


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> July 25, 2023		Conditional Use 02599	
	<i>Zoning Amendment Requested:</i> TO CUP: Small-animal boarding facility			<i>Town/Section:</i> MIDDLETON, Section 32
	<i>Size:</i> 15.2 Acres	<i>Survey Required.</i>		<i>Applicant</i> DAN AND MARLENE LA FLEUR
	<i>Reason for the request:</i> Small-animal boarding facility		<i>Address:</i> 3440 MEADOW ROAD	



DESCRIPTION: Applicant Dan La Fleur proposes a Conditional Use Permit (CUP) to convert the current horse boarding facility to a small animal boarding facility. The proposal is for up to 100 dogs and may also include boarding of other small pets such as cats. The facility would offer daycare, overnight boarding, as well as optional grooming, training, and vet services.

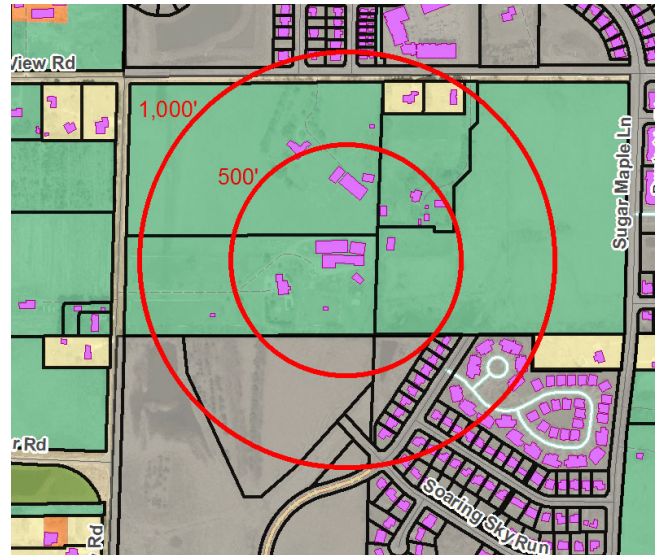
This proposal is a new one, after the applicants withdrew their previous CUP application ([CUP 2591](#) which proposed up to 400 dogs). Specific aspects of the new proposal include:

- Convert current 20,000 sf horse stall building into small-animal boarding by adding 34 kennels, 7 group play areas, and one 18'x102' outdoor dog run area (enclosed with walls, artificial turf, and a shade canopy).
- The 6,000 sf building in the northeast corner to be used for personal storage and continued horse boarding.
- Total capacity of 100 dogs in 34 kennels and 7 indoor play areas.
- Employees: 7 full time or full-time equivalents
- Hours of operation: Mon-Sun 5:00am – 9:00pm general operations
 - Daycare: Mon-Fri 6:30am – 6:30pm
 - Outdoor group play hours: Mon-Fri 8:00am – 5:00pm (for 5 to 15 dogs at a time)
 - Boarding drop-off and pick-up: Sat 7:30am – 11:30am, Sun 3:30pm-5:30pm

OBSERVATIONS: The property is a 15-acre parcel located southeast of the intersection of Valley View and Meadow Roads. The nearest homes are 385 ft to the north and 240 ft to the northeast from the property (a similar distance to the proposed kennel building). The nearest home to the southeast is 295 ft from the property and 555 ft from the kennel, in the City of Madison. The nearest home to the west across Meadow Road is 130 ft from the property and 1,150 ft from the kennel. (See image below for approximate 500 and 1,000 ft distances from the building.) Lands adjacent to the south are owned by the City of Madison and used for stormwater drainage and developing recreational soccer fields.

The current boundary between the Town of Middleton and the City of Madison is Meadow Road just south of the La Fleur property, and Valley View Road east of Meadow Road. Surrounding properties to the north, east and west are still in the Town. The lands to the east and south are in the Hawks Woods subdivision in Madison. This property is in a transition zone; Pioneer Road is the planned long-term town-city boundary by intergovernmental agreement.

Dan and Marlene La Fleur currently hold CUP 1701 for a horse boarding facility approved in 2001. If this CUP is approved, the family intends to convert part of the facility from horse to dog boarding, and would continue to board horses. However, they would limit the horse stable business to boarding and training, eliminating horse riding lessons or camps, and would board fewer than the 30 horses allowed by CUP 1701.



The site is adjacent to a mineral extraction (topsoil removal) permit to the east (CUP #747) on the Froncek property, which is now inactive since the CUP approved in 1989 specified it was only for 5 to 8 years. The La Fleurs' horse boarding CUP includes a manure management plan to spread manure on the Froncek property to replenish the soil.

RESOURCE PROTECTION: The northwestern corner of the property is within the shoreland zone due to proximity to an intermittent stream located west of Meadow Road. In addition, resource protection corridors are mapped across the west end, reflecting an existing stormwater drainageway that extends north and south of the site. No concerns with regard to this proposal based on the use of existing buildings.

