

MINUTES OF PLANNING & ZONING COMMISSION  
JULY 20, 2017  
BUFFALO COUNTY COURTHOUSE  
7:00 P.M.

Chairperson Scott Brady opened the meeting at 7:00 P.M. at the Buffalo County Courthouse in Kearney, NE with a quorum present on July 20, 2017.

Present were: Scott Brady, Marlin Heiden, Tammy Jeffs, Willie Keep, Richard Skelton, Marc Vacek, and Loye Wolfe. Absent: Austin Gardine and Randy Vest. Also attending were Deputy County Attorney Andrew Hoffmeister, Zoning Administrator LeAnn Klein, and twelve members of the public.

Chairperson Brady announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review and we do abide by the Open Meetings Act.

Notice of the meeting was given in advance thereof by publication in the legal newspaper. A copy of the proof of publication is on file in the Zoning Administrator's office. Advance notice of the meeting was also given to the Planning & Zoning Commission and availability of the Agenda was communicated in the advance notice. The agenda is available for anyone wanting a copy of the agenda.

The public forum was opened at 7:01 P.M. Several persons were present, but no one provided any comment. The public forum closed at 7:01 P.M.

Chairperson Brady opened the public hearing at 7:01 P.M. for a special use permit submitted by Nicole and Thom Shulde on behalf of Nicholas Moffett on the following legal description: the West Half of the Southeast Quarter of Section 17, Township 12 North, Range 13 West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska except a strip of land lying over and across the southern part of the Southeast Quarter of Section 17, Township 12 North, Range 13 West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska described as follows: Beginning at the Southeast corner of said Section 17, thence westerly on the South line of the Southeast Quarter of said Section 17 a distance of 2665.6 feet to the Southwest corner of said Southeast Quarter, thence northerly on the West line of said Southeast Quarter a distance of 40.2 feet to a point; thence easterly a distance of 2665.6 feet to a point on the East line of said Southeast Quarter; thence southerly on said East line a distance of 39.0 feet to the point of beginning, containing 2.423 acres, more or less, which includes 2.024 acres, more or less, previously occupied as a public highway, the remaining 0.399 acres, more or less being the additional acreage secured in this transaction, AND EXCEPT a tract of land located in the West half of the Southeast Quarter of said Section 17, described as follows: Beginning at the Southwest corner of the Southeast Quarter of Section 17; thence North along the West line of the Southeast Quarter of Section 17 a distance of 74.96 feet, thence easterly deflecting 90° 21' 53" right for a distance of 872.24 feet; thence easterly deflecting 01° 14' 44" right for a distance of 460.10 feet to the East line of said West half of the Southeast Quarter; thence southerly deflecting 88° 23' 30" right for a distance of 64.43 feet along said East line to the Southeast corner of said West half; thence westerly deflecting 90° 20' 24" right for a

distance of 1332.16 feet along the South line of said West half to the point of beginning containing 2.23 acres, more or less, which includes 1.16 acres, more or less, previously occupied as public highway.

Nicole and Thom Shulde were present and they told the Commission they would like to provide camping, viewing, and vending for the 2017 eclipse on August 21, 2017.

Hoffmeister discussed what an accessory use was. He said this was more than just an accessory use since it was advertised and since they were having vendors.

Hoffmeister asked if they would have porta potties at the site. Nicole said they would have four porta potties available for the public to use. They also would be providing bottled water.

Hoffmeister asked if they had a sign put up at the entrance and how many people were registered.

Nicole said they do have a sign at the entrance and they have between nine and ten camping families. Thom said they also will have ten vendors coming. He also said it's a five day event and there will be no alcohol served. They will have camping around the homestead which is about 10 acres.

Hoffmeister asked if this was along Highway 2 which they said it was. Hoffmeister said we also would have a 911 address for this property which we already have.

Nicole said she had talked to someone who had said the day of the eclipse will be so congested and there will be lots of traffic along Highway 2.

Hoffmeister said this is a recreational use.

Jeffs asked if they would have parking spots available for people wanting to pull off the highway to watch the eclipse.

Nicole said they would. She also said they would have space for the campers on the west side and space for people wanting to park on the east side. Viewing for people with lawn chairs will be towards the back of the home site.

Heiden asked if other water would be available. Nicole said they have a hydrant with a garden hose for people to use. Heiden also said if the water is used for drinking it should be tested first.

Nicole said that is why they will have bottled water to drink.

