

TOWN BOARD ACTION REPORT – CONDITIONAL USE PERMIT

Regarding Petition # _____ Dane County ZLR Committee Public Hearing _____

Whereas, the Town Board of the Town of _____ having considered said conditional use permit application, be it therefore resolved that said conditional use permit is hereby (check one): **APPROVED**

DENIED (If DENIED, PLEASE COMPLETE FINDINGS SECTION ON PAGE 2)

PLANNING COMMISSION VOTE: _____ In Favor _____ Opposed

TOWN BOARD VOTE: _____ In Favor _____ Opposed

Whereas, in support of its decision, the Town Board has made appropriate findings of fact that the standards listed in section 10.101(7) (d) 1, Dane County Code of Ordinances, and section 10.220 (1) (a), if applicable, are found to be (check one):

SATISFIED

NOT SATISFIED (PLEASE COMPLETE FINDINGS SECTION ON PAGE 2)

THE CONDITIONAL USE PERMIT IS SUBJECT TO THE FOLLOWING CONDITION(S):

PLEASE NOTE: The following space, and additional pages as needed, are reserved for comment by the minority voter(s), OR, for the Town to explain its approval if the decision does not comply with the relevant provisions of the Town Plan.

I, _____, as Town Clerk of the Town of _____, County of Dane, hereby certify that the above resolution was adopted in a lawful meeting of the Town Board on _____, 20____.

Town Clerk _____ **Date** _____, 20____.

Town of Middleton
Meeting Minutes
Town Board

Middleton
Town Hall

Monday, October 7, 2024
6:30 PM

7555 W. Old Sauk Road
Verona, WI 53593

Call to Order. A regular meeting of the Town Board was held at the Town Hall, 7555 W. Old Sauk Road Verona, WI 53593 beginning at 6:30 PM.

Present were Town Board Chair Cynthia Richson, Supervisor Richard Oberle, Supervisor David Bryce, Supervisor Ken Opin, and Supervisor Tom Stemrich.

Also present were Eric Hagen, Attorney for the Town, Boardman & Clark LLP; Mike Lawton, Attorney for the Town, Boardman & Clark LLP; Rod Zubella, Town Engineer, Vierbicher; Scott Ballweg, Crew Leader; Megan Hughes, Treasurer/Personnel Manager; Barbara Roesslein, Clerk/Governance Manager; and members of the public.

1. Proof of Posting and Notice

Clerk Barb Roesslein affirmed that the agenda had been posted at the Town Hall, Settler's Prairie Park, Voss Park, published on the Town's website, and emailed to the newspaper and the Town's subscriber list.

2. Pledge of Allegiance

The pledge was recited.

3. Public Input

(for items not on the agenda and limited to five minutes per speaker).

There was none.

4. PUBLIC HEARING: Conditional Use Permit request for animal boarding [per Dane County Code 10.235(4)] by Dan and Marlene La Fleur (Four Paws Pet Services LLC), 3440 Meadow Road

Town Chair Richson opened the public hearing at 6:30 p.m.

Lena La Fleur and Attorney Erik Olsen, Eminent Domain Services, LLC; spoke on behalf of the La Fleur family. Attorney Olsen begun by stating the applicants have reduced the number of animals for their proposed animal boarding facility since there was an issue with the number of animals proposed in prior submittals. The applicants would like to stay on their farm and run an animal boarding facility for their livelihood. Attorney Olsen stated he had the opportunity to drive around the neighborhood while the sound study was being conducted and the sound of barking dogs was

inaudible. The applicants would be willing to install additional baffling to address noise concerns, if necessary. Issues with additional traffic would be the same if not more with a potential development. A dense residential neighborhood could cause contamination to soil with people walking their dogs around a subdivision.

Ms. La Fleur stated that along with her aunt, Neva La Fleur, they are proposing the dog daycare facility. The business will be 100% family/woman owned. The current CUP on the property is for their horse stable facilities that her grandfather, Dan La Fleur began in 1965, and at the current location since 2001. The horse stable has offered boarding, training, competing, and buying of horses. It has served over 50,000 people without any problems with traffic. They will no longer be running the horse stable, only housing their own horses. Applicants would utilize the Gingr app to schedule pick up and drop off of dogs to limit the amount of people at a time. Key changes from their prior submittals are reducing the total capacity of animals to 30, removal of the outdoor run area, and not offering grooming or training services. They will solely focus on daycare and boarding. Parking has been moved to the south side of the stable and is setup for 37 stalls. The site is compliant with storm water permits, and the state also agrees that it is in compliance with mixed wastewater use. The dog waste will be picked up by Waste Management twice a week. Ms. La Fleur further explained how wet waste would be handled. She noted that they have an online petition with 500 signatures in favor of their proposed animal boarding facility that they can provide to the Town Board.

