

Burleigh County Planning and Zoning Meeting Minutes

March 13, 2024

PRESENT: Chairman Dennis Agnew, Commissioners Brian Bitner, Alvie Jarratt, Steve Marquardt, Wayne Monson, Bea Streifel, and Brian Zuroff. Commissioners Mike Schmitz, and Dale Patrick were not present.

OTHER: Casey Einrem, County Engineering, Brian Reinke, Rural Fire Department, Mitch Flanagan and Marla McMonagle, County Planning, and Members of the Public (see Sign in Sheet)

Chairman Dennis Agnew opened the meeting:

AGENDA ITEM	ACTION	
Approval of revised January 10, 2024 – and Approval of the February 14, 2024 minutes	Approve the revised January and the February minutes: 1 st Commissioner Zuroff 2 nd Commissioner Munson	Approved 7 - 0
CONSENT AGENDA		
Baker Subdivision		
Marla McMonagle	Gave a summary of the Baker Subdivision request for 69 acres – 2 lot subdivision. Petitioner is requesting a public hearing	
Brian Zuroff	Questioned the first subdivision application which requested a three (3) lot.	
Marla McMonagle	Stated there was a section line which was vacated and the Bakers were able to reduce it into a two (2) lot subdivision	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Baker Subdivision Preliminary Plat and call for a public hearing	1 st Commissioner Zuroff 2 nd Commissioner Munson	Approved: 7 - 0

PUBLIC HEARING AGENDA		
Hartmann Subdivision – Short Plat		
Mitch Flanagan	Gave a summary of the Hartmann Subdivision request. The Hartmann’s would like to combine their three (3) lots into one (1) lot	
Chairman Agnew opened the Public Hearing		
Greg Wavra	Stated he is a resident of Riverside Subdivision which the Hartmann lots are a part of and is also a board member. He is concerned about what the Hartmann’s intend to do with the property. There is an active covenant which limits the type and size of building on the property. He is concern about the property not being included in the active covenant.	
Chairman Agnew	Asked about the covenant and if it was an HOA. Greg explained it was and they are concerned about the development in the area	
Commissioner Bitner	Was surprised that we were subdividing within a subdivision. He says it has never been done before. He is concerned petitioners could use this Short Platting to get around the covenants.	
Mitch Flanagan	Stated replats happen all the time. Commissioner Bitner stated he is concerned that by doing the short plat would be a by-pass the covenants put in place. Mitch stated additions to subdivisions happen often will not nullify the subdivision. He stated Burleigh County does not enforce covenants.	
Commissioner Zuroff	Stated he has seen this in the past, covenants were listed on the plat. Suggested adding to the Hartmann plat that it would follow the covenants.	
Commissioner Bitner	Is concerned about having a subdivision within a subdivision. Why we are changing the name instead of using Riverside 3 rd .	

Marla McMonagle	Suggested adding an amendment to the covenants to include the Hartmann Subdivision	
Commissioner Bitner	Is concerned about the covenants being passed over.	
Greg Wavra	Stated he would like to talk with the land owner of what his intentions are.	
Commissioner Bitner	Would not approve a subdivision within a subdivision if it overruled the original covenants.	
Commissioner Munson	Is concerned about a business on the property.	
Greg Wavra	The covenant does not allow businesses without the HOA approval. The covenants tell the purchaser of lots in the subdivision what to expect.	
Thomas Lenihan	He is concerned about if the petitioner were to sell the home, there is the possibility of a new owner would be able to run a business. The covenant was meant to prevent that. He would like to see the members of the HOA vote on this Short Plat. He would like to know what the plan is for the property.	
Greg Wavra	Stated the petitioner has met with the HOA before on the building of an addition to his house.	
Casey Einrem	Stated the covenants are not usually placed on the plat. The note on the plat means the County would have to enforce it.	
Commissioner Bitner	Stated this issue with changes to plats was discussed several times, but we didn't anticipate the issue we are having a subdivision within a subdivision and this needs to be looked at again.	
Chairman Agnew	Asked if there were any more questions	
Commissioner Bitner	Made a motion to continue the public hearing until the applicant and the HOA can meet and discuss the covenant.	
MOTION	RESPONSIBLE PARTY	RESULTS
Continue the Public Hearing until the applicant and the HOA meet for a discussion	1 st Commissioner Bitner 2 nd Commissioner Munson	Approved 6 -1 Commissioner Zuroff voted against the motion.

