

MINUTES OF PLANNING AND ZONING COMMISSION
APRIL 20, 2023
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 and 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 April 20, 2023.

In Attendance: Tammy Jeffs, Randy Vest, Scott Stubblefield, Francis "Buss" Biehl, Willie Keep, Marc Vacek, Loye Wolfe, and Scott Brady.

Kurt Schmidt 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 several members of the public.

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 7:02 P.M.

Public Hearing. 5(a)

Chairperson Brady opened the public hearing for Agenda Item 5(a) at 7:02 P.M. regarding the Application for Zoning Map Amendment, filed by Michael Mauslein, Owner/Operator, Mauslein Land Holdings, L.L.C., for property described as Part of the Northeast Quarter of the Northwest Quarter and Part of Government Lot One (1) located in Section Thirty (30), Township Nine (9) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska, to rezone approximately 3.05 acres, more or less, from Agriculture (AG) to Industrial (I).

Mr. Michael Mauslein, Owner/Operator of Mauslein Land Holdings, L.L.C. residing at 1400 W 20th Street, stepped forward to present his application regarding his business at 39938 Highway 30, Gibbon, Nebraska. Mr. Mauslein stated their business is growing and they are building customized fuel trailers, etc. and the applicant wants to be able to sell the trailers, as well, eliminating the middle man. He added that he would like to also add a laser table and provide custom cutting. He, further explained that his business is a licensed manufacturer and each trailer

is assigned a VIN number. He explained he and his employees are welders/builders, not salesmen. He explained he would prefer to take custom orders directly from the customer.

Chairperson Brady asked Mr. Mauslein his intent with the rezone and Mr. Mauslein responded he would like to have the rezone granted industrial to obtain a dealers license to build customized trailers. He explained his company makes one-of-a-kind trailers.

Chairperson Brady commented that Mr. Mauslein's property is situated within an area primarily zoned Industrial and Commercial.

The history of the area around the subject property and zoning changes were discussed by Deputy County Attorney Hoffmeister. He also reviewed the Future Land Use Map that was recently adopted by Buffalo County.

Chairperson Brady asked the applicants how long it has been since they applied for their Special Use Permit and Mr. Mauslein responded, around five years, but have owned the property longer than that.

Chairperson Brady stated based on the previous applications from The Planning Commission in this area, this area is primarily Commercial and Industrial. Deputy County Attorney Hoffmeister advised this area was conducive for industrial activity being situated next to the railroad, paved surfaces, and highway.

Chairperson Brady stated, he believed the application and request aligned with The Buffalo County Comprehensive Plan and The Future Land Use Map.

Chairperson Brady asked if anyone wished to comment. No one spoke.

Chairperson Brady closed the public hearing at 7:14 P.M.

Vice-Chairperson Keep inquired what industrial uses could be allowed and Deputy County Attorney Hoffmeister reviewed some of those uses.

Motion was made by Mr. Biehl, seconded by Mr. Vest, to recommend favorably the Zoning Map Amendment, filed by Michael Mauslein, Owner/Operator of Mauslein Land Holdings, L.L.C., for property described as Part of the Northeast Quarter of the Northwest Quarter and Part of Government Lot One (1) located in Section Thirty (30), Township Nine (9) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska, to rezone approximately 3.05 acres, more or less, from Agriculture (AG) to Industrial (I).

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

Voting "Nay": None.

Abstain: None.

Absent: Schmidt.

Public Hearing. 5(b)

Chairperson Brady opened the public hearing for Agenda Item 5(b) at 7:14 P.M. regarding Discussion and Consideration of Revision to the Buffalo County Zoning and Subdivision Regulations as part of the 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, of Hanna:Keelan, Associates P.C. stepped forward and introduced himself. He thanked everyone for their attendance. He explained The Planning Commission was now in the regulation review portion of The Comprehensive Plan. He advised The Commission would review the definitions portion of the regulations and make any changes they found necessary. The next meeting, he explained, would review zoning districts and allowability of uses.

Mr. Carl advised The Commission begin at Article 3 and that he would act as a moderator regarding any changes.

Mr. Carl asked The Commission to review pages 5-6 of the Buffalo County Zoning Regulations. Secretary Wolfe asked Mr. Carl if their definitions were used previously. Mr. Carl agreed, however, definitions were amended during the last comprehensive plan.

