



STAFF REPORT

DATE: February 25, 2019

REGULAR

ITEM #: 4c

MOTION

TO: Planning Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Animal Inn - Re-Zoning, lot consolidation, and Conditional Use Permit
REVIEWED BY: Ben Prchal, City Planner

BACKGROUND:

The City of Lake Elmo has received a request from Joan Tauer from Animal Inn for multiple land use applications. The intent is to clean up the records on her property. At some point she would like to sell the property and there was recently a discussion between staff and Joan regarding the existing and previous CUPs associated with her properties. Staff has been working with Joan to help her through the appropriate processes to combine and amend the existing CUP. In brief, and further explained below, the applicant is requesting to re-zone the properties so they can all be combined into one, on the site and amend the existing CUP so it is clear to staff and existing/future owners.

Applicant and Property Owner: Joan E Tauer, owner of Animal Inn. 8633 34th St. N. Lake Elmo, MN 55042.

Location: West of Prairie Ride Office Park, (8633 34th St. N),
PID# 16.029.21.42.0010, 16.029.21.43.0012, 16.029.21.43.0006,
16.029.21.42.0005, and 16.029.21.42.0001

Existing Land Use and Zoning: Agricultural – A
Rural Residential - RR

Comprehensive Plan: Limited Business - LB

Deadline for Action: Application Complete: 1/23/2019
60 Day Deadline: 3/24/2019
Extension Letter Mailed: N/A
120 Day Deadline: N/A

Applicable Regulations: 154.550 – Article XIV Commercial Districts
154.750 – Conditional Use Permit (CUP) Regulations
Lot Consolidation
Comprehensive Plan
Re-Zoning

PROPOSAL DETAILS/ANALYSIS:

Staff found a report that suggests the property has been operated as a kennel since the early 1970's with CUPs starting in 1985. From then until now there has not a request to change the use of the property but instead to clarify the records. A report from 2004 stated the property had been under the jurisdiction of Oakdale Township and was used as a kennel (With a special use permit). Early on the CUPs operated much like an interim use permit in that they had a limited life. Because of this and the changing in ownership, the permits are unclear and have conditions that are difficult to track since the conditions are listed on one permit but are applied to multiple properties. What

further makes the site more complicated is that there are two sets of properties that share the same address but there are separate owners and businesses. A line from the 2004 variance report summarizes the site(s) well “That fact, and the overall basket of problems inherited by the City and the land owners from long ago township actions, would appear to support a finding of hardship in support of the requested variance.” *(The variance was for a separate property but is tied to the discussion within the report).* The property owner has inquired about joining the properties together in the past but has been hung up on technicalities within the code.

Current Property Use:

Currently there is an existing CUP that is applied to the properties with the exception of parcel 5 (old Vet Clinic). There was a CUP applied to the property for veterinary services but it has expired. The CUPs are attached for reference, but staff will summarize them below.

Resolution 2000-020; Allows the property owner to board 117 dogs on parcel 2 and 33 dogs on parcel 1. *(Please know the parcel reference numbers are referring to the recent site survey not the site plan with the resolution)*

Resolution R86-11; this resolution is unclear to staff but does reference other parcels. It is also the most recent resolution that staff could find referencing the cemetery.

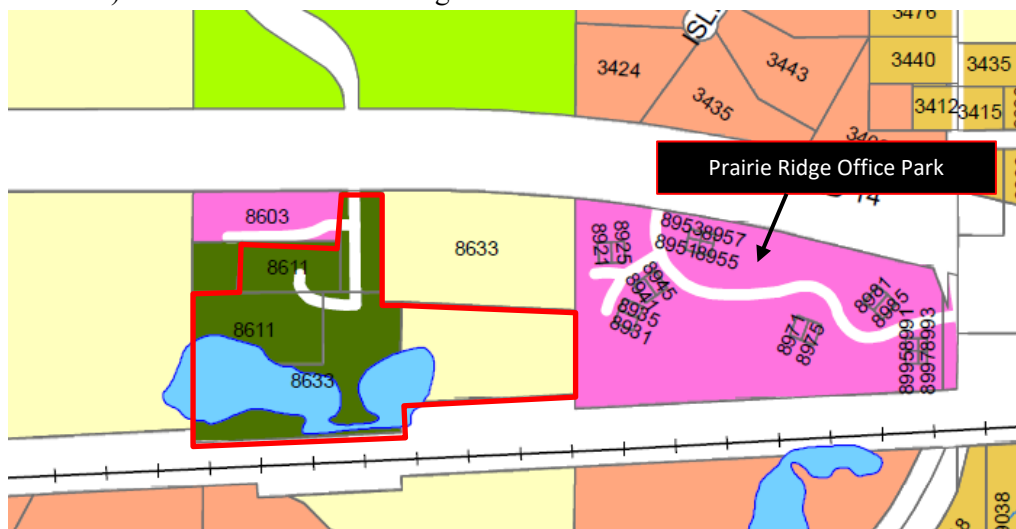
The resolutions state that there can be a total of 150 dogs on site with 117 on parcel 2 and 33 dogs on parcel 1. Dogs are allowed outside on parcel 1 and 2 so long as they are fenced. The resolution (Res. 2000-020) states that outdoor kenneling is not permitted. Staff does not interpret this to mean dogs cannot be let outside to “play.”