Supervisor Opin asked if the applicants have seen the possible conditional motion, in which the applicants stated they had seen the online version (linked to the agenda packet). Supervisor Opin noted that there are two items in the motion that contradict what they said in testimony: (6)(f) and (6)(o).

PUBLIC COMMENTS:

- City of Madison resident Ted Waldbillig, 9801 Hawks Nest Dr., commented that he is very concerned about noise from barking dogs. He referenced a kennel by Costco in Verona as an example of sound. He is worried about the impact of sound will have on property values in the area.
- City of Madison resident Teresa Atkin, 703 Cricket Lane #2, spoke in favor of the proposed animal boarding CUP, as she knows the applicants and uses their stables for horseback riding. She wondered where the sound study was done. As a physicist, she stated sound goes by inverse square law, meaning the further away the sound goes, it drops quickly. With three sound studies being conducted she asked to look at the facts and decide what is the right course of action.
- City of Madison resident Andy Marquardt, 9862 Hawks Nest Dr., asked how many barking dogs were in the recording used in the sound study. It is his observation that homeowner dogs generally do not bark versus being in a

kennel. He is familiar with the kennel by Costco and has heard the barking dogs. He is concerned there will not be any outdoor access for the dogs, which is a concern on humane treatment of dogs.

- City of Madison resident Judy Jackson, 9870 Hawks Nest Dr., commented that she mainly is opposed to the dog kennel because of noise. She questioned what it would take for the applicant to increase the number of dogs, what would be the process. What prevents the applicant from creating an outdoor area. She noted that depending on the wind, sounds travels.
- City of Madison resident Sue Gill, 1122 Feather Edge Dr., provided a screen shot, dated 10/6/24, of the applicant's website offering dog/pig services. She stated this is a violation of zoning laws, which shows the applicants are unwilling to follow current zoning laws. She is worried that will include not following future permit requirements. She believes the proposed animal boarding facility would be in violation of the following Standards for Conditional Use Permits. Standard 1, being detrimental to comfort and general welfare of the neighborhood; Standard 2, uses, values, and enjoyment of other property noting that in the past they heard from an appraiser that was certain property values would be lower. She had a friend who purposely did not buy in the area because of the potential dog kennel. Standard 3, impede normal and orderly development noting that area is residential and will have increased traffic. Standard 7, she does not believe the proposed CUP is consistent with Town and County Comprehensive Plans. She questioned why neighbors were not notified about the sound studies. She referenced multiple dates where dog barking could be heard from the La Fleur property and that it sounded like two dogs.
- City of Madison resident Sheri Lowe, 1122 Feather Edge Dr., stated she is opposed to the proposed CUP because it is inappropriate for a residential area and better suited in a commercial area. She believes it violates Standard 1 because of excessive noise and increased traffic in the quiet neighborhood. She played a recording she made on 9/24/24 from the deck of her home of barking dogs coming from the La Fleur property that went on for almost an hour and a half. Standard 2, impacts value and enjoyment because the presence of a kennel will cause increase traffic and noise and an adverse impact to property values. Standard 3, impede orderly development. She urged the Town Board not to grant the CUP for the best interest of the community.
- Town resident Juli Mikalofsky, 7387 Valley View Rd., felt that sound study is bought and paid for results. She has witnessed how the applicants take care of animals when a month ago they lost two horses that were running down the road. Noise is a concern for her, stating while hiking in the area she can hear dogs barking from a long distance. She believes it is hard to prove property values will go down because there is not a lot of comparisons that can be used since most kennels are not near residential areas.
- Town resident Nancy Froncek, 7377 Valley View Rd., brought visual aids to point out that the area continues to develop as residential even though her

own property with her house on it, approximately only 250 ft from the proposed dog boarding facility, is still agricultural. The proposed business does not belong in a residential area. The dog kennel would be detrimental to the comfort of people living in this area. Because they are situated in a valley sound carries. During one of the sound studies her cat hid under the bed from the noise. Asked if horse CUP was being transferred to dog facilities. She does not understand how a stable is being converted into a kennel. She questioned what qualifications and knowledge will staff have to run the dog kennel. The location is inappropriate for a dog kennel and should be in an industrial area. She provided statements from neighbors that were not able to attend the public hearing.

