

**Minutes of the Dodge County
PLANNING COMMISSION MEETING
July 1, 2015**

The regular meeting of the Planning Commission was called to order by Richard Wolf at 7:00 PM on Wednesday, July 1, 2015. Present were Planning Commission members Richard Wolf, Ben Johnson, Walter Wyttenbach, Joshua Toquam, and Minor Buckingham. Also present were County Commissioner Dave Erickson, Steve Gray, and Zoning Administrator, Melissa DeVetter.

Motion by Walter Wyttenbach, seconded by Ben Johnson, to approve the agenda and the June 3, 2015 minutes. Motion passed unanimously.

Zumbro River Sporting Dogs, LLC – CUP#15-01

The first public hearing is to consider an application for a Conditional Use Permit to establish a Commercial Kennel in the Agricultural District. The parcel is 3.7 acres located in the NW ¼ of the SE ¼ of Section 8, Concord Township. Zumbro River Sporting Dogs, LLC is the applicant and Aaron Valentyn is the property owner.

Aaron Valentyn was present to explain this proposal. The proposal is for a Commercial Kennel for a training facility for sporting breeds, primarily labs and Golden Retrievers to train bird dogs for hunt test field trials and general hunting purposes. Most dogs come on for a minimum of a month so not a lot of daily traffic. Dogs will come in for a month where he will train the dog and then it will go home. A lot of the training is done at other locations in the county, other counties or on other private properties and not on site.

Rick Wolf asked Melissa DeVetter if there was anything to add.

Melissa DeVetter indicated that the site meets the definition of a Commercial Kennel. It is located in Concord Township which has its own zoning. She did talk with the township as to if they would be responsible for issuing the CUP; however as Concord Township's Ordinance does not specifically address kennels, it would be appropriate for the County to handle the CUP request. The setback the county has is 500 feet from the closest dwelling so any outside exercise yards or the building in which the animals are housed in would need to be 500 feet away and the request complies with the setback. The State regulations are Minnesota Statutes 346.35 through 346.44 which is the Pet and Companion Animal Welfare Act which addresses boarding. These standards have been adopted in our Zoning Ordinance and would be included as part of the CUP. The primary nuisance complaint that we would expect to receive would be barking and if a complaint was received the CUP would come back to the Planning Commission for review. As Mr. Valentyn stated, this is not the type of business where people would be coming every day to drop their animal off and picking them up at the end of the day. The animal comes to the

site and is there no less than a month before it is picked up by the owner. In addition, most training is done off site, so we anticipate there will be very little impact. As a result, Department Staff are recommending approval with the conditions before the Planning Commission.

Rick Wolf asked if there was a representative from Concord Township present. There was no representative from Concord Township present. Mr. Wolf inquired if Ms. DeVetter talked to Concord Township. Ms. DeVetter indicated she talked to them about who would be issuing the CUP, but did not receive comments regarding the proposal.

Mr. Valentyn stated he did attend a Concord Township meeting and they did approve it at their last meeting. Mr. Valentyn clarified that he meant that they had no objections, rather than recommending approval after questioning Mr. Valentyn about his proposal. Ms. DeVetter stated that she hadn't received anything indicating they were against the proposal either.

Mr. Wolf inquired if Concord Township received a copy of the requirements of the permit. Ms. DeVetter stated that they receive a copy of the Staff Report containing a copy of the application, they don't receive a copy of the Findings of Fact and Recommendations that the Planning Commission has. Unless Dan or someone else from the Township attends the meeting, they wouldn't see the Findings. Usually Dan does come to the meetings.

Mr. Wolf inquired if there was anyone present that would like to speak on the public hearing. There was no response. Mr. Wolf asked for a motion to close the public hearing.

Motion by Minor Buckingham, seconded by Joshua Toquam, to close the public hearing. Motion passed unanimously.

Mr. Wolf inquired how many dogs Mr. Valentyn would have at one time. Mr. Valentyn responded that 20 is the maximum he is allowed. Melissa DeVetter indicated that he can have 20 adult dogs, but if he intends to have breeding females, can have an additional 10 dogs (puppies), but no more than a total of 30 on site. Mr. Wolf clarified that he meant how many dogs would be on site when Mr. Valentyn would be training. Mr. Valentyn indicated that it would depend on the time of year. The max would be in the upper teens 15 to 18 dogs, 20 that he would be training at one time. A lot of the seasons, particularly in winter, he will not have that many dogs.