What Staff considers to be the dictating CUP (2000-020) seems to be lacking in explaining the full scope of the uses on site. After reviewing older property files and then comparing those to the narrative that the applicant has submitted, staff believes there are aspects missing, including the caretaker home, pet grooming, pet cemetery, and limited retail sales (1998 CUP Report). At one point all of the uses were discussed in reports and out lines as uses/activities that had or could occur on site. Staff believes the applicant is requesting to add some uses that are similar to those on neighboring parcels and amend the existing CUP so that boarding is defined as “day care” as well. It had not been defined in the resolutions but Staff presumes that boarding was understood to be over night. However, with it not being defined it could also be argued that this is not the case. Staff has provided an explanation for what is being requested below as well as a summary and recommendation.

Re-Zone: *(See attached survey for parcel reference.)*

In order for the properties to be combined they will need to be re-zoned so they are all the same district. For an unclear reason, there are multiple zoning classifications within the area. The request to re-zone the properties to LB is consistent with the comprehensive plan. Regarding “uses” re-zoning the properties does not bring anything further into compliance or put anything further out of compliance. The uses on the site are and still will be allowed through the CUP. Ignoring the use aspect of the code, the re-zone makes the property more conforming from a lot size standpoint. Staff believes it would be appropriate to re-zone them to Limited Commercial. This opinion is also reconfirmed by a previous letter sent to the property owner from Stephen Wensman, the previous planning director. (Letter is attached)

- Parcel 1.) 16.029.21.42.0010 – Agricultural to Limited Commercial
- Parcel 2.) 16.029.21.43.0012 – Agricultural to Limited Commercial
- Parcel 3.) 16.029.21.43.0006 – Rural Residential to Limited Commercial
- Parcel 4.) 16.029.21.42.0005 – Agricultural to Limited Commercial
- Parcel 5.) 16.029.21.42.0001 – Agricultural to Limited Commercial



Lot Line Adjustment:

When there are legal non-conforming lots, section 154.080 C. states that the lots must be combined if they are substandard in size. In this instance the lots are below the required size for the A. zoning district, which is 40 acres. Although combining the lots would bring the properties closer to conformity based on a size perspective. Under different circumstances the lot combination may not be allowed due to the number of buildings on site. The City Code limits the number of principle buildings on a property to one. This however, becomes a non-issue with the CUP amendment. The survey tells us there would be three principle buildings on site with two storage sheds.

Minnesota Statute

Easement Vacation Procedure (M.S. 412.851). Council may, by resolution, vacate any street, alley, public grounds, public way, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting said property. Easement vacations require a public hearing and 4/5 vote by Council only if there has been no petition.

Minnesota Statute 462.352, Subd. 12 – Pertains to subdivision (referenced later in report).

Section 153.06 B. Criteria for Lot Line Adjustment/Lot Consolidation. Lot line adjustments exempted from platting by Minnesota Statute 462.352, Subd. 12 and shall not require a plat or replat and may be administratively approved, provided all of the following are met:

- Each resultant parcel equals or exceeds the minimum lot dimension requirements and public road frontage requirements for the zoning district in which the property is located or is made more conforming through the lot line adjustment;

None of the parcels can achieve the minimum frontage requirement. This aspect of the lots will remain legal non-conforming and cannot be easily adjusted. However, they will become more conforming through the re-zoning and combination of the parcels.

- The lot line adjustment does not create additional lots.

The number of lots will not increase due to the lot line adjustment.

- The lot line adjustment shall not cause any structure on the property to be made non-conforming or in violation of the Zoning Chapter or any other provisions of the City Code.

There are currently at least one structure per parcel with the exception of the cemetery lot.

Though this is the case the combination itself will not cause the structures to become non-conforming.

- All resultant parcels shall have frontage and access on an existing improved street or access to an existing improved street protected by a restrictive covenant approved by the City Attorney which includes the City as a beneficiary.

