



**JOINT MINNEHAHA COUNTY & CITY OF SIOUX FALLS
PLANNING COMMISSION
MEETING MINUTES**

NOVEMBER 28, 2022

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
November 28, 2022**

A joint meeting of the County and City Planning Commissions was held on November 28, 2022 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Doug Ode, Ryan VanDerVliet, Adam Mohrhauser, and Mike Ralston.

CITY PLANNING COMMISSION MEMBERS PRESENT: Kurt Johnson, Janet Kittams, Larry Luetke, Bradyn Neises, John Paulson, & Sean Ervin.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman and Mason Steffen – County Planning
Maggie Gillespie – States Attorney's Office
Fletcher Lacock – City Planning

The County Planning Commission was presided over by Commissioner Bonnie Duffy. The City Planning Commission was chaired by Commissioner Kurt Johnson.

Chair Duffy called the joint Minnehaha County and City of Sioux Falls Planning Commission meeting to order at 7:00 p.m.

PUBLIC COMMENT.

Chair Duffy opened the floor for public comment and nobody moved to speak.

CONSENT AGENDA

Commissioner Duffy read each item on the consent agenda and Item 2 was requested to be moved to the regular agenda.

ITEM 1. Approval of Minutes – September 26, 2022

As part of the consent agenda, a motion was made for the County by Commissioner Randall and seconded by Commissioner Mohrhauser to **approve** the meeting minutes from September 26, 2022. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

As part of the consent agenda, the same motion was made for the City by Commissioner Luetke and seconded by Commissioner Neises to **approve** the meeting minutes from September 26, 2022. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.



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Regular Agenda

ITEM 2. CONDITIONAL USE PERMIT #22-81 to allow a Kennel on the property legally described as Tract A Shatter's Addition E½ SW¼ Section 28 T102N-R50W Benton Township.

Petitioner: Jeremy Schelhaas

Land Owner: Same

Location: 46846 Highway 38

Staff Report: Mason Steffen

General Information:

Legal Description – Tract A Shatter's Addition E½ SW¼ Section 28 T102N-R50W.

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 10.54 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting to operate a kennel for the purpose of raising and breeding dogs on the property. A kennel is defined in the joint zoning ordinance as: "Any premise or portion thereon where dogs, cats, or other household pets are raised, trained, boarded, harbored, or kept for remuneration." The petitioner has explained that there will not be regular visits to the property by customers, and that a majority of dogs will be transported out of state by the petitioner in order to be sold. Additionally, the petitioner has stated that they will be constructing a new detached accessory building on the property, and that the kennels for the dogs will be located within this building.

On November 8, 2022, staff conducted a site visit of the subject property and surrounding area. The property is located along SD Highway 38 near its intersection with County Highway 141. Currently there is limited residential development in the area. However, directly west of the subject property is the Shatter's Fourth Addition, which is currently a vacant 8-lot subdivision that could potentially add residential density to the area. Also, given that the property is accessed off of a paved highway, any additional traffic generated by this use should not be a concern, and the driveway was easily visible from the highway. Finally, this request was sent to the City Planning Staff for comment, and they provided no additional comments and deferred to the county recommended conditions.

Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The property is located in an area where residential development is currently limited, and the current surrounding neighbors are located on large residential acreages. Since the kennel is being operated within an accessory building, and the dogs will be indoors at night, the effect on the neighboring properties should be minimal. Additionally, given that the majority of the dogs will



be sold off-site, the increase in traffic in the area will be minimal, and the property being accessed off of a paved state highway will further limited these concerns.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The vacant property surrounding the subject property is currently agricultural land with the potential to turn into a limited residential subdivision. The 8-lot Shatter's Fourth Addition will be a limited residential expansion, when it is eventually developed, due to the subdivision being limited by building eligibilities. Finally, given that the rest of the vacant property in the area is more than likely to remain as agricultural in use, the proposed kennel on a large residential acreage should not heavily impact the surrounding area.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

The property is already fully developed with a house and several accessory buildings. All necessary utilities will need to be extended to the new accessory building that will be constructed for the kennel. Additionally, the property already has access onto SD Highway 38, and the additional use of a kennel on the property will not require any additional access. Finally, the addition of the new accessory building will not impact the drainage of the property, or the surrounding area.