Skelton asked about the drive-way at the lot line on the west side of the property. Nicole said that is a field drive-way and the only drive-way they will be using is the main drive-way.

Brady questioned if they would anticipate viewers that are not campers. Nicole said they will have a place for people who just want to pull off the highway to watch the eclipse.

Nicole asked if they would have needed a permit if they didn't have camping.

Hoffmeister replied they still would have needed a permit since they were having the vendors. It would be more than just an accessory use.

Jeffs asked about fire pits and if they had talked to the fire department.

Nicole said there would be no open burning allowed. Fires would only be allowed in fire pits.

Brady asked if there would be a fee for parking. He also asked if they would have someone at the entrance directing people as far as where they should park.

Nicole and Thom said there would be a fee for parking and they would also have people helping with the parking.

Nicole said they would have barrels for garbage.

Hoffmeister stated this is directly off Highway 2 so access is good for this.

Brady said this site is accessible for law enforcement and fire protection.

Vacek appreciates the web site that lays everything out.

No one spoke in opposition.

Chairperson Brady closed the public hearing at 7:22 P.M.

Motion was made by Skelton, seconded by Heiden to approve this special use permit filed by Nicole and Thom Shulde on behalf of Nicholas Moffett for a campground and vendor market for the August 21, 2017 eclipse with an ending date of August 31, 2017 and as outlined on their application and forward this application with approval to the County Commissioners on the following legal description: the West Half of the Southeast Quarter of Section 17, Township 12 North, Range 13 West of the 6th P.M., Buffalo County, Nebraska except a strip of land lying over and across the southern part of the Southeast Quarter of Section 17, Township 12 North, Range 13 West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska described as follows: Beginning at the Southeast corner of said Section 17, thence westerly on the South line of the Southeast Quarter of said Section 17 a distance of 2665.6 feet to the Southwest corner of said Southeast Quarter, thence northerly on the West line of said Southeast Quarter a distance of 40.2 feet to a point; thence easterly a distance of 2665.6 feet to a point on the East line of said Southeast Quarter; thence southerly on said East line a distance of 39.0 feet to the point of beginning, containing 2.423 acres, more or less, which includes 2.024 acres, more or less, previously occupied as a public highway, the remaining 0.399 acres, more or less being the additional acreage secured in this transaction, AND EXCEPT a tract of land located in the West half of the Southeast Quarter of said Section 17, described as follows: Beginning at the Southwest corner of the Southeast Quarter of Section 17; thence North along the West line of the Southeast Quarter of Section 17 a

distance of 74.96 feet, thence easterly deflecting 90° 21' 53" right for a distance of 872.24 feet; thence easterly deflecting 01° 14' 44" right for a distance of 460.10 feet to the East line of said West half of the Southeast Quarter; thence southerly deflecting 88° 23' 30" right for a distance of 64.43 feet along said East line to the Southeast corner of said West half; thence westerly deflecting 90° 20' 24" right for a distance of 1332.16 feet along the South line of said West half to the point of beginning containing 2.23 acres, more or less, which includes 1.16 acres, more or less, previously occupied as public highway.

Voting yes were Skelton, Heiden, Brady, Jeffs, Keep, Vacek, and Wolfe. Voting no: none. Absent: Gardine and Vest. Motion carried.

Klein said this would be heard by the County Commissioners on August 8, 2017 and notices would again be sent out.

Chairperson Brady opened the next public hearing at 7:30 P.M. for a special use permit submitted by Jason Martin and Amy Schoonover for a dog breeding establishment on the following legal description: a tract of land being part of the Northeast Quarter of Section 11 Township 12 North, Range 15 West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Northeast Quarter of said Section 11; thence Northerly on the East line of said Northeast Quarter a distance of 1199.63 feet; thence with a deflection angle to the left of 90° 00' and in a Westerly direction a distance of 781.91 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the North right-of-way line of Nebraska Highway No. 2; thence right 37° 27' 31" and in a Northwesterly direction and on the North right-of-way line of Nebraska State Highway No 2 a distance of 525.24 feet; thence right 107° 30' 20" and in a Northeasterly direction and leaving said North right-of-way line a distance of 517.7 feet; thence right 125° 38' 09" and in a Southeasterly direction a distance of 152.1 feet; thence left 52° 07' and in a Southeasterly direction a distance of 42.5 feet; thence right 38° 18' and continuing in a Southeasterly direction a distance of 50.3 feet; thence right 28° 33' and in a Southwesterly direction a distance of 81.2 feet; thence left 71° 55' and in a Southeasterly direction a distance of 168.5 feet; thence right 94° 17' and in a Southwesterly direction a distance of 275.7 feet to the place of beginning.

