

**BOARD OF COUNTY COMMISSIONERS
POLK COUNTY, FLORIDA**

Applicant: Sarah Case

Property Owner: Crossed Paws Pet Rescue, Inc.

Case Number: LDCU-2025-35 (Crossed Paws Rescue CU)

ORDER DENYING LDCU-2025-35 WITHOUT PREJUDICE

THIS MATTER came before the Polk County Board of County Commissioners (“Board”) on August 4, 2026, at a public hearing held in accordance with the Polk County Land Development Code (“LDC”) and the Polk County Comprehensive Plan, pursuant to a De Novo application appealing the Planning Commission’s 3-2 approval of a Conditional Use Permit for Case Number LDCU-2025-35 (the “Application”) with additional conditions. The Board fully incorporates herein the entire record for the public hearing of LDCU-2025-35, including the Planning Commission’s decision, the Development Review Committee’s Recommendation, and all testimony and evidence presented at the public hearing. The Board having been fully advised in the premises, makes the following findings of fact and rulings for this, its written order for LDCU-2025-35, in accordance with §125.022, Florida Statutes:

1. The Applicant, Sarah Case of Next Level Planning & Permitting (“Applicant”), applied on behalf of the property owner, Crossed Paws Pet Rescue, Inc. (“Property Owner”) for Conditional Use (CU) approval for the approximately 4.63-acre property within the Residential Suburban (RS) land use district in the Suburban Development Area (SDA) to be used as a Kennel and Boarding facility, a non-residential use. According to LDC Table 2.1, this use is not permitted without a Level 3 conditional use approval.

2. The site is subject to CMA-2025-1417, an unresolved Code Enforcement case for the operation of a kennel in a RS Land Use District. Based on site inspections by Land Development and Code Enforcement staff, and related case records, multiple animals are being housed on the property in three 30 x 40 sheds. Building permits BR-2025-296, BR-2025-297, and BR-2025-298 were issued as Residential Accessory Permits for detached 30 X 40’ Metal Garages. LDC Section 209 does not limit the number of accessory structures a property may have. Florida law and County ordinances do not set a limit on the number of dogs a person may own. Individual pet ownership is governed by liability provisions (§ 767.01, Florida Statutes), whereas commercial or higher-intensity animal uses are subject to health standards (§ 828.29, Fla. Stat.) and licensing requirements.

3. The subject site is located within the Kossuthville Unit No. 1 subdivision platted in December 1925 (PB 17 PG 50) with frontage and direct access to K-Ville Avenue, with the City of Auburndale located to the south. The site is within a Residential Suburban future land use

district and is approximately 4.63 acres, below the minimum RS residential lot size of five acres. It is approximately 157 feet in width and 1282 feet in depth. Due to having been platted, it is considered a legal, non-conforming lot of record. The property was purchased in December 2024 by Crossed Paws Pet Rescue, Inc.

4. Pursuant to Table 2.1 of the LDC, “Kennels, Boarding and Breeding” is a “C3” conditional use. LDC Chapter 10 defines KENNEL, BREEDING as follows: Land or structures where any number of animals that are not personal pets of the property owner are kept for the purpose of sale, rental, breeding, hire as guard animals on other property, or other commercial purposes. A breeding kennel shall not include pet stores or commercial kennels used for boarding purposes only. LDC Chapter 10 further defines KENNEL, BOARDING as follows: A commercial establishment where any number of personal pets (typically dogs and cats) are kept for boarding or lodging purposes for a fee. Pet grooming may be provided as an accessory use.

5. LDC Section 303 provides for conditions necessary for kennel uses in all land use districts subject to conditional approval, as follows: 1. All new structures shall be a minimum of 50 feet from any side or rear property boundary line. 2. At a minimum, a visual buffer equal to a Type “C” buffer (see Section 720) shall be provided between all new facilities and adjacent residential properties and public roads. 3. All kennel sites shall be, at a minimum, 40,000 square feet (0.92 acres). 4. All dogs more than four months of age shall be kept in pens designed and maintained for secure confinement. All sanitary facilities shall be approved by the health department. Kennels shall minimize adverse noise or odor impacts detectable off-site. Such features shall be noted on the site plan.

