

# Cerro Gordo County Planning & Zoning Staff Report

## SPECIAL USE

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<b>Case No.:</b> 19-08	<b>Date of Application:</b> August 13, 2018
<b>Use Request:</b> 20.2(W) Private kennel	<b>Owner:</b> Lyndon Sutcliffe
<b>Current Zoning:</b> A-1 Agricultural	<b>Petitioner:</b> Same
<b>Address:</b> 21318 260 <sup>th</sup> Street Mason City, IA 50401	<b>Size of Special Use:</b> ~20,000 sq. ft. including kennel buildings and outdoor areas
<b>Legal:</b> Parcel in the SE¼ of the SW¼ of Section 9, Portland Township	<b>Size of Parcel:</b> 40.00 acres
	<b>Hearing Date:</b> September 25, 2018

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### **BACKGROUND INFORMATION:**

#### **1) PURPOSE OF SPECIAL USE REQUEST -**

Following response from an anonymous report that there were numerous dogs at this location by the Sheriff's Department, we sent a notice to Lyndon Sutcliffe (Sutcliffe) concerning the need for a Special Use Permit (SUP) to operate a kennel on the property. After Sutcliffe allowed an inspection of the premises, the deputy that responded to the report stated there were about 20 dogs in eight 5'x10' kennels. Sutcliffe told the deputy that he sells about 20 dogs per year. According to the deputy's report, the dogs appeared to be in good health at that time. While most of the dogs were offsite during the site visit for improvements to the kennel building, the 4 dogs onsite all appeared to be in good health.

The Zoning Ordinance defines a "kennel" as, "The keeping for four (4) or more dogs or small animals whose ages are six (6) months or older for any purpose." Sutcliffe breeds Great Danes and German Shepherds out of the north kennel building as labelled on the enclosed site plan as a hobby (See Figure 1). Sutcliffe is in the process of making improvements to the kennels in the north kennel building (See Figures 2-5). Over time, Sutcliffe plans to expand the operation to the south kennel building (See Figure 6). There are exercise areas or plans for exercise areas, which Sutcliffe is working on developing fencing for, south of the south kennel building (See Figure 7), east of the north kennel building (See Figures 8 & 9), and west of the house (See Figure 10). This is somewhat different than what is shown on the enclosed site plan on the back page of the application.

Some of the dogs are sold to cover the costs of raising and breeding dogs, but he states customers rarely, if ever, pick up the dogs onsite. The application states that an average of 10 dogs are being raised on the property at any given time.

#### **2) EXISTING LAND USE AND ZONING CLASSIFICATION OF PROPERTY –**

The property is within an undisturbed 40-acre quarter-quarter section. Sutcliffe also owns the adjacent 40 acres to the north. The majority of the property is in agricultural production. Sutcliff lives in the existing house, and there is a machine shed immediately to the north (See Figure 11). Both the barn and kennel building used for the operation are east of the house (See Figure 1 & 6). The property is zoned A-1 Agricultural.

#### **3) LAND USE AND ZONING CLASSIFICATION OF SURROUNDING PROPERTY -**

All adjacent property is zoned A-1 Agricultural and mostly in agricultural production. The nearest dwelling is about 750 feet from the closest kennel area, located across the road to the southeast at 21485 260<sup>th</sup> Street. There are four additional dwellings between ¼ to ½-mile to the east at 21610 260<sup>th</sup> Street; to the west at 20793 260<sup>th</sup> Street and 20934 260<sup>th</sup> Street; and to the north at 21226 265<sup>th</sup> Street. Mason City city limits are ¾-mile west of Sutcliffe's property.

**GENERAL FINDINGS:**

**1) HARMONY AND ACCORD WITH GENERAL PRINCIPLES AND PROPOSALS OF ZONING ORDINANCE -**

The Zoning Ordinance is intended to promote public health, safety, morals, comfort, and general welfare. The proposed use does not appear to be contrary to these goals. In addition, the ordinance is intended to conserve property values and encourage the most appropriate use of land. Given its proposed location and the zoning district in which it is located, the use should not have a detrimental effect on property values. The use of part of the property as a kennel is an appropriate use of land.

