

**EXCERPT MINUTES OF THE JUNE 20, 2013 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION HEARING**

Case No.: CON2013-00012 – Henry T. and Lyneisa M. Cocking (owners/applicants) request a County Conditional Use request for a boarding, breeding and training kennel on "RR" Rural Residential zoned property on property described as:

Beginning 330 feet East of the Northwest corner of the Northeast Quarter; thence East 330 feet; thence South 660 feet; thence West 330 feet; thence North 660 feet to beginning EXCEPT the North 50 feet for road, Section 1, Township 27, Range 3 West, Sedgwick County, Kansas

BACKGROUND: The applicants are requesting a Conditional Use for a Boarding/Breeding/Training Kennel for a maximum of 12 dogs on their RR Rural Residential (RR) zoned 4.55-acre site, located approximately 1/3-mile west of 215th Street West on the south side of 29th Street North. The Unified Zoning Code (UZC), Art-II, Sec-II.6h., defines a Boarding/Breeding/Training Kennel as "...a premise housing five or more adult dogs, three or more of which are owned by someone other than the property residence, and premises housing over 10 dogs." The UZC, Art.III, Sec.III-D, 6-k., requires a Conditional Use for a Boarding/Breeding/Training Kennel when located within the RR zoning district.

The applicant has provided a site plan that has been used to determine its compliance with the UZC's Supplementary Use Regulation standards (Art.III, Sec.III-D, 6-k) for a Boarding/Breeding/Training Kennel as follows:

(1) Minimum Lot Area. The minimum lot size for Boarding/Breeding/Training Kennels shall be five acres, unless all animals are harbored indoors with no discernible noise or odor at the property lines. *The site is 4.55 acres in size. The site's size does not meet the 5-acre standard and never will unless the applicant can purchase additional land from abutting, eastern, western or southern properties. The proposed facility will have outdoor runs attached to the 12 indoor kennels, which in turn are part of a proposed indoor training area housed in an existing 40-foot {x} 60-foot building. The applicants also propose two outdoor training areas for one dog at a time. The outdoor runs and training areas do not meet indoor housing standard. The UZC, Art.V-D.6., allows the MAPC to make one or more modifications to the Supplementary Use Regulations in the form of a recommendation to the Governing Body for final action.*

(2) Setbacks. Outside runs, holding pens or other open-air type enclosures and shelters shall be located behind the Front Setback Line and located at least 200 feet from any Dwelling Unit other than the Owner's and at least 50 feet from Contiguous property lines. *The applicants' indoor training building portion of the proposed kennel (located in an existing 40-foot {x} 60-foot building) is located 140 feet west from a single-family residence and 34 feet west from the nearest, east Contiguous property line. The applicants could meet this standard by re-locating the proposed kennel to a more central part of their property. This would mean that the applicants could lose the use of the existing 40-foot {x} 60-foot building as an indoor training facility as well as the screening it provides; UZC, Art.V-D.6.*

(3) Screening. Screening shall be provided except for those facilities located 600 feet or more from Contiguous property lines. Screening shall be provided by Structure, solid or semi-solid Fencing, landscape materials, earth berms or natural Site features maintained for the purpose of concealing the view of the animals behind such Fence, landscape material, berm or natural feature from activities on Contiguous properties. If Fencing is used, it shall not be less than four

or more than eight feet in height. If Fences over six feet in height, landscape materials or earth berms are used, a plan shall be submitted for approval to the Planning Director and Zoning Administrator. Fences used for Screening may have no more than five percent open surface. Landscape materials must provide the desired Screening effect within the first growing season following installation and throughout the year every year thereafter. *The applicants' indoor training building screens the kennel's outdoor runs and the north outdoor training area. Screening or landscaping providing the desired Screening effect within the first growing season following installation and throughout the year every year thereafter is needed on the south, west and portions of the east sides.*

The applicants also request a 32 square-foot sign for the business. The County permits 8- square feet of signage by right; however, in conjunction with a Conditional Use application, a larger sign may be approved.

