

Planning Commission Meeting Approved Minutes
Tuesday, February 28, 2023
Russell Town Hall 7:00 p.m.

Meeting called to order at 7:00 p.m. by Bill Kraus, Planning Commission Chairperson.

Pledge of Allegiance followed.

Roll Call:

Planning Board Members: Bill Kraus, John Kiehna, Jon Maurer, Mark Schuricht, Pete Geyer, and Zoning Administrator Jerrod Henschel.

Town Board Members: Mike Willeford, Dan Schmahl, Jon Ausloos, Lynette Mierzejewski.

Applicant: Tom Mueller.

Town Residents: Max Kraus, Julie Kraus, Macy Kraus, Aaron Turba, Jeremy Cobble, Lori Braun, Mike Braun, Sue Watry, Don Turba, Anastasia Borisenko, Oleg Borisenko.

Agenda Posted: Yes on website and at town hall. Meeting notice in newspaper 2 times.

Minutes of Previous Meeting: Minutes from August 2, 2021, meeting were read. Motion made by Mark Schuricht to approve minutes, seconded by John Kiehna. Motion carried.

Staff Report by Zoning Administrator: Henschel stated the applicant has a beautiful property that is well maintained, and something good for our area.

Henschel reviewed specific parts of the 59-page staff report.

Page 2 referenced neutering of animals not done until 22 months of age (1 year and 4 months after DNR regulation). Also application had expired copy of DNR Captive Wild Animal Farm License (CWAFL); Henschel spoke with Peter Dunn at DNR who verbally stated CWAFL is current at this time.

Page 4 #8, states Agri-tourism is consistent with zoning on A-1 property. Also per Henschel, Mueller is compliant with WI Statute Chapter 91.01 (1 d)

Henschel stated one of the purposes of Town Russell Zoning Ordinance is to promote safety and general welfare of the Town of Russell. (page 5). He then went through the Proposed Conditions of the CUP (page 6 and 7). (see attached)

Included in the staff report for review are:

- WI DNR Captive Wild Animal Farm Regulations (page 27) specifically a person who owns a wolfdog hybrid must:

1. Have the animal sexually neutered at 6 months of age.
2. Have the animal tattooed, implanted with a microchip, or otherwise permanently marked with information identifying the owner.

Regarding exhibition of captive wild animals

12. Captive wild animals subject to NR 16:30 (4)(a) that are greater than 3 months of age may not be used in interactive sessions or exhibited outside the enclosure. Captive wild animals subject to NR 16:30 (4) (a) are bear, cougar, wolfdog hybrid, mute swan, bobcat, lynx, timber wolf, coyote, fox and fisher.

- Chapter NR16 Captive Wildlife (page 29)

1. NR 16.11 Harmful wild animals #5 (a) Canids may be presumed to be wolf-dog hybrids if they have some wolf-like physical characteristics and the owner presents such animals verbally or in writing to be a wolfdog hybrid. Canids with very distinct wolf-like characteristics may be determined by the Department to be wolves or wolf-dog hybrids.

- Chapter 169 Captive Wildlife (page 35)

9. This explains details of perimeter fence requirements. (see attached)

- Chapter 169 Captive Wildlife (page 51)

169.43 Local ordinances. A municipality or county may enact and enforce an ordinance that prohibits the possession or selling of live wild animals.

- Captive Wildlife Pen Specifications (page 54 and 55)

- Specific Pen Requirements for Specified Captive Wild Animals lists requirements for Timber Wolves and Wolfdog Hybrid pens. (see attached)

Exhibition of Captive Wild Animals (page 56)

- Lists 10 requirements for exhibiting captive wild animals. (see attached)

- Captive Wildlife License Application Form 9400-577
 - Specifically section B needs to indicate which species license is for, and that the captive wild animal farm license is for animals in pens only.
 - Written assurance that the application is in compliance with local ordinances and zoning rules.
 - Lists stipulations of exhibition of Captive Wild Animals. (see attached)

Discussion/Comments:

Applicant:

- Mr. Mueller stated prior to 2014 wolfdogs were not listed as wild animals. Mr. Mueller stated he has DNR blessing on having interactions with animals; they came out and saw how animals are handled. Mr. Mueller indicated animals have proven themselves; between 15,000 and 20,000 people have played with them over the past 3 years and no one has been bit or hurt. If DNR would have a problem with this, they would issue citations. Mr. Mueller asked board to “treat all Town of Russell businesses the same”. Mr. Mueller stated he has been a resident of the Town for 26 years and has been a good neighbor.
- Regarding wolfdogs all 4 wolfdogs were neutered at 1 year of age per veterinarian recommendation.
- DNR verbally gave okay to have interactive sessions with wolfdogs; he has nothing in writing. Jon Ausloos commented he had contacted Tony from the DNR on February 28, 2023, who stated there must be a barrier and no interactive sessions. Mr. Mueller stated DNR has conflicting rules. His attorney, the DNR, and he are working on getting something in writing so he can do this.

