

MINUTES OF PLANNING & ZONING COMMISSION  
NOVEMBER 17, 2022  
BUFFALO COUNTY COURTHOUSE  
7:00 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 7:00 p.m. with a quorum present on November 17, 2022.

In Attendance: Tammy Jeffs, Kurt Schmidt, Scott Stubblefield, Willie Keep, Marc Vacek, Loye Wolfe, Scott Brady, & Francis "Buss" Biehl.

Randy Vest appeared at 7:05 p.m.

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.

The public forum was opened at 7:01 p.m. The public forum closed at 7:01 p.m.

**Public Hearing. 5(a)**

Chairperson Brady opened the public hearing for Agenda Item 5(a) at 7:02 p.m. regarding a Special Use Permit Application to operate a dog boarding facility, filed by Mark Morten, for tax parcel 380081010, located at 29235 145th Road, Kearney, Nebraska, and described as Part of the Northwest Quarter of the Northwest Quarter, situated in Section Twenty-five (25), Township Ten (10) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

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

Mr. Morten, of 29235 145<sup>th</sup> Road, stepped forward to present the application. He explained to The Commission that he would like to erect a 40-foot by 88-foot structure for use as a dog boarding kennel, with concrete floors and drains; at this time, he said, he currently trains dogs for himself and friends and kennels his dogs in his shop. The expansion, he described, would be the

addition of a new structure, which would allow for boarding dogs, with a fenced, outdoor run area for 40 dogs. It would be insulated, soundproofed, and climate-controlled. He explained the dogs would be out during business hours and they would be let out twice a day, based on industry standards, once in the morning and once late afternoon. At night, he testified, the dogs would be housed in the structure.

Chairperson Brady asked if the dogs would be outside during the day. Mr. Morten confirmed.

Chairperson Brady asked Mr. Morten if he envisioned the proposed business plan to be his full-time position. Mr. Morten replied, he would be hiring employees to care for the dogs, but would be assisting when he was available, because he currently holds a full-time job.

Deputy County Attorney Hoffmeister asked Mr. Morten the dimensions of the outdoor playpen and Mr. Morten answered, it would be about 140-foot wide and approximately 25-feet on each side of the building.

Deputy County Attorney Hoffmeister asked for clarification of the 90-foot distance shown on the site plan and Mr. Morten replied, the 90-foot distance shows the distance between the structure and the property lines.

Chairperson Brady inquired the number of dogs Mr. Morten currently handles and Mr. Morten answered, he owns three dogs, but has the capacity for six.

Mr. Schmidt asked if the kennel would allow for training or weekend boarding and Mr. Morten explained it would be for weekend and weekday boarding, as he cannot train that many dogs at once.

Deputy County Attorney Hoffmeister asked Mr. Morten how many dogs he has on site at this time and Mr. Morten replied, he currently kennels his three dogs and three additional dogs that are receiving training. He went on to state he would like to train dogs full-time, but would it would depend on future circumstances.

Deputy County Attorney Hoffmeister asked Zoning Administrator Daniels if she could, using the GIS Imagery with the projector, show where all residences were located in relation to Mr. Morten's proposed structure. Mr. Morten answered The Martenson's were the closest property to the south.

A gentleman from the public, who did not identify himself, asked where the proposed structure would be located. Mr. Morten, using the GIS imagery on the projector, directed Zoning Administrator Daniels to the proposed location, as shown on the site plan.

Chairperson Brady inquired how many acres Mr. Morten had, and he replied, he has approximately 13 acres.

Chairperson Brady requested clarification on where dog training was conducted. Mr. Morten explained, depending on the nature of the training, he would use his property and his neighbor,

Rod Zeller's, property. He advised bird-dog training requires several 100 yards of distances for different trainings. He, further, clarified that obedience training is conducted in his yard, within 100 feet of the kennel.

Deputy County Attorney Hoffmeister asked if customers utilize the existing drive way to access the structure and Mr. Morten confirmed.

