

MINUTES OF PLANNING & ZONING COMMISSION  
SEPTEMBER 15, 2022  
BUFFALO COUNTY COURTHOUSE  
6:30 P.M.

Notice of the meeting was given in advance thereof by publication in the Kearney Hub, the designated method for giving notice. 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.

Chairperson Brady opened the meeting at 6:38 p.m. with a quorum present on September 15, 2022.

In Attendance: Tammy Jeffs, Kurt Schmidt, Randy Vest, Scott Stubblefield, Willie Keep, Marc Vacek, Loye Wolfe, & Scott Brady.

Francis "Buss" Biehl was absent.

Quorum was met.

Also attending were: Deputy County Attorney Andrew Hoffmeister, Zoning Administrator Dennise Daniels, Keith Carl, of Hanna:Keelan, Associates, P.C. and a few members of the public. Tim Keelan, of Hanna:Keelan, Associates, P.C. appeared via ZOOM.

Chairperson Brady announced The Open Meetings Act and agendas were available if anyone wished to have one.

**Public Hearing. 3(a)**

Chairperson Brady opened the public hearing for Agenda Item 3(a) at 6:39 p.m. regarding Buffalo County Comprehensive Plan, or the general plan for the improvement and development of the county outside of the jurisdiction of any city or village, as required per Neb. Rev. Stat. §23-174.06.

Keith Carl, Community Planner of Hanna:Keelan, Associates, P.C., reintroduced himself and reminded The Commission that Hanna:Keelan, Associates, P.C. was rewriting the Buffalo County Comprehensive Plan, as well as the zoning and subdivision regulations. He highlighted several portions of The Comprehensive Plan and, quickly, thereafter, reviewed The Comprehensive Plan Agenda for the meeting. He explained Hanna:Keelan, Associates, P.C., intended to return to The Commission November 17, 2022, and would have a preliminary draft available for The Commission's review and comment. At the next meeting, he went on, Hanna:Keelan, Associates, P.C. would like to get the plan finalized and begin a zoning workshop. At that time, the zoning and subdivision regulations will be discussed.

Mr. Carl explained “The County-Wide Opinion Survey Report”, “Population Trends and Projections”, and the draft “Land Use Matrix-Preservation/Development Initiatives” were all included in the packet for tonight’s meeting for reference only.

Mr. Carl turned the meeting over to Tim Keelan, of Hanna:Keelan, Associates, P.C., who appeared via ZOOM. Mr. Keelan reviewed the Land Use Preservation/Development & Planning Initiatives within the packet and advised there are two parts to land use, preservation/development and planning initiatives associated with land use. He went on to say he had written this portion of The Comprehensive Plan, based on the responses from the County-Wide Opinion Survey and referenced the “Land Use Matrix” to project land use for Buffalo County in the next ten years.

Mr. Keelan revealed The Comprehensive Plan is approximately 75% written and the land use is the only portion left to complete. At approximately 6:50 p.m., Mr. Biehl attended the meeting.

Deputy County Attorney Hoffmeister voiced concerns regarding the initiative on page six, stating, “All intensive livestock facilities should be classified as agricultural uses, allowable as a special use permit, as per the Zoning Regulations”. Depending on the district, he declared, some animal confinement operations are a use-by-right and do not require a Special Use Permit. Mr. Carl asked if The Commission would rather change the uses in the zoning regulations or modify the wording in The Comprehensive Plan. Deputy County Attorney Hoffmeister advised the wording needed to be changed in the initiatives, not the regulations. Vice-Chairperson Keep agreed. Deputy County Attorney Hoffmeister recommended integrating the wording, “...depending on size”. Chairperson Brady inquired if Buffalo County zoning regulations defined “intensive”. Deputy County Attorney Hoffmeister counseled that Buffalo County’s regulations defined “intensive” based on the stratification of the animal units. Chairperson Brady said he believed the word “intensive” should be removed. Mr. Keelan asked Deputy County Attorney Hoffmeister how the regulations delineated between a Special Use Permit versus a Zoning Permit. Deputy County Attorney Hoffmeister instructed, the delineation occurred based on animal units and the length of time the animal is confined, and advised changing the wording to, “All confinement livestock facilities, should be classified as agricultural uses, depending on size, and allowable as Use-By-Right or Special Use Permit.”

