

**Public Hearing**  
**Conditional Use Permit request by Krapu for a Dog Kennel**  
**August 30, 2004 reconvened September 7, 2004**  
**Eureka Town Hall**

The public hearing of August 30, 2004 was reopened at 8:13 p.m. by Chair Francie Madden.

Planning Commission members present were: Francie Madden, Cory Behrendt, Cheryl Monson and Butch Hansen. Treasurer Nanett Leine was present to record minutes.

Town board members Connie Anderson, Don Pflaum, Kenny Miller and Mark Malecha were also present as part of the audience.

Jeff and Andi Krapu are asking for a Conditional Use Permit to open a dog kennel at 24315 Dodd Blvd, Lakeville, MN.

Krapu's presented the planning commission with the kennel plan, 36' x 54' parking area, enclosed garbage area and outdoor exercise area is 92' x 10' high with 6 foot high escape proof fencing. The septic location was noted, it will probably a mound system. Noise control specifications were included and tree placement.

Chair Francie Madden opened the floor to public comment at 8:26 pm

Beth Eilers- 10185 250<sup>th</sup> Street, Lakeville

She asked what type of training and education they have to operate this type of facility. There is a burm to the south how high is the burm. The outside runs are they one big run or individual runs? Where are the dogs when the kennels are being cleaned? Is there ventilation in there building?

Francie Madden: The State of Minnesota or Dakota County does not require any type of permit, so neither does the township. The planning commission has not asked for documentation of training or education it is not something they expect and it is not part of the ordinance. The burm is roughly 10 feet high. The outdoor runs will only be used when the runs are being cleaned. The exercise yard outside, the dogs will be on a leash and not turned out loose. The original plan showed a ventilation system on the building.

Butch Hansen: The outdoor exercise area is covered, so a dog cannot climb out of the pen. The entrance and exit is directly through the building. There are 10 dogs outside while they are cleaning the stalls.

Ed Korba- 24810 Dodd Blvd, Lakeville, MN

Concerned about the septic system. What will the environmental impact will be on the Elko/ New Market watershed, Vermillion Water Shed and Rice Lake. He contacted the DNR, State of Minnesota and the County. A mound system- under what rule do they accept dog urine, disinfectant (to clean kennels), commercial solutions (to clean the walls). What regulations are going to govern that?

Butch Hansen- It is governed by the county. Licensed septic inspector to inspect the system, it will meet state requirements.

Ed Korba stated there are no controls for animal waste. It is up to the township to ensure the safety of the citizens that the ground water is not contaminated. The DNR is not concerned in this small of an operation. The state has no requirements unless you use a disinfectant in a kennel. He requesting denial of the permit- due to the lack of information on dog urine, disinfectants and commercial solutions being used that are going into a septic system near the Elko New Market Watershed, Vermillion River and Rice Lake, that is designed for human consumption for dog animals. He presented a document from the University of Minnesota titled "Dog Kennel and Veterinary Clinic Waste water treatment recommendations" he recommended option 1- a holding tank.

Patrick Kelly- Kelly Foster in St. Paul. Representing adjacent property owners.

Situation has exposure to a merclaim. State Statute 116 B. states any type of activity that impacts – effects the environment. A business operation 365 days a year/ 24 hrs per day with 50 dogs should be a great concern it is proposed in an area of residential homes. He presented a document from an appraiser showing that this type of use depreciates the property values. The ordinance states you can deny a CUP if it does not meet the criteria- depreciating property values. A license ordinance is not a zoning ordinance. In the zoning ordinance there is no reference to dog kennels. The zoning ordinance states responsibility to preserve the natural resources and environment this commercial use is direct contradiction. Boarding of animals is not specific to the zoning ordinance or dog kennels.

Karen Sather- Dodd Blvd, Lakeville

She was told when they moved out to Eureka that it was strictly residential, no commercial allowed.

Francie Madden- the township is not ruled residential it is zoned agricultural. Prior to 1982 there were houses that were plotted. After 1982 zoning became one house per quarter/ quarter section. One animal per acre is allowed. The Dog kennel ordinance was put in place in 1967.

Gloria Belzer- 24335 Dodd Blvd

Septic system- dog urine and chemicals, there will be dog feces into the septic also (not all feces are solid), shampooing of the dogs, hair and cleaning supplies.

