

PROCEEDINGS OF THE ST. CLOUD ZONING BOARD OF APPEALS

A meeting of the St. Cloud Zoning Board of Appeals was held on January 18, 2011, at 7:00 p.m. in the St. Cloud City Hall Council Chambers. Members present were Barkalow, Fandel, Larson, Ohman, and Ugochukwu. Chairperson Fandel announced that there are currently two vacancies on the Board. If anyone is interested in serving on the Board, they may apply at the Mayor's Office.

Approval of Minutes: Barkalow moved to approve the minutes of December 21, 2010. The motion was seconded by Ohman and carried unanimously.

Conditional Use Permit Request/Daniel and Kristen Hughes: Chairperson Fandel announced the request from Daniel and Kristen Hughes for a conditional use permit to operate a commercial dog kennel and training facility in an AG, Agricultural District. The applicant is requesting to operate a commercial dog kennel, which will specialize in the training of dogs to be used by law enforcement and security organizations. The applicants' long range plans include the possibility to train dogs for other detection activities and boarding and training services to the general public. The applicant is proposing to have a maximum of up to 50 dogs at any one given time. (Location: 25156 County Road 136) (CUP-2010-03) The public hearing was held at the December 21 meeting, and the public hearing was closed. It is the option of the Zoning Board whether they wish to hold another public hearing tonight, and the Board has decided to hold a public hearing. Chairperson Fandel asked Dave Broxmeyer, Senior Planner, to make a presentation. Broxmeyer stated that the site plan for the conditional use permit includes applicant's home, the pole building which would house the kennel, a working dog memorial 133' from the centerline of Co. Rd. 136, the multi-purpose training field 160' from the centerline of the county road and 80' from the southern property line. The training field would have earthen berms 8' in height on three of the four sides and 20' in height on the eastern side. There would be a small storage location where training aids for the dogs would be stored away from the kennel itself. Broxmeyer stated that staff is still recommending a maximum of 10 dogs at any

given time. He reviewed the changes that were made to the previous month's memo and the changes in the recommended conditions. Condition #2 was added to address issues relating to animal welfare and handling requirements such as vaccinations, licensing, inspection of the kennel facility, potentially dangerous animal, how dogs are handled on site as far as being on a lead or leash, exercise requirements, and access to food and water. Condition #3 related to the kennel building. Applicant indicated that solid dividers will be used between kennel compartments to discourage the dogs from barking; sound absorbing materials will be used for the building materials in the kennel; an isolation area will be provided within the building for problem dogs; there will be a location within the kennel for dogs to get out of elements; and the outdoor portion of the kennel is to be covered with a roof system or fence to keep the dogs totally enclosed within the kennel. Broxmeyer stated that last month the ZBA identified the hours of operation for the use of firearms on the multi-purpose training field to be between the hours of 10 a.m. and 4 p.m. Under Condition #5, the operation limits on the multi-purpose training field, applicant has requested that the hours of operation be changed from 9 a.m. to 5 p.m. or one-half hour before sunset, whichever is earlier, and a maximum of 25 hours of shooting time per week. Applicant has also requested that staff's recommendation that "live fire activities shall be supervised by a NRA certified Range Safety Officer" be changed to "...supervised by a ~~NRA~~ certified fire arms instructor." Broxmeyer said staff does not object to either of those changes suggested by applicant. New language has been added stating that a bullet trap/catch at the east end of the training field would be the primary means of trapping the projectiles. The berms surrounding the field are intended to keep any ricochets or bullet fragments within the field as well as attenuate noise, and also control people and dogs coming in and out of the field itself. Staff is also recommending a change that would limit discharge of weapons to training of dogs and/or personal use of property owners. Broxmeyer noted that #7 deals with waste management. Applicants submitted a waste management plan depending on the number of dogs on site that was acceptable to staff. The language in #8 allows applicants to have no more than one litter of puppies on site at any given time. They would not be counted against the maximum number of dogs permitted on site as

