
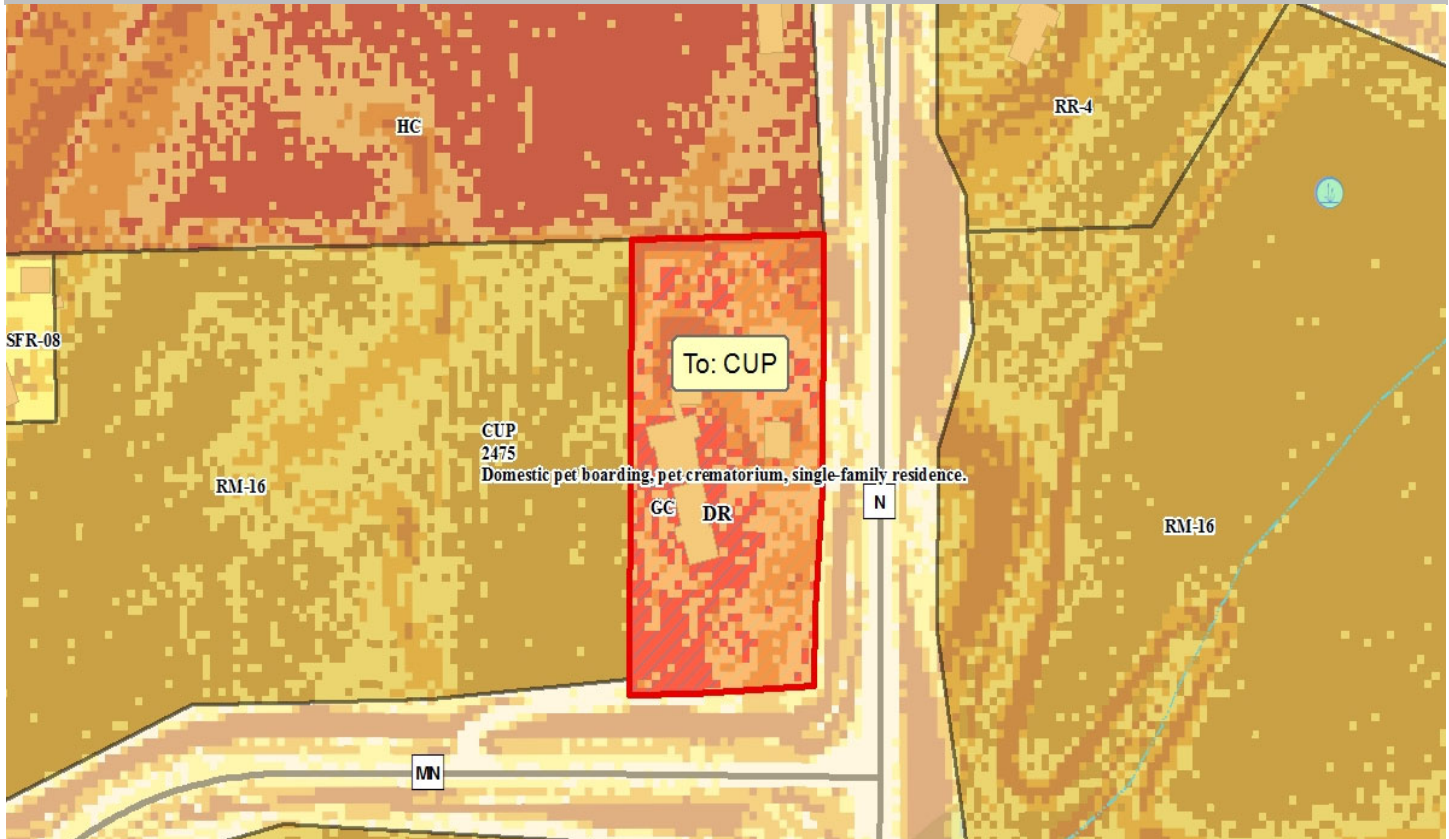


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> December 13, 2022	CUP 02579	
	<i>Zoning Amendment Requested:</i> TO CUP: Expansion of existing dog kennel operation		<i>Town/Section:</i> COTTAGE GROVE, Section 33
	<i>Size:</i> 3 Acres	<i>Survey Required.</i>	<i>Applicant</i> BMS PROPERTIES LLC
	<i>Reason for the request:</i> Expansion of existing dog kennel operation		<i>Address:</i> 2416 COUNTY RD MN ABUTTING COUNTY RD N