The site is located in RR zoned unincorporated rural Sedgwick County. Most of the area is used for agriculture. The site is one of eight single-family residences built (1990-1998) on 4.5-acre lined up on the south side of 29th Street North, starting west of 215th Street West. There are another six large tract single-family residences or farmsteads (built 1945-1998) located within a ¼-mile of the site. A subdivision like cluster of large tract single-family residences is located approximately ½-mile south of the site.

CASE HISTORY: The site is unplatted. The existing house on the site was built in 1998. As previously noted there is also an existing 40-foot {x} 60-foot accessory building on this site.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|----|---|
| NORTH: | RR | Agricultural fields, farmstead |
| SOUTH: | RR | Agricultural fields, single-family residences |
| EAST: | RR | Single-family residences, agricultural fields |
| WEST: | RR | Single-family residence, agricultural fields |

PUBLIC SERVICES: 29th Street North and 215th Street West are paved, two-lane County Highways. The site is served by a lagoon for waste and well water. All other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The '2030 Wichita Functional Land Use Guide of the Comprehensive Plan' identifies the site as Rural. The Rural category encompasses land outside the Wichita and small cities' growth areas. It is intended for agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large tract single-family residences of two or more acres with provisions for individual or community water and sewer services.

A Boarding/Breeding/Training Kennel located within the RR zoning district, can be considered for a Conditional Use, per the UZC's Supplementary Use Regulation standards; Art.III, Sec.III-D, 6-k. The site appears to partially conform to those standards. As noted the screening requirements must be met. Also the applicants are requesting modification of the Supplementary Use Regulation standards: (1) the 5-acre minimum lot area and the prohibition of outdoor runs and training areas on a site less than 5-acres (see *comments* on Minimum Lot Area), and; (2) the kennel must 200 feet from any Dwelling Unit other than the Owner's and at least 50 feet from Contiguous property lines standards (see *comments* on Setbacks). The UZC, Art.V-D.6., allows

the MAPC to make one or more modifications to the Supplementary Use Regulations in the form of a recommendation to the Governing Body for final action.

RECOMMENDATION: The proposed Conditional Use would not pose a land-use conflict with the existing surrounding agricultural uses. However, the proposed kennel could pose a conflict with existing and any future residential development. An increase of vehicular traffic associated with the kennel is probable, although the 12-dog maximum would keep the increase minimal. Typically a primary issue with kennels is the noise generated by anxious dogs being dropped off and left at the kennel. A 12-dog kennel is a relatively small kennel (two over the maximum of 10-dogs) and with a good design the noise generated by the dogs could be less an encroachment to the neighbors than the typical larger kennel.

Planning Staff does not see indications of this area transitioning to urban scale residential in the foreseeable future. Therefore, based on the information available prior to the public hearing, staff recommends the County Conditional Use for a Boarding/Breeding/Training Kennel be **APPROVED** subject to the following Conditions:

- (1) The Conditional Use for a Boarding/Breeding/Training Kennel shall comply with all applicable federal, state, and local requirements including the UZC's Supplementary Use Regulation standards, except with the following modifications to the Supplementary Use Regulation standards; (a) The site shall be 4.55-acres and allow outdoor runs and training areas as shown on an approved site plan, which includes the required screening or landscaping providing the desired Screening effect within the first growing season following installation and throughout the year every year thereafter, and; (b) The indoor training portion of the kennel shall be allowed in the existing 40-foot {x} 60-foot accessory structure, which is located approximately 140 feet west from the east single-family residence and 34 feet west from the nearest, east Contiguous property line. If the modifications are approved the MAPC's recommendation will be forwarded to the County Commission for final action.
- (2) The number dogs to be boarded shall not exceed 12 dogs at any one time. No more than one dog shall be trained outdoors at any one time on either of the outdoor training areas.
- (3) The kennel operator shall have on file proof of rabies vaccinations by a licensed veterinarian.
- (4) Cleaning of the boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions. A suitable method of eliminating excess water from animal housing facilities shall be provided as approved by Environmental Services. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture.
- (5) Sufficient quantities of food and water shall be provided to keep the dogs in good physical condition. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.