permitted by the existing animal control ordinance unless they are enrolled in the applicants' training program. Condition #10 requires applicants or their employees to live in the house or on the premises as long as the property is used as a commercial kennel. Condition #11 notes that applicants are subject to any of the other provisions of the LDC, Animal Control Ordinance, and St. Cloud Code of Ordinances not listed in the previous conditions. Condition #12 was added which relates to discontinuance of the commercial kennel use upon rezoning property within 1,320' of the subject property to any zoning district other than AG or RR. That condition acknowledges that although the location is rural at this time, it may be developed as more urban in the future. It will then be much less appropriate to have a commercial kennel in that location. Chairperson Fandel asked if the ZBA has the ability to grant a CUP for up to 50 dogs at this meeting. Broxmeyer explained that the LDC has no upper limit on the potential number of dogs for a commercial kennel. Fandel asked if the provision in #3 for the separation with solid dividers was a guideline set by the Dept. of Agriculture or a recommendation by the City. Broxmeyer answered that is a provision offered by the applicant to keep the dogs quiet. Fandel stated that applicants have already made a significant investment and expect that the kennel will involve a much greater investment. Regarding condition #12, he questioned how long applicants might be able to operate their kennel and long it will be before the City may rezone this area. Broxmeyer answered that four years ago, the City anticipated that this area would develop within 10-15 years. With the current slowdown in construction, that time period has increased significantly. The closest City utilities are two miles away near the Caterpillar dealership near the interchange of I-94 and Co. Rd. 75. Barkalow asked staff to indicate how far 1,320' is from this property. Broxmeyer indicated that 255th St. would be 1,360' from the property in question. Larson asked if the new conditions have been discussed with the applicant. Broxmeyer answered that he met with the applicant today, and they discussed a number of items. Broxmeyer said items in red are recommendations from staff or are a result of information provided by applicant. Larson asked if condition #12 relative to discontinuance of the commercial kennel upon rezoning of the property was

discussed with applicant. Broxmeyer answered that applicant does have a concern with that condition.

Chairperson Fandel reopened the public hearing, and the following persons offered testimony:

Daniel Hughes
Dogs for Defense, Inc.
25156 Co. Rd. 136

At last month's meeting, the neighbors had some concerns, and they submitted solutions to these problems to staff. They received some new recommendations from the Planning Office. He stated that the ZBA is a judicial body that looks at evidence presented to make its decision based on fact. He asked if the City and State has existing ordinances, LDC, and statutes that dictate the operations and practices involved in kennels, dog ownership, fire arms usage, and public nuisances. He asked if the recommendations of the Planning Office are consistent with prior CUP recommendations. He asked a number of questions that he believes demonstrate the existence of laws and codes that impact their proposed business. Does the kennel meet the Commissioner of Agriculture's Best Management Standards for care of dogs and cats as described under Minnesota law? Yes. Does the City allow dog kennels with outdoor runs? Yes, but only within the Agricultural District. Does the proposed kennel meet the LDC requirement for one-quarter mile from residentially zoned properties? Yes. Does the City have animal density requirements that apply to kennels? No. Does the city have ordinances related to barking dogs? Yes. Does the City have ordinances relating to dog licenses? Yes. Does the City have ordinance relating to dogs at large? Yes. Does the City have ordinances that deal with nuisance noise from dogs? Yes. Does the City have ordinances that deal with waste from dogs? Yes. Does the City have ordinances that deal with dangerous dogs? Yes. Does the State have statutes that apply to kennels? Yes. Does the State have statutes that apply to dangerous dogs? Yes. Does the State have statutes that apply to dog owner's liability? Yes. Does the State have statutes that deal with nuisance dogs? Yes. Does the State have statutes that deal with kennel licenses? Yes. Does the State have statutes that deal with dog licenses for kennels? Yes. Does the City allow use of firearms in the AG District? Yes. Does the City limit the use of firearms in the AG District? No. Does the proposed firearms facility meet the safety requirements as recognized by MN State law and outlined in the NRA Range Source book? Yes. Planning had an opportunity to offer new recommendations following the last meeting. #12 states that the kennel must discontinue if zoning were to change on a property within 1,320' of their property to anything other than AG or RR. He does not believe that condition has ever been applied to any other CUP. Another condition that has been added is that the applicants or their employees must live on the property. That would leave no opportunity to sell the business. Again, he does not believe that type of condition has ever been applied to another CUP. The historical nature of a CUP is that it is applied to the deed and stays with the property. The two conditions he mentioned (#10 and #12) clearly conflict with the intent of a CUP. When he inquired with the Planning Office about the recommendation to allow up to only 10 dogs at any given time, he was told that his business would have to prove itself for a year or two before they would recommend something different. He asked what other

