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February 7th, 2017 Minutes

Brookings County Planning & Zoning Commission
February 7th, 2017 – 7:00 PM
Brookings City & County Government Center
310 Chambers

Bob Hill, County Development Department Director made an announcement before the meeting noting a quorum was reached with 8 members being in attendance and in order for a variance or conditional use to pass there would need to be 6 affirmative votes.

Chair Elenkiwich called the meeting to order at 7:07 PM. Commission members present were: Lee Ann Pierce, Robert Rochel, Darrell Nelson, Darrel Kleinjan, Terrell Spence, Randy Jensen, and alternate board member Tom Davis. Absent were Jeff Robbins, Michael Vande Weerd, and alternate Roger Erickson.

Chair Elenkiwich read **agenda item # 2: Approval of minutes from January 3rd, 2017 meeting.** Terrell Spence moved to approve the minutes. Darrell Nelson second. Chair Elenkiwich called for a voice vote. 8-ayes and 0-nays, motion carried.

Chair Elenkiwich read **agenda item # 3: Items to be added to agenda by commission members or staff.** None added.

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: Approval of Agenda.** Tom Davis moved to approve the agenda. Darrel Kleinjan second. Chair Elenkiwich called for a voice vote. 8-ayes and 0-nays, motion carried.

Chair Elenkiwich stated, "We are now acting as the Brookings County Board of Adjustment" read the opening statement and **agenda item # 6: 2017var003: Killeskillen LLC by Michael Crinion has made an application 2017var003 to the Brookings County Board of Adjustment, for a variance. Article 22: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6) Required Setback and Separation Distance. The property is described as: "W1/2 SW1/4 of Section 28, T109N, R48W (Parnell Township)".** Robert Rochel

moved to approve the variance request. Tom Davis second. Chair Elenkiwich opened up for discussion and asked Mr. Hill for the staff report. Mr. Hill stated, "Killskillen LLC by Michael Crinion has applied for a variance to be, 600 feet from a residence located in the NW1/4 Section 33, T109N, R48W, a variance of 2,040 feet. The residence is across the road from a proposed dairy, which he has applied for a conditional use permit (2017cu004)." Mr. Hill noted the house had no running water or plumbing, owner no longer lived at the residence, electrical service had been disconnected since 2012. He read the definition of an "Established Residence" per the Brookings County Zoning Ordinance: Article 2.00: Section 2.32. (*Established Residence is any residence established by a personal presence, in a fixed and permanent dwelling and an intention to remain there*). Mr. Hill also noted per Mr. Haugen's site visit notes that, no snow had been moved in the yard, around the house or driveway and the site appeared to not be occupied. Adjoining landowners, Parnell Township Chair and Clerk, Brookings County Highway Department and Brookings Deuel Rural Water and the current landowner had been sent letters. Public Notices were also published in the Brookings Register and the Elkton Record. Mr. Hill 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 Michael Crinion and stated, "The reason we are seeking a variance is that we would like to build a dairy across the road from this site and I have talked with a representative of the owner that used to live there and they have no objection to the dairy going ahead." Chair Elenkiwich opened up for questions from the board. Darrel Nelson and Robert Rochel each asked a question regarding the contact person. Mr. Crinion noted that she was the contact person noted for receiving any mail regarding the property. Lee Ann Pierce questioned if the layout of the proposed site could be changed. Mr. Crinion noted a number of soil borings were done, the site was studied and Jay Gilbertson of East Dakota recommended that everything be moved to the south, to keep manure storage as far away from any problems with water (Zone B Aquifer). Chair Elenkiwich asked for further comments from the board, hearing none she opened up to the audience. Catherine Carter urged the board to seek a written document from the landowner. Wilfried Reuvekamp, owner of Hilltop Dairy of Elkton noted that he was concerned with distance between farms. Chair Elenkiwich noted that the setback variance was being discussed at the present time. Mr. Reuvekamp withdrew noting he would discuss concerns and ask questions when relevant. Chair Elenkiwich asked if the audience had any further questions or comments related to the specific agenda item being considered, hearing none she closed the public portion and asked for additional comments from the board. Board member Terrell Spence, Robert Rochel and Darrel Kleinjan noted concerns with real estate value, future of the site and lack of a personal representative being at the meeting to answer questions and concerns. Chair Elenkiwich asked for additional comments from the board, hearing none she asked Mr. Hill to go over the findings of facts. Board members Rochel, Spence and Pierce expressed concern regarding the lack of a letter from the landowner agreeing to or a personal presentative being present to discuss the variance request. Brian Donahoe, attorney for Killeskillen, LLC came forward, Chair Elenkiwich recognized and asked him to introduce himself. Mr.

Donahoe stated for the record, "This is the time and place set for the hearing on this variance request. My client has fulfilled all the obligations and requirements of the zoning ordinance in regards to providing notice to the only person who has been designated to receive notice for this property owner." Board members discussed options: 1) Add to the Findings of Facts 2) Amend 3) Vote. Mr. Donahoe asked to be allowed to step out to confer with Mr. Crinion before the variance request went further or a vote was taken. Mr. Hill asked Chair Elenkiwich for a 5 minute recess.

Chair Elenkiwich recessed the meeting at 7:45 PM. Chair Elenkiwich reconvened the meeting at 7:50 PM.