Existing Adult Entertainment businesses were discussed.

Mr. Carl explained he had worked with other communities and counties, which have removed the allowability of adult entertainment, henceforth. He asked if The Commission wished to remove them. Deputy County Attorney Hoffmeister counselled it would be best to leave it as a Special Permitted Use and Vice-Chairperson Keep agreed.

No changes were suggested on these pages.

Mr. Carl reviewed pages 7-8 of the Buffalo County Zoning Regulations. Deputy County Attorney Hoffmeister reviewed the history on Section 3.3107, "Agricultural Farm or Operation". He also reviewed the history of Section 3.3110, "Building".

Vice-Chairperson Keep recommended, changing Section 3.3110 to state, "3.3110 BUILDING: An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of ~~or~~ OF persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except those two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure".

Deputy County Attorney Hoffmeister recommended change of Section 3.3111, Building Height to read, “The vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs, measured ~~from the curb level if the building is not more than 10 feet from the front line or~~ from grade in all other cases: (see illustration below).”

Mr. Carl recommended The Commission consider providing a more distinct definition of “Campgrounds”. Deputy County Attorney Hoffmeister recommended revisiting this section. Concerns such as length of stay, whom is allowed to stay, and where they are allowed to be situated needed to be discussed further, he added. Furthermore, he asked Mr. Carl to bring a recommendation to The Commission. Mr. Carl asked if The Commission found it acceptable to add “for commercial purposes” on the camping definition. He also recommended defining, ‘camping’.

Mr. Stubblefield inquired what would be required when a person lived in a camper and Deputy County Attorney Hoffmeister stated a zoning permit would be required. Mr. Stubblefield asked what would be different between a tiny house and a camper. Deputy County Attorney Hoffmeister reviewed the definition of “Structure”.

Deputy County Attorney Hoffmeister asked The Commission to consider the definition of a “Principal Use”.

Mr. Carl reviewed pages 9-10 of the Buffalo County Zoning Regulations.

Deputy County Attorney Hoffmeister reviewed the history of Section 3.3123, “Farm Residence”.

Mr. Vacek inquired if the definition of “multi-family dwelling” or “single-family dwellings” needed to be defined. Deputy County Attorney Hoffmeister reviewed the need for the definition.

Vice-Chairperson Keep inquired whether corporate residences, regarding farm help, should be defined. Deputy County Attorney Hoffmeister stated, he appreciated the question, but it was still considered a residence under the regulations.

Mr. Carl asked if Section 3.3122 “Escort Agency” should be removed. Deputy County Attorney Hoffmeister recommended leaving it.

Mr. Carl inquired whether Section 3.3129, Livestock Confinement Facilities/Operations should be amended and Deputy County Attorney Hoffmeister advised it was acceptable for Buffalo County. He reviewed the need for 180 consecutive days and issues with enforcement for Buffalo County. He added, it should be reviewed again further in the process.

Zoning Administrator Daniels recommended amending Section 3.3124 to state, “Those lands within the zoning jurisdiction of Buffalo County which are subject to a one percent (1%) or

greater chance of flooding in any given year. The regulatory flood plain for this Resolution shall be based on the official Flood Hazard Boundary Map or Flood Insurance administration, U.S. Department of Housing and Urban Development and any revision thereto. ~~Copies of said map shall be on file in the Office of the County Assessor or other County Official.~~ Deputy County Attorney Hoffmeister agreed.

Mr. Carl reviewed pages 11-12 of the Buffalo County Zoning Regulations.

No changes were recommended for page 11.

Mr. Carl asked Zoning Administrator Daniels about her notes regarding “Party Barns” and “mini-storage units”. She responded, these may need to be revisited, when uses are established.

No changes were recommended for page 12.

Mr. Carl reviewed pages 13-14 of the Buffalo County Zoning Regulations.

Zoning Administrator Daniels asked Deputy County Attorney Hoffmeister if Buffalo County should review the maximum kilowatt rated nameplate capacity to 30, under Section 3.3153. Deputy County Attorney Hoffmeister stated he spoke with Dawson Public Power and they confirmed the maximum should be 25 kilowatts.

