

**Planning and Zoning Commission BOA
CUP Hearing Minutes for Wednesday, February 19th, 2025**

Planning and Zoning Called to Order @ 5:15 PM

Roll call: **Prioreschi, Anderson, Hernesmaa, Councilor Roose, Palcher.** *Staff Kochendorfer.*
Excused: **White, Burke**

Additions or Deletions from Agenda

Public Hearing Conditional Use Permit for 2100 Old Airport Rd- The Ely Board of Adjustment will be holding a public hearing for considering a Conditional Use Permit on Wednesday, February 19th, 2025 at 5:15 pm in the City Hall council chambers. At this public hearing the Board of Adjustment will be considering the approval of a Conditional Use Permit Application submitted by Bruce Wheelright, on behalf of the Ely Dog Park; proposed location of 2100 Old Airport Rd (South East Field), Parcel #030-0500-00780. The applicant is seeking a Conditional Use Permit to allow for the use of a portion of the property as a Dog Park. The city currently owns the land, and would lease the space to the Ely Dog Park non-profit. The property is zoned Public (P2), Dog Parks are allowed by Conditional Use Permit Only, per Ordinance 376, 2nd series

Roose explained the public hearing procedure.

Kochendorfer read the public hearing notice

The applicant Bruce Wheelright explained the request

Wheelright explained the Dog Park proposal. The intent of the dog park is to provide a safe space for dogs to run off-leash, and also experience social interactions with other dogs. The dog park can help show the city on how dogs can behave and create a positive partnership within the community.

Kochendorfer asked Wheelright to provide an explanation on the layout and proposal of the dog park. Wheelright explained the layout of the dog park, with a (3) double gate entry system to the NE of the field, dogs will go in leashed, and once in the large or small dog area, the dogs can be unleashed. The same as when you go to leave, the dogs would then be leashed before going outside the gate. The fencing will range from 4 feet, to 6 feet, since there is currently some existing fence that is 6 feet tall. Some of the fencing is repairable, and some of the fencing needs full replacement. Wheelright explained that the average fence height for dog parks is 4 to 6 feet. His preference would be to have a 5-foot fence, if he was starting from scratch, but with having the existing fencing already in place, and replacing the necessary sections with 4-foot fence, it is estimated to cost \$35,000. The Hibbing dog park has a 4-foot fence, that covers roughly a city block. There will also be an added fencing post rail at the bottom of the fencing.

Prioreschi inquired if there was currently a lease agreement with the city. Wheelright explained

that not yet, but he was quoted a price of \$1 per year. Prioreschi also mentioned about waiving the CUP fee since the Dog Park is a non-profit association. This will be discussed under the approval or denial portion of the hearing.

Letters and or phone call comments read into the record

Those in support may comment

Angela Campbell, 233 E Chapman St- Speaking as a private citizen. First involved with the dog park in 2020, and is supportive of the project, and making it a success.

Francis Douglas, 114 N 8th Ave E- Beneficial to the community and the tourists who come to the community. It would benefit the humans and the dogs.

Frederica Musgrave, 30 W Shagawa Rd- In favor of a dog park, where the dogs can run free. Supportive of all the work Bruce has done to move the dog park forward. This should be a free run (leash-less) dog park. Who will be responsible for the maintenance of the park. Who can and can not use the park. How are the rules and regulations of the dog park going to be enforced. The importance of liability, and who is liable. Incorporation of rules and regulations. The importance of dogs being registered, and vaccinations. The city needs a dog park.

Betsy Cullen, 1130 E Washington St Apt #1- Currently is a pet sitter, and sees the need for a dog park. Works on Sheridan St, and sees the amount of pts walking by. The dog park is good for dogs and other pet owners. We need responsible owners, and if your worried about diseases or being attacked, then don't go.

Craig Rice, 1354 Hwy 120- Current board member on the Ely Dog Park Board, will be responsible for maintenance at the park. He explained his own experience with his dog, and the importance of the dog park. There is local interest from the resorts for the dog park as well. Safety of the dog park is also important.

Those opposed may comment

Comments from those who wish to provide any additional information

Adam Bisbee, 1004 E Chapman St- City council member, and council liaison for the park and rec board. The dog park would encourage health of the dogs, as well as the owners, and also promote mental health. The parks and rec board has an expectation of signage, owner responsibility, and incident reporting. Having the dogs registered could be used as a condition to keep pets safe.

Applicant will have the opportunity to answer additional questions

Hernesmaa is concerned and would like clarification on the liability of the dog park, and who is responsible, the city or the non-profit.

Wheelright explained that there will be posted rules, and a disclaimer of not holding the city liable. If an incident occurs, the police would be involved and report it like any other incident. The dog park non-profit will have insurance, and the city will not be liable. The board members will also have insurance. Kochendorfer explained that this property will be treated like anything else, just like the little league field, where the City owns the field, but the little league has its own insurance. The city doesn't assume zero liability, as anyone could get hurt at anytime on any city owned property. A lot of this information will be contained in the lease agreement with the city, which will then get approved by city council.