Chairperson Brady asked if an outside perimeter of fencing existed along his property line and Mr. Morten answered, he has underground fencing for his dogs. Chairperson Brady inquired if the entire property had the fence, and Mr. Morten replied, only the only south half of his property. He, further, elucidated that he has a 6-foot chain-link fence that runs from the south of the existing shop to the property line. Chairperson Brady enquired which direction the existing fence was situated and Mr. Morten replied, it was situated from the shop to the south property line.

Deputy County Attorney Hoffmeister inquired if Mr. Morten would keep dogs continuously and/or overnight and Mr. Morten confirmed. Deputy County Attorney Hoffmeister queried if Mr. Morten would possess an individual dog for up to 4-6 weeks. Mr. Morten confirmed and advised the hunting training that is provided could last, at a minimum, of 4 months. Boarding can, he went on, house an individual dog for one night. Deputy County Attorney Hoffmeister questioned if Mr. Morten would offer training and boarding/kenneling services at the proposed facility and Mr. Morten confirmed, although, he explained, his main intent was boarding.

Chairperson Brady asked Mr. Morten if he had the necessary licensing to operate his business and Mr. Morten answered requesting permission from Buffalo County was the first part of the process to expand his business. Once he begins, he stated, he will begin that permitting process.

Chairperson Brady asked Mr. Morten if he was currently boarding dogs at his residence and Mr. Morten replied, only his own dogs.

Chairperson Brady requested clarification on Mr. Morten's intent for dog training. Mr. Morten answered he primarily offers training to larger, hunting dogs.

Chairperson Brady inquired whether someone would be available at the facility at all times. Mr. Morten confirmed.

Deputy County Attorney Hoffmeister inquired the number of dogs Mr. Morten intended to have at his facility and Mr. Morten testified, less than 100 dogs. Deputy County Attorney Hoffmeister requested clarification on a more specific number and Mr. Schmidt answered Mr. Morten's application shows a 40-dog maximum. Deputy County Attorney Hoffmeister questioned if Mr. Morten intended to expand beyond the 40-dog maximum. Mr. Morten stated he did not.

Mr. Stubblefield declared, reviewing the aerial GIS imagery, there appeared to be approximately 10-20 residences within a quarter-mile of Mr. Morten's residence. A gentleman from the public attempted to speak, but Deputy County Attorney Hoffmeister explained he would need to step towards the microphone and introduce himself. Chairperson Brady agreed.

Mr. Biehl asked how long Mr. Morten had owned this property, and Mr. Morten replied, 4 years. Chairperson Brady wondered if Mr. Morten intended to remain at this residence and Mr. Morten confirmed.

Deputy County Attorney Hoffmeister asked Zoning Administrator Daniels to provide a location of the property and Zoning Administrator Daniels replied 145<sup>th</sup> and Highway 10. Deputy County Attorney Hoffmeister asked Zoning Administrator Daniels to show, using GIS imagery on the projector, where this property was located in accordance to the city of Kearney's Zoning Jurisdiction and the aerial was provided.

Vice-Chairperson Keep inquired whether all the residences in this area were pre-zoning and Deputy County Attorney Hoffmeister provided a brief zoning history of this area.

Chairperson Brady confirmed Mr. Morten's property is situated approximately three miles from the city's 2-mile jurisdiction.

Chairperson Brady asked if Mr. Morten had a history with training and boarding and Mr. Morten explained his father ran a similar operation in the 1990's. Chairperson Brady inquired if Mr. Morten was, under his father's direction, involved in the operation. Mr. Morten confirmed.

Deputy County Attorney Hoffmeister, addressing the public, explained the process that The Planning and Zoning Commission must adhere to. He stated, portions of this area, being zoned Agriculture (AG) and Agricultural – Residential (AGR), both required that a dog boarding facility needed to be reviewed as a Special Use Permit. Further, he explained, The Commission is charged with providing a recommendation to The Buffalo County Board of Commissioners, with any recommended conditions. The County Board, he went on, is not bound by the suggestion of The Commission, however, they are still charged with using findings of fact set out in Buffalo County Zoning Regulations, under Section 6.2. He reviewed those requirements.

