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July 2, 2019 Minutes

Brookings County Planning & Zoning Commission
July 2, 2019 – 8:00 PM
Brookings City & County Government Center
310 Chambers

Acting Chair Elenkiwich called the meeting to order at 8:00 PM. Commission members present were: Mike Bartley, Kimberly Elenkiwich, Darrell Nelson, Darrel Kleinjan, Terrell Spence, Michael McHugh, Randy Jensen, Chad Ford and alternate board members Tom Davis and Roger Erickson.

The passing of Chairman Robert Rochel was recognized at beginning of meeting with a moment of silence.

Chair Elenkiwich read **agenda item # 2: Approval of minutes from June 2, 2019 & June 20, 2019 meetings.** Mike Bartley moved to approve the minutes. Terrell Spence second. Chair Elenkiwich called for a voice vote. 9-ayes and 0-nays, motion carried.

Chair Elenkiwich read **agenda item # 3: Items to be added to agenda by commission members or staff.** a) Robert Hill asked for addition of discussion of elections.

Chair Elenkiwich read **agenda item # 4: Invitation for citizen to schedule time on the commission agenda for an item not listed. Time limited to 5 minutes per person to address the board.** No one scheduled time to address the board.

Chair Elenkiwich read **agenda item # 5: Disclosure of Conflicts of Interest: Relationship(s) to Applicant; or Ex Parte Communication.** None

Chair Elenkiwich read **agenda item # 6: Approval of Agenda.** Michael McHugh moved to approve the agenda. Chad Ford second. Chair Elenkiwich called for a voice vote. 9-ayes and 0-nays, motion carried.

Chair Elenkiwich stated, "We are now acting as the Brookings County Planning and Zoning Commission" read the opening statement and **agenda item # 7: Consideration of Plats: a. 2019plat008: "Plat of Block 1, Jensen Addition in the NW1/4 of Section 9, T109N, R48W of the 5th P.M., Brookings County, South Dakota."** Randy Jensen moved to approve the plat. Darrel Kleinjan second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff

report. Mr. Haugen stated, "Lawrence and Pat Jensen are platting off 5.0 acres of a building site from the 148.0 acres they own. The farmstead will use a separate 50' wide driveway for access to the property off 480th Ave." He noted: 1) the farmstead was an original homestead of the quarter as noted on the 1909 Plat map. 2) The plat met the platting requirements for the 2016 Comprehensive Plan Unincorporated Rural Areal Land Use on page 24 for Agricultural Land Use. Mr. Haugen used visuals to describe the plat. Chair Elenkiwich opened up for questions from the board, hearing none. She then opened up the public hearing portion asking for questions or comments from the audience opponents and proponents, hearing none. Chair Elenkiwich asked the board for questions or comments. Board members Ford and Bartley noted that plat was straight forward and met all the platting criteria. Chair Elenkiwich then called for a roll-call vote: Bartley-aye, McHugh-aye, Erickson-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Spence-aye, Jensen-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich read **agenda item b. 2019plat009: "Plat of Anderson Addition in the SW/4 of Section 27, T110N, R49W of the 5th P.M., Brookings County, South Dakota."** Mike Bartley moved to approve the plat. Chad Ford second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "John Anderson is platting off 33.7 acres of an existing building site from the 153.68 acres they own. The farmstead will use the existing driveway located at 475th Ave for access to the property. The plat met the platting requirements for the 2016 Comprehensive Plan Unincorporated Rural Areal Land Use on page 24 for Agricultural Land Use." Mr. Haugen used visuals to describe the plat. Chair Elenkiwich noted the plat was straight forward and was platting out an existing homestead consisting of a house, out buildings and grain bins. She then opened up for questions from the board, hearing none. She opened up the public hearing portion asking for questions or comments from the audience opponents and proponents, hearing none. Chair Elenkiwich asked the board for questions or comments, hearing none she called for a roll-call vote: McHugh-aye, Erickson-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Spence-aye, Jensen-aye, Bartley-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich read **agenda item c. 2019plat010: "Plat of Lots 12 & 14 in Block 1 in Paradise Point Addition in Govt Lot 2, Section 22, T112N, R47W of the 5th P.M., Brookings County, South Dakota."** Michael McHugh moved to approve the plat. Darrel Kleinjan second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Lake Dreams is platting off Lots 12 & 14 in Paradise Point, located on the east side of Lake Hendricks, along the South Dakota/Minnesota state line." He noted: 1) Preliminary Plat for Paradise Point has been approved by the board on August 7, 2007. 2) Lots were being platted as they are sold. 3) Lots were lake front lots – Lot 12 – 29,281 sq. feet & Lot 14 – 49,476 sq. feet, exceeding the 20,000 sq. feet minimum lot size requirement. 4) The plat met the platting requirements for the 2016 Comprehensive Plan Unincorporated Rural Areal Land Use on page 24 for Agricultural Land Use. Mr. Haugen used visuals to describe the plat. Chair Elenkiwich opened up for questions from the board. Board member Bartley stated, "This obviously follows the preliminary plat to the T, so I see no reason to not