- Town resident David Radcliffe, 7377 Valley View Rd., noted prior public hearings. The residential area continues to grow. He asked if Town council were present during the sound studies. The applicant has compromised by reducing the number of dogs to 30. He does not believe their business plan will work with only 30 dogs. Increased traffic will affect the surrounding area. He asked what the cost of the CUP has been to the Town. He stated a dog kennel does not belong in a residential area.
- Town resident Rick Miyagawa, 3338 Meadow Rd., stated he lives down wind and downstream from the La Fleur property. He is concerned with noise, negative impact on property values, and wastewater. The La Fleur property has an erosion problem in the front part of the property where water runoff goes across the driveway and into the nearby watershed. He asked if signatures on petition the La Fleurs mentioned are from the local area. If CUP is approved will this open up for other kennels in residential areas. He noted that up the street from him there are two dogs that bark every night at 2 a.m.
- City of Madison resident Tommy West, 920 Old Timber Pass, commented that this is a residential area with applicants asking to modify to commercial opening the door for more commercial services. Area should remain residential.
- Town resident Sue Coats, 3535 Pioneer Rd., concerned with noise, stating you cannot muzzle dogs without veterinarian approval. She used to train dogs and stated that dogs can be unpredictable and aggressive. Also has environmental concerns with water runoff if it contains waste runoff.
- Town resident Tony Praza, 3471 Leflore Ct., stated that surveys conducted as part of the Town Comprehensive Outdoor Recreation Plan updates in 2018 and 2024 showed 50% of Town residents that answered the survey have dogs.
- Town resident Elizabeth Chase Olson, 3795 Swoboda Rd., read a prepared statement in favor of the proposed dog kennel. She stated that the small kennel will provide an amenity to the community. She supports that the area will remain as a farm.
- Mount Horeb resident Terry Hanson commented that she rides at the La Fleur stables and that it is a friendly facility. She claimed that the walls within the stable are 18 inches thick which should contain the sound of barking dogs. The La Fleurs run an excellent riding stable. Dog waste will be handled and

there will be less traffic from the proposed 30 dogs than if the property was developed residential. Horse boarding and riding facilities are diminishing; thus, the La Fleurs are supplementing their income with boarding dogs. La Fleurs live on the property, so they do not want a nuisance either. By retaining the farm/landscape of their property it will increase value to the surrounding residential areas. There is a need for a dog daycare in the area.

- Town resident Ruth Dumesic, 3402 Sugar Maple Ln., commented that her issue with the proposed dog kennel is barking dogs and maintaining the dogs. Horses do not make that much noise or do damage. Referenced a book from another state that she provided in the past which noted the impact of property values due to dog boarding facilities. What is needed is to figure out a solution for the noise. The area is peaceful and built on neighbors getting along.
- City of Madison resident Chengyin Liu, 1126 Feather Edge Dr., commented that if the Town approves the proposed CUP, he will sell his house. He will not live near a dog kennel.

Applicants Response:

- Spencer Thomas, Hankard Environmental, provided details of the two sound studies that were conducted in 2023 and 2024. In the first study the stable doors were open with the sound of barking dogs playing at a level of 98 decibels. This was done as a worst case scenario of any dog kennel. In the second study the stable doors were closed since all was going to be contained in the stable. When the doors were open results could be heard in some areas of the property. Whereas when the doors were closed you could not really hear it from the property line. If the sound was played in direct line with the doors, it was louder, but if not in direct line it was quiet. The Town had hired a sound expert who was present when the second sound study was conducted. The Town's sound expert did not raise concerns with the testing procedure. Mr. Thomas also observed the dog kennel at the Costco in Verona a few hours in morning and evening. There were dogs barking outside, but this will not be the case with the La Fleur kennel since everything will be indoors. Ms. La Fleur noted that in the second study no studies were conducted with open doors since all was going to be contained in the stables. Attorney Olsen addressed item (6)(o) of the possible motion stating it was their understanding that it would only be needed if it was complaint driven, but they would accept the proposed motion. Discussion followed regarding the decibel level of the sound study and whether it was realistic. Mr. Thomas noted the decibels were at 98, but peak was 114.
- Family horses will remain, but they will no longer board horses for other people.
- The website exhibit was an idea they had based on the "Rover" application. Ms. La Fleur claimed it had not been used and was not aware that the website was still up.