COMPREHENSIVE PLAN: The parcel is in the Town's Residential/Agricultural land use with some indication of Public Recreation on the west end of the property which reflects an existing drainage easement that runs north-south. This parcel is also in the part of the transition area eventually destined to be part of the City of Madison.

New commercial uses are generally directed to, Mineral Point Rd. US 14 and appropriate town islands. Existing commercial uses are generally allowed to exist as long as there are no conflicts with neighboring land uses. There is recognition of local job creation for these uses. The plan also states that businesses may locate elsewhere as permitted by existing zoning and any other applicable county and town regulations. No direct policies permit or deny uses like this. (For questions about the town plan, contact Senior Planner Curt Kodl at (608) 266-4183 or kodl@countyofdane.com)

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 issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a conditional use permit. The sections above include facts about the property and its surrounding context. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, and a summary of relevant facts including the applicants' testimony with regards to meeting the standards. These sections, as well as the applicants' materials, are intended to provide findings of fact that the Committee can use as a basis for making a decision on the proposed CUP.

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.

Applicants state this standard will be met since the 20,000 sf building is enclosed and is built to commercial building standards, and all animals will be housed in this building. To address noise management, the applicants' building plans and narrative state that the building has 8-inch thick insulated walls and a 17-inch thick insulated ceiling, and a more insulated "pet quarantine" room within the building that will enable them to place a dog in a quiet place away from other dogs when necessary. In addition, each play area would be supervised by a staff person at all times, and they would limit the use of the outdoor play area to 15 dogs at a time during the hours of 8:00am to 5:00pm Monday-Friday.

The applicants state that the current driveway off of Meadow Road is long enough and provides turnaround areas for customer traffic. The driveway is in a looped configuration; the applicants would route traffic one-way around the buildings and would make minor improvements to pavement based on the proposed parking plan. This would alleviate potential safety issues with traffic coming to and from the site, by providing ample space on site (off of public roadways) for queuing and maneuvering.

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.

Applicants state the proposed use will not impact adjacent neighboring properties, since the animals will be inside the insulated building and will not have access to the neighboring properties.

Staff notes that the potential nuisances most likely to arise from a dog kennel operation include noise from barking dogs and customer traffic. The surrounding lands have AT-5 and SFR-08 zoning (in the Town) and residential zoning (in the City), which permits agricultural and residential uses and other accessory or compatible uses. There are 2 homes located within 500 ft of the proposed kennel building, the nearest being 240 and 295 ft away. There appear to be at least 26 homes within 1,000 ft of the kennel building. The applicants also note that the City of Madison is developing a soccer field facility on the lands adjacent to the south.

The applicants propose 100 dogs/pets in 34 kennels and 7 indoor play areas, and the outdoor play area. They propose to manage noise through a combination of the existing building insulation, providing staff supervision for each play area, limiting the use of the outdoor play area to 15 dogs and limiting the hours to weekday business hours, and by organizing groups of dogs based on compatible temperaments. Additionally, they intend to continue boarding a small number of horses and believe that the dog kennel is compatible with the horse boarding operation.

Staff has heard anecdotally that kennels can generate more noise when dogs are in kennel cages versus play areas – the La Fleur proposal includes several individual play areas, which is where animals would spend most of their time, and which allows the operator to move dogs and organize the play groups as needed. A review of other recently approved kennel CUPs ([#2438](#), [2579](#), [2475](#), and [2467](#)) found operations ranged from 40 to 200 dogs and with roughly 90 to 105 sf of building area (not play area) per dog; the LaFleurs propose 100 dogs and 10 sf of building per dog (based on 10,000 sf of building excluding the horse arena).

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.

Applicants state the facility will not impede the development and improvement of surrounding properties because the existing building meets Wisconsin commercial building standards and will continue to be professionally maintained.

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*. The proposal would use an existing building, with only modest internal modifications, the addition of an outdoor enclosed dog run, and minor expansions to the parking and driveway areas. This would not appear to impede the development of

surrounding properties. Staff reached out to City of Madison staff due to the Town-City boundary agreement; City staff confirmed they see no need to comment on this proposal.

Animal boarding is generally compatible with agricultural use, as demonstrated by the horse boarding operation that has existed on site for many years. The zoning on adjacent lands allows agricultural use, ag-related uses, and additional residential development within the limits of the town's density policies. AT-5 zoning also allows other land uses with approval of a CUP (e.g. day cares, limited family businesses, large animal boarding). All of these uses may be compatible with a dog kennel, depending on the scale of the kennel since the noise and traffic levels directly relate to the number of dogs and vehicles.