No other changes were recommended for page 13.

Mr. Carl reviewed Zoning Administrator Daniels’ notes, stating Section 3.3158 should be changed to state, “A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage ~~or~~ of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.”

The history and recent amendments of signage was discussed.

No other changes were recommended for page 14.

Mr. Carl reviewed pages 15-16 of the Buffalo County Zoning Regulations.

Deputy County Attorney Hoffmeister advised Mr. Carl allow for a full solar array review.

No changes were recommended for page 15.

No changes were recommended for page 16. Deputy County Attorney Hoffmeister reviewed the history of the “structure” definition.

Deputy County Attorney Hoffmeister inquired whether Mr. Carl should provide a definition of “principal use or structure”. Mr. Carl explained he believed it be best to allow the principal uses and structures in each district speak for themselves. Deputy County Attorney Hoffmeister agreed.

Mr. Carl reviewed pages 17-18 of the Buffalo County Zoning Regulations.

Mr. Carl recommended review of the Section 3.3178, “Townhouse”. Deputy County Attorney Hoffmeister recommended removal as there was no need for a townhouse or other types of residences should be defined.

Section 3.3181, “Wind Farms” was discussed. No changes were recommended.

Section 3.3183, “Yard” was discussed. No changes were recommended.

No other changes were recommended for page 17.

Sections 3.3184, “Yard, Front” was reviewed. No changes were recommended.

No changes were recommended for page 18.

Mr. Carl reviewed page 19 of the Buffalo County Zoning Regulations.

No changes were recommended for page 19.

Mr. Carl stated the proposed changes would be updated.

Chairperson Brady asked if Mr. Carl would review districts at the next meeting and Mr. Carl confirmed. Mr. Carl thanked The Commission for their time.

Chairperson Brady closed the public hearing for Agenda Item 5(b) at 8:26 P.M.

Chairperson Brady adjourned for a five-minute break at 8:26 P.M.

Chairperson Brady called The Buffalo County Planning Commission back to order from break at 8:32 P.M.

Public Hearing. 5(c)

Chairperson Brady opened the public hearing for Agenda Item 5(c) at 8:32 P.M., regarding the Application for Code Amendment, filed by Cory Banzhaf, Power of Attorney, JKS Farms L.L.C., under Section 6.4, Livestock Confinement Facilities/Operations, regarding class sizes and setback requirements, for property described as a Part of Section Twenty-Seven (27), Township Eleven (11) North, Range Fifteen (15) West of the 6th P.M., Buffalo County, Nebraska.

Mr. Craig Bennett, of Miller and Associates, located at 1111 Central Avenue, Kearney, Nebraska and Mr. Cory Banzhaf, residing at 28430 128th Road, Kearney, Nebraska, stepped forward to present the application. Mr. Banzhaf provided the address for which they are seeking a code amendment, which is 35840 220th Road, Pleasanton, Nebraska.

Mr. Bennett reviewed provisions within the Buffalo County Comprehensive Plan, Section 4, page 4.20, which states, “Much of the existing industrial land areas in Rural Buffalo County, generally, support intensive agricultural uses, including feedlots, gravel extraction and animal confinement operations.” He also referenced Appendix 2, page 13 of The Buffalo County Comprehensive Plan, “Much of the existing industrial land areas in Rural Buffalo County, generally, support intensive agricultural uses, including feedlots, gravel extraction and animal confinement operations. A balanced, paced strategy for increasing these enterprises is feasible and sustainable. Housing for workforce, capacity for educating more and diverse K-12 population and other infrastructure needs must be part of any livestock development proposal.”

Mr. Bennett explained to The Commission, Mr. Banzhaf wished to have The Commission consider an amendment to Section 6.4 of the Buffalo County Zoning Regulations, regarding livestock confinement operations. He reviewed Exhibit A, which is the proposed amendment, along with the history of Buffalo County Livestock Confinement Operations regulations since 2004. He advised, he believed it was relatively common to see the separation between classes with what was shown in 2004. However, he continued, any livestock confinement operation over 2,500 should head still require a 1-mile setback. He presented the 2023 proposed table and explained it was a hybrid of the 2004 table and 2012, but the proposed table would be more consistent with what other neighboring counties are requiring. He explained that he assigned the intermediate class as IIA for designation purposes. Further, he explained, Buffalo County’s regulations, in comparison to Dawson, Custer, Sherman, Hall, Howard, Kearney, Phelps and Adams counties are too restrictive. He stated, the restrictive nature of the setbacks is not conducive to The Comprehensive Plan and the regulations should be amended to be more favorable to livestock confinement operations and more consistent with neighboring counties’ setbacks. He provided a quick overview of the other counties’ regulations.