Mr. Wolf commented that it would keep him busy if Mr. Valentyn was only keeping them a month. Mr. Valentyn agreed that it keeps him busy.

Ben Johnson inquired what the Zoning Staff recommendations were if there was a nuisance pertaining barking. Mr. Johnson read the condition requiring screening if barking becomes an issue. Mr. Johnson asked Mr. Valentyn to explain what that is

and how it would work. Mr. Valentyn commented that it would probably entail some sort of privacy fence that would go up around the exercise area to try and dissipate some of the barking. Ms. DeVetter indicates that other options to mitigate noise included soundproofing/insulating. Mr. Valentyn talked about eventually finishing the inside of the garage area to bring the ceiling down, which may be part of it also.

Walt Wyttenbach confirmed that Concord Township would not be responsible for enforcing the CUP, the enforcement would fall back on the County and Ms. DeVetter agreed.

Rick Wolf inquired if there would be an on-site holding tank. Mr. Valentyn indicated that there would be and that he already has things lined up and ready to go and is just waiting on the CUP. Mr. Valentyn indicated he believed he already talked to Ms. DeVetter about it and she agreed.

Walt Wyttenbach inquired if Mr. Valentyn lived on site. Mr. Valentyn stated that he lived on site.

Rick Wolf commented on condition #4 which states that all animals on site have be current on vaccination. Mr. Valentyn agreed that would be a requirement of his and he would keep records of all vaccinations.

Walt Wyttenbach inquired if, in the evenings, the dogs would be housed outside. Mr. Valentyn indicated that all dogs would be housed inside at night. Mr. Wyttenbach commented about the exercise area. Mr. Valentyn indicated there would be an outside exercise area.

Minor Buckingham inquired if there was going to be more exercise area then the fenced in part. Mr. Valentyn indicated that there would. Dogs would be exercised throughout the day individually or 2 to 3 at a time during training periods. Mr. Buckingham commented that he drove by the site today and that the kennel he viewed was very adequate. Mr. Buckingham inquired if it was going to be bigger than that. Mr. Valentyn indicated that eventually he would like to put another kennel section off of it so he could separate dogs.

Walt Wyttenbach inquired if Mr. Valentyn discussed his project with the neighbor across the road. Mr. Valentyn indicated that he had visited with her quite a bit and she was excited that he was doing this as she was a large animal lover herself.

Rick Wolf inquired if there were any other questions for Mr. Valentyn. As there were no further questions, Mr. Wolf asked to entertain a motion.

Motion by Minor Buckingham, seconded by Ben Johnson, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions: (The permittee is put on notice that the violation of any of the conditions of the IUP may result in termination of the permit.

1. The use shall comply with Minnesota Statutes 346.39 and the Best management Standards for Dogs and Cats, and Section 16.32.1 of the Dodge County Zoning Ordinance.
2. All pet waste, wash water, and other contaminated fluids shall be properly contained and collected in an on-site holding tank. The tank must be maintained by a licensed pumper and all waste properly disposed of.
3. An on-premise sign advertising the kennel shall not exceed a total of nine (9) square feet. The sign shall meet the applicable performance standards of Section 17.24 (Signs) of the County Zoning Ordinance.
4. Every animal located on site shall be current on all vaccinations.
5. The site shall be inspected on an annual basis by Environmental Services staff.
6. Any change involving the addition of new business related structures or employees beyond that specified in the findings on file with the CUP, enlargement, intensification of the use or similar changes not specifically permitted by the CUP shall require an amended CUP to be issued by the County Board.
7. The area where the outside exercise area for the kennel is proposed shall be maintained for an orderly appearance and to protect the public health.
8. The permittee shall provide screening if necessary to mitigate barking if considered necessary by the County Board.
9. All waste generated on site shall be properly disposed of in accordance with the Dodge County Solid Waste Ordinance and MPCA rules.
10. The business shall comply with Section 17.19 (Nuisance Standards). Nuisance complaints shall result in review of the CUP by the Planning Commission.

Motion passed unanimously.

Bob's Animal Friends - CUP#15-02

The second public hearing is to consider an application for a Conditional Use Permit to establish a Commercial Kennel in the Agricultural District. The parcel is 3.75 acres located in the SE ¼ of the SW ¼ of the NW ¼ of Section 16, Mantorville Township. Bob's Animal Friends is the applicant and Robert & Risa Fellows are the property owners.

Robert & Risa Fellows were present to explain this proposal.

