Burleigh County Planning and Zoning Commission  
Meeting Minutes  
July 8, 2020

Commissioners Present: Chairman Neil Effertz, Vice Chairman Dennis Agnew, Commissioners Steve Bakken, Steve Marquardt, Ervin Mund Dale Patrick, Bea Streifel and Jerry Woodcox. Commissioner Bitner attended by conference call.

Staff Present: Mitch Flanagan, Director, Building, Planning and Zoning Department, and Marla McMonagle, Administrative Assistant II/Associate Planner

Chairman Effertz opened the meeting at 5:15pm and called for a motion to approve the June 10, 2020 minutes. Commissioner Bakken made a motion to approve, Commissioner Marquardt seconded. Minutes were approved unanimously.

CONSENT AGENDA

The following items are request(s) for a public hearing.

3. K & R Subdivision Replat  
   Addressed as: 2512 & 2594 93rd Street SE  
   Legally described as: All of Lot 2, Block 1 of K & R Subdivision, all of Lot 1A of Lot 1, Block 1 of K and R Subdivision, all of Lot 1B of the East 1102.35 feet of the North 790.32 feet of Lot 1, Block 1 of Skogen First Addition, a part of the NE 1/4 of Section 16, Township 138N, Range 79 W.

   Action Requested: The applicants are asking for a preliminary plat approval and approval of a public hearing.

Marla McMonagle approached. She gave a review of the request and a stated this was two (2) families combining various lots.

Commissioner Patrick asked about the zoning and why they were replatting. Marla explained it is all A-Agricultural and Staff recommended a replat to clean up the lot descriptions.

Commissioner Bitner made a motion to approve the preliminary plat and a public hearing. Commissioner Woodcox seconded the motion. Commissioner Patrick asked how the lots were going to be combined and what they looked like before. Marla explained the combination of lots. Motion was unanimously approved through a roll call vote.

   MOTION: Approve the preliminary replat of the K & R Subdivision and hold a public hearing. Motion passed unanimously.
PUBLIC HEARING

4. Plains Ridge Subdivision Final Plat & Zoning Change
   Addressed as 11201 NE 41st Street, Legally Described as: 11201 NE 41st Street Legally Described
   as: Burnt Creek Township Section 24 SW/4 BEG @ Common Corner to Sections 23-24 And 25-26
   Thence S89°15' e for 702.8', N1°10'e for 867.7', S89°42' w for 727.5', Thence S854.6' To POB 24-140-80

   Action Requested: The applicant is requesting approval of the final plat of Plains Ridge
   Subdivision and approval of a zoning change from A-Agricultural to R1-Rural Single Family
   Residential for a proposed four (4) lot subdivision located on fourteen (14) acres more or less.

Marla McMonagle approached. She gave a summary of the project and the request for the
zoning change. Commissioner Mund asked about the distance between the lot lines and the
slope. Marla stated it varied between lots and was an average of 250 feet.
Commissioner Streifel disclosed that she owned one of the properties on 41st avenue.
Chairman Effertz opened the public hearing: *Speakers did not sign in before testifying.
Curt approached. He is against the subdivision. He asked if anyone had driven out to the site
and was concerned about roads, the stormwater management plan, and emergency response time.

Aaden Djvorak approached. He asked the commission about a moratorium on development
that was issued. He also asked if there were rules on what you can and cannot divide. Chairman
Effertz explained the growth of the city and the Comprehensive Plan is the guide for
development in the county.

Commissioner Streifel pointed out the area is not even in the comprehensive plan because it is
outside of the boundaries.

Dave Lambert approached. He is against the subdivision because of snow build up in this area.
There is only one way into the subdivision and one way out. The emergency services turn
around in his driveway.

Mitch approached. He runs a shop in the area. He is concerned about the water and flooding
in the area. He is concerned the future houses will cause extra snow in the area and extra water
in the creek bed. He complained about 110th Avenue.

Melissa Miller approached. She is against the subdivision and is concerned about the flow out
of the septic systems into the creek and the septic might be compromised by water.

Commissioner Woodcox state he had talked to the County Engineer. Marcus Hall, County
Engineer, approached. He stated he would address the questions raised tonight.
- The paving waiver was issued because it is consistent with what has been done in the past and this is a four (4) lot subdivision which will not add a lot of additional traffic onto the road.
- Dust control is handled by the township and the township can request dust control. If request they would do a spot application.
- One way in and One way out is a concern but it has been looked at before by the commissioner, but a consensus on the number of lots needed before another access point is needed.
- The moratorium on development was put in place before he started work for the County. It was a gentlemen’s/gentlewomen’s agreement. It was never an ordinance.
- Snow removal during a storm event it could be five (5) or six (6) days to be cleared out.
- The bypass study was mentioned but it is not a concern since it is not on a consideration at this time.
- The soft spot in the road is a concern. Crews are filling pot holes and clean up. the areas soft spot might be cause by an underground stream.
- Septic systems are not his area so he referred septic questions to Mitch.

Commissioner Woodcox asked about 110th Avenue ending above 200 feet from 41st and show it be built to County Standards. He also stated to build the road up, the large trees in the ditches would have to come out. Marcus Hall agreed and stated it would be costly for the County to remove the trees.

Commissioner Patrick asked about the setbacks for an R1 versus and Ag land. Mitch Flanagan approached to answer the question about the setback. Commissioner Patrick stated with the setback, it does not leave a lot of room for the septic. Mitch stated during review they would be very aware of setbacks, drain fields, and the types of septic systems used.

Casey Einrem approached and stated the stormwater management plan was reviewed using the stormwater model to a 500-year flood event which is not required. He stated the septic systems would add just droplets of water compared to what a large septic system does.

Commissioner Streifel asked if there are ten (10) homes in a subdivision is a second access required. Marcus Hall approached, he stated there is no ordinance requiring a second access. Commissioner Mund asked if the County had a policy regarding the trees in the ditches. Marcus Hall stated they remove trees in the clear zone of the road. Marcus Hall stated those trees should be removed, but they had not gotten to that area yet. He also stated it was a cost issue.

Dana approached Marcus Hall regarding the trees and confronted Marcus Hall about what it would cost the county if the trees fell on someone or if the ambulance could not make it, who would pay for that? Marcus Hall stated that is an issue for the courts. Commissioner Woodcox stated if the trees are dangerous they need to approach the commission about their concerns.
Commissioner Mund asked what the cost would be to bring 41st Ave up to standards. Marcus Hall stated it is a township road and they would have to pay for that to be done.

Chairman Effertz asked for any additional comments, hearing none he closed the public hearing. Commissioner Mund stated that within 300 ft there were going to be 5 approaches. Casey Einrem approached and stated there would be three (3) total access for this subdivision. Commissioner Bakken asked about if this subdivision setup would work for snow removal. Commissioner Patrick asked if the approaches would be plowed, Casey stated they do not plow driveways.

Commissioner Streifel testified about the snow removal in the area of this subdivision. She stated there have been years when a dozer could not get in and they knocked down her fences. She stated it is a section line and a culvert. Casey Einrem stated they have reviewed the culverts and a long term model was developed. Commissioner Streifel stated they would be pushing snow in the culvert. Casey Einrem stated they have accounted for possible snow issues.

Commissioner Patrick stated he lives in the country and would not want to live on those lots. Commissioner Bakken asked Casey back to the podium. He asked if the access on 110th would help spread the snow around? Casey stated the homeowner would be responsible for clearing the snow.

Commissioner Marquardt asked Mitch Flanagan about the Comprehensive Plan update. Mitch Flanagan stated it needs to be updated and outside consultants should be hired to assist in that. Commission Marquardt suggested the county seriously look at redoing the Comprehensive Plan.

Commissioner Streifel stated at the February Board of Burleigh County Commissioners meeting the Commission asked what the intent of the owner was and the owners stated they were planning to sell the lots. Commissioner Streifel read the objectives of the Planning Commission then stated this type of development is not needed at this time. She feels the demand for lots is not an issue in Burleigh County and these four (4) lots are not needed at this time because Heritage Reserve has lots available.

Commissioner Woodcox made a motion to deny the zoning of Plains Ridge Subdivision. Commissioner Patrick seconded the motion.

Chairman Effertz called for further discussion. Commissioner Woodcox stated the owner should be here to address the concerns raised. Commissioner Bitner agreed and stated if he is planning to sell this land for profit then a plan must be made to address the issue brought up tonight.
Commissioner Agnew stated they need a better road plan for 110th since this is the third subdivision request. He would like to see a moratorium on development until the road are improved. Commissioner Bakken stated the County to needs an up to date comprehensive plan. Chairman Effertz hearing no further comments called for a roll call vote. Marla verified the motion. Motion passed unanimously.

MOTION: Deny the final plat and zoning change for Plains Ridge Subdivision. Motion passed unanimously.
Reason for denial:
1. Only one way into and out of 41st Street NE
2. Road conditions on 110th Avenue
3. Snow removal in the area is a concern
4. Trees located along the road are a hazard
5. Potential wastewater from the septic systems on the new property
6. Additional costs to the county which could be addressed by the land owner

OTHER BUSINESS:

5. Notification Area Discussion – M. Flanagan, Director, Building, Planning and Zoning.

Mitch Flanagan approached. He gave a short summary of the request to look into the Notification Area which is a quarter of a mile. Mitch explains some of the reasons for expanding the notification district: Allows more people to testify, notifies neighboring property owners of issues that may affect them, and directly informs larger number of property owners. Mitch explains the consequences on expanding the notification area: Creates under current of disapproval, Burleigh County has the reputation of the land of protest. Over 200 property owners would be notified. Burleigh County would have the highest notification district in the state if one (1) mile notification is approved, and increasing the notification area would require an increase in the budget to cover the additional cost.

Mitch reviewed 29 counties with the largest populations. He explained their notification areas and how some do not have a notification district. Chairman Effertz verified that the notifications are on the website. Mitch stated it is published twice in 10 days, it’s on the website also.

Mitch stated one (1) mile would be sufficient for him, but different applications could be given and different notification area. Chairman Effertz expressed concerns that if the notifications are extended, a person over a mile away could tell property owners they can’t do what they want on their property.
Commissioner Patrick says you can put it in the paper, but people still have trouble finding it. Commissioner Agnew asked about the posting in the paper, and on the website. He doesn’t feel a mile is too far. Commissioner Bakken stated, the notification area should be on what is being presented and how it could affect people. Commissioner Patrick expressed concerns if we increase the distance we could run into a developments and have over 300 people to notify. Chairman Woodcox stated we have been getting more, and more people who want to be able to enjoy their property rights, but do not want anyone else to enjoy theirs. The protests are getting larger and some of the people protesting these new developments don’t even live close to them. He feels for residential areas it is hard for him to go further than a quarter mile on residential developments. Notification on an asphalt plant he could see over a quarter mile. He feels Burleigh County is getting the reputation of not wanting development.

Commissioner Streifel stated she did not see Ward County on the list, so she checked on their notification district. She said they are happy with their notification district and go one to two miles for their notifications. Commissioner Streifel stated we might not to go that far. She stated Morton and Grand Forks County is a half mile, so she feels we should go to a half mile.

Commissioner Agnew suggested a distance and then, a limit on how many are notified. He feels notification should increase since people are going to protest who live in the area.

Commissioner Bitner does not feel it would make any difference with increasing the area. We need to look at the description we put on the public notification since we are not required to do other than the newspaper. He feels neighbors will notify neighbor if they get a letter. Chairman Effertz stated we should put the street address in the notification. Commissioner Bakken suggested a map be on the website. Commissioner Bitner agreed and reminded the budget will not be increase for next year and the year after.

Commissioner Woodcox stated this needs to be discussed at the Board of Burleigh County Commissioners. Commissioner Bakken made a motion to send a report to the County Commission regarding our discussion tonight. Commissioner Bitner seconded the motion. Chairman Effertz called for an aye vote on the motion to give a report to the Board of Burleigh County Commissioners regarding the discussion on the notification area district. Motion carried unanimously.

MOTION: Staff is to send a report to the Board of County Commissioners regarding the discussion held at the Planning and Zoning meeting over the notification area district. Motion passed unanimously.

Hearing no other items for the Planning and Zoning Commission, Chairman Effertz closed the meeting.
Respectfully Submitted,

Vice Chairman Dennis Agnew

Mara McMonagle - Staff