Mr. Bennett then, reviewed Exhibit B, The Site Offset Map, and how the proposed amendments would affect Mr. Banzhaf’s present situation.

Deputy County Attorney Hoffmeister advised that Buffalo County had opted to post a notice of public hearing to Mr. Banzhaf’s property and to the neighbors within 300 feet of Mr. Banzhaf’s

property. In most cases, he counselled, Buffalo County does not post a sign or provide notice to neighbors within 300 feet for code amendments because they don't normally affect one piece of property. However, he explained, it is best to notify those surrounding Mr. Banzhaf's property due to his property being directly affected by the amendment.

Deputy County Attorney Hoffmeister counselled The Commission that every animal confinement operation in the Agricultural (AG) zoning for a Class Four and below, is allowed as a Permitted Principal Use and setbacks are the only requirements. Class Five, he continued, is by Special Use Permit. Deputy County Attorney Hoffmeister reviewed the history of how the classes changed.

Deputy County Attorney Hoffmeister reviewed the setback requirements for livestock confinement operations to expand or construct. The applicant would need to have waivers of all residences or surface landowners within those setback areas.

Deputy County Attorney Hoffmeister inquired whether Mr. Bennett was The Zoning Administrator of Red Willow County and Mr. Bennett confirmed. Deputy County Attorney Hoffmeister asked what Red Willow County's regulations were for livestock confinement operation and Mr. Bennett explained it depended on where it was situated and reviewed some situations.

Mr. Bennett commented that Buffalo County has the same 1-mile setback, no matter the class and stated The Commission should consider just having two class sizes. Further, he said, it is extremely limiting for livestock confinement operations to expand or construct. Deputy County Attorney Hoffmeister asked Mr. Bennett if he was aware of any counties that allow livestock confinement operations as a Permitted Principal Use with less than 10,000 animal units. Mr. Bennett responded he was here to request consideration of the amendment to the setback regulations. Deputy County Attorney Hoffmeister added, although the setback requirements are somewhat rigid, Buffalo County also allows livestock confinement operations to expand or construct, up to 10,000 in most districts.

Chairperson Brady inquired why the applicant was requesting a code amendment considering expansions may occur as a Permitted Principal Use. Mr. Bennett alleged, it is unfair that a livestock confinement operator, who wishes to expand to 10,000 animal units, have the same setback as a livestock confinement operator who has 2,501 animal units.

Deputy County Attorney Hoffmeister reviewed another livestock confinement operator, Mr. Pritchard, who received approval and waivers, around 2018, for over 2,500 animal units.

Secretary Wolfe inquired what "JKS Farms" stood for and Mr. Banzhaf responded, yes it was for family. She asked if several families were included in the operation and Mr. Banzhaf answered, yes. Further, she asked, do the family members, associated with JKS Farms, reside on the

property and Mr. Banzhaf responded, no. Secretary Wolfe questioned if Mr. Banzhaf resides on the property and Mr. Banzhaf responded, no.

Secretary Wolfe referenced Exhibit B and asked if a lagoon had been proposed and Mr. Banzhaf responded, it has, but is not fully developed.

Secretary Wolfe stated she conducted a drive-by inspection of the property and it appeared as if there was a land scraper working on the property and Mr. Banzhaf answered, they are maintaining the existing area.

Secretary Wolfe asked if Mr. Banzhaf has a holding pond and how the waste is treated and Mr. Banzhaf responded, it is pumped on one pivot (quarter) to the north. Secretary Wolfe commented she didn't believe a quarter of land could handle the waste of 10,000 animal units and Mr. Banzhaf responded, it could. Mr. Banzhaf reviewed the requirements set forth by DEE for waste management. Secretary Wolfe asked if the waste would be injected and Mr. Banzhaf confirmed it would not be. Secretary Wolfe requested clarification that waste management would include dry manure application on one pivot and Mr. Banzhaf answered, it was more of a pivot and a half.