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approve it, because we had approved the preliminary plat.” She opened up the public hearing portion asking for questions or comments from the audience opponents and proponents, hearing none. Chair Elenkiwich asked the board for questions or comments, hearing none she called for a roll-call vote: Erickson-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Spence-aye, Jensen-aye, McHugh-aye, Bartley-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich read **agenda item d. 2019plat011: “Plat of Block 1, Goodfellow Acres Addition in Parcel 4 of the plat of Govt Lot 1 & in Govt. Lot 6, all in the NW1/4 Section 31, T112N, R51W of the 5th P.M., Brookings County, South Dakota.”** Chad Ford moved to approve the plat. Michael McHugh second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “Steve Goodfellow is platting off 19.27 acres of an existing farmstead building site from the 194 acres they own, located at 46035 201st St, Bruce, SD 57220.” He noted: 1) Existing driveway would be used to access the property. 2) The plat met the platting requirements for the 2016 Comprehensive Plan Unincorporated Rural Areal Land Use on page 24 for Agricultural Land Use. Mr. Haugen used visuals to describe the plat. Chair Elenkiwich opened up for questions from the board, hearing none. She opened up the public hearing portion asking for questions or comments from the audience opponents and proponents, hearing none. Chair Elenkiwich asked the board for questions or comments, hearing none she called for a roll-call vote: Nelson-aye, Kleinjan-aye, Ford-aye, Spence-aye, Jensen-aye, Bartley-aye, McHugh-aye, Erickson-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich stated, “We are now acting as the Brookings County Board of Adjustment” read the opening statement and Chair Elenkiwich read **agenda item # 8: 2019var005: Mark D. Norgaard for JAARL Investments, LLC has made an application, 2019var005, to the Brookings County Board of Adjustment for a variance. Article IV District Requirements: Chapter 4.03 “LP” Lake-Park District: Section 4.03.03. Density, Area and Yard Regulation (Minimum Lake Front). The property is described as: “Lots A & F of Lots A,B,C,D,E and F of Outlot 3 of the Tawzer Subdivision within Lake Poinsett Heights all in Govt Lot 3 of Section 5, T112N, R52W (Laketon Township)” ~~ located at 127 S. Lake Dr., Arlington, SD 57212.** Mike Bartley moved to approve the conditional use request. Darrell Nelson second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “Mark Norgaard has applied for a variance to remove the existing house and build a new house with a 10 foot deck, on the existing foundation 0.39 feet (4 ½ inches) from the highest know water mark on Lake Poinsett, a variance of 74 feet 7 ½ inches.” He noted: 1) Architect had been hired by the applicant to assist with the design plans and the integrity of the existing foundation for the proposed structure. 2) Proposed structure would be 35 feet at peak of roof, 3 stories, built on the existing foundation with a 10 foot deck on the lake side, 4 ½ inches from the high water mark. 3) Elevated foundation to be used was installed June 2007 for existing house and an attached garage addition. The attached garage was not constructed. 4) Foundation was installed prior to the current FEMA flood map updated on June 24, 2008. 5) Elevations were done in the past and sent into Federal Emergency

