

We have lived on our 1 acre lot located on a dead end road at the south edge of town by a vineyard and pumpkin patch for 10 years now. Our lot is bordered to the north by Blue Heron Trail (with a 1.5 acre park across the street), to the east by our only adjacent neighbor, to the west by Heron Court and to the south by a vacant lot owned by Scott County. On the other side of the Scott County lot is an 11 acre RR property that has a one acre pumpkin patch where they grow pumpkins/corn for commercial sale. To the south of that property is a 26 acre AG property. Lake O'Dowd is nearby to the southwest on the back of the two properties to our south.

One of the things we love about our property is it is in an older established neighborhood (our home was built in 1982) that, when built, was considered to be "in the country." As Shakopee has grown, more traditional housing developments have sprung up near us, but our development pocket has remained far more rural with area lots ranging from around $\frac{3}{4}$ of an acre to 1 $\frac{1}{2}$ acres. Many of the lots are heavily wooded. Just across Marschall Road you find horses, a barn, and crops grown in an agricultural setting.

It is common to see wildlife throughout the development; not just song birds but wild geese, ducks, deer, foxes, squirrels, and others. With the large lot sizes in the development many neighbors in the development have installed outbuildings/sheds and most keep some kind of animals/pets on their property. Our neighborhood structure allows for a wonderful combination of having neighbors while still having space to spread out more than a newer residential subdivision. Adding more uniqueness to the area is the design of the homes as no two look alike. Our home, for example, is a geodesic dome. Our neighbor to the east has a home built in to the earth. This variety adds to the character and sets this subdivision apart. In the last several years, the rural and more laid back nature of the area has actually increased with the closing of the intersection of Blue Heron Trail and Marschall Road. We now live on a dead end street with really only one connected neighbor. Our home itself sits positioned well to the front of our large lot and our backyard is huge but also far from the water source the birds require. I am attaching a photo/map from the Scott County GIS site to give a good idea of the layout of the area. Unfortunately much of what is the flattest surface is presently used as pasture for the birds is "side yard" and contains the trees the birds chose as shelter. Even in the dead of winter and 2' of snow, the birds prefer sitting under our pine trees to any coop offered.

When COVID came around our family discussed getting backyard chickens but opted for domesticated ducks and geese because they eat bugs and grass and lay larger eggs. With the heavy woods in the area we thought the geese and ducks eating bugs would be a nice side benefit. We also thought that domesticated geese and ducks would be a better fit in the area given that wild ducks, geese, and heron had long been prevalent in the area (note the area street names: Heron Ct; Blue Heron Trail; Wood Duck Trail). We also felt that since our subdivision is zoned rural residential (RR) the geese and ducks made sense given the nature of the subdivision and how the area has been used over the years. This has allowed us to avoid harmful chemicals for weed/bug control that ultimately work back into our well supply. As a side effect of being one of the few lots to not use a lawn care service our yard is full of over a dozen native plant and pollinator species like our milkweed that contain hundreds of eggs for the

endangered monarch butterfly, wildflowers, a number of bees, mosquito eating dragonflies, and luminescent fireflies.

Before buying the birds, I looked into the city code for RR that provides setbacks for machinery and buildings required for agricultural operations and figured it would be odd to give agricultural setbacks and not allow related agricultural uses. The fact that we had a neighboring pumpkin patch and the property just across Marschall to the east (also zoned RR) had horses and a rooster (which is only allowed in rural agricultural areas) seemed to support this line of reasoning.

We researched and constructed a run suited to the needs of larger domestic geese and ducks that cannot fly. We had the birds for a few months before code enforcement first showed up. We had 8 geese at that time but a few wild mallards took up nesting in our yard as well as we're just off Lake O'Dowd. We explained our understanding of code, the fencing we were using, that our geese were domestic, and that the mallards were wild and free to come and go at will. Code enforcement seemed satisfied and being we never heard anything back we took that to mean we were fine to continue as is and did so for the next three years.

