

Burleigh County Planning and Zoning Meeting Minutes

December 11, 2024

PRESENT: Chairman Dennis Agnew, Commissioners Mike Connelly, Alvie Jarrett, Dale Patrick, John Risch, Bea Streifel and Brian Zuroff. Commissioner Brian Bitner attended on-line. Commissioner Munson was absent.

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

Chairman Agnew opened the meeting:

AGENDA ITEM	ACTION	
Approval of November 13, 2024	Approve the November 13, 2024 Minutes 1 st Commissioner Patrick 2 nd Commissioner Zuroff	Approved 8- 0
CONSENT AGENDA		
3-1 RRH Subdivision Zoning Change	A zoning change from A – Agricultural to C - Commercial	
Marla McMonagle Associate Planner	Gave a summary of the history of the proposed subdivision and the zoning change. The property is in Sterling Township and they requested Burleigh County to handle the zoning change from A-Agricultural to C-Commercial.	
Comm. Zuroff	Stated he approves of the zoning change and it was what the Commission asked for. He made a motion to approve the zoning change for a public hearing.	
MOTION:	RESPONSIBLE PARTY	RESULTS
A motion to approve the zoning change for the proposed RRH Subdivision. Call for a public hearing. Subdivision for a Public Hearing.	1 st - Commissioner Zuroff 2 nd Commissioner Risch	Approved 8– 0

PUBLIC HEARING		
4-1 Rath Subdivision	A four (4) lot subdivision containing 153 acres described as: part of the NW 1/4 Section 4, Township 138N, Range 76W, Burleigh County ND	
Chairman Agnew opened the public hearing. No comments were made		
Comm. Risch	Made a motion to approve the final plat and give a "Do Pass Recommendation	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the final plat of Rath Subdivision and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners	1 st Commissioner Risch 2 nd Commissioner Zuroff	Motion Approved 8- 0
OTHER BUSINESS		
There was no other business		

Chairman Agnew asked for a motion to close the meeting.

The meeting was closed at 5:30 pm



Dennis Agnew, Chairperson



Marla McMonagle, Staff

Burleigh County Planning and Zoning Meeting Minutes

November 13, 2024

- PRESENT:** Chairman Dennis Agnew, Commissioners Mike Connelly, Alvie Jarrett, Wayne Munson, Dale Patrick, John Risch, Bea Streifel and Brian Zuroff. Commissioner Brian Bitner attended on-line.
- OTHER:** Marcus Hall, County Engineering, Brian Reinke, Rural Fire Department, Mitch Flanagan and Marla McMonagle - County Planning, and Members of the Public (see Sign in Sheet)

Chairman Agnew opened the meeting:

AGENDA ITEM	ACTION	
Approval of October 9, 2024 minutes	Approve the October 9, 2024 Minutes 1 st Commissioner Munson 2 nd Commissioner Risch	Approved 9 - 0
CONSENT AGENDA		
3-1 Rath Subdivision	A four (4) lot subdivision containing 153 acres more or less described as: Part of the NW ¼, Section 4, Township 138N Range 76W, Burleigh County, ND	
Marla McMonagle Associate Planner	Gave a summary of the proposed subdivision and the surrounding area.	
MOTION:	RESPONSIBLE PARTY	RESULTS
A motion to approve the Rath Subdivision for a Public Hearing.	1 st - Commissioner Risch 2 nd Commissioner Munson	Approved 9 - 0
3-2 RRH Subdivision	A one (1) lot subdivision containing 19 acres more or less described as: Part of the Southwest ¼ of Section 21, Township 139 North, Range 76 West, Burleigh County, ND	

Assoc. Planner McMonagle	Gave a summary of the request for a public hearing. She explained the zoning is A-Agricultural. She also stated Sterling Township has decided a zoning change will be required for the property.	
Chairman Agnew	Asked whether the zoning change will affect the actions of the Planning and Zoning Commission.	
Assoc. Planner McMonagle	Stated staff will request the zoning be changed before the plat is approved by the Burleigh County Commission.	
Commissioner Zuroff	Stated isn't the zoning changed before the plat a requirement? Who has responsibility to change the zoning.	
Assoc. Planner McMonagle	Explained the zoning change is not in the County's jurisdiction. Sterling Township retains the zoning rights for Sterling Township. Staff has offered to assist Sterling Township in the zoning change from A-Agricultural to C-Commercial. The plat will not be submitted to the County Commission without a zoning change.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the preliminary plat for a public hearing with the condition the zoning change process is started before the public hearing.	1 st Commissioner Zuroff 2 nd Commissioner Munson	Motion Approved 9 - 0
PUBLIC HEARING		
4-1 Arrive 2050 Metropolitan Transportation Plan (MTP)	Request approval of a resolution to accept the Arrive 2050 Metropolitan Transportation Plan	
Rachael Lukaszewski Executive Director Metropolitan Planning Organization	Gave a summary of the request for a "Do Pass" recommendation to the County Commission for MTP. She introduced Jason Carbee from HDR, Inc who is joining the meeting on-line.	
Jason Carbee	Explained why the MTP is needed, how it is used, what it contains and its importance.	

MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the resolution and give a "Do Pass" Recommendation to the County Commission	1 st Commissioner Zuroff 2 nd Commissioner Patrick	Approved 9 - 0
4-2 Weise Acres Subdivision and Zoning Change	A one (1) lot Subdivision containing two (2) acres more or less described as: Part of the SE ¼, Section 34, Township 139N, Range 79 W. Zoning Change from A-Agricultural to R1-Rural Single Family Residential	
Assoc. Planner McMonagle	Gave a summary of the subdivision and why a zoning change is requested.	
Chairman Agnew	Opened the Public Hearing	
Bob Upgren	Stated he lives on the property west of the subdivision and he would like to see the lot lines to verify they are in line with his property.	
Assoc. Planner McMonagle	Showed Mr. Upgren the plat and explained the setbacks of 15' on the sides, 40' on the front and 50' in the back. The new house would be built 15' from Mr. Upgren's property.	
Seeing no one else approach with comments, Chairman Agnew closed the public hearing.		
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the final plat and zoning change, give a "Do Pass" recommendation to the County Commission.	1 st Commissioner Zuroff 2 nd Commissioner Munson	Approved 9 - 0
4-3 Amend Article 8 – Special Uses	Amend Article 8 of the Burleigh County Zoning Ordinance to include a section on Solar Farms	
Mitch Flanagan, Director Planning and Zoning	Gave a summary of the section on solar farms, what the goal of the amendment was and how the amendment was developed. He	

	stated the ordinance is for solar farms on A-Agricultural zoned and an accessory use on a R1-Rural Single-Family Residential zoning.
Comm. Munson	Asked why a solar farm is not zoned commercial because they are selling the electricity back to the company.
Dir. Flanagan	Feels changing the zoning to commercial is not cost effective and roads etc. is not a requirement.
Comm. Connelly	Stated there is not a lot of equipment used in solar farms, so it can be removed easily and turned back to ag land.
Comm. Risch	Asked about the taxes on the solar farm, does it stay Ag for taxes and not changed to commercial. What is actually taxed?
Comm. Bitner	Stated we need the tax department to weigh in on this amendment before it moves forward.
Comm. Connelly	Does not like the wording stating the 2 nd line of the amendment states "Burleigh County supports ..." Could that be changed to allows or something else for the wording. Maybe "will consider to support" Commissioner Streifel agrees with Commissioner Connelly.
Dir. Flanagan	Stated he has received no comments on the statement and the P & Z Commission does not make policy decisions. Commissioner Bitner stated he would like this discussed with the County Commission. Requested the P and Z Commission approve a 2 nd public hearing. Stated the only other thing he would ask for is a permitting fee for solar farms.
Comm. Risch	Asked if there was a tax fee for wind towers. Commissioner Bitner stated "yes they are taxed and the fee will be discussed at the County Commission level if not decided by the 2 nd public hearing.
Chairman Agnew opened the public hearing. No one approached with comments, the public hearing was closed.	
Comm. Bitner	He would like to have Dir. Flanagan include the issues discussed into the amendment. Discussion with the Tax Department on the taxing of solar farms and fees.

MOTION:	RESPONSIBLE PARTY	RESULTS
<p>Approve the amendment on Article 8 – Solar farms to move to a 2nd public hearing with the changes suggested, the taxes and fees</p>	<p>1st Commissioner Risch 2nd Commissioner Bitner</p>	<p>Approved 9 - 0</p>
<p>4-4 Amend Article 8 – Special Uses</p>	<p>Amend Article 8 to include a section on Data Centers</p>	
<p>Dir. Flanagan</p>	<p>Gave a summary of the amendment. He discussed the changes he had made according to previous Planning and Zoning meeting: Changed 1-mile distances to a half a mile Increased decibel levels He discussed the size and challenges to our ordinance. He stressed this ordinance is for large data centers. It does not include residential data centers.</p>	
<p>Chairman Agnew</p>	<p>Asked what the workforce size would be for the data centers.</p>	
<p>Dir. Flanagan</p>	<p>Stated he was not sure, but the workers would be mostly maintenance personnel. Continued to explain the size and scope of these data centers. The amendment does not cover the smaller, in-home, data mining. This ordinance is for the larger centers.</p>	
<p>Chairman Agnew</p>	<p>Would these have to be zoned as I-Industrial?</p>	
<p>Dir. Flanagan</p>	<p>Yes, and that is the concern for the planning components because of the size and being situated away from development. Reviewed the different sections of the amendment and what concerns the ordinance addresses. The different requirements to obtain a special use permit for data centers.</p>	
<p>Chairman Agnew</p>	<p>Are the measurements regarding the distance from the property line or the building itself, and how is it interpreted? Section 1,</p>	

	Design Standard. Does a developer have to purchase a whole section to have a data center? He confused on the wording.
Dir. Flanagan	Stated the measurement is ½ mile from the property line.
Commissioners Bitner	Is concerned on the wording of the distance. It is confusing as it reads.
Comm. Risch	It makes sense to be a ½ mile from a school, home, church whatever, but from the property line is not attainable
Comm. Munson	Stated a it is a ½ mile from the property line because a data center could be in place and a property owner could build 15' from the property, so property line is very important.
Comm. Streifel	Asked if the 3 miles between data centers was removed from the amendment? Dir. Flanagan stated it has been removed.
Comm. Munson	The wording regarding a copy of the agreement with the electric company be submitted, but we are also asking for a purchase agreement. Isn't this the same thing?
Dir. Flanagan	Explained it regards different stages of the construction.
Comm. Munson	We are in a unique position because we have two (2) data centers in the state, one that is not costing the surrounding property owners money, while one is costing the surrounding property owners money. We need to look at both those examples.
Comm. Risch	Stated 75 decibels is a lot of noise.
Comm. Munson	75 decibels is about the sound of an older air conditioner.
Dir. Flanagan	We need to get ahold of this now, because the Williston center was promised 35-40 decibel level and is almost double that. We need to set a standard for the sound level.
Comm. Bitner	When the wind towers were coming in, he took a decibel meter and measured the decibels of various things to see the difference in sound level. He thinks something like this needs to be done here.
Comm. Connelly	When this started, he was just informed about the Williston center. We need to be aware of the concerns of the citizens, and their needs.
Comm Munson	How is an engineer going to be able to tell us this center is only going to have 75 decibels?

Dir Flanagan	Stated we will need to get an acoustical engineer to do the study. Someone to show us how to limit the decibels being produced by the center.
Comm. Patrick	He has worked with sound decibels for years and 90 decibels at a continuous sound will cause hearing damage. You cannot sleep with 75 decibels of sound. 45 decibels you can sleep. The decibel levels need to be dropped to 45.
Comm. Bitner	Agrees with Comm. Patrick 75 decibels is on the high side
Comm Connelly	If a center is not in compliance with the 75 decibels, can we fine them on a per day bases? How is this going to be enforced.
Dir Flanagan	There is not a mechanism for verifying compliance to our ordinance. The measurements would be taken ½ mile from the property line, so how will it be enforced, who will verify compliance? .
Comm. Risch	How are you going to measure this? It is from the property line or from the building?
Dir. Flanagan	Stated we can verify it at permitting, but after completion of the building. Decibel level measurements are to be maintained.
Chairman Agnew	Would like to see something that has more teeth instead of a fine which is not a lot. I would like to see closure of the facility until they come in complainace.
Comm. Zuroff	The only issue he sees with this is enforcement. Would the Department of Health enforce this? He has never heard of an acoustical engineer. We would need to get someone who is an expert in the field of acoustic. We can't base an enforcement on a \$35.00 decibel meter.
Comm. Bitner	Feels that the company is the one that needs to demonstrate they are not over the decibels if a complaint is issued.
Chairman Agnew	If a report is done, the data center should pay for it using our choice for the study.
Hearing no further discussion from the commissioners, Chairman Agnew opened the public hearing. No one approached, Chairman Agnew closed the public hearing	
Chairman Agnew	We need to add something regarding gathering data of the decibel readings, we need to verify the report from the company, maybe

