

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION: SPECIAL USE PERMIT FOR JULIE NIELSON

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the County Board of Commissioners has the authority to adopt a Zoning Regulation, which shall have the force and effect of law pursuant to Neb. Rev. Stat. § 23-114 (Reissue 2007); and,

WHEREAS, said Zoning Regulations require the County Board of Commissioners to approve Special Use Permits; and

WHEREAS, Rebecca Horner, Planning Director has reviewed Julie Nielson's Special Use Permit application for a private kennel for compliance with the Sarpy County Comprehensive Plan and the Sarpy County Zoning Regulations on the property owner's residence at 16410 S. 180th Street generally located at 180th & Pflug Road and legally described as follows:

Tax Lot 8A in Section 29, Township 13N, Range 11E, of the 6th Prime Meridian., Sarpy County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that this Board makes the following findings of fact:

- I. A public hearing regarding the Special Use Permit Application was held before the Sarpy County Planning Commission on July 15, 2009, as well as on August 19, 2009 and further, the Planning Commission gave their recommendation.
- II. A public hearing regarding the Special Use Permit Application was held by this Board.
- III. Notice of each of the Public Hearings described above was published at least once in the ten (10) day period immediately prior to each respective public hearing as required by Neb. Rev. Stat. §23-164 (Reissue 1997), and the proof of publication has been filed in the Office of the Sarpy County Clerk.
- IV. The Planning Director has made a recommendation as noted in the attached Exhibit “A”, which Exhibit “A” includes the Planning Director report and the Site Plan.
- V. The Special Use Permit Application is in compliance with the Comprehensive Development Plan.

FURTHER BE IT RESOLVED THAT this Board in light of the above recited findings of fact, after due deliberation and consideration, approves the Special Use Permit for the private kennel, on the above described property for a period of one year.

Dated this 15th day of September, 2009.

Moved by Rusty Hike seconded by Pat Thomas, that
the above Resolution be adopted. Carried.

YEAS:

Rusty Hike

NAYS:

x

Pat Thomas

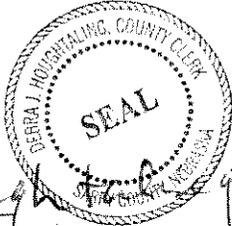
ABSENT:

none

Don Jones
Tom Charles
Patrick Thomas

ABSTAIN:

none



Debra J. Houghtaling
County Clerk

Approved as to form:

Paul [Signature]
County Attorney

Sarpy County
 County Board of Commissioners Report
 Meeting Date: September 15, 2009
 Staff Report Prepared: September 4, 2009

Subject	Type	By
Special Permit for a kennel for personal pets (16 dogs, 7 cats) at the property owner's residence at 16410 S. 180 th Street, legally described as Tax Lot 8A in Section 29, Township 13N, Range 11E, of the 6 th Prime Meridian., Sarpy County, Nebraska	Resolution and public hearing	Rebecca Homer, Planning Director.

This is a request for approval of a special use permit to allow an existing private kennel for 16 dogs and 7 cats.

- Comprehensive Development Plan
 - The Comprehensive Plan shows the area as Mixed Use. (Figure 5.1)
- Zoning
 - The existing zoning is AG, Agricultural.
 - A kennel is defined as any "lot or premises on which more than four (4) dogs or cats or any combinations thereof are kept". (page 172, Zoning Regulations)
 - The AG, Agricultural district allows, by Permitted Special Use, private and commercial kennels and facilities for raising, breeding, and boarding of dogs and other small domestic animals, provided all buildings and facilities are at least 100' from any property line and 300' from any residential zoning districts. (Section 9.2.12: Zoning Regulations, page 18)
- History
 - Planning Department received the application on May 4, 2009.
 - The Department of Agriculture submitted a report from an April 21, 2009 visit to the property. The report is attached. The report references a Humane Society citation for animal cruelty that was issued to one of the residents of the property. The Department of Agriculture licenses shelters. The report provided by the Department of Agriculture indicated that the property owner is operating a shelter without a license and the pre-inspection report indicates several items of non-compliance.
 - July 15, 2009 Planning Commission meeting, the Planning Commission delayed the request to August contingent upon the applicant resolving the following conditions:
 - Correct issues with the Nebraska Humane Society and State Department of Agriculture.
 - Provide operational plan including how to handle noise abatement and waste disposal.
 - Provide a favorable letter of recommendation from both agencies stating the deficiencies have been corrected.
 - The Planning Department became aware, on August 11, 2009, of a pending criminal case in Sarpy County against Dale Glenn regarding the treatment of animal(s) on the property. The Sarpy County Attorney's office dismissed the case prior to the August Planning Commission meeting contingent upon several conditions which will be enforced by the County Attorney's office.
 - On August 19, 2009 the applicant provided an amended site plan showing all areas compliant with the Zoning Regulations, provided a letter of support from the Nebraska

