

BROOKINGS COUNTY PLANNING & ZONING COMMISSION
MINUTES OF JANUARY 4, 2022 REGULAR PLANNING & ZONING MEETING

The Brookings County Planning & Zoning Commission met at their regular meeting on Tuesday, January 4, 2022. The following members were present: Chad Ford, Mike Bartley, Darrel Kleinjan, Brian Gatzke, Kyle Vanderwal, Neil Trooien, and alternates Roger Erickson and Dale Storhaug. Absent were Randy Jensen and Spencar Diedrich. The board also has 1 vacant seat in District 3 to fill. Also present were Deputy Director Richard Haugen, County Development Director/Emergency Manager Robert Hill.

CALL TO ORDER

Chair Ford called the meeting to order at 8:00 PM

APPROVAL OF MINUTES

(Vanderwal/Gatzke) Motion to approve the December 6, 2021, Meeting Minutes. All present voted aye. **MOTION CARRIED.**

ITEMS TO BE ADDED TO AGENDA BY COMMISSION MEMBERS OR STAFF.

None added.

INVITATION FOR CITIZENS TO SCHEDULE TIME ON AGENDA FOR ITEM NOT LISTED. *Time limited to 5 minutes per person to address the board.*

No one scheduled time to address the board.

DISCLOSURE OF CONFLICTS OF INTEREST

None.

APPROVAL OF AGENDA

(Bartley/Vanderwal) Motion to approve the agenda for the January 4, 2022 Meeting. All present voted aye. **MOTION CARRIED.**

ELECTION OF OFFICERS FOR 2022

(Vanderwal/Bartley) Motion to appoint Chad Ford as Chairperson for 2022. All present voted aye. **MOTION CARRIED.**

(Ford/Bartley) Motion to appoint Darrel Kleinjan as Vice Chairperson for 2022. All present voted aye. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY PLANNING & ZONING COMMISSION

CONSIDERATION OF PLATS

2022PLAT001

For property described as "Plat of Tract 1, Oien Addition in the E1/2 of the SW1/4 of Section 20, T112N, R47W of the 5th P.M., Brookings County, South Dakota." Submitted by Duwayne and Virginia Oien to plat off a 3.65-acre tree claim from the 80 acres they

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own. There is an ingress and egress easement noted on the plat for access to Tract 1 and across Tract 1 for access to the farm ground on the south side of Tract 1.

DISCUSSION: Board member Gatzke asked if hunting would be allowed on the parcel, the intended use of the property and liked seeing ingress and egress on the plat. Haugen noted that hunting and building a building providing it meet the setbacks would be allowed on the parcel, but not a residence. The owners wanted to keep the tree grove area in the family. Haugen also noted that the plat would not have been approved if it did not have ingress/egress.

(Vanderwal/Trooien) Motion to approve the plat. Roll call vote: Storhaug-aye, Gatzke-aye, Erickson-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Bartley-aye, Ford-aye. 8-aye, 0-nay. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY BOARD OF ADJUSTMENT

2022VAR001

Application for Norfeld Colony by Joseph Stahl for a variance. Article 22: Concentrated Animal Feeding Operation: 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: "SE1/4 in Section 34, T112N, R48W (Oak Lake Township)".

(Vanderwal/Gatzke) Motion to approve the Variance request.

STAFF REPORT: Applicant is requesting a variance to build a Class "A" Concentrated Animal Feeding Operation (CAFO), 1,640 feet from a private well. A variance of 1,000 feet. Brookings County Zoning Ordinance Article 22: Concentrated Animal Feeding Operation: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation and Control Requirements: # 6 Required Setback and Separation Distance: Private Wells other than the operator is 2,640 feet. (Brookings County Zoning Ordinance page 22-14). In reviewing the South Dakota Department of Agricultural and Natural Resources (SDANR) Well Completion Report for the setback area, well completion logs filed with SDANR for the NE1/4 of Section 3, T111N, R48W had "Section Number" errors. The well driller and SDANR were contacted, and they are working on correcting and updating the well completion logs with the correct section. During a site visit to the setback area by the Development Office, a well was found in the NE1/4 of Section 3-T111N, R48W, the applicant and the landowner were notified of the findings. After the landowner was notified, the landowner advised the applicant of another well of the same size and depth located on the property. These wells were not on the SDANR Well completion log as they have been dug prior to the reporting requirement. The well is located at an old farmstead. The well cubing is 24" wide and 24" in length, there are 7 visible sections of well curbing. The well curbing is not covered and there is no evidence of a windmill tower, or no water pumping device located in the well casing and the well is currently dry. The landowner sent an email notification to the applicant stating, "The two wells have not been used since the 1960's and will be properly decommissioned in the near future." The report also noted: 1) The Brookings County Equalization records show buildings listed on file for the property: a

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steel grain bin and a granary, it was noted during a review of the property in 2019 the house is no longer there. The property is also serviced by rural water. 2) Letters were sent to adjoining landowners, Sherman Township and Oak Lake Township Chairman and clerk, Brookings-Deuel Rural Water, and the current landowner. 3) Public notices were published in the Brookings Register on December 21 & 28, 2021 and the White Tri-City Star on December 23, 2021.