6. Under present conditions, the structures being used for kennels do not meet the required 50-foot setbacks from adjoining residential properties (min. +/- 30 feet from western property line). The Applicant is proposing adding the 30 x 40’ structures for the kennels to the rear of the property that meet this setback. The Applicant has stated that the existing structures will be used for storage, though the Code does not differentiate between storage structures and kennels when applying the 50-foot setback. In addition, a Type “C” landscaping buffer with fencing is proposed along the western and eastern property lines. An opaque fence has been placed along the subject property lines. The Applicant has also proposed the following conditions, as shown on the submitted site plan:

1. Approval for Crossed Paws Pet Rescue Inc. and/or Stephanie Badillo ONLY;
2. Subject site prohibited to the public;
3. Grooming and boarding services prohibited other than canines registered to Crossed Paws Pet Rescue Inc. and/or Stephanie Badillo; and
4. Crossed Paws Pet Rescue Inc. shall maintain records & receipts of all off-site solid waste disposal.

7. On June 3, 2026, the Planning Commission held an advertised public hearing for LDCU-2025-35. Ms. Aleya Inglima of the Polk County Land Development Division presented the case to the Planning Commission and testified that the Development Review Committee (DRC) recommended denial of the Application. The Applicant provided testimony to the Planning Commission in support of the Application. The Planning Commission received both written and

oral public comment in support as well as in opposition to the Application. Following all presentations, testimony and discussion, the Planning Commission voted to approve the Application by a vote of 3-2, with the following additional conditions:

1. The kennel areas shall be fenced to ensure containment of dogs kept onsite;
2. This site shall not be open to public access; and
3. A caretaker residence shall be established onsite to provide full-time care of the dogs.

8. The Appellant, Garry Bozeman, who resides immediately adjacent to the Subject Property, timely filed an application and paid the required fee for a De Novo hearing pursuant to LDC section 921.

9. On August 4, 2026, the Board held a De Novo hearing for LDCU-2025-35. Mr. Ian Nance of the Polk County Land Development Division provided the following documents to the Board, which are part of the record¹: (1) staff report; (2) site plan; (3) area map; (4) impact assessment statement; (5) Application; (6) de novo application; (7) proposed final order; (8) Planning Commission and BoCC PowerPoint Presentations; and (9) written comments from neighbors in opposition of the Application. The Board accepted Mr. Nance as an expert in the field of land use planning. Mr. Nance presented a PowerPoint presentation to the Board that included aerial pictures of the Subject Property, a parcel map showing the adjacent residential properties, the land use map, the site plan, and an aerial of the site plan overlaid on the Subject Property. Mr. Nance testified that the DRC recommended denial of the Application.

10. The Applicant gave a presentation to the Board with an overview of the Application, the history of the project site, applicable comprehensive plan policies and LDC restrictions, and responses to neighbor's objections. Specifically, the Applicant agreed to the conditions listed in Section 6, above, to address concerns related to traffic and odor resulting from the proposed use of the property.

11. Following the Applicant's presentation, the Appellant gave a presentation to the Board. The presentation focused on the Appellant's assertion that the proposed use was not residential in nature, but rather advertised on the property owner's website as a rehabilitation center and a "pit stop" for rescued dogs to ultimately be adopted by other third parties, and not the personal pets of the property owner. Accordingly, the Appellant argued that the primary use of the property was not residential, as required by the County's land development regulations and policies related to the Residential Suburban land use district. The Appellant, who lives adjacent to the Subject Property, also testified that the odor and noise emanating from the Subject Property is "horrendous" and not consistent with residential use of property. The Appellant stated that he believes the purpose of Crossed Paws Pet Rescue, Inc. is good and that the operation has its place, but that it is not in a residential neighborhood.

¹ Pursuant to Resolution 2022-090, all documents attached to the agenda item for de novo hearing shall be deemed part of the record unless removed from the record by motion of the Board. All PowerPoint presentations given to the Board during the de novo hearing shall be deemed part of the record unless removed from the record by motion of the Board.

12. Following the presentations of the Applicant and the Appellant, the Board received public comment. Multiple speakers testified that Crossed Paws Pet Rescue, Inc. is an honorable organization doing good in the Polk County community. Ms. Angel Sims testified that she has visited the site on several occasions and has never heard dogs barking or smelled noxious odors emanating from the Subject Property. Mr. Steve Everett testified that he has personally observed a rally or other fundraising type activities occurring on site at the Subject Property, and that the barking associated with the proposed use is intolerable in a residential neighborhood. Ms. Marianne Bozeman testified that she has endured significant emotional distress and physical health challenges due to the use of the Subject Property, to which she lives immediately adjacent, as a kennel. Ms. Bozeman testified that due to the near constant barking and odor, she is not able to spend time outdoors on her property.