	ask for an additional report. We can not just accept the data submitted by the company when it is regarding a complaint regarding the decibel level.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the 2 nd public hearing, with suggested changes and more information.	1 st Commissioner Munson 2 nd Commissioner Patrick	Approved 8 – 1 Commissioner Bitner voted against the amendment.
Comm. Bitner	To clarify he did not think the motion was very clear and the amendment does need additional work.	
Comm. Connelly	Does this have to come back to the next meeting, or can we take time to adjust the amendment.	
Chairman Agnew	No, it does not have to be on the next meeting. We can schedule it when it is ready to be heard again	
Dir. Flanagan	He would just like to get this in the book as soon as possible, but can hold it until the changes are made.	
4-5 Amend Article 8 – Special Uses	Amend Article 8 to include a section on Accessory Dwelling Units.	
Dir. Flanagan	Gave a summary of what is considered an Accessory Dwelling Unit, why an ordinance is needed and what the ordinance allows. He included an example non-conversion agreement which would be required for an accessory dwelling unit. This is the first hearing on this amendment, we are requesting a 2 nd public hearing.	
Having no additional comments from the Commission, Chairman Agnew opened the public hearing.		
No comments were made by the public, Chairman Agnew closed the public hearing.		
Comm. Munson	900 sf was listed in the amendment, but the attachment says 800 sf. Is 900 sf what you will allow? Dir. Flanagan stated 900 sf.	
Comm. Streifel	Addressed a concern regarding the 3 rd conditions and restrictions item on the non-conversion agreement: “Upon notice to the owner of the property, County staff shall be authorized to enter the	

	property for the purpose of inspecting the exterior and interior of the accessory structure to verify code compliance.”	
Dir. Flanagan	That is only if we get a complaint.	
Chairman Agnew	How are inspections handle in buildings?	
Dir. Flanagan	They are complaint based, verified complaints, we need to be allowed to inspect the home. This would allow us to do that.	
Comm. Streifel	It seems like we are breaking the 4 th amendment. I think we would need a search warrant.	
Comm. Bitner	I think this is an issue we need to take to the States Attorney for her opinion.	
Comm. Zuroff	I think we could change the wording, but I think if they refuse to let us inspect the property, then they are treated as if the complaint is valid.	
Comm. Bitner	There are things in the Century Code which allows government officials to enter a home. If a homeowner disputes the tax assessment and the tax assessor’s office is not allowed in the home, they will just use the information they have for taxation.	
Comm. Connelly	Can something be put in the amendment to have the matter brought to the County Commission?	
Dir Flanagan	We do not just send a letter that we are going to be there tomorrow. We handle the complaints delicately. We need have proof that the dwelling unit is not in compliance.	
Comm. Zuroff	We know that staff and commissioners at this time will treat this issue delicately, but what about 10 years from now? I think the wording does need to be changed.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve a 2 nd public hearing for Amendment to Article 8 regarding Accessory dwelling units.	1st. Commissioner Patrick 2nd Commissioner Zuroff	Approved 8 -0

OTHER BUSINESS

There was no other business

Chairman Agnew asked for a motion to close the meeting.

The meeting was closed at 7:15 pm



Dennis Agnew, Chairperson



Marla McMonagle, Staff

Burleigh County Planning and Zoning Meeting Minutes

October 9, 2024

PRESENT: Chairman Dennis Agnew, Commissioners Mike Connelly, Wayne Munson, John Risch, and Bea Streifel. Commissioner Brian Bitner attended on-line. Commissioners Alvie Jarrett, Dale Patrick and Brian Zuroff were not present.

OTHER: Marcus Hall, and 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 Agnew opened the meeting:

AGENDA ITEM	ACTION	
Approval of August 29 th Special Meeting and the September 11 th meeting minutes	Approve the August and September Minutes 1 st Commissioner Munson 2 nd Commissioner Streifel	Approved 6 - 0
CONSENT AGENDA		
3-1 Wiese Acres Subdivision and Zoning Change from A-Agricultural to R1-Rural Single Family Residential	A one (1) lot subdivision containing 2 acres more or less described as: Part of the SE 1/4, Section 34, Township 139N, Range 79W, Burleigh County, ND	
Marla McMonagle Associate Planner	Gave a summary of the proposed subdivision and the surrounding area. A zoning change is required because the proposed subdivision only contains 2 acres.	
MOTION:	RESPONSIBLE PARTY	RESULTS
A motion to approve the Wiese Acres Subdivision and Zoning Change for a public Hearing.	1 st - Commissioner Risch 2 nd Commissioner Connelly	Approved 6 - 0

PUBLIC HEARING	
4-1 Makedonski Subdivision	A four (4) lot subdivision containing 73 acres more or less described as: Part of the West 1/2 of the NW 1/4 of Section 9, Township 139N, Range 76W, Burleigh County ND
Assoc. McMonagle	Gave a summary of the proposed subdivision. She explained the zoning was under Sterling Townships jurisdiction. They approved the zoning "as is" and recommended approval of the subdivision.
Cindy Wilson	Asked if it was possible for this to be divided into smaller lots
Assoc. McMonagle	Explained the lots could be divided in the future, but a notification like the one you received for this subdivision.
Cindy Wilson	Is concerned because she lives in the country for a reason and they don't want a bunch of lots in the neighborhood without notification. Small less than an acre lots.
Commissioner Bitner	Explained the rules and requirements of a community septic etc. for less than an acre lots.
Commissioner Streifel	Questioned the zoning on the smaller lots in the proposed subdivision.
Assoc. McMonagle	Stated zoning is approved by Sterling Township which has retained their zoning authority. They have approved the zoning as A-Agricultural even though the lot is under ten (10) acres.
Cindy Wilson	She stated they would get a notification if the lots were divided or if a gas station they would be notified? What is the notification area?
Assoc. McMonagle	Stated they would be notified. The notification is area on this subdivision was ¼ of mile. If it was a gas station etc. the notification area would be 2 miles.
Cindy Wilson	Stated her township doesn't do much, but what if there is a lot of garbage and dogs running around who does she contact?
Chairman Agnew	The township has jurisdiction in the area.
Commissioner Streifel	Asked Cindy if she had concerns about this subdivision.

Cindy Wilson	She does not have a problem with this subdivision at all. She would like notification sooner.	
Mark Isaacs, ILS	Stated the three (3) acre lot is an existing parcel and not in the subdivision. Cindy approached, Mark explained the plat to her and the access to the lots.	
Chairman Agnew	Closed the public hearing after no one else approached.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve Makedonski Subdivision with a "Do Pass" recommendation to the County Commission.	1st. Commissioner Munson 2nd Commissioner Risch	Approved 6 -0
4-2 Cherney Morrissette Subdivision	A two (2) lot subdivision containing 6 acres more or less described as: <i>Part of Northeast Quarter – Section 5, Township 140N, Range 81W</i>	
Assoc. McMonagle	Provided a summary of the two (2) lot subdivision and the surrounding area. The parent lot was zoned R1-Rural Single Family Residential and the new subdivision will retain the R1 zoning.	
Chairman Agnew	Opened the public hearing	
Chairman Agnew	Closed the public hearing after no one approached.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Cherney Morrissette Subdivision with a "Do Pass" recommendation to the Burleigh County Commission.	1 st Commissioner Risch 2 nd Commissioner Munson	Approved 6-0
OTHER BUSINESS		
Chairman Agnew	Presented the 2025 calendar for approval.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the 2025 calendar	1 st Commissioner Bitner 2 nd Commissioner Munson	Approved 6-0

Chairman Agnew asked for a motion to close the meeting.

The meeting was closed at 6:00 pm



Dennis Agnew, Chairperson



Marla McMonagle, Staff

Burleigh County Planning and Zoning Meeting Minutes

September 11, 2024

PRESENT: Vice Chairman Dale Patrick, Commissioners Brian Bitner, Alvie Jarratt, Mike Connelly, John Risch, and Bea Streifel. Chairman Dennis Agnew and Commissioners Wayne Munson and Brian Zuroff were not present.

OTHER: Marcus Hall, and 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)

Vice Chairman Dale Patrick opened the meeting:

A moment of silence was held for those who lost their lives and those who continue losing their lives because of the September 11, 2001 terrorist attack on the United States.

AGENDA ITEM	ACTION	
Approval of July 10 minutes	Approve the July Minutes 1 st Commissioner Bitner 2 nd Commissioner Streifel	Approved 6 - 0
CONSENT AGENDA		
3-1 Makedonski Subdivision	A four (4) Lot Subdivision described as <i>Part of the West Half of the Northwest Quarter, Section 9, Township 139N, Range 7W</i>	
Marla McMonagle Associate Planner	Gave a summary of the proposed subdivision and the surrounding area. Zoning is under the Sterling Township's jurisdiction. They have no comments or issues regarding this subdivision.	
Comm. Connelly	Asked about the SWMP not being met.	
Assoc. McMonagle	Stated the SWMP or waiver must be submitted during the final plat stage. It is not necessarily submitted at the preliminary plat stage.	
Comm. Risch	Asked is the intent for 1 or 2 homes for the lots	
Assoc. McMonagle	It is a large family lot, so they are dividing the main lot into smaller lots for family members.	
Comm. Streifel	Asked about numbers that are listed on the drawing	

Assoc. McMonagle	Stated she retrieves the addresses from GIS and sometimes will not always include the surrounding properties.	
Comm. Jarrett	Asked about the zoning change not being requested because of the lot size.	
Assoc. McMonagle	Zoning is under the jurisdiction of Sterling Township and Burleigh County only has platting jurisdiction. The zoning has been approved by Sterling Township.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve Makedonski Subdivision for a public hearing	1st. Commissioner Bitner 2nd Commissioner Jarrett	Approved 6 -0
3-2 Cherney Morrissette Subdivision	A two (2) lot subdivision described as: <i>Part of Northeast Quarter – Section 5, Township 140N, Range 81W</i>	
Assoc. McMonagle	Provided a summary of the two (2) lot subdivision and the surrounding area. The parent lot was zoned R1-Rural Single Family Residential and the new subdivision will retain the R1 zoning.	
Comm Risch	Asked what they wanted since the property is already zoned R1	
Assoc. McMonagle	Stated they are dividing a single lot into two (2) lots.	
Vice Chairman Patrick	Are they submitting a SWMP or a waiver?	
Assoc. McMonagle	Stated they will apply for a waiver and if not granted will submit a plan.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Cherney Morrissette Subdivision for a public hearing.	1 st Commissioner Streifel 2 nd Commissioner Jarrett	Approved 6-0
3-3 Amendment to Zoning Ordinance	Amend Article 8 – Special Uses to include Section 30 – Data Centers	
Dir. Flanagan	Outline the ordinance to amend Article 8 Special Uses to include Data Centers. He explained the reason for the ordinance amendment. He reviewed the changes made since the amendment was presented to the Planning and Zoning	

	Commission in July. He discussed the possible conversion of the Data Center into an AI Conversion Facility and the requirement for any AI Conversion Facility to apply for a special use permit. Stated the changes to the definition section. He discussed the possibility of the State PSC Commission regulating Data Centers because of the impact to the electrical infrastructure.
Comm. Connelly	The Williston site increased the statewide electrical uses and raised the citizens of ND electrical bill by \$13.00.
Dir. Flanagan	Explained what happened to the Williston area data center
Comm. Risch	Stated these data centers should be placed to any coal fire power plants because of their energy use.
Vice Chairman Patrick	Would like the application requirement to be reviewed. He also questioned the decibel level and whether Data Centers should not be placed near residential homes. He also has questions about the financial security of 125% today might be sufficient, but what about in the future.
Dir. Flanagan	Said he would investigate the concerns Vice Chairman expressed.
Comm. Risch made a motion approve the amendment with corrections. 2 nd by Comm. Bitner.	
Comm. Streifel	The stakeholders meeting suggested the data centers be placed closer to other Data Centers, but the amendment states 3 miles. She would like to see them confined to one area
Dir. Flanagan	Should be located in an Industrial area as the intent them from clustering together and to limit the noise to that area. and did not see a problem placing near each other
Vice Chairman	Clarified his statement on the 125% financial security. He is concerned that was not enough in the future to clean up a site.
Comm. Streifle.	Stated it was a concern at the stakeholder's meeting
Dir. Flanagan	Does not see this as a concern.
Comm. Risch	Stated it may be a much of a concern if they were together rather than separated

MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the amendment to Article 8 Special Uses for a public hearing after all concerns are addressed and corrections made	1 st Commissioner Risch 2 nd Commissioner Bitner	Approved 6-0
3-3 Amendment to Zoning Ordinance	Amend Article 8 – Special Uses to include Section 31 – Accessory Dwelling Units	
Director Flanagan	Explained the proposed ordinance amendment to allow separate living spaces on the same property. There are 2 parts to the ordinance: 1. Is part the main house/ the main property. 2. Is a detached accessory dwelling. He stated the size of the building are small. If it is within the main house it is allowed up to 800 sf and on accessory building 1,200 sf of living space. It would be reviewed for septic systems, setbacks, etc. Some lots are 5-10 acres and would like the sq./ft. to be on a case by case basis instead of limiting it to 1200 sf. It should not be allowed to be larger than the primary structure	
Comm. Bitner	Would these be a special use permit? Could they be reviewed on a case by case basis?	
Dir. Flanagan	The size of the building could be contingent on the lot size and can be changed for variability	
Comm. Jarrett	Wanted clarification on if this is a special use permit allowing some leeway, each permit would be reviewed as a special use.	
Dir. Flanagan	They require a special use permit. Before it is presented to the commission, staff will review the application to verify whether it will fit on the lot, lot is large enough for an additional septic, etc., it would have to fit a review to be able to be presented to the board.	
Vice Chair Patrick	Why is this needed? Is this for shop homes?	
Dir. Flanagan	Shop homes are different. This amendment was developed because of a complaint we receive where a property owner built living quarters in his accessory building for his elderly	