- At this time, they do not have any intention of increasing numbers of animals over time. They are comfortable with 30 dogs.
- In response when asked how the dogs will be separated, Ms. La Fleur stated the dogs will be on a rubber surface with artificial turf over the top. The main aisle will be concrete and kennels on the sides with 5-foot-tall wooden partitions between each stall that dogs cannot see each other through. The partitions from the horse stalls will be taken out.
- Supervisor Stemrich asked if dogs will be walked if requested. Ms. La Fleur stated that the dogs will stay in the facility. There would be no dog walking outside.

Town resident Sue Coats reiterated the concern of their property values being negatively impacted. Town resident Lance Jensen, 7507 Valley View Rd., asked if a property value study has been done to determine the effects a dog kennel has to property values. Mr. Jensen also asked how many dogs were part of the sound study. The sound was equal to 40-50 dogs. Attorney for the Town Eric Hagen stated if the Town Board was inclined do a property value study they could do so. Town Chair Richson and Supervisor Bryce were in favor of obtaining a property value study. Supervisor Opin commented that there are legal constraints placed on the Town Board on how to handle a CUP, but he does not think a property value study would be definitive. Attorney Olsen stated they are not in favor of a property value study. They understand the concerns that have been expressed and there has been sound studies conducted, including one done by a sound expert on behalf of the Town. They are willing to follow the recommendations made in the Town's sound study and would prefer a short term for the renewal of the CUP rather than a property value study. Opin made a motion, seconded by Stemrich, to close the public hearing at 8:19 p.m. **Opin and Stemrich withdrew the motion.**

Richson made a motion, seconded by Bryce, to recess the public hearing to obtain a property valuation study. **A Roll Call Vote was taken. The motion was defeated 2-3. 2-3 (opposed: Oberle, Opin, and Stemrich).**

	For	Against
Richson (Moved By)	x	
Oberle		x
Bryce (Seconded By)	x	
Opin		x
Stemrich		x
	2	3

Bryce made a motion, seconded by Stemrich, to close the public hearing at 8:22 p.m. **A Roll Call Vote was taken. The motion carried 3-0. 3-2 (opposed: Richson and Bryce).**

	For	Against
Richson		x
Oberle	x	
Bryce (Moved By)		x

Opin	x	
Stemrich (Seconded By)	x	
	3	2

5. Consideration and possible action on Conditional Use Permit request for animal boarding [per Dane County Code 10.235(4)] by Dan and Marlene La Fleur (Four Paws Pet Services LLC), 3440 Meadow Road - Attorney for the Town Eric Hagen, Boardman & Clark LLP and Town Engineer Rod Zubella, Vierbicher

Opin made a motion, seconded by Stemrich, to approve the Conditional Use Permit (CUP) for Four Paws Pet Services LLC at 3440 Meadow Road to operate an animal boarding / pet daycare facility in the AT-5 Agriculture Transition -5 acre zoning district, subject to the following:

1. That all Town Ordinances are complied with during the life of the CUP.
2. The Conditional Use approval is limited to parcel number 038/0708-321-8211-1, located at 3440 Meadow Rd.
3. The Town finds that the proposed conditional use is consistent with the adopted Town Comprehensive Plan;
4. The Town finds that the proposal meets the general standards for conditional use permits per Dane County Ordinances 10.101(7)(d)1;
5. The CUP is granted subject to all standard conditions specified in Dane County Zoning Ordinance Section 10.101(7)(d)(2) (page 10-25 of Dane County Zoning Ordinance), including:
 - a. Any conditions required for specific uses listed under s. 10.103.
 - b. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan, building plans, and phasing plan.
 - c. 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.
 - d. 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.
 - e. 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.
 - f. 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.

- g. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
- h. Off-street parking must be provided, consistent with s. 10.102(8).
- i. 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.
- j. 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.
- k. The owner must post, in a prominent public place and in a form approved by the zoning administrator, a placard with the approved 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.
- l. 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.
- m. 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 a reasonable opportunity to correct any violations prior to revocation.

6. In addition, the Town specifies the following conditions:

- a. This conditional use permit is for Dan and Marlene La Fleur, doing business as Four Paws Pet Services LLC located at 3440 Meadow Road. Specifically, for domestic pet animal boarding for dogs and cats and including pet daycare, overnight boarding. Ancillary pet grooming/training services are not included.
- b. Quiet hours shall be **6:01 p.m. to 7:29 a.m.**, all days of the week.
- c. Operating hours for the pet daycare business shall be limited to 7:30 am to 6:00 pm Monday-Friday, Saturday 10:00am-5:00pm, and Sunday 11:00am – 2:00pm.
- d. The number of animals kept on site and/or kenneled overnight shall be limited to **30**.

