



STAFF REPORT AND RECOMMENDATION
CONDITIONAL USE AND SITE PLAN/PLAN OF OPERATION

Date: June 4, 2025

To: Town of Eagle Planning and Zoning Commission and Town Board

Owner/Applicant: Diane Brown

Location: S103W36499 COUNTY ROAD LO (tax Key EGLT 1861.998.007)



Jurisdiction and Zoning Classification: This property is located entirely within the Town's zoning jurisdiction and is zoned RR Rural Residential District.

Existing Use: Residential and agricultural use

Proposed Use: Conditional Use and Site Plan/Plan of Operation for a Hobby Kennel

Application(s): 2025-11 (Site Plan/Plan of Operation) <https://s.zoninghub.com/UX9HQ9ZGZ4>
2025-10 (Conditional Use) <https://s.zoninghub.com/Y1M823KMYP>

Consistency with Comprehensive Plan:

Pursuant to Section 66.1001(2m)(b), Wis. Stats., a conditional use permit that may be issued by a political subdivision does not need to be consistent with the political subdivisions comprehensive plan.

Public notice. A public notice was published in the West Now on May 21, 2025 and May 28, 2025

Public Hearing Date: June 4, 2025

Public Comments received by the town. None as of May 29, 2025.

Conditional Use and Development Standards—Hobby Kennel

A Hobby Kennel is described as follows:

A place where 4 or more, but less than 11 adult dogs or other pet animals are kept for the occupant’s private, non-commercial purposes. The term also includes the sale and training of up to 2 litters per year.

- (a) **Nuisances.** If the keeping of animals allowed as a hobby kennel becomes a nuisance to the neighborhood, as determined by the plan commission or the town board, the town board may take appropriate steps to terminate the use consistent with division 7 of article 6.
- (b) **Special provisions in AP district.** When located in the AP zoning district, a hobby kennel must also comply with the requirements set forth in s. 91.01(1), Wis. Stats.
- (c) **Status as a building.** One free-standing dog enclosure with a roof not exceeding 48 square feet shall not be counted as an accessory building.
- (d) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule

Staff Analysis

The property is 14.73 acres and is located south of C.T.H. LO, east of Shearer Rd. Existing improvements include a single-family residential house, a detached garage with a dog kennel and run, an approximately 2,200 sq. ft. shed, and a barn. Based on aerial photographs, all structures have been present since at least 2000. In 1999, the Town Board issued a Hobby Kennel Conditional Use (CU) Permit to the applicant (Exhibit A). The terms of the Conditional Use Permit state that the use terminates in five years and the owner must reapply for approval of the CU at that time. Other terms and conditions of the original CU include a maximum of 12 dogs at any one time, that the dogs are to be contained in a kennel at night and that fencing is to be properly maintained. In early 2025, the owner applied for the annual Dog License from the Town, where it was relayed that the Conditional Use has expired. It should be noted that the Hobby Kennel provisions have changed since 1999. The current use provisions only allow for ten (10) dogs, whereas the previous CU allowed up to twelve (12) dogs.

The owner breeds Champion German Shepards. She currently has six (6) German Shepards and one (1) French bulldog and indicated that she typically has no more than eight (8) dogs at a time. Two of the German Shepards are retired. She breeds up to two (2) litters a year and generally keeps two (2) dogs of the litter to train and/or show. The dogs are trained for approximately one year until they are sold to families. Puppies that are not kept by the owner are sold at eight weeks old. The owner indicated that it is likely the number of dogs will decrease over the next few years.

The owner's retired dogs are kept in the small dog kennel behind the detached garage. The larger shed serves as the primary dog kennel where the competition dogs are kept. These dogs are released between 7:30 am - 8:00 am and are brought inside no later than 9:00 pm each night. There is a chain-link fence between the smaller kennel and the shed, creating an enclosed space. No new buildings are proposed.