Humane Society and provided information relative to waste disposal, all of which are attached.

- Summary of Request

- The applicant has a variety of animals for personal use on the 6.71 acre Agricultural property. In order to keep the existing dogs and cats, the property owner needs a special use permit for a private kennel.
- The property owner requests a private kennel for the existing 16 dogs and 7 cats that reside on the property. A site plan indicating the kennel areas is attached.
- The applicant provided a waste disposal plan, which is attached.
- Letters and testimony of both support and opposition were received. The owners immediately to the south, which are the closest to the request, testified in opposition to the request citing noise (dogs barking at night) as a major concern.

- Planning Commission Action(s)

July 15, 2009

- *Fenster moved, seconded by Bliss to deny the request for a special use permit based on the findings of the Nebraska Humane Society and the Nebraska Department of Agriculture.*

Commissioners discussed concerns regarding motion.

- *Fenster moved, seconded by Bliss to call the question. Ayes: Bliss, Dunbar, Fenster, Marquardt, Torczon, and Wees and Whitfield. Nays: Stuart and Wear. Abstain: None. Absent: Greg Gonzalez, and Stacen Gross. Motion carried. (7-2)*
- *Original Motion: Fenster moved, seconded by Bliss to deny the request for a special use permit based on the findings of the Nebraska Humane Society and the Nebraska Department of Agriculture. Ayes: Bliss, Fenster, and Wees. Nays: Dunbar, Stuart, Marquardt, Torczon, Wear and Whitfield. Abstain: None. Absent: Greg Gonzalez and Stacen Gross. Motion does not carry. (3-6)*
- *Wear moved, seconded by Whitfield to continue the request for a special use permit to August 2009, and that the applicant correct issues with Nebraska Humane Society and the State Department of Agriculture. The applicant needs to provide an operational plan showing how to handle noise abatement and waste disposal, as well as, provide a favorable letter of recommendation from both agencies (Humane Society and the State Department of Agriculture) stating the deficiencies have been corrected. Ayes: Bliss, Dunbar, Stuart, Marquardt, Torczon, Wear and Whitfield Nays: Fenster and Wees. Abstain: None. Absent: Greg Gonzalez, and Stacen Gross Motion carried. (7-2)*

August 19, 2009

- *Wear moved, seconded by Whitfield to approve Special Use Permit for Julie Nielson for a private kennel as stated by Planning Director, including the newly revised site plan, with no increase in animals that are currently on the property consisting of 16 dogs and 7 cats. The permit will be valid for one year from the date of approval with the Building Department performing inspections on a quarterly basis as a proactive measure. Ayes: Gonzalez, Gross, Torczon, Wear, and Whitfield. Nays: Bliss, Fenster, Marquardt and Wees. Abstain: None. Absent: Dunbar and Stuart. Motion carried. (5-4)*

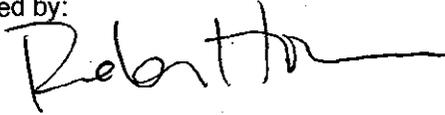
- Recommendation

The applicant satisfied the conditions requested by Planning Commission. The applicant has not addressed noise concerns from the southern neighbors.

Staff recommends that if the County Board wishes to approve the request that the property owner be required to provide noise abatement for the pets between the hours of 10pm and 8am each day and the permit be limited to one year.

Respectfully submitted by:

Rebecca Horner
Planning Director

A handwritten signature in black ink, appearing to read "Rebecca Horner", with a long horizontal flourish extending to the right.



AUG 19 2009

SARPY COUNTY
PLANNING DEPARTMENT

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8/10/2009