Roose asked who will be taking care of the maintenance of the facility. Wheelright explained that they are currently seeking a contracted maintenance individual who would handle the maintenance of the field. Dale Franks is currently someone that is being sought, and would be responsible for emptying of trash, mowing of the field, and other maintenance. The maintenance person would be on a yearly contract.

Roose asked who would be eligible to use the dog park. Wheelright explained that the park will be open to any dogs, with a 20 lb. limit, which would have to use the small dog park, and larger dogs use the larger dog park. There will not be a restriction of dog breeds at this time. For children 8 years and under, they would not be allowed in the dog park. Age 16 years, to 9 years old, you have to be with an adult, and over 16 years are allowed.

Roose inquired about the enforcement of rules, and how that would be handled. Wheelright explained that it will be the owner's responsibility to remove dogs that aren't behaving, or misbehaving. If an incident occurs, the parties involved need to exchange information, and if it is serious enough, the police should be called. Volunteer staff will be on site to observe and educate patrons on the rules, but they aren't there necessarily to enforce the rules. Large signs will also be posted stating the rules and regulations.

Roose asked if any fees are going to be charged to use the park. Wheelright explained that most dog parks don't charge to use them. There could be a way for people to purchase a tag when they renew their annual pet license, or for out-of-town visitors to purchase a pass for the dog park. There could be a donation or self-registration box at the dog park as well.

Roose inquired if there was going to be a sign in sheet at the dog park. Wheelright explained that there is no plan for this, but nothing is off the table.

The hours of the dog park would be dusk to dawn, so no lighting would be needed.

Mr. Rice clarified the child age limits for the dog park. Ages 8 and under are not allowed. Ages 9 to 15, are allowed by supervision only. Ages 16 years and older, are allowed without further supervision. All dog owners are required to carry a 6-foot leash on them while in the dog park.

There was further audience comment that dogs without a license and rabies vaccinations tags should not be allowed to enter the dog park.

Closure of the hearing @ 6:08 PM

Staff Analysis/ Finding of Facts read

Kochendorfer explained the proposed location as the property at 2100 Old Airport Rd, Ely, MN is currently owned by the City of Ely, and a portion of it is being used as baseball/softball fields, and the southeast portion is unused, and being proposed as a Dog Park. Bruce Wheelright, representing the Ely Dog Park non-profit group, submitted an application for Conditional Use Permit. The property would then be leased to the Ely Dog Park non-profit, for use as a Dog Park.

The subject property is legally described as:

PID 030-0500-00780

S1/2 OF NW1/4 EX N 400 FT & EX E 500 FT OF W 700 FT OF N 450 FT OF S 820 FT OF E1/2 AND EX E 400 FT OF W 1100 FT OF N 450 FT OF S 820 FT OF SE1/4 OF NW1/4

The finding of facts is:

STAFF ANALYSIS

- **Summary:** Applicant, Bruce Wheelright and the non-profit group “Ely Dog Park” would like to lease space at the current softball fields located at 2100 Old Airport Rd. The field would be the most south and eastern corner field. The city currently does, and will maintain ownership of the land, and the non-profit group, upon approval, would enter into a lease agreement for the field.
- **Fencing:** The current fencing around the ball field is mixed between 4 Ft and 6 Ft in height. An informal survey was completed amongst (18) other Dog Parks in Minnesota. Of the (18) Dog Parks, (5) of the Parks maintained a (4 Ft) Fence, and the other (13) Dogs Parks have fences of 5 Ft or higher, those mostly being in northern Minnesota climates. The City of St. Louis Park recommended that the fencing be no lower than 5 ft. The City of St. Paul also recommends a fence height of 5 Ft. The Grand Marias Dog Park currently has a fence height of 6 Ft, and stated that is adequate to handle the deep snow. Wheelright received a fence quote from A-1 Fencing of Cloquet, and the total cost would be **\$50,243.88** to maintain a minimum fence height of 5 Ft.
- **Feedback from Minneapolis Parks and Rec Department Related to Dog Parks:**
 - The city will have to change its leash law to accommodate the off-leash aspect of the Dog Park.
 - MPLS Parks are anywhere from a 4-6 ft fence, although they recommend more than 4 ft. Maintaining of a double gate system. Also providing a maintenance gate for mowers and vehicles to access the area.
 - The city moved most of the trash cans outside of the fencing to make it easier for staff to pick up.
 - Mulch/wood chips are messy, loose gravel seems to be the best surface. Grass is fine for the first year or two, and then it will become a muddy, dirty, mess.