DESCRIPTION: Applicant Ben Larson requests a conditional use permit to expand the existing pet boarding and crematorium operation which has operated for several years under previous CUPs. The proposal would expand the operation from 50 pets to 100 pets, set the hours of operation to 6:00 AM to 6:00 PM 7 days a week, increase the maximum number of employees from 6 to 20, and enable expanded grooming and daycare services. The proposal would also involve the renovation of the existing buildings and parking lot, more specifically:

- Removal of the existing residence (which is no longer used as a residence) within the next few years, to be replaced with a new commercial kennel building
- Removal of the existing covered play structure/dog run area, to be replaced with a new enclosed play building
- Constructing a new pavilion
- Expanded outdoor play areas
- Expanded parking lot
- Expanded business signage

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 based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- i. General standards for approval of a conditional use under s. 10.101(7)(d);*
- ii. Any prescribed standards specific to the applicable zoning district.*
- iii. Any prescribed standards specific to the particular use under s. 10.103.*

The applicant must provide information that shows that the proposed use will meet the CUP criteria listed below, from Section 10.101(7)(d) of the Zoning Code:

- a. 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;*
- b. 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;*
- c. 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;*
- d. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;*
- e. 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; and*
- f. That the conditional use shall conform to all applicable regulations of the district in which it is located.*
- g. That the conditional use is consistent with the adopted town and county comprehensive plans.*
- h. 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).*

Zoning Code s. 10.103 lists the following special requirements for domestic pet animal boarding:

- (a) Use shall be enclosed by a fence or other suitable enclosure to prevent animals from leaving the site.*
- (b) Each animal shall be provided with an indoor containment area if the use is located within 500 feet of an existing residence or any lot in the Single Family Residential, Two-Family Residential, Multi-Family Residential, Rural Residential or Hamlet districts.*
- (c) Each animal shall be provided with adequate exercise space*
- (d) Applicant shall submit a manure management plan.*
- (e) At their discretion, and where necessary to minimize impacts to neighboring properties, the town board and zoning committee may:
 - 1. impose noise limits under s. 10.102(6),*
 - 2. require visual screening, consistent with s. 10.102(12), and/or;*
 - 3. establish hours where animals must be kept indoors.**
- (f) The committee and town board will impose limits on the total number of animals that may be present at any one time, as appropriate to the site and neighboring land uses.*

OBSERVATIONS/ FACTUAL INFORMATION: Mr. Larson has been operating the kennel under a conditional use permit ([CUP 2475](#) for Pet boarding & crematorium) granted in 2020 when he acquired the property. At that time the land was also rezoned from RR-2 to GC, and the land uses were limited by a deed restriction. CUP 2475 limited the operating hours to M-F 6:00-9:00am and 4:00-6:00pm, Sat 7:00-9:00am and Sun 4:00-6:00pm; set a maximum of 6 employees and 50 boarded pets, and prohibited outside storage. It also limited outdoor activities to the fenced play area and swimming pool for dogs, and limited signage to one existing sign in the current location facing CTH N. The single-family residence was specified as a caretaker residence only.