Deputy County Attorney Hoffmeister asked Mr. Morten where the closest dog-training facility was located. Mr. Morten replied, Lost Creek Training Academy was the closest, approximately 5 miles south and west of his property. Vice-Chairperson Keep asked if Lost Creek Training Academy offered training. Mr. Morten confirmed and he also highlighted Cottonwood Veterinary Clinic, situated within the city of Kearney's jurisdiction. Vice-Chairperson Keep asked what services were provided at Cottonwood and Deputy County Attorney Hoffmeister answered, training, grooming and daycare for dogs.

Chairperson Brady asked Mr. Morten the number of dogs he could train at any given time and Mr. Morten answered, six.

Chairperson Brady asked if the facility would, primarily, be used for boarding and Mr. Morten confirmed, and added, breeding. Chairperson Brady asked if Mr. Morten intended to breed his personal dogs or others'. Mr. Morten answered, his dogs; he explained he currently has two female dogs and sells their litters. Mr. Vest asked if Mr. Morten intended to sell the puppies after they are eligible for new home, or would he offer training with puppies and sell them after

training was complete. Mr. Morten said it depended on the customer, but, he added, in most cases, the puppies, at 8-weeks old, go to a new home. However, he added, he has received requests for customers to have their puppies trained.

Chairperson Brady asked how hunting training was conducted and if Mr. Morten used gun shots. Mr. Morten replied, he uses a blank shell, or a primer, to condition the dogs to the sound.

Chairperson Brady asked if it is conducted every day, and Mr. Morten answered, training is five days a week. Mr. Vest inquired how often Mr. Morten would conduct gunshot training and Mr. Morten advised, out of four months of the training program, gunshot training is conducted approximately one month for each dog. Mr. Brady wondered, if gunshot training is conducted one month for each individual dog, could there be a situation where the gun shot training could be conducted every day and Mr. Morten confirmed.

Deputy County Attorney Hoffmeister asked if blank shells are classified as a firearms and Mr. Morten answered, it was not.

Deputy County Attorney Hoffmeister inquired whether certification or licensing is required and Mr. Morten explained, there was different criteria, such as competitions and reputation-based.

Mr. Morten testified he understood the concerns of the public, regarding the barking; however, he said, the dogs would have indoor-outdoor runs and an enclosed facility. He explained, he did not intend to fill the facility with dogs right away, but the size of the structure would allow him to expand in the future, if he wished. He said, it is currently a hobby and he's in a position where he can hire help and expand, or retreat from the hobby. He explained, he is a full-time agronomist and isn't able to do it full-time.

Chairperson Brady addressed Mr. Morten and said that The Commission needs to take into account the concerns of the public. Mr. Morten agreed and testified, the dogs, outside of business hours of 8:00 a.m. to 5:00 p.m., would be enclosed, with the door shut.

Chairperson Brady asked Mr. Morten if he would release several dogs in the run, at once and Mr. Morten confirmed, but added he would need to strategically allow exercise time, based on demeanor, size, gender, etc. of each dog.

Chairperson Brady asked Mr. Morten if barking would be reduced if the dogs are in the run and Mr. Morten agreed.

Vice-Chairperson Keep asked if Mr. Morten used bark collars when he trains and Mr. Morten replied he does not regularly use them, because the dogs don't bark when they are in training.

Chairperson Brady requested clarification Mr. Morten would have the dogs enclosed at night and Mr. Morten confirmed.

Mr. Stubblefield asked if he would have someone on site during business hours and Mr. Morten confirmed.

Chairperson Brady asked if The Commission had other questions.

Mr. Vacek inquired how Mr. Morten intended to handle waste management and Mr. Morten replied, a septic tank.

Secretary Wolfe questioned Mr. Morten on the kind of bedding used and Mr. Morten replied, a commercial dog bed, aluminum frame, with a hammock style, to allow for sanitation. He advised, it is minimal because it all will need to be sanitized and exposed wood coverings are not allowed.

Deputy County Attorney Hoffmeister asked if a wash room would be in the facility and Mr. Morten confirmed.

Chairperson Brady inquired the interior temperature of the structure and Mr. Morten answered he was unsure what the industry standard was, but would estimate between 50 and 55 degrees. Deputy County Attorney highlighted some federal and state regulations.