business would have to prove itself. He pointed out that he is well trained, has worked at kennels with over 100 dogs, has designed and operated kennels for the federal government, has taken courses in kennel management, and has been certified by the U.S. State Dept. as a kennel master. He agrees that his dogs should be accompanied by a handler or a trainer, but with requirements not that different from what would be required in the City's dog parks. He has no intention to create a business that has potentially dangerous dogs, but he is more than qualified to do that. He asked for a definition clarification of "run" and "kennel". He believes that a "kennel" is designed to house a dog with little or minimal supervision and a "run" is a space utilized temporarily for the exercise or play of a dog. Regarding the use of firearms, the City has no restriction on their use for hunting or recreation in the AG district. In researching other training facilities, they have found that the hours of 10-4 are too restrictive when dealing with weather, angle of the sun and wind to be able to properly train. He recommends no more than 25 hours a week of shooting and asking that shooting be allowed between the hours of 9-5 or one-half hour before sunset whichever is earlier. He proposes to limit shooters to those actively involved in training. The requirement for an NRA certified range safety officer should not be necessary because shooting in the AG district is unrestricted, but he proposed that any shooting done at the facility will be supervised by an NRA range safety officer or certified firearms instructor. He asked that the ZBA rely on existing precedents, laws, ordinances, codes, etc. in making its decision.

Susanne Barkalow

She asked applicant if it would be acceptable that if the dogs were not in the kennel building or in a fenced training area that they would be required to be on a leash just as any other dogs in the City would have to be.

Daniel Hughes

When they are on his personal property, he believes that as long as the dog is in control (verbal control or electronic collar) of the handler or trainer, it shouldn't be necessary to have them on a leash. These dogs are highly trained and may be asked to search an open area that may not be fenced, and they wouldn't be on a lead in that circumstance.

Chuks Ugochukwu

He asked applicant how he would prevent the dogs from leaving his property.

Daniel Hughes

Dogs will be escorted or under the control of a handler or trainer through the use of verbal control or an electronic collar. In the AG district, hunting is permitted, so dogs can run without being on a leash.

Evan Larson

He asked applicant if he is suggesting modification or deletion of condition #10 which requires that applicant or their employees live in the house on the premises as long as the property is used as a commercial kennel.

Daniel Hughes

He suggested that it be removed entirely and be replaced with language stating that the kennel must be supervised 24 hrs. a day. If staff's

suggested wording is applied to his kennel, it should be applied to every kennel in the City.

Evan Larson
Lisa Schreifels
City Health Director

He asked if a “potentially dangerous dog” could be licensed. There are three classifications of dogs. Most dogs that people own just get licensed. The potentially dangerous dog has been involved in some type of incident that requires the dog to have some restrictions on it, but can be licensed. A dangerous dog is one that has been involved in an attack and has many provisions upon it and may even be required to be euthanized.

Tim May
4268 255th St.

This is an established residential area with most houses on 255th St. and Co. Rd. 136 within 200' of each other. Most residents have been in their homes over 20 years. It is an active, outdoor group of people. Many chose that area because of the peaceful neighborhood. There is much wildlife in the area. In 2003 after this area became part of the City, the City of St. Cloud showed residents a long term plan for the area which depicted continued residential growth to the immediate south. It was confirmed at the last Zoning Board meeting that the section between 250th and 255th St. would be high density residential. There are two pieces of property in the middle of that section that will help fulfill the plan for high density residential or seriously undermine the plan for a future high density residential area. Charles Voigt's farm, north and east of applicant's property, is 160 acres in the area designated for high density residential in the long range plan. Mr. Voigt has looked at his options including discussions with interested developers. The other piece of property owned by Mr. Hughes, has a much different purpose. Applicant's proposal has two barriers to the long range plan. The staff memo states that “Commercial kennels must be a minimum of 1,320' from a residentially zoned district..” and further states that just 40' beyond that minimum is residential zone. That additional 40' will not further subdue noise coming from the kennel. The 1,320' will impact Mr. Voigt's property, seriously limiting his options and impacting his financial situation for his retirement years. He believes staff's recommended condition #12 attempts to address this issue by requiring discontinuance of the commercial kennel use upon rezoning of a property within 1,320' of the subject parcel to any district other than AG and RR. Due to the value of the dogs involved in some of the government contracts, it may be very difficult to expect the applicant to discontinue his operation in the middle of a contract. The second barrier is the shooting range. Mr. Hughes would find protection with the 2005 MN Shooting Range Protection Act which prevents shutting down shooting ranges which will be explained by Mr. Goddard. The Analysis & Recommendation of staff's memo states that in order to approve the request, the ZBA must find that the use will not be detrimental to the general welfare or injurious to properties in the vicinity. He believes that a commercial dog kennel does not mix with residential zoning. The residences being only 40' more than the minimum distance from the kennel property will be detrimental to the general welfare of the people, pets, livestock, and resale value of the properties. There is also a concern about the safety with the snowmobile trail along Co. Rd. 136 as well as the residences.