As noted above, this area is planned for future residential and agricultural use (as long as it remains in the town), and residential use at higher densities (as lands go into City of Madison jurisdiction), the City of Madison is developing soccer fields in the immediate vicinity, and the La Fleurs believe the dog boarding will be compatible with their horse boarding operation. They have scaled back the proposal to 100 dogs (down from 400 in the previous application), which is comparable in size to other dog boarding CUPs that have been approved in other towns, including some within areas with residential development. This would not appear to impede the development of the surrounding lands.

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

The applicants propose to use the existing driveway, as well as the existing water well and septic system. They indicate there is a separate septic system for the barn and home, and that the barn already has an employee breakroom, bathroom and wash rack. There is already an enclosed animal waste area in the facility that would be used for odor management and sanitation; an additional dumpster would be added to this space.

The minimum parking standard for animal boarding is based on the number of employees and the building size. Requiring one-way access around the buildings would help mitigate the potential for congestion. The parking plan submitted with this CUP 2599 petition appears adequate to meet zoning code parking plan requirements, as it provides 20' wide minimum drive aisles and one-way traffic flows, will accommodate up to 7 employees, and the applicants have indicated an agreement to ensure the entire driveway and parking areas have a hard-paved surface and striped parking stalls. The parking plan also appears adequate to accommodate continued horse boarding for up to 8 horses and 2 employees, which is the applicants' intended size for that operation.

Applicants have previously secured stormwater management and erosion control permits for the existing site improvements. Any non-residential development with over 4,000 SF of disturbance requires an erosion control permit and the creation of over 20,000 SF of impervious surface requires a stormwater management permit from Dane County Land and Water Resources Department (LWRD), so if the site improvements exceed these thresholds new permits will be required. This is addressed with standard conditions of approval and zoning permit requirements, and the applicants have already contacted LWRD staff to confirm any permit requirements associated with the minor driveway/parking lot improvements.

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.*

Applicants propose to use the existing driveway that extends from Meadow Road and loops around the building to provide vehicle access around all sides of the facility. They propose 44 on-site parking spaces on the existing asphalt and gravel areas. In addition, they propose to establish scheduled pickup and dropoff times for customers who would drive into the site at designated times, to maintain traffic flow through the site and minimize the need for most customers to park in parking stalls.

County Highway Department did not have enough information to estimate traffic projections; however, they note that if there were 50 dogs the estimated traffic would be 200 trips per day due to the proposed use. This reflects each customer visit to the site as 2 trips (one coming, one going), twice daily. The applicants state that the current business has brought hundreds of vehicles per day without issue, including semi-trucks and horse trailers so the site has demonstrated it can accommodate large vehicles and trip counts.

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 AT-5 zoning district. Applicants note that the business will be inside the existing building. While this does not directly address the AT-5 district standards, the existing improvements on site meet the standards (no violations known). AT-5 zoning allows domestic pet animal boarding with approval of a CUP, provided the lot is at least 5 acres; the 15-acre parcel meets this.

Staff's primary concern with the original petition (CUP 2591) was, at what scale is dog boarding compatible with the purpose and intent of the AT-5 zoning district. The purpose of the AT-5 district is to accommodate a mix of agricultural, open space, and residential uses in areas planned for future development, among other things. The permitted land uses in AT-5 are residential and agricultural in nature, nothing that is primarily "commercial". Conditional uses allowed in AT-5 generally include uses that would be *accessory to a residential or agricultural use*. A 100-dog kennel could be considered accessory to the residential and agricultural use of the property. For a comparable example, Dane County and the Town of Burke have approved at least one other kennel with AT-5 zoning, [CUP 2438](#), for up to 160 pets (including pet daycare) or 200 pets (for overnight stays only no daycare).

For signage, the applicants want to replace the existing ground sign near the driveway. Zoning code allows one ground sign under 8 ft in height based on the AT-5 zoning. Any new or modified signage requires a sign permit.

7. That the conditional use is consistent with the adopted town and county comprehensive plans.

As noted above, the proposed use is generally consistent with the comprehensive plans because the town plan does not contain policies that explicitly permit or prohibit this type of use, and the plan allows businesses to locate throughout the town where permitted by the existing zoning and other applicable county or town regulations. This property has contained a large-scale horse boarding business for years and the AT-5 zoning would allow the proposed use if the CUP is approved. See comments above under standard #6.

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 typically pertain to animal boarding involve noise, vehicle traffic, and animal waste management. The applicants have submitted information in their application on how those potential nuisances are handled; most of this is described above.

Under Zoning Code section 10.103(5), there are special requirements for domestic pet animal boarding operations that are intended to address the potential conflicts with the land use activity. These are not required as CUP "conditions" for the permit, unless the Town or ZLR Committee wish to impose conditions on the operation based on these. See below for staff comments on each requirement:

(a) Use shall be enclosed by a fence or other suitable enclosure to prevent animals from leaving the site.

