

Burleigh County Planning and Zoning Meeting Minutes

October 12, minutes

Present: Chairman Dennis Agnew, Commissioners: Alvie Jarratt, Jim Peluso, Steve Marquardt, Mike Schmitz, Brian Zuroff. Commissioner Brian Bitner attended via ZOOM.

Others Present: Marcus Hall, County Engineer, Casey Einrem, County Engineering, Mitch Flanagan, Director Building, Planning and Zoning and Marla McMonagle, Building, Planning, and Zoning. Members of the public: See sign in sheet.

Chairman Agnew called the meeting to order at 5:15 pm Rollcall was taken and a quorum was declared.

Agenda Items	Discussion	Action Taken	Responsible Party	Motion
Approval of the September 14, 2022 minutes	No discussion was held	Approval of the September Minutes	1st S. Marquardt 2 nd J. Peluso	APPROVED 7 – 0
Consent Agenda Items				
There were no items on the consent agenda				

Public Hearing	Discussion	Action Taken	Responsible Party	Motion
St. Hildegard Subdivision Auditor's Lots A & B in the SW ¼ of the SW ¼ Section 27, Township 139 North Range 78 W	<p>Staff was asked about the amount of Right-of Way the church was giving to the county. The County Highway department stated there is a 25' right of way on the West And South sides, which is the standard.</p> <p>There were no comments from the public.</p>	Approve the plat and recommend a "Do Pass" to the Board of Burleigh County Commissioners	1 st – Brian Zuroff 2 nd S. Marquardt	Approved 7 - 0
Goehring 2nd Zoning Change R1-Rural Single Family Residential to A-Agricultural Block 1, Lot 4 – Goehring 2 nd Subdivision	<p>Staff explained their findings regarding the original zone change. Commissioner Peluso discussed the history of the original zoning change A – R1 and why the Commission made the change in 2015. Discussion was held on the growth of the city. The zoning change request did not comply with the Comprehensive plan and the Land Use plan</p>	Deny the request for a zoning change because it does not comply with the Comprehensive plan and concerns regarding future use of the property.	1 st B. Zuroff 2 nd J. Peluso	Denied 7 - 0

	There were no comments from the public			
Other Business	Discussion	Action Taken	Responsible Party	Motion
There were no items for other business				

With no further business the meeting adjourned at 5:45 pm

Respectfully Submitted:



Chairman



Marla McMonagle

Staff

Burleigh County Planning and Zoning Meeting Minutes

September 14, 2022

Present: Vice Chairman Dale Patrick, Commissioners: Alvie Jarratt, Jim Peluso, Steve Marquardt, Mike Schmitz. Bea Streifel, Brian Zuroff.

Others Present: Marcus Hall, County Engineer, Casey Einrem, County Engineering, Mitch Flanagan, Planning Director, Marla McMonagle, Building, Planning, and Zoning. Members of the public: See sign in sheet.

Vice Chairman Patrick called the meeting to order at 5:15 pm Rollcall was taken and a quorum was declared.

Agenda Items	Discussion	Action Taken	Responsible Party	Motion
Approval of the August 10, 2022 minutes	No discussion was held	Approval of the August Minutes	1 st Jim Peluso 2 nd Mike Schmitz	APPROVED 7 - 0
Consent Agenda Items				
Consent Agenda Items	Discussion	Action Taken	Responsible Party	Motion
<u>St. Hildegard Subdivision</u> DESCRIPTION: Auditor's Lots A & B in the SW ¼ of the SW ¼ Section 27, Township 139 North Range 78 W	Staff was asked about the need to subdivide these lots if the zoning was C-Commercial. Staff stated since the proposed new structure was a 6,000 sq./ft. educational building, the lots needed to be platted to meet current and future development standards.	Approve a public hearing for St. Hildegard Subdivision	1 st Jim Peluso 2 nd Mike Schmitz	APPROVED 7 - 0