Adjoining Landowners:

- Anastasia Borisenko (neighbor, not adjoining landowner) had heard wolfdogs howling, spoke with Mr. Mueller who showed how friendly, not dangerous they are, and is glad he is doing this business; and suggested putting this business on town’s website.
- Sue Watry questioned how old the bison are. Mr. Mueller explained they were hand raised, bottle fed, and Benny is 9 months old and Brandi is 21 months old. Mr. Mueller also stated his animals are trained; he has kids that climb on the deer. Dan Schmahl asked if bison were vaccinated for

brucellosis. Mr. Mueller stated per veterinarian the bison do not need to be vaccinated for brucellosis. Schmahl would like written documentation of this as there are dairy farms in township. Mike Willeford clarified if cattle brought across state lines they need to be vaccinated for brucellosis. Mr. Mueller stated one bison came from South Dakota and the other from Northern Wisconsin.

Town Residents/Others:

- Dan Schmahl as a town resident spoke passionately about members of the town board being accused on Rustic Retreat Deer Park Facebook page of letting the deer out, lighting the fire by Mr. Mueller's property. Schmahl also stated at the court trial, which he attended, the judge said not to allow public into wolfdog enclosure; also Peter Dunn, WI DNR, stated public not allowed in enclosure.
- Don Turba asked if Mr. Mueller's insurance company is aware of his business and if he has liability insurance for business. Mr. Mueller stated this would be covered by property insurance.
- Aaron Turba stated based on staff report if people are not allowed in enclosures per state statutes that should be followed. Farms and other businesses are regulated by state agencies. If there is documentation different from state statutes this should be submitted to the Town.
- Jerrod Henschel spoke as a resident stating the reason why DNR has regulations on wolfdogs is because they need many generations to become domesticated. Also in regards to Henschel's Indian Museum, that business was started prior to the town having zoning ordinances; additionally he was only 7 years old when the business was started.
- Jon Maurer as a town resident indicated he has no problem with the business and that it is not like every other business in the Town of Russell. After hearing the staff report Mr. Mueller needs to submit written documentation that is needed to approve application. All businesses are regulated, maybe not by the Town of Russell, but by other agencies.
- Mike Braun questioned what the wolfdogs would do if they got out as he and his wife walk their dogs past his property. Mr. Mueller stated they would play with, not attack, other dogs.
- Lynette Mierzejewski brought up USDA APHIS inspection report dated May 17, 2022, completed by Kevin Wilken. In this report Mr. Wilken has concerns if there is, "sufficient distance and/or barriers between bison and

general viewing public to protect public and bison. Lack of distance and/or barriers could allow an accident to take place before the licensee could gain control of it. Ensure that the bison does not have public contact without adequate barriers or distance in place to protect the public. Correct from this day forward.” Mr. Mueller responded Mr. Wilken visited business in December and this was taken care of. Board needs written documentation of this.

Zoning Board Members:

- Members wanted more information on what Mr. Mueller does with wolfdogs when public comes for tours. Mr. Mueller states there is no hands on playing with wolfdogs. They are on a leash and pictures can be taken.
- Does he have a current CWAFL; expired license was in CUP application packet. Per Henschel he spoke with Peter Dunn, WI DNR, and he does have current license, but board needs paper copy of this.
- Mike Willeford explained why CUP was amended. Initially CUP stated, “to interact with animals which include whitetail deer, trumpeter swans, bison, and wolf-dog hybrids.” This was amended to “to interact with animals which include whitetail deer, trumpeter swans, bison.”
- Mr. Mueller said DNR comes out to his business because of town board calling them.
- Board asked if Mr. Mueller is thinking of expanding business. Yes, he is thinking of possibly adding elk calves in spring.
- Bill Kraus asked if the wolfdogs will be part of tour. Mr. Mueller stated yes, as long as they are on a leash, that it is a “private business”, and they are “viewed as domesticated.” “Dogs kill more people than wolves.”

Discussion/Decision by Planning Commission Board:

After discussion motion made by Mark Schuricht that before approving Mr. Mueller’s CUP application the following proposed conditions need to be met:

Mr. Mueller abides by the following conditions and any orders that come from a judge:

- Current DNR Class A CWAFL
- Current Rabies Vaccination Certificate for each wolfdog
- Veterinarian record showing all wolfdogs have been spayed/neutered
- All animals shall be vaccinated for brucellosis or other diseases as required

by state law.