The ordinance also makes it a goal to secure and provide social and economic advantages resulting from orderly development. The use of buildings in agricultural areas for the purposes of kennels has been determined by the Board to be an appropriate use of land in the past. The final goal of the Zoning Ordinance is to facilitate adequate but economical provisions for public improvements. The proposed use should not result in a need for additional public improvements.

**2) COMPATIBILITY OF USE WITH APPEARANCE AND ESSENTIAL CHARACTER OF AREA -**

Since the proposed special use will be in existing buildings and located behind other structures, there will be minimal visual change in the property. The building site is typical of a rural residential parcel. The presence of the special use should not be noticeable to the traveling public. No signage has been requested. Therefore, the essential character of the area should not be changed by the proposed kennel.

**3) IMPACT ON EXISTING AND FUTURE USES, VICINITY, AND COMMUNITY AS A WHOLE -**

No agricultural land is being taken out of production for the purposes of this use. Further, the use should have no impact on surrounding agricultural uses in proximity to it. The nearest residence is approximately 750 feet to the southeast. There is significant vegetation between the buildings and area used for kennel purposes and the closest dwellings, whether on the neighbor's property or on Sutcliffe's property (See Figure 12).

**4) ADEQUACY OF PUBLIC SERVICES (i.e., highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools) -**

260<sup>th</sup> Street is paved. Since this is not a boarding kennel and customers do not pick up dogs on location, the proposed special use will have no additional impact on the road than existing traffic.

Law enforcement protection is provided by the Cerro Gordo County Sheriff's Department. The property lies within the Mason City Fire Department's service area. No additional demand for law enforcement or fire protection services are anticipated as a result of the proposed use.

The property is partially within Drainage District No. 35. The closest floodplain, Little Lime Creek, is more than 800 feet to the southeast and will not be impacted by the proposed special use.

Water is from a private well, and wastewater is treated by an on-site system. The property is outside of the Environmental Resources Overlay District and the Clear Lake Sanitary District service area. Health department approval for well and septic extensions, if ever proposed by the Sutcliffe, should be a condition of the permit if approved. The county Department of Public Health becomes involved if floor drains for washing waste out of the kennels are connected to the septic system. However, there are no floor drains in the kennel building, and according to the narrative, dog waste is gathered and composted. The Health Department has provided comment and has no concerns.

Another issue is whether the applicant intends to wash animals. Often times, an insecticide is used in animal washing. The EPA regulates the discharge of insecticides.

The proposed use should not have an impact on schools.

**5) PUBLIC COST FOR ADDITIONAL PUBLIC FACILITIES AND SERVICES -**

The need for additional public facilities or services resulting from the proposed use is not anticipated.

**6) POTENTIAL DETRIMENTS TO PERSONS, PROPERTY, OR GENERAL WELFARE (i.e., excessive traffic, noise, smoke, fumes, glare, or odors) -**

The use is not anticipated to increase in traffic on 260<sup>th</sup> Street. Average annual daily traffic counts past the site, which is about ½-mile east of Mason City city limits, are 160 vehicles per day.

Kenneled dogs, and dogs confined to an exercise area, can make a tremendous amount of noise. Information filed with the application indicates that Sutcliffe uses barking collars to mitigate noise. The considerable vegetation between the kennel area and the closest properties with dwellings should also help mitigate some of the noise (See Figure 12).

If dog waste is cleaned and composted, odors will likely be emitted. Managing the emission of odor should be a condition of the SUP. No smoke, fumes, or glare are anticipated.

**7) COMPATIBILITY AND CONSISTENCY WITH THE INTENT AND PURPOSE OF THE ZONING DISTRICT -**

The A-1 district is intended to permit the continued use of land for agricultural purposes. While kennels do not provide a direct service to the agricultural community, they are allowed by SUP in the A-1 district. No land will be taken out of agricultural production for the establishment of the kennel.