Mr. Schmidt inquired why Land Conservative Easements would be seizing more land. Mr. Keelan explained the projection is based on land use and population growth. He projected there will be an increase in land conservation easements, with consideration given to a population increase. Mr. Schmidt thanked Mr. Keelan for his response, but said he considered an 8,000-acre increase pretty significant. Mr. Keelan thanked Mr. Schmidt for his comment and said he would revisit the calculations, but he projected a future increase in land conversation easements. Deputy County Attorney Hoffmeister, referencing the official Buffalo County Zoning Map, showed The Commission where easements are, and could be, situated in Buffalo County.

Chairperson Brady asked what uses would be allowable in the Rural Conservation District. Deputy County Attorney Hoffmeister answered, primarily farming would be allowable. Discussion occurred regarding existing, future, and taxation of easements. Mr. Keelan reminded

The Commission the residents of Buffalo County, through The County-Wide Opinion Survey, wanted to see Land Conservation Easements. Discussion, further, occurred regarding existing Land Conservation Easements and taxation.

Mr. Keelan asked for additional questions or concerns regarding the initiative. Secretary Wolfe advised she liked the design and the content. Land Conservation Easements and Tax Increment Financing were discussed.

When discussion ceased, Mr. Keelan turned the presentation to Mr. Carl for Future Land Use. Mr. Carl referenced and reviewed an enlarged 2012 Land Use Map and, further, explained any annexations through the communities, in the last ten years, were removed from Buffalo County jurisdiction.

Chairperson Brady questioned if the projected 8,000-acre Land Conservation usage was reflected on the map. Mr. Carl answered, referencing the 2012 Future Land Use Map, if the Land Use Matrix is approved, then Land Use Conservation Easements would be more favorably located along the Platte River.

Deputy County Attorney Hoffmeister displayed an older version of Buffalo County's Future Land Use Map. He advised The Commission revisit the Agricultural – Residential (AGR) District, west of the city of Kearney and, perhaps, lessen the size. He instructed there are well fields located near Sartoria Road and the land located in, and around, the well fields can never be developed for residential uses. Discussion occurred regarding changes in Zoning on the west side of Buffalo County.

Referencing the 2012 Future Land Use Map, Mr. Stubblefield wondered why Commercial zoning was positioned along the south side of railroad property between Gibbon and Shelton. He added, there have been no residences constructed between Gibbon and Shelton because it is still retained by the families of settlers who had settled that land. He, further, said he believed there was no commercial desirability in this area. Deputy County Attorney Hoffmeister agreed the southern portion of the railroad does not have as desirable access. Mr. Stubblefield agreed there was a need to make industrial/commercial areas along the railroad, but wondered if they could be situated along the north side, instead. Deputy County Attorney Hoffmeister agreed it could be revisited. Mr. Carl asked if The Commission wished to remove the Commercial zoning south of the railroad between Gibbon and Shelton. Several members of The Commission agreed that it should be adjusted.

Chairperson Brady inquired about zoning in western Buffalo County. Deputy County Attorney Hoffmeister reviewed the zoning on the western side of Buffalo County. He highlighted Odessa, and recommended Hanna: Keelan, Associates, P.C. do a detailed view of zoning. He, further, recommended zoning everything north of the highway, in Odessa, to Commercial. Discussion occurred regarding zoning areas west of Kearney between the railroad tracks and Highway 30 as industrial. Chairperson Brady agreed and stated The Commission should be consistent in areas of zoning.

Commercial zoning, throughout the county, was discussed.

A gentleman from the public addressed The Commission, Mitch Humphrey. Mr. Humphrey advised The Commission to think of The Future Land Use Map as where they wished to have zoning in the future, not necessarily how it should be zoned now. He recommended to zone Commercial and Industrial development along highway corridors and to consider the location of the railroad and the highway, which are more easily accessible and will never change. Mr. Keelan concurred and explained, if The Commission doesn't allow for Commercial and Industrial development to occur along the major thoroughfares, then future development could transpire in areas that are less desirable. Chairperson Brady agreed and declared, The Comprehensive Plan manages growth and ensures development is placed in the desirable areas of rural Buffalo County. Mr. Keelan agreed and added agricultural preservation is also vital in The Comprehensive Plan.