An open records request to the Waukesha County Sheriff's Office revealed that three calls have been made regarding noise from the dogs: one in 2023 and two in 2024. The owner noted that one of the dogs, who is almost one-year old, barks more than most German Shepards and she has put a training (bark) collar on him. She also noted that this particular dog has been sold and is leaving the property at the end of May. She also identified that barking generally occurs when people visit. Town staff observed this during a May 16, 2025 site visit but the dogs quickly calmed down. The adjacent neighbor's residences are between 460 – 670 ft. away from the area where the dogs are kept.

Performance standards. Performance standards relating to the following are included in Article 7: control of odors; control of fire and explosive hazards; glare, heat and external lighting; water quality; noise; vibration; and traffic impact. It is anticipated that the proposed uses will comply with the performance standards.

Decision criteria:

The Town Plan Commission and Town Board must consider whether the proposal complies with:

1. The special requirements for certain land uses in the AP district (500.226) (not applicable)
2. Each of the special conditions of approval under 500.227, which includes hours of operation, buffering, maximum floor area, maximum number of patrons, uses within buildings, number and location of entrances, outdoor activities, outdoor storage, take out food service, delivery services and signage.
3. Each of the performance standards in Article 7 (noted above)
4. Each of the development standards prescribed for the requested conditional use (noted above)
5. All other applicable sections of the zoning code
6. All other application sections of the municipal code

The recommendation of the Plan Commission and the decision by the Town Board must be based on substantial evidence.

Staff Recommendation:

Recommendation to the Town Board for approval of the request for a Hobby Kennel Conditional Use, conditioned upon the following and as set forth in the draft conditional use order (attached:

1. Diane Brown must reside in the single-family residence located on the subject property.
2. The property owner shall obtain and maintain all appropriate licenses from the Town for all dogs located on the subject property.
3. Subject to the hobby kennel use being accessory to the principal use of the property.
4. The maximum number of dogs to be kept on the property is limited to ten (10) dogs, primarily of German Shepard breeds. This does not include a maximum of two (2) litters

per year where the pups are removed from the property or sold within nine (9) weeks of their birth.

5. No more than 5 dogs are allowed within the approved fence enclosure without supervision.
6. Dogs shall be fenced, leashed, or otherwise under the control of the owner at all times when outdoors.
7. All dogs shall be kept inside residence or kennel(s) when persons residing at the subject property are not at home.
8. The existing fence shall be maintained in a good condition to safely enclose the dogs allowed herein.
9. All dogs kept on the subject property as authorized herein shall be in accordance with the Zoning Ordinance of the Town of Eagle and this hobby kennel approval.
10. All dogs shall be well fed and kept in healthy condition following Waukesha County Humane Society standards.
11. The property owner must at all times be in compliance with all State of Wisconsin, Waukesha County and Town of Eagle laws, rules, regulations or orders, and ordinances.

The owner has been utilizing the property since 1999 for breeding and training Champion German Shepards. While there have recently been complaints of noise, they have not been from adjacent landowners and the owner has indicated most of the dogs are generally quiet unless a car is coming up the driveway. The approval of the CU will allow the property owner to continue utilizing the property as it has been used since 1999, while further limiting the number dogs. With the conditions herein, it is not anticipated that the use will have negative impacts to nearby neighbors.



Rebekah Leto, AICP
Town Planner

Attachments

- Exhibit A –1999 CU Order
- Exhibit B – Survey (not updated)
- Conditional Use Order (draft)

**CONDITIONAL USE PERMIT
TOWN OF EAGLE
HOBBY KENNEL, S103 W36499 CTY "LO"**

WHEREAS, pursuant to Section 3.08 of the zoning code, an application for a conditional use permit has been filed for a Hobby Kennel at S103 W36799 CTY "LO", Eagle, WI, which application was filed in the office of the Town Clerk, Town of Eagle, Wisconsin and

WHEREAS, Section 5.10(4), which is the A-2 Rural Home District, permits hobby kennels as a conditional use; and