The application explains how the proposal would meet the conditional use standards. It states that the expansion and renovation would improve general welfare by providing more indoor play options for dogs and reducing noise. It also states that the expanded operation will not impact other properties because the new buildings will provide more

options for indoor play and better fencing will reduce stimulation for the dogs. It says noise from barking will be mitigated by converting the covered arena to a solid building, and by increasing the number of play decks from 2 to 5 to limit the size of dog packs. It says the development of surrounding properties will not be impeded because the building footprint will not be expanded. However, the request would also double the number of dogs on site.

The potential for nuisance impacts primarily involve noise, lighting, signage, and potential hazards. These are also addressed in the application and should be considered:

- **Noise:** Applicant addresses the potential for noise impacts in the petition and operation plan. The property abuts two County Trunk Highways, is located roughly 800' from US Hwy 12/18, and is within a planned commercial area. The Town and ZLR Committee should determine whether the proposal meets the CUP standards, and may place additional restrictions if warranted.
- **Lighting:** Applicant proposes relocating the existing light pole which has a down-cast fixture, and does not mention any on-building lighting. Zoning code requires that lighting be directed downward and away from adjacent properties and public rights-of-way, and be designed to minimize ambient light spill.
- **Signage:** Applicant proposes two signs facing CTH N, the existing 6'x4' (24 SF) ground sign and one additional 6'x4' sign for crematorium services. The existing CUP #2475 from 2019 only allows the existing sign on CTH N. Zoning code allows only one ground sign per road frontage, but also allows for a "pylon" sign. This CUP could not authorize an additional ground sign on this road frontage; if a second sign is allowed along CTH N, the second sign would need to be a pylon sign. Alternately, the business could have just one pylon sign to advertise both the pet boarding and crematorium, and remove the existing ground sign. Since the applicant has only expressed interest in ground signs, staff recommends keeping the limit to one ground sign along CTH N, with limits per the zoning code which allows a maximum sign copy area of 64 square feet and maximum height 16' (based on the GC zoning and 55 mph speed limit). In any case, a county sign permit is required to modify or increase the business signage.
- **Hazards:** No hazardous, toxic or explosive materials would be stored on site.

Adequate utilities are present and/or would be required as part of standard permit requirements. Drainage would be addressed through construction permitting. Based on the amount of construction proposed, the land disturbance of over 4,000 SF of area on a commercially developed site requires an erosion control permit and stormwater management permit from Dane County Land and Water Resources.

No change is proposed to the access from the public road. The original driveway was relocated in recent years from CTN N onto MN. The County Highway Department comment that CTH N is a controlled access highway and no access will be permitted on that road. CTH MN is not a controlled access highway; no new access will be permitted on CTH MN due to the conditional use permit. They did not estimate traffic levels based on the information provided.

A parking, loading and circulation plan was provided and provides the required minimum parking. However, to comply with zoning code requirements it must provide 24' wide two-way driveway aisles. This should be updated in the site plan, and will also be verified prior to issuing zoning permits for the operation; see potential conditions of approval.

Zoning district and comprehensive plan compliance comments are below. The operation is not located in a farmland preservation district.

Standards Specific to the Applicable Zoning District

The proposed facility meets the requirements of the GC zoning district, including building setbacks, four-story maximum height, and lot coverage.

Standards Specific to the Proposed Use

The requirements for domestic pet animal boarding in s. 10.103 are also addressed by the proposal and the potential conditions of approval. The renovations would provide for additional and improved fence enclosures for the existing operation, expand indoor containment areas and exercise space for the dogs. The only residential lots within 500' of the operation are roughly 200' to the northeast and 375' to the southeast.

For manure management, the applicant will continue place waste in a 4,000 gallon holding tank located underground under the east-facing play deck. It is pumped every 45-90 days as needed by Dvorak Pumping and hauled away.

As part of its action on this CUP, the ZLR Committee may impose visual screening requirements as well as limits on noise, hours of operation, and the number of animals. See below for potential conditions of approval to consider.

Resource Protection

No resource protection corridors are mapped on site.