**8) COMPATIBILITY WITH COUNTY COMPREHENSIVE PLAN -**

Kennels are not specifically addressed in the comprehensive plan. However, this proposed location is ideal because it is not in proximity to dense residential development. The placement of kennels in predominantly agricultural areas appears to be compatible with the goals and objectives of the comprehensive plan because conflicts between uses are mitigated, particularly by the existing vegetative buffers (See Figure 12). No farmland will be affected by the special use.

**COMPLIANCE WITH ADDITIONAL ARTICLE 20 REQUIREMENTS:**

Additional requirements for the special use requested are as follows:

20.2 SPECIAL USES

- W. Animal hospital and veterinary clinic; commercial kennels for the raising, breeding or boarding of dogs or other small animals. Any outside exercising runways shall be at least two hundred (200) feet from all property lines and not nearer than six hundred (600) feet from any zoned residential district, incorporated boundary line or dwelling other than the lessee or owner of the site. A-1 and A-2 Districts.

**For the most part, the kennel buildings and exercise areas are more than 300 feet away from all property lines. However, the proposed exercise area west of the house is approximately 50 to 90 feet from the west property, which does not meet the 200-foot setback requirement for exercise areas. Large dog breeds need a lot of exercise to stay in shape, and this is the most spacious area on the acreage. With the thick, 80-foot wide stand of evergreen/coniferous trees along the west side, noise concerns should be alleviated. I would recommend granting a variance for the setback for the west exercise area by condition to benefit the health of the dogs, not that that was a concern during the site inspection.**

**There are no residentially zoned districts close by the property.**

**ZONING DISTRICT REQUIREMENTS:**

Requirements of the zoning district for which the proposed special use is to be located are as follows:

- Minimum parcel size is 10 acres. **Sutcliffe owns more than 10 acres.**
- 7.5 Height Regulations. No building hereafter erected or structurally altered shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet. **The buildings used for sheltering dogs do not exceed this height.**
- 7.6 Yard Requirements. Each lot shall have front, side and rear yards not less than the depths or widths following:
  - A. Front yard depth, fifty (50) feet.
  - B. Each side yard width, twenty-five (25) feet.
  - C. Rear yard depth, thirty (30) feet.

**The existing buildings used for the housing of dogs meet these minimum requirements.**

**STATUTORY REQUIREMENTS:**

Additional requirements under Iowa Code pertain to the Special Use applied for:

- Iowa Code Section 162.2(6) defines a “commercial breeder” as, “A person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or less breeding males or females is not a commercial breeder.” Sutcliffe breeds Great Danes, German Shepherds, and other dog breeds. Sutcliffe also sells about 20 dogs in a calendar year.
- Iowa Code Section 162.8 requires that a commercial breeder’s license be obtained from the state department of agriculture and land stewardship if the operation meets the definition of a “commercial breeder” above. Sutcliffe meets the definition of a “commercial breeder” and is required to get a license from the state. Sutcliffe provided a copy of the application to the state with his application. Providing a copy of the license, once received, to the Planning and Zoning Office should be a requirement of the SUP.
- As stated in the findings section, the applicant may be subject to regulation by the DNR and/or EPA depending on how waste is treated and removed, and if animals will be washed using insecticides.
- The applicants may be subject to health department regulation for well and septic systems. If floor drains would ever be installed in the kennel buildings and connected to the septic system, the applicants would be subject to health ordinances. In addition, if Sutcliffe installs any system to handle animal wastes, Health Department approval might be necessary. No floor drains are planned according to the application. The Health Department has no concerns at this time.
- The kennel is not subject to regulation by the United States Department of Agriculture.

**STAFF ANALYSIS AND RECOMMENDED ACTION:**

Sutcliffe has been breeding and raising dogs for a while. On average, approximately 10 dogs are kept on site at any given time. Sutcliffe sells about 20 dogs per year to support the cost of the operation. Until the recent incident in which the Sheriff’s Department was involved, we were not aware that there were a number of dogs on the property exceeding what is allowed by the Zoning Ordinance.