WHEREAS, after proper notice pursuant to the Town of Eagle Zoning Code a public hearing was noticed in the official newspaper twice and with notice being mailed at least ten (10) days prior to the date of such public hearing to the owners of records of the property situated within 300 feet of the boundaries of the properties affected, a public hearing was held on April 5, 1999 and

WHEREAS, after required statutory open meeting notification, the Plan Commission/Town Board met on April 5, 1999 and

WHEREAS, the Plan Commission/Town Board does hereby make the following findings of fact;

A. The establishment, maintenance and operation of a hobby kennel on the subject premises will not be detrimental to or endanger the public health, safety, morals, comforts, or general welfare.

B. The uses, values and enjoyment of other property in the neighborhood for the purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the hobby kennel, and the proposed use is compatible with the use of adjacent land.

C. The establishment of the hobby kennel will not impede the normal and orderly development and improvement of this surrounding property from uses permitted in the A-2 District.

D. That adequate access, roads, ingress, and egress have been provided.

E. That the conditional use shall in all other respects conforms to the applicable regulations of the district in which it is located.

NOW THEREFORE, based upon the findings of the Plan Commission/Town Board set forth above, IT IS HEREBY DETERMINED AND ORDERED AS FOLLOWS:

DETERMINATION AND FINDINGS

The establishment, maintenance and operation of a hobby kennel at S103 W36499 CTH "LO", Town of Eagle, Wisconsin, is subject to the conditions hereafter stated, in accordance with the purpose and intent of Section 3.08 of the zoning code of the Town of Eagle and will not be hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community.

ORDER

1. **Termination:** Where a permitted conditional use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding areas, or for similar cause based upon consideration for the public welfare the conditional grant may be terminated by action of the Town Board following referral to the Town Board and Planning Commission for recommendation and public hearing. Such use shall thereafter be classified as a legal non-conforming use, except that where the action is due to failure to comply with the conditional grant the Town Board may terminate such use.
2. **Terms:** This Conditional Use shall terminate in 5 years. A reapplication and approval for the Conditional Use from the Town Clerk shall be needed at this time to continue the hobby kennel.
3. Maximum of twelve (12) dogs at any one time.
4. If the lot is divided the Conditional Use would stay with Lot 1 (the residence is located on this lot).
5. Dogs are to be contained in the kennel at night.
6. Fencing to be properly maintained.

Dated: 5-6-99

By: Donald Wilton
Don Wilton, Chairman
Town of Eagle

Attested: Sally McMillan
Sally McMillan, Clerk
Town of Eagle

This conditional use permit is approved and accepted

this 5th day of April, 1999.

Timothy W Brown
Timothy Brown



WC3411497-004

3411497

CERTIFIED SURVEY MAP NO. 10257

Being a redivision of Lot 1, Certified Survey Map No. 7481, and unplatted lands being a part of the Northeast 1/4 and Southeast 1/4 of the Northwest 1/4 and the Northwest 1/4 and Southwest 1/4 of the Northeast 1/4 all in Section 34, Town 5 North, Range 17 East, Town of Eagle, Waukesha County, Wisconsin.

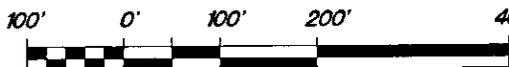
OWNERS: TIMOTHY W. AND DIANE L. BROWN S103 W36499 C.T.H. 'LO' EAGLE WI. 53119

SURVEYOR: KETTLE MORAINE SURVEYING INC. P.O. BOX 357 EAGLE WI. 53119 (262)594-3484

ONE ACCESS POINT FROM C.T.H. LO TO EACH LOT IS ALLOWED. NO ADDITIONAL ACCESS FOR C.T.H. LO TO ANY PARCEL SHALL BE GRANTED IN THE FUTURE.

BEARINGS ARE REFERENCED TO GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE.