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Management Agency (FEMA) for removal consideration, structure (house) met the elevation requirements and was removed from the flood plain by FEMA. 6) Tawzer Subdivision was re-platted in 1984, an access easement on Lot "A" prevents proposed structure from being moved further back into Lot "A". 7) Letters were sent to adjoining landowners and Laketon Township Chairman and Clerk. 8) Public Notices were published in the Brookings Register on May 21 & 28, 2019 and in the Arlington Sun on May 23 & 30, 2019. The notices were republished due to applicant request at the June 4, 2019 meeting to reschedule due to no quorum, published in the Brookings Register on June 18 & 25, 2019 and in the Arlington Sun on June 20 & 27, 2019. Mr. Haugen then presented a visual presentation of the site. Chair Elenkiwich asked the applicant to come forward and address the board. The applicant identified himself as Mark Norgaard and stated, "About 14 or 15 years ago we bought Arlington Beach which had like 29, 1950 trailers on it and it was in pretty bad shape. We have developed that into a complex that has 19 cabins on it. This cabin was a cabin I bought about the same time and we brought it up out of a low area and put a new foundation under it. The back area foundations extended for some possible future building, which is the foundation that we would be building on today. It will be a very nice cabin." He presented board members with a petition of those that are not opposed to his plans (A copy was placed on file.) Andrew Mitchell identified himself as the designer of the new structure and stated, "We did not change the setback, and we are building on the existing foundation. The frontage lines up with all the existing houses." He described the materials that would be used on the outside of the structure (river rock, lap siding, corrugated siding) and noted the height of the structure would be 34 feet 6 inches not 35 feet. Chair Elenkiwich opened up for questions from the board. Board members McHugh, Ford, Bartley, Jensen and Elenkiwich discussed: 1) lower deck – distance from high water mark and size. 2) Existing easements not allowing for house to be moved back. 3) Existing foundation - being just over 10 feet from high water mark and was built prior to existing setback requirements of 75 feet. 4) Side yard setbacks of 8 feet on each side are met. 5) Property/street area to the right of the property - public access area to the lake. 6) Height of peak on adjoining structures and structures in the area – single story. 7) Current status of the deck on existing structure. She opened up the public hearing portion asking for questions or comments from the audience opponents and proponents. Chair Elenkiwich noted that Mr. Norgaard had presented the board with a petition of proponents in favor of the variance. She read the petition and noted the list contained the names of 6 proponents. Chair Elenkiwich then called proponents in the audience forward reminding them of the maximum 5 minute time limit. Proponents: (1) Shawn Ericsson – identified himself as owner of one of the 2 (two) story cabins in the area. He noted he was in favor of the request and thought it was a good/positive addition to the area/ABR (Arlington Beach Resort). (2) John Johnson – identified himself as owner of a cabin in ABR. He noted current cabin being discussed was in disrepair and felt the project would enhance property values and add to the enjoyment at Arlington Beach. (3) Alan Dixon – identified himself as one of the current operators of The Boathouse Bar & Grill located in Arlington Beach Resort. He supported removing the existing cabin as it was in

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disrepair and building of a new 2 plus level cabin. Chair Elenkiwich asked for other proponents, seeing none she moved onto opponents. She read a statement the office had received from Cliff Verbeek via phone on July 1, 2019, in opposition to the request. She then called opponents forward. Opponents: (1) Bob Robish – noted concern regarding the condition and off seasonal deck usage as well as concern of the future of lake if allowed to develop closer to shore areas. Mr. Robish also presented the board with a petition signed by 16 proponents of the variance request. Chair Elenkiwich read and displayed the petition, a copy was placed on file. (2) Steve Sundet – concern with current high water level becoming the new norm, condition of decks on current cabins in the area and aesthetics of the neighborhood. (3) Bob Westall – voiced concern with the high level of the lake and allowing decks close to the water. He urged the board not to approve the deck or the structure. (4) Oliver Boterman – mentioned the condition of the current property, safety concern and lack of upkeep. He stated, “I oppose this 100%.” Luke Muller from First District Association of Local Governments noted he had a couple questions to read in and address. 1) Does the existing structure foundation encroach 1 foot into the easement? 2) Describe the construction of the lowest deck (retaining wall, pilings). 3) Does the board have a history of allowing the replacement of nonconforming structures that don’t further encroach upon the setbacks from existing structures? Chair Elenkiwich asked for additional comments, hearing none she closed the public hearing portion. Chair Elenkiwich asked for additional comments from the board. Board members McHugh, Ford and Chair Elenkiwich questioned: distance the new vs. old deck would be from the lake, supports that are currently in place on existing deck and stability and use of existing foundation. Chair Elenkiwich called the applicant forward to answer additional questions. Mark D. Norgaard and Andrew Mitchell identified themselves and noted existing structure does not go into the easement area (Lots A, B & C). Andrew Mitchell addressed the question regarding construction of the lowest deck and the foundation. He noted solutions that they were considering being, build up a concrete retaining wall and pavers. An engineer would be consulted to insure structure would withstand wave action and ice movement. Mr. Haugen noted that he could not address the history question that Mr. Muller mentioned as he would need to review files. Chair Elenkiwich noted the Lake Park District Ordinances had been redone (adopted May 2018) and what was once an option was no longer an option. Chair Elenkiwich asked for additional comments from the board. Board members McHugh, Bartley, Kleinjan, Spence, Jensen, Ford, Nelson and Erickson discussed the current distance of the deck and cabin from the high water mark, easement issue, and high level of lake. They noted concerns with: 1) for the lake itself, 2) proposed size of the structure compared to others in the area, 3) setback of just over 4 inches vs 75 feet from the highest known water mark and 4) Fire protection for the height of the structure (35 feet to peak or 2-1/2 stories). Chair Elenkiwich asked for additional comments from the board, hearing none she asked Mr. Haugen to go over the findings of facts, with any additions, which are on file. Chair Elenkiwich called for a roll-call vote: Kleinjan-aye, Ford-aye, Spence-aye, Jensen-aye, Bartley-aye, McHugh-aye, Erickson-aye, Nelson-aye, Elenkiwich-

