

**MINUTES OF THE JOINT MEETING OF
LINCOLN COUNTY & SIOUX FALLS PLANNING COMMISSIONS
December 14, 2016**

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Ron Albers, Dan King, Tyler Klatt, Gary Pashby, Darrel Sogn, Ron Larson, and Darwin Sogn

CITY PLANNING COMMISSION MEMBERS PRESENT: Katherine Fiegen, John Paulson, Larry Luetke, Nick Sershen, and Kurt Johnson

STAFF PRESENT: Toby Brown and Joan Doss - County Planning Jason Bieber - City Planning

PUBLIC PRESENT (sign-in sheet): Tiffani Landeen, Lori Sutton, Mike Knudsen, David & Pat Dede, Greg Hower, Cathy Krueger, Brad & Carol Hamburg, Jerry Chaon, Dana & Renita Maurer, Tom & Kelly Kandt, John & Julie Rohn, Roger & Theresa Berg, Winnie Peterson, Connie Pruner, Tiffany Wilber, Brian Hines

The County Planning Commission was chaired by Ron Albers who presided over the meeting. The City Planning Commission was chaired by Kurt Johnson.

1. CALL TO ORDER

A joint meeting of the County and City Planning Commissions was held on December 14, 2016 at 7:00 p.m. in the Commission Meeting Room of the Lincoln County Courthouse. Planning Commission Chair Ron Albers called the meeting to order at 7:00 p.m.

2. APPROVAL OF OCTOBER 12, 2016 MINUTES

A motion was made by the County by Commissioner Pashby and seconded by Commissioner Larson to approve the meeting minutes for October 12, 2016. The motion passed unanimously. Same motion was made for the City by Commissioner Sershen and seconded by Commissioner Luetke to approve the meeting minutes for October 12, 2016. The motion passed unanimously.

3. APPROVAL OF AGENDA

A motion was made by the County by Commissioner Darwin Sogn and seconded by Commissioner Klatt to approve the meeting agenda for December 14, 2016. The motion passed unanimously. Same motion was made for the City by Commissioner Luetke and seconded by Commissioner Paulson. The motion passed unanimously.

4. CONDITIONAL USE PERMIT #16-004: Request for review and approval of a Conditional Use Permit to operate a kennel. The property is zoned A-1 Agricultural and is legally described as Keonig's Tract 2 in the NW1/4 of the SW1/4, Section 22-T100N-R49W.

<i>Petitioner:</i>	Connie Pruner
<i>Property Owner:</i>	William and Lori Sutton
<i>Location:</i>	27060 479 th Ave. – Sioux Falls

Staff Analysis: Toby Brown

The property is located at 27060 479th Ave, Sioux Falls. The petitioner would like to use the existing accessory building on site for a dog boarding kennel. There will not be any additional structural work to the existing accessory building, with the exception of some possible building insulation/sound baffling and fencing improvements. Dogs will be kept indoors, and will only be let out by the petitioner. The petitioner has noted the capacity of the business would be 25 dogs.

The property is located in the A-1 Agricultural district zone. The A-1 zoning district allows for a kennel through a conditional use process.

Section 19.07 of the 2006 Joint Zoning Regulations for Lincoln County and the City of Sioux Falls provides review criteria for conditional use permits.

A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

The proposed kennel operation will not substantially impair the appropriate use or development of adjacent property. The building that would house the kennel is setback approximately 350 feet from the road. Additionally, there is a robust grove of trees surrounding the property on the west, north, and east sides.

B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

The proposed operation would not be expanding building area. Additionally, the dogs will be kept indoors most of the time, and only let out by the petitioner. Therefore, the proposed kennel will not alter the general character of the area that is composed primarily of large lots in the A-1 Agricultural zoning district.

C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.

The proposed use will not substantially produce excessive noise, odor, traffic, air and water pollution or other negative factors. The petitioner has noted plans for improving sound baffling and will have set hours for drop-off and pick-up.