PUBLIC HEARING: Applicant Jim Stahl informed those present they were requesting approval to build a feed to finish hog confinement for 4,800 pigs.

Proponents: 1) Kyle Schuman with Standard Nutrition stated, they are good operators and I support them. 2) Dr. Barry Kerkaert from Pipestone, MN noted he supported the applicant and thought it would be a good project for Brookings County.

Opponents: None.

DISCUSSION: Board member Bartley asked of plans/timeline to decommission the 2 wells. Landowner of the wells, Greg Vaselaar noted they planned to decommission the wells in the upcoming summer 2022. Bartley asked when building permits would be applied for. Mr. Stahl noted he hoped in 2022. Bartley asked that the 2 (two) wells be decommissioned prior to issuing any building permits. Haugen noted, it would be noted in the Findings of Facts. Brian Frederickson, Dakota Environmental engineer for the project asked for clarification, if intent of board is to establish date that wells are decommissioned prior to start of construction? Haugen noted in the Findings of Facts the wells would need to be plugged prior to swine occupying CAFO finishing barn. Findings of Facts were reviewed, completed by the board, concurred with by Bartley and placed on file.

VOTE: Bartley-aye, Storhaug-aye, Gatzke-aye, Erickson-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Ford-aye. 8-aye, 0-nay. **MOTION CARRIED.**

2022CU001

Application by Norfeld Colony by Joseph Stahl for a conditional use permit. 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: "SE1/4 in Section 34, T112N, R48W (Oak Lake Township)".

(Gatzke/Storhaug) Motion to approve the Conditional Use.

STAFF REPORT: The applicant is requesting a conditional use permit # 11: Class A, B, C and D Concentrated Animal Feeding Operation" to expand their existing Class "A" Confined Animal Feeding Operation (CAFO) for a swine finishing operation. The expansion would consist of adding 4,800 head (1,920 animal units) of finishing swine (pigs) that weigh more than 55 pounds. The applicant has purchase agreement with the landowner for a parcel of land, with the size noted on the site plan contingent on approval of the conditional use permit for their CAFO. Site plan features a 101' wide x 425' long finishing barns, office, composting structure, feed bins and trees planted around the perimeter of the property. The barns will have 8-foot-deep pits below the

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building, with a capacity that will exceed 365 days of manure storage. The pits would be pumped out on an annual or semiannual schedule. The report also noted: 1) applicant applied for a variance (2022var001) for setback from wells, which was just heard and approved. 2) building site not located in the Zone "A" (Wellhead Protection Areas) or "B" according to the Aquifer Materials Map. 3) Engineers report was completed, contains required information and is on file. 3) applicant currently has a Class "B" turkey (1,440 AU) operation and Swine finishing (2,400 AU) CAFO permits from the SDANR. If finishing operation is approved the SDANR will combine the turkey and swine operations to be under one nutrient management plan for the entire operation. 4) Public notices were published in the Brookings Register on December 21 & 28, 2021 and the White Tri-City Star on December 23, 2021. 5) Letters were sent to the adjoining landowners, Oak Lake and Sherman Township Chairman and clerk and Brookings-Deuel Rural Water.

PUBLIC HEARING: Applicant Joseph Stahl had nothing to add.

Proponents: None.

Opponents: 1) Greg Vaselaar asked that they look at different options of locations. He then requested that adequate trees be planted around the building. He was concerned that there were too few of trees to offer odor control and for aesthetics. He also wanted the wind turbine company to be consulted with types of trees and give their approval.

DISCUSSION: Ford asked that the engineer come forward to answer questions. Brian Frederickson, Dakota Environmental reviewed the site plan with the board. Board discussed type of barn noting it to be a power vent barn, and tree types. Haugen noted the Brookings County Conservation District would work with the applicant for the best type and number of trees that would work for the type of set up proposed. Chair Ford noted the concern of approval of tree types by the wind turbine company was off topic and unrelated. Findings of Facts were reviewed and completed by the board, concurred with by Gatzke and placed on file.

VOTE: Gatzke-aye, Erickson-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Bartley-aye, Storhaug-aye, Ford-aye. 8-aye, 0-nay. **MOTION CARRIED.**

Chair Ford noted a request to move to item #15 2022cu004 be moved up and heard then proceed to items #13 (2022cu002) & #14 (2022cu003). No objection heard.