Based on the site visit and the Sheriff’s deputy report, the dogs are in good health. There should be sufficient vegetative buffers to alleviate noise concerns, including the proposed exercise area and particularly if barking collars are used for noisier dogs. As long as kennels are regularly cleaned and waste is cleared from the kennels, I have no concerns about the conditions of the facility. The Board could add a condition to require a follow-up inspection once improvements are completed in the north kennel building. Sutcliffe will be required have an inspection by the state inspector at that time. Once receive, the a copy of the license from the Iowa Department of Agriculture and Land Stewardship should be filed with the Planning and Zoning Office.

**RECOMMENDED CONDITIONS TO BE MET IF POSITIVE VOTE BY BOARD OF ADJUSTMENT:**

**Note:** In granting a special use permit, the Board of Adjustment may attach conditions which it finds are necessary to carry out the purpose of the Zoning Ordinance, in conformance with what is provided in Article 20 of the Zoning Ordinance, and where reasonable and necessary may increase the required lot or yard, control the location and

number of vehicular access points to the property, limit the number of signs, limit coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property, and require screening and landscaping to reduce noise and glare and maintain the property in character in keeping with the surrounding area. Special uses shall ordinarily comply with the standards of the district concerned for principal uses which are permitted therein, except as modified by the Board of Adjustment in granting a special use permit.

**The following conditions are recommended:**

1. This Special Use Permit may be reviewed at any time in the future upon the request of the applicants or a majority of the Board of Adjustment members.
2. The provisions and/or regulations as stated shall be minimum requirements and wherever the requirements of any other lawfully adopted rules, regulations or ordinances are at a variance, the most restrictive shall govern.
3. It is contemplated that from time to time during the operation of the kennel that conditions may arise which are not covered by the terms of this permit and which cannot be anticipated. In the event such conditions do arise, the Board of Adjustment of Cerro Gordo County, Iowa, may impose additional regulations to meet any new conditions. In addition, if said facility should, at any time, be operated in any manner which violates the rules and regulations of any federal or state regulatory agency, then the Board of Adjustment may impose such other conditions so as to insure compliance with such rules and regulations.
4. This permit will be subject to revocation for operator's failure to comply with the provisions as herein set forth or such other provisions as may, from time to time, be imposed by the Board of Adjustment of Cerro Gordo County, Iowa, under the terms of this permit.
5. County representatives shall have the right to enter the premises at any time upon notification to the permit holder for the purposes of enforcing the provisions of this Special Use Permit.
6. A Zoning Permit shall be obtained for the north kennel currently used for the kenneling of dogs after interior improvements are completed, and a site inspection completed by the Zoning Administrator prior to any issuance of said Zoning Permit. Zoning Permits shall be obtained for all improvements to any other existing buildings, new buildings, fences, and kennels, and any other structure intended to be built for the operation.
7. This permit is granted solely to Lyndon Sutcliffe and is not transferrable to any other party or parties.
8. Any other necessary permits or licenses required by federal, state, and local agencies, including, but not limited to the Cerro Gordo County Department of Public Health, Iowa Department of Natural Resources, U.S. Environmental Protection Agency, U.S. Department of Agriculture, and Iowa Department of Agriculture and Land Stewardship shall be obtained by the applicant and current copies placed on file with the Zoning Administrator.
9. Any proposed expansion of the use shall be subject to the review and approval of the Zoning Administrator, subject to the requirements of the Zoning Ordinance and the conditions of this Special Use Permit.
10. A variance from the requirement that all exercise runways be at least 200 feet from all property lines is hereby granted for the exercise area west of the house.
11. No trees shall be removed adjacent to any exercise area or along the north of the building site
12. Failure to obtain necessary permits and licenses for the animal sanctuary operation within one year of the date of final approval of this permit shall void the permit.
13. The applicant's site plan and application documents are adopted as presented with the addition of an exercise area west of the house. Development of the special use shall not deviate from the site plan or application documents without the consent and approval of the Board of Adjustment.