Mr. Fellows stated he would like to open a commercial kennel. He does have a facility in Rochester where they do boarding, daycare facility and he is looking to establish a second spot to handle overflow mainly on holidays or weekend for quieter and older dogs. It is mainly weekend day boarders, but there may be a couple during the week for boarding only for clients that go on vacation.

Melissa DeVetter stated this request is different than the previous request, but the same Minnesota Statute 346.35 through 346.44 the Pet and Companion Welfare Act would apply to this facility since it involves boarding so a lot of the information you will see will be similar to the previous public hearing. In this case, the applicant is proposing on constructing a brand new and separate accessory building. That building will have to be constructed greater than 500 feet. There are two dwellings that are located at about 515 feet away and so the location of the kennel would meet this setback. Ms. DeVetter referred to the video screen to discuss the eastern property line (which appears to go through a building) as a concern at first, but it was discovered that the error was in the parcel layer and the property line is further east than shown. The entrance to the kennel will be on the east side so the lighting will be away from 57 and a majority of the homes. One thing Department Staff reviewed was, because it is less than 600 feet from the City of Mantorville, what kind of plans the City of Mantorville had for this area. In Dodge County's Comprehensive plan, there is no Urban Expansion District in this area, it is primarily to the east and west of Mantorville. The City of Mantorville also has comp plan and they have identified this area for future residential growth potentially. This not reflected in our maps. Department staff did send a copy of the Staff Report to the City of Mantorville and Ms. DeVetter indicated she contacted them today to see if they had any comments or concerns. They had no concerns, they were fine with it. There will be day to day traffic and Mr. Fellows talked about that. Barking is expected to be the primary nuisance concerns and Ms. DeVetter questioned the Fellows if there was planned soundproofing and insulating Mr. and Mrs. Fellows indicated there would. If there were complaints, it would come back before the Planning Commission to see if there were things that could be done to mitigate the concerns. The County Highway Department and MnDOT both commented on the project and they have no issues with it as it is not expected to be significant traffic generator. Department Staff did recommend approval with the 11 conditions before the Planning Commission members.

Rick Wolf inquired if there was a representative from Mantorville Township present.

Keven Dohrman was present on behalf of Mantorville Township. Mantorville Township had no problem with the proposal. One of the recommendations that Mantorville Township had for the exercise area was a minimum eight foot tall fence.

Rick Wolf inquired if anyone was present that would like to speak to this issue. As there was no one that wanted to speak, Mr. Wolf requested a motion to close the public hearing.

Motion by Ben Johnson, seconded by Joshua Toquam, to close the public hearing. Motion passed unanimously.

Walt Wyttenbach inquired how far out letters were sent for the proposal. Ms. DeVetter responded that under ordinance requirements, the public hearing notice is required to be sent to all landowners within a quarter of a mile, so it encompassed quite a bit of the City of Mantorville. Ms. DeVetter was not certain of the exact number. Mr. Wyttenbach did not need numbers, he was just ensuring the individuals were notified. Ms. DeVetter stated that she did not receive one comment on this issue from those individuals.

Ben Johnson inquired if the dogs would be housed primarily inside. Mr. Fellows indicated they would. During the day they would be let out for exercise or "potty breaks" and they would be housed and locked up at night. Mrs. Fellows stated that when they are let outside they are always supervised and Mr. Fellows agreed.

Ben Johnson inquired if when they were let outside, are there multiple dogs at the same time or were they let outside individually? Mr. Fellows indicated that at the moment they only had plans for one exercise area so it will be just one, unless there are family dogs that come from the same family they would be together.

Rick Wolf inquired if in any of the statutes there was a requirement for an 8 foot fence. Ms. DeVetter stated that there is nothing that requires it but she was unsure if the ordinance would allow it. Typically the limit is 6 feet in the back yard unless it is a commercial or industrial use next to a residential area there are provisions to go higher. Ms. DeVetter inquired if a six foot fence would work. Kevin Dohrman indicated that the applicant stressed the importance of an eight foot tall fence and the applicant concurred. Ms. DeVetter indicated that we couldn't add a condition that would violate the ordinance, but would check the wording of the ordinance to see if it would be allowed and that condition could be added if it complies with the ordinance. If they wanted something taller (that didn't comply with the ordinance) they would need a variance from the Board of Adjustment.