- e. Any required upgrades to the well and / or septic system as determined by Public Health Madison and Dane County shall be made prior to CUP Petition #2640 implementation.
- f. To meet the requirements of the Town's Long and Shared Driveway Ordinance [§8.01\(4\)\(b\)\(iv\)\(2\)](#) (page 154/510), one (1) driveway passing lane section fifty (50) feet long by twenty (20) ft wide shall be installed 300 ft from the property's Meadow Rd driveway access entrance. If this triggers Dane County Stormwater and / or Erosion Control requirements, review by the Town and Dane County shall occur and the Town shall require that the Town Stormwater and Erosion Control Ordinance is met.
- g. Turnarounds required by Town Code are not required per [§8.01\(4\)\(v\)](#) (page 155/510) as the Battalion Chief for the Middleton Fire District in July 23, 2024 correspondence noted the acceptability of the current configuration.
- h. The CUP expires one (1) year after date of issuance. The landowner may renew the CUP by successfully obtaining a new CUP prior to the expiration date.
- i. The planned parking is acceptable, as long as the number of stalls identified as handicap accessible meets ADA requirements.
- j. Vehicle travel shall be one-way counterclockwise around the buildings.
- k. Signage consisting of a minimum of three (3) "one-way" signs and a minimum of one (1) "do not enter" sign shall be installed prior to CUP Petition #2640 implementation to ensure the proposed traffic pattern is followed.
- l. One (1) new unlit ground sign, replacing the existing ground sign for the CUP 1701 horse use in its existing location, is acceptable while meeting Dane County Sign Ordinance.
- m. Applicant has indicated no new lighting for the building or signage is proposed. If lighting is considered in the future, it must be approved by the Town via a site plan review. Any new outdoor lighting shall be downward-directed, designed to minimize ambient spill, and shall comply with all applicable requirements of the Town of Middleton.
- n. That the dog waste be responsibly disposed in a licensed, sanitary landfill.
- o. Complete the sound dampening recommendations of Consonant Design, including:
 - i. Create airtight seal in building envelope using a barrier material equal to the average surface weight per square foot of the exterior wall and roof system and closed to an airtight seal using rod backer and permanently-resilient acoustical sealant.
 - ii. Create a partition system at the west entrance to the barn so sound does not escape to the exterior when dogs are dropped off and retrieved. This would entail the construction of a complete

north/south wall just interior of the barn facility and the creation of sound lock vestibules (two doors in series separated by a vestibule which includes sound absorbing materials) integral to the new wall system.

- iii. Create a porte cochere at the west entrance that will serve as a sound-dampening walkway between the parking lot and the interior of the facility. This includes a roofing system of at least five pounds per square foot.
 - iv. Implement a calibrated sound monitoring system in the barn facility that includes visual feedback to employees, such as 1) Green light when sound levels interior to the kennel are below acceptable values; 2) Yellow light when sound levels are approaching values which would be deemed unacceptable to the community; and 3) Red light when sound levels are excessive. Employees would then take appropriate actions to calm dogs and reduce noise.
7. If the animal boarding operation is abandoned for one (1) year or more, this conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use permit shall require approval of a new conditional use permit.
 8. This conditional use permit shall expire in the event the property is sold or transferred to an unrelated third party. Continuation or extension of an expired conditional use requires re-application and approval by the Town Board and Dane County. The Property Owner shall record a deed restriction that includes the conditions of approval, in a form approved by the Attorney for the Town.

A Roll Call Vote was taken. The motion carried 3-2 with Richson and Bryce opposing. Richson stated she opposed the CUP because it is a commercial use in a residential area, and that a property valuation study should be conducted. Bryan stated he opposed the CUP because the problem of a commercial use in a residential area. 3-2 (opposed: Richson and Bryce).

	For	Against
Richson		x
Oberle	x	
Bryce		x
Opin (Moved By)	x	
Stemrich (Seconded By)	x	
	3	2

Supervisor Opin stated that he was reluctant to approve the proposed CUP, but due to constraints by State law regarding Conditional Use Permits and the applicants agreeing to accept conditions (6)(f) and (6)(o) it's the best that the Town Board can do. Supervisor Oberle agreed with Supervisor Opin stating the law needed to be followed.