

# CITY OF VERGAS PLANNING COMMISSION & PUBLIC HEARING AND MEETING MINUTES

Monday, September 26, 2022

6:00 pm

Event Center & Zoom Meeting

The City of Vergas Planning Commission held a public hearing on Monday, September 26, 2022, at 6:00 pm as a hybrid meeting with the following members present: Bruce Albright, Van Bruhn, Robert Jacoby, Neil Wothe and Paul Pinke. Absent: none. Also present: Clerk-Treasurer Julie Lammers, Utilities Superintendent Mike DuFrane, Engineer Jeff Kuhn, Julie Bruhn and Loren Menz.

## **Public Hearing – Conditional Use Permit on parcels 82-000-50-0024-000 on the Extension Glenn Street**

Chairperson Bruce Albright opened the public hearing at 6:00 pm and reviewed the request for the extension of Glenn Street.

Loren Menz questioned the effect of Glenn Street if this conditional use permit was approved. Currently there are four properties along Glenn Street and their properties will not be improved by the updates of the street. Discussed utilities and the fact currently they are asking for the road to be extended without any other updates. Menz stated he did not see any problem with creating a road, but it will dictate a need for the City to update the current road. Albright explained he is taking the risk as they could be creating a road with a dead-end sign.

Chairperson Bruce Albright closed the public hearing at 6:15.

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## **Call to Order**

Chairman Bruce Albright called meeting to order at 6:16 pm.

## **Agenda Additions and Deletions**

Approved agenda as with following deletions: Grade and Fill Permit

## **Minutes**

Motion by Jacoby, seconded by Pinke to approve minutes for August 22, 2022 and September 8, 2022. Motion passed unanimously.

## **Status of Council Recommendations**

Reviewed the denial of the Mark Sand and Gravel permit as Planning Commission recommended. Council sent back the recommendation of conditional use permit for 235 E Frazee Avenue as they would like the pros and cons of approving a conditional use permit and not changing the zoning.

Adjoined planning commission meeting to resume after public hearing.

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**Public Hearing –Conditional Use Permit or Zoning Change for parcels 82-000-50-0027-009 and 82-000-50-0027-008**

Chairperson Bruce Albright opened the public hearing at 6:00 pm and reviewed the request for updating the Vergas Zoning or giving a conditional use permit regarding to the following parcels 82-000-50-0027-009 Section 25, Township 137, Range 41; 82-000-50-0027-008 Section 25, Township 137, Range 41 (located on the corner of Hwy 4 and 35). This will change the current residential zoned properties to commercial zoning or give property owner a conditional use permit for the property listed.

Poss questioned if the Council is planning to have commercial zoning all over the city and not in sections of the city. Albright stated that the planning commission cannot speak for the Council but due to the small area of land in Vergas this is going to be happening. Jacoby stated that commercial use is for parcels and zoning changes are for large sections of a community. Discussion extended to how long a conditional use permit is valid.

Lammers provided the following information from the League of MN Cities web site.

A conditional use permit is a property right that “runs with the land.” That is, it attaches to and benefits the land and is not limited to a particular landowner ([Minn. Stat. § 462.3595, subd. 3](#)). State statute requires CUPs be recorded with the county recorder’s office ([Minn. Stat. § 462.3595, subd. 4](#)). When the property is sold, the new landowner will have the continued right to the CUP so long as the conditions are met.

A city can revoke a conditional use permit if there is not substantial compliance with conditions. The revocation must be based upon factual evidence, after appropriate notice and hearing. Because a CUP is a property right, a city should work closely with the city attorney if considering a CUP revocation.

Neighborhood opinion alone is not a valid basis for granting or denying a Conditional Use Permit. While city officials may feel their decision should reflect the overall preferences of residents, their task is limited to evaluating how the CUP application meets the ordinance standards. Residents can often provide key facts to help the city address whether the application meets the standards, but unsubstantiated opinions and reactions to an application are not a legitimate basis for a CUP decision. If neighborhood opinion serves as the sole basis of the decision, it could be overturned by a court if challenged.