The dogs at this kennel are not the average family pet. Mr. Hughes stated on his Dogs for Defense Twitter account that he received a dog bite on his hand that required stitches. He said the suggested mediation of any after hours violation is to call the St. Cloud Police Dept.; however, it has been the experience of residents on 255th St. that if they have an after hours complaint and call the St. Cloud Police Dept., the Dispatcher has informed them that the St. Cloud P.D. does not cover their area.

Susanne Barkalow

She asked staff the minimum lot size for development in the RR district.

Dave Broxmeyer

It would be 10 acres in the RR district, and it would be 40 acres in the AG district. However, that could vary depending on where the wetlands are located.

Tony Goddard
25554 Co. Rd. 136

He said that the LDC states that the ZBA must make findings of fact. The first one that must be considered is that the use is in accordance with the objectives of the Land Development Code. He stated that the Purpose section of the CUP in the LDC states: "The principal objective of this Code is to provide for an orderly arrangement of compatible building and land uses..... These conditional uses require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community." The intended use is residential; the commercial kennel is clearly an incompatible use. The ZBA must address whether the planned use is compatible with the current neighboring uses and the planned future use of the property. The ZBA also must find if the proposed use at that particular location is necessary or desirable to provide a service or a facility in the interest of public convenience and will contribute to the general welfare of the neighborhood or community. He would find it difficult to conclude that the proposed use would add to the general welfare of the neighborhood or community. The next finding is that the use is not detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity. He said he doesn't know how the Board can make that finding. Of particular concern is inclusion of the firing range with the commercial kennel. There is nothing in the LDC that requires them to be considered together. A shooting range is not a permitted use. The LDC specifically states that a use that is not allowed is prohibited. There is no mention in staff's report whether MN's Shooting Range Protection Act might apply to applicant's potential facility. That act protects shooting ranges in perpetuity. If applicant's range would be covered by the Act, the City would not be able to control the hours of shooting or shut it down. The Act would prohibit construction of buildings within a 750' perimeter around the range. That includes almost one-third of Mr. Voigt's property and property to the south in St. Augusta. The City has other options available such as an interim ordinance or moratorium process.

Chairperson Fandel

He asked staff to comment on the Shooting Range Protection Act.

Dave Broxmeyer

He and the City Attorney and Planning Director discussed that at length. A shooting range or firearms range are not identified as a permitted or conditional use in the LDC. Applicant is proposing live fire activities as one component of the dog training. The area identified as the training field could include live fire activities, but it could also be used for many other training activities. Therefore, staff does not think the Shooting Range Protection Act would apply to this particular application. The staff report refers to the multi-purpose training field rather than a shooting range. He pointed out that the City acknowledges people's right to discharge firearms in the AG district without additional safety measures. Therefore, the conditions for the discharge of firearms are actually restricting the applicant beyond his current permitted rights in the AG district.

Tony Goddard

He stated that the Shooting Range Protection Act is a state law. Any restrictions placed by the City or agreed to by applicant are moot if the State law applies, because State law takes precedent.