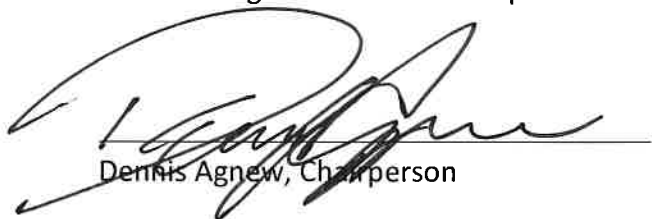
	father. A neighbor complained about the additional residence on a property. This is also not addressed in the ordinance.	
Comm. Bitner	Many people want this and is becoming more acceptable	
Comm. Patrick	How do you stop it from becoming a BB or a rental?	
Dir. Flanagan	We could include a non-conversion agreement as a part of the special use.	
The Commissioners shared their concerns regarding regulating these structures so they are not turned into Airbnb's or rental property. A suggestion to have the owners sign a non-conversion agreement, but the concern remained on how this would be regulated.		
Comm. Bitner made a motion to approve the Amendment as written for a public hearing Comm. Connelly seconded the motion		
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Amendment to Article 8, Section 31 for a public hearing as written	1 st Commissioner Bitner 2 nd Commissioner Connelly	Approved 6 - 0
PUBLIC HEARING AGENDA		
4-1 Aberle 2nd Subdivision and Zoning Change	A one (1) lot subdivision described as: <i>Part of the NW 1/4 of Section 29, Township 139 N, Range 78 W.</i> A zoning change from A-Agricultural to R1-Rural Single Family Residential	
Assoc. McMonagle	Provided a summary of the request for the subdivision and zoning change. The SWMP Waiver and Paving Waiver were granted.	
There were no questions for staff. Vice Chair Patrick opened the public hearing.		
Landon Niemiller, Swenson, Hagen & Co	Had nothing to add to staff's report was there to answer any additional questions they might have. There were no questions by the commission.	
Vice Chair Patrick closed the public hearing after no one else approached.		
Comm Bitner made a motion to approve Aberle 2 nd Subdivision and zoning change Comm. Connelly seconded the motion.		

MOTION:	RESPONSIBLE PARTY	RESULTS
Approve Aberle 2 nd Subdivision and Zoning Change from A-Agricultural to R1- Rural Single Family Residential	1 st Commissioner Bitner 2 nd Commissioner Connelly	Approved 6 - 0
4-2 Amendment to the zoning ordinances.	Amend Article 8 – Special Uses to include Section 29 Solar Farms.	
Dir. Flanagan	Provided a summary of the amendment and the reasons for it. He explained that he added new definitions to Section 29. One part of section 29 is for an accessory solar building. The second part is for solar farms. Large scale projects.	
Comm. Risch	Asked about the 50 mg watts if it was a state standard. It is.	
Vice Chairman Patrick opened the public hearing		
Greg Owen - Capital Electric Coop Engineer	He had several items that needed clarification, consistency and wording. He explained the solar process and the differences between the utility's connections. The separation between the developer, and the consumers, and public utilities	
Commissioner Bitner	Asked how sections can be worded when it concerns public utilities.	
Greg Owen	Explained the wording needs to be change to reflect what is in the ND Century Code.	
Dir. Flanagan	Pointed out that the amendment is for single family solar or solar farms. It is not for the wholesale of power.	
Comm. Bitner	Questioned the wording because it will be a public utility.	
Greg Owens	Stated there are micro-utilities which for example is a college having a meter, but then all the infrastructure is owned by the college. He is concerned this will happen in subdivisions with the wording of the amendment. He also expressed concern regarding the decommission plans, if there were financial stipulations, if the intention of the amendment requires the buried lines must be removed or allowed to be abandoned on site.	

Dir. Flanagan	The intent was for structures above the ground.	
Comm. Risch	Suggests clarification on the decommissioning plan	
Comm. Patrick	Asked if he has a solar connector on his house, can he still sell power back to the electric company.	
Comm. Connelly	Would like to see more clarification on the decommissioning plan.	
Greg Olson	If the decommissioning plan includes buried items be removed. Capital Electric would be ok with that provision, but would need clarification so they can plan for it in their process.	
Comm. Bitner	Asked if Greg Owens would be willing to work with staff to adjust the ordinance before it gets to the county commission.	
Vice Chairman Patrick hearing no other comments closed the public hearing.		
Commissioner Bitner made a motion to approve the amendment subject to changes Commissioner Jarrett seconded the motion.		
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve Article 8 Special Uses, Section 29 with the corrections suggested and move it to the County Commission.	1 st Commissioner Bitner 2 nd Commissioner Jarrett	Approved 6-0

Chairman Agnew asked for a motion to close the meeting.

The meeting was closed at 6:45pm



Dennis Agnew, Chairperson



Marla McMonagle, Staff

Burleigh County Planning and Zoning Minutes

Special Meeting – August 29, 2024

PRESENT: Chairman Dennis Agnew, Commissioners Mike Connelly, Alvie Jarratt, Wayne Munson, Dale Patrick, John Risch, and Bea Streifel. Commissioner Brian Bitner attended remotely. Commissioner Brian Zuroff was not present.

OTHER: Marcus Hall, Casey Einrem-County Engineering, Mitch Flanagan, Marla McMonagle-County Planning, and Members of the Public (see Sign in Sheet)

Chairman Dennis Agnew opened the meeting:

PUBLIC HEARING	
Article 8 – Special Uses, Section 28 – Agricultural Recreation	Amend the Burleigh County Zoning Ordinances to include Section 28 Agricultural Recreation in Article 8 – Special Uses
Chairman Agnew	Stated we have three (3) drafts of the ordinances. We will focus on the language of the ordinance. Staff has held three (3) stakeholders meetings.
Mitch Flanagan, Director Building, Planning, Zoning	Gave a summary of the three (3) different ordinances and what makes them different. Tier 1 is education, 50 people, one day events Tier 2 is combined production and education with uses which are auxiliary to the main uses. Attendance is limited to 75 or 100 people and 30 or 35 days. A special use permit is required Tier 3 is same as Tier 2, but is over 75/100 people unlimited days. The Planning and Zoning Commission and the neighbors will set the number of people and days. Special conditions can be set by the Planning and Zoning Commissions discretion.

Comm. Risch	Asked about whether the ordinance would allow the corn maze which is already built. Is there anyway this could allow the corn maze this year.
Dir. Flanagan	Stated the time line between meetings, and posting requirements, maybe this could be completed by October. Because of legal requirements we are in a time constraint.
Comm. Munson	Asked why the property must have a single-family dwelling.
Dir. Flanagan	To tie the property to agricultural use and eliminate the corporate farms from taking over this type of operation for increased commercial use and to allow a property owner to run any of the activities.
Comm. Munson	Asked if he purchase land and decided to hold educational events, why does he have to live on the property?
Dir. Flanagan	It is basically to protect the neighbors and the land from a corporate farm for example putting on a corn maze, then hiring someone else to run it, and/or increasing its commercial use.
Comm. Munson	Agri Recreation Tier 2 requires 40 acres does Tier 1 require 40 acres.
Dir. Flanagan	Not necessarily, if they have 10 acres or more, they can up to 35 days. There is flexibility in the Special Use Ordinances.
Comm. Munson	USDA defines farm as something that produces over \$1,000 per year, does our ordinance define that or should it
Dir. Flanagan	Our ordinances describe a farm as income from farming is 51% or more of income.
Comm. Streifel	If there are violations, who answers to that, the operator, land owner
Dir. Flanagan	The owner of the property would be responsible.
Comm. Risch	What happens if they own several quarters which are not continuous – they live on one quarter, but want to hold events on another quarter.

Dir. Flanagan	If they are continuous, yes, if they are in another township, that would have to be looked at. The land owners want to make money on their operation. If they make a lot of money it could become commercial. Ownership could be out of state. Homeownership locks the use into an agricultural purpose.
Comm. Risch	If this passes, would something like Papa's Pumpkin patch be allowed under Tier 3?
Dir. Flanagan	No, they would need to rezone the property to a PUD. PUD's are for multiple zoning and uses. It is more difficult to rezone to a PUD than a special use because it cannot be revoked as a special use permit can.
Comm. Connelly	If nothing was changed would the special use permit and PUD apply today?
Dir. Flanagan	No, it would not. They are separate things. The landfill for example is a special use activity
Comm Streifel	There is concern about this ordinance affecting other special use permits which are in affect now, would this affect the ones in place now?
Dir. Flanagan	No, it would not. There are a lot of different types of Special Use Permits.
Chairman Agnew opened the public hearing	
Steve Krentz	Opposes the ordinance. It is confusing, trapdoors, has a lot of catch alls. It is unnecessary the County Commission already has a process for handling things such as this which works. It puts too many regulations. If I want to have a trail ride I would need a permit. It is too restrictive, it limits what landowners can do on their land. It is too much oversight.
Mary Podoll	She is the owner of the corn maze and you pick Christmas tree person. She believes in agricultural education. She believes some of the language conflict with other areas of the zoning ordinance. It is costly and time consuming. The cost prohibits some activities, which affects young farms. Reduces the agricultural education and limits education to

	<p>one day. It does not take in consideration the difference type of agriculture. It is confusing. She suggests a better definition for agricultural education. Conflicting sections in Article 7 and Article 8 because it does not protect against out of state commercial farming and those activities don't need permits and fees. The single-family house requirement is confusing and conflicting. The fees are not listed. Are those permanent fees or annual fees? Farming crops are rotated. Summary of her steps:</p> <ol style="list-style-type: none"> 1. A better definition of agricultural recreation and education 2. Fees should be listed 3. Numbers need to be consistent 4. Language could be more pro agriculture. Agriculture should need permits. Agriculture should be a positive and the ordinances should promote health and safety. She is against the ordinance.
Comm. Risch	Asked where Mary was from. She is from Baldwin, but lives in the country.
Clark Coleman	Is opposed to the ordinance. He planted the corn maze. The crop rotation is important. The numbers of people allowed per day is limiting, especially with the North Dakota weather. Some day you might have 250 people, the next only 11.
Comm. Munson	What is the average attendance per car?
Clark Coleman	What is the average size family? We also have people attend when on date night, so it is not limited to just families. We don't make a ton of money on this. It is another option for citizens.
Comm. Risch	Did you need to apply for permits etc. for your other corn mazes?
Clark Coleman	No, I just asked Commissioner Jones and she said it was ok. I just learned the old corn maze was in the City of Bismarck's ETA.
Comm. Streifel	Is there a reason why it is not on your land?

Clark Coleman	It is a good location for the corn maze with better parking and non-gravel road.
Sara Otte Coleman	Stated- I'm the Director of Tourism and Marketing for ND. The numbers are too low to make the ordinance viable. The interest for farm related activities is on the rise. She is opposed to the ordinance. The numbers and special use allowance of 75 people would force the Commission in the position to mitigate neighbor issues, which Burleigh County seems to have a lot and I'm sure its not what you want to be doing instead of creating forward looking policies of quality of life and economic viability.
Sheila Zacher	This ordinance is just a continuation of a previous special use permit application that she was against. She is concerned about neighbors in close proximity of the use, dust, she is not against them trying to do things but considers this as commercializing agricultural property, having events everyday or every other day, every weekend at what point does that become commercialization of their property, they should rezone. She is against the ordinance as opening the door to commercial opportunities.
Commissioner Jarratt,	Are you against the ordinance
Sheila Zacher	Against Tier 3 over 75 people. It becomes subjective- who will review the permit, who will permit them, was more comfortable with Version I
Deann Zaun	Questioned what she can do with her property? Commissioner Munson stated on the news about an apple orchard being you pick would be against the ordinance.
Comm. Munson	He did say it was not allowed because there was not an ordinance in place to allow you pick orchards. We want an ordinance in place so people can do that.
Deann Zaun	Asked if the ordinance is new? Is it an amendment to the whole zoning ordinance?
Chairman Agnew	Stated if there is business transaction involved that is why it is in the ordinance.

Dir. Flanagan	Verified that if money was involved and the number of people is over 75 it needs a special use ordinance. If it is on a regular basis, a special use permit may be needed.
Comm. Risch	Would they need a permit to allow hunting on his land
Dir. Flanagan	If there is an activity on a regular basis of more than 15 times to allow people on your property making a business by charging a fee transaction, that may be considered commercializing ag. property.
Deann Zaun	If you have a threshing show, this ordinance does not work for this. She needs more clarification. The original corn maze was denied. Is against the ordinance as written but understands the neighbor complaints and should have an ordinance by law as a case by case basis.
Comm. Munson	It was denied because there is no ordinances for that. If there are over 75 people then a special use is required and everyone gets a chance to look at. The State Attorney stated we can neither approve or deny the special use because it is not in the ordinance. She understands the concerns, but sometime you have to weight the pro and cons on which is important. This ordinance does not fit. She is against the ordinance the way it is written and if the ordinance is needed, we could do better.
Marie Horning	Does not like the process used to make this ordinance. She never saw it posted, who attended the meeting, or minutes for any of the stakeholders meeting. Were the township supervisors where not asked to be in the stakeholders' groups? Why were they not included? Why is the single-family dwelling in the ordinances? It should be removed. Why is the number of people in Tier 2 only 25 people more than Tier 1? She was not aware of the 3 rd version. She also has concerns about the usage of words does not match. She questions the definition of event. She is very concerned and against this ordinance as written. She feels it is poorly written. Is this only going to apply if there is a charge?