Mr. Dohrman inquired if the 6 foot fence would angle in at the top. Mr. Fellows indicated that it would. The issue would be with dogs climbing the fence. Mrs. Fellows stated that at the facility in Rochester there is an eight foot fence with the top angled it to its harder to get out of. Mrs. Fellows indicated that they are outside with them, but you never know what is going to happen so that is why they have the eight foot fence in Rochester. Mrs. Fellows indicated that if they did the 6 foot one they would angle it in, similar to the site in Rochester. Ms. DeVetter indicated that the condition could be worded that the fencing would have to comply with the Dodge County Zoning Ordinance and if there is language that allows it, the 8 foot fence could be constructed.

Mr. Fellows indicated they brought that up as kind of a question because they had the eight foot fence in Rochester. Mr. Fellows saw that there was a six foot and they wondered if they could go bigger than that so they brought it up at the township

meeting as a suggested recommendation for more safety reasons and to protect everybody.

Richard Wolf inquired if the ordinance specified six feet if the Planning Commission could go higher. Ms. DeVetter indicated that if the standard was specified in the ordinance on how high fencing can be in your front yard versus the back yard and does know that there were provisions next to residential areas for commercial and industrial, but she didn't know specifically if it would apply to this. The only thing that can be said at this point is the fencing would need to comply with the ordinance.

Richard Wolf inquired if they put a six foot fence if the angled part would have to be six feet. Ms. DeVetter stated she hasn't seen the fence. Mr. Fellows indicated that he would consider it to be part of the total height. The Fellows indicated they brought it up so they wouldn't have to go through a variance and to have it addressed as part of the CUP to eliminate a step. Ms. DeVetter suggested an alternative would be putting a roof on it and getting a permit for an accessory structure. There would be no limit on the eight foot height, but she realizes the Fellows probably want sun coming in, so possibly something that could allow sunlight, but still comply. Mr. Fellows indicated that six would work if eight wouldn't be allowed.

Walt Wytenbach inquired how far to the east property line would the closest corner of the proposed building be. Mr. Fellows clarified, Mr. Wytenbach was asking the distance from the back property line. Mrs. Fellows indicated that the kennel run area would be at least 20 feet away and the building is further than that. Mrs. Fellows indicated that she thinks it was forty feet.

Mr. Wytenbach inquired what the distance was to the well. Mrs. Fellows indicated it was over fifty feet.

Mr. Fellows located a survey to put up on the monitor to note where the new kennel would be located in relation to the existing barn, which was twenty feet from the property line. Based upon the dimensions on the survey, the new building would be almost forty feet from the property line.

Ben Johnson inquired if the property was zoned Agricultural or Rural Residential. Ms. DeVetter stated it was Agricultural. Mr. Johnson referenced the ordinance section 17.13 regarding fences indicating that the restrictions on height limitations appear to apply in Rural Residential, Urban Expansion or other residentially zoned districts. Ms. DeVetter stated that if the ordinance specifically references these districts, there is the possibility of going higher. Fences in the Agricultural Zoning District are not typically eight feet. Mr. DeVetter stated that whatever the ordinance allows would not have to be added to the permit.

Richard Wolf inquired where wash water would go when the building was put up. Mr. Fellows indicated there would be a holding tank. The Fellows have already been in contact with Gopher Septic.

Richard Wolf inquired if there were any more questions for Mr. Fellows.

Walt Wyttenbach inquired if the kennel would fall into the “reciprocal setback” 1000 feet setback for feedlots. Ms. DeVetter stated that it is not a feedlot, so it wouldn't need to.

Richard Wolf inquired if there were any other questions for Mr. Fellows. As there were no more questions, Mr. Wolf asked to entertain a motion.

Motion by Ben Johnson, seconded by Minor Buckingham, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions: (The permittee is put on notice that the violation of any of the conditions of the IUP may result in termination of the permit.

1. The use shall comply with Minnesota Statutes 346.39 and the Best management Standards for Dogs and Cats, and Section 16.32.1 of the Dodge County Zoning Ordinance.
2. All pet waste, wash water, and other contaminated fluids shall be properly contained and collected in an on-site holding tank. The tank must be maintained by a licensed pumper and all waste properly disposed of.
3. An on premise sign advertising the kennel shall not exceed a total of nine (9) square feet. The sign shall meet the applicable performance standards of Section 17.24 (Signs) of the County Zoning Ordinance.
4. Every animal located on site shall be current on all vaccinations.
5. The site shall be inspected on an annual basis by Environmental Services staff.
6. Any change involving the addition of new business related structures or employees beyond that specified in the findings on file with the CUP, enlargement, intensification of the use or similar changes not specifically permitted by the CUP shall require an amended CUP to be issued by the County Board.
7. Dodge County Zoning Permit shall be obtained before construction.
8. The area where the outside exercise area for the kennel is proposed shall be maintained for an orderly appearance and to protect the public health.
9. The permittee shall provide screening or other methods (sound proofing of building) to mitigate barking if considered necessary by the County Board.
10. All waste generated on site shall be properly disposed of in accordance with the Dodge County Solid Waste Ordinance and MPCA rules.