The proposed kennel would operate within an enclosed building and an 18'x102' fenced enclosure and would thus meet this standard.

(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.

The proposed kennel is within 500 feet of two existing residences, though the homes do not have the zoning districts listed in this requirement. However, the kennel proposal provides indoor containment areas.

(c) Each animal shall be provided with adequate exercise space

The kennel provides multiple separate play areas, intended for use by the animals who would be organized into play groups. The plans propose 27 sf of indoor play space per animal (based on 100 dogs), as well as the 18'x102' (1,836 sf) outdoor play area. Whether this is "adequate" is up to interpretation. As noted above, a cursory analysis was done to compare building space per dog across some recent CUPs; however a more detailed analysis of play areas was not possible. One resource from the [USDA](#) suggests the minimum amount of exercise

space needed depends on the dog size and whether the dogs are housed singly or in group kennels. If singly-housed they generally need double the amount of floor space.

(d) Applicant shall submit a manure management plan.

The manure management plan entails collecting it in waste containers stored in an enclosed area inside the building, and having it hauled away by a waste management company. This is typical of pet boarding operations. The applicants state they would manage horse manure separately, and spread it on the agreed upon farm fields.

(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.**

The applicants propose to use the outdoor play area only between 8:00am and 5:00pm on weekdays, which is more limited than the general operating hours. Limiting outdoor play hours and the number of dogs outdoors is appropriate given the surrounding neighborhood character. Whether these are adequate limits is up to the Town and the ZLR Committee. Decibel level limits could also be set as a CUP condition; however enforcement of decibel-based noise restrictions can be difficult in real time as it involves the Sheriff taking measurements on site to investigate a complaint.

(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.

The applicants propose to limit the number of dogs to 100 total, and 15 outdoors at a time. It would be appropriate to limit the number of dogs based on the surrounding land uses and this property's current and future planned land use being agricultural and residential in nature. In addition, it may make sense to limit the pet grooming/training and veterinary services to customers who board animals here, to limit the traffic generated by the kennel business.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the ZLR Committee. Common topics include but are not limited to capping the number of animals boarded, hours of operation, and site access. The CUP conditions could also require the owners to get the permit renewed after some period of time, so that the Town and County can assess the compatibility of the operation with the surrounding area (which is in a state of transition), and also assess the suitability of particular CUP conditions.

TOWN ACTION: Pending.

STAFF RECOMMENDATION: Staff recommends postponement at this time, due to no town action per the ZLR Committee's adopted rules and procedures. The petition is scheduled for review at town Plan Commission and Town Board meetings in June.

At this time, staff believes the applicants have provided sufficient information to mitigate the potential for nuisances and demonstrate how the proposed use will meet all of the 8 required standards for CUP approval. This includes the maximum limit of 100 dogs/pets, limits on outdoor playtime hours and number of dogs outdoors, information on the building materials and insulation, and the proposal to manage customer traffic using staggered/scheduled customer arrival times and one-way traffic flow through the site. These aspects of the proposal address staff's concerns about noise, compatibility with the surrounding neighborhoods, and compatibility with the AT-5 zoning district.

By ordinance, the zoning committee must approve a conditional use permit if it finds that the standards for approval are met, and must deny a conditional use permit if it finds that the standards for approval are not met. Staff has prepared for consideration and possible adoption by the ZLR Committee the above findings, and pending town action, and any comments at the public hearing, staff recommends approval of CUP 2599 with the conditions of approval listed below.

Possible CUP Conditions:

Standard Conditions for all Conditional Use Permits

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
2. 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.
3. 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.
4. 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.
5. 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.
6. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
7. Off-street parking must be provided, consistent with s. 10.102(8).
8. 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.
9. 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.
10. 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.
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. The holder of a conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation. If any use allowed by an approved conditional use permit is abandoned for one year or more, the associated conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit.

Conditions Unique to CUP 2599

13. This conditional use permit is for Lena and Neva 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, and ancillary pet grooming/training/veterinary services.
14. The kenneling operation shall be limited to no more than 100 domestic pets on site at a time.
15. Operating hours for the pet boarding business shall be limited to 5:00am to 9:00pm Monday-Sunday, with all scheduled drop-off and pickup times to be within normal operating hours Monday-Friday, from 7:30am to 11:30am on Saturdays, and from 3:30pm to 5:30pm on Sundays.

16. Outdoor play activities for dogs shall be limited to the hours of 8:00am to 5:00pm Monday-Friday, and limited to a maximum of 15 dogs at a time.
17. All driving and parking areas shall have a hard-paved surface and striped parking stalls.
18. Pet grooming and training services shall only be available for pets staying at the kennel, either for daycare or overnight.
19. CUP shall be effective for five (5) years, after which time the applicants/owners may submit a new application for CUP renewal to extend the permit.

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