
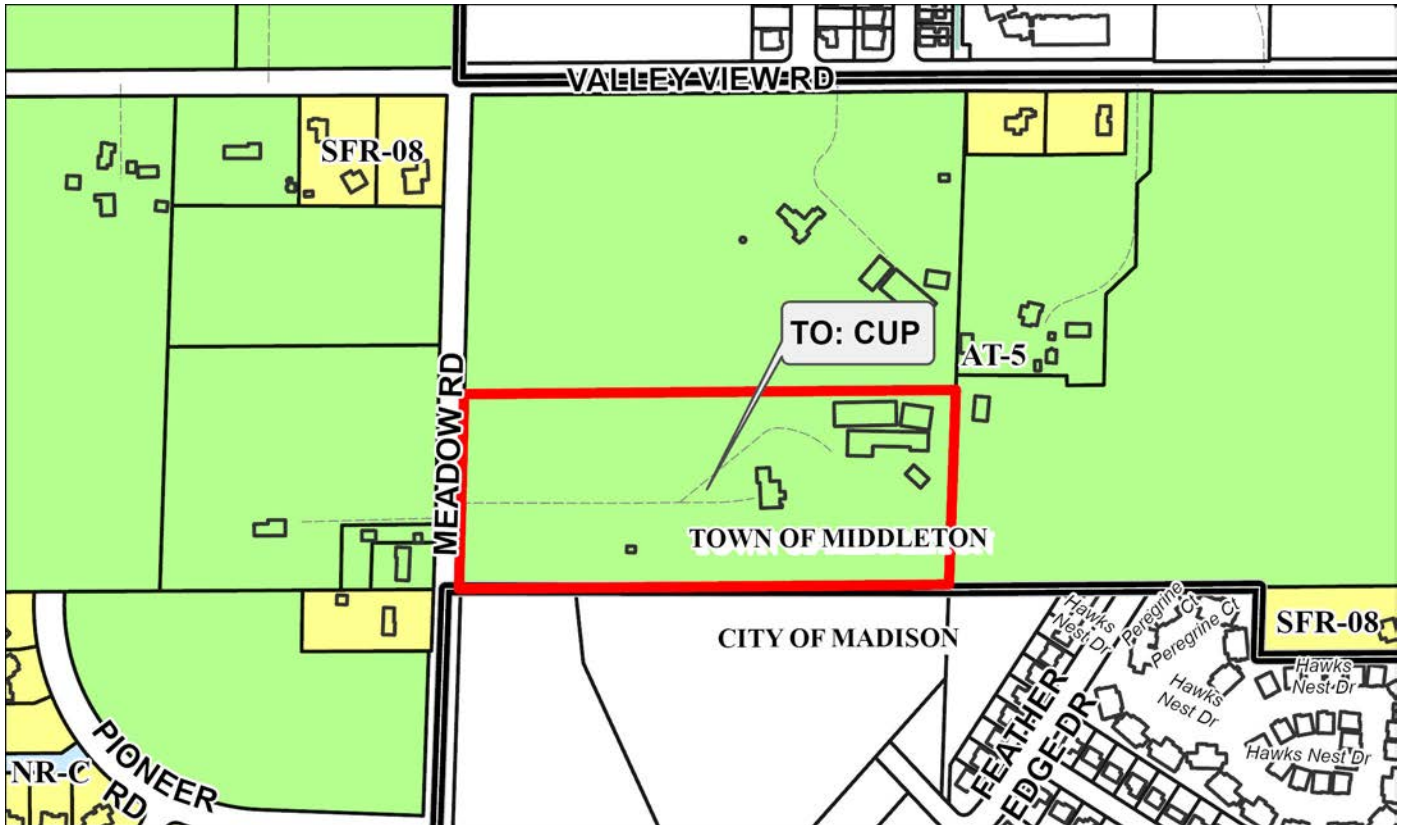


<b>Staff Report</b>    <b>Zoning &amp; Land Regulation Committee</b>	<i>Public Hearing:</i> <b>October 22, 2024</b>	<b>Conditional Use 02640</b>	
	<i>Zoning Amendment Requested:</i> <b>TO CUP: Small-animal boarding facility for 30 dogs</b>	<i>Town, Section:</i> <b>MIDDLETON, Section 32</b>	
	<i>Size:</i> <b>15.2 Acres</b>	<i>Survey Required:</i>	<i>Applicant:</i> <b>DAN AND MARLENE LAFLEUR</b>
	<i>Reason for the request:</i> <b>Small-animal boarding facility for 30 dogs</b>		<i>Address:</i> <b>3440 MEADOW ROAD</b>



**DESCRIPTION:** Applicants request a CUP to operate a dog boarding facility for up to 30 dogs, within an existing building that was built and used for many years as a commercial horse boarding and horseback riding training business. While the primary service is intended for dogs, they would also offer boarding for cats upon request. In the zoning ordinance, such a business is classified as “domestic pet animal boarding”. Key aspects of the proposal include:

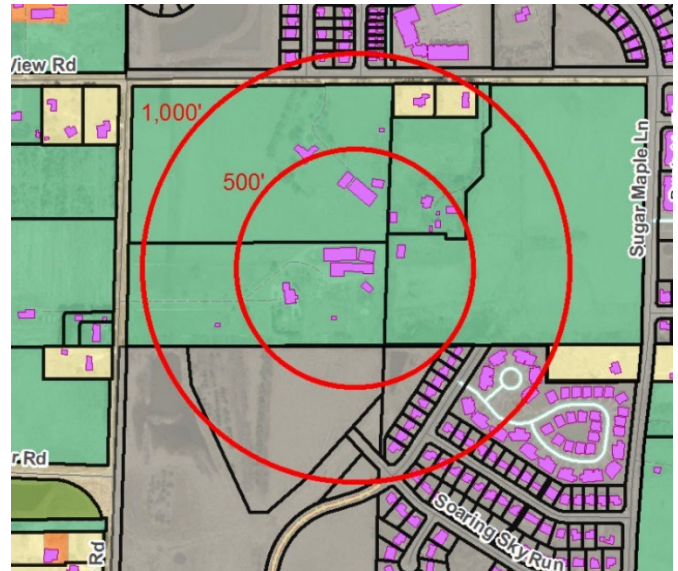
- Hours of operation (reduced from previous proposals): Monday-Friday 7:30am-6:00pm, Saturday 10:00am-5:00pm, Sunday 11:00am-2:00pm. Dog daycare to be Monday-Saturday; Sunday reserved for boarding pickups.
- Dog boarding would be offered all week, with limited drop off and pick up times on Saturday and Sunday. All operations would be indoors.
- Up to 5 employees on site.
- No new construction and no new outdoor lighting are proposed.

This proposal is a new one, after the applicants’ previous requests encountered problems. In 2023, CUP petition #2591 proposed up to 400 dogs and failed to get town approval. CUP #2599 proposed up to 100 dogs but was also denied by the town. Both petitions were withdrawn. A third petition, [CUP 2606](#), proposed 150 dogs but was also denied by the town due to concerns about the scale of commercial activity and potential for noise impacts in the neighborhood. The CUP 2606 decision was appealed in circuit court, and the decision requires the La Fleurs submit a new petition that is substantially different from the last one.

**OBSERVATIONS/ FACTUAL INFORMATION:** The property is a 15-acre parcel located SE of the intersection of Valley View and Meadow Roads. The nearest homes are 385 ft to the north and 240 ft to the NE from the property, and a similar distance to the proposed kennel building. The nearest home to the SE 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 open space.

The current boundary between the Town of Middleton and the City of Madison is Meadow Road just south of this property, and Valley View Road east of Meadow Road. The 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.

The La Fleurs currently hold CUP 1701 for a horse boarding facility approved in 2001. If this new CUP is approved, they would convert one building from horse to dog boarding. They would continue to board horses but would no longer host riding lessons or camps, and would board fewer than the 30 horses allowed by CUP 1701.