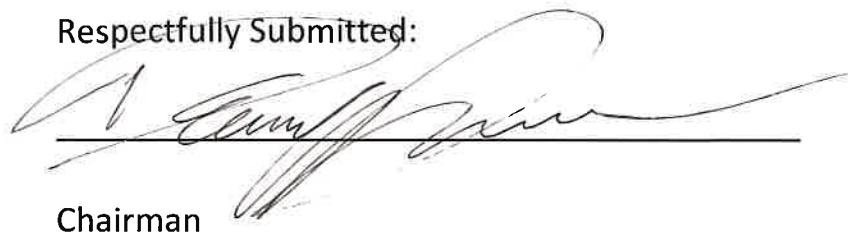
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<p>Goehring 2nd Zoning Change R1-Rural Single Family Residential to A-Agricultural</p> <p>DESCRIPTION: Block 1, Lot 4 – Goehring 2nd Subdivision</p>	<p>Property owner Jason Malsum explained his plans to sell goats, sheep, Christmas trees, etc., raised on their property. Staff explained the intent of the R1 zoning when the subdivision was platted and the differences between the subsequent future uses of R1 and A zoning.</p>	<p>Approve the public hearing for the zoning change</p>	<p>1st.Bea Striefel 2nd Jim Peluso</p>	<p>APPROVED 7 - 0</p>
<p>Public Hearing</p>	<p>Discussion</p>	<p>Action Taken</p>	<p>Responsible Party</p>	<p>Motion</p>
<p>There were no items for a public hearing</p>				
<p>Other Business</p>	<p>Discussion</p>	<p>Action Taken</p>	<p>Responsible Party</p>	<p>Motion</p>
<p>There were no items for other business</p>				

With no further business the meeting adjourned at 5:45 pm

Respectfully Submitted:



 Chairman



 Marla McMonagle
 Burleigh County Staff

Burleigh County Planning and Zoning Meeting Minutes

June 8, 2022

Present: Chairman Dennis Agnew, Vice Chairman Dale Patrick, Commissioners Steve Bakken, Alvie Jarratt, Steve Marquardt, Jim Peluso, Bea Streifel, Brian Zuroff

Others Present: Marcus Hall, County Engineer, 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

Chairman Agnew called the meeting to order at 5:15 pm. Roll call was taken and a quorum was declared.

Agenda Items	Discussion	Action Taken	Responsible Party(s)	Motion Approved
Approval of the March 9th minutes with addendum	No discussion of the minutes was held	Approval of the March Minutes and Addendum	1 st Comm. Zuroff 2 nd Comm. Peluso	8 - 0
Approval of the May 11 th minutes	No discussion of the minutes was held	Approval of the May Minutes	1 st Comm. Bakken 2 nd Comm Zuroff	8 - 0
Public Hearings	Discussion	Action Taken	Responsible Party (s)	Motion Approved
The Ranch Replat of Block 6, Auditor's Lots 13 A, B, C	Staff presented the request and explained the reason for the replat			
	Commissioner Streifel asked to be recused from voting due to a conflict of interest.	Approve Commissioner Streifel' s recusal	1 st Comm Streifel 2 nd Comm Bakken	7 - 0
	No comments were given from the public	Approve The Ranch Replat of Block 6, Auditors Lots 13A, B, C	1 st Comm. Marquardt 2 nd Comm. Jarratt	7 - 0
Hohbein Zoning Change A to R1 Hohbein Subdivision	Staff presented the zoning change and the subdivision request. The Commission combined both for approval	Approve the Hohbein Zoning Change and Subdivision	1 st Comm. Zuroff 2 nd Comm. Bakken	8 - 0
	No public comments were received			

Public Hearings	Discussion	Action Taken	Responsible Party (s)	Motion Approved
Old Ten Subdivision	Staff presented the subdivision request			
	No public comments were received	Approve the Old Ten Subdivision with staff recommended conditions	1 st Comm. Patrick 2 nd Comm. Marquardt	8 - 0
Country Hills 3 rd Zoning Change A-R1 Country Hills 3 rd Subdivision	Staff presented the zoning change and the subdivision. The Commission combined both for approval	Approve the Country Hills 3 rd Zoning Change and the Country Hills 3 rd Subdivision with staff recommended conditions	1 st Comm. Bakken 2 nd Comm. Zuroff	8 - 0
	No Public Comments were received			

With no further business the meeting adjourned at 6:00 p.m.

Respectfully Submitted:



 Dennis Agnew
 Chairman



 Marla McMonagle
 Staff

Burleigh County Planning and Zoning Commission
Meeting Minutes
May 11, 2022

Present: Chairman Dennis Agnew, Vice Chairman Dennis Agnew, Commissioners Brian Bitner, Alvie Jarratt, Dale Patrick, Steve Marquardt, Jim Peluso, Bea Streifel, and Brian Zuroff were present in person. Commissioner Bakken joined remotely.

Staff Present: Mitch Flanagan, Director, Building, Planning, Zoning, Marla McMonagle, Associate Planner, Casey Einrem County Engineering, Marcus Hall County Engineer

Chairman Agnew opened the meeting at 5:15pm with a roll call. All members were present.

Mitch Flanagan, Director, Burleigh County Planning, approached. Director Flanagan addressed the Commission regarding the Attorney General's inquiry regarding possible open meeting violation. Flanagan asked the commissioners to answer the Attorney General's questions as completely as possible.

Chairman Agnew called for a motion on the March minutes. The commission requested some correction be made to the minutes. Director Flanagan approached and discussed the binder received by the commission on March 9, 2022. The commission directed staff to address the binder in the amended March minutes. Commissioner Bitner made a motion to table the minutes and ask staff to make the corrections. Commissioner Peluso seconded the motion. Motion passed unanimously.

MOTION: Table the minutes and ask staff to make the corrections. Motion passed unanimously.

CONSENT AGENDA:

Chairman Agnew presented the Consent Agenda and asked for a motion to approve the following on Consent Agenda:

- 3.1 Old Ten Subdivision
- 3.2 Country Hills 3rd Subdivision Zoning Change
- 3.3 Country Hills 3rd Subdivision
- 3.4 The Ranch Replat of Block 6, Lots 13A, B, & C

Commissioner Peluso made a motion to accept the consent agenda items and move them to a public hearing. Commissioner Bitner seconded the motion. Motion passed unanimously.

**MOTION: Approve the Consent Agenda Items and move them to a public hearing.
Motion passed unanimously.**

PUBLIC HEARINGS

4.1 Deyle Subdivision- a one (1) lot subdivision containing 12 acres.

Marla McMonagle, Staff, Planning Department, approached and gave a summary of the request. Hearing no questions from the commission, Chairman Agnew opened the public hearing. There were no public comments. Chairman Agnew closed he public hearing.

Commissioner Peluso made a motion to approve the Deyle Subdivision Plat and give a “Do Pass” recommendation to the Board of Burleigh County Commissioners. Commissioner Zuroff seconded the motion. Motion passed unanimously.

**MOTION: Approve the Deyle Subdivision Plat and give a “Do Pass”
recommendation to the Board of Burleigh County Commissioners.
Motion passed unanimously.**

4.2 Patten Subdivision-a three (3) lot subdivision containing 48 acres.

Marla McMonagle, Staff, Planning Department, approached and gave a summary of the request. Commissioner Bitner asked about the owner of the properties. Hearing no questions from the commission, Chairman Agnew opened the public hearing. There were no public comments. Chairman Agnew closed he public hearing.

Commissioner Bitner made a motion to approve the Patten Subdivision Plat and give a “Do Pass” recommendation to the Board of Burleigh County Commissioners. Commissioner Bakken seconded the motion. Motion passed unanimously.

**MOTION: Approve the Patten Subdivision Plat and give a “Do Pass”
recommendation to the Board of Burleigh County Commissioners.
Motion passed unanimously.**

4.3 Benitez-Solis Zoning Change – A-Agricultural to R1-Rural Single Family Residential.

4.4 Benitez-Solis Subdivision – a two (2) lot subdivision containing 48 acres.

Marla McMonagle, Staff, Planning Department, approached and gave a summary of the request. She stated the Benitez-Solis zoning change and subdivision plat can be discussed at the same time. Hearing no questions from the commission, Chairman Agnew opened the

public hearing.

Landon Niemiller, Swenson, Hagen & Company approached. He is the representative for the Benitez-Solis Subdivision. He asked the commission if they had any questions regarding this plat. There were no questions from the Commission. There were no additional public comments. Chairman Agnew closed the public hearing.

Commissioner Peluso made a motion to approve the Benitez-Solis zoning change and Subdivision and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners. Commissioner Bakken seconded the motion. Motion passed unanimously.

MOTION: Approve the Benitez-Solis Zoning Change and Subdivision Plat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners. Motion passed unanimously.

Chairman Agnew asked if there was any other business. Hearing none, Chairman Agnew called for a motion to close the meeting. Motion made to adjourn. Meeting was adjourned at 6:00 pm.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read 'Dennis Agnew', written over a horizontal line.

Dennis Agnew, Chairman

Marla McMonagle, Staff

Burleigh County Planning and Zoning Commission
Meeting Minutes
March 9, 2022

Present: Chairman Dennis Agnew, Vice Chairman Dennis Agnew, Commissioners Brian Bitner, Alvie Jarratt, Dale Patrick, Steve Marquardt, Jim Peluso, Bea Streifel, and Brian Zuroff

Staff Present: Mitch Flanagan, Director, Building, Planning, Zoning, Marla McMonagle, Associate Planner, Casey Einrem County Engineering, Marcus Hall County Engineer

Chairman Agnew opened the meeting at 5:15pm with a roll call. All members were present but Commissioner Bakken.

Commissioner Patrick made a motion to approve the minutes from February 9, 2021 meeting. Commissioner Marquardt seconded the motion. Motion carried by unanimous vote.

CONSENT AGENDA:

Chairman Agnew presented the Consent Agenda and asked for a motion to approve the following on Consent Agenda:

- 3.1 Benitez-Solis Subdivision Zoning Change
- 3.2 Benítez-Solis Subdivision
- 3.3 Deyle Subdivision
- 3.4 Hohbein Subdivision Zoning Change
- 3.5 Hohbein Subdivision
- 3.6 Patten Subdivision

Commissioner Zuroff made a motion to accept the Consent Agenda, Commissioner Patrick seconded the motion. Motion carried by unanimous vote.

MOTION: Accept the Consent Agenda and call for a public hearing on all items.
Motion passed unanimously.

PUBLIC HEARING:

4.1 Summit Point 1st Zoning Change

Petitioner is requesting a public hearing for a zoning change from A-Agricultural to PUD-Planned Unit Development for the proposed eighty-six (86) lot Summit Point 1st Subdivision described as:

Part of Auditor's Lot 2 of Auditors Lot 35C of the NW ¼ all of lot 35B of the SW ¼, Part of Lot 35A of the NW ¼ Part of the NE ¼, Part of Tract D of the SE ¼ and Part of Lot B1 of Lot B of Auditor's Lots 1 & 2 of the SE ¼ of Section 35, Part of Auditor's Lot B of the NW ¼ of Section 36 and Part of Auditor's Lot A of the SW ¼ of the SW ¼ of Section 36 Township 140 North, Range 81 West Riverview Township, Burleigh County, North Dakota

4.2 Summit Point 1st Subdivision

Petitioner is requesting a public hearing on the proposed Summit Point 1st Subdivision, an eighty-six (86) lot subdivision described as:

Part of Auditor's Lot 2 of Auditors Lot 35C of the NW ¼ all of lot 35B of the SW ¼, Part of Lot 35A of the NW ¼ Part of the NE ¼, Part of Tract D of the SE ¼ and Part of Lot B1 of Lot B of Auditor's Lots 1 & 2 of the SE ¼ of Section 35, Part of Auditor's Lot B of the NW ¼ of Section 36 and Part of Auditor's Lot A of the SW ¼ of the SW ¼ of Section 36 Township 140 North, Range 81 West Riverview Township, Burleigh County, North Dakota

Marla McMonagle – Burleigh County Planning Staff, approached and gave a summary of the zoning change request and the subdivision. She explained they were two (2) items for consideration. She reviewed the history and details of the request. Mitch Flanagan, Director, Burleigh County Planning, approached and explain the design review requirements for the wastewater treatment system and how the final plan designs, performance certificate and permitting for the central septic had to be approved by North Dakota DEQ before any building permits were issued. He informed the commission that because the PUD has included the use of an onsite wastewater treatment system, it was still a part of their consideration.

Hearing no further questions from the commission, Chairman Agnew opened the public hearing.

Cam Knutson - Developer, Summit Point approached. He gave a presentation of the Summit Point Project and plans for the future of the development.

Josh Lindell - President, AquaPoint approached. He gave a presentation of the what AquaPoint is and their standards. He informed the Commissioners about the plans for the central system to be used in Summit Point 1st Subdivision.

Harvey Schneider- President, Toman Engineering approached. He discussed the former platting of Spruce Hill Subdivision and how the roads where designed for future growth of Spruce Hill. He talked about the access points for Summit Point 1st subdivision. He stated they have worked to develop a second access point. Commissioner Bitner asked about the septic system and the roads.

Cam Knutson approached and explained how their system will be monitored and how the design of the central septic systems will make the conversion when the subdivision is annexed into the City of Bismarck in the future.

Casey Einrem - Burleigh County Engineering approached and explained the road system and the widths of the roads. He explained how they determined the master plan for the road systems.

Blaine Johnson - Partner, Crowley Fleck Law approached. He represents twenty-eight people of local residents of Spruce Creek Subdivision. He discussed the zoning ordinance and comprehensive plan to point out how he and his clients feel the request for Summit Point 1st is not in accordance with Comprehensive Plan. He provided a binder to the commissioners at the meeting. This submittal was provided without review by County staff and contained technical data, a personal narrative along with written comments from the homeowners of Spruce Creek. He was questioned by Commissioner Bitner who stated the comprehensive plan is not an ordinance.

Paul King - resident, Spruce Hill Subdivision. He is against the Summit Point 1st Subdivision. He feels the slope and road width of Blue Spruce Road is dangerous, and is opposed to the central septic system.

Bob Martin - Attorney representing the Ward Family approached. He stated the Ward family owns land that is adjacent to the proposed Summit Point development and are opposed to the development. He stated the Ward family is planning to develop their land in the future and feel this subdivision with a central septic will ruin their options to develop.

Paul Myerchin – resident, Spruce Hill Subdivision approached. He is opposed to the development and the use of Blue Spruce Road as a collector road. He is also opposed to the central septic system and the use of lagoon behind his property.

Joel Zeltinger - resident, Spruce Hill Subdivision approached. He is against the subdivision because of the septic lagoon and the roads.

Loren Schwab - resident, Hawk Tree Subdivision approached. He lives in Hawk Tree. He explained the failure of the Hawk Tree system due to the size of the subdivision and he only had odors when the system was failing. He is in favor of the Summit Point Subdivision.

Matt Ehrman - resident Spruce Hill Subdivision approached. He is opposed to the development because of the density, roads, and central septic system. He is concerned about the new development being moved out of the ETA and under county jurisdiction.

Elana Ehrman - resident Spruce Hill Subdivision approached. She stated the intersection by their home is dangerous. The addition of eighty-seven (87) homes means more than eighty-seven (87) cars. She states she has had to pullover because the road is not wide enough for two (2) cars, or a car and a UPS truck. She is opposed to the subdivision.

Josh Lindell approached. He explained the difference of a septic lagoon which treats raw waste water and a septic pond which holds effluence. He also stated the Summit Point system will not have a lagoon.

Andra Marquardt - Surveyor, Toman Engineering approached. She stated she had conducted surveys of the slope on Blue Spruce Road and the width of Blue Spruce Road. She was asked if she had taken actual measurements of Blue Spruce Road. She stated she had actually surveyed Blue Spruce Road. She showed several roads in the city of Bismarck which have a higher slope and are narrower than Blue Spruce Road, one of those roads are River Road.

Seeing no other person approaching for the podium, Chairman Agnew closed the public hearing.

Commissioner Zuroff asked if Sheriff Leben could approach. Zuroff asked the sheriff how many accidents where on Blue Spruce Road. Sheriff Leben stated he did not know, but of all the areas they have problems with, they don't have one there.

Commissioner Marquardt asked if the Fire Chief could approach. He asked the Chief whether they had a partnership with the City of Bismarck to address a fire. He stated they do have a partnership where they will help. Commissioner Bitner asked if the rural fire department was planning on staffing the northside fire station. He says it is his goal to staff that station house. When he was asked about the time it takes to get to a fire. He stated 10 to 15 minutes.

Marla McMonagle read a letter addressed to the commission from Commissioner Bakken. His letter stated his support of this subdivision.

Commissioner Zuroff made a motion to table these items for more information, Commissioner Jarratt seconded the motion. Commissioner Marquardt questioned what further information was needed. Commissioner Zuroff wants to make sure all the boxes are checked and everything has been researched. Commissioner Bitner stated staff had

already done the research and all the boxes are checked by staff. He doesn't feel staff has anymore to check. Commissioner Peluso stated the same. Staff has vetted the process and the Planning and Zoning Commission has vetted. He feels the rules have been followed. The motion to table the items for more information. Motion failed by a 1 to 7 vote. Commissioner Jarratt voted for the motion.

MOTION: Table the items for further information. Motion failed 1 to 7.

Commissioner Patrick made a motion to approve the items to the Board of Burleigh County Commissioners. Marla McMonagle asked if the motion was for both items, and it was confirmed by Commissioner Patrick and Chairman Agnew. Commissioner Bitner seconded the motion. Commissioner Jarratt expressed concerns about this subdivision and a discussion followed. Motion passed by a 5 to 3 vote. Commissioner Streifel, Jarratt and Chairman Agnew voted against the motion.

MOTION: Approve the zoning change and subdivision and give a "recommendation to approve" to the Board of Burleigh County Commissioners. Motioned passed by a 5 to 3 vote.

Chairman Agnew called for a motion to close the meeting. Motion made to adjourn. Meeting was adjourned at 9:45 pm.

Respectfully Submitted:



Dennis Agnew, Chairman



Marla McMonagle, Staff

COMMENTS FOR A POWER POINT PRESENTATION BY BLAINE JOHNSON AND THE RESIDENTS OF SPRUCE HILL SUBDIVISION CONCERNING SUMMIT PT. SUBDIVISION

1. A pamphlet was handed to the Planning Commissioners prior to meeting held on March 9, 2022 from Blaine Johnson an attorney for Crowley Fleck representing the residents of Spruce Hill Subdivision;
 - a) The pamphlet was not provided to or reviewed by County Staff prior to the meeting.
 - b) Contained personal comments made by residents of Spruce Hill.

2. There were multiple references to technical documents made during this discussion;
 - a) NFPA provides information about product standards and or test protocol.
 - b) Is not used as an adopted regulation.
 - c) Is not a reference to any specific adopted fire code ordinance.
 - d) Is only used as technical references when applicable.

3. The Comprehensive Plan was discussed at length;
 - a) 19 pages in the document referenced the Burleigh County Comprehensive Plan.
 - i. A standard planning document with goals and objectives to help in the daily decision- making process. The Comp Plan should be used only as a guide when developing and implementing the County Zoning ordinances.
 - ii. County Zoning Ordinances requires subdivision regulations to provide more detail about acceptable development standards.

4. The “Methodology for Developing Land Use Map” is part of the County Land Use Plan. This document complements the Comprehensive Plan and again is a guide only for land development regulations and zoning decisions.

5. Numerous statements were also included in the pamphlet and used as inaccurate quotes from Commissioners and County Staff.



W. McNeave - staff

Burleigh County Planning and Zoning Commission
Meeting Minutes
February 9, 2022

Present: Vice Chairman Dennis Agnew, Commissioners Steve Bakken, Brian Bitner, Alvie Jarratt, Dale Patrick, Jim Peluso, Bea Streifel, and Brian Zuroff were in house. Commissioner Steve Marquart was present on ZOOM.

Staff Present: Mitch Flanagan, Director, Building, Planning, Zoning, Marla McMonagle, Associate Planner, Casey Einrem County Engineering, Marcus Hall County Engineer

Mitch Flanagan opened the meeting and call for an election of officers:

Dennis Agnew – Chairman
Dale Patrick – Vice Chairman

were approved by a unanimous vote.

Mitch Flanagan turned the meeting over to Chairman Agnew.

Commissioner Peluso made a motion to approve the minutes from November 10, 2021 meeting. Commissioner Zuroff seconded the motion. Motion carried by unanimous vote.

CONSENT AGENDA:

1. Summit Point 1st Zoning Change

Petitioner is requesting a public hearing for a zoning change from A-Agricultural to PUD-Planned Unit Development for the proposed eighty-six (86) lot Summit Point 1st Subdivision described as:

Part of Auditor's Lot 2 of Auditor's Lot 35C of the NW ¼ all of lot 35B of the SW ¼, Part of Lot 35A of the NW ¼ Part of the NE ¼, Part of Tract D of the SE ¼ and Part of Lot B1 of Lot B of Auditor's Lots 1 & 2 of the SE ¼ of Section 35, Part of Auditor's Lot B of the NW ¼ of Section 36 and Part of Auditor's Lot A of the SW ¼ of the SW ¼ of Section 36 Township 140 North, Range 81 West Riverview Township, Burleigh County, North Dakota

Marla McMonagle approached and gave a summary of the zoning change request. Commissioner Patrick asked about the septic system to be used in the subdivision. Marla stated there are thirty-six (36) lots which would be on a shared septic. Shared septic systems are handled by the State of North Dakota. Mitch Flanagan approached and discussed septic systems.

Commissioner Bitner made a motion to approve the PUD for a public hearing. Commissioner Zuroff seconded the motion. Motion passed by an 8 to 1 vote. Commissioner Streifel voted against the motion.

2. Summit Point 1st Subdivision

Petitioner is requesting a public hearing on the proposed Summit Point 1st Subdivision, an eighty-six (86) lot subdivision described as:

Part of Auditor's Lot 2 of Auditors Lot 35C of the NW ¼ all of lot 35B of the SW ¼, Part of Lot 35A of the NW ¼ Part of the NE ¼, Part of Tract D of the SE ¼ and Part of Lot B1 of Lot B of Auditor's Lots 1 & 2 of the SE ¼ of Section 35, Part of Auditor's Lot B of the NW ¼ of Section 36 and Part of Auditor's Lot A of the SW ¼ of the SW ¼ of Section 36 Township 140 North, Range 81 West Riverview Township, Burleigh County, North Dakota

Marla McMonagle approached and gave a summary of the request. Marla asked that County Engineer Marcus Hall approach and address the road access. Chairman Agnew called Marcus Hall to the podium to explain the access points to the subdivision. He was asked about maintenance of the roads. Marcus Hall stated they are public roads and will be maintained by the township or the county. Bismarck Rural Fire Department Chief Dustin Theurer approached and stated he approves the preliminary plat because there will be additional access points to the existing Spruce Hill Development, which only has one (1) access point.

Commissioner Patrick made a motion to approve the preliminary plat and call for a public hearing on the Summit Point 1st Subdivision. Commissioner Bakken seconded the motion. Motion passed 8 - 1, with Commissioner Jarratt voting against.

OTHER BUSINESS:

Lloyd Jones approached.

He asked to be heard regarding a property in Glenview Township. He stated his neighbor is moving dirt and installing water and electric on his lot. Mr. Jones does not feel his neighbor should be allowed to build on the lot, because it is a non-conforming lot. He also suggesting the County write a courtesy letter regarding the requirements for building on his lot. Building has not begun at this time.

Mitch Flanagan approached and stated there is no building on the site at this time. The lot does have some concerns which could affect development. He has not contacted the property owners at this time because they have not contacted him regarding development on the lot in question.

Mr. Jones questioned the ordinance regarding needing 40 acres to build a house and this lot is only seventeen (17) acres. Commissioner Bitner stated "there is not now, nor has there ever been a 40-acre requirement to build a house." He also clarified that you can sell any amount of

land in Burleigh County, but to build a house on it, you must plat the property if it is under 40-acre.

Open Meetings/Ex-parte Communications.

Mitch Flanagan approached. His office received questions regarding "Open Meetings" and "Ex-parte Communications" laws and what could violate open meetings and ex-parte communications. He reviewed points on what is regarded as an open meeting and ex-parte communications as per the ND Attorney General.

Commissioner Bitner clarified that commissioners do their duties in the public and make our decisions from what is presented in public. Decisions can not be made on information presented to the commissioners in meetings that are not advertised and/or held in public, e-mails and correspondence received outside of the public. The commissioners must use the facts and information presented by staff and comments received at the public hearing. If you have questions and concerns, they should be submitted to staff so they can be addressed. E-mails sent to all the commissioners should not be answered by a "reply all" and should be forwarded to staff.

An involved discussion was held by the commissioners regarding open meetings and ex-parte communication. The commissioners will be more attentive to this concern in the future.

A motion was made to close the meeting. Meeting closed at 6:45 pm.

Respectfully Submitted:



Dennis Agnew, Chairman



Marla McMonagle, Staff