- (6) All waste materials shall be disposed of in such a manner as to minimize odors and disease hazards. The boarding kennel shall be maintained in a sanitary manner as required by applicable codes. All solid waste generated by the boarding, breeding and training kennel must be removed from the site and shall not be discharged into the residential sewage lagoon on-site or any other on-site disposal system. Contact MABCD to discuss their solid waste disposal plans.
- (7) The animals confined in the boarding kennel shall be maintained in good physical condition, free of infectious diseases and parasites.
- (8) The applicant shall obtain all applicable permits including, but not limited to building, health and zoning.
- (9) The boarding facility shall be open to the unannounced inspection by Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.
- (10) The Conditional Use is permitted a 32 square-foot sign on the 29th Street North frontage, as approved by County Permits and Code.
- (11) The property shall be developed and maintained in accordance with the site plan approved by the Planning Director, showing screening, all buildings, parking, and other applicable features of the site.
- (12) If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the surrounding area: The site is located in RR zoned unincorporated rural Sedgwick County. Most of the area is used for agriculture. The site is one of eight single-family residences built (1990-1998) on 4.5-acre lined up on the south side of 29th Street North, starting west of 215th Street West. There are another six large tract single-family residences or farmsteads (built 1945-1998) located within a ¼-mile of the site. A subdivision like cluster of large tract single-family residences is located approximately ½-mile south of the site.
- (2) The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used for a single-family residence.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: Potential noise and odors generated by kenneled dogs could have a negative impact on the nearest residences abutting the east and west sides of the site. The proposed conditions should mitigate those impacts.
- (4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The '2030 Wichita Functional Land Use Guide of the Comprehensive Plan' identifies the site as Rural. The Rural category encompasses land outside the Wichita

and small cities' growth areas. It is intended for agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large tract single-family residences of two or more acres with provisions for individual or community water and sewer services.

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- (5) Impact of the proposed development on community facilities: Because of the relatively small size of the kennel, 12 dog maximum at any one time, impact on community facilities should be minimal.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said he has received calls expressing concerns about noise and depreciation of property values.

GOOLSBY recused himself from the item citing a conflict of interest.

FOSTER asked how waste would be dealt with off- site.

LONGNECKER said the applicant has proposed a separate septic system for this use which will need to be approved by the Metropolitan Area Building and Construction Department (MABCD).

FOSTER asked if there were any limitations on breeds allowed.

LONGNECKER suggested talking to the applicant. He said the applicant trains K-9's for police and emergency medical services. He said he did not feel it was appropriate to put restrictions on breeds.

FOSTER asked if the addition would warrant concerns regarding accessory use structure size. He asked if there were some maximums on square footage of accessory structures.

LONGNECKER said he didn't believe there is a maximum square footage on accessory structures other than keeping them out of setbacks and any requirements outlined in the Supplemental Use Regulations.

FOSTER said the signage size request is four times what is allowed. He asked if staff was concerned about that.

LONGNECKER said in the County, 32 square feet is the maximum. He said the applicant had e-mailed a smaller sign to him. He said he will let the applicant address the sign.

G. SHERMAN asked if the dogs breed and if they all have three to four puppies isn't it possible to have 20 -30 dogs at the location.

LONGNECKER said he would let the applicant address the issue of breeding females.

HANK COCKING, 22215 WEST 29TH STREET NORTH said he believes this location is the best to block the view from every neighbor and the roadway. He said concrete walls inside and a concrete fence 4 ½ feet in height outside will also block any noise. He said he would also be okay with doing away with the conditional use permit if he sells the residence. He also mentioned that there will not be a sign by the road, but a rock by the office that says "Midwest Dog Center".

WARREN asked if the dogs will be confined indoors in the evenings.

COCKING said yes. He said the kennel is heated and air conditioned and the dog's would be inside. He mentioned that there is a sliding door on each kennel so the dog's can go in and out and the small outside area by each kennel is the only outside area the dogs have unless he is exercising or working them in the outside area.

G. SHERMAN asked about the request for a 32 square foot sign.

LONGNECKER explained that he did not have the specifics about the requested sign size so he put the standard in the Staff Report. However, the signage being requested is as described by the applicant. He added that hours of operation will be from 7:30 a.m. until sunset so at night the dogs will be inside.