and then bring it back to the P & Z Commission		
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OTHER BUISNESS		
Article 21 FP Floodplain		
Mitch Flanagan	Explained the changes to the ordinance, the steps taken to make the changes to the ordinance and changes to the accessory building requirements in the floodplain. Only accessory structures less than 600 sf., will allowed to build below the BFE. He also verified this is the new FEMA regulations.	
Commissioner Bitner	Stated we have a time frame to complete the ordinance.	
Mitch Flanagan	Stated he is just looking for input. He stated he would like to present a resolution to the County Commissioner to hold a public hearing.	
Commissioner Bitner	Stated this must be completed by June 6 th . He stated it is a new thing for him in his 16 years to have to go to the County Commission to schedule a public hearing at the Planning and Zoning Commission and having to have two (2) public hearings.	
Chairman Agnew	Asked if there were any more questions	
Commissioner Zuroff	Stated having reference to NVAD Datum be replaced with verbiage to state “the current FIRM Datums etc.” This will allow the ordinance to be a timeless ordinance and not having to change the ordinance every time the “Datums” changes. He stated the vertical will change in 2025, this would require the staff to rewrite the ordinance again.	
Commissioner Marquardt	Asked if the City had addressed this issue. He stated the elevation changes has caused issues in the City comparing the verticals to now and in the past. He would like Mitch to follow up with the City.	
Mitch Flanagan	Stated he will approach the stakeholders regarding the vertical datums.	

Commissioner Bitner	Made a motion to present a resolution to the Board of Burleigh County Commissioners to hold a public hearing at the Planning and Zoning Commission.	
MOTION	RESPONSIBLE PARTY	RESULTS
Present a resolution to the Board of Burleigh County Commissioners to approve a public hearing at the Planning and Zoning Commission	1 st Commissioner Bitner 2 nd Commissioner Marquardt	Approved 7 – 0
Article 8 – Special Uses, Section 28 Agri-Tourism		
Mitch Flanagan	<p>Explained the Burleigh County Planning Staff and the Bismarck Planning met with the ND Tourism regarding our ordinance. They asked the County to add a Tier 1 and Tier 2 system to the ordinance. This ordinance doesn't hinder the property owner from holding a single event like hay rides, wedding etc., on their property. The ordinance is to limit commercial activities on agricultural land. The ordinance will allow commercial events as defined by the ordinance.</p> <p>This ordinance does mirror the Bismarck Ordinance, but allows tap rooms, wineries etc. This is in the draft stage. Additional stakeholder meetings will be held to refine the ordinance.</p> <p>If an applicant is approved under this ordinance, they would have to follow this ordinance.</p>	
Commissioner Bitner	Stated in discussion the single-family home was mentioned where a renter was holding events, but the owner doesn't know about the events. He would like the reference put in the ordinance.	
Chairman Agnew	Expressed concern if the Special Use permit runs with the land. He also expressed concern about the dust, road conditions and parking. He was wondering if this should be included in the ordinance.	
Mitch Flanagan	All those items can be added to the ordinance. Morton County requires dust control and repair of the roads.	

Commissioner Bitner	Would like the Planning Department and the Highway Department on the verbiage.
Casey Einrem	Stated it should be a condition added to the individual Special Use permit, not in the ordinance. He stated the verbiage could be added to stress it would depend on individual Special Use permit. Road Conditions can vary because of storm events. On street parking is not allowed in the County already.
Commissioner Bitner	Would like to have something in writing regarding parking and pulling the Special Use Permit.
Commissioner Streifel	Was concerned about how the ordinance was changed from 30 acres to 40 acres and if the number of people from 200 to 250.
Mitch Flanagan	A meeting is scheduled with the Fire Marshall regarding parking on grass or on gravel.
Chairman Agnew	He would like to see parking on grass eliminated and have parking allowed on gravel. He was concerned about the single event having to gravel. It was all fire risk.
Commissioner Zuroff	Stated requiring gravel parking lots, depending on the size of the lot will cause a lot of dust problems and cause problems with reusing the property.
Mitch Flanagan	Discussed mowing of the grass
Commissioner Streifel	Questioned the 100' set back. The previous document said all property.
Mitch Flanagan	Stated the reference was from the City. He could change the wording.
Chairman Agnew	Questioned alcohol sales on the property.
Mitch Flanagan	Stated it must be grown on the property or in the region.
Chairman Agnew	Questioned alcohol at wedding events
Mitch Flanagan	Stated all alcohol sales are licensed

Commissioner Zuroff	Was concerned about having historical buildings meet the current code requirements. Commission Bitner stated when it comes to public safety, the code must be followed.
Mitch Flanagan	Historical buildings are exempt to some degree from the building code. It depends on the changes to the historical building.
Chairman Agnew	Asked if this is ready to be on the public hearing agenda.
Commissioner Zuroff and Chairman Agnew	Asked about properties already operating would they be required to apply for this. i.e. Black Leg Ranch, Pappa's Pumpkin Patch.
Commissioner Bitner	Stated they would be non-conforming/grandfathered in until they change the use or activities.
No action was taken	Mitch Flanagan is to make the changes suggested and present the revised ordinance at the next Planning and Zoning Commission meeting

Hearing no more items a motion was made to close the meeting.