Dir Flanagan	If you are educating school children at no charge it would not apply, and fall into Tier I
Marie Horning	Would like to see this rewritten. It is poorly written, confusing and conflicts with other articles in the zoning ordinances.
Heather Lang	Represents Burleigh County Farm Bureau. There is a lot of clarification needed in this ordinance. The definition of event needs work. If I don't charge I don't have issues, but if I do charge I will have issues, but the ordinance does not state that. If I apply for a permit, but how do I know how many events I will have. What does "regular basis" means?
Dir Flanagan	If you are having a one-day event, that is ok. If you are allowing a continuance of events, then you need a permit.
Heather Lang	This does not explain what a "regular basis" is. She has events all the time for advocating agriculture and does not charge people.
Dir. Flanagan	That would fall under Tier I as an allowed use.
Heather Lang	The Burleigh County Farm Bureau is very opposed to this ordinance. This ordinance completely restricts agritourism. Agriculture runs our State.
Jamie Feist	I am the neighbor to a Special Use application. Article 11 describes the principal use of the land is agricultural and to prohibit the use of the land for commercial or industrial uses. Most of the events listed in the ordinance would fall under Article 7, Section 7 as a commercial recreational group. Commercial Recreation is defined as furnishing recreation for a profit. Asked why the corn maze was not put on Coleman land a mile & half down the road. Stated that Sara Otte Coleman is speaking as the director of ND Dept. of Tourism which represents a conflict of interest.
Comm. Munson	Asked to keep comments for creating an ordinance
Jamie Feist	Said wanted to respond to statements that were made about specific ordinance language, to not restrict the public to 75 people per day or to have any restrictions on any amount of

	people per day. He explained how much money a farm can make by running a commercial activity such as a corn maze on ag. land versus agricultural uses. Stated it is the commission's duty to prohibit the commercial use of ag. Lands.
Comm. Connelly	Asked if Baldwin Farms can still file for a special use permit
Dir. Flanagan	The County Commission denied the permit because it is not in our ordinances
Comm. Munson	The State's Attorney stated cannot rule on the special permit.
Tom Dutton	He is on the Boyd Township Board, Burleigh County Township Association, and on the three townships zoning board. He stated the ordinance is over restricting. This ordinance needs to be cleaned up. He feels it was written in a rush and it shows in the way it is written. There are too many things in it that need to be clarified and changed.
Heidi Griess	She feels it was rushed, restrictive and confusing. The stakeholder's meetings didn't seem productive, because personal opinions were involved. Article 11 lists under Section 3 items that are allowed by right, but some of the items are not very agricultural items. Section 4 lists Special Uses, but the new ordinance conflicts with these items. She asked who makes the decision to present a Special Use permit to the commission.
Comm. Bitner	Clarified that staff does not have authority to decide whether an item goes to the commission.
Heidi Griess	She is for protecting neighbors and does not want to commercialize ag land, but this ordinance because it has been rushed through and it affects too many people.
Cary Diechert	She will be holding events through the Stockman's Association and Soil Conservation. Would pasture tours not be allowed because they are not listed. Questions Tier 1 what does etc. means. Questions how the 100' set back would apply to a pasture tour or garden tour. Questions the parking requirement for onetime events.

Comm. Bitner	Stated her property is in the ETA so these ordinances don't affect her property. Farm/Pasture tours are not a commercial event, those that attend are not charged.
Cary Diechert	Is concerned about the 100' setback for pasture tours.
Comm. Bitner	He is not satisfied with the 100' setback either, but was possibly included because of the corn maze
Comm. Munson	Stated pasture tours are educational and would be Tier 1
Cary Diechert	She is against the ordinance because of the way it is written.
Jamie Schonert	Is against the ordinance because of the way it is written. It is too restrictive and confusing. Were all the stipulations like the 100' setback because of the corn maze?
Dave Lehman	He is opposed to the ordinance. He feels it was written to hastily. The way it is written requires Tier 1 to also get a special use. The ordinance states it must be an ancillary use to ag. use. Can the county limit sale of commodities? Are hay bales different than apples. NDCC does not allow the County Commission to restrict the sale and production of agricultural uses. By stated the properties must be 40 acres, but Article 11 states 10 acres. Why is the county being more restrictive than the City of Bismarck? Why was Burnt Creek Farms required to go through the special use process and be denied, same for the corn maze.
Kurt Fleck	This started 15 months ago because of Burnt Creek Farms and the creation of a stakeholder's group which started this process was to find a solution for both sides. 2 ordinances were created with a 3 rd added this week. Nobody here is opposed to Ag-recreation or Agriculture, He lives near Burnt Creek Farms they wanted to put a wedding venue. Many misstatements and misinformation have been made. The ordinance does need clarification.
Marie Horning	She didn't know they were having a stakeholders meetings. Is there somewhere is the ordinance were commercial recreation is defined? Dir. Flanagan read the definition of commercial recreation groups. She suggested to define commercial recreation groups.

Comm. Connelly	Just to clarify that having a 2 nd chance to speak is only allowed by the chairman of the meeting.
Deann Zaun	The ordinance does not say “for profit” anywhere.
Dir. Flanagan	Stated it is in the commercial recreation group.
Deann Zaun	Stated the ordinance read that a special use permit is required even in Tier 1.
Heather Lang	If Tier 1 activity are educational, why is there a restriction to 50 people a day?
Dir. Flanagan	Explained that there are 2 sections to Tier 1. You do not need a permit for that. If you are doing activities every day events that are affecting the neighbors and the roads, you will need a special use permit. The ordinance is intended to protect agricultural land and neighbors.
Heather Lang	Stated the wording of the ordinance is very confusing and eliminating. Has concerns about it is only for the neighbors. People from both sides of the issue should be invited.
Dir. Flanagan	Stated the county does not want to be involved in neighborhood disputes so that is why we are working on an ordinance.
Justin Diechert	Feels a lot of the uses fall under restricting property rights. There is dust in the country. There are a lot of things that are just a part of living in the country. This ordinance is affecting property rights. I hear my neighbors’ dogs, I don’t complain. If you are having an event, you do the best you can to control things. You don’t ever know how many people who show up, you can’t limit the amount of people.
Chairman Agnew closed the public hearing	
Comm. Connelly	The term commercial come up a lot. It is a state issue. The consensus is they don’t want a commercial farm or what happened in Grand Forks to happen. He suggested that if a company like Amazon wants to come in and have a corn maze for example, they can only do that every other year. This would eliminate the concerns of a commercial

	organization taking over agricultural recreation and making it a commercial recreation.
Comm. Bitner	We directed staff to have stakeholders meetings, no one was directed to be eliminated from the group. We need to change the name to a focus group. They are 2 sides, it seems if you didn't get your way, you are against the ordinance. He doesn't feel this ordinance is ready for approval.
Comm. Risch	Made a motion to table the amendment.
The motion died due to a lack of a second.	
Comm. Jarrett Comm. Patrick	Made a motion to deny the ordinance to amend the Article 8 Seconded the motion.
Discussion of the motion	
Comm. Bitner	Supports the motion, but recommended caution. The States Attorney comments eliminates thing like the corn maze and Burnt Creek Farms Special Use Permits because those activities are not in the ordinance. We do not have a way to allow that with denying this ordinance.
Comm Streifel	Supports the motion and agrees with Comm. Bitner. She wondering if we couldn't add ag tourism or ag recreation under Article 11, so they can have a special use hearing. Each could be viewed separately, instead of including it in Article 8? Then treating them on a case by case basis. We could review each one under ag tourism
Comm. Bitner	Feels Comm. Streifel suggestion was a valid idea and something to be investigated instead of changing Article 8.
Comm. Connelly	Clarified that for the stakeholders meeting those meetings are for discussion
Comm. Munson	He attended the stakeholders meetings and they were to move the ordinance and get something completed.
Comm. Risch	Stated if we don't have an ordinance stating what is allowed, then we can't do it. He doesn't feel that is right, because we all do things that could be considered breaking law because it was not in an ordinance to allow it.

Comm. Bitner	As commissioners we are obligated to follow the State Attorneys advise.	
Comm. Connelly	If there is a quorum, there are a certain set of rules which apply	
Comm. Bitner	There are different rules for meetings and meetings in which a person is appointed to represent the commission or if a quorum is present. Staff needs to be notified if you are planning to attend a meeting in which a quorum could be present. Staff can then take the appropriate action.	
Chairman Agnew	We are working on this because we are working to address the commercial and agriculture concerns. He does not want to see this ordinance thrown out. It is something that is needed, but we need to take our time in drafting this. I would like staff into looking how a special use can be handled.	
Dir. Flanagan	Would like the help of the States Attorney on some of these items.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Deny the ordinance which amends Article 8 – Special Uses, Section 28.	1 st Commissioner Jarrett 2 nd Commissioner Patrick	Approved 7 – 1 Commissioner Munson opposed the motion.
Comm. Streifel	Reminded the audience and commission, that the denial will be presented to the County Commission. They can investigate if they feel fit. This is just a recommendation.	

Chairman Agnew asked for a motion to close the meeting.

The meeting was closed at 7:45pm



Dennis Agnew, Chairperson



Marla McMonagle, Staff

Burleigh County Planning and Zoning Meeting Minutes

July 10, 2024

PRESENT: Chairman Dennis Agnew, Commissioners Alvie Jarratt, Mike McConnelly, John Risch, Bea Streifel, Brian Zuroff, Commissioner Brian Bitner attended remotely, Commissioner Wayne Munson was not present.

OTHER: Marcus Hall, & 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:

Commissioners Mike McConnelly and John Risch, Bismarck City Commissioners, were introduced to the Commission. They were appointed by the City of Bismarck to replace Commissioner Steve Marquardt, and Mayor Mike Schmitz as city representatives.

AGENDA ITEM	ACTION	
Approval of June 12, 2024	Approve the May Minutes 1 st Commissioner Zuroff 2 nd Commissioner Jarret	Approved 8 - 0
CONSENT AGENDA		
3-1 Aberle 2nd Subdivision and Zoning Change	A One Lot Subdivision with Zoning Change From A-Agricultural to R1-Rural Single Family Residential	
Mitch Flanagan, Planning Director	Gave a summary of the proposed one lot subdivision and the surrounding area.	
Marla McMonagle	Reminded the Commission the applicant was also requesting a zoning change from A-Agricultural to R1-Rural Single Family Residential	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve Aberle 2 nd Subdivision and the zoning change from A-Agricultural to R1-Rural Residential for a public hearing	1st. Commissioner Bitner 2nd Commissioner Zuroff	Approved 8 - 0

3-2 Amendment Article 8 – Special Use, Section 28 Agri-Recreation	Amending the Burleigh County Zoning Ordinance to include Section 28 in Article 8 and include Agri-Recreation as a Special Use in Article 11 – A-Agricultural Zoning District	
Director Flanagan	Gave a summary and the history surrounding the development of the amendment. The amendment will allow special uses in an A-Agricultural District. He explained the Tier system. Tier 1 contains allowable uses. Tier 2 is for events that are not included in agricultural recreation. Tier 2 will allow 75 people per event, up to 30 events per year.	
Commissioner Zuroff	Stated Commissioner Streifel and himself attended the stakeholders meeting and there are several people here who were involved in the stakeholders meeting	
Commissioner Streifel	Asked Mitch about having another stakeholders meeting before this goes to a public hearing since it was requested at the last stakeholders meeting.	
Director Flanagan	Stated he did not feel it was necessary because new information was not going to be presented.	
Chairman Agnew	Stated an additional stakeholders meeting might be necessary.	
Director Flanagan	There is a fine line on this issue some people wanted it, and some did not.	
Commissioner Risch	Asked about Papa’s Pumpkin Patch what is it zoned	
Director Flanagan	Explained Papa Pumpkin Patch is in the City of Bismarck’s ETA and is a PUD.	
Commissioner Connelly	Stated he would like to see the lines drawn before the PUD is decided on.	
Director Flanagan	Explained how a PUD works in the county.	
Chairman Agnew	Stated comments from the public would be heard at the public hearing if the amendment moves in that direction.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Amendment to Article 8, Section 28 for a public hearing	1 st Commissioner Risch 2 nd Commissioner Patrick	Approved 8 - 0

3-3 Amendment Article 8 Special Use, Section 29 Solar Farms	Amending the Burleigh County Zoning Ordinance to include Section 29 – Solar Farms and include Solar Farms as a Special Use in Article 11 – A-Agricultural Zoning District	
Mitch Flanagan Planning Director	Provided a summary of Section 29 – Solar Farms allows for the development of renewable energy on agricultural land. Solar energy will be an accessory use in any zoning district. He described the type of solar system and which require permitting. Accessory systems in any district must be screened.	
Commissioner Risch	Asked about the Mega Wattage and when the state will be involved. He questioned whether someone could do 1,000 acres of solar farms.	
Director Flanagan	That would be a solar farm and it is outlined in the amendment.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Amendment to Article 8, Section 29 for a public hearing	1 st Commissioner Bitner 2 nd Commissioner Streifel	Approved 8 - 0
PUBLIC HEARING		
4-1 Menoken Farm Facility Zoning Change	A request for a “Do Pass” recommendation to the Board of Burleigh County Commissioner of a zoning change from A- Agricultural to P – Public Use District	
Marla McMonagle, Associate Planner	Provided a summary of the project and what a Public Use Zoning would allow on this property. Menoken Farm Facility is a demonstration farm. They hold soil conservation education seminars and farm tours.	
Chairman Agnew opened the public hearing		
Ken Couch	Lives across the road from the farm. He would like the County to stop putting chloride on the road and have the road sealed instead.	
Commissioner Risch	Asked why chloride was used.	
Ken Couch	Chloride is used for dust control. He would rather have dust, them chloride on the road.	