4) That the off-street parking and loading requirements are met.

This property is large enough to accommodate the off-street parking requirements for the single-family dwelling and the kennel. There are no loading requirements for this type of operation.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

A kennel has the potential to produce offensive noise with barking dogs. Keeping dogs inside during overnight hours should reduce potential nuisance noises. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

Given the proper supervision and care of the animals, the proposed dog kennel should not affect the health, safety, or general welfare of the public. The recommended conditions of approval provide limitations to prevent nuisance or harm. Also, the subject property is located within the designated transition area of the county as defined in the Envision 2035 Comprehensive Plan. Finally, one of the goals of the transition area is to protect the rural character of the county until municipal development arrives, however this proposed kennel will not negatively impact the rural character in the area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-81 with the following conditions:



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- 1) That the kennel shall remain as an accessory use to the property as a residential dwelling. If the property ceases to be residential property then the kennel shall cease.
- 2) That the dogs shall remain locked inside during the night and early morning hours of 9:00 pm to 7:00 am.
- 3) That the dogs will not be allowed to roam off the property at any time.
- 4) That no parking shall be allowed on the public right-of-way at any time.
- 5) That one on premise sign may be permitted for identification of the site. The sign must be no larger than 32 square feet in size, and a building permit must be obtained prior to the placement of the sign.
- 6) That the Planning & Zoning Department reserves the right to enter and inspect the premises, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony

Mason Steffen, of County Planning Staff, presented the staff report and recommendation to the commission.

Commissioner Luetke asked staff if the property to the east of the subject property is a residential property. Mason Steffen explained that during the site visit the building appeared to be a shed house type of structure, and that he could not tell during the visit if anyone was currently living within the building. Commissioner Luetke followed up to asked if there are any noise requirements for the accessory building, and if the petitioner will be required to plant trees as a visual barrier to the residential property to the east. Mr. Steffen explained that the existing trees will help screen the building, and that there will not be a requirement for any additional trees on the property. Additionally, Mason Steffen explained that the dogs on the property will be within the accessory building a majority of the time that they are on the property, which will also limit noise concerns. Commissioner Luetke then asked staff what the zoning of the neighboring property is currently, and staff stated that this property is zoned A-1 Agricultural.

Next, Commissioner Ervin asked staff if there are any requirements or limitations for the noise that the kennel will produce. Mason Steffen explained that the zoning ordinance does not specifically have any noise requirements for kennels, but that for home occupations in the county the typical rule that is followed is a maximum of sixty decibels when measured from the property line. Mr. Steffen further explained that sixty decibels is generally the sound level produced by a normal conversation.

The petitioner, Jeremy Schelhaas of 46846 Highway 38, was present and available for questions from the commissioners. Commissioner Ode asked Mr. Schelhaas how many dogs will be on the subject property. The petitioner explained that they currently have three breeding dogs of their own, and that they are looking to expand the operation with their parent's existing breeding animals. However, they also stated that they are unsure of the specific number of animals they will be expanding to, but that the number could be around sixteen Labradors and Retrievers with a mix of males and females.



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Commissioner Ervin asked Mr. Schelhaas how the accessory building will be constructed in order to limit the noise escaping from the building. Mr. Schelhaas explained that he has looked at several kennel systems, and as of now he plans to use a system where the kennels and dog runs will be completely indoors. The petitioner also explained that the walls will be insulated and that there will be an outdoor exercise area where the dogs will be allowed to run for approximately thirty minutes in the morning and evening. Mr. Schelhaas then stated that he does not want to hear excessive barking either, so he has explored solutions such as solid walls without windows and playing a radio within the building to limit outside distractions for the animals. Finally, the petitioner explained that the building will utilize a heated floor, and that they may add windows to allow light within the building but that these windows will be high enough so that the dogs will not be able to see outside.

Commissioner Luetke asked the petitioner if he could clarify if the building to the east was being used as a house. Mr. Schelhaas stated that the building is a shed house and that he has had conversations with this neighbor regarding the request, and the neighbor brought no concerns up to him at that time.

Dave Quam, of Sioux Falls, SD, came to the podium and wanted to hear from the petitioner on which direction they planned to construct the dog runs. Jeremy Schelhaas explained that currently the plan is to not have any outside dog runs, but that if they were to have any in the future they would likely run north and south between the accessory building and the shelter belt of trees to the north.