PROPERTY IS ZONED RRE-1 AND UC



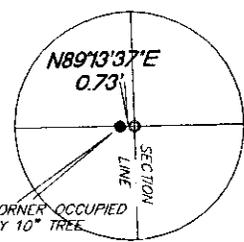
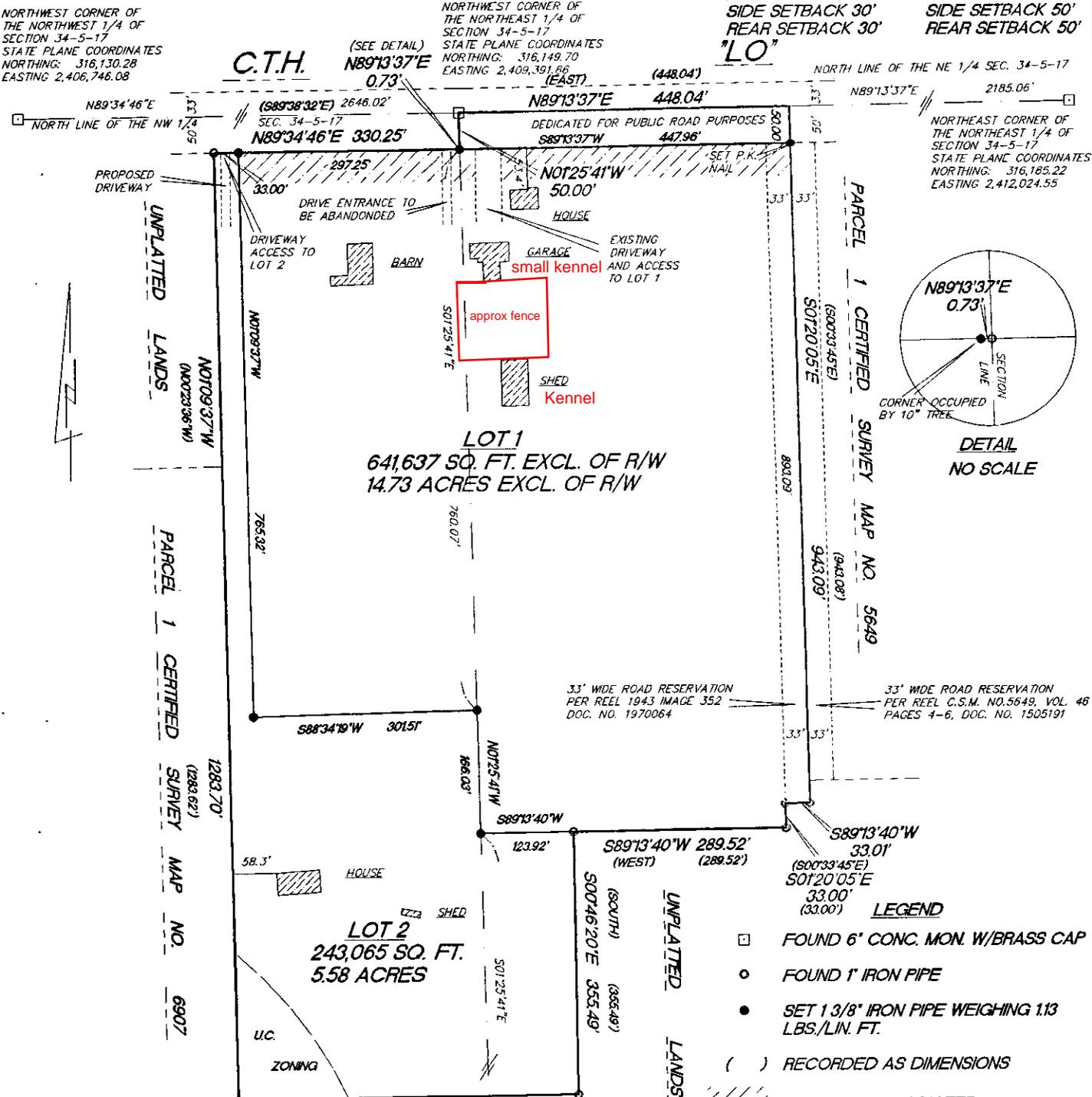
SCALE 1"=200'

NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 34-5-17 STATE PLANE COORDINATES NORTHING: 316,130.28 EASTING: 2,406,746.08

NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SECTION 34-5-17 STATE PLANE COORDINATES NORTHING: 316,149.70 EASTING: 2,409,391.86

RRE-1 SETBACKS FRONT SETBACK 50' SIDE SETBACK 30' REAR SETBACK 30' 'LO'

UC SETBACKS FRONT SETBACK 50' SIDE SETBACK 50' REAR SETBACK 50'

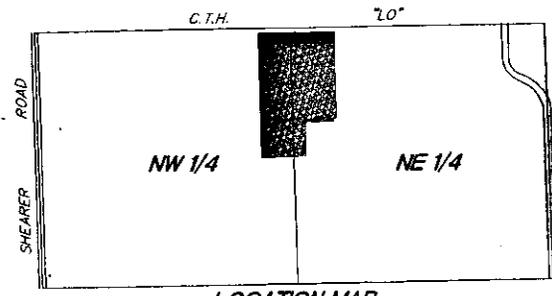


DETAIL NO SCALE

- Legend: FOUND 6" CONC. MON. W/BRASS CAP, FOUND 1" IRON PIPE, SET 1 3/8" IRON PIPE WEIGHING 1.13 LBS./LIN. FT., RECORDED AS DIMENSIONS, ACCESS IS RESTRICTED



TERRANCE E. PISAREK S-1930 DATED THIS 25TH DAY OF JANUARY, 2006 REVISED THIS 20TH DAY OF FEBRUARY, 2006 REVISED THIS 9TH DAY OF MAY, 2006



LOCATION MAP NW 1/4 SEC. 34-5-17 NE 1/4 SEC. 34-5-17 1"=2000'

4/2

**Town of Eagle Order Authorizing the Establishment
of a Hobby Kennel at S10W36499 County Road LO in
the Town of Eagle**

DRAFT

WHEREAS, Diane Brown (referred to herein as “property owner”) currently own real property located at S10W36499 County Road in the Town of Eagle (“subject property”), more particularly described as:

Lot 1 of Certified Survey Map No. 10257, Volume 97, Page 42, recorded as Document Number 3411497, located in part of the Northwest ¼ of Section 34, Town 5 North, Range 17 East, Town of Eagle, Waukesha County, Wisconsin.

WHEREAS, the subject property is designated RR (Rural Residential) district on the Town’s zoning map; and

WHEREAS, the property owner has submitted a petition to the Town Clerk to establish a hobby kennel on the subject property as a conditional use; and

WHEREAS, upon receipt of the petition, the Town Clerk referred such petition to the Plan Commission and Town Board for determination; and

WHEREAS, upon publication of the required public hearing notice and mailing of said notice to all property owners within 300 feet of the subject property, as required by the zoning code of the Town of Eagle, the Plan Commission and the Town Board held a joint public hearing on June 4, 2025; and

WHEREAS, members of the public at the public hearing were given ample opportunity to provide comment; and

WHEREAS, the Plan Commission passed a motion recommending to the Town Board that the petition for conditional use be granted subject to certain terms and conditions; and

WHEREAS, the Plan Commission, in passing on the matter, has made the following determinations consistent with Section 500.225 of Town’s zoning code:

1. The subject property is not located in the AP zoning district.
2. Given the nature of the proposed project, special conditions of approval are necessary (s. 500.227 of the zoning code).
3. The proposed project complies with the performance standards set forth in Article 7 of the zoning code.
4. The proposed project complies with each of the development standards for a hobby kennel as set forth in Appendix B.
5. The proposed project complies with other applicable sections of the zoning code.
6. The proposed project complies all other applicable sections of the municipal code.
7. The proposed project is compatible with surrounding properties.