Mr. Carl, then, referencing the purple line extending from the city of Kearney Jurisdictional boundary north to 115<sup>th</sup> road, westerly and, then, southerly to the Buffalo County border on The Future Land Use Map, as shown in the packet, proposed a high density residential district, and referred to as AG – Residential 1 or AG – Residential 2. Mr. Carl stated this area may be most favorable to encourage subdivision development growth and would allow for smaller lot sizes, therefore, discouraging subdivision growths in undesirable areas of rural Buffalo County.

Mr. Stubblefield asked how the dimensions of the proposed zoning district was established. Mr. Carl responded the area was determined based on existing subdivisions and where the city of Kearney was primarily annexing property.

Ms. Jeffs recommended the proposed district be situated next to an existing road. Mr. Carl agreed.

Mr. Keelan advised residential growth in Buffalo County will continue to increase, and The Commission needed to prepare for that growth.

Mr. Stubblefield recommended squaring off a larger area to encourage the new district.

Vice-Chairperson Keep said there would still be subdivisions and residential traffic occurring on a non-paved road within the proposed district. Deputy County Attorney Hoffmeister agreed, but said it would be more concentrated to a certain area.

Mr. Stubblefield voiced his concern regarding the shape of the district and inquired about its abnormal shape. Mr. Carl answered this area was created based on existing subdivisions and to avoid overextending the Agricultural – Residential District to ensure the preservation of agricultural land.

Deputy County Attorney Hoffmeister advised moving the boundary of the proposed high-density residential district northerly, to abut the village of Riverdale's extra-territorial jurisdictional boundary and it would allow residents to access the highway.

Secretary Wolfe proclaimed she liked the titles for Agricultural – Residential 1 and Agricultural – Residential 2. Deputy County Attorney Hoffmeister added 70,000 square foot lots would allow

for more density, rather than the three-acre minimum. He, further, stated The Commission would need to consider what will be allowable under the district.

Secretary Wolfe recommended meeting on October 20<sup>th</sup>, to review some of the concerns brought forth.

Deputy County Attorney Hoffmeister described several zoning changes and maps that occurred during the last several years.

Mr. Carl asked if there were other questions or concerns.

Vice-Chairperson Keep asked Mr. Carl if they were reviewing placement of cell towers. Mr. Carl stated they had not, but it would need The Commission's consideration.

Chairperson Brady recommended allowing for nuclear power, considering power companies are reviewing them during their public meetings.

The Commission thanked Hanna:Keelan, Associates, P.C. for their time.

Chairperson Brady closed the public hearing for Agenda Item 3(a) at 8:09 p.m.

Chairperson Brady called the regular meeting of the Buffalo County Planning and Zoning Commission to order.

Chairperson Brady re-announced The Open Meetings Act and declared that agendas were available if anyone wished to have one. Zoning Administrator Daniels notified The Commission there was an agenda change. Under "Correspondences", the agenda showed "Hall County Notice". That agenda item should have read, "Dawson County Notice".

The public forum was opened at 8:10 p.m. The public forum closed at 8:10 p.m.

#### **Public Hearing. 7(a)**

Chairperson Brady opened the public hearing for Agenda Item 7(a) at 8:11 p.m. regarding an Application for Zoning Map Amendment, filed by Mitch Humphrey, Registered Land Surveyor, on behalf of James Poulson, Partner of Poulson Family Limited Partnership, LTD, for property described as Part of the Southeast Quarter of the Northeast Quarter in Section Five (5), Township Eight (8) North, Range Eighteen (18) West of the Sixth Principal Meridian, Buffalo County, Nebraska. The applicant has requested to rezone approximately 1.51 acres, of which approximately 0.09 acres are presently being used for road purposes on the South side, from Agricultural – Residential (AGR) to Commercial (C).

Chairperson Brady asked if anyone was in the audience to present the application to The Commission.

Mitchell Humphrey, of Buffalo Surveying Corporation, stepped forward to present the application. He stated an Application for Change of Zoning had been submitted for a 100-foot strip at the Elm Creek Interchange, on the north side of the road. He described the interchange as zoned and heavily-used as Commercial.