13. After the residents testified, the Applicant presented rebuttal argument in response to the public comments. Specifically, the Applicant noted that this is a land use issue and that the Applicant has agreed to conditions of approval which are over and beyond what is required by the County's land development regulations related to use of Residential Suburban property as a kennel. At the end of the public hearing, the Board members discussed the Application and ultimately determined that the Application is inconsistent with the LDC and the County's Comprehensive Plan and incompatible with the surrounding area due to the nature of kennel uses, and the resulting noise and odor that accompany such uses. However, the Board members also acknowledged that if testimony provided by the Applicant is true, then the current use of the property does not meet the definition of a "kennel" pursuant to the LDC. In such case, because Polk County does not limit the number of personal pets that may reside on a private owner's residence, the issues raised during the hearing may be more appropriately addressed through the County's Code Enforcement division, related to noise and odor, versus a land development order which would permit use of the property as a commercial kennel enterprise. Following the conclusion of all the Board members' comments, the Board voted 4-1 to deny LDCU-2025-35 without prejudice.

14. As further discussed below, the Application is not compatible with the surrounding land use and general character of the area surrounding the Subject Property. The Subject Property is immediately adjacent to residential uses on the east and west sides, both developed with and used as single family residences. Due to the Subject Property's location between established residential uses and the externalities created by a kennel operation, such as noise, odor, on-site special events, non-residential traffic, etc., which are all difficult to quantify and mitigate through conditions of approval, the Application and proposed use of the Subject Property is incompatible with the adjacent residential uses.

15. Pursuant to the LDC, the purpose of the Residential Suburban (RS) land use district is to provide areas for suburban-density residential development to promote the proper transition of land from rural to urban uses. The RS district permits single-family dwelling units, family care homes, agricultural support uses, and community facilities. The only residential category that permits kennels, boarding by-right is Agricultural/Rural Residential (A/RR). Aside from A/RR and RS, they are not allowed in any other standard residential category.

16. Kennels introduce intensity and impacts that exceed typical residential conditions, including increased vehicle trips associated with staff, volunteers, and animal intake activities, as well as noise and odor related to animal care and handling. These impacts may affect surrounding single family properties, particularly within established neighborhoods. For these reasons, kennels are permitted through administrative approval in the following non-residential land use districts, according to Table 2.1: Rural Cluster Center (RCC); Commercial Enclave (CE); Linear Commercial Corridor (LCC); Community Activity Center (CAC); Regional Activity Center (RAC); Tourist Commercial Center (TCC); High Impact Commercial (HIC); Business Park Center-2 (BPC-2), Industrial (IND); and Phosphate Mining (PM). These are among the most intense land use districts in the County, and compatibility is established through the use being assigned to these districts. Only kennels in RCC, CAC, TCC, and BPC-2 are subject to conditional use criteria in LDC Section 303.

17. The purpose of the Level 3 Review in an RS district is to evaluate cases on an individual basis to address compatibility concerns with surrounding residential uses. County staff has not identified other approved commercial or non-profit kennels in a similar RS district. Comparable operations within the County include Polk County Bully Project, SPCA Florida, and Humane Society of Polk County, which are within Business Park Center (BPC-2) land use districts.

18. Within the Residential Suburban land use district, the standards in LDC Section 303 are prescriptive to a point. The externalities created by a kennel operation within a residential setting, such as noise, odor, on-site special events, non residential traffic, etc., are difficult to quantify and mitigate through conditions of approval. Barking, in particular, is problematic in residential settings, as these sound levels reach or exceed 100 decibels. For example, Exhibit 8 of the Application shows the distance from the existing kennels to neighboring homes. While placing kennels towards the rear of the site shifts them away from those homes on the south end of the property, it locates them closer to neighbors to the northwest (+/- 380 feet). The distance from the physical homes is one consideration. The use of the neighbors' rear yards for their recreation and enjoyment could also be compromised wherever the kennel structures are located. The County does not regulate the number of dogs, whose noise and other external effects create disruption for neighbors, potentially throughout all hours of the day. The LDC does not have noise limits in RS, according to LDC Section 761. The LDC does not provide standards for odor for this use or within this land use district. The LDC does not monitor hours of operation or employee/volunteer hours.

19. For the reasons stated above, the Application is inconsistent with various Comprehensive Plan and LDC policies, including without limitation, the following:

- a. The Comprehensive Plan and LDC define Compatibility as follows: "A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition." In this case, the residents provided testimony explaining how the Application's proposed use of the Subject Property as a kennel will unduly negatively affect the character of the area, which is residential in nature.