Chairperson Brady declared, he appreciated Mr. Morten's testimony and The Commission also needed to ensure all dogs would need to be properly cared for. He thanked Mr. Morten for his time.

Chairperson Brady announced members of the public were welcome to speak.

Mr. Jim Nickman, of 15314 Hawk Road, introduced himself to The Commission. He, also, provided documentation he prepared; it was introduced as "Exhibit A". Mr. Nickman reviewed the documentation, which included, Buffalo County Zoning Regulation, Section 6.2, Houses and Values in Close Proximity to the proposed dog kennel, and a map showing homes impacted by the proposed kennel.

Vice-Chairperson Keep requested clarification if the properties listed on the "Exhibit A" were actual properties or residences, and Mr. Nickman clarified, residences. Mr. Nickman continued his review.

Deputy County Attorney Hoffmeister inquired where Mr. Nickman resides, in relation to the proposed kennel; Mr. Nickman testified he was about 5,000 feet from the proposed site location. Mr. Nickman continued his testimony and explained the values (reductions) shown on "Exhibit A" were provided by two real estate agents, whose names were not disclosed. He went on to explain, the real estate agents said any residences, located within close proximity of the kennel, would be difficult to sell.

Mr. Nickman posed a couple questions to The Commission. 1. If Mr. Morten is going to be working full-time, then would he be conducting gun training after hours and during the weekend? 2. Is the hired person 18 years, or older and trained, to work in this type of facility?

Mr. Nickman, again, addressed The Commission and explained he is a Kearney-Area builder. He advised, in his opinion, heating a 40-foot by 80-foot building to 50 degrees would cost more than

Mr. Morten would earn boarding six dogs. He, further, explained that he was concerned there would be an incremental expansion in the number of dogs Mr. Morten would want to handle/board in the future.

Mr. Nickman provided testimony on the logistics of a dog's bark. He said, during his research, he discovered a dog barks at 125 decibels at 500 hertz and a jet engine, at 130 decibels. He stated, per OSHA, hearing loss begins at 70 decibels and requires ear protection at 85 decibels. He testified, he can hear Mr. Morten's three dogs, now. After providing his testimony, he referenced the values shown on "Exhibit A". Chairperson Brady reminded The Commission, the figures Mr. Nickman presented were based on the opinion of two realtors. He said, while he appreciated the input Mr. Nickman has presented, The Commission needed to remember the data was opinion-based and, rather, data regarding residential sales of existing dog kennels would be more valid information to present. Mr. Nickman referenced "McAuliff's" property, which is now known as "Lost Creek Training Academy". Mr. Nickman testified, he attempted to develop land near the existing dog kennel and all developers backed out.

Chairperson Brady, again, thanked Mr. Nickman for his testimony, but reminded him the figures presented in "Exhibit A" were opinions, and, potentially, hearsay. Mr. Vest asked Zoning Administrator Daniels to present "McAuliff's" (Lost Creek Training Academy) property, on the projector, using GIS imagery. At this time, "McAuliff's" was identified as Lost Creek Training Academy, located on 115<sup>th</sup> Road.

Mr. Nickman explained, Iron Horse Subdivision, located on 130<sup>th</sup> Road, is a subdivision to the north of "McAuliff's" (Lost Creek Training Academy) property, that is, and will be, affected by both kennels. Vice-Chairperson Keep asked how many dogs "McAuliff's" (Lost Creek Training Academy) boards, and Deputy County Attorney Hoffmeister stated he was unsure and Mr. Nickman agreed. Mr. Nickman testified, regardless of the validity of the values, allowing a dog kennel near his home would affect his property.

Mr. Stubblefield referenced "Exhibit A" and the number of affected families. He stated that Mr. Morten has 3 dogs, and estimated, within this area, there could, potentially, be 30-40 dogs. Mr. Nickman stated he was unsure the amount of property owners who have a dog, but he left his dog inside. Mr. Nickman thanked The Commission for their time and requested they consider the information presented in "Exhibit A". Mr. Nickman, also, explained he believed that Section 6.4 referenced the setbacks for livestock and there should be a setback based on the number of dogs. Deputy County Attorney Hoffmeister explained to Mr. Nickman that section is designated for grazing livestock, not dogs. Mr. Nickman, again, thanked The Commission for their time and Chairperson Brady thanked Mr. Nickman for his testimony.