Our sole neighbor has a sump pump that runs so much (presumably because their house is built into the ground as noted above) that our ditch was standing water even in years of drought. This year, it's become an all but unmowable mosquito factory given the volume of rain and saturation of the ground. I again looked at the code and it said that temporary garden fences 3' or less were allowed in easements so my solution was to add an outer ring to the run fence so the geese could help keep the grass down and the ducks could keep the mosquitoes down. We have been using t posts and poultry wire to make pens which we thought met the temporary criteria as they don't obstruct view and can be installed/removed in a minute and we relocate them semi regularly based on where we're growing what.

Now, after having the birds for three years since code enforcement first visited, they returned this summer. Code enforcement has now insisted that we get a permit for an approved permanent fence rather than the temporary containment fence we had used for the birds to date. They also demanded we do this within 30 days. I ran the numbers and 3' chain link on just the two road facing property lines would be over \$5,000 even if I installed it myself (and wouldn't be a sight barrier) while a 6' privacy fences seemed to start at \$20k. When I said I couldn't afford that expense in a month's time, enforcement directed us to remove all the t-post fencing from the yard unless it was part of a run for the birds. However, they just applied the rules for chickens that are 1/4th the size of pasture grazing geese that require more room. An acre can support 20-40 geese for pasture grazing depending on quality. We grow a number of grasses/grains/greens throughout our whole yard for their consumption but once you account for house footprint and clay soil, they need most of the yard as their pasture/run. The larger grazing area allows waste to organically build soil whereas smaller pens create concentrations of waste that can be a health hazard to all involved and require more labor and care.

Unfortunately, just allowing more room per bird just results in an exorbitantly expensive box that would cover most of my yard that's too short for me to stand in. Code limits the runs to 6' high while I'm 6'3" and my posts are 5.5'. Further, our yard has a number of trees and sloping that we'd be hard pressed to find a space to erect something that could meet their spacial needs and the canopy requirements for chickens. They need access to larger volumes of water than chickens so we have a number of pools around the side yard we empty and refill every few days. Flipping and filling their pools inside a cage would lead to the enclosure becoming mud with them having nothing to graze. Geese also live about 20 years to a chickens 3-5, so this would be quite inconvenient for a long time.

We talked to our only consecutive neighbor before getting the geese and they were all for it. Even years later they say they much prefer any sound our birds make to their three dogs barking or the traffic on Marschall. The neighbor across the cul-de-sac regularly tells us she loves watching the birds waddle across our backyard. Living across from a park, every week we see a family with kids enamored with the birds. Our geese are a domesticated Chinese breed. They're not aggressive like Canadian geese nor can they or the blue Swedish ducks fly. Three of our neighbors have birds and we're aware of a few other properties in what is/will be Shakopee that have water fowl and are actively engaged homesteading in a situation like ours. While I agree that the code for chickens makes sense in higher density areas where lots are between an eighth and a quarter acre and that waterfowl definitely shouldn't be kept downtown, I think lot size and location should factor in to how many of what kind of bird are allowed much like how horse count is dependent on acreage.

Given we're going on our fourth year of having the geese and property values in our development have continued to go up while 3 other properties in the neighborhood also have birds, I believe we've met the criteria of 151.011A1. Specifically, our property has increased in value according to Scott County tax records by over \$25,000 in the years we've had the geese and ducks. Every nearby property has also seen an increase in value during that same time frame based upon Scott County assessed values. One nearby home sold for \$460,000 in October of 2021 and is now valued at almost \$500,000 (PID 270610211). Another nearby sold in May 2023 for \$500,000, in a year where it was assessed to be worth \$460,000 (PID 270610330). Clearly our birds have not diminished or impaired property values in the immediate vicinity. Our use will also not impair anyone else's use of their property. Our use will stay entirely within our property boundaries and will not have any adverse impact on our direct neighbors.

Our development does not really have any vacant property that is eligible for orderly development. The only vacant property is a split lot owned by Scott County that is owned as part of the trail expansion but that lot is not of the size that it would be developed. It is simply open space. If anything, having that lot connected to ours supports the conditional use request.



Some more information about nearby properties in the immediate vicinity:

Property id - 270610180- sole adjoined neighbor to east- 3 dogs, loves the birds over traffic on Marshall. Has provided a letter of support for this conditional use permit application.

Property id - 273060010- southern neighbor house ~500ft from property line with woodland between with 1 acre plot raising pumpkins/corn for Peter and Carmen's commercial market.

