, a pot-bellied pig, and the raising of poultry or fowl for family consumption on their property located at N120W13537 Freistadt Road subject to the following conditions:

1. The uses and activities allowed on the property shall be limited to those uses and activities and relative locations specified in the conditional use permit application (CUP) and supporting materials dated June 6, 2022.
2. Fencing, meeting the requirements of WI State Statute 90, shall be constructed and installed prior to housing any animals on the property.
3. Building permits are required for any/all interior and exterior construction or renovations (i.e. fencing). Contact Inspection Services for information about building permit applications at 262-346-4460.
4. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional uses and activities which cause special problems or harmful effects associated with the permitted uses and activities that were not revealed or anticipated at the time this CUP was granted, or, where conditions imposed by this CUP that were anticipated to mitigate or eliminate harmful effects associated with the uses and activities but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, this conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.

Village of Germantown ...Willkommen

**Fee must accompany application**

☒ $1460 Paid ✓ Date 6/6/22

# CONDITIONAL USE PERMIT APPLICATION

Pursuant to Section 17.42 of the Municipal Code

Please read and complete this application carefully. **All applications must be signed and dated.**

**1**

**APPLICANT OR AGENT**

Jacob Cervantes
Katherine Cervantes

Phone (262) 685-2733
Fax ( )
E-Mail KDKNAPP13@gmail.com

**PROPERTY OWNER**

Jacob + Katherine Cervantes

Phone (262) 685-2733

**2**

**TO WHOM SHOULD THE PERMIT BE ISSUED?**

Jacob + Katherine Cervantes

**3**

| PROPERTY ADDRESS TAX | KEY NUMBER |
|---|---|
| N120W13537 Freistadt Rd. Germantown, WI 53022 | 242989 |

**4**

**DESCRIPTION OF EXISTING OPERATION**

Briefly describe the use as it exists today, including use, size, number of employees, hours of operation, etc. If this permit involves new construction, describe the current status of the property, e.g. "vacant." Use additional pages if necessary.

Single family home.

**5**

**DESCRIPTION OF PROPOSED OPERATION**

Write the name of the proposed conditional use exactly as it appears in the Municipal Code.

17-15 RS-2 Single family Residential District. 2.) Conditional Uses. A. the keeping of certain animals in outdoor pens or detached buildings as follows: 1 Not more than one horse more than 6 months of age per 2 Acres. B.) Raising poultry, fowl, animals for meat or by products for family consumption only.

Describe the proposed use, including size, number of employees, hours of operation and extent of any new construction/alterations.

We would like to have two horses.
We would like to raise poultry.

## 6 METES AND BOUNDS LEGAL DESCRIPTION OF PROPERTY – REQUIRED

Attach pages as necessary

## 7 SUPPORTING DOCUMENTATION:

- ☐ Site Plan and elevations for new construction (can be conceptual)
- ☐ Photos of existing use and/or proposed use operating elsewhere
- ☐ _____
- ☐ _____

## 8 READ AND INITIAL THE FOLLOWING:

JCC I understand that the Village is under no obligation to issue a Conditional Use Permit and will do so only if the applicant successfully demonstrates that the proposed use is harmonious with the neighborhood and the long range goals of the Village.

JCC I will notify the Village if <u>any</u> aspects of the conditional use changes. I understand that failure to do so may result in the revocation of the CUP.

JCC I understand that a Conditional Use Permit is valid only if the conditions and restrictions of the permit are met. I understand that failure to comply with any aspect of the permit may result in revocation.

## 9 SIGNATURES – ALL APPLICATIONS MUST BE SIGNED BY OWNER!

| Jacob Cervantes | 6/4/22 | | 6/4/22 |
|---|---|---|---|
| Applicant | Date | Owner | Date |

# LEGAL DESCRIPTION

**Order No.:** F-376954

Lot One (1) of Certified Survey Map No. 6112, recorded December 20, 2006, in Volume 45 of Certified Survey Maps on Pages 318 to 321, as Document No. 1147326, located in the Northeast One-quarter (1/4) of the Northwest One-quarter (1/4) of Section Twenty-four (24), Township Nine (9) North, Range Twenty (20) East, in the Village of Germantown, County of Washington, State of Wisconsin.

Tax Key No. 242989

Address: N120 W13537 Freistadt Road

**Owner**: KATHERINE CERVANTES
**Location**: N120W13537 FREISTADT RD
**Parcel Number**: GTNV_242989
**Zoning District(s)**:
**RS-2 - Single-Family Residential** Details

Zoom To
Create Parcel Details page
Delete selection
Dismiss

Freistadt Rd

Red lines = Potential fence for horse pasture

Purple lines/box= Potential fence for riding arena

Black box=Exisitng building where two horse stalls and pig stall would be put in.