TOWN PLAN: The subject property is located in the *Commercial Development Area* future land use category of the town of Cottage Grove Comprehensive Plan. Because this proposal is for an expansion of an existing commercial use, it can be considered consistent with the town and county comprehensive plans. (For questions about the town plan, contact Senior Planner Alexandra Andros at (608) 261-9780 or andros@countyofdane.com)

TOWN ACTION: On December 5th, the Town Board approved the CUP with the same conditions as CUP #2475 except:

- 15) Hours of operation changed to 6 am to 6 pm, Mon-Sat, 3pm to 6 pm on Sunday
- 16) Number of employees shall not exceed 12 on site at any one time (except for staff meetings)
- 17) Maximum number of pets increased to 100 ONLY AFTER THE 35 x 90 BUILDING IS BUILT. Until then, a maximum of 50 pets are allowed.
- 19) Outdoor activities limited to a fenced in play areas for dogs and a swimming pool for dogs.
- 20) Outdoor lighting will be determined at the design review phase when a building permit is applied for.
- 21) Allow for a second sign as long as it meets County standards
- 22) Eliminate the single-family residence for a caretaker. This will mean that the house will need to meet commercial code until it is razed for the 35 x 90 building.

In addition, the wall between the 25' x 55' covered area must have sound deadening materials installed.

In addition, separate from the motion for approval, the Town Board requested a copy of the Kennel's standard procedures for dealing with complaints.

STAFF RECOMMENDATION: The application overall addresses all of the CUP standards, and the site plan has been updated following initial meetings with the Town of Cottage Grove to provide clearer dimensions, a more adequate parking plan, and adequate turnaround space for fire trucks. Based on the updated plan, staff recommends approval with conditions.

Zoning petition 11462 from 2019 limited land uses to: Veterinary clinic, domestic pet boarding, pet crematorium, and a single-family caretaker residence.

CUP 2475 Conditions that currently apply to the business are attached. These are reflected in the recommended conditions below, with some modifications.

It would be appropriate to include conditions related to phasing and the use of the residence, as part of CUP approval. The business renovation is proposed in phases. They wish to tear down the existing house and build a new kennel building in its place, but it may be 2-3 years from now. In the meantime, they wish to use the house for business purposes – converting the garage to a lobby for customers, office space, employee break room, and additional boarding for pets.

CUP 2579 Potential Conditions of Approval:

1. Any conditions required for specific uses listed under s.10.103 of County Ordinances;
2. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operation plan and phasing plan;
3. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet current requirements of applicable sections of 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 county 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 county 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 and circulation must be provided, consistent with s. 10.102(8) of County Ordinances;
9. If 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 County Zoning Administrator or designee may enter the premises of operation in order to inspect those premises and to ascertain compliance with these conditions or 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 must post, in a prominent public place and in a form approved by the county zoning administrator, a placard with the approval of the 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;
12. 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;
13. 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 reasonable opportunity to correct any violations prior to revocation;
14. The facility shall be run as described in the petition for the pet boarding facility and crematorium.
15. Hours of operation shall be Monday through Saturday 6:00am to 6:00pm, and Sunday 3:00pm to 6:00pm.
16. The maximum number of employees shall not exceed 12 on site at any one time (except for staff meetings).
17. The maximum number of boarded pets shall be 50, until the new kennel building is fully constructed at which time the number of boarded pets shall not exceed 100.
18. There shall be no outside storage.
19. Outdoor activities are limited to a fenced-in play area for dogs and a swimming pool for dogs.
20. Outdoor lighting shall be determined at the design review phase with the Town of Cottage Grove when a building permit is applied for. All lighting shall be directed downward and away from adjacent properties and public rights-of-way, and shall be designed to minimize ambient light spill.
21. All signs modified or constructed on the property shall require a County sign permit and shall comply with Dane County zoning regulations for signage and lighting.
22. The existing residence shall be remodeled within 90 days to meet the commercial building code requirements.

Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@countyofdane.com