- b. The Application is inconsistent with Policy 2.102-A2: COMPATIBILITY, which states “[l]and shall be developed so that adjacent uses are compatible with each other, pursuant to the requirements of other Policies in this Future Land Use Element, so that one or more of the following provisions are accomplished: a. there have been provisions made which buffer incompatible uses from dissimilar uses; b. incompatible uses are made more compatible through limiting intensity and scale of the more intense use; c. uses are transitioned through gradual scaling of different land uses activities through the use of innovative techniques such as a Planned Unit Development.” In this case, the Applicant’s proposed use of the Subject Property as a kennel is inconsistent with the County’s land development policies and regulations and incompatible with the surrounding area.
 - c. The Application is inconsistent with Policy 2.102-A10: LOCATION CRITERIA, and Policy 2.119-A2: LOCATION CRITERIA, which both require consideration of a list of factors when determining the appropriateness of establishing or expanding any land use or development area. Both policy sections require consideration of how the proposed development mitigates for the nearness to incompatible land uses. In this case, proposed buffering does not mitigate the Application’s incompatibility with the adjacent area; therefore, the Application is inconsistent with Policy 2.102-A10 and Policy 2.119-A2.
 - d. The Application is inconsistent with Policy 2.119-A3: DEVELOPMENT CRITERIA, subsection a., which requires residential development, immediately adjacent to existing residential areas, to be designed so as to minimize any potential adverse impacts through appropriate buffering which would lessen the impact and friction between residential and non-residential land uses. Here, the opposition presented evidence that the proposed development and land use would adversely impact the surrounding RS areas regardless of the amount and type of buffering, due to the nature of a kennel.
 - e. The Application is inconsistent with the LDC section 303 regarding kennels and CUs, as well as with Table 2.1 and Section 907.D.6 of the LDC. Due to the location of the proposed development and use of the Subject Property as a kennel in a Residential Suburban area, and without the ability of either the County or the Applicant to sufficiently mitigate the resulting concerns related to noise and odor associated therewith, the development proposal is not compatible with the surrounding residential uses of property. The Board received testimony from neighboring residents that the proposed development and conditional use will have an adverse impact upon their own properties based on their personal experience living adjacent to the Subject Property.
 - f. Given the reasons stated above, the Application also fails to meet the following: sections 906A.2., 3., and 5.; and sections 906D.12.a, b., and c.
14. Florida courts have held that it is appropriate to consider whether the proposed zoning “is consistent with the properties adjacent to the [subject] property and is consistent with

the actual development of the area.” *Metro. Dade County v. Blumenthal*, 675 So. 2d 598, 605 (Fla. Dist. App. 3d 1996). Citizen testimony is perfectly permissible and constitutes substantial competent evidence, so long as it fact-based. *Miami-Dade County v. Walberg*, 739 So. 2d 115 (Fla. Dist. App. 3d 1999). Here, the Board received fact-based testimony regarding the character and nature of the residential neighborhood, as well as accounts of noise and odor emanating from the Subject Property due to the proposed use of the property as a kennel, and other information which, in conjunction with the testimony of the neighbors, if believed by the Commission, constitutes competent substantial evidence. *Walberg*, 739 So. 2d at 118.

15. The Applicant carries the initial burden of persuasiveness and of demonstrating entitlement to the development order through competent substantial evidence. *See* LDC §§ 959A. & C. In this case, the initial burden was not met.

16. Per LDC section 933, after a petition for an action for a property has been denied by final decision without prejudice, a re-application for requests without material changes on the same property may be submitted at any time.

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It is therefore ORDERED AND ADJUDGED as follows:

For the reasons set forth above, and in accordance with the Polk County Comprehensive Plan and the Polk County Land Development Code, the Board hereby denies LDCU-2025-35 without prejudice. Therefore, pursuant to LDC section 933, a request for a Conditional Use approval on the Subject Property may be submitted at any time.

DONE AND ORDERED in Bartow, Polk County, Florida, in regular session this **18th** day of **August, 2026**, by the Polk County Board of County Commissioners.

**Polk County Board of
County Commissioners**

**ATTEST: Stacy M. Butterfield, Clerk
and Auditor to the Board**

By: _____
Martha Santiago, Ed. D., Chair

By: _____
Deputy Clerk

This Decision is rendered to the Clerk on _____, 2026.

By: _____
Deputy Clerk

cc: Sarah Case, Applicant
Garry Bozeman, Appellant
Land Development Division Official File