Chairman Agnew seeing no one else approached closed the public hearing.		
Commissioner Connelly	Asked Marcus Hall, County Engineer, about 15 th Street NW asked about the surface used on 15 th Street NW	
Marcus Hall, County Engineer	Stated Mr. Couch was correct on his statement. They are working on the problem of the use of chloride. He stated they did a chip seal on 15 th Street NW, a double ship seal, and it did perform very well. The County Board can authorize a chip seal on the road.	
Commissioner Patrick	Made a motion to approve the zoning change,	
Commissioner Zuroff	Seconded the motion	
Commissioner Streifel	Asked if the cost of chip sealing the road was addressed.	
Marla McMonagle	Stated there was no discussion on sealing the road. Staff verified whether there was access or not and if the road was a county gravel road.	
Commissioner Streifel	Is there a way the county can address or stop the use of chloride on the road?	
Director Flanagan	Stated with the additional traffic generated by a new building on the property, the chloride is put down to control the dust.	
Chairman Agnew	Stated the Planning and Zoning Commission does not have authorization to release funding for the chip seal.	
Commissioner Streifel	Asked if a recommendation can be made to have the county chip seal the road.	
Commissioner Patrick	Agreed to add the recommendation to double chip seal the road to the "Do Pass" recommendation	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the zoning change with the recommendation for the highway department to double chip seal the access road.	1 st Commissioner Patrick 2 nd Commissioner Zuroff	Approved 7 – 1 Commissioner Bitner opposed the motion.
4-2 Baldwin Greenhouse Special Use Permit Request	A request for a Special Use Permit to operate a commercial corn maze from August to October 2024	

Marla McMonagle	Gave a summary of the request to operate a corn maze on A-Agricultural Zoned property. Marla explained the concerns that have been expressed by the neighbor regarding activity on the Stoll Farms property and how it affects his animals. The staff analysis
Commissioner Zuroff	Asked if the measurements pictured by county staff were done by a surveyor, and if the property line was surveyed.
Marla McMonagle	Stated the property was surveyed by the neighbor and he placed "No Trespassing" signs along the property line. Staff measured from the first row of corn to the sign, which was a difference of 15 feet, more or less.
Chairman Agnew opened the public hearing.	
Mary Podoll	Introduced herself, she is the petitioner, and one of the owners of Stoll Farms LLC, Baldwin Greenhouse. She stated the impact to the area is not anticipated to be an issue because of the type of road the property is accessed from. They have had strong showing at other events and they have the infrastructure to support the corn maze. She did her homework and stated there was no need or a requirement to have a special use permit, but did so because she was involved in the stakeholder's meetings. The township and the mayor of Wilton supports the corn maze. She was unaware of any damage to the deer. Her son met the neighbor when they were walking on their property, since then there have been some neighborly disputes and asks the commission to not get involved as it is not a function of the planning commission or Burleigh County to be involved. She stated they purchased the property to make it grow and is surprised this is at this level. They are aligned with Strengthen ND to educate young farmers and school children about agriculture. She stated when they submitted the application she was not required to keep the crop land 100' from the property line. The property where the maze is located is considered crop land by the USDA and the ND Ag Commissioner. Stated this is crop land and this activity is an allowed use.
Chairman Agnew	Asked why she didn't apply for a PUD

Mary Podoll	Stated her involvement with the stakeholders lead her to apply for a special use permit for the corn maze. As they move forward, if it makes sense to her she may apply for a PUD if required.
Commissioner Jarratt	Concerned about the location of the deer pens to the Stoll Farms
Commissioner Connelly	The special use permit allows only 75 people?
Mary Podoll	Said the stakeholders meeting was unclear on the amount of people and will have more than that amount. Is worried if a PUD would affect her USDA rating as cropland.
Clark Coleman	He is the farmer of the corn maze. He used to have a corn maze on Buckstop Junction. He was asked to farm the Buckstop Junction land and was given permission to hold a corn maze. They harvested the field after the maze was over. They worked with the Baldwin Greenhouse to hold the maze on the property. He apologized that the gentleman who planted the corn maze with tractors going on Jamie Feist land and it will not happen next year. He feels with the type of corn planted will be a great buffer between the properties because it is specially for corn maze.
Commissioner Streifel	Asked if the corn maze at Buckstop Junction is A-Agricultural Zoned.
Clark Coleman	Stated that it is.
Marla McMonagle	The Buckstop Junction property is owned by Burleigh County, and is located within Bismarck's jurisdiction for building, planning and zoning regulation.
Sara Otto Coleman	She is part of the Coleman farm family also stated she is the Marketing Director for the State Department of Tourism. When she became involved with the stakeholder meetings, she was concerned that the policy and precedent the agricultural recreation ordinance would set for the State of North Dakota on tourism. She stated it is important to use agriculture as a tourist attraction since we don't have mountains etc., and the corn mazes are imperative use as an

	agricultural activity. The corn maze is very popular with people, and people want them to continue.
Jamie Feist	<p>He is the adjacent land owner. He would like the commission to deny the special use permit because:</p> <ol style="list-style-type: none"> 1. The lots are not the typical 40 acre lots. They are long and narrow being only 660' wide x 2,400 'long. 2. The setbacks are insufficient to his pens with the amount of people projected to attend. <p>Tractors do not upset the deer; the issue is that foot traffic will upset the deer. Tractors are a normal agricultural activity. All other properties that have similar types of events like the corn maze are held on properties which are zoned PUD because of the volume of people. He is concerned the foot traffic could lead to trespassing on his property. The activities will bring noise, people, parking and traffic which will disturb his way of life and his source of income. Buckstop Junction is on a 180-acre field with no neighbors. According to the Article 8, the activity under the special use cannot affect the general neighborhood and the way of life. Asked as a condition of the permit that a required security bond be in place to protect neighboring landowners from loss of livestock.</p>
Chairman Agnew	Asked if a site barrier would work
Jamie Feist	He would like a visual and sight barrier between the properties in the future. Sight is more an issue and barriers should be required. He submitted a report from his veterinarian regarding the affect of the amount of foot traffic would have on his animals.
Chairman Agnew	Asked if there were any additional comments
Commissioner Connelly	Asked if haybales could be used as a buffer.
Jamie Feist	Stated haybales will not work, and he has tried different types of barriers.
Commissioner Jarratt	Are all the pens full?
Jamie Feist	Stated there are 100 animals and separated by types of animals. He has over .5 million dollars invested in animals. If

	he loses an animal it can take up to 3 to 4 years to replace the animal which will affect his herd and finances for years.
Clark Coleman	Stated the parking at Buckstop Junction was a little bit of an issue during Applefest but not during the corn maze. The best day they have ever had is 500 people. You can not hear the corn maze participants when they are in the maze.
Cheryl Woodcocks	She is from Baldwin and has participated in a corn maze. She stated there is no noise in a corn maze. Mr. Feist moved out there and the greenhouse was already there. If he is so concerned about his animals shouldn't he be required to build the barrier. She has brought animals to the Stoll Farm when they hosted the 3 rd graders from Bismarck. We need to educate our kids on where food comes from.
Jamie Feist	Yes, the greenhouse was there before he moved in, but the greenhouse was only opened for 3 to 4 months, it was not a commercial business, like now.
Mary Podoll	Doesn't want this to be a public neighborhood dispute. She doesn't think his type of agriculture choice should affect her agriculture choices. She asks that the commission not be mediators in a neighborly dispute. She would like to meet with Jamie in a couple months to discuss options.
Shawn Schaffer	Is from Turtle Lake. He has been a deer farmer for 27 years and is the Executive Director to the North American Deer Farms Association. He agrees with kids' agricultural education and getting kids outside. Agri-Tourism is not up for debate. The hearing is for the Special Use Permit is for the corn maze only. The fact there is a Special Use Permit Requirement is because neighboring land owners have rights just like Stoll Farms, but the Stoll Farm corn maze activity will affect his deer.
Mike Ryckman	Is a 10-year deer producer and lives in Linton. He believes there are rights on both sides of the property line – to grow plants or raise deer. He would recommend a barrier between properties so both parties can use their land as they choose.
Chairman Agnew closed the public hearing after seeing no one approach.	

Commissioner Streifel	Planning staff states the use does not fit A-Agricultural Zoning requirements. Likes the idea of a corn maze. Does not agree with the comment that the county should not be involved. It is the duty of the Planning and Zoning Commission to service the citizens of the county.	
Commissioner Risch	Made a motion to approve the Special Use Permit for the 2024 Corn Maze.	
Commissioner Zuroff	He respects Mr. Feist rights to raise deer, but it also respects the rights of property owners to use their land as they see fit.	
Chairman Agnew	This is interesting since we have one use and now adding another use. He is against the special use.	
Commissioner Connelly	The corn has already been planted, he would like to see hay bales to protect the Feist property	
Commissioner Zuroff	He sees both sides, but he feels we have individual property rights and property owner responsibilities. Stoll Farms has responsibility to manage their property and visitors, and so does Jamie Feist.	
Commissioner Streifel	One of our duties is to keep ag land from becoming commercial.	
MOTION:	RESPONSIBLE PARTY:	RESULTS:
Approve the Special Use Permit with a "Do Pass" recommendation to the Board of County Commissioners	1 st Commissioner Risch 2 nd Commissioner Zuroff	Motion Denied 2 – 6 Commissioners Zuroff and Commissioner Risch voted for the approval.
Chairman Agnew	The Special Use Permit has been denied.	
Commission Bitner	Leaves the meeting.	
OTHER BUSINESS		
5 1 Article 8, Section 30	Data Center	
Director Flanagan	Explained the ordinance regarding Data Centers. He stated the ordinance does not deny Data Centers, but does allow them in certain area. The ordinance is for guidelines.	

Chairman Agnew	The main concern is the noise from the data centers. Does Burleigh County have a noise ordinance?	
Director Flanagan	Stated we do not. We follow the NDCC regarding noise. This is just a draft, we can adjust. We can add noise levels in this draft.	
Chairman Agnew	We can address the noise in this ordinance and maybe in different areas to.	
Commissioner Patrick	Stated noise is a concern of the County. Do we need to add someone who is trained on noise levels – an Acoustical Engineer	
Director Flanagan	We do have work to do on this ordinance. He would like the approval of the Commission to continue developing this ordinance.	
Commissioner Connelly	Is concerned about the rise in electrical rates because of the power required to run data center and the impact on the power grid. He would like it addressed in the ordinance that electrical fees not be raised by the citizens.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the continued work on the Data Center Ordinance and hold Stakeholder meetings.	1 st Commissioner Streifel 2 nd Commissioner Zuroff	Approved: 7 – 0
5-2 Article 8, Section 31 Accessory Dwelling Units	Allow accessory dwelling units on A-Agricultural and R1-Rural Single Family Residential zoned district.	
Director Flanagan	Explained the ordinance and why it is important at this time to be included in the zoning ordinance. The units are complete residential structures which contains 1 bedroom, kitchen and bathroom. We are trying to establish an ordinance that will allow this type housing.	
Commissioner Zuroff	Asked if these are shop condos or barndominiums?	
Director Flanagan	Stated no, these are in addition to the primary dwelling. They are accessory to the primary dwelling	

City of Wilton

P.O. BOX 278 - 121 DAKOTA AVE.
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Web Site: www.wiltonnd.org
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July 3, 2024

Burleigh County Planning and Zoning Commission
221 N 5th St.
Bismarck ND 58501

Dear Burleigh County Planning and Zoning Commission,

On behalf of the Community of Wilton, it is my pleasure to write this letter of support for the proposed Corn Maze by the Baldwin Greenhouse.

A Corn Maze in our area would provide an opportunity for families to spend time together while enjoying the outdoors. We feel this would be a great opportunity for the small community of Baldwin to expand a seasonal business.

I strongly encourage the Burleigh County Planning and Zoning Commission to approve the Baldwin Greenhouse Corn Maze.

Sincerely,



LeeAnn Domanoske-Kellar
Wilton City Commission President

Commissioner Connelly	Stated this is very important to the citizens of the county.	
Director Flanagan	Stated the accessory dwelling units are specified type, uses, and size of the units – no more than 800’ and not less than 300’. Our ordinance does not allow a 2 nd residence on a property. You can have a temporary housing for farm help only.	
Commissioner Risch	Stated he see this type of housing all over the county. What is the concern.	
Director Flanagan	Yes, there are, but it is not allowed in the county. The ordinance will allow it in the future. The county doesn’t look for zoning violations, but would like to be able to allow accessory dwellings in the county. Our ordinances do not allow a second dwelling per single parcel.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approved the continued work on Accessory Dwellings Units and hold Stakeholders meetings.	1 st . Commissioner Patrick 2 nd Commissioner Connelly	Approved 7 - 0

Chairman Agnew asked for a motion to close the meeting.