**QUESTIONS & COMMENTS:**

*Proposed motion for approval of application:* To adopt the staff report as the Board's findings and to grant the application, subject to the conditions recommended by staff and as modified by the Board of Adjustment, for the establishment and operation of a kennel, and further, that the grant of the application be made effective immediately and on the condition that Lyndon Sutcliffe shall perform all operations under the application under the specific direction of the Cerro Gordo County Zoning Administrator, consistent with the proposed conditions and recommendations approved by the Board of Adjustment, until such time as a formal resolution is drafted and adopted by the Board of Adjustment, not to exceed 60 days.

*Proposed motion for denial of application:* To adopt the staff report as the Board's findings and to deny the application for the reasons stated in the staff report as well as for the following reasons: **[STATE ADDITIONAL REASONS FOR**

***DENIAL, IF ANY***. Said reasons for denial shall be stated in the official transcript and minutes of the Board of Adjustment, and shall be made in writing to the applicant in letter form by the Board's secretary.

Prepared by:  
**John Robbins**  
**Planning and Zoning Administrator**  
**Final Draft date – September 14, 2018.**

**APPLICATION/APEAL FORM**

[For Completion by All Applicants]

Date Aug 13 - 2018

TO: ZONING BOARD OF ADJUSTMENT  
CERRO GORDO COUNTY, IOWA

I (WE), Lyndon Sutcliffe  
(NAME)

OF 21318-260<sup>th</sup> Mason City IA 50401  
(MAILING ADDRESS)

respectfully request that a determination be made by the Board of Adjustment on this Application/Appeal based on the letter written by the Zoning Administrator dated \_\_\_\_\_ for the reason that it was a matter which, in his/her opinion, should come before the Board of Adjustment.

This Application/Appeal is: (Please Check One)

- A Variance to a Zoning District requirement where there are unusual conditions or circumstances which cause a hardship when the provisions of Zoning are strictly applied.
- A Special Use listed in Article 20.2 of the Zoning Ordinance upon which the Board is required to act under the Ordinance.
- An Appeal where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the Zoning Ordinance.

The property affected is located in Section 9 of Portland Township.

The property affected is zoned A-1 according to the Cerro Gordo County Zoning

District Maps. Legal description of the property is: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I am the  Owner  Contract Purchaser  Other (Explain) \_\_\_\_\_  
\_\_\_\_\_ of the property affected.

Describe what you are proposing to do on the property affected.

Breeding and Showing Great Danes  
and German Shepherds.

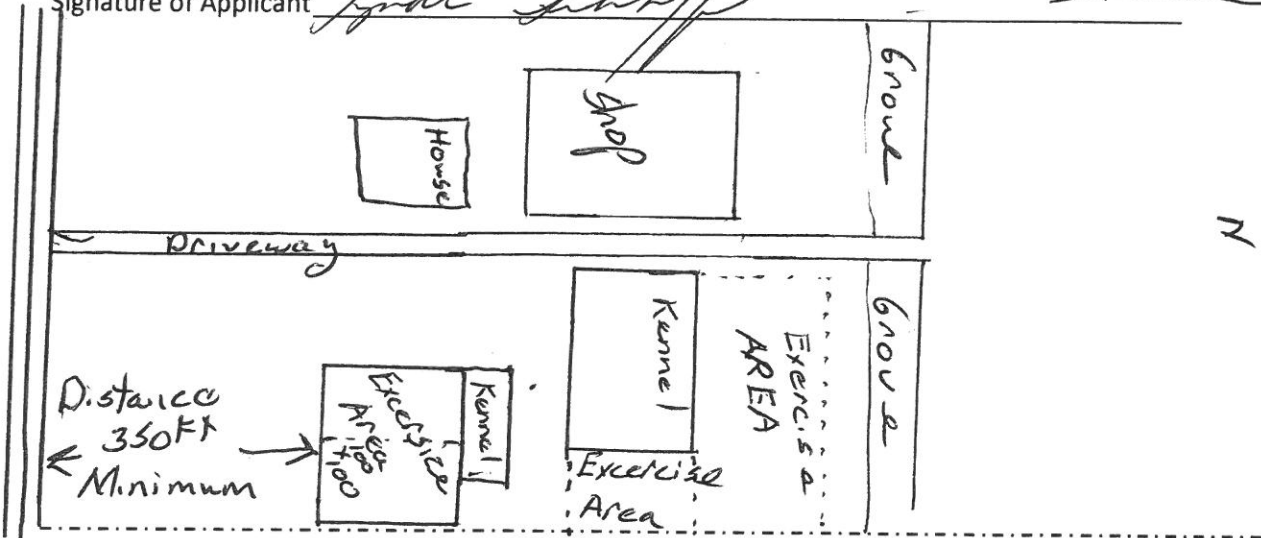
I (We) grant permission to the Planning & Zoning staff and Board of Adjustment members to enter onto the above described property for purposes of review.