Daniel Hughes

The Shooting Range Protection Act applies where the primary purpose is a shooting range. In his case, the range would be a secondary purpose, and he would not seek that protection. He believes the legislative intent of that law is to help ranges and gun clubs that have been in existence for some time. The Comprehensive Plan (CP) was primarily developed between 2000 and 2003 during a time of tremendous growth, but that has changed dramatically. The properties along 255th St. are probably closer to I-94 than to his property, particularly the kennel, and those properties will probably hear more noise from I-94 than from anything on his property. He strongly objects to the statement that his proposed use would not provide necessary neighborhood or community wide service. He stated that his entire career has been devoted to protecting people and property through the use of dogs. He spent 4 yrs. as a special agent with the Secret Service. He used dogs to locate explosives. He spent years in foreign countries protecting Americans against explosive devices, so he takes great offense to that statement. He argues that his business would provide well trained dogs which provide a necessary service. For example, when a dog comes to City Hall to do a search as was the case last week; when a dog searches for a child or an Alzheimer's patient; when a dog is called to locate an explosive device; it is of the utmost importance that the dog is well trained. An open space is allowed in the AG district, and the use of firearms is allowed in the AG district; therefore, he believes they are clearly within their rights to request this CUP.

Jim Linn
3984 255th St.

On November 8, there was an accident involving a side swiping on I-94 in the evening. The State Patrol responded, and there were a lot of lights in front of his house. A car was left in his ditch which belonged to the assailants. The State Patrol tried to contact 5 local agencies that had canine units, but none would bring a dog to try to find the people who were in the car that sideswiped the other car. They called in a helicopter from Minneapolis which cost the taxpayers a lot of money.

Regarding the comment that the noise from I-94 would probably be worse than the noise from applicant's property, he stated that most of the properties lay below the hill that I-94 goes through. The noise from cars can't be compared to the sound of gunfire. He said he worked at a dog training facility for several years, and he knows that if one dog barks, they all start barking. In the AG district, guns are permitted for recreational use, not commercial use.

- Mark Frantesl He owns two 10-acre plots (4214 and 4152 255th St.) across the road from Charlie Voigt's property. He asked if the CUP requires a yearly evaluation or if once it is granted, it is ongoing.
- Chairperson Fandel If the CUP is granted, it does not come back to the Board for periodic review.
- Mark Frantesl He asked what course of action would be taken if he called the St. Cloud Police Dept. if he has a complaint about something happening on the property under the CUP.
- Chairperson Fandel It would depend on the nature of the violation; it could be handled by Police, Animal Control, Health, etc.
- Mark Frantesl His concern is the 25 hours of shooting a week. He asked if it is 25 hours of continual shooting or limited shooting. He raises red deer or elk, and in the fall during hunting season, they get terrified with the shooting. Although he has always been able to contain the animals, he questioned who would be liable if they are injured hitting the fences when the shooting starts, because his animals are not domestic animals. There is a dog training facility at the Reformatory where the dogs could be trained. He asked if there are lead clean up requirements. As a matter of information, the City of Crookston does not allow pit bulls in the City limits for safety reasons.
- Dave Broxmeyer There are MPCA requirements regarding lead cleanup for shooting ranges. Regarding the suggestion that the dogs be trained at another facility, he said applicant would have to move the dogs to the other facility, the range would have to be closed to others using the facility while the dogs were training, and then the dogs would have to be moved back to applicant's property. That would present logistical problems for the applicant and would require the other shooting range to limit its hours of operation to other people.
- Sue McGuire
25554 Co. Rd. 136 Mr. Broxmeyer just referred to this as a shooting range; however, she thought that earlier he stated it wouldn't be considered a shooting range. A statement was made that applicant has already made a significant investment. It is her understanding that the investment that has been made by applicants is in their house and property which is the same investment his neighbors have made; therefore, she does not believe applicants' investment is a relevant issue. The Comprehensive Land Use Plan would probably look different if it were done today; however, what is currently in place should be the guiding document. The purpose

of annexation is to address areas that are likely to be developed; if the CP isn't in effect, then maybe the City of St. Cloud should give annexed property back to St. Augusta.

Jerry Koltes
25615 Co. Rd. 136

He questioned if this is going to be a mini Camp Ripley with shooting 25 hrs. a week. He doesn't know why this would be allowed in the City. It will cost the applicant a considerable amount of money to put in all the earthen berms and wondered if the City will buy it back from them when rezoning occurs. There have been reports about stray bullets from a shooting range used primarily by police officers in Lynden Twp. He has not allowed people to hunt on his land because of the safety concerns for residents in the area.

Paula Eich

She owns land in St. Augusta at 25157 Co. Rd. 136. She is concerned about the value of her land in the future.