The meeting was closed at 7:45pm



 Dale Patrick, Vice Chairperson



 Marla McMonagle, Staff

Burleigh County Planning and Zoning Meeting Minutes

June 12, 2024

PRESENT: Chairman Dennis Agnew, Commissioners Alvie Jarratt, Steve Marquardt, Wayne Munson, Mike Schmitz, Bea Streifel, Brian Zuroff
 Commissioner Brian Bitner attended remotely, Commissioner Dale Patrick was 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 May, 2024 meeting	Approve the May Minutes 1 st Commissioner Marquardt 2 nd Commissioner Streifel	Approved 8 - 0
CONSENT AGENDA		
3-1 Menoken Farm Facility	Zoning Change from A-Agricultural to Public Use District	
Marla McMonagle	Provided a summary of the request and explained what a P-Public Use District was.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the request for a public hearing	1 st Commissioner Munson 2 nd Commissioner Marquardt	Approved 8 - 0
PUBLIC HEARING		
4-1 Peaceful View Subdivision	Final Plat and Zoning Change	

Mitch Flanagan Planning Director	Provided a summary of the request for a subdivision and the zoning change from A-Agricultural to R1 – Rural Single Family Residential	
Chairman Agnew opened the public hearing		
Hearing no commentary Chairman Agnew closed the public hearing and called for a motion.		
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Peaceful View Zoning Change and Final Plat	1 st Commissioner Bitner 2 nd Commissioner Zuroff	Approved 8 - 0
4.2 Fleck Subdivision	Final Plat Approval	
Director Flanagan	Provided a summary of the request for a three (3) lot subdivision. He recommending a request to the County Commission for a paving waiver be granted as part of the plat approval before the plat is recorded.	
Commissioner Zuroff	Questioned the dividing of the parcel in half and building set to close to access through the parcel.	
Commissioner Streifel	Disclosed that she lives near the proposed Fleck Subdivision	
Chairman Agnew	Verified with Commissioner Streifel she has no financial interest in the proposed subdivision and asked for a motion to recuse her. No motion was made.	
Chairman Agnew opened the public hearing		
Kurt Fleck	Stated the building in question is going to be tore down and will not affect the access easement.	
Seeing no one else approach Chairman Agnew closed the public hearing and called for a motion		
Commissioner Bitner	Legal description from the plat does not match the legal description Mitch read out.	
Director Flanagan	The legal in the packet is from the tax description, while he read the legal description from the plat.	

MOTION:	RESPONSIBLE PARTY	RESULTS
MOTION: Approve the Fleck Subdivision	1 st Commissioner Bitner 2 nd Commissioner Marquart	Commissioner Zuroff requested an amendment to the motion.
Commissioner Zuroff	Amend the motion to include staff to verify paving waiver and building removal before any development on the access easement.	
Chairman Agnew	Stated the amendment to include approval of the paving waiver and before any public access is allowed on access easement.	
Commissioner Bitner	He would be ok with the amending the original motion if it was ok with the 2 nd .	
Commissioner Marquardt	Agreed to	
Commissioner Zuroff	Withdrew his motion.	
MOTION:	RESPONSIBLE PARTY:	RESULTS:
Approve the Fleck Subdivision with the following conditions: 1. Paving Waiver must be granted. 2. Building must be removed before development on the lot.	1 st Commissioner Bitner 2 nd Commissioner Marquart	Approved 8 - 0
4-3 Riverside 3rd Subdivision	Continuation of the March 13, 2024 Short Plat Public Hearing	
Director Flanagan	Presented the Riverside 3 rd Subdivision and explained the history of the platting process and why the March 13 th meeting was continued. He stated the property owner and the HOA have met like requested. Riverside 3 rd will be included in the HOA for Riverside and Riverside 2 nd Subdivisions.	
Chairman Agnew opened the public hearing		

Paul Hartmann	Stated he is the property owner. He apologized for no being at the March meeting. All he wanted to do was combined his lots into one (1) lot. He did not want to create a subdivision or not be part of the Riverside	
Tom Lenihan	Did met with Mr. Hartmann. Mr. Hartmann agreed to stay within the Riverside HOA and if he builds larger then allowed, he must submit an approval petition from 75% of the surrounding property owners.	
When no one else approached, Chairman Agnew closed the public hearing.		
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Final Short Plat for Riverside 3 rd Subdivision	1 st Commissioner Zuroff 2 nd Commissioner Munson	Approved: 8 – 0
4-4 Country Creek 3rd		
Variance request for Lot 1, Block 5, Country Creek Third Subdivision, 30' variance to the 50' East property line setback.		
Marla McMonagle	<p>Explain the variance to the setback request. This lot is called a 2 front lot because it is a corner lot. The north side of the property is considered a Front Yard, 40' set back. The south lot line of the property is considered the rear lot line of the north front. The setback is 50'.</p> <p>The west side of the property is considered a Front Yard, 40' setback. The east property line is considered the rear lot line of the west front. The set back is 50'.</p> <p>The petitioner is requesting a 20' variance to the east property line. The east property would have a 20' rear lot line setback. The petitioner would then be able to build a cold storage building behind his house.</p>	
Chairman Agnew	The house faces the east is that correct. Asked about the access on the north side.	

Commission Zuroff	Asked if the size of the building has been decided.
Chairman Agnew	Verified the variance was being requested from the east lot line, which would be the actual rear lot line.
Chairman Agnew opened the public hearing	
Derek Nagel	Verified with the commission they had received his letter and information. He submitted drawings of the property lines, distances and easements. He stated he is almost a Licensed Surveyor, has done 100's of lot surveys so wanted to assure the commissioners he knows how to complete surveys, so his drawings were accurate.
Commissioner Zuroff	Expressed that Mr. Nagel is not a licensed surveyor and it should not be implied the drawings submitted were completed by a licensed surveyor. Mr. Nagel is not to state the drawings were done by a licensed surveyor.
Derek Nagel	Apologized and stated he is not licensed and did not want the commissioners to think he was. He was emphasizing his training to do the measurements. He would like to work something out with the neighbor on the placement of the accessory building.
Jake Hipp	He is the builder. He has made some adjustments to the placement of the accessory building, but will still need a variance to the setbacks. He could work with a larger setback of thirty (30) feet, but he has the drain field to be aware of.
Commissioner Schmitz	Asked if the building could be moved to the north side of the lot. He asked staff if the north would be considered the front, with the east being considered a side lot.
Marla McMonagle	Stated the east property line would still be considered the rear lot line to the west front. The house also faces west.
Jake Hipp	Moving the accessory building to the north does not help the aesthetics of the subdivision and won't affect the neighbor more than if it was placed on the south/east side of the lot.
Commissioner Munson	If the variance is granted will the north side of the lot be considered the front?
Commissioner Zuroff	It would still be a double front lot because it is a corner lot.

Marla McMonagle	Stated it is a double front lot. The north side setback would still be at 40'	
Commissioner Zuroff	Stated the 7907 Dakota Country Drive is within a 50' set back, but the west side of 7907 is a side lot.	
Mitch Flanagan	Stated there is nothing in the ordinance setting side lot lines for a double front lot. Granting the variance allows relief to the double front setbacks of 50'.	
Commissioner Munson	Stated he would like a final drawing before he could approve the variance.	
Derek Nagel	Showed a drawing with the 50' lot lines. He doesn't feel going to more to the north is the best option. He said if it is placed where they are suggesting it would like a building all by its self. He is ok with a 50' setback.	
Commissioner Zuroff	Asked Jake Hipp about if the property owners wanted to set the building so they would have an area to store campers and boats outside.	
Commissioner Munson	Would like to see the concrete be placed on the owner's side, not the neighbor side.	
Chairman Agnew seeing no one else approaching, he closed the public hearing.		
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the variance to the setback by 20'	1 st . Commissioner Zuroff 2 nd Commissioner Streifel	Approved 6 -2 Commissioner Munson and Chairman Agnew voted against the variance.
OTHER BUSINESS:		
Chairman Agnew	Asked Staff if there is a better way to handle these variances	
Director Flanagan	Stated in the city the lots are smaller, but in the county the lots are larger. We have the setback so that houses are not located too close to one another on a larger lot.	

Chairman Agnew asked for a motion to close the meeting.

The meeting was closed at 6:30pm



Dennis Agnew, Chairperson



Maria McMonagle, Staff

Burleigh County Planning and Zoning Meeting Minutes

May8, 2024

PRESENT: Chairman Dennis Agnew, Commissioners Alvie Jarratt, Steve Marquardt, Wayne Munson, Dale Patrick, Mike Schmitz, Bea Streifel, Commissioner Brian Bitner attended remotely, Commissioner Brian Zuroff 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 ITEM	ACTION	
Approval of April 10, 2024 meeting	Approve the April Minutes 1 st Commissioner Schmitz 2 nd Commissioner Munson	Approved 8 - 0
CONSENT AGENDA		
There were no items on the Consent Agenda		
PUBLIC HEARING		
4-3 Burnt Creek Farm	Special Use Permit Continuation	
Mitch Flanagan Planning Director	Provided a summary at the continuation of the April 10. Petitioner pulled his information. Recommended was to pull item from the public hearing, and to deny the permit application and he can appeal the decision to the county commission.	
Commissioner Streifel	Ask the reason the petition was pulled	
Mitch Flanagan	Responded the applicant was pursuing legal counsel	
Commissioner Jarrett	Was concerned about canceling a public hearing which is advertised.	

Commissioner Bitner	Stated anyone from the public that was there to speak should be allowed to speak.
Commissioner Streifel	Recused herself due to a conflict of interest and moved from the commission table.
Chairman Agnew	There was a vote held to recuse Ms. Streifel with unanimous 7-0 approval. Re-opened the continued public hearing.
Marcus Hall	Talked about dust control and the cost. Recommended if splitting the cost is recommended by the County Commission, it needs to be defined and how it will be decided. Road Maintenance is not the same as dust control. Those costs would be in addition to dust control.
Dana Fleck	They did not agree to split the cost of dust control since it is to his benefit.
Sheila Zacher	She did not receive a letter regarding the public hearing. She lives within 2 miles of the Burnt Creek Farm. Does not want these events in her neighborhood & who is going to monitor this. What is he allowed to do on his property? She would like a larger notification area.
Mitch Flanagan	Stated the shared cost of dust control which was a suggestion from the petitioner, not the County's or the neighbors.
Kurt Fleck	He is frustrated with the process and feels the County needs to get an ordinance in place.
Bea Streifel	Is concerned about the procedure regarding the public hearing. Discussed the grants he applied for and what he was planning on in the future. Access to the property, the road conditions, safety of drivers on 110 th Avenue and 26 th Street concerns. The neighbors were in favor of the petitioner's plans for the property, until he wanted to add events like weddings, corporate gatherings, etc. which he charges fees. These types of events are not agri-tourism activities
Chairman Agnew	Hearing no other comments, closed the public hearing
Commissioner Marquart	Made a motion to deny the Special Use Permit

Commissioner Patrick	Seconded the motion
Discussion on the Motion	
Commissioner Munson	Asked for an explanation of what the petitioner would be allowed to do on the property, He cannot charge for events, but what is allowed in Agricultural without a Special Use Permit? An example would be allowing the Boy Scouts to camp out there. What can the county do to prevent things from being held on the property.
Mitch Flanagan	There are a few things that require a permit – alcohol permits, fireworks, lottery tickets, hosting of personal events, etc. One cannot have commercial, for profit public activities on his property and not charging for things on his property. The county will not respond unless there is a nuisance.
Commissioner Munson	Wants to make sure with the residents understand the Special Use is denied, but there is not much the county can do if it is a personal event. He can have the Boy Scouts camp on his property etc. if he does not charge.
Mitch Flanagan	He does not need a permit if it is a personal event. The county will not respond unless there is a noise complaint, nuisance etc. The Sheriff’s office would be involved. Property owners can use their private property for personal gatherings
Commission Marquardt	He has driven the roads out there when they are wet, the road is unique with the ruts and hairpin turns. He could not imagine what would happen with a bunch of campers on the road.
Commissioner Schmitz	Is concerned how to protect property owners, how to control the use of the property. He would like to see a new ordinances or amendment.
Mitch Flanagan	Pointed to the beginning paragraph Article 11. Quoting: The A - Agricultural District is established as a district in which the principal use of land is for general agricultural uses. The regulations are intended to prohibit commercial and industrial usage of the land.
Commissioner Schmitz	How is it enforced and what is considered commercial use, 1 time charging or charging many different events?

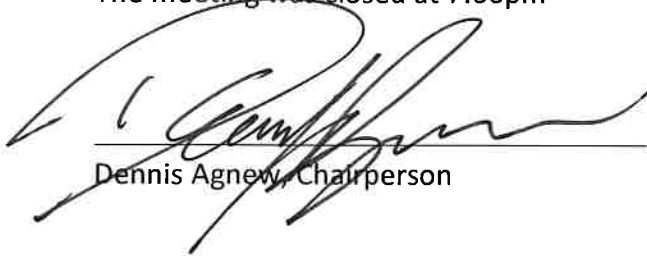
Commissioner Patrick	Stated the road are not in good shape. The section lines to the North and the South are impassable especially when we receive weather. There is only one way in and out of the area.	
Chairman Agnew	Hearing no other discussion called for a roll call vote on the motion.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Deny the Special Use Permit for Burnt Creek Farms	1 st Comm. Marquart 2 nd Comm. Patrick	Approved 7 – 0 Commissioner Streifel recused herself from the vote.
OTHER BUSINESS		
5-1 Article 8 – Section 28 Agricultural Recreation	Discussion of the proposed amendment to the Burleigh County Zoning Ordinance.	
Mitch Flanagan	Discussed the history of the amendment proposal. Why the development of a new ordinance is important to the safety of the citizens of Burleigh County, while protecting the rights of property owners to develop and use their A-Agricultural zoned property. He discussed the changes and the suggestions from stakeholders’ group, the various areas in the county. He explained how some property owners are using the PUD.	
Chairman Agnew	Asked if a PUD was a commercial zoning change and if it would revert to a commercial	
Mitch Flanagan	Explained the PUD sets limits of what is allowed on a property and is very specific. It can only be changed by an amendment through the County Commission.	
Commissioner Patrick	Asked what the process would be if someone wanted to have 150 people, but were limited to 100.	
Commissioner Streifel	Asked why it is being called Agri-Recreation instead of Agri-Tourism. Commissioner Streifel asked Sara Otte Coleman what her definition or comments on this issue.	
Mitch Flanagan	By saying Agri-recreation is more descriptive because it is not all tourism.	