Richard Hohn, of 46838 Highway 38, addressed the commission with his concerns on the proposed kennel operation. Mr. Hohn explained that he has lived in this area for thirty-eight years, and that the proposed kennel will devalue the properties in the area. Additionally, Mr. Hohn stated that he is concerned with the noise and smell that the kennel could create, and that he would like to know what the petitioner is planning to do with the animal waste from the kennel.

The petitioner returned to the podium and explained that they will be installing a septic system to handle the waste from the kennel in the accessory building. Mr. Schelhaas also stated that they are in an agricultural area where smell should not necessarily be a concern, and that he already has several cows on the property that also produce manure. Finally, the petitioner explained that the proposed location of the accessory building is as far away from Mr. Hohn's property as is feasible based on the layout of his lot.

Discussion

Commissioner Randall asked staff what the regulations are in regards to the paving of the access to the property off of the State highway. Mason Steffen explained to the commission that the Minnehaha County Zoning Ordinance only requires property accesses to be paved if they are zoned commercial or industrial and accessed from a paved street.

Commissioner Luetke asked staff how many animals would be allowed within the accessory building. Mason Steffen explained that the size of the accessory building is yet to be finalized, so



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the number of animals the building will hold could vary. Commissioner Luetke followed up to ask if the zoning ordinance has any restrictions on the number of animals allowed for a kennel. Mason Steffen explained that the zoning ordinance does not have a limit on the number of animals for a kennel, and that the commission could consider placing a condition on the permit limiting the number animals. However, Mr. Steffen also stated that a condition limiting the number of animals on the property could be difficult to enforce given that the number of the animals in each litter is variable. Commissioner Luetke also asked what would happen if staff finds that the kennel is producing noise levels about the suggested sixty decibel limit, and how that could be enforced. Mason Steffen explained that the sixty decibel limit could be added as a condition of approval for this permit, and that if the property is consistently in violation of that condition then this Conditional Use Permit could be recalled and reviewed by the planning commission. Finally, Commissioner Luetke asked if the County has any requirements for the R-value of the insulation that will be installed to reduce the noise, and staff stated that there are no such requirements within the County.

Scott Anderson, the County Planning Director, stated that he understands the reasoning behind the insulation discussion, but that since the exercise area will be outside there will be no way to limit the noise from this part of the operation no matter how well the building is insulated. Mr. Anderson also commented that if the commission were to consider limiting the number of dogs allowed for the operation, it would make the most sense to limit the number of adult dogs instead of the total number of animals.

Commissioner Ode asked the petitioner to return to the podium and address if the current animals on the property are completely silent year round. Jeremy Schelhaas stated that no the other animals on the property, including the cows, are not silent at all times.

Action

Commissioner Ode made a motion for the County to **approve** Conditional Use Permit #22-81 with the staff recommended conditions. The motion was seconded by Commission Ralston. Commissioner Ervin of the City Planning Commission asked the County Planning Commission if they would consider a condition that limits the noise to sixty decibels on the property. Commissioner Ode of the County Planning Commission stated that he believes a condition limiting noise would be difficult to enforce due to other animals being present on the property. The motion to approve the Conditional Use Permit was **approved** with 5 votes in favor and 0 votes against the motion.

A motion was made for the City by Commissioner Ervin to **approve** Conditional Use Permit #22-81 for the sake of discussion. The motion was seconded by Commissioner Paulson. Commissioner Ervin commented that he believes a condition that limits the noise from the kennel to sixty decibels should be included on the permit, so that the County Planning Staff has a set guideline to follow if noise complaints do arise from the property. The City Planning Commission then voted on the motion to approve Conditional Use Permit #22-81 with the staff recommended conditions. The motion was **denied** with 5 votes against and 0 votes in favor of the motion.

Conditional Use Permit #22-81 – Split Decision



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Old Business

None.

New Business

None.

Adjourn

A motion was made for the County to **adjourn** by Commissioner VanDerVliet and seconded by Commissioner Randall. The motion passed unanimously.

The same motion to **adjourn** was made for the City by Commissioner Kittams and seconded by Commissioner Luetke. The motion passed unanimously.

The meeting was **adjourned** at 7:32 p.m.