Jason Martin and Amy Schoonover were present and told the Commission they wanted to breed dogs in a dual purpose building and also use it as a shop.

Brady asked how many dogs are we talking about. Jason answered 3 females and one male dog. They are English bulldogs which have to be in climate controlled facilities.

Brady asked if they would be inside all the time. Jason said they would be outdoors when weather permits sometimes.

Brady asked what the maximum number of dogs they would have. Jason was uncertain how many they would have. They possibly might have 5-6 females and 2 males depending if it works out.

Hoffmeister asked if they also train the puppies. Jason replied they sell them as babies, usually about 10-12 weeks of age. State law says the puppies have to be 8 weeks old before you can sell them.

Hoffmeister also asked how much waste they produce. Jason said they produce some waste but he didn't know how much.

Hoffmeister also asked if they are along a road. Jason said they are along Highway 2 on the west edge of Ravenna.

Brady asked where the nearest residences were located. Jason said there is a residence to the east and also one to the west.

Keep asked how long had they lived at this location. Jason replied they have lived here since June.

Jeffs asked how big the building was. Jason said the building was 20' x 40' building.

Wolfe also asked how many dogs can they have in this building. Jason said it depended on the size of the dog. They usually require a 4' x 6' space per dog plus they also have the option of the dog going outside.

Brady asked if this building was going to be environmentally controlled which Jason and Amy said it would be.

Heiden asked if they would be boarding dogs. Jason replied no.

Wolfe asked if English bulldogs were family dogs. She also asked if they barked a lot. Amy said they bark when people come onto the property. The puppies will bark especially when they are hungry. Wolfe asked if they would have a fence and Amy said it would run from the east to the west. Wolfe asked what the weight of the dogs was. Amy replied one female is 52# and the other female is 38#.

Heiden also asked if there were trees around their property. Amy said the property is surrounded by trees.

Brady asked if they were anticipating a lot of traffic. Jason said they wouldn't have people coming to their home because of safety issues.

Keep asked if they would be advertising on the internet which Amy and Jason said they would.

Hoffmeister questioned when this would be an accessory use. Usually just one female dog would be an accessory use. Four dogs would be more than an accessory use. It usually is at the back of the property. Hoffmeister asked how many dogs they currently have. Jason replied they have 4 adult dogs and 4 puppies.

Brady said he doesn't want to approve a puppy mill. That is the last thing we want to do. We should require a minimum amount of space and we don't know what the spacing should be.

Jason said they exceed the limits of what is required for spacing for the dogs. All of their dogs are AKC licensed.

Amy said they can't have untreated wood in the building. They have to have proper ventilation and the area has to be sanitized.

Brady also asked if they would be licensed through the State. Amy replied they would be licensed through the State and would be monitored through the State.

Heiden stated they would have someone from the State come out to check on them.

Brady asked if it would be the Department of Agriculture that would regulate this. Klein said that was correct.

Keep said this wasn't an aggressive breed.

Brady than asked for anyone in opposition to come forward.

Dee Inness is the west neighbor and closest neighbor. She hears barking first thing in the morning and two of the dogs have been loose already. They have cattle in the pasture at times and her neighbor Ed Klein has horses.

Ed Klein is the east neighbor and his concerns are the waste from the animals. This property is mostly in the floodplain and there would be an environmental impact. He has concerns to odor problems and the noise. He also hears the dogs barking. He also thinks they need a vet plan to comply with State regulations. They have been having problems since June. There also could be a fly problem. How are they getting rid of the waste? They want to voice an objection to the dog breeding business.

Dee said there are a lot of regulations with the State.

Hoffmeister asked if they have dogs. Klein said he has two dogs and four horses.

Brady asked if the horses were there year around. Ed Klein said they were. The manure is removed daily and is put on farmland.

Dee said she has an antique shop at her residence.

Ed Klein said he has five acres. They just want to express their concerns they have had since June.

Brady asked where they were in the process with getting licensed at the State. Jason said they have to have their building finished before the State will come out to inspect it.

Ed Klein also asked what they do with the waste now. Jason said they throw it in the trash and it is picked up every two weeks.