Property id - 270610200- owned by county and used as driveway for above after trail expansion. Doesn't seem viable for development as is but my use wouldn't interfere with that regardless which should satisfy 151.011a2. I'm actually also interested in acquiring the portion of this parcel directly adjoining my lot but have had issues getting replies from the county to my requests.

Property id - 270610211- southwest neighbor largely obscured by two rows of trees, their girls love our birds, and they also own birds.

Property id - 270610221- due west with full view of our whole back yard but every time we bump into them they tell us how much they love watching the birds and have a dog.

Property id - 270610170- northwest neighbor. They have their own birds as well.

Property id - 270610370- northern neighbor is a city park that draws nature lovers that typically fawn over the birds.

Nothing about my usage requires additional facilities which should satisfy 151.011A3. Access roads are adequate as is drainage and utilities. Our proposed use will not require an increase in utility capacity.

City code permits chickens in residential zones and horses are also allowed in RR based on lot size. Considering lot size, location by a lake at the periphery of city limits, amidst moderate scale agriculture including commercial crop on RR and AG, and horses across the road, I do not believe geese are inconsistent with the purpose behind the rural residential zoning district and already established rural agricultural-like usage already in the immediate area per 151.011A4. Additionally, given permitted horse count increases with lot size it seems reasonable to allow more birds on a 1 acre parcel than the same 5 allowed on smaller 0.11-0.15 acre lots. The county sets geese/ducks as .01 AG unit per acre. 100 birds is a lot but 5 per tenth/fifth/quarter acre would be reasonable as would setting the total per acre at 25/30 and just multiply by lot size.

I have no reason to believe anything I do in my yard would do anything other than embrace the comprehensive plan per 151.011A5. The 2040 comp plan states a key goal is to align land use with the Envision Shakopee goal---one of which emphasizes “connecting people to nature”, which specifically includes wetlands. We actually attended the various events at Huber Park and the Community Center to support/vote for this very point years ago. Our birds, unlike chickens, actually further this goal. (Pages 7 and 35 of Envision Shakopee comp plan).

The comp plan also sets a goal to “identify and remove barriers to local food systems in zoning code and land use policy.” (Envision Shakopee plan p. 105). As noted above, our birds lay eggs and we consume those eggs. They are all natural, organic, and raised in our own yard. Our proposed conditional use supports this comp plan goal. Interest in homesteading has soared post COVID and it would be amazing if code could empower residents to cultivate closer bonds to their land than just manicuring turf. We wanted to have a better connection to our food beyond pulling it out of a cooler. A big part of homesteading is being both environmentally and economically conscientious and a static \$20,000 privacy fence to hide birds neighbors actually enjoy is an artificial barrier against the comp plan considering a \$1,000 in poultry wire has suited our every need for 3 years and is entirely reusable as our needs change with crop rotation or isolating sick/injured birds.

Our proposed conditional use is also consistent with the comp plan goal to “preserve and enhance the unique identity and character of individual neighborhoods.” As noted throughout this narrative our neighborhood is very unique within Shakopee. It is not a new cookie-cutter national builder based development. It has been allowed to develop in its unique way that encourages different uses than other neighborhoods. Our proposed use is consistent with the historic use of the neighborhood and with the comp plan goal of supporting those unique opportunities. (Envision Shakopee p. 114). Our requested conditional use fits with the guidance of the Envision Shakopee plan to shape zoning decisions in accordance with the goals of the comprehensive use plan. (Envision Shakopee p. 128).

These years with the birds have been filled with joy. Everyone in our household suffers with anxiety, depression, PTSD, or something else. The birds have been a massive asset in coping with everyone's respective struggles. The changes mandated by code enforcement would turn our lives upside down and undermine the well being of our animals that live a rather long time to

be stuck in enclosures that don't meet their needs. The asks are also financially onerous and counter to the city's goals of increasing land use, connecting with nature, and removing barriers to healthy food.