D. The proposed use shall not adversely affect the public.

The proposed use should not have any negative effects on the health, safety, or general welfare of the public.

The 2035 Future Land Use Map within the Shape Sioux Falls Comprehensive Plan does not indicate a land use for this property.

Recommendation: Based upon the information and materials provided by the applicant and the staff analysis in the staff report, staff supports the conditional use permit request. Therefore, staff recommends approval of Conditional Use Permit 16-JJCUP-004 to allow a kennel with the following conditions:

1. The lot shall adhere to the site plan submitted on November 14, 2016.
2. The kennel shall be limited to 25 dogs at a given time.
3. Hours of operation (animal drop off & pick up): 7:30am-11:00am and 4:00pm-7:00pm.
4. Petitioner shall cease use of existing open dog runs. Dogs will only be let outside under supervision of petitioner.
5. Petitioner shall take adequate measures to minimize noise so that it will not constitute a nuisance. Measures taken shall include installing sound proofing/sound absorbing insulation in walls and ceiling of the building.
6. Petitioner shall install improved fencing by summer 2017, to include a mesh and grommet overlay.
7. Review by the Lincoln County and Sioux Falls Planning Commissions within six months after operation commences.

Public Comment:

Toby Brown of the County Planning Department presented the staff report and noted there were a number of calls and emails from concerned neighbors therefore staff added conditions 3 through 7 to the recommendation after the original staff report was mailed to commission members.

The applicant, Connie Pruner, noted she would be closing her Valley Springs kennel if this permit were approved. She said the neighbors in Valley Springs had the same concerns but worked together to find solutions, and have not had any complaints. Commissioner Pashby asked what type of fencing she would use. Ms. Pruner noted there is the mesh overlay that would block the view into the property, but there is also a quilted blanket covering that claims to block up to 80% of noise. Commissioner Pashby also asked how close the nearest neighbor in Valley Springs is, and Ms. Pruner noted about ¼ mile. Commissioner Albers asked how large is the building, and how long the dogs would be outside. Ms. Pruner noted the building is the size of a double-wide garage and would have 16 to 18 individual kennels. She continued to

say depending on the weather the dogs may be outside for 5 minutes in the winter, or longer in nicer weather, but if they start barking she takes them back inside. Commissioner Albers also asked what area she would be fencing. She said fencing would extend around side of building and meet at the sides of the garage building. Pashby asked if Connie had any other job, or if she would be onsite all the time. Ms. Pruner noted she would be onsite all the time. Commissioner Paulson asked how she came across the building. Ms. Pruner noted she will be moving and found this property with a building that is already setup for dogs.

Commissioner Albers asked for public comment in favor. Hearing none, Commissioner Albers asked for public comment against the application.

Tom Kandt noted his house is only 80 yards, and there are 5 or 6 residences within a ¼ mile of the proposed kennel. He also noted the current owners have dogs and he can hear them barking constantly.

Dave Dede noted the neighborhood has about 100 homes within a ½ mile. He also noted there are many nights where he is woken up by the dogs barking.

John Rohn noted he was under the impression that a commercial operation was already being run, and that he can hear barking for hours on end. He posed questions of how the kennels are cleaned if she is supervising the dogs outside and how is the waste taken care of. He also was concerned with the road maintenance and increased traffic.

Kathy Krueger said she was concerned about the increased traffic and road maintenance. She noted that years ago there was a proposed horse barn that the neighborhood was also against, and the commission denied that request. She also said she was concerned how this would impact land values.

Dana Maurer noted this is a developing area that it isn't a county setting and questioned how the conditions would be enforced.

Tom Kandt spoke again and noted he works night shift and the driveway is only 46 feet from his house.

Toby Brown read aloud emails from Brian Klatt and Scott Hanish which both noted they felt large groups of dogs should not be allowed in a residential setting.

Seeing no further comments Commissioner Albers then closed the floor to public testimony.

