

**CHISAGO COUNTY
PLANNING COMMISSION
OFFICIAL PROCEEDINGS
December 7, 2023**

The Chisago County Planning Commission met in regular session at 7:00 p.m. on Thursday, December 7, 2023, at the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator; Kurt Schneider, Environmental Services Director; and Nikki Garner, Office Support Specialist.

Chair Yeager called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Commission members was taken. Commission members present: Chris DuBose, Chip Yeager, John Sutcliffe, Jolene Wille, Jim McCarthy, and Dave Whitney. Absent: Eric Leivian. A quorum was established. Also present: Ex Officio County Commissioner Rick Greene.

Approval of Agenda – Motion by DuBose to approve the agenda as presented; second by Sutcliffe. The **motion passed 6-0**.

Approval of Minutes – Motion by Whitney to approve the November 2, 2023, regular meeting minutes as presented; second by Wille. The **motion passed 6-0**. **Motion** by DuBose to approve the November 16, 2023, special work session minutes as presented; second by Whitney. The **motion passed 6-0**.

Receive all Materials and Submittals into Record – Motion by Whitney to accept all materials and submittals into the record, including two items provided immediately prior to the meeting (one item provided by Jordan Waggoner on behalf of Nancy Simpson for agenda item 7a and a written testimony from Lawrence Rose for agenda item 7a); second by Wille. The **motion passed 6-0**. Materials distributed to the Planning Commission in advance of the meeting for their review included: staff reports with attachments and the two additional items described above. Copies of all correspondence and meeting materials were made available for the public.

Public Hearings – New Applications – None

Public Hearings – Continued Hearings

Sheryl Bearhart and Jordan Waggoner – Coordinator Gervais provided an overview of applicant Sheryl Bearhart and property owner Jordan Waggoner's request for an after-the-fact Interim Use Permit (IUP) on property located at 450 Badger Boulevard in Fish Lake Township, S4, T36, R22 (PID 03.00041.00), explaining that the request had been amended since the November 2, 2023 meeting such that Bearhart and Waggoner were only seeking approval of an IUP for Residential Kennel and the Commercial Kennel component had been eliminated. Gervais shared that the Planning Commission had opened the requisite public hearing on November 2, 2023 and, after receiving a verbal report from staff, hearing from the applicant and property owner and receiving public testimony, the Planning Commission motioned to continue the public hearing to its December 7, 2023 meeting and instructed the applicant and property owner to provide specific application materials for further review and consideration. As a result of the Commission's actions, the State mandated 60-day review period was extended by an additional 60 days. Gervais commented that the applicant and property owner had submitted new application materials as instructed, including a written statement from the property owner, an updated application form, an updated written narrative, a kennel layout plan, and a business filing from the Secretary of State's website.

The written statement provided by property owner Jordan Waggoner explained that he was authorizing Bearhart to seek approval of an IUP for a Residential Kennel which housed up to 10 dogs and a maximum of two litters per year. The statement also explained that Waggoner and Bearhart had an explicit agreement that there would be no commercial, retail, or storefront operations taking place on the subject site.

The updated written narrative indicated that the request was being amended such that it was for Residential Kennel purposes only and the Commercial Kennel component had been eliminated. Gervais added that staff found no recent evidence that the site was still being advertised as a commercial dog park. In response to the Planning Commission's request for a noise evaluation / study, the narrative reported that the applicant and/or property owner took decibel readings from various locations on the subject site and the highest result was 70 decibels. Gervais noted that, aside from decibel readings and approximate locations of said readings, no additional detail was provided about the noise evaluation, such as method of conducting the evaluation, weather conditions, or the number of dogs on-site during the evaluation. The narrative also provided additional information about the detached garage/kennel, including that it was 24' x 24' in size rather than 20' x 26' as previously reported; the structure was fully insulated; noise reduction panels had been installed to help mitigate noise; and, the garage / kennel would house up to 10 individual kennels / crates. In response to the request for detail about proposed fencing materials and specifications, the written narrative explained that the site currently included an enclosed chain link area located on the west side of the dwelling and an enclosed wood panel fence located on the north side of the garage / kennel. Additionally, the applicant reported that more fencing may be added in the future to expand the size of the fenced enclosures. The narrative explained that dogs were allowed outside at least five times throughout the day, with duration being 15 minutes to one hour. Additionally, dogs were allowed outside in turns when residents of the subject site were outside.

The kennel layout plan identified sizes and locations of 10 kennels / crates.

The business filing showed that Bearhart was an authorized agent of Designer Dogs MN LLC, but, because the applicant and property owner had eliminated the Commercial Kennel component of the request, Gervais suggested that there was no longer any need for the applicant to verify that she was a registered agent of the business or for the Planning Commission to focus discussion on this aspect of the original application materials.

Gervais concluded by offering a recommendation of approval of the amended request with conditions and reviewed options available to the Planning Commission.

Chair Yeager invited the applicant and property owner to address the Planning Commission. Applicant Sheryl Bearhart and property owner Jordan Waggoner approached the Commission. Waggoner restated that the request had been amended to eliminate the Commercial Kennel component and thanked the Commission for visiting the site on December 6, 2023.