There will be no change to the frontage of the lot(s). There is currently an easement over parcel 4 for access. (See survey for reference)

- The resulting parcels shall generally conform to the shape, character, and area of existing or anticipated land subdivisions in the surrounding areas.

The layout of the site is generally rectangular in shape but does take on a unique shape due to past subdivision practices. However, this does not seem to be detrimental to the lot combination.

- Any such lot line adjustment shall not require any public improvements.

There will not be a need for public improvements as they have already been installed and area available.

- Any easements that become unnecessary as a result of the combination of parcels must be vacated. A request to vacate easements shall be made concurrently with the application for lot consolidation/lot line adjustment. Review of the easement vacation request, including any public hearings and City Council action, shall be completed before action may be taken on the application for lot consolidation/lot line adjustment.

There are no easements that will need to be vacated for the consolidation.

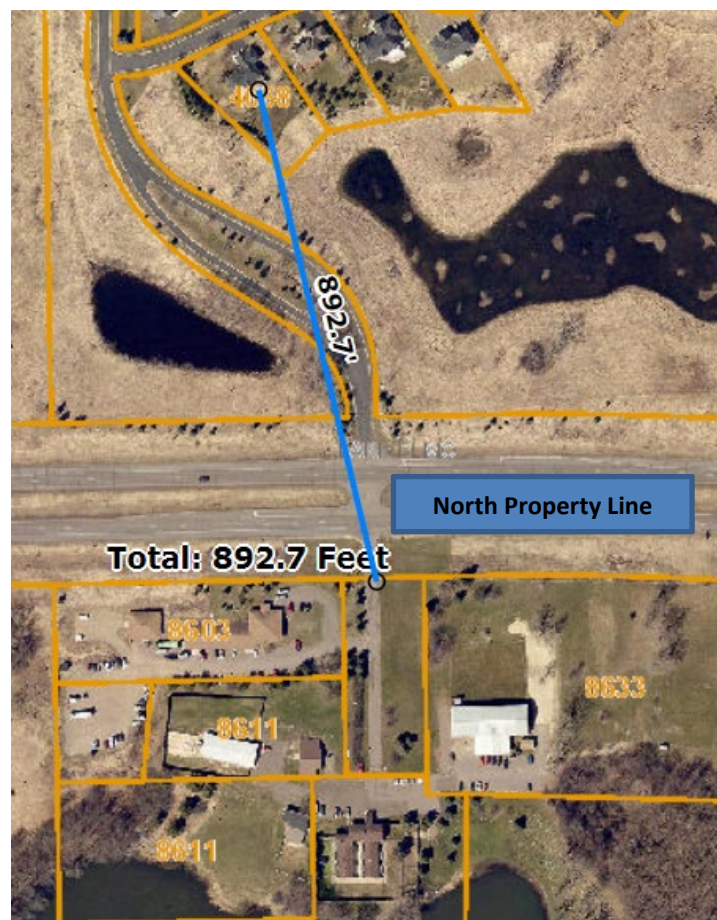
- New easements shall be established as appropriate.

There is not a need to create or amend any easements affiliated with the City for the parcel(s).

CUP Amendment:

There is an existing CUP associated with the property(s). Commercial kennels are not an allowed use for the A, RR, or LC zoning district. Although, the active CUP puts the use into the legal non-conforming category. Simply put the City at one point determined that the “use” should be removed to better meet the developing uses for the district and surrounding properties. Though this may be the case, staff believes that the existing use is appropriate for the site and is compatible with the surrounding properties.

There is a county highway to the north separating Animal Inn. from the northern residential properties. The closest home to the north is over 850 ft. away from the property line. Discussing the southern property line, there is an active rail line and large pond that separates the property and residential properties. The distance from the property line is conservatively measured at over 300 ft. Staff believes that the spacing is sufficient to assist in mitigating any nuisances. Staff was able to find a sound report that was conducted in 1999. Although the report is 20 years old staff is under the impression that there are still some aspects that remain relevant. The point being made is that the use of a commercial kennel is currently not allowed, but amending the CUP would not seem to cause noticeable affects. The fact that there is hundreds of feet of spacing, adequate access, and a sound study showing minimal sound generation from the site seems to show the use may be appropriate for the property.