Jason Manthei
4255 255th St.

He stated that most of the time applicants' property is surrounded by water and asked how lead will be cleaned out of the water.

Dave Broxmeyer

Applicant would have a bullet trap where the majority of the weapons fire on that training field would be directed. In addition, there would be a 20' high earthen berm behind that bullet trap. Therefore, any projectile would have to go through the bullet trap as well as the berm before it could reach the delineated wetland area.

Jason Manthei

He asked if applicant is going to plow up part of the swamp to put in the berm.

Dave Broxmeyer

He doesn't know where applicant will get the material to construct the berm, but it must meet the standard for the construction of the berm. If it is in the delineated wetland area, any excavation would have to be approved by Stearns County.

Louise May
4268 255th St.

She is a part-time teacher and is therefore, home much of the time. She does not believe applicants' proposal is compatible with the surrounding residential area. She said the City of St. Augusta has not had any input and believes they would be at odds with the City of St. Cloud regarding this request.

There being no one else wishing to speak, the public hearing was closed. Larson asked staff to address the concern about valuation of the property considering the infrastructure costs that would result if the request were approved and the City would have to purchase the property in the future. Broxmeyer said he did not believe that it would result in condemnation of property as the property could still be used in a reasonable manner. Although the land use would change, the property could still be used for AG purposes. Broxmeyer added that level of investment in the property should not be

the principal factor in the Board's decision. Barkalow moved to approve staff's recommendation for approval of a conditional use permit subject to staff's recommended conditions with the following exceptions: That the third bullet point under condition #5 be amended as requested by applicant as follows: "live fire activities shall be supervised by a ~~NRA-certified Range Safety Officer~~ fire arms instructor"; and, that condition #10 which states that "The applicants or their employees must live in the house on the premises as long as the property is used as a commercial kennel" be amended to read "That the kennel operation be supervised 24 hrs. a day." The motion was seconded by Ugochukwu. Chairperson Fandel suggested the following amendment to condition #2: ~~"No "Potentially Dangerous Animal" as defined in the St. Cloud Animal Control Ordinance is permitted to be kept on the applicants' property."~~ The friendly amendment was agreeable to Barkalow and Ugochukwu. Chairperson Fandel then asked the maker and the seconder if they would be willing to amend condition #2 to delete the following statement: "When the dogs are in the kennel building or the multi-purpose training field, they must be on a lead held by a trainer/handler." Barkalow suggested that instead of deleting it entirely, it be reworded and offered the following friendly amendment: "When the dogs are not in the kennel building or the multi-purpose training field, they must be ~~on a lead held by~~ under the control of a trainer/handler." Ugochukwu was agreeable to the friendly amendment. Chairperson Fandel asked the Board if they concur with staff on limiting the kennel to a maximum of 10 dogs. Barkalow said she would be open to discussion on that condition. Larson questioned if approval could be conditioned on a maximum of 10 dogs with the provision that applicant may have up to a maximum of 15 or 20 dogs subject to staff approval if it is determined adequate infrastructure has been constructed. Broxmeyer explained that applicant's existing building could accommodate up to 40 dogs. He added that a request for an increase in the allowed number of dogs should come back before the ZBA as a public process. Ugochukwu asked applicant if he currently has adequate space for 40 dogs. Hughes responded that although he doesn't have kennels built in the pole barn for 40 dogs, he believes there is adequate space for that number of dogs. Ugochukwu offered a friendly amendment to allow up to 40 dogs which was agreeable to Barkalow.