**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; no construction is proposed.

**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.curt@danecounty.gov](mailto:kodl.curt@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 issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a conditional use permit. 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 CUP application describes the proposed operations plan. Applicants state that the 10,000 sf building is enclosed and is built to commercial building standards, and is fully insulated and climate controlled year-round. All animals would be kept indoors and each play area would be supervised by a staff person at all times.

The current driveway off of Meadow Road is over 1,000 feet long and is looped so the applicants would route traffic one-way around the building. This would alleviate potential safety issues with traffic coming to and from the site, and provide ample space on site for queuing and maneuvering. The Middleton Fire Department has confirmed the driveway is adequate for emergency access. The town is requiring additional improvements.

Animal waste will be placed in trash containers within an indoor containment area, and picked up by a contracted waste removal company twice each week. This is typical of other kennels.

See comments regarding noise management under standard #2 below.

**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 that the animals will be inside the insulated building, which has 8-inch thick insulated walls and a 17-inch thick insulated ceiling. In addition, plans show an insulated “pet quarantine” room within the building that will enable them to place a barking dog in a quiet place away from other dogs when necessary.

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 are in agricultural and residential use, and this property has been home to a different commercial business for many years. 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 propose 30 dogs/pets in a combination of kennels and group play areas. They propose to manage noise with the building insulation, providing staff supervision for play areas, and by organizing groups of dogs based on compatible temperaments. Both the applicants and the Town of Middleton commissioned sound studies. The applicants state their 2 sound studies demonstrate there will be no sound issues from the kennel even at the loudest potential sound levels. The applicant’s study by Hankard Environmental in May 2024 found that sound from the kennel is expected to be inaudible at the nearby residences, with the exception of the nearest residence to the northeast where sound may be faintly audible. The study tested sounds produced at an average decibel level of 97 dBA (peak levels of 113 dBA), with average ambient conditions at 35 dBA.

The town’s sound study by Consonant Design found that (1) the sound from the kennel would be modest and not excessive when compared to typically-acceptable and objective community noise standards (55 dBA daytime / 40 dBA nighttime), and (2) modest upgrades to the building are possible that would further reduce sound escaping the kennel (this is also noted in the Hankard sound study). Ambient conditions had sound levels in the mid 40s dBA. They found that overall the noise challenge is “manageable” and “there are no reasonable grounds for withholding a use permit based on sound conditions.” Their opinion is the kennel could operate with little or no disturbance to the surrounding residents. There are similarities between all three sound studies.

Staff has heard anecdotally that kennels generate more noise when dogs are in kennel cages versus play areas – this 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 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 sq ft of building area per dog. The La Fleurs propose 30 dogs and 333 sf of building per dog.

**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.***

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 modest internal modifications.

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, also that no new improvements are needed for the proposed business.

Animal boarding is generally compatible with agricultural use, as demonstrated by the horse operation that has been on site for many years. The surround lands are zoned for 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 while it remains in the town, and residential use at higher densities as lands go into City of Madison's jurisdiction. 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 the proposal. The La Fleurs have scaled back the proposal to 30 dogs, which is much smaller than 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.***

Applicants have confirmed that the site has adequate utilities, access and other improvements to serve both the proposed kennel business and the continued horse boarding business. They would use the existing driveway, water well, and septic system. There is a separate septic system for the residence. The La Fleurs have worked with Public Health and DNR staff to verify that the business could be served by the existing well and septic system (see DNR Concurrence Letter dated September 23, 2024).

Parking would be provided in the existing areas paved with recycled asphalt. Applicants propose 37 parking spaces, which is more than sufficient for the anticipated traffic and meets ordinance requirements for both the dog kennel and the horse boarding operations combined (zoning ordinance would require 24 spaces conservatively, not counting overlapping employees for the dog vs horse operations).

The La Fleurs previously secured stormwater management and erosion control permits for the existing site improvements. Dane County Land and Water Resources staff confirmed by email that a new stormwater permit will not be needed based on this proposal. However, the town's required driveway and building improvements may trigger the need for new permits in order to convert the business from horse stables to pet boarding.