McCarthy asked Waggoner if he intended to utilize the IUP after Bearhart vacated the property. Bearhart responded that, if she moved, she would take her dogs with her; Waggoner responded that he had no intention of utilizing the IUP if Bearhart moved from the property. McCarthy indicated his intention to amend draft condition no. 14 based on the responses.

Whitney asked Bearhart if dogs were leashed or able to run free while they were outside of the fenced enclosure. Bearhart responded that they were not leashed but they stayed by her side when outside the fenced enclosure. Waggoner vouched that the dogs were obedient and he had never witnessed the dogs leaving the property. Whitney suggested that the applicant and property owner review staff's recommended conditions of approval and inform the Commission of any concerns.

Chair Yeager reopened the public hearing and sought comment.

Christopher Forslund of 47659 Acacia Trail, Fish Lake Township – Forslund expressed appreciation for the updated application materials but noted that he still had concerns with the request. Forslund questioned who would be responsible for the kennel, who would be liable for the dogs if they left the property, and the definition of commercial sales as applied to the request. Additionally, Forslund noted the lack of detail about the noise evaluation and suggested that the Commission consider requiring insurance for the activity.

Kevin Rausch of 47440 Acacia Trail, Fish Lake Township – Rausch commented that he appreciated the proposed reduction in the number of dogs. Additionally, Rausch shared that he recently learned that Chisago County didn't have animal control and questioned who would enforce conditions of the IUP if approved.

With no other persons wishing to speak, ***motion*** by Sutcliffe to close the public hearing; second by DuBose. The **motion passed** 6-0.

Whitney asked the applicant and property owner if they had any concerns with the recommended conditions of approval. While Bearhart was reviewing the conditions, Chair Yeager inquired about the fenced enclosure(s). Waggoner responded that there was previously a fully enclosed chain link fence adjacent to the house and the applicant had just recently finished installing a 6' tall wood fence enclosure adjacent to the garage and connecting to the chain link fence. Whitney questioned if the two fenced areas were open to each other or separated. Bearhart responded that she had removed a section of the chain link fence so that the two fenced areas were now open to each other and no longer separate. McCarthy reviewed noise standards and questioned where on the property the noise readings were taken. Waggoner responded that he took readings at the west and east property boundaries and near the garage, adding that the readings were taken on a windy day. DuBose questioned if the recently installed wood fence was secured to the previously installed chain link fence. Waggoner responded that the two fences were connected. Sutcliffe inquired with staff who would be responsible for enforcing the conditions if the IUP was approved. Gervais explained that the Code Enforcement Officer would assist in enforcing the conditions; however, the Chisago County Sheriff's Office would likely become involved if there were issues with excessive barking or dogs leaving the property. Chair Yeager questioned if the applicant and property owner had any concerns with recommended condition no. 8 which required that fenced enclosures not be located any closer than 400' to any property boundary. Waggoner responded that he didn't have any concern with this requirement. DuBose inquired if the Fish Lake Town Board had reviewed the amended application. Gervais responded that the Town Board had not formally reviewed the amended request as the new materials were submitted the week prior to the Planning Commission meeting.

Motion by McCarthy to adopt Resolution No. PC2023-1201, a resolution of the Planning Commission of Chisago County, Minnesota, recommending approval of an Interim Use Permit allowing a Residential Kennel on property located at 450 Badger Boulevard in Fish Lake Township, with Findings of Fact as presented and conditions amended such that the IUP would expire when Bearhart no longer resided on the property and that the property owner would be responsible for notifying the County when Bearhart no longer resided on the property.

Bearhart sought clarification on recommended condition no. 7d. Whitney noted that, per the recommended conditions, only two dogs were allowed outside of the structures at any given time and the recommended condition which required installation of landscaping materials (no. 7d) seemed excessive and overly burdensome. The Commission discussed options for amending recommended condition no. 7d and generally agreed that the landscaping verbiage should be eliminated. McCarthy accepted the amendment to recommended condition no. 7d as part of his motion; second by Whitney. The **motion passed** 6-0.

Conditions as Amended:

1. This Interim Use Permit for Residential Kennel allows for the keeping of no more than ten (10) adult dogs in accordance with updated application materials dated received November 27 and November 28, 2023 and kept on file with the Department of Environmental Services. This approval also allows a maximum of two litters of puppies per year, so long as the puppies are removed from the property by four (4) months of age.
2. All dogs shall be housed indoors in either the dwelling or the detached garage, apart from brief periods of time for waste elimination occasional and outdoor activity in which the dogs will either be confined to a fenced enclosure or allowed outside of the fenced enclosure with direct supervision of a resident of the property. No more than two (2) adult dogs shall be outdoors at the same time, whether in the fenced enclosure or outside of the fenced enclosure with direct supervision of a resident of the property.
3. The detached garage / kennel shall be equipped for both heating and cooling.
4. All dogs shall receive regular veterinary care and be current on vaccinations.
5. All dog waste shall be collected daily and disposed of in a legal and appropriate manner so as to avoid undue odor or other negative impacts.
6. The permit holder shall control the barking of dogs to the best of their ability while outdoors to avoid undue negative impact to nearby properties. At no time shall any dog barking activity exceed twenty (20) continuous minutes with less than thirty (30) seconds between each dog bark. Any more than twenty (20) minutes of continuous barking shall be silenced immediately by a resident of the household.
7. To mitigate potential adverse impacts related to noise, the permit holder shall implement the following measures:
 - a. The detached garage / kennel shall be fully insulated with insulation specifically designed for soundproofing.
 - b. The permit holder shall maintain existing vegetation (large stands of trees) between the dwelling / detached garage and the adjacent property boundaries. Further, the property owner shall replace dying, dead, or downed vegetation.
 - c. The permit holder shall implement "quiet hours" / "outside hours" for the ten (10) adult dogs as follows:
 - i. Aside from brief periods of time for waste elimination, no dogs shall be allowed outdoors before 8:00 am or later than 9:00 pm.
 - ii. Per condition no. 2 above, no more than two (2) adult dogs shall be outdoors at the same time.
 - d. To further mitigate adverse impacts related to noise and limit the dogs' view and agitation from activity on neighboring parcels, the permit holder shall ~~either plant and maintain additional landscaping around all segments of the fenced enclosures AND/OR~~ construct all fenced enclosures with board-on-board fencing material at least six (6') feet in height so as to create a solid visual barrier between the dogs and the neighboring parcels. ~~If installing additional landscaping, it shall include low-growing varieties to achieve the visual barrier. Plantings and/or fence~~ Fence construction shall be completed within one (1) year of Interim Use Permit approval.
8. Existing and future fenced enclosure(s), for purposes of dog containment, shall be located no closer than 400 feet to any property boundary.
9. There shall be no commercial activity of any kind associated with the Residential Kennel, apart from the sale of puppies (referenced in condition no. 1) on an appointment-only basis. For the purposes of this approval, prohibited commercial activity shall be defined as, but not limited to: boarding, grooming, training, vaccinating, microchipping, artificial insemination, and birthing assistance for non-resident dogs. Further, the property shall not be utilized as a commercial dog park and, instead, shall only be utilized by resident dogs.
10. The permit holder shall comply with all relevant Minnesota Statutes and Rules regarding animal welfare and humane standards and licensing.
11. Annual certification of the Interim Use Permit is required. The permit holder shall notify the County annually that the activity permitted by the Interim Use Permit is ongoing and the activities being conducted continue to adhere to the conditions of approval. Failure to maintain certification may be a basis to revoke the Interim Use Permit. The property shall be made open and available for regular inspection at any time during reasonable hours by the Chisago County Department of Environmental Services and/or any duly authorized law enforcement agency.

12. Any expansion of the approved use, including the number of adult dogs or the number of litters per year or as otherwise determined by the Department of Environmental Services, shall only be allowed upon further review by the Planning Commission and approval by the Board of Commissioners by way of an Interim Use Permit Amendment.
13. Violations of the conditions contained herein shall be cause for the revocation of the Interim Use Permit upon action of the County Board.
14. This Interim Use Permit shall expire at such time that the property is no longer ~~owned in full or in part by Jordan Waggoner or Sheryl Bearhart (in the event that Bearhart purchases the property from Waggoner)~~ occupied by Sheryl Bearhart. The property owner shall be responsible for notifying the Department of Environmental Services when Bearhart vacates the property.

Old Business – None

New Business

Adoption of 2024 Meeting Schedule – Coordinator Gervais presented the Planning Commission with a draft meeting schedule for 2024, noting that there were no changes to meeting dates or times aside from the July regular meeting and tour given that the regular meeting fell on July 4th. Gervais proposed that the July meeting be held on Wednesday, July 3, 2024 and the July tour be conducted on Tuesday, July 2, 2024. DuBose commented that people often traveled for the July 4th holiday making a July 3rd meeting difficult.

Motion by DuBose to adopt the 2024 meeting schedule as presented and with amendments so that the July tour would be conducted on Wednesday, July 10, 2024 and the regular July meeting would be held on Thursday, July 11, 2024; second by Wille. The Commission discussed whether or not to adjust the application deadline for the July meeting. Gervais commented that any change to the application deadline may also impact the Board of Adjustment and Appeals and suggested leaving the application deadline as presented. The **motion passed 6-0**.

Communications and Reports

County Board Liaison Report / Update – County Commissioner Greene reported that the County Board approved the levy at 3.3% at its December 6, 2023 meeting. On the same date, the County Board also held the Truth in Taxation meeting and the main concern from property owners seemed to be increased property valuations. The Board also approved advertising for committee openings, including Planning Commission seats currently held by Commissioners Leivian and Whitney.

Miscellaneous – None

Adjourn Meeting – Motion by Wille to adjourn the meeting; second by Whitney. The **motion passed 6-0**. The meeting was adjourned at 7:38 p.m.



Chip Yeager
Chair

ATTEST: 

Beth Gervais
Land Services Coordinator