Chairperson Brady invited the public to speak. Tim Richter, who lives at 145<sup>th</sup> and Highway 10, spoke. He stated he built his house in 1974 and has been at his residence for 40 years. He explained he is not opposed to animals, but he is against the dog kennel because of the noise and property devaluation. Deputy County Attorney Hoffmeister asked Mr. Richter where he resides and Mr. Richter, stood at the projector, using GIS imagery and pointed to his residence and the

land he owns. Chairperson Brady asked if Mr. Richter had another residence affected by the dog kennel. Mr. Richter pointed out additional residences that would be affected. He said he does not approve of having dogs bark all night. Chairperson Brady inquired if Mr. Richter had sold any land for residential development and Mr. Richter replied, he has purchased land to keep residential development from coming in. He reviewed those properties via the GIS imagery.

Deputy County Attorney Hoffmeister asked if Mr. Richter intended to sell his farmland and Mr. Richter answered, he did not, but his land would go to his children. Mr. Richter thanked The Commission for their time, and Chairperson Brady thanked Mr. Richter for his testimony.

Another member of the public stepped forward. He identified himself as Mike Rost, an easterly neighbor, at 29745 145<sup>th</sup> Road. Mr. Rost identified his property using GIS imagery and stated he did not believe he could add additional testimony that hadn't been shared. He expressed concern regarding the noise and property devaluation. He said, Mr. Morten's testimony about the dogs being out during business hours could be misconstrued because there would be dogs boarded on the weekends and would still bark when neighbors are at home during the day. He testified his wife works from home Monday through Friday, and the barking would be a cause for concern.

Mr. Schmidt asked Mr. Rost if he had a dog. Mr. Rost replied, one, but he is kenneled at night because he would bark all night. Chairperson Brady asked Mr. Rost what his main concern was and Mr. Rost replied it was the noise, but his property devaluation was also concerning. Mr. Rost thanked The Commission for their time and The Commission thanked Mr. Rost for his testimony.

Another member of the public stepped forward. Mike Kreutzer, who resides at 29330 145<sup>th</sup> Road, testified he and his grandparents reside across the road, and wanted to provide testimony on behalf of his grandparents. Mr. Kreutzer explained his grandparents have resided at their residence since 1939 and have retained that tract. He testified, on behalf of his grandfather, if the neighbors did not want a dog kennel there, they had the opportunity to buy it. He added, since Mr. Morten has purchased the property, he should be allowed to use it, within reason.

Mr. Kreuzer added he believes there are approximately 20 dogs, residing within this area, and they all bark. He said that he grew up ½ mile from "McAuliff's" (Lost Creek Training Academy) and rarely heard the dogs barking. Regarding property devaluation, he added, his grandfather owns land next to Iron Horse Subdivision and his land values took a significant increase after the property owners constructed half a million-dollar houses; he believes no one will sell their house. Chairperson Brady asked for clarification on Mr. Kreutzer's stance; he stated he was neutral.

Another member of the public stood up to testify and identified herself as Kari Nickman, who said she resides with Jim Nickman. She asked if The Commission had the authority to limit the number of dogs that Mr. Morten could have. Deputy County Attorney Hoffmeister reviewed the authority of The Commission. She said, Mr. Morten testified his goal was to run a kennel full-time, he could add up to 100 dogs.



Mrs. Nickman testified that she believed Mr. Morten did not meet the findings of fact set forth in the regulations and she requested The Commission consider preserving their way of life, the peace and quiet.

Mrs. Nickman, also, testified she walked along Hawk Road every day in the summer and does not wish to hear dogs bark. Chairperson Brady asked Mrs. Nickman what she believed was an acceptable occupancy would be; Mrs. Nickman said she wasn't sure, but testified if there are already 40 dogs within this vicinity, then allowing 40 more would double the population. She invited The Commission consider putting limits on the number of dogs.