aye. 2-ayes, 7-nays, motion failed. Mr. Haugen then read the denied findings of facts, which are on file.

Chair Elenkiwich read **agenda item # 9: 2019var006: Jack Petersen has made an application, 2019var006, to the Brookings County Board of Adjustment for a variance. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.03. Density, Area and Yard Regulation (Minimum Lake Front). The property is described as: "Lots 10-11-12-13-14-15 of Hagensick's Subdivision of OL 1 & 2 of Lot 4 and all that certain Tract of Real Estate 30 feet in width lying between Lots 10-11-12-13-14-15 of Hagensick's Subdivision of OL 1 & 2 of Lot 4; all in Section 32, T109N, R50W (Medary Township)" ~ located at 9080 Hagensick Rd, Brookings, SD 57006.** Michael McHugh moved to approve the variance request. Chad Ford second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Jack Petersen has applied for a variance to add two (2) decks onto his residence: Deck 1 – 6' x 20' with supporting posts 14 feet from highest know water mark. Deck 2 – 6'x12' with supporting posts 18 feet from the highest known water mark. The decks will not have access to the lake shore, they will serve as a walk out area for two existing patio doors." He noted: 1) decks would be in line and not obstruct the view of neighboring houses on either side of the applicant. 2) Shoreline covered with mature trees, bushes and had a steep embankment with rocks to the water's edge. 3) Hagensick Subdivision was platted on September 24, 1958, prior to the current Lake-Park setback and size requirements. 4) Applicant was granted a variance on May 3, 2005 to rebuild the cabin, which was in need of repair, with an addition in the same location. 5) Letters were sent to the adjoining landowners and the Medary Township Chairman and Clerk. 6) Public notices were published in the Brookings Register on June 18 & 25, 2019 and in the Volga Tribune on June 20 & 27, 2019. Mr. Haugen then presented a visual presentation of the site. Chair Elenkiwich asked the applicant to come forward and address the board. The applicant identified himself as Jack Petersen and stated, "I built the house in 2005-06 and put patio doors in but not decks at that time. The patio doors have become a safety issue. The shoreline is established riprap and the old house footing still is in place and will protect anything that is 12 feet in front of the current house." Chair Elenkiwich opened up for questions from the board. Board member McHugh asked what the height/grade difference was from the shoreline to the top of grade by the house. Mr. Petersen estimated a 5-6 feet height difference. Chair Elenkiwich opened up the public hearing portion asking for questions or comments from the audience opponents and proponents, hearing none she closed the public hearing portion. Chair Elenkiwich asked for additional comments from the board. Board member Jensen verified the supporting post locations. Hearing no additional comments from the board Chair Elenkiwich asked Mr. Haugen to go over the findings of facts, with any additions, which are on file. Chair Elenkiwich called for a roll-call vote: Ford-aye, Spence-aye, Jensen-aye, Bartley-aye, McHugh-aye, Erickson-aye, Kleinjan-aye, Nelson-aye, Elenkiwich-aye. 9- ayes, 0-nays, motion carried.