Meeting adjourned at 7:00pm



Dennis Agnew
Chairman



Marla McMonagle
Staff

Burleigh County Planning and Zoning Meeting Minutes

February 14, 2024

PRESENT: Chairman Dennis Agnew, Vice Chairman Dale Patrick, Commissioners Alvie Jarratt, Steve Marquardt, Wayne Monson, Mike Schmitz, Bea Streifel, and Brian Zuroff. Commissioner Brian Bitner was not present.

OTHER: Casey Einrem, County Engineering, Brian Renke, Rural Fire Department, Mitch Flanagan and Marla McMonagle, County Planning, and Members of the Public (see Sign in Sheet)

Chairman Dennis Agnew opened the meeting:

AGENDA ITEMS	ACTION	RESPONSIBLE PARTY	MOTION
Approval of January 10, 2024	Commissioner Streifel requested a verbatim accounting of the Rural Fire Response regarding Burnt Creek Farm Item 5.1		
MOTION: Approve the January minutes after the correction is made		1 st Comm. Marquardt 2 nd Comm. Patrick	Motion approved 8 - 0

CONSENT AGENDA	ACTION	RESPONSIBLE PARTY	MOTION
There were no items on the consent agenda			

PUBLIC HEARING AGENDA			
Bauer Butcher Shop Special Use Permit			
	Leon & Susan Bauer are requesting a Special Use permit to open a butcher shop on their property located at 21175 26 th Street NE, Baldwin, ND		
Marla McMonagle	Presented the request for the commissioners, along with the requirements and licensing the Bauer will need for their shop.		

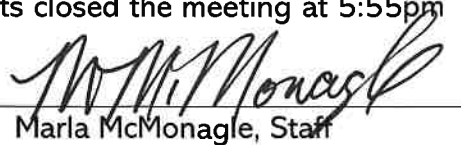
	One of the licenses require approval of the Special Use Permit before being able to apply.		
Comm. Patrick	<ul style="list-style-type: none"> - Are they going to sell meats to the public, but they are not going to sell the meat butchered on site? - What are they going to do with the byproducts of the butchering? 		
Marla McMonagle	<ul style="list-style-type: none"> - Explained the Bauers are applying for two (2) separate licenses <ol style="list-style-type: none"> 1. Slaughter and package meat for the cattle owner. 2. Purchase USDA Certified meat to process and sell to consumers i.e. 3B Meats, Butcher Block meats - The by-products will be picked up and disposed of. No by-products will remain on the property 		
Chairman Agnew opened the public hearing. No one approached, so the public hearing was closed			
Discussion:			
Comm. Marquardt	Was concerned about the by-products of the butcher shop, but felt his question was answered.		
Susan Bauer approached	She stated all the work would be inside and there is an area for storage inside until the byproducts were picked up.		
MOTION: Approve the Special Use permit with the staff recommendations: <ol style="list-style-type: none"> 1. Meet all ND State requirements/licensing for operations of a meat processing establishment 2. Maintain all ND State Licensing for a retail Exempt Meat Market 3. Septic system to be engineered 4. Require all new buildings, septic and mechanical systems be permitted by Burleigh County. 		1 st Comm. Marquart 2 nd Comm. Jarratt	Motion Approved 8 -0
OTHER BUSINESS:			
Mitch Flanagan	Presented the first draft of additional Section 28 to Article 8 Special Uses – Agri-tourism		