Chairperson Brady asked Mrs. Nickman if she had any concerns regarding the increased traffic. Mrs. Nickman stated that she, along with other residents if this area, all walk along Hawk and 145<sup>th</sup> Roads and the increased traffic would be a safety concern.

Mrs. Nickman thanked The Commission for their time and The Commission thanked Mrs. Nickman for her testimony.

Chairperson Brady asked the public if anyone would like to step forward. Mr. Tim Richter stepped forward, again, and he discussed the busy traffic of Highway 10.

Chairperson Brady asked if anyone else wished to testify or provide final thoughts.

Mr. Morten presented one last testimony and stated he been approached by several residents of Buffalo County to offer boarding and training facilities, and with the busy traffic on Highway 10, noise would be expected. He testified he wants to provide more jobs and provide a service to the community and do it responsibly.

Deputy County Attorney Hoffmeister inquired the definition of an unconditioned dog; Mr. Morten answered he was unsure.

Chairperson Brady asked the public if anyone else wished to provide testimony before the public hearing is closed. No one spoke.

Chairperson Brady closed the public hearing on this agenda item at 8:17 p.m.

Chairperson Brady asked The Commission their thoughts, after hearing all the testimony.

Mr. Stubblefield asked how the zoning requirements of dog kennels were different between the county and the city of Kearney. Deputy County Attorney Hoffmeister stated he was unsure, but said there would more stringent guidelines. "McAuliff's" (Lost Creek Training Academy) was discussed.

Ms. Jeffs asked Deputy County Attorney Hoffmeister if a limit on the number of dogs could be recommended. He stated they could.

Chairperson Brady stated that The Commission would need to review the proposed Special Use Permit and if and how it would impact the neighboring properties.

Chairperson Brady asked The Commission if anyone had a recommendation to put forth. Vice Chairperson Keep asked Zoning Administrator Daniels if she has received any complaints from a dog training facility near Elm Creek, called Apex. Zoning Administrator Daniels answered, she had not received any complaints. This property was discussed and the number of residences located within a proximity of that facility. The facility and adjacent residences were reviewed using GIS imagery. Chairperson Brady asked how this was zoned; Zoning Administrator Daniels answered it was zoned Agricultural (AG).

Mr. Vest provided a comment that Highway 10 has significant traffic increases, but developers and buyers want to continue building next to a paved road. He stated, development will continue to occur and land values are increasing because of it.

Deputy County Attorney Hoffmeister recommended making a decision that would not cause detriment to the neighbors. Chairperson Brady agreed. Vice-Chairperson Keep commented, with this area being AG - Agriculture, a property owner could put in 300 head of cattle and no setback is required.

Ms. Jeffs asked if a recommendation would be accepted. She recommended three maximum training dogs and no more than 40 dogs. Discussion occurred regarding the concerns of enforcement with this recommendation. Ms. Jeffs recommended allowing a maximum of 40 dogs. Vice-Chairperson Keep stated he believed that 40 dogs maximum were listed on the application.

Zoning Administrator Daniels inquired whether breeding should be addressed by The Commission. Deputy County Attorney Hoffmeister answered it was another matter.

Chairperson Brady declared he believed The Commission should consider a maximum number of dogs to allow the use to fit into the area.

Vice-Chairperson Keep asked if The Commission could regulate barking. Deputy County Attorney Hoffmeister advised, it would extremely difficult to regulate an animal's behavior. Vice-Chairperson Keep asked if training could be offered, to avoid the behavior. Mr. Schmidt reminded The Commission that Mr. Morten's main intent was for boarding animals, not training and when a dog is dropped off at a strange facility, it will bark. He added, he appreciated Mr. Morten's business plan, but stated he believed this area may not be the best location, and could be detrimental to the adjacent properties. If The Commission considered a smaller maximum occupancy, Mr. Schmidt added, Mr. Morten wouldn't be able to make his business plan work. He, further, explained this was a primarily a residential area, and although the applicant should have some leeway with what is allowed, this area is not ideal for the Special Use Permit.