Chair Elenkiwich read **agenda item # 10: 2019cu007: Chad & Sara Taecker have made an application, 2019cu007, to the Brookings County**

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Board of Adjustment for a conditional use. Brookings Joint Jurisdiction Area: Article IV: Agricultural, Residential and Floodplain and Aquifer Districts. Section 405. Agricultural District "A". Section 408: Special Exception # 18: Extended home occupations: and Brookings County Zoning Ordinance: Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 20: Home extended business. The property is described as: "S 860' of the N 1,970' of the W 628' of the NW1/4, except Lot H-2 thereof, all in Section 13, T110N, R50W. (Brookings Township)"~~ located at 2608 Medary Ave, Brookings, SD 57006. Chad Ford moved to approve the conditional use request. Michael McHugh second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Chad and Sara Taecker have applied for a conditional use permit/special exception for an extended home business for a tree service business. The business will be located at their residence, 2608 Medary Ave, Brookings, SD 57006 (aka 471st Ave/Brookings County Highway 77), located $\frac{3}{4}$ mile north of the US Hwy 14 By-Pass." He noted: 1) Business consisted of two International Society Arboriculture Arborists and a staff of 1-4 seasonal employees that provided professional tree care service for urban and rural customers. 2) Disposal of tree refuse: a) chipped and used for mulch; b) milling of larger branches and logs for lumber; c) cut into firewood or taken to the landfill; d) occasional burning of refuse with contact made to Brookings Fire Department/911 Dispatch for a control burn. 3) Equipment storage – inside existing shed and/or parked on cement pad east of shed. 4) Business hours to generally be 8-5 for local area, deviation from hour's possible dependent on distance of job from residence. 5) Existing driveway to be used for entering and exiting property. 6) Business plan received and on file. 7) Business would be located in the County/City Joint Jurisdictional area – City Community Development Department had no objections to the request. 8) Public notices were published in the Brookings Register on June 18 & 25, 2019. 9) Letters were sent to adjoining landowners, City of Brookings Community Development, Brookings Township Chairman and Clerk and the Brookings County Highway Department. Mr. Haugen then presented a visual presentation of the site. Chair Elenkiwich asked the applicants to come forward and address the board. The applicants identified themselves as Sara and Chad Taecker and stated, "We recently acquired this property, our dream of a little acreage and perfect location for our business. Our business has been growing over the last several years and we need storage of equipment on our property." Mr. Haugen stated the business name was Glacier Lakes Tree Service. Chair Elenkiwich opened up for questions from the board, and noted it was a straight forward application and board was familiar with the location. Board member Bartley verified the signage allowance (sign limit of 16 sq ft). She opened up the public hearing portion asking for questions or comments from the audience opponents and proponents. Luke Muller wanted it clarified where any mulch or wood would be located on the property and recommended that it would not be located in any setback areas. Mr. Hill asked the applicants if they had contacted the Highway Superintendent regarding the location of the proposed driveway and clarified that the highway department would need to be involved with driveway plans. Sara Taecker noted it was a dream location spot for a future

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driveway at this time only. Chair Elenkiwich closed the public hearing. Chair Elenkiwich then asked for additional comments from the board, hearing none she asked Mr. Haugen to go over the findings of facts, with any additions, which are on file. Chair Elenkiwich called for a roll-call vote: Spence-aye, Jensen-aye, Bartley-aye, McHugh-aye, Erickson-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich read **agenda item # 11: Department Reports**. Chair Elenkiwich asked Mr. Hill for his Directors report. Mr. Hill announced the first thing that would be discussed was elections. Per the bylaws that were amended Dec. 4, 2018 Kimberly Elenkiwich would be the Chairperson until January 2020. The position of Vice Chairman would need to be advertised, it would be advertised in the agenda for the August meeting. He noted that the County Commission would have to advertise an opening on the board. The replacement for the open seat would be advertised for the open seat (District 4). The alternate Mr. Davis was from District 4 and Mr. Hill encourage him to consider applying. Mr. Hill then announced the years of service of the board members: Robert Rochel had served 23 years beginning in 1996, Darrell Nelson – 22 years (1997), Darrel Kleinjan – 16 years (2003), Randy Jensen – 15 years, Tom Davis and Roger Erickson – 5 years, Kimberly Elenkiwich – 5 years, Terrell Spence – 4 years, Michael McHugh and Chad Ford – 1 year and Michael Bartley – less than 1st year. Mr. Hill announced, “We want to thank you for your service and today Mr. Rochel was recognized during today’s County Commission meeting.” He announced the upcoming July 11, 2019 FEMA Meeting to go over paper work for those Township and City Expenses incurred from the Blizzard and Flooding.

Chair Elenkiwich read **agenda item # 12: Executive Session, if Necessary**. Chair Elenkiwich noted no need for executive session.

Chair Elenkiwich asked for a motion to adjourn. Chad Ford made a motion to adjourn the meeting, Michael McHugh second.

Chair Elenkiwich adjourned the meeting at 10:44 PM.

Rae Lynn Maher
Brookings County
Development Department.