Chairman Agnew	What are the setbacks for an accessory building and will the setback stay the same based on the road? Will the type of road affect the use – the amount of people allowed. He is concerned about the roads going to the property
Mitch Flanagan	<ul style="list-style-type: none"> - The setbacks would stay as in the ordinance. - The road use is not covered in this ordinance. It would be a technical decision. This special use permit is for the single-family farm,
Comm Marquardt	<ul style="list-style-type: none"> - Is there anything in the ordinance that would grandfather the buildings if they are located closer to the road? -
Mitch Flanagan	<ul style="list-style-type: none"> - We would not make them move their building, but would work with them on this type of concern. -
Comm. Schmitz	<ul style="list-style-type: none"> - Would dust control be addressed in the Special Use Permit or in the ordinance. -
Mitch Flanagan	<ul style="list-style-type: none"> - Stated Morton County requires it in their Special Use permit
Casey Einrem	<ul style="list-style-type: none"> - Discussed how the County in other instances takes dust control etc. on a case by case basis so they have been confining dust control etc. to the Special Use Permit
Comm. Streifel	<ul style="list-style-type: none"> - If an individual going to be required to apply for a special use permit if they were going to have a wedding for a family?
Mitch Flanagan	<ul style="list-style-type: none"> - No, this ordinance is for those that are holding similar events on an on-going basis. -
Comm. Jarratt	<ul style="list-style-type: none"> - Is concerned about the wording
Comm. Zuroff	<ul style="list-style-type: none"> - Suggested changing the ordinance to read for commercial use, so it is clear this does not affect the single family from holding a family wedding, reunion etc.

Chairman Agnew hearing no additional comments closed the meeting at 5:55pm



Dennis Agnew, Chair



Marla McMonagle, Staff

Burleigh County Planning and Zoning Meeting Minutes

January 10, 2024

Present: Commissioners Brian Bitner, Alvie Jarrett, Steve Marquardt, Wayne Munson, Dale Patrick, Mike Schmitz, and Bea Streifel. Commissioners Dennis Agnew and Brian Zuroff attended remotely.

Others Present: Marcus Hall & Casey Einrem, County Engineering, Mitch Flanagan, Director, Building, Planning, Zoning, and Marla McMonagle, Building, Planning and Zoning. Members of the public – See Sign in Sheet

Mitch Flanagan, Director of Building, Planning and Zoning opened the meeting. He called for the election of new officers.

Agenda Items	Action taken	Responsible Party	Motion
Election of Chairman	Motion: Approve Dale Patrick for Chairman	1 st Comm. Bitner 2 nd Comm. Munson	0-9 Did not approve
	Motion: Approve Dennis Agnew for Chairman	1 st Comm. Patrick 2 nd Comm. Jarrett	9-0 Approved
Election of Vice Chairman	Motion: Approve Dale Patrick as Vice Chairman	1 st Comm Bitner 2 nd Comm Munson	9-0 Approved
Chairman Dennis Agnew turned the meeting over to Vice Chairman Patrick since he was attending remotely.			
December 13, 2023 Minutes	Motion:	Responsible Party	Motion
	Approve the December Minutes	1 st Comm. Bitner 2 nd Comm. Munson	9 – 0 Approved
Consent Agenda			
Peaceful View Subdivision and Zoning Change: A two (2) lot subdivision described as Part of the South ½ of Section 11, Part of Lot B and Part of the North ¼ of Section 14, Township 137 N, Range 80 W in Burleigh County, ND			

Mitch Flanagan presented the subdivision. He addressed the concerns the Planning Department and the Highway Department have regarding the section line. The main house and buildings are located on the section line. It was suggested a note be placed on the plat concerning the location of the existing buildings within the section line. He recommended approval of the plat after conditions be met.

Discussion:

Commissioner Zuroff questioned having the section line going through the buildings and whether the buildings becoming public property because they are on the section line.
Marcus Hall approached. He stated it was discussed in pre-application meeting on whether to have the section line vacated.
Commissioner Zuroff stressed his concerns about the public being able to access the buildings and property.
Commissioner Bitner suggested a request to for a State’s Attorney opinion on the section line right of way. He also requested a list of conditions needed to be completed before the subdivision can be approved for a public hearing.

Action:	Responsible Party	Motion
Motion: Table the plat until we get a legal opinion from the State’s Attorney	1 st Comm Zuroff 2 nd Comm Bitner	9 – 0 Approve motion

Public Hearing

Burnt Creek Farm Special Use Permit: Section 24, PT SW ¼ Tract #1 Addressed as 11501 NE 41st Street

Mitch Flanagan described the request for the Special Use Permit. Mr. Dave Lehman would like to have an event location for agritourism, corporate events, weddings and similar events.
Commissioner Bitner asked if it was an allowable use and questioned the wear and tear on the roads.
Mitch Flanagan explained the Planning Departments questions and concerns regarding the special use permit.
Commissioner Patrick asked if fire had looked at this site and about human waste. Mitch Flanagan stated those areas had been addressed.
Chairman Agnew asked whether we are in compliance on the ordinances as far as a public hearing notification. Mitch stated yes.
Commissioner Zuroff questioned if the highway department had seen increased complaints and maintenance around Black Leg Ranch.
Marcus Hall, County Engineer approached. He does not feel the additional traffic on 110th Ave NE and 41st Street NE will require the roads to be paved. He agreed there will be additional maintenance. He has also seen an increase in maintenance on the roads to Black Leg Ranch.
Chairman Agnew Asked Mitch if Black Leg Ranch was located in an organized township. Mitch stated yes.