Secretary Wolfe said she appreciated Mr. Morten's business plan, as well. She believes a maximum limit should be set by The Commission and added, it would be difficult to regulate the gun shot training. Chairperson Brady thanked Secretary Wolfe for her perspective, and added that trap shooting could also be allowed and is, also, difficult to regulate.

Mr. Vacek said he has nothing to add, but agreed with Mr. Schmidt this area is not compatible for a dog kennel and would reconsider if it was located away from a residential area.

Vice-Chairperson Keep testified he had nothing to add, but reminded The Commission barking dogs could not be regulated and several dogs already reside in this area.

Mr. Stubblefield agreed with Vice-Chairperson Keep about the number of dogs being regulated and said there are concentrated populations of dogs, owned by property owners, in other areas that are not regulated.

Chairperson Brady advised The Commission that a decision should be reached. He stated they have three options which include: pass to The Buffalo County Board of Commissioners, as presented, provide a recommendation of deny it, or approve with conditions. He inquired whether anyone wished to make a recommendation.

Mr. Biehl stated he believed the proposed Special Use Permit could be compatible, but respected opposing land owners' testimony and shared their concerns.

Chairperson Brady reminded The Commission they need to decide what will be impactful to the neighbors, such as traffic and noise.

Deputy County Attorney Hoffmeister advised The Commission the options to be considered.

Ms. Jeffs made a recommendation for a maximum of 30 dogs, allowed. Deputy County Attorney Hoffmeister inquired the type. Ms. Jeffs stated a maximum occupancy of 30 dogs, any size. She added that breeding, training, and boarding would be allowed. She also recommended signage, with an address, be required.

Discussion occurred, after the public hearing closed, regarding noise ordinances and case studies for number of maximum occupancies.

Deputy County Attorney Hoffmeister asked Ms. Jeffs if she wished to add a structure, as part of the recommendation. Ms. Jeffs recommended one structure, as presented, as part of The Special Use Permit.

Discussion occurred, after the closing of the public hearing, regarding regulations of dog kenneling and boarding. Tim Keelan, of Hanna:Keelan, Associates, P.C. recommended The Commission consider the testimony of the public tonight for revisions to their Comprehensive Plan review.

Discussion occurred regarding procedural expiration times of Special Use Permits.

Deputy County Attorney Hoffmeister reviewed the proposed recommendation: recommended approval with a maximum occupancy of 30 dogs, signage with an address, and one structure as presented. Ms. Jeffs confirmed.

Chairperson Brady stated a motion has been made with Ms. Jeff's recommendation and requested a second or any further discussion. Secretary Wolfe seconded.

Chairperson Brady reviewed the proposed motion, a maximum occupancy of 30 dogs, signage with an address, and one structure, as presented.

Mr. Stubblefield inquired if the business plan included enclosing the dogs after business hours. Secretary Wolfe also shared the concern.

Mr. Stubblefield recommended an amendment to have the dogs enclosed, or kenneled, no later than 30 minutes after sunset until sunrise. Mr. Vest seconded the amendment.

Upon roll call vote of the proposed amendment, the following Board members voted "Aye": Jeffs, Vest, Wolfe, Stubblefield, and Brady.

Voting "Nay": Biehl, Keep, Schmidt, Vacek.

Abstain: None.

Absent: None.

The proposed amendment is carried.

Upon roll call vote, The Commission wishes to recommend favorably the Special Use Permit Application to operate a dog boarding facility, filed by Mark Morten, for tax parcel 380081010, located at 29235 145th Road, Kearney, Nebraska, and described as Part of the Northwest Quarter of the Northwest Quarter, situated in Section Twenty-five (25), Township Ten (10) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska to the Buffalo County Board of Commissioners, with the following conditions: a maximum occupancy of 30 dogs, signage with an address, one structure as presented and to have the dogs enclosed, or kenneled, no later than 30 minutes after sunset until sunrise.

The following Board members voted "Aye": Jeffs, Keep, Vest, Wolfe, Stubblefield, and Brady.

Voting "Nay": Biehl, Schmidt, & Vacek.

Abstain: None.

Absent: None.