2022CU004

Application by Daniel Nelson for a conditional use permit. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 2: Cemetery. The property is described as: "E765' of S628' of N1262' of SE1/4 in Section 19, T109N, R47W (Elkton Township)" ~~ located at 21769 485th Ave, Elkton, SD 57026.

(Vanderwal/Trooien) Motion to approve the Conditional Use.

STAFF REPORT: The applicant is requesting a conditional use #2 for a Cemetery. Report noted: 1) unexpected death had occurred and the wish of deceased family member was to be buried on the family farm. 2) Request was an after the fact request

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due to the unexpected passing of the family member. 3) All requirements of South Dakota Codified Law 34-27 for cemeteries had been followed. 4) Map consisted of one lot with 4 grave spaces for the cemetery was filed with the Brookings County Register of Deeds Office as required by state statute. With access to the cemetery through the existing driveway of the farmstead. 5) Letters were sent to the adjoining landowners, Elkton Township Chairman, and clerk. 6) Public notices were published in the Brookings Register on December 21 & 28, 2021 and the Elkton Record on December 23, 2021.

PUBLIC HEARING: Applicant Daniel Nelson informed those present the cemetery was located on the Nelson Family Farm. It had been a wish of his deceased fathers to be buried on the family farm. The cemetery consists of 4 burial plots.

Proponents: None.

Opponents: None.

DISCUSSION: Board member Storhaug asked if there were future generation that would continue to live on the farmstead. Mr. Nelson noted his oldest brother plans to purchase and then plan is to continue with tradition and be passed from one generation to the next. Board member Gatzke asked if ingress and egress were required. Haugen noted it was not required on the map that was filed. Mr. Nelson noted that South Dakota's cemetery law was very broad and was followed. Chair Ford asked if an access easement was on file and if there was a maintenance plan. Mr. Nelson note not access easement filed at this time and that he was the cemetery sentinel and normal cemetery maintenance would be followed. Findings of Facts were reviewed and completed by the board, concurred with by Vanderwal and placed on file.

VOTE: Erickson-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Bartley-aye, Storhaug-aye, Gatzke-aye, Ford-aye. 8-aye, 0-nay. **MOTION CARRIED.**

2022CU002

Application by Todd Stone for a conditional use permit. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.02 Conditional Uses Permit # 6: Accessory buildings with a side-wall greater than fourteen (14) feet or more than 2,000 square feet and used accessory buildings greater than 120 square feet. The property is described as: "Lot "A" of Wacek Beach Addition in Govt Lot 4 in Section 3, T112N, R52W (Laketon Township)".

(Bartley/Gatzke) Motion to approve the Conditional Use.

STAFF REPORT: The applicant is requesting a conditional use permit # 6: accessory building. The proposed structure is 40' wide x 50' long (2,000 sq ft) x 20' sidewalls, with an attached 10' wide x 19'11"(190 sq ft) long entry addition for a stairway to the second story, 12' wide x 34'5"(414 sq ft) long open lean too addition and 12' x 24' (288 sq ft) covered upper deck with an additional 12' of deck with an outside stairway. main floor consists of a 3-stall garage, mechanical room, and bathroom, second story includes a game/party room with a wet bar, bunk room, 2 guest rooms, storage areas, bathroom,

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and entrance to the covered upper-level deck. The footprint of the proposed accessory building would be 2,604 square feet, with a combined square footage of 3,874 square feet. Report noted: 1) Wacek Beach Addition Lots "A" - "R" were platted on December 12, 2001. Lot "A" contains 16,405 square feet and the lots are not large enough for a residence, as stated in the December 4, 2001, minutes of the Brookings County Planning and Zoning Commission. 2) applicant has also applied for conditional use 2022cu003 for a VBRO (Vacation Rental By Owner) for his lake side residence located across the road at 312 SE Lake Dr and has included this accessory building and lot, on the application. Letter were sent to the adjoining landowners, Laketon Township Chairman and Clerk. Public notices were published in the Brookings Registers on December 21 & 28, 2021 and the Volga Tribune on December 23, 2021.

PUBLIC HEARING: Applicant Todd Stone informed those present he had nothing to add.

Proponents: None.

Opponents: Haugen read opposing comments received via email from Tony & Erin Hericks, Brad & Sue Hodne, Tim & Carol Byrd, and Harris Hoistad. A phone comment from Paul Julson was also read and all items were placed on file.