Commissioner Streifel disclosed she lived on an adjacent property to the Burnt Creek Farm.	
Public Hearing:	
Public	Testimony
Wayne Martineson	Is against this project because of steep ditches and narrow road. Is also concerned the barn needs sprinklers.
Melissa Miller	Is concerned about the one (1) entry into the area and it being a fire hazard, the number of cars and maintenance of the road.
Kurt Fleck	Is concerned about the wear and tear on the roads. He has no problem with the Burnt Creek Farms, but does not want the traffic on 110 th . He is also concerned about the trees in the ditches.
Mitch Kersten	He played a recording of the petitioner – Dave Lehmann – testifying at the July 8, 2020 Burleigh Co. Planning and Zoning Commission meeting 7/8/2020 minutes He is concerned about the dust on the houses.
Greg Schonert	He is not opposed however, what is next? He is concerned about the noise and dust.
Dave Lehman – Petitioner	He described what he would like to do with Burnt Creek Farms. He understands the concerns of the neighbors, but would still like to share Burnt Creek Farm. He would like to hold events on his property to help fund the development of the historical site. He stated he has ADA bathrooms and a septic system, has ample parking
	Commissioner Streifel asked about Papa Pumpkin Packet season since Mr. Lehman mentioned Burnt Creek Farms would have less traffic
Dana Fleck	She is concerned because her home is 200' from the road and would have dust concerns. She also would like to know how the dust would be mitigated.
Dave Lehman	Addressed Dana Fleck's comments. He stated he didn't know how much dust would be generated by the traffic.
	Commissioner Streifel asked about the size of Black Leg Ranch. He stated he is not sure and doesn't know how they mitigate dust and wear and tear on the roads.
Vice Chairman Patrick asked if there were any more comments, hearing none, closed the public hearing	
Commissioner Bitner	Asked about the roads to Papa's Pumpkin Patch – who does dust maintenance.
	Casey Einrem - County Engineering stated the township pays the dust maintenance and has an agreement with Papa's Pumpkin Patch. Commissioner Munson asked Casey about road widths. Casey stated they vary

Brian Renke – Rural Fire Department	I had a chance to briefly review the packet and I did drive up to the area on Tuesday. There are no particular concerns as it sits now. The concerns Mitch brought up regarding change of venue causing numerous people out there, can change things for us. We would look at the fire code and things. Our fire response as an emergency medical response does not change. This is a typical agriculture regional response. We deal with narrow roads, steep ditches, sketchy approaches, slippery roads all the time. If this turns out to be hosting numerous people, there might be a perfect storm, where there might be a problem getting in there. If they were the to convert the barn into a usable venue we would like to see plans and make sure it is up to code with alarms systems etc. There are no specific concerns currently.		
Commissioner Zuroff	Is concerned about the cost of road maintenance and why an agreement can't be made to cover the cost		
Commissioner Streifel	Is concerned about the de-valuing the property in the area, and security of the area. She is against this project because of the size of events. She feels it will be a cost to the neighbors.		
Commissioner Bitner	He is against this project because of the traffic on the roads, dust and the other property owners not being able to use their property.		
Actions: Motion:		Responsible Party	Motion
Deny the Special Use Permit for the following: <ol style="list-style-type: none"> 1. Excessive traffic. 2. The size and frequency of possible events would put a strain on the road system and negatively impact the surrounding property owners due to: <ol style="list-style-type: none"> a) dust, noise, traffic, possibility of fires. 		1 st . Comm. Bitner 2 nd Comm. Jarrett	
Commissioner Munson:	How is the permitting being done now and if we deny this Special Use Permit will he be able to do anything at all.		
	Mitch Flanagan stated he doesn't need to have a permit for small events.		
Commissioner Munson:	Was wondering if there was a compromise instead of denying the permit altogether Commissioner Bitner: stated it is the size and frequency of the events is the concern. Commissioner Munson: He is concerned the commission is shutting his project down.		
Commissioners: Agnew, Bitner, Jarratt, Marquardt, Patrick, Schmitz, Streifel and Zuroff voted for the motion. Commissioner Munson voted against the motion.		8 – 1 to deny the Special Use Permit.	

Other Business:	
Commissioner Streifel: would like to see movement on the revisions of the Comprehensive Plan and the notification distance increase. She would like to see these items on the agenda in the future.	

Meeting was adjourned at 6:50 pm



Dennis Agnew
Chairman



Marla McMonagle
Staff