DENNIS WOODWARD, 2211 WEST 29TH STREET NORTH said he is the newest and nearest neighbor. He said their main concerns are about noise, odor and the temperament of the animals and the type of training the applicant intends to do. He said he knows this is a necessary evil and it has got to be done somewhere but that doesn't help him and his wife and their concern about their grandchildren, garden, etc. He said they would like some assurance that the dogs will be restricted if they are trained to be aggressive. He said he wants safety first. He mentioned that there were no fences which is fine because he does not want fences, that is not why people move out into the country. But, he wants assurance that the dogs are going to be contained to the applicant's property. He said he doesn't understand why staff would recommend a 32-foot sign if the applicant doesn't want it or need it. He said he doesn't want a 32-foot sign in front of his neighbor's house. He said the 4 ½ foot fence will help with the noise, but with 12 dogs or more and no telling how many puppies, the dogs have the potential to be loud and annoying. He mentioned appraisal of his property and that the number of potential buyers will be cut down when people look at a property next to a kennel. He said that will be in 2 years when he and his wife are ready to retire and sell the property. He said one of the reasons they bought this property was for the investment and that they hoped to make money to help with their retirement. He said this is nothing personal but he and his neighbors have concerns and someone has to speak to those.

J. JOHNSON asked about the other lot owners and if all the lots were sold.

WOODWARD mentioned his neighbors by name and said he is the newest neighbor; his neighbors were all there before him.

COCKING said he does not want to put a sign on the road, just a landscape rock as he explained. He said as far as safety is concerned, the gates will be locked and there will be a security system for fire and theft. He said it will be almost impossible for dogs to escape. He said as far as if a dog has aggressive issues, it will be on a leash and he will be the one training it for obedience. He said this is a first class facility that has been well thought out and made with good materials.

DENNIS clarified items not listed in the Staff Report which were 7:30 a.m. to sunset for hours of operation; that the conditional use permit ends when the applicant sells the property and does not go with the land; and elimination of the 32-foot sign.

COCKING verified that he was okay with the conditions as stated.

FOSTER asked for confirmation that the 4 ½ foot fence was enough to contain the dogs.

COCKING said he believed so and because the fence was partially made of cinder block, the German Shepherds could not scale it. He added that there will be an additional 1.5 foot fence on top of the cinder block. He mentioned that the concrete fencing was designed to cut down on the noise and to eliminate the dogs seeing each other which will cut down on any agitation.

FOSTER asked if the training area was fenced.

COCKING said no, not the outside area.

KLAUSMEYER asked if the dogs will be on leashes when they are outside in the open training area.

COCKING said he will keep any aggressive dog on a leash so it will not get away from him. He said he teaches obedience so if he needed to take the animal off leash he could utilize the indoor facility.

MOTION: To approve subject to staff recommendation and amended conditions discussed at this meeting which were 7:30 a.m. to sunset for hours of operation; that the conditional use permit ends when the applicant sells the property and does not go with the land; and elimination of the 32-foot sign.

KLAUSMEYER moved, **B. JOHNSON** seconded the motion.

MCKAY asked about the size of the decorative sign.

COCKING said the decorative rock sign would be approximately 20 square foot.

DENNIS clarified that the sign would be placed back by the kennel itself.

MOTION AMENDED to include the 20 square foot decorative rock sign, by the kennel.

G. SHERMAN said there were various restrictions provided by the UZC which were: a minimum of 5 acres (this is 4.55 acres); at least 200 feet from the nearest neighbor (this is 140 feet from the nearest neighbor); 50 feet from the property line (this is 34 feet from the property line) and these seem like a whole lot of reductions from the standards to him. He said he would not want to be living that close to a kennel with this many potential dogs.

WARREN said he had some of the same concerns when this application came up, but after looking at the configuration, the design goes a long way to take care of those concerns. He said he appreciates the neighbor's concerns but he doesn't see them as being a major issue.

The **MOTION**, as amended, carried (9-2-1). **FOSTER** and **MILLER STEVENS** – No. **GOOLSBY** – Abstained.