DISCUSSION: Board members Ford, Kleinjan and Bartley discussed or noted: 1) how the structure was an accessory building vs. a residence, sleeping quarters, Shouse vs. shop, 2) intent of back lots and covenants 3) intent of use as VRBO not just for family gatherings. 4) minimum lot requirement for any residence to be 20,000 sq feet. 5) concern with 20-foot sidewalls requested 6) Definitions of: Accessory Building and Uses (Section 2.03), Dwelling (Section 2.26), Dwelling Unit (Section 2.29), and Established Residence (Section 2.32) noting the plan presented seemed like a residence, it looks like a residence, where does it fit. 7) Comparison of other properties in the area. Mr. Stone noted: 1) main residence was across the road on the lake side, the accessory building was to provide living and bedroom spaces as an area for kids and addition family members to stay when there were large gatherings. 2) not aware of any covenants and to the east there were other similar buildings with sleeping and bathrooms. 3) This was for large gatherings. 4) building was accessory use building to the main cabin. Application was made to be complying for when additional family members stayed.

Kleinjan and Ford had voiced opposition to request. Chair Ford instructed Mr. Stone that if it did not pass, he would need to wait 6 months to reapply, or he could withdraw his application. Mr. Stone asked why the 20,000 sq. foot requirement for a residence. Mr. Hill addressed the question and noted it was per each county's county commission and to get it changes would take a change to the ordinance. Mr. Stone wrote a note requesting to withdraw his application, which was put on file.

2022CU003

Application by Todd Stone for a conditional use permit. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.02 Conditional Uses Permit #22: Bed and Breakfasts/Vacation Rental By Owner (VRBO). The property is described as: "Lots 1

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& 2 & "A" of Wacek Beach Addition in Govt Lot 4 in Section 3, T112N, R52W (Laketon Township) ~~ located at 312 SE Lake Dr, Estelline, SD 57234.

(Vanderwal/Kleinjan) Motion to approve the Conditional Use.

STAFF REPORT: The applicant is requesting a conditional use # 22: Vacation Rental By Owner (VRBO). To allow for his family, friends, and service groups to rent their lake residence and accessory building across the road. The applicant would limit who rents the home and it would be at his discretion. A third party would assist with the renting, checking in, maintenance and cleanup of the property. The report note: 1) business plan provided by the applicant estimated renting of property 80-120 days per year. Maximum number of renters would be 14 for residence and 6 above the accessory building. Parking available would consist of 2 stalls inside the garage, 2 outside the garage, 6 stalls across the street in the accessory building. 2) a variance (2021var014) was granted on July 6, 2021, to allow for the building of the new residence closer to the lake front due to the shape and size of the lot. The proposed residence plans show 5 bedrooms with a 4-stall garage. 3) Lot A, Wacek Beach Addition, site of proposed accessory building (2022cu002) was also included with the application. Lot A would be subject to the approval of conditional use 2022cu002. The proposed accessory building shows a bunk room and 2 bedrooms above a 3-stall garage.

PUBLIC HEARING: Applicant Todd Stone informed those present he had nothing to add.

Proponents: None.

Opponents: Haugen noted opposing comments had been presented during prior hearing of item (2022cu002) related also to the current item and were placed on file.

DISCUSSION: Board members Gatzke, Ford and Storhaug discussed: 1) Definitions 2.11 Bed and Breakfast Home (5-bedroom limit) 2) backlot used as parking (as application for accessory building was withdrew) 3) Use of property per application for a business more than just for family. Stone noted: 1) Main cabin contains 5 bedrooms and intent was not to have VRBO but was the only way to fit in the classifications available. Not intent to make it a VRBO but if we rent one day, I want to be in compliance. If it would get rented 1 week a month it would be 84 days, if that ever happens, but we gave a number of 80-120 as this was a range, we could ever see. We just want a building that is not unoccupied. If it is something that I need to come back, I can pull the application. 2) parking would probably be on backlot with withdrawal of prior application. 3) Not a classification that would work like for our wants/needs other than the VRBO option. Haugen noted Lot A could be included and a 2,000 square foot accessory building with 14-foot side wall could be built and could have parking area or could leave for parking. Mr. Stone wrote a note requesting to withdraw his application, which was put on file.

DEPARTMENT REPORTS

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Hill noted: 1) Angie Boersma would be the Brookings County Commission Chairperson for 2022 and Mike Bartley would remain as the Planning & Zoning County Commission representative on the board and Lee Ann Pierce would be the Alternate. He also noted that a representative was still needed to fill a vacant seat on the Planning and Zoning Commission from District 3 (Townships of: Argo, Oak Lake, Lake Hendricks, Afton, Sherman, and northern Richland. Haugen updated the board: 1) Lake Oakwood issue - noting letters would be sent out 2) Joint meeting/work sessions with the Brookings City would be changed to avoid time constraints.

Board discussed that definitions should be reviewed regarding VBRO, Bed and Breakfast, Airbnb, and the like especially around the lake areas of the county.

ADJOURN

(Erickson/Gatzke) Motion to adjourn.

Chair Ford adjourned the meeting at 10:19 PM.

Rae Lynn Maher
Brookings County
Development Department