### **Public Hearing. 5(b)**

Chairperson Brady opened the public hearing for Agenda Item 5(b) at 9:15 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 explained to The Commission they have created a "draft" of the completed Comprehensive Plan. He stated he would briefly review draft and make any revisions at this time. He said he will be back in January to review zoning regulations.

Mr. Carl generally reviewed the completed “draft” Comprehensive Plan. Secretary Wolfe stated, on page 3.7, the South Loup River should be situated in the North Half of Buffalo County. Mr. Carl thanked Secretary Wolfe for her recommendation, made note for correction, and continued his review.

Vice-Chairperson Keep inquired, on page 4.22, about R-1, Single Family Residential District and wanted to know if it was a new district. Zoning Administrator Daniels asked if that was intended for the high-density area. Mr. Carl said he would need to review it further, but, he added, the high-density area had been recommended as being named “Ag-Res. 1”. Mr. Carl continued his review.

Mr. Carl referred to Mr. Keelan, if he wished to add anything. Mr. Keelan stated he appreciated all the feedback from the survey and Hanna:Keelan, Associates, P.C. referred to many of those comments, while writing the proposed plan.

Mr. Carl opened the floor to discussion. Discussion occurred regarding public facilities and entities provided on The Public Service Commission.

Mr. Keelan reviewed population and land use considerations, which were implemented into the plan.

Discussion occurred regarding traffic counts and routes travelled to create that data.

Secretary Wolfe asked when The Commission would begin reviewing the Zoning Regulations and Mr. Carl replied, it would be reviewed in January. Secretary Wolfe asked how the process would be reviewed and Mr. Carl answered, The Commission will begin reviewing districts.

Mr. Keelan asked Deputy County Attorney Hoffmeister if Buffalo County had significant requests for Special Use Permits. Zoning Administrator Daniels answered they have seen an increase since signage has been enacted. Discussion occurred regarding potential review of signage, wind generation, and dog boarding regulations.

Mr. Carl thanked The Commission for their time and advised a revised copy would be resubmitted.

Mr. Keelan asked if Zoning Administrator Daniels has posted the “draft” comprehensive plan for public viewing and Zoning Administrator Daniels answered she will post the revised copy, after The Commission’s amendments have been implemented.

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

Chairperson Brady closed the public hearing for Agenda Item 5(b) at 10:00 p.m.

### **Old Business**

## **Minutes**

Motion was made by Secretary Wolfe, seconded by Ms. Jeffs, to approve the minutes of the September 15, 2022, meeting, as presented.

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

Voting “Nay”: None.

Abstain: Vest.

Absent: None.

Motion carried.

Zoning Administrator Daniels reported the October 20, 2022, Planning and Zoning Commission meeting minutes, in which quorum was not reached. The Planning Commission affirmed the report and no objections were noted.

## **New Business**

### **Report on Previous Hearings**

Zoning Administrator Daniels explained to The Commission the Zoning Map Amendment for Poulson Family Limited Partnership and Justin Landis, reviewed at the September 15, 2022 Planning and Zoning Commission Meeting, was approved by The Board of Commissioners on October 11, 2022.

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

Zoning Administrator Daniels highlighted the ETJ correspondence, from the city of Kearney, for Turkey Creek 4<sup>th</sup> Subdivision. She said a letter was drafted and sent for a response to the city of Kearney from The Commission.

Zoning Administrator Daniels also reviewed the proposed plat for “Younes Center Ninth Addition”, which would be annexed as part of the platting process. She requested The Commission review the attached letter and decide if it was acceptable. The Commission found it acceptable.

Zoning Administrator Daniels reviewed the Dawson County Notice of meeting. Discussion occurred regarding data mining.

Zoning Administrator Daniels also notified The Commission that the Annual Planning Conference has been moved to March 8-10, 2023 and more information would follow.

### **Next Meeting**

The next meeting will be conducted December 15, 2022, if necessary.

**Adjourn**

Chairperson Brady adjourned the meeting at 10:09 p.m.

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Scott Brady, Chairperson  
Buffalo County Planning & Zoning Commission

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Loye Wolfe, Secretary