11. The business shall comply with Section 17.19 (Nuisance Standards). Nuisance complaints shall result in review of the CUP by the Planning Commission.
12. A minimum eight (8) foot fence for the exercise area shall be constructed in accordance with Mantorville Township's recommendation.

Motion passed unanimously.

Zoning Amendment – ZA#15-03

The third public hearing is to consider a Zoning Amendment to the Dodge County Zoning Ordinance. The proposal includes new and amended language for Chapter 8: Agricultural District, Section 8.4: Conditional Uses, Part 8.4.13 Commercial Kennels and Section 8.5: Interim Uses; Part 8.5.7 Private Kennels.

Melissa DeVetter explained this proposed amendment. The proposed amendment is fairly simple and the issue was discovered during the review of the kennel CUPs. Historically in the Ag District, there was no differentiation between commercial and private kennels. The Ag District just listed "kennels" as a CUP in the Ag District; however if you look at the performance standards for kennels there is a differentiation between the two and it states that an Interim Use Permit is required for a Private Kennel. A Private Kennel example would be the keeping of sled dogs or any situation where they are your own personal dogs, but there may be a lot of them. Department Staff thought it was appropriate to differentiate between "commercial" kennel, which were a CUP and "private" kennels which were an IUP to be consistent with the standards that are already in place. The difference is that a CUP for a Commercial Kennel would travel with the land and an Interim Use Permit obtained for a private kennel would not. If an IUP was obtained for a private kennel once the owner moved, the IUP would cease which is the difference between the two.

Richard Wolf indicated that it doesn't really explain it, just identifies areas that were underlined. Ms. DeVetter indicated that the underlined language is what was added. It is already listed that way in the performance standards for kennels. The performance standards indicate a CUP is required for Commercial Kennels and an IUP is required for Private Kennels. This was not listed separately in the Agricultural District.

Mr. Wolf inquired if there was any one that would like to speak on the issued.

Ken Folie, Supervisor of Canisteo Township, indicated that they had a regular meeting coming up Tuesday and that they hadn't formally discussed it. However the other two Supervisors, Loren Torrens and Larry Edgar, and Ashland Township too have put it on Ken's shoulders to speak to the issue. Mr. Folie indicated that they were in favor of the change because they get questions and anything that makes it

easier to clarify and answer the questions in writing is worth doing in their experiences so they are in favor of these changes, or not opposed to them formally.

Mr. Wolf inquired if there was anyone else that wanted to comment. As no one else commented, Mr. Wolf called for a motion to close the public hearing.

Motion by Walter Wyttenbach, seconded by Minor Buckingham, to close the public hearing. Motion passed unanimously.

Mr. Wolf asked if there were any other questions. Mr. Wolf inquired if there was anything different they needed to do. Ms. DeVetter indicated that the Planning Commission would make a recommendation and if the Board approved, it would be by resolution.

Mr. Wolf asked for a motion on the proposed amendment.

Motion by Walter Wyttenbach, seconded by Ben Johnson, to recommend approval of the Zoning Amendments as presented. The motion passed unanimously.

Other Business

Ms. DeVetter gave a brief update on the Trom/Masching lawsuit.

There will be an August meeting that will have four requests for new dwelling on less than 53 acres.

There is a potential applicant for a solar farm for the September meeting, but no application has been received, as the Department was just contacted today.

Walter Wyttenbach inquired if there was any progress on the previous solar farm that was permitted. Mr. Wolf inquired about the solar project by the landfill. Ms. DeVetter indicated it was a small project. Ms. DeVetter indicated that they have not received much information on the project yet, other than it is a 5 MW project. A size comparison to the Geronimo project was made.

Adjourn

Motion by Minor Buckingham, seconded by Joshua Toquam, to adjourn. Motion passed unanimously. The meeting was adjourned at 7:44 P.M.