Deputy County Attorney Hoffmeister reminded The Commission that the State of Nebraska has any livestock confinement operator, who holds more than 1,000 animal units, classified as a "large" operation and those requirements are regulated by The State.

Mr. Vest asked if Mr. Banzhaf could pump waste into the second pivot and he responded, 220 acres are currently under water. He said this particular pivot is somewhat larger than a standard quarter.

Chairperson Brady inquired if Mr. Banzhaf had received an opposition for the expansion. Mr. Bennett responded that it would depend on the decision of the proposed amendment. Mr. Bennett explained he believes it is unrealistic to expect future livestock confinement operators requesting expansion to abide by such large setbacks.

Deputy County Attorney Hoffmeister asked if a livestock confinement operation can be constructed to feed 2,500 animal units and Mr. Bennett advised, in other counties, two livestock confinement operations could exist side-by-side, with different ownerships on paper. Mr. Banzhaf, Mr. Bennett explained, is trying to enlarge his operation in a way that is conducive for Buffalo County Regulations.

Mr. Biehl inquired, if The Commission were to review the proposed amendment as favorable, would it assist in his expansion and Mr. Banzhaf responded, yes.

Deputy County Attorney Hoffmeister, along with Secretary Wolfe, inquired the number of animal units Mr. Banzhaf wished to have confined and Mr. Banzhaf answered 5,000 animal units.

Ms. Jeffs asked, if Mr. Banzhaf was able to acquire the signatures for expansion and Mr. Banzhaf answered, not with 10,000 animal units.

Vice-Chairperson Keep requested clarification on the application. It shows on the application, he stated, the applicant wishes to use the subject property as a Class II CAFO, but the present use shows Class II CAFO. Mr. Bennett clarified that it was Mr. Banzhaf's intent to be situated within IIA, as proposed. Mr. Banzhaf stated his goal was to have 5,000 animal units, but his lands are not feasible to allow for 7,500 animals units per the requirements for drainage, etc. Secretary Wolfe inquired the number of animal units he was allowed and Mr. Banzhaf answered he was permitted for 10,000 animal units, but the topography of the land would not allow for that kind of expansion. Further, he added, he wished to use the natural topography of the land to allow for drainage and to avoid altering the topography with substations, etc.

Deputy County Attorney Hoffmeister reminded The Commission, the application in front of them was regarding a code amendment, not Mr. Banzhaf's specific project. The Commission, he added, needed consideration if they wished to have the classes be more stratified than they exist now. The public hearing, he added, is applicable to all livestock confinement operations in Buffalo County, henceforth, not just Mr. Banzhaf's. Mr. Bennett agreed and requested The Commission consider a different stratification of classes to align with adjoining counties' regulations.

Vice-Chairperson Keep stated, he had concerns regarding the population of Buffalo County in comparison to the counties Mr. Bennett has used as comparables and Chairperson Brady agreed. Discussion regarding the comparable counties and their setbacks were reviewed. Vice-Chairperson Keep inquired would odor be the same for 2,500 animal units versus 10,000 animal units and Secretary Wolfe added, the odor wasn't the only concern, it is waste management. Further discussion regarding the comparable counties and their setbacks were reviewed.

Chairperson Brady inquired if Mr. Banzhaf has the ability to gain the signatures he was missing and Mr. Bennett answered he would request The Commission consider the code amendment, not Mr. Banzhaf's specific property. Mr. Bennett added, they want The Commission to consider allowing a different stratification of classes based on adjoining counties regulations.

Chairperson Brady commented, he believed the existing regulations are sufficient and have been appropriate for Buffalo County up to this point. Mr. Banzhaf inquired how many applications have been submitted to The Commission and Chairperson Brady responded, two, Mr. Pritchard and a poultry farm.

Mr. Biehl testified he believes, perhaps, the regulations may need to be rereviewed.

Chairperson Brady asked if anyone from the public wished to speak.

