

OFFICIAL MINUTES

City Chairperson Tanner Aiken called the meeting of the City & County Planning Commission to order on Tuesday, February 4, 2020, at 6:30 PM in the Chambers Room #310 on the third floor of the City & County Government Center. City members present were Ashley Biggar, Greg Fargen, Gregg Jorgenson, Jason Meusburger, Jacob Mills, Lee Ann Pierce, Eric Rasmussen, and Aiken. James Drew was absent. County members present were Alternate Chairperson Chad Ford, Mike Bartley, Spencar Diedrich, Darrell Nelson, Darrel Kleinjan, Terrell Spence and Roger Erickson. Absent were Tom Davis, Randy Jensen and Michael McHugh. Also present were Community Development Director Mike Struck, County Development Deputy Director Richard Haugen, Luke Muller and Payton Schafers from First District, Eric Witt – Water Manager with Brookings Municipal Utilities and others.

Item #1 – Roll Call

Item #2 – (Jorgenson/Meusburger) Motion by the City Planning Commission to approve the agenda. All present voted aye. **MOTION CARRIED**

(Bartley/Erickson) Motion by the County Planning Commission to approve the agenda. All present voted aye. **MOTION CARRIED.**

Item #3 – (Rasmussen/Mills) Motion by the City Planning Commission to approve the February 4, 2020 Joint Jurisdiction meeting minutes. All present voted aye.

(Erickson/Bartley) Motion by the County Planning Commission to approve the February 4, 2020 Joint Jurisdiction meeting minutes. All present voted aye.

Item #4a – Discussion and review on updating the Joint Jurisdiction Zoning ordinance Draft.

The meeting was adjourned at 7:35 p.m.

Mike Struck
Community Development Director

Tanner Aiken, Chairperson

OFFICIAL SUMMARY

City Chairperson Tanner Aiken called the meeting of the City & County Planning Commission to order on Tuesday, February 4, 2020, at 6:30 PM in the Chambers Room #310 on the third floor of the City & County Government Center. City members present were Ashley Biggar, Greg Fargen, Gregg Jorgenson, Jason Meusburger, Jacob Mills, Lee Ann Pierce, Eric Rasmussen, and Aiken. James Drew was absent. County members present were Alternate Chairperson Chad Ford, Mike Bartley, Spencar Diedrich, Darrell Nelson, Darrel Kleinjan, Terrell Spence and Roger Erickson. Absent were Tom Davis, Randy Jensen and Michael McHugh. Also present were Community Development Director Mike Struck, County Development Deputy Director Richard Haugen, Luke Muller and Payton Schafers from First District, Eric Witt – Water Manager with Brookings Municipal Utilities and others.

Item #4a – Muller summarized the discussion from the previous meeting. A big discussion topic from the last meeting was the replacement of a house in the Wellhead Protection Area (Zone A). And should it be a Permitted Use or a Conditional Use to replace an existing house within the Wellhead Protection Area. Muller asked what the thoughts were that if there isn't a house there, then they won't get to build a house. There was no objection to this. Muller wondered if the Commission wanted to be able to restrict or limit replacement of a house and the house can only be rebuilt at the original size? Muller asked if there is anyone that thinks the replacement should be a Conditional Use, to build only at the size that it was? Bartley thinks it should be a Permitted Use which would allow the owners to continue to use the property at its original use. A Conditional Use could be denied which involuntarily takes away the use of property from the owner. A permitted use allows the owner to still be able to use the property as a family residence. He doesn't have a problem with the 25% increase, but does have a problem with taking away the right to rebuild. He doesn't feel the Commission should be allowed to restrict owners as to what they can do with the property, but they can restrict the size of the house being rebuilt. Kleinjan also feels that the Commission shouldn't be allowed to restrict the use of an owners property. This will devalue the properties. Muller wanted to clarify if everyone in agreement of allowing to rebuild, for any reason, as long as they build at the original size or within 25% increase? All appeared to agree.