Terri Petter- 24005 Dodd Blvd, Lakeville

The county does not count dogs as animal units. Septic system- A lot of people put chemicals on lawns, which affect the river also. Her dog kennel has been open for 3 years and the kennel is active and had been active for 3 years, she has 5 dogs. There have not been complaints about her kennel. She has never had a dog get loose and has been bitten only once. Trees for noise control. There is no sense of community.

Jeff Belzer- 24335 Dodd Blvd, Lakeville, MN

Where in the zoning ordinance does it say you can have a dog kennel? The zoning ordinance does not define dogs. It defines animals in 6.2, which does not say dogs. A license is different than a zoning ordinance. You can license a kennel but you can not license without a zoning ordinance for it. Eureka Township does not have a zoning ordinance.

Kevin Flaherty- 24320 Dodd Blvd. Lakeville

In reference to hearing dogs- they do hear general neighborhood dogs barking. It is different than hearing 50 dogs barking. Krapu's are requesting less square footage now than the original CUP application, with the same number of dogs. Dakota County stated that the current building cannot be used for the business. He presented Lakeville's criteria for conditional use for Animal kennels. Also recommendations/ suggestions for the proposed kennel revised from Lakeville's CUP conditions. (See attached)

Butch Hansen They will be required to put in pines or spruce. Trees are sound barriers. They are listed in the State of Minnesota deflective noise regulations.

Ray Kaufenberg - 24510 Dodd Blvd. Lakeville

Safety- he visited 2 dog kennels, dogs do escape, they can scale 6 ft fences even with barb wire at the top. Safety is an issue. The proposed outdoor kennel- Is there a curb, drain, are there walls. What is the inside floors made of? What type of outdoor lighting? Is it shielded?

Mrs. Krapu- No curb, there is a drain, separated by chain link fence. Inside floors are concrete, coated with non porous epoxy.

Butch Hansen- drain is 3" wide sets 5" from the edge and is 28 ft long. The kennels are covered so the dogs cannot get out. One light on the south side of the building, it is not shielded.

Ray-In the COMP Plan you have a certain responsibility to protect the scenic beauty of the area. The proposed site has a scenic location in the township. It is a buffer to the Vermillion River. COMP Plan talks about greenways. Need to protect the scenic beauty of the area. It is appropriate for the space.

Francie Madden- We also need to take in consideration that they own it, pay taxes on it and pay for it.

Sean Barrett- 24415 Rice Lake Drive, Lakeville

Noise and safety- Noise carries a long distance. He hears dogs, coyotes, etc, that he expects to hear, but not 50 dogs in a kennel. Trees- how tall? What kind? he would like to see trees on the west side of the kennel also. Safety issue- no rules, what type of dogs are going to be allowed. There are a lot of kids in the area- dogs do escape.

Beth Eilers

Noise problem- Barking dogs, right to muzzle, call owner and ask to pick up dogs if all other measures fail. If owners are out of town, how are they going to pick up their dog?

Andi Krapu- they will be in isolation kennel if they cannot be reached.

Gloria Belzer

Existing pole barn cannot be used for commercial use. Can not use for anything related to the business.

Karen Sather

Listening to the board's discussion it sounds like the decision has already been made. She feels that maybe the operation will not be watched like it should and that something is being forced upon them that didn't think they would need to live with. That they are not getting their questions answered.

Cheryl Monson- the board is taking all the information in. The issues will be addressed after the public portion is closed, considered in making a recommendation to the town board. Not dismissing what people are saying.

Liz Flaherty- 24320 Dodd Blvd. Lakeville

Concerns are safety, quantity of animals and number of employees necessary to care for the animals.

Terri Petter-

There should be no restrictions on the type of dogs allowed.

Jeff Belzer-

Would like the township attorney to advise the planning commission on - Nuisance ordinance- no noise... shall be permitted (shall is mandatory can not do it) in any district that will in any way have a objectionable effect upon adjacent or nearby property. Also in granting a CUP, no right of kennel "by right" have to consider traffic conditions, parking facilities, adjacent streets and land, effect on values of property, scenic views in surrounding area and the proposed use of the Comprehensive plan. The COMP Plan says you cannot have a commercial use.

Doug Picken 24376 Rice Lake Drive

He would like the planning commission to clarify its obligation to the nuisance ordinance and impact on property values. How do you determine a nuisance?  
Francie Madden: 8.13- it is unlawful to create a nuisance affecting the health, peace and safety of any person. We have two letters from realtors that show an effect on property values. The adverse effects on people need to be addressed. They need to be a nuisance before you can call them one.