Return to:

Town of Eagle Clerk
c/o Mercia Christian
820 E. Main Street
Eagle, WI 53119

Parcel Number: EGLT1861.998.007

WHEREAS, the Town Board has carefully reviewed the recommendation of the Plan Commission and concurs with the Plan Commission's findings set forth above, provided the conditional use is operated pursuant to the conditions of approval set forth in this order.

WHEREAS, the Town Board having carefully reviewed the recommendation of the Plan Commission and having considered the effects of the conditional use on the health, general welfare, safety, and economic prosperity of the Town and specifically of the immediate neighborhood in which said use will be located hereby determines that the conditional use will not be contrary to the health, general welfare, safety, or economic prosperity of the Town and specifically of the immediate neighborhood so long as such conditional use is operated pursuant to the terms of this decision.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED AS FOLLOWS:

1. **Authorization.** Subject to compliance with this decision, the property owner is authorized to establish a hobby kennel on the subject property subject to the terms and conditions of this order.

2. **Issuance of permit required.** The town planner is authorized to issue the property owner a conditional use permit for the establishment of a hobby kennel on the subject property when all conditions enumerated in section 3 have been satisfied to his or her satisfaction. Such permit is the last approval before the property owner can begin to establish the use as authorized herein.

3. **Initial conditions of approval.** The following conditions shall be satisfied prior to the issuance of the conditional use permit:

- a. The property owner is required to accept the terms and conditions of this conditional use order by signing and recording this order in the Waukesha County Register of Deeds. If the property owner does not sign this instrument and return it to the Town Clerk within six (6) months of approval, this order is null and void. Prior to such expiration, the property owner may request an extension to this time period and the Town Board may approve an extension with good cause.

In the event that any of the above conditions are not satisfied within six (6) months of the date of this approval, this order shall be null and void without any further action by the Town of Eagle.

4. **Ongoing conditions of approval.** In addition to the standard conditions set forth in s. 500.228 of the zoning code, the following conditions shall constitute an ongoing obligation:

- a. Diane Brown must reside in the single-family residence located on the subject property.
- b. The property owner shall obtain and maintain all appropriate licenses from the Town for all dogs located on the subject property.
- c. Subject to the hobby kennel use being accessory to the principal use of the property.
- d. The maximum number of dogs to be kept on the property is limited to ten (10) dogs, primarily of German Shepard breeds. This does not include a maximum of two (2) litters per year where the pups are removed from the property or sold within nine (9) weeks of their birth.
- e. No more than 5 dogs are allowed within the approved fence enclosure without supervision.
- f. Dogs shall be fenced, leashed, or otherwise under the control of the owner at all times when outdoors.
- g. All dogs shall be kept inside residence or kennel(s) when persons residing at the subject property are not at home.
- h. The existing fence shall be maintained in a good condition to safely enclose the dogs allowed herein.
- i. All dogs kept on the subject property as authorized herein shall be in accordance with the Zoning Ordinance of the Town of Eagle and this hobby kennel approval.

- j. All dogs shall be well fed and kept in healthy condition following Waukesha County Humane Society standards.
- k. The property owner must at all times be in compliance with all State of Wisconsin, Waukesha County and Town of Eagle laws, rules, regulations or orders, and ordinances.

5. **Expansion or changes.** The conditional use hereby authorized shall be confined to the subject property without extension or expansion. Any expansion or change in use shall require issuance of a new conditional use permit pursuant to the requirements in effect at the time of application.

6. **Plans and related matters.** Unless otherwise expressly stated herein, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Town Board if the Town Board finds the plan amendment to be minor and consistent with the conditional use order and permit. Any change in any plan that the Town Board feels, in its sole discretion to be substantial, shall require a new approval and all procedures in place at the time must be followed.