Chairperson Fandel noted that staff's recommended language for the first bullet point under Condition #5 states: "no live fire activities shall be permitted between 4:00 p.m. and 10:00 a.m." Ugochukwu offered a friendly amendment with language as suggested by the applicant to read: "live fire activities shall be limited to the hours of 9 a.m. to 5 p.m. or 1/2 hr. before sunset whichever is earlier and a maximum of 25 hrs. of shooting time per week." Barkalow concurred. Chairperson Fandel inquired if Condition #7 regarding waste management needs to be discussed further if the Board agrees to allow 40 dogs. Lisa Schreifels, City Health Director, said she discussed a waste management plan with Planning staff. There would not be a problem if applicants wish to remove waste through a commercial waste hauler. Composting on site would also be acceptable but would have to consider the wetlands and the safety of the drinking water. She stated that it is difficult to determine the amount of waste that will be generated, and it would be helpful to have a waste management plan. The MN Board of Animal Health regulations would address many of the issues relating to the kennel. Barkalow asked if applicants would need a building permit to make modifications to the interior of the existing pole building for the kennel. If it would, Barkalow assumed the building permit would trigger the requirement for a waste management plan. Broxmeyer said he is not certain if a building permit would be required. Schreifels stated that the waste management plan could be included as part of the commercial kennel permitting process. Broxmeyer said he believes applicants were hoping to have some flexibility so that if composting doesn't work, a commercial hauler can be used. Chairperson Fandel asked if there is currently running water in the proposed kennel building. Hughes responded that there is not a spigot in the building itself; however, hoses are available close to the building that can supply water. Hughes added that he would be seeking some interior modifications for plumbing and electrical work. He said the City has a Nuisance Ordinance that covers waste from dogs. Larson suggested an amendment to Condition #2 which would add a bullet point to read: "The treatment and handling of dogs shall meet the Dogs & Cats Best Management Standards Care guidelines issued by the MN Board of Animal Health." Barkalow and Ugochukwu agreed to the proposed amendment. Larson suggested limiting the number of dogs to 20.

Ugochukwu questioned why applicant should have to come back to the Board to have more dogs if he can already accommodate 40 dogs. Barkalow said she believes the reasons are to address the neighbors' concerns and to make sure applicant is in compliance before raising the number. Broxmeyer pointed out that there is no upper limit for the number of dogs allowed for the commercial kennel; however, applicants' request is for a maximum of 50 dogs. Barkalow stated the conditional use permit, in effect, would place additional restrictions on the property owner. Barkalow and Ugochukwu both still supported the earlier amendment to allow 40 dogs. Ugochukwu asked if Condition #12 would cause the commercial kennel use to cease, and Broxmeyer answered that it would. Chairperson Fandel asked how much notice the applicant would receive before having to cease his kennel operation if property within 1,320' were rezoned to a district other than AG or RR. Broxmeyer answered that it could be as little as several weeks. The City Council could delay adoption of a rezoning ordinance to allow applicant a reasonable amount of time to cease the use. He added that another option would be for applicants to come back to the ZBA and request an amendment to the CUP to eliminate Condition #12. Larson offered a friendly amendment to Condition #12 as follows: "The use of the commercial kennel must be discontinued within 18 months upon ~~upon~~ of rezoning of a property within 1,320' of the subject parcel to any district other than AG, Agricultural District and RR, Rural Residential District." The amendment was acceptable to Barkalow and Ugochukwu. The motion as amended with the following conditions carried unanimously.

1. The kennel shall be limited to a maximum of 40 canines at any one given time. An increase in the number of dogs and/or a change in function of the kennel (breeding or other use) shall require a new/amended conditional use permit.
2. Animal welfare and handling requirements shall include the following:
 - All canines kept on the applicants' property must have the appropriate vaccinations for their given age and weight.
 - Any canines kept on the applicants' property on a permanent or semi-permanent basis must have a valid dog license by the City of St. Cloud. Canines that are on the applicants' property for nine months or less are not required to obtain a dog license.
 - The kennel building would be subject to semi-annual inspection by Health Department staff or upon complaint.
 - When the dogs are not in the kennel building or the multi-purpose training field, they must be under the control (verbal, electronic collar, etc.) of a trainer / handler.