Patrick Kelly

Ordinance 20 8.3 Nuisance characteristics are defined. Kennels are placed in industrial type zones. The proposed kennel is in an area with residential characteristics. You can limit the hours, access points, lighting, time, etc.

Sean Barrett

If there is a negative factor for noise level you need complaints before it can be addressed. How long once the permit is issued and there are noise issues can the problem be addressed?

Francie Madden- We know there will be noise, dogs make noise we will try to do what we can. CUP's are reviewed once per year. Dakota County Sheriff enforces the ordinances.

Butch Hansen commented that noise complaints could be directed to him personally.

Beth Eilers

If a noise problem is brought to your attention. What do you do?

Butch Hansen- we can stiffen the conditional use permit, revoke it if conditions are violated.

Kevin Flaherty

Regarding the ordinance that does not allow negative impact on our property value. We have presented two letters from experts. Do you need some other higher level of expert to testify?

A comment from a citizen: What point does someone's property value need to decrease before that is taken into consideration to recommend non approval of the proposed CUP? Some one should not have the right to decrease someone else's property.

Francie Madden- The planning commission runs public hearings, listens to public comments and makes a recommendation to the town board. The town board decides whether the cup is granted. Any further allowed testimony is decided by the town board.

Gloria Belzer presented the planning commission with some pictures of the Krapu property.

Ray Kaufenberg

Asked that the township attorney address whether there is an ordinance allowing dog kennels in the township.

At 9:46 pm the hearing was closed to public comments.

The planning commission asked the township attorney, Peter Tiede is the ordinance that allows dog kennels valid.

Peter Tiede- township attorney

7.53 of the ordinance 20, permits as a conditional use, the boarding of animals in the agricultural zone. The proposed kennel is an activity in the agricultural zone. Ordinance No. 2 talks about the licensing of kennels. A dog is an animal; it is not an animal unit. Boarding of animals is permitted. The ordinance permits it as a conditional use.

Environmental issues- applies to the actor, he does not know of any cases that a local government is responsible for a private actor causing environmental harm. The town needs to consider its ability to regulate based on environmental concerns. The town may not have authority to regulate environmental issues that is what the MPCA does. Noise, odors, etc are zoning issues. Nuisance issue, until there is a nuisance they cannot be charged with a nuisance. It needs to be minimized, there needs to be a balance. Property value needs to be taken into account. Not required to never allow anything that will not affect someone's property value. Zoning would be useless, it is a factor that needs to be taken in account to minimize impact. The board needs to rely on its own experience and analogies.

The planning commission reviewed the letters form Minnesota Appraisal Group and Edina Realty, the letters from Bob Overby, Dakota County Shoreland, and the conditions outlined by Mr. Flaherty.

Francie Madden would like to talk to Bob Hegner, building inspector about the septic system.

The outside exercise area was addressed: The outdoor exercise area is not covered; it has a 6 foot fence with an angled 3' fence at the top. The dogs will be walked in this area on a leash. Between the outside kennels are solid walls, so the dogs cannot see each other.

The following conditions are recommended by the planning commission:

- Trees need to be spruce or pine, at least 10 feet tall. 10-15 foot centers (suggest staggered rows) Screen parking east side, East side of new building and on berm.
- Noise containment
- Paved parking lot.
- No grooming at this location
- No sales of products at this location
- Fenced exercise area.
- Maximum of 10 dogs outside in enclosed runs at one time.
- Enclosed dumpster/ minimum pickup once a week, more as needed.
- No use of present building for this business.
- Hours of operation 7:00 am to 7:00 pm
- Exercise area all dogs must be on a leash and under control at all times.
- All dogs on property must be leashed and under control at all times.
- Keep outdoor area clean and free of debris.
- No outdoor lighting except on north side of building
- Comply with all other ordinances of the township
- Existing building cannot be used for any part of the business
- These conditions fulfilled before dogs are allowed on the premises.

A motion by Butch Hansen: To send onto the board with the conditions discussed pending septic system requirements, ventilation and noise abatement (construction of the building.)  
Motion seconded by Cheryl Monson.

Motion carried with 3 yeas and 1 dissenting vote, one planning commission was absent.

A motion by Corey Behrendt: to adjourn. Motion seconded by Butch Hansen.

Meeting adjourned at 10:43 pm.