7. **Term of conditional use permit.** The conditional use permit issued under this order shall expire 12 months after the date of this approval. Prior to such expiration, the Town Board on recommendation of the Plan Commission may grant annual one-year extensions, or extensions to an agreed to amount of time, of the term of the permit prior to the expiration of such approval. In reviewing the subsequent permit renewals, the Town Board and Plan Commission shall consider the extent to which the hobby kennel complies with the permit and/or this conditional use order, whether any complaints have been received from neighbors in the area regarding the operation of the hobby kennel, and whether any citations have been issued regarding the operation of the hobby kennel. The fact that any complaint may or may not result in citations being issued or legal proceedings being commenced, and if commenced the fact that such proceedings do or do not result in any particular outcome, will not be determinative of whether the Town Board may find that there is substantial evidence to disallow renewal of the permit.

8. **Inspection.** The property owner shall allow Town of Eagle staff, officials, and authorized agents; representatives of the Waukesha County Humane Officer; and all law enforcement officers to inspect the premises indoors and outside, at any reasonable time and for any proper purpose related to the hobby kennel. Receipt of the hobby kennel approval and the applicant's acceptance of the same, shall be deemed to authorize all such persons the right to inspect as described herein.

9. **Termination.** The Town Board may terminate this conditional use order and any permit issued under such order following referral to the Plan Commission for recommendation and public hearing when (1) the use does not comply with each and every requirement of this approval; (2) there is a change in the character of the surrounding area or of the use itself causing the use to be no longer compatible with the surrounding area, or for similar cause based upon considerations of public health, safety or welfare; (3) the use is abandoned in any manner for more than 24 months; or (4) the property owner submits a written petition to the Town requesting termination.

10. **Private rights.** This approval is given under the Town of Eagle's zoning code and is not to be, in any way, interpreted to abrogate any private rights other property owners may have pursuant to deed restrictions or restrictive covenants.

11. **Interpretation.** If any aspect of this conditional use order is in conflict with any other aspect of the conditional use order, the more restrictive provisions shall be controlling, as determined by the Town Board.

12. **Other permits.** This order shall not be deemed to constitute a building permit, nor shall this permit constitute any other license or permit required by Town Ordinance or other local, state, or federal law.

13. **Establishment of use required.** This order is null and void if the property owner does not commence

with the project within 12 months of approval and continue in good faith to completion. Prior to such expiration, the property owner may request an extension Town Board may approve an extension with good cause.

14. **Appeals.** An aggrieved person may appeal this approval to a court of competent jurisdiction. Any work done by the applicant as authorized by the approval is done at the applicant's risk.

15. **Severability.** Should any paragraph or phrase of this conditional use order be determined by a court to be unlawful, illegal, or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use permit and the remainder shall continue in full force and effect.

16. **Terms.** The conditional use approval is personal to Diane Brown and shall not be transferred to a subsequent owner of the subject property.

17. **Violation.** Any violation of this conditional use order or any conditional use permit issued under this order may be treated as a violation of the zoning code and each day of each violation of each condition herein shall be treated as a separate violation. In addition to the other remedies available the Town of Eagle retains the right to correct the violation and the expense to correct a violation will be paid by the property owner as set forth in the ordinances from the Town.

18. **Fees and expenses.** The property owner is required to reimburse the Town for any and all fees paid by the Town for technical assistance in reviewing and enforcing this conditional approval. Said payments shall be paid upon request of the Town.

Approved this 4nd day of June, 2025

Chris Mommaerts, Town Chairperson

ATTEST:

Mercia Christian, Town Clerk

ACCEPTANCE

I acknowledge and accept the terms of this conditional use order and the terms of any permit issued under this order.

Diane L. Brown, property owner

Date

STATE OF WISCONSIN)
) SS
COUNTY OF _____)

Personally came before me this ____ day of _____ 2025, the above-named persons, Diane L. Brown, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC

My Commission Expires