Existing use of property-

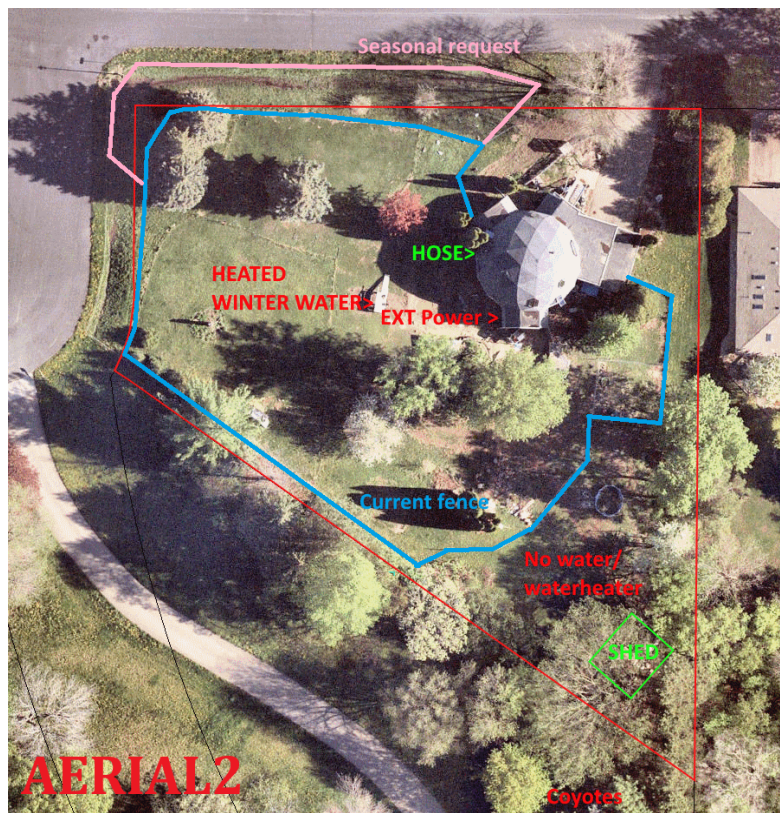
Single family home with pasture for grazing geese and ducks using 3' high t-posts and poultry netting. Netting is 5' with 2' staked inside the pen to prevent sneaking under.

Proposed use of property-

1- Given code already permits some farm animals in RR based on lot size, we request bird headcount similarly increase with lot size. The smallest lots in city limits are roughly 1/10th an acre, but 50 may be excessive; perhaps 5 minimum +5 per 0.2 acre (25/acre).

2- Given we've demonstrated for years the current fencing solution meets all practical use requirements for pasture grazing, flightless birds and imposes no harm or risk of harm to anyone or their property, we request allowance to use t post fencing within our property lines for a period of at least three years while we plant and cultivate natural barriers and save for a privacy fence should that prove insufficient. [Blue lines on aerial 2]

3- Given our remote location, lack of water/sewer service, very low chances of requiring utility repair, and the ease with which temporary fencing can be removed, we request permission to temporarily place fencing in spring and summer in our ditch. [Pink lines on aerial 2]





Certified Animal Welfare Approved by AGW Standards for Geese

The premise of the AWA standards is that animals must be allowed to behave naturally. The following standards allow animals the opportunity to perform natural and instinctive behaviors essential to their health and well-being. Provisions are made to ensure social interaction, comfort, and physical and psychological well-being.

2.0.1 Breeds and strains must be chosen with consideration of their ability to thrive in the prevailing climatic conditions of the farm, in pasture-based, free range, outdoor systems.

6.0.1 Birds must have free access to clean, fresh water at all times.

6.0.2 Birds must have a feeding plan that will guarantee a varied, well-balanced and wholesome nutritional regime appropriate for their age.

6.3.1 Poultry must have constant access to food during daylight hours.

6.3.2 Birds must always have access to insoluble grit. Birds must be able to pass the grit into the gizzard.

Note: Grit may be obtained from the environment or provided as a supplement. If provided as a supplement it can be removed 48 hours prior to slaughter.

7.0.8 A ranging and foraging area management plan must be in place that addresses the specific farm site. It must ensure that:

7.0.8.1 Not allocated.

7.0.8.2 Poultry must have access to growing green vegetation on the range whenever conditions allow.

7.0.8.3 The composition of the ranging and foraging area does not create health problems for the birds.

7.0.8.4 Birds have access to fresh, clean ranging and foraging areas that has not become polluted with manure.

7.0.8.5 The location of water, shelter, and feeding areas is addressed.

7.3.1 The activity of the birds must not cause more than 20% of the ranging and foraging area they are kept on being denuded.

