

The Beulah Planning and Zoning meeting of February 14, 2022 was called to order at 5:07 pm by Jerry Reichenberg at Beulah City Hall.

Present: Jerry Reichenberg, Gary Miller, Dustin Buchmann, Chris Renner, Gerald Bieber, Roger Gazur, Dale Schwalbe

Absent; Brock Seibel

Also Present: Heidi Hamelton, Assessor; Beaver Brinkman, Economic Development

Renner entered a motion to approve the January 24, 2022 P&Z meeting minutes as presented. Gazur seconded. Motion carried.

OLD BUSINESS

Inquiry to Attorney General regarding revisions to Zoning Ordinance

Miller requested to address this agenda item first. Miller presented the letter from P&Z to the City Council at the February 9th meeting, and the City Council asked the City Attorney to meet with P&Z to clarify and resolve the dispute. Gazur reported that he had a conversation with Hoffer (City Council) today regarding this issue. He also received a draft of the minutes from the February 9th City Council meeting for review. Gazur and Miller agreed that if this issue needs to be brought up in a City Council meeting again, Gazur and/or other member of the P&Z Commission should be there to help field questions and provide background and explanation for the request. Gazur believes one of Hoffer's main concerns was cost; the P&Z Commission's goal is to use the ND Century Code to create a simple, streamlined procedure based on the P&Z Commission's recommendations. It was asked when the City Attorney will be meeting with P&Z as the City Council requested, as he is not present tonight and has yet to set up a meeting. Hamelton suggested that maybe scheduling a special meeting would be the best option, as the City Attorney has meetings scheduled most Monday evenings and has stated that as a reason he is unable to attend a regular P&Z meeting. Gazur reiterated that an amendment to the Zoning Ordinance requires review by the City Attorney. He feels that the minutes from the Council meeting seem to reflect a misunderstanding that the P&Z Commission wants to remove notification and attorney involvement, which is not the case. Hamelton stated she did clarify that to the Council. She also stated that the Council seemed concerned with the cost of an AG inquiry and whether it would be more difficult to track changes without an ordinance. The Council also questioned whether they would approve a procedure change even if it was allowed. Gazur stated that the plan for tracking is to add another section to the Zoning Ordinance that lists every change. The process in NDCC 40.47.04 and 40.47.05 is to hold a P&Z hearing, then P&Z makes a recommendation to City Council, and City Council either approves, approves with conditions, or rejects it. Upon an approving vote, the change goes into effect and the City Auditor publishes notification of the adoption in the local newspaper. Brinkman stated that the way it was presented by the City Attorney in 2017 is that a chapter is set up for the Zoning Ordinance within the City Ordinances, and every time a change is made by ordinance, you change that chapter, and changes are tracked within that chapter. However, this chapter system has yet to be put in place, which makes the argument confusing. Gazur stated that the City Council pretty much has carte blanche to use any procedure it deems appropriate. Gazur is of the opinion that process as presented by the

P&Z Commission is the most appropriate and easy to utilize. An example was given of a recent ordinance changing the text of the Zoning Ordinance, and there was no notification, no public hearing, and no publishing upon adoption, so it was not done correctly. Hamelton will get with the City Attorney to set up a meeting with the P&Z Commission to further discuss this issue.

Foundation Detail Update

No update.

P&Z Ordinance Enforcement draft review

No update.

Pitched Roof Project

An email from the engineering firm performing the analysis for the homeowner was distributed and discussed. The analysis is expected to be completed by the end of the week, and the required reinforcing and approval report will be done within 6 weeks. Hamelton will continue to check in on the progress.

Contractor Registry Update/Fee Schedule

Because the City Council approved the purchase of the Permit Tracking system, these documents need to be reviewed by next meeting. The fee schedule draft is the most important at this time. The other documents are information sheets for contractors and those requesting building permits. The fee schedule would need to be set by resolution of the City Council per the Zoning Ordinance. The costs for plan review and inspection are passed through to the person requesting the permit, and the rest of the fee is to cover the costs incurred by the city. Gazur stated that he thinks a flat fee with plus a percentage of the cost would be an appropriate way to charge these fees. Hamelton explained what other costs are incurred when processing a building permit from application to completion, including front end work and continuous review. Interstate Engineering currently does inspections and an official in Wahpeton does our commercial plan reviews. Our current building permit fees are very low relative to other similar size cities in ND. There was discussion about whether it was necessary to have an engineered plan reviewed by an outside engineer, and a couple examples were provided and discussed. The definition of excavation and when an excavation permit will be required needs to be addressed and clarified as the ordinance does not currently match the permit application. Septic systems would not need an excavation permit as they are inspected by Custer Health. Hamelton asked the members to review the fee schedule and other forms and be prepared to discuss at the next meeting for discussion, revision, and approval.

Permit Tracking/Inspection/P&Z Software – iWorQ

City Council unanimously approved purchase of the iWorQ system on February 9, 2022. The pre-implementation Zoom call with iWorQ is set for Tuesday, February 22.

Miller left the meeting at 5:50 PM.