**From:** Katherine Cervantes
**To:** Emily Zandt
**Subject:** Re: CUP Application
**Date:** Thursday, September 8, 2022 11:04:55 AM

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**CAUTION: This email originated from outside the organization.**
**Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Are there any certain requirements? I am not finding any on the village municipal code? We were planning on incorporating it into a compost pile to use for our garden.

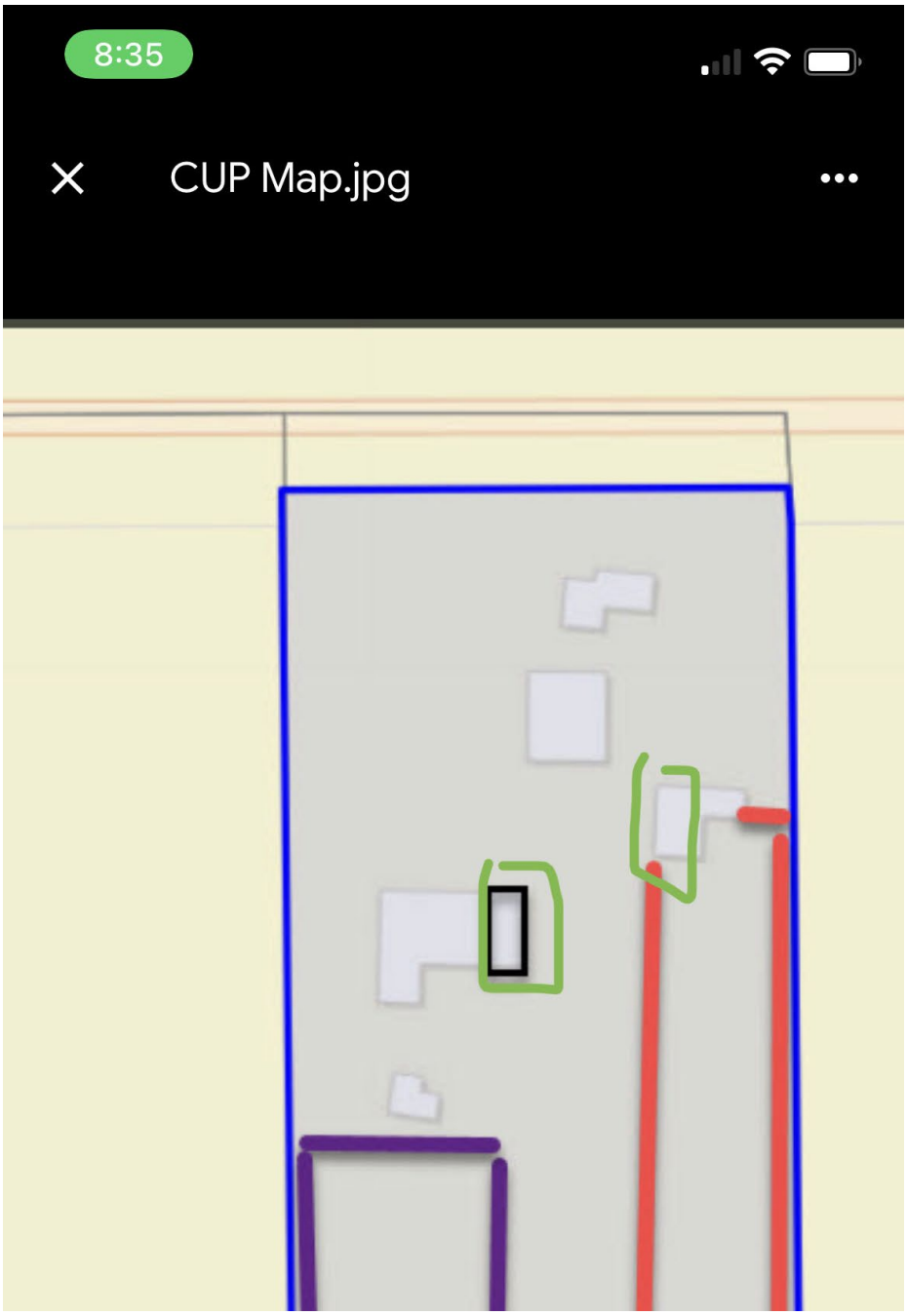
-Katherine

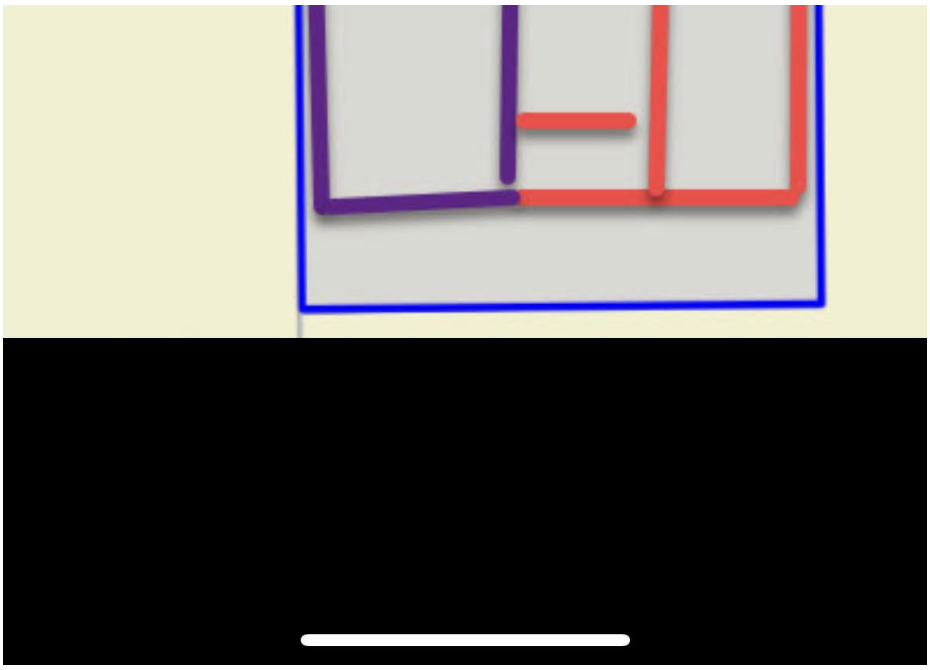
On Thu, Sep 8, 2022 at 10:54 AM Emily Zandt <ezandt@germantownwi.gov> wrote:

> Thank you, Katherine.
>
> Do you have plans for the manure?
>
> Emily Zandt, AICP
>
> Associate Planner/Zoning Administrator
>
> Village of Germantown
>
> (262)-250-4735
>
> ***How was your experience? Provide feedback here.***
>
> ---
>
> **From:** Katherine Cervantes <kdknapp13@gmail.com>
> **Sent:** Thursday, September 8, 2022 8:38 AM
> **To:** Emily Zandt <ezandt@germantownwi.gov>
> **Subject:** Re: CUP Application
>
> **CAUTION: This email originated from outside the organization.**
> **Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Probably in that same portion of the building we circled for the horses and pig stalls. Unless the barn would be the proper distance away. I would have to go out and measure though to check. I know for sure it's at least 50' away from the house not sure about the measurement from property line though. If anything it would be in the portion of the barn that is closest to the middle of the property.

Green lines are the potential chicken coop area.





-Katherine &

Jake

On Thu, Sep 8, 2022 at 8:28 AM Emily Zandt <ezandt@germantownwi.gov> wrote:

> Thank you, Katherine and Jake. This is helpful.
>
> Do you know where you would anticipate putting the chickens and fowl?
>
> I also wanted to let you know that I confirmed with Jeff that the maximum number of chickens and fowl permitted would be 40.
>
> Emily
>
> Emily Zandt, AICP
>
> Associate Planner/Zoning Administrator
>