One of the applicants, Justin Landis, he explained, has a truck repair business at the interchange and he wishes to add a tract of land, a 100-foot strip, west of his property. Mr. Landis, he said, owns Dennis Administrative Subdivision, Lot 2, and is looking to expand his existing business and wishes to purchase the 100-foot strip from Poulson Family Limited Partnership, LTD. Mr. Humphrey explained the 100-foot strip was not desirable for agricultural purposes and would permit Mr. Landis to expand his growing business.

Mr. Humphrey added the rezone was a portion of the multi-part process that would include: rezone of the 100-foot strip to Commercial, vacation of Dennis Administrative Subdivision, Lot 2, and putting forth an application for a new administrative subdivision to include the 100-foot strip and vacated Dennis Administrative Subdivision, Lot 2.

Secretary Wolfe requested confirmation that Mr. Landis would continue his current business venture. Mr. Humphrey confirmed.

Deputy County Attorney Hoffmeister reviewed the multi-part process for The Commission, for the project. Discussion occurred between Mr. Humphrey and Deputy County Attorney Hoffmeister concerning Buffalo County's utility easement regulation.

Deputy County Attorney Hoffmeister advised The Commission this area is heavily Commercial and The Future Land Use Map supported the request.

Discussion occurred regarding The Comprehensive Plan, underway, and The Future Land Use Map.

Chairperson Brady asked if discussion needed to occur.

Chairperson Brady closed the discussion on this agenda item at 8:20 p.m.

Motion was made by Vice-Chairperson Keep, seconded by Mr. Vacek, to recommend favorably the Application for Zoning Map Amendment, filed by Mitch Humphrey, Registered Land Surveyor, on behalf of James Poulson, Partner of Poulson Family Limited Partnership, LTD, to rezone property described as Part of the Southeast Quarter of the Northeast Quarter in Section Five (5), Township Eight (8) North, Range Eighteen (18) West of the Sixth Principal Meridian, Buffalo County, Nebraska, from Agricultural – Residential (AGR) to Commercial (C), to the Buffalo County Board of Commissioners.

Upon roll call vote, the following Board members voted "Aye": Biehl, Jeffs, Keep, Schmidt, Vacek, Vest, Wolfe, & Stubblefield.

Voting "Nay": None.

Abstain: None.

Absent: None.

**Old Business**

## **Minutes**

Motion was made by Mr. Vacek, seconded by Mr. Schmidt, to approve the minutes of the July 21, 2022, meeting, as presented.

Upon roll call vote, the following Board members voted “Aye”: Jeffs, Keep, Schmidt, Vacek, Wolfe, Stubblefield, Brady, & Biehl.

Voting “Nay”: None.

Abstain: Vest.

Absent: None.

Motion carried.

Zoning Administrator Daniels prepared, per The Commission’s request, a Report of Maintained Roads and reviewed the contents with The Commission. Vice-Chairperson Keep, referencing the report, inquired if there are 43 subdivisions in Buffalo County. Deputy County Attorney Hoffmeister answered there are 43 subdivisions with roads that Buffalo County, either partially, or fully, maintain. Zoning Administrator Daniels confirmed.

Chairperson Brady asked if anyone had other questions or concerns. No one spoke.

## **New Business**

### **Report on Previous Hearings**

Zoning Administrator Daniels stated there was no report from the July, 2022 meeting.

### **New Business, Correspondence & Other Business**

Zoning Administrator Daniels highlighted the ETJ correspondence, from the city of Kearney, for Freedom Hill Estates. She said a letter was drafted and sent for a response, for Freedom Hill Estates, to the city of Kearney from The Commission. Reviewing the proposed plat, Mr. Humphrey, again, stepped forward, and explained the city of Kearney’s ordinances regarding access easements.

Zoning Administrator Daniels reviewed the annexation of Younes Center Seventh to the city of Kearney.

Zoning Administrator Daniels reviewed the Dawson County Notice of meeting.

### **Next Meeting**

The next meeting will be conducted October 20, 2022. Chairperson Brady requested a time for the October meeting. Deputy County Attorney Hoffmeister reminded The Commission their by-laws state 7:00 p.m. The Commission agreed on 7:00 p.m.

**Adjourn**

Chairperson Brady adjourned the meeting at 8:31 p.m.

---

Scott Brady, Chairperson  
Buffalo County Planning & Zoning Commission

---

Loye Wolfe, Secretary