Required Findings for CUP Approval:

Recommendation Findings. Staff recommends the following findings:

1. The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.
The use has been in existence on this site since the early 1970's. Staff does not believe that this amendment will directly cause a negative impact to the surrounding neighborhood.
2. The use or development conforms to the City of Lake Elmo Comprehensive Plan.
The property is guided for Limited Commercial which is how it will be rezoned. The Comprehensive plan categorizes the properties as Limited Business, which constitutes commercial users that are less intense and not needing sewer or water.
3. The use or development is compatible with the existing neighborhood.
The use is compatible with the existing neighborhood and has been in existence since the early 1970's. There also is a neighboring property that is operating as an obedience training facility.
4. The proposed use meets all specific development standards for such use listed in Article 9 of this Chapter.
The applicant is not proposing to develop or redevelop any part of the property at this time.
5. If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257 (Shoreland Regulations) and Chapter 152 (Flood Plain Management).
There is a pond on site which causes part of the property to fall within a flood zone. However, the land use table lists kennels (150) in the General Business District (LC) as an allowed use with a Conditional Use Permit.



6. The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.

The applicant is not proposing any changes on site. However, going forward the zoning code and design standards would apply where applicable.

7. The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures.
It is not anticipated for the use to become a nuisance.
8. The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use. ***The use will be adequately served by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools. The site has access to an existing 16-inch Trunk Watermain but has not connected.***
9. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
The use will not create additional requirements at public cost nor will it be detrimental to the economic welfare of the community.
10. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors. ***The use will not excessively produce traffic, noise, smoke, fumes, glare or odors.***
11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
Vehicular approaches to the property will not create and have not created traffic congestion or interfere with traffic.
12. The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance.
N/A

Existing CUP Conditions (attached):

- 1) *The total number of dogs boarded at any point in time shall not exceed 150, distributed only as depicted by exhibit A. (117 dogs maximum in Suite #1, and 33 dogs maximum in Suite #2).*
- 2) *No outdoor kenneling shall be permitted in Suite #2.*
- 3) *The board fence-surrounding site #2 shall remain in place and shall not in any manner be penetrated.*
- 4) *The entire vehicular parking and access area of Site #2 shall be asphalt paved within 90 days of the date of the CUP amendment approval resolution*
- 5) *Use of the Structure located on Site #3 shall be limited to storage of equipment and materials clearly assessor to approve site uses. Use of the structure on Site 3# as an animal crematorium is specifically prohibited.*

Proposed Conditions for the new CUP:

- 1) *The total number of dogs boarded at any point in time shall not exceed 150.*
- 2) *All past permits affiliated with the properties shall now be null and void.*
- 3) *The most recent CUP (2000-020) stated that certain buildings had to be used for storage or boarding. The Main buildings defined as Animal Inn, Animal Hospital, and Kennel may be used for boarding. The two storage buildings labeled as shed and storage shall not be used for boarding.*
- 4) *No outdoor kenneling shall be permitted on the property. This does not mean dogs cannot run freely in fenced areas. Dogs can have access to outdoor areas from 7 AM. To 7 PM during the week and 8 AM. To 6 PM on weekends.*

- 5) *All existing fencing shall remain in place. Any desire to expand or erect new fencing shall constitute the need for a CUP amendment (site plan review). General repair and replacement of fencing does not need an amendment.*
- 6) *There shall not be more than 3 principle buildings and 2 accessory buildings on the property.*
 - a. *Principle buildings are labeled as Animal Inn, Animal Hospital, and Kennel.*
 - b. *Accessory buildings are labeled as shed and storage.*
- 7) *The caretaker quarters located in the main building, identified as the Animal Inn building on the Survey, can remain. Expansions of the dwelling space will require an amendment to the CUP and other zoning or building codes shall also apply.*
- 8) *Uses are stated and defined:*
 - a. *Boarding – Daily stay (Not overnight) and Long term stay (defined as being overnight)*
 - b. *Grooming – Grooming services (baths, clipping, etc.) that do not extend into veterinary service.*
 - c. *Pet Cemetery – Shall be maintained and operated as cemetery for deceased pets.*
 - d. *Obedience training - Standard training and socializing of dogs.*
 - e. *Storage – Storage for items or products associated with the Animal Inn business.*

ENGINEERING REVIEW:

There were no relatable engineering issues pertaining to this project. However, there is a 16-inch trunk watermain located along the south side of SCAH 14 crossing in front of the property, the watermain/hydrant is located within the County right-of-way. If a property owner were to apply for improvements to the site the existing water bodies/wetlands on site that would need to be taken into consideration.

RECOMMENDATION AND FINDINGS:

Based on the information provided in the staff report, Staff is recommending that the Planning Commission recommend approval of the re-zoning, lot consolidation, and CUP amendment for Animal Inn.

Findings for Re-zoning.

- 1) *Staff believes that the request to rezone the property to LC – Limited Commercial is warranted due to the consistency with the Comprehensive Plan.*

Findings for Lot Consolidation.