> Village of Germantown
>
> (262)-250-4735

***How was your experience? Provide feedback here.***

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**From:** Katherine Cervantes <kdknapp13@gmail.com>
**Sent:** Wednesday, September 7, 2022 7:47 PM
**To:** Emily Zandt <ezandt@germantownwi.gov>
**Subject:** Re: CUP Application

**CAUTION: This email originated from outside the organization.**
**Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Hello,

Attached is a rough idea of where the fences and animals would be located. We do know that we can only have two horses, and this is in our original application.

The limit for the combination of chickens and ducks would be what is defined under the Village of Germantown Municipal code 9.11 KEEPING OF LIVESTOCK, POULTRY, WILD AND EXOTIC ANIMALS REGULATED. (Rep. & Recr. Ord. #45-92; Am. Ord. #25-03). Same goes for the pig.

Sincerely,

Jake & Katherine

On Tue, Sep 6, 2022 at 1:26 PM Emily Zandt <ezandt@germantownwi.gov> wrote:

> Jake and Katherine,
>
> I am working on our staff report for Monday's Plan Commission meeting. Can you provide more specific information on the anticipated number of chickens, ducks, and potbelly pigs you would like to have on your property? As you know, you are limited to two horses.
>
> In which of the existing buildings will the animals be kept? Keep in mind that the

portion of the building the livestock/poultry/fowl will be housed needs to be 50’ from a residential structure and at least 100’ from all adjacent property lines.

If approved, will you be installing fencing for the horses? Can you provide a sketch of where this would be installed?

Any additional information you have regarding your plans would be helpful and will aid the Plan Commission in reviewing your application.

Please provide a response at your earliest convenience but no later than the end of the day Thursday, September 8th.

Thank you,
Emily

Please note that

Emily Zandt, AICP

Associate Planner/Zoning Administrator

Village of Germantown

(262)-250-4735

***How was your experience? Provide feedback here.***