Allissa Troyer, of the Nebraska Department of Agriculture, stepped forward. She explained her position to The Commission and thanked The Commission for becoming livestock friendly in 2021. She stated she believed Buffalo County has somewhat stricter regulations than other counties in Nebraska. She referenced Chairperson Brady's response regarding two applications in the last 10 years and added several locations have considered Buffalo County and have deferred due to the regulations. She testified, she believed Buffalo County was a good place for livestock growth, but the restrictions in place are stifling that growth.

Deputy County Attorney Hoffmeister inquired whether there is a model for setbacks for livestock friendly counties and Ms. Troyer stated that particular guide is no longer in existence, but there is legislation being considered regarding grant funds for livestock friendly counties.

Deputy County Attorney Hoffmeister inquired Ms. Troyer's thoughts on setbacks for 1-foot per animal unit. She stated the state is seeing livestock confinement operations expanding up to that 10,000 mark and, she added, the State of Nebraska was built on livestock.

Ms. Troyer invited The Commission to The County Leaders' Summit, hosted by the State of Nebraska, discussing various aspects of the livestock community.

Deputy County Attorney Hoffmeister inquired the lowest number of livestock an operator can operate and Ms. Troyer responded, facilities needed to have around 1,000 animal units to maintain. She added, on average, in the State of Nebraska, livestock confinement operations range between 3,500 to 6,000 animal units. Discussion occurred regarding how agriculture has changed throughout the years.

Chairperson Brady inquired Ms. Troyer's view on quality of life for residents who are non-livestock related. He added, Buffalo County needs to consider the quality of life for residents that are non-agriculturally related, as well as those supporting livestock. Chairperson Brady asked if Ms. Troyer resides within a mile of a livestock confinement operation and Ms. Troyer confirmed. She requested The Commission consider relaxing their regulations and be cognizant to allow for agricultural growth.

Mr. Dick Pierce, of 33560 Highway 183, Miller, stepped forward to testify. Mr. Pierce testified he was a former member of The Board of Commissioners and believed the regulations needed to be amended. He added, he is the Vice-President of the Nebraska Cattleman's Association and the board, under that association, would request The Commission consider a relaxation of the regulations. He testified he believed the amendment would promote agriculture in Buffalo County. Further stating, he understands the quality of life The Commission is charged with protecting, but over-regulation could hurt the economics of cattle-feeders and farmers.

Deputy County Attorney Hoffmeister disclosed Mr. Pierce rents his pasture for grazing.

Chairperson Brady inquired if anyone else wished to speak.

Mr. Heath Drew, of 35550 235th Road, Pleasanton, stepped forward. Mr. Drew testified, he is a northern neighbor of Mr. Banzhaf's livestock confinement operation. He added, the odor from the operation is noticeable periodically. He said, if he rains, it is noticeable. Furthermore, he added, he has resided at this location for over 15 years and he has no concerns with the expansion.

Deputy County Attorney Hoffmeister inquired whether Mr. Drew feeds cattle and he confirmed he does not. Deputy County Attorney Hoffmeister asked Mr. Drew his occupation and Mr. Drew answered, farmer. Deputy County Attorney Hoffmeister asked if Mr. Drew sells his crop to Mr. Banzhaf and Mr. Drew confirmed. Deputy County Attorney Hoffmeister questioned if this livestock operation created a detriment to his residence and Mr. Drew stated, it did not. Deputy County Attorney asked if Mr. Drew would use Mr. Banzhaf's manure and Mr. Drew confirmed.

Deputy County Attorney Hoffmeister highlighted the issues for livestock confinement operations and the county, such as roads and utilities. Mr. Drew agreed and stated the road on Sweetwater was less than desirable and should be paved, however, he does not believe Mr. Banzhaf's operation will get that large.

Deputy County Attorney Hoffmeister inquired Mr. Drew's thoughts on the amount of grain that would be moved in and out of this operation and Mr. Drew responded, he was unsure.

Deputy County Attorney Hoffmeister inquired whether Mr. Drew viewed the signage that was posted on the property and Mr. Drew confirmed.

Chairperson Brady asked if anyone else wished to comment.