Discussed the current land usage as it is lakeshore property. Albright stated there are 14 sheds already in and around the area so not having more sheds is not an issue for the area.

Potential owner Mike Lorz reviewed his plans for the property. There is no intention to sub divide the property and they would like to work with the neighboring property owners. Discussed a tree buffer between residential properties and the commercial business. Ordinance 151.31 discusses buffer zones in commercial properties.

Wothe stated in the comprehensive plan it states people would like more residential, some commercial, parking plus keep the small town feel as well as a clear-cut practice in zoning.

George Jacobs stated his concern is dirt bikes and four wheelers in the area, currently this is a quiet ideal spot and would not like to see this change. Lorz stated these are large condominium storage areas where people would be storing items there should not be a lot of traffic other than in the spring and fall when they will be dropping off items.

Chairperson Bruce Albright closed the public hearing at 6:51 pm.

Chairman Bruce Albright restarted the planning commission meeting at 6:52 pm

#### Construction Permits

##### Approved Permits by City Clerk-Treasurer

- a. 105 E Main St, Sign for MW Pastry
- b. 320 S Pelican Ave, steel roof and chimney repair

##### Grade and Fill Permit

Commissioners discussed permitting process: City of Vergas is responsible for everything above the ordinary high-water mark and MN DNR is responsible for everything below the ordinary high-water mark.

Motion by Jacoby, seconded by Pinke to approve grade in fill permits 92 Park View in Vergas by moving dirt and adding sand blanket. Motion passed unanimously.

#### **Old Business:**

##### Conditional Use Permit

1. 235 E Frazee Avenue

Planning Commission recommended approval of the permit on September 8 and Council returned to the planning commission to provide the why. Jacoby stated other cities have 2-3 different commercial use for zoning and we may need to change our ordinance. Property currently has trailers parked outside against our residential ordinance. If we change the zoning any commercial building can be built on the property, the planning commission stands by its original recommendation to approve conditional use permit.

2. Parcels 82000500027008 and 82000500027009

Motion by Wothe, seconded by Bruhn to recommend to council to approve the conditional use permit for parcels 82000500027008 and 8200027009. Reviewed a buffer zone and if they needed to add requirements. Motion passed unanimously.

3. Extension of Glenn Street

Motion by Bruhn, seconded by Pinke to recommend to Council to approve the conditional use permit for the extension of Glenn Street. Motion passed unanimously. Discussed the need for a grade and fill permit to move the road.

##### Nuisance Properties

DuFrane provided pictures of nuisance properties at 130 E Elm St and 131 E Mill Street which have had complaints filed. Planning Commissioners felt the property at 130 E Elm Street has toys and household items in yard, but they are not nuisances. 131 E Mill has been cleaned up since complaint was filed and no letter needs to be sent. DuFrane mentioned the property at 339 E Frazee Ave needs a letter needs to be cleaned up and 306 E Frazee Avenue has tractors on city property. Motion by Pinke, seconded by Wothe to send nuisance letter to 306 E Frazee Avenue once Lammers receives pictures from DuFrane regarding parking on ball diamond property. Motion passed unanimously. DuFrane questioned 311 Park View Drive and the shed which is on the city easement portion of their property.

#### **New Business:**

##### Gravel Pit Ordinance

Planning Commission members asked Lammers to invite Jeff Hartwick of Mark Sand and Gravel to a meeting to discuss updating the gravel pit ordinance.

Meeting adjourned at 7:35 pm.

Secretary,

Julie Lammers, Vergas City Clerk-Treasurer

Follow Up Actions:

Nuisance letter to 306 E Frazee Avenue

350 Pelican Avenue construction assessment (Tanya at Otter Tail County HRA)

Snow emergency routes.

Review camper ordinance.

Review and update Developers Notice Procedure

Review and update Ordinance 85 regarding culverts.

Council recommendations:

Approve conditional use permit for the extension of Glenn Street.

Approve conditional use permit for changing parcels 82-000-5000-27008 and 82-000-5000-27009 for commercial use.

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