I (We) further state that if this request is granted, I (We) will proceed with the actual construction in accordance with the purposes herein stated and any conditions and/or requirements the Board of Adjustment may stipulate.

Please Call ahead cell phone

Signature of Applicant

[Handwritten Signature]



**OFFICE USE ONLY**

Date Filed 8-

Case Number \_\_\_\_\_

Date Set for Hearing 9-25-18

Fee Paid 175

Application/Appeal was  Granted

Denied

Tabled



I raise an train Great Danes and German Shepherds and other working dogs. I don't board dogs for other people. This next year I hope to start showing dogs. This is my hobby, not a business enterprise. I do sell pups but that is to cover my expenses such as feed and vet bills, kennel equipment, registration fees, membership fees and other licenses. I do not have anybody come to my place to pick up pups. I either personally deliver the pups or meet them off of my farm. There is not any added traffic with what I do.

My breeding program.  
I'm constantly improving my genetic lines of Great Danes, German Shepherds and other working breeds I have. My vaccination program stays current including rabies vaccine. I have a program where my vet personally checks each of my dogs once a year. Also they walk through and inspect my dogs 4 times a year and give me any recommendations. To reduce noise to use barking collars on certain dogs to reduce noise.  
Lyndon Sutchlike

Dog manure is composted and spread on field spring and fall.

**Case No. 19-08**  
**Lyndon Sutcliffe (21318 260<sup>th</sup> Street)**

***Figure 1***

Looking at the north kennel building



September 13, 2018, J. Robbins

***Figure 2***

Looking inside the east 1/3 of the front half of the north kennel building



September 13, 2018, J. Robbins

**Figure 3**

Looking at the center 1/3 of the front half of the north kennel building



September 13, 2018, J. Robbins

**Figure 4**

Looking at the west 1/3 of the front half of the north kennel building and 2 Great Danes



September 13, 2018, J. Robbins

**Figure 5**  
Looking at the back half inside the north kennel building



September 13, 2018, J. Robbins

**Figure 6**  
Looking at the south kennel building



September 13, 2018, J. Robbins

**Figure 7**

Looking at the exercise area south of the south kennel building



September 13, 2018, J. Robbins

**Figure 8**

Looking at the planned exercise area east of the north kennel building



September 13, 2018, J. Robbins

**Figure 9**

Looking at the planned exercise area east of the north kennel building



September 13, 2018, J. Robbins

**Figure 10**

Looking at the planned exercise area west of the house



September 13, 2018, J. Robbins

**Figure 11**

Looking at an aerial photo of the acreage site



September 5, 2018, Pictometry Aerial Imagery

**Figure 12**

Looking at an aerial photo of the immediate neighborhood (vegetative buffers marked)



September 5, 2018, Pictometry Aerial Imagery





9

260th ST.

16



21318 260TH  
ST