Mr. Vest asked Mr. Banzhaf how much corn would be consumed by his livestock confinement operation and where it was purchased. Mr. Banzhaf testified he, primarily, purchased from merchants within approximately 15 miles. He added, from an employment standpoint, purchasing product from local buyers would make a substantial impact on Buffalo County's economy. Further, he continued, the manure that was once-considered offensive, is now a precious resource to the farmers in the county. He testified, he understands that the quality of life should be considered for the non-agricultural residents and there are downsides to a livestock confinement operation, but the positive local impact to the economy by his facility is enormous.

Deputy County Attorney Hoffmeister inquired what Mr. Banzhaf's property would, potentially, sell for once his use is complete and Mr. Banzhaf stated he was unsure.

Secretary Wolfe inquired the number of animal units located at his facility now, and Mr. Banzhaf responded, 2,500 animal units.

Mr. Banzhaf testified, he believes the current regulations set forth for livestock confinement operations are so strict, that it does not allow operators to request an expansion.

Deputy County Attorney Hoffmeister inquired what process Mr. Banzhaf used for his expansion. Specifically, he clarified, why had Mr. Banzhaf conducted studies on the property prior to acquiring signatures. Mr. Banzhaf testified, he believed he had to, due to Buffalo County's regulations. He added, he has already gone through DEE's approval and they find the location acceptable due to soil types, etc.

Chairperson Brady asked if there are any further questions.

Chairperson Brady closed the public hearing at 9:44 P.M.

Chairperson Brady inquired to The Commission for their comments. Mr. Vacek stated he believed the concern is which setbacks were appropriate for the number of animal units. He added, there doesn't appear to be a model to guide The Commission. Deputy County Attorney Hoffmeister agreed. Mr. Vacek thanked for Mr. Banzhaf for his testimony and bringing the concern forth. However, he continued, he has concerns about how the amendment will affect other areas of the county and he wants to consider any negative impacts prior to making a decision.

Discussion occurred where confined livestock operations would best be situated.

Secretary Wolfe thanked the applicant, also, for bringing forth the concerns. She added, setbacks should be reviewed but, she commented, perhaps this be reconsidered another night.

Vice-Chairperson Keep inquired about the setbacks based on weight and Deputy County Attorney Hoffmeister stated there were none, to his knowledge. Deputy County Attorney Hoffmeister discussed the requirements of one animal unit and the need for the measurement. Discussion occurred regarding animal weights, from the public, after the closing of the public hearing.

Deputy County Attorney Hoffmeister recommended The Commission consider driving the county to see how the proposed regulations could affect Buffalo County.

Mr. Stubblefield asked if land owners or residents within the setbacks had to sign a waiver and Deputy County Attorney Hoffmeister stated the applicant can choose either method. Discussion occurred, from the public, after the closing of the public hearing. Deputy County Attorney Hoffmeister reviewed Section 6.4 (1), regarding waivers. He, further, reviewed comparable county regulations. Discussion occurred, from the public, after the public hearing closed.

Mr. Stubblefield requested clarification if a tenant could sign the waiver, and Deputy County Attorney Hoffmeister stated they could not. Discussion occurred, from the public, after the closing of the public hearing.

Deputy County Attorney Hoffmeister, again, highlighted the Permitted Principal Use of livestock confinement operation expansions. Discussion occurred, from the public, after the closing of the public hearing.

Discussion occurred regarding trusts and trustees with The Commission.

Chairperson Brady commented, he would like to revisit the topic at a later date while regulations were being reviewed.

Chairperson Brady asked if anyone wished to speak.

Mr. Biehl commented that he would like to see the regulations rereviewed.

Mr. Vacek stated he created a hybrid of the current zoning regulations and the proposed amendment, later slightly amended by Secretary Wolfe, with the following recommendations:

2023 Proposed Table:					
	Class I	Class II	Class IIA	Class III	Class IV
Total Animal Units Allowed	1 to 300	301 to 5,000	5,001 to 7,500	7,501 to 10,000	10,001 & Above
Minimum Distance Allowed	No Minimum Requirement	1/2 Mile	3/4 Mile	1 Mile	1 Mile
Mr. Vacek's Recommendation:					
	Class I	Class II	Class III	Class IV	Class V
Total Animal Units Allowed	1 to 300	301 to 2,500	2,501 to 7,500	7,501 to 10,000	10,001 & Above
Minimum Distance Allowed	No Minimum Requirement	1/2 Mile	3/4 Mile	1 Mile	1.5 Miles
Secretary Wolfe's Recommendation:					
	Class I	Class II	Class III	Class IV	Class V

Total Animal Units Allowed	1 to 300	301 to 2,500	2,501 to 5,000	5,001 to 10,000	10,001 & Above
Minimum Distance Allowed	No Minimum Requirement	1/2 Mile	3/4 Mile	1 Mile	1.5 Miles

Secretary Wolfe stated, she appreciated The Commissions’ consideration and flexibility, but, perhaps, this should be reviewed at another date. Discussion occurred, from the public, after the closing of the public hearing.