Next, Muller explained that current provisions, in the draft, do not allow for additions onto any structures within the Wellhead Protection Area. Should these additions be prohibited and if so by Conditional Use or by Permitted Use, focusing on residential use. Should these additions remain prohibited or should they be allowed to expand up to 25%? Meusburger thinks decks should be allowed by Permitted Use but garage additions should be Conditional Use which would allow staff and the Commission an opportunity to evaluate. Bartley doesn't feel that decks would affect the Wellhead Protection Area as much as an addition onto a house. Bartley feels that the 25% rule should apply to the increase of the size of the house. He doesn't feel that this would need to apply to decks. Rasmussen feels that this should be a Conditional Use and it should be based on the date of the ordinance. And he also agrees that this will give staff and the Commission the opportunity to evaluate the addition. Muller asked who feels that an expansion of up to 25% of the house and garage should be a Conditional Use? All agree. Muller then wondered if this should be gross floor area, including the basement and the garage? Or just the footprint of the structure? Struck stated that the City Ordinance does not include the garage, only living area excluding the basement. Rasmussen feels that it should be calculated on the footprint of the building. Bartley stated that he feels it should be the total square footage because the old farm houses are two stories and to rebuild based on the footprint would be impossible if they wanted to build a ranch style house because two story houses aren't being built currently. Kleinjan feels that the calculation should be based on finished space. Bartley feels that they

could use the verbiage “finished floor area as assessed.” Muller asked if everyone agrees that this would apply only to an addition to the house, not the garage. Kleinjan stated that it is safer to have a vehicle parked in a garage and not outside, so a garage expansion should also be included. Bartley feels that a garage expansion should also be a Conditional Use. It allows staff and the Commission an opportunity to review it.

Muller was under the impression that new Septic Tanks should be a prohibited use in the Wellhead Protection Area. But that isn't noted in this ordinance. Pierce wonders if there will ever be a time for a new septic system other than if a current system needs to be replaced or if a new house is being built to replace a recently destroyed structure? Muller stated this is the intent of his question, are septic systems flat out prohibited or would they be allowed to be replaced? Pierce says people should be allowed to replace their septic systems. But she wonders what Utilities would recommend for the most environmentally safe way. Spence wondered if the replacement septic should be based on capacity, a replacement would have to be of the same size and design as the current system. Haugen explained that septic system replacements are regulated by the SDDENR. Due to this, Rasmussen doesn't feel that the Commission or Staff should have to regulate the septic tank replacement. Eric Witt, Water Manager at BMU, is ok with septic system replacement in the Wellhead Protection Area Zone A, in kind to current code.

Muller then asked if anyone had questions on the Ag Uses? Is everyone ok with not being able to replace grain bins or commodity sheds in this Wellhead Protection Area? Discussed the Ag structures, the draft states that grain bins and things of that nature will not be allowed to be built in the Wellhead Protection Area. Ford is wondering why these structures cannot be rebuilt, grain bins would be filled with grains that would not pollute the area. Muller recalls the previous discussion was on “new” structures. Rasmussen would like to discuss new and replacement structures separately. He recalls that the replacement of a structure can be done with a Conditional Use according to the draft. Rasmussen wondered if they should limit the size, Pierce doesn't think so since this can be determined by the board when reviewing the Conditional Use application. Ford explained that most farmers would probably replace 4 smaller bins with one larger bin. Pierce would like the draft ordinance to be clarified to state “Reconstruction of anything other than the dwelling.”

Muller then asked about the construction of new Ag structures within Zone A. Current draft states “No new Ag structures.” Majority feels that new Ag structures should be prohibited within Zone A. Struck wondered about accessory structures. Muller read from the draft ordinance that no new structures would be allowed.

Muller asked the Commissions' if there were any uses or things in this area that need clarification? In conclusion the replacement of existing dwellings up to the existing size and including an increase up to 25% of the gross floor area would be permitted. A Conditional Use would be required for the reconstruction of non-dwelling structures in existence on the date of adoption provided the application is made within 1 year of the removal of the structure. Struck asked if “accessory structures” would be the appropriate verbiage to cover this? Muller stated no because there are cell phone towers in the Wellhead Protection Area. Ford asked if 1 year is sufficient on the Conditional Use application, or if it should be 3 years. Muller stated that the owner would need to apply with what their plan is within 1 year, the project wouldn't need to be completed. Rasmussen agrees that the permit should be applied for within 1 year.

The meeting was adjourned at 7:35 p.m.

Mike Struck

Tanner Aiken, Chairperson

Community Development Director