Chair Elenkiwich reminded the board that they had 3 options: 1) Vote, 2) Table or 3) Amend. Chair Elenkiwich then recognized Brian Donahoe. Mr. Donahoe stated, "We request that the board consider a motion to table matters and allow us to go back and check on the situation with the land owner. Chair Elenkiwich noted to the board it was their decision to vote or to make a motion to table. Lee Ann Pierce made a motion to table, Robert Rochel second. Chair Elenkiwich called for a roll-call vote: Pierce-aye, Rochel-aye, Nelson-aye, Kleinjan-aye, Spence-aye, Jensen-aye, Davis-aye, Elenkiwich-aye. 8-ayes, 0-nays, motion carried to table until next meeting.

Chair Elenkiwich read **agenda item # 7: 2017var004: Killeskillen LLC by Michael Crinion has made an application 2017var004 to the Brookings County Board of Adjustment, for a variance. Article 22: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6) Required Setback and Separation Distance. The property is described as: "W1/2 SW1/4 of Section 28, T109N, R48W (Parnell Township)**". Lee Ann Pierce moved to table variance request. Terrell Spence second. Chair Elenkiwich called for a roll-call vote: Rochel-aye, Nelson-aye, Kleinjan-aye, Spence-aye, Jensen-aye, Davis-aye, Pierce-aye, Elenkiwich-aye. 8-ayes, 0-nays, motion carried to table until next meeting.

Chair Elenkiwich stated, "We are now acting as the Brookings County Planning and Zoning Commission" read the opening statement. At this time board member Lee Ann Pierce directed a question to Brian Donahoe asking, "I know you said you would like to have everything tabled, I am just curious I am asking the commission as well as you, on the conditional use permit is there a reason we wouldn't go forward and if that did pass one of the conditions could be to get the two variances. Because everybody is here to move forward with that, I am not sure we would need to table that, but I leave that to your discretion." Mr. Donahoe replied, "Commissioner Pierce the issue as we see it, is that if you do approve that and make the variance a condition, then if we go back and have any issues with the variance then we have to go back through the public hearing process one more time again. And it would difficult for us to bring back a gentleman who is a witness here from Houston, TX and other witnesses that we would like to present on some of the conditional use issues which may need to be addressed differently if there is some kind of an unusual or unexpected issue with the variance." He then noted, "At this point we would still continue to ask that the conditional use permit be tabled as well. Chair Elenkiwich then read **agenda item # 8: 2017cu004: Killeskillen**

LLC by Michael Crinion has made an application 2017cu004 to the Brookings County Planning and Zoning Commission for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit #11: Class A, B, C and D Concentrated Animal Feeding Operation. The property is described as: "W1/2 SW1/4 Section 28, T109N, R48W (Parnell Township)". Darrell Nelson moved to table conditional use request. Darrel Kleinjan second. Chair Elenkiwich called for a roll-call vote: Nelson-aye, Kleinjan-aye, Spence-aye, Jensen-aye, Davis-aye, Pierce-aye, Rochel-aye, Elenkiwich-aye. 8-ayes, 0-nays, motion carried to table until next meeting.

Chair Elenkiwich read **agenda item # 9: Consideration of Plats a. 2016plat001: "Saathoff Addition in Govt. Lot 1 in the NW1/4 Sec. 18, T112N, R51W of the 5th P.M., Brookings County, South Dakota."** Darrell Nelson moved to approve the plat. Tom Davis second. Chair Elenkiwich opened up for discussion and asked Mr. Hill for his staff report. Mr. Hill stated, "Justin Saathoff is platting off his existing building site. The site was a homestead on the 1909 plat map. The residence was built in 2003. The 5 acre building site was separated off in 2004. He is purchasing an additional strip of land on the south and east sides of his property from his brother, Layne Saathoff to enlarge the building site to 7.7 acres. The plat meets the platting requirements and the 2016 Comprehensive Plan-Unincorporated Rural Area Land Use statement on page 24 for Agricultural Land Use." Mr. Hill then used visuals to further describe the plat. Chair Elenkiwich opened up for discussion from the board. Hearing none she opened up for discussion from the audience, seeing none. Chair Elenkiwich asked the board for questions or comments, hearing none she called for a roll call vote: Kleinjan-aye, Spence-aye, Jensen-aye, Davis-aye, Pierce-aye, Rochel-aye, Nelson-aye, Elenkiwich-aye. 8-ayes, 0-nays, motion carried.

Chair Elenkiwich then read **agenda item # 10: Department Reports.** Chair Elenkiwich asked Mr. Hill for his Directors report. Mr. Hill gave an update on the continued work being done on the County Ordinances. Luke Muller from First District Association of Local Governments gave a brief report on his work being done on the ordinances and discussed issues other counties are having regarding ordinances. Mr. Hill reported on the Emergency Managements aid in the search on Brush Lake and upcoming meetings that he and Mr. Haugen would be attending. Mr. Hill presented a report written by Mr. Haugen updating the board on a remodel project at Arlington Beach. Board members discussed having a map available for their use that would identify the locations of all the CAFO's in the county.

Chair Elenkiwich adjourned the meeting at 8:40 PM.

Rae Lynn Maher
Brookings County
Development Department.