Discussion occurred between The Commission members regarding what other portions of this section should be reviewed and Deputy County Attorney Hoffmeister recommended considering those during the regulation review and advised the planners will not provide a stratum for The Commission.

Secretary Wolfe addressed The Commission and requested each member bring ideas on how to handle the waivers, setback requirements, and the requirement of special use permits. Further discussion occurred, from the public, after the closing of the public hearing.

Motion was made by Secretary Wolfe as an unfavorable recommendation, as presented, to The Board of Commissioners. However, she added, The Commission would rereview the concerns, set forth above, at the next regular meeting of The Buffalo County Planning Commission.

Mr. Stubblefield stated he would rather table the item, to the next regular meeting of The Buffalo County Planning Commission, instead of providing an unfavorable recommendation.

Secretary Wolfe withdrew her previous motion and provided a new motion for the item to be tabled.

Motion was made by Secretary Wolfe, seconded by Mr. Stubblefield to table the item, Application for Code Amendment, filed by Cory Banzhaf, Power of Attorney, JKS Farms L.L.C., under Section 6.4, Livestock Confinement Facilities/Operations, regarding class sizes and setback requirements, to conduct more research, for property described as a Part of Section Twenty-Seven (27), Township Eleven (11) North, Range Fifteen (15) West of the 6th P.M., Buffalo County, Nebraska, until the next regular meeting of the Buffalo County Planning Commission on May 18, 2023.

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

Voting “Nay”: Biehl.

Abstain: None.

Absent: Schmidt.

Old Business

Minutes

Motion was made by Vice-Chairperson Keep, seconded by Ms. Jeffs, to approve the minutes of the March 16, 2023 meeting, as presented.

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

Voting “Nay”: None.

Abstain: None.

Absent: Schmidt.

Motion carried.

New Business

Report on Previous Hearings

Zoning Administrator Daniels provided a report to The Commission from the March 16, 2023 Planning Commission Meeting The Board of Commissioners on April 11, 2023: Application for Vacation, on behalf of Brad Wegner, Trustee of 10075 First Avenue, L.L.C.; Application for Zoning Map Amendment, on behalf of Brad Wegner, Trustee of 10075 First Avenue, L.L.C. and the Application for Zoning Map Amendment, filed by Kristal Stoner, Executive Director of Audubon Great Plains.

Zoning Administrator explained The Special Use Permit Application, submitted by the National Audubon Society, Inc. had run into some issues regarding their application. She discussed the site inspection with John Maul, The Buffalo County Highway Superintendent and how there were some public safety concerns brought forth, such as: out-of-compliance sign, situated in the county right-of-way, a possible removal of a berm in county right-of-way, and existing traffic directional signs that may be removed, based on the signage presentation made during the Planning Commission Meeting. She further, explained The Board required the applicant bring forth a compliant sign design and plan to remedy the public safety concerns at the May 9, 2023, Board of Commissioners’ meeting. She updated The Commission that a report will be brought back to them.

New Business, Correspondence and Other Business

Zoning Administrator Daniels reviewed the extra-territorial jurisdictional subdivisions with The Planning Commission. The city of Kearney had put forth Spruce Hollow West Second with their review. She explained there was a drafted letter in their packets and to let her know if there were concerns with the draft. No one spoke.

Zoning Administrator Daniels reviewed Dawson County Notices of Public Hearing.

Next Meeting

The next meeting will be conducted May 18, 2023.

Adjourn

Chairperson Brady adjourned the meeting at 10:35 P.M.

Scott Brady, Chairperson
Buffalo County Planning and Zoning Commission

Loye Wolfe, Secretary