**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.***

Vehicle access would be provided in the existing 1,000+ foot driveway that extends from Meadow Road and loops around the building. 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. The applicants note that their driveway has been maintained over the years with fresh pavement. They estimate traffic to be comparable to the pre-existing horse boarding/training operation, since some of that traffic would be displaced by dog kennel customer traffic.

**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. The existing site improvements 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 parcel is 15 acres in size.

**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).***

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 applicant's CUP application addresses how these potential nuisances are handled, 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 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 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. Although the homes do not have the zoning districts listed here, the kennel would provide 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 90 sf of indoor play space per animal (based on 30 dogs).

**(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 would manage horse manure separately, and continue to spread it on farm fields per existing arrangements with farm owners.

**(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 keep all animals indoors. Restricting outdoor animal activities is appropriate given the surrounding neighborhood character. Decibel level limits could also be set as a CUP condition. Enforcing decibel-based noise restrictions involves taking measurements on site in real time 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/pets to 30. 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.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Town and the ZLR Committee. These might include capping the number of animals boarded, setting hours of operation, tying the CUP to the current applicants or business (not just to the land), or setting an expiration date 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:** On October 7<sup>th</sup> the Town Board approved the CUP (see conditions below and in Town Action Report).

**STAFF RECOMMENDATION:** Staff believes the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the substantial evidence noted above, and is also reflected in the town’s approval and 31 conditions, the limit of 30 dogs/pets, the operation being completely indoors, 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. However, public comments have already been submitted reflecting concerns with the proposal.

Neighbors have expressed concerns with the kennel's compatibility with the surrounding neighborhood, the potential for negative impacts due to noise and odor from the dogs, the well-being of the dogs that would be kept there, the lack of outdoor play space for the dogs, anticipation of increased traffic, the potential for property value impacts, concerns about animal waste disposal, doubts about the applicants' ability to operate the business, and concerns that they are currently violating zoning regulations by boarding animals. The applicants must address these concerns.

Staff has been in contact with the applicants regarding the current activities on site, and the website they have used to offer pet sitting services. At this time, our understanding is there is no animal boarding occurring (as defined by the Zoning Ordinance, "animal boarding" involves 6 or more pets) and we are not aware of any current zoning violations.

Pending any comments at the ZLR public hearing, staff recommends that the ZLR Committee (1) determine whether the applicant has provided sufficient evidence (along with the town's approval conditions) to meet the CUP standards, and (2) we recommend the Committee postpone action on CUP 2640 due to public opposition in accordance with ZLR's adopted rules and procedures. If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff at the public hearing. The conditions of approval listed below are the town's conditions, reorganized to the order typically used for CUPs. Please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@danecounty.gov if you have questions about this petition or staff report.

### ***CUP 2640 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, building plans, 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. The holder of a conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation.

#### *Conditions specific to CUP # 2640:*

13. That all Town Ordinances are complied with during the life of the CUP.

14. The Conditional Use approval is limited to parcel number 038/0708-321-8211-1, located at 3440 Meadow Rd.
15. 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.
16. Quiet hours shall be 6:01 p.m. to 7:29 a.m., all days of the week.
17. 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.
18. The number of animals kept on site and/or kennelled overnight shall be limited to 30.
19. 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.
20. 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.
21. 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.
22. The CUP expires 1-year after date of issuance. The landowner may renew the CUP by successfully obtaining a new CUP prior to the expiration date.
23. The planned parking is acceptable, as long as the number of stalls identified as handicap accessible meets ADA requirements.
24. Vehicle travel shall be one-way counterclockwise around the buildings.
25. 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.
26. 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.
27. 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.
28. That the dog waste be responsibly disposed in a licensed, sanitary landfill.
29. Complete the sound dampening recommendations of Consonant Design, including:
  - a. 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.
  - b. 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.
  - c. 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.
  - d. 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.
30. 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.
31. 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.