- Having a separate “large” and “small” dog area is important
- Consider long term land uses. Once a dog park, always a dog park
- Have the location be in a non-residential area.
- Consider parking concerns, allow for ample parking
- MPLS Park and Rec had a permit that’s issued to dog owners when they purchase their license. The fee is built into the permit for
 - residents. All dogs must have proper vaccinations and not be designated as “dangerous”. Park police help enforce these rules.
 - Pet owners sign a liability waiver (**maybe require this?**)
 - Addition to the park of natural features such as boulders, trees, etc.
 - Drinking fountains with a bowl filler on the bottom.
 - Consider lighting, and restrooms
 - Consider waste water run-off. Dogs go to the bathroom, and both solid and liquid animal waste will run off into streams, and watersheds.
- **FACT:** That the conditional use permit will not be injurious to the use and enjoyment of the environment and other property in the immediate vicinity, nor substantially diminish and impair the property values within the surrounding neighborhood:
 - **FINDING:** The property is located in the Public (P2) Zoning district and is surrounded by natural woods on the south side, and an Industrial Cement Plant to the east. No residential housing is located in this area. There is no correlation between Dog Parks and diminished property values.
- **FACT:** That the proposed development will not increase local or State expenditures in relation to costs of servicing or maintaining neighboring properties
 - **FINDING:** There will be no state or local money spent on this project, and all costs associated with the proposal will be provided by the Ely Dog Park non-profit. Maintenance of the property will be solely on the responsibility of the Ely Dog Park non-profit. The property will be leased from the City, to the non-profit.
- A. **FACT:** That the establishment of the conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses predominant in the area; and
 - **FINDING:** The property is currently sitting vacant, and is no longer being used as a softball/baseball field. The land is owned by the City, and there are no plans to further develop the property, outside of park space.
 - The only proposed changes being made to the property are to add additional fencing around the perimeter, at the expense of the Ely Dog Park non-profit.

- **FACT:** That the location and character of the proposed development are considered to be consistent with a desirable pattern of development for the locality in general
 - **FINDING:** The general development of the area is Public/park space, with some industrial areas to the east. There is no plan for any other future development in the area.

City of Ely Requirements/ Conditions of approval:

1. Follow all rules and regulations of the Lease Agreement established by the City of Ely.
2. Require a minimum of a 5-foot-high fence around the outer perimeter of the Dog Park.
3. The Ely Dog Park non-profit is responsible for the mowing and general maintenance of the field, including trash, dog waste, and providing a portable restroom.
4. Hours of operation: 8 am to 10 pm, 7 days a week.
5. Alcohol, cannabis/cannabinoid, and tobacco use and possession are prohibited.
6. Any modifications to the land other than already approved, must first seek city approval.
7. Signed liability waivers by the users

Staff finds that the applicant’s proposal meets the threshold for approval, by Conditional Use Permit with the conditions outlined above. Staff recommends **APPROVAL** of the Conditional Use Permit as proposed, with conditions.

Decision rendered by the Planning and Zoning Commission

Prioreschi motion to approve the Conditional use permit without any conditions/ Anderson Second.

Hernesmaa reiterated the importance of liability insurance, and whether or not this would be addressed by the city council when approving the lease agreement. Kochendorfer explained that this is something that the council could require/address.

Roose expressed that she would like to see some conditions, and supports the dog park, just not this motion.

Roll call Vote: Prioresch- Yes, Hernesmaa- No, Roose- No, Palcher- No, Anderson- Yes. Motion failed 2-3, with Burke and White absent.

Palcher would like to see a motion including conditions such as addressing the age requirement, dog behaviors, responsibility, and who is paying for the dog park. Further discussion on the liability requirement. Roose explained that there could be a motion to include Kochendorfer’s recommendations, and including information about requiring liability insurance, as well as the dusk to dawn operating time frame. Palcher would like signage to include safety, and eligibility for use, and required vaccinations.

Further discussion and clarification on what should be included on the conditions list. The dog park rules could be included on the conditional use permit as well.

Roose called for a temporary recess @ 6:28 PM to allow for some information gathering.

Roose called back to order @ 6:33 PM.

****Palcher motion to approve the conditional use permit with the following conditions:**

- 1. Follow all rules and regulations of the lease agreement established by the city of Ely**
- 2. Require a minimum of a 4-foot fence around the outer perimeter of the dog park**
- 3. The Ely Dog Park non-profit is responsible for the mowing and general maintenance of the field, including trash, dog waste, and providing a portable restroom**
- 4. Hours of operation, dawn to dusk**
- 5. Alcohol, cannabis/cannabinoid, and tobacco use and possession are prohibited**
- 6. Any modifications to the land other than already approved, must first seek city approval**
- 7. The dog park organization must demonstrate the liability being sufficient insurance**
- 8. It is desired that dogs are vaccinated and up to date on those vaccinations**
- 9. Defined age usage of the park, under 8 years old are not allowed to use the park, age 8 to 16 may use the park under adult supervision**

Hernesmaa second.

Roll call vote: Prioreshi- Yes, Hernesmaa- Yes, Roose- Yes, Palcher- Yes, Anderson- Yes. Motion carried, 5-0, with Burke and White absent. **

****Prioreshi motion to recommend the waiving of the conditional use permit application fee due to the non-profit status/ Palcher second. Roll call vote: Prioreshi- Yes, Hernesmaa- Yes, Roose- Yes, Palcher- Yes, Anderson- Yes. Motion carried, 5-0, Burke and White absent. ****

Adjournment at 6:39 PM without objection.