Discussion:

Toby followed up on the question about enforcement, and mentioned staff would recommend a 6-month review if the commission approved the permit. Planning and Zoning would inspect the property for compliance, and if the conditions weren't met, or if the baffling doesn't work to decrease the noise it would be brought back for a revocation hearing.

Commissioner Albers asked Ms. Pruner to address the noise concerns, and if there have been any complaints at her current location. Ms. Pruner noted she would do everything possible to reduce the noise, and there have not been any complaints. Commissioner Albers also asked about traffic. Ms. Pruner noted there might be 10 dogs come Friday morning and then are picked up Sunday evening, so the traffic would not be daily, and would only have traffic during the morning and evening.

Commissioner Pashby asked if the purchase was contingent on the permit, and asked how much she estimated on the improvements. She confirmed the purchase was contingent and estimated the improvements to be about \$7,000.

Commissioner Luetke asked how many dogs are at the property right now, and Connie said she doesn't know since it isn't her property yet.

Commissioner Fiagen asked about the current insulation, and Connie noted she thought it was probably just normal residential insulation.

Commissioner Klatt asked about the waste management, and Connie said it would be bagged and put in a dumpster that is picked up weekly.

Commissioner Albers asked her about supervision while cleaning and being outside with the dogs. Connie said she leashes the dogs to the kennel door while cleaning inside the kennel, and then takes them outside.

Commissioner Sershen asked staff to elaborate on the review process. Toby noted that staff would present findings, just like tonight, and it would be up to the board to uphold the permit or revoke.

Commissioner Paulson asked about anticipated development, and Toby noted that this land is not given a designation in either the 2035 or 2040 Comprehensive Plan.

Commissioner Pashby addressed Dave Dede, Kathy Krueger, and Tom Kandt about meeting them prior to the meeting and asked if there was anything that was discussed on site that wasn't brought up yet. Dave Dede and Kathy Krueger had nothing to add. Tom Kandt added that he has a fire pit, and have had friends over that have complained about the dogs constantly barking. Commissioner Johnson asked if he had filed any complaints. Tom said he had not filed any complaints because he wanted to be a good neighbor.

Lori Sutton noted they currently have 3 dogs and was unsure of the maximum amount of dogs they have had in the past, but had at least 8 dogs. Commissioner Albers asked what type of insulation she has in the building and she noted that it was just normal residential insulation, not sound baffling.

Commissioner Fiegen asked if the building has windows. Lori Sutton noted there are windows, but Connie corrected her and noted there are no windows in the building she would be using.

Toby noted that they could add a condition to when the improvements need to be made.

Commissioner Pashby noted that he believes each landowner has the right to do with their property as they please, but once it affects neighboring properties it should not be allowed. He cited criteria in section 19.09 of the Zoning Ordinance which states that the impact on adjacent properties shall be a major consideration. He said he didn't want to put Ms. Pruner in a situation to spend lots of money if it didn't work out.

Action:

A motion was made to deny the Conditional Use Permit #16-004 based on the impact to neighboring properties for the County by Commissioner Pashby and seconded by Commissioner Klatt. The motion passed unanimously.

Discussion:

Commissioner Lutke noted he would like to add the condition that the improvements be made before she begins boarding any dogs, and that she should use the blanket fencing instead of the mesh overlay.

Commissioner Sershen noted any change impacts development, and the petitioner should have a chance.

Action:

A motion was made to approve the Conditional Use Permit #16-004 with amended conditions, as noted above, for the City by Commissioner Sershen and seconded by Commissioner Fiegen. The motion passed 4-1 with Commissioner Paulson dissenting.

Conditional Use Permit #16-004 – Failed to be passed by both county and city.

5. OTHER BUSINESS – None

6. ADJOURN

A motion was made for the County by Commissioner Klatt and seconded by Commissioner Darwin Sogn to adjourn at 8:30pm. Same motion was made for the City by Commissioner Sershen and seconded by Commissioner Luetke. The motion passed unanimously.

*Respectfully submitted,
Joan Doss
Planner*