Sara Otte Coleman	Stated this has been a discussion with a stakeholder's group, planners and not just the Chamber of Commerce Department of Tourism. Her biggest concern is the Commerce Department is not the only group interested in this topic.	
Mitch Flanagan	The stakeholder meeting Sara Otte Coleman was referring to was with the City of Bismarck, which has different concerns than the county has. The County is different than the City of Bismarck, not all the roads are paved for an example.	
Commissioner Schmitz	Suggest the county hold a stakeholders meeting with County residents.	
Commissioner Streifel	There was a stakeholder meeting and a draft ordinance was submitted to the Planning Department. An attendee of the meeting submitted the draft ordinance the stakeholders group came up with.	
Mitch Flanagan	Stated he had put the comments in the ordinance.	
Chairman Agnew	We understand that things are different in different areas of the county, but he would like to see flexibility of the ordinance for the different types of uses. Would it be possible for property owners to apply for a PUD or Special Use	
Mitch Flanagan	If it is not defined in the Special Use Permit, or considered a large event that would require a PUD>A PUD has more requirements for approval because it is re-zoning a property.	
Mitch Flanagan	Recommends taking the ideas in the draft, and have a stakeholders meeting and bring it back to the board.	
Commissioner Munson	Motion to have Staff meet again with stakeholders to work on the ordinance. Commissioner Munson seconded the motion Article 8, Section 28	
Kurt Fleck	Asked and received approval to speak. He stated the document will not cover everything. He would like to see a simple base document and let the commissions to write a Special Use. He feels that is the best way to approach this.	
MOTION:	RESPONSIBLE PARTY	RESULTS

Staff to hold a stakeholders meeting and bring the results/draft back to the June 12 th meeting	1 st . Comm. Munson 2 nd Comm. Patrick	Approved 7 -1 Commissioner Bitner voted against the motion.
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Chairman Agnew asked for a motion to close the meeting.

The meeting was closed at 7:00pm



Dennis Agnew, Chairperson



Marla McMonagle, Staff

Burleigh County Planning and Zoning Meeting Minutes

April 10, 2024

PRESENT: Chairman Dennis Agnew, Commissioners Brian Bitner, Alvie Jarratt, Steve Marquardt, Dale Patrick, Mike Schmitz, Bea Streifel, and Brian Zuroff. Commissioner Wayne Munson 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 ITEM	ACTION	
Approval of March 13, 2024 meeting	Approve the March Minutes 1 st Commissioner Bitner 2 nd Commissioner Zuroff	Approved 8 - 0
CONSENT AGENDA		
Peaceful View Subdivision	<i>2 lot subdivision on 17.89 acres & zoning change from A-Agricultural to R1-Rural Single Family Residential</i>	
Marla McMonagle	Gave a summary of the Peaceful View Subdivision, the section line vacation and the zoning change request from A-Agricultural to R1-Rural Single Family Residential	
Dennis Agnew	Questioned the requirement to supply an access line if it was required by the Corp of Engineers.	
Marla McMonagle	Stated when the section line was vacated, there was a requirement to replace the section line with an alternative route.	

MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Peaceful View Subdivision and Zoning Change and call for a public hearing	1 st Commissioner Patrick 2 nd Commissioner Streifel	Approved: 8 – 0
Fleck Subdivision	<i>A 3-lot subdivision containing 39.89 acres</i>	
Marla McMonagle	Provided a summary of the Fleck Subdivision. The 3-lot subdivision contains lots greater than 10 acres and qualifies for A-Agricultural Zoning.	
Commissioner Zuroff	Questioned the distance from the existing buildings to the access easement.	
Marla McMonagle	The Burleigh County Engineering Department looked at the location of the access easement and the building. The required distance is maintained.	
The Hilltop PUD	800 NW 149 th Avenue Zoning Change from A-Agricultural to PUD for 9.3 acres more or less.	
Marla McMonagle	Provided a summary of the PUD and why the developers wanted to verify that the current zoning could be changed before they continued with the proposed development. Issues that may affect the preliminary/final plat have been discussed and the developers understand the fundamental cost involved with those concerns. If the petition for a zoning change fails, the developer will not continue with the project.	
Commissioner Zuroff	Questioned whether the access to the site could be paved so there is no tracking on the road way.	
Casey Einrem	Stated they have discussed the adjustment of the Road Way Master plan. The developer understands what is required.	
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the preliminary PUD and call for a public hearing	1 st Commissioner Zuraff 2 nd Commissioner Jarrett	Approved 8 – 0

PUBLIC HEARINGS		
Baker Subdivision	A 2-lot Subdivision containing 69 Acres No Zoning Change is required. Subdivision will maintain A-Agricultural Zoning	
Mitch Flanagan	Provided a summary of the Baker Subdivision and the vacation of the section line and new access easements	
Chairman Agnew opened the Public Hearing. No comments were made. Public hearing was closed		
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Baker Subdivision and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners	1 st Commission Bitner 2 nd Commissioner Marquardt	Approved 8 - 0
Article 21 – FP Floodplain District	Amendment to Article 21 – Floodplain District of the Burleigh County Zoning Ordinances	
Mitch Flanagan	Explained the reasons for the amendments and how they were a requirement from FEMA, the timeline to record the amendment and the steps taken to amend the Article.	
Commissioner Patrick	Asked about why we were restricting parking recreational vehicles in the county to 180 days. Why can a property owner park their recreational vehicles on their property?	
Mitch Flanagan	Recreational Vehicle restriction applies to camp grounds.	
Commissioner Bitner	Pointed out a typographical error	
Chairman Agnew opened the Public Hearing. No one approached The Public Hearing was closed		
MOTION:	RESPONSIBLE PARTY	RESULTS
Approve the Amendment to Article 21 – FP Floodplain District	1 st Commissioner Bitner 2 nd Commissioner Patrick	Approved 8 – 0
Commissioner Bitner	Asked Mitch where in the amendment does it say Recreational Vehicle Parking is restricted to campgrounds.	

Mitch Flanagan	Stated it does not say it in the amendment, but the County is not going to tell property owners they must move their recreational vehicles.	
Commissioner Bitner	Asked that the amendment be changed before coming before the County Commission to address property owners not being included in the restriction.	
Burnt Creek Farm Special Use Permit	Special use permit (SUP) request for an event facility at 11501 NE 41 st Street	
Mitch Flanagan	Provided information for rescheduling the public hearing, when a postponement was requested. Because of the concerns expressed regarding the SUP, the citizens wanted to address their concerns.	
Commissioner Bitner	Was wondering what the status was regarding stakeholder meetings or resolution.	
Mitch Flanagan	Stated a compromise could not be reached. Stakeholders felt this was a C-Commercial use of the land	
Commissioner Streifel	Stated the surrounding property owners were not against the SUP just the number of events surrounding the site	
Commissioner Bitner	Was concerned with the amount of people attending the public hearing.	
Chairman Agnew	Expressed that the public hearing should be held tonight. Commissioner Streifel shared she lives just South of the property and wanted the Commissioner to know that.	
Chairman Agnew	Asked for a motion to recuse Commissioner Streifel due to a conflict of interest.	
MOTION	RESPONSIBLE PARTY	RESULTS
Due to the possible conflict of interest, ask Commissioner Streifel to recuse herself from voting on this SUP	1 st Commissioner Schmitz 2 nd Commissioner Zuroff	Approved 7 – 0 Commissioner Streifel did not vote on the motion.

Commission Bitner	Stated he is in favor of the motion, because he was in the same position in the past and it is not reflection on Commissioner Streifel	
Commissioner Jarratt	Asked for clarification of the recusal request.	
Commissioner Streifel	Asked if she was able to leave the table and comment on the SUP which was affirmed by the Chairman Agnew	
Chairman Agnew opened the Public Hearing.		
Kurt Fleck	He is against the SUP as written. He stated the surrounding property owners set up a meeting with the property owners and the petitioners. The neighbors are not against the SUP, but would like it limited and the types of events. He would like to see the Agri-Tourism amendment be finalized first. They would like to meet with stakeholders, petitioner and the County. He submitted a letter to the Commissioner. Agri-Tourism should be defined before we move ahead.	
Commissioner Bitner	Stated we are working on an ordinance at this time. He says the ordinance does not mention anything regarding this issue.	
Kurt Fleck	The Agri-Tourism should be decided ahead of this SUP	
Bill Miller	Stated he lives less than 2 miles from the Burnt Creek Farm and he did not get any notification and the people living on 97 th and 26 th did not get notifications. How can this issue be solved? He submitted a petition to the commissioners against the SUP. (Petition is on file) The petition addresses the noise and how it will affect the surrounding property. Home values will drop and affect wildlife.	
Commission Bitner	Stated Mr. Miller was not on the notification list, but the County is working on extending the notification area.	
Tammy Bonnet	Lives west of Burnt Creek Farms. She is tired of having to defend her area to keep her life style. She is concerned about having to pay to replace the roads, dust, traffic and the condition of the roads. She is concerned about the trespassing, dust and accidents on the road. She is not against small events, but large events concern her.	

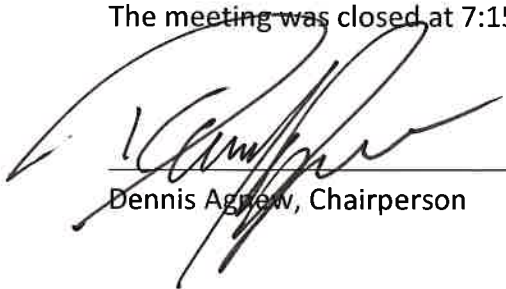
<p>Melissa Miller</p>	<p>She and her family live on 110th Ave. She is opposed to using the property as a commercial venue. She feels they will be impacted by the noise, dust, and traffic. They met twice regarding the SUP. No resolution was found. She stated they are not opposed to using the farm for small educational events. The petitioners proposed traffic pattern and dust amounts were not accurate in her opinion. She does not feel the neighbors should contribute to the cost of road maintenance and dust control when the farm is a commercial business. She would like an ordinance for Agri-Tourism before the SUP.</p>
<p>Betty McCommon</p>	<p>She lives 2 miles from the property. She says the access to the property has one way in and the moving of the traffic. If people were to try to avoid a “check point” they would have nowhere to go and would be stuck. She feels there would be a lot of people just driving around the area. She is concerned about the noise, dust and traffic.</p>
<p>Valerie Jundt</p>	<p>Her family has 40 acres near the Burnt Creek Farms. (Her testimony is on file.) The petitioner received a grant to educated on agriculture. The neighbors don’t have a problem with agricultural education, but oppose the extension of the uses in the special use request. Her opinion is the special use if approved will directly affect the neighbors, and large events will put a burden on the neighbors, the roads suggested for additional traffic, property values, and life in the area. Tickets were sold when the petitioner held a movie event in the past, but a special use permit was not obtained for this event which is commercial. The events he would like to hold are a commercial use.</p> <p>Burleigh County does not have an ordinance regarding Agri-Tourism. An ordinance should be developed before the special use permit is issued. She feels the concerns of County Commission were not addressed.</p> <p>She feels the notification area should have been larger since people affected by the traffic were not notified.</p>

Chairman Agnew asked for a motion to continue the public hearing at the May 8, 2024 meeting.		
MOTION	RESPONSIBLE PARTY	RESULTS
Continue the public hearing at the May 8 2024 meeting	1 st Commissioner Patrick 2 nd Commissioner Bitner	Approved 6-2 Commissioner Bitner and Jarratt were opposed
OTHER BUISNESS		
Notification Distance		
Mitch Flanagan	Provided a brief history of the notification distance and submitted examples of the proposed notification distances of 1/2 mile, 2-mile polygon, and 2-mile circle and the amount of people covered in the mailing. The Burnt Creek Farms was used as an example. He explained the notice is post in the paper twice, on the website and the option to receive email notifications on all meeting and public hearings.	
Chairman Agnew	Asked Mitch to explain what the 2-mile polygon was.	
Mitch Flanagan	Stated the polygon measurement was a 2-mile distance along 110 th to highway 83.	
Chairman Agnew	What is the minimum of 1320' Also questioned if this was flexible.	
Commissioner Bitner	Stated a 2-mile circle is too large.	
Commissioner Schmitz	Said a 1/4 is to small for the county.	
Commissioner Bitner	Stated we should be able to be flexible and we are doing what we should legally.	
Mitch Flanagan	Stated we could increase that distance on more sensitive issues but we could also be spending \$1,000.00 per mailing. He asked Marla McMonagle how long it takes to do a mailing.	