- 1) *Due to the nature of how the lots were subdivided in the past the parcel(s) cannot achieve the minimum frontage requirement. This aspect of the lots will remain legal non-conforming and cannot be easily adjusted. Nonetheless, staff believes they do have adequate access and the property as a whole will become more conforming through the re-zoning and combination of the parcels.*
- 2) *The number of lots will not increase due to the lot line adjustment/consolidation.*
- 3) *There are currently structures throughout all of the parcels. However, the combination will not cause the structures to become non-conforming. That issue is overcome with the amended CUP.*
- 4) *There will be no change to the frontage of the lot(s). There is currently an easement over parcel 4 for access. (See survey for reference)*
- 5) *There will not be a need for public improvements as they have already been installed or are available.*
- 6) *There are no easements that will need to be vacated for the consolidation.*
- 7) *There is not a need to create or amend any easements affiliated with the City for the parcel(s).*

Findings for CUP.

- 1) *The use of a commercial kennel has been existing on this property since the early 1970's. Staff does not believe that this amendment will be impactful to the surrounding neighborhood.*
- 2) *The property is guided for Limited Commercial which is how it will be rezoned. Also, the use is similar in nature to those that are allowed within that zone, such as daycare center or veterinary services.*
- 3) *The use is compatible with the existing neighborhood and has been in existence since the early 1970's. There is also a neighboring property that is operating as an obedience training facility.*
- 4) *The applicant is not proposing to develop or redevelop any part of the property at this time.*

- 5) *There is a pond on site which causes part of the property to fall within a flood zone. However, the applicant is not proposing to expand or redevelop and of the buildings.*
- 6) *With the property being re-zoned as LC, the Lake Elmo Design Guideline Standards for the commercial zone will become applicable to the site.*
- 7) *It is not anticipated that the use will become a nuisance.*

CONDITITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT

Staff recommends that the Planning Commission recommend approval of the Conditional Use Permit associated with the Animal Inn Subject to the following conditions:

- 1) *The total number of dogs boarded at any point in time shall not exceed 150.*
- 2) *All past permits affiliated with the properties shall now be null and void.*
- 3) *The most recent CUP (2000-020) stated that certain buildings had to be used for storage or boarding. The Main buildings defined as Animal Inn, Animal Hospital, and Kennel may be used for boarding. The two storage buildings labeled as shed and storage shall not be used for boarding. Beyond these standards all buildings may be used for activities associated with the business. It shall also be known that expansions or remodels may require the building to be brought up to current building code standards.*
- 4) *No outdoor kenneling shall be permitted on the property. This does not mean dogs cannot run freely in fenced areas. Dogs can have access to outdoor areas from 7 AM. To 7 PM during the week and 8 AM. To 6 PM on weekends.*
- 5) *All existing fencing shall remain in place. Any desire to expand or erect new fencing shall constitute the need for a CUP amendment (site plan review). General repair and replacement of fencing does not need an amendment.*
- 6) *There shall not be more than 3 principle buildings and 2 accessory buildings on the property.*
 - a. *Principle buildings are labeled as Animal Inn, Animal Hospital, and Kennel.*
 - b. *Accessory buildings are labeled as shed and storage.*
- 7) *The caretaker quarters located in the main building, identified as the Animal Inn building on the Survey, can remain. Expansions of the dwelling space will require an amendment to the CUP and other zoning or building codes may also apply where applicable.*
- 8) *Uses are stated and defined:*
 - a. *Boarding – Daily stay (Not overnight) and Long term stay (defined as being overnight)*
 - b. *Grooming – Grooming services (baths, clipping, etc.) that do not extend into veterinary service.*
 - c. *Pet Cemetery – Shall be maintained and operated as cemetery for deceased pets.*
 - d. *Obedience training - Standard training and socializing of dogs.*
 - e. *Storage – Storage for items or products associated with the Animal Inn business.*
- 9) *The property shall be readdressed to 8611 34th St. City of Lake Elmo.*

Suggested motion:

“Move to recommend approval of the request by Joan Tauer of Animal Inn to Rezone the Properties from Agricultural and Rural Residential to Limited Commercial, consolidate properties defined as 16.029.21.42.0010, 16.029.21.43.0012, 16.029.21.43.0006, 16.029.21.42.0005, and 16.029.21.42.0001, and amend the existing CUP to apply to the newly combined property, subject to the conditions of approval as recommended by Staff”

ATTACHMENTS:

1. Project Narrative Letter
2. Survey
3. Previous CUPs Resolution 2000-020 and Resolution R86-11
4. Sound Report