Gazur would like to add “Interstate Engineering revision of District Zoning Map” to the Old Business section of the agenda until it is complete. This should be a priority.

NEW BUSINESS

Building Permit Variance Request – WARC

A building permit application along with a variance request was distributed. The east section of 7th Street NE has a north boulevard of 40', which is much larger than normal. Because of this, many of the buildings on the north side of 7th Street NE were constructed almost right on the front lot line. The WARC building, 1500 7th Street NE, is set back about 25' from the front lot line. They are requesting a variance so they can build a 160 SF shed in front of the building to be anchored to the existing driveway slab. This building would be about 11' from the front lot line. Gazur entered a motion to approve the setback variance as requested. Buchmann seconded. Motion carried.

Perrault Construction/Lakeview Services ET Rock Crushing Operation

Lakeview Services has purchased the property on the north side of Hwy 200 from Perrault Construction with the intention of continuing the crushing operation. This property lies within the one-mile jurisdiction of the City of Beulah, and this second ½ mile is under joint jurisdiction with Mercer County. Hamelton has discussed this with the mayor, and they concluded that they would need to apply for a conditional use permit. Hamelton has contacted Carla with Lakeview Services and provided her with the information necessary to apply for this permit. This is the first situation that has come up relative to joint jurisdiction, so the process is still somewhat unclear. Perrault was not previously permitted by Mercer County or the City of Beulah, and the other similar plants in the area are also not permitted. The mayor also questioned making the permit a five-year renewable permit, as the county permit is an annual permit. The commission questioned whether the city should be exerting jurisdiction or if we should let the county handle the situation. As the city elected to adopt the extra ½ mile into their jurisdiction, it is the city's responsibility to make the initial decision and then present it to the county for review and approval or opposition. The question was raised as to the actual scope of work being performed at that location, and where it fits in the use table. As it isn't within city limits, the only zone that applies is Agriculture. Hamelton raised the question as to what we want to do with Strata and Knife River Construction, as Lakeview Services have asked whether these facilities would be required to obtain the same type of permit. Gazur clarified that Strata and Knife River Construction are concrete facilities, not rock crushing facilities, and those are permitted uses, so he doesn't believe that we should require them to obtain a conditional use permit. They bring in aggregate and make it into concrete. Perrault used a backhoe with a crusher attached to crush concrete supplied by Strata and Knife River Construction. Because of the way it's done, Reichenberg doesn't believe Lakeview Services would be required to get a state permit. Gazur commented that the C2 zoning for Strata is incorrect and should be Industrial or Heavy Industrial, both of which have Concrete Mixing as an allowed use, and as it is zoned right now, they are a non-conforming use. Renner questioned if someone within the second ½ mile of city limits would be fined for not getting a permit, and Hamelton said yes, because they are within the city's legal zoning jurisdiction. Hamelton also verified that none of the three companies in question ever obtained an annual county permit. The fee for a conditional use permit has not been defined to date and would require a resolution by the City Council. For joint

jurisdiction situations, the city is responsible for ordinance enforcement, and all decisions are subject to county review. Gazur and Reichenberg are of the opinion that the county should be responsible for this issue. Hamelton reminded the commission that the city actively petitioned to exercise jurisdiction over the second ½ mile, and it directly correlates with the city's comprehensive plan. The joint jurisdiction direction is indicated in ND Century Code 40.47. If the city and county have opposing views, the issue would have to be resolved through mediation. Gazur recalls most of the conversation surrounding jurisdiction over the second ½ mile having to do with permanent homes and business structures, so in the future, these structures could be easily annexed. The Conditional Use Permit process was discussed, and the concern is that Lakeview Services would be unable to obtain approval signatures from the neighboring businesses. Gazur entered a motion that the Beulah P&Z Board inform Mercer County that this is within their purview and wish them to act accordingly. Bieber stated that the county previously shut down OSM due to lack of dust control. Renner seconded. Roll call vote found all in favor; motion carried.

Misc. Business

Gazur stated that he would have liked the letter drafted for the Attorney General opinion to have been shared with the P&Z Commission when it was sent to Councilman Miller. Gazur also stated that he would have liked to have seen a copy of the plans for the animal boarding facility previously referenced by Brinkman. Brinkman stated there was not a formal plan presented, it was a sample plan shared with him by the prospective business owners. The timeliness of dissemination of information is key, and if city personnel have information that may or may not be of interest to the P&Z Board that it be shared.

The animal boarding facility is still in the works. A definitive location has not been nailed down. Reichenberg stated that there have been complaints in recent years about excessive animal noise from the vet clinic, so the property to the south of the vet clinic may not be the ideal location. Keller Drive was discussed as a potential location due to the nearby trees.

Hamelton presented pictures of the tarp that was placed over the hole in the roof at the apartment complex on Parkway Drive.

Building Permit List Review

Renner entered a motion to approve building permits 7907-7914 as presented. Gazur seconded. Motion carried.

Gazur made a motion to adjourn at 6:48 PM. Buchmann seconded. Motion carried; meeting adjourned.


Chairperson


Secretary