Ed Klein also asked if they have a vet. Amy replied they still have their vet in Broken Bow but recently started using the vet from Ravenna.

Ed Klein said the vet from Ravenna doesn't tend to small animals. Brady said he does because he takes his dogs and cats to this same vet.

Amy said she just wanted to respond to some of the questions. Her two dogs did get out one day when she had to run her daughter to the Dr. and her friend had to come over to get the dogs. That was the only time they got out. Her dogs do bark when a stranger comes.

Skelton asked if they were going to continue disposing of the waste like they had been. Jason replied they would.

Amy said they also put wood chips down and those are also disposed of in the trash.

Brady asked Amy if she is home all the time. She does not work off site and is home.

Ed Klein said Ravenna Sanitation does not take animal waste.

Hoffmeister asked what would happen if you put cows or sheep on this property. That would be allowed in the Agricultural district. Breeding and kennels are allowed in the Agricultural district. You can specify the total number of dogs allowed, and only so many dogs over six months of age. Hoffmeister asked about how many acres this property consisted of. He said he had about eight acres. Hoffmeister said you could restrict the dogs to the building in a confined area. This property is close to some neighbors. A State license is required for anyone having four or more sexually intact adult dogs 6 months or older.

Jeffs asked how long it takes to sell the puppies. Amy said the puppies can be sold at 8 weeks of age.

Heiden said he would like to limit the number of dogs they can have.

Brady asked if they are planning on having more than one litter per dog per year.

Jason replied one litter per dog per year.

Ed Klein said they could possibly have 18 puppies plus 4 adult dogs for a total of 22 dogs. The noise would be terrible.

Chairperson Brady closed the public hearing at 8:35 P.M.

Wolfe asked about the fencing. Jason said it should be done in about four weeks.

Jeffs said she would be more comfortable if they had their State license first.

A motion was made by Keep, seconded by Jeffs to deny this special use permit for a dog breeding establishment because it's too close to neighbors. This is not the right place for it at this location. Voting yes were Keep, Jeffs, and Skelton. Voting no were Brady, Heiden, Vacek, and Wolfe. Absent: Gardine and Vest. Motion failed as submitted.

Moved by Jeffs, seconded by Wolfe to approve this special use permit submitted by Jason Martin and Amy Schoonover to permit a maximum of three breeding dogs for a dog breeding establishment all as described in facilities described in the application on the following legal description: a tract of land being part of the Northeast Quarter of Section 11 Township 12 North, Range 15 West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Northeast Quarter of said Section 11; thence Northerly on the East line of said Northeast Quarter a distance of 1199.63 feet; thence with a deflection angle to the left of 90° 00' and in a Westerly direction a distance of 781.91 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the North right-of-way line of Nebraska Highway No. 2; thence right 37° 27' 31" and in a Northwesterly direction and on the North right-of-way line of Nebraska State Highway No 2 a distance of 525.24 feet; thence right 107° 30' 20" and in a Northeasterly direction and leaving said North right-of-way line a distance of 517.7 feet; thence right 125° 38' 09" and in a Southeasterly direction a distance of 152.1 feet; thence left 52° 07' and in a Southeasterly direction a distance of 42.5 feet; thence right 38° 18' and continuing in a Southeasterly direction a distance of 50.3 feet; thence right 28° 33' and in a Southwesterly direction a distance of 81.2 feet; thence left 71° 55' and in a Southeasterly direction a distance of 168.5 feet; thence right 94° 17' and in a Southwesterly direction a distance of 275.7 feet to the place of beginning and forward to the County Commissioners. Voting yes were Jeffs, Wolfe, Brady, Heiden, Skelton, and Vacek. Voting no: Keep. Absent: Gardine and Vest. Motion carried.

Hoffmeister said this is a recommendation and the County Commissioners have the final say on this.

Klein said this will be heard by the County Commissioners on August 8, 2017 and notices will again be sent out.

Old Business: Moved by Skelton, seconded by Vacek to approve the minutes of the June 15, 2017 as mailed. Voting yes: Skelton, Vacek, Brady, Heiden, Jeffs, Keep, and Wolfe. Voting no: none. Absent: Gardine and Vest. Motion carried.

Other items were discussed.

The next meeting of the Planning & Zoning Commission will be held August 17, 2017 at 7:00 P.M.

Chairperson Brady adjourned the meeting at 9:25 P.M.