- All dogs will be exercised daily.
 - All dogs will have access to adequate food and water.
 - The treatment and handling of dogs shall meet the Dogs & Cats Best Management Standards Care guidelines issued by the MN Board of Animal Health.”
3. The kennel building shall include the following design elements:
- The indoor and outdoor runs shall be separated by solid dividers to increase privacy and discourage barking.
 - Building materials for the kennel shall consist of sound absorbing materials and some materials that will need to be sanitized.
 - The applicants shall provide an isolation area within the building for problem dog(s).
 - All dog runs shall provide an area that allows the dog to get out of the elements (sun, wind, rain, etc.).
 - The outdoor portions of the dog runs shall be covered by either a roof or fence.
4. The multi-purpose training field construction shall be subject to review and approval by the Zoning Administrator, who will consult with other city departments including, but not limited to Health, Building Safety, Engineering, and Police Departments. The multi-purpose training field construction plans shall include the following information:
- berm height, width, slope, and material information;
 - number, spacing, species, and placement information of the evergreen trees;
 - the natural drainage pattern should be considered prior to the construction of the multi-purpose training field;
 - the applicants shall develop and enforce the Best Management Practices (BMPs) for bullet containment, recovery and reclamation consistent with EPA’s Best Management Practices for Lead at outdoor Shooting Ranges prior to the beginning of range operations;
 - the applicants shall submit detailed drawing and plans of the proposed multi-purpose training field prepared by a licensed engineer or other qualified expert certifying the plans are designed to contain all projectiles on the range and comply with applicable shooting range performance standards including Minnesota Statute 87A and the NRA Range Source Book.
5. The following are the operational limits for the use of firearms on the multi-purpose training field:
- no live fire activities shall be permitted between 5:00 p.m. or a half hour before sunset whatever is earlier and 9:00 a.m. with a maximum of 25 hours of shooting time per week.
 - multi-purpose training field shall comply with Minnesota Statute 87A.05 Noise Standards;
 - live fire activities shall be supervised by a certified fire arms instructor;
 - the applicants shall use flags and signage to notify others of live fire training activities;
 - firearms can only be discharged in the direction of the bullet trap on the east end of the firearms range;
 - a bullet trap / catch on the east end of the multi-purpose training field is intended to be the primary method of capturing firearm projectiles.

- the berms surrounding the multi-purpose training field are intended to limit access to the site, attenuate noise (barking and gunfire) generated, and a secondary means to retaining firearm projectiles on the applicants' property.
 - the multi-purpose training field shall only be used for training of the canines; the discharge of weapons is limited to the training of the canines and the personal use of the property owners' personal enjoyment.
6. The working dog memorial must be set back a minimum of 100' from the County Road 136 right-of-way.
 7. A waste management plan must be submitted to and approved by the St. Cloud Zoning Administrator prior to the kennel operations beginning.
 - waste from 1-5 dogs would be removed as part of the domestic waste generated by the applicants' home;
 - waste from 5-15 dogs would be combined with other organic matter, such as leaves and grass, and be composted on site;
 - waste from 15 dogs or more could be composted on site or if found inadequate, the waste would be removed by a commercial waste hauler.

The compost location cannot be within the delineated wetland and should be set back from the applicants' well to reduce the chance of contamination.

8. The applicants are permitted to have no more than one litter of puppies at any given time on the premises. The puppies will not be counted against the maximum number of dogs permitted on site, unless they are enrolled in the applicants' training program.
9. All signage requirements shall be regulated by Section 18.3 of the Land Development Code, not including any of the signage necessary for the safe operation of the multi-purpose training field.
10. The commercial kennel operations must be supervised 24 hours a day.
11. The applicants are subject to any of the other provisions of the Land Development Code, Animal Control Ordinance, and St. Cloud Code of Ordinances not enumerated above.
12. The use of the commercial kennel must discontinue within 18 months of rezoning of a property within 1,320' of the subject parcel to any district other than AG, Agricultural District and RR, Rural Residential District.
13. Upon completion of the accessory building construction project, the applicant must sign and return the Statement of Completion to the St. Cloud Planning & Zoning Department.
14. The site plan approved by the Zoning Board of Appeals shall be the only site plan approved for this property.

Election of ZBA Vice-Chair: Chairperson Fandel opened nominations for Vice-Chair.

Ugochukwu nominated Barkalow. There being no further nominations, nominations were closed.

Barkalow was elected Vice-Chair by unanimous consent.

Other Business: Barkalow stated that there was discussion several months ago about a joint meeting between the City Council, Planning Commission and Zoning Board to discuss the Krummenacher vs. City of Minnetonka case and its impact on ZBA decisions. Broxmeyer stated that he has not spoken to the Planning Director about whether that meeting will take place. Broxmeyer said he received information that the League of MN Cities is seeking to change the provision within state law so that municipalities have the same rights as the counties, i.e., to use reasonable difficulty as a means to grant variances.

Adjournment: Barkalow moved to adjourn the meeting. The meeting was adjourned at 9:02 p.m.

Chuks Ugochukwu, Secretary