



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE
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**Minutes from the meeting of Grant County Planning Commission
March 11th, 2024**

Planning Commission member present: Nancy Johnson, John Seffrood, Tom Pillatzki, Steve Spors, and County Commissioner Bill Tostenson (for County Commissioner Mike Mach)

Alternate(s) present: Don Weber, Jeff McCulloch.

Board of Adjustment members absent: Mark Leddy Mike Mach and James Berg

Others present: Doug Fraasch, Joyleen O'Farrell, David Gulk, Daria Liebe, Alex Liebe, Dean Wellnitz, Bill O'Farrell, Steve Pendergrass (City of Milbank), Todd Kays (First District), and Steve Berkner (Grant County Planning Commission officer.)

Meeting Date: Monday, March 11th, 2024

Meeting Time: 4:00 P.M. In-person in Courthouse Community Room.

1. Vice-chairwoman Johnson calls the Board of Adjustment to order at 4:24.
2. Johnson asks if the Planning Commission, or any staff member, had anything to add to the agenda with none being offered.
3. Johnson asks for a motion to approve the agenda with McCulloch making the first and Seffrood making the second. Motion passes 7-0.
4. Johnson asks for a motion to approve the Planning Commission minutes as submitted from the November 20th, 2023, meeting. Motion made by Weber and Pillatzki making the second. Motion passes 7-0.
5. Johnson asks for a motion to approve the Planning Commission minutes as submitted from the January 16th, 2024, meeting. Motion made by Tostenson and Weber making the second. Motion passes 7-0.
6. Johnson asks for any seated board member if they think they need to recuse themselves from any discussion topics on the agenda, or from voting on an agenda item with no board member responding.
7. Johnson calls for a motion recommending to the County Commission, Ordinance Number 2024-02, an ordinance to rezone LOTS 1, 2, 3, 4, and 5 of Liebe's 1st Addition, in NW1/4 in

Section 12, Township 120, Range 49 West of the 5th Principal Meridian, Grant County, South Dakota. (Grant Center Township) from Agriculture to Commercial. Pillatzki makes a first followed by a second by McCulloch.

Johnson asks Kays to give his staff report for Zoning Ordinance Number 2024-02 where Kays said that the owner of the property, Alex Liebe, was requesting that five adjacent lots be rezoned from Agriculture to Commercial where his family was trying to find a suitable use for the property after a large percentage of the land was recently added to the new floodplain maps which limited development.

Kays gave a brief history of the platting of the five lots that were recently subdivided, along with a sixth lot, by the Liebe family in 2022 where because of the properties close proximity to the City of Milbank, Milbank was able to approve those plats as per South Dakota Codified Law that give communities the right to approve plats within a few miles of city limits as long as the creation of those plats fits into the city's comprehensive plan.

Kays, who also helps Milbank with zoning procedures, said that it was his recollection that at the time the lots were intended to be developed as residential lots where Milbank thought that in the future those lots, once developed, could possibly be annexed to the city.

Kays said that one of the cities concerns at the time was about eventually providing city water and sewer utilities where they thought it would be up to the developer to make those improvements if they ever sought being annexed to the city.

Kays said that according to the County's recently updated Comprehensive Plan that the five Lots, due to their abutting proximity to already existing Commercial lots to the east, and that the lots were alongside US Highway 12, that a strong case could be made to grant the rezoning request.

Kays added that members of the County Commission, the Planning Commission and the Planning Commission Administrator, had met with the City of Milbank to go over their future annexation plans and did it matter to the city if the lots were either left Agriculture or changed to Commercial. Kays said the City of Milbank was neutral on the rezoning request.

At the conclusion of Kays presentation Johnson opened the public comment portion of the public hearing asking Liebe if he had any additional comments to make not covered in the staff report where Liebe said the biggest contributor to the request was the newly updated FEMA floodplain maps mostly negated future developed options without the additional expense of raising building sites to avoid possible flood waters.

Liebe said he was also concerned about the lack of the availability of joining rural water where that existing water line was already undersized for the homes that already existed in that immediate area. Liebe also had concerns that the city not having any current interest in adding water and sewer utilities also limited the development options for the land where

commercial development made more sense where there wasn't a large need for either water or sewer utilities.

Johnson opened the public hearing at 4:41 for Ordinance 2024-02 asking three separate times if there were any comments or concerns "for" or "against" granting the CUP where no public comments were made in favor of the zoning change request.

Abutting landowners Dean Wellnitz and David Gulk both spoke about their concerns with the lots being rezoned where their major concerns were: the integrity of the shared private road used by numerous homeowners in the area which is often substandard for the amount of traffic it already receives, child safety issues that most likely would arise due to increased traffic on the private roads, the lack of available water pressure due to the existing rural water line, and the impact on neighboring property that is just above the floodplain if nearby areas within the floodplain is raised to accommodate those structures that it could force water to back up on the adjoining land.

Wellnitz said that when the original lots were subdivided it was understood that they would be residential lots were changing the zoning of those lots would change the neighborhood's rural setting. Another concern was what type of activities does commercial use allow that are not respectful of families and their children living right next door.

Gulk echoed some of those same concerns of Wellnitz where he added the adjacent body of water to the 5 lots seeking rezoning was slated for South Dakota Game Fish and Parks for possibly putting in a public dock for fishing which didn't seem to fit being in a commercially zoned area.

With no more public comments Johnson closed the public comment portion of the public hearing at 4:56 asking Planning Commission members to discuss the rezoning request.

Topics discussed by the Planning Commission included: what are the exact future plans for development by Liebe's, what limitations are there for installing an approved SDDANR septic tank and drainfield within a floodplain, who maintains the shared private road and the need for a road agreement among all parties, and has the applicant considered rezoning fewer than the five lots to reduce some of the concerns of existing neighboring residential lots.

Liebe was asked to respond to the questions in kind where he said their development plans included renting agriculture equipment as a business activity, or possible a used car lot, and eventually developing housing on the three western lots (Lots 1, 2, and 3) which are mostly outside of the floodplain if adequate potable water could be arraigned.

Zoning Administrator Berkner was recognized where he commented that Liebe's six lots already had a recorded road maintenance agreement between themselves, and that Berkner Excavating, located directly to the east, had confirmed to his office that Liebe's would have access to their portion of the private road.

Berkner also stated that both the City of Milbank and Ottertail Power Company had long standing recorded easements across Liebe's five lots for existing underground utilities.

Other Commission discussion topics included whether an AG zoned lot could be used for running a business renting agriculture equipment, which Kays said no, that was only allowed on Commercially zoned property.

Another question asked of Kays was could the Planning Commission only recommend that the County Commission approve Lots 4 and 5 for now, removing Lots 1,2 and 3 from their motion, which would give Liebe a chance to find working solutions for some of the public comments' concerns where Kays said that amendment could be made to the original motion.

After much discussion Pillatzki offered an amendment to the original rezoning request to recommend to the County Commission that Lots 4 and 5 be rezoned Commercial where lots 1, 2, and 3 would remain Agriculture. McCulloch made the second.

With no meaningful discussion Johnson then called for the vote to recommend to the County Commission to approve the zoning changes which passed 7-0.

With no more agenda items Johnson calls for a motion the adjourn which is made by McCulloch and seconded by Seffrood. Motion passed unanimously.

Planning Commission meeting ends at 5:29.

Steve Berkner
Grant County Planning and Zoning Administrator