7.3.3 Birds must be able to forage and seek nutrition from the range.

Note: Geese should be able to graze.

7.3.4 Clean drinking water must be continuously available to birds on range.

While we are not a commercial operation, this collection of recommendations still center on the well being of geese.

We have no issue meeting their needs for vegetation, freedom of movement, fresh water, and water heaters in winter to date but it would be all but impossible adhering to 130.04H intended for chickens.

Due to landscaping, trees, and grading there is no suitable location that could fit the recommended minimum enclosure size of 90'x50'x8' and I wouldn't fit in one 6' tall that meets code. It would also be an unreasonable burden and expense to build permanent accommodations for a number of birds I wouldn't be able to maintain as enforcement barred replacement until once again under 5 birds.

A covering is not suggested unless aerial predation is a concern and geese are too large. We have yet to lose a goose in pasture while our neighbors have lost several chickens kept in code compliant runs. Our dogs mark the yard perimeter and have proven an effective deterrent for years.

Small fixed pens with water sources quickly turn into empty muddy holes full of waste devoid of green food and clean sleeping areas. Geese need area to roam, bathe, eat, and preen.

7.3.6 Areas of retreat or cover must be available close to the birds and provided in a manner that encourages ranging behavior and ensures maximum use of the ranging and foraging areas available.



Note: These can be natural (for example: trees, shrubs and cover crops) and/or artificial.

7.3.15 **Recommended** The minimum pen size on ranging and foraging areas for geese should be 90 ft. by 50ft.

7.3.16 Fully enclosed (covered) pens on ranging and foraging areas may only be used when there is a predator risk that cannot be controlled by other means.

7.3.19 **Recommended** A fully enclosed pen on ranging and foraging areas for geese should be at least 8 ft. high.

7.4.1 Geese must always have access to water for behavioral needs.

Note: Different species have different behavioral needs. All geese must have access to water such that they can dip their heads in water and spread water over their feathers. Geese should additionally be provided with water they can swim in. Goslings are included in the requirement above but they must be protected from the risk of drowning. This may necessitate excluding them from large bodies of water and/or deep water.

7.4.2 Water for swimming needs must be deep enough for birds to fully invert their bodies in the water and swim without their feet touching the bottom.

7.4.3 Natural and artificial water sources must be kept clean and well maintained.

7.4.4 Ponds and swimming water must be maintained and managed to prevent environmental pollution.

7.6.2 If birds are excluded from daytime access to ranging and foraging areas they must be provided with vegetative material so that they can engage in foraging behavior.

8.0.2 The thermal comfort of poultry must be protected by provision of housing or shelter with natural or mechanical temperature and humidity control as required. The needs of all ages and stages of production and local climatic extremes must be taken into account when planning housing or shelter.

8.0.3 In extreme weather there must be a means to feed and water birds in a sheltered environment.

8.0.17 Birds at all times must have an area available that provides dry footing so they are not forced to stand in mud or manure.

8.3.1 There must be provision of a safe place for sick or injured birds to recover, free of competition.

8.3.2 If injured birds are separated from the flock they must only be kept apart until such time they can rejoin the group without adversely affecting either the health or welfare of the individual or the flock.

8.3.5 **Recommended** Temporarily single-housed birds should have visual and auditory contact with others.

8.4.9 In cold temperatures heat must be provided as necessary to keep birds comfortable.

Subject: geese
From: "Peggy Breedlove-Gerard" <pbreedlovegerard@gmail.com>
Sent: 6/28/2024 3:53:24 PM
To: "Kayden Fox" <kaydenfox@gmail.com>;

To; The Board of Adjustments and Appeals

My husband Paul Gerard and I have been neighbors of Kaden and Jessica Fox for many years now. It has come to my attention that they are currently having some potential legal challenges regarding their geese. We would like to go on record and say that we do enjoy the geese, and have had no problems with them for any reason. If you have any questions, you may feel free to contact me. Sincerely, Peggy Breedlove-Gerard
pbreedlovegerard@gmail.com



{-----Standing water most of the year-----}



**You will sink 3-4"
and lose a shoe.**