Proposed Conditions

The proposed use shall not impair the current or future agricultural use of this farm or other protected farmland.

The captive wild animal farm shall remain properly licensed in good standing with the appropriate agencies, at the appropriate licensing level for the size of the business and types of animals being displayed. This requirement shall include a State of Wisconsin DNR Class A captive wild animal farm license. Owner shall provide proof of this licensing in sufficient detail to the Town annually and upon request.

- *The State of Wisconsin DNR license copy that was included in Mr. Mueller's CUP application expired on 12/31/21. The Town should require a current and valid license to be submitted for review **before** approval.*
- *If the above mentioned license requires compliance with local ordinances and zoning rules before it can be granted, then the Town shall require a written and signed affidavit from an appropriate DNR official stating that the property has passed inspection and the DNR is satisfied that all State of Wisconsin requirements for Captive Wild Animal Farm Licensing and the exhibition of Harmful Wild Animals have been met.*

The property shall be subject to inspection by Town officials for compliance with CUP conditions during normal hours of operation, including weekends.

The business shall not employ more than 4 full time employees annually.

Interactive sessions with Harmful Wild Animals are expressly forbidden, violations of this will be grounds for immediate revocation of the CUP.

No other Harmful Wild Animals shall be added to the property without review and approval from the Town Russel board.

The conditional use permit expressly forbids the exhibition of Wolf Dog Hybrids until the following conditions are met and continuously maintained:

Owner shall provide proof of current veterinary records showing that the animals are current with rabies vaccinations and have been sexually neutered by 6 months of age as required by Wisconsin DNR regulations.

The veterinary reports provided in the CUP application do not satisfy this requirement as they are old (Dec 2021), indicate rabies vaccinations are due in 2022 but we have no proof that they were given, and the reports do not appear to provide proof that 2 of the 4 wolf dog hybrids have been neutered as required. Veterinary reports for each of these animals showing that these issues have been resolved should be a requirement prior to approval, along with annual proof of rabies vaccination to be provided just as the Town would for any other canine.

The Owner shall provide evidence that shows compliance with Wisconsin DNR publication PUB-CS-17 3/2016, including:

General Pen and Shelter requirements have been met. (Wolf-dog hybrid pens with open tops shall be a minimum of 1000 square feet. The walls shall be a minimum of 8 feet in height with an additional 3 feet at the top slanted in at a 30 degree to 45 degree angle.

Display of the current Captive Wild Animal License at the place of exhibit

Each pen labeled, in English, with the proper common name of the species being displayed.

Pens of most animals being exhibited must be surrounded on all sides where the public may approach, by substantial guard rails. Guard rails must be at least 3 feet high, well supported, fully enclosed with not greater than 6 inch square mesh fencing, and must be at least 3 feet from the pens.

Captive wild animals subject to NR 16.30 (4) (a) that are greater than 3 months of age may not be used in interactive sessions or exhibited outside of the enclosure. Captive wild animals subject to NR 16.30 (4) (a) are bear, cougar, wolf-dog hybrid, mute swan, bobcat, lynx, timber wolf, coyote, fox and fisher.

This specifically means that the wolf dog hybrids must be confined with a primary and secondary fence, preventing direct contact with the public. They cannot be exhibited outside of the fence, and the public must be prevented from going inside the fence. The purpose of the fence and the secondary guard rails is to exclude the public from making contact with the animals. No interaction is allowed.

Any violations of the above conditions shall be sufficient reason for the revocation of the Conditional Use Permit.

These conditions would need to be met within 30 days, which would be March 28, 2023. Motion seconded by Jon Maurer.

Prior to taking a vote, discussion held. Dan Schmahl questioned if board will meet again to review information in 30 days. Board will meet on March 29, 2023, at 7:00 p.m. to give final decision. Schmahl also wanted clarification that it is up to Tom Mueller to get all the required documentation as listed including from the DNR and the judge. Board agreed that it is Mr. Mueller's responsibility to get all documentation. Mr. Mueller agreed he could get documentation in 30 days.

Chairman Kraus asked for a vote on the above motion; all members were in favor, zero members were against motion. Motion carried.

Motion to adjourn made by John Kiehnau, seconded by Mark Schuricht. Motion carried. Meeting adjourned 9:14 p.m.

Respectfully submitted,
Lynette Mierzejewski
Town of Russell Clerk