Marla McMonagle	Stated about 3 hours if not less. Stated she is concerned about the question of "how come you sent out mailers to over what the ordinance says"
Commissioner Bitner	Asked staff to contact Julie Lawyer, States Attorney, for an opinion on setting a minimum or increasing the distance.
Commissioner Zuroff	Suggested have notification distances for commercial, agricultural, special use etc. He is also concerned about not having a set distance and changing it for some but not others.
Commissioner Bitner	Expressed concerns about the cost of mailing, mailing into different jurisdictions or ETA
Commissioner Streifel	Stated Special Uses go directly to a public hearing. She suggested the applicant could pay the fee.
Commissioner Bitner	Stated we need to get the information out to the public to get on the email list. Maybe include a mailer with the letters.
Commissioner Zuroff	Suggested a flyer in the tax statement.
Chairman Agnew	Suggested a fee to the petitioner.
Mitch Flanagan	Stated staff will investigate the distances and contact the States Attorney for an opinion.

Chairman Agnew asked for a motion to close the meeting.

The meeting was closed at 7:15pm



Dennis Agnew, Chairperson



Marla McMonagle, Staff

Attachments to the
April 10th Minutes

Items given to the Planning and Zoning Commission during the April 10th Meeting:

1. George Schmaltz Letter
2. Signed Petition
3. Written Testimony - Wayne and Valarie Jundt

To: Burleigh County Planning and Zoning
Burleigh County Building, Bismarck ND

April 10, 2024

From: George Schmaltz, 3101 162nd Ave NE, Baldwin, ND 58521

Subject: Burnt Creek Farm Venue Special Use Permit

I am contacting you about the proposed Burnt Creek Farm request for Special Use Permit, in the Burnt Creek Township, which I thought was a done deal after it was rejected in February and March.

The following is the memo I sent to the Burleigh County Commissioners on February 4th, 2024

I am in strong opposition to the Special Use Permit request for several reasons:

1. **Disrupts the quiet, peaceful life style of country living** of all the neighbors within a 2-mile radius.
Imagine living in town or country and your neighbor across the street had a garage party every Thursday, Friday and/or Saturday night until 1:00-2:00AM. You would probably start looking for a new place to live in no time. Buying property in the country is not cheap, but if you **VALUE** and **TREASURE** the peace and quiet, you do it.
2. I put up 120 acres of hay between 97th Ave and 110th Ave., and between 26th St NE and 41st St NE. I have used the section line on 41st St from 97th Ave. to 110th Ave and the gravel road on 110th Ave. gets really sloppy and slippery after a rain.
3. Heavy traffic on 110th Ave east of 26th St NE presents a few potentially dangerous incidents, extremely steep ditches on the south side of road, difficult visibility due to the dust of gravel road and sloppy, slippery conditions after a rain.
4. At the planning and zoning meeting on Jan 10th, the committee denied the Special Use Permit by 8 to 1. I am hoping you will strongly take that into consideration.
5. Last, but not least, no matter how good fences may be, there is always a chance livestock may get out. What if some livestock gets out and gets hit on the road by an intoxicated driver, (which you and I both know is fairly common at weddings and/or party events).
6. Thanks for your review, consideration, and time.

Sincerely,

George Schmaltz

(701) 391-5810

Zoning/Special Use Protest Petition

**RE: Burnt Creek Farm Special Use Permit: Section 24, PT SW ¼ Tract #1
Addressed as 11501 NE 41st St, Bismarck ND**

We, the undersigned owners of property considered affected by the requested Special Use Permit described in the above-referenced address, do hereby file this petition in opposition.

This property directly adjoins rural residential and agricultural property and we oppose this change that will increase the noise, traffic, and dust. We believe it would detrimentally affect the peaceful enjoyment of our homes and property and upset the flow and general welfare of the surrounding area.

We also feel that this change in the use of agricultural property would negatively affect the value of our homes, safety of the neighborhood and aesthetics of the environment and wildlife.

“For the purposes of promoting the health, safety, peace, morals, comfort, convenience, and general welfare; conserving the value of property throughout the County; reducing and avoiding congestion on public roads, streets, and highways” (Article 1 Section 1 of Burleigh County Planning & Zoning Ordinances); and for all reasons stated at the public hearing on January 10, 2024 by the public; we respectfully request this Special Use Permit be denied.

Property Owner: Kurt & Dana Fleck
Address: 3566 110th Ave NE, Bismarck ND 58503

Property Owner: Roger & Melissa Miller
Address: 3818 110th Ave NE, Bismarck ND 58503

Property Owner: Brad & Tammy Bonnet
Address: Bismarck ND 58503

Property Owner: William & Laura Miller
Address: 9801 41st St NE, Bismarck ND 58503

Property Owner: Brett Meyhoff
Address: 2600 97th Ave NE, Bismarck ND 58503

Property Owner: Julie Bryant
Address: 10900 Olive Lane, Bismarck ND 58503

Property Owner: Greg & Justine Schonert
Address: 12002 26th St NE, Bismarck ND 58503

Property Owner: Nate DuPour
Address: 1958 110th Ave NE, Bismarck ND 58503

Property Owner: Betty McCommon
Address: 3213 Kristen Ln, Bismarck ND 58503

Property Owner: Jerry, Trevor & Linda O'Shea
Address: 11649 26th St NE, Bismarck ND 58503

Property Owner: Jeanette Hoffman
Address: 10601 52nd St NE, Bismarck ND 58503

Property Owner: Bob & Shelly Miller
Address: 10801 52nd St NE, Bismarck ND 58503

Property Owner: Wayne & Karen Martineson
Address: 7521 123rd Ave NE, Bismarck ND 58503

Property Owner: George Schmaltz (farms on 41st St NE)
Address: 3101 162nd Ave NE, Baldwin ND 58521

Property Owner: Tim Hoge
Address: 5352 97th Ave NE, Bismarck ND 58503

Property Owner: Brandyn & Michelle Engelhard
Address: 10011 Corona St, Bismarck ND 58503

Property Owner: Byron Andrea
Address: 10451 52nd Ave NE, Bismarck ND 58503

Property Owner: Troy & Kristin Kihle
Address: 2605 Kristen Ln, Bismarck ND 58503

Property Owner: Donovan Klein
Address: 9720 Kelly Dr, Bismarck ND 58503

Property Owner: Larry Ziegler
Address: 9720 Kelly Dr, Bismarck ND 58503

Property Owner: Carolyn Moore
Address: 9520 Plainview Dr, Bismarck ND 58503

Property Owner: L. Paul Lemier
Address: 3900 97th Ave NE, Bismarck ND 58503

Property Owner: David Schwalbe
Address: 9500 66th St NE, Bismarck ND 58503

Property Owner: Layne & Vicki Jose
Address: 2997 123rd Ave NE, Bismarck ND 58503

**Burleigh County Planning & Zoning Commission Meeting
April 10, 2024**

Written Testimony pertaining to Special Use Permit
Requested by Dave Lehman - Burnt Creek Farms
provided by
Wayne & Valerie Jundt
3202 84th Ave NE
Bismarck ND

By way of introduction, we are the owners of a home we built in 1992 along with 40+ acres of land on the SE Corner of 26th Street & 84th Ave NE. Our 40 acres is adjacent to my brother/sister-in-laws 40 acres (Patrick & Carol Geiger); which was originally purchased in 1972 by our parents, Leo & Bernice Geiger. This farmstead was at one time commonly referred to as the "Morris Farm". Wayne and I also own the 5 acre lot directly across from our home in Sunnyview Acres.

I am here to provide testimony and respectfully request that the Planning & Zoning Commission DENY the Special Use Permit (SUP) requested by Burnt Creek Farms.

Due to prior travel commitments, my brother Patrick has already provided his concerns, and feedback via e-mail regarding the Special Use Permit requested by Mr. Lehman. We will echo and concur with Pat's comments in addition to providing our own.

First & foremost we fully respect and understand that there are certain privileges that go along with owning property. **However, they must abide by the rules & regulations of the Planning & Zoning Commission, Burleigh County & with respect to their neighbors.**

The growth to Bismarck has sprawled quickly to the North in the past several years and the surrounding areas in the development near and surrounding this property have been properly controlled with respect to prior owners with subdivisions zoned as rural residential and/or agricultural. **That should not change.**

According to Mr. Lehman's materials found on his Burnt Creek Farms website, the "*main goal of this project is to preserve North Dakota's ag history and educate others about agriculture in North Dakota.*" While applying for state grant dollars (to which over \$88,000 was granted) it was done so "*in the interest of preserving and educating the general public about North Dakota's rich ag history*".

He further emphasizes the desire to "*provide a rural experience and ag education to those that maybe otherwise wouldn't have the opportunity.*"

The SUP requested broadens the scope of this facility to include hosting larger events such as weddings, corporate functions, etc.

My brother Pat provided this citation by way of reference, and we believe it's worthy of additional emphasis when applying for a Special Use Permit:

ARTICLE 8 - SPECIAL USES", Section 1, # 6

- The proposed use in harmony with the purpose of this regulation and of portions of the Master Plan of the County of Burleigh for the district. **Is this area being considered to be zoned commercial at this time? Based on the purposes outlined in the application and long-term goals, it appears that is the direction this is going.**
- The proposed use will not adversely affect the health and safety of the public and the workers and residents, or farmers in the area, and will not be detrimental to the use or development of adjacent properties or of the general neighborhood. **This request does not serve the surrounding residences or farmers, It will cause a negative impact on neighboring landowners property values (Who would want to buy/build or live next to a heavily trafficked area hosting outdoor and larger events?)**
- The proposed use will comply with all appropriate regulations for the district in which it will be located. **Who will be monitoring compliance with noise, attendance and traffic control? This puts an additional burden on the neighbors and in particular law enforcement.**
- The proposed use will comply with all special regulations established by this section and all special conditions necessary for the sanitation, safety, and general welfare of the public. **It is hard to believe that this location is safe for the purposes of hosting larger events. Mr. Lehman suggests for larger groups, they be held outdoors. Another grave concern especially for neighbors. There is only one road in/out; and it's a narrow gravel road. If that road should become blocked from eventgoers, there would be no access for emergency vehicles. If 41st is to be upgraded, Then Mr. Lehman should pay for that upgrade (Not the taxpayers of Burleigh County) as this facility is a "for-profit" entity that would only benefit him. If his events are going to host larger groups, where will they all park and how will traffic be controlled to ensure safety?**

Have those homeowners and subdivisions along 110th Ave NE, 97th Ave NE and 26th Street NE been notified? This action will likely directly and negatively impact those property owners, as well as all of the homeowners in the surrounding areas.

Additional concerns impacting the surrounding community; potential decrease in property value; potential increase in taxes, jeopardizing safety, compromises the purpose of those who built or bought homes with the intent of living in a quiet community/"rural environment".

CONCERNS REGARDING SUP AS IT PERTAINS TO THE SURROUNDING IMPACTED PROPERTIES:

It is our understanding that a "movie showing event" was held in July 2023. During this event "food trucks, antique cars, hundreds of people were encouraged to attend with tickets being sold". We assume a SUP was requested and granted to host this event? What were the terms and restrictions outlined in this permit?

PROPOSED ACTIVITIES TO BE HELD PRECIPITATING SUP APPLICATION

- Mr. Lehman provided a revised plan which suggests 200 people events -2 x per year
- All other events - 100 attendees 1x per week
- Directing traffic to flow to 97th Ave NE and 26th NE and utilizing shuttle services where needed.

ISSUES FOR THIS COMMISSION TO ADDRESS:

It was concerning to read that while Agri-Tourism use may be on the increase in other parts of the Country, "Burleigh County has not yet received a request of issue a permit for this type of use". Approving this SUP sets a dangerous precedent. This would be the FIRST permit granted of its kind. Careful consideration needs to be given to fully consider those impacted vs those benefiting from this request.

It's clear that Mr. Lehman wants to change the direction of his initial plan and greatly expand the use of this property to include weddings, corporate events, movie showings and other activities that go beyond the scope of his original plan for this property. If approved, this completely changes the landscape and use of rural residential/agricultural property in this community.

This precedent setting action would only encourage similar owners and investors to repurpose agricultural property into commercial-for profit entities (while remaining zoned Agricultural). And - without careful consideration of how Burleigh County Planning & Zoning has laid out its plans for future development.

It does not appear that the concerns raised during the January board meeting have been satisfactorily addressed. Of additional concern is that those neighborhoods and residents that would be impacted by this request have not been properly notified and given the opportunity to comment (in particular those living along the route or impacted surrounding areas where Mr. Lehman is suggesting traffic would be directed for various events).

CONCLUSION-ACTION REQUESTED

For valid reasons, the Planning & Zoning Commissioners voted 8-1 to deny this permit in January.

For the numerous reasons we've outlined above, we urge the Planning & Zoning Commissioners to DENY the Special Use Permit for Burnt Creek Farm.

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.		

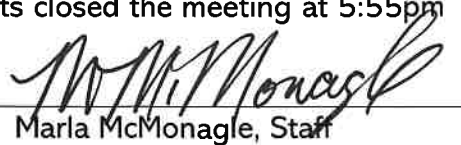
	One of the licenses require approval of the Special Use Permit before being able to apply.		
Comm. Patrick	<ul style="list-style-type: none"> - Are they going to sell meats to the public, but they are not going